

AMENDMENTS APRIL 2006

The following amendments have been made to the June 2005 edition.

Page	Clause	Line
7	22.1	2 deleted: ', notified early warning matters'
19	90.2, Termination Table The <i>Employer</i>	4 Procedure column: ', P3' inserted after 'P2'
		4 Amount due column: ', A2' inserted after 'A1'
	90.2, Termination Table The <i>Contractor</i>	7 Procedure column: 'P3' replaced with 'P2'
		9 Procedure column: 'P3' replaced with 'P2'
38	X19.8	4 deleted: 'and of notified early warning matters'
39	X20.4	1 'mount' replaced with 'amount'
41	Contract Data Part one, 1. General	3 added before full stop: '(with amendments June 2006)'
42	Contract Data Part one, 8. Risks and insurance	3 deleted: 'The minimum amount of cover for loss of or damage to Plant and Materials provided by the <i>Employer</i> is . . . '
43	Contract Data Part one, 1. Optional statements	1 deleted: 'If there are additional compensation events' and following 4 lines

AMENDMENTS APRIL 2013

The following amendments have been made to the June 2005 edition. Full details of all amendments are available on www.neccontract.com.

Page	Clause	Line
4	11.2 (6)	19 added: 'other' between and 'amounts'
10	40.1 42	<p>1 replace: 'The subclauses in this clause only apply' with 'This clause only applies'</p> <p>1 Heading changed: 'Notifying and' inserted before 'correcting Defects'</p> <p>1 New 42.1 added: 'Until the end of the <i>service period</i>, the <i>Service Manager</i> notifies the <i>Contractor</i> of each Defect as soon as he finds it and the <i>Contractor</i> notifies the <i>Service Manager</i> of each Defect as soon as he finds it. The <i>Contractor</i> corrects a Defect whether or not the <i>Service Manager</i> notifies him of it.'</p> <p>Old 42.1 changed to 42.2</p> <p>1 add 'notified' before 'Defects' in 42.2.</p>
12	61.1	<p>clause replaced with:</p> <p>'For compensation events which arise from the <i>Service Manager</i> giving an instruction, changing an earlier decision or correcting an assumption, the <i>Service Manager</i> notifies the <i>Contractor</i> of the compensation event at the time of that communication. He also instructs the <i>Contractor</i> to submit quotations, unless the event arises from a fault of the <i>Contractor</i> or quotations have already been submitted. The <i>Contractor</i> puts the instruction or changed decision into effect.'</p>
13	61.3 61.4	<p>clause replaced with:</p> <p>'The <i>Contractor</i> notifies the <i>Service Manager</i> of an event which has happened or which he expects to happen as a compensation event if</p> <ul style="list-style-type: none"> • the <i>Contractor</i> believes that the event is a compensation event and • the <i>Service Manager</i> has not notified the event to the <i>Contractor</i>. <p>If the <i>Contractor</i> does not notify a compensation event within eight weeks of becoming aware of the event, he is not entitled to a change in the Prices unless the event arises from the <i>Service Manager</i> giving an instruction, changing an earlier decision or correcting an assumption.'</p> <p>clause replaced with:</p> <p>'If the <i>Service Manager</i> decides that an event notified by the <i>Contractor</i></p> <ul style="list-style-type: none"> • arises from a fault of the <i>Contractor</i>, • has not happened and is not expected to happen, • has no effect upon Defined Cost or • is not one of the compensation events stated in this contract <p>he notifies the <i>Contractor</i> of his decision that the Prices are not to be changed. If the <i>Service Manager</i> decides otherwise, he notifies the <i>Contractor</i> accordingly and instructs him to submit quotations.</p> <p>The <i>Service Manager</i> notifies his decision to the <i>Contractor</i></p>

		<p>and, if his decision is that the Prices are to be changed, instructs him to submit quotations before the end of either</p> <ul style="list-style-type: none"> • one week after the <i>Contractor's</i> notification or • a longer period to which the <i>Contractor</i> has agreed. <p>If the <i>Service Manager</i> does not notify his decision, the <i>Contractor</i> may notify the <i>Service Manager</i> of his failure. A failure by the <i>Service Manager</i> to reply within two weeks of this notification is treated as acceptance by the <i>Service Manager</i> that the event is a compensation event and an instruction to submit quotations.'</p>
14	62.6 63.2	<p>2 'to this effect' replaced with 'of his failure'</p> <p>1 replaced with:</p> <p>'For other compensation events, the changes to the Prices are assessed as the effect of the compensation event upon</p> <ul style="list-style-type: none"> • the actual Defined Cost of the work already done, • the forecast Defined Cost of the work not yet done and • the resulting Fee. <p>If the compensation event arose from the <i>Service Manager</i> giving an instruction, changing an earlier decision or correcting an assumption, the date which divides the work already done from the work not yet done is the date of that communication. In all other cases, the date is the date of the notification of the compensation event.</p> <p>Effects on the Defined Cost are assessed separately for</p> <ul style="list-style-type: none"> • people who are employed by the <i>Contractor</i>, • Plant and Materials, • work subcontracted by the <i>Contractor</i> and • Equipment. <p>The <i>Contractor</i> shows how each of these effects is built up in each quotation for a compensation event.'</p>
15	64.3	2 'to this effect' replaced with 'of his failure'
20	91.4	clause replaced with: 'The <i>Contractor</i> may terminate if the <i>Employer</i> has not paid an amount due under the contract within eleven weeks of the date that it should have been paid (R16).'
23		2 added: new clause 63.13: 'The cost of preparing quotations for compensation events is not included in the assessment of compensation events.'
31	W2.3 (7) W2.3 (8) W2.3 (12)	<p>3 New sentence added: 'If the <i>Adjudicator's</i> decision changes an amount notified as due, payment of the sum decided by the <i>Adjudicator</i> is due not later than seven days from the date of the decision or the final date for payment of the notified amount, whichever is the later.'</p> <p>5 New sentence added: 'The <i>Adjudicator</i> may in his decision allocate his fees and expenses between the Parties.'</p> <p>clause replaced: The <i>Adjudicator</i> may, within five days of giving his decision to the Parties, correct the decision to remove a clerical or typographical error arising by accident or omission.</p>

37	X19.2 X19.4	<p>10 Text and bullet points added: ‘When a Task Order is issued</p> <ul style="list-style-type: none"> • the priced list of items for the Task is inserted in the Price List, and • the work involved is added to the Service Information. <p>An instruction to carry out a Task is not a compensation event.’</p> <p>New paragraphs added at end of clause ‘If Task Completion is after the end of the <i>service period</i>, the <i>service period</i> is extended until Task Completion. The <i>Service Manager</i> does not issue a Task Order during this extended period.</p> <p>The <i>Service Manager</i> may issue an instruction changing a Task Order.’</p>
39	X19.11	<p>2 added: ‘to the Task Completion Date’ between ‘delay is’</p> <p>New paragraph added after 2nd paragraph: ‘A delay to the Task Completion Date is assessed as the length of time that, due the compensation event, planned Task Completion is delayed.’</p>
40	Y(UK)1	<p>1 insert new clause: ‘Project Bank Account’</p>
		<p>Y1.1 Definitions</p> <p>(1) The Authorisation is a document authorising the <i>project bank</i> to make payments to the <i>Contractor</i> and Named Suppliers.</p> <p>(2) Named Suppliers are <i>named suppliers</i> and other Suppliers who have signed the Joining Deed.</p> <p>(3) Project Bank Account is the account used to receive payments from the <i>Employer</i> and the <i>Contractor</i> and make payments to the <i>Contractor</i> and Named Suppliers.</p> <p>(4) A Supplier is a person or organisation who has a contract to</p> <ul style="list-style-type: none"> • provide part of the <i>services</i>, • provide a service necessary to Provide the <i>Services</i> or • supply Plant and Materials for the <i>services</i>. <p>(5) Trust Deed is an agreement in the form set out in the contract which contains provisions for administering the Project Bank Account.</p> <p>(6) Joining Deed is an agreement in the form set out in the contract under which the Supplier joins the Trust Deed.</p>
		<p>Y1.2 Project Bank Account</p> <p>The <i>Contractor</i> establishes the Project Bank Account with the <i>project bank</i> within three weeks of the Contract Date.</p> <p>Y1.3</p> <p>Unless stated otherwise in the Contract Data, the <i>Contractor</i> pays any charges made and is paid any interest paid by the <i>project bank</i>. The charges and interest by the <i>project bank</i> are not included in Defined Cost.</p> <p>Y1.4</p>

		<p>The <i>Contractor</i> submits to the <i>Service Manager</i> for acceptance details of the banking arrangements for the Project Bank Account. A reason for not accepting the banking arrangements is that they do not provide for payments to be made in accordance with this contract. The <i>Contractor</i> provides to the <i>Service Manager</i> copies of communications with the <i>project bank</i> in connection with the Project Bank Account.</p>
		<p>Y1.5 Named Suppliers</p> <p>The <i>Contractor</i> includes in his contracts with Named Suppliers the arrangements in this contract for the operation of the Project Bank Account and Trust Deed. The <i>Contractor</i> notifies the Named Suppliers of the details of the Project Bank Account and the arrangements for payment of amounts due under their contracts.</p> <p>Y1.6</p> <p>The <i>Contractor</i> submits proposals for adding a Supplier to the Named Suppliers to the <i>Project Manager</i> for acceptance. A reason for not accepting is that the addition of the Supplier does not comply with the Works Information. The <i>Employer</i>, the <i>Contractor</i> and the Supplier sign the Joining Deed after acceptance.</p>
		<p>Y1.7 Payments</p> <p>On or before each assessment date, the <i>Contractor</i> submits to the <i>Service Manager</i> an application for payment, and shows in the application the amounts due to Named Suppliers in accordance with their contracts.</p> <p>Y1.8</p> <p>Within the time set out in the banking arrangements to allow the <i>project bank</i> to make payment to the <i>Contractor</i> and Named Suppliers in accordance with the contract,</p> <ul style="list-style-type: none"> • the <i>Employer</i> makes payment to the Project Bank Account of the amount which is due to be paid under the contract and • the <i>Contractor</i> makes payment to the Project Bank Account of any amount which the <i>Employer</i> has notified the <i>Contractor</i> he intends to withhold from the certified amount and which is required to make payment to Named Suppliers. <p>Y1.9</p> <p>The <i>Contractor</i> prepares the Authorisation, setting out the sums due to Named Suppliers as assessed by the <i>Contractor</i> and to the <i>Contractor</i> for the balance of the payment due under the contract. After signing the Authorisation, the <i>Contractor</i> submits it to the <i>Service Manager</i> no later than four days before the final date for payment. The <i>Employer</i> signs the Authorisation and submits it to the project bank no later than one day before the final date for payment.</p> <p>Y1.10</p> <p>The <i>Contractor</i> and Named Suppliers receive payment from the Project Bank Account of the sums set out in the Authorisation as soon as practicable after the Project Bank</p>

		<p>Account receives payment.</p> <p>Y1.11 A payment which is due from the <i>Contractor</i> to the <i>Employer</i> is not made through the Project Bank Account.</p>
		<p>Y1.12 Effect of payment</p> <p>Payments made from the Project Bank Account are treated as payments from the <i>Employer</i> to the <i>Contractor</i> in accordance with this contract or from the <i>Contractor</i> or <i>Subcontractor</i> to Named Suppliers in accordance with their contracts as applicable. A delay in payment due to a failure of the <i>Contractor</i> to comply with the requirements of this clause is not treated as late payment under this contract.</p>
		<p>Y1.13 Trust Deed</p> <p>The <i>Employer</i>, the <i>Contractor</i> and <i>named suppliers</i> sign the Trust Deed before the first assessment date.</p>
		<p>Y1.14 Termination</p> <p>If the <i>Service Manager</i> issues a termination certificate, no further payment is made into the Project Bank Account.</p>
42	Y(UK)1	1 insert new: 'Trust Deed'
		<p>Trust Deed This agreement is made between the <i>Employer</i>, the <i>Contractor</i> and the Named Suppliers. Terms in this deed have the meanings given to them in the contract between..... and for (the <i>services</i>).</p> <p>Background The <i>Employer</i> and the <i>Contractor</i> have entered into a contract for the <i>services</i>. The Named Suppliers have entered into contracts with the <i>Contractor</i> or a <i>Subcontractor</i> in connection with the <i>services</i>. The <i>Contractor</i> has established a Project Bank Account to make provision for payment to the <i>Contractor</i> and the Named Suppliers.</p> <p>Agreement The parties to this deed agree that</p> <ul style="list-style-type: none"> • sums due to the <i>Contractor</i> and Named Suppliers and set out in the Authorisation are held in trust in the Project Bank Account by the <i>Contractor</i> for distribution to the <i>Contractor</i> and Named Suppliers in accordance with the banking arrangements applicable to the Project Bank Account, • further Named Suppliers may be added as parties to this deed with the agreement of the <i>Employer</i> and <i>Contractor</i>. The agreement of the <i>Employer</i> and <i>Contractor</i> is treated as agreement by the Named Suppliers who are parties to this deed, • this deed is subject to the law of the contract for the <i>services</i>, • the benefits under this deed may not be assigned. <p>Executed as a deed on by (<i>Employer</i>)</p>

		<p>..... (Contractor)</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>(Named Suppliers)</p>
43	Y(UK)1	1 insert new: 'Joining Deed'
		<p>Joining Deed This agreement is made between the <i>Employer</i>, the <i>Contractor</i> and (the Additional Supplier). Terms in this deed have the meanings given to them in the contract between..... and for (the services).</p> <p>Background The <i>Employer</i> and the <i>Contractor</i> have entered into a contract for the <i>services</i>. The Named Suppliers have entered into contracts with the <i>Contractor</i> or a Subcontractor in connection with the <i>services</i>. The <i>Contractor</i> has established a Project Bank Account to make provision for payment to the <i>Contractor</i> and the Named Suppliers. The <i>Employer</i>, the <i>Contractor</i> and the Named Suppliers have entered into a deed as set out in Annex 1 (the Trust Deed), and have agreed that the Additional Supplier may join that deed.</p> <p>Agreement The Parties to this deed agree that</p> <ul style="list-style-type: none"> • the Additional Supplier becomes a party to the Trust Deed from the date set out below, • this deed is subject to the law of the contract for the <i>services</i>, • the benefits under this deed may not be assigned. <p>Executed as a deed on by (Employer) (Contractor) (Additional Supplier)</p>
44	Y2.1 (1) Y2.2 Y2.3	<p>1 text replaced with 'The Act is the Housing Grants, Construction and Regeneration Act 1996 as amended by the Local Democracy, Economic Development and Construction Act 2009.'</p> <p>1 paragraph 3, text replaced with 'The <i>Service Manager's</i> certificate is the notice of payment to the <i>Contractor</i> specifying the amount due at the payment due date (the notified sum) and stating the basis on which the amount was calculated.'</p> <p>1 text replaced with 'If either Party intends to pay less than the notified sum, he notifies the other Party not later than seven days (the prescribed period) before the final date for payment by stating the amount considered to be due and the basis on which that sum is calculated. A Party does not withhold payment of an amount due under this contract unless he has notified</p>

		his intention to pay less than the notified sum as required by this contract.'
45	Contract Data part one, 1. General	3 date replaced with 'April 2013'
50	Y(UK)1	<p>1 text inserted 'If Option Y(UK)1 is used and the <i>Employer</i> is to pay any charges made and is paid any interest paid by the <i>project bank</i></p> <ul style="list-style-type: none"> • The <i>Employer</i> is to pay any charges made and is paid any interest paid by the <i>project bank</i>.'
	Y(UK)1 and Y(UK)3	<p>1 text inserted: If Options Y(UK)1 and Y(UK)3 are both used</p> <ul style="list-style-type: none"> • term person or organisation The provisions of Option Named Suppliers Y(UK)1
51	4th bullet point	1 replace: 'key persons' with 'key people'
53	Contract Data part two	<p>New text added at end If Option Y(UK)1 is used</p> <ul style="list-style-type: none"> • The <i>project bank</i> is • <i>named suppliers</i> are