

2 The Contractor's main responsibilities

Providing the Service	20	<p>20.1 The <i>Contractor</i> Provides the Service in accordance with the Service Information.</p> <p>20.2 In Providing the Service, the <i>Contractor</i> minimises the interference caused to the Affected Property and the activities taking place in it.</p>
The Contractor's plan	21	<p>21.1 If a plan is not identified in the Contract Data, the <i>Contractor</i> submits a first plan to the <i>Service Manager</i> for acceptance within the period stated in the Contract Data.</p> <p>21.2 The <i>Contractor</i> shows on each plan which he submits for acceptance</p> <ul style="list-style-type: none"> • the <i>starting date</i> and the end of the <i>service period</i>, • the order and timing of the work of the <i>Employer</i> and Others as last agreed with them by the <i>Contractor</i> or, if not so agreed, as stated in the Service Information, • provisions for <ul style="list-style-type: none"> • time risk allowances, • health and safety requirements and • the procedures set out in this contract, • the dates when, in order to Provide the Service in accordance with his plan, the <i>Contractor</i> will need <ul style="list-style-type: none"> • access to the Affected Property as stated in the Service Information, • acceptances, • Plant and Materials, equipment and other things to be provided by the <i>Employer</i> and • information from Others, • for each operation, a statement of how the <i>Contractor</i> plans to do the work identifying the principal Equipment and other resources which he plans to use and • other information which the Service Information requires the <i>Contractor</i> to show on a plan submitted for acceptance. <p>21.3 Within two weeks of the <i>Contractor</i> submitting a plan to him for acceptance, the <i>Service Manager</i> either accepts the plan or notifies the <i>Contractor</i> of his reasons for not accepting it. A reason for not accepting a plan is that</p> <ul style="list-style-type: none"> • the <i>Contractor's</i> plans which it shows are not practicable, • it does not show the information which this contract requires, • it does not represent the <i>Contractor's</i> plans realistically or • it does not comply with the Service Information.
Revising the Contractor's plan	22	<p>22.1 The <i>Contractor</i> submits a revised plan to the <i>Service Manager</i> for acceptance showing the effects of implemented compensation events and other changes. It is submitted</p> <ul style="list-style-type: none"> • within the <i>period for reply</i> after the <i>Service Manager</i> has instructed him to and • when the <i>Contractor</i> chooses to.

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9 Termination

Termination 90

- 90.1 If either Party wishes to terminate the *Contractor's* obligation to Provide the Service, he notifies the *Service Manager* and the other Party giving details of his reason for terminating. The *Service Manager* issues a termination certificate to both Parties promptly if the reason complies with this contract.
- 90.2 The *Contractor* may terminate only for a reason identified in the Termination Table. The *Employer* may terminate for any reason. The procedures followed and the amounts due on termination are in accordance with the Termination Table.

TERMINATION TABLE

Terminating Party	Reason	Procedure	Amount due
The <i>Employer</i>	A reason other than R1–R21	P1, P2 and P4	A1, A2 and A4
	R1–R15 or R18	P1, P2, P3 and P4	A1, A2 and A3
	R17 or R20	P1 and P4	A1 and A2
	R21	P1, P3 and P4	A1 and A2
The <i>Contractor</i>	R1–R10, R16 or R19	P1, P2 and P4	A1, A2 and A4
	R17 or R20	P1, P2 and P4	A1 and A2

- 90.3 The procedures for termination are implemented immediately after the *Service Manager* has issued a termination certificate.
- 90.4 Within thirteen weeks of termination, the *Service Manager* certifies a final payment to or from the *Contractor* which is the *Service Manager's* assessment of the amount due on termination less the total of previous payments. Payment is made within three weeks of the *Service Manager's* certificate.
- 90.5 After a termination certificate has been issued, the *Contractor* does no further work necessary to Provide the Service.

Reasons for termination 91

- 91.1 Either Party may terminate if the other Party has done one of the following or its equivalent.
- If the other Party is an individual and has
 - presented his petition for bankruptcy (R1),
 - had a bankruptcy order made against him (R2),
 - had a receiver appointed over his assets (R3) or
 - made an arrangement with his creditors (R4).
 - If the other Party is a company or partnership and has
 - had a winding-up order made against it (R5),
 - had a provisional liquidator appointed to it (R6),
 - passed a resolution for winding-up (other than in order to amalgamate or reconstruct) (R7),
 - had an administration order made against it (R8),
 - had a receiver, receiver and manager, or administrative receiver appointed over the whole or a substantial part of its undertaking or assets (R9) or
 - made an arrangement with its creditors (R10).

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X19.6 The *Contractor* shows on each Task Order programme which he submits for acceptance

- the Task starting date and the Task Completion Date,
- planned Task Completion,
- the order and timing of the operations which the *Contractor* plans to do in order to complete the Task,
- provisions for
 - float,
 - time risk allowances,
 - health and safety requirements and
 - the procedures set out in this contract,
- the dates when, in order to Provide the Service in accordance with his Task Order programme, the *Contractor* will need
 - access to the Affected Property,
 - acceptances,
 - Plant and Materials, equipment and other things to be provided by the *Employer* and
 - information from Others,
- for each operation, a statement of how the *Contractor* plans to do the work identifying the principal Equipment and other resources which he plans to use and
- other information which the Service Information requires the *Contractor* to show on a Task Order programme submitted for acceptance.

X19.7 Within one week of the *Contractor* submitting a Task Order programme to him for acceptance, the *Service Manager* either accepts the programme or notifies the *Contractor* of his reasons for not accepting it. A reason for not accepting the Task Order programme is that

- the *Contractor's* plans which it shows are not practicable,
- it does not show the information which this contract requires or
- it does not comply with the Service Information.

Revising the Task Order programme

X19.8 The *Contractor* shows on each revised Task Order programme

- the actual progress achieved on each operation and its effect upon the timing of the remaining work,
- the effects of implemented compensation events,
- how the *Contractor* plans to deal with any delays and to correct notified Defects and
- any other changes which the *Contractor* proposes to make to the Task Order programme.

X19.9 The *Contractor* submits a revised Task Order programme to the *Service Manager* for acceptance

- within the *period for reply* after the *Service Manager* has instructed him to and
- when the *Contractor* chooses to.

The latest programme accepted by the *Service Manager* supersedes previous accepted programmes.

Compensation events

X19.10 The following are compensation events.

- (1) The *Service Manager* gives an instruction changing a Task Order.
- (2) The *Contractor* receives the Task Order after the starting date stated in the Task Order.
- (3) The *Employer* does not provide the right of access to the Affected Property in accordance with the latest accepted Task Order programme.

(4) The *Employer* does not provide something which he is to provide as stated in the Service Information in accordance with the latest accepted Task Order programme.

(5) The *Employer* or Others do not work in accordance with the latest accepted Task Order programme or within the conditions stated in the Service Information.

(6) An event which

- stops the *Contractor* completing a Task or
- stops the *Contractor* completing a Task by the Task Completion Date,

and which

- neither Party could prevent,
- an experienced contractor would have judged at the date of issue of the Task Order to have such a small chance of occurring that it would have been unreasonable for him to have allowed for it and
- is not one of the other compensation events stated in this contract.

(7) A Task Completion Date is later than the end of the *service period*.

X19.11 If, due to the compensation event, planned Task Completion is delayed, the delay is stated in the *Contractor's* quotation for the event and a programme is submitted with details of the assessment of the delay.

Assessments of delay include time risk allowances and are based on the assumption that the Task Order programme can be changed and that delays were or will be reasonably incurred.

The *Service Manager* may assess the delay if, when the *Contractor* submits quotations for a compensation event, the *Contractor* has not submitted a Task Order programme required by this contract.

Implementing compensation events

X19.12 The changes to the calculated total of the Prices for the Task Order and any delay to the Task Completion Date are included in the *Service Manager's* notification implementing a compensation event.

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Option X20: Key Performance Indicators (not used with Option X12)

Incentives X20

- X20.1 A Key Performance Indicator is an aspect of performance by the *Contractor* for which a target is stated in the Incentive Schedule. The Incentive Schedule is the *incentive schedule* unless later changed in accordance with this contract.
- X20.2 From the *starting date* until the end of the *service period*, the *Contractor* reports to the *Service Manager* his performance against each of the Key Performance Indicators. Reports are provided at the intervals stated in the Contract Data and include the forecast final measurement against each indicator.
- X20.3 If the *Contractor's* forecast final measurement against a Key Performance Indicator will not achieve the target stated in the Incentive Schedule, he submits to the *Service Manager* his proposals for improving performance.
- X20.4 The *Contractor* is paid the amount stated in the Incentive Schedule if the target stated for a Key Performance Indicator is improved upon or achieved. Payment of the amount is due when the target has been improved upon or achieved.
- X20.5 The *Employer* may add a Key Performance Indicator and associated payment to the Incentive Schedule but may not delete or reduce a payment stated in the Incentive Schedule.

CONTRACT DATA

Part one – Data provided by the *Employer*

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

Statements given in all contracts

1 General

- The *conditions of contract* are the core clauses and the clauses for main Option, dispute resolution Option and secondary Options of the NEC3 Term Service Contract June 2005 (with amendments June 2006).
- The *service is*
- The *Employer is*
Name
- Address
-
- The *Service Manager is*
Name
- Address
-
- The *Adjudicator is*
Name
- Address
-
- The *Affected Property is*
.....
-
-
- The *Service Information is in*
.....
-
-
- The *language of this contract is*
- The *law of the contract* is the law of
- The *period for reply* is weeks.
- The *Adjudicator nominating body is*
- The *tribunal is*

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- The following matters will be included in the Risk Register
.....
.....
.....

- 3 Time
- The *starting date* is
 - The *service period* is

- 5 Payment
- The *assessment interval* is weeks (not more than five).
 - The *currency of this contract* is the
 - The *interest rate* is% per annum (not less than 2) above the
..... rate of the bank.

- 8 Risks and insurance
- The minimum amount of cover for insurance against loss of or damage caused by the *Contractor* to the *Employer's* property is
 - The minimum amount of cover for insurance in respect of loss of or damage to property (except the *Employer's* property, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the *Contractor*) arising from or in connection with the *Contractor's* Providing the Service for any one event is
 - The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the *Contractor* arising out of and in the course of their employment in connection with this contract for any one event is

Optional statements

If the *tribunal* is arbitration

- The *arbitration procedure* is
- The place where the arbitration is to be held is
- The person or organisation who will choose an arbitrator
 - if the Parties cannot agree a choice or
 - if the *arbitration procedure* does not state who selects an arbitrator is

If no plan is identified in part two of the Contract Data

- The *Contractor* submits a first plan for acceptance within weeks of the Contract Date.

If the period in which payments are made is not three weeks and Y(UK)2 is not used

- The period within which payments are made is

If Y(UK)2 is used and the final date for payment is not 14 days after the date when payment is due

- The period for payment is

If there are additional *Employer's* risks

- These are additional *Employer's* risks
 - 1
 - 2
 - 3

If the *Employer* is to provide Plant and Materials

- The insurance against loss of or damage to Plant and Materials is to include cover for Plant and Materials provided by the *Employer* for an amount of

If the *Employer* is to provide any of the insurances stated in the Insurance Table

- The *Employer* provides these insurances from the Insurance Table
 1. Insurance against.....
Cover/indemnity is
 - The deductibles are.....
 2. Insurance against.....
Cover/indemnity is
 - The deductibles are.....
 3. Insurance against.....
Cover/indemnity is
 - The deductibles are.....

If additional insurances are to be provided

- The *Employer* provides these additional insurances
 1. Insurance against.....
Cover/indemnity is
 - The deductibles are.....
 2. Insurance against.....
Cover/indemnity is
 - The deductibles are.....
- The *Contractor* provides these additional insurances
 1. Insurance against.....
Cover/indemnity is
 - The deductibles are.....
 2. Insurance against.....
Cover/indemnity is
 - The deductibles are.....

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