

AMENDMENTS APRIL 2013

The following amendments have been made to the December 2009 edition. Full details of all amendments are available on www.neccontract.com.

Page	Clause	Line
11	40.1	1 replace: 'The subclauses in this clause only apply' with 'This clause only applies'
16	61.1	<p>1 text replaced with: 'For compensation events which arise from the <i>Supply Manager</i> giving an instruction, changing an earlier decision or correcting an assumption, the <i>Supply Manager</i> notifies the <i>Supplier</i> of the compensation event at the time of that communication. He also instructs the <i>Supplier</i> to submit quotations, unless the event arises from a fault of the <i>Supplier</i> or quotations have already been submitted. The <i>Supplier</i> puts the instruction or changed decision into effect.'</p>
	61.3	<p>1 text replaced with: The <i>Supplier</i> notifies the <i>Supply 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>Supplier</i> believes that the event is a compensation event and • the <i>Supply Manager</i> has not notified the event to the <i>Supplier</i>. <p>If the <i>Supplier</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 or the Delivery Date unless the event arises from the <i>Supply Manager</i> giving an instruction, changing an earlier decision or correcting an assumption.'</p>
	61.4	<p>1 text replaced with: If the <i>Supply Manager</i> decides that an event notified by the <i>Supplier</i></p> <ul style="list-style-type: none"> • arises from a fault of the <i>Supplier</i>, • has not happened and is not expected to happen, • has no effect upon Defined Cost or Delivery or • is not one of the compensation events stated in this contract <p>he notifies the <i>Supplier</i> of his decision that the Prices and the Delivery Date are not to be changed. If the <i>Supply Manager</i> decides otherwise, he notifies the <i>Supplier</i> accordingly and instructs him to submit quotations. The <i>Supply Manager</i> notifies his decision to the <i>Supplier</i> and, if his decision is that the Prices and the Delivery Date 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>Supplier's</i> notification or • a longer period to which the <i>Supplier</i> has agreed. <p>If the <i>Supply Manager</i> does not notify his decision, the <i>Supplier</i> may notify the <i>Supply Manager</i> of his failure. A failure by the <i>Supply Manager</i> to reply within two weeks of this notification is treated as acceptance by the <i>Supply Manager</i> that the event is a compensation event and an</p>

		instruction to submit quotations.
17	62.6 63.2	<p>2 replace: 'to this effect' with 'of his failure'</p> <p>1 text 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 amount calculated by applying the <i>percentage for overheads and profit</i> to the Defined Cost of the work. <p>Effects on Defined Cost are assessed separately for</p> <ul style="list-style-type: none"> • people, • equipment, • plant and materials included in the <i>goods</i>, • work subcontracted by the <i>Supplier</i> and • transport. <p>The <i>Supplier</i> shows how each of these effects is built up in each quotation for a compensation event.</p> <p>If the compensation event arose from the <i>Supply 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>The <i>percentage for overheads and profit</i> is applied to the assessed effect of the event on Defined Cost except that it is not applied to any tax charges for</p> <ul style="list-style-type: none"> • customs clearance and • export and import. <p>The date when the <i>Supply Manager</i> instructed or should have instructed the <i>Supplier</i> to submit quotations divides the work already done from the work not yet done.'</p>
19	64.4	2 replace: 'to this effect' with 'of his failure'
25	91.4	1 text replaced with: 'The <i>Supplier</i> may terminate if the <i>Purchaser</i> has not paid an amount due under the contract within eleven weeks of the date that it should have been paid (R16).'
34	Y(UK)1	1 insert new clause: 'Project Bank Account'
		<p>Y1.1 Definitions</p> <p>(1) Project Bank Account is the account established by the <i>Purchaser</i> and used to make payments to the <i>Supplier</i>.</p> <p>(2) Trust Deed is an agreement in the form set out in the contract which contains provisions for administering the Project Bank Account.</p> <p>(3) Joining Deed is an agreement in the form set out in the contract under which the <i>Supplier</i> joins the Trust Deed.</p>
		<p>Y1.2 Payments</p> <p>The <i>Supplier</i> receives payment from the Project Bank Account of the amount due from the <i>Purchaser</i> as soon as practicable after the Project Bank Account receives payment.</p> <p>Y1.3</p>

		A payment which is due from the <i>Supplier</i> to the <i>Purchaser</i> is not made through the Project Bank Account.
		<p>Y1.4 Effect of payment</p> <p>Payments made from the Project Bank Account are treated as payments from the <i>Purchaser</i> to the <i>Supplier</i> in accordance with this contract.</p>
		<p>If the <i>Supplier</i> is identified as a Named Supplier in the Contract Data for the <i>Purchaser's</i> contract with his employer</p> <p>Y1.5 Trust Deed</p> <p>The <i>Purchaser</i>, his employer and the <i>Supplier</i> sign the Trust Deed before the first assessment date in the contract between the <i>Purchaser</i> and his employer.</p>
		<p>If the <i>Supplier</i> is added as a Named Supplier after the Contract Date in the <i>Purchaser's</i> contract with his employer</p> <p>Y1.5 Trust Deed</p> <p>The <i>Purchaser</i>, his employer and the <i>Supplier</i> sign the Joining Deed before the first assessment date.</p>
		<p>Y1.6 Termination</p> <p>If the <i>Supply Manager</i> issues a termination certificate, no further payment is made into the Project Bank Account.</p>
35	Y(UK)1	1 insert new: 'Trust Deed'
		<p>Trust Deed</p> <p>This agreement is made between the <i>Employer</i>, the <i>Contractor</i> and the Named Suppliers.</p> <p>Terms in this deed have the meanings given to them in the contract between. and for (the works).</p> <p>Background</p> <p>The <i>Employer</i> and the <i>Contractor</i> have entered into a contract for the <i>works</i>.</p> <p>The Named Suppliers have entered into contracts with the <i>Contractor</i> or a Subcontractor in connection with the <i>works</i>.</p> <p>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</p> <p>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

		<p>the <i>works</i>,</p> <ul style="list-style-type: none"> the benefits under this deed may not be assigned. <p>Executed as a deed on</p> <p>by</p> <p>..... (<i>Employer</i>)</p> <p>..... (<i>Contractor</i>)</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>(Named Suppliers)</p>
36	Y(UK)1	1 insert new: 'Joining Deed'
		<p>Joining Deed</p> <p>This agreement is made between the <i>Employer</i>, the <i>Contractor</i> and (the <i>Additional Supplier</i>).</p> <p>Terms in this deed have the meanings given to them in the contract between and for (the <i>works</i>).</p> <p>Background</p> <p>The <i>Employer</i> and the <i>Contractor</i> have entered into a contract for the <i>works</i>.</p> <p>The <i>Named Suppliers</i> have entered into contracts with the <i>Contractor</i> or a <i>Subcontractor</i> in connection with the <i>works</i>.</p> <p>The <i>Contractor</i> has established a <i>Project Bank Account</i> to make provision for payment to the <i>Contractor</i> and the <i>Named Suppliers</i>.</p> <p>The <i>Employer</i>, the <i>Contractor</i> and the <i>Named Suppliers</i> have entered into a deed as set out in <i>Annex 1</i> (the <i>Trust Deed</i>), and have agreed that the <i>Additional Supplier</i> may join that deed.</p> <p>Agreement</p> <p>The Parties to this deed agree that</p> <ul style="list-style-type: none"> the <i>Additional Supplier</i> becomes a party to the <i>Trust Deed</i> from the date set out below, this deed is subject to the law of the contract for the <i>works</i>, the benefits under this deed may not be assigned. <p>Executed as a deed on</p> <p>by</p> <p>..... (<i>Employer</i>)</p> <p>..... (<i>Contractor</i>)</p> <p>..... (<i>Additional Supplier</i>)</p>
38	Contract Data part one	2 date replaced with: 'April 2013'
42	Y(UK)1	<p>1 text inserted</p> <p>'If Option Y(UK)1 is used and the <i>Purchaser</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>Purchaser</i> is to pay any charges made and is paid any interest paid by the <i>project bank</i>.'
43	Y(UK)1 and Y(UK)3	<p>1 text inserted:</p> <p>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
44	Contract Data part two, Y(UK)1	1 text inserted If Option Y(UK)1 is used <ul style="list-style-type: none"> • <i>The project bank is</i> • <i>named suppliers are</i>