

## AMENDMENTS JUNE 2006

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

| Page | Clause                     | Line  |
|------|----------------------------|---|
| 12   | 32.1                       | 4 deleted: 'and of notified early warning matters'                              |
| 41   | Contract Data Part one, 1. | 3 added, '(with amendments June 2006)'  |
| 44   | Contract Data Part one, 1. | 23 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](http://www.neccontract.com).

| Page | Clause           | Line   |
|------|------------------|--|
| 13   | 40.1             | 1 replace: 'The subclauses in this clause only apply' with 'This clause only applies'  |
| 18   | 61.1<br><br>61.3 | <p><b>1</b> text replaced with: 'For compensation events which arise from the <i>Project Manager</i> or the <i>Supervisor</i> giving an instruction, issuing a certificate, changing an earlier decision or correcting an assumption, the <i>Project 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> <p><b>1</b> text replaced with: 'The <i>Contractor</i> notifies the <i>Project 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"> <li>• the <i>Contractor</i> believes that the event is a compensation event and</li> <li>• the <i>Project Manager</i> has not notified the event to the <i>Contractor</i>.</li> </ul> <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, the Completion Date or a Key Date unless the event arises from the <i>Project Manager</i> or the <i>Supervisor</i> giving an instruction, issuing a certificate, changing an earlier decision or correcting an assumption.'</p> |
| 19   | 61.4             | <p><b>1</b> text replaced with:</p> <p>'If the <i>Project Manager</i> decides that an event notified by the <i>Contractor</i></p> <ul style="list-style-type: none"> <li>• arises from a fault of the <i>Contractor</i>,</li> <li>• has not happened and is not expected to happen,</li> <li>• has no effect upon Defined Cost, Completion or meeting a Key Date or</li> <li>• is not one of the compensation events stated in this contract</li> </ul>  |

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|    |  | <p>he notifies the <i>Contractor</i> of his decision that the Prices, the Completion Date and the Key Dates are not to be changed. If the <i>Project Manager</i> decides otherwise, he notifies the <i>Contractor</i> accordingly and instructs him to submit quotations.</p> <p>The <i>Project Manager</i> notifies his decision to the <i>Contractor</i> and, if his decision is that the Prices, the Completion Date or the Key Dates are to be changed, instructs him to submit quotations before the end of either</p> <ul style="list-style-type: none"> <li>• one week after the <i>Contractor</i>'s notification or</li> <li>• a longer period to which the <i>Contractor</i> has agreed.</li> </ul> <p>If the <i>Project Manager</i> does not notify his decision, the <i>Contractor</i> may notify the <i>Project Manager</i> of his failure. A failure by the <i>Project Manager</i> to reply within two weeks of this notification is treated as acceptance by the <i>Project Manager</i> that the event is a compensation event and an instruction to submit quotations.'</p> |
| 20 | 62.6<br>63.1                           | <p>2 'to this effect' replaced by 'of his failure'</p> <p>1 replace final paragraph with:<br/>'If the compensation event arose from the <i>Project Manager</i> or the <i>Supervisor</i> giving an instruction, issuing a certificate, 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>  |
| 21 | 63.14<br><br>64.4                      | <p>1 insert new clause 'If the <i>Project Manager</i> and the <i>Contractor</i> agree, rates and lump sums may be used to assess a compensation event.'</p> <p>2 'to this effect' replaced by 'of his failure'</p>   |
| 26 | 91.4                                   | <p>1 text 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).'</p>  |
| 33 | W2.3(7)<br><br>W2.3(8)<br><br>W2.3(12) | <p>1 text replaced with:<br/>'If the <i>Adjudicator</i>'s decision includes assessment of additional cost or delay caused to the <i>Contractor</i>, he makes his assessment in the same way as a compensation event is assessed. If the <i>Adjudicator</i>'s 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>added at end: new sentence 'The <i>Adjudicator</i> may in his decision allocate his fees and expenses between the Parties.'</p> <p>text replaced with: '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>  |
| 40 | Y(UK)1                                 | <p>1 insert new clause: 'Project Bank Account'</p>   |

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|  |  | <p><b>Y1.1 Definitions</b></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"> <li>• construct or install part of the <i>works</i>,</li> <li>• provide a service necessary to Provide the Works or</li> <li>• supply Plant and Materials for the <i>works</i>.</li> </ul> <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><b>Y1.2 Project Bank Account</b></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><b>Y1.3</b></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><b>Y1.4</b></p> <p>The <i>Contractor</i> submits to the <i>Project 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>Project Manager</i> copies of communications with the <i>project bank</i> in connection with the Project Bank Account.</p>   |
|  |  | <p><b>Y1.5 Named Suppliers</b></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><b>Y1.6</b></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>   |

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|    |        | <p><b>Y1.7 Payments</b></p> <p>On or before each assessment date, the <i>Contractor</i> submits to the <i>Project Manager</i> an application for payment, and shows in the application the amounts due to Named Suppliers in accordance with their contracts.</p> <p><b>Y1.8</b></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"> <li>• the <i>Employer</i> makes payment to the Project Bank Account of the amount which is due to be paid under the contract and</li> <li>• 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.</li> </ul> <p><b>Y1.9</b></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>Project 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><b>Y1.10</b></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 Account receives payment.</p> <p><b>Y1.11</b></p> <p>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><b>Y1.12 Effect of payment</b></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><b>Y1.13 Trust Deed</b></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><b>Y1.14 Termination</b></p> <p>If the <i>Project 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'   |

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|    |        | <p><b>Trust Deed</b><br/> This agreement is made between the <i>Employer</i>, the <i>Contractor</i> and the Named Suppliers.<br/> Terms in this deed have the meanings given to them in the contract between..... and .....<br/> ..... for ..... (the works).</p> <p><b>Background</b><br/> The <i>Employer</i> and the <i>Contractor</i> have entered into a contract for the works.<br/> The Named Suppliers have entered into contracts with the <i>Contractor</i> or a Subcontractor in connection with the works.<br/> 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><b>Agreement</b><br/> The parties to this deed agree that</p> <ul style="list-style-type: none"> <li>• 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,</li> <li>• 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,</li> <li>• this deed is subject to the law of the contract for the works,</li> <li>• the benefits under this deed may not be assigned.</li> </ul> <p>Executed as a deed on .....</p> <p>by</p> <p>..... (Employer)<br/> ..... (Contractor)<br/> .....<br/> .....<br/> .....<br/> ..... (Named Suppliers)</p> |
| 43 | Y(UK)1 | 1 insert new: 'Joining Deed'   |
|    |        | <p><b>Joining Deed</b><br/> This agreement is made between the <i>Employer</i>, the <i>Contractor</i> and ..... (the Additional Supplier).<br/> Terms in this deed have the meanings given to them in the contract between..... and .....<br/> ..... for ..... (the works).</p> <p><b>Background</b><br/> The <i>Employer</i> and the <i>Contractor</i> have entered into a contract for the works.<br/> The Named Suppliers have entered into contracts with the <i>Contractor</i> or a Subcontractor in connection with the</p>  |

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|    |                                  | <p><i>works.</i><br/> The <i>Contractor</i> has established a Project Bank Account to make provision for payment to the <i>Contractor</i> and the Named Suppliers.<br/> 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<br/> The Parties to this deed agree that</p> <ul style="list-style-type: none"> <li>the Additional Supplier becomes a party to the Trust Deed from the date set out below,</li> <li>this deed is subject to the law of the contract for the <i>works</i>,</li> <li>the benefits under this deed may not be assigned.</li> </ul> <p>Executed as a deed on .....<br/> by<br/> ..... (<i>Employer</i>)<br/> ..... (<i>Contractor</i>)<br/> ..... (<i>Additional Supplier</i>)</p>  |
| 44 | Y2.1 (1)<br><br>Y2.2<br><br>Y2.3 | <p><b>1</b> 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><b>1</b> paragraph 3, text replaced with 'The <i>Project 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><b>1</b> 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 his intention to pay less than the notified sum as required by this contract.'</p> |
| 45 | Contract Data part one, 1.       | 4 date replaced with: 'April 2013'  |
| 52 | Y(UK)1                           | <p><b>1</b> text inserted<br/> '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"> <li>The <i>Employer</i> is to pay any charges made and is paid any interest paid by the <i>project bank</i>.'</li> </ul>  |
|    | Y(UK)1 and Y(UK)3                | <p><b>1</b> text inserted:<br/> If Options Y(UK)1 and Y(UK)3 are both used</p> <ul style="list-style-type: none"> <li>term person or organisation<br/> The provisions of Option Named Suppliers<br/> Y(UK)1</li> </ul>  |
| 54 | Y(UK)1                           | <p><b>1</b> text inserted<br/> If Option Y(UK)1 is used</p> <ul style="list-style-type: none"> <li>The <i>project bank</i> is .....</li> </ul>  |

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|  |  | <ul style="list-style-type: none"><li>• <i>named suppliers are .....</i></li></ul> |
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