

ECC High Level User Guide

Introduction

This overview is intended to be a quick reference guide as to where you will find a particular subject matter within the ECC contract. This guide focuses on the main clauses that will be commonly be used and is based upon an un-amended contract. Any Z clause amendments would have to be taken into account for an individual project as it could delete or amend any of the original contract clauses. Sections 1-8 are the core clauses for every ECC option A-F, with Option specific clauses start on page 4:

Section 1 – General

Reminder that you have to administer the contract	10.1
Defined terms (broadly in alphabetical order)	11.2
Communications	
Everything has to be in a form that is read/copied/recorded	13.1
Responses within period for reply or as per contract	13.3
May ask for an extension for a period of reply	13.4
Any notification has to be separate from any other communication	13.7
Project Manager/Supervisor	
Project Manager acceptance not transfer liability away from Contactor	14.1
Project Manager/Supervisor must formally delegate actions under 13.7	14.2
Project Manager can issue instructions to change the WI	14.3
Working Area	
Contractor can propose an area added to Working Area	15.1
Early Warnings	
Reasons for which an early warning should be raised	16.1
Instruct the other party to attend a Risk Reduction meeting	16.2
Actions expected of all parties at a risk reduction meeting	16.3
Updating of the Risk Register	16.4
Ambiguities	
Raising of and resolving of an ambiguity	17.1
Contractors entitlement following resolution of an ambiguity	17.2

Section 2 - Contractors Responsibilities

Providing the Works	
Reminder of Contractors obligations as to Provide the Works	20.1
Design	
Reference back that you only design what WI says you are to design	21.1
Requirement for Contractor to submit design and PM to accept	21.2
Design submission can be in parts if suitable	21.3
People	
Need to provide Key People stated in CD2 or suitable replacement	24.1
PM can instruct the removal any person under his control	24.2
Working with Employer and Others	
Requirement for Contractor to work with Others as per instruction or WI	25.1
Requirement to meet certain condition by a Key Date in CD1	25.3

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Section 2 - Contractors Responsibilities (cont)

Subcontracting	
Requirement to submit proposed subcontractor for acceptance by PM prior to appointing that subcontractor	26.2
Reasons under which PM could not accept a subcontractor	26.2
Also have to submit contract terms for subcontractor if not using an NEC contract	26.3

Section 3 - Programme

Starting Date / Completion Date	
Contractor does not start work on site until the first access date	30.1
Project Manager certifies date of Completion	30.2
The programme	
Requirement for Contractor to submit first programme for acceptance	31.1
List of what is required to be shown on a programme for acceptance	31.2
Requirement for PM to accept a programme or not accept	31.3
Revising the Programme	
List of what should be shown on a revised programme	32.1
Intervals for programme submissions to Employer	32.2
Acceleration	
Project Manager can request a quotation for an acceleration	36.1

Section 4 - Testing and Defects

Tests and Inspections	
Requirement to carry out tests and inspections as per works information	40.1
Requirement to notify Supervisor prior to tests being carried out	40.3
Requirement for Supervisor to carry out test/inspection	40.5
Before delivery	
Requirement to carry out tests prior to delivery where required	41.1
Searching/notifying defects	
Supervisor can instruct Contractor to search for a defect	42.1
Requirement Supervisor/Contractor to make each other aware of defects	42.2
Correcting defects	
Requirement to correct a defect within correction period	43.2
Supervisor to issue defects certificate at end of defects date	43.3
Accepting defects	
Can propose for a defect to be not corrected and WI changed accordingly	44.1
Uncorrected defects	
PM can rectify a defect and back charge a Contractor if not carried out	45.1

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Section 5 – Payment

Assessing Amount Due	
Project Manager to assess the amount due at each assessment date	50.1
Definition of the amount due	50.2
Fact that 25% PWDD can be withheld if no 1 st accepted programme	50.3
Reminder that PM has to assess even if no Contractor submission	50.4
Payment	
Project Manager to certify payment within 7 days of assessment date	51.1
Confirmation of period within which payment should be made	51.2
Interest recoverable on items corrected on a later certificate	51.3
Defined Cost	
Any Contractors costs not identified in Defined Cost are in the Fee	52.1

Section 6 - Compensation Events

General	
List of what events would be considered as compensation events	60.1
Requirement to mitigate the effects of a compensation event	60.3
Notifying	
PM can notify and request a quotation, which Contractor puts into effect	61.1
PM can request a quotation for a proposed quotation	61.2
Contractor can notify a CE and <u>can</u> be time barred after a period	61.3
PM to accept or not accept if Contractor has notified. It includes a deemed acceptance “loop” if the PM does not respond within period.	61.4
PM can advise that an early warning could have been given which wasn’t	61.5
PM can state assumptions for Contractor to base the quote upon	61.6
No compensation events can be issued after Completion	61.7
Quotation	
PM can request alternative quotations for dealing with a CE	62.1
Contractor to provide a quote, and alterations to programme where relevant	62.2
Contractor to provide quote within 3 weeks, PM response within 2 weeks	62.3
PM can request a revised quote	62.4
PM can extend period for Contractor to produce quote	62.5
Contractors quote deemed accepted if no response to notification	62.6
Assessment	
Basis of quotes required in relation to actual/forecast defined cost	63.1
Definition of contractual movement in Completion Date	63.3
PM may assess as though early warning had been given but wasn’t	63.5
Allocation of risk within a compensation event quotation	63.6
Requires Contractor to act promptly and competently to a CE	63.7
How ambiguities will be assessed in terms of a compensation event	63.8
Project Managers Assessments	
Reasons under which PM can make his own assessment of a CE	64.1/2
PM to notify Contractor of his own assessment of a CE	64.3
Deemed acceptance if PM no response to a notification of no assessment	64.4
Implementing	
Implemented when CE accepted/assessed/deemed accepted	65.1
CE quote is not changed if later found to be wrong	65.2
Prices changed following agreement of a compensation event	65.3

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Section 7 – Title

Where title of materials transfers from Contractor to Employer	70.1/2
Supervisor marks materials outside the Working Area	71.1
Contractor has no title to anything found/existing on the site other than That stated in Works Information	73.1

Section 8 - Risks and Insurance

All employers risks	80.1
By difference, Contractors risks	81.1
Insurance cover details	84
Insurance policies and who needs to provide what to whom	85

Additional Option A clauses

Identified and defined terms	
Use of shorter schedule of cost components and cost of preparing quote is excluded from cost of compensation events	11.2(20)
Price for Work Done to Date is completed items on the activity schedule	11.2(27)
Programme	
Requirement for activity schedule to relate to items on programme	31.4
Activity Schedule	
Makes the point activity schedule is not Works Information	54.1
Activity schedule can be changed by agreement	54.2
Reasons for not accepting a revised Activity Schedule	54.3
Compensation Events	
Prices (contract sum) can be reduced with a compensation event	63.10
Activity Schedule to be updated in line with compensation events	63.12

Additional Option B clauses

Identified and defined terms	
Use of shorter schedule of cost components and cost of preparing quote is excluded from cost of compensation events	11.2(22)
Price for Work Done to Date is completed quantities at bill rates and proportion of any lump sums	11.2(28)
Bill of Quantities	
Makes the point activity schedule is not Works Information	55.1
Compensation Events	
Sets the threshold at which a change in quantity is assessed as a compensation event (defined cost), rather than using bill rates.	60.4
If any change in quantity affects Completion then it is a CE.	60.5
Any errors in the B of Q that are departure from standard method of measurement will be a compensation event	60.6

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Additional Option B clauses (cont)

Any ambiguity between B of Q and another contract document that Results in a CE, Contractor deemed to have taken B of Q as correct	60.7
Prices (contract sum) can be reduced with a compensation event	63.10
Bill of Quantities to be updated in line with compensation events	63.12

Additional Option C clauses

Defined terms	
Defined cost is subcontracted costs and elements in accordance with schedule of cost components.	11.2(23)
List of disallowed costs that Contractor will not get paid for	11.2(25)
Price for Work Done to Date is total of Defined Cost (actual cost)	11.2(29)
Providing the Works	
Contractor provides forecast of total Defined cost at contract intervals	20.4
Subcontracting	
Requirement to submit contract data for proposed subcontracts	26.4
Programme	
Requirement for activity schedule to relate to items on programme	31.4
Defined cost	
Requirement for Contractor to keep records	52.2
Contractors Share	
PM assesses Contractors share of the Prices and actual defined cost	53.1/2
Provisional assessment of Contractors share following Completion	53.3
Final assessment of Contractors share following Completion	53.3
Activity Schedule	
Makes point activity schedule is not Works Information	54.1
Activity schedule can be changed by agreement	54.2
Reasons for not accepting a revised Activity Schedule	54.3
Compensation events	
Total of Prices are not reduced if Contractor idea to reduce defined cost	63.11
By agreement may use shorter schedule of cost components to assess a CE	63.15

Additional Option D clauses

Identified and defined terms	
Defined cost is subcontracted costs and elements in accordance with schedule of cost components.	11.2(23)
List of disallowed costs that Contractor will not get paid for	11.2(25)
Price for Work Done to Date is total of Defined Cost (actual cost)	11.2(29)
Providing the Works	
Contractor provides forecast of total Defined cost at contract intervals	20.4
Subcontracting	
Requirement to submit contract data for proposed subcontracts	26.4
Defined cost	
Requirement for Contractor to keep records	52.2

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Additional Option D clauses (cont)

Contractors Share	
PM assesses Contractors share of the Prices and actual defined cost	53.1/2
Provisional assessment of Contractors share following Completion	53.3
Final assessment of Contractors share following Completion	53.3
Bill of Quantities	
Makes the point activity schedule is not Works Information	55.1
Compensation Events	
Sets the threshold at which a change in quantity is assessed as a compensation event (defined cost), rather than using bill rates.	60.4
If any change in quantity affects Completion then it is a CE.	60.5
Any errors in the B of Q that are departure from standard method of measurement will be a compensation event	60.6
Any ambiguity between B of Q and another contract document that Results in a CE, Contractor deemed to have taken B of Q as correct	60.7
Prices (contract sum) can be reduced with a compensation event	63.11
Bill of Quantities to be updated in line with compensation events	63.13

Additional Option E clauses

Defined terms	
Defined cost is subcontracted costs and elements in accordance with schedule of cost components.	11.2(23)
List of disallowed costs that Contractor will not get paid for	11.2(25)
Price for Work Done to Date is total of Defined Cost (actual cost)	11.2(29)
Contract sum is simply defined cost plus the fee	11.2(29)
Providing the Works	
Contractor provides forecast of total Defined cost at contract intervals	20.4
Subcontracting	
Requirement to submit contract data for proposed subcontracts	26.4
Defined cost	
Requirement for Contractor to keep records	52.2
Compensation events	
By agreement may use shorter schedule of cost components to assess a CE	63.15

Additional Option F clauses

Defined terms	
Defined cost is subcontracted costs and elements in accordance with schedule of cost components.	11.2(24)
List of disallowed costs that Contractor will not get paid for	11.2(26)
Price for Work Done to Date is total of Defined Cost (actual cost)	11.2(29)
Contract sum is simply defined cost plus the fee	11.2(29)
Providing the Works	
Contractor provides forecast of total Defined cost at contract intervals	20.4
Subcontracting	
Requirement to submit contract data for proposed subcontracts	26.4
Defined cost	
Requirement for Contractor to keep records	52.2