

# ECS High Level Quick 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 ECS 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 ECS option A-E, 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
Contractor	
Contractor acceptance not transfer liability away from Subcontractor	14.1
Contractor must formally delegate actions under 13.7	14.2
Contractor can issue instructions to change the WI	14.3
Working Area	
Subcontractor 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
Subcontractors entitlement following resolution of an ambiguity	17.2

## Section 2 – Subcontractor’s Responsibilities

Providing the Works	
Reminder of Subcontractor’s 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 Subcontractor to submit design and for acceptance	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
Contractor can instruct the removal any person under his control	24.2
Working with Employer and Others	
Requirement for Subcontractor to work with Others as per instruction/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 subsubcontractor for acceptance prior to appointing that subsubcontractor	26.2
Reasons under which Contractor 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	
Subcontractor does not start work on site until the first access date	30.1
Contractor certifies date of Completion	30.2
The programme	
Requirement for Subcontractor 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 Contractor 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 Contractor	32.2
Acceleration	
Contractor 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 Contractor prior to tests being carried out	40.3
Requirement for Contractor to carry out test/inspection	40.5
Before delivery	
Requirement to carry out tests prior to delivery where required	41.1
Searching/notifying defects	
Contractor can instruct Subcontractor to search for a defect	42.1
Requirement Subcontractor/Contractor to make each other aware of defects	42.2
Correcting defects	
Requirement to correct a defect within correction period	43.2
Contractor 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	
Contractor can rectify a defect and charge a Subcontractor if not carried out	45.1

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## Section 5 – Payment

Assessing Amount Due	
Contractor 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 <sup>st</sup> accepted programme	50.3
Reminder that Contractor has to assess even if no Subcontractor submission	50.4
Payment	
Contractor 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 Subcontractors 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	
Contractor can notify/request a quotation, which Contractor puts into effect	61.1
Contractor can request a quotation for a proposed quotation	61.2
Subcontractor can notify a CE and <u>can</u> be time barred after a period	61.3
Contractor to accept or not accept if Subcontractor has notified. It includes a deemed acceptance “loop” if the Contractor does not respond within period.	61.4
Contractor can advise that an early warning could have been given which was not notified	61.5
Contractor can state assumptions for Subcontractor to base the quote upon	61.6
No compensation events can be issued after Completion	61.7
Quotation	
Contractor can request alternative quotations for dealing with a CE	62.1
Subcontractor to provide a quote + alterations to programme where relevant	62.2
Subcontractor to provide quote within 3 weeks, PM response within 2 weeks	62.3
Contractor can request a revised quote	62.4
Contractor can extend period for Subcontractor to produce quote	62.5
Subcontractors 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
Contractor 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 Subcontractor to act promptly and competently to a CE	63.7
How ambiguities will be assessed in terms of a compensation event	63.8
Contractors Assessments	
Reasons under which Contractor can make his own assessment of a CE	64.1/2
Contractor to notify Subcontractor of his own assessment of a CE	64.3
Deemed acceptance if Contractor does not respond to a notification	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 Subcontractor to Contractor	70.1/2
Contractor marks materials outside the Working Area	71.1
Subcontractor 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 Contractor/Employers risks	80.1
By difference, Subcontractors 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, Subcontractor 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 Subcontractor 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	
Subcontractor 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 Subcontractor to keep records	52.2
Subcontractor's Share	
Contractor assesses Subcontractor's share of the Prices/actual defined cost	53.1/2
Provisional assessment of Subcontractor's share following Completion	53.3
Final assessment of Subcontractor's 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 Subcontractor's 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 Subcontractor 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	
Subcontractor 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 Subcontractor to keep records	52.2

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