

---

# Contents

---

<b>1</b>	<b>Introduction</b>	<b>1</b>
1.1	General	1
1.2	Mechanics not law	2
1.3	A simple formula for understanding a contract	2
1.4	Mandatory or discretionary	3
1.5	Conditions precedent	4
1.6	Note on use of upper case in key words and phrases	4
<b>2</b>	<b>Background to the NEC Family of Contracts</b>	<b>6</b>
2.1	The background: First editions	6
2.2	The second edition	7
2.3	The third edition	8
2.4	Endorsement of NEC3 by the Office of Government Commerce	8
2.5	General philosophy: Aims and objectives	9
2.6	Flexibility	9
2.7	Clarity and simplicity	10
2.8	Stimulus to good management	11
2.9	Other characteristics	12
<b>3</b>	<b>The Options: An Overview</b>	<b>13</b>
3.1	General arrangement of the PSC	13
3.2	Other documents referred to	15
3.3	Contract Data	16
3.4	The published documents	16
3.5	Main options: General outline	17
<b>4</b>	<b>'Spirit of Mutual Trust and Cooperation'</b>	<b>18</b>
4.1	Introduction	18
4.2	Core clause 10.1	18
4.3	What does it mean?	20
4.4	Practical issues	21
<b>5</b>	<b>The Cast of Characters</b>	<b>25</b>
5.1	Introduction	25
5.2	The Employer	25
5.3	The Employer's Agent	27

5.4	The Consultant	29
5.5	The Adjudicator	29
5.6	Subconsultants	30
5.7	'Others'	30
5.8	CDM Coordinator	31
5.9	Principal Contractor	32
5.10	Practical issues	32
<b>6</b>	<b>Communications, Early Warnings and other General Matters</b>	<b>34</b>
6.1	Introduction	34
6.2	Communications: The clause	34
6.3	Communications: Practical issues	36
6.4	Early warnings: The clause	38
6.5	Early warnings: Practical issues	39
6.6	Other matters: The clauses	42
6.7	Other matters: Practical issues	44
<b>7</b>	<b>The Parties' Main Responsibilities</b>	<b>46</b>
7.1	Introduction	46
7.2	The Employer's obligations	46
7.3	The Consultant's obligations	47
7.4	Other matters	48
7.5	Practical issues	52
<b>8</b>	<b>Subconsulting</b>	<b>55</b>
8.1	Introduction	55
8.2	Definition of a Subconsultant	55
8.3	The core clauses	56
8.4	Provisions in the main options	56
8.5	Practical issues	57
8.6	Using the PSC as a Subcontract	58
<b>9</b>	<b>Quality</b>	<b>59</b>
9.1	Introduction	59
9.2	Quality management system	59
9.3	What is a Defect?	60
9.4	The Defects procedure	61
9.5	Uncorrected Defects	62
9.6	Practical issues	62
<b>10</b>	<b>Rights to Material</b>	<b>65</b>
10.1	Introduction	65
10.2	The core clauses	65
10.3	Secondary option X9	66
10.4	Practical issues	67

<b>11</b>	<b>Indemnity, Insurance and Liability</b>	<b>68</b>
11.1	Introduction	68
11.2	The core clauses	68
11.3	Secondary option X18: Limitation of liability	70
11.4	Practical issues	71
<b>12</b>	<b>Time</b>	<b>74</b>
12.1	Introduction	74
12.2	The programme: Contents	75
12.3	The programme: Submitting, accepting and revising	79
12.4	The programme: Practical issues	82
12.5	Starting and finishing	90
12.6	Other matters	93
12.7	Secondary options related to Time	95
12.8	Practical issues	97
<b>13</b>	<b>Payment</b>	<b>100</b>
13.1	Introduction	100
13.2	The payment process	100
13.3	Payments in multiple currencies	102
13.4	The amount due and the Price for Services Provided to Date	103
13.5	Supporting documents and records	107
13.6	The Consultant's share	111
13.7	The Consultant's share: Practical issues	112
13.8	Special provisions for the UK	114
13.9	Related secondary options	116
13.10	Practical issues	118
<b>14</b>	<b>Compensation Events: Theory and Events</b>	<b>120</b>
14.1	Introduction	120
14.2	The theory	120
14.3	The events	122
14.4	Practical issues	130
<b>15</b>	<b>Compensation Events: Procedures</b>	<b>132</b>
15.1	Introduction	132
15.2	Notification by the Employer	133
15.3	Notification by the Consultant and the Employer's reply	136
15.4	Other matters associated with notifying compensation events	139
15.5	Quotations: Substance	141
15.6	Quotations: Submission and reply	142
15.7	Assessments by the Employer	147
15.8	Implementing compensation events	148
15.9	Practical issues	149

<b>16</b>	<b>Compensation Events: Assessment</b>	<b>154</b>
16.1	Introduction	154
16.2	Changes to the Prices	155
16.3	Changes to the Completion Date and any Key Dates	159
16.4	Employer's assumptions	162
16.5	Other related matters	163
16.6	Practical issues	165
<b>17</b>	<b>Termination</b>	<b>168</b>
17.1	Introduction	168
17.2	Reasons for termination	168
17.3	Secondary option X11: Termination by the Employer	171
17.4	Implementing termination	171
17.5	Procedures after termination	172
17.6	Payment on termination	173
17.7	Practical issues	174
<b>18</b>	<b>Dispute Resolution</b>	<b>176</b>
18.1	Introduction	176
18.2	Option W1	177
18.3	Option W2	180
18.4	Practical issues	185
<b>19</b>	<b>Secondary Options</b>	<b>188</b>
19.1	Introduction	188
19.2	X2: Changes in the law	188
19.3	X4: Parent company guarantee	189
19.4	X8: Collateral warranty agreements	189
19.5	X12: Partnering	190
19.6	X13: Performance bond	194
19.7	X20: Key Performance Indicators	195
19.8	Y(UK)3: The Contracts (Rights of Third Parties) Act 1999	196
19.9	Z: Additional conditions of contract	196
19.10	Practical issues	197
<b>20</b>	<b>Completing the Contract Data</b>	<b>199</b>
20.1	Introduction	199
20.2	Purpose and form of the Contract Data	199
20.3	Part One: Data for the core clauses	200
20.4	Part One: Data for the main option clauses	204
20.5	Part One: Data for the secondary option clauses	205
20.6	Part Two: Data for the core clauses	209
20.7	Part Two: Data for the optional statements	209
20.8	Practical issues	211

<b>21 The Supporting Documents: Need and Content</b>	<b>214</b>
21.1 Introduction	214
21.2 Scope	214
21.3 Practical issues	221
Bibliography	224
Further Reading	225
Appendix 1 Tables of Clause Numbers, Case Law and Statutes	226
Appendix 2 Tables of Employer's, Consultant's and Adjudicator's Actions	233

<http://www.pbookshop.com>

<http://www.pbookshop.com>