

ice-sa NEC Forum 3 - 2026

NEC training sponsored by



FREE

Tuesday, 14th April
4 pm - 6 pm

Topic: NEC4 Supply Contract - SC4

Presenter: Jacqueline Mthethwa
Contract Law Consultant

ice-sa

ice-sa

NEC Forum 3 - 2026

NEC training sponsored by



Agenda:

- **Welcome by Mahomed Sabeer Ibrahim,
ICE-SA Vice Chairman**
- **Update on ECS Projects by Trevor Arran, ECS Director**
- **NEC Training by Jacqueline Mthethwa**
- **Q&A**

ice-sa

Session objectives

Explain the contract

Position the Supply Contract within the NEC4 suite and use the correct NEC4 terminology: *Purchaser, Supplier, Supply Manager, Scope, Delivery and Price List.*

Administer the contract

Understand the practical flow of programme, testing, payment, early warning and compensation events so issues are managed before they turn into disputes.

Spot the risk

Recognise where risk sits in relation to title, liabilities, insurance, defects, delay and termination.

How we will work today

Short teaching bursts, clause-led visuals and three practical scenarios. Use the notes pane for trainer prompts and timing suggestions.

- This is session on the NEC4 SC form itself - not legal advice.
- The draft deck has been corrected to match the SC wording and clause structure.
- Expect the terms to differ from ECC: no Project Manager, no main Options A-F, and Scope replaces Works Information.

Agenda

1

Where SC fits in NEC4 and when to use it

2

Contract structure, parties and governance

3

Time, programme, testing and defects

4

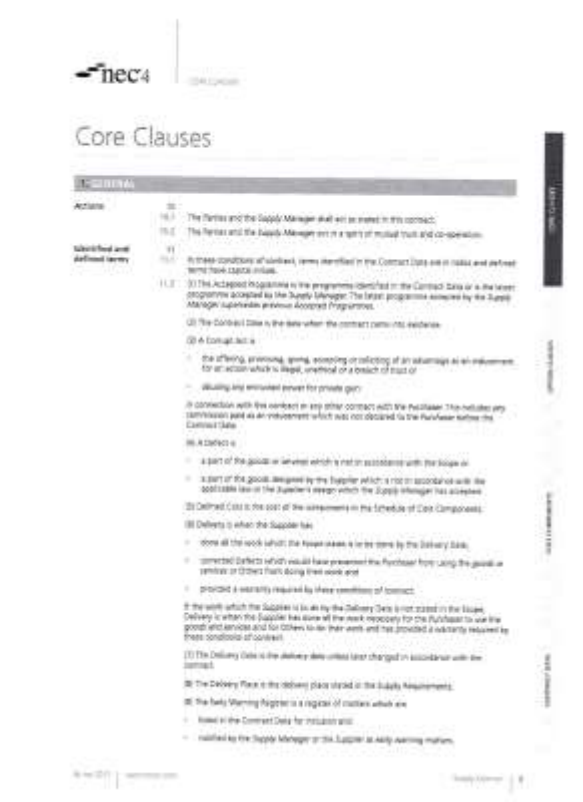
Payment, Defined Cost and compensation events

5

Early warning, risk allocation and key options

6

Termination, dispute avoidance and scenarios



Clause pages as visual anchor

01

Part 1 - contract purpose, structure and roles

Locating the Supply Contract inside the NEC4 family and getting the terminology right.

Where the Supply Contract fits

ECC

Engineering &
Construction Contract

ECS

Engineering &
Construction
Subcontract

PSC

Professional Services
Contract

SC

Supply Contract

TSC

Term Service Contract

FMS

Facilities Management
Contract

When SC is usually a good fit

Package procurement of plant, equipment, manufactured items or specialist goods where the supplier also provides associated services such as design, fabrication, testing, commissioning or delivery logistics.

- SC is for local or international procurement of high-value goods and related services, including design where needed.
- The contract uses its own core clauses plus secondary option clauses X/Y/Z - it does not use ECC-style main options A-F.
- Commercial focus is on delivery, quality, testing, price, compensation events and liabilities around supplied goods.

Roles and governance

Purchaser

- Provides Scope and Contract Data Part 1
- Provides access, information and *Purchaser*-supplied items
- Makes payment and carries stated *Purchaser* liabilities

Supply Manager

- Administers acceptances, programme, payment and compensation events
- Issues instructions and certificates
- Has reply periods that matter commercially

Supplier

- Provides Goods and Services in accordance with the Scope
- Produces programme, quality plan, payment applications and quotations
- Corrects Defects and carries *Supplier* liabilities unless shifted by contract

Senior Representatives

Used for escalation before adjudication. Clause 93.4 requires a connected dispute to be referred in accordance with the dispute reference table.

Key admin discipline

Reply periods matter. A missed reply can deem acceptance, force a correction or trigger a compensation event workflow.

02

Part 2 - time, programme, testing and payment

The SC works best when administration is proactive: programme visibility, disciplined testing and timely payment certificates.

Time and programme

- The Supplier starts on the starting date and does the work, so Delivery is on or before the Delivery Date (clause 30.1).
- If a programme is not identified in Contract Data, the Supplier must submit a first programme within the stated period (31.1).
- The programme must show planned Delivery, operations, required access, Purchaser-provided things, tests/inspections and any information required by the Scope (31.2).
- Supply Manager reply period is two weeks; failure to reply can become deemed acceptance after notice (31.3).



Acceleration

Either party may propose acceleration. If accepted, the Prices and Delivery Date are changed, and the revised programme is accepted (35).

NOTE

A weak or missing programme affects payment: clause 50.5 retains one quarter of the price for work done to date until the first required programme is submitted.

Quality management, tests and defects

Quality system

Supplier operates a quality management system compliant with the Scope and submits a quality policy statement and quality plan for acceptance (40).

Tests and inspections

Supplier and *Purchaser* provide what the Scope requires for testing. If a test shows a Defect, the Defect is corrected and the test or inspection is repeated (41).

Before Delivery

Goods that must be tested or inspected before Delivery do not go to the Delivery Place until the required tests or inspections have passed (42).

- Until the defects date, both parties notify each other as soon as they become aware of a Defect (43.2).
- The *Supplier* corrects a Defect whether the *Supply Manager* has notified it (44.1).
- After Delivery, the *Supplier* corrects notified Defects within the defect correction period, with access arranged by the *Purchaser* (44.2-44.3).
- If access is given but the *Supplier* does not correct the notified Defect, the *Supply Manager* assesses the cost of others correcting it and the *Supplier* pays (46.1).

1

Notify
Defect

2

Correct
Defect

3

Retest /
accept

Payment mechanism

1 Application

Supplier submits application for payment before the assessment date (50.2).

2 Assessment

Supply Manager assesses amount due at the assessment date, including Price for Goods and Services Provided to Date plus/minus other stated amounts (50.3).

3 Certificate

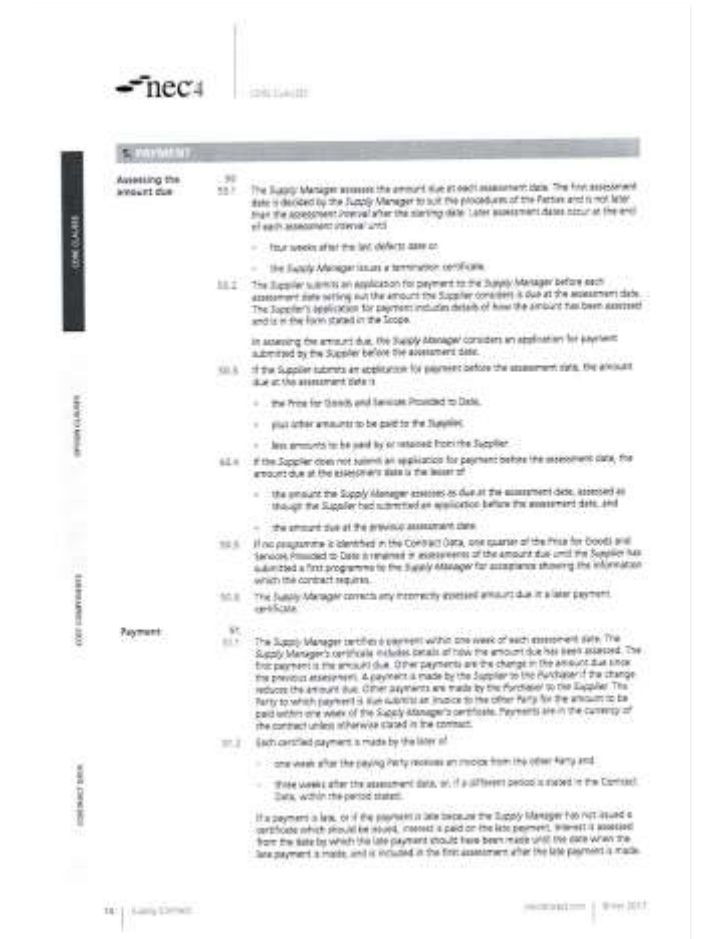
Supply Manager certifies within one week of each assessment date (51.1).

4 Invoice + payment

Payment is made by the later of one week after invoice and three weeks after the assessment date, unless Contract Data states a different period (51.2).

Watch-out

If the *Supply Manager* fails to issue a certificate which should be issued, late payment interest can flow. Also remember clause 50.5 retention if a required first programme is missing.



The screenshot shows the 'PAYMENT' section of the NEC4 contract, specifically clause 50. The clause is divided into two main parts: 'Assessing the amount due' and 'Payment'. The 'Assessing the amount due' section includes sub-clauses 50.1 through 50.6, detailing the assessment process, the application for payment, and the calculation of the amount due. The 'Payment' section includes sub-clauses 51.1 and 51.2, detailing the timing and method of payment.

Section	Sub-clause	Description
Assessing the amount due	50.1	The Supply Manager assesses the amount due at each assessment date. The first assessment date is decided by the Supply Manager to suit the procedures of the Parties and is not later than the assessment period after the starting date. Later assessment dates occur at the end of each assessment period until
	50.2	four weeks after the last defects date or the Supply Manager issues a termination certificate.
	50.3	The Supplier submits an application for payment to the Supply Manager before each assessment date setting out the amount the Supplier considers is due at the assessment date. The Supplier's application for payment includes details of how the amount has been assessed and is in the form stated in the Scope.
	50.4	In assessing the amount due, the Supply Manager considers an application for payment submitted by the Supplier before the assessment date.
	50.5	If the Supplier submits an application for payment before the assessment date, the amount due at the assessment date is:
	50.6	the Price for Goods and Services Provided to Date, plus other amounts to be paid to the Supplier, less amounts to be paid by or retained from the Supplier.
Payment	51.1	The Supply Manager certifies a payment within one week of each assessment date. The Supply Manager's certificate includes details of how the amount due has been assessed. The first payment is the amount due. Other payments are the change in the amount due since the previous assessment. A payment is made by the Supplier to the Purchaser if the change Party to which payment is due submits an invoice to the other Party for the amount to be paid within one week of the Supply Manager's certificate. Payments are in the currency of the contract unless otherwise stated in the contract.
	51.2	Each certified payment is made by the later of:
		one week after the paying Party receives an invoice from the other Party and three weeks after the assessment date, or, if a different period is stated in the Contract Data, within the period stated.

Price, Defined Cost, Fee and the Price List

Price List

List of items and rates used to assess payment and compensation events. It is not Scope (54.1).

Defined Cost

Only amounts calculated using Contract Data rates/percentages and open market or competitively tendered amounts, net of recoverable discounts, rebates and taxes (52.1).

Fee

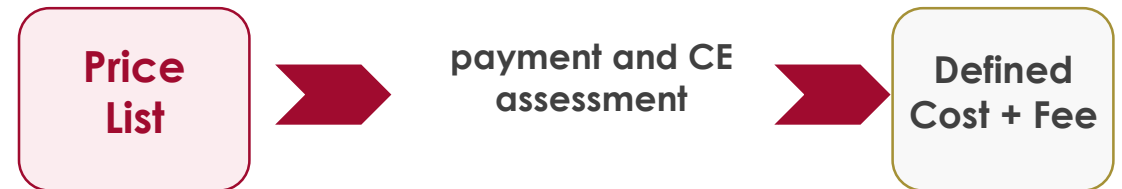
All *Supplier* costs not included in Defined Cost are treated as included in the Fee.

Final assessment

Certified no later than 4 weeks after the later of last defects date and end of last defects correction period (53.1).

A practical way to teach the commercial model

- Price for Goods and Services Provided to Date sits at the heart of interim payment.
- Defined Cost matters because it is also used in compensation event assessment.
- The Fee captures the *Supplier* costs not otherwise allowed as Defined Cost.
- Option X1 can adjust price for inflation and X3 can deal with multiple currencies.



03

Part 3 - compensation events

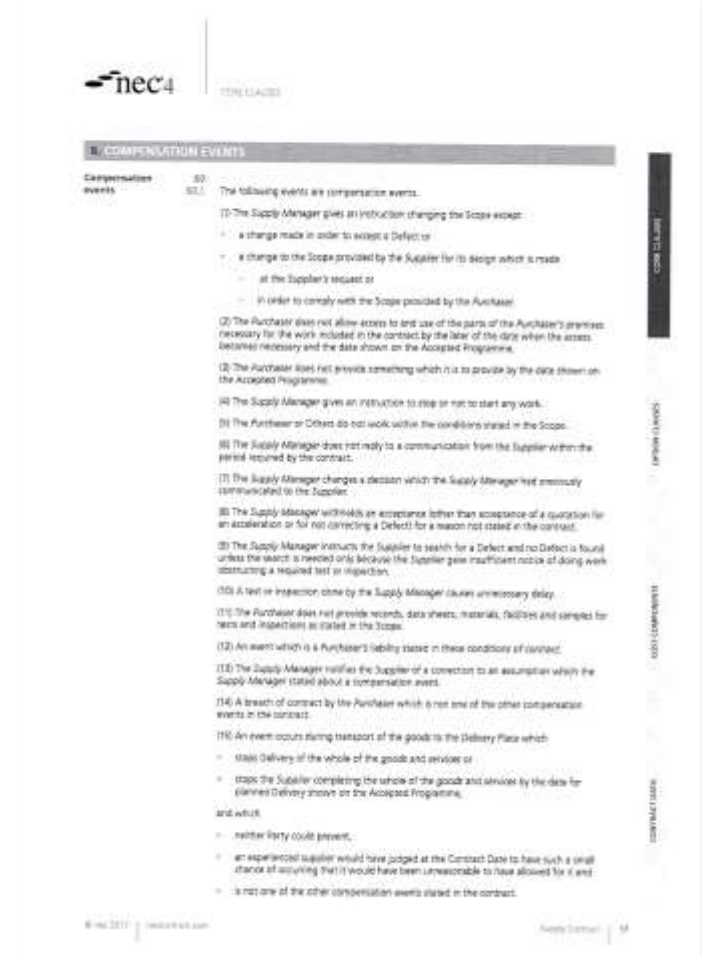
This is the engine room of change management in SC: identify the event, notify it, quote it and implement it on time.

Compensation events - what counts

- Instruction changing the Scope, except for stated exclusions (60.1(1)).
- *Purchaser* fails to give access to premises or provide something by the date shown on the Accepted Programme (60.1(2)-(3)).
- Instruction to stop or not start work, or Others not working within the conditions stated in the Scope (60.1(4)-(5)).
- Late *Supply Manager* reply, change of previous decision or withholding an acceptance for a reason not stated in the contract (60.1(6)-(8)).
- Unnecessary test/inspection delay, *Purchaser* liabilities, breach by the *Purchaser* and the prevention-style transport event in 60.1(15).

Tip

Work from the clause list rather than memory. Participants often recognise the principle but misclassify the trigger.



Compensation event workflow and time bars

Critical time bar

If the *Supplier* does not notify a compensation event within eight weeks of becoming aware that it has happened, Prices and Delivery Date are not changed unless the event came from a *Supply Manager* instruction/notification or earlier decision change (61.3).

Early warning impact

If the *Supply Manager* decides the *Supplier* failed to give an early warning that an experienced *Supplier* would have given, that is stated in the instruction to quote (61.5).

Assumptions

If effects are too uncertain to forecast reasonably, the *Supply Manager* can state assumptions. If later wrong, the *Supply Manager* notifies a correction (61.6).

Notify

Supply Manager or *Supplier* notifies the event (61.1-61.3).



Reply

Supply Manager replies within one week (61.4).



Quote

Supplier submits quotation within three weeks unless changed by reply (62.3).



Assess

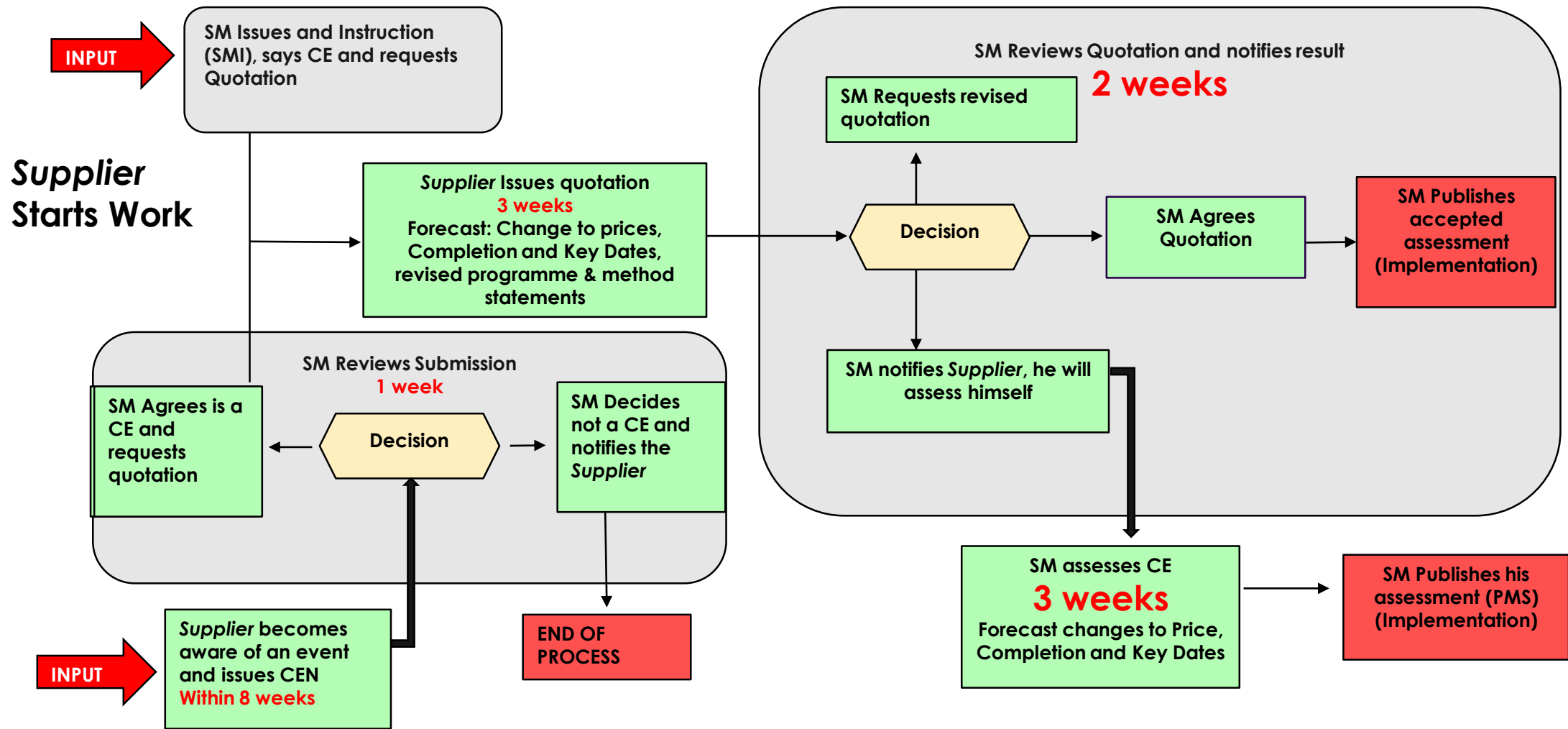
Supply Manager assesses forecast Defined Cost and delay effect, using the dividing date (63).



Implement

Acceptance of quotation or *Supply Manager* assessment implements the event (65.1-65.2).

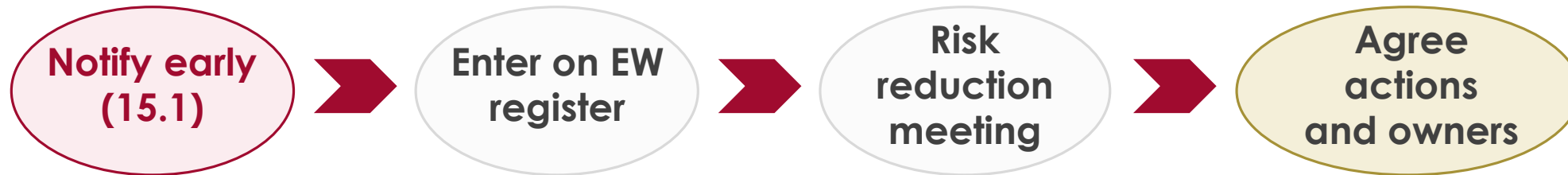
Compensation Events Flowchart



04

Part 4 – Early Warning, risk allocation, options and dispute avoidance

Early warning and risk reduction



- Both the *Supplier* and *Supply Manager* give an early warning as soon as either becomes aware of a matter that could increase total Prices, delay Delivery, impair performance of the goods in use or increase the *Purchaser's* liabilities (15.1).
- The *Supply Manager* enters the matter in the Early Warning Register and may instruct attendance at an early warning meeting (15.2).
- At the meeting the parties co-operate to identify actions to avoid or reduce effects and decide who will take them (15.3).

Risk allocation: liabilities, insurance and title

Topic	Purchaser focus	Supplier focus	Clause
Liabilities	Unavoidable result / <i>Purchaser</i> fault / <i>Purchaser</i> design / post-Delivery loss exceptions / <i>Purchaser</i> property	All other liabilities unless stated as <i>Purchaser's</i> liabilities	80-81
Insurance	May provide stated insurances in Contract Data	Provides insurances in the Insurance Table unless <i>Purchaser</i> provides them	83-86
Title to goods	Title passes when contract-required payment is made	Provides goods and may store them until title passes	70
Use of <i>Purchaser</i> material	Can provide material for use	May use supplied material only to provide Goods and Services	72

Secondary options that matter most in supply deals

X1 Price adjustment for inflation

X2 Changes in the law

X3 Multiple currencies

X7 Delay damages

X13 Performance bond

X14 Advanced payment

X18 Limitation of liability

X25 *Supplier warranties*

- X1, X2 and X3 are often procurement-strategy options rather than dispute options - they should be considered before tender issue.
- X7, X13 and X14 usually require careful Contract Data completion because they change financial exposure materially.
- X18 and X25 are powerful negotiation points: limitation caps and warranties need to align with the technical and commercial risk in the Scope.

Termination and dispute avoidance

Termination

Termination reasons are listed in the table at clauses 90-92. Common training examples include insolvency-type events, serious *Supplier* default, prolonged stop instruction and non-payment.

Adjudication

If the dispute is not resolved by the *Senior Representatives*, it may be referred to adjudication under clause 94.

NOTES

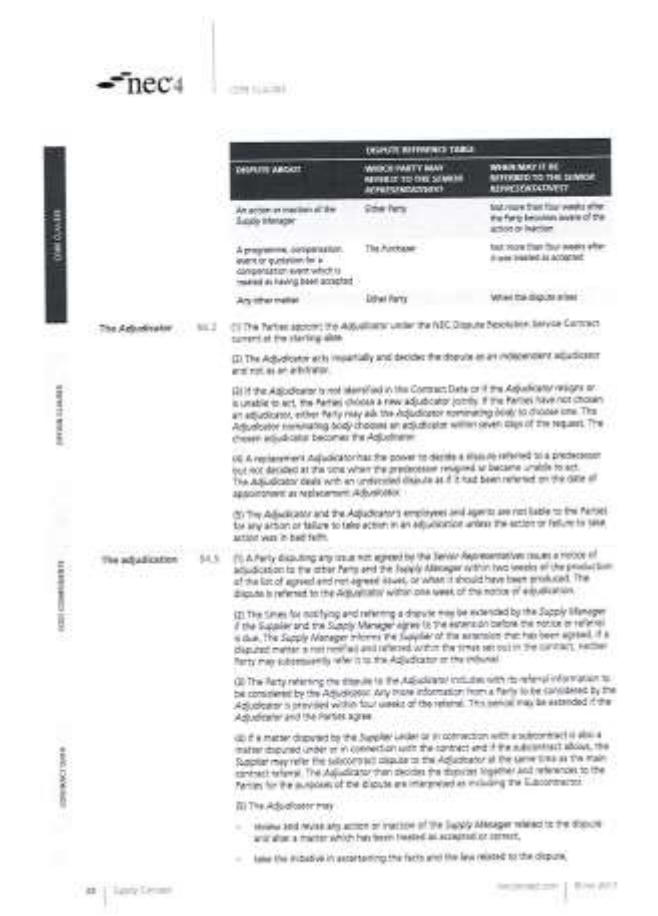
Most formal disputes are symptoms of poor day-to-day administration: late notices, weak Scope drafting, missing programme logic and undocumented assumptions.

Avoiding disputes

Connected disputes are first referred to the *Senior Representatives* in line with the dispute reference table (93.4).

Tribunal

A party may refer a dispute to the tribunal unless it is a dispute already referred to adjudication and not yet eligible for final referral under clause 94.4.



The screenshot displays the NEC4 contract document, specifically the Dispute Reference Table and related clauses. The table is titled "DISPUTE REFERENCE TABLE" and has three columns: "DISPUTE ABOUT", "WHICH PARTY MAY REFER TO THE SENIOR REPRESENTATIVES", and "WHICH MAY BE REFERRED TO THE SENIOR REPRESENTATIVES".

DISPUTE ABOUT	WHICH PARTY MAY REFER TO THE SENIOR REPRESENTATIVES	WHICH MAY BE REFERRED TO THE SENIOR REPRESENTATIVES
An action or inaction of the Supply Manager	Other Party	Not more than four weeks after the Party becomes aware of the action or inaction
A programme, comparison, event or question for a comparison event which is treated as having been accepted	The Purchaser	Not more than four weeks after it was treated as accepted
Any other matter	Other Party	When the dispute arises

Below the table, the document shows clauses 93.2 and 94.3. Clause 93.2 describes the role of the Adjudicator, and clause 94.3 describes the process of adjudication, including the requirement for a notice of adjudication and the time limits for referring a dispute to the Adjudicator.

Contract Data and Scope drafting hotspots

- Assessment interval, payment period, interest rate and insurance entries in Contract Data drive the commercial mechanics.
- The Scope must state delivery requirements, tests and inspections, quality requirements, access constraints and any programme information required for acceptance.
- If design sits with the *Supplier*, the Scope must state what the *Supplier* is to design and any restrictions on access to the Supply Manager and Others working on the contract.
- When using option clauses, complete the related Contract Data entries thoroughly - incomplete data undermines the value of the option.

Good workshop question

Which entries would you check first before signing a real SC? Most teams start with payment, delivery dates, testing, liability caps, damages, warranties and insurance.



The screenshot shows the 'Contract Data' section of a NEC4 contract form. It includes a 'PART ONE - DATA PROVIDED BY THE PURCHASER' section with a note: 'Completion of the data in full, according to the Options chosen, is essential to create a complete contract.' Below this is a '1 General' section with the following fields and their descriptions:

- The conditions of contract are the list (above) and the clauses for the following Options of the NEC4 Supply Contract June 2017 (with amendments January 2012):**
 - Options:
 - The goods are:
 - The services are:
 - The Purpose is:
 - Name:
 - Address for communications:
 - Address for electronic communications:
 - The Supply Manager is:
 - Name:
 - Address for communications:
 - Address for electronic communications:
 - The Scope is in:
 - The language of the contract is:
 - The law of the contract is the law of:

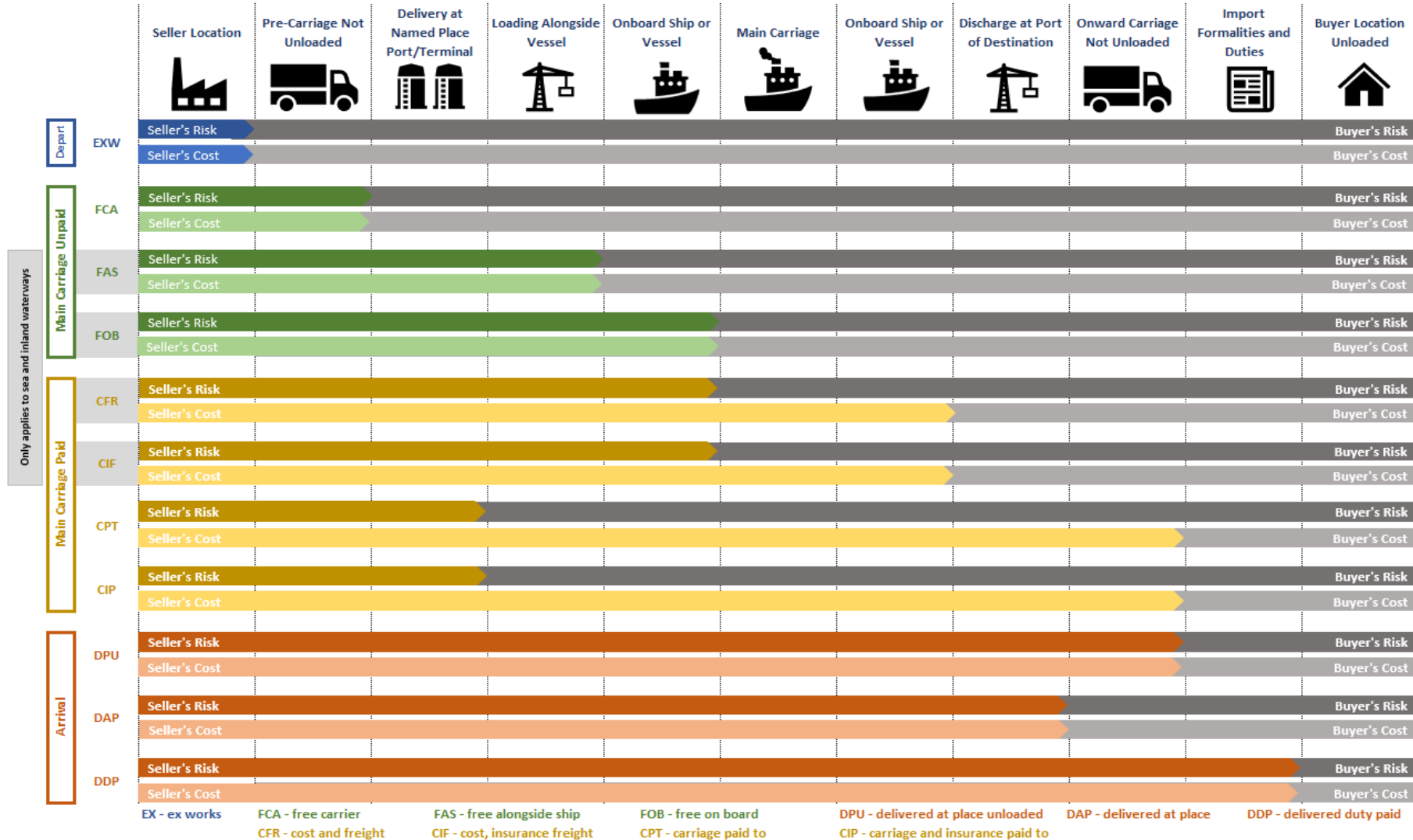
At the bottom, it shows '© nec 2017 | neccontract.com' and 'The page has been generated on 2019'.

05

Part 5 - INCOTERMS, checklist and Q&A

Use of INCOTERMS

INCOTERMS® 2020



Note: INCOTERMS is a registered trade mark of the International Chamber of Commerce, further details available at ICC website

Use of INCOTERMS

Incoterm	Supplier's Responsibility	Purchaser's Responsibility	Primary Mode of Transport
EXW (Ex Works)	Seller delivers goods at their premises.	All transportation, insurance, and customs costs.	Any transport mode.
FCA (Free Carrier)	Delivery to a carrier at a designated place.	Freight, insurance from the designated point.	Any transport mode.
FAS (Free Alongside Ship)	Delivery alongside the ship.	Loading, main transport, and insurance.	Sea or inland waterway.
FOB (Free on Board)	Delivery onto the vessel.	Freight, insurance, unloading.	Sea or inland waterway.
CFR (Cost and Freight)	Freight costs to the destination port.	Insurance and unloading.	Sea or inland waterway.
CIF (Cost, Insurance, and Freight)	Freight and insurance to the destination port.	Unloading.	Sea or inland waterway.
CPT (Carriage Paid To)	Freight costs to the destination.	Insurance and unloading.	Any transport mode.
CIP (Carriage and Insurance Paid To)	Freight and insurance to the destination.	Unloading.	Any transport mode.
DAP (Delivered at Place)	Freight and delivery to destination.	Unloading.	Any transport mode.
DPU (Delivered at Place Unloaded)	Freight, delivery, and unloading.	None (fully seller's responsibility to unloading point).	Any transport mode.
DDP (Delivered Duty Paid)	All costs, including duties and taxes to the destination.	None (fully seller's responsibility to final destination).	Any transport mode.

Common administration failures

- Using ECC language (*Project Manager, Scope, main options A-F*) instead of SC language.
- Treating the programme as optional when payment and compensation event administration depend on it.
- Missing the eight-week compensation event notice bar.
- Failing to keep testing, inspection and Defect records aligned with the Scope.
- Completing Contract Data lightly - especially payments, insurance, damages, liability caps and warranties.
- Thinking disputes start at adjudication rather than much earlier in poor administration.

Best remedy

Keep a live contract administration checklist tied to clause numbers, reply periods and named owners.

Close-out checklist and Q&A

● Use the right SC terminology.

● Keep the programme live and accepted.

● Apply payment timings rigidly.

● Know which secondary options change risk profile.

● Check Contract Data is fully completed.

● Link tests, inspections and defects to the Scope.

● Notify compensation events and early warnings early.

● Escalate disagreements before they harden into disputes.

Thank You

**We appreciate your engagement and
feedback**