**Pro-formas for contract communications under the**

**NEC3 Engineering and Construction Short Contract**

**General Guidance:** Do note that there is an Excel spreadsheet for which records key details of communications using these pro-formas.

**Guidance Note on use of Early Warnings:** The early warning process is a simple process to tell the other party when there is a potential problem – regardless of who ultimately will pay – early, so that something can be done promptly to minimise any effects.

As such, this should contractually include Technical Queries (TQ’s) and Requests for Information (RFI’s). There are two ways of approaching this :

* Have TQ’s and RFI’s as a sub-set of early warnings. In this approach, the ‘5’ box in the pro-forma below is for what would otherwise be for TQ’s and RFI’s. Under the long forms, such as the Professional Services Contract, every early warning should be notified separately (in accordance with clause 13.7 of the conditions of contract) which has the disadvantage that every TQ or RFI should be notified separately. This is not needed under the short form so they can be notified as a list; OR
* Have the TQ and RFI process outside the contractual process, but escalate if not being resolved to an early warning. In this approach, the ‘5’ box in the pro-forma above is for former TQ’s / RFI’s which has or is not being resolved.

Ultimately it is up to the team that is operating the contract to determine how they want to use the early warning process. To re-iterate, the purpose is to identify a problem early so that something can be done early to minimise any impact.

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| **EARLY WARNING NOTIFICATION (EWN) No. XX** | InsertEmployerLogo |
| **DATE & TIME Notified :** XX/XX/17 at XX.XX |
| IN ACCORDANCE WITH ECSC SUB-CLAUSE 16.1 |
| **Project no** | XXX/XXX | **Project Title** | XXXXXXXXXXXX |
| **Location** | XXXXX  | ***Employer*** | XXXXXXXX |
| ***Employer*’s representative or agent** | XXXXXX | ***Contractor*** | XXXXXXXX |
| **Addresses** | XXXXXXXX,XXXXXX,XXXXXXX,XXXXXX. |  | XXXXXXXX,XXXXXX,XXXXXXX,XXXXXX. |
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| **From :** | >Insert organisation< | **To :** | >insert organisation< |
|  | >Insert individual’s name< |  | >insert individual’s name< |

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| **Actual** or **Potential Future Event** (delete as appropriate) |
| **Description of event and when did or most likely to occur :** |
| **Relevant documents, inc previous comms :**  |
| **Priority for Resolving :**  |
| 1. **Urgent:**

Resolve immediately. | 1. **High Priority**

Resolve within a week | 1. **Medium Priority**

Resolve within 2 weeks | 1. **Low Priority**

Resolve with a month | 1. **RFI or TQ**

Resolve as needed |
| **Impacts on :** |  | **Estimates of most likely impact :** |
| * **Cost**
 | Yes / No |  |
| * **Time**
 | Yes / No |  |
| * **Performance**
 | Yes / No |  |
| * **H&S**
 | Yes / No |  |

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| **Distribution** |
| **Name** | **Role** | **Name** | **Role** |
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| IN ACCORDANCE WITH ECSC SUB-CLAUSE 16.2 |
| **Agreed Actions** | **By Whom** | **By When** |
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| **COMPENSATION EVENT NOTIFICATION (CEN) No. XX** | InsertEmployerLogo |
| **DATE & TIME Notified :** XX/XX/17 at XX.XX |
| IN ACCORDANCE WITH ECSC SUB-CLAUSE 61.1 |
| **Project no** | XXX/XXX | **Project Title** | XXXXXXXXXXXX |
| **Location** | XXXXX  | ***Employer*** | XXXXXXXX |
| ***Employer*’s representative or agent** | XXXXXX | ***Contractor*** | XXXXXXXX |
| **Addresses** | XXXXXXXX,XXXXXX,XXXXXXX,XXXXXX. |  | XXXXXXXX,XXXXXX,XXXXXXX,XXXXXX. |

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| **From :** | >Insert organisation< | **To :** | >insert organisation< |
|  | >Insert individual’s name< |  | >insert individual’s name< |

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| **Relevant compensation event clause :**  | 60.1 (XX) |
| **Other relevant communications &/or attachments :** |  |
| **Reasons / Explanation :**  |

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| **Distribution** |
| **Name** | **Role** | **Name** | **Role** |
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| **If the above compensation event has been notified by the *Contractor* then the*****Employer*’s response in accordance with clause 61.2 is either** (delete with line through as relevant ) |
| **A.**  | **Notification that the Prices and Completion Date are not to be changed as** |
| * i. It arise from the fault of the *Contractor*
 | * ii. Has not or is not expected to happen
 |
| * iii. Has not effect upon Defined Cost or Completion
 | * iv. Is not one of compensation event stated
 |
| **Justification for above :**   |
| **B.**  | **An instruction to submit a quotation / quotations** taking account of, if any (delete below with line through as appropriate) : |
| * i. Failure to give an early warning as per clause 61.3
 | * ii. Stated assumptions as per clause 61.4
 |
| * iii. Different practicable ways of dealing with it as discussed under clause 62.5
 |
| **Amplification on above :**   |
| As discussed, the quotation will be assessed using (delete below with line through as appropriate) |
| Existing rates under clause 63.1 | Records of Defined Cost from>Time< on >Date< to >Time< on >Date< | Forecasts of Defined Cost from >Time< on >Date< |

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| **Time and Date of above *Employer*’s response :**  | >Time< on >Date< |

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| **COMPENSATION EVENT QUOTATION SUBMISSION****(CEQS) for Compensation Event No. XX Quotation Ref. A**  | InsertEmployerLogo |
| **DATE & TIME of Submission :** XX/XX/17 at XX.XX |
| IN ACCORDANCE WITH ECSC SUB-CLAUSE 62.1 |
| **Project no** | XXX/XXX | **Project Title** | XXXXXXXXXXXX |
| **Location** | XXXXX  | ***Employer*** | XXXXXXXX |
| ***Employer*’s representative or agent** | XXXXXX | ***Contractor*** | XXXXXXXX |
| **Addresses** | XXXXXXXX,XXXXXX,XXXXXXX,XXXXXX. |  | XXXXXXXX,XXXXXX,XXXXXXX,XXXXXX. |

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| **From :** | >Insert organisation< | **To :** | >insert organisation< |
|  | >Insert individual’s name< |  | >insert individual’s name< |

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| Is this a revised quotation in accordance with clause 62.4 (cross through as appropriate) ?  | YES / NO |

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| I, the *Contractor*, confirm that the stated compensation event is assessed in accordance with clause 63 of the ECSC.  |
| The proposed change to the Prices or the following rates (state which rates) (assessed in accordance with clause 63.1 or 63.2) : | plus / minus **£**XX - XX**p** |
| The proposed change to the Completion Date is (assessed in accordance with clause 63.4) : | **+** XX days |
| The details are either in the attached documents listed &/or below (cross through as appropriate) :    |

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| **Distribution** |
| **Name** | **Role** | **Name** | **Role** |
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| The ***EMPLOYER*’S REPLY** in accordance with clause 62.3 of the ECSC is :(cross through below with line as appropriate)  |
| A. | Acceptance of the above quotation which means :* the Contract Prices are now :
* the contractual Completion Date is now :
 | £XXXX-XXp>Date< |
| B. | Notification that the *Employer* does not agree with the quotation for the following reasons : ..[**Note :** in accordance with clause 62.2 of the ECSC, if this is not an acceptance of the *Contractor*’s * first quotation, then the *Contractor* may submit a revised quotation within 2 weeks,;
* second quotation, the *Employer* must assess]
 |
| If the above quotation was for a proposed instruction or proposed changed decision (as per clause 62.2), the *Contractor* is notified that : |
| * The instruction or changed decision will NOT be given or made and he should NOT proceed with the work.
 |
| * The *Employer* instructs the Contractor to proceed with the works.
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| **Time and Date of above *Employer*’s response :**  | >Time< on >Date< |

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| **PAYMENT CERTIFICATE**  | InsertEmployerLogo |
| IN ACCORDANCE WITH ECSC CLAUSE 50 . |
| Date of Certificate : >Insert Date< |
| **Project no** | XXX/XXX | **Project Title** | XXXXXXXXXXXX |
| **Location** | XXXXX  | ***Employer*** | XXXXXXXX |
| ***Employer*’s representative or agent** | XXXXXX | ***Contractor*** | XXXXXXXX |
| **Addresses** | XXXXXXXX,XXXXXX,XXXXXXX,XXXXXX. |  | XXXXXXXX,XXXXXX,XXXXXXX,XXXXXX. |

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| **From :** | >Insert organisation< | **To :** | >insert organisation< |
|  | >Insert individual’s name< |  | >insert individual’s name< |

I hereby certify on the *Employer*’s behalf that the change to the amount due (i.e. not previously certified and taking into

account retention and all set-off abatement to which the *Employer* is entitled, but exclusive of VAT)

to which the *Contractor* is entitled is >state sum in words< (£X,XXX-XXp),

calculated on the following basis:

Price for Work Done to Date £X,XXX-XXp

Plus other amounts to be paid to the *Contractor* £ 0-00p

Sub-total £ X,XXX-XXp

Less amounts to be paid by or retained from the

*Contractor* (X% retention amount) £ XXX-XXp

Amount due £ X,XXX-XXp

If the above amounts are different from the Contractor’s application, then you HAVE TO state amount and reasons for each amount, otherwise *Contractor* is entitled to full payment with interest. Note also that to be fully compliant with the two Construction Acts, you should state all amounts you disagree with, not just this months. Delete this paragraph before you send off the certificate. If not applicable delete the table below.

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| **Difference from *Contractor*’s application.** | **Reason per deduction** |
| £\_\_ . \_\_ p |  |
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Less amount due in the last payment certificate £XX,XXX-XXp

Change in the amount due since the previous payment

which is to be paid **£ X,XXX-XXp**

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| **OTHER COMMUNICATIONS FORM No. XX** | InsertEmployerLogo |
| **DATE & TIME of Sending :** XX/XX/17 at XX.XX |
| **Project no** | XXX/XXX | **Project Title** | XXXXXXXXXXXX |
| **Location** | XXXXX  | ***Employer*** | XXXXXXXX |
| ***Employer*’s representative or agent** | XXXXXX | ***Contractor*** | XXXXXXXX |
| **Addresses** | XXXXXXXX,XXXXXX,XXXXXXX,XXXXXX. |  | XXXXXXXX,XXXXXX,XXXXXXX,XXXXXX. |

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| **From :** | >Insert organisation< | **To :** | >insert organisation< |
|  | >Insert individual’s name< |  | >insert individual’s name< |

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| **Type of Communication** (cross through below with line as appropriate) **:** |
| *Employer*’s notification | *Contractor*’s notification | *Employer*’s acceptance | Other |
| *Employer*’s instruction | *Contractor*’s submission | *Employer*’s non-acceptance |  |
| in accordance with clause XX.X . |
| **Details / Reasons :**  |
| **Relevant documents and other communications :** |
| **Is a reply required under the contract or wanted :** YES / NO |

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| **Distribution** |
| **Name** | **Role** | **Name** | **Role** |
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| **DEFECT NOTIFICATION FORM No. XX** [if you are notifying a number of Defects on this form, then give a range of numbers e.g. 23 to 30, with each Defect having a specific number. The n umber will follow on from that on the Excel spreadsheet] | InsertEmployerLogo |
| **DATE & TIME of Sending :** XX/XX/17 at XX.XX |
| **Project no** | XXX/XXX | **Project Title** | XXXXXXXXXXXX |
| **Location** | XXXXX  | ***Employer*** | XXXXXXXX |
| ***Employer*’s representative or agent** | XXXXXX | ***Contractor*** | XXXXXXXX |
| **Addresses** | XXXXXXXX,XXXXXX,XXXXXXX,XXXXXX. |  | XXXXXXXX,XXXXXX,XXXXXXX,XXXXXX. |

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| **From :** | >Insert organisation< | **To :** | >insert organisation< |
|  | >Insert individual’s name< |  | >insert individual’s name< |

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| **DETAILS** **:** |
| **Details / Reasons :** [If a number of Defects are being notified on this form, give each a reference number and details / reasons for each Defect] |
| **Relevant documents and other communications :** |
| **If notified before Completion, will this Defect prevent Completion being achieved if not corrected ? YES / NO** [strike through as appropriate. If a number of Defects are notified on this form, state ‘YES for following Defect and give reference] |

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| **If notified after Completion, by what date should it be corrected by ?** (The date of notification + the *defects correction period*) | Day of week, Date/Month/Year |

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| **Distribution** |
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| **COMPLETION CERTIFICATE FORM for** **>insert section of *works* or state ‘whole of *works’*<** | InsertEmployerLogo |
| **DATE & TIME of Sending :** XX/XX/17 at XX.XX |
| **Project no** | XXX/XXX | **Project Title** | XXXXXXXXXXXX |
| **Location** | XXXXX  | ***Employer*** | XXXXXXXX |
| ***Employer*’s representative or agent** | XXXXXX | ***Contractor*** | XXXXXXXX |
| **Addresses** | XXXXXXXX,XXXXXX,XXXXXXX,XXXXXX. |  | XXXXXXXX,XXXXXX,XXXXXXX,XXXXXX. |

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| --- | --- | --- | --- |
| **From :** | >Insert *Employer*’s name< | **To :** | >insert *Contractor* name< |
|  | >Insert individual’s name< |  | >insert individual’s name< |

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| **DETAILS** **:** |
| **Under clause 30.3, this certificate confirms that the *Contractor* achieved Completion for** >insert section name of *works* or state ‘whole of *works’*< **on** Day, Date, Month, Year**.**  |

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| **If notified after Completion, by what date should it be corrected by ?** (The date of notification + the *defects correction period*) | Day of week, Date/Month/Year |

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| **DEFECTS** |
| In addition to any other Defects already notified, the following Defects are notified :* >List out giving each a reference which follows on from those on the Excel spreadsheet or state ‘None’<
 |
| The date that these Defects are to be corrected by is (this date + the *dcp*) :  | Day of week, Day/Month/Year |

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| **Distribution** |
| **Name** | **Role** | **Name** | **Role** |
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| **DEFECTS CERTIFICATE FORM for** **>insert section of *works* or state ‘whole of *works’*<** | InsertEmployerLogo |
| **DATE & TIME of Sending :** XX/XX/17 at XX.XX |
| **Project no** | XXX/XXX | **Project Title** | XXXXXXXXXXXX |
| **Location** | XXXXX  | ***Employer*** | XXXXXXXX |
| ***Employer*’s representative or agent** | XXXXXX | ***Contractor*** | XXXXXXXX |
| **Addresses** | XXXXXXXX,XXXXXX,XXXXXXX,XXXXXX. |  | XXXXXXXX,XXXXXX,XXXXXXX,XXXXXX. |

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| **From :** | >Insert *Employer*’s name< | **To :** | >insert *Contractor* name< |
|  | >Insert individual’s name< |  | >insert individual’s name< |

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| **DETAILS** **:** Under clauses 41.4 and 11.2(4), this certificate confirms that[delete below as appropriate] **:*** There are no outstanding uncorrected notified Defects; or
* The following notified Defects remain uncorrected :
* >give the reference No. and brief description<
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| **Distribution** |
| **Name** | **Role** | **Name** | **Role** |
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