

Schedule 13 – Template Delivery Agreement
NEC4 Engineering & Construction Contract

Schedule 13 - Template Delivery Agreement

Air Assault Ranges Fingringhoe Part 3 pre-construction works.

Client: Defence Infrastructure Organisation

Partner: Conamar

NEC4 engineering and construction contract – Option A: Priced contract with activity schedule

The following Template Delivery Agreements are drafted on the basis that the common law of England and Wales applies.

Document Version Control Record

Issue	Version Status	Date	Reason for Issue
0.1	Draft	12/02/2025	Initial draft shared with Contractor for review of DEFCONs.
0.2	Draft	20/03/2025	Final draft form for Contractor review ahead of formal issue at Contract Award

Introduction

NEC4 Engineering and Construction Contract – Option A

This Template Agreement incorporates the NEC4 Engineering and Construction Contract (the NEC4 ECC) issued June 2017 with January 2019 and October 2020 amendments. These amendments are included within the Z clauses for completeness.

Any subsequent amendments to the NEC4 ECC shall apply to this template if agreed in writing by Scape and the Partner but shall only be incorporated into agreements entered into after such amendments are published and their inclusion has been agreed accordingly with Scape.

The following rules apply to the use of this Template Agreement

- a) The Partner shall act as the 'Contractor'
- b) An agreement using the main Option C may only be used on Works and Services with a value over £500k.
- c) The *conditions of contract* set out below shall be incorporated unless varied by the selection of a main Option, applicable Optional Clauses and/or the incorporated amendment to the contract or as otherwise agreed in writing between the Client and Scape.
- d) The clauses defined as 'Shall apply' in the table below will be incorporated into each agreement.
- e) The clauses defined as 'May apply' in the table below, may apply, subject to agreement by the Client.
- f) The Z clauses set out below shall be incorporated unless otherwise agreed in writing by the Client and Scape.
- g) For the avoidance of doubt, a Client not wishing to use an Optional Clause should 'strike-through' the clause reference in Contract Data Part 1 when completing the agreement.
- h) Each agreement must be assembled and executed using DocuSign, in accordance with the provisions of the Framework Agreement, specifically the Digital Assembly and Execution of a Project Agreement Schedule.
- i) Each agreement must be executed and witnessed as a deed, 'under seal', unless the Client requests that it may be an 'agreement'. Scape recommends to all Clients that agreements should be executed as deeds. Execution as a deed carries a number of substantial legal benefits which are not available with agreements signed under hand, including, for example, a 12-year as opposed to 6-year limitation period for bringing claims. Scape framework Template Agreements have, accordingly, been prepared on this basis. However, if Clients elect instead to sign agreements under hand they do so entirely at their own risk. We therefore recommend that Clients take all necessary independent legal and other professional advice before doing so.

Schedule 13 – Template Delivery Agreement
Part A - NEC engineering and construction contract Option A

NEC4 engineering and construction contract – Option A: priced contract with activity schedule

NEC4 engineering and construction contract – Option A: priced contract with activity schedule

Optional Clauses Table

OPTION	TITLE	APPLICABLE?
Resolving and Avoiding Disputes		
Option W2		Shall apply
Secondary Options		
X1	Price adjustments for inflation	May apply
X2	Changes in the law	Shall apply
X3	Multiple currencies	May apply
X4	Ultimate holding company guarantee	May apply
X5	Sectional Completion	May apply
X7	Delay damages	Shall apply
X8	Undertakings to the Client or Others	May apply
X9	Transfer of rights	May apply
X10	Information modelling	May apply
X11	Termination by the Client	May apply
X12	Multiparty Collaboration	May apply
X13	Performance bond	May apply
X14	Advanced payment to the Contractor	May apply
X15	The Contractor's design	Shall apply
X17	Low performance damages	May apply
X18	Limitation of liability	May apply
X21	Whole life cost	May apply
X22	Early Contractor involvement	May apply
Additional Options		
13.9	Electronic communications	May apply
21.4	Contractor's Scope checking	May apply
Options Y and Z		
Y(UK)1	Project Bank Accounts	May apply
Y(UK)2	The Housing Grants, Construction and Regeneration Act 1996	Shall apply
Y(UK)3	The Contracts (Rights of Third Parties) Act 1999	Shall apply
Z	Additional conditions of contract	Shall apply

Delivery Agreement

This Agreement is made on XX/XX/2025

Between

- (1) THE SECRETARY OF STATE FOR DEFENCE of the United Kingdom of Great Britain and Northern Ireland including his successors, assigns and transferees of Delancey Building (IDL 448), Marlborough Lines, Monxton Road, Andover, SP11 8HJ (the '*Client*')
and
- (2) Conamar Building Services Ltd whose registered office is at One Garden City, Letchworth, Hertfordshire, SG6 3BF (the '*Contractor*')

for the Works of Phase 3 Project Fingringhoe Air Assault (AA) Ranges.

Whereas.

This Agreement is made pursuant to the Framework Agreement dated November 2024 made between Scape Procure Limited and the *Contractor* (the 'Framework Agreement') and incorporates those provisions of the Template Delivery Agreement set out in the Framework Agreement.

It is agreed as follows:

- **The *Contractor's* obligations**

The *Contractor* Provides the Works and complies with his obligations in accordance with the conditions of contract.

- **The *Client's* obligations**

The *Client* pays the amount of money and complies with its obligations in accordance with the conditions of contract.

The following details the Contract Data which will be provided by the Client for each Delivery Agreement.
Certain defined terms and information in the Contract Data will be common to all Delivery Agreements; other information included in the Contract Data will be specific to individual Projects.

Contract Data: Part One – Data provided by the Client

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

1. General

The conditions of contract are the core clauses and the clauses for the following main Option, the Option for resolving and avoiding disputes and secondary Options of the NEC4 Engineering and Construction Contract June 2017, (with January 2019 and October 2020 amendments¹).

Main Option **A** Option for resolving and avoiding disputes **W2**

Secondary Options **X2, X7, [X10, X11], X15, [X18, X21, X22] & Y(UK)2, Y(UK)3 Z**

The works are **Design and construction of a link road between the existing Fingringhoe Ranges and Wick Marsh Ranges. This includes full depth reconstruction of the Asphalt and Concrete Road; construction of the culvert; remediation of the Haul Road; provision of a cattle grid; Remediation of the newly formed pond as per Natural England Strategy; and white lining. Full details as described in the Scope.**

The Client is

Name	Secretary of State for Defence
Address for communication	Delancey Building (IDL 448), Marlborough Lines, Monxton Road, Andover, SP11 8HJ
Telephone	
Address for electronic communications	

The Project Manager is

Name	
Address for communication	Delancey Building (IDL 448), Marlborough Lines, Monxton Road, Andover, SP11 8HJ
Telephone	

¹ Amendments are included within the Z clauses for reference.
Regional Construction Framework

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Part A - NEC engineering and construction contract Option A

Address for electronic communications

[Redacted]

The Supervisor is

Name

TBC

Address for communication

[Redacted]

Telephone

[Redacted]

Address for electronic communications

[Redacted]

The Scope is in

"20250325-712352452 NEC4 PSC-ECC
Option A – Scope v1.1-0"
The Method of Operation and Template
Scopes Schedule of the Framework
Agreement are deemed to be included in
the Scope.

The Site Information is in

"20250325-712352452 NEC4 PSC-ECC
Option A – Scope v1.1-0"

The boundaries of the site are

See Site Information

The language of the contract is

English

The law of the contract is the law of

England and Wales

The period for reply is

2 weeks

except that

• The period for reply for

[Redacted]

is

[Redacted]

• The period for reply for

[Redacted]

is

[Redacted]

Optional Clause

13.9 – electronic communication ~~does~~ / ~~does not~~ apply.
[delete as appropriate]

The following matters will be included in the Early Warning Register

N/A – to be reviewed progressively throughout contract.

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Part A - NEC engineering and construction contract Option A

Early warning meetings are to be held at intervals no longer than

1 week

2. The Contractor's Main Responsibilities

If the Client has identified work which is to meet a stated condition by a key date

The key dates and conditions to be met are condition to be met

key date

- (1)
- (2)
- (3)
- (4)
- (5)
- (6)

N/A

Optional Clause

21.4 Contractor's Scope checking does / does not apply
[delete as appropriate]

3. Time

The starting date is

9th April 2025

The access dates are part of the site

date

- (1)
- (2)
- (3)

Stage One – Mondays and as agreed with the Project Manager

9th April 2025

The Contractor submits revised programmes at intervals no longer

5 weeks

If the Client has decided the completion date for the whole of the works

The completion date for the whole of the works is

Taking over the works before the Completion Date

The Client is / is not willing to take over the works before the Completion Date
(Delete as applicable)

If no programme is identified in

The period after the Contract Date within which the Contractor is to submit a first programme for acceptance is

2 weeks

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Part A - NEC engineering and construction contract Option A

part two of the
Contract Data

4. Quality Management

The period after the Contract Date within which the Contractor is to submit a quality policy statement and quality plan is

2 weeks

The period between the Completion of the whole of the works and the defects date is

52 weeks

The defects correction period is

4 weeks

except that

- The defects correction period for

'Serious Defects' - any Defects which the Client reasonably considers to be serious Defects or faults

is

within seven days of receiving the [Project Manager, Supervisors or Client's]* notification

- The defects correction period for

'Emergency Defects' - any Defects which the Client reasonably considers need making good as a matter of urgency

is

within 24 hours of receiving the [Project Manager, Supervisors or Client's]* notification

*delete as appropriate

5. Payment

The currency of this contract is the

pound sterling (£)

The assessment interval is

monthly

The interest rate is

3

% per annum (not less than 2) above the

base

rate of the

Bank of England

bank

6. Compensation Events

The place where weather is to be recorded is

To be agreed during Stage One

The weather measurements to be recorded for each calendar month are

- the cumulative rainfall (mm).

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Part A - NEC engineering and construction contract Option A

- the number of days with rainfall more than 5 mm;
- the number of days with minimum air temperature less than 0 degrees Celsius;
- the number of days with snow lying at 09:00 hours GMT;

and these measurements

N/A

The *weather measurements* are supplied by

The Meteorological Office

The *weather data* are the records of past *weather measurements* for each calendar month

which were recorded at

TBC

and which are available from

The Meteorological Office

Where no recorded data are available

Assumed values for the ten-year return *weather data* for each *weather measurement* for each calendar month are

N/A

The value engineering percentage is 50%, unless another percentage is stated here, in which case it is

N/A

If there are additional compensation events

These are the additional compensation events

N/A – to be reviewed during Stage One

9. Liabilities and Insurance

If there are additional Client's liabilities These are the additional Client's liabilities

- | | |
|-----|--|
| (1) | Terrorism to the extent not insured under the Pool Re Arrangement. (may be deleted at the Client's sole discretion) |
| (2) | Pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds. (may be deleted at the Client's sole discretion) |
| (3) | |
| (4) | |

NOTE Site specific issues only to be addressed here as opposed to issues which could alter the risk balance of the contract

The minimum limit of indemnity for insurance in respect of loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury or to death of a person (not an employee of the Contractor) caused by activity in connection with this contract for any one event is:

Minimum £10,000,000

The minimum amount of cover for insurance against death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with the contract for any one event is

Minimum £5,000,000

If the Client is to provide Plant and Materials

The insurance against loss of or damage to the work, Plant and Materials is to include cover of Plant and Materials provided by the Client for an amount of

N/A

If the Client is to provide any of the insurance stated in the Insurance Table

The Client provides the following insurances from the Insurance Table

(1) Insurance against

Minimum amount of cover is

The deductibles are

(2) Insurance against

Minimum amount of cover is

The deductibles are

(3) Insurance against

Minimum amount of cover is

The deductibles are

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Part A - NEC engineering and construction contract Option A

The Client provides these additional insurances

Insurance for all existing buildings and property existing within the Site or at the sole discretion of the Client he may elect to 'self-insure' such existing buildings and property and in doing so accepts all of the Client's associated risks arising out of or in relation to such 'self-insurance'. In accordance with a Client's decision to 'self-insure' they do not accept any additional insurance premium/cost from the Contractor.

Client to self-insure

Client to self-insure

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Regional Construction Framework

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Part A - NEC engineering and construction contract Option A

The <i>tribunal</i> is		Arbitration
If Option W1 or 2 is used	The <i>Senior Representatives of the Client</i> are	
	Name (1)	[REDACTED]
	Address for communications	Defancey Building Marlborough Lines, Monxton Road Andover, Hampshire, SP11 8HJ
	Address for electronic communications	[REDACTED]
	Name (2)	[REDACTED]
	Address for communications	Ramilies Building Marlborough Lines, Monxton Road Andover, Hampshire, SP11 8HJ
	Address for electronic communications	[REDACTED]
	Name (3)	[REDACTED]
	Address for communications	[REDACTED]
	Address for electronic communications	[REDACTED]
The <i>Adjudicator</i> is		
	Name	[no specific individual is to be named unless otherwise agreed on a project specific basis]
	Address for communication	[REDACTED]
	Telephone	[REDACTED]
	Address for electronic communications	[REDACTED]
The <i>Adjudicator nominating body</i> is		the Royal Institution of Chartered Surveyors

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Part A - NEC engineering and construction contract Option A

X1 Price Adjustment for Inflation (Options A & C)

If Option X1 is used The proportions used to calculate the Price Adjustment Factor are

0-	<input type="text"/>	Linked to the index for	<input type="text" value="{Proportion to be agreed on a project specific basis}"/>
0-	<input type="text"/>		<input type="text"/>
0-	<input type="text"/>		<input type="text"/>
0-	<input type="text"/>		<input type="text"/>
0-	<input type="text"/>		<input type="text"/>
0-	<input type="text"/>		<input type="text"/>
0-	<input type="text"/>	non-adjustable	<input type="text"/>
1.00	<input type="text"/>		
The base date for indices is			<input type="text" value="{to be agreed on a project specific basis}"/>
These indices are			<input type="text" value="{to be agreed on a project specific basis}"/>

X5 Sectional Completion

If Option X5 is used The completion date for each section of the works is

section	description	completion date
(1)	<input type="text"/>	<input type="text"/>
(2)	<input type="text"/>	<input type="text"/>
(3)	<input type="text"/>	<input type="text"/>
(4)	<input type="text"/>	<input type="text"/>

X7 Delay Damages

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Part A - NEC engineering and construction contract Option A

If Option X7 is used without Option X5 Delay damages for Completion of the whole of the works are **£0 for Stage One. TBC for Stage Two.** per day

If Option X7 is used with Option X5 Delay damages for each section of the works are

section	description	amount per day
(1)		
(2)		
(3)		
(4)		
The delay damages for the remainder of works are		

No Undertaking to Others

If Option X8 is used

provided to

The Subcontractor undertaking to Others are

works

provided to

The Subcontractor undertaking to the Client are

works

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Part A - NEC engineering and construction contract Option A

X10 Information Modelling

If Option X10 is used

If no information execution plan is identified in part two of the Contract Data The period after the Contract Date within which the Contractor is to submit a first information Exchange Plan for acceptance is

2 weeks

The minimum amount of insurance cover for claims made against the Contractor arising out of its failure to use the reasonable skill, care and diligence normally used by competent and appropriately qualified professionals, experienced in providing information similar to the Project Information is, in respect of each claim,

£10,000,000

The period following Completion of the whole of the works or earlier termination for which the Contractor maintains insurance cover for claims made against it arising out of its failure to use the reasonable skill, care and diligence is

12 Years

X12 Multiparty collaboration

If Option X12 is used The Promoter is

The Schedule of Partners is in

The Promoter's objective is

The Partnering Information is in

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Part A - NEC engineering and construction contract Option A

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X13 Performance Bond

If Option X13 is used The amount of the performance bond is

a sum equal to 10% of the Defined Cost. [To be deleted if Option X13 not required]

X14 Advanced Payment

If Option X14 is used The amount of the advanced payment is

[to be agreed on a project specific basis]

The period after the Contract Date from which the Contractor repays the instalments in assessments

not less than {} weeks
[to be agreed on a project specific basis]

The instalments are

[to be agreed on a project specific basis]

(either an amount or a percentage of the payment otherwise due)

Advanced payment bond

An advanced payment bond is / is not required. (Delete as applicable)

X15 The Contractor's Design

If Option X15 is used	The period for retention following Completion of the whole of the works or earlier termination is	12 months
The minimum amount of insurance cover for claims made against the Contractor arising out of its failure to use the reasonable skill, care and diligence normally used by competent and appropriately qualified professionals experienced in designing works similar to the works is, in respect of each claim.		£10,000,000
The period following Completion of the whole of the works or earlier termination for which the Contractor maintains insurance cover for claims made against it arising out of its failure to use the reasonable skill, care and diligence is		12 years after Completion of the whole of the works

X17 Low performance damages

If Option X17 is used	The amount for low performance damages are	
	amount	performance level

X18 Limitation of Liability

If Option X18 is used	The Contractor's liability to the Client for indirect or consequential loss is limited to	<ul style="list-style-type: none"> • £0 or • 120% of the tendered total of the Prices
For any one event, the Contractor's liability to the Client for loss or damage to the Client's property is limited to		<ul style="list-style-type: none"> • £10,000,000 or

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Part A - NEC engineering and construction contract Option A

• 120% of the tendered total of the Prices

The Contractor's liability for Defects due to his design which are not listed on the Defects Certificate is limited to

• £10,000,000

or

120% of the tendered total of the Prices

The Contractor's total liability to the Client for all matters arising under or in connection with this contract, other than the excluded matters, is limited to

• £10,000,000

or

120% of the tendered total of the Prices

The end of liability date is 12 years after Completion of the whole of the works.

X22 Early Contractor Involvement

If Option X22 is used The Budget is

item	Description	amount
(1)	Stage 2 Construction works ex. VAT	£750,000.00
(2)		
(3)		
(4)		
Total		

The Contractor prepares forecasts of the total Defined Cost of the work to be done in Stage One at intervals not longer than

N/A

The Contractor prepares forecasts of the total Project Cost at intervals no longer than

2 Weeks

If there are additional events which could change the Budget

These are additional events which could change the Budget

- (1) N/A
- (2)
- (3)

The budget incentive is 0 % of the saving

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Part A - NEC engineering and construction contract Option A

Y(UK)1 Project Bank Account

If Option The Contractor ~~is~~ **is not** to pay any charges made and to be paid any interest paid by
Y(UK)1 is used the project bank (Delete as applicable)

The account holder is the **Contractor / the Parties** (Delete as appropriate)

Y(UK)2 The Housing Grants, Construction and Regeneration Act 1996

If Option The period for payment **14** days after the date on which payment becomes due
Y(UK)2 is used is
and the final
date for
payment is not
fourteen days
after the date
on which
payment
becomes due

Y(UK)3 The Contracts (Rights of Third Parties) Act 1999

If Y(UK)3 is used	term	beneficiary

If Options	term	beneficiary
Y(UK)3 is used with Y(UK)1 the following entry is added to the table for Y(UK)3	The provisions of Option Y(UK)1	Named Suppliers

2. The additional conditions of contract are:

The additional conditions of contract are

4. General

- 11.2(2) Insert a further bullet point:
- Provided, procured and executed all X8 Undertakings (Collateral Warranties) required under this contract.
- 11.2(23) after Short Schedule of Cost Components' add:
- 'less Disallowed Cost.'
- 11.2(26) Insert new clause 11.2(26):
- 'Disallowed Cost is cost which
- is included within the Commercial Inclusions Tables of the Framework Agreement's Pricing Procedures
 - is not justified by the Contractor's accounts and records,
 - should not have been paid to a Subcontractor or supplier in accordance with its contract,
 - was incurred only because the Contractor did not
 - follow an acceptance or procurement procedure stated in the Scope,
 - give an early warning which the contract required it to give or
 - give notification to the Project Manager of the preparation for the conduct of an adjudication or proceedings of a tribunal between the Contractor and a Subcontractor or supplier
- and the cost of
- correcting Defects after Completion,
 - correcting Defects caused by the Contractor not complying with a constraint on how it is to Provide the Works stated in the Scope,
 - Plant and Materials not used to Provide the Works (after allowing for reasonable wastage) unless resulting from a change to the Scope,
 - Resources not used to Provide the Works (after allowing for reasonable availability and utilisation) or not taken away from the Working Areas when the Project Manager requested and
 - Preparation for and conduct of an adjudication, payments to a member of the Dispute Avoidance Board or proceedings of the tribunal between the Parties.'

11.2(36) Insert a new clause 11.2(36)

Data Protection Legislation means all applicable privacy and data protection laws including:

 - i. the General Data Protection Regulation (Regulation (EU) 2016/679), the Law Enforcement Directive (Directive (EU) 2016/68) and any applicable national implementing laws, regulations and secondary legislation in England and Wales relating to the processing of Personal Data and the privacy of electronic communications as amended, replaced or updated from time to time
 - ii. the UK GDPR;

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Part A - NEC engineering and construction contract Option A

- iii. the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy;
 - iv. the Privacy and Electronic Communications Directive (2002/58/EC) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426);
 - v. all applicable law about the processing of personal data and privacy; and
 - vi. any laws that replace, extend, re-enact, consolidate or amend any of the foregoing
- 11.2(37) Insert a new clause 11 2(37)
- UK GDPR means the General Data Protection Regulation ((EU) 2016/679) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018, as modified by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019, as updated, superseded or repealed from time to time.
- 11.2(38) Insert a new clause 11 2(38)
- Data Subject has the meaning given to it in the Data Protection Legislation.
- 11.2(39) Insert a new clause 11 2(39)
- Personal Data has the meaning given to it in the Data Protection Legislation.
- 11.2(40) Insert a new clause, 11.2 (40):
- 'Framework Agreement' is the framework agreement between Scape Procure Limited and the Contractor and terms defined in the Framework Agreement have the same meanings in this contract unless a contrary intention is apparent.'
- 11.2(41) Insert a new clause 11 2(41):
- Framework Commercial Model as included in the Framework Agreement between Scape Procure Limited and the Contractor.
- 11.2(42) Insert a new clause 11.2(42):
- 'Pool Re Arrangement – Terrorism Insurance purchased through Pool Reinsurance Company Limited as expressed in the ABI standard wording '
- 12.4 Insert at the end,
- 'provided that clauses 23 (Convictions), 28 (Governing Law and Dispute Resolution), 29 (Statutory Requirements), 30 (Competition Law, Corrupt Gifts and Payments), 31 (Modern Slavery), 33 (Confidentiality and Freedom of Information), 35 (Intellectual Property Rights), 36 (Personal data) and 38.11 (Miscellaneous: Whistle Blowing) of the Framework Agreement shall be deemed incorporated into this contract, mutatis mutandis, as if references to 'Scape' were to *the Client* and references to the 'Agreement' were to 'the contract'.'
- 12.5 Insert a new clause 12.5

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Part A - NEC engineering and construction contract Option A

A reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment of it.

13.9 Insert a new clause 13.9:

'The following communications shall be deemed to have no effect if made by electronic mail transmission:

- any notification of a wish to terminate this contract or the employment of the *Contractor* under it;
- any notification by the *Contractor* of his intention to suspend performance of his obligations under this contract;
- any invoking by either party of the procedures applicable under this contract to the resolution of disputes or differences
- any agreement between the parties amending the provisions of this contract'

Z clause 13.9 may be deleted at the *Client's* sole discretion.

19A Insert a new clause 19A

19A **Data Protection**

19A.1 Both Parties will comply with all applicable requirements of the Data Protection Legislation. These clauses are in addition to, and does not relieve, remove or replace, each Party's obligations under the Data Protection Legislation. It is agreed that

19A.2 Without prejudice to the generality of clause 19A.1, both Parties will ensure that they have all necessary appropriate consents and notices in place to enable lawful transfer of any Personal Data to each other for the duration and purposes of this agreement.

19A.3 Without prejudice to the generality of clause 19A1, the *Contractor* shall, in relation to any Personal Data processed in connection with the performance by the *Contractor* of its obligations under this agreement:

19A.3.1 process that Personal Data only on the written instructions of the *Client* and only as required for the purpose of the performance of this agreement.

19A.3.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the *Client*, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

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Part A - NEC engineering and construction contract Option A

- 19A.3.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential and
- 19A.3.4 not transfer any Personal Data outside of the UK or European Economic Area;
- 19A.3.5 assist the *Client*, at the *Contractor's* cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with the Information Commissioner, supervisory authorities or regulators.
- 19A.3.6 notify the *Client* without undue delay on becoming aware of a Personal Data breach;
- 19A.3.7 at the written direction of the *Client*, delete or return Personal Data and copies thereof to the *Client* on termination of the agreement, and
- 19A.3.8 maintain complete and accurate records and information to demonstrate its compliance with this clause and allow for audits by the *Client* or the *Client's* designated auditor.
- 19A.4 The *Client* does not consent to the *Contractor* appointing any third-party processor of Personal Data under this agreement.
- 19B Insert a new clause 19B
- MoD DEFCON Requirements**
- 19B.1 This clause it to incorporate MoD special terms and conditions in the form of DEFCONs and DEFORMs detailed below.

<u>Defence Condition (DEFCON) / Defence Form (DEFFORM) Number</u>	<u>Title</u>	<u>Edition</u>
5J	Unique Identifiers	Edn 18/11/16
14	Inventions and Designs Crown Rights and Ownership of Patents and Registered Designs	Edn 11/22
76	Contractor's Personnel at Government Establishments	Edn 11/22
129J	The Use of the Electronic Business Delivery Form	Edn 18/11/16
501	Definitions and Interpretations	Edn 10/21
503	Formal Amendments to the Contract	Edn 06/22
513	Value Added Tax and Other Taxes	Edn 07/24
514	Material Breach	Edn 08/15
515	Bankruptcy and Insolvency	Edn 06/21
516	Equality	Edn 04/12
518	Transfer	Edn 02/17
520	Corrupt Gifts and Payments of Commission	Edn 10/23
522	Payment and Recovery of Sums Due	Edn 11/21
524	Rejection	Edn 12/21

Schedule 13 – Template Delivery Agreement
Part A - NEC engineering and construction contract Option A

524A	Counterfeit Material	Edn 12/22
525	Acceptance	Edn 10/98
526	Notices	Edn 08/02
527	Waiver	Edn 09/97
528	Import and Export Licences	Edn 10/24
529	Law (English)	Edn 09/97
530	Dispute Resolution (English Law)	Edn 12/14
531	Disclosure of Information	Edn 09/21
532B	Protection of Personal Data	Edn 12/22
534	Subcontracting and Prompt Payment	Edn 06/21
537	Rights of Third Parties	Edn 12/21
538	Severability	Edn 06/02
539	Transparency	Edn 01/22
540	Conflicts of Interest	Edn 05/23
550	Child Labour and Employment Law	Edn 02/14
566	Change of Control of Contractor	Edn 04/24
602B	Quality Assurance (without Quality Plan)	Edn 12/06
609	Contractor's Records	Edn 07/21
611	Issued Property	Edn 12/22
612	Loss of or Damage to the Articles	Edn 06/21
620	Contract Change Control Procedure	Edn 06/22
624	Use of Asbestos	Edn 08/22
632	Third Party Intellectual Property - Rights and Restrictions	Edn 11/21
642	Progress Meetings	Edn 07/21
656A	Termination for Convenience – Under £5m	Edn 08/16
658	Cyber	Edn 10/22
660	Official-Sensitive Security Requirements	Edn 12/15
671	Plastic Packaging Tax	Edn 10/22
681	Decoupling Clause – Subcontracting with the Crown	Edn 06/02
DEFFORM 129J	The Use Of The Electronic Business Delivery Form	Edn 09/17
DEFFORM 532	Personal Data Particulars	Edn 10/19
DEFFORM 539A	Tenderer's Commercially Sensitive Information Form	Edn 01/22

19C Insert new clause 19C

 Precedence – Interpretation of the law

Schedule 13 – Template Delivery Agreement
Part A - NEC engineering and construction contract Option A

19C.1 In the event of any conflict, inconsistency, discrepancy or ambiguity between the rest of the contract and the additional conditions of contract contained in the Schedule of Additional Conditions of Contract (Option Z), the additional conditions of contract in Option Z take precedence over the rest of the contract. The conditions of contract as amended and supplemented by Option Z take precedence over the balance of the contract and the documents contained or referred to herein.

2. The Contractor's Main Responsibilities

20.3 Insert clause 20.3

The *Contractor* advises the *Project Manager* on the practical implications of the design of the *works* and on subcontracting arrangements.

20.5 Insert a new clause 20.5:

'In executing this contract, the *Contractor* accepts that all obligations and duties owed by it, acting as:

- the '*Consultant*' in the provision of Design Management or Pre-Construction Activities under a preceding Project Order or Service Agreement; and/or
- the '*Contractor*' in the provision of the Works including Enabling Works under a preceding Delivery or Short Delivery Agreement,

are deemed to be obligations and duties owed by the *Contractor* under this contract and notwithstanding the actual date of this contract any breach of those obligations and duties shall be treated as a breach of this contract.

21.4 Insert a new clause 21.4.

'The *Contractor* checks the Scope provided by the *Client* and satisfies itself that its own design and Scope meets the *Client's* Scope and the applicable Law, with no discrepancy within and or between the Scope and its own design or Scope. Where there is ambiguity, inconsistency or conflict between these documents the *Client's* Scope will prevail.'

Z clause 21.4 may be deleted at the *Client's* sole discretion.

- 21.5 Insert a new clause 21.5
- 'The Contractor's obligation is to exercise (and warrants that it has exercised) all the reasonable skill, care and diligence normally used by a competent and appropriately qualified professional, who is experienced in undertaking works similar to the relevant part of the works'
- 26.3 Insert new final bullet point to the final bullet points:
- the proposed subcontract is not compatible with the terms of the contract or does not comply with the *additional conditions of contract* requirements relating to subcontracting works.
- 26.5 Insert a new clause 26.5:
- 'If the Contractor subcontracts work it warrants:
- there are no compulsory grounds for excluding the Subcontractor or supplier under Regulation 57 of the Public Contracts Regulations 2015
 - the Subcontractor or supplier is compliant with the contract's Statutory Requirements and Modern Slavery provisions
 - the Subcontractor or supplier is fully aware of its obligations under the CDM Regulations and is fully competent and are adequately resourced to meet those obligation
 - subcontract documents contain such obligations necessary to ensure that the subcontract is in all respects compatible with the terms of the contract
 - subcontract documents reflect the Framework Agreement's Fair Payment Standard and require Subcontractors to include the Fair Payment Standard in any subsubcontract documents if it subsubcontracts work
 - that each relevant subcontract shall be executed and delivered as a deed.'
- 26.6 Insert a new clause, 26.6
- 'The Contractor provides the *Project Manager* with an executed copy of each subcontract (save for particulars of the Price or Prices of the subcontract, unless other provisions of the contract or the Framework Agreement oblige the Contractor to disclose them). Each subcontract is provided to the *Project Manager* within 14 days of its execution.'
- 28.1 In line 2 change 'right' to 'any rights'
In line 3 change 'rights' to 'right'

4. Quality Management

- 41.3 Insert at the end of the second sentence:
Regional Construction Framework

Schedule 13 – Template Delivery Agreement
Part A - NEC engineering and construction contract Option A

'and if the *Contractor* fails so to notify, the *Contractor* repeats (at its own cost) the test or inspection and gives notification as required in this clause;

44.2 After the last sentence insert:

'Where due to the non-availability of parts or materials or other circumstances beyond the *Contractor's* control it is not possible to correct any Defect within the required timescale the *Contractor* makes an appropriate temporary repair and corrects the Defect as soon as possible thereafter and the *Contractor* keeps the *Client* informed about the position from time to time and at intervals no longer than the *period for reply*.'

44.3 Delete '*Supervisor*' in line 1 and replace with '*Project Manager*'

5. Payment

50.1 Delete '*Supervisor*' in the first bullet point and replace with '*Project Manager*'

50.10 Insert a new clause 50.10:

'If the *Contractor* has not procured and submitted to the *Client* for acceptance any of the Undertakings (Collateral Warranties) required, together with a certified copy of the underlying subcontract, one quarter of the Price for Work Done to Date which relates to the services or work of the subcontractors from whom such Undertakings (Collateral Warranties) are outstanding is retained by the *Client* in assessments of the amount due to the *Contractor*.'

53.1 Delete '*Supervisor*' in the first bullet point and replace with '*Project Manager*'

53.3 In the first line replace the word 'contact' with
'contract'

52.2 The *Contractor* keeps these records

- accounts of payments of Defined Cost
- proof that the payments have been made,
- communications about and assessments of compensation events for Subcontractors and
- other records as stated in the Scope.

52.4 The *Contractor* allows the *Project Manager* to inspect at any time within working hours the accounts and records which it is required to keep. The *Contractor* shall provide the *Project Manager* on request with copies of original or source accounting documentation including receipts, invoices and other costs data.

6. Compensation Events

60.1 (10) Insert at the end of this clause

- 63.2 'or unless it was reasonable for the *Supervisor* to instruct the *Contractor* to search, having regard to previous instances of non-compliant work in Providing the Works.
- 63.2 Insert after 'rates and lump sums'
- 'including those contained within the Framework Commercial Model.'
- 63.5 Delete third paragraph and substitute
- 'The assessment takes into account
- any delay caused by the compensation event already in the Accepted Programme and
 - events which have happened between the date of the Accepted Programme and the dividing date.'
- 63.16 after first sentence insert the following text:
- Unless the *Project Manager* otherwise agrees, any new rate may not exceed the relevant People Rates for the applicable role and seniority stated in the People Rates table of the Framework Commercial Model.

8. Liabilities and Insurance

- 84.1 after the first sentence, insert:
- 'After the *defects date* and on renewal of the Insurance policy until the end of the periods stated in the Contract Data for which insurance is to be maintained, the *Contractor* submits to the *Client* for acceptance certificates which state that the insurance required by the contract is in force.'
- At the end of the clause add:
- 'The *Client's* acceptance of an insurance certificate provided by the *Contractor* does not change the responsibility of the *Contractor* to provide the insurances stated in the Contract Data.'

9. Termination

- 90.2 Termination table, change procedure against the *Client* R17 or R20 to 'P1 and P4'
- Insert the following new section:
- 91.9 The Public Contracts Regulations 2015
- 91.9 The *Client* may terminate the *Contractor's* obligation to Provide the Works if any of the provisions of Regulation 73(1) of The Public Contracts Regulations 2015 apply
- If the *Client* terminates under the provisions of Regulation 73(1)(b) of the Public Contracts Regulations 2015 as a result of information not disclosed by the *Contractor* at the Contract Date, the procedures and amounts due on termination are the same as if the *Contractor* has substantially failed to comply with his obligations (R11)

Schedule 13 – Template Delivery Agreement
Part A - NEC engineering and construction contract Option A

If the *Client* otherwise terminates under the provisions of 73(1) of the Public Contracts Regulations 2015, the procedures and amounts due on termination are the same as if the Parties had been released under the law from further performance of the whole of this contract. (R17)

OPTION W2

W2.1(1) Add the following at the end of the clause.

'A Party may replace a Senior Representative after notifying the other Party of the name of the replacement'

OPTION X7 Delay Damages

- X7.1 This clause is deleted and replaced by the following.
The *Contractor* pays delay damages at the rate stated in the Contract Data for each day from the Completion Date until the earlier of
- Completion
 - the date on which the *Client* takes over the works and
 - the date on which the *Project Manager* issues a termination certificate

OPTION X10 Multiparty Collaboration

- X10.7 (1) the first bullet is replaced with the following:
"a fault in the Information Model not caused by a Defect in the Project Information."
- X10.7 (2) delete 'skill and care normally used by professionals' and add the following:
'reasonable skill, care and diligence normally used by competent and appropriately qualified professionals, experienced in'
- In the first line the words
"fault or error"
Are replaced with
"Defect"
- X10.7 (3) delete 'skill and care normally used by professionals' and add the following:
'reasonable skill, care and diligence normally used by competent and appropriately qualified professionals, experienced in'

OPTION X15 The Contractor's Design

- X15.1 delete the words 'skill and care normally used by professionals' and replace with:
'reasonable skill, care and diligence to be expected of competent and appropriately qualified professionals experienced in'
- X15.5 delete the words 'skill and care normally used by professionals' and replace with:
'reasonable skill, care and diligence to be expected of competent and appropriately qualified professionals experienced in'
- X15.6 Add a new clause

'Before the starting date and on each renewal of the insurance policy until the defects date, the Contractor submits to the Project Manager for acceptance a certificate which states that the insurance required by this clause is in force

After the defects date and on each renewal of the insurance policy until the end of the period stated in the Contract Data for which insurance is to be maintained, the Contractor submits to the Client for acceptance a certificate which states that the insurance required by this clause is in force. The certificate is signed by the Contractor's insurer or insurance broker

The Project Manager or the Client accepts the certificate if the insurance complies with this clause and if the insurer's commercial position is strong enough to carry the insured liability. The Client's acceptance of an insurance certificate provided by the Contractor does not change the responsibility of the Contractor to provide the insurance stated in this clause.'

OPTION X18 Limitation of liability

X18.5 delete final bullet

X22 Add a new clause:

OPTION X22 Early Contractor Involvement

Identified and defined terms

- X22.1 (1) The Access Dates are the access dates unless otherwise changed in accordance with the contract
- (2) Budget is the items and amounts stated in the Contract Data unless the amounts are later changed in accordance with this contract.
- (3) Project Cost is the total paid by the Client to the Contractor and Others for the items included in the Budget
- (4) Stage One and Stage Two have the meanings given to them in the Scope.
- (5) Pricing Information is information which specifies how the Contractor prepares its assessment of the Prices for Stage Two, and is in the document which the Contract Data states it is in.

Forecasts

- X22.2 (1) The Contractor provides detailed forecasts of the total Defined Cost of the work to be done in Stage One for acceptance by the Project Manager. Forecasts are prepared at the intervals stated in the Contract Data from the starting date until the issue of a notice to proceed to Stage Two.
- (2) Within one week of the Contractor submitting a forecast for acceptance, the Project Manager either accepts the forecast or notifies the Contractor of his reasons for not accepting it. A reason for not accepting the forecast is that:

- it does not comply with the Scope or
 - it includes work which is not necessary for Stage One.
- (3) The *Contractor* makes a revised submission taking account of the *Project Manager* reasons.
- (4) The cost of any work that is not included in the accepted forecast is treated as a Disallowed Cost.
- (5) The *Contractor* prepares forecasts of the Project Cost in consultation with the *Project Manager* and submits them to the *Project Manager*. Forecasts are prepared at the intervals stated in the Contract Data from the *starting date* until Completion of the whole of the works. An explanation of the changes made since the previous forecast is submitted with each forecast.

Proposals for Stage Two

- X22.3 (1) The *Contractor* submits his proposals for Stage Two to the *Project Manager* for acceptance in accordance with the submission procedure stated in the Scope. The submission includes the *Contractor's* forecast of the effect of the proposals on the Project Cost and the Accepted Programme.
- (2) At the end of Stage One the *Contractor* submits to the *Project Manager* for acceptance
- its proposals for Stage Two
 - a revised programme,
 - any revisions to the Access Dates, Key Dates and the Completion Date and
 - the total of the Prices or any change to the total of the Prices
- in accordance with the submission procedures stated in the scope
- The total of the Prices is in revisions to the Activity Schedule. A revised Activity Schedule includes Price for Works Done to Date in Stage One.
- (3) If the submission is not accepted, the *Project Manager* gives reasons. A reason for not accepting a *Contractor's* submission is that
- it does not comply with the Scope
 - it will cause unnecessary delay to the Access Dates, Key Dates or the Completion Date
 - it will cause the *Client* to incur unnecessary costs to Others or
 - the *Project Manager* is not satisfied that the Prices or any changes to the Prices have been properly assessed.
- (4) The *Contractor* makes a revised submission taking account of the *Project Manager's* reasons.
- (5) The total of the Prices for Stage Two is assessed by the *Contractor* using the Pricing Information stated in the Contract Data.
- (6) The *Contractor* obtains approvals and consents from Others as stated in the Scope
- (7) Any additional Scope provided by the *Contractor* in Stage One becomes Scope provided by the *Contractor's* for its design.
- (8) The *Contractor* completes any outstanding design during Stage Two

Key persons

- X22.4 The *Contractor* does not replace any key person during Stage One unless
- the *Project Manager* instructs the *Contractor* to do so or
 - the person is unable to continue to act in connection with the contract.

Notice to proceed to Stage Two

- X22.5(1) The *Project Manager* issues a notice to proceed to Stage Two when:
- the *Contractor* has obtained approvals and consents from Others as stated in the Scope
 - changes to the Budget have been agreed or assessed by the *Project Manager*,
 - the *Project Manager* and the *Contractor* have agreed the total of the Prices for Stage Two, any changes to Key Dates and the Completion Date and
 - the *Project Manager* and the *Contractor* have agreed the total of Prices for Stage Two and
 - the *Client* has confirmed the works are to proceed.
- (2) If a notice to proceed to Stage Two is issued, the *Project Manager* changes the Prices, the Access Dates, the Key Dates and the Completion Date accordingly and accepts the revised programme
- (3) If a notice to proceed to Stage Two is not issued for any reason, the *Project Manager* issues an instruction that the work required in Stage Two is removed from the Scope. This instruction is not a compensation event.
- (3) If the *Project Manager* does not issue a notice to proceed to Stage Two because
- the *Project Manager* and the *Contractor* have not agreed the total of the Prices or any changes to Access Dates, Key Dates or the Completion Date,
 - the *Contractor* has failed to achieve the performance requirements stated in the Scope
- the *Client* may appoint another contractor to complete the Stage Two works.

Changes to the Budget

- X22.6(1) If one of the following events happens, the *Project Manager* and the *Contractor* discuss different ways of dealing with changes to the Budget which are practicable
- The *Project Manager* gives an instruction changing the *Client's* requirements stated in the Scope.
 - Additional events stated in the Contract Data.
- (2) The *Project Manager* and the *Contractor* agree changes to the Budget within four weeks of the event arising which changes the Budget. If the *Project Manager* and the *Contractor* cannot agree the changes to the Budget the *Project Manager* assesses the change and notifies the *Contractor* of his assessment

Incentive payment

- X22.7(1) If the final Project Cost is less than the Budget, the Contractor is paid the budget incentive. The budget incentive is calculated by multiplying the difference between the Budget and the final Project Cost by the percentage stated in the Contract Data.
- (2) The Project Manager makes a preliminary assessment of the budget incentive at Completion of the whole of the works and includes this in the amount due following Completion of the whole of the works.
- (3) The Project Manager makes a final assessment of the budget incentive and includes this in the final amount due.

Commented [A1]: Noting we are using Option A - 1 would propose removal of this

OPTION Y(UK) - Project Bank Account

The secondary Option is deleted and replaced with

Defined terms

Y1.1

- (1) ~~Joining Deed is an agreement in the form set out in the contract under which the Supplier joins the Trust Deed.~~
- (2) ~~Named Suppliers are named suppliers and other Suppliers who have signed the Joining Deed.~~
- (3) ~~The Payment Schedule is a list of payments to be made to the Contractor and Named Suppliers from the Project Bank Account.~~
- (4) ~~Project Bank Account is the account used to receive payments from the Client and the Contractor and to make payments to the Contractor and Named Suppliers.~~
- (5) ~~Project Bank Account Tracker is a register of all payments made to and from the Project Bank Account and the date each payment was made and is in the form stated in the Scope.~~
- (6) ~~A Supplier is a person or organisation who has a contract to~~
- ~~• construct or install part of the works;~~
 - ~~• provide a service necessary to Provide the Works or~~
 - ~~• supply Plant and Materials for the works;~~
- (7) ~~Trust Deed is an agreement in the form set out in the contract which contains provisions for administering the Project Bank Account.~~

Project Bank Account

- Y1.2 ~~The account holder establishes the Project Bank Account with the project bank within eight weeks of the Contract Date.~~
- Y1.3 ~~Unless stated otherwise in the Contract Data, the Contractor pays any charges made and is paid any interest paid by the project bank. The charges and interest by the project bank are not included in Defined Cost.~~
- Y1.4 ~~If the account holder is the Contractor, it submits to the Project Manager for acceptance details of the banking arrangements for the Project Bank Account. A reason for not accepting the banking arrangements is that they do not provide for payments and inspections to be made in accordance~~

Schedule 13 – Template Delivery Agreement
Part A - NEC engineering and construction contract Option A

with the contract. The Contractor provides to the Project Manager copies of communications with the project bank in connection with the Project Bank Account.

Named Suppliers

- Y1.5 The Contractor includes in its contracts with Named Suppliers the arrangements in the contract for the operation of the Project Bank Account and Trust Deed. The Contractor informs the Named Suppliers it appoints, the details of the Project Bank Account and the arrangements for payment of amounts due under their contracts.
- Y1.6 The Contractor submits proposals for adding a Supplier to the Named Suppliers to the Project Manager for acceptance. A submission includes the Suppliers stated in the Scope and other Suppliers requested by the Contractor. A reason for not accepting a submission is that the addition of a Supplier does not comply with the Scope. The Client, the Contractor and the Supplier sign the Joining Deed after acceptance.

Payments

- Y1.7 Until the Project Bank Account is established, payment is made by the Client to the Contractor.
- Y1.8 The Contractor shows in the application for payment the amounts due to Named Suppliers in accordance with their contracts.
- Y1.9 Within the time set out in the banking arrangements to allow the project bank to make payment to the Contractor and Named Suppliers in accordance with the contract:
- the Contractor prepares the Payment Schedule, provides a copy to the Project Manager and provides the information in the Payment Schedule to the project bank;
 - the Client makes payment to the Project Bank Account of the amount which is due to be paid under the contract and
 - the Contractor makes payment to the Project Bank Account of any amount which the Client has informed the Contractor it intends to withhold from the certified amount and which is required to make payment to Named Suppliers.
- Y1.10 The Contractor notifies the Project Manager if the amount due to any Named Supplier stated in the Payment Schedule is different from that in the payment certificate and provides reasons for the change.
- Y1.11 If the account holder is the Contractor, it authorises payment in accordance with the Payment Schedule no later than one day before the final date for payment. Following payment, the Client checks the amounts paid to the Named Suppliers by inspecting the Project Bank Account.
- Y1.12 If the account holder is the Parties, they jointly authorise payment in accordance with the Payment Schedule no later than one day before the final date for payment.
- Y1.13 Following authorisation, the Contractor and Named Suppliers receive payment from the Project Bank Account of the sums set out in the Payment Schedule as soon as practicable after the Project Bank Account receives payment.
- Y1.14 The Contractor updates the Project Bank Account Tracker and submits it to the Project Manager within one week of any payment being made from the Project Bank Account.
- Y1.15 A payment which is due from the Contractor to the Client is not made through the Project Bank Account.

Schedule 13 – Template Delivery Agreement
Part A - NEC engineering and construction contract Option A

Effect of Payment

~~Y1.16~~ Payments made from the Project Bank Account are treated as payments from the Client to the Contractor in accordance with the contract. A delay in payment due to a failure of the Contractor to comply with the requirements of this clause is not treated as late payment under the contract.

Trust Deed

~~Y1.17~~ The Client, the Contractor and named suppliers sign the Trust Deed within two weeks of the Contract Date.

Termination

~~Y1.18~~ If the Project Manager issues a termination certificate, no further payment is made into the Project Bank Account.

Trust Deed

This agreement is made between the *Client*, the *Contractor* and the Named Suppliers.

Terms in this deed have the meanings given to them in the contract between and for
..... (the works)

Background

The *Client* and the *Contractor* have entered into a contract for the works.

The Named Suppliers have entered into contracts with the *Contractor* or a Subcontractor in connection with the works

A Project Bank Account will be established to make provision for payment to the *Contractor* and the Named Suppliers

Agreement

The parties to this deed agree that

- sums due to the *Contractor* and Named Suppliers and set out in the Payment Schedule are held in trust in the Project Bank Account for distribution to the *Contractor* and Named Suppliers in accordance with the banking arrangements applicable to the Project Bank Account
- further Named Suppliers may be added as parties to this deed with the agreement of the *Client* and *Contractor*. The agreement of the *Client* and *Contractor* is treated as agreement by the Named Suppliers who are parties to this deed.
- this deed is subject to the law of the contract for the works,
- the benefits under this deed may not be assigned.

Executed as a deed on

by

..... (Client)

..... (Contractor)

.....

.....

..... (Named Suppliers)

.....

Schedule 13 – Template Delivery Agreement
Part A - NEC engineering and construction contract Option A

Joining Deed

This agreement is made between the *Client*, the *Contractor* and (the *Additional Supplier*).

Terms in this deed have the meanings given to them in the contract between and
... for (the *works*).

Background

The *Client* and the *Contractor* have entered into a contract for the *works*.

The Named Suppliers have entered into contracts with the *Contractor* or a Subcontractor in connection with the *works*.

A Project Bank Account has been/will be (delete as applicable) established to make provision for payment to the *Contractor* and the Named Suppliers.

The *Client*, the *Contractor* and the Named Suppliers have entered into a deed as set out in Annex 1 (the *Trust Deed*) and have agreed that the *Additional Supplier* may join that deed.

Agreement

The parties to this deed agree that

- the *Additional Supplier* becomes a party to the *Trust Deed* from the date set out below,
- this deed is subject to the law of the contract for the *works*,
- the benefits under this deed may not be assigned.

Executed as a deed on

by

..... (*Client*)

..... (*Contractor*)

..... (*Additional Supplier*)

OPTION Y(UK) 3: THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

Delete the existing wording for this Option and insert:

- Y3.1 A person who is not a party to this contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this contract unless it is stated expressly in the Contract Data that an identified third party may enforce such rights and those rights are identified.
- Y3.2 The rights of the Parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any other person.

SHORT SCHEDULE OF COST COMPONENTS

- 53(i) Add a new item.

'the cost of the Performance Bond provided under Option X13'

Schedule 13 – Template Delivery Agreement
Part A - NEC engineering and construction contract Option A

The following details the Contract Data which will be provided by the Contractor for each Delivery Agreement.

Certain defined terms and information in the Contract Data will be common to all Delivery Agreements other information included in the Contract Data will be specific to individual Projects.

Contract Data: Part Two – Data provided by the Contractor

Completion of the data in full, according to the Options chosen, is essential to create a complete contract

1. General

The Contractor is:

Name **Conamar Building Services Limited**
Address **One Garden City, Broadway, Letchworth Garden City, England, SG6 3BF**

Telephone **01438 365142**

Address for electronic communications **[REDACTED] & [REDACTED]**

The fee percentage is **5** %

The working areas are **The Site, The Contractors office and any other reasonable place of works for the contractors staff.**

The key persons are
Name (1) **[REDACTED]**
Job **Pre-Construction Director**
Responsibilities **Contract/Commercial**
Experience **18 Years**

Name (2) **[REDACTED]**
Job **Contracts Director**
Responsibilities **Construction/Contract**
Experience **18 Years**

Name (3) **Contracts Manager & QS TBC**
Job **.....**
Responsibilities **.....**
Experience **.....**

The following matters will be included in the Early Warning Register

Schedule 13 – Template Delivery Agreement
Part A - NEC engineering and construction contract Option A

- [to be agreed on a project specific basis]

2. The Contractor's main responsibilities

If the Contractor is to provide Scope for its design

The Scope provided by the Contractor for its design is in

Design in line with the contracts documents to be agreed.

3. Time

If a programme is identified in the Contract Data

The programme identified in the Contract Data is

Programme to be agreed between the parties and instructed as part of main works

If the Contractor is to decide the completion date for the whole of the works

The completion date for the whole of the works is

Stage 2 – To be agreed

5. Payment

The activity schedule is

[to be agreed on a project specific basis]

The tendered total of the Prices is

£44,487.27 (PCSA value)

Resolving and avoiding disputes

If Option W1 or 2 is used The Senior Representatives of the Contractor are

Name (1)	<div></div>
Address for communications	<div>One Garden City, Letchworth, SG6 3BF</div>
Address for electronic communications	<div></div>
Name (2)	<div></div>
Address for communications	<div>One Garden City, Letchworth, SG6 3BF</div>
Address for electronic communications	<div></div>
Name (3)	<div></div>
Address for communications	<div>One Garden City, Letchworth, SG6 3BF</div>
Address for electronic communications	<div></div>

X10 Information Modelling

If Option X10 is used

If an information execution plan is to be identified in the Contract Data The information execution plan identified in the Contract Data is

[to be agreed on a project specific basis]

Schedule 13 – Template Delivery Agreement
Part A - NEC engineering and construction contract Option A

X22 Early Contractor Involvement

If Option X22 is used

The Stage One key persons are

Name (1)

Job

Responsibilities

Qualifications

Experience

Pre-Construction Director

Director

BSc, MBA

18 Years

Name (2)

Job

Responsibilities

Qualifications

Experience

Estimator

Estimating

40 Years

Name (3)

Job

Responsibilities

Qualifications

Experience

Design Manager

Design Management

RIBA

30 Years

The Pricing Information is in

[Other information to be agreed on a project specific basis]

Y(UK)1 Project Bank Account

If Option Y(UK)1 is used

The project bank is

[to be agreed on a project specific basis]

named suppliers are

[to be agreed on a project specific basis]

Data for the Short Schedule of Cost Components

The people rates are

category of person	unit	rate

Unless the *Client* agrees, people rates must not exceed the rates stated with the Framework Commercial Model.

The published list of Equipment is the edition current at the Contract Date of the list published by

TBC

The percentage for adjustment for Equipment published list is

TBC

% (state plus or minus)

The rates for other Equipment are

Equipment	rate

The rates for Defined Cost of manufacture and fabrication outside the Working areas by the Contractor are

category of person	rate

Schedule 13 – Template Delivery Agreement
Part A - NEC engineering and construction contract Option A

The rates for Defined Cost of design outside the Working Areas are

category of person	rate

Unless the *Client* agrees, these rates must not exceed the People Rates stated with the Framework Commercial Model.

The categories of design people whose travelling expenses to and from the Working Areas are included in Defined Cost are

- [to be agreed on a project specific basis]

Schedule 13 – Template Delivery Agreement
Part A - NEC engineering and construction contract Option A

(The execution details for the Client below are an example and may be amended by the Client to suit their normal practice) Executed as a deed for and on behalf of)

[CLIENT])

by)



Director

RYAN PUMFREY

Full name (BLOCK CAPITALS)

DIO ASST HD OF MPP COMECL

Position/title

~~Director/ Secretary~~

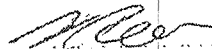
~~Full name (BLOCK CAPITALS)~~

~~Position/title~~

Executed as a deed for and on behalf of)

[CONTRACTOR])

by)



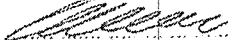
Director

NEIL DAVEN

Full name (BLOCK CAPITALS)

MANAGING DIRECTOR

Position/title



Director/ Secretary

PAUL DAVEN

Full name (BLOCK CAPITALS)

FINANCE DIRECTOR

Position/title

Schedule 13 – Delivery Agreement
Part 8 - NEC engineering and construction contract Option C.

