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**DATED 28 OCTOBER 2024**

**CONTRACT AGREEMENT**

between

**THE SECRETARY OF STATE FOR DEFENCE**

and

**GALLIFORD TRY CONSTRUCTION LIMITED**

in relation to:

**ARMY ESTATE MODERNISATION PROGRAMME (AEMP) WELLINGTON BARRACKS, LONDON**

(this Contract relates to a **CWAS Lot 4.1 (England/ Wales £30m-£80m**) Project

procured under the CCS Construction Works and Associated Services Framework Alliance Contract)

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| This contract is based on the NEC4 Engineering and Construction Contract (Fourth Edition, June 2017) the copyright of which belongs to The Institution of Civil Engineers. |

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**[REDACTED]**

## ANNEX 1: CONDITIONS OF CONTRACT

This Annex 1 contains the *conditions of contract* referred to in and forming part of this contract.

Engineering and Construction Contract

OPTION A: PRICED CONTRACT WITH ACTIVITY SCHEDULE

This contract should be used for the appointment of a contractor for engineering and construction work, including any level of design responsibility

**An NEC document**

**June 2017**

**(with amendments October 2020)**

**The Government Construction Board, Cabinet Office UK**

The Government Construction Board (formerly Construction Clients’ Board) recommends that public sector organisations use the NEC contracts and in particular the NEC4 contracts where appropriate, when procuring construction. Standardising use of this comprehensive suite of contracts should help to deliver efficiencies across the public sector and promote behaviours in line with the principles of the Government Construction Strategy.

**The Development Bureau, HKSAR Government**

The Development Bureau recommends the progressive transition from NEC3 to NEC4 in public works projects in Hong Kong. With suitable amendments to adapt to the Hong Kong local environment, NEC4 is expected to further enhance collaborative partnering, unlock innovations and achieve better cost management and value for money in public works projects.

NEC is a division of Thomas Telford Ltd, which is a wholly owned subsidiary of the Institution of Civil Engineers (ICE), the owner and developer of the NEC.

The NEC is a suite of standard contracts, each of which has these characteristics:

• Its use stimulates good management of the relationship between the two parties to the contract and, hence, of the work included in the contract.

• It can be used in a wide variety of commercial situations, for a wide variety of types of work and in any location.

• It is a clear and simple document – using language and a structure which are straightforward and easily understood.

NEC4 Engineering and Construction Contract is one of the NEC suite and is consistent with all other NEC4 documents. Also available are User Guides, Flow Charts and Options B, C, D, E and F.

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Foreword

Continuous improvement in project delivery is required to build confidence in the UK construction sector so that we can attract more investment. The Infrastructure and Projects Authority (IPA) is the government’s centre of expertise for infrastructure and major projects. We sit at the heart of government, reporting to the Cabinet Office and HM Treasury.

The application of the right contract is central to the success of the overall project delivery system. The NEC suite of contracts has been in existence for over the 20 years and has linked the projects, people and processes together to create the correct environment for successful delivery.

This new and updated NEC4 contract embraces the digital changes that are happening in the construction industry, especially around BIM, which I believe will be central to creating a step change in performance. Whilst looking forward it also builds on the fundamentals required for an effective contract.

The use of NEC4 on public sector projects will help to deliver the Government Construction Strategy as we seek to improve central government’s capability as a construction client to deliver further savings in the order of £1.7bn across the Government estate. The IPA looks forward to collaborating with industry to make the delivery of projects more efficient and effective.

**Tony Meggs, Chief Executive, Infrastructure and Projects Authority**



Reporting to Cabinet Office and HM Treasury

Preface

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| NEC was first published as a new and innovative way of managing construction contracts in 1993 – some 24 years ago. It was designed to facilitate and encourage good management of risks and uncertainties, using clear and simple language. |

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| The NEC approach to managing contracts was endorsed in “Constructing the team – The Latham Report”, which was a government/industry review of procurement and contractual arrangements in the UK construction industry. This led to a second edition in 1995 incorporating the further recommendations of that review. This contract was used increasingly in the UK and overseas, and a major revision was made with the third edition in 2005. |

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| NEC has played a part in helping the industry do things differently and better. It has done so by introducing effective project management procedures into the contract itself. These require pro-active management of risk and change, and the day-to-day use of an up-to-date programme. The range of pricing options has given Clients flexibility in the allocation of risk and the ability to share risk and manage it, collaboratively. |

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| The NEC suite has evolved over three decades, embedding consultation responses and user feedback, and reflecting industry development, including new procurement approaches and management techniques such as alliances, management of information (BIM) and supply chain engagement. This feedback and the new procurement approaches formed the driver for the development of the next generation contracts and the launch of NEC4. |

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| There were three key objectives in drafting NEC4:   * provide greater stimulus to good management * support new approaches to procurement which improve contract management and * inspire increased use of NEC in new markets and sectors. |

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| It was to be evolution, not revolution.  Some features of NEC4 include:   * a new design build and operate contract to allow flexibility between construction and operational requirements in timing and extent * a new multi-party alliance contract based upon an integrated risk and reward model * new forms of subcontract to improve integration of the supply chain. |

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| Further enhancements include:   * finalising cost elements during the contract * incorporating a party-led dispute avoidance process into the adjudication process * increasing standardisation between contracts and * providing enhanced guidance to give greater practical advice to users. |

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| NEC has always been known for its innovative approach to contract management, and this revision continues that approach. No other contract suite has had such a transformative effect on the built environment industry as NEC. It has put the collaborative sharing of risk and reward at the heart of modern procurement. It is also unique in providing a complete, back-to-back procurement solution for all works, services and supplies in any sector and any country. |

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| NEC4 continues to set the benchmark for best practice procurement worldwide. |

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| **Peter Higgins BSc (Hons), CEng, FICE**  **Chair of NEC4 Contract Board** |

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| This fourth edition of the NEC suite was produced by the Institution of Civil Engineers through its NEC4 Contract Board. |

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| The NEC4 Contract Board is:  P. Higgins, BSc (Hons), CEng, FICE (Chair)  P. T. Cousins, BEng (Tech), DipArb, CEng, MICE, FCIArb  I. Heaphy, BSc (Hons), FRICS, FCIArb, MCInstCES, MACostE  J. N. Hughes-D’Aeth, BA (Hons), MA (Cantab)  S. Rowsell, BSc, CEng, FCIHT, FICE, MCIPS |

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Amendments

**JANUARY 2019**

The following amendments have been made to the June 2017 edition.

|  |  |  |
| --- | --- | --- |
| Page | Clause/location | Amendments |
| 9 | 28.1 | Clause amended |
| 22 | 63.5 | Clause amended |
| 28 | 90.2 | Clause amended |
| 31 | W1.1(1) | Clause amended |
| 34 | W2.1(1) | Clause amended |
| 38 | W3.3(2) | Clause amended |
| 45 | X15.6 | Clause added |
| 46 | X18.5 | Clause amended |
| 57 | Contract Data Part one: General | Preamble amended |
| 63 | Contract Data Part one: resolving and avoiding disputes | Optional statement for W3 deleted |
| 70 | Contract Data Part one: resolving and avoiding disputes | Optional statement for W3 added |

Full details of these amendments can be found at [www.neccontract.com.](http://www.neccontract.com/)

**OCTOBER 2020**

The following amendments have been made to the June 2017 edition.

|  |  |  |
| --- | --- | --- |
| Page | Clause/location | Amendments |
| 40 | X7.1 | Clause amended |
| 42 | X10.7(1) | Clause amended |
| 42 | X10.7(2) | Clause amended |
| 48 | Y(UK)1 | Clause amended |
| 57 | Contract Data Part One: General | Preamble amended |
| 60 | Contract Data Part One: Y(UK)1 | Entry amended |

Full details of these amendments can be found at www.neccontract.com.

Schedule of Options

|  |  |  |
| --- | --- | --- |
| **RESOLVING AND AVOIDING DISPUTES** |  | One of the following procedures for resolving and avoiding disputes must be selected to complete the chosen main Option. |
| Option W1 |  | **NOT USED** |
| Option W2 |  | Used when adjudication is the method of dispute resolution and the United Kingdom Housing Grants, Construction and Regeneration Act 1996 applies |
| Option W3 |  | **NOT USED** |
|  |  |  |
| **SECONDARY OPTIONS** |  | The following secondary Options should be considered. It is not necessary to use any of them. Any combination other than those stated may be used. |
| Option X1 |  | **NOT USED** |
| Option X2 |  | Changes in the law |
| Option X3 |  | **NOT USED** |
| Option X4 |  | Ultimate holding company guarantee |
| Option X5 |  | Sectional Completion |
| Option X6 |  | **NOT USED** |
| Option X7 |  | Delay damages |
| Option X8 |  | Undertakings to the *Client* or Others |
| Option X9 |  | Transfer of rights |
| Option X10 |  | Information modelling |
| Option X11 |  | **NOT USED** |
| Option X12 |  | **NOT USED** |
| Option X13 |  | Performance bond |
| Option X14 |  | **NOT USED** |
| Option X15 |  | The *Contractor’s* Design |
| Option X16 |  | Retention |
| Option X17 |  | **NOT USED** |
| Option X18 |  | Limitation of liability |
| Option X20 |  | **NOT USED** |
| Option X21 |  | **NOT USED** |
|  |  |  |
|  |  | The following Options dealing with national legislation should be included if required. |
| Option Y(UK)1 |  | **NOT USED** |
| Option Y(UK)2 |  | The Housing Grants, Construction and Regeneration Act 1996 |
| Option Y(UK)3 |  | **NOT USED** |
|  |  |  |
| Option Z |  | *Additional conditions of contract* |
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