



**LICENCE AGREEMENT FOR THE USE OF
NEC3/NEC4 DIGITAL CONTRACTS (ORGANISATION
USE ONLY)**

THE INSTITUTION OF CIVIL ENGINEERS

and

THOMAS TELFORD LIMITED

and

UK HEALTH SECURITY AGENCY

**PARTIES:**

- (1) **THE INSTITUTION OF CIVIL ENGINEERS** (registered charity number 210252) whose registered office is at One Great George Street, London SW1P 3AA (**Licensor**);
(The Licensor will enter into this Agreement through their agent Thomas Telford Limited)
- (2) **THOMAS TELFORD LIMITED** (registered company number 02556636) whose registered office is at 1-7 Great George Street, Westminster, London SW1P 3AA (**Publisher**); and
- (3) **UK HEALTH SECURITY AGENCY** whose registered office is at Nobel House, 17 Smith Square, London, SW10 3JR, United Kingdom (**Licensee**).

Preliminary

- (A) The Licensor is the owner of the rights in the Contracts.
- (B) The Licensor has agreed to Licence to the Licensee digital access to the Contracts and the Licensee wishes to Licence the Contracts on the terms set out in this agreement.
- (C) For the purposes of this Licence, the Publisher will act as the Licensor's agent in relation to the grant of the Licence to the Licensee as set out in this agreement.
- (D) An **Authorised User** is any person employed directly by the **Licensee**.

1. Definitions and Interpretation

The definitions and interpretative provisions in **Schedules 1 and 2** apply to this agreement.

2. Term

See Schedule 1 and Schedule 2. The Term will be from 31/5/23 to 31/5/24

3. Licensed Material

- 3.1 As soon as reasonably practicable following the signature of this agreement, the Publisher will supply the Licensed Material to the Licensee for the Term.
- 3.2 The parties acknowledge that the Licensee and its Authorised Users will be entitled to have access to the Licensed Material and to search, view, copy download and print out material containing the Licensed Material via the Secure Network for its own business purposes for the Term.



- 3.3 Authorised Users may:
- 3.3.1 search, view, retrieve and display the Licensed Material by electronic means;
 - 3.3.2 print single or multiple copies of individual items taken from the Licensed Material for the Authorised Users own use;
 - 3.3.3 make electronic copies of individual items taken from the Licensed Material for temporary storage on the Authorised User's machine only; and
 - 3.3.4 distribute single copies of individual items taken from the Licensed Material in print or electronic form to other Authorised Users only,
- on a reasonable, non-systematic basis that is not commercially prejudicial to the Publisher, subject to crediting third parties where such material is attributed to them;
- 3.4 The Licensee will securely store the Licensed Materials in their original form on the Secure Network and make any backup copies.

4. Intellectual Property

- 4.1 Subject to the terms of this agreement, the Licensor grants to the Licensee a non-exclusive, non-assignable, non-sub-licensable Licence in the Territory for the Term to access the Licensed Material through the Secure network in return for the payment by the Licensee of the Fees.
- 4.2 Title to and ownership of all Copyright, database and all other intellectual property rights embodied by or otherwise incorporated in the Contracts will remain with the Licensor. Except as expressly provided in this agreement, nothing will be construed to grant to the Licensee and the Authorised Users any right, title, or interest in or to the Contracts or any part of them.
- 4.3 The Licensor will indemnify and hold harmless the Licensee from and against all losses, liabilities, judgments, suits, actions, proceedings, damages, and costs including legal fees resulting from or arising out of any claim brought by a third party against the Licensee alleging that the use of the Contracts infringes the intellectual property rights of a third party.
- 4.4 The provisions of clause 4.3 will not apply if any such claim arises by reason of any alteration or modification made to the Contracts by the Licensee. The Licensor and Publisher will have the right to replace or modify all or any part of the Contracts in order to avoid any infringement without the Licensee's prior approval.



- 4.5 The remedies in clause 4.3 state the sole right and remedies, and each of the Licensor's and Publisher's entire obligations and liability for the infringement of any third party's intellectual property rights.

5. Grant of Licence

- 5.1 The Licence granted under clause 4.1 permits the Licensee and its Authorised Users to:
- 5.1.1 search, view, copy and print out the Contracts or any of them for its own business purposes;
 - 5.1.2 make available to clients, potential clients and others copies of materials that contain any part of the Contracts on a reasonable, non-systematic basis that is not commercially prejudicial to the Publisher, subject to crediting the Publisher where such material is attributed to it.
- 5.2 The Licensee may not and will procure that the Authorised Users may not, without the Publisher's explicit written permission:
- 5.2.1 use the whole or any part of the Licensed Material for sale, reward, or exploitation or other commercial or financial gain other than as expressly permitted by this Licence Agreement;
 - 5.2.2 publish, distribute, reproduce, or make available the Licensed Material, works based on the Licensed Material or works which combine it with any other material, other than as permitted in this Licence Agreement; or
 - 5.2.3 claim any ownership, including but not limited to any proprietary ownership, to the Licensed Material or to any works in which the Licensed Material has been reproduced; or
 - 5.2.4 alter, abridge, adapt, or modify the Licensed Material on a computer screen to Authorised Users. For the avoidance of doubt, no alteration of the words or their order, or to the format of the Licensed Material is permitted.
- 5.3 For the avoidance of doubt any obligations and/or restrictions imposed on the Licensee relating to its use of the Licensed Material shall also be extended to the Authorised Users.
- 5.4 The Licensee agrees that it may not remove or alter the authors' names or affiliations or the Publishers copyright notices or other means of identification or disclaimers as they appear in the Licensed Material or otherwise alter or vary the original format or content of the Licensed Material.



- 5.5 The Licensee will take reasonable steps to ensure that nobody other than Authorised Users access the Contracts or
- 5.6 Licensed Materials using accounts created with its username and password.
- 5.7 The Licensee is responsible for configuring its information technology, computer programmes and platform in order for the Authorised Users to access the Licensed Materials and for ensuring that the Licensed Materials are stored at all times on the Secure Network.

6. Fees

- 6.1 The Fees will be payable to the Publisher from the Commencement Date.
- 6.2 The Publisher acknowledges that any monies received from the Licensee pursuant to this agreement from the Licensee will be held on account of the Licensors.
- 6.3 The Publisher will invoice the Licensee for the Annual Fee annually in advance and for the Licence Fee as soon as practicable after the Commencement Date.
- 6.4 Unless the subject of a genuine dispute, the Licensee will pay the Fees in full and cleared funds within 30 days of receipt of a valid invoice.
- 6.5 If the Licensee fails to make any payment when due in accordance with the terms of this agreement, the Publisher will be entitled to charge interest on any overdue sums properly payable at the rate of 2% per annum above the base rate of HSBC Bank PLC.
- 6.6 A failure by the Licensee to pay the Fees will be regarded as a breach of this agreement and the Publisher reserves the right to suspend the use of the Contracts or any of them pending payment of the Fees in full and cleared funds. The Publisher has, in addition, a right to terminate the agreement in accordance with clause 9 in the event that the Licensee fails to pay the Fees in full and cleared funds within the prescribed time period.
- 6.7 All Fees are exclusive of VAT.

7. Warranties

- 7.1 Each of the parties warrants to the other that it has full power and authority to enter into and perform this Licence.
- 7.2 The Licensors warrants to the Licensee that the Contracts:
 - 7.2.1 do not in the Territory infringe any third party's intellectual property rights, other proprietary rights, or rights of privacy;
 - 7.2.2 do not violate any law, statute, ordinance, or regulation in the Territory; and



- 7.2.3 do not violate any Territory laws regarding unfair competition, anti-discrimination, or false advertising;
- 7.3 The Publisher warrants that it has taken all steps consistent with good industry practice to ensure that the Contracts as supplied to the Licensee will be free of viruses, Trojan Horses, malware, or similar code, and will not contain any element designed to corrupt data or adversely impact on the contracts, or any of them.
- 7.4 This agreement sets out the full extent of each of the Licensor's and the Publisher's obligations and liabilities in respect of the supply of the Contracts. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this agreement by each of the Licensor and the Publisher.

8. Limitation of remedies and liability

- 8.1 Neither the Licensor nor the Publisher will be liable to the Licensee for:
 - 8.1.1 any damage to software;
 - 8.1.2 damage to or loss of data;
 - 8.1.3 loss of profit;
 - 8.1.4 loss of anticipated profits;
 - 8.1.5 loss of revenues;
 - 8.1.6 loss of anticipated savings;
 - 8.1.7 damage to reputation or loss of goodwill or business opportunity; and/or
 - 8.1.8 for any indirect or consequential loss or damage.
- 8.2 Nothing in this agreement excludes the Licensor's or Publisher's liability for:
 - 8.2.1 death or personal injury caused by the Publisher's negligence;
 - 8.2.2 fraud or fraudulent misrepresentation.
- 8.3 Any liability under this agreement shall in no circumstances exceed the total Fees payable by the Licensee under this agreement in that calendar year.
- 8.4 Neither the Licensor nor the Publisher gives any warranty or assurance, except as set out in clause 7.
- 8.5 Neither the Licensor nor the Publisher accepts any responsibility for action taken as a result of the Contracts provided by it.
- 8.6 The Licensee must take specific advice when dealing with specific situations.



- 8.7 The Contracts are general in nature and may not apply to the specific facts and circumstances of individual transactions, projects, and cases.
- 8.8 Neither the Licenser nor the Publisher gives any warranty or assurance that the Contracts and their means of delivering them are compatible with Licensee's software or computer configuration.
- 8.9 Except as expressly and specifically provided in this agreement, Licensee assumes sole responsibility for any use of the Contracts and for conclusions drawn from such use. Neither the Licenser nor the Publisher will have no liability for any damage or loss caused by errors or omissions in any of the Contracts provided by the Publisher.

9. Termination

- 9.1 The Publisher may terminate this agreement immediately by notice in writing if the Licensee:
 - 9.1.1 commits a material breach of any of the terms of this agreement and, if such breach is capable of remedy, fails to remedy the breach within seven days of receiving notice from the terminating party specifying the breach and requiring the breach to be remedied;
 - 9.1.2 enters into liquidation whether compulsorily or voluntarily (otherwise than for the purposes of a solvent amalgamation or reconstruction);
 - 9.1.3 becomes insolvent;
 - 9.1.4 ceases or threatens to cease to carry on business; or
 - 9.1.5 has a bankruptcy or receiving order made against him or makes any arrangement with his creditors.
- 9.2 The Licensee may terminate this agreement at any time by giving 30 days' written notice to the Publisher. If the Publisher is in material breach as a result of circumstances within its control, the Licensee will be entitled to a pro rata return of the Fee (to the extent that such Fee has been paid).
- 9.3 The expiry or termination of this agreement for any reason will not affect any rights and/or obligations:
 - 9.3.1 accrued before the date of termination or expiry; or
 - 9.3.2 expressed or intended to continue in force after and despite expiry or termination.
- 9.4 On termination of this agreement, the Licence to use the Licensed Material shall automatically terminate and the Licensee will immediately:
 - 9.4.1 stop all activities licensed hereunder;



- 9.4.2 make all outstanding payments to the Publisher,
 - 9.4.3 destroy or send to the Publisher all documents, disks and any other media bearing all or any of the Contracts, and to provide evidence to the satisfaction of the Publisher that all such documents and data have been destroyed; and
 - 9.4.4 delete all copies and versions of the Contracts from the memories of the Licensee's computer(s) and from any storage devices so that the Licensee no longer has an electronically functional copy of the Licensed Material or any part of the Contracts and certify in writing within seven days of the date of termination that such deletion and destruction have taken place.
- 9.5 Notwithstanding termination under clause 9.1 of this agreement, the Licensee may continue to possess and use copies of the Contracts or any part thereof that were made prior to termination, or copies of such printouts subject to the Publisher's consent.
- 9.6 The Publisher will not be following the termination of this agreement use or make available the Contracts for any purpose to the Licensee.

10. Confidentiality

- 10.1 Each party will keep secret and confidential all Confidential Information of the other and will not (and will procure that it/he, its/his employees and/or officers will not) copy, use or disclose any such information to any third party, other than as may be necessary to comply with its obligations under this agreement.
- 10.2 The obligation of confidence will not apply where the Confidential Information:
 - 10.2.1 is required to be disclosed by operation of law;
 - 10.2.2 was in the possession of the recipient prior to disclosure by the other party;
 - 10.2.3 is subsequently acquired from a third party without any obligation of confidence;
 - 10.2.4 is or becomes generally available to the public through no act or default of the recipient; or
 - 10.2.5 is disclosed on a confidential basis for the purposes of obtaining professional advice.
- 10.3 This clause 10 will continue in force notwithstanding the expiry or termination of this agreement, whatever the reason for such termination.



11. Force Majeure

No party will be liable for any breach of this agreement directly or indirectly caused by circumstances beyond the reasonable control of that party and which prevent that party from performing its obligations to the other.

12. Notices

- 12.1 Notices between the parties relating to this agreement must be in writing and must be delivered personally or sent by prepaid first-class post, prepaid air mail post or facsimile transmission to the address or fax number set out in clause 12.2. Alternative details may be notified by a party for the purposes of this clause 12.
- 12.2 Notices will be treated as received as follows: if delivered by hand, when delivered; if sent by first class post, 48 hours after posting; if sent by air mail post, 72 hours after posting; if sent by fax, when sent. Any notices that would be treated as received out of Business Hours will be deemed given on the next Business Day.

Thomas Telford Limited

Address: 1-7 Great George Street, Westminster, London
SW1P 3AA, attention NEC General Manager

UK Health Security Agency

Address: Nobel House, 17 Smith Square, London, SW10 3JR,
United Kingdom
Attention: [REDACTED]

13. General

- 13.1 No party will assign, transfer, subcontract, charge, create a trust over or otherwise deal in its rights and/or obligations under this agreement (or purport to do so) without the other parties' prior written consent which will not be unreasonably withheld or delayed.
- 13.2 Unless the right of enforcement is expressly granted, it is not intended that any provision of this agreement will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this agreement.
- 13.3 This agreement may be executed in any number of counterparts, each of which when executed will be an original, but all the counterparts together will constitute one document.



- 13.4 A failure or delay by any party to exercise any right or remedy under this agreement will not be construed or operate as a waiver of that right or remedy nor will any single or partial exercise of any right or remedy preclude the further exercise of that right or remedy.
- 13.5 This agreement represents the entire terms agreed between the parties in relation to its subject matter and supersedes all previous contracts or arrangements (including any usage or custom and any terms arising through any course of dealing) of any kind between the parties relating to its subject matter.
- 13.6 This agreement may be amended, superseded, or cancelled (or any of its terms and conditions waived) only in writing signed by or on behalf of the Publisher and the Licensee, or in the case of waiver, of the party waiving compliance.
- 13.7 Each of the provisions contained in this agreement will be construed as independent of every other such provision, so that if any provision of this agreement will be determined by any court or competent authority to be illegal, invalid and/or unenforceable then such determination will not affect any other provision of this agreement, all of which other provisions will remain in full force and effect.
- 13.8 This agreement will be governed by and construed in accordance with English law.
- 13.9 The English courts will have nonexclusive jurisdiction to determine any disputes which may arise out of, under, or in connection with this agreement.



Signed by the parties on the date of this agreement.

Signed on behalf of THOMAS TELFORD LIMITED:



Name: [Redacted]

Job Title: [Redacted]

Full Name: Tara Lee
Job Title/Role: Head of Sales
Date Signed: 25/05/2023

Signature:
Date:

Signed on behalf of UK HEALTH SECURITY AGENCY:



Full Name: [Redacted]
Job Title/Role: [Redacted]
Date Signed: 25/05/2023



Definitions and Interpretation (SCHEDULE 1: NEC3 CONTRACTS)

1. In this agreement including the schedules the following words and expressions have the following meanings:

Annual Fee	the annual fee of [REDACTED] (this may be subject to change to reflect annual price increase).
Business Day	a day other than Saturday or Sunday when banks are generally open for normal business in London, United Kingdom.
Business Hours	between 9.00 a.m. and 5.00 p.m. on a Business Day.
Commencement Date	31/5/23
Confidential Information	all information disclosed (whether in writing, orally or by other means either directly or indirectly) by a party (Disclosing Party) to the other party (Receiving Party) whether before or after the date of this agreement including, without limitation, information relating to the Disclosing Party's products, services, operations, processes, plans or intentions, project information, knowhow, intellectual property, trade secrets, market opportunities and business affairs, and whether or not such information is marked in writing or designated orally as "confidential".
Copyright	all copyright and rights in the nature of copyright subsisting in the Contracts, in any part of the World to which the Licensor is, or may become, entitled.
Contracts	the electronic versions in encrypted PDF format of the following material to be applied by the Publisher: <ol style="list-style-type: none"> 1. NEC3: Engineering and Construction Contract; 2. NEC3: ECC Option A Priced contract with activity schedule; 3. NEC3: ECC Option B Priced contract with Bill of Quantities; 4. NEC3: ECC Option C Target contract with activity schedule; 5. NEC3: ECC Option D Target contract with Bill of Quantities;



	6. NEC3: ECC Option E Cost reimbursable contract;
	7. NEC3: ECC Option F Management Contract;
	8. NEC3: Engineering and Construction Subcontract;
	9. NEC3: Engineering and Construction Short Contract;
	10. NEC3: Engineering and Construction Short Subcontract;
	11. NEC3: Professional Service Contract;
	12. NEC3: Professional Service Short Contract;
	13. NEC3: Adjudicator's Contract;
	14. NEC3: Term Service Contract;
	15. NEC3: Term Service Short Contract;
	16. NEC3: Framework Contract;
	17. NEC3: Supply Contract;
	18. NEC3: Supply Short Contract;
	19. NEC3: Term Service Subcontract.
	And in locked pdf format, all associated Guidance Notes and flow charts
	Any subsequent editions not listed here are expressly excluded.
Fees	the License Fee and the Annual Fee payable by the Licensee.
Licensed Material	the electronic material consisting of the Contracts delivered in the format specified by the Publisher.
Secure Network	the network operated or controlled by the Licensee (whether a standalone network or a virtual network within the Internet) which is accessible only to Authorised Users to which the Licensed Material will be transferred.
Term	the period during which this agreement continues in force set out in clause 2.
Territory	the United Kingdom.
VAT	Value Added Tax at the prevailing rate.



2. The schedules form part of this agreement and references to this agreement include the schedules.
3. In this agreement, unless otherwise specified, any reference to a statutory provision includes a reference to any modification or re-enactment of it from time to time.



(SCHEDULE 2: NEC4 CONTRACTS)

4. In this agreement including the schedules the following words and expressions have the following meanings:

Annual Fee	the annual fee of [REDACTED] (this may be subject to change to reflect annual price increase).
Business Day	a day other than Saturday or Sunday when banks are generally open for normal business in London, United Kingdom
Business Hours	between 9.00 a.m. and 5.00 p.m. on a Business Day.
Commencement Date	31/5/23
Confidential Information	all information disclosed (whether in writing, orally or by other means either directly or indirectly) by a party (Disclosing Party) to the other party (Receiving Party) whether before or after the date of this agreement including, without limitation, information relating to the Disclosing Party's products, services, operations, processes, plans or intentions, project information, knowhow, intellectual property, trade secrets, market opportunities and business affairs, and whether or not such information is marked in writing or designated orally as "confidential".
Copyright	all copyright and rights in the nature of copyright subsisting in the Contracts, in any part of the World to which the Licensor is, or may become, entitled.
Contracts	the electronic versions in encrypted PDF format of the following material to be applied by the Publisher:
	1. NEC4: Facilities Management Contract;
	2. NEC4: Facilities Management Short Contract;
	3. NEC4: Facilities Management Subcontract;
	4. NEC4: Facilities Management Short Subcontract;



	5. NEC4: Engineering & Construction Contract;
	6. NEC4: ECC Option A Priced contract with activity schedule;
	7. NEC4: ECC Option B Priced contract with Bill of Quantities;
	8. NEC4: ECC Option C Target contract with activity schedule;
	9. NEC4: ECC Option D Target contract with Bill of Quantities;
	10.NEC4: ECC Option E Cost reimbursable contract;
	11.NEC4: ECC Option F Management Contract;
	12.NEC4: Engineering and Construction Subcontract;
	And in locked pdf format, all User Guides Vol. 1 to Vol. 4 and associated Flowcharts.
	Any subsequent editions not listed here are expressly excluded.
Fees	the License Fee and the Annual Fee payable by the Licensee.
Licensed Material	the electronic material consisting of the Contracts delivered in the format specified by the Publisher.
Secure Network	the network operated or controlled by the Licensee (whether a standalone network or a virtual network within the Internet) which is accessible only to Authorised Users to which the Licensed Material will be transferred.
Term	the period during which this agreement continues in force set out in clause 2.
Territory	the United Kingdom.
VAT	Value Added Tax at the prevailing rate.

5. The schedules form part of this agreement and references to this agreement include the schedules.
6. In this agreement, unless otherwise specified, any reference to a statutory provision includes a reference to any modification or re-enactment of it from time to time.