

nec4 | **Improvement**
through collaboration

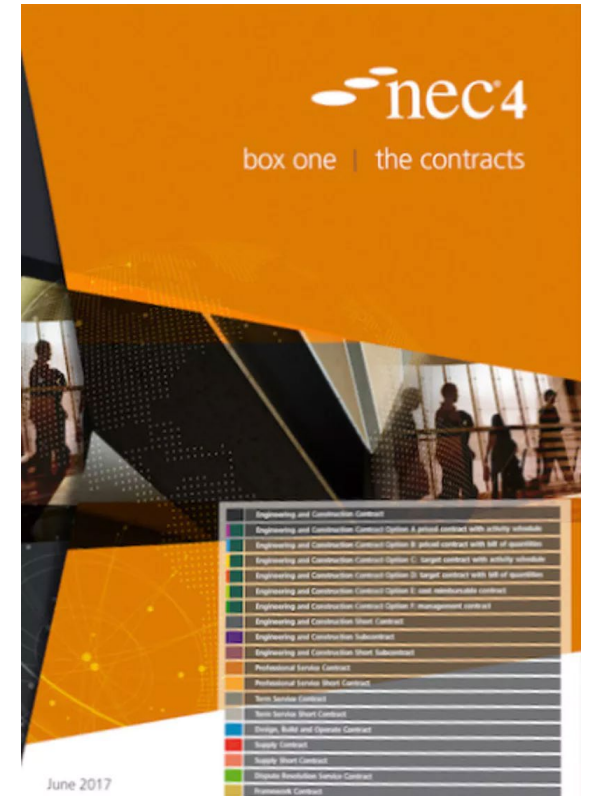
NEC4 January 2023 Amendments

Peter Higgins and Ian Heaphy

19 April 2023

Agenda

- Welcome & introductions
- Overview of the January 2023 amendments
- Changes to X22 and the schedules of cost components
- NEC4 resources
- Q&A session



Speakers

Peter Higgins

Chair, NEC4 Contract Board



Ian Heaphy

Member, NEC4 Contract Board



Overview of January 2023 amendments

- NEC4 released June 2017 (ALC June 2018, FM contracts June 2021)
- Amendments issued in January 2019, October 2020 and January 2023
 - amendments are cumulative
 - identified in tables of amendments in each contract
 - pages annotated if they contain an amendment
- Amendments and explanatory notes are available as a free download
 - from NEC website www.neccontract.com

January 2023 amendments – Option X29

- Secondary Option X29 climate change added to each main contract
 - provides tool to help users in achieving net zero greenhouse gas emissions and other related climate change and biodiversity targets
- Users state climate change requirements in the Scope
- Suppliers produce a climate change plan setting out their strategy for achieving the requirements
- Performance Table can be used to set financial incentives to achieve performance targets
 - table added to contracts that do not already contain one

January 2023 amendments – use of design, adjudication procedure

- *Client's* use of supplier's design includes documents prepared for design
 - added to main contracts that allow for supplier design
- Dispute resolution Option W2 clarifies that the *Adjudicator* decides the procedure and timetable for the adjudication
 - in keeping with the requirements of the Housing Grants, Construction and Regeneration Act (1996)

January 2023 amendments – ECSC

- Option introduced into the Contract Data to restrict the *Contractor's* design obligation to reasonable skill and care
- Linked to this
 - a requirement for the *Contractor* to provide professional indemnity insurance and
 - a compensation event if the *Contractor* corrects a Defect for which is not liable as it exercised reasonable skill and care
- Similar provision is also included in the ECSS

January 2023 amendments – short contracts

- PSSC – addition of a compensation event if the *Consultant* corrects a Defect for which it is not liable as it exercised reasonable skill and care
- SSC - payment in the case of a termination due to a *Purchaser's* default or for the *Purchaser's* convenience changed to that in other contracts
- In all short contracts a clause has been included to allow a total limit on liability to be included in the Contract Data / Subcontract Data
 - This brings the short contracts into line with the main contracts with the inclusion of a limit on liability being optional

January 2023 amendments - FMSC

- Amended to clarify that the *Service Provider* is liable for loss or damage to the *Client's* property which arises from the *Service Provider* Providing the Service
 - includes the ability for the *Client* to limit this liability in the Contract Data
- Similar provision is also included in the FMSS

Changes to X22 – early *Contractor* involvement

- Secondary Option X22 amended to
 - provide further flexibility in the development of a project in Stage One and
 - provide greater clarity over the process if the works do not proceed to Stage Two
- *Project Manager* and *Contractor* can agree to change to the Site Information during Stage One
- If the works proceed to Stage Two those compensation events originally judged against the Contract Date are instead judged against the date of the notice to proceed to Stage Two
 - Allows information gathered in Stage One and considered in the Stage Two proposals to be taken into account in assessing compensation events

Changes to X22 – early *Contractor* involvement

- Administration of compensation events in Stage One has been simplified
 - Compensation events occurring before the issue of the notice to proceed to Stage Two are deemed to be included in the changes made to the Prices, Completion Date and Key Dates in the notice to proceed to Stage Two
 - Allows the Parties to address outstanding compensation events as part of the notice to proceed to Stage Two, removing the need for them to be dealt with individually
- The reference to additional Scope provided by the *Contractor* in Stage one becoming Scope provided by the *Contractor* for its design has been removed
 - This can be dealt with by agreement of the parties and implemented under clause 14.3

Changes to X22 – early *Contractor* involvement

- If the works do not proceed to Stage Two the *Project Manager* issues a notice to this effect
- The Completion Date and the Prices are changed to match those at the end of Stage One
 - Delay damages and an assessment of the *Contractor's* share do not apply
 - No incentive payment will be due
 - Amount due on termination will only apply to the works in Stage One

Changes to the schedules of cost components

- Amendments made to the Schedule of Cost Components (SCC) and the Short Schedule of Cost Components (SSCC) to address the issue of people working from home or other locations outside of the Working Areas or Services Areas
- In the SCC there is an option to identify in Contract Data people whose costs can be recovered as part of Defined Cost even if they are not normally based within these areas and are working outside these areas
- This would include people working from home
- If the *Project Manager / Service Manager* agrees, additional people may be assessed as if they were listed in the Contract Data

Changes to the schedules of cost components

- SSCC amended to allow the cost of people who would normally be based in the Working Areas / Service Areas to be recovered as part of Defined Cost when they are not working within these areas as long as they are working on the contract
- The distinction between directly and indirectly employed staff removed in respect of working location in both the SCC and SSCC

NEC COMMUNITY PLATFORM



Online space to bring together the NEC user community



Dedicated hubs for particular NEC topics



Connect, share expertise and best practice



Access to NEC Event Calendar



NEC Annual Conference and Martin Barnes Awards 2023

One Great George Street
13th July
Book your place now:
neccontract.com/conference23





Questions?

neC4

Improvement

through collaboration

Contact us

📞 +44 (0)20 7665 2446

✉️ info@necontract.com

One Great George Street, London SW1P 3AA

• [necontract.com](https://www.necontract.com)