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NEC WHITE PAPER

NEC4 Facilities Management Contracts

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necontract.com/nec4fm

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1

Introduction

NEC announces the forthcoming release of its new suite of facilities management contracts (FM contracts) developed with the support of the Institute of Workplace and Facilities Management, IWFM.

The suite contains four contracts, six user guides and two flow charts and is designed to be used for all types of facilities management procurement and delivery strategies. This paper provides users with an explanation of the contracts and their key features and benefits.



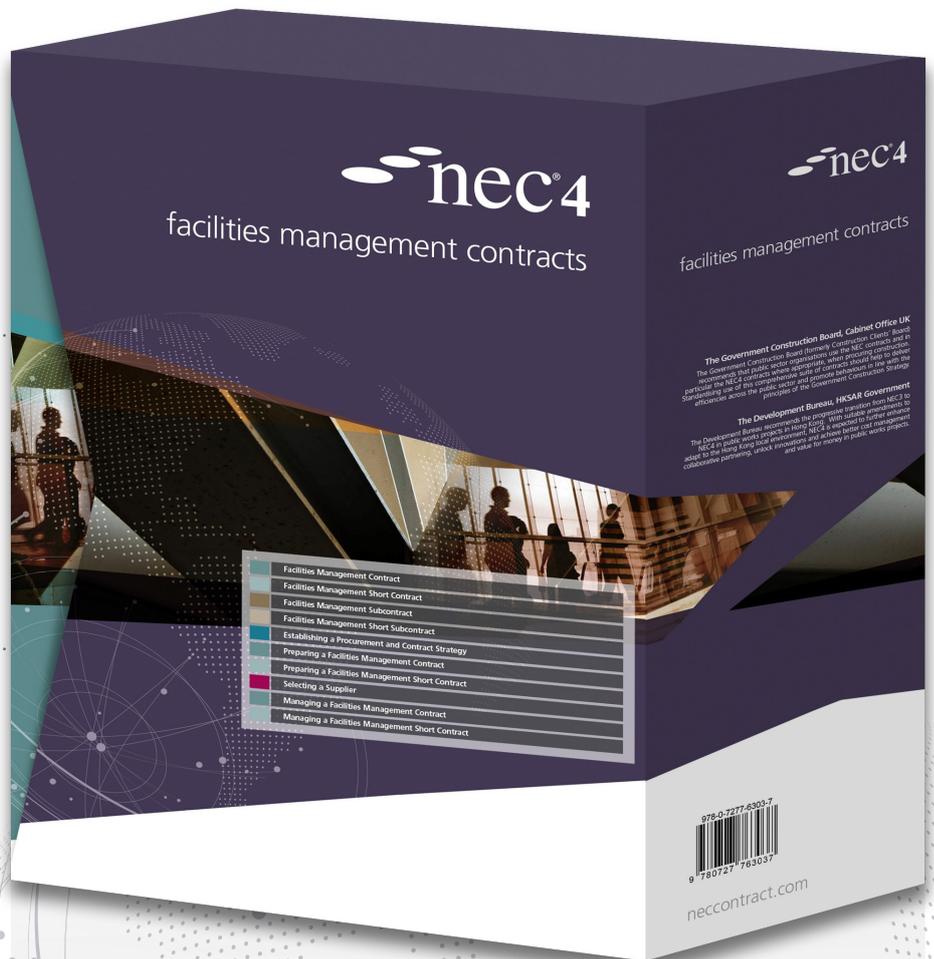
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Contracts



6
User Guides



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Flow Charts



2

The NEC4 FM Contract Suite

The new suite of FM contracts has been developed to support a range of FM contract approaches including “total FM” / integrated services FM contracts, managing contractor FM contracts, and single and / or multiple supplier FM contracts.

The new contracts are

Facilities Management Contract (FMC):

Used by a Client to appoint a Service Provider for a period of time to manage and provide any type of facilities management services.

Facilities Management Subcontract (FMS):

Used by a Service Provider to appoint a Subcontractor, also for a period of time, to manage and provide a part of a service where the Service Provider has been appointed under the NEC4 FMC.

Facilities Management Short Contract (FMSC):

Used by a Client to appoint a Service Provider for a period of time to manage and provide any type of facilities management services which do not require sophisticated management techniques, comprise straightforward services and impose only low risks on the parties, and

Facilities Management Short Subcontract (FMSS):

Used by a Service Provider to appoint a Subcontractor, also for a period of time, to manage and provide any type of facilities management services which do not require sophisticated management techniques, comprise straightforward services and impose only low risks on the parties and where the service provider has been appointed under the FMC, FMS or FMSC.

As with all NEC4 contracts each contract will be supported by a set of user guides and flowcharts, which have been revised to support facilities management agreements.

The contracts can also be used with any of the other contracts in the NEC4 suite as either main contracts or subcontracts such as for example the Design Build and Operate Contract (DBO), Alliance Contract (ALC) and Supply Contract (SC).

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Key features of the NEC4 FM contracts

The contracts have been updated from the NEC4 suite specifically for the FM industry, whilst retaining the best practice principles and features of the NEC forms of contract. **All NEC4 contracts, including the new FM contracts, are designed around the following three principles.**

- They stimulate good management of the relationship between the two parties to the contract and, therefore, of the work involved in the contract.
- They can be used in a wide variety of commercial situations, for a wide variety of types of work and in any location around the world.
- They are clear, simple and written in plain English, using language and a structure which is straightforward and easily understood.

Uniquely, every NEC4 contract states the parties are to act, ‘in a spirit of mutual trust and co-operation.’ This differentiates them from traditional contracts, which tend to follow a more adversarial, ‘us and them’ approach.

The following key features are described for the FMC and, where identified, the FMSC. The same content is also present in the subcontracts which are closely aligned to the main contracts allowing consistent good practice to be used throughout the supply chain.

Main pricing Options

The FMC features three main pricing options

Option A

Priced contract with Price List: allows for a combination of lump sum and remeasurement of rated items. The contract allows complete flexibility in how the Price List is created allowing the parties to determine the level of detail and the way in which the activities of the Service Provider are to be paid for.

Option C

Target contract with Price List: a target cost is determined for the services provided by the Service Provider on a lump sum and remeasurement basis. The Service Provider is then paid for the services provided on a cost reimbursable basis (Defined Cost plus Fee). At the dates stated in the contract the costs incurred are compared to the target cost to assess the Service Providers financial performance. Any savings made or overspend incurred will be shared between the parties on a pre-agreed percentage split. This approach incentivises performance and encourages collaboration between the parties.

Option E

Cost reimbursable contract: the Service Provider is paid for the service provided on a cost reimbursable basis providing complete flexibility for the Client to develop and change the service required throughout the contract period (the Service Period).

In the FMSC a Price List is used and operates in a similar way to main Option A in the FMC.

Secondary Options (FMC)

The contracts are modular in form with a range of secondary options available for selection which allows the Client to tailor the contract to suit its specific needs and allocate risk appropriately without the need to amend the standard contract.

Secondary options available include multiparty collaboration, information modelling (BIM) and extending the Service Period. A secondary option is also included which deals with a change in control of the Service Provider and allows the Client to terminate the Service Provider's obligation to provide the service in certain circumstances.

Early warnings

To many users, the 'jewel in the crown' of NEC4 contracts is the 'early warning' process. If either party becomes aware of any matter which could affect time cost or quality, it is required to notify the other party immediately. This is promptly discussed at an early warning meeting to decide how best to mitigate the risk. This procedure is included in all the FM contracts.

Change control

The contracts provide a clear and precise process for evaluating the cost and, where appropriate, time implications of compensation events, which include events arising from Client Scope changes. These are generally agreed within a few weeks of each event.

The end result is that the costs are continually updated and agreed as changes and events happen. There should be no surprises or unhappiness at the end of a properly run NEC4 FM contract.

Service Provider's proposals

The Service Provider is able to propose a change to the Scope which reduces the price of the service. The Client has the option to accept or not accept the proposal, or to request a quotation prior to making a decision. The Service Provider shares in the cost savings of opportunities that it initiates, either through the target share (Option C) or by recovering a percentage of the saving (Option A).

A secondary option has also been developed which allows the Service Provider to identify opportunities to change the Scope which, while it may increase the price of the service, would reduce the cost of an asset over its whole life. Again, through the procedures in this option, both Parties can share in the saving created.

Service Orders

Service Orders provide the facility for the Client to call off work identified in the Scope as and when required. For example, Service Orders will be used for reactive maintenance works.

The work to be called off under a Service Order is identified at tender stage, and rates and prices for the work included in the Price List. It is therefore a simple process to order and price the work to be executed under a Service Order.

The form of the Service Order is detailed in the Scope, which will also state any processes to be followed in the issue and execution of Service Orders and any constraints (for example, on the value of work that can be done or the procedures for getting approval before doing the work). This allows the Client to create a Service Order process that is specific to the service being undertaken and their own requirements.

Project Orders (FMC)

Project Orders are a secondary option, which are different to Service Orders as they allow the Client to instruct additional work which has a level of complexity, coordination and risk which requires a programme for its execution and which may include changes or additions to the Scope and the Price List. Project Orders will commonly be used for additional work which the Client fully anticipates doing but does not know when. The refurbishment of a lift, the re-wiring of a laboratory or classroom, the work involved in bringing a void property back into use, or the creation of a new exhibition area, are all examples of a project. Additional incentives, both positive and negative, can be included in Project Orders to encourage the Service Provider to complete the work on time.

Service Providers plan(s)

The Service Provider is required to provide a detailed plan of how it will provide the service. The plan is a key management tool and has to be kept updated as required by the contract, so that the parties know when and how the Service Provider will provide the service. In addition to the plan, the Client can also require mobilisation and demobilisation plans to be produced and for the Service Provider to provide details of how they will provide business continuity if they suffer an event which disrupts their normal business operations.

Service Failures

The Service Provider is required to provide the service in accordance with the Scope, part of which will operate as a service level agreement. A failure to provide the service in accordance with the Scope will be a Service Failure. The

contracts contain provisions to deal with these, recognising the different reasons, consequences and corrective measures (if these are possible) that may be needed. This provides a clear, robust and yet flexible method of driving achievement of the agreed service levels.

Performance Table

The Performance Table is a key part of the contracts and used to to incentivise the Service Provider financially, both positively and negatively to achieve or better the service levels set by the Client. The contract provides complete flexibility in the content of the Performance Table allowing the Client to identify the performance targets, levels, values and timing of assessment that will drive the aspects of the service delivery that is key to it.

Design

The FMC includes a secondary option to be used for contracts under which the Service Provider is required to undertake design as part of the service. The secondary options deals with the issue and acceptance of any such design, liability which is set at a standard of reasonable skill and care, ownership and use and the requirement for professional indemnity insurance.

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When and how they are being launched

The FM suite is being launched on 26 January 2021.

The first documents available will be:



Contracts:

- Facilities Management Contract (FMC)
- Facilities Management Subcontract (FMS)



User Guides:

- Establishing a Procurement and Contract Strategy
- Preparing a Facilities Management Contract
- Selecting a Supplier
- Managing a Facilities Management Contract



Flow Charts:

- FMC & FMS Flow Charts

These will all initially be available as a prepublication edition via digital download from necontract.com. The remaining documents, along with the first edition of the above documents and supporting Guidance Notes and Practice Notes tailored to localised / regional FM markets, and provide guidance on important themes in the FM industry, will be available from June 2021. Those who have already purchased the prepublications will get twelve months' complimentary access to the first edition.

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NEC and IWFM *Working towards the FM contract*



NEC and IWFM worked together on a Facilities Management Box Set for the NEC3 contracts and delivered some successful joint events on the use of NEC contracts within the FM sector. This was formalised by a Memorandum of Understanding in 2016. The new NEC4 FM suite is the latest piece of work to stem from this collaboration.

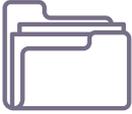
NEC acknowledges and is grateful for the ongoing support of IWFM and its members, especially in the development and delivery of these contracts and supporting documents. The IWFM NEC Steering Group have, in particular, made significant contributions in terms of insight and workplace examples.

This current project brought together parallel workstreams from both organisations. It combined NEC research to identify best practice in the facility management industry, which included stakeholder workshops with IWFM members as well as consultations with specific stakeholders, with a need identified by IWFM volunteers within its International (ISIG) and Procurement Special Interest Groups for a new approach to FM industry standard contracts. In particular, the 2016 ISIG supported leader forum Outsourcing Across Borders, outlined the rationale and benefits of an FM standard contract.

The new FM contracts and their supporting documents are a great step forward to enable the sector to offer more integrated and consistent procurement strategies, adding value to the supply chain and developing stronger, more collaborative, relationships and ways of working.

6 How you can get started with the NEC4 FM suite

As part of the launch, we will be hosting a webinar with IWFM to share the details of the new contracts. Both the live webinar and its recording will be accessible via necontract.com/Introducing-FM



One of the most effective support packages comes via our **NEC Users' Group**. This offers a blend of copies of the contracts, support and discounts as well as access to members' events and a helpdesk.



NEC and IWFM will be working on a series of **Practice Notes to be released over time**. These will address regional specific issues or issues which supports user in dealing with emerging issues such as the recent pandemic.



There will also be a **portfolio of training products available ranging from introductory courses to accreditations**. These will be delivered as a mix of online, virtual and classroom courses.



Finally, there will also be the option of **consultancy services to support you as you prepare and deliver your FM contracts**.



For more details on any of these support services, please email info@necontract.com and one of our team members will contact you.





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