

# **A BRIEF INTRODUCTION TO NEC 3 ENGINEERING CONSTRUCTION CONTRACT**

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# NEC Contracts

- Third Edition published July 2005 by Thomas Telford Ltd a wholly owned subsidiary of the Institution of Civil Engineers, London
- **Partnering philosophy** very different to traditional contracts FIDIC, GC/WORKS/1 and ICE
  - ◆ “10.1 The *Employer*, the *Contractor*, the *Project Manager* and the *Supervisor* shall act as stated in this contract and in a spirit of mutual trust and co-operation.
  - ◆ 16.3 At a risk reduction meeting, those who attend co-operate in:
    - seeking solutions that will bring advantage to all those who will be affected,....”

# NEC Contracts

- **6 Options**

- ◆ A - Priced Contract with *Activity Schedule*
- ◆ B - Priced Contract with Bill of Quantities
- ◆ C - Target Contract with *Activity Schedule*
- ◆ D - Target Contract with Bill of Quantities
- ◆ E - Cost reimbursable Contract
- ◆ F - Management Contract

**Option C is currently the most popular** in UK for large civil engineering works and large building projects

# NEC Contracts

- **Further contracts** within the ECC family:
  - ◆ Engineering and construction subcontract
  - ◆ Engineering and construction short subcontract
  - ◆ Professional services contract
  - ◆ Engineering and construction short contract
  - ◆ Adjudicator's contract
  - ◆ Term service contract
  - ◆ Framework contract

# NEC Contracts

## Core Clauses

- **All Options have the same core clauses:**
  - ◆ General
  - ◆ *Contractor's* main responsibilities
  - ◆ Time
  - ◆ Testing and Defects
  - ◆ Payment

# NEC Contracts

## Core Clauses

- All Options have the same core clauses:
  - ◆ Compensation Events
  - ◆ Title
  - ◆ Risk and insurance
  - ◆ Termination

# NEC Contracts

- Main Option Clauses
  - ◆ Dispute resolution is a Main Option
    - Option W1 is used unless the Housing Grants Construction and Regeneration Act applies
    - Option W2 is used when the Housing Grants Construction and Regeneration Act applies

# NEC Contracts

## Secondary Option Clauses

- For use where there are special requirements:
  - ◆ Price adjustment for inflation X1
  - ◆ Changes in the law X2
  - ◆ Parent company guarantee X4
  - ◆ Sectional Completion X5
  - ◆ Bonus for early Completion X6
  - ◆ Delay Damages X7
  - ◆ Partnering X12



# NEC Contracts

## Secondary Option Clauses

- For use where there are special requirements:

- ◆ Performance Bond X13
- ◆ Advanced payment to the Contractor X14
- ◆ Limitation of the *Contractor's* liability for his design to reasonable skill and care X15
- ◆ Retention X16
- ◆ Low performance damages X17
- ◆ Limitation of liability X18
- ◆ Key Performance Indicators X20

# NEC Contracts

- 'Z' Clauses
  - ◆ bespoke additions and amendments
    - special attention required!

# Contract Data

- Part One
  - ◆ completed *by the Employer* at tender
- Part Two
  - ◆ completed *by the Contractor* when submitting his tender

# Contract Data

- **Part One** includes:
  - ◆ Names of the *Employer, Project Manager* and *Supervisor*
  - ◆ Documents containing the Works Information
  - ◆ Key dates and Completion/Completion Date
  - ◆ Site Information
  - ◆ Share ranges and *Contractor's* share percentages
  - ◆ Optional statements, for example:
    - Parent Company guarantee (X4)
    - Sectional Completion (X5)
    - Delay Damages (X7)

# Contract Data

- **Part Two** includes:
  - ◆ Name of *Contractor*
  - ◆ *Contractor's* key people
  - ◆ *Direct fee percentage*
  - ◆ *Sub-Contracted fee percentage*
  - ◆ Programme identity
  - ◆ *Activity Schedule* identity
  - ◆ Tendered total of the Prices i.e the target
  - ◆ *Working Areas* i.e. the Site and such other areas as the *Contractor* identifies

# Contract Data

- **Part Two** includes:
  - ◆ Percentages to cover:
    - Manufacture and Fabrication overheads
    - Design overheads
    - Working Areas overheads
    - People overheads

# Contract Data

- Contract Data Part Two requires the Contractor to include two fee percentages:
  - **Direct** fee percentage.
  - **Subcontracted** fee percentage

# Contract Data

## Fee Percentages

- The direct fee percentage is applied to the Defined Cost of the Contractor's **direct (i.e. in-house)** resources.
- The subcontracted fee percentage is applied to the Defined Cost of **subcontracted** work.



# Defined Cost

- Costs not falling within the Schedule of Cost Components are **deemed** to have been allowed in the Fee e. g:
  - ◆ head office charges and overheads
  - ◆ profit
  - ◆ insurance premiums, including employers liability
  - ◆ corporation tax
  - ◆ bonds, sureties and guarantees

# Schedules of Cost Components

- Two Schedules
  - ◆ The Schedule of Cost Components (full) - Options C, D and E
  - ◆ The Shorter Schedule of Cost Components – All Options

# Schedules of Cost Components

- The Schedules lists the **cost elements** which the Contractor can include as **reimbursable cost** under Options C, D and E and in the **assessment of compensation events** under all options. They are the cost of:
  - ◆ People
  - ◆ Equipment
  - ◆ Plant and Materials
  - ◆ Charges
  - ◆ Manufacture and fabrication
  - ◆ Design

# Schedule of Cost Components

- Insurance: the following are deducted from Defined Cost:
  - ◆ cost of events against which the *Contractor* is required to insure
  - ◆ other costs paid to the *Contractor* by insurers

QUESTIONS?