

ice-sa NEC Forum 1 - 2026

NEC training sponsored by  **ecs**
CAPITAL PROJECTS

FREE

**Tuesday, 17th February
4 pm - 6 pm**

Topic: NEC4 Term Service Contract TSC4

**Presented by Sharm Bauchoo
NEC4 Accredited Project Manager**

ONLINE



0.2
ECSA
CPD
POINT

**Improving SA
Infrastructure
using NEC Contracts
as intended**

Introduction to Term Service Contracts (TSC4)

17 February 2026

ECS – who we are

ECS OVERVIEW

Project Management Consulting

Smart

Training and Development

Contract Management Advisory

TRAINING

DEVELOPMENT

SKILLS

SMART. LEAN. COLLABORATIVE.

Level 1 BBBEE Company with 35% Black Women Ownership

More than 30 years of Project and Contract Management experience, advisory consulting, training and development in South Africa and beyond

Digital enablement

Drive clients' success through collaborative, mutually beneficial contract and business management practices

Collaborative Project Strategies and Agile Project Delivery

Network based business model - low overhead cost (network 1000+)

ENGINEERING SMARTER PROJECT AND CONTRACT OUTCOMES THROUGH DIGITAL INNOVATION

ECS – who we are

PROFESSIONAL SERVICES

Contract Management Advisory

Project Management Consulting

Training and Development

Smart

Contract Management Advisory

At ECS, we prioritise clear, collaborative, and forward-thinking contract management to support successful project outcomes and minimize disputes. Our advisory services are designed to empower clients with strategies that enhance communication, alignment, and risk control throughout the contract lifecycle.

ORACLE | Partner

DIGITALBEEHIVE

SERVICE OVERVIEW

- **Dispute Avoidance and Resolution:** We focus on proactive strategies to mitigate potential conflicts, fostering early resolution to maintain project momentum.
- **Commercial Management:** Our team ensures robust commercial frameworks, signing contractual obligations with financial goals for optimised project profitability.
- **Procurement and Contract Strategies:** From procurement planning to tailored contract strategies, we provide solutions that match project needs, minimizing risks while maximizing efficiency.
- **Claims Management:** Comprehensive claim identification, analysis, and negotiation support to help clients recover rightful entitlements and manage contract variations.
- **Dispute Avoidance Board Services:** Independent advisory boards offer a neutral perspective, assisting in dispute resolution before issues escalate.
- **Expert Witness:** Trusted expert witness services deliver impartial and informed testimonies for legal proceedings related to contractual disputes.
- **Risk Management:** We proactively identify and manage contractual risks, ensuring client projects are resilient to challenges and changes.
- **Built Intelligence**

Each service is crafted to reinforce collaboration and dispute prevention, building a foundation for clear and efficient contract management. Additionally, we offer digital solutions to streamline contract management, ensuring our clients can manage their contracts effectively and with ease.

ORACLE | Partner

DIGITALBEEHIVE

ECS – who we are




Project Management Consulting

LEADERS IN PMO SERVICES

- PORTFOLIO MANAGEMENT OFFICE
- PROGRAMME MANAGEMENT
- PROJECT MANAGEMENT



Engineering Council of South Africa



Institution of Civil Engineers

A SOUND FOUNDATION OF OWNERS TEAM SUCCESS

At ECS our solid history of complex multi-discipline project management and implementation reflects our capability to design and configure the Programme / Project / Portfolio Management Office to:

- meet the specific needs of a client and,
- plan its implementation to deliver enhancements in delivery where possible in a controlled manner.

We strive to ensure that all levels of the customer's organisation are engaged in the development of a collaborative solution together with all service providers and stakeholders.

COLLABORATIVE PROJECT STRATEGIES

Portfolio, Program and Project Management Office (PMO) is professionally implemented using our trademark suite of dynamic tools, including Agile Project Delivery.

As leaders in Project Management Consulting services, ECS is underpinned by our successful proprietary methodology of Collaborative Project Strategies®. We are driving the digitalisation of the construction industry by making use of cutting-edge tools and technology to modernise construction, making your processes more efficient, effective and transparent.

- This platform looks beyond processes, recognising that mutual trust, collaboration, people and digital solutions are both beneficial and integral to secure optimum project delivery success.
- Buy-in of the key principles from all stakeholders, from executive leadership, blue-collar operatives and communities is essential for the process to deliver prime results.
- Cultural alignment is crucial for PMO success and promotes the development of long-term partnering, leading to better project outcomes.

- PMO (Project Management Office) - We set up streamlined PMOs to standardise processes, optimise resource use, and align projects with your strategic goals.
- Planning and Scheduling - With SMART scheduling and real-time tracking, we keep your projects on course from start to finish.
- Technical Advisors - Our experienced advisors offer guidance on technical challenges and provide independent assurance, ensuring your projects are built on the best solutions.
- Lean Construction - By cutting waste and boosting efficiency, we help you save time and money while delivering high-quality results.
- Business and Project Analysis - We dive deep into your projects, identifying ways to improve performance and maximise Return On Investment (ROI).
- Capital Project Services - From feasibility to execution, we manage large capital projects with precision, ensuring cost-effective and timely delivery.
- Advisory Consulting - Our tailored advice helps you navigate challenges, implement new systems, and drive growth.
- SMART Construction - Embrace the future with SMART Construction—leveraging tech like BIM, IoT, and digital tools to reduce errors and improve project delivery.

This platform looks beyond processes, recognising that mutual trust, collaboration, people and digital solutions are both beneficial and integral to secure optimum project delivery success.

- Buy-in of the key principles from all stakeholders, from executive leadership, blue-collar operatives and communities is essential for the process to deliver prime results.
- Cultural alignment is crucial for PMO success and promotes the development of long-term partnering, leading to better project outcomes.

Trust and collaboration propel the PMO forward to enable fast decision-making and the creation of a solid team ethos.

At the end of the day, it's people who make a project unique and who implement the right processes and technology to ensure a project's success.

The PMO needs to be at the forefront of innovation and constantly evolving leadership, management, and digital capabilities. Ultimately, the team must harness the relevant technology to deliver the optimal solution for the client.



ORACLE | Partner



nodes&links

ECS – who we are



Smart Solutions

We stand between our clients and the smart solutions offered by best-in-class technology partners. Our role is to translate tools into outcomes—configuring, embedding and supporting platforms that improve planning, contract administration, cost control, reporting and decision-making.

PORTFOLIO OPTIMISATION

Structured Portfolio Management Approach

Our Portfolio Optimisation methodology assists Eskom to balance the priority projects against the available budget in a dynamic environment.

This means that the optimisation process must be flexible enough to cater for ever changing demands so that projects can beationally accelerated or decelerated as the demands change in the medium term.

Budgeting for projects in the current MTSP is merely because they were on the priority list from the previous financial year is not a good enough reason for prioritisation.

Rather, projects should be prioritised because they deliver maximum Portfolio Benefits within the medium term.

Therefore the sequencing of projects is critical to maximising the benefits of the Portfolio.

Our Project sequencing method includes the following key steps:

- The first step is to sequence the projects according to the benefits that they will deliver against the medium term objectives.
- The second step is to estimate the costs of these priority projects.
- The third step is to measure these cumulative costs against the MTSP budget and assess the "peaks" and "valleys" of the costs versus the MTSP budget.
- The final step is to sequence the projects, or portions of the projects (planning, design, procurement, construction) so as to match the MTSP budget. This is done by accelerating or decelerating the project phases so as to flatten the peaks and valleys of the costs to match the available MTSP budget.



CONTRACT MANAGEMENT

Ensuring commercial integrity and cost control through expert oversight.

APPROACH

ECS proposes to implement a robust Contract Management Office (CMO) tailored to Eskom's operational and governance requirements. The CMO will be aligned with National Treasury Guidelines, PFMA, and Eskom's procurement and investment governance frameworks. It will be supported by NEC/4 and FIDIC-compliant systems and documentation. The CMO will serve as the central hub for managing contracts consistently, proactively supporting execution, variation control, and close-out activities.

Key CMO Responsibilities:

- Initiation & Award:** Oversee pre-award activities, define procurement strategies, ensure scope clarity, and enforce document control.
- Execution & Monitoring:** Track contractor obligations, progress, KPIs, payment certification, and compliance with change protocols.
- Change Management:** Manage compensation events, variation orders, and early warnings. Align change approval with Delegation of Authority thresholds.

- Close-Out & Archiving:** Verify deliverables, conduct final reconciliations, support commercial and technical close-out, and archive records for audit purposes.
- Standardisation & Tools:** Develop Eskom-specific templates, workflows, dashboards, and playbooks to ensure consistency.
- Governance Integration:** Embed contract control points into Eskom's project stage gates and align with portfolio-wide reporting mechanisms.

OUTCOME

A centralised CMO will ensure contract consistency, improved portfolio oversight, faster resolution of disputes, strengthened compliance, and embedded institutional memory. Eskom will gain a scalable, repeatable system to manage complex contracts with greater independence and reduced risk.



ECS – who we are



NODES & LINKS

AI Powered Schedule Intelligence for Modern Project Delivery

Nodes & Links is an advanced, AI driven schedule management platform that helps project teams plan, monitor, react faster, and deliver complex projects on time and on budget. It empowers owners, contractors, and PMOs with real time insights, automated reporting, and predictive analytics to eliminate delays, reduce risk, and boost productivity.

With intelligent automation, the platform instantly analyzes schedules, uncovers risks, predicts delays, and supports decision making across entire project portfolios. Its cloud based design requires no complex setup—teams gain immediate access to schedule insights, interactive timelines, and data rich reports.

Nodes & Links streamlines workflows, enhances governance, and enables project teams to stay in control from concept to completion—ensuring timely data driven, and clear line delivery. ECS and Nodes & Links have partnered to provide our clients with planning expertise, modeling feature, and delivering large-scale projects on time and on budget with intelligent automation.

Using generative artificial intelligence (AI), we can build and export reports to real time, use predictive AI for Important Quantitative Safety Risk Assessment (IQSRA) modeling and automation of various construction parameters/risks.

We ensure schedule integrity through bespoke health checks using leading and innovative generative AI tools and platforms.



ALICE TECHNOLOGIES

AI Powered Construction Planning & Scheduling

ALICE Technologies is a next generation, AI driven construction optimization platform that helps project teams plan faster, build smarter, and reduce risk across every phase of a capital project. Its generative scheduling engine rapidly simulates millions of "what if" scenarios to identify the most efficient and resilient construction plan—saving time, cutting costs, and improving project outcomes.

With ALICE, teams can update schedules or BIM models, visualize plans in 2D or 4D, and instantly explore optimized sequences tailored to constraints, resources, and real world risks. The platform integrates with tools like Primavera P6 and Microsoft Project, allowing seamless adoption within existing workflows.

ALICE empowers contractors and owners to recover delayed projects, accelerate delivery, and make confident, data based decisions—bolstering unprecedented clarity and efficiency in complex construction planning.

ALICE is a premier construction optimization platform that helps to create, explore, and update construction schedules that reduce risk while cutting construction costs and build time.

ECS has teamed up with ALICE to use cutting edge technology like artificial intelligence, machine learning and augmented reality, while using on-the-ground experience to develop faster and practically implementable construction schedules.

Using our partner's bespoke technology and software, we aim to optimize projects, reduce overall project risk and implement lean construction methodology to drive value creation for our clients.

DRONES FOR INFRASTRUCTURE DAM

DAM SAFETY SURVEY SERVICES – TAILINGS STORAGE FACILITIES

Drones have become a valuable tool in the monitoring and surveillance of operations, risks, as well as being an essential element in the asset value stream covering the entire life cycle and innovation. Drone technology can assist in surveying, collecting data, remote environmental and geotechnical changes, and providing data and information in real time ensuring that the potential for disaster coverage. With our data team, we can integrate data from aerial surveys, UAV, CAD, GIS, BIM, SCADA and other data to extract intelligence to assist you in managing and mitigating the risks.

Our ground services will provide you with accurate survey and monitoring reports to assist you in managing your facilities with confidence in the knowledge that you have the correct data and information to properly manage your risks and operations.

HOW WE GO ABOUT SURVEYING YOUR TSF AND MODELLING ASSOCIATED RISK

SURVEY - Non flight - Data stream capture - High resolution - No data loss - Automated survey - Real time data capture - Request surveys to capture view or scan requirements	INTEGRATE - Integrates with CAD, BIM, GIS, etc. - CAD, BIM, GIS, etc. - Data integration - Data integration - Data integration	ANALYSE - Analyze the environment - Change volume - Analyze potential root causes - Analyze potential root causes - Analyze potential root causes	MITIGATE - We provide data to your team - We provide data to your team - We provide data to your team - We provide data to your team
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AI



Data



Risk



Report

HOW WE GO ABOUT SURVEYING AND MODELLING



Our most accurate and reliable tool is a light collection and ranging (LiDAR) sensor. By pre-installing sensors on the dam, we can survey the dam to monitor accuracy. This survey accuracy provides the data, and can also detect movement of the dam if it is surveyed over a period of time. The sensor can also identify areas of potential slippage and cracks.

By adding a non-invasive sensor, the survey can also assist in detecting potential slippage and aging by creating thermal images, depending on other data that is collected, or more detail as it is collected, we can integrate the data with other data to create a 3D model of the dam and its surroundings.

By overlaying the data with, you can see movement and deformation versus 3D CAD models, including tracking over time if the dam is able to move.

Once scan area, analysis process can identify potential areas of concern and areas of the facility we will develop the specific model of the construction and its associated risks, including the potential for slippage, and cracking and measuring of potential risk of the dam, such as the dam, mass, slippage, etc. by the sensor or taking using a non-invasive tool.

The collaboration between Geomatics Technology, S.R Consulting and ECS Associates brings you a combined set of skills in drone, data and engineering, environmental modelling, and infrastructure management for your comprehensive solutions.

THE ECS FACTOR

ECS and its partners leverage smart digital solutions to deliver projects on time, on schedule with minimized disputes and claims.

Using our extensive, on-the-ground experience in managing small, medium and large, complex projects we ensure that through lean construction and optimization, these tools deliver maximum value to our clients. We strive to integrate theory, practice and experience into an optimal set of solutions for each project.

The tools and AI-generative platforms integrate seamlessly with data-driven like Oracle's Primavera P6 toolbox and other project management solutions.



ECS – who we are



Training & Development

Over 50 training modules offered to develop your staff into effective project and contract managers.

Official Project Management Accreditation course provider and agent of the NEC Suite of contracts and supplier of templates for preparing and managing contracts.

Our expanded Training Academy blends accredited instruction with self-learning pathways, micro-credentials and practical tools. We are committed to developing professionals and artisans who can confidently apply modern contract principles and smart construction practices on site.




ECS SIYAKHULA

Contract Management (NEC3, NEC4, FIDIC and others)	Project Management Accreditation (NEC PMA, PMP)	Construction Law and Contracts	Data Visualisations and PowerBI
Planning and Delay Analysis	Claims Management	Dispute Resolution and Expert Witnesses	Finance for Non-Financial Individuals
Project Business Case Development	Scope Development and Management	Project Management preparation for PMI	Risk Management



ECS Academy

TOOL PURPOSE

The ECS Academy is a bespoke, high-performance Learning Management System (LMS) designed specifically for the engineering and construction sector. Unlike generic off-the-shelf solutions, this platform is engineered to handle the complexity of Contractual Education (NEC, FIDIC, GCC).

Primary Functions:

- **Centralized Knowledge Hub:** A single secure repository for all ECS proprietary training materials, standardizing the quality of education across all clients.
- **Compliance Management:** Tracking user progress to ensure engineers meet mandatory professional development (CPD) requirements.
- **Brand Authority:** Strengthening ECS Associates' position as the industry leader by providing a premium, branded digital experience that rivals consumer tech products.

PLATFORM STRATEGY & ARCHITECTURE

TRAINING DELIVERY METHODOLOGY

We utilize a "Hybrid-Native" delivery model that seamlessly blends asynchronous (self-paced) learning with synchronous (live) mentorship.

Phase 1: Theory (On-Demand)

- **Format:** High-Definition Video Modules & Interactive Self.
- **Mechanism:** Users log in to the portal and access structured courses (e.g., "Basic Contract Law").
- **Engagement Strategy:**
 - **Visual Journey Mapping:** Users see their progress visualized as a timeline, encouraging completion.
 - **Resource Unlocking:** Advanced templates and checklists are only unlocked after specific modules are watched.
 - **Searchable Transcripts:** Users can instantly search huge video libraries for specific keywords.

Phase 2: Application (Live Workshops)

- **Format:** In-Person or Commercial Zoom Workshops.
- **Mechanism:** The platform features an integrated Real-Time Calendar.
- **Flow:** Once a user completes the theoretical "Phase 1" module, the system prompts them to book a live slot.
- **Management:** The system automatically manages seat capacity (e.g., max 30 students) and prevents booking conflicts, removing administrative burden.

ECS – who we are

Empowering Growth through Learning - Training 2025

Affiliated Institutes

- Escom
- SACPCMP
- RICS
- ice-sa
- salce
- TRIDENT ENGINEERING INSTITUTE
- ICLA

6000+ DELEGATES TRAINED

95% AVERAGE MARK

53 COURSES

Future Focused Collaboration
Runner-up
Project and Contract Management Training
ECS Business (Pty) Ltd & Eskom
On: 16 June 2025

Martin Barnes Award – Mile, Alain and Mahomed

Proud to be recognised!
ECS, in collaboration with Eskom, is honoured to have been named Runner-Up in the NEC Martin Barnes Award 2025 in the Future-Focused Collaboration category this week at the NEC Annual Conference in London.

This recognition highlights our commitment to driving forward-thinking, effective collaboration in the delivery of complex infrastructure projects.

Working alongside Eskom Holdings SOC Ltd, our focus has been on fostering a proactive, transparent, and resilient project culture that delivers lasting value.

Congratulations to all the winners and finalists who are shaping the future of project delivery through innovation and collaboration. We're proud to be part of this journey.

Congratulations, Mile, Alain and Mahomed! We are proud to be part of this journey.

Agenda

- **Basic overview of NEC contracts**
- **Why and when TSC4 is used, how it works,**
- **Core clauses:**
 - 1. General;**
 - 2. The Contractor's Main Responsibilities;**
 - 3. Time;**
 - 4. Quality Management;**
 - 5. Payment;**
 - 6. Compensation Events;**
 - 7. Use of Equipment, Plant & Materials;**
 - 8. Liabilities & Insurance;**
 - 9. Termination**
- **Main & Secondary Options : X1-X24**

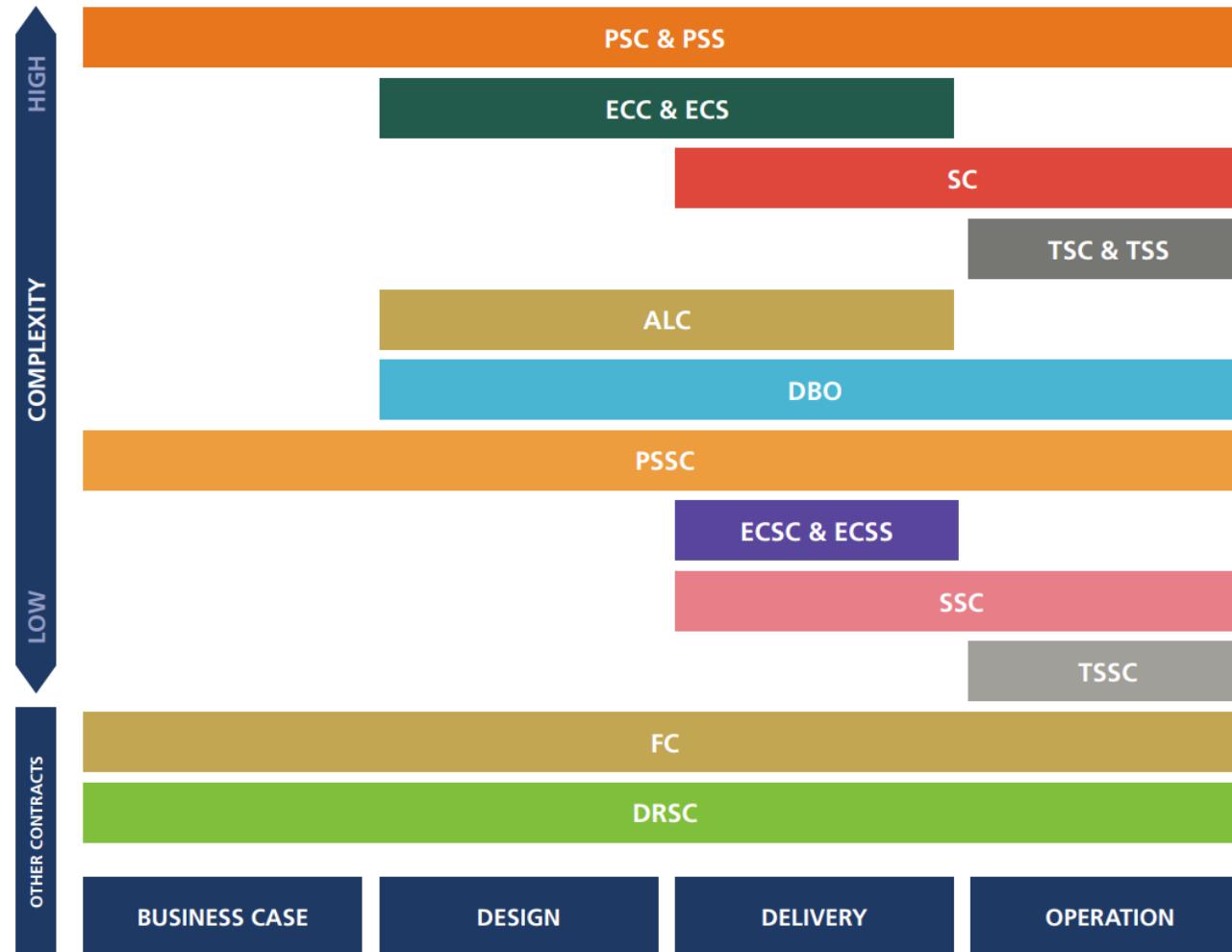
NEC App. Download

- Used Google Play store.
- Look for 'nec contract' – Download.
- Provides insight into the latest NEC projects and events.
- You can also include your profile and interact on the App.

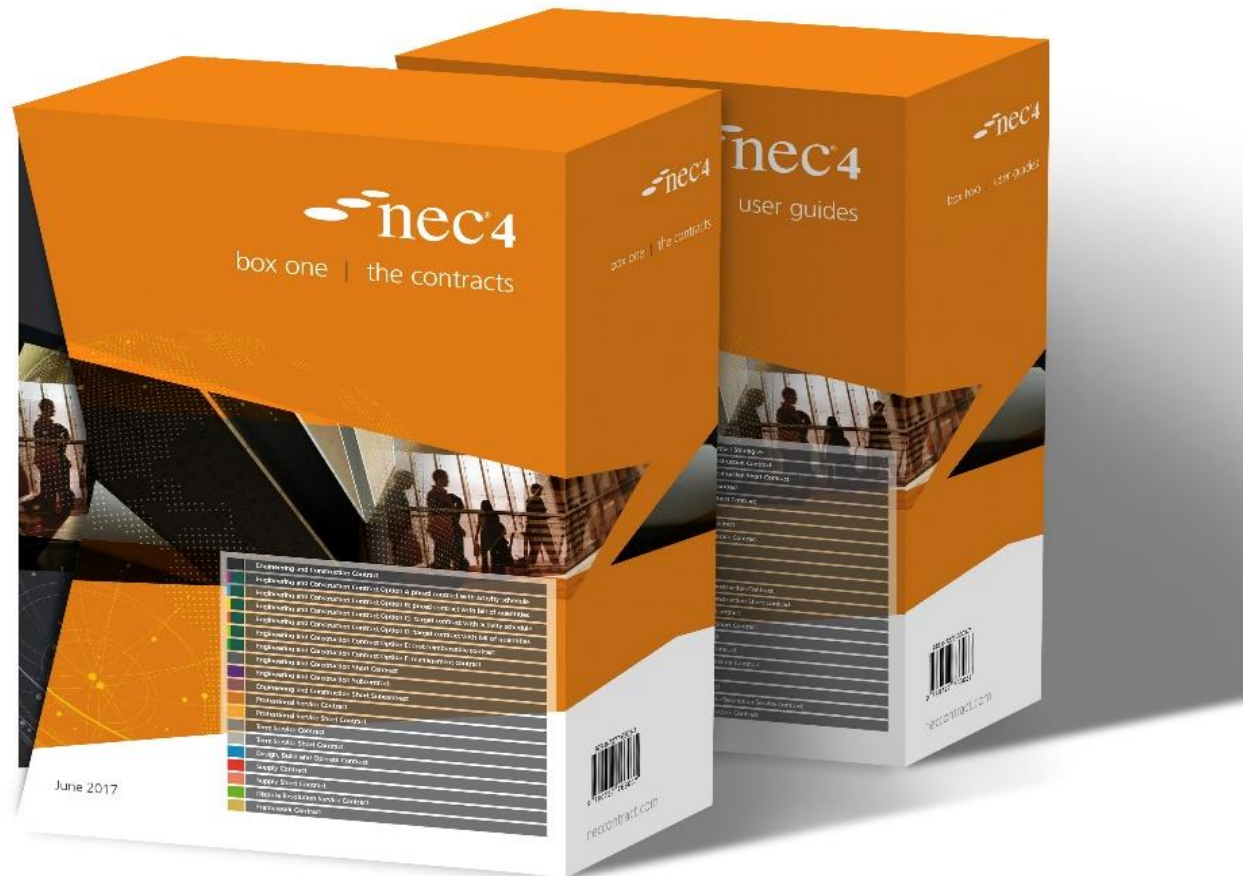
TSC Contracts Overview

- **TSC:**
 - ❖ **Used for the appointment of contractors to manage and deliver ongoing services over a period.**
 - ❖ **Suitable for maintenance, facilities management, and other long-term service contracts.**
- **TSS:**
 - ❖ **Used for sub-contracts under TSC.**
- **TSSC:**
 - ❖ **For less complex or lower-value term service contracts.**
 - ❖ **Simplified form of the TSC, easier to manage for straightforward service arrangements.**

Contracts in NEC4 family



NEC4 Box Set



Guidance notes structure

Vol 1: Procurement and contract strategies											
Vol 2: Contract preparation											
ECC/ECS	ECSC/ECSS	PSC	PSSC	TSC	TSSC	SC	SSC	DBO	ALC	FC	DRSC
Vol 3: Supplier selection											
Vol 4: Contract management											
ECC/ECS	ECSC/ECSS	PSC	PSSC	TSC	TSSC	SC	SSC	DBO	ALC	FC	DRSC

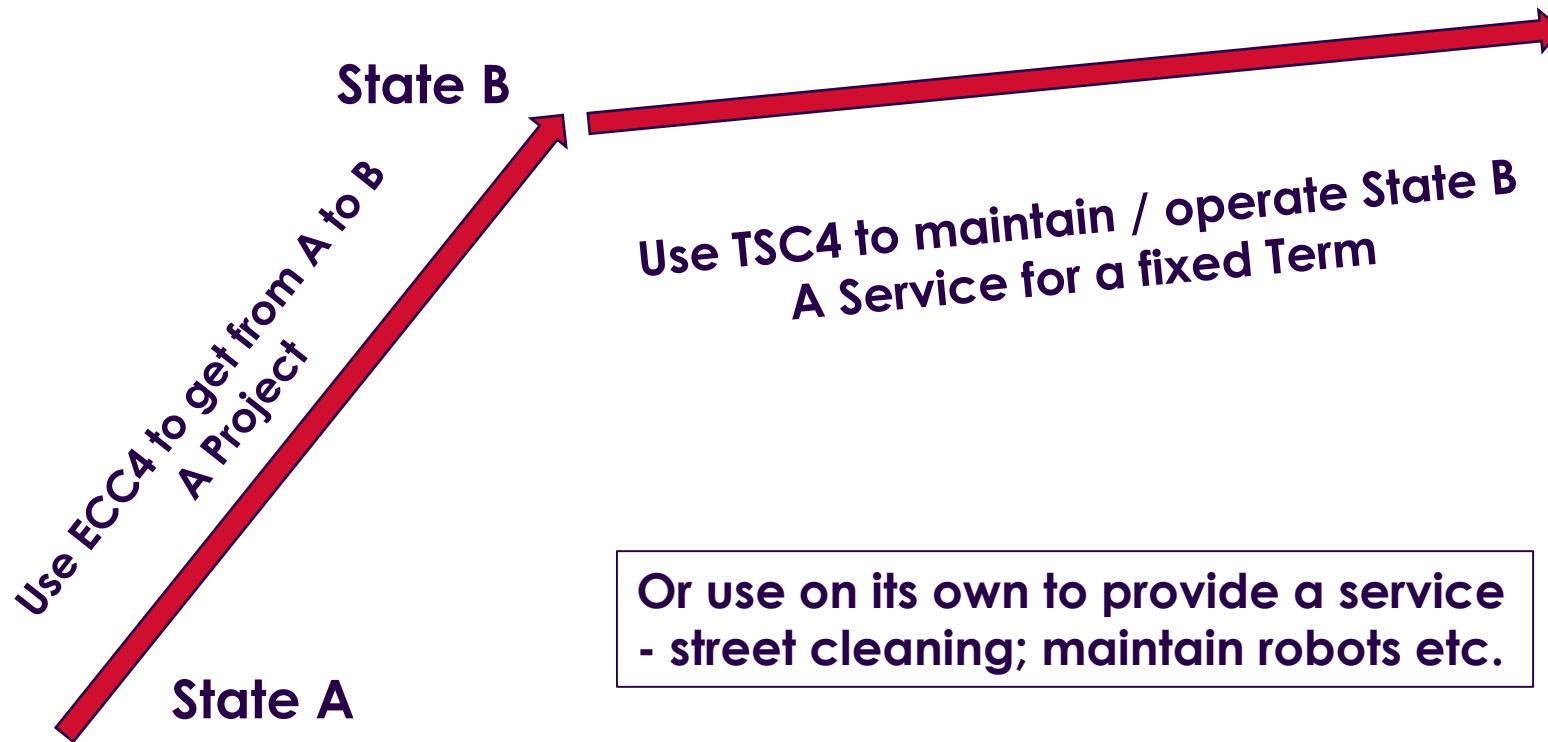
Using the NEC4 Term Service Contract

Why, when and how

When to Use TSC4

- TSC4 is to appoint a contractor for operation and / or maintenance of a system (e.g. a Power Station, Tank Farm/s) for a service period
- TSC4 is to maintain state of an asset/ affected property for a period of time:
 - Operations or maintenance;
 - Facilities management.
- Project requirements usually differ from operational or maintenance requirements.
- Provide the service continuously or on a Task-by-Task call off basis
- Three Main Options, A, C and E;
- 16 Secondary Options

Application of ECC and TSC



Main Features of TSC4

- **Provision of a service for a *service period*:**
 - May include some new work;
 - Could subcontract ‘projects’ required by the service using ECC4, ECSC4 or PSC4.
- **Service performed on “Affected Property”:**
 - Not just on *Client’s* property; could be on *Client’s* customers’ property e.g. house connections.

TSS4-Subcontracting Under TSC4

- Used for subcontracting when TSC4 is the main contract.
- Subcontracting same as ECC4:
 - Liability as if *Contractor* had not subcontracted;
 - No provision for nominated subcontractors;
 - Can list acceptable subcontractors in Scope.

NEC4 Term Service Short Contract (TSSC4)

- **Ideal for services not requiring much management**
 - **Cleaning services**
 - **Routine maintenance of non complex buildings**
 - **Gardening**
 - **Meter reading**
 - **Painting**
 - **Security services**

Building a NEC “House” TSC Contract

- Works
 - Services
 - Supply
- (ECC,PSC,SC,**TSC**,FC,ALC)
- Short, Subcontract



Core Clauses:
“Foundation, Doors,
and windows,
Water and
electricity, Walls
and Roof”

Add main options: A,C and E
W1 (Dispute Resolution)

Add secondary options: X1 – X24, Z clauses



Add schedule of cost
components:



Contract Data plus Scope and pricing
data



Contract Strategies in TSC4

**Core clauses, main and
secondary Options**

TSC4 Parties and Role Players:

- Parties are *Client* and *Contractor*.
- Contract managed on behalf of the *Client* by the *Service Manager*:
 - May be internal or external the *Client's* organisation; no *Supervisor* as in ECC;
 - Role is defined by the actions he takes.
- *Adjudicator* appointed at the outset to decide disputes when they arise.
- *Contractor* lists *key persons* in Contract Data Part Two as in ECC4.

Contract Strategy

- *Client* chooses the *conditions of contract* by stating in Contract Data that :
- “*The conditions of contract* are the core clause and the clauses for main Option _____ , dispute resolution Option _____ and secondary Options _____ of the NEC4 Term Service Contract, June 2017”
 - Only one main Option, always dispute Option W1 (SA), and secondary Options as required.

Core clause sections in TSC4

1. General
2. The Contractor's main responsibilities
3. Time
4. Quality management
5. Payment
6. Compensation events
7. Use of Equipment, Plant and Material
8. Liabilities and insurance
9. Termination

TSC4 Main Options

- **Choose one option: A, C, or E**
 - ❖ **Option A – Priced Contract with Price List**
 - ❖ **Option C – Target Contract with Price List**
 - ❖ **Option E – Cost Reimbursable Contract**

TSC4 Pricing System

- All main Options use a *price list*.
- The *price list* includes items of service which could be lump sum, quantity multiplied by rate, or rate only.
- Service items not on the *price list* priced like compensation events (Defined Cost plus Fee)
- The *price list* in Option E may be used for budgeting purposes only.

Section 1: General

NEC4 Term Service Contract

General

- **Clause 10 – Actions**
- **Clause 11 – Identified and defined terms**
- **Clause 12 – Interpretation and the law**
- **Clause 13 – Communications**
- **Clause 14 – The *Service Manager***
- **Clause 15 – Early Warning**

General

- **Clause 16 – Contractor's proposals**
- **Clause 17 – Requirements for instructions**
- **Clause 18 – Corrupt Acts**
- **Clause 19 – Task Orders**

Clause 10-19

- Clause 10-19 provides the general obligations and duties of the *Client* and the *Contractor* as well as the requirements for mutual trust and cooperation (“Good faith”) and communication
- Lays groundwork for positive and effective working relationship between the *Client* and the *Contractor* – minimise conflict, enhance transparency, align goals.

Trust



Co-operation



Clause 10: Actions

10.1. The Parties and the *Service Manager* shall act as stated in this contract

10.2. The Parties and the *Service Manager* act in spirit of mutual trust and co-operation

Clause 11: Identified & defined terms

11.1 terms in *italics* identified in Contract Data

11.2 Defined terms with capital initials

(1) Accepted Plan

(2) Affected Property

(3) Contract Date

(4) Corrupt Act

(5) Defect

(6) Early Warning Register

(7) Equipment

(8) Fee

(9) Other

(10) Parties

(11) Plant and Materials

(12) Price List

(13) Provide the Service

(14) Scope

(15) Service Areas

(16) Service Period

(17) Subcontractor

(18) Task

(19) Task Completion

(20) Task Completion Date

(21) Task Order

Definitions also in Option clauses

Clause 13: Communications

- Which can be read, copied and recorded
 - in writing; oral has no validity.
- Effective on receipt.
- Respond within *period for reply*.
- *Period for reply* can be extended:

13.7 Each notification to be separate from others.

Clause 14: Service Manager

- ***Service Manager:***
 - acceptance of work does not change ***Contractor's*** responsibility;
 - may delegate any action;
 - may withhold acceptance for any reason; those not stated are compensation events.
- ***only Service Manager can change Scope.***
- ***Client may replace Service Manager after notifying the Contractor.***

Clause 15: Early warning

- **Contractor and Service Manager give early warning about price increase, delay, or impaired effectiveness of the service;**
- **Or even by Contractor regarding one of its risks.**
- **Service Manager enters early warnings in an Early Warning Register.**
- **Either Service Manager or Contractor call risk reduction meeting.**
- **Seek solutions and revise Early Warning Register.**

Clause 16: Contractor's Proposal

- Provides a structured process for the *Contractor* to propose changes or improvements to the service
- The *Service Manager* may accept, propose a change to or inform its non-acceptance.
 - With non-acceptance, provide reasons

Clause 17: Requirements for instructions

- ***Service Manager or Contractor*** to notify of as soon as either becomes aware of:
 - ambiguity or inconsistency
 - an illegal or impossible requirement in the Scope
- ***Service Manager*** gives instruction resolving it
- **May lead to a compensation event.**

Clause 18: Corrupt Acts

- Prohibits the *Contractor* from committing a corrupt act.
- Places responsibility on the *Contractor* to take action to stop corrupt act of the Subcontractor or supplier should they be aware
- The *Contractor* includes provisions in subcontracts and contracts for the supply of Plant and Materials and Equipment.

Task Orders

- Allows for some or all work to be instructed by Task Order; a “call-off” arrangement.
- Task includes a collection of items from the Price List.
- Task Order is *Service Manager’s* instruction to carry out the Task.
- Task has own Completion Date, programme.

The Use of Task Orders

- **When is a Task Order used?**
 - Small project for betterment of the Affected Property during a continuous service;
 - The type of service is known but not when or where it is to be performed; not continuous.
 - Outsourcing of a highly specialised service; availability guaranteed as and when needed for a long period of time.
 - Short duration plant outage maintenance projects repeated to a planned sequence.

Section 2: *Contractor's* main responsibilities

The Contractor

- The *Contractor's* obligations and responsibilities in delivering the service in accordance with the Scope.
- This includes ensuring compliance with relevant specifications, legal requirements, and quality standards.
- Also covers the management of subcontractors as well as the provision of necessary resources.
- Clause aims to ensure the *Contractor* delivers effective and efficient service to the agreed standards.

The Contractor

- **Clause 21 – Design of Equipment**
- **Clause 22 – People**
- **Clause 23 - Working with the *Client* and Others**
- **Clause 24 – Subcontracting**
- **Clause 25 – Other Responsibilities**
- **Clause 26 – Assignment**
- **Clause 27 - Disclosure**

Clause 21: Design of Equipment

- The *Contractor* must submit particulars of a design of an item of Equipment to the *Service Manager* for acceptance if the *Service Manager* instructs the *Contractor* to submit such design
- The *Service Manager* may not accept the design of an item if it is found that the design will not allow the *Contractor* to Provide the Service in accordance with:
 - The Scope
 - Accepted Plan
 - applicable law

Clause 22: People

- The *Contractor* has a responsibility to provide every *key person* named in the contract to do the job or they must provide a replacement person that the *Service Manager* has accepted
- They must submit the name, relevant qualifications and experience of the proposed replacement person to the *Service Manager* for acceptance. Non acceptance by the *Service Manager* could be due to their qualifications and experience not meeting a sufficient standard
- The *Service Manager* can instruct the *Contractor* to remove a person for a valid reason and if they do so then they no longer have any connection with the service included in the contract

Clause 23: Working with the *Client* and Others

- The *Contractor* is to cooperate with others including in obtaining and providing information which they need in connection with the service.
- Has to share the Affected Property with Others as per the Scope.
- The *Client* and the *Contractor* should provide services in other things stated as per the Scope.
- If the *Client* incurs any cost as a result of the contractor not providing the services and other things is assessed by the *Service Manager* and then paid by the *Contractor*.

Clause 24: Subcontracting

- Liability as if he had not subcontracted.
- Subcontractors people & equipment as though they were *Contractors*.
- Subcontractor subject to *Service Manager's* acceptance.
- *Contractor* should make use of NEC subcontracts; or *Client* specifies in Scope.

Clause 27: Other Responsibilities

- Approval from Others where necessary.
- Access to work being done.
- *Contractor* obeys instructions:
 - *Service Manager* not Party to the contract.
- Health and safety requirements stated in the Scope; regulating compliance with Act, not restating it.

Clause 26: Assignment

- **Either of the Parties should notify the other party if they intend to transfer the benefit of the contract or any rights under it.**
- **The *Client* does not transfer a benefit or a right if the receiving party does not intend to act in the spirit of mutual trust and co-operation.**

Clause 27: Disclosure

- Parties do not disclose information obtained in connection with the service except when necessary to carry out duties listed in the contract
- The *Contractor* can only publicize the service if the *Client* agrees

Section 3: Time

Clause 30 -36

- **Clause 30 – Starting and the Service Period**
- **Clause 31 – The Contractor’s plan**
- **Clause 32 – Revising the Contractor’s plan**
- **Clause 33 – Task Order programme**
- **Clause 34 – Revising the Task Order programme**
- **Clause 35 – Access**
- **Clause 36 – Instructions to stop or not to start work**

Clause 30 -36

- Sets out the schedule- related requirements and procedures that govern the delivery of the service
- Established starting, completion and access dates to ensure both parties understand the project timelines.
- Mandates submission of detailed *Contractor's Plan for acceptance*—promotes accountability and transparency

Clause 30: Starting & the Service Period

- **Contractor does not start work:**
 - until the *starting date* and Provides the Service throughout the entire Service Period.
 - included in Task until the service manager has issued the Task Order and does the work so that the Task Completion is on and before the Task Completion date – task order not issued after service period ends.
- Service Period can be extended until the latest task completion
 - *Service Manager* will not issue another task order.
 - *Contractor* only provides service related to outstanding tasks.
 - *Contractor's* liabilities limited.

Clause 33: Acceptance of a programme

- Clause 33.3 outlines the requirements related to the acceptance of the *Contractor's* programme.
- Specifically, it allows the *Service Manager* to not accept a programme if it does not realistically represent the *Contractor's* actual plans.

Section 4: Quality management

Clause 40 -44

- **Clause 40 – Quality Management system**
- **Clause 41 – Tests and inspections**
- **Clause 42 – Testing and inspection before delivery**
- **Clause 43 – Notifying and correcting defects**
- **Clause 44 – Accepting Defects**

Clause 40-44

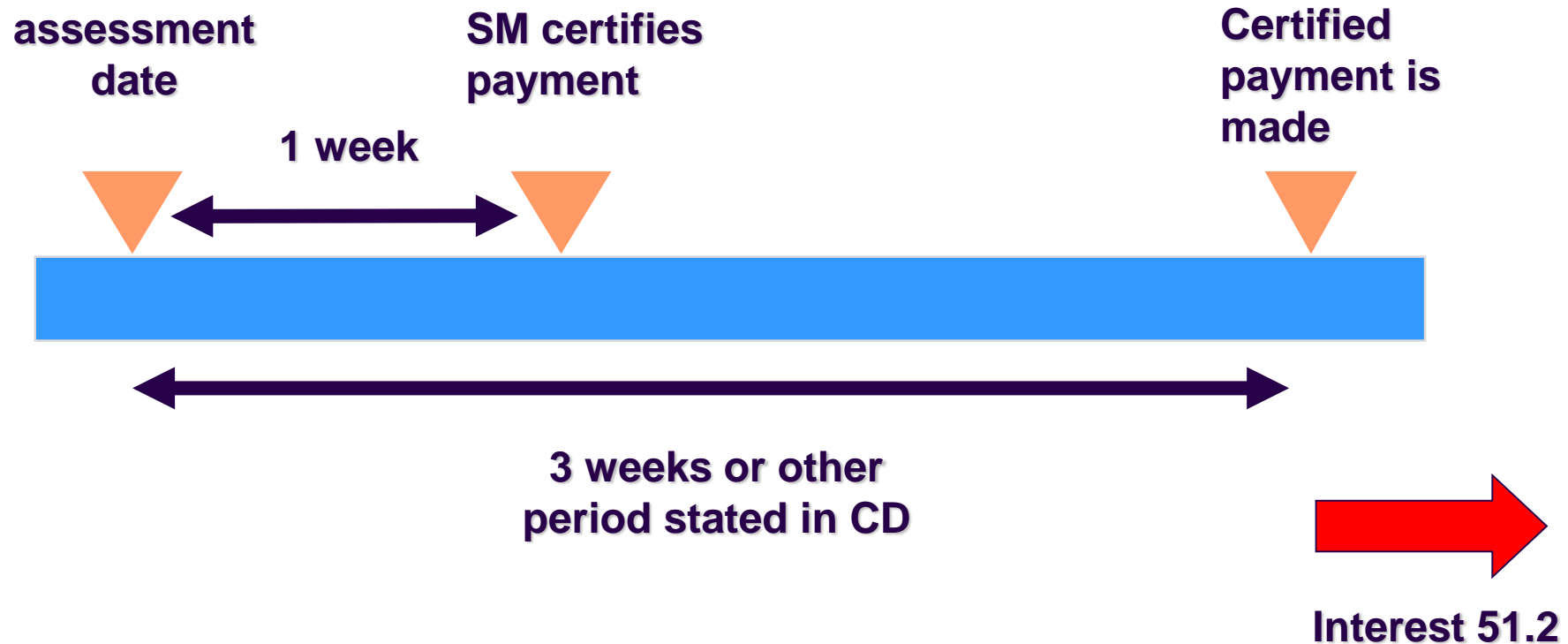
- Provides a comprehensive framework throughout the service delivery process and require the Contractor to:
 - ❖ Establish & maintain a quality management system
 - ❖ Conduct testing and inspections (especially before delivery)
 - ❖ Address defects (Notify and correct)
- Contractor corrects Defects within a time which minimises the adverse effect on the *Employer* or Others:
 - ❖ No requirement of *Service Manager* to notify;
 - ❖ SM to assess cost to E of correcting by others if C fails to correct in time required;
 - ❖ SM arranges access for C to correct.

Section 5: Payment

Clause 50 -53

- **Clause 50 – Assessing the amount due**
- **Clause 51 – Payment**
- **Clause 52 – Defined Cost**
- **Clause 53 – Final assessment**

Payment Time Periods



Clause 50-53

- **Specifies procedures for:**
 - ❖ **Calculating and making payments with focus on final payment**
 - ❖ **Determining defined costs**
 - ❖ **Establishing timeframes for payments**
 - ❖ **Consequences of late payment and provides direction when it comes to any changes**

52.1 Defined Cost

- All the Contractor's cost which are not included in the Defined Cost are treated as included in the Fee.
- Defined Cost includes only amounts calculated using rates and percentages stated in the Contract Data and other amounts at open market or competitively tendered prices with deductions for all discounts, rebates and taxes which can be recovered.

What is in *fee percentage*?

- **Option A:**
 - Only profit & head office costs for compensation events.
 - Most already included in Prices and rates in the Price List.
- **Options C & E:**
 - All work paid at Defined Cost plus Fee; only contribution to HO costs and profit.

Section 6: Compensation events

Clause 60 -66

- **Clause 60 – Compensation events**
- **Clause 61 – Notifying compensation events**
- **Clause 62 – Quotations for compensation events**
- **Clause 63 – Assessing compensation events**
- **Clause 64 – The *Service Manager's* assessments**
- **Clause 65 – Proposed instructions**
- **Clause 66 – Implementing compensation events**

Clause 60-66

- **Compensation events are:**
Events which, if they occur, and do not arise from the *Contractor's* fault, entitle the *Contractor* to be compensated for the effect of the event.
- **Establishes a systematic approach for managing compensation events throughout the contract period.**
- **Provides clear guidelines for identifying, assessing and resolving compensation events**
- **Key features:**
 - ❖ **Notification, quotation, assessment, implementation**
 - ❖ **Proposing instructions- The *Contractor* does not proceed with services unless a quotation is accepted.**

Compensation event process

- **Similar to other NEC contracts:**
 - Notification by *Service Manager* or by the *Contractor* within stated time period.
 - Instruct *Contractor* to provide quotation for cost and time effects.
 - Basis of assessment is included in the contract.
 - *Service Manager* to assess if the *Contractor* does not assess correctly.
 - Implementation.

Section 7: Use of Equipment, Plant and Material

Clause 70 -71

- **Clause 70 – The *Client's* title to Plant and Materials**
- **Clause 71 – The Parties' use of equipment, Plant and Materials**

Clause 70-72

- Provides comprehensive framework for managing the use of equipment, Plant, and Materials within the Service Areas.
- Outlines the responsibilities of the *Contractor* for providing, maintaining and utilizing their own resources, ensuring compliance with quality and safety standards.
- Sets conditions for the usage of the *Client's* resources, including care, maintenance and liability.

Section 8: Liabilities & Insurance

Clause 80 -86

- **Clause 80 – *Client's* liabilities**
- **Clause 81 – *Contractor's* liabilities**
- **Clause 82 – Recovery of costs**
- **Clause 83 – Insurance Cover**
- **Clause 84 – Insurance policies**
- **Clause 85 – If the *Contractor* does not insure**
- **Clause 86 – Insurance by the *Client***

Clause 80-86

- Parties understand their liability and the required insurance to mitigate risks
- Protects both Parties against potential financial losses arising from service delivery

Section 9: Termination

Clause 90-93

- **Clause 90 – Termination**
- **Clause 91 – Reasons for termination**
- **Clause 92 – Procedures on termination**
- **Clause 93 – Payment on termination**

9. Termination (Clause 90-93) Cont.

- Establishes clear procedure for:
 - ❖ Notification
 - ❖ Cessation
 - ❖ Payment
 - ❖ Settlement of accounts

9. Termination (Clause 90-93)

- **Outlines the reasons, procedures and consequences of termination by both the *Client* and the *Contractor*.**
- **Ensure termination is structured, fair, and protects the interests of both Parties.**
- **Cover termination due to:**
 - ❖ **Default**
 - ❖ **Insolvency**
 - ❖ **Non-performance**
 - ❖ **Force majeure**

Dispute Resolution Options

Dispute Resolution Options

- Two options : W1 & W2
- For use in South Africa, always choose W1
- W2 is only required if the contract is subject to the UK's Housing Grants, Construction and Regeneration A1996

Option W1

- Provides a structured and efficient mechanism for resolving disputes.
- First, a dispute that arises out of the contract is referred to the *Senior Representatives* in accordance with the Dispute Reference table: (next slide)
- Each party would submit their statements of case to each other
- *Senior Representatives* attempt to resolve dispute within 3 weeks after which they produce of the issues agreed and not agreed on.
- If the dispute is not resolved by the *Senior Representatives*, it is referred to and decided by an Adjudicator.

What is Adjudication?

- Not arbitration or litigation.
- Ensures disputes addressed promptly.
- *Adjudicators* decision binding in the interim until overturned by court or arbitration award.
- Allows for continuation of contracts without significant delays due to unresolved disputes.
- Allows for legal recourse if either part is dissatisfied with the *Adjudicator's* decisions – maintains fairness.

Appointing the Adjudicator

- **W1.2 Adjudicator** appointed at time Parties conclude their contract or nominated by others:
 - Not used unless dispute arises;
 - Paid equally by the Parties.
- Provision for a nominating body to appoint adjudicator if not named in Contract Data:
 - Go to www.ice-sa.org for local NEC Users List.
- **Adjudicator MUST** know NEC inside out and be impartial:
 - written submissions; no hearings;

Adjudication in NEC

- W1.3(1) Dispute type per Adjudication Table.
- W1.3(2) If a disputed matter is not notified or referred on time neither Party may refer to the *Adjudicator* or the tribunal:
 - Note time barring.

The Adjudicator's Decision

- **W1.3(3) Adjudicator decides on basis of written submissions.**
- **May seek advice from others; e.g. legal counsel.**
- **W1.2(2) Makes decision as an independent adjudicator not as an arbitrator.**
- **W1.3(10) Decision is binding and enforceable:**
 - **If a Party is dissatisfied he may notify intent to proceed to the tribunal;**
 - **If no notice decision is also final.**

Secondary Options

Secondary Options

Select only those required:

X1 Price Adjustment for Inflation (Option A & C only)

X2 Changes in the Law

X3: Multiple Currencies (Option A only)

X4: Ultimate Holding Company Guarantee

X8: Undertakings to the Client or Others

X10: Information Modelling

X11: Termination by the Client (not used with Option X19)

X12: Multiparty Collaboration (not used with Option X20)

Secondary Options (cont.)

X13: Performance Bond

X17: Low Service Damages

X18: Limitation of Liability

X19: Termination by Either Party (not used with Option X11)

X20: Key Performance Indicators (not used with Option X12)

X21: Whole Life Cost

X23: Extending the Service Period

X24: *The Accounting Periods*

Key success factors in managing NEC4

- Prepare a good contract with as complete Scope as possible. The Scope is key.
- Produce and present a set of rules of contract administration at the kick-off meeting and instil a co-operative style of behaviour
- Follow the contract within the times stated
- Manage risk through the Early Warning Process
- Manage the Programme in collaboration
- Constantly update cost forecast
- Be proactive, particularly in compensation events
- Constantly refer to the NEC4 User Guides when required
- Avoid “us and them” – use only “we”. The Parties work collaboratively!
- No finger-pointing
- Manage the project and not the *Client/ the Contractor* and administer the contract
- Invest in, develop and protect trust!
- Have some fun!!!



QUESTIONS

