

NEC Practice Notes for Public Works Projects in Hong Kong

VOLUME 0

Overview



Development Bureau

The Government of the
Hong Kong Special Administrative Region
of the People's Republic of China

Development Bureau

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Contents

1	EXECUTIVE SUMMARY	2
1.1	PURPOSE OF THE PRACTICE NOTES	2
2	BACKGROUND.....	3
2.1	THE HISTORY OF NEC	3
2.2	DIFFERENT EDITIONS OF NEC.....	3
3	GENERAL INFORMATION OF NEC CONTRACTS	4
3.1	SELECTION OF CONTRACT	4
	APPENDIX A – AN OVERVIEW OF THE HISTORY OF NEC	10

1 EXECUTIVE SUMMARY

1.1 PURPOSE OF THE PRACTICE NOTES

1.1.1 To cater for the full adoption of NEC in public works projects, the Development Bureau (DEVB) promulgates these Practice Notes to facilitate the Project Offices of the Works Departments (WDs) in the administration and management of their NEC contracts. These Practice Notes are intended to be a living document and will be updated from time to time on a need basis. These Practice Notes aim to provide guidance, performance benchmarking and alignment of practices of the Project Offices of WDs in the preparation and administration of public works projects and consultancy agreements using the NEC form. The NEC form includes the Engineering and Construction Contract (ECC), Term Service Contract (TSC) and Professional Service Contract (PSC) which will be covered by Volumes 1 to 3 of these Practice Notes respectively.

1.1.2 These Practice Notes focus on common challenges encountered by the Project Offices at pre-tender and tender stages, and the practical issues in managing NEC ECC, TSC and PSC projects and/or contracts during construction, with due considerations to the prevailing Government guidelines and procedures.

2 BACKGROUND

2.1 THE HISTORY OF NEC

2.1.1 An overview of NEC’s history from both global and Hong Kong perspectives is set out in **Appendix A**.

2.2 DIFFERENT EDITIONS OF NEC

2.2.1 With the launch of the Hong Kong Edition of the ECC, TSC and PSC in July 2023, November 2024 and June 2026 respectively, these Practice Notes have been specifically revised to provide guidance for Project Offices of WDs in the preparation and administration of public works projects using NEC Hong Kong Edition. Nevertheless, sections relevant to the use of other NEC forms of contract where Hong Kong Edition is not available are drafted based on NEC4.

2.2.2 Recognizing that NEC3 or, as the case may be, NEC4 are still in use for many ongoing public works projects at the time of this revision, Project Offices of WDs are advised to review their respective contracts and, where appropriate, apply the concepts, guidelines and recommendations set out in these Practice Notes to the administration of those contracts adopting NEC3 or NEC4, taking into account the specific provisions and requirements of each contract.

3 GENERAL INFORMATION OF NEC CONTRACTS

3.1 SELECTION OF CONTRACT

3.1.1 The current list of published NEC contracts and a brief description of each type of NEC contract are stated as below:

	Contract	Abbr.	NEC (HK)	NEC4	NEC3	When Should be Used
Works Contracts	Engineering and Construction Contract	ECC	✓	✓	✓	For the appointment of a contractor for engineering and construction work, including any level of design responsibility
	Engineering and Construction Subcontract	ECS		✓	✓	For the appointment of a subcontractor for engineering and construction work where the contractor has been appointed under the ECC
	Engineering and Construction Short Contract	ECSC		✓	✓	As an alternative to ECC and is for use with contracts which do not require sophisticated management techniques, comprise straightforward work and impose only low risks on both the client and the contractor
	Engineering and Construction Short Subcontract	ECSS		✓	✓	As a subcontract to ECC or ECSC and is for use with contracts which do not require sophisticated management techniques, comprise straightforward work and impose only low risks on both the contractor and the subcontractor
Term Contracts	Term Service Contract	TSC	✓	✓	✓	For the appointment of a contractor for a period of time to manage and provide a service such as planned or unplanned maintenance
	Term Service Subcontract	TSS		✓		For the appointment of a subcontractor for a period of time to manage and provide a service where the contractor has been appointed under the TSC

	Contract	Abbr.	NEC (HK)	NEC4	NEC3	When Should be Used
Term Contracts	Term Service Short Contract	TSSC		✓	✓	As an alternative to TSC and is for use with contracts which do not require sophisticated management techniques, comprise straightforward work and impose only low risks on both the client and the contractor
	Professional Service Contract	PSC	✓	✓	✓	For the appointment of a consultant to provide professional services
Consultancy Services	Professional Service Subcontract	PSS		✓		For the appointment of a subconsultant to provide professional services where the consultant has been appointed under the PSC
	Professional Service Short Contract	PSSC		✓	✓	As an alternative to PSC and is for use with contracts which do not require sophisticated management techniques, comprise straightforward work and impose only low risks on both the client and the consultant
	Supply Contract	SC		✓	✓	For procurement of goods and related services
Supply	Supply Short Contract	SSC		✓	✓	As an alternative to SC and is for use with contracts which do not require sophisticated management techniques and impose only low risks on both the client and the supplier
	Facilities Management Contract	FMC		✓		For the appointment of a service provider for a period of time to manage and provide a facility management service
Facilities Management	Facilities Management Subcontract	FMS		✓		For the appointment of a subcontractor to provide a facility management service
	Facilities Management Short Contract	FMSC		✓		As an alternative to FMC and is for use with contracts which do not require sophisticated management techniques, comprise straightforward work and impose only low risks on both the client and the service provider

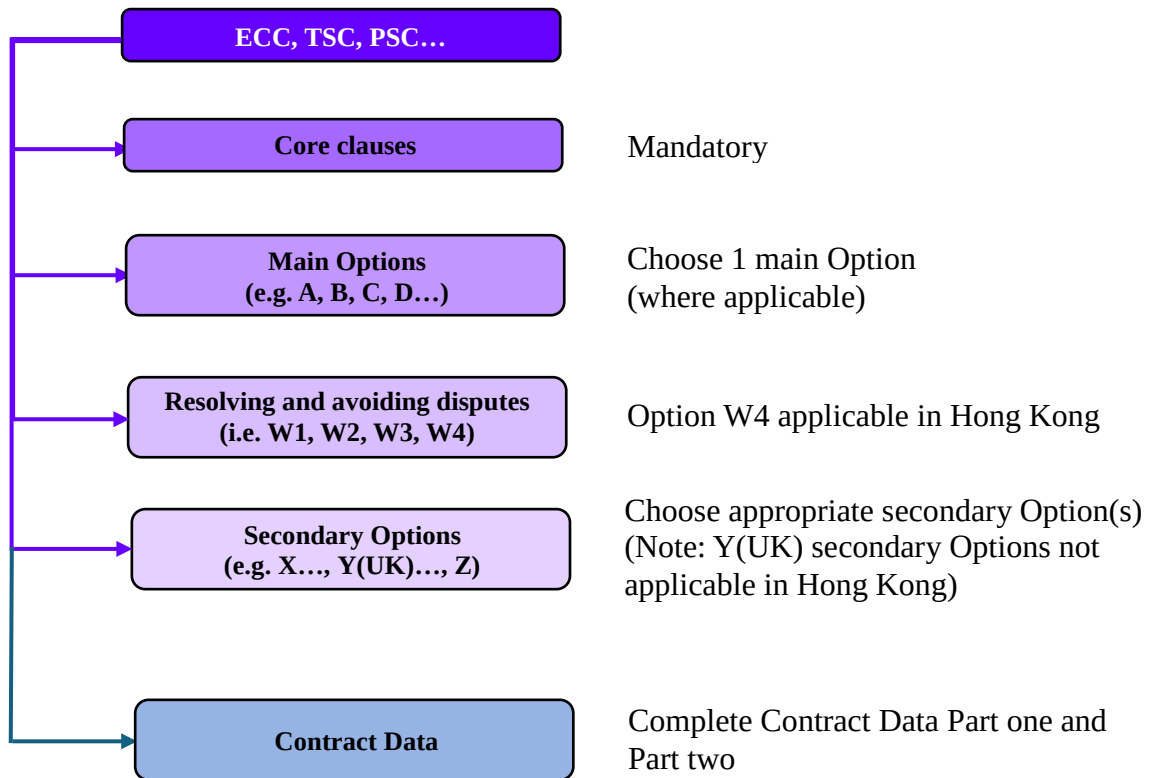
	Contract	Abbr.	NEC (HK)	NEC4	NEC3	When Should be Used
Facilities Management	Facilities Management Short Subcontract	FMSS		✓		As a subcontract to FMC or FMSC and is for use with contracts which do not require sophisticated management techniques, comprise straightforward work and impose only low risks on both the service provider and the subcontractor
Others	Framework Contract	FC		✓	✓	For the appointment of one or more contractors to carry out construction work or to provide design or advisory services on an “as instructed” basis over a set term
	Design Build and Operate Contract	DBOC		✓		For the appointment of a contractor for the design, construction or modification and operation of assets over a period of time
	Alliance Contract	ALC		✓		For the appointment of a number of partners to create an alliance with the client to design and build an asset or assets on major projects or programmes of work where longer term collaborative ways of working are to be created
	Adjudicator’s Contract / Dispute Resolution Service Contract	AC / DRSC		✓	✓	For the appointment of an adjudicator or dispute avoidance board member to resolve disputes

	Contract	Abbr.	NEC (HK)	NEC4	NEC3	When Should be Used
Others	Framework Alliance Contract	FAC-1				For the creation of a collaborative framework alliance that enables multiple parties to work together on a series of separate projects, each delivered under its own project contract within the alliance framework, over a set term. FAC-1 is ideal for programmes where consistency, integration, and shared objectives across multiple projects are required, with a focus on integrated team working, shared objectives, and improved outcomes
	Term Alliance Contract	TAC-1				For the appointment of multiple parties to deliver ongoing, repeated works, services, or supplies over a defined period under a single, integrated alliance contract. TAC-1 is suited for long-term arrangements such as asset management, facilities management, or cyclical maintenance, where all orders and activities are governed by the same contract and alliance structure, with a focus on integrated team working, shared objectives, and improved outcomes

Structure of NEC contracts

3.1.2 The ECC, ECS, TSC, TSS, PSC, PSS, FMC and FMS offer a range of Options that build up the contract terms and conditions to suit individual works or services, of which the *Client* will select what it considers the most suitable Option to achieve value for money. At the heart of contract conditions are the core clauses, which will determine the essential common terms. To this, main Option should be selected and it will determine the particular payment mechanism and risk allocation between the *Client* and the *Contractor* (for ECC and TSC), between the *Client* and the *Consultant* (for PSC), between the *Client* and the *Service Provider* (for FMC), between the *Contractor* and the *Subcontractor* (for ECS, TSS and PSS) or, as the case may be, between the *Service Provider* and the *Subcontractor* (for FMS). Then secondary Options should be chosen to combine with main Option clauses to form important parts of a contract. For SC, DBOC and ALC, only selection of secondary Options is required.

3.1.3 A flowchart of NEC formation is as below:



3.1.4 In addition, for illustration purposes, a side-by-side comparison of the tender document components based on the use of ECC, with those of the traditional GCC form is shown below:

ECC tender documents	GCC tender documents
General Conditions of Tender	General Conditions of Tender
Special Conditions of Tender	Special Conditions of Tender
Form of Tender	Form of Tender
Articles of Agreement	Articles of Agreement
Contract Data Part one and Part two	General Conditions of Contract
<i>conditions of contract including additional conditions of contract</i>	/
Scope	Special Conditions of Contract
Site Information	Drawings, Specification
<i>activity schedule / bill of quantities</i>	Bill of Quantities / Schedule of Rates

Note: The above comparison is presented based on the structure of ECC for illustration purpose only. The underlying principles are generally applicable to other forms of NEC contracts.

3.1.5 For short contracts (i.e. ECSC, ECSS, TSSC, PSSC, SSC, FMSC and FMSS), FC, AC / DRSC, FAC-1 and TAC-1, selection of Options is not required.

3.1.6 The aim of these Practice Notes is to assist the Project Offices in preparing and administering ECC, TSC and PSC. NEC forms other than these three types will not be covered herein.

APPENDIX A – AN OVERVIEW OF THE HISTORY OF NEC

What is NEC?

The NEC, originally known as the “New Engineering Contract”, was first published by the Institution of Civil Engineers (ICE), UK, in 1993, following its initial drafting in 1991. The name reflected its original purpose as a modern alternative to traditional engineering contracts, aiming to deliver greater flexibility, clarity, and collaborative management. As the suite expanded and gained widespread adoption across various sectors—not limited to engineering—the term “New Engineering Contract” became less representative. Today, “NEC” stands as a standalone brand name, representing a family of collaborative standard contracts—such as NEC3, NEC4, and others—used internationally for construction, engineering, and service contracts.

NEC history: global perspective

The development of NEC contracts began in the mid-1980s, when the ICE initiated a comprehensive review of procurement and contract strategies. Dr. Martin Barnes led the drafting of the first edition, which was published in 1993. Early adopters included major organisations such as the British Airports Authority and National Power. Over the years, NEC has evolved through several editions, each introducing innovations to promote collaboration, risk management and clarity in contract administration.

Key milestones include:

- The endorsement of NEC by Sir Michael Latham’s 1994 report “Constructing the Team”, which led to further improvements and wider adoption.
- The notable introduction of a new obligation to act “in a spirit of mutual trust and co-operation” in the second edition in 1995, along with substantial changes to risk, insurances and adjudication procedures. The original contract was also renamed the ECC this year.
- The launch of NEC3 in 2005, expanding the suite to twelve forms of contract including the TSC and Framework Contract, and gaining endorsement from the UK Office of Government Commerce for public sector projects.
- International adoption, such as by South Africa’s Construction Industry Development Board in 2005, and use on major projects like the UK’s High Speed 1 and the London 2012 Olympic Games.
- The publication of NEC4 in 2017, further broadening the suite and introducing new contract forms such as the Design, Build and Operate Contract and the Alliance Contract.
- A new range of Facilities Management Contracts added to the NEC4 suite in 2021.
- Recent years have seen NEC contracts used for landmark projects globally, including the Square Kilometre Array Observatory, the Oosterwheel Ring Road in Belgium, and the Crossrail in London.
- The acquisition of the Framework Alliance Contract (FAC-1) and Term Alliance Contract (TAC-1) by Thomas Telford Limited in June 2025.

The evolution of NEC reflects its commitment to collaborative working, adaptability, and continuous improvement, with new editions, forms and amendments responding to industry needs, legislative changes and global best practices.

NEC history: Hong Kong perspective

In Hong Kong, the journey of NEC began with the Government's efforts to reform the construction industry. In 2000, the Construction Industry Review Committee (CIRC) was established to conduct a comprehensive review of the sector. The CIRC's 2001 report, "Construct for Excellence", highlighted fragmentation and adversarial practices, recommending a partnering approach for construction projects and its integration into contractual relationships.

Following these recommendations:

- Non-contractual partnering was increasingly adopted in public works projects to foster cooperative working.
- The Government explored contract forms that embraced partnering, ultimately selecting NEC for its proven track record in overseas infrastructure and building projects.
- The first NEC pilot project in Hong Kong commenced in 2009 and was completed in 2012, demonstrating successful collaborative working and assurance in project time and cost.
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- In 2013, the Corruption Prevention Department of the Independent Commission Against Corruption (ICAC) completed an assignment study on the payment system for NEC target contracts. The corruption prevention recommendations arising from that study have been incorporated into these Practice Notes.
- By early 2016, multiple public works projects had adopted NEC, using various Options and covering diverse types of works. The positive outcomes led to the extension of NEC's application in public works procurement, especially for mega-scale projects over HK\$1 billion, such as tunnelling, high-speed roads, and land formation.
- In 2020, supported by The University of Hong Kong, the DEVB compared the performance of 37 NEC3 ECC completed from 2009 to 2019 with that of 280 projects of similar nature during the same period under conventional contracts. On average, the actual construction period of NEC contracts is about 10% shorter than conventional contracts. There is also a time saving of over 30% on average for finalising the NEC contract accounts as compared with conventional contracts.
- In July 2023, a Hong Kong Edition of the NEC ECC was launched, marking the first NEC contract tailored for a specific region. Subsequently, a Hong Kong Edition of the NEC TSC was also launched in November 2024.
- In November 2024, the DEVB announced the full implementation (i.e. mandatory adoption) of the NEC form of contract for all public works contracts and consultancies of value exceeding the quotation limit from Q4 2026 onwards.
- In June 2026, a Hong Kong Edition of the NEC PSC was also launched.
- To support project offices in preparing and administering NEC contracts, the Government, through the DEVB, developed and periodically updated comprehensive Practice Notes, providing guidance on the use of NEC forms—particularly the ECC, TSC and PSC—in Hong Kong.

The adoption of NEC in Hong Kong has fostered a more collaborative environment for managing project and construction risks, aligning with global best practices and supporting the delivery of public works projects.