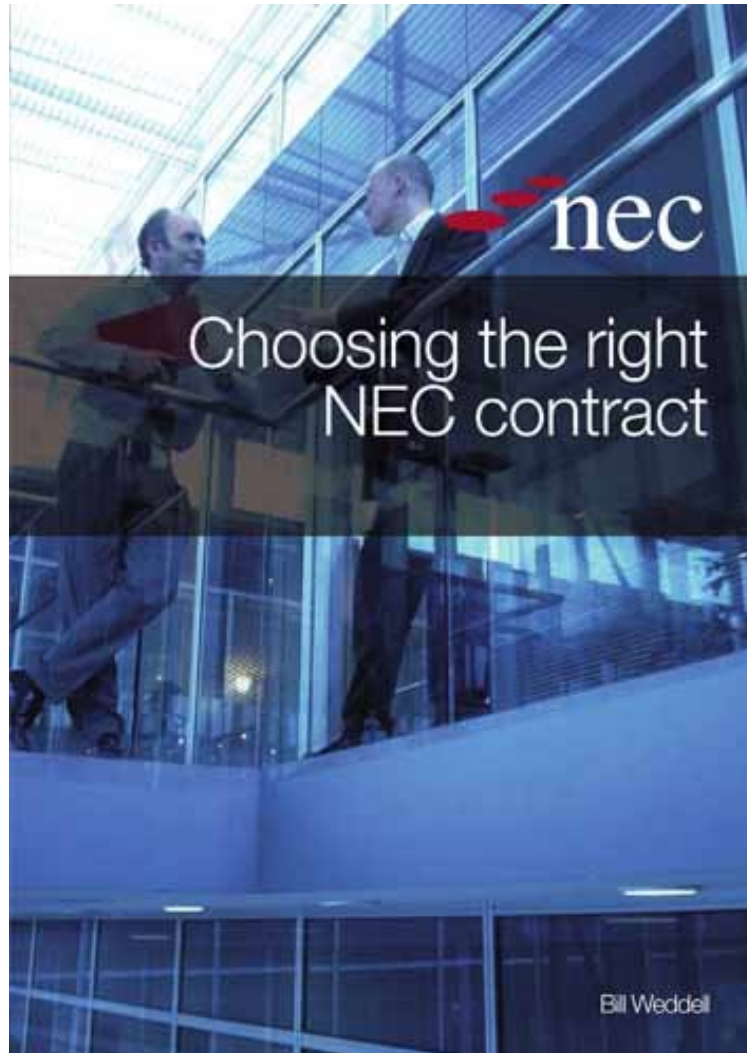


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Choosing the Right NEC Contract

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BSc DIC CEng FICE FStructE ACI Arb B. Weddell : Choosing the Right NEC Contract before purchasing it in order to gauge whether or not it would be worth my time, and all praised Choosing the Right NEC Contract:

Choosing the right NEC contract provides an overview of the contracts in the NEC family of contracts. It describes each contract, its main features and the options available from which an appropriate contract can be prepared. It is written as a desktop manual for those who may be familiar with the more traditional construction contracts but who are new to the NEC system of contracts. It is therefore suitable for those employers and promoters who are considering using the NEC, for contractors who are invited to tender, consultants who are appointed to advise, and architects,

quantity surveyors and other construction professionals. It is ideally suited also for students as an introduction to the NEC family of contracts. For this reason exercises have been included at the end of several chapters to stimulate discussion of the many factors that need to be considered in choosing the right NEC contract.

Preface: Whilst there have been many changes of construction technology during and since the industrial revolution, the changes in contract strategy, procurement methods and conditions of contract have lagged behind. But the last decades of the twentieth century have seen the beginnings of change - a construction reformation. The appearance of the New Engineering Contract and its commendation by Sir Michael Latham in his report of 1994 were undoubtedly an important part of that change. The UK Office of Government Commerce's recommendation of the use of NEC3 by public sector procurers was also significant. The NEC now has a reasonable track record both in the UK and further afield. This book is the product of the author's experience in advising on and training in the use of the NEC contracts since the beginnings. Of course there have been problems. Many of these have been caused by: Lack of understanding of the NEC contracts. Users have often been too ready to import the baggage of the "traditional" forms of contract. Inappropriate drafting of 'z' clauses creating problems of interpretation. The addition of conditions without regard to the standard NEC clauses, usually with a priority clause added, can produce serious problems of interpretation for users. Amendments in the form of 'z' clauses which change the allocation of risk to an extent that is tantamount to a change in the nature of the contract. When an 'unreasonable' risk eventuates, the parties quickly revert to traditional combative attitudes. Inappropriate choice of contract and of the options available. The purpose of this book is to help users and potential users to avoid some of these problems and provide an overview of the NEC family of contracts. It does not attempt to provide a detailed commentary - that is available in other publications, not least in the guidance notes and flowcharts which have been published to accompany the contract forms. The book also has a positive purpose, namely to help users who may be familiar with the established traditional forms but who are new to the NEC approach to contracts. That is why the content and distinguishing features of each contract are described in each chapter in general terms and also the choices available in the form of main and secondary options. Capitals and italics The conventions of the individual NEC contracts in the use of capital initials for defined terms and italics for terms in the Contract Data have not been followed. Hopefully this will make for easier reading particularly for those who do not have available the actual contracts. Exceptions are where reference is made to job descriptions or parties with specific roles in a contract. Terms in the Contract Data are sometimes in inverted commas to assist meaning.

Acknowledgements I gratefully acknowledge the contributions of colleagues in the working group, drafting teams and NEC Panel to the debates and discussions (very lively at times) which have taken place and have been crucial in producing the NEC family of contracts. I would also like to acknowledge the helpful discussions with delegates on training courses both in the UK and abroad on the NEC contracts. These discussions have usually revolved around the application of the NEC to particular problems and to the difficult issues which are so often part of modern construction. Much of this book is the product of these debates and discussions. The assertions, views and opinions expressed may trespass into controversial areas but nevertheless I remain fully responsible for them. Bill Weddell

About the Author ABOUT THE AUTHOR: Bill Weddell was on the original NEC Working Group and drafting team and has been involved in the later development of the NEC family of contracts up to the publication of NEC3. He has long experience of both design and construction of major civil engineering works including highways, bridges, docks and harbours, tunnels and sea defence works. He was Head of Contracts for a firm of consulting engineers and is now a contract consultant and runs training courses on the NEC.