

## **Amendments to the IChemE Form of Contract for Subcontracts for Civil Engineering Works (The Brown Book) Third Edition 2013, including all reprints.**

**Sub-Clause 44.1 in this form restricts the application of the adjudication provisions to construction contracts as defined in the Housing Grants, Construction and Regeneration Act 1996 or any amendment or re-enactment thereof. Experience has shown that this provision increasingly gives rise to considerable uncertainty and numerous challenges to the jurisdiction of adjudicators. These in turn cause difficulty to the parties, their representatives and adjudicators alike.**

**Accordingly, Clause 44 in this form will with effect from 02 March 2020 be amended by the deletion of Sub-Clause 44.1. The remaining Sub-Clauses of Clause 44 should be renumbered accordingly.**

**Those who are planning to enter into a contract using any of these forms on or after 02 March 2020 should ensure that this amendment is incorporated into the contract document.**

**Accordingly, with effect from that date, Clause 44 will read as follows:**

### **44 Adjudication.**

- 44.1** Notwithstanding any provision in the **Subcontract** for a dispute to be referred to an **Expert** in accordance with Clause 45 (Reference to an Expert) or to arbitration in accordance with Clause 46 (Arbitration), either party shall have the right to refer any dispute or difference (including any matter not referred to the **Contract Manager** in accordance with Sub-clause 43.3) as to a matter under or in connection with the **Subcontract** to adjudication and either party may, at any time, issue a **Notice** (a '**Notice of Adjudication**') to the other stating his intention to do so. The ensuing adjudication shall be conducted in accordance with the edition of the 'Adjudication Rules' published by **IChemE** current at the time of service of the **Notice of Adjudication**.
- 44.2** Unless the adjudicator has already been appointed, he is to be appointed to a timetable with the object of securing his appointment and referral of the dispute to him within seven days of the service of the **Notice of Adjudication**. The adjudicator shall be appointed in accordance with the Adjudication Rules.
- 44.3** The adjudicator shall reach his decision within twenty-eight days of referral or such other longer period as may be agreed between the parties after the dispute has been referred.
- 44.4** The adjudicator may extend the period of twenty-eight days by up to fourteen days with the consent of the party by whom the dispute was referred.

- 44.5 The adjudicator shall act impartially.
- 44.6 The adjudicator may take the initiative in ascertaining the facts and the law.
- 44.7 The decision of the adjudicator shall be binding until the dispute is finally determined by legal proceedings, by arbitration or by agreement.
- 44.8 The adjudicator may correct his decision so as to remove a clerical or typographical error arising by accident or omission.
- 44.9 The adjudicator may include in his decision a direction as to the allocation of his fees and expenses as between the parties.
- 44.10 The adjudicator shall not be liable for anything done or omitted in the discharge or purported discharge of his functions as adjudicator unless the act or omission is in bad faith. Furthermore, any personnel of the adjudicator acting in connection with the carrying out of the adjudication shall be similarly protected from liability.

## **Guide Notes**

1. Sub-Clause 1.9 of the General Conditions of Contract shall apply to these Guide Notes.
2. Guide Note F Disputes is amended by the deletion of the first paragraph.