

IChemE Red Book – 3rd Edition 1995

The Model Form of Conditions of Contract for Process Plant for Lump Sum Contracts were published before the Housing Grants, Construction and Regeneration Act 1996. Therefore if the Act applies, or possibly will apply to a contract, the following clause should be added to the contract.

47. Reference to adjudication

47.1 If a dispute arising under or in connection with the **Contract** relates to a construction operation to which Part II of the Housing Grants, Construction and Regeneration Act 1996 (or any subsequent amendment or re-enactment thereof) applies, then the provisions of this Clause 47 shall apply to such dispute. Otherwise this Clause shall form no part of the Contract in respect of such dispute.

47.2 Notwithstanding any requirement in these General Conditions 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 (Disputes), either party shall have the right to refer a dispute as to a matter under or in connection with the **Contract** to adjudication and either party may, at any time, give notice in writing to the other of his intention to do so (hereinafter called a 'Notice of Adjudication'). The ensuing adjudication shall be conducted in accordance with the 'Adjudication Procedure' (the 'Procedure') published by the Institution of Chemical Engineers' current at the time of the service of the Notice of Adjudication. In the event that there is any conflict between the Procedure and this Sub-clause 47.2, the provisions of this Sub-clause 47.2 will take precedence.

47.3 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 appointment of the adjudicator shall be effected in accordance with the Procedure.

47.4 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.

47.5 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.

47.6 The adjudicator shall act impartially.

47.7 The adjudicator may take the initiative in ascertaining the facts and the law.

47.8 The decision of the adjudicator shall be binding until the dispute is finally determined by an Expert, by arbitration or by agreement.

47.9 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 employee or agent of the adjudicator acting in connection with the carrying out of the adjudication shall be similarly protected from liability.