

THE JOINT IMECHE / IET MF-SERIES MODEL FORMS OF GENERAL CONDITIONS OF CONTRACT & THEIR ASSOCIATED COMMENTARIES

INFORMATION PACK

ISSUE 01/2006

This Information Pack is dated June 2006.

Its text has been provided with internal bookmarks and hyperlinks so that, by single clicking on entries in its contents pages, users can go directly to the selected part of the Pack.

Users of this Pack are advised to be selective when printing off information from it as the Pack is extensive. It is for this reason that printed copies of the Information Pack are **not** available from the IET.

No other information on model forms of general conditions of contract is presently published by the IET.

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N.B. Whilst the publisher believes that the information in this work is correct, the probability of the occurrence of typographical errors should not be taken to be zero. Users of the information should therefore take steps to ensure that the accuracy of any information used is suitable for its intended purpose. The publisher does not assume any liability to anyone for any loss or damage caused by any error or omission in the work, whether such error or omission is the result of negligence or any other cause. Any and all such liability is disclaimed.

Background

This background information was researched and provided by Dr Robert Gaitskell QC, Chairman of the Joint IMechE/IET Model Forms Committee, and a practising barrister, arbitrator, adjudicator and mediator in Keating Chambers, LONDON, England.

Creation of the Original IEE Model Form: 1900-1903

The creation of a Model Form for electrical works, in 1900-1903, was a response to a real demand¹. Its appearance was greeted by a complaint that the IEE Council should have “*several years earlier endeavoured to remove some of the real grievances shown to be affecting the stability and prosperity of the industry.*”² It appears that there were no standard forms in use in the electrical/mechanical engineering field prior to those produced by the Institution at the turn of the century.

Robert Hammond³

Robert Hammond was the prime mover in the creation of the first model form. He certainly made an impression on those around him. When he died it was said of Hammond:

*“This being an age of meticulous and specialised detail, broad volatile genius such as that of Robert Hammond is hedged round with its limitations. But in 1492 he might have discovered America.”*⁴

Hammond was born at Waltham Cross, Hertfordshire on 19 January, 1850.⁵ It seems that Hammond’s first enthusiasm for electricity was kindled by a display in 1878 of “Jablochkoff candles” for lighting the Thames Embankment. In about 1880 Hammond set about equipping his rolling mill works and blast furnaces in the Middlesborough district with electric lighting. In the following year he installed a 2,000 V continuous current generator for Chesterfield’s public lighting, and also equipped York with public lighting in honour of the British Association’s visit of 1881. The position at this time was that electric arc lighting was used for street illumination and for lighting factories and large industrial buildings, while incandescent lighting was used for public buildings.

The Institution’s records of the time bear out the importance of Hammond’s role. The IEE Council Minutes of 13 December 1900 record, inter alia:

*“A letter was read from Mr.Hammond with reference to the drafting of a schedule of general conditions for the control of contracts for Electrical Engineering Work and offering to prepare a paper on the subject; owing to the lateness of the hour the discussion of this question was postponed until the next meeting.”*⁶

The Minutes for Thursday, 20th December, 1900 state, inter alia:

*“Mr.Hammond’s proposal as to the drafting of a schedule of general conditions for the control of contracts for Electrical Engineering Work, the discussion of which had been adjourned from the previous meeting, was considered, and it was agreed to invite Mr.Hammond to draw up and to submit his proposed schedule to the—committee which was then appointed.”*⁷

The Minutes of the “General Conditions for Contracts” Committee meeting held on Monday, 7th January 1901 record, inter alia, that, with Prof. Perry (President) in the Chair:

*“Mr.Hammond explained his object in bringing the question before the Institution and submitted a draft copy of the General Conditions recommended by him. The Secretary was thereupon instructed to procure 200 copies of the draft, and to send 1 copy to each Member of Council, 2 copies to each member of the Committee, 6 copies to each of the following associations: the Electricity Plant Manufacturers’, Cable Manufacturers’ and Municipal Electrical Association, and 1 copy each to certain consulting engineers and manufacturers named in a list to be supplied by Mr.Hammond; in every case with an invitation to criticise or to make suggestions. It was agreed to consider the draft in detail after the various criticisms should have been received.”*⁸

It is noteworthy that at this very first meeting of the “General Conditions” Committee, a mere three weeks after the Council had approved its creation, Hammond was able to produce a draft set of conditions. However, it was not until 1903 that a “Form of Model General Conditions

recommended for use in connection with contracts for plant, mains and apparatus for electricity works” went on sale to the public, for a marked price of one shilling.

Reaction to the Model Form

Industry views on the form were generally favourable, but there were still complaints. The Electrical Review⁹ complained that it had taken so long before the IEE responded to the need for such a form: “*Better late than never*”, was its view. After comments on many of the clauses in the 1903 Edition, the Electrical Review article ended with these words:

“It will be seen that this model form is the result of a real attempt to apply just principles to the conditions governing commercial transactions, and the Institution is to be congratulated on the completion of a confessedly difficult task.”

¹ Editorial comment, Electrical Review, No. 1,317, February 20, 1903, page 334.

² Electrical Review, (ibid.).

³ For material on Hammond generally I am particularly indebted to:

- (i) Mr.J.R.Norris, Curator, Milne Electrical Collection, Amberley Museum, West Sussex;
- (ii) the staff of the IEE Archives, particularly Mr.Tim Proctor;
- (iii) Dr.Brian Bowers, Senior Curator, Electrical Science & Technology, Science Museum, London.

For useful research suggestions generally I am grateful to Mr.David Dolbey-Jones, DTI.

⁴ Obituary, Journal of the Institution of Electrical Engineers “(JIEE)”, Vol.54, 1915, page 682.

⁵ For Hammond’s biographical details the following sources have been used.

- (i) Editorial, The Incorporated Municipal Electrical Association (IMEA) Journal, (London, 1938) May-June, pages 79-81, 104;
- (ii) Obituary, The Electrical Review, (London, 1915), Vol.77, No.1,968, August 13, pages 207-8;
- (iii) Personal Entry, The Electrical Trades Directory (the “BlueBook”), published by “The Electrician” magazine, 1904, page LII;
- (iv) Obituary, JIEE, Vol.54, pages 679-682.

⁶ Minute Book, page 34, IEE Archives, Savoy Place, London.

⁷ Minute Book, page 245, IEE Archives.

⁸ Minutes of Occasional Committees, page 17, IEE Archives.

⁹ No.1,317, February 20, 1903, page 333

PART 1

NEWS

This fourteenth version of the Information Pack has now superseded the thirteenth version. It was introduced to take account of the change of name (in March 2006) of the IEE to the Institution of Engineering and Technology (IET) and to include extracted Contents Pages from the Model Forms and their Commentaries.

www.theiet.org

PART 2

GENERAL

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(i) Purpose and Scope of the Model Forms Information Pack

This Information Pack identifies and provides comment on all IET publications relating to the Joint IMechE / IET model forms and contains copies of the various “Secondary Publications” that support the subject model forms and commentaries. Apart from model forms MF/1, MF/2 & MF/3, themselves, and any commentaries, printed copies of the current versions of these publications are available free-of-charge from the Committee Secretary at the IET, Michael Faraday House, Stevenage. They are copyright IET but may be downloaded from the IET Website by users of the model forms for use in connection with contracts under the respective general conditions of contract. A copy of Model Form MF/4 may also be downloaded directly, free-of-charge, from the IET website

Note 1: Secondary Publications have been presented in approximately the format in which they were originally published; thus a variety of fonts and styles, etc. will be encountered.

Note 2: In the narrative of this Pack, the word “superseded” is consistently used to describe versions of publications that have been replaced by revisions to current publications and the word “obsolete” is consistently used to describe versions of publications that are no longer published by the IET. Thus, for example, MF/1 (rev 3) is a superseded publication whereas Model Form A is an obsolete publication.

(ii) The Joint IMechE / IET Model Forms of General Conditions of Contract

The IET, jointly with the Institution of Mechanical Engineers, issues a range of model forms of general conditions of contract (with, amongst other things, Forms of Tender, Agreement and Performance Bond included) and some separate guides (known as “commentaries”) to their use. Two of the model forms, MF/1 and MF/2, have also been adopted and are recommended by the Association of Consulting Engineers (ACE). Model form, MF/3, does not involve the appointment of an “Engineer to the Contract” and so the ACE has not had any involvement in its preparation.

Model form MF/4 is for use in the appointment of an Engineering Consultant.

The contents of the publications are decided by a joint committee whose members are representative of various interests of the electrical and mechanical engineering industries.

(iii) The Joint IMechE / IET Committee on Model Forms of General Conditions of Contract

The Joint Committee has been formed in accordance with an agreed constitution and terms of reference. Some members of the committee, by invitation of the Chairman of the committee, form a Drafting Panel whose task is to prepare proposals for any changes to the publications for the Joint Committee’s approval.

The Drafting Panel is advised on legal matters by the IET’s solicitors, Bristows, of 3 Lincoln’s Inn Fields, LONDON WC2A 3AA.

Secretariat support to the Joint Committee is provided by the IET. Contact details for the Joint Committee and Drafting Panel Secretary are as follows:-

c/o Mr N Canty
IET, Michael Faraday House
Six Hills Way
Stevenage, Herts
United Kingdom SG1 2AY

Tel: +44 (0)1438 767 656
E-mail: ncanty@theiet.org

(iv) The Usage of Discontinued Joint IMechE / IET Model Forms of General Conditions of Contract

Whereas parties are clearly free to contract on any suitable terms that they may choose, the IET is anxious that its obsolete or superseded model forms of contract are **not** used in the formation of new contracts. Its forms are only ever changed for a compelling reason, eg. changes to a UK

statute, and so obsolete or superseded forms are rarely suitable for new work. Thus copies or photocopies of complete Model Forms A, B1, B2, B3, C or E, which are now obsolete, are no longer supplied by the IET as it believes that their incorporation into new contracts could have an adverse effect on its reputation.

Similarly, only the current version of model forms of contract from the present range are available for purchase or licensing though the IET is usually able to satisfy the occasional, legitimate need for a reference copy of a superseded version or of an obsolete model form.

Note: Despite the foregoing desired restrictions on usage it is recognised that:-

- (1) users who are licensed to have installed a particular version of a model form on their computer system (see [PART 3, paragraph 5 \(ii\)](#) below) which may become superseded may wish to continue to use that version for the duration of their licence.
- (2) users who are concluding contract negotiations when their chosen form may become superseded may wish to remain with the earlier version.

In either of these circumstances it is suggested that users should consult the appropriate Amendments List issued by the IET to ascertain the nature of the revisions introduced before making the decision not to change to the revised version. For this reason copies of recently superseded forms will continue to be available for purchase for a limited period when stocks permit.

(v) Sources for Further Information

As well as guidance in the IET official commentaries on the model forms, a number of other sources of comment are available. Two books would seem to be worth special mention but, it is stressed, neither of them is sponsored by, nor is published by, the IET.

- a) *Model Forms of Contract for Electrical and Mechanical Plant*, by Brian Eggleston, published by Blackwell Science Ltd in 1995. This book deals clause by clause with the author's views of the provisions of model forms MF/1, MF/2 and MF/3.
- b) *A Contractor's Guide to Contract Law*, by Tony Ventrella, published by Dannick & Thomas Telford Ltd in 1994. Although this is a book that deals with more general contract law, as Mr Ventrella is a long-serving member of the Joint IMechE / IET Model Forms Drafting Panel, his thinking would be expected to be much in tune with the general philosophy of the joint model forms.

The IET Courses Unit also offers a one-day professional development course entitled Contract Law—A Guide to MF/1.

If in any doubt about the range of the IET model forms of contract or on any other matters relating to these model forms, please contact, in the first instance, the Model Forms Committee Secretary at the IET, Michael Faraday House, Stevenage.

PART 3

INFORMATION ON CURRENT VERSIONS OF THE MODEL FORMS AND THEIR COMMENTARIES

Contents

1. [Extract from the IET Publishing Catalogue 2006](#)
2. [Origins of the Current “MF-Series” Model Forms of Contract](#)
3. [The Current Range of Model Forms of Contract](#) and Commentaries
4. [Recommended Usages](#)
5. [Licences](#)

1). Extract from the IET Publishing Catalogue 2006

MF/1 (Revision 4) **Model form of General Conditions of Contract**

For home or overseas contracts for the supply and erection of electrical, electronic or mechanical plant. Includes Forms of Tender, Agreement, Sub-Contract, Performance Bond and Defects Liability Demand Guarantee.

2000 Edition ISBN 0-85296-759-4 / 978-08526-759-1 Order book PA101 £50

MF/2 (Revision 1) **Model form of General Conditions of Contract**

For home or overseas contracts for the supply of electrical, electronic or mechanical plant. Includes Forms of Tender, Agreement, Sub-Contract, Performance Bond and Defects Liability Demand Guarantee.

1999 Edition ISBN 0-85296-858-2 / 978-085296-859-1 Order book TR009 £50

MF/3 (Revision 1) **Model form of General Conditions of Contract**

For home contracts for the supply of electrical and mechanical goods.

2001 Edition ISBN 0-85296-202-9 / 978-085296-202-2 Order book PA104 £30

MF/4 and Commentary

A model form of Terms and Conditions of Engagement including a Practical Guide.

A free copy of MF/4 accompanies the Commentary.

2003 Edition ISBN 0-86341-369-2 / 978-086341-369-8 Order book PA401 £15

Commentary on MF/1

A practical guide for users of MF/1

2001 Edition ISBN 0-85296-007-7 / 978-085296-007-3 Order book PA103 £35

Commentary on MF/2

A practical guide for users of MF/2

2000 Edition ISBN 0-85296-758-6 / 978-085296-758-4 Order book PA102 £39

Interactive Forms

All model forms are available in an interactive electronic format (Word).

For a 12 month multiple user licence please email books@iee.org

Price excluding VAT £380

2). Origins of the Current “MF-Series” Model Forms of Contract

See also the section entitled “Background” at the beginning of this Pack for an account of how contract models were initially introduced by the IEE.

The five joint IMechE / IEE model forms of general conditions of contract that were known, in brief, as Model Form A, Model Form B1, Model Form B2, Model Form B3 and Model Form C have now all been discontinued. (See [paragraph \(iv\) of PART 2](#) of this Pack for a note on the use of discontinued model forms.) Similarly, the IEE model form of general conditions of contract that was known, in brief, as Model Form E has been discontinued.

A much fuller history of each of these obsolete model forms will be found in the published preface of any replacement model form.

Model Form A and Model Form B3 were combined and replaced by a single model form that is known, in brief, as Model Form MF/1 (or just “MF/1”) with effect from June 1988.

Model Form B1 and Model Form B2 were combined and replaced by a single model form that is known, in brief, as Model Form MF/2 (or just “MF/2”) with effect from March 1991.

Model Form C has been replaced by a model form known, in brief, as Model Form MF/3 (or just “MF/3”) with effect from November 1993.

Model Form E has been discontinued since, in November 1993, a supplement (S1-MF/1) to MF/1 containing suitable Special Conditions was introduced which allowed MF/1 to fulfil also the role of Model Form E. (The supplement has since been discontinued, having been integrated into MF/1.)

3). The Current Range of Model Forms of Contract and Commentaries

There are seven current “Primary Publications” –four model forms and three commentaries. Six of these publications are available for purchase from the sponsors and are further described below. A copy of the seventh, MF/4, may be downloaded free-of-charge from the IET website.

IET Publication Sales is located at STEVENAGE, England (Tel: +44 (0)1438-767328).

- | | | | |
|----|---------------------|----|--------------------|
| 1. | Model Form MF/1 | 2. | Commentary on MF/1 |
| 3. | Model Form MF/2 | 4. | Commentary on MF/2 |
| 5. | Model Form MF/3 | 6. | Model Form MF/4 |
| 7. | Commentary on MF/4. | | |

Model Form MF/1 and Model Form MF/2 are intended for use in home or overseas contracts for electrical and mechanical plant whereas Model Form MF/3 is for use in home contracts for electrical and mechanical goods. Model form MF/4 is for use in home or overseas contracts for the engagement of an Engineering Consultant. “Home” contracts include those under the laws of England & Wales, Scotland or Northern Ireland.

This is summarised in a 2006 IET publication “Choosing the Most Appropriate IMechE / IET Model Form of Contract Conditions for Your Project”, a copy of which is included later in this section.

Dispute resolution

Model Forms MF/1, MF/2, MF/3 and MF/4 incorporate provisions such that any disputes relating to the contract which cannot be settled amicably are, unless otherwise provided, (and subject to the right of parties to *Construction Contracts* at any time to refer any disputes or differences to adjudication), referred for settlement to the process of arbitration. Upon application, either the IET or the IMechE can appoint arbitrators to act.

As Adjudicator Nominating Bodies, the IET or the IMechE, upon application, can appoint adjudicators to adjudicate disputes or differences relating to *Construction Contracts* under the UK Housing Grants, Construction and Regeneration Act 1996.

Persons requiring such services from the IET should, in the first instance, contact the Head of Standards and Technology.

(i) Model Form MF/1 (MF/1)

MF/1 is supported by a commentary sub-titled “A practical guide for users of MF/1”. The current versions of MF/1 and the Commentary on MF/1, introduced respectively in December 2000 and September 2001, can be cited as:

Model Form MF/1, 2000 Edition

(or, in brief, as **MF/1 (rev 4)/2000**)

and

Commentary on Model Form MF/1, 2001 Edition

MF/1 (rev 4) has an associated, but separate, Amendments List which details the changes that were made to the previous issue, ie. MF/1 (rev 3), as supplemented or amended. The current version of this Amendments List is labelled MF/1, A/L3 and is dated December 2000.

See [PART 6 \(i\)](#) and [PART 6 \(ii\)](#) of this Information Pack for any typographical corrections or updates to the current Model Form MF/1 or the Commentary on MF/1, as published, and [PART 6 \(viii\)](#) for any corrections or updates to current MF/1 Secondary Publications.

(ii) Model Form MF/2 (MF/2)

A Form of Supervision Contract is included with MF/2 so that, as desired, local labour may be utilised for plant erection but under the expert control of the designer / manufacturer of the plant.

MF/2 is supported by a commentary sub-titled “A practical guide for users of MF/2”. The current versions of MF/2 and the Commentary on MF/2, introduced respectively in November 1999 and December 2000, can be cited as:

Model Form MF/2, 1999 Edition –with Amendment Slip MF/2, A/S1

(or, in brief, as **MF/2 (rev 1)/1999 with Amendment Slip MF/2, A/S1**)

and

Commentary on Model Form MF/2, 2000 Edition

Note that Amendment Slip MF/2, A/S1 also includes some comment.

MF/2 (rev 1)/1999 has an associated, but separate, Amendments List which details the changes that were made to the previous issue, ie. the 1991 Edition of MF/2. The current version of this Amendments List is labelled MF/2, A/L1 and is dated November 1999.

See [PART 6 \(iii\)](#) and [PART 6 \(iv\)](#) of this Information Pack for any typographical corrections or updates to the current Model Form MF/2 or the Commentary on MF/2, as published, and [PARTS 6 \(ix\)](#) and [\(x\)](#) for any corrections or updates to current MF/2 Secondary Publications.

(iii) Model Form MF/3 (MF/3)

See [PART 6 \(v\)](#) of this Information Pack for any typographical corrections or updates to the current Model Form MF/3, as published and [PART 6 \(xi\)](#) for any corrections or updates to current MF/3 Secondary Publications.

No commentary is available, nor is one planned for publication, for this relatively straightforward model form.

The current version of MF/3 can be cited as:

Model Form MF/3 2001 Edition

(or, in brief, as **MF/3 (rev 1) 2001/1**)

MF/3 (rev 1) has an integral Amendments List which details the changes that were made to the previous issue, ie. MF/3 1993 as amended. A copy of this Amendments List, labelled “MF/3, A/L1”, dated December 2001, is also available in PART 4C of this Information Pack.

(iv) Model Form MF/4 (MF/4)

MF/4 is supported by a separate commentary. The current versions of MF/4 and the Commentary on MF/4, introduced in 2003, can be cited as:

Model Form MF/4, 2003 Edition

(or, in brief, as **MF/4 2003/1**)

and

Commentary on MF/4 2003/1

See [PART 6 \(vi\)](#) and [PART 6 \(vii\)](#) of this Information Pack for any typographical corrections or updates to the current Model Form MF/4 or the Commentary on MF/4, as published.

4). Recommended Usages

Other than the broad recommendations offered in IET publication "Choosing the Most Appropriate IMechE / IET Model Form of Contract Conditions for Your Project" (copy below), specific recommendations on the choice of a model form of contract for a particular application are deliberately omitted from this Information Pack since any such advice could only properly be offered with a full knowledge of the intended application.

THE INSTITUTION OF ENGINEERING AND TECHNOLOGY (IET)

Choosing the Most Appropriate IMechE / IET Model Form of Contract Conditions for Your Project

The IET publishes four model forms of contract –MF/1, MF/2, MF/3 and MF/4 –each with a particular application in mind. The following comments on those applications are provided here as an initial guide for new users of the models -however, to fully appreciate their scope, potential users should also inspect the Contents Pages of the forms which are reproduced in Section 5 of the Model Forms Information Pack on the IET website.

New users are strongly recommended also to consult the separate *Commentaries* on model forms MF/1, MF/2 and MF/4 which are published by the IET.

The model forms, as published, include a number of matching contract forms for use in managing the contract, as indicated in Table 1 below. These contract forms differ in detail from model form to model form. It is to be noted that the contract forms of MF/1, MF/2 & MF/3 are not suitable for use other than with their parent model form.

MF/1

This form of general conditions of contract is a lump sum “Design and Build” form for the design, supply, installation and performance testing of Electrical / Electronic / Mechanical Plant (“the Works”) in the UK or overseas. It includes an aide-mémoire for the preparation of special conditions for use in augmenting or overriding any of the general conditions, as published, to allow parties to adapt the model to their particular preferences for their project. It also includes a range of additional suggested special conditions for use in situations including:

- a) where the contract involves the supply and installation of incidental computer hardware and software.
- b) where a part of the Works may be executed using methods of certification for payment and for payment, itself, outside the basic lump sum arrangements –for example in civil works or the wiring of premises.
- c) where it is desired to divide the Works into Sections and to manage Sections independently.
- d) where the contract is a “Construction Contract” subject to the UK *Housing Grants, Construction and Regeneration Act 1996*.
- e) where the contract is subject to the UK *Contracts (Rights of Third Parties) Act 1999*.

Contracts under MF/1 conditions are usually managed by an Engineer retained by the Purchaser for that purpose although that role may be undertaken directly by the Purchaser.

MF/2

This form of general conditions of contract is a lump sum “Design and Supply” form for the design and supply (including sourcing and delivery) of Electrical / Electronic / Mechanical Plant in the UK or overseas. It, too, includes an aide-mémoire for special conditions and further suggested special conditions equivalent to those in c & e (in MF/1, above). Additionally, it includes a form of “Supervision Contract” whereby a Purchaser may enter into a supplementary contract for the Contractor to supervise his (the Purchaser’s) staff in installing and testing the Plant.

Again, contracts under MF/2 conditions would usually be managed on the Purchaser’s behalf by an Engineer.

MF/3

This form of general conditions of contract is a lump sum “Supply” form for the supply (including sourcing and delivery) of Electrical / Mechanical Goods in the UK where no initial design or subsequent installation and commissioning by the vendor is required. It may be regarded as a form for the sale or procurement of a supplier’s “catalogue items”. MF/3 is deemed to be sufficiently basic

so as not to require suggestions for special conditions to be included, or the services of an 'Engineer to the Contract', or to merit a separate Commentary.

MF/4

This form is a Form of Agreement for Engineering Consultants which is inclusive of contract conditions and is for use in the provision of Consultancy Services in the UK or overseas. Blank copies of MF/4 may be downloaded free of charge from the IET website.

Table 1

Contract Form	Publication			
	MF/1	MF/2	MF/3	MF/4
Form of Agreement	◆	◆	◆	◆†
Form of Tender	◆	◆	◆	
Form of Performance Bond	◆	◆	◆	
Form of Sub-Contract	◆	◆		
Form of Defects Liability Demand Guarantee	◆	◆		
Variation Order	◆	◆		
Taking-Over Certificate	◆	◆*		
Form of Supervision Contract		◆		
Form of Notice of Delegation of Authority	◆	◆		

* For use only with the MF/2 Supervision Contract.

◆ = available as part of the publication

† MF/4 is a Form of Agreement with contract conditions included.

5). Licences

(i) By purchasing a copy of MF/1, MF/2, or MF/3 purchasers acquire a licence to use that copy in accordance with the terms of a *Purchaser's Licence* —as printed inside the front cover of MF/1, MF/2 and MF/3 and as reproduced below.

The said purchaser's licence hereby licenses the purchaser of this publication to copy and reproduce any part of the precedents in this publication, providing that such copying or reproduction is for the sole purpose of, and only to the extent that is reasonably necessary for, producing and using documentation for contractual purposes in relation to which (a) the purchaser is a contracting party or (b) the purchaser is advising others, and provided further that any such documentation contains an acknowledgement or other reference to this publication as the source or basis thereof.

It should be noted that the IET, by the terms of the Purchaser's Licence, restricts the rights to the use of its copyright precedents to users who are parties to contracts under the MF/1, MF/2 or MF/3 conditions and their advisors. This restriction preserves one of the most important benefits of using the Joint IMechE / IET Model Forms, viz. that all tenderers or potential tenderers can tender against standard, familiar general conditions of contract, albeit ones which may have been departed from by the appending of clearly-distinguishable, overriding "special conditions".

In other words, the Purchaser's Licence does not confer a right to photocopy MF/1, MF/2 or MF/3 or distribute amended versions of MF/1, MF/2 or MF/3 to potential tenderers for the purposes of soliciting tenders for contracts to be placed under general conditions based upon the MF/1, MF/2 or MF/3 model conditions. The IET, in wishing to prohibit such usage of its precedents, seeks to perpetuate the commercial acumen and pragmatism of those early IEE Members that caused it to become involved initially in the writing of model forms (see pages 2 & 3 of this Information Pack).

(ii) Not all issuers of model forms will agree to the amendment of their general conditions of contract by users, even for the innocuous purpose (solely) of producing tidy contract documentation. The IET, however, recognises the wish of a growing number of contracting parties to have easily-usable copies of their final contract available and so, in addition to the Purchaser's Licence, can license the use of its precedents for installation on users' computer systems.

Such users, and particularly users who may use MF/1, MF/2 or MF/3 regularly, may wish to apply to become licensed to install copies of the respective, current conditions, as published (but typographical design excepted) on their computer systems. This will allow them to amend the general conditions and contract forms so that tidy contract documents can result. Again, as in 5(i) above, the terms of the offered licence preclude the usage of amended general conditions, other than by special conditions, except by parties to contracts under the MF/1, MF/2 or MF/3 conditions (as amended by agreement) or their advisors.

This service is presently only available to users who can utilise electronic or magnetic files in Microsoft Word word-processing format.

Please note that the IET reserves the right not to enter a licence agreement with an applicant without divulging its reasons.

The following draft licence, which may be amended in detail on a case-by-case basis, will form the basis of any agreement.

L4-MF/ [....]

LICENCE AGREEMENT FOR THE INSTALLATION AND USE OF MODEL FORMS OF GENERAL CONDITIONS OF CONTRACT ON COMPUTER SYSTEMS

The IET licenses users to install and use on computer systems the current Model Forms of General Conditions of Contract it publishes on behalf of the Joint IMechE / IET Committee but reserves the right not to enter into particular licensing agreements for any reason.

WARNING

Except as is required by any applicable law, neither the publisher nor the authors accept any liability whatsoever in relation to the use in whatsoever manner of the publication(s) hereunder licensed.

THE INSTITUTION OF ENGINEERING AND TECHNOLOGY (IET)

LICENCE AGREEMENT FOR THE INSTALLATION AND USE OF MODEL FORMS OF GENERAL CONDITIONS OF CONTRACT ON COMPUTER SYSTEMS

AN AGREEMENT made on the day of two thousand and six.

BETWEEN

(1) The IET, a body corporate incorporated by royal charter of Savoy Place, London, WC2R 0BL (the "COPYRIGHT HOLDER") of the one part; and

(2)
.....
.....
.....
.....
.....

(the "USER") of the other part.

WHEREBY IT IS AGREED as follows:-

1. DEFINITIONS

In this Agreement the following words shall have the following meanings:-

COMMENCEMENT DATE

The date hereof.

GENERAL CONDITIONS

The printed, published version of the Model Form of General Conditions of Contract current at the COMMENCEMENT DATE ("MF/ [....]") with any printed amendments and supplements already published before the COMMENCEMENT DATE and current at the COMMENCEMENT DATE or published during the term of the Agreement in respect of the said version of MF/ [....].

COPYRIGHT

The copyright of the COPYRIGHT HOLDER in the GENERAL CONDITIONS.

EXPIRY DATE

The first anniversary of the COMMENCEMENT DATE.

FEES

The fees to be paid by the USER, as set out in clause 3 below.

LICENCE

In consideration of the USER paying the FEES and accepting and performing its obligations as set out in this Agreement, the COPYRIGHT HOLDER hereby agrees to supply the USER with a version of the text of the GENERAL CONDITIONS in electronic or magnetic form in the format of the word-processing software standard from time to time with the COPYRIGHT HOLDER and hereby grants the USER a non-exclusive, non-transferable licence under the COPYRIGHT to use the text of the GENERAL CONDITIONS upon the following terms and conditions:-

2.1 Except for the provisions in sub-clauses 2.2 and 2.3 below, the USER may store the full information contained in the GENERAL CONDITIONS in any word-processing system on any storage device(s) appropriate to its computer system(s) and make an appropriate number of back-up copies.

2.2 The USER may not reproduce and / or store the information on the cover page, title page or other preliminary pages of the GENERAL CONDITIONS.

2.3 The USER may not copy the typographical design of the GENERAL CONDITIONS nor present the information in a way similar to the format or style of the GENERAL CONDITIONS.

2.4 The USER may use the information so stored to compile contract documents or for any other use for which a copy of the GENERAL CONDITIONS might reasonably have been used but with the provisos that:

(i) the USER may only issue copies or electronic or magnetic versions of the GENERAL CONDITIONS, or of the GENERAL CONDITIONS amended under sub-clause 2.6 below, to parties to compiled contracts or to contracted sub-contractors of parties to compiled contracts for the purposes permitted by this Agreement and

(ii) the USER shall be a party to any such compiled main contract.

2.5 The USER may use the information on any number of its computer systems and/or via a network, file server or other multi-user device to service any number of users of the information provided that such usage is only on one geographical site.

2.6 The USER may make any amendments to the text of the GENERAL CONDITIONS appropriate to its operational requirements provided that the resultant contract is acknowledged at its beginning with a prominent notice either as following:

“The general conditions of contract used below in this contract are based on the Model Form of General Conditions of Contract, MF/ [....], (..... [Edition] ..) the copyright of which belongs to the IET, London, England.

WARNING The doing of an unauthorised act in relation to a copyright work may result in both a civil claim for damages and criminal prosecution.”

or as may subsequently be advised by the COPYRIGHT HOLDER during the term of the Agreement.

2.7 The USER shall use its best endeavours to ensure that all parties to the resultant compiled contracts under sub-clause 2.6 above and to any sub-contracts fully observe the COPYRIGHT.

2.8 The COPYRIGHT HOLDER retains all rights not specified above. Nothing in this Agreement should be construed as a waiver of the COPYRIGHT HOLDER's rights under United Kingdom copyright law and the international conventions to which the United Kingdom is a signatory.

2.9 The USER may not incorporate or use the stored information on computer systems on more than one of his sites except on payment of additional reduced-rate licence fees as are specified in sub-clause 3.3 below.

2.10 The USER may not offer software or printed documents incorporating the information in the GENERAL CONDITIONS for sale, lease or rent.

2.11 The right of the USER to use GENERAL CONDITIONS information on its computer system(s) will be automatically terminated (in accordance with sub-clause 6.2 below) on breach of any of the terms of this Agreement.

2.12 None of the rights conferred in this licence may be assigned or transmitted without the written permission of the COPYRIGHT HOLDER.

Neither the COPYRIGHT HOLDER nor the USER intend any term of the Agreement to be enforceable by a party other than themselves.

3. FEES

3.1 In consideration of the licence granted by clause 2 above the USER shall be liable to the COPYRIGHT HOLDER for the FEES that become due from the COMMENCEMENT DATE.

3.2 The USER agrees to pay the COPYRIGHT HOLDER a fee of £ per annum (plus VAT) to cover the uses specified above for the duration of the Agreement.

1. 3.3 If the USER wishes to incorporate GENERAL CONDITIONS information in computer systems on more than one of its sites then this may be done upon payment of additional licence fee(s) of £ per annum (plus VAT) per additional site. The additional licence fee(s) shall become due on the COMMENCEMENT DATE or, if the additional licences are agreed subsequent to the COMMENCEMENT DATE, shall become due in full immediately and be deemed sufficient only to cover the period up to the next anniversary of the COMMENCEMENT DATE.

4. PAYMENT

4.1 Payment shall be made within thirty days of receipt of a due and correct tax invoice by the USER.

5. DURATION AND EXTENSION

5.1 This Agreement shall commence with effect from the COMMENCEMENT DATE. The licence(s) granted shall commence with effect from the COMMENCEMENT DATE or, in cases when additional licences are agreed subsequent to the COMMENCEMENT DATE, those additional licences shall commence with effect from the COMMENCEMENT DATE or on the most recent anniversary of the COMMENCEMENT DATE, whichever is the later. The Agreement and the licence(s) shall continue (unless terminated earlier in accordance with clause 6 below) until the EXPIRY DATE or such other date as is agreed between the parties in writing.

5.2 Unless the GENERAL CONDITIONS are discontinued by the COPYRIGHT HOLDER during the term of the Agreement, the USER may extend this Agreement for a further period as may be negotiated between the USER and the COPYRIGHT HOLDER by application in writing to the

COPYRIGHT HOLDER at least thirty days prior to the expiry of the existing licence, and subject to the USER agreeing to pay increased FEES in line with any change in the published cover price of the GENERAL CONDITIONS made since the COMMENCEMENT DATE.

[Note: The published cover price at the COMMENCEMENT DATE was £]

6. TERMINATION

6.1 The USER may terminate this Agreement at any time by writing to the COPYRIGHT HOLDER. No further FEES will become due and all rights to use the GENERAL CONDITIONS on computer systems, other than those provided under sub-clause 6.4 below, will cease on expiry of the licence(s). No FEES will be refunded.

6.2 The COPYRIGHT HOLDER may terminate this Agreement directly by notice in writing in the event of the USER:-

(a) being at any time in breach of its obligations and, in the case of a breach capable of remedy within twenty one days, having not remedied such breach within twenty one days of being given written notice so to do, or

(b) becoming bankrupt or (being a corporation) going into liquidation other than for the purpose of a scheme of reconstruction or amalgamation, or carrying on its business under an administrator, receiver, manager or liquidator for the benefit of its creditors.

6.3 On termination of the Agreement for any reason the licence(s) granted shall terminate automatically and the USER shall:-

(a) immediately stop all the licensed activities,

(b) make all outstanding payments to the COPYRIGHT HOLDER and, except for the provision in sub-clause 6.4 below,

(i) destroy all documents, diskettes and any other media bearing all or any part of the GENERAL CONDITIONS and certify in writing to the COPYRIGHT HOLDER within fourteen days of the date of termination that such destruction has taken place,

(ii) delete all copies and versions of the GENERAL CONDITIONS from the memories of the USER's computer(s) and certify in writing to the COPYRIGHT HOLDER within fourteen days of the date of termination that such deletion has taken place.

6.4 The COPYRIGHT HOLDER acknowledges that for the compiled contracts' durations the USER may continue to use for their purposes any contract documentation already compiled at the date of termination in accordance with this Agreement.

7. LIABILITY

7.1 The USER acknowledges that because of the nature of the GENERAL CONDITIONS it is reasonable for the COPYRIGHT HOLDER to exclude liability as set out in sub-clause 7.3 below and for the USER to take measures to mitigate or prevent any potential losses that may arise out of the use of the licensed GENERAL CONDITIONS.

7.2 Upon receipt of any additional amendment or supplement to MF/ [.....] that is issued during the term of the Agreement the USER shall confirm to the COPYRIGHT HOLDER in writing the acknowledgement required in sub-clause 7.1 above.

7.3 The COPYRIGHT HOLDER on its own behalf and on behalf of its officers, employees, agents and representatives (together , the "INDEMNIFIED") hereby excludes all liability, whether in contract, tort (including but not limited to negligence), for breach of statutory duty or otherwise, arising out of or relating to this Agreement or the licence(s) granted or the use or non-use by any person of the GENERAL CONDITIONS or other information provided by the INDEMNIFIED to the maximum extent permitted under applicable law. In no event shall the INDEMNIFIED be liable for any indirect or consequential losses (including, without limitation, any loss of profits, contracts, production or use).

8. GENERAL

8.1 Any notice or other document required or authorised to be given under this Agreement shall be in writing and may be served personally or by sending it by first class letter post to the address of the other party as set out at the head of this Agreement, or to such addresses as may from time to time be notified to the other party in writing. Any notice so served shall be deemed to have been served four working days from and including the date of posting.

8.2 No failure or delay on the part of either party to exercise any right or remedy under this Agreement shall be construed or operate as a waiver of the right or remedy, nor shall any single or partial exercise of any right or remedy preclude the further exercise of such right or remedy as the case may be.

8.3 The parties to this Agreement shall keep the details confidential.

8.4 The provisions of sub-clauses 2.7, 2.12, 6.4, 7.1, 7.3 and 8.3 above shall survive the termination of this Agreement.

8.5 The headings in this Agreement are for reference purposes only and shall not be deemed part of the Agreement nor affect its interpretation.

8.6 The validity, construction and performance of this Agreement shall be governed by and interpreted in accordance with the laws of England and shall be subject to the exclusive jurisdiction of the English courts.

8.7 This Agreement and the licence(s) granted contain the entire agreement between the parties and supersede all previous agreements, understandings, arrangements or representations relating to the matter of this Agreement. No other agreement, statement or promise which is not expressly set out in this Agreement shall be binding or valid. No amendment to this Agreement shall take effect unless it has been signed by the authorised representatives of the parties.

AS WITNESS the hands of the duly authorised representatives of the parties to this Agreement:-

For and on behalf of the IET

For and on behalf of

.....
.....
.....

Signed by:

Signed by:

.....

.....

Name:

Name:

.....

.....

Title:

Title:

.....

.....

Date:

Date:

.....

.....

PART 4

SECONDARY PUBLICATIONS

Secondary Publications can be *Supplements*, *Amendment Slips* or *Amendments Lists*. Whilst current, printed copies of these publications are available free-of-charge to users of the model forms.

(i) *Supplements* are used to publish substantial changes to model forms or to commentaries and are included, until integrated into a revised version of the model form, with subsequent sales of their parent publication.

(ii) *Amendment Slips* are provided as inserts to model forms to publish small changes to the model form (but may also include a comment on the subject change).

(iii) *Amendments Lists* are used for historic purposes to record details of material changes between reprints or new editions of model forms.

There are four* current Secondary Publications.

- (a) An Amendment Slip to Model Form MF/2, known as “MF/2, A/S1”.
- (b) An Amendments List to Model Form MF/1, known as “MF/1, A/L3”.
(See also Notes 1 & 2 below.).
- (c) An Amendments List to Model Form MF/2, known as “MF/2, A/L1”.
- (d) An Amendments List to Model Form MF/3, known as “MF/3, A/L1”.

Note 1: Information presented in Amendments List “MF/1, A/L0” (now superseded) reproduces information that was published inside the front cover of the 1989 version of Model Form MF/1. MF/1, A/L0 was produced subsequently in order to have the amendments information (exactly as previously published) available to users of Model Form MF/1 in the form of a stand-alone insert.

Note 2: Amendments List “MF/1, A/L1” (now superseded) was published in April 1993 (but without its label, viz. “MF/1, A/L1”). The label has been added in the version given below in [PART 4 C \(ii\)](#). MF/1, A/L1 was produced to satisfy a demand for the information in its Section A. However, the opportunity was taken to include a “Section B” which listed potential amendments to the model form.

* MF/3, A/L1 in (d) above was published as part of MF/3 (rev 1) but is also available as a Secondary Publication.

PART 4A follows:

PART 4A

SUPPLEMENTS

Note: Only Supplements associated with current or superseded publications are included here – (any Supplements to obsolete publications being omitted).

Contents

- (i) Supplements to Model Form MF/1
 - (a) S1-MF/1 (Discontinued)
 - (b) S2-MF/1 (Discontinued)
 - (c) S3-MF/1 (Discontinued)

- (ii) Supplements to the Commentary on MF/1
 - (a) S1-MF/1 (COM) (Discontinued)
 - (b) S2-MF/1 (COM) (Discontinued)

- (iii) Supplements to Model Form MF/2
(None)

- (iv) Supplements to the Commentary on MF/2
(None)

- (v) Supplements to Model Form MF/3
(None)

(i) Supplements to Model Form MF/1

(a) S1-MF/1 (Discontinued)

Note: This Supplement was discontinued in 1995, its *Foreword* and suggested *Additional Special Conditions* having been integrated into MF/1 (rev 3). Prior to integration the amendments reproduced below (as published in April 1995 in MF/1, A/L2) were made.

P1, L9 *change* available to available in writing • L25, L26 *change* Costs to Cost • L31 *change* obligations to obligations under the Contract •

S1-MF/1

**SUPPLEMENT No. 1
TO
MODEL FORM OF GENERAL
CONDITIONS OF CONTRACT
MF/1**

ADDITIONAL SPECIAL CONDITIONS

FOR USE IN CONTRACTS WHERE CERTIFICATION FOR
PAYMENT AND PAYMENTS ARE TO BE DETERMINED
IN WHOLE OR IN PART BY
MEASUREMENT

1993 Edition

Published for the Joint IMechE / IEE Committee on
Model Forms of General Conditions of Contract
and obtainable from

THE INSTITUTION OF ELECTRICAL ENGINEERS
Publication Sales Department, P.O. Box 96, Stevenage, Herts SG1 2SD
or to callers at the Reception Desk, Savoy Place, London
or from

THE INSTITUTION OF MECHANICAL ENGINEERS
Publications Sales Department, P.O. Box 24, Northgate Avenue, Bury St. Edmunds, Suffolk
IP32 6BW or to callers at the Reception Desk, Birdcage Walk, London
or from

THE ASSOCIATION OF CONSULTING ENGINEERS
Alliance house, 12 Caxton Street, London SW1H 0QL

Foreword

These additional Special Conditions are intended for use in contracts where certification for payment and payments are to be determined in whole or in part by measurement. The Special Conditions suggested include the revision of several sub-clauses in MF/1 and the provision of additional clauses which are considered appropriate.

They form a supplement to Model Form MF/1 and may be taken to extend the existing range of Special Conditions that are suggested therein.

It is emphasised that the suggested additional Special Conditions are a model only and should be adapted and supplemented where necessary to reflect the nature of the Works and the problems likely to be encountered.

In particular, especially in relation to powerline or cabling contracts, it may be necessary to expand the definition of the Site to reflect the fact that it will be over a lengthy route. The route, itself, will often be in a public area with limitations on access and requiring unique safety precautions. It may also be necessary to require the Contractor to accurately record the route and its depth or height in relation to a given datum. Whilst such requirements will normally be included in the specification it may be appropriate to deal with them additionally in the Special Conditions.

Users of this supplement are advised to take care when defining the units of work for which payment will be made and the method of measurement. Particular care should be taken to specify the full extent of each unit of work and to clearly define the boundaries between work units. Any general principles adopted in separating one unit of work from another should be clearly stated. Similarly, it is advisable to define the general principles to be adopted when measuring work as well as the actual method of measurement.

Historical Note

This supplement was first introduced in November 1993. When used with Model Form MF/1 it will fulfil the requirement for a Model Form which was previously satisfied by the IEE's Model Form of Contract, Form 'E', for Cable Contracts with Installation, Home or Export.

Therefore, as from November 1993, Form E (which was last revised in 1984) has been discontinued.

Published by the Institution of Electrical Engineers, London © 1993

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Single copies may be made for the purpose of research or private study.

ADDITIONAL SPECIAL CONDITIONS FOR USE IN CONTRACTS WHERE CERTIFICATION FOR PAYMENT AND PAYMENTS ARE TO BE DETERMINED IN WHOLE OR IN PART BY MEASUREMENT

If the Works relate to cables, overhead or underground powerlines, instrumentation, insulation and/or the Contractor undertakes to provide building or civil engineering work, some or all of the following provisions may be considered appropriate.

The Sub-Clause numbers used below relate to the Sub-Clause numbers used in the General Conditions.

1. SUB-CLAUSE 5.2 – SITE DATA

Delete the existing Sub-Clause and replace with the following.

5.2 The Tender shall be deemed to have been based on such data on climatic, hydrological, soil and general conditions of the Site and for the operation of the Works as the Purchaser or the Engineer has made available to the Contractor for the purposes of the Tender. The Contractor shall be responsible for his own interpretation of such data. Unless otherwise provided in the Specification, the Contractor shall not be deemed to have allowed in the Tender for the removal or diversion of mains, sewers, drains, conduits and similar services. If the Engineer gives any instructions to the Contractor for the removal, alteration or diversion thereof, the Contractor shall be entitled to treat such instruction as a variation under Clause 27 (Variations) and any work done in compliance with such instruction shall be valued and paid for accordingly.

2. SUB-CLAUSE 5.7 – UNEXPECTED SITE CONDITIONS

Revise the existing Sub-Clause to read as follows.

5.7 If during the progress of the Works any unexpected physical condition (other than weather or conditions due to weather) or artificial obstruction is encountered by the Contractor and such condition or obstruction could not reasonably have been ascertained from an inspection of the Site by the Contractor before he prepared the Tender or from information made available to the Contractor for the purposes of the Tender, the Contractor shall forthwith inform the Engineer of the condition or obstruction encountered and obtain the approval of the Engineer of the steps he proposes to take to deal with the same. If the Contractor in taking such steps incurs extra Costs, such Costs shall be added to the Contract Price.

3. SUB-CLAUSE 6.1 – STATUTORY AND OTHER REGULATIONS

Delete the existing Sub-Clause and replace with the following.

6.1 If the Cost to the Contractor of performing his obligations under the Contract shall be increased or reduced by reason of the making after the date of the Tender of any law or of any order, regulation or by-law having the force of law that shall affect the Contractor in the performance of his obligations, or by any conditions referred to in Sub-Clause 11.2 (Wayleaves, Consents etc.) or by any restriction or obligation referred to in Sub-Clause 11.9 (Third Party Interests), the existence and nature of which was not fully disclosed to the Contractor before the date of the Tender, the amount of such increase or reduction shall be added to or deducted from the Contract Price, as the case may be.

4. SUB-CLAUSE 11.2 – WAYLEAVES, CONSENTS ETC

Delete the existing Sub-Clause and replace with the following.

11.2 The Purchaser shall, within the times stated in the Programme or, if not so stated, before the time specified for delivery of any Plant to the Site, obtain all consents, wayleaves and approvals in connection with the regulations and by-laws of any local or other authority which shall be applicable to the Works on the Site. The Purchaser shall inform the Contractor of any conditions attached to such consents, wayleaves and approvals insofar as the same may affect the execution of the Works. Unless otherwise provided in the Specification, the Purchaser shall give all notices required to be given by any such wayleave or consent or by any law or any order, regulation or by-law of any national, local or other duly constituted authority in relation to the execution and completion of the Works and remedying of defects therein.

5. SUB-CLAUSE 11.9 – THIRD PARTY INTERESTS

Add the following new Sub-Clause.

11.9 In the performance of his obligations under the Contract, the Contractor shall observe all restrictions and perform all obligations in favour of or owed to the owners for the time being of any interest in land in or adjoining which the Works are to be executed so far as such restrictions and obligations shall have been brought to the Contractor's notice. The Contractor shall not be liable to the Purchaser for any damage caused in the execution of the Works to the property of third parties which could not have been avoided by the exercise of reasonable care.

6. SUB-CLAUSE 16.3 – ERRORS IN DRAWINGS ETC. SUPPLIED BY THIRD PARTIES

Add the following new Sub-Clause.

16.3 Where the Specification requires the Contractor to obtain drawings, information, records or particulars of the Site from third parties, the Contractor shall be responsible for the adequacy and interpretation of the information obtained but the Contractor shall not be responsible for any alterations or remedial work necessitated by reason of discrepancies, errors or omissions in drawings, information, records or particulars provided by any such third party, the accuracy of which a responsible contractor would accept in good faith.

7. STATUTORY AND OTHER REQUIREMENTS

Add the following new Clause.

The Contractor shall in the performance of the Contract conform in all respects with the provisions of any law or any order, regulation or by-law of any national, local or other duly constituted authority that may in any way affect the execution or completion of the Works and the remedying of any defects therein and with the rules and regulations of all public bodies, companies and persons whose property rights are affected or in any way may be affected by the Works (herein called "the Regulations") and in particular the Contractor shall observe such of the restrictions and perform such of the obligations as may be imposed on the Purchaser in relation to the Works under the Regulations provided always that:-

- (a) the Purchaser shall :-
- either
- (i) give details in the Specification of any obligations to be performed or restrictions to be observed and which are imposed upon the Purchaser under the Regulations,
- or
- (ii) provide assistance at the time of tendering, including if so requested by the Contractor the provision of copy documents at the Purchaser's expense, to enable the Contractor to ascertain the nature and extent of any such obligations or restrictions so imposed upon the Purchaser.

- (b) if any provision of the Contract or any instructions of the Engineer would cause the Contractor to be in breach of the Regulations, the Engineer shall issue such instructions as may be necessary to ensure conformity with the Regulations and if in complying with any such instructions the Contractor shall incur extra Cost, the instruction shall be treated as a variation under Clause 27 (Variations) and valued accordingly.
- (c) the Purchaser shall be responsible for the payment of all fees required to be paid by the Regulations insofar as such fees are payable solely by reason of, and in connection with, the construction and completion of the Works.
- (d) where the Contractor is not required by the Contract to undertake any permanent reinstatement or making good of the Site or any part thereof or of the means of access thereto, any obligation of the Contractor to maintain any interim restoration thereof required by the Contract or to comply with his responsibilities under Sub-Clause 18.1 (Fencing, Guarding, Lighting and Watching) in respect of the particular part of the Site or of the access thereto, shall cease when the same is handed over by the Purchaser to others for permanent reinstatement, when permanent reinstatement commences, or three months after the Contractor has given notice to the Engineer of the completion of interim restoration, whichever is the earliest.

8. PAYMENT BY MEASUREMENT

Add the following new Clause.

Where any part of the Works is to be paid for according to the quantity of Plant supplied or work done the following shall apply:-

- (a) Such part of the Works shall be measured from time to time by the Engineer or by the Contractor. No such measurement shall be made by either of them without the other being afforded a reasonable opportunity of attending and agreeing the measurements. The Contractor shall at the request of the Engineer open up any part of the Works which may have been covered up without his having been afforded reasonable opportunity of measuring or agreeing the measurements thereof and the Contractor shall open up and restore the same at his own expense. All measurements shall be made in accordance with the provisions of the Specification respecting methods of measurement and if no method of measurement is therein specified the Engineer shall, after consultation with the Contractor, carry out such measurements in accordance with such method or methods as the Engineer shall determine are fair and reasonable in all the circumstances.
- (b) The sum payable in respect of such part of the Works shall be ascertained according to the price or rate appropriate thereto and specified in the Contract. If no appropriate price or rate has been specified, the Engineer shall determine the price or rate applicable thereto which shall be a fair and reasonable price or rate having regard to any prices or rates that may be specified in the Contract for similar Plant or work.

9. REINSTATEMENT

Add the following new Clause.

The Contractor shall not be responsible for the cost of new materials for the replacement of any surface materials (such as but not limited to flagstones, bricks, kerbs or setts) or any pipes, conduits or underground structures which, before lifting or when uncovered or exposed, are agreed by the Engineer to be in such condition as to be incapable of removal without damage or incapable of being replaced satisfactorily.

(b) **S2-MF/1** (Discontinued)

Note 1: This Supplement was discontinued in December 2000, its content having been integrated into MF/1 (rev 4). Prior to integration, paragraph 3(ii)(b) of the Supplement was amended editorially.

S2–MF/1

SUPPLEMENT No. 2

TO

MODEL FORM OF GENERAL CONDITIONS OF CONTRACT, MF/1

CONTENTS

1. Foreword
2. Historical note
3. Amendments to MF/1 (rev 3) relating to provisions for arbitration

Published for the Joint IMechE / IEE Committee on Model Forms of General Conditions of Contract
by the Institution of Electrical Engineers, LONDON © 1998

1. Foreword

The additional material provided in this supplement is intended to modify or extend the Model Form MF/1 Conditions and the pro-forma contract documents which are included with MF/1 (rev 3). The reasons for these suggested additions and changes are given in paragraph (i) below. It is emphasised that these additional provisions are models only and should be adapted and supplemented, where necessary, to reflect the particular nature of the Works.

A supplement to the Commentary on MF/1, which includes comments on these additions and changes (and is labelled "S1–MF/1 (COM)") is available.

(i) Arbitration

These revisions are provided to take account of the provisions of the Arbitration Act 1996.

The MF/1 Form of Sub-Contract has been changed so that a Sub-Contractor becomes entitled to require that he is joined as a party in disputes submitted to arbitration under the Main Contract and, additionally, the MF/1 Form of Agreement has been changed to ensure that an express reference is now made in the contract documents to any arbitration agreement made under the Contract.

2. Historical note

This second supplement to MF/1 was introduced in April 1998 and thereafter included with copies of MF/1 (rev 3).

3. Amendments to MF/1 (rev 3) relating to provisions for arbitration

(i) The following new provisions should be added to Clause 52 – see page 38 of MF/1 (rev 3).

SUB-CLAUSE 52.3 – ARBITRATOR’S POWERS

52.3 The arbitrator shall have power:

- (a) to open up, review and revise any certificate or valuation of the Engineer or any decision, opinion, instruction or order of the Engineer referred to arbitration under Sub-Clause 2.6 (Disputing Engineer’s Decisions, Instructions and Orders);
- (b) to order on a provisional basis (subject to the arbitrator’s final award) any relief which he would have power to grant in a final award including but not limited to the making of a provisional order for the payment of money as between the parties or an order to make an interim payment on account of the costs of the arbitration.

SUB-CLAUSE 52.4 – JOINDER

52.4 Where a dispute has been referred to arbitration under this clause and the Contractor is in a related dispute with a Sub-Contractor which is substantially the same as the matter referred to arbitration hereunder, the parties consent to the joinder of the Sub-Contractor as a party to the arbitration and to the reference of such related dispute to the arbitrator appointed hereunder and further agree that the arbitrator shall have power to order the consolidation of such arbitration proceedings and/ or to order the holding of concurrent hearings.

SUB-CLAUSE 52.5 – ARBITRATION RULES

52.5 The arbitration shall be conducted in accordance with the arbitration rules specified in the Special Conditions or, if no rules be so specified, in accordance with the provisions of the Arbitration Act 1996.

(ii) The following changes should be made to the Special Conditions – See line 3, page 43 of MF/1 (rev 3).

(a) Add the following immediately under the heading ” **Disputes and Arbitration**“.

Arbitration Rules

52.5 The arbitration shall be conducted in accordance with the [arbitration rules of 1 insert body, eg. International Chamber of Commerce (ICC), United Nations Commission on International Trade Law (UNCITRAL), London Court of International Arbitration (LCIA), Chartered Institute of Arbitrators (CIArb) or other] Construction Industry Model Arbitration Rules (CIMAR)

1 choose as appropriate

Scots Law

(b) Add the following after line 9 on page 43.

Sub-Clause 52.3 (Arbitrator’s Powers) should be amended by changing references to “arbitrator” to “arbiter” and inserting the following wording as a new sub-paragraph (b) and by the re-lettering of the existing sub-paragraph (b) as (c):

(b) to order that damages, costs and/ or expenses are due and payable as between the parties and to assess the amount of such damages, costs and/ or expenses:

The re-lettered sub-paragraph (c) should be amended by the insertion of the following wording after the words “ ... order for the payment of money ... ”: “ .. by way of damages or otherwise .. ”

The heading of Sub-Clause 52.4 should be “Third Parties” in place of “Joinder” and reference to “joinder of the Sub-Contractor as a party” should, instead, be to the “Sub-Contractor being brought in as a third party” to the arbitration. References to “arbitrator” should be changed to “arbiter”.

The governing arbitration rules for the purposes of Sub-Clause 52.5 should be chosen from the following selection.

- (1) The Arbitration Rules of the International Chamber of Commerce as convened in Edinburgh.
- (2) The Arbitration Rules of UNCITRAL as applicable in Scotland by virtue of the Law Reform Miscellaneous Provisions (Scotland) Act 1990, Section 66 and Schedule 7.
- (3) The Arbitration Rules of the Law Society of Scotland.

Add at the end of Sub-Clause 52.5 (Arbitration Rules): “... except to the extent otherwise provided or specified in Clause 52.”

An additional Sub-Clause 52.6 should be added:

Consent to Registration

52.6 The parties consent to the registration in the Books of Council and Session for preservation and execution of any decree arbitral or award issued pursuant to arbitration proceedings under Clause 52.

(iii) The following changes should be made to the MF/1 Form of Sub-Contract – see pages 60 & 61 of MF/1 (rev 3).

(i) Clause 19.1 (Arbitration). Delete the complete clause and replace by:

Disputes and Arbitration

19.1 If at any time any question, dispute or difference shall arise between the Contractor and the Sub-Contractor in relation to the Sub-Contract or in any way connected with the Sub-Contract Works, which cannot be settled amicably, either party shall as soon as is reasonably practicable give to the other notice of the existence of such question, dispute or difference specifying its nature and the point at issue, and the same shall be referred to the arbitration of a person to be agreed upon. Failing agreement upon such person within 30 days after the date of such notice, the arbitration shall be conducted by some

person appointed on the application of either party by the President of the institution named in the Tenth Schedule (or by his deputy appointed by such President for the purpose). In any such arbitration, any decision of the Engineer which has become final and binding on the Contractor and the Purchaser under Sub-Clause 2.6 (Disputing Engineer's Decisions, Instructions and Orders) of the Main Contract shall also be and be treated as final and binding upon the Contractor and the Sub-Contractor.

19.2 The arbitrator shall have power:

- (a) to open up, review and revise any certificate or valuation of the Engineer or any instruction or decision of the Engineer given to the Sub-Contractor by the Contractor under Sub-Clause 8.1 which has not become final and binding on the Contractor and the Sub-Contractor;
- (b) to open up, review and revise any instruction or decision of the Contractor given to the Sub-Contractor under Sub-Clause 8.2;
- (c) to order on a provisional basis (subject to the arbitrator's final award) any relief which he would have power to grant in a final award including but not limited to the making of a provisional order for the payment of money as between the parties or an order to make an interim payment on account of the costs of the arbitration.

19.3 If any question, dispute or difference between the Contractor and the Sub-Contractor which arises at any time before the expiry of three months after the issue of the final certificate of payment under the Main Contract or within three months after the termination of the Main Contract shall be substantially the same as a matter which is a question, dispute or difference between the Contractor and the Purchaser and/or the Engineer which has been submitted to arbitration under the Main Contract, either the Contractor or the Sub-Contractor shall be entitled to require the Sub-Contractor to be joined as a party to such arbitration. The Sub-Contractor hereby agrees to be so joined and to the reference of the dispute to the arbitrator appointed under the Main Contract in accordance with the arbitration rules applicable to the dispute under the Main Contract and further agrees that the arbitrator shall have power to order the consolidation of such arbitration proceedings and/or to order the holding of concurrent hearings.

19.4 Unless otherwise specified in the Tenth Schedule any arbitration under the provisions of this clause shall be conducted in accordance with the arbitration rules specified in the Main Contract and if none be so specified in accordance with the provisions of the Arbitration Act 1996.

19.5 Performance of the Sub-Contract shall continue during arbitration proceedings unless otherwise agreed by the parties or, in the case of an arbitration under Sub-Clause 19.3, unless the Contractor is otherwise instructed under the Main Contract by the Engineer.

(ii) Add a footnote (at the bottom of page 60) worded as follows:

Note: If it is agreed that Scots law shall govern the Sub-Contract, similar amendments to those recommended for the Main Contract should also be made to the equivalent provision of the Sub-Contract.

(iii) Add (page 61):

TENTH SCHEDULE

Particulars of Person to Appoint Arbitrator

Particulars of Arbitration Rules

(iv) The following change should be made to the MF/1 Form of Agreement – see page 65 of MF/1 (rev 3).

Add a fifth clause, worded as follows:

5. If any question, dispute or difference shall arise between the Purchaser and the Contractor in relation to the Contract or in any way related to the Works, which cannot be settled amicably, it shall be referred to arbitration in accordance with Clause 52 (Disputes and Arbitration) of the general conditions.

(c) **S3-MF/1** (Discontinued)

Note 1: This Supplement was discontinued in December 2000, its content having been integrated into MF/1 (rev 4). Prior to integration, the amendments reproduced below (as published in December 2000 in Amendments List MF/1, A/L3) were made.

(i) Page 3, paragraph 1 of the Foreword, line 4, delete (England and Wales) and, line 5, after (Scotland) add or of The Scheme for Construction Contracts in Northern Ireland •

(ii) delete the second sentence of the second paragraph of the Foreword. •

(iii) Page 4 line 3, delete (England and Wales) and, line 4, change (Northern Ireland) to in Northern Ireland •

(iv) Page 10, paragraph 6 of S3-MF/1 amend as follows:

line 4 of the Form, after notice add under sub-clause 2.3 (Engineer's power to delegate) •

SUPPLEMENT No. 3

TO

MODEL FORM OF GENERAL CONDITIONS OF CONTRACT, MF/1

CONTENTS

1. Foreword
2. Historical note
3. Amendments to MF/1 (rev 3) relating to the Housing Grants, Construction and Regeneration Act 1996
4. A revised Form of Performance Bond
5. A Form of Defects Liability Demand Guarantee (for use with MF/1)
6. A Form of Notice of Delegation of Authority (for use with MF/1)
7. Amendments to the MF/1 Form of Agreement

1. Foreword

The additional material provided in this supplement is intended to modify or extend the Model Form MF/1 Conditions and the pro-forma contract documents which are included with MF/1 (rev 3). The reasons for these suggested additions and changes are given in paragraphs (i) – (v) below. It is emphasised that these additional provisions are models only and should be adapted and supplemented, where necessary, to reflect the particular nature of the Works.

A supplement to the Commentary on MF/1, which includes comments on these additions and changes (and is labelled “S2-MF/1 (COM)”) is available.

Note. MF/1 (rev 3) was also modified, in April 1998, by a supplement labelled S2-MF/1.

(i) The Housing Grants, Construction and Regeneration Act 1996 (“the Act”)

These suggested additional Special Conditions are provided so that home construction contracts and sub-contracts which are made under MF/1 Conditions may, as necessary, comply with the provisions of the Act.

(ii) The Form of Performance Bond

These revisions have been made to update the wording of the bond and to include a new provision for Contractor insolvency.

(iii) The Form of Defects Liability Demand Guarantee

This Form of Defects Liability Demand Guarantee replaces the Form of Defects Liability Bond which was first published for use with the ‘MF Series’ of model forms in the 1991 Edition of the Commentary on MF/2 (which, itself, was issued as a supplement to the 1990 Edition of the Commentary on MF/1).

(iv) The Form of Notice of Delegation of Authority

This Form of Notice of Delegation of Authority has been introduced to assist users of Model Form MF/1 in the systematic documentation of delegated powers.

(v) The Form of Agreement

The Form of Agreement has been revised to include the revisions appropriate for signature of the Agreement as a simple contract or as a deed.

2. Historical note

This third supplement to Model Form MF/1 was introduced in March 1999 and thereafter included with copies of MF/1 (rev 3).

3. Amendments to MF/1 (rev 3) relating to the Housing Grants, Construction and Regeneration Act 1996

The following new additional suggested Special Conditions should be added after page 54 of MF/1 (rev 3).

ADDITIONAL SPECIAL CONDITIONS FOR USE WHERE THE CONTRACT IS SUBJECT TO THE HOUSING GRANTS, CONSTRUCTION AND REGENERATION ACT 1996 (“the Act”)

The Sub-Clause numbers used below relate to the Sub-Clause numbers used in the general conditions.

Foreword

Where the Contract is a “Construction Contract” within the meaning of the Act, either party has the right to refer any dispute arising under the Contract to adjudication (as an addition, or alternative, to arbitration under Clause 52 (Disputes and Arbitration) or litigation). The following Special Conditions apply the adjudication rules contained in Part I of The Scheme for Construction Contracts (England and Wales) or, as appropriate, of The Scheme for Construction Contracts (Scotland) – (“the Scheme”) - to any such adjudication. The Special Conditions also make provision for the effect of adjudication on Engineer’s decisions, instructions and orders and on the provisions for arbitration. The further Special Conditions relating to payment and extensions of time reflect the provisions of the Act in the context of an MF/1 Contract as an alternative to the provisions of Part II of the Scheme.

The provisions of the Act are extended to Northern Ireland by the Construction Contracts (Northern Ireland) Order 1997 (the Order). Both the Order and the Scheme for Construction Contracts Regulations (Northern Ireland) 1999 are expected to come into force on 1 June 1999. Where the Contract is to be performed in Northern Ireland, the Order and its equivalent articles should be substituted for the Act and for the referenced sections of the Act.

(i) Engineer and Engineer’s Representative

Delete Sub-Clause 2.6 (Disputing Engineer’s Decisions, Instructions and Orders) and replace with the following Sub-Clause 2.6.A and renumber the reference to Sub-Clause 2.6 in Sub-Clause 52.1 (Notice of Arbitration) accordingly.

Disputing Engineer’s Decisions, Instructions and Orders

2.6.A If the Contractor by notice to the Engineer within 21 days after receiving any decision, instruction or order of the Engineer in writing or written confirmation thereof under Sub-Clause 2.5 (Confirmation in Writing), disputes or questions the same, giving his reasons for so doing, the Engineer shall within a further period of 21 days by notice to the Contractor and the Purchaser with reasons, confirm, reverse or vary such decision, instruction or order.

If either the Contractor or the Purchaser disagrees with such decision, instruction or order as confirmed, reversed or varied, he shall be at liberty to refer the matter to arbitration within a further period of 21 days. In the absence of such a reference to arbitration within the said period of 21 days such decision, instruction or order of the Engineer shall be final and binding on the parties, subject to the right of either party to refer the dispute relating to such decision, instruction or order to adjudication at any time under the provisions of the Housing Grants, Construction and Regeneration Act 1996.

In any case where such a dispute under this Sub-Clause is referred to adjudication, either party shall be at liberty to refer the adjudicator’s decision to arbitration under Clause 52 (Disputes and Arbitration) within 21 days after the date of the adjudicator’s decision and in the absence of such a reference to arbitration within the said period of 21 days the adjudicator’s decision shall be final and binding on the parties.

(ii) Adjudication

The following new Clause 52A should be added:-

52A.1 By virtue of Section 108 (5) of the Housing Grants, Construction and Regeneration Act 1996 the adjudication rules contained in Part I of The Scheme for Construction Contracts (England and Wales)/(Scotland)/(Northern Ireland) (delete as appropriate) shall apply to all adjudications of disputes under the Contract.

- 52A.2** (a) The adjudicator shall be of
- (b) If no adjudicator is nominated in (a) above, or if the nominated adjudicator is unwilling or unable to act, an adjudicator shall be nominated by (delete as appropriate):-
 The Institution of Electrical Engineers.
 The Institution of Mechanical Engineers.
- (c) Where neither paragraph (a) nor (b) applies, or where the person named in (a) has already indicated that he is unwilling or unable to act and (b) does not apply, the party referring the dispute to adjudication shall request an adjudicator nominating body to select a person to act as adjudicator.

(iii) Certificates and Payment

1. SUB-CLAUSE 39.1 – APPLICATION FOR PAYMENT

Add the following:-

Unless otherwise provided, applications for interim certificates of payment may be made by the Contractor to the Engineer monthly.

2. SUB-CLAUSE 40 .1 – PAYMENT

Add the following new Sub-Clause 40A.1:-

40A.1 The Purchaser may not make payment of any lesser sum than that certified in an interim certificate of payment or withhold payment of any sum that would otherwise be due under a certificate of payment unless he has within 5 days after the issue of the certificate of payment notified the Contractor of the amount he proposes to pay and the basis on which that amount was calculated and the provision of the Conditions that entitles the Purchaser to withhold the amount concerned.

(iv) Extension of Time for Completion

SUB-CLAUSE 33.1 – EXTENSION OF TIME FOR COMPLETION

Add the following wording:-

The Time for Completion shall be extended by any period during which the Contractor has, pursuant to the provisions of Section 112 of the Housing Grants, Construction and Regeneration Act 1996, suspended performance of the Contract.

(v) Form of Sub-Contract

1. CLAUSE 14 – PAYMENT

Add the following new Sub-Clause 14.2:-

14.2 Notwithstanding any provision of the Eighth Schedule the Contractor shall not be entitled to make any payment to the Sub-Contractor conditional upon the Contractor having received payment under the Main Contract from a third party (including for the avoidance of doubt the Purchaser) unless that third party, or any other person payment by whom is under the Sub-Contract (directly or indirectly) a condition of payment by that third party, is insolvent. For the purpose of this Sub-Clause “insolvent” has the meaning assigned by Section 113 of the Housing Grants, Construction and Regeneration Act 1996.

2. CLAUSE 20 – ADJUDICATION

Add the following new Clause 20:-

20.1 Unless otherwise specified in the Eleventh Schedule any adjudication of disputes between the Contractor and the Sub-Contractor shall be conducted by the adjudicator named in the Main Contract or, as appropriate, by an adjudicator nominated by the body named in the Main Contract and in accordance with the adjudication rules applicable under the Main Contract.

3. Add (page 61)

ELEVENTH SCHEDULE

(If the Main Contract provisions do not apply.)

- (i) Particulars of Adjudicator , or, if no adjudicator is nominated, or if the nominated adjudicator is unable or unwilling to act, an adjudicator shall be nominated by:-

Particulars of Person to Nominate Adjudicator

- (ii) Particulars of Adjudication Rules or Adjudication Procedures

4. Form of Performance Bond

It is recommended that the following revision of the MF/1 Form of Performance Bond should be used in place of the version published in MF/1 (rev 3) –see pages 66/67. It has been based on the performance bond published by the Association of British Insurers.

FORM OF PERFORMANCE BOND

THIS PERFORMANCE BOND effective as of the date hereof is made as a deed BETWEEN the following parties whose names and registered offices / addresses are set out in the Schedule to this Bond (“the Schedule”):-

- (1) the Contractor as Principal;
- (2) the Guarantor as Guarantor; and
- (3) the Purchaser as Beneficiary.

WHEREAS:

- (1) By a contract (“the Contract”) entered into or to be entered into between the Purchaser and the Contractor, particulars of which are set out in the Schedule, the Contractor has agreed with the Purchaser to design, manufacture, deliver, erect and test certain works (“the Works”) and correct defects therein upon and subject to the terms of the Contract.
- (2) The Guarantor has agreed with the Purchaser at the request of the Contractor to guarantee the performance of the obligations of the Contractor under the Contract upon the terms and conditions of this Performance Bond subject to the limitation set out in clause 2.

NOW THIS DEED WITNESSES as follows:-

1. The Guarantor guarantees to the Purchaser that in the event of Default by the Contractor (which shall include a termination of the Contract by the Purchaser under the provisions of Clause 50.1(a) thereof) the Guarantor shall subject to the provisions of this Performance Bond satisfy and discharge the damages sustained by the Purchaser (or as appropriate discharge the sum deemed a debt due under the Contract from the Contractor to the Purchaser) as established and ascertained pursuant to and in accordance with the provisions of or by reference to the Contract and taking into account all sums due or to become due to the Contractor. The Guarantor shall not be entitled to perform the Contractor's obligations under the Contract.
2. The maximum aggregate liability of the Guarantor and the Contractor under this Performance Bond shall not exceed the sum set out in the Schedule (“the Bond Amount”) but subject to such limitation and to clause 4 below the Guarantor shall have no greater liability to the Purchaser under this Performance Bond than the Contractor has to the Purchaser under the Contract.
3. The Guarantor shall not be discharged or released by any alteration of any of the terms, conditions and provisions of the Contract or in the extent or nature of the Works and no allowance of time by the Purchaser under or in respect of the Contract or the Works shall in any way release, reduce or affect the liability of the Guarantor under this Performance Bond.
4. Whether or not this Performance Bond shall be returned to the Guarantor the obligations of the Guarantor under this Performance Bond shall be released and discharged absolutely upon the Expiry Date (as conclusively defined in the Schedule to this Performance Bond).
5. This Performance Bond shall be governed by and construed in accordance with the laws of [.....]* and any dispute under the Performance Bond shall be determined by the courts of the country of such law. This Performance Bond incorporates and shall be subject to the Uniform Rules for Contract Bonds published by the International Chamber of Commerce (Publication No. 524) and words used in this Performance Bond shall have the meanings set out in the Rules but the provisions of paragraph (i) of Article 7(j) and the arbitration provisions of Article 8 shall not apply.

* Note: If not completed the law governing the Contract shall apply.

THE SCHEDULE

The Contractor: [..... (name)] whose registered office is at
[..... (address)]

The Guarantor: [..... (name)] whose registered office is at
[..... (address)]

The Purchaser: [..... (name)] whose registered office is at
[..... (address)]

The Contract: A contract [dated the day of] [*to be entered into*] between the Contractor and the Purchaser (substantially in the form known as The Model Form of General Conditions of Contract MF/1) for the design, manufacture, delivery, erection and testing of [*short description of the Works*] for the contract sum of [*sum in words*] pounds sterling (or appropriate currency) (£ [.....]).

The Bond Amount: The sum of [..... (sum in words)] pounds sterling (or appropriate currency) (£ [.....]).

[Insert any provisions for reduction of the Bond Amount.]

Expiry Date: The date which is three calendar months after the date of issue of the last final certificate of payment under the Contract unless prior to the expiry of such period either the Contractor or the Purchaser shall have commenced proceedings arising out of the Contract in which event three calendar months after such proceedings have been finally concluded, or [Insert details of the date agreed between the parties as constituting the Expiry Date or of the method by which that date is to be determined.].

IN WITNESS whereof the Contractor and the Guarantor have executed and delivered this Performance Bond as a deed this day of

EXECUTED AND DELIVERED as a deed
by the CONTRACTOR as Principal }
}

Director [.....] (Signature)

Director/Secretary [.....] (Signature)

EXECUTED AND DELIVERED as a deed
by the GUARANTOR as Guarantor }
}

Director [.....] (Signature)

Director/Secretary [.....] (Signature)

5. Form of Defects Liability Demand Guarantee

This Guarantee is for use when the terms of payment chosen by the parties incorporates the provisions suggested in the aide-mémoire to the preparation of the Special Conditions.

FORM OF DEFECTS LIABILITY DEMAND GUARANTEE

THIS DEFECTS LIABILITY DEMAND GUARANTEE effective as of the date hereof is made as a deed BETWEEN the following parties whose names and registered offices / addresses are set out in the Schedule to this Guarantee ("the Schedule"):-

- (1) the Contractor as Principal;
- (2) the Guarantor as Guarantor; and
- (3) the Purchaser as Beneficiary.

WHEREAS:

- (1) By a contract ("the Contract") entered into between the Purchaser and the Contractor, particulars of which are set out in the Schedule, the Contractor agreed to design, manufacture, deliver, erect and test certain works ("the Works").
- (2) Under the terms of the Contract the Contractor has agreed to assume certain obligations in relation to defects and damage caused by defects which may appear or occur in the Works during the Defects Liability Period defined in the Contract.
- (3) The Purchaser has pursuant to the express terms of the Contract agreed that no part of the Contract Price payable under the Contract shall be withheld to secure the Contractor's obligations in relation to such defects and damage.

NOW THIS DEED WITNESSES as follows:-

1. The Guarantor hereby irrevocably undertakes to pay to the Purchaser any sum or sums not exceeding in total the amount of £ [.....] (insert total value of retention which would otherwise be retained) upon receipt by the Guarantor of the Purchaser's written demand.
2. The Purchaser's written demand shall be accompanied by a written statement certifying either that the Contractor has failed to carry out his obligations to rectify certain specified defects or damage for which he is responsible under the Contract during the said Defects Liability Period and the nature of such defects or damage or by a certificate that the Purchaser has become entitled to terminate the Contract under Clause 50.1(a) thereof and the circumstances which gave rise thereto.
3. The Guarantor's liability under this Guarantee shall not exceed the total amount of retention money released to the Contractor by the Purchaser evidenced by certificates of payment issued under the terms of the Contract and copied to the Guarantor.
4. The Purchaser's demand for payment and written statement must be under the Purchaser's signature(s) authenticated by the Purchaser's bankers.
5. Any written demand and statement must be received by the Guarantor at the address stated in the Schedule on or before [.....] ("the Expiry Date") / the date the Guarantor receives a copy of the final certificate of payment under the Contract ("the Expiry Event") when this Guarantee shall expire. On expiry of the Guarantee the Purchaser shall return the Guarantee to the Guarantor.
6. This Guarantee is personal to the Purchaser and is not assignable.
7. This Guarantee shall be governed by the laws of [.....]* and shall be subject to the Uniform Rules for Demand Guarantees published by the International Chamber of Commerce (Publication No. 458).

* Note: If not completed the law governing the Contract shall apply.

THE SCHEDULE

The Contractor: [..... (name)] whose registered office is at
[..... (address)]

The Guarantor: [..... (name)] whose registered office is at
[..... (address)]

The Purchaser: [..... (name)] whose registered office is at
[..... (address)]

The Contract: A contract [dated the day of] between the Contractor and the Purchaser (substantially in the form known as The Model Form of General Conditions of Contract MF/1) for the design, manufacture, delivery, erection and testing of [*short description of the Works*] for the contract sum of [*sum in words*] pounds sterling (or appropriate currency) (£ [.....]).

IN WITNESS whereof the Contractor and the Guarantor have executed and delivered this Guarantee as a deed this day of

EXECUTED AND DELIVERED as a deed }
by the CONTRACTOR as Principal }

Director [.....] (Signature)

Director/Secretary [.....] (Signature)

EXECUTED AND DELIVERED as a deed }
by the GUARANTOR as Guarantor }

Director [.....] (Signature)

Director/Secretary [.....] (Signature)

6. Form of Notice of Delegation of Authority

This form is for use in documenting any delegation of authority by the Engineer under Sub-Clause 2.3.

The general conditions do not require that the delegation of any of the Engineer's duties to, or the appointment of, an Engineer's Representative be in any particular form, only that it be done by way of notice to the Contractor and the Purchaser. Users of MF/1 may find the following (incomplete) example notice to be of assistance.

FORM OF NOTICE OF DELEGATION OF AUTHORITY

(Including notice of appointment of Engineer's Representative)

[.....] (Engineer)

as Engineer appointed under

[.....] (Title of Contract) –“the Contract”-

hereby gives you notice that the following duties of the Engineer under the Contract in relation to the Works/Section of the Works (*as appropriate*) noted below are delegated to

[.....] who is appointed as Engineer's Representative.

<u>Sub-Clause Number</u>	<u>Title</u>	<u>Duties Delegated to the Engineer's Representative</u>
5.7	Unexpected Site Conditions	Approving Contractor's steps
14.1	Programme	Approval of Programme

(Continue with identification of the duties and the extent of the delegation and the sub-clauses under which the duties arise as appropriate to the Contract and the particular delegation.)

This notice supersedes all previous delegation of duties to the Engineer's Representative named above (*or as appropriate*)/ *revokes and supersedes/ is in addition to the delegation dated [.....]/*

Signed [.....] (Engineer)

Works/Section to which this notice relates [.....]
[.....]

Date [.....]

7. Amendments to the MF/1 Form of Agreement

Signing the Form of Agreement

Note. Clause 5 of the Form of Agreement, referred to below, was introduced in supplement S2-MF/1 in April 1998.

Delete the wording after Clause 5 on Page 65 of MF/1 (rev 3) and replace with the following:

Either (a)

IN WITNESS whereof the parties hereto have caused this Agreement to be entered into in the manner required by their respective constitutions and the laws of their respective countries.

Signed by [... (name) }] (Signature)
for and on behalf of the Purchaser }] (Title)

Signed by [... (name) }] (Signature)
for and on behalf of the Contractor }] (Title)

Or, (b)

if the Agreement is to be executed as a deed,

IN WITNESS whereof the parties have executed and delivered this Agreement as a deed on the date above written.

EXECUTED AND DELIVERED as a deed by
[.....] PLC/LTD (Contractor) }
in the presence of:

Director [.....] (Signature)

Director/Secretary [.....] (Signature)

EXECUTED AND DELIVERED as a deed by
[.....] PLC/LTD (Purchaser) }
in the presence of:

Director [.....] (Signature)

Director/Secretary [.....] (Signature)

(ii) Supplements to the Commentary on MF/1

(a) S1-MF/1(COM) (Discontinued)

Note: This Supplement was discontinued in September 2001, its content having been integrated into the 2001 Edition of the Commentary on MF/1. Prior to integration, the amendments reproduced below were made.

P3, L34 *add a full stop after writing and delete since a*
L35 *delete all*

P4, L20/21/22 *delete In due course onwards.*

P5 *change all telephone numbers of the form +44 (0)171-NNN NNNN*
to telephone numbers of the form + 44 (0)20-7NNN NNNN

delete addresses 1, 5 & 6 and edit notes accordingly. (These addresses are provided elsewhere in the 2001 Commentary.)

P6, L6 *change 21345 to 26060*
L27 *delete sentence starting Their main ...*

S1–MF/1(COM)

SUPPLEMENT No. 1

TO

THE COMMENTARY

ON

MODEL FORM OF GENERAL CONDITIONS OF CONTRACT, MF/1

(a Commentary on MF/1 Supplement S2–MF/1)

CONTENTS

1. Foreword
2. Historical note
3. The UK Construction (Design and Management) Regulations 1994
4. Amendments to MF/1 (rev 3) relating to provisions for arbitration
5. Other amendments to the Commentary
6. Useful addresses / sources of information

Published for the Joint IMechE / IEE Committee on Model Forms of General Conditions of Contract
by the Institution of Electrical Engineers, LONDON © 1998.

1. Foreword

This supplement should be associated with the Commentary on MF/1. When used with the 1995 reprint of the Commentary, (ISBN 0–85296–857–4), S1–MF/1(COM) will provide users with insight into the changes to MF/1 that were introduced by supplement S2–MF/1. Exceptionally, sections 3 and 5 below deal with matters that are not included in S2–MF/1.

2. Historical note

This first supplement to the Commentary on MF/1 was introduced in April 1998 to accompany the supplement to MF/1 (rev 3) general conditions of contract labelled S2–MF/1.

3. The Construction (Design and Management) Regulations 1994

It was not found necessary to include a specific provision in the MF/1 Conditions as a consequence of the introduction in the UK in January 1995 of the Construction (Design and Management) Regulations 1994. The following note explains why.

A Note on the Construction (Design and Management) Regulations 1994

In most cases the construction of the Works in the United Kingdom will be subject to the above Regulations (“the CDM Regulations”). The CDM Regulations require the Purchaser to appoint a “planning supervisor” and a “principal contractor”. The planning supervisor is responsible for ensuring that all those responsible for the design of any part of the Works allow in their design for health and safety risks both in construction and operation. The principal contractor is responsible for ensuring the development of the “health and safety plan” for the construction work on Site.

Changes requested by the planning supervisor or by the principal contractor for the purposes of the CDM Regulations could involve the Contractor or his Sub-Contractors in extra Cost. MF/1 will not allow the possibility of recovery of such extra Cost unless arising from a variation order (which can only be issued by the Engineer) or an Engineer’s instruction or decision under the Contract. In essence, MF/1 provides for the Engineer to be the sole channel of communication between Purchaser and Contractor for the purposes of the Contract.

There is thus no role within the administration of the Contract for the planning supervisor or the principal contractor of the CDM Regulations. This in no way means that the parties should not observe the requirements of the CDM Regulations – they must, of course, do so and the Contractor will be deemed to have allowed in the Tender for the cost of complying with the regulations. Nevertheless, if compliance with the CDM Regulations necessitates a variation of the Works or the giving of instructions to the Contractor these must come from the Engineer and no one else.

4. Amendments to MF/1 (rev 3) relating to provisions for arbitration

The following changes should be made to the 1995 reprint of the Commentary on MF/1 – see page 33 of the Commentary.

Sub-Clause 52.1 (Notice of Arbitration). Delete the last sentence of the existing comment and replace by:

Under English law it is important to ensure that arbitration agreements are in writing since a mere reference to general conditions containing an arbitration provision may not be sufficient. If copies of the general conditions are not referred to in and bound into the contract documents but merely sought to be incorporated by reference, users are advised to ensure that the MF/1 Form of Agreement which specifically refers to the incorporation of Clause 52 is used.

Add the following new comments:

52.3 Arbitrator’s Powers

Specific power needs to be granted to the arbitrator to enable him to substitute his own views on matters which would otherwise solely be within the Engineer’s discretion such as certificates or valuations. Specific power is also granted to the arbitrator to make interim awards. This specific power makes clear that the granting of interim relief is not restricted to the courts.

For Scots law contracts the amendment to this sub-clause suggested in the Special Conditions gives the arbiter the necessary express power to assess damages which he would not otherwise have.

52.4 Joinder

This clause is the counterpart to Sub-Clause 19.3 of the Form of Sub-Contract. It is clearly desirable that if, in essence, a dispute between the Purchaser and the Contractor is in whole or in part dependent on the resolution of a related dispute between the Contractor and the Sub-Contractor that such matters should be determined at the same time in the same proceedings.

For Scots law contracts the amendments to this sub-clause suggested in the Special Conditions are purely a matter of terminology.

52.5 Arbitration Rules

MF/1 does not lay down any particular rules for the conduct of the arbitration such as those published by the International Chamber of Commerce (ICC) or the Chartered Institute of Arbitrators (CI Arb) and, accordingly, unless there is some provision in the Special Conditions requiring arbitration to be conducted under the specific arbitration rules of a particular body, any arbitration will need to be conducted in accordance with the Arbitration Act 1996. Where MF/1 is used for overseas contracts it may be appropriate to adopt either the Rules of Conciliation and Arbitration of the ICC or the UNCITRAL Arbitration Rules. In such circumstances, appropriate advice on the possible amendment of Sub-Clause 52.1 (Notice of Arbitration) should be taken. For contracts under English law the Construction Industry Model Arbitration Rules (CIMAR) may be appropriate. In due course it is anticipated that CIMAR will be applied automatically when either of the institutions are requested to appoint the arbitrator unless the parties have specifically agreed other rules.

52.6 Consent to Registration

(See the suggestions for Clause 52 Special Conditions under Scots law.) This sub-clause makes the arbiter's decision more readily enforceable without recourse to the courts since, in Scotland, an arbiter has no jurisdiction to enforce his award.

Clause 54.1 (Applicable Law). In line 3, delete "Sub-Clause 52.1 (Notice of Arbitration)" and replace by "Clause 52 (Disputes and Arbitration)".

5. Other amendments to the Commentary

The following changes should be made to the Commentary.

Sub-Clauses 5.4 (Provisional Sums) and 5.5, 5.6 (Prime Cost Items). See page 7 of the Commentary.

Add the following after the first sentence of the comment.

The expression "prime cost item" is used in the Conditions to describe bought-in items of Plant or services which have been obtained from a supplier (who may be named in the Contract, or nominated by or otherwise approved by the Engineer) for incorporation into the Works by the Contractor. Payment is made at the net cost to the Contractor, the "prime cost" (normally supported by the supplier's invoice) plus the agreed Contractor's margin which must be nominated in the Appendix to the Contract. It is normal to define in the Contract the Plant and services which will be paid for on this basis.

Clause 34 (Delay). See page 20 of the Commentary. Delete the first sentence of the comment and replace by:

The general practice of the electrical and mechanical engineering plant industry of offering liquidated damages –by reference to a percentage of the Contract Value of those parts of the Works which cannot be put to their intended use– for each week of delay up to a maximum is maintained.

6. Useful addresses / sources of information

Publications of the bodies mentioned in MF/1 or the MF/1 Commentary can be obtained from the following sources.

1. Association of Consulting Engineers
Alliance House
12 Caxton Street
LONDON United Kingdom
SW1H 0QL
Tel: +44 (0)171 222 6557 Note 1
Fax: +44 (0)171 222 0750
E-mail: consult@acenet.co.uk
2. Chartered Institute of Arbitrators
International Arbitration Centre
24 Angel Gate, City Road
LONDON United Kingdom
EC1V 2RS
Tel: +44 (0)171 837 4483 Note 2
Fax: +44 (0)171 837 4185
E-mail: 71411.2735@compuserve.com
3. Construction Industry Model
Arbitration Rules (CIMAR)
c/o the Honorary Secretary
The Society of Construction Arbitrators
Forty One, Rowsham Dell
Giffard Park, MILTON KEYNES
United Kingdom MK14 5JS
Tel: +44 (0)1908 618845 Note 3
Fax: +44 (0)1908 216594
4. ICC United Kingdom
International Chamber of Commerce
14-15 Belgrave Square
LONDON United Kingdom
SW1X 8PS
Tel: +44 (0)171 823 2811 Note 4
Fax: +44 (0)171 235 5447
E-mail: 106142.2273@compuserve.com
5. IEE Publication Sales
PO Box 96
STEVENAGE United Kingdom
SG1 2SD
Tel: +44 (0)1438 767328 Note 5
Fax: +44 (0)1438 742792
E-mail: sales@iee.org.uk
6. IMechE Publications Sales
Northgate Avenue
BURY ST. EDMUNDS
United Kingdom IP32 6BW
Tel: +44 (0)1284 724384 Note 5
Fax: +44 (0)1284 718692
E-mail: sales@imeche.org.uk
7. Joint IMechE/ IEE Model Forms
Committee Secretary
Technical Regulations Department
Institution of Electrical Engineers
Savoy Place
LONDON United Kingdom
WC2R 0BL
Tel: +44 (0)1438 767 656 Note 6
Fax: +44 (0)1438 767 386
E-mail: technical@iee.org.uk
8. Law Society of Scotland
26 Drumshaugh Gardens
EDINBURGH United Kingdom
EH3 7YR
Tel: +44 (0)131 226 7411 Note 2
Fax: +44 (0)131 225 2934
E-mail: lawscot@lawscot.org.uk
9. London Court of International
Arbitration
Hulton House, 6th Floor
161-166 Fleet Street
LONDON United Kingdom
EC4A 2DY
Tel: +44 (0)171 936 3530 Note 7
Fax: +44 (0)171 936 3533
E-mail: lcia@lcia-arbitration.com
10. Scottish Council for International
Arbitration
Tel: +44 (0)131 220 4776 Note 8
Fax: +44 (0)131 226 2501

c/o MacRoberts, 27 Melville Street
EDINBURGH United Kingdom
EH3 7JF

11. UNCITRAL
(United Nations Commission on
International Trade Law)
Vienna International Centre
PO Box 500
A-1400 VIENNA, Austria

Tel: +43 1 21345 4060/61 Note 9
Fax: +43 1 21345 5813
E-mail: uncitral@unov.un.or.at

NOTES

- 1 For the purchase of copies of Joint IMechE / IEE Model Forms MF/1 and MF/2 and their associated Commentaries.
- 2 For the purchase of copies of their Model Arbitration Rules.
- 3 Published by the Society of Construction Arbitrators and particularly suited for use with MF/1 and MF/2 on contracts subject to English law.
- 4 ICC publications are available for purchase from ICC (UK).
- 5 For the purchase of copies of all Joint IMechE / IEE "MF" Series Model Forms and their associated Commentaries.
- 6 For general enquiries on the "MF" Series of Model Forms and their associated Commentaries (but not for sales or for interpretations of their provisions).
- 7 The LCIA can provide copies of a range of Model Arbitration Rules and also full facilities for hearings.
- 8 The SCIA can provide copies of the ICC Arbitration Rules (Edinburgh) and the UNCITRAL Arbitration Rules (Scotland).
- 9 UNCITRAL can provide copies of their arbitration documents, but do not give practical advice. Their main number, 21345, is expected to be changed to 26060 in 1998.

(b) **S2-MF/1(COM)** (Discontinued)

Note: This Supplement was discontinued in September 2001, its content having been integrated into the 2001 Edition of the Commentary on MF/1. Prior to integration, the amendments noted below were made.

P3, L3 (above)	<i>heading amended editorially</i>
L3	<i>delete</i> England and Wales or Scotland <i>and replace by</i> the United Kingdom
L9/10	<i>delete first sentence and reword second sentence.</i>
L12	<i>add <u>at any time</u> before</i> (in
L16	<i>amplify the sentence starting</i> Although the Act
L17/18	<i>delete sentence starting</i> This Order
L26	<i>delete</i> (Remedies on failure are <i>and replace by</i> would constitute

S2-MF/1(COM)

SUPPLEMENT No. 2

TO

THE COMMENTARY

ON

MODEL FORM OF GENERAL CONDITIONS OF CONTRACT, MF/1

(a Commentary on S3-MF/1)

CONTENTS

1. Foreword
2. Historical note
3. Amendments to MF/1 (rev 3) relating to the Housing Grants, Construction and Regeneration Act 1996
4. The UK Late Payment of Commercial Debts (Interest) Act 1998
5. **Additional documents**
 - (i) Form of Performance Bond
 - (ii) Form of Defects Liability Demand Guarantee for use with MF/1

Published for the Joint IMechE / IEE Committee on Model Forms of General Conditions of Contract
by the Institution of Electrical Engineers, LONDON © 1999

1. Foreword

This supplement should be associated with the Commentary on MF/1. When used with the 1995 reprint of the Commentary on MF/1, (ISBN 0-85296-857-4), S2-MF/1(COM) will provide users with insight into the changes to MF/1 that were introduced by supplement S3-MF/1. Exceptionally, section 4 below deals with a matter not included in S3-MF/1.

Note. The 1995 reprint of the Commentary on MF/1 was also modified in April 1998 by supplement S1-MF/1 (COM).

2. Historical note

This second supplement to the Commentary on MF/1 was introduced in March 1999 to accompany the supplement to MF/1 (rev 3) general conditions of contract labelled S3-MF/1.

3. Amendments to MF/1 (rev 3) relating to the Housing Grants, Construction and Regeneration Act 1996

The following additions should be made to the 1995 reprint of the Commentary on MF/1 directly above the heading “FORM OF SUB-CONTRACT” – see page 35 of the Commentary.

ADDITIONAL SPECIAL CONDITIONS FOR USE WHERE THE CONTRACT IS SUBJECT TO THE HOUSING GRANTS, CONSTRUCTION AND REGENERATION ACT 1996 (“the Act”)

Where a contract let on MF/1 is to be performed in England and Wales or Scotland, it is likely that such a contract being one for carrying out “construction operations” as defined in the Act will be liable to the provisions of the Act. Certain types of contract normally let on MF/1 are excluded from the Act’s operation, in particular contracts which are to be performed on a site where the primary activity is nuclear processing, power generation or water or effluent treatment or the production, transmission, processing or bulk storage (but not warehousing) of chemicals, pharmaceuticals, oil, gas, steel or food and drink.

Contracts which are for supply only are not normally subject to the Act but most contracts involving installation will be. However, the applicability of the Act is far from certain and legal advice may be needed.

The Act, inter alia, gives the parties to “Construction Contracts” the right to have their disputes adjudicated (in addition to any provisions in the contract for disputes to be determined by the courts or in arbitration), prohibits conditional payment provisions (eg. “pay when paid” clauses) and makes certain other provisions in relation to payment. If the relevant provisions required by the Act are not included in a construction contract then a statutory scheme implies the appropriate provision into the contract (eg. under the Scheme for Construction Contracts (England and Wales)). Although the Act does not apply to Northern Ireland it is extended to Northern Ireland by the Construction Contract (Northern Ireland) Order 1997. This Order and its statutory scheme are expected to come into force on 1 June 1999.

As MF/1 is a model form of contract designed for international use and the Act only applies to contracts to be performed in the United Kingdom, provisions relating to the Act’s requirements are dealt with by way of suggestions for Special Conditions.

4. The Late Payment of Commercial Debts (Interest) Act 1998

The following addition should be made to the comment on Sub-Clause 40.2 (Delayed Payment) – see page 26 of the Commentary.

The statutory rate of interest under the Late Payment of Commercial Debts (Interest) Act 1998 is not adopted since it is considered that the right to stop work and/or to terminate the Contract under Sub-Clause 40.3 (Remedies on Failure to Certify or Make Payment) are “substantial remedies” for the purposes of that Act.

5. Additional documents

Replace the comments titled “Additional Documents” with the comments given below. See page 36 of the Commentary.

Included within MF/1 are a Form of Tender, a Form of Agreement, a Form of Performance Bond, a Form of Defects Liability Demand Guarantee, a Form of Variation Order, a Form of Notice of Delegation of Authority and a Form of Taking-Over Certificate, all of which have been prepared for use with MF/1. It is considered that the Form of Tender, the Form of Agreement, the Form of Variation Order, the Form of Notice of Delegation of Authority and the Form of Taking-Over Certificate are self-explanatory.

The Form of Performance Bond and the Form of Defects Liability Demand Guarantee are commented on in paragraphs (i) & (ii) below.

(i) Form of Performance Bond

The Model Form of Performance Bond is a conditional bond and is not payable on the first simple demand of the Purchaser. The Model Form is based on that published by the Association of British Insurers but incorporates by reference the Uniform Rules for Contract Bonds published by the International Chamber of Commerce (ICC) (Publication No. 524). Those rules provide a clear and concise scheme to regulate the nature of the obligations arising under the Bond and the claims procedure and are vital to a proper understanding of the use of the Bond. The Purchaser's right to claim under the Bond arises in the event of default by the Contractor which is specifically stated to include the termination of the Contract by the Purchaser as a consequence of the Contractor's insolvency – see Clause 50.1(a). The Purchaser can, however, only claim once the damages he has suffered in consequence have been established and ascertained (by agreement or after court or arbitration proceedings) or determined under Sub-Clause 49.3 (Payment After Termination). The Purchaser must when claiming give credit for all sums which are or may become due to the Contractor.

It may take some time to establish the Purchaser's loss and, accordingly, the Bond will not expire until three months after the date of issue of the final certificate or until three months after any proceedings (in arbitration or through the courts) have been finally settled. The parties are free to agree a different Expiry Date but if they do so they may find that the Bond expires and becomes unenforceable before the loss suffered by the Purchaser can be ascertained.

The ICC rules permit the Guarantor in the event of default to perform the Contractor's obligations under the Contract. It is not thought that this Bond is one which will be attractive to Purchasers except those used to the operation of the system of surety bonds common in the United States of America. Clause 1 of the Performance Bond accordingly excludes this right of the Guarantor. Copies of the ICC Uniform Rules are available from ICC United Kingdom.

(ii) Form of Defects Liability Demand Guarantee

A Defects Liability Demand Guarantee for use with the suggested terms of payment set out in the aide mémoire to the preparation of the Special Conditions and applicable to contracts let on MF/1 Conditions has been provided. The Defects Liability Demand Guarantee is payable on the demand of the Purchaser since the sole purpose of the Guarantee is to secure the performance by the Contractor of his obligations in relation to defects and damage caused by defects in circumstances where the Purchaser has agreed to release retentions prior to the issue of the final certificate of payment. The Defects Liability Demand Guarantee incorporates by reference the Uniform Rules for Demand Guarantees published by the International Chamber of Commerce (Publication No. 458). Those rules provide a clear and concise scheme to regulate the nature of the obligations arising under the Guarantee and the claims procedure is vital to a proper understanding of the use of the Guarantee. Unlike the Performance Bond the Purchaser is not required to prove his loss. He must, however, provide an authenticated written demand and a certificate of the circumstances which have given rise to the right to claim. The expiry of demand guarantees is always an important matter and it should be noted that the Guarantee expires when the Guarantor has been notified of the issue of the final certificate of payment under the Contract. The Purchaser is required to return the Guarantee to the Guarantor on expiry. If the parties so wish, an earlier expiry can be chosen, eg. a specific calendar date under the provisions of Article 22 of the ICC Uniform Rules.

The parties should familiarise themselves with the ICC Uniform Rules before utilising a guarantee in these terms.

PART 4B

AMENDMENT SLIPS

Note: Only Amendment Slips associated with current or superseded publications are included here –(any Amendments Slips to obsolete publications being omitted).

Contents

- (i) Amendment Slips to Model Form MF/1
 - [\(a\) MF/1, A/S1 \(Discontinued\)](#)

- (ii) Amendment Slips to Model Form MF/2
 - [\(a\) MF/2, A/S1 \(Current\)](#)

- (iii) Amendment Slips to Model Form MF/3
 - [\(a\) MF/3, A/S1 \(Discontinued\)](#)
 - [\(b\) MF/3, A/S2 \(Discontinued\)](#)

(i, a) MF/1, A/S1 (Discontinued)

Note: This Amendment Slip was discontinued in December 2000, its content having been integrated into MF/1 (rev 4). Prior to integration, the title of the suggested addition was amended editorially.

AMENDMENT SLIP No.1

TO

MODEL FORM OF GENERAL CONDITIONS OF CONTRACT, MF/1

1. Foreword

This amendment slip provides recommended additional provisions for the Model Form MF/1 general conditions and the MF/1 Form of Sub-Contract to take account of the Contracts (Rights of Third Parties) Act 1999 ("the Act"). It is emphasised that these additional provisions are models only and should be adapted and supplemented, where necessary, to reflect particular intentions.

The reason for these suggested changes is because the Act provides that in certain circumstances third parties will be allowed to enforce contractual terms. Those circumstances are (i) if the contract expressly provides that a third party may do so or (ii) if a term purports to confer a benefit on a third party. The expression "purports to confer a benefit" is uncertain in meaning and potentially far-reaching. The following Special Conditions will prevent third parties unintentionally being allowed to enforce terms.

The provisions of the Act extend to England, Wales and Northern Ireland and so will apply only to contracts which are subject to the laws of these countries. The Act applies only to contracts entered into after 11th May 2000.

2. Historical note

This first amendment slip to MF/1 was introduced in July 2000 and was thereafter included with copies of MF/1 (rev 3).

3. Amendments to MF/1 relating to the Contracts (Rights of Third Parties) Act 1999

3.1 The following new additional suggested Special Condition should be added after page 54 of MF/1 (rev 3).

cont'd over

ADDITIONAL SPECIAL CONDITION FOR USE WHERE THE CONTRACT IS SUBJECT TO THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

Foreword

If it is desired that third parties should not unintentionally have a benefit conferred upon them and become entitled to enforce terms of the Contract, the following suggested additional Sub-Clause to the general conditions may be used.

Assignment and Sub-Contracting

3.3 Unless otherwise provided, the Purchaser and the Contractor do not intend any term of the Contract to be enforceable by a party other than themselves.

(Also, amend Clause 3 heading so that it reads **Assignment, Sub-Contracting and Third Party Benefits.**)

3.2 The following new suggested Sub-Clause should be added to the Sub-Contract at page 56.

2.3 The Contractor and the Sub-Contractor do not intend any term of the Sub-Contract to be enforceable by a party other than themselves.

(ii, a) MF/2, A/S1 (Current)

AMENDMENT SLIP No.1
TO
MODEL FORM OF GENERAL CONDITIONS OF CONTRACT, MF/2

1. Foreword

This amendment slip provides recommended additional provisions for the Model Form MF/2 general conditions, the MF/2 Form of Sub-Contract and the MF/2 Form of Supervision Contract to take account of the Contracts (Rights of Third Parties) Act 1999 ("the Act"). It is emphasised that these additional provisions are models only and should be adapted and supplemented, where necessary, to reflect particular intentions.

The reason for these suggested changes is because the Act provides that in certain circumstances third parties will be allowed to enforce contractual terms. Those circumstances are (i) if the contract expressly provides that a third party may do so or (ii) if a term purports to confer a benefit on a third party. The expression "purports to confer a benefit" is uncertain in meaning and potentially far-reaching. The following Special Conditions will prevent third parties unintentionally being allowed to enforce terms.

The provisions of the Act extend to England, Wales and Northern Ireland and so will apply only to contracts which are subject to the laws of these countries. The Act applies only to contracts entered into after 11th May 2000.

2. Historical note

This first amendment slip to MF/2 was introduced in July 2000 and was thereafter included with copies of MF/2 (rev 1).

3. Amendments to MF/2 relating to the Contracts (Rights of Third Parties) Act 1999

3.1 The following new additional suggested Special Condition should be added after page 32 of MF/2 (rev 1).

cont'd over

ADDITIONAL SPECIAL CONDITION FOR USE WHERE THE CONTRACT IS SUBJECT TO THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

Foreword

If it is desired that third parties should not unintentionally have a benefit conferred upon them and become entitled to enforce terms of the Contract, the following suggested additional sub-clause to the general conditions may be used.

Assignment and sub-contracting

3.3 Unless otherwise provided, the Purchaser and the Contractor do not intend any term of the Contract to be enforceable by a party other than themselves.

(Also, amend clause 3 heading so that it reads **Assignment, sub-contracting and third party benefits.**)

3.2 The following new suggested sub-clause should be added to the Sub-Contract at page 34.

2.3 The Contractor and the Sub-Contractor do not intend any term of the Sub-Contract to be enforceable by a party other than themselves.

3.3 The following new suggested clause should be added to the Supervision Contract at page 56.

Third party benefits

26.1 The Purchaser and the Contractor do not intend any term of the Supervision Contract to be enforceable by a party other than themselves.

(iii, a) MF/3, A/S1 (Discontinued)

Note: This Amendment Slip was discontinued in December 2001, its content having been integrated into MF/3 (rev 1).

AMENDMENT SLIP No.1
TO
MODEL FORM OF GENERAL CONDITIONS OF CONTRACT, MF/3

1. Foreword

This amendment slip gives details of a recommended change to the MF/3 Form of Agreement. It applies to the version of the Form which was included with the 1993 Edition of MF/3.

2. Historical note

This first amendment slip to MF/3 was introduced in March 1998 and was thereafter included with copies of the 1993 Edition of MF/3.

3. Amendments to MF/3 relating to provisions for arbitration

Under English law it is important to ensure that arbitration agreements are in writing since a mere reference to General Conditions containing an arbitration provision may not be sufficient. If copies of the General Conditions are not referred to in and bound into the contract documents but merely sought to be incorporated by reference, users are advised to ensure that the MF/3 Form of Agreement is used, when amended as in (i) below to specifically refer to the incorporation of Clause 18 (Arbitration).

- (i) The following change should be made to the MF/3 Form of Agreement – see page 14 of MF/3.

Add a fifth clause, worded as follows:

5. If any question, dispute or difference shall arise between the Purchaser and the Vendor in relation to the Contract, which cannot be settled amicably, it shall be referred to arbitration in accordance with Clause 18 (Arbitration) of the General Conditions.

(iii, b) MF/3, A/S2 (Discontinued)

Note: This Amendment Slip was discontinued in December 2001, its content having been integrated into MF/3 (rev 1). Prior to integration sub-clause 1.3 was redesignated sub-clause 1.4 (Third party benefits).

AMENDMENT SLIP No.2

TO

MODEL FORM OF GENERAL CONDITIONS OF CONTRACT, MF/3

1. Foreword

This amendment slip provides a recommended additional provision for the Model Form MF/3 General Conditions to take account of the Contracts (Rights of Third Parties) Act 1999 (“the Act”). The provisions of the Act extend to England, Wales and Northern Ireland. The Act applies only to contracts entered into after 11th May 2000.

2. Historical note

This second amendment slip to MF/3 was introduced in July 2000 and was thereafter included with copies of the 1993 Edition of MF/3.

3. Amendments to MF/3 relating to the Contracts (Rights of Third Parties) Act 1999 (“the Act”)

The Act provides that in certain circumstances third parties will be allowed to enforce contractual terms. Those circumstances are (i) if the contract expressly provides that a third party may do so or (ii) if a term purports to confer a benefit on a third party. The expression “purports to confer a benefit” is uncertain in meaning and potentially far-reaching. The following new Sub-Clause 1.3 should be added to the General Conditions on page 1 and will prevent third parties unintentionally being allowed to enforce terms.

Third Party Benefits

1.3 The Vendor and the Purchaser do not intend any term of the Contract to be enforceable by a party other than themselves.

PART 4C

AMENDMENTS LISTS

Note: Only Amendments Lists for current or superseded publications are included here –(any Amendments Lists to obsolete publications being omitted).

Contents

[\(i\) MF/1, A/L0 \(Superseded\)](#)

[\(ii\) MF/1, A/L1 \(Superseded\)](#)

[\(iii\) MF/1, A/L2 \(Superseded\)](#)

[\(iv\) MF/1, A/L3 \(Current\)](#)

[\(v\) MF/2, A/L1 \(Current\)](#)

[\(vi\) MF/3, A/L1 \(Current\)](#)

(i) **MF/1, A/L0** (Superseded)

**THE INSTITUTION OF ELECTRICAL ENGINEERS
and
THE INSTITUTION OF MECHANICAL ENGINEERS**

**Model Form of General Conditions of Contract, MF/1
Amendments List, 1989.**

Published for the Joint IMechE / IEE Committee on Model Forms of General Conditions of Contract.

MF/1 Amendments Lists give details of the changes made to the text of Model Form MF/1, as described in paragraph 1 below and as listed in section A of this document. These Amendments Lists are revised periodically (whenever changes are warranted) with any later issues then superseding in full the previous issues.

1. Changes that were made to the then-current version of Model Form MF/1 when the newer version of Model Form MF/1 was produced.

This issue of the MF/1 Amendments List gives the changes that caused the version of Model Form MF/1 known as, and identifiable by reference to its front cover as;

1988 Edition

to be revised to become the version of Model Form MF/1 known as, and identifiable by reference to its front cover as;

1988 Edition

(Reprinted 1989 – with Editorial amendments)

NB. The information presented overleaf in this issue of the MF/1 Amendments List reproduces information that was published inside the front cover of the 1989 version of Model Form MF/1.

“MF/1, A/L0” was produced subsequently in order to have the amendments information (exactly as previously published) available to users of Model Form MF/1 in the form of a stand-alone insert.

SECTION A

(i) Users of the information in this section should have the version of Model Form MF/1 that is under revision; viz. the earlier of the two versions of Model Form MF/1 dealt with in **this** issue of the MF/1 Amendments List. See the definitions above – in paragraph 1 on the title page.

LIST OF AMENDMENTS

Inside front cover *add notice:* This 1989 reprint incorporates the following editorial amendments to remove inconsistencies and typographical errors as follows:-

(Line references are to the 1988 Edition)

- Sub-Clause 1.1.r** In line 21 “clause” corrected to “Clause”.
- Sub-Clause 5.1** Delete superfluous “and” at the beginning of line 3.
- Sub-Clause 6.2** In line 9 in the second paragraph “Where the Clause” corrected to “Where this Sub-Clause”.
- Sub-Clause 25.4** In line 5 “Works of Plant” corrected to read “Works or Plant”.
- Sub-Clause 30.1** In line 25 revise “Section of part” to read “Section or part”.
- Sub-Clause 31.2** Side heading revised to read “Tests during Defects Liability Period”.
- Sub-Clause 33.3** In lines 26 to 28 revise the last sentence of the clause to read:- “If compliance with any such instruction shall cause the Contractor to incur extra Costs and the Contractor is entitled to an extension of time under Sub-Clause 33.1 the amount of such extra Costs shall be added to the Contract Price”.
- Sub-Clause 35.5** Renumbered 35.4 and the reference to Sub-Clause 35.3 in line 3 changed to “Sub-Clause 35.5”.
- Sub-Clause 36.3** In line 46 “take” revised to read “taken”.
- Sub-Clause 36.10** In line 48 delete the words “the defect”.
- Sub-Clause 40.3** In paragraph (a) replace “expenses of” by “additional Cost to” and delete “, together with a reasonable allowance for profit”.
- Sub-Clause 41.2** Layout of Clause revised to tabular form and reference to Sub-Clause 40.3 added, and in line 28 “and” corrected to “or”.
- Sub-Clause 43.5** In the side heading “Care or Works” corrected to “Care of Works”.
- Sub-Clause 46.1** Main heading “Force Majeure” inserted.
- Sub-Clause 47.2** In line 25, addition of the words at the end of the clause:- “and for which the Contractor is liable under Sub-Clause 43.5 (Injury to Persons and Damage after responsibility for Care of Works passes to Purchaser).”
- Sub-Clause 51.3** Side heading corrected to read “Payment on termination due to Purchaser’s Default.”
- Special Conditions** Reference to Clause 1.1.a and the Purchaser added. Correct Clause reference for the Engineer added.
- Sub-Clause 8.1** Side heading corrected to “Performance Bond or Guarantee”.
- Form of Sub-Contract**
- Clause 1** In definition of “Sub-Contract Price” in line 13 “Contractor” corrected to “Sub-Contractor”.

(ii) MF/1, A/L1 (Superseded)

THE INSTITUTION OF ELECTRICAL ENGINEERS
and
THE INSTITUTION OF MECHANICAL ENGINEERS

Model Form MF/1 Amendments List April 1993

Published for the Joint IMechE / IEE Committee on Model Forms of General Conditions of Contract.

MF/1 **Amendments Lists** present the detail of two categories of change to the text of MF/1, as described in paragraphs 1&2 below and as listed in sections A & B of this document. All Model Form **Amendments Lists** are revised periodically, if changes are warranted, with the later issues then superseding in full the previous issues. (See also 3 below).

1. Category 1: those changes that were made to the then-current version of MF/1 when the newer version of MF/1 was produced.

Thus **this** issue of the **Amendments List** gives the changes that caused the version of MF/1 known as, and identifiable by reference to its front cover as;

1988 Edition
(Reprinted 1989 – with Editorial Amendments)

to be revised to become the version of MF/1 known as, and identifiable by reference to its front cover as;

1988 Edition
(Reprinted 1992 – with 1989 and 1992 Editorial Amendments)

The information presented below in section A of this issue of the MF/1 **Amendments List** fulfils the offer of making available such information, made inside the front cover of the current (*i.e.* the 1992) version of MF/1.

2. Category 2: those errors affecting the reading of the Conditions or of the Forms (*viz.* pages 1 – 61 only) that exist in the latest version of MF/1 that have been brought to the attention of the IEE Secretariat and that may require corrections to be made to any later version of MF/1. See section B below for this information.

3. The IMechE / IEE Model Forms Committee Secretary [Savoy Place, London, telephone: 071 344 5403] will be pleased to confirm the date of the current issue of this, *i.e.* the Model Form MF/1, **Amendments List** and also to receive observations from users of MF/1 relating to any matters regarding MF/1.

N.B. The IEE Secretariat regrets that, of necessity, it is unable to provide enquirers with *interpretations* of the contents of the Model Forms that it publishes.

It can, however, arrange for the appropriate Drafting Authority to consider novel issues raised with a view to their possible coverage by any future revisions of MF/1.

SECTION A

It is assumed that the user of the information in this section is in possession of the version of MF/1 under revision; *viz.* the earlier of the two versions of MF/1 dealt with in this issue of the **Amendments List**. See definitions in paragraph 1 above.

All page numbers, line numbers, etc. used below are identical to those used in the earlier version of MF/1 even if the number, etc., itself, is the subject matter of the revision.

PAGE – BY – PAGE LIST OF AMENDMENTS

(‘Page’ and ‘Line’ are abbreviated to ‘P’ and ‘L’ respectively below)

Inside front cover	<i>All information relating to the 1989 editorial amendments deleted and replaced by:-</i> This 1992 reprint incorporates Editorial Amendments to remove inconsistencies and typographical errors. A list of the amendments is available from the IEE at Savoy Place.
Title Page	<i>Edition qualifier</i> (Reprinted 1989 with Editorial Amendments) <i>replaced by</i> (Reprinted 1992 – with 1989 and 1992 Editorial Amendments)
Pii	<u>Historical Note</u> 1992 MF/1 Reprint incorporating Editorial Amendments <i>added</i>
P2 L1	Completion of <i>corrected to</i> completion of
P3 L2, L4 L9	Calendar <i>corrected to</i> calendar in these Conditions <i>corrected to</i> in the Conditions
P9 L40	receipt they <i>corrected to</i> receipt, they
P13 L36	Sub-contractor <i>corrected to</i> Sub-Contractor
P14 L5 L6	in attending or <i>deleted</i> and the Engineer’s attendance <i>inserted after</i> inspection
P15 L17 L23	Section <i>deleted and replaced by</i> part of the Works of part of the works <i>deleted</i>
P18 L6	Certificate <i>corrected to</i> certificate
P19 L1	Completion <i>corrected to</i> completion
P21 L27	Part <i>corrected to</i> part
P22 L16	works <i>corrected to</i> Works
P24 L27	Interim Certificate of Payment <i>corrected to</i> interim certificate of payment
P25 L44	Clause <i>corrected to</i> Sub-Clause
P26 L11 L31 L45	Certificate <i>corrected to</i> certificate Clearing Banks <i>corrected to</i> clearing banks the Works <i>corrected to</i> work
P27 L40	Country <i>corrected to</i> country
P29 L5 L14	Arbitration <i>corrected to</i> arbitration Clause <i>corrected to</i> Sub-Clause
P30 L8, L17, L24	these <i>corrected to</i> the

- P31 L24 obligation *corrected to* obligations
- P32 L8 geater *corrected to* greater
- P33 L10 Insurance Policies *corrected to* insurance policies
 L20 these *corrected to* the
 L42 works *corrected to* Works
- P34 L15 as of the *corrected to* as at the
- P36 L7 these *corrected to* the
- P47 Recital B, L1 Plant *corrected to* plant
 L2 Second *corrected to* Third
- P48 L18 this *corrected to* the
- P49 L26 the time *corrected to* such time
- P50 L29, L33 Policy of Insurance *corrected to* policy of insurance
- P51 L4 such *deleted*
 L34 Corporation *corrected to* corporation
 L35 ,not being a member's voluntary winding up for the purposes of
 amalgamation or reconstruction *inserted after* up
 L38 and *corrected to* and/or
- P52 L8 works *corrected to* Works
 L28 Final Certificate *corrected to* final certificate
 L29 Payment *corrected to* payment
 L31 Arbitration *corrected to* arbitration
 L35 Arbitrator *corrected to* arbitrator

SECTION B

It is assumed that the user of this (current) **Amendments List** is in possession of the latest version of MF/1.

All page numbers, line numbers, etc. are identical to those used in the latest version of MF/1 even if the number, etc., itself, is the subject matter of the proposed revision.

PAGE – BY – PAGE LIST OF POTENTIAL AMENDMENTS

N.B. This listing may not be exhaustive

- P6 L31 *Change* Clause *to* Sub-Clause
- P8 L38 *Change* site *to* Site
- P13 L37 *Change* stores apparatus *to* stores, apparatus
- P19 L38 *Change* shall subject *to* shall, subject
- P22 L19 *Change* Tests shall *to* tests shall
 L39 *Change* Clause *to* Sub-Clause
- P27 L47 *Change* has *to* his
- P29 L9 *Change* and *to* or
 L37 *Change* from act *to* from any act

P34 L32 Change 50 to 50.1

P37 *(In six places)* Change CLAUSE to SUB-CLAUSE

P38 L6 Change Clause 6.2 to Sub-Clause 6.2
L19 Change Lifting Equipment to lifting equipment

P39 L5 Change Tests to tests
L7 Change Completion to completion
L9 Change Damages to damages
L13 Change to to of

P40 L4 Change Interim Certificates of Payment to interim certificates of payment
L42 Change Clause to Sub-Clause
L43 Change Interest to interest
L44 Change Third Party Insurance to third party insurance

P42 L27 Change Systems to System
L30 Change the Statement of Requirements to the statement of requirements
L36 Change 'The to 'the

P43 L21, L23 Change Systems to System
L30 Change time to Time
L35 Change Software shall to Bespoke Software shall
L36 Change hardware to Hardware
L41 Change certificate to Certificate

P44 L34 Change Final Certificate of Payment to final certificate of payment

P47 Recital A, L1 Change Contract to contract
L10 Change all Plant to all plant

P48 L7 Change this to the
L9 Change Clause to Sub-Clause
L18 Change where to were
L33 Change Clause to Sub-Clause

P49 L40 Change Clause to Sub-Clause

P51 L3 Change Contract to Contractor
L5 Change clause to Clause
L33 Change his to him or
L37 Change him to him or

P54 L25 Change tender to Tender (two places)
L27 Change tender to Tender

P58 L17, L22,
L30 Change Bond to bond
L31 Change Always to always
L37 Change Judgment.....Court to judgment.....court

(iii) MF/1, A/L2 (Superseded)

THE INSTITUTION OF ELECTRICAL ENGINEERS
and
THE INSTITUTION OF MECHANICAL ENGINEERS

Model Form of General Conditions of Contract, MF/1
Amendments List, April 1995.

Published for the Joint IMechE / IEE Committee on Model Forms of General Conditions of Contract.

MF/1 Amendments Lists give details of the changes made to the text of MF/1, as described in paragraph 1 below and as listed in section A of this document.

Model Forms Amendments Lists are revised periodically (when changes are warranted) with any later issues then superseding in full the previous issues. (See also 2 below.)

1. Those changes that were made to the then-current version of MF/1 when the newer version of MF/1 was produced.

This issue of the Amendments List gives the changes that caused the version of MF/1* known as, and identifiable by reference to its front cover as;

1988 Edition
(Reprinted 1992 – with 1989 and 1992 Editorial Amendments)

to be revised to become the version of MF/1 known as MF/1 (rev 3), and also identifiable by reference to its front cover as;

1988 Edition
(Reprinted 1995 – with 1989, 1992 and 1995 Amendments)

The information presented below in this issue of the MF/1 Amendments List fulfils the offer of making available such information, made inside the front cover of the current (*i.e.* the 1995) version of MF/1. Users should note that changes that solely affect the typographical design of the form or areas of the form such as the Contents, Index or Headings have not been included in the listing.

2. The IMechE/IEE Model Forms Committee Secretary, who may be contacted at Savoy Place, London, England (telephone: 0171-344 5403), will be pleased to confirm the date of the current issue of the Model Form MF/1 Amendments List and also to receive any observations from users relating to MF/1.

N.B. The IEE Secretariat regrets that, of necessity, it is unable to provide enquirers with *interpretations* of the contents of the model forms that it publishes.

It can, however, arrange for the appropriate drafting authority to consider any novel issues that might be raised by users with a view to their possible coverage in any future revisions of the form.

*(together with its 1993 supplement, S1-MF/1)

Published by The Institution of Electrical Engineers, LONDON, United Kingdom © 1995.

SECTION A

(i) Users of the information in this section should have the version of MF/1 (and any published supplements) that is/are under revision; viz. the earlier of the two versions of MF/1 dealt with in **this** issue of the Amendments List. See the definitions above – in paragraph 1 on the title page.

(ii) All page numbers, line numbers, etc. used in the listing below are identical to those used in the earlier version of MF/1 even if the number, etc., itself, is the subject matter of the revision.

PAGE – BY – PAGE LIST OF AMENDMENTS

(‘Page’ and ‘Line’ are abbreviated to ‘P’ and ‘L’ respectively below.)

Inside front cover *change Notice to:* In addition to the revisions mentioned in the 1995 Historical Note (see page ii), this 1995 reprint of MF/1 also incorporates editorial and other amendments to remove inconsistencies and literals. A list of the changes that were made is available from the IEE at Savoy Place. •

Title page *change recommended application to:* HOME OR OVERSEAS CONTRACTS FOR THE SUPPLY OF ELECTRICAL, ELECTRONIC OR MECHANICAL PLANT - WITH ERECTION • *change Edition qualifier to:* 1988 Edition (Reprinted 1995 – with 1989, 1992 and 1995 Amendments) •

Pii Historical Note
Extended to account for 1993 Supplement and 1995 (Revision 3) version of MF/1. •

P1 L10 change for any to for the execution of any • L11 delete in writing • L20 change ‘the Conditions’ to ‘Conditions’ and change General Conditions to general conditions • L24 change Specification to the Specification •

P2 L8 change date to date on which • L25 change The ‘Special to ‘Special • L25/26 change General Conditions specified to general conditions and such further conditions as may be specified • L28 change where to at which • L41 change to (Defects After Taking-Over) • L42 change Sub-Clause 45.1 to Clause 45 • L44 change Clause 46 to Sub-Clause 46.1 • L45 change General Conditions to general conditions •

P3 L2 change bb to cc • L3 change 7 to seven • L41 change Works to Contract • L43 change Contract to Conditions •

P4 L7 change the decision to any decision • L31 change rights to rights, • L42 change General Conditions to general conditions •

P5 L9 change available to available in writing to • L24 change this to the preceding Sub- • L25 change approved to approved in writing • L37 change Costs to Cost (*in two places*) • L42 change obligations to obligations under the Contract •

P6 L2 change Costs to Cost • L6 change Cost to such Cost • L9 change agreed to agreed, • L20/21 change General Conditions to general conditions • L23 change Cost to expense • L31 change Clause to Sub-Clause • L32 change Costs to Cost • L37 change Contract, to Contract) • L38 change other to other; •

P7 L26 change pay to pay or reimburse to the Contractor • L28 add In the event that the Purchaser shall fail to obtain such import permits or licences then the additional Cost reasonably incurred by the Contractor in consequence thereof shall be added to the Contract Price • L44 change shall to shall, •

P8 L7 change Plant is to Works are • L17 change Site) to Site), • L38 change site to Site • L43 change instructions to instructions and •

- P9 L14 *change* progress *to* progress under the Contract •
- P10 L1 *change* disapproves, *to* disapproves • L14 *change* Programme *to* Contract or in the Programme • L44 *change* Costs *to* costs •
- P11 L2 *change* Cost *to* cost • L3 *change* necessary *to* necessitated •
- P12 L52 *change* Costs *to* Cost •
- P13 L18 *change* indemnify *to* identify • L21 *change* premises *to* premises or elsewhere • L22 *delete* *to* be supplied under the Contract • L23 *change* other premises *to* premises, other than the Contractor's own, • L24 *delete* permission *and change* obtain *to* obtain permission • L33 *change* such *to* the • L35 *delete* all • L36 *delete* Contractor or of any Sub-Contractor, the *and replace* by The • L37 *change* stores *to* stores, • L39 *change* such *to* the •
- P14 L13 *replace* by progress of the whole or any part of the Works. •
- P15 L1 *change* Costs *to* Cost • L13 *change* by *to* by any of • L29/30 *change* Price. The *to* Price, provided that the *and change* Costs *to* Cost • L39 *change* If *to* Without prejudice to the Purchaser's rights under Sub-Clause 23.5 (Failure on Test or Inspection) if •
- P16 L2 *change* at his own expense, *to* , at his own expense • L4 *change* Cost *to* expense • L5 *change* Plant *to* work done, or Plant • L6 *change* Plant *to* Plant, • L12, L17 *change* these *to* the • L14/16 *replace* by The Engineer alone shall have the power until the whole of the Works have been taken over under Clause 29 (Taking-Over) to instruct the Contractor by notice to make any variations to the Works. • L22 *change* shall *to* shall, • L30 *change* determined *to* determined by the Engineer •
- P17 L17 *change* notify *to* notify to • L22 *change* shall *to* shall forthwith • L32 *change* Tests *to* Tests on Completion • L35 *change* Costs *to* Cost • L44 *change* and *to* and the Purchaser shall be entitled •
- P18 L8 *change* Certificate *to* Taking-Over Certificate • L13 *delete* *and replace* by: With effect from the date of taking-over as stated in the Taking-Over Certificate, risk of loss or damage to the Works or to the Section to which the Taking-Over Certificate relates • L14 *delete* Works • L32 *change* date *to* date on which • L48 *change* Costs *to* Cost •
- P19 L27 *change* extra Costs *to* additional Cost • L28 *delete* under Sub-Clause 33.1 *and change* of such extra Costs *to* thereof • L38 *change* shall *to* shall, • L42 *change* uncompleted *to* uncompleted, L49 *indent* whole line •
- P20 L1 *indent* whole line • L4 *change* stated *to* stated, • L22 *after* thereafter. *add* Any additional Cost incurred by the Purchaser solely by reason of the repetition of any Performance Test shall be deducted from the Contract Price. •
- P21 L21 *change* Purchaser *to* Engineer • L22 *change* and *to* and the Purchaser shall be entitled • L24 *change* these *to* the • L25 *change* or *to* or, • L28 *delete* over •
- P22 L10 *change* Costs *to* Cost • L19 *change* Tests shall *to* tests shall • L23 *change* would other-wise be *to* is • L27/28 *change* condition or warranty *to* contract term • L30/31 *change* as in this Sub-Clause and in Sub-Clause 36.10 (Latent Defects) expressed, *to* as expressed in this Clause 36, • L39 *change* Clause *to* Clause 36 • L40 *change* these *to* the • L45 *change* Works *to* Works, •
- P23 L3 *change* any consequences of such act or omission. *to* such consequences. • L7 *change* Contract Value *to* value • L17 *delete* or procure the grant of *and delete* *to* the Contractor's premises • L18 *change* purposes or *to* purpose to the Contractor's premises or procure the grant to the Engineer of access for such purpose to •
- P24 L3, L11 *change* manufacture *to* manufacture, • L12 *change* done, *to* done • L15 *change* or

- other to or • L21 *delete* in the case of Plant affected by suspension • L35 *delete* Plant affected by suspension under •
- P25 L3 *change* Plant, which to Plant which, • L23 *change* Defects) to Defects), • L36 *change* these to the • L40 *change* copy to a copy •
- P26 L39 *change* Purchaser to Purchaser, •
- P27 L1 *change* where by virtue of these Conditions to in which • L2 *change* him to him, by virtue of the Conditions, • L23 (under) *add* Sub-Clause 25.6 (Effect of Suspension on Defects Liability) • L31 *change* Costs to Cost (*in two places*) • L33 *change* these to the • L38 *change* design, to design, unregistered design right, • L39 *delete* the United Kingdom or in • L40 *change* country to country where the Plant is to be manufactured or • L42 *change* reasonably to reasonably to be • L47 *change* has to his • L48 *change* same, to same •
- P28 L5 *change* expenses and costs to costs, charges and expenses • L9 *change* instruction to instructions • L11, L19 *change* design, to design, unregistered design right, • L18 *change* Works to Works, • L21 *change* Infringement) to Infringement) or Sub-Clause 42.3 (Purchaser's Indemnity Against Infringement) • L38 *delete* all • L39 *change* these to the •
- P29 L9 *change* and to or • L16/17 *delete and replace by:* extent that the same is caused by any of the Purchaser's Risks • L18 *delete* Contractors) • L37 *change* from to from any • L42 *change* to to to in this Clause • L46 *change* not to not, • L47 *change* litigation to litigation, • L52 *change* expenses and costs to costs, charges and expenses • L53 *change* shall to shall, and *change* Contractor to Contractor, • L54 *change* Costs to expenses •
- P30 L20 *change* of to of or • L31 *change* the to that • L35 *change* the design of any part of the Works to designs furnished or specified • L36 *change* [responsibility to responsibility • L38 *change* Design)] to Design) • L41 *change* wayleaves to , wayleave •
- P31 L30 *change* provided to provided that •
- P32 L1 *change* to or to to, or • L13 *change* Purchaser to Purchaser, • L14 *change* their to its • L17 *change* thereof; to thereof, • L19 *change* Purchaser. to Purchaser in accordance with the provisions of Sub-Clause 43.1 (Care of the Works) upon expiry of notice of termination. • L31 *change* Works to part of the Works •
- P33 L1 *change* receipt to receipts • L2 *change* or to or other • L6 *change* premium to premiums • L18, L40, L42 *indent* •
- P34 L1, L2 *indent* • L15 *change* Works to part of the Works executed prior to the date of termination • L20 *change* Costs to Cost • L32 *change* 50 to 50.1 • L32/38 *replace by* If the Contractor becomes bankrupt or insolvent, or has a receiving order made against him, or compounds with his creditors, or, being a corporation, commences to be wound up (not being a members' voluntary winding up for the purposes of amalgamation or reconstruction) or has an administration order made against him or carries on his business under an administrator, a receiver, a manager or liquidator for the benefit of his creditors or any of them, the Purchaser shall be entitled: •
- P35 L48 *change* Costs to Cost •
- P36 L13 *delete Clause 54.1 and replace by:*
Unless otherwise stated in the Special Conditions, the Contract shall in all respects be governed by and interpreted in accordance with the laws of England and English law shall govern the procedure of any arbitration under Clause 52 (Disputes and Arbitration). •
- P37 (*In six places*) *change* CLAUSE to SUB-CLAUSE • L8 (under) *add the following:*
(Insert the percentage of the Contract Value for each week of delay and the maximum percentage of Contract Value to be paid or deducted for each Section of the Works where more than one Section has been defined for the purpose of taking-over.) •
- P38 L2 (under) *add the following:*

Time for Completion

1.1m [Insert Time for Completion of the Works and, where appropriate, Time for Completion of each Section of the Works.] •
L6 *change* Clause 6.2 to Sub-Clause 6.2 *and change* General Conditions to general conditions • L19 *change* Lifting Equipment to lifting equipment • L26 *change* General Condition to the general conditions, Sub-Clause •

P39 L4 *add* It must include a clear indication of the Time for Completion of the Works and, where appropriate, of the Time for Completion for each Section. • L5 *change* Tests to tests • L7 *change* Completion to completion • L9 *change* Damages to damages • L10 *change* % to percentage point *and add* (Separate liquidated damages should be identified for each Section of the Works for which Performance Tests have been specified.) • L13 *change* to to of *and change* insurance to insurance (e.g. copy invoices) • L17 *change* adapted as required to (adapted as required) • L22 *change* evidence, to evidence •

P40 L4 *change* Interim Certificates of Payment to interim certificates of payment • L36 *change* that to that, • L38 *change* risk to risk, • L42 *change* Clause to Sub-Clause • L43 *change* Interest to interest • L44 *change* Third Party Insurance to third party insurance • L45 (under) *add the following:*

Disputes and Arbitration

If Sub-Clause 54.1 below is completed so as to make the Contract subject to Scots law, Sub-Clause 52.1 should be amended by adding the following sentence before the last sentence of the sub-clause:

Where the Special Conditions provide that the Contract is subject to Scots law, such person shall be a single arbiter and the decision of the arbiter shall be final, it being agreed that neither party shall invoke the provisions of Section 3 of the Administration of Justice (Scotland) Act 1972.

Applicable Law

If it is desired that the laws of a country other than England should govern the Contract, appropriate advice should be taken as to the legal effect of so doing. In such circumstances the following Sub-Clause duly completed may be a suitable alternative:

54.1 The Contract shall in all respects be governed by and interpreted in accordance with the laws of [.....] and [.....] law shall govern the procedures of any arbitration under Clause 52 (Disputes and Arbitration). •

P42 L27 *change* Systems to System • L30 *change* the Statement of Requirements to the statement of requirements • L36 *change* 'The to 'the •

P43 L15 (above) *add* The Engineer's Duties are contained in Clause 2.1 (Engineer's Duties) of the general conditions. • L21, L23 *change* Systems to System • L30 *change* time to Time • L35 *change* Software shall to Bespoke Software shall • L36 *change* hardware to Hardware • L38 *change* Standard Software and the Bespoke Software to Software • L39 *change* Functional Specification functions to requirements of the Functional Specification • L39/40 *change* General Conditions to general conditions • L40/41 *change* taking over Tests to Tests on Completion • L41 *change* certificate to Certificate • L42, L45 *change* General Conditions to general conditions •

P44 L15 *change* General Conditions to general conditions • L34 *change* Final Certificate of Payment to final certificate of payment •

P45 L24, L38, L43, L44 *change* General Conditions to general conditions •

P46 *insert the additional suggested Special Conditions for contracts involving Measurement – as previously published in Supplement S1-MF/1 in 1993 – amended as follows:*
P1, L9 *change* available to available in writing • L25, L26 *change* Costs to Cost • L31 *change* obligations to obligations under the Contract • *thereafter, insert the following additional suggested Special Conditions:*

ADDITIONAL SPECIAL CONDITIONS FOR USE WHERE THE CONTRACT IS TO PROVIDE SECTIONAL COMPLETION AND DAMAGES FOR DELAY IN COMPLETION OF SECTIONS

Foreword

If it is desired to impose a separate Time for Completion for each Section of the Works and to apply liquidated damages to the failure to complete a Section, the following suggested clauses may be used.

The Sub-Clause numbers used below relate to the Sub-Clause numbers used in the general conditions.

1. SUB CLAUSE 33.1 – EXTENSION OF TIME FOR COMPLETION

Delete the existing Sub-Clause and replace with the following.

33.1 If, by reason of any variation order pursuant to Clause 27 (Variations) or of any act or omission on the part of the Purchaser or the Engineer or of any industrial dispute or by reason of circumstances beyond the reasonable control of the Contractor arising after the acceptance of the Tender, the Contractor shall have been delayed in the completion of the Works or of any Section, whether such delay occurs before or after the Time for Completion applicable thereto, then provided that the Contractor shall as soon as reasonably practicable have given to the Purchaser or the Engineer notice of his claim for an extension of time with full supporting details, the Engineer shall on receipt of such notice grant the Contractor from time to time in writing either prospectively or retrospectively such extension of the relevant Time for Completion of the Section or of the Works as may be reasonable.

2. SUB-CLAUSE 33.2 – DELAYS BY SUB-CONTRACTORS

Delete the existing Sub-Clause and replace with the following.

33.2 Any delay on the part of a Sub-Contractor which prevents the Contractor from completing the Works or a Section within the Time for Completion applicable thereto shall entitle the Contractor to an extension thereof provided such delay is due to a cause for which the Contractor himself would have been entitled to an extension of time under Sub-Clause 33.1 (Extension of Time for Completion).

3. SUB-CLAUSE 34.1 – DELAY IN COMPLETION

Delete the existing Sub-Clause and replace with the following.

34.1 If the Contractor fails to complete the Works or any Section in accordance with the Contract, save as regards his obligations under Clauses 35 (Performance Tests) and 36 (Defects Liability), within the Time for Completion applicable thereto, or if no time be fixed within a reasonable time, there shall be deducted from the Contract Price or paid to the Purchaser by the Contractor the percentage stated in the Appendix of the Contract Value of such parts of the Works or, as the case may be, of such parts of the Section as cannot in consequence of the said failure be put to the use intended for each week between the relevant Time for Completion and the actual date of completion. The amount so deducted or paid shall not exceed the maximum percentage stated in the Appendix of the Contract Value of such parts of the Works or of such parts of the Section, and such deduction or payment shall, subject to Sub-Clause 34.2 (Prolonged Delay), be in full satisfaction of the Contractor's liability for the said failure.

P47 Recital A *change* a Contract *to* a contract • Recital B, L2 *delete* short • L1 *change* 1 *to* 1.1
• L8 *delete* hereunder all of • L10 *change* all Plant *to* all plant •

P48 L2 *delete* 'General Conditions' • L7 *change* this *to* the • L9 *change* Clause *to* Sub-Clause
L12 *delete* General Conditions and the Special • L17 *change* requires *to* requires, • L18
change where *to* were • L22 *change* therein *to* therein, • L29 *after* 'whatsoever' *add*: (except
claims resulting from death or injury to any person caused by the negligence of the Sub-Contractor for
which no limit applies) • L33 *change* Clause *to* Sub-Clause • L34 *add* (except for claims to
which no limit applies under Sub-Clause 3.4). • L37 *change* his *to* , his •

P49 L10 *change* Contract *to* Contract, • L11, L13 *change* Works *to* Works, • L15 *change* delay
to delay, • L21 *change* (Completion) *to* (Completion), • L22 *change* Price *to* Price, •

L23 *change* damages *to* damages, • L26 *change* but *to* , but • L29 *change* deduction *to*
deduction • L40 *change* Clause *to* Sub-Clause • L44 *change* Clause *to* Clauses •

P50 L7 *change* direct *to* direct, • L23 *change* Purchaser *to* Purchaser, • L25 *change* return *to*
return, • L28/29 *change* General Conditions *to* general conditions •

P51 L3 *change* the Contract *to* the Contractor • L5 *change* clause *to* Clause • L25 *change* Sub-
Contractor *to* Sub-Contractor, • Sub-Clause 16.1(d). *rewrite to read*: becomes bankrupt or
insolvent, or has a receiving order made against him, or compounds with his creditors, or, being a
corporation, commences to be wound up (not being a member's voluntary winding up for the purposes
of amalgamation or reconstruction) or has an administration order made against him or carries on his
business under an administrator, a receiver, a manager or liquidator for the benefit of his creditors or
any of them. •

P52 L10 *change* Sub-Contract. to Sub-Contract Works. • L18/19 *delete Clause 17.1 and replace by the following:*

Applicable Law

17.1 Unless otherwise stated in the Ninth Schedule, the Sub-Contract shall in all respects be governed by and interpreted in accordance with the laws of England and English law shall govern the procedure of any arbitration under Clause 19 (Arbitration). • L20 *change* below to below, • L22/26 *delete and replace by the following:*

in the courts of the country whose law governs the Sub-Contract to the jurisdiction of which the parties hereby agree to submit. Any proceedings which may be brought by the Contractor against the Sub-Contractor may be brought either in the courts of the country whose law governs the Sub-Contract or in the courts of the country where the Sub-Contractor has his principal place of business. •

P53 *below 'EIGHTH SCHEDULE', add the following:*

NINTH SCHEDULE

[If it is desired that the Sub-Contract should be subject to a law other than English law or to the same law as the Main Contract, the appropriate provision should be included here. The following clause, which is appropriate for use in all cases where the Sub-Contract is to be governed by the same law as the Main Contract, may be used in substitution for Clause 17.1.

Applicable Law

17.1 The Sub-Contract shall be governed and interpreted in conformity with the law governing the Main Contract.] •

P54 L1/6 *delete and replace by:* I/We, the undersigned, hereby tender and offer to design, manufacture, deliver, erect, test and complete the Works more particularly described and referred to in the general conditions and Special Conditions, Specification, schedules and drawings (if any) annexed hereto including addenda nos. [.....] issued for this Tender and which under the terms thereof are to be designed, manufactured, delivered, erected, tested and completed by the Contractor and to perform and observe • L9 *replace by* drawings for the sum, exclusive of Value Added Tax, of £ [.....], the details of which are given in the • L11 *change* We have to we have • L13 *change* undertake to undertake, and *change* , if required to and if required, • L15 *change* Guarantee to Bond • L16 (*after* ..Contract Price...) *delete onwards to L19 and replace with:* and to obtain such insurance as is stipulated in the general conditions of Contract. • L22 *change* General to general • L24/25, L27 *change* this tender to this Tender •

P56 L5 *change* the "Purchaser" to "the Purchaser" • L15 *change* General to general • L20, L24 *change* General Conditions to general conditions • L28 *change* payment to payment, etc. • L37 *change* Contract to Contract together with the Value Added Tax properly chargeable thereon •

P58 L10 *replace by* Executed by the parties as a deed and delivered this • L13 *change* Contract to contract • L17, L22 *change* Bond to bond • L30 *change* Bond to bond • L31 *change* Provided Always to PROVIDED ALWAYS • L37 *change* Judgment....Court to judgment....court •

P59 L5 (under) *delete all and replace by:*
Executed and delivered as a deed by)
.....PLC/Limited) [Contractor]
in the presence of:)

Executed and delivered as a deed by)
.....PLC/Limited) [Sureties]
in the presence of:) •

P60 L5 *change* General Conditions to general conditions • L21 *revise to read as follows:* (period of days, or date) • L22 (under) *add the following:*
Revised Time for Completion (period of days, or date) •
L24 *change* costs to Cost • L25 *change* General Conditions to general conditions •
L27 (under) *add a further line to read:* [provide details] •

P61 L4, L13 *change* General Conditions to general conditions •

SECTION B

(Section B is blank.)

(iv) MF/1, A/L3 (Current)

THE INSTITUTION OF ELECTRICAL ENGINEERS
and
THE INSTITUTION OF MECHANICAL ENGINEERS

**Model Form of General Conditions of Contract, MF/1
Amendments List, December 2000**

A Model Forms Amendments List is issued whenever a revision of a model form is undertaken and this Amendments List details the changes made to the text of the version of Model Form MF/1 defined in paragraph 1 below.

1. The version of MF/1* under revision, which is identifiable by reference to its cover page, is labelled **MF/1 (rev 3)** and is also described as the

1988 Edition

(Reprinted 1995 – with 1989, 1992 & 1995 Amendments)

2. The revised version, which is identifiable by reference to its front cover, is labelled **MF/1 (rev 4)** and is also described as the

2000 Edition

3. The information given in the listing below is the information referred to in paragraph 1 on the inside front cover of MF/1 (rev 4). Users are asked to note that (a) any changes that solely affected the typographical design of the form or areas of the form such as the Contents, Index or Headings have not been included in the listing and (b) the Headings in MF/1 (rev 4), apart from the initial letter of the first word, have now all been written in lower case –as have all references to particular clauses and sub-clauses within the MF/1 Conditions.

4. The IMechE/IEE Model Forms of Contract Committee Secretary, at Savoy Place, London, England (Tel: +44 (0)20-7344 5403), can confirm the current issue of Model Form MF/1 and any associated Amendments List and will also be pleased to receive any comments from users of MF/1. Information is also available in a *Model Forms Information Pack* on the IEE Website, (http://www.iee.org.uk/PAB/Model_Forms/).

N.B. The IEE Secretariat, of necessity, cannot provide enquirers with *interpretations* of the content of the model forms published by the IEE. It can, however, arrange for the appropriate drafting authority to consider issues raised by users with a view to possible coverage in any future revision of the form.

* (together with its 1998 Supplement (S2-MF/1), the 1999 Supplement (S3-MF/1) and the 2000 Amendment Slip (MF/1, A/S1)).

Notes

- (i) Users of the information given below should refer to a copy of the version of MF/1 that is under revision; *viz.* the earlier of the two versions of MF/1 dealt with in this Amendments List. See the definitions in paragraphs 1 & 2 on the title page of this listing.
- (ii) This Amendments List uses the same drafting conventions as are adopted in the version of the model form under revision.
- (iii) All page numbers, line numbers, etc., used in the listing below are identical to those used in the earlier version of MF/1—even if the number, etc., itself, is the subject matter of the revision. ('Page' and 'Line' are abbreviated to 'P' and 'L', respectively, below and the symbol "•" is used to denote the end of a particular revision.)
- (iv) Supplements S2-MF/1 and S3-MF/1 and Amendment Slip MF/1, A/S1 should be edited to accord with the revised convention described in paragraph 3 (b) above and their contents further amended where indicated below.

PAGE – BY – PAGE LIST OF AMENDMENTS

- Inside *add NOTICE* In addition to the revisions referred to in the 2000 Historical note (see page ii, front *ibid.*), this 2000 Edition of Model Form MF/1 also incorporates editorial and other amendments to cover remove literals and inconsistencies. The changes that were made are listed in Amendments List MF/1, A/L3 which is available from the IEE at Savoy Place or from the IEE Website (http://www.iee.org.uk/PAB/Model_Forms/).
- This version of Model Form MF/1 may be cited as "MF/1 (rev 4)/2000".
- A separate *Commentary on MF/1* may be purchased from the sponsoring Institutions' Publications Sales Departments. •
- add copyright notice.* •
- Title *change Edition qualifier to:* 2000 Edition •
page
- Pii Historical Note
extend to account for 2000 Edition of MF/1, viz. MF/1 (rev 4), as follows:
- 2000**
2000 Edition of MF/1, MF/1 (rev 4), published—incorporating both editorial and other amendments. Additionally, the 1998 and 1999 Supplements (S2-MF/1 & S3-MF/1) and the 2000 Amendment Slip (MF/1, A/S1) to MF/1 have been integrated into the form. •
- P2 L39 *change test to tests* •
- P4 L8 *change decision to decision, instruction or order* •
- P5 L10 *change defaults or to defaults and* •
- P9 L34 *change import to import permits or* • L36 *change gas and air to gas, air and other services* •
- P12 L33 *change gas to gas, air* •
- P14 L24 *change or to and* • L35 *change apparatus and instruments to apparatus, instruments and other things* •
- P20 L22 *change before to before the completion of* •
- P25 L1/2 *delete* Engineer shall be entitled to withhold *and replace by* Contract Value of the Plant shall not be included in •
- P27 L29 *change application to application therefor* •
- P28 L29 *insert after* Clause subject to any deduction that the Purchaser is entitled to make under the Contract • L35/36 *delete* in any case where the Engineer has failed to issue a certificate of payment •
- P29 L34 *delete* letters •

- P30 L11,19 *delete* letters •
- P38 L27 (*under*) *add paragraph 3(i) of S2-MF/1.* •
- P40 L13 *change* Amount of Bond *to* Bond Amount • L14 *change* Bond Sterling *to* bond sterling •
 L14 *change* Validity Expiry *to* validity Expiry Date • L15 *change* Forfeiture Bond *to* forfeiture
 claims on bond • L16 *change* Release ... Other *to* release automatic/ on expiry/other •
- P43 L2 (*under*) *add paragraph 3(ii)(a) of S2-MF/1.* • L9 (*under*) *add paragraph 3(ii)(b) of S2-MF/1 (editorially amended).* •
- P46 L23 *change* software *to* Software •
- P53 L2 *change* order *to* ordered •
- P54 (*after*) *add paragraph 3 of S3-MF/1, amended as in (i)-(iii) below:*
(i) Page 3, paragraph 1 of the Foreword, line 4, delete (England and Wales) and, line 5, after (Scotland)
add or of The Scheme for Construction Contracts in Northern Ireland • (ii) delete the second sentence of the
second paragraph of the Foreword. • (iii) Page 4 line 3, delete (England and Wales) and, line 4, change
(Northern Ireland) to in Northern Ireland •
add paragraph 3 of MF/1, A/S1. •
- P60 L18 (*under*) *change in accordance with paragraphs 3(iii)(i) & 3(iii)(ii) of S2-MF/1.* •
- P61 *below NINTH SCHEDULE, add paragraph 3(iii)(iii) of S2-MF/1.* •
- P65 *change as in paragraph 3(iv) of S2-MF/1. • add paragraph 7 of S3-MF/1. •*
- P66/67 *delete and replace by paragraph 4 of S3-MF/1. Also append paragraph 5 of S3-MF/1. • append paragraph 6 of*
S3-MF/1 amended as follows:
Page 10, line 4 of the Form, after notice add under sub-clause 2.3 (Engineer's power to delegate) •
- P68 *Paragraph numbered 2 – change Net (increase) (decrease) to Net increase •*

(v) MF/2, A/L1 (Current)

THE INSTITUTION OF ELECTRICAL ENGINEERS
and
THE INSTITUTION OF MECHANICAL ENGINEERS

**Model Form of General Conditions of Contract, MF/2
Amendments List, November 1999.**

Model Forms Amendments Lists are issued whenever a revision of a model form is undertaken and this Amendments List details the changes made to the text of Model Form MF/2 (as defined in paragraph 1 below). The changes are listed in Section A of this document.

1. The version of MF/2 under revision, identifiable by reference to its front cover, is labelled the

1991 Edition

The revised version, identifiable by reference to its front cover, is **MF/2 (rev 1)** and is labelled the

1999 Edition

The information in Section A is the information referred to in paragraph 1 on the inside front cover of MF/2 (rev 1). Users are asked to note that (a) any changes that solely affected the typographical design of the form or areas of the form such as the Contents, Index or Headings have not been included in the listing and (b) the Headings in MF/2 (rev 1), apart from the initial letter of the first word, have now all been written in lower case –as have all references to particular clauses and sub-clauses within the MF/2 Conditions.

2. The IMechE/IEE Model Forms of Contract Committee Secretary, at Savoy Place, London, England (Tel: +44 (0)20-7344 5403), can confirm the current issue of Model Form MF/2 and any associated Amendments List and will also be pleased to receive any comments from users of MF/2.

N.B. The IEE Secretariat, of necessity, is unable to provide enquirers with *interpretations* of the contents of the model forms published by the Institution.

It can, however, arrange for the appropriate drafting authority to consider any novel issues that might be raised by users with a view to their possible coverage in a future revision of the form.

SECTION A

Notes

- (i) Users of the information in Section A should refer to a copy of the version of MF/2 that is under revision; *viz.* the earlier of the two versions of MF/2 dealt with in this issue of the Amendments List. See the definitions in paragraph 1 on the title page of this listing.
- (ii) This Amendments List uses the same drafting conventions as are adopted in the version of the model form under revision.
- (iii) All page numbers, line numbers, etc., used in the listing below are identical to those used in the earlier version of MF/2—even if the number, etc., itself, is the subject matter of the revision. ('Page' and 'Line' are abbreviated to 'P' and 'L', respectively, below and the symbol "•" is used to denote the end of a particular revision.)

PAGE – BY – PAGE LIST OF AMENDMENTS

Inside front cover add **NOTICE** In addition to the revisions referred to in the 1999 Historical note (see page ii, *ibid.*), this 1999 Edition of Model Form MF/2 also incorporates editorial and other amendments to remove literals and inconsistencies. The changes that were made are listed in Amendments List MF/2, A/L 1 which is available from the IET at Savoy Place and from the IET Website (<http://www.theiet.org/Technical/>).

This version of Model Form MF/2 may be cited as "MF/2 (rev 1)/1999".

A separate *Commentary on MF/2* may be purchased from the sponsoring Institutions' Publications Sales Departments.

add copyright notice and details of sources for publications. •

Title OR page *change recommended application to:* HOME OR OVERSEAS CONTRACTS FOR THE SUPPLY OF ELECTRICAL, ELECTRONIC OR MECHANICAL PLANT • *change Edition qualifier to:* 1999 Edition •

Pii Historical Note
extend to account for 1999 Edition of MF/2, viz. MF/2 (rev 1), as follows:

1999

MF/2 (rev 1), Home or Overseas Contracts for the Supply of Electrical, Electronic or Mechanical Plant, published—incorporating both editorial and other amendments and revisions covering Arbitration and Applicable Law. MF/2 and its Form of Supervision Contract both now provide for a right to the adjudication of disputes and limit the way in which payments may be reduced or withheld in cases where either is a construction contract for the purposes of the Housing Grants, Construction and Regeneration Act 1996.

Additionally, suggested Special Conditions in MF/2 to allow for sectional completions have been provided, the Form of Performance Bond and the Form of Agreement revised and a Form of Defects Liability Demand Guarantee and a Form of Notice of Delegation of Authority added. •

P1 L11 *delete* in writing • L19 *change* General Conditions *to* general conditions •
L22 *change* Specification *to* the Specification • L31 *change* Plant *to* Plant, •

P2 L1 *change* terms *to* term • L9 *change* date *to* date on which • L19 *delete* The •
L19, L27 *change* General Conditions *to* general conditions • L25 *change* Clause 25 (Defects *to* sub-clause 25.1 (Defects after delivery). • L26 *delete* • L29, L31 *change* Calendar *to* calendar •
L30 *change* 7 *to* seven • L36 *change* these *to* the • L38/39 *delete* Unless specifically so stated *and change* any *to* Any •

P3 L30 *change* these *to* the •

P4 L19 *change* Bankers *to* bankers • L20 *change* rights *to* rights, • L28 *change* or neglects *to* and neglects • L31 *change* these General Conditions *to* the general conditions •

P5 L29 *change* Costs *to* Cost • L33 *change* Cost *to* such Cost •

P6 L9 *change* General Conditions *to* general conditions • L11 *change* Cost *to* expense •
L19 *change* Clause *to* sub-clause • L20 *change* Costs *to* Cost • L25 *change* Contract), *to* Contract) • L26 *change* other *to* other, • L33 *change* decisions *to* decisions, •

- P7 L2 *change* or if not so stated *to* or, if not so stated, • L13 *change* of the *to* of his •
- P8 L3 *delete* • L24 *change* contractor *to* Contractor • L36 *change* receipt *to* receipt, •
- P9 L35 *change* or any *to* nor any • L36 *change* or the *to* nor the •
- P10 L1 *change* Cost *to* cost • L15 *change* premises *to* premises or elsewhere • L16 *delete* *to* be supplied under the Contract *and change* part *to* any part • L17 *change* other premises *to* premises, other than the Contractor's own, *and change* obtain *to* obtain permission •
L18 *delete* permission • L19 *change* or *to* and • L42 *change* inspection *to* inspection and the Engineer's attendance •
- P11 L20 *change* the " *to* "the • L28 *change* Plant *to* Plant, • L29 *change* delivery *to* Delivery •
- P12 L10 *change* delivery *to* Delivery • L12 *change* by *to* by any of • L28/29 *change* Price. The *to* Price, provided that the *and change* Costs *to* Cost •
- P13 L5 *change* these *to* the • L7/8/9 *delete all and replace by* The Engineer alone shall have the power until the whole of the Plant has been delivered to instruct the Contractor by notice to make any variations to the Plant. •
L15 *change* shall *to* shall, • L16 *change* thereof, *to* thereof •
L23 *change* determined *to* determined by the Engineer • L37 *change* work *to* work done •
- P14 L18, L42 *change* delivery *to* Delivery • L35 *change* Costs *to* Cost • L39 *change* percentage, *to* percentage • L40 *change* Appendix, *to* Appendix • L44 *change* shall *to* shall, •
- P15 L15 *change* these *to* the • L16 *change* or if *to* or, if •
- P16 L8, L13 *change* costs *to* Cost • L16/17 *change* condition or warranty *to* contract term •
L18/19 *change* in this Clause and in Sub-Clause 25.8 (Latent Defects) expressed *to* expressed in this clause 25 • L27 *change* Clause *to* clause 25 *and change* these *to* the • L33 *change* replacement, *to* replacement at the Contractor's option • L39/40 *change* any consequences of such act or omission. *to* such consequences. •
- P17 L1 *change* delivery *to* Delivery • L9/10 *delete all and replace by* the Engineer access for such purpose to the Contractor's premises or procure the grant to the Engineer of access for such purpose to any other premises where such Plant may be located. • L19 *change* manufacture *to* manufacture, •
L20 *change* Delivery *to* Delivery, • L21 *change* these Conditions *to* the Conditions, •
L26 *change* manufacture *to* manufacture, • L27 *change* done, *to* done • L28 *change* delivered, shipped or *to* delivered or shipped and *and change* Delivery *to* Delivery, • L29 *change* and of *to* and •
L30 *delete* other • L34 *delete* in the case of Plant affected by suspension •
L35 *change* Suspension) *to* Suspension), •
- P18 L5 *delete* Plant affected by suspension under • L6 *change* Suspension). *to* Suspension) •
L10 *change* Plant, which *to* Plant which, • L38 *change* these *to* the •
- P19 L1 *change* copy *to* a copy • L5 *change* Clause *to* sub-clause • L37 *change* Clearing Banks *to* clearing banks •
- P20 L4 *change* remedied *to* remedied, • L7 *change* work, *to* work • L9/10 *delete all and replace by* Purchaser in any case where the Engineer has failed to issue a certificate of payment, whether or not the Contractor has previously stopped work under paragraph (a) of this sub-clause. • L11 *change* where by virtue of these Conditions *to* in which • L12 *change* him *to* him, by virtue of the Conditions, •
L15 *change* payment *to* payment, • L34 *change* and *to* or • L37 *change* Costs *to* Cost (*in two places*) • L39 *change* in these *to* contained in the •
- P21 L8 *change* same, *to* same • L15 *change* expenses and costs *to* costs, charges and expenses •
L27 *change* Plant *to* Plant, •
- P22 L7, L15, L21, L26 *change* these *to* the • L38 *change* Insurance Policy *to* insurance policy •
L40 *change* Plant *to* part of the Plant •
- P23 L1 *change* terms *to* terms to be • L12 *change* Insurance Policy *to* insurance policy • L19 *change* these *to* the • L33 *change* obligations *to* obligations under the Contract • L34 *change* Performance *to* performance • L41 *change* and *to* or • L43 *change* Purchaser *to* Purchaser, •
- P24 L8 *change* costs *to* Cost • L14 *change* completion *to* completion, • L20/24 *delete all and replace by* If the Contractor becomes bankrupt or insolvent, or has a receiving order made against him, or compounds with his creditors, or, being a corporation, commences to be wound up (not being a members' voluntary winding up for the purposes of amalgamation or reconstruction) or has an administration order made against him or carries on his

business under an administrator, a receiver, a manager or liquidator • L40 *delete all and replace by;* its business under an administrator, receiver, manager or liquidator for the benefit of its • L45 *change* as an alternative to in addition •

P25 L31 *change* Costs to Cost • L33 (under) *add the following:*
Arbitrator's powers

37.3 The arbitrator shall have power:

- (a) to open up, review and revise any certificate or valuation of the Engineer or any decision, opinion, instruction or order of the Engineer referred to arbitration under sub-clause 2.6 (Disputing engineer's decisions, instructions and orders);
- (b) to order on a provisional basis (subject to the arbitrator's final award) any relief which he would have power to grant in a final award including but not limited to the making of a provisional order for the payment of money as between the parties or an order to make an interim payment on account of the costs of the arbitration.

Joinder

37.4 Where a dispute has been referred to arbitration under this clause and the Contractor is in a related dispute with a Sub-Contractor which is substantially the same as the matter referred to arbitration hereunder, the parties consent to the joinder of the Sub-Contractor as a party to the arbitration and to the reference of such related dispute to the arbitrator appointed hereunder and further agree that the arbitrator shall have power to order the consolidation of such arbitration proceedings and/or to order the holding of concurrent hearings.

Arbitration rules

37.5 The arbitration shall be conducted in accordance with the arbitration rules specified in the Special Conditions or, if no rules be so specified, in accordance with the provisions of the Arbitration Act 1996. • L34 *delete Clause 38.1 and replace by:*

Unless otherwise stated in the Special Conditions, the Contract shall in all respects be governed by and interpreted in accordance with the laws of England and English law shall govern the procedure of any arbitration under clause 37 (Disputes and arbitration). • L40 *change* loss to loss, • L44 *change* these to the •

P26 L8 *change* Defects), to Defects) • L12 (under) *add new sub-clause as follows:*

Housing Grants, Construction and Regeneration Act 1996

40.2 In any case where the provisions of the Housing Grants, Construction and Regeneration Act 1996 (the Act) apply to the Contract as well as to the Supervision Contract,

- (a) the provisions of Part 2 of Schedule 6 to the Supervision Contract shall also apply to the Contract with (where appropriate) the necessary changes to reflect the references to the clauses in the Contract.
- (b) the Time for Delivery shall be extended by any period during which the Contractor has, pursuant to the provisions of Section 112 of the Act, suspended performance of the Contract. •

P27 *(In five places) change* CLAUSE to SUB-CLAUSE • L8 (under) *add the following:*
(Insert the percentage of the Contract Value for each week of delay and the maximum percentage of Contract Value to be paid or deducted for each Section of the Plant where more than one Section has been defined for the purpose of Delivery.) •

P28 L4 (under) *add the following:*

Time for delivery

1.1.n [Insert Time for Delivery of the Plant and, where appropriate, Time for Delivery of each Section of the Plant.] •

L8 *change* Clause 6.2 to sub-clause 6.2 *and change* General Conditions to general conditions •
L13 *change* Amount of Bond to Bond Amount • L14 *change* Bond to bond *and change* Sterling to sterling • L15 *change* Validity to validity *and change* Date of Expiry to Expiry Date •
L16 *change* Forfeiture to forfeiture *and change* Claims on Bond to claims on bond •
L17 *change* Release to release *and change* Automatic to automatic • L22 *add* It must include a clear indication of the Time for Delivery of the Plant and, where appropriate, of the Time for Delivery of each Section. •

P29 L1 *change* Terms of Payment to terms of payment • L2 *change* Clauses to suggested clauses • L33 *change* cost to Cost • L38 *change* e.g. Risks to eg. risks • L40 *change* Delivery Term to delivery term *and add the following:*

Disputes and arbitration

Arbitration rules

37.5 The arbitration shall be conducted in accordance with the [arbitration rules of ¹ insert body, eg. International Chamber of Commerce (ICC), United Nations Commission on International Trade Law (UNCITRAL), London Court of International Arbitration (LCIA), Chartered Institute of Arbitrators (CI Arb) or other] Construction Industry Model Arbitration Rules (CIMAR)

¹ choose as appropriate

Scots law

If sub-clause 38.1 below is completed so as to make the Contract subject to Scots law, sub-clause 37.1 should be amended by adding the following sentence before the last sentence of the sub-clause:

Where the Special Conditions provide that the Contract is subject to Scots law, such person shall be a single arbiter and the decision of the arbiter shall be final, it being agreed that neither party shall invoke the provisions of Section 3 of the Administration of Justice (Scotland) Act 1972.

Sub-clause 37.3 (Arbitrator's powers) should be amended by changing references to "arbitrator" to "arbiter" and inserting the following wording as a new sub-paragraph (b) and by the re-lettering of the existing sub-paragraph (b) as (c):

- (b) to order that damages, costs and/ or expenses are due and payable as between the parties and to assess the amount of such damages, costs and/ or expenses:

The re-lettered sub-paragraph (c) should be amended by the insertion of the following wording after the words "... order for the payment of money ...": "... by way of damages or otherwise ..."

The heading of sub-clause 37.4 should be "Third parties" in place of "Joinder" and reference to "joinder of the Sub-Contractor as a party" should, instead, be to the "Sub-Contractor being brought in as a third party" to the arbitration. References to "arbitrator" should be changed to "arbiter".

The governing arbitration rules for the purposes of sub-clause 37.5 should be chosen from the following selection.

- (1) The Arbitration Rules of the International Chamber of Commerce as convened in Edinburgh.
- (2) The Arbitration Rules of UNCITRAL as applicable in Scotland by virtue of the Law Reform Miscellaneous Provisions (Scotland) Act 1990, Section 66 and Schedule 7.
- (3) The Arbitration Rules of the Law Society of Scotland.

Add at the end of sub-clause 37.5 (Arbitration rules): "... except to the extent otherwise provided or specified in clause 37."

An additional sub-clause 37.6 should be added:

Consent to registration

37.6 The parties consent to the registration in the Books of Council and Session for preservation and execution of any decree arbitral or award issued pursuant to arbitration proceedings under clause 37.

Applicable law

If it is desired that the laws of a country other than England should govern the Contract, appropriate advice should be taken as to the legal effect of so doing. In such circumstances the following sub-clause duly completed may be a suitable alternative:

38.1 The Contract shall in all respects be governed by and interpreted in accordance with the laws of [.....] and [.....] law shall govern the procedures of any arbitration under clause 37 (Disputes and arbitration). •

L42 (under) *add the following suggested Special Conditions:*

ADDITIONAL SPECIAL CONDITIONS FOR USE WHERE THE CONTRACT IS TO PROVIDE SECTIONAL COMPLETION AND DAMAGES FOR DELAY IN COMPLETION OF SECTIONS

Foreword

If it is desired to impose a separate Time for Completion for each Section of the Plant and to apply liquidated damages to the failure to complete a Section, the following suggested clauses may be used.

The sub-clause numbers used below relate to the sub-clause numbers used in the general conditions.

1. SUB-CLAUSE 23.1 – EXTENSION OF TIME FOR DELIVERY

Delete the existing sub-clause and replace with the following.

23.1 If, by reason of any variation ordered pursuant to clause 21 (Variations) or of any act or omission on the part of the Purchaser or the Engineer or of any industrial dispute or by reason of circumstances beyond the reasonable control of the Contractor arising after the acceptance of the Tender, the Contractor shall have been delayed in the Delivery of the Plant or of any Section thereof, whether such delay occurs before or after the Time for Delivery applicable thereto, then provided that the Contractor shall as soon as reasonably practicable have given to the Purchaser or the Engineer notice of his claim for an extension of time with full supporting details, the Engineer shall on receipt of such notice grant the Contractor from time to time in writing either prospectively or retrospectively such extension of the relevant Time for Delivery of the Section or of the Plant as may be reasonable.

2. SUB-CLAUSE 23.2 – DELAYS BY SUB-CONTRACTORS

Delete the existing sub-clause and replace with the following.

23.2 Any delay on the part of a Sub-Contractor which prevents the Contractor from delivering the Plant or a Section thereof within the Time for Delivery applicable thereto shall entitle the Contractor to an extension thereof provided such delay is due to a cause for which the Contractor himself would have been entitled to an extension of time under sub-clause 23.1 (Extension of time for delivery).

3. SUB-CLAUSE 24.1 – DELAY IN DELIVERY

Delete the existing sub-clause and replace with the following.

24.1 If the Contractor fails to deliver the Plant or any Section thereof within the Time for Delivery applicable thereto, or if no time be fixed, within a reasonable time, there shall be deducted from the Contract Price or paid to the Purchaser by the Contractor the percentage stated in the Appendix of the Contract Value of such parts of the Plant or, as the case may be, of such parts of the Section as cannot in consequence of the said failure be put to the use intended for each week between the relevant Time for Delivery and the actual date of Delivery. The amount so deducted or paid shall not exceed the maximum percentage stated in the Appendix of the Contract Value of such parts of the Plant or of such parts of the Section, and such deduction or payment shall, subject to sub-clause 24.2 (Prolonged delay), be in full satisfaction of the Contractor's liability for the said failure. •

P30 Recital A *change* Contract to contract • Recital B *delete* short *and change* Second to Third •
L1 *change* 1 to 1.1 • L7 *change* all Plant to all plant • L8 *delete* hereunder all of •
L18 *delete* , 'General Conditions', • L23 *change* this to the •

P31 L1 *change* Clause to sub-clause • L4 *delete* General Conditions and the Special •
L10 *change* this to the • L24 *change* price to Price • L35 *change* 4. to 4.1 •
L41 *change* 5. to 5.1 • L42 *change* terms to term • L49 *change* all to all the •

P32 L1 *change* 6. to 6.1 • L19 *change* Clause to sub-clause • L23 *change* -Clause to -clauses •
L27 *change* 8. to 8.1 • L37 *change* 9. to 9.1 • L48 *change* 10. to 10.1 •

P33 L1 *change* 11. to 11.1 • L2 *delete* Part II of • L5 *change* 12. to 12.1 • L7 *delete* such •
L13 *change* 13. to 13.1 • L29 *change* Sub-Contractor to Sub-Contractor, •
Sub-Clause 15.1(d) *rewrite to read:* becomes bankrupt or insolvent, or has a receiving order made against him, or compounds with his creditors, or, being a corporation, commences to be wound up (not being a member's voluntary winding up for the purposes of amalgamation or reconstruction) or has an administration order made against him or carries on his business under an administrator, a receiver, a manager or liquidator for the benefit of his creditors or any of them. •

P34 L17/18 *delete* all and replace by the following:

Applicable law

16.1 Unless otherwise stated in the Ninth Schedule, the Sub-Contract shall in all respects be governed by and interpreted in accordance with the laws of England and English law shall govern the procedure of any arbitration under clause 18 (Disputes and arbitration). • L19 *change* 17 to 17.1 •
L21/24 *delete and replace by the following:*

the courts of the country whose law governs the Sub-Contract to the jurisdiction of which the parties hereby agree to submit. Any proceedings which may be brought by the Contractor against the Sub-Contractor may be brought either in the courts of the country whose law governs the Sub-Contract or in the courts of the country where the Sub-Contractor has his principal place of business. •

L25 *delete* Clause and replace by the following:

Disputes and arbitration

18.1 If at any time any question, dispute or difference shall arise between the Contractor and the Sub-Contractor in relation to the Sub-Contract or in any way connected with the Sub-Contract Plant, which cannot be settled amicably, either party shall as soon as is reasonably practicable give to the other notice of the existence of such question, dispute or difference specifying its nature and the point at issue, and the same shall be

referred to the arbitration of a person to be agreed upon. Failing agreement upon such person within 30 days after the date of such notice, the arbitration shall be conducted by some person appointed on the application of either party by the President of the institution named in the Tenth Schedule (or by his deputy appointed by such President for the purpose). In any such arbitration, any decision of the Engineer which has become final and binding on the Contractor and the Purchaser under sub-clause 2.6 (Disputing engineer's decisions, instructions and orders) of the Main Contract shall also be and be treated as final and binding upon the Contractor and the Sub-Contractor.

18.2 The arbitrator shall have power:

- (a) to open up, review and revise any certificate or valuation of the Engineer or any instruction or decision of the Engineer given to the Sub-Contractor by the Contractor under sub-clause 7.1 which has not become final and binding on the Contractor and the Sub-Contractor;
- (b) to open up, review and revise any instruction or decision of the Contractor given to the Sub-Contractor under sub-clause 7.2;
- (c) to order on a provisional basis (subject to the arbitrator's final award) any relief which he would have power to grant in a final award including but not limited to the making of a provisional order for the payment of money as between the parties or an order to make an interim payment on account of the costs of the arbitration.

18.3 If any question, dispute or difference between the Contractor and the Sub-Contractor which arises at any time before the expiry of three months after the issue of the final certificate of payment under the Main Contract or within three months after the termination of the Main Contract shall be substantially the same as a matter which is a question, dispute or difference between the Contractor and the Purchaser and/ or the Engineer which has been submitted to arbitration under the Main Contract, either the Contractor or the Sub-Contractor shall be entitled to require the Sub-Contractor to be joined as a party to such arbitration. The Sub-Contractor hereby agrees to be so joined and to the reference of the dispute to the arbitrator appointed under the Main Contract in accordance with the arbitration rules applicable to the dispute under the Main Contract and further agrees that the arbitrator shall have power to order the consolidation of such arbitration proceedings and/ or to order the holding of concurrent hearings.

18.4 Unless otherwise specified in the Tenth Schedule any arbitration under the provisions of this clause shall be conducted in accordance with the arbitration rules specified in the Main Contract and if none be so specified in accordance with the provisions of the Arbitration Act 1996.

18.5 Performance of the Sub-Contract shall continue during arbitration proceedings unless otherwise agreed by the parties or, in the case of an arbitration under sub-clause 18.3, unless the Contractor is otherwise instructed under the Main Contract by the Engineer. •

add the following Note at the bottom of the page:

Note: If it is agreed that Scots law shall govern the Sub-Contract, similar amendments to those recommended for the Main Contract should also be made to the equivalent provision of the Sub-Contract. •

P35 *below 'EIGHTH SCHEDULE', add the following:*

NINTH SCHEDULE

[If it is desired that the Sub-Contract should be subject to a law other than English law or to the same law as the Main Contract, the appropriate provision should be included here. The following clause, which is appropriate for use in all cases where the Sub-Contract is to be governed by the same law as the Main Contract, may be used in substitution for clause 16.1.

Applicable law

16.1 The Sub-Contract shall be governed and interpreted in conformity with the law governing the Main Contract.]

TENTH SCHEDULE

Particulars of Person to Appoint Arbitrator

Particulars of Arbitration Rules •

- P36 L1/5 *delete and replace by: I/We*, the undersigned, hereby tender and offer to design, manufacture, test and deliver the Plant more particularly described and referred to in the general conditions and Special Conditions, Specification, schedules and drawings (if any) hereto annexed including addenda nos. [.....] issued for this Tender and which under the terms thereof is to be designed, manufactured, tested and delivered by the Contractor and to perform and • L7 *change Schedules to schedules* • L8 *change Drawings to drawings and change sum to sum*, • L9 *change Schedule of Prices to schedule of prices* • L10 *change We have to we have* • L13 *delete or Guarantee* • L15 *change General Conditions to general conditions* • L18 *change General to general* • L28/29 *change test schedule to Tests Schedules* •
- P37 L2 *change tenderer to Tenderer* •
- P38 L12 *change delivery to Delivery* • L13 *change General to general* • L18, L22 *change General Conditions to general conditions* • L19 *change annexures to annexes* • L25 *change Schedules of Prices to schedules of prices and change Terms of Payment to terms of payment* •
- P39 L5 (under) *add the following:*
 5. If any question, dispute or difference shall arise between the Purchaser and the Contractor in relation to the Contract or in any way related to the Plant, which cannot be settled amicably, it shall be referred to arbitration in accordance with clause 37 (Disputes and arbitration) of the general conditions.

Either (a)

IN WITNESS whereof the parties hereto have caused this Agreement to be entered into in the manner required by their respective constitutions and the laws of their respective countries.

Signed by [... (name)]
 for and on behalf of the Purchaser }] (Signature)
 [.....] (Title)

Signed by [... (name)]
 for and on behalf of the Contractor }] (Signature)
 [.....] (Title)

Or, (b)

if the Agreement is to be executed as a deed,

IN WITNESS whereof the parties have executed and delivered this Agreement as a deed on the date above written.

EXECUTED AND DELIVERED as a deed by
[.....] PLC/LTD (Contractor) }

in the presence of:

Director [.....] (Signature)

Director/Secretary [.....] (Signature)

EXECUTED AND DELIVERED as a deed by
[.....] PLC/LTD (Purchaser) }

in the presence of:

Director [.....] (Signature)

Director/Secretary [.....] (Signature)

L6,7 & 8 delete. •

P40, 41 replace by the following:

FORM OF PERFORMANCE BOND

THIS PERFORMANCE BOND effective as of the date hereof is made as a deed BETWEEN the following parties whose names and registered offices/addresses are set out in the Schedule to this Bond ("the Schedule"):-

- (1) the Contractor as Principal;
- (2) the Guarantor as Guarantor; and
- (3) the Purchaser as Beneficiary.

WHEREAS:

- (1) By a contract ("the Contract") entered into or to be entered into between the Purchaser and the Contractor, particulars of which are set out in the Schedule, the Contractor has agreed with the Purchaser to design, manufacture and deliver certain plant ("the Plant") and correct defects therein upon and subject to the terms of the Contract.
- (2) The Guarantor has agreed with the Purchaser at the request of the Contractor to guarantee the performance of the obligations of the Contractor under the Contract upon the terms and conditions of this Performance Bond subject to the limitation set out in clause 2.

NOW THIS DEED WITNESSES as follows:-

1. The Guarantor guarantees to the Purchaser that in the event of Default by the Contractor (which shall include a termination of the Contract by the Purchaser under the provisions of clause 35.1(a) thereof) the Guarantor shall subject to the provisions of this Performance Bond satisfy and discharge the damages sustained by the Purchaser (or as appropriate discharge the sum deemed a debt due under the Contract from the Contractor to the Purchaser) as established and ascertained pursuant to and in accordance with the provisions of or by reference to the Contract and taking into account all sums due or to become due to the Contractor. The Guarantor shall not be entitled to perform the Contractor's obligations under the Contract.
2. The maximum aggregate liability of the Guarantor and the Contractor under this Performance Bond shall not exceed the sum set out in the Schedule ("the Bond Amount") but subject to such limitation and to clause 4 below the Guarantor shall have no greater liability to the Purchaser under this Performance Bond than the Contractor has to the Purchaser under the Contract.
3. The Guarantor shall not be discharged or released by any alteration of any of the terms, conditions and provisions of the Contract or in the extent or nature of the Plant and no allowance of time by the Purchaser under or in respect of the Contract or the Plant shall in any way release, reduce or affect the liability of the Guarantor under this Performance Bond.
4. Whether or not this Performance Bond shall be returned to the Guarantor the obligations of the Guarantor under this Performance Bond shall be released and discharged absolutely upon the Expiry Date (as conclusively defined in the Schedule to this Performance Bond).
5. This Performance Bond shall be governed by and construed in accordance with the laws of [.....]* and any dispute under the Performance Bond shall be determined by the courts of the country of such law. This Performance Bond incorporates and shall be subject to the Uniform Rules for Contract Bonds published by the International Chamber of Commerce (Publication No. 524) and words used in this Performance Bond shall have the meanings set out in the Rules but the provisions of paragraph (i) of Article 7(j) and

the arbitration provisions of Article 8 shall not apply.

* Note: If not completed the law governing the Contract shall apply.

THE SCHEDULE

The Contractor: [..... (name)] whose registered office is at
[..... (address)]

The Guarantor: [..... (name)] whose registered office is at
[..... (address)]

The Purchaser: [..... (name)] whose registered office is at
[..... (address)]

The Contract: A contract [dated the day of] [*to be entered into*] between the Contractor and the Purchaser (substantially in the form known as The Model Form of General Conditions of Contract MF/2) for the design, manufacture and delivery of [*short description of the Plant*] for the contract sum of [*sum in words*] pounds sterling (or appropriate currency) (£ [.....]).

The Bond Amount: The sum of [..... (sum in words)] pounds sterling (or appropriate currency) (£ [.....]).

[Insert any provisions for reduction of the Bond Amount.]

Expiry Date: The date which is three calendar months after the date of issue of the last final certificate of payment under the Contract unless prior to the expiry of such period either the Contractor or the Purchaser shall have commenced proceedings arising out of the Contract in which event three calendar months after such proceedings have been finally concluded, or [Insert details of the date agreed between the parties as constituting the Expiry Date or of the method by which that date is to be determined.].

IN WITNESS whereof the Contractor and the Guarantor have executed and delivered this Performance Bond as a deed this day of

EXECUTED AND DELIVERED as a deed }
by the CONTRACTOR as Principal }

Director [.....] (Signature)

Director/Secretary [.....] (Signature)

EXECUTED AND DELIVERED as a deed }
by the GUARANTOR as Guarantor }

Director [.....] (Signature)

Director/Secretary [.....] (Signature)

FORM OF DEFECTS LIABILITY DEMAND GUARANTEE

THIS DEFECTS LIABILITY DEMAND GUARANTEE effective as of the date hereof is made as a deed BETWEEN the following parties whose names and registered offices /addresses are set out in the Schedule to this Guarantee ("the Schedule):-

- (1) the Contractor as Principal;
- (2) the Guarantor as Guarantor; and
- (3) the Purchaser as Beneficiary.

WHEREAS:

- (1) By a contract ("the Contract") entered into between the Purchaser and the Contractor, particulars of which are set out in the Schedule, the Contractor agreed to design, manufacture and deliver certain plant ("the Plant").
- (2) Under the terms of the Contract the Contractor has agreed to assume certain obligations in relation to defects and damage caused by defects which may appear or occur in the Plant during the Defects Liability Period defined in the Contract.
- (3) The Purchaser has pursuant to the express terms of the Contract agreed that no part of the Contract Price payable under the Contract shall be withheld to secure the Contractor's obligations in relation to such defects and damage.

NOW THIS DEED WITNESSES as follows:-

1. The Guarantor hereby irrevocably undertakes to pay to the Purchaser any sum or sums not exceeding in total the amount of £ [.....] (insert total value of retention which would otherwise be retained) upon receipt by the Guarantor of the Purchaser's written demand.
2. The Purchaser's written demand shall be accompanied by a written statement certifying either that the Contractor has failed to carry out his obligations to rectify certain specified defects or damage for which he is responsible under the Contract during the said Defects Liability Period and the nature of such defects or damage or by a certificate that the Purchaser has become entitled to terminate the Contract under clause 35.1(a) thereof and the circumstances which gave rise thereto.
3. The Guarantor's liability under this Guarantee shall not exceed the total amount of retention money released to the Contractor by the Purchaser evidenced by certificates of payment issued under the terms of the Contract and copied to the Guarantor.
4. The Purchaser's demand for payment and written statement must be under the Purchaser's signature(s) authenticated by the Purchaser's bankers.
5. Any written demand and statement must be received by the Guarantor at the address stated in the Schedule on or before [.....] ("the Expiry Date") / the date the Guarantor receives a copy of the final certificate of payment under the Contract ("the Expiry Event") when this Guarantee shall expire. On expiry of the Guarantee the Purchaser shall return the Guarantee to the Guarantor.
6. This Guarantee is personal to the Purchaser and is not assignable.
7. This Guarantee shall be governed by the laws of [.....]* and shall be subject to the Uniform Rules for Demand Guarantees published by the International Chamber of Commerce (Publication No. 458).

* Note: If not completed the law governing the Contract shall apply.

THE SCHEDULE

The Contractor: [..... (name)] whose registered office is at
[..... (address)]

The Guarantor: [..... (name)] whose registered office is at
[..... (address)]

The Purchaser: [..... (name)] whose registered office is at
[..... (address)]

The Contract: A contract [dated the day of] between the Contractor and the Purchaser (substantially in the form known as The Model Form of General Conditions of Contract MF/2) for the design, manufacture and delivery of [*short description of the Plant*] for the contract sum of [*sum in words*] pounds sterling (or appropriate currency) (£ [.....]).

IN WITNESS whereof the Contractor and the Guarantor have executed and delivered this Guarantee as a deed this day of

EXECUTED AND DELIVERED as a deed }
by the CONTRACTOR as Principal }

Director [.....] (Signature)

Director/Secretary [.....] (Signature)

EXECUTED AND DELIVERED as a deed }
by the GUARANTOR as Guarantor }

Director [.....] (Signature)

Director/Secretary [.....] (Signature)

FORM OF NOTICE OF DELEGATION OF AUTHORITY

(Including notice of appointment of Engineer’s Representative)

[.....] (Engineer)

as Engineer appointed under

[.....] (Title of Contract) –“the Contract”-

hereby gives you notice under sub-clause 2.3 (Engineer’s power to delegate) of the general conditions that the following duties of the Engineer under the Contract in relation to the Plant/Section of the Plant (*as appropriate*) noted below are delegated to

[.....] who is appointed as Engineer’s Representative.

<u>Sub-Clause Number</u>	<u>Title</u>	<u>Duties Delegated to the Engineer’s Representative</u>
14.1	Programme	Approval of Programme
<p><i>(Continue with identification of the duties and the extent of the delegation and the sub-clauses under which the duties arise as appropriate to the Contract and the particular delegation.)</i></p>		

This notice supersedes all previous delegation of duties to the Engineer’s Representative named above (*or as appropriate*)/ *revokes and supersedes/ is in addition to the delegation dated [.....]/*

Signed [.....] (Engineer)

Plant/Section to which this notice relates [.....]

.....]

Date [.....] •

- P42 L5 *change* General Conditions *to* general conditions • L23 *delete* (Decrease) • L27 *change* costs *to* Cost • L28 *change* General Conditions *to* general conditions •
- P43 Recital A, L2 *delete* full • Recital B, L3/4 *change* Terms and Conditions *to* terms and conditions • L1 *change* 1 *to* 1.1 • L3, L5, L7, L9 *change* ‘The *to* ‘the •
- P44 L3, L7, L12 *change* The ‘ *to* ‘the • L7 *change* (a) *to* A • L35 *change* 3. *to* 3.1 •
- P45 L13 *change* 5. *to* 5.1 • L19 *change* 6. *to* 6.1 •
- P46 L19 *change* 9. *to* 9.1 • L30 *change* 10. *to* 10.1 • L42 *change* 11. *to* 11.1 •
- P47 L9 *change* 13. *to* 13.1 • L14 *change* 14. *to* 14.1 • L19 *change* 15. *to* 15.1 • L42 *change* 17. *to* 17.1 •
- P48 L3, L13, L15 *change* Taking-Over Certificate *to* taking-over certificate • L32 *change* Cost *to* cost • L41 *change* Clearing Banks *to* clearing banks • L43 *change* 21. *to* 21.1 •

P49 L8 change 22. to 22.1 • L11 change Insurers to insurers • L12 change from to for • L14 change 23. to 23.1 • L15 change Contract to Supervision Contract • L25 (under) add the following sub-clause:

23.2 The provisions of sub-clauses 37.2 to 37.5 (inclusive) of the Supply Contract shall also apply to any arbitration under this Supervision Contract. •

L26 delete Clause 24 and replace by the following:

Applicable law

24.1 Unless otherwise stated in the Seventh Schedule, the Supervision Contract shall in all respects be governed by and interpreted in accordance with the laws of England and English law shall govern the procedure of any arbitration under clause 23 (Arbitration).

Housing Grants, Construction and Regeneration Act 1996

25.1 Where the Supervision Contract is a construction contract within the meaning of the Housing Grants, Construction and Regeneration Act 1996 the provisions of Part 2 of the Sixth Schedule shall apply. •

add a Note at the bottom of the page as follows:

Note: If it is agreed that Scots law shall govern the Supervision Contract, similar amendments to those recommended for the Supply Contract should also be made to the equivalent provision of the Supervision Contract. •

P51 above the first line of 'THE SIXTH SCHEDULE' add a heading: **Part 1** •

below the last line of 'THE SIXTH SCHEDULE' add the following:

Part 2

Additional conditions where the Supervision Contract is subject to the provisions of the Housing Grants, Construction and Regeneration Act 1996.

(A) Clause 4.2 of the Supervision Contract shall be interpreted as if in the Supply Contract the provisions of sub-clause 2.6 (Disputing engineer's decisions, instructions and orders) had been deleted and replaced by the following sub-clause 2.6.A renumbering the reference to sub-clause 2.6 in clause 23 (Arbitration) of the Supervision Contract.

Disputing engineer's decisions, instructions and orders

2.6.A If the Contractor by notice to the Engineer within 21 days after receiving any decision, instruction or order of the Engineer in writing or written confirmation thereof under sub-clause 2.5 (Confirmation in writing), disputes or questions the same, giving his reasons for so doing, the Engineer shall within a further period of 21 days by notice to the Contractor and the Purchaser with reasons, confirm, reverse or vary such decision, instruction or order.

If either the Contractor or the Purchaser disagrees with such decision, instruction or order as confirmed, reversed or varied, he shall be at liberty to refer the matter to arbitration within a further period of 21 days. In the absence of such a reference to arbitration within the said period of 21 days, such a decision, instruction or order of the Engineer shall be final and binding on the parties, subject to the right of either party to refer the dispute relating to such decision, instruction or order to adjudication at any time under the provisions of the Housing Grants, Construction and Regeneration Act 1996.

In any case where such a dispute under this sub-clause is referred to adjudication either party shall be at liberty to refer the adjudicator's decision to arbitration under clause 37 (Disputes and arbitration) or under clause 23 (Arbitration) of the Supervision Contract as appropriate, within 21 days after the date of the adjudicator's decision and in the absence of such a reference to arbitration within the said period of 21 days the adjudicator's decision shall be final and binding on the parties.

(B) The following new clause 23.A shall be added:-

Adjudication

23.A.1 By virtue of Section 108(5) of the Housing Grants, Construction and Regeneration Act 1996 the adjudication rules contained in Part 1 of The Scheme for Construction Contracts (England and Wales)/(Scotland)/in Northern Ireland (delete as appropriate) shall apply to all adjudications of disputes.

23.A.2 (a) The adjudicator shall be of

(b) If no adjudicator is nominated in (a) above or if the nominated adjudicator is unwilling or unable to act, an adjudicator shall be nominated by (delete as appropriate):-

The Institution of Electrical Engineers.

The Institution of Mechanical Engineers.

- (c) Where neither paragraph (a) nor (b) applies, or where the person named in (a) has already indicated that he is unwilling or unable to act and (b) does not apply, the party referring the dispute to adjudication shall request an adjudicator nominating body to select a person to act as adjudicator.

© Add the following to clause 20.1 (Certificates and payment):-

Unless otherwise provided, applications for interim certificates of payment may be made by the Contractor to the Engineer monthly.

Add the following new sub-clause 20.A:-

Certificates and payment

20.A.1 The Purchaser may not make payment of any lesser sum than that certified in an interim certificate of payment or withhold payment of any sum that would otherwise be due under a certificate of payment unless he has within 5 days after the issue of the certificate of payment notified the Contractor of the amount he proposes to pay and the basis on which that amount is calculated and the relevant provision that entitles the Purchaser to withhold the amount concerned.

add a seventh schedule, as below:

THE SEVENTH SCHEDULE

[If it is desired that the Supervision Contract should be subject to a law other than English law or to the same law as the Supply Contract, the appropriate provision should be included here. The following clause, which is appropriate for use in all cases where the Supervision Contract is to be governed by the same law as the Supply Contract, may be used in substitution for clause 24.

Applicable law

24.1 The Supervision Contract shall be governed and interpreted in conformity with the law governing the Supply Contract.] •

P52 L8 *change* Tests of *to* Tests on • L12, L20 *change* Certificate *to* certificate •
L13 *change* Defects Liability Period *to* defects liability period • L14 *change* will *to* will, *and*
change Contract *to* Contract, • L17 *change* Delivery *to* delivery • L21 *change* Retention Monies *to*
retention monies •

SECTION B

Section B of MF/2, A/L1 is blank.

(vi) MF/3, A/L1 (Current)

Note. This Amendments List was published as an integral part of Model Form MF/3 (rev 1) but is reproduced here for the convenience of users.

Amendments List

This Amendments List (MF/3, A/L1) describes the changes made to the 1993 Edition of MF/3 - as amended by Amendment Slips MF/3, A/S1 and MF/3, A/S2- when reissued in 2001 as MF/3 (rev 1).

The page numbers used below are the page numbers of the 1993 Edition of MF/3.

Page 1 Sub-clauses 1.1 (Definitions) and 1.4 (Third party benefits) added and the existing sub-clauses of clause 1 renumbered to suit. (Sub-clause 1.4 was previously introduced in Amendment Slip MF/3, A/S2 but was therein numbered sub-clause 1.3.)

Note that the definitions given in the new sub-clause 1.1 (Definitions) are used throughout MF/3 (rev1).

Page 3 Sub-clauses 7.3 (Delay in delivery) and 7.4 (Prolonged delay) reworded using the defined term Contract Value.

Page 5 "Letters patent" replaced by "patent" in clause 12.

Page 7 Sub-clause 18.2 (Performance to continue during arbitration) added and sub-clause 18.1 renamed.

Clause 19 (Applicable law) revised.

Page 9 Clause 19 (Applicable law) revised.

Page 11 First paragraph revised to include:-
(i) a reference to the remedying of defects,
(ii) choice of whether Contract Price is to be inclusive or exclusive of V.A.T.,
(iii) usage of the term Conditions –(also in fourth paragraph).

Page 12 Suggestions for "further schedules" revised.

Page 13 Paragraphs 2(a), (b), (d), (e) amended and paragraph 2(f) added.

Page 14 Reference to V.A.T. added in paragraph 4.
Paragraph 5 added as per paragraph 3 (i) of MF/3, A/S1.
Alternatives for signatures presented for both simple contracts and deeds.

Pages 15/16 The Form of Performance Bond has been revised.

PART 5A

HISTORIES OF MODEL FORMS MF/1, MF/2 & MF/3

Note. The following histories are extracted from the current editions of the model forms. Further information on histories may also be obtained by consulting any current supplements or amendment slips to the forms.

(MF/4 2003/1 does not include a Historical note.)

Contents

[\(i\) History of Model Form MF/1](#)

[\(ii\) History of Model Form MF/2](#)

[\(iii\) History of Model Form MF/3](#)

(i) Model Form MF/1

Historical note

A "Form of Model Conditions recommended for use in connection with contracts for plant, mains and apparatus for electricity works" was originally drawn up by a committee convened by the Council of The Institution of Electrical Engineers in 1903. This was followed by:

1914

Form of Model General Conditions recommended for use in connection with contracts for electrical works.

1921, 1926, 1929, 1938

Model Form of General Conditions 'A', Home Contracts – with erection.

1925, 1928

Model Form of General Conditions 'B.2'

(Export, including Complete Erection or Supervision of Erection).

Following agreement between the Councils of The Institution of Mechanical Engineers and The Institution of Electrical Engineers, the scopes of the forms were enlarged to make them suitable for both the electrical and mechanical engineering industries, and, on this basis, the model forms were issued jointly by the two Councils.

1948

Model Form of General Conditions of Contract 'A', Home Contracts – with erection.

1954

Model Form of General Conditions of Contract 'B3' – Export Contracts (including Delivery to and Erection on Site).

As a result of an approach by The Association of Consulting Engineers, it was agreed in 1951 that the Association should adopt and join in recommending this model form, simultaneously discontinuing the issue of the "Conditions of Contract" which the Association had hitherto prepared and recommended for use by its members. Accordingly, the name of the Association now appears on the title page of the model form.

1966, 1971, 1972, 1973, 1976, 1978, 1982

Model Form of General Conditions 'A', Home Contracts – with erection.

These revisions covered: developments in practice (1966); amendments to cover S.E.T. and metrication (1971); V.A.T. (1972); V.A.T. and abolition of S.E.T. (1973); general revision (1976); amendments in response to the Unfair Contract Terms Act 1977 (1978); the Arbitration Act 1979, and abolition of the Bank of England minimum lending rate (1982).

1971, 1980, 1982

Model Form of General Conditions of Contract 'B3', Export Contracts – with erection.

1988

Model Form of General Conditions of Contract MF/1, Home or Overseas Contracts – with erection.

This was an entirely new model form, suitable for both home and export contracts, and replaced both Model Forms 'A' and 'B3'. It recognised important changes in practice, particularly in the role of the Engineer, and incorporated special sections covering sub-contracts, and electronics hardware and software. An explanatory Commentary was produced to accompany the form and explain the underlying principles.

1989, 1992

MF/1 Reprints incorporating editorial amendments.

1993

Separate supplement, S1-MF/1, published – covering suggested Special Conditions for contracts involving measurement.

1995

MF/1 (rev 3), Home or Overseas Contracts for the Supply of Electrical, Electronic or Mechanical Plant – with Erection, published – incorporating both editorial and other amendments and a revision covering unregistered design rights and Applicable Law. Additionally, the 1993 supplement, S1-MF/1, has been integrated into the form and further suggested Special Conditions to allow for sectional completions have been provided.

2000

2000 Edition of MF/1, MF/1 (rev 4) published – incorporating both editorial and other amendments. Additionally, the 1998 and 1999 Supplements (S2-MF/1 & S3-MF/1) and the 2000 Amendment Slip (MF/1, A/S1) to MF/1 have been integrated into the form.

ISBN 0 85296 759 4

12/00

(ii) Model Form MF/2

Historical note

A Model Form of General Conditions "B1" (Export Contracts, Delivery f.o.b.) was first published by the Institution of Electrical Engineers in 1925. In the same year the Institution also published a Model Form of General Conditions "B2" (Export, including Complete Erection or Supervision of Erection). Revisions of the two model forms were issued in 1928.

Following consultations, and by agreement between the Council of the Institution of Mechanical Engineers and the Council of the Institution of Electrical Engineers, in 1956 Model Form B1 was enlarged to make it suitable for both the electrical and mechanical engineering industries and, on that basis, the model form was first issued jointly by the two Councils in 1956 and entitled "Model Form of General Conditions of Contract B1 – Export Contracts with Delivery f.o.b. or c.i.f."

A revision of Model Form B2 was first issued jointly by the two Councils in 1960 entitled "Model Form of General Conditions of Contract B2 – Export Contracts including Delivery f.o.b., c.i.f. or f.o.r. with Supervision of Erection, of Mechanical or Electrical Plant". In 1972, Model Form B2 was substantially revised to incorporate developments in practice and a similar revision of Model Form B1 followed in 1973.

In 1981 both Model Forms B1 and B2 were revised to take account of changes in legislation, to make provision for advance payments and to cater for methods of delivery for which there were then internationally accepted interpretations of the rights and obligations of the parties.

Following an approach in 1952 by the Association of Consulting Engineers, it was agreed that the Association should adopt and recommend to its members the use of the model forms and the name of the Association accordingly appears on the title page.

1991

Model Form of General Conditions of Contract MF/2, Home or Overseas Contracts for the Supply of Electrical or Mechanical Plant.

This was an entirely new model form for both home and export contracts and replaced both Model Forms B1 and B2. It recognised important changes in practice, particularly in the role of the Engineer and incorporated a Form of Sub-Contract and a Form of Supervision Contract for use where the supply contract was on the basis of the general conditions. An explanatory Commentary was produced to accompany the form and to explain the underlying principles.

MF/2 provided for the first time a model form for home contracts with supervision.

1999

MF/2 (rev 1), Home or Overseas Contracts for the Supply of Electrical, Electronic or Mechanical Plant, published —incorporating both editorial and other amendments and revisions covering Arbitration and Applicable Law. MF/2 and its Form of Supervision Contract now both provide for a right to the adjudication of disputes and limit the way in which payments may be reduced or withheld in cases where either is a construction contract for the purposes of the Housing Grants, Construction and Regeneration Act 1996.

Additionally, suggested Special Conditions in MF/2 to allow for sectional completions have been provided, the Form of Performance Bond and the Form of Agreement revised and a Form of Defects Liability Demand Guarantee and a Form of Notice of Delegation of Authority added.

ISBN 0-85296-858-2

11/99-(2)

(iii) Model Form MF/3 *

Historical Note

A Model Form of General Conditions 'C' – Home (without erection) was first published by the IEE (Institution of Electrical Engineers) in 1924. A revision was issued in 1940.

Following consultations, and by agreement between the Council of the Institution of Mechanical Engineers and the Council of the IEE, the scope of the Model Form was enlarged to make it suitable for both the electrical and mechanical engineering industries and, on that basis, the Model Form was first issued jointly by the two Councils as :

1956 Edition

Model Form of General Conditions of Contract 'C' for the sale of Electrical and Mechanical Goods (other than Electric Cables) (Home – without erection).

An updated edition was issued in 1975 to take account of comments and developments in practice. The 1975 Edition was itself amended in 1978 to take account of the Unfair Contract Terms Act, 1977.

A 1993 Edition was issued take account of the Consumer Protection Act, 1987 and to improve the treatments of Liability for Accidents and Damage, Completion, Applicable Law and Variations. An Appendix, an Index and Forms of Tender, Agreement and Performance Bond were also added and the model form renamed MF/3.

This 2001 Edition, MF/3 (rev 1)/2001/1, incorporates amendments slips MF/3, A/S1 (as published in December 1997), MF/3, A/S2 (as published in July 2000) and editorial amendments and includes a revised model Form of Performance Bond and Form of Agreement. A Definitions clause and an Amendments List have also been added.

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* Note: Model Form MF/3 was previously known as Model Form C

PART 5B

CONTENTS PAGES OF MODEL FORMS AND COMMENTARIES

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- (i) [Contents pages of MF/1 \(rev 4\)](#)
- (ii) [Contents pages of MF/2 \(rev 1\) See Note 2 below.](#)
- (iii) [Contents pages of MF/3 \(rev 1\)](#)
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Note 1. Model Form MF/4 does not include a Table of Contents.

Note 2 MF/2 (rev 1) content is subject to a pending change in accordance with its current Amendment Slip MF/2, A/S1.

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Note: Any updates/corrections noted here are expected to be incorporated into the next revision of the publication.

(i) MF/1 (rev 4)

(ii) Commentary on MF/1

(iii) MF/2 (rev 1)

(iv) Commentary on MF/2

(v) MF/3 (rev 1)

(vi) MF/4

(vii) Commentary on MF/4

2. Secondary Publications

(viii) MF/1, A/L3

(ix) MF/2, A/L1

(x) MF/2, A/S1

(xi) MF/3, A/L1

(i) MF/1 (rev 4)

The following corrections should be made to copies bearing the date 12/00.

- (i) Line 26, page 1: *change Work to Works*
- (ii) Line 5, page 15: *change 51.2 to 51.3*
- (iii) Line 31, page 26: *change special to Special*
- (iv) Paragraph (c), page 39: *change content of bracket to 2½*

(ii) Commentary on MF/1

No updates/corrections

(iii) MF/2 (rev 1)

See Amendment Slip MF/2, A/S1 and also any updates/corrections thereto ((x) below).

(iv) Commentary on MF/2

No updates/corrections

(v) MF/3 (rev 1)

No updates/corrections

(vi) MF/4

No updates/corrections

(vii) Commentary on MF/4

No updates/corrections

(viii) MF/1, A/L3

No updates/corrections

(ix) MF/2, A/L1

No updates/corrections

(x) MF/2, A/S1

No updates/corrections

(xi) MF/3, A/L1

No updates/corrections

END OF JOINT IMechE / IET MODEL FORMS INFORMATION PACK