

## CCDC 5A – 2010 – Construction Management Contract – for Services

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### Summary

CCDC 5A - 2010 – “Construction Management Contract – for Services” became available in late 2010, after a number of years of development by the Canadian Construction Documents Committee (CCDC). The document replaces the older Canadian Construction Association (CCA) document - CCA 5, 1988. Whereas the old CCA 5 did not make a clear separation between the construction manager’s (CM) consulting services and the construction services, the new CCDC 5A and CCDC 5B cover distinct types of service.

This Practice Tip (PT) provides an overview of CCDC 5A and identifies recommended amendments, supplementary conditions and procedural cautions.

### Background

In November, 2010, CCDC published a new suite of three standard contract forms for construction management:

- CCDC 5A Construction Management Contract – for Services” (replaces the old CCA 5-1988, also referred to as CM as Agent)
- CCDC 17 Stipulated Price Contract between Owner and Trade Contractor for Construction Management Projects” (replaces the old CCA 17-1996)
- CCDC 5B Construction Management Contract – for Services and Construction” (is brand new, also referred to as CM at Risk)

CCDC 5A is intended for use when the CM acts as consultant (agent) of the owner, providing advisory services. The owner contracts directly with trade contractors to perform the construction work, using a new companion CCDC 17 document. The CM oversees the trade contractors. The 5A contract provides for a limited amount of work to be done by the CM, generally temporary work, such as temporary facilities, security and clean-up.

The contract uses a Schedule A checklist for construction management services similar to the format used for client/architect agreements. A CM could be engaged by the owner at the beginning of a project or later on. The schedule indicates what services are provided by the CM. It is important for architects to know what services an owner has engaged a CM to perform to avoid overlap or gaps in services.

The CCDC 5A and 17 provide that the payment certifier shall be either the CM or the consultant to be identified in the trade contract. It is the responsibility of the owner to designate a payment certifier.

In addition, the new CCDC 5A and 17 have split the role of making interpretations and findings (which rests with the consultant only in other contract versions) so that this role is now split between the consultant and the CM. The OAA is concerned that the splitting of the role of making interpretations and findings between the consultant and the CM lacks clarity and can increase the likelihood of conflicts. The OAA has developed amendments and supplementary conditions to achieve this recommended change to the new 5A and 17 contracts.

This PT does not make an exhaustive analysis of the contract, but highlights content significant to architects and identifies recommended amendments, supplementary conditions and procedural cautions.

CCDC contracts are prepared by consensus of a diverse group of stakeholders including architect representatives of Architecture Canada (RAIC). The Ontario Association of Architects (OAA) supports and endorses the concept of industry standard contracts produced by the CCDC.

The OAA established a review process for the CCDC 5A, 2010 version and the OAA Council endorsed its use subject to using recommended supplementary conditions issued by the OAA.

It is unusual for either architects and/or clients to utilize CCDC contracts without any supplementary conditions. The publishing of these recommendations does not preclude the incorporation of additional items by clients and/or architects in order to address specific project conditions. The wordings suggested in PTs is not a substitute for involvement of legal counsel. Clients should be advised to discuss specific wording and the inclusion of amendments and supplementary conditions with their own legal counsel.

## **Suggested Procedure**

1. Familiarize yourself in detail with CCDC 5A, 2010 and other documents listed under “References” below, as well as those which will be issued in the future as more experience develops in the use of the new contract.
2. Determine if the owner intends to use construction management as a delivery method using CCDC 5A, 2010 prior to finalizing the client/architect contract. If so, carefully review and identify all of the consultant’s various defined responsibilities in the new CCDC 5A, 2010 version and co-ordinate with the client/architect contract so that fair and reasonable fees are established and provisions are made for adjustment to the architects’ services which result from any discrepancies between the client/architect contract and CCDC 5A. The defined role of the consultant in the new CCDC 5A version may have increased the level of your services in some areas due to the construction delivery process being construction management.
3. In the situation where the client has signed a CCDC 5A contract with a CM prior to retaining the architect, and/or the client does not share the CCDC 5A contract with the architect; the architect should be aware that there may be discrepancies or lack of clarity as to the defined roles of the CM and architect.  
  
This may lead to disputes at a later date during the development and design and/or during construction. If possible, try to resolve any discrepancies as noted in Item 2, above.
4. It is a good practice to review the more significant changes in the contract and any proposed amendments with your client prior to using CCDC 5A, 2010 on their project. While you can appropriately share with your client your understanding and experience with construction management projects, remember to avoid giving legal advice.
5. OAA 600, 2008 “Standard Form of Contract for Architect’s Services” is co-ordinated with CCDC 5A, 2010. For example, procedures for the use of Alternate Dispute Resolution (ADR) between client and CM are included in OAA 600. Use the latest version of OAA 600, especially when your client intends to employ the CCDC 5A ADR process. If using other standard RAIC forms, include the procedures outlined in OAA 600 for the use of ADR procedures by the client in the owner/CM contract.
6. The OAA supports and endorses the concept of standard industry documents as are produced by CCDC. Care is taken to attempt to co-ordinate CCDC, OAA, and RAIC documents. For example, the role of the consultant in CCDC 5A as amended by the OAA recommendations parallels the description of the architect’s services during construction in the standard architect/consultant contract. Recommend to your clients the use of industry recognized documents. It is good practice to keep supplementary conditions to a minimum.

## References

1. [CCDC website](#) – contracts and guides.
2. PTs 23.2, 23.4 & 23.5. which discuss CCDC 5A, 5B, & 17.
3. PT.26 – Conflict of Interest Guideline.
4. RAIC CHOP Chapter 2.3.2 *Types of Construction Project Delivery*, 2.3.7, & 2.3.8.
5. The [AIA website](#) (Search for “construction management”)

## Attachments:

1. *Recommended Amendments and Supplementary Conditions for Construction Management Contract – for Services, CCDC 5A, 2010.*

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*The OAA does not provide legal, insurance or accounting advice. Readers are advised to consult their own legal, accounting or insurance representatives to obtain suitable professional advice in those regards.*

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## **Recommended Amendments and Supplementary Conditions for Construction Management Contract – for Services, CCDC 5A –2010**

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### ***CCDC 5A – 2010 - Construction Management Contract – for Services***

The following are recommended amendments and supplementary conditions for the CCDC 5A – 2010 contract. To incorporate their use you can copy/paste from the Word document into the front end of the project manual specifications with appropriate headings and footers with the project name, practice name, specification section, page numbers etc. utilizing the standard specifications section/page format. Coordinate the sequence and numbering with other amendments or supplementary conditions.

**Do Not Include This Cover Page In Your Specifications**

## **Recommended AMENDMENTS and SUPPLEMENTARY CONDITIONS for: Construction Management Contract – for Services, CCDC 5A – 2010**

Where these amendments, additions, and modifications specifically reference a change to the Agreement, Definitions, General Conditions, these amendments, additions and modifications shall govern.

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### **Amendments to Articles**

#### **ARTICLE A-7 – RECEIPT OF AND ADDRESSES FOR NOTICES IN WRITING**

- Delete the words 'or other form of electronic communication' after the words 'or by facsimile' in paragraphs 7.2 and 7.4.

### **Amendments to Schedule A1 to the Agreement – Services and Compensation**

#### **2. Construction**

##### **2.1 General Services**

- Delete the words 'and make findings' after the word 'interpretations' in the first line and delete the words 'architectural and engineering aspects of the *Project*' .... in sub-paragraph 2.1.3 (3).
- Delete the words 'make findings' after the word 'investigate' in sub-paragraph 2.1.3 (5).
- Delete the words 'findings' and add the word 'interpretations' after the word 'Make' in the first line and after the word 'such' in the second line of sub-paragraph 2.1.3 (6).

### **Supplementary Conditions**

#### **GC 2.1 SERVICES**

- Delete the words 'and findings' after the word 'Interpretations' in the first sentence and after the word 'Interpretations' in the second sentence of paragraph 2.1.5.

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