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CCDC 2 - 2008: NEW AND IMPROVED

The Canadian Construction Documents Committee (a joint committee of national organizations for architects, engineers, specification writers and contractors) has just issued the long-awaited new (2008) version of the CCDC 2 - Stipulated Price Contract which now replaces the 1994 Edition. CCDC 2 is widely used in the construction industry and the amendments will be of interest to owners, contractors and consultants across Canada. The following is a quick review of some significant changes and other amendments of note.

Some Significant Changes

GC 6.6 (New) - This is a new section detailing a claims procedure for making changes to the Contract Price (up or down) by the Owner or the Contractor. There is a notice requirement for such claims and the party making the claim must provide details of the basis and amount of its claim within a reasonable time.

GC 9.3 (New) - A new section has been added to deal with discovery of historical artifacts or fossils at the site. They will be owned by the Owner and the Contractor is to take precautions to prevent removal or damage.

GC 9.5 (New) - This clause recognizes mould as a significant issue. The Contractor must report and take steps to avoid sickness, injury or damage to people and property. The Owner must retain an expert if it does not agree with the Contractor regarding existence, significance or cause of the mould or steps to be taken to deal with it. The responsible party (Owner or Contractor) must indemnify the other and pay for any loss, costs or delay.

GC 11.1 - This section has been extensively revised and updated and minimum requirements for insurance coverages are now specified in the new CCDC 41 - CCDC Insurance Requirements. Needless to say, both parties to the contract should review these requirements carefully.

GC 12 - This section has undergone a major redrafting. In GC 12.1 there is now a reciprocal indemnity clause and a limitation on the indemnities to the "greater of the Contract Price ... or \$2,000,000, but in no event shall the sum be greater than \$20,000,000" (subject to the availability of insurance proceeds). The indemnity for third party claims is unlimited. Waivers in GC 12.2 are mutual and limited to 6 years from Substantial Performance

Some Other Amendments of Note

GC 2.2 - The Consultant's role is expanded with more involvement in the claims process. The Consultant must notify Owner of receipt of payment applications.

GC 3.2 - Consequences of failing to report deficiencies in other contractor's Work is removed.

GC 3.6.1 - There is now an express requirement for the Contractor's representative to be "competent".

GC 3.7.6 - The Owner is able to provide Subcontractors/Suppliers with information regarding percentage completion of their work.

GC 3.10 - The Shop Drawing process has been clarified.

Part 5 - Payment - This Part has been amended for timing for schedule of values, progress payments and certification of Substantial Performance.

GC 5.3.1 - The Owner has to make payment 20 days after the Consultant's receipt of the Contractor's application for payment (previously 5 days after the date of the Consultant's certificate).

GC 5.5.1 - CCDC 9A is the statutory declaration.

GC 6.1.1 - The Owner is now able to also make changes to the Contract Time.

GC 6.3.2 - A Change Directive must be within the general scope of the Contract Documents.

GC 6.4.1 - weather is excluded from conditions that differ from the ordinary.

GC 6.5.3 - This clause has been restructured and an extension of time is now available for "abnormally adverse weather conditions".

GC 9.1.2 - Before commencing any work, the Contractor must determine locations of underground utilities and structures identified in the Contract Documents or those that are "reasonably apparent".

GC 9.4 - This clause (Construction Safety) has been moved (previously GC 3.6).

GC 11.2 - "Contract security" terminology is now used instead of "bonds" to recognize other types of contract security.

GC 12.3.6 (New) - Extended warranties are to be issued to the benefit of the Owner, while the Contractor's responsibility for them is limited to obtaining them.

How to obtain a copy of CCDC 2 - 2008

The CCDC 2-2008 is available from the Canadian Construction Documents Committee website: <http://www.ccdc.org/downloads/index.html>. To download and use the CCDC documents, you will need to purchase a registration number from a CCDC document outlet (not the Canadian Construction Association). Please note that CCDC will continue to sell copyright seals of the 1994 Edition for the transition period until July 1, 2008. After that, only the copyright seals of the 2008 Edition will be available. Please contact the CCDC at info@ccdc.org if you have any questions. The new CCDC 2 can also be purchased from your Regional Construction Association.

The above synopsis of the changes in CCDC 2 - 2008 from the 1994 edition are intended only as an overview. Miller Thomson LLP encourages you to contact one of our experienced construction law lawyers regarding the changes in the new CCDC 2 - 2008 and any Supplementary Conditions you may require for your specific project.

- by: Construction Law Group, Miller Thomson LLP

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