

Standard Construction Document CCDC 17 (2010)

**Stipulated Price Contract between
Owner and Trade Contractor
for Construction Management Projects**

Project.....

SUPPLEMENTARY GENERAL CONDITIONS

For use only in the Province of Alberta

The *Owner* and the *Trade Contractor* agree that in this agreement, Article A-5 - PAYMENT is amended as follows:

Delete paragraphs 5.1.2 and 5.1.3 and substitute:

- .2 upon *Substantial Performance of the Work*, pay to the *Trade Contractor* the major lien fund together with such *Value Added Taxes* as may be applicable to such payment, as set out in GC 5.5 - PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK, and
- .3 upon the issuance of the final certificate for payment, pay to the *Trade Contractor* the unpaid balance of the *Contract Price* and the minor lien fund when due, together with such *Value Added Taxes* as may be applicable to such payment, as set out in paragraph 5.7.4 of these Supplementary General Conditions.

The *Owner* and the *Trade Contractor* agree that in this agreement, the General Conditions are amended as follows:

Delete GC 5.4.1 and substitute:

- 5.4.1 When the *Trade Contractor* is of the opinion that the *Work* is substantially performed, the *Trade Contractor* shall prepare and submit to the *Owner*, with a copy to the *Construction Manager* and the *Consultant*:
- .1 a comprehensive list of items to be completed or corrected -- failure to include an item on the list does not alter the responsibility of the *Trade Contractor* to complete the *Contract* -- and
 - .2 a certificate of *Substantial Performance of the Work* for verification by the *Construction Manager* and the *Consultant*.

Delete GC 5.4.2 and substitute:

5.4.2 The *Construction Manager* and the *Consultant* will review the *Work* to verify the validity of the certificate of *Substantial Performance of the Work* and, whichever of them is the *Payment Certifier*, shall promptly, and in any event, no later than 15 calendar days after receipt of the *Trade Contractor's* list and certificate of *Substantial Performance of the Work*:

- .1 advise the *Trade Contractor* in writing, with a copy to the *Owner*, that the *Work* is not substantially performed and give reasons why, or
- .2 verify in writing the certificate of *Substantial Performance of the Work*, with a copy to the *Owner* and the *Trade Contractor*.

Within 3 calendar days after the date of issue of the certificate, as verified by the *Payment Certifier*, the *Trade Contractor* shall post the certificate in a conspicuous place at the *Place of the Work* to which the certificate relates.

Delete GC 5.5 in its entirety and substitute:

GC 5.5 PAYMENT OF HOLDBACK UPON SUBSTANTIAL PERFORMANCE OF THE WORK

5.5.1 After the *Payment Certifier* verifies the certificate of *Substantial Performance of the Work*, the *Trade Contractor* shall:

- .1 submit an application for payment of the major lien fund,
- .2 submit CCDC 9A 'Statutory Declaration' to state that all accounts for labour, subcontracts, *Products*, *Construction Equipment*, and other indebtedness which may have been incurred by the *Trade Contractor* in the *Substantial Performance of the Work* and for which the *Owner* might in any way be held responsible have been paid in full, except for amounts properly retained as a holdback or as an identified amount in dispute.

5.5.2 After the receipt of an application for payment from the *Trade Contractor* and the statement as provided in paragraph 5.5.1, the *Payment Certifier* will issue a certificate for payment of the major lien fund.

5.5.3 The *Owner* shall, within 10 calendar days after the date of the certificate for payment of the major lien fund, place the major lien fund in a bank account in the joint names of the *Owner* and the *Trade Contractor*.

5.5.4 When 45 calendar days have expired from the date of issue of the certificate of *Substantial Performance of the Work*, as verified by the *Payment Certifier*, and if no builders' liens have been registered for the *Work*, the *Owner* shall promptly release the major lien fund to the *Trade Contractor*.

5.5.5 If a builders' lien has been registered for the *Work*, the *Owner* will not make any further payments to the *Trade Contractor* until that builders' lien has been discharged.

Delete GC 5.6 in its entirety and substitute:

GC 5.6 PROGRESSIVE RELEASE OF HOLDBACK

5.6.1 When the *Trade Contractor* or a *Trade Subcontractor* is of the opinion that the work of that *Trade Subcontractor* is substantially performed, the *Trade Contractor* or that *Trade Subcontractor* shall prepare and submit to the *Owner*, with a copy to the *Construction Manager* and the *Consultant*:

- .1 a comprehensive list of the items to be completed or corrected -- failure to include an item on the list does not alter the responsibility of the *Trade Contractor* and that *Trade Subcontractor* to complete the work of that subcontract -- and
- .2 a certificate of substantial performance in respect of that *Trade Subcontractor's* subcontract, for verification by the *Construction Manager* and the *Consultant*.

5.6.2 The *Construction Manager* and the *Consultant* will review the *Trade Subcontractor's* work to verify the validity of the certificate of substantial performance in respect of that *Trade Subcontractor's* subcontract and, whichever of them is *Payment Certifier*, shall promptly, and in any event, no later than 15 calendar days after receipt of the *Trade Subcontractor's* list and certificate:

- .1 advise the *Trade Contractor* and *Trade Subcontractor* in writing, with a copy to the *Owner*, that the *Trade Subcontractor's* work is not substantially performed and give reasons why, or
- .2 verify in writing the certificate of substantial performance in respect of that *Trade Subcontractor's* subcontract, with a copy to the *Owner*, the *Trade Contractor* and *Trade Subcontractor*.

Within 3 calendar days after the date of issue of the certificate, as verified by the *Payment Certifier*, the person issuing the certificate shall post the certificate in a conspicuous place at the *Place of the Work* to which the certificate relates.

5.6.3 After the *Payment Certifier* verifies the certificate of substantial performance in respect of a *Trade Subcontractor's* subcontract, the *Trade Subcontractor* shall submit CCDC 9B 'Statutory Declaration' to state that all accounts for labour, subcontracts, *Products*, *Construction Equipment*, and other indebtedness which may have been incurred by the *Trade Subcontractor* in the performance of that *Trade Subcontractor's* work and for which the *Owner* or the *Trade Contractor* might in any way be held responsible have been paid in full, except for amounts properly retained as a holdback or as an identified amount in dispute.

- 5.6.4 After the receipt of an application for payment from the *Trade Contractor* and the *Trade Subcontractor's* statement as provided in paragraph 5.6.3, the *Payment Certifier* will issue a certificate for payment of that *Trade Subcontractor's* portion of the major lien fund and provide a copy of such certificate to the *Owner*, the *Trade Contractor*, and the *Trade Subcontractor*.
- 5.6.5 When 45 days have expired from the date of issue of the certificate of substantial performance in respect of that *Trade Subcontractor's* subcontract, as verified by the *Payment Certifier*, and no builders' liens have been registered for the *Work*, the *Owner* shall promptly release that *Trade Subcontractor's* portion of the major lien fund to the *Trade Contractor*. If no builders' liens have been registered for the *Work*, the *Trade Contractor* shall promptly release that portion of the major lien fund to that *Trade Subcontractor*.
- 5.6.6 Notwithstanding the provisions of the preceding paragraphs, and notwithstanding the wording of such certificates, the *Trade Contractor* and that *Trade Subcontractor* shall ensure that such subcontract work or *Products* are protected pending the issuance of a final certificate for payment and be responsible for the correction of defects or work not performed regardless of whether or not such was apparent when such certificates were issued.

Delete GC 5.7.4 and substitute:

- 5.7.4 Subject to the provision of paragraph 10.4.1 of G.C. 10.4 - WORKERS' COMPENSATION, and subject to no builders' liens being registered for the *Work*, the *Owner* shall at the expiration of 45 calendar days from total completion of the *Work* referred to in the Builders' Lien Act of Alberta, pay the *Trade Contractor* as provided for in Article A-5 of the Agreement - PAYMENT.

Add new GC 12.2.11:

- 12.2.11 All provisions of GC 12.2 – WAIVER OF CLAIMS, are subject to the provisions of the Limitations Act of Alberta and amendments thereto.

Delete GC 12.3.1 and substitute:

- 12.3.1 Except for extended warranties as described in paragraph 12.3.7, the warranty period under the *Contract* is one year from the later of the date of *Substantial Performance of the Work*, as verified by the *Payment Certifier*, and the *Project In-Use Date*.