

## 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). In conjunction with CCDC 5B, it makes a clear separation between the construction manager’s (CM) consulting services, and the construction services.

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 (replaced 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 (replaced the old CCA 17-1996); and
- CCDC 5B Construction Management Contract – for Services and Construction (also referred to as CM at Risk).

CCDC 5A is intended for use when the CM acts as a 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 working for the owner. 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 cleanup.

The 5A 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 at any time prior to construction. The schedule indicates what services are provided by the CM. It is important for holders of Certificates of Practice (Holders) to know what services an owner has engaged a CM to perform to avoid overlaps or gaps in services received by the owner.

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, CCDC 5A and 17 have split the role of making interpretations and findings (which rests with the consultant only, in other contract versions) 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 could increase the likelihood of conflicts, and believes that the role of making findings should be left only with the consultant. The OAA has developed amendments and supplementary conditions to achieve this recommended change to the 5A and 17 contracts.

This PT does not make an exhaustive analysis of the contract, but highlights content significant to Holders, 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 the Royal Architectural Institute of Canada (RAIC). The OAA supports and endorses the concept of industry-standard contracts such as those 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 Holders 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 Holders in order to address specific project conditions. The wordings suggested in PTs are not substitutes for involvement of a Holder's 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 may 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/Holder contract. If so, carefully review and identify all of the consultant's various defined responsibilities in the new CCDC 5A, 2010 version and coordinate with the client/Holder contract so that fair and reasonable fees are established and provisions are made for adjustment to the Holder's services that result from any discrepancies between the client/Holder contract and CCDC 5A. The defined role of the consultant in CCDC 5A may have increased the level of services required 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 Holder, and/or the client does not share the CCDC 5A contract with the Holder; the Holder should be aware, and should make the client aware there may be discrepancies or lack of clarity as to the defined roles of the CM and Holder.

This may lead to disputes at a later date during the development, design, and/or 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 the 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. The OAA 600-2021 standard form of contract 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 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 such as are produced by CCDC. Care is taken to attempt to coordinate CCDC, OAA, and RAIC documents. For example, the role of the consultant in CCDC 5A, as amended by the OAA's recommended supplementary conditions, parallels the description of the Holder's services during construction in the standard Holder/consultant contract. Recommend to your clients the use of industry-recognized documents. It is also good practice to keep supplementary conditions to a minimum.

## References

1. [CCDC website](#) – contracts and guides.
2. PTs 23.2, 23.14 & 23.15. which discuss CCDC 5A, 5B, & 17.
3. PT.26 – Conflict of Interest Guideline.
4. RAIC CHOP Chapter 4.1 *Types of Design-Construction Project Delivery*.
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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