

# A Guide to Canadian Standard Form of Agreement Between Client and Architect Abbreviated Version Document Seven

## Background

This guide is written to assist both the Client and Architect in completing the Agreement and to explain some of the more important parts of the document. Written suggestions are welcomed by the Royal Architectural Institute of Canada. Please write to:

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The Abbreviated Version is related to the Canadian Standard Form of Agreement Between Client and Architect – Document Six. The Abbreviated Version is intended for use where the more extensive Standard Form of Agreement Between Client and Architect is not practical.

## Changes from the previous 1997 Version of Document Seven

The following summarizes the changes in Document Seven - 2005 edition since it was last issued in 1997:

### 1. Copyright

The RAIC now holds the copyright for this document as well as for all of the national standard contract documents of the architectural profession. The copyright was assigned to the RAIC by the provincial associations of architects in 2004.

In order to maintain and publish this document, the RAIC is generating some revenue through the sale of authorization seals. These seals are used in the same manner as CCDC documents. To be permitted to use Document Seven the user must affix an authorization seal to the cover of each copy of the contract containing an original signature. Typically each contract will require two authorization seals – one for the contract copy retained by the Client with the *Architect's* signature and one for copy retained by the *Architect* with the Client's original signature.

Authorization seals may be ordered online through the [RAIC website](#) or by telephone, fax or mail.

### 2. Definitions

There have been some minor adjustments to the definitions to ensure that the language corresponds exactly to the wording in Document Six, 2002 edition. New definitions have been added for *Architect* and *Consultant*. All definitions are CAPITALIZED and written in "*italics*". This is the same format used in all CCDC documents and in Document Six.

### 3. Additional Services

Additional services are described under Article 2.4 and a new schedule, **Schedule B – List of Additional Services** is appended to the Agreement. Those services that are not checked in the first, left-hand column under *Architect's* Services in Schedule A are automatically additional services.

## 4. Completion of Services

When an *Architect's* Services are complete is now clarified under Article 2.6.

## 5. Liability of the Architect

This document, as does Document Nine, asks that a copy of the Certificate of Liability Insurance be affixed to the Agreement indicating the limit to the amount of any claim. If no amount is indicated the limit is \$250,000.

In addition, a new clause has been added regarding published product information from manufacturers. This clause is similar to the one in Document Six.

## 6. Hazardous Materials

This clause has been expanded to broaden the exclusions.

## 7. Professional Fees and Reimbursable Expenses

The Term "Initial Payment" has been replaced by the term "Retainer" as in Document Six.

"Article 4.9 - Interest" is now similar to Document Six. *Architects* wanted the ability to specify their own interest rates rather than linking them to a bank rate that can be difficult to determine.

## 8. Schedule A – Schedule of Architect's Service and Clients Responsibilities

There have been some minor improvements to the Schedule including:

- 8.1 A new section for *Consultants* which appears first;
- 8.2 Changes in the description of some of the services;
- 8.3 A more comprehensive format for the section, Reviewing and Obtaining Approvals from Authorities Having Jurisdiction.

## Modifications

Modifications can be accomplished by striking out portions which are inapplicable and inserting any revised or additional provisions under Article 5. Both parties are to initial all modifications or amendments made to the Agreement. Please be advised that modifications cannot generally be used to alter or amend requirements, duties and obligations imposed by law and the use of legal assistance in making modifications is encouraged.

If Schedule A is revised or replaced with another description of *Architect* and Client Responsibilities, care must be taken to ensure compatibility with definitions and other clauses in the Agreement.

## Relation to Construction Contract

Consistency between the Client / Architect Agreement and the Construction Contract is essential. This Agreement is written to be used with the CCDC Stipulated Price Contract (CCDC-2) or the Cost Plus Contract (CCDC-3). Legal advice should be obtained if the CCDC documents are to be amended, or if another form of construction contract is to be used.

## Services

The *Architect's* services and Client's responsibilities set out in Schedule A of the Agreement define the services which the Client and *Architect* have agreed are necessary for the implementation of the Project.

The *Architect's* additional services are those services that result from changes in the agreed services, those services for which the *Architect's* involvement and time cannot be clearly defined or estimated, or where the need for a service is not determined at the time of signing the Agreement. Fees for additional services are invoiced on the basis of hourly rates or any other mutually agreed fee.

## Authorities Having Jurisdiction

It is the Client's responsibility to obtain the necessary consents, approvals, licences and permits. Alternatively, the Client may request the *Architect's* assistance as an additional service.

The *Architect* reviews statutes, regulations, codes and by-laws applicable to the design of the Project. Where necessary, the *Architect* reviews the same with the Authorities Having Jurisdiction and incorporates the information pertaining to the construction in the documents, so that the required consents, approvals, licences and permits necessary for the Project can be obtained. However, the Client should acknowledge that as the Project progresses, the interpretation of the authorities having jurisdiction of such statutes, regulations, codes and by-laws may change and differ from the *Architect's* interpretation in such way as the *Architect* cannot anticipate reasonably. The provision of services related to changes in the requirements of codes or their interpretation is an additional service.

**The *Architect's* services in relationship to the Client's responsibilities for this area can sometimes be difficult to define clearly. The Client and *Architect* should thoroughly review the *Architect's* services and Client's responsibilities to clarify the obligations of both parties and these should be tabulated in Schedule A.**

Even though the *Architect's* documents may comply with all of the requirements of the Authorities Having Jurisdiction, the *Architect* cannot guarantee the issuance or the time involved to obtain such consents, approvals, licences or permits.

## General Review / Field Review & Certification

It is essential for the *Architect* to provide *General Review / Field Review* services in order to be able to certify performance and payments responsibly. Therefore, it is in the interest of both Client and *Architect* that the substance of these clauses be clearly understood and respected. The *Architect* should ensure that the requirements of the applicable Building Code and Provincial / Territorial Association of Architects are always met.

## Information, Surveys, Reports and Services

When the *Architect* makes arrangements on behalf of the Client for the provision of information, surveys, reports and services by others as described in Schedule A, the *Architect* should co-ordinate these services with the Client and by written instruction outline the extent of services, the parties to the Agreement, the invoicing procedure and the position of the *Architect* acting on behalf of the Client.

If the Project is an alteration or addition to an existing building, and drawings for the existing building are unavailable, the *Architect*, or a surveyor, may need to prepare measured drawings. The Client should acknowledge that the *Architect* cannot be responsible for any conditions which are not exposed or observable at the time of measuring.

## Client's Budget Contingencies

In their review of the budget, the *Architect* and Client should make certain that it includes reasonable contingencies for: unforeseen site conditions; changes in the work, because they are unpredictable and to a degree inevitable; and other costs (such as special inspection and testing) which may not become known until the Project is under construction; and bidding circumstances, in case the lowest acceptable bid is higher than the *Architect's* estimate due to delays, availability of contractors, seasonal and climatic conditions, shortages of materials or labour or other reasons.

## Estimates of Construction Cost

Care should be exercised not only in the preparation of the estimates of *Construction Cost* but also in all communications about estimates. The term "Estimate of *Construction Cost*" is used in Schedule A because it inevitably is the term that will be used in discussion with the Client. It must be remembered, however, that to many people the word "estimate" means "quotation".

Paragraph 2.3 makes it clear that the "Estimate of *Construction Cost*" is neither a quotation nor a guarantee and *Architect* should make certain that their Clients understand the term correctly.

## Fixed Budget Limit

The Agreement does not include a condition for a fixed limit of *Construction Cost*. The establishment of such a limit is unsatisfactory for most Projects as it tends to invite unrealistic expectations by the Client and may expose the *Architect* to unreasonable risks. If the Agreement is amended requiring the *Architect* to keep the *Construction Cost* within a maximum, i.e., with no budget flexibility to allow for cost increases, the Agreement shall:

- (a) require the client to include contingency amounts in the *Construction Budget* in order to accommodate design changes, price escalation before bidding, and cost increases during construction; and
- (b) permit the *Architect* to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents, to make reasonable adjustments in the scope of the Project, and to include alternative prices in the bidding documents to adjust the *Construction Cost* to the fixed amount.

## Liability of the Architect

The Agreement provides a fixed sum as a limit to claims that the Client may have against the *Architect* arising out of errors and omissions by the *Architect* in providing the professional service. This amount should be defined in the Certificate of Insurance appended to the Agreement in Schedule C. Prior to the execution of the Agreement, if the Client wishes to increase this limit, or to obtain special insurance coverage, the *Architect* will co-operate with the Client to obtain additional coverage at the Client's expense.

## Termination Expenses

The Agreement provides in Article 3.5 that in the event of abandonment or termination the Client will pay the *Architect*:

- (a) fees for services performed to the date of abandonment, or termination;
- (b) reimbursable expenses then due;
- (c) termination expenses as outlined in paragraph 3.5.4.

## Dispute Resolution

The CCDC rules of mediated and arbitral procedure (refer to CCDC Document 40) were prepared to allow disputes between the Client and the *Consultant*, the Client and the Contractor, and the Contractor and the Subcontractor - based upon common facts or issues - to be dealt with at one time in consolidated proceedings. The intention is to avoid a multiplicity of proceedings, inconsistent results and unnecessary costs.

It is essential for the parties to these various contracts to incorporate similar dispute resolution clauses into all their agreements, if the *Architect* and the *Architect's Consultants* are to become part of a Dispute Resolution process. For further information on the Dispute Resolution process, review the CCDC Rules for Mediation and Arbitration of Construction Disputes - CCDC 40.

## Completing the Agreement Form

Complete the Agreement and complete every item and make duplicate copies.

On the RAIC web site, Document Seven is in 'PDF' (Adobe Acrobat's 'portable document file') format, accessible to all computer platforms without the purchase of particular software.

### 1. To use Document Seven, 2005 from the RAIC website:

- If you do not have Adobe Acrobat, click on the "Get Acrobat Reader" link on the website and download the free software;
- Download Document Seven;
- Complete ALL the sections of the Agreement and insert additional information on separate pages as necessary. Customize the schedules to suit the project and SAVE and print the completed Agreement;
- For users of Acrobat Reader, the completed printed (hard copy) of the Agreement will be the only one that may be saved;
- Print copies of the Agreement and affix an Authorization Seal to each copy of the Agreement to be signed and obtain signatures for each copy. Additional file copies may be photocopied.

**Date:** The date represents the first date on which the parties enter into the Agreement. It may be the date that an oral agreement was reached, the date the Agreement was submitted to the Client, the date authorizing action was taken by the Client, or the date of actual execution.

No professional services under this Agreement should be performed prior to the date indicated.

### 2. Identification of Parties

Parties to this Agreement should be identified in the capacity in which the Agreement is to be executed: including the name of the firms, the capacity of persons signing, the address of the principal offices and a designation of the legal status of both parties: sole proprietorship, partnership, joint venture, unincorporated association, limited partnership, or corporation, etc. Where appropriate, a copy of the resolution authorizing the individual to act on behalf of the firm or entity should be attached.

### 3. Professional Fees and Reimbursable Expenses

#### *Paragraph 4.2*

Insert the amount of the initial payment.

#### *Paragraph 4.3*

- (a) If the fee is percentage based complete:  
"A Percentage fee as defined in 4.4 of \_\_\_\_\_ Percent" and delete (b).
- (b) If the fee is a Fixed Fee complete:  
"A fixed fee of \$ \_\_\_\_\_  
( \_\_\_\_\_ dollars)" and delete (a).
- (c) If a Fee using hourly rates is applicable, name categories, *Consultants* and hourly rates in Article 5.1 Schedule of Hourly Rates.
- (d) If the Fee is to be a multiple of Direct Personnel Expense or other fee formula, insert this in Other Conditions, including a definition of Direct Personal Expenses.

#### *Paragraph 4.5*

If applicable, insert the dollar values or percentages of the fees payable for each separate phase of services or delete.

*Paragraph 4.7 Reimbursable Expenses*

Insert the multiplier applied to reimbursable expenses used to cover the costs of administration. For clarity or where it is expected that certain expenses will be incurred frequently, identifying certain fixed rates may be advantageous. For example, list car expenses per kilometre; or facsimile, printing and photocopying expense per item under Other Conditions.

*Paragraph 4.8.1*

Insert the amount of time after which the fees shall be subject to renegotiation or adjustment. If the firm requires periodic adjustments in hourly rates and multiples, this should be added, along with any limitations on the amount of upward adjustment.

#### 4. Article 5 Other Conditions

Here insert the following types of provisions:

- Additional phases, such as pre-design, site analysis or post-construction, and the services provided in each;
- Identification of additional services;
- Detailed description of services included in Schedule A where required: e.g. the extent of office and field functions included during the construction and post-construction phases;
- Description of *Consultants*, if any, provided under the fee for services;
- Provision of renderings, models, displays, marketing brochure plans, drawings or other material;
- Preparation of multiple sets of *Construction Documents* for separate contracts;
- Procedure for award of the Construction Contract (i.e., bidding or negotiation);
- Construction delivery process (single or separate contracts, stipulated sum or cost-plus contracts);
- Fixed limit of *Construction Cost*;
- Modifications to any services or conditions;
- Modification to insurance coverage;
- Other conditions.

#### 5. Execution of the Agreement

In executing the Agreement, the parties should indicate the capacity in which they are acting. It is unnecessary for the *Architect* to affix a professional seal to the document.

#### 6. Schedule A

All items on Schedule A must be completed as *Architect's* services or Client's responsibilities, or marked as not applicable. In addition to those mentioned in the Guide under Article 5, add other services, aspects of service or responsibilities which require further clarification such as lists of drawings, number of meetings budgeted with the Client, the users or authorities and any additional details of authority review.

Also note, any other Authorities Having Jurisdiction which will require negotiations specifically related to the Project, such as flood plain control, environmental approvals for waste disposal, as well as approvals for site access; service connections and communications, etc. Complete the form under "other" to clarify that unidentified approvals are the responsibility of the Client, unless requested as additional services.