

## BULLETIN 1

### **MODIFYING CCDC STANDARD CONTRACT FORMS WITH SUPPLEMENTARY CONDITIONS**

**2025**

*This bulletin addresses the use of supplementary conditions with CCDC standard contract forms, emphasizing the importance of maintaining the integrity and balance of the original documents when modifications are necessary.*

Concern is regularly expressed to the Committee regarding the use of unnecessary and improper modifications to CCDC Standard Contract Forms. These may take the following forms:

1. Introduction of subject matter already addressed in the text of the standard form which may cause conflict and/or uncertainty.
2. Introduction of subject matter more appropriately dealt with elsewhere, for example in the instructions to bidders, the technical specifications or the General Requirements (Division 01).
3. New or replacement wordings which are clearly designed to undermine the fundamental nature of the CCDC Standard Contract Forms or the equitable balance of rights and obligations of each party.
4. Variations which do no more than re-state or paraphrase the standard text in the author's own words.
5. Restating what is already prescribed by legislation, or inserting provisions in an unenforceable attempt to modify the application of legislation, for example, Substantial Performance.

If, due to particular circumstances, it becomes necessary to modify the text of a CCDC Standard Contract Form for a specific scenario, the appropriate method of making such modifications is by the use of supplementary conditions. Supplementary conditions, if any, should be set out in a separate document titled as such and be listed in the appropriate Article of the Agreement as a Contract Document. In this regard, however, the Committee wishes to re-affirm the following statement:

*"CCDC Contracts are an accumulation of the experience, thought, and talent of architects, engineers, owners, general contractors, and trade contractors. They and others have been ably assisted by legal counsel and insurance and surety advisors, and there is a long history of judicial precedents based on the language used in the document. Persons intending to substitute their own provisions for those in the printed CCDC documents should obtain expert advice. Modifications may cause the Owner, Consultant, Contractor, or Subcontractor to unintentionally assume unnecessary or inappropriate responsibilities or risks. Furthermore,*

*modifications may weaken the relationships among the document's provisions or between the documents and the other project agreements with which it should be coordinated."*

The Committee does not endorse supplementary conditions prepared by other parties. However, the Committee appreciates that certain Owners or market sectors, as a matter of public policy, local conditions, or project-specific particulars, may with legitimacy seek to amend or customize a CCDC Standard Contract Form.

The Committee issues these precautions to the five concerns above:

1. The CCDC Standard Contract Forms General Conditions, Definitions and Agreements are interrelated. Before introducing any new or amended subject matter, it would be prudent to ensure that the subject is not already addressed.
2. Experienced industry participants anticipate and conduct their business operations based upon familiar document structures with clearly separated (but integrated) components. Changing that order may introduce confusion and increase costs of document preparation, bidding and contracting.
3. A biased, inherently one-sided form of construction contract would likely deter most contracting parties; minimize (if not eliminate) competition, especially from those who are more experienced, qualified and aware; change the balance of risk; increase costs; and be difficult for any Consultant to administer fairly and professionally. Furthermore, such a contract may be unlikely to be upheld if tested in court.
4. Altering the standard wordings presents a variety of risks in addition to those already noted above, and chiefly because the CCDC Standard Contract Forms have:
  - a. compatibility with the standard wordings, roles, and responsibilities of such critically interrelated industry documents as agreements between clients (Owners) and architects or engineers; construction subcontracts; and construction administration forms;
  - b. compatibility with standard wordings, terms and forms of industry acknowledged insurance policies and surety bonds; and, especially
  - c. an accumulated history of use and interpretation by the courts.

Where CCDC Standard Contract Forms are subject to concepts otherwise prescribed by applicable legislation, a clear deference is made to the applicable legislation. This can be most plainly seen with substantial performance and payment legislations. In most instances, the legislated rights and responsibilities govern over anything written in the contract. Although attempts to rewrite legislation through supplementary conditions are generally considered unenforceable, such action could lead to confusion or dispute between the parties, or could result in non-compliance with the law.

*(CCDC bulletins are products of a consensus-building process aimed at balancing the interests of all parties on the construction project. They reflect recommended industry practices. Readers are cautioned that CCDC bulletins do not deal with any specific fact, situation or circumstance. CCDC bulletins do not constitute legal or other professional advice. The CCDC and its constituent member organizations do not accept any responsibility or liability for loss or damage which may be suffered as a result of the use and interpretation of these bulletins.)*