

# A Guide to *Standard Form of Agreement Between Client and Licensed Interior Designer*

## Preamble

The Alberta Association of Architects now offers an **optional** new Standard Form of Agreement between Client and Licensed Interior Designer (LID), known as **Document 10**, in response to a request for a standard contract that can be used by Licensed Interior Designers in Alberta as an alternative to letter agreements or client written agreements that often by omission, do not consistently address important matters such as the roles, responsibilities and scope of work contemplated for a project.

This agreement for the exclusive use of Licensed Interior Designers in Alberta, is an adaptation of the Royal Architectural Institute of Canada (RAIC) Document 7 Short Form Agreement between Client and Architect, and is by permission of RAIC now available to Licensed Interior Designers in Alberta.

The Agreement is structured to be *flexible*, that is, to enable the consultant to define the project, to add, modify or delete scope provisions that are applicable to the project, and to assign responsibility to the appropriate party.

The use of this Agreement is **NOT** mandatory, however it is available for use by Licensed Interior Designers of the Alberta Association of Architects as:

- 1 a recommended Agreement for Licensed Interior Designers (LID) in Alberta or
- 2 as a reference check to compare against letter or client written agreements or other agreements with respect to recommended and clearly defined roles, responsibilities and scope of work contemplated for a project.

It is important to know that this Agreement originated with the Royal Architectural Institute of Canada and is part of the ***only suite of contract documents synchronized with the Canadian Construction Association Construction contracts or CCDC Documents.***

*It is always recommended that Licensed Interior Designers in Alberta seek legal counsel review of their written agreements to ensure their professional interests and responsibilities are served in accordance with the Architects Act and Regulations.*

This **GUIDE** is written to assist the Client and Licensed Interior Designer to complete the Agreement and to explain some important parts of the document.

## Background

This Agreement is derived with permission of the copyright holder, the Royal Architectural Institute of Canada, from the Canadian Standard Form of Agreement Between Client and Architect – Document 7.

### 1. Copyright

The RAIC 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. This agreement was created by permission of the rights holder RAIC.

As the rights holder, the RAIC generates nominal revenue through the sale of authorization seals. These seals are used in the same manner as CCDC documents. To be permitted to use Document Ten 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 LID’s signature and one for copy retained by the LID with the Client’s original signature.

Authorization seals may be ordered through the RAIC website or by telephone, fax or mail.

Note: Provisions specific to a project in the Agreement related to the Copyright of the *Licensed Interior Designer*, where not already covered in the Agreement (e.g. provisions for release of documents, etc) may be added by the Licensed Interior Designer under Article 5.2 Other Provisions / Scope of Services.

## **2. Liability of the LID**

This document asks that a copy of the Certificate of Liability Insurance be affixed to the Agreement indicating the limit to the amount of any claim. Such amounts must be consistent with the future mandatory provisions under the Architects Act and Regulations.

## **3. Schedule A – Schedule of LID Services and Client Responsibilities**

Schedule A in this Agreement is formatted as a checklist.

Insert a checkmark only where the scope of work is applicable to the project and assigned to the appropriate party. If none applies, either leave the box blank or insert a checkmark in the line item under the *Not Applicable* box.

Note that each services category in Schedule A includes a separate line item to enable notes to be added where needed to further describe the specifics of the scope of services or work in that category.

In addition to Schedule A, the LID can add considerably more detail about the scope of services under Article 5.2 and scope of work under Article 5.3.

Additional information and examples about how to use Schedule A, Article 5.2 and 5.3 is provided elsewhere in this Guide.

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## **Document 10**

### **Flexibility in Making Modifications**

The Agreement is intended to be flexible. Specific scope of work and / or conditions of engagement can be inserted into Article 5.1, 5.2, 5.3 and in Schedule A, while modifications to the base Agreement can be made by striking out portions which are not applicable. Both parties should initial all modifications or amendments made to the Agreement.

Modifications cannot be used to alter or amend requirements, duties and obligations imposed by the Architects Act, Regulations, Bylaws or the law. Legal advice is recommended when making modifications.

Regardless of the information inserted under Schedule A or Articles 5.2 and 5.3, care must be taken to ensure compatibility with the definitions and other clauses in the Agreement.

## **Relation to Construction Contract**

Consistency between this 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.

## **Authorities Having Jurisdiction**

It is the Client responsibility to obtain the necessary consents, approvals, licenses and permits. Alternatively, the Client may request LID assistance as an additional service.

The LID reviews statutes, regulations, codes and by-laws applicable to the design of the Project. Where necessary, the LID 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, licenses 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 LID interpretation in such way as the LID cannot anticipate reasonably. The provision of services related to changes in the requirements of codes or their interpretation is an additional service.

The LID services in relationship to the Client responsibility for this area can sometimes be difficult to define clearly. The Client and LID should thoroughly review the LID services and Client responsibility to clarify the obligation of both parties and these should be tabulated in Schedule A.

Even though the LID documents may comply with all of the requirements of the Authorities Having Jurisdiction, the LID cannot be liable for delays in the issuance or unreasonable time involved to obtain such consents, approvals, licenses or permits.

## **General Review / Field Review & Certification**

It is essential for the LID 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 LID that the substance of these clauses be clearly understood and respected. The LID should ensure that the requirements of the applicable Building Code and the Alberta Association of Architects are met.

## **Information, Surveys, Reports and Services**

When the LID makes arrangements on behalf of the Client for the provision of information, reports and services by others as described in Schedule A, the LID 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 LID acting on behalf of the Client.

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

## Client Budget Contingencies

In their review of the budget, the LID 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 underway; and bidding circumstances, in case the lowest acceptable bid is higher than the LID 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 Construction Budget Estimates (Article 1.2) or the Estimates of Construction Cost (Article 2.3) if applicable and if requested by the Client, but also in all communications about estimates. The term 'Construction Budget Estimate' is used in Schedule A because it inevitably is the term that should be generally 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 the LID should make certain that the Client understands 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 LID to unreasonable risks. If the Agreement is amended requiring the LID to keep the Construction Cost within a maximum, i.e. with no budget flexibility to allow for cost increases, the Agreement shall:

- 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
- permit the LID 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 LID

The Agreement includes a provision to provide a fixed sum as a limit to claims that the Client may have against the LID arising out of errors and omissions by the LID 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 LID 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 LID:

- fees for services performed to the date of abandonment, or termination
- reimbursable expenses then due
- 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 LID and the LID 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.

The inclusion of these clauses does not remove the right in law of the Client or of the LID to legal action in the event of failure with respect to the dispute resolution process.

## Completing the Agreement Form

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

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.

### 1. 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.

### 2. Professional Fees and Reimbursable Expenses

Paragraph 4.2

- Insert the amount of the initial payment if applicable.

Paragraph 4.3

- If the Fee is other than identified e.g. a per diem or a multiple of Direct Personnel Expense, insert this in Article 5.2 Other Conditions, including a definition of Direct Personal Expenses if needed.

Paragraph 4.4

- Insert the dollar value or percentage of fees payable for each separate phase of services.

#### 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 kilometer; or facsimile, printing and photocopying expense per item under Article 5.2 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.

### 3. Services and Scope of Work

#### Schedule A

LID services and Client responsibilities as set out in Schedule A of the Agreement are intended to **generally** list the services which the Client and LID have agreed are necessary for the implementation of the Project.

More detail can be added for clarification as needed in the line item *Notes* for each category.

LID additional services are those services that are specifically identified under Article 2.4 or in Appendix B and are specifically assigned, or result from changes to the agreed services, or services for which the LID involvement and time cannot be clearly defined or estimated, or services not determined at the time of signing the Agreement. These services should be identified in Schedule A whenever possible at the time of signing and defined in more detail - including the fees associated with such services under Article 5.2.

Examples of miscellaneous items that could be added into Schedule A which may require further clarification under Article 5.2 Other Conditions / Scope of Services are:

- lists of drawings
- number of meetings budgeted with the Client, the users or authorities
- additional details of authority review
- other Authorities Having Jurisdiction which will require negotiations specifically related to the Project, such as, environmental approvals for waste disposal, communications, etc. Complete the form under 'other' to clarify that unidentified approvals are the responsibility of the Client, unless requested as additional services.

Finally, should extra work be authorized by the Client during the term of the Agreement, it is recommended that such extra work be identified and suitably incorporated into the Agreement.

#### 5.2 Other Conditions / Scope of Services

Under this section, insert any additional detailed information regarding scope of service, fees, or any additional services that are needed but not otherwise explained under Schedule A. (It is advisable to insert a note under the applicable line item *Notes* in Schedule A, that refers to the detail in Article 5.2).

Schedule A services may or may not include services of other consultants. Further, the Construction Cost may or may not be defined as included in the cost of construction work resulting from other consultants (e.g. mechanical and electrical). Article 5.2 Other Provisions / Scope of Services is the appropriate location for inclusion of this detailed information, while Schedule A is used to identify the services generally.

### **5.3 Other Conditions / Scope of Work**

It is important for the Licensed Interior Designer to properly and clearly define the scope of work on which the project professional services and the Construction Cost is based.

Under this section, insert any additional detailed information regarding scope of work.

#### **Examples**

The following are random examples of possible Other Conditions that may need to be identified or for which additional services may be required and which should be clearly identified under Article 5.2 or 5.3:

- Specific coordination role of the LID regarding consultants
- Additional phases, such as post-construction and the services required
- Detailed description of services included in Schedule A regarding the extent of office and field functions included during the construction and/or 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
- Detailed procedure(s) for award of the Construction Contract(s) regarding bidding or negotiation
- Construction delivery process (single or separate contracts, stipulated sum, cost-plus or construction management contracts
- Fixed limit of Construction Cost
- Modifications to any services or conditions
- Modification to insurance coverage

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