

Best Practices for Trade Contractors

Terms and Conditions of Tender

As the construction market gets busier, lack of standardization of tendering practices will be even more of a problem as owners / designers / general contractors / construction managers / trade contractors may not have their most experienced people on every project. A realistic set of Terms and Conditions serves to improve the working environment for all parties for a little short-term cost and likely a major reduction of long-term expense.

Trade Contractors should carefully review all terms and conditions of the contract to ensure they understand all provisions and associated risks. Trade Contractors have the opportunity to include provisions of their own by inserting appropriate clauses that address any concerns they may have regarding a fair allocation of risk or clarification of obligations under contracts. This document is intended to identify some potential areas where Trade Contractors may want to exercise caution and take appropriate steps to ensure their best interests are maintained.

1. Trade Contractors should be explicit in stating that their tender is based on the assumption that all plans and specifications meet all applicable codes, standards, regulations or laws, as per CCDC2 1994 and CCA 1 2001.
2. Trade Contractors should be sure that it is clear that all materials will be furnished in accordance with industry-established tolerances on colour variations, thickness, size, finish, texture, and performance standards unless specified otherwise, and that if there are variances called for after the issuance of specifications, these changes will have an impact on the price
3. Trade Contractors should not be responsible for any extra charges, including, but not limited to first aid attendant, general cleaning, light, heat, power, lavatory and telephone facilities unless mutually agreed in contract.
4. Trade Contractors should assume that hoisting and/or man lifts will be made available to the Trade Contractor as a cost to the General Contractor. The provision of scaffolding should not be included in the tender price unless it is clearly indicated, prior to closing.
5. General and Trade Contractors should agree to the project schedule prior to work commencing and changes to the schedule should be mutually agreed upon. Tenders should be based on work being performed during regular working hours and in a continuous uninterrupted fashion. It is reasonable to expect that disruptions to the mutually agreed upon schedule may result in changes to the contract price, and should be fully discussed between the General Contractor and the Trade Contractor.
6. Trade Contractors should be provided with suitable space at the job site for storage of materials, and provision for this should be incorporated in to the construction documents. The assigned area should be allocated for the duration of the trade contractor's presence on site. Relocation of the storage space should be fully discussed between the General Contractor and the Trade Contractor to avoid disruption and disputes.

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7. The warranty period with regard to the contract shall be for a period of 1 year from the date of Substantial Performance of the Work or those periods specified in the contract documents. The Trade Contractor shall be responsible for obtaining product warranties in excess of one year on behalf of the owner from the manufacturer. The Manufacturer shall issue these product warranties to the benefit of the Owner.
8. Form of contract should be CCA 1 (*Stipulated Price Subcontract*) or CCA 17 (*Stipulated Price Contract for Trade Contractors on Construction Management Contracts*) un-amended, or other mutually acceptable form of Contract. Trade Contractors should carefully review alternate forms of contract and make the necessary revisions in order to protect their interests.
9. All terms and conditions regarding payment should be as per CCA 1 without amendment. Trade Contractors should carefully review "Pay when paid" clauses and be aware of the potential exposure such clauses present to the Trade Contractor. Such clauses are not generally supported by Trade Contractors. There shall be no holdbacks, other than that required under the Builders Lien Act.
10. Terms of payment should be 30 days with holdback released 55 days following substantial completion of our work.
11. The Trade Contractor should ensure that the General Contractor/Construction Manager/Owner has both General Liability on a Wrap-up basis and Builder's risk (C.O.C.) Insurance, with deductibles not exceeding \$5,000.00. The Trade Contractor prior to commencement of the work should obtain evidence of such insurance in the form of a certificate or covernote.
12. Quotations are based upon the purchase of materials at current prices. Trade Contractors should clearly state that their quotation is valid until the earlier of 30 days or until such time as the material is no longer available at the current prices, and should ensure the General Contractor is aware of this in the consideration of the tender.
13. Survey requirements including layouts, benchmarks and elevations should be provided by the General Contractor/Construction Manager/ Owner unless otherwise specified.
14. All general site safety requirements including first aid and suitable site security are the responsibility of the General Contractor/Construction Manager/Owner unless otherwise specified
15. Unless otherwise specified, when a Trade Contractor incurs substantial costs for shop drawings, engineering, materials and shop labour prior to commencement of work on the site, the Trade Contractor should be paid for these items. The Trade Contractor should ensure the interests of the Owner are protected
16. The Trade Contractor should be explicit in stating that all changes orders and change directives shall be subject to costs and markup for overhead and profit as recommended in CCA Document 16 *Guidelines for Determining the Costs Associated with Performing Changes in Work* (namely 20% for work done by own forces and 15% for work done by subcontractors), irrespective of any other provisions in tender documents, unless mutually agreed.

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