

CONSTRUCTION CONCILIATION GROUP
CONCILIATION PROCEDURE
MARCH 2003 (as amended)

APPOINTMENT AND CONCILIATION AGREEMENT

1. Where the Parties have agreed upon the identity of a Conciliator who has confirmed his willingness to start the conciliation within 7 days of the Notice of Conciliation, then he shall be the Conciliator. The CCG Procedure may apply if referred to in the appointment.
2. If the Parties have agreed to adopt the CCG Conciliation Procedure and have not agreed a particular conciliator, either Party may apply to the CCG c/o David Miles, Glovers, Solicitors, London on DMiles@glovers.co.uk for the appointment of a Conciliator. The following procedure shall apply:-
 - 2.1 A completed application form and a payment of £59.00 must be sent to the Secretary of the CCG.
 - 2.2 CCG will confirm receipt of application within 2 working days.
 - 2.3 CCG will appoint a Conciliator within 5 days of the date of the confirmation.
 - 2.4 The Conciliator and the Parties will sign the CCG Conciliation Agreement within 7 days of the appointment of the Conciliator. If such an agreement is not signed within 7 days, the conciliation will be terminated.
 - 2.5 The Conciliator and the Parties shall agree the date, time and venue for the conciliation which shall be no later than 21 days after the date of the appointment of the Conciliator.

3. **PREPARATION FOR CONCILIATION**

The Party who applied for the appointment of a Conciliator (or where the Parties have agreed to conciliate – the Party who first suggested conciliation) shall, within 2 working days of the appointment (or confirmation of his willingness to act under paragraph 1) send to the Conciliator and to the other party:-

- 3.1 A Statement of its case not exceeding 6 pages of A4 paper.
 - 3.2 Copies of the documents (not exceeding 25 pages) upon which the Party intends to rely.
4. The Responding Party shall within 14 days of receiving the Statement of Case send to the Conciliator and to the other Party.
 - 4.1 A Statement of Response not exceeding 6 pages of A4 paper.

- 4.2 Copies of the documents (not exceeding 25 pages) upon which that Party intends to rely.
- 4.3 If requested the conciliator's agreed fees shall be paid in advance of the mediation. Any further fees incurred on account of the conciliation continuing beyond the agreed duration or in the event of unforeseen circumstances should be paid within 14 days of the conciliation (being the date of the conciliation itself or if appropriate the date the conciliator makes his recommendation whichever is the later).

THE CONCILIATION

5. The conciliation will last for as long as has been agreed in the Conciliation Agreement.
6. The Conciliator shall:-
 - 6.1 Chair and determine the procedure for the conciliation.
 - 6.2 Meet the Parties together or separately.
 - 6.3 Keep confidential any information disclosed to the Conciliator in private unless authorised otherwise.
 - 6.4 If a settlement is reached and if requested by the Parties, assist in preparing Terms of Settlement.

THE RECOMMENDATION

7. If at the end of the period agreed for the conciliation a settlement has not been reached the conciliation will terminate.
8. Within 7 days thereafter the Conciliator shall produce a Written Recommendation:-
 - 8.1 The Recommendation will set out what the Conciliator considers are appropriate Terms of Settlement.
 - 8.2 The Recommendation may not necessarily be based upon any Principles of Contract, law or equity.
 - 8.3 The Recommendation shall not contain reasons. However, if in his sole discretion the Conciliator considers it appropriate he may send to the Parties a separate document containing an explanation for his Recommendation.
 - 8.4 The Conciliator shall not disclose any information in his Recommendation which has been disclosed to him in confidence.

- 8.5 The Conciliator may, but shall not be obliged to, decide whether any one party shall be responsible for paying his fees or the proportions in which his fees are to be paid by the Parties.
- 8.6 The Conciliator may also decide whether the application fee paid by the Applying Party shall be reimbursed by the Responding Party.
- 8.7 The Recommendation shall be implemented immediately and the Parties shall be entitled to summary enforcement thereof.
- 8.8 The Recommendation shall be binding on the Parties until finally determined by legal proceedings, arbitration or agreement.

MISCELLANEOUS

- 9.1 Unless agreed otherwise the Parties shall be responsible for the Conciliator's fees and expenses in equal shares. If any Party pays more than such equal share, that Party shall be entitled to a contribution from the other Parties accordingly.
- 9.2 Any litigation, arbitration or adjudication may be continued notwithstanding the conciliation unless the Parties agree otherwise.
- 9.3 Following any Recommendation, if any Party intends to commence legal proceedings in connection with the dispute, the subject of the conciliation, it shall give notice to the other Party (or Parties) within 28 days of the date of the Recommendation and shall issue such proceedings within 3 months of the date of the Recommendation.
- 9.4 No Party shall be entitled to call the Conciliator as a witness in any subsequent adjudication, arbitration or litigation concerning the subject matter of the conciliation.
- 9.5 The Conciliator shall not be appointed adjudicator in any subsequent adjudication, or arbitrator in any subsequent arbitration between the Parties whether arising out of the dispute, the subject matter of the conciliation matter or otherwise arising out of the same contract unless the Parties otherwise agree.
- 9.6 Neither the CCG nor the Conciliator nor any employee or agent of any of them shall be liable for anything done or not done in the discharge or purported discharge of his functions as Conciliator whether in negligence or otherwise, unless the act or omission is in bad faith.
- 9.7 In this Procedure where the context so requires 'Party' shall mean 'Parties' and 'he' shall mean 'she'.