

Minor Works Building Contract

MW – 2019

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SAMPLE

GENERAL INFORMATION

Scope of Minor Works Building Contract

This Minor Works Contract should only be used where the works being undertaken are under \$30,000.00 (thirty thousand dollars).

This contract may be used for residential or small commercial projects.

CONTRACT AGREEMENT

THIS AGREEMENT made on the _____ (day) _____ (month) 20 _____ (year).

Between **the Registered Master Builder**

Registered Master Builder's address for service

Email address: _____

And **the Owner(s)**

Note: Where a trust is the contracting party, name the trust and trustees. Where a company is the contracting party, name the company.

Owner's address for service

Email address: _____

THE PARTIES AGREE:

1. The Registered Master Builder will construct and carry out the works (the "Works") more particularly shown and described in the drawings and specifications and the Registered Master Builder's tender including pricing information (whether attached to this Contract or not) at the address below.

Address

Lot No. on Deposited Plan No.

(The Land)

Description of the Works

2. The Owner will pay the Registered Master Builder the CONTRACT PRICE being EITHER:

1) A FIXED PRICE OF:

(words)

\$ GST Inclusive;

subject to variations and other claimable amounts provided for in this Contract.

WHICH SHALL BE PAYABLE IN ACCORDANCE WITH CLAUSES 24 TO 28 OF THE GENERAL CONDITIONS OF CONTRACT AND:

(A) THE CONTRACT DEPOSIT (if applicable) SHALL BE

Amount: \$ GST inclusive

Due date: Payable on the date the Contract is executed; and

(B) THE BALANCE OF THE CONTRACT PRICE (BEING THE FIXED PRICE LESS THE DEPOSIT PLUS ANY VARIATIONS AND OTHER CLAIMABLE AMOUNTS) SHALL BE CLAIMED PROGRESSIVELY:

Claim Periods: When claimed/invoiced by the Registered Master Builder each (specify relevant period):

Amount: The invoiced amount will relate to work carried out during the invoiced period, GST inclusive; and may include claims for variations and other claimable amounts.

(C) TOTAL

At Practical Completion of the Registered Master Builder's Works the total amount of the deposit and all invoiced claims will be the Contract Price for this contract

OR:

2) ON A CHARGE UP BASIS AT THE CONTRACT RATES:

Hourly charge-out rate per carpenter: \$ GST inclusive

Rate for travel (per kilometre): \$ GST inclusive

Hourly charge-out rate for travel: \$ GST inclusive

Hourly charge-out rate for lost time: \$ GST inclusive

Other: (please specify)

\$ GST inclusive

Note: If different rates apply for different staff and/or carpenters and/or labourers provide details in Special Conditions or as an attachment

WHICH SHALL BE PAYABLE IN ACCORDANCE WITH CLAUSES 24 TO 28 OF THE GENERAL CONDITIONS OF CONTRACT AND:

(A) SHALL BE CLAIMED PROGRESSIVELY:

Claim Periods: When claimed/invoiced by the Registered Master Builder each (specify relevant period):

Amount: The invoiced amount will relate to the Registered Master Builder's Works carried out during the invoiced periods, GST inclusive; and may include claims for variations and other claimable amounts.

3. A margin of % shall be added to additional works and variations.

4 The rate of interest (clause 28) is:

- 5 The insurance information required under clauses 18 and 20 of the General Conditions of Contract is:

Clause 18 Public Liability Insurance

Registered Master Builder's Insurer:	<input type="text"/>
Limit of Liability:	\$ <input type="text"/>
Expiry Date:	<input type="text"/>

Clause 20 Insurance for the Works

Owner's Insurer:	<input type="text"/>
Total Sum Insured*:	\$ <input type="text"/> GST inclusive
Start Date:	<input type="text"/>
Expiry Date:	<input type="text"/>

***NOTE:** The Total Sum Insured should include the following items:

- i. Contract Price (to include any temporary or permanent work carried out by the Owner);
- ii. Value of materials supplied by the Owner in addition to the Contract Price;
- iii. Removal of debris – 10% of Contract Price;
- iv. Professional fees – 5% of Contract Price;
- v. Increased construction costs during construction period – 5% of Contract Price;
- vi. Escalation of costs during reinstatement period – 5% of Contract Price.

Items iii to vi may be increased by agreement between the Owner and the Registered Master Builder.

6. The Contract Documents (taken together “the Contract”) are:
- a. Contract Agreement, including the Special Conditions;
 - b. General Conditions of Contract;
 - c. Drawings and Specifications;
 - d. Registered Master Builder's tender including pricing information;
 - e. Other (listed in the Special Conditions of the Contract Agreement).

SPECIAL CONDITIONS

7. The Special Conditions in the Contract are (refer clause 6(e) of Contract Agreement):

SAMPLE

EXECUTION OF CONTRACT AGREEMENT

SIGNED by the Registered Master Builder



SIGNED by the Owner: (if more than one Owner, each Owner must sign)



NOTE: If the owner is a Company, the Registered Master Builder should request that at least one director signs the personal guarantee.

GENERAL CONDITIONS OF CONTRACT

Building and resource consents, and Code Compliance Certificates

- 1 The Owner shall obtain and pay for any building consent(s) and resource consent(s) and other necessary approval(s) required for the Works, including any consent and/or approval required after commencement of the Works. The Owner shall be responsible for applying for and obtaining the Code Compliance Certificate for the Works.
- 2 The Registered Master Builder shall comply with the terms and conditions of the building and resource consents and approvals as far as such consents and approvals relate to the carrying out of the Works. The Registered Master Builder shall provide the Owner with all necessary information relating to the Works so that the Owner may apply for a Code Compliance Certificate.
- 3 The building consent approved plans and specifications, if any, shall take precedence to the tender plans and specifications. If the building consent approved plans and specifications are provided to the Registered Master Builder after this Contract is signed any changes from the tender plans and specifications shall be valued as a variation.
- 4 In the event of any discrepancy between the plans and the specifications, the plans shall take precedence. Figured dimensions shall take precedence over scaled dimensions.

Additions or alterations to existing building or structure

- 5 Where the Works involve additions or alterations to an existing building or structure then the following shall apply:
 - a. the Registered Master Builder shall not be liable for any loss or damage suffered by the Owner in relation to the Works where such loss or damage results from the state or condition of the Owner's existing building or structure, and the effect of such state or condition on the Works or the effect of the Works on the existing building or structure could not reasonably have been foreseen by the Registered Master Builder.
 - b. the Registered Master Builder will use reasonable endeavours to match new materials to existing materials. However, the Owner agrees that it may not be possible to provide a 100% matching of materials and in such event there shall be no claim against the Registered Master Builder.
 - c. where as a result of opening up any part of the existing building or structure to carry out the Works, any additional or altered work is required because of non-standard construction or any substandard timber or other materials or because of any material which is required to be replaced or removed to carry out the Works, then the cost of any additional or altered work shall be borne by the Owner and treated as a variation and the Contract Price adjusted accordingly.

Site

- 6 The Owner is responsible for ensuring all site boundaries are adequately marked and warrants to the Registered Master Builder that the Owner has the right to have the Works undertaken on the Site.
- 7 The Owner shall advise of the specific location of underground utilities to the Registered Master Builder who shall record the position of such utilities. The Owner nevertheless agrees to indemnify the Registered Master Builder in respect of any expense, loss, action or claim whatsoever arising out of any damage to utilities or, if need be, the relocation of utilities.
- 8 The Registered Master Builder shall keep the building site and the Works clean and tidy and regularly remove all the Registered Master Builder's rubbish and surplus materials, and shall leave the building site and the Works clean and tidy upon completion of the Works.
- 9 The Owner shall be responsible for any unforeseen physical condition which could not reasonably have been foreseen by an experienced contractor at the time of tender and which will increase costs or delay progress of the Works or require an extension of time.

Obligations of the Registered Master Builder

- 10 The Registered Master Builder shall complete the Works in a tradesman like manner using materials that are new (unless otherwise specified) so that at completion the Works are fit for purpose.
- 11 The Registered Master Builder shall be responsible for the Works while under the Registered Master Builder's care, from the date that the Registered Master Builder takes possession of the building site until the completion of the Works. The Registered Master Builder shall not be responsible for any loss or damage caused by the Owner's use, occupation or taking over of any part of the Works.
- 12 The Registered Master Builder may sublet any portion of the Works but shall not without the written consent of the Owner assign or sublet the whole of the Works. The Registered Master Builder shall be responsible for all work of its subcontractors and for ensuring that the subcontractors have appropriate insurance in place and will be responsible for the procuring of any guarantee required from any subcontractor.
- 13 Under the requirements of the Health and Safety at Work Act 2015, the Registered Master Builder will take all reasonably practicable steps to:
 - a. provide and maintain a safe working environment;
 - b. identify significant hazards; have proper procedures for dealing with emergencies that may arise;
 - c. maintain a register of accidents and serious harm;
 - d. identify the building site with a builder's sign and display appropriate safety notices.

Obligations of the Owner

- 14 The Owner will comply with all reasonable directions of the Registered Master Builder concerning health and safety.
- 15 The Owner will pay the Registered Master Builder the Contract Price at the times required by the Contract.
- 16 Where the Owner engages the Registered Master Builder on a labour only basis, notwithstanding any clause in the Contract to the contrary, the Registered Master Builder shall not be liable for any loss or damage howsoever caused as a result of any work performed or materials supplied by the Owner, or other contractors engaged by the Owner, and the defects provisions of the Contract (clause 32) shall not apply.
- 17 Prior to commencement of the Works the Owner shall:
 - a. provide the Registered Master Builder with access to and possession of the building site for the purpose of carrying out the Works; and
 - b. ensure all necessary services are available at the building site and shall, unless otherwise specified, be responsible for meeting the cost of such services.

Insurance

- 18 The Owner shall arrange insurance cover either under a new policy or under the Owner's existing policy of insurance as an extension of such policy to cover:
 - a. the Works against loss or damage for not less than the total of the Contract Price, plus the value of materials supplied by the Owner, removal of debris, professional fees, increased construction costs, and escalation of costs during the reinstatement period; and
 - b. full replacement value against loss or damage to the Owner's existing structure made available to enable performance of the Works or adjacent to the Works and against loss or damage to the Owner's contents.
- 19 Insurance cover under clause 18 shall be in the joint names of the Owner, the Registered Master Builder and the mortgagee (if any) and shall not be cancelled or materially changed by the Owner for the duration of the Works.

- 20 The Registered Master Builder shall maintain a public liability insurance policy indemnifying the Registered Master Builder against claims in respect of loss or damage against property (other than property covered by the Owner's insurance of the Works and existing structures) or injury or death or illness to any person arising out of the operations of the Registered Master Builder or any of its subcontractors in connection with the execution of the Works.
- 21 Each party shall, prior to the commencement of the Works, forward to the other party evidence that the relevant insurance cover has been obtained.

Variations

- 22 The Registered Master Builder shall carry out all reasonable variations ordered by the Owner provided that the Owner orders all variations in writing and the change to the Contract Price is agreed in writing.
- 23 Where additional or different work from that included within the Contract is required to complete the Works then the Registered Master Builder may claim for that work as a variation. If the price cannot be agreed between the Owner and the Registered Master Builder then the Owner shall pay what it considers is due for the variation with the valuation of the claim to be resolved by the dispute procedure of the Contract.

Payments

- 24 The Contract Price shall be determined and claimed in accordance with clause 2 of the Contract Agreement and these clauses 24 to 28.
- 25 The Registered Master Builder may progressively serve payment claim(s) and/or invoice(s) for its Works as the Works proceed and at the intervals stated in the Contract Agreement.
- 26 Any payment claim served under the Construction Contracts Act 2002 shall be responded to with a payment schedule by the Owner within 5 working days of the date of service of the payment claim.
- 27 The due date for payment for any payment claim and/or invoice shall be 5 working days of service of the payment claim and/or invoice.
- 28 If payment is not made by the due date, the Owner shall pay the Registered Master Builder interest compounding monthly on all monies due and payable and remaining unpaid from the date of default until actual payment. The rate of interest shall be the rate recorded in clause 4 of the Contract Agreement (compounding monthly). If no rate is recorded, the rate of interest shall be 15% (compounding monthly). The right to interest shall be additional to any other remedy to which the Registered Master Builder may be entitled at law.

Time

- 29 The Registered Master Builder shall commence the Works within a reasonable time after the execution of the Contract, and shall proceed to carry out the Works with all reasonable diligence so that the Works are completed within a reasonable period of time taking into account all relevant factors and subject to:
 - a. the payment of any deposit required;
 - b. the issue of any building consent or resource consent required for the Works; and
 - c. if required by the Registered Master Builder, receipt from the Owner of evidence of insurance cover.

Completion

- 30 Practical completion is achieved when the Works have been completed except for minor defects and minor omissions, which do not prevent the Works from being used for their intended purpose and which can be remedied in the defects period or at such other agreed time by the Registered Master Builder without causing unnecessary inconvenience to the Owner.
- 31 Upon practical completion of the Works under clause 30 the Owner and the Registered Master Builder must sign and date the annexed Notice of Practical Completion.

Defects

- 32 After completion of the Works the Owner must notify any defects in relation to the Works which may require remedial work to the Registered Master Builder in writing within one year of a residential contract within the meaning of s362B of the Building Act 2004 or within 31 days for any other contract and they shall forthwith be corrected by the Registered Master Builder at its own cost, fair wear and tear excepted.

Cost fluctuations

- 33 The Registered Master Builder shall be deemed to have submitted its tender having due regard for the prices of all materials and services at the date of its tender. Any increases or additional costs whether in the prices of materials, subcontractors or services becoming effective after the date of the tender and before the Works are completed shall be added to the Contract Price and any decrease in the prices of all materials and services between these same dates shall be deducted from the Contract Price.

Default by the Owner

- 34 If the Owner defaults in the observance or performance of any of the Owner's obligations under the Contract or if the Owner is for any reason otherwise unable to observe or perform, then the Registered Master Builder, without prejudice to its other remedies, may exercise all or any of the following remedies:
- cancel the Contract;
 - suspend the carrying out of the Works until such default has been remedied;
 - whether the Works have been suspended or not, take such action as the Registered Master Builder shall deem expedient in any Court of competent jurisdiction.
- 35 The Registered Master Builder shall notify the Owner in writing and give the Owner five (5) Working Days to remedy the default before exercising any of the remedies under clause 34.

Default by the Registered Master Builder

- 36 If the Registered Master Builder defaults in the observance or performance of any of its obligations under the Contract or is for any reason otherwise unable to observe or perform, or the Registered Master Builder has failed to proceed with the Works with reasonable diligence or is persistently, flagrantly or willfully neglecting to carry out its obligations under the Contract, and the Registered Master Builder has not remedied the default within ten (10) Working Days of receiving written notice of the default, then the Owner, without prejudice to its other remedies, may cancel the Contract.

Suspension of work for non-payment

- 37 Where the Owner fails to pay any invoiced amount in full by the due date for its payment the Registered Master Builder may suspend work under the Contract provided written notice is served on the Owner. If the Owner has not paid the invoiced amount within five (5) Working Days after the date of service of the notice to suspend the Registered Master Builder may immediately suspend work.

Disputes

- 38 If any dispute or difference between the Owner and the Registered Master Builder arises out of or in connection with the Contract or the Works (the Dispute), a party must give written notice to the other party specifying the nature of the Dispute and on receipt of the notice by the other party, the parties must endeavour, in good faith and expeditiously, to resolve the Dispute by negotiation.
- 39 If negotiation is not successful within 10 working days of the notice of dispute being served the parties may:
- By agreement engage the services of a mediator to enable them to resolve the dispute or;
 - If within the jurisdiction of the Disputes Tribunal issue a claim in that tribunal; or
 - Refer the dispute to adjudication under the Construction Contracts Act 2002; or
 - Issue proceedings in a Court of competent jurisdiction.

Notices

- 40 Every notice to be given under the Contract, including payment claims under the Construction Contracts Act 2002, shall be sufficiently given if served at the address for service recorded in the Contract Agreement, unless the Owner has notified the Registered Master Builder in writing of any change of address. The parties agree that information required to be served or given, may be served or given by email.

Privacy

- 41 The Owner consents to the Registered Master Builder providing to the Registered Master Builders Association of New Zealand Inc. any information about the Owner relating to and for the purposes of the Contract which comes into the possession or control of the Registered Master Builder. Such information may be stored electronically by the Registered Master Builders Association of New Zealand Inc. The Owner has the right to access and correct any personal information.

SAMPLE

NOTICE OF PRACTICAL COMPLETION

(refer clauses 30 and 31 of the General Conditions of Contract)

Name of Owner:

Name of Registered Master Builder:

PRACTICAL COMPLETION

Practical Completion is achieved when the Works and any agreed variations to the Works are completed except for minor defects and minor omissions which can be remedied in the defects period or at such other agreed time by the Registered Master Builder without causing unnecessary inconvenience to the Owner.

DEFECTS PERIOD (refer clause 32 of the General Conditions of Contract)

The defect period begins from the date of execution of this Notice of Practical Completion.

EXECUTION OF PRACTICAL COMPLETION

The Owner certifies that it has inspected the Works and accepts possession of the Works and further certifies that the Works have been completed in accordance with the Contract.

DETAILS

Location of the Works:

DATES

Actual date of Practical Completion:

Proposed date of final payment or possession:

SIGNATURES

Signature of Owner:

Date:

Signature of Registered Master Builder:

Date:

SAMPLE



Registered Master Builders Association

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