

**Application Form, Appointment of Principal Certifier & Notice to Commence Building Work**

Under the Environmental Planning and Assessment Act 1979 (as amended) Parts 4 and 6.

This form is part of the required contract under Clause 19a of the Building Professionals Regulation once complete.

Tick the appropriate box:☐ Construction Certificate☐ Appointment of PC☐ Other: _____

Complying Development Certificate: (Select the relevant Environmental Planning Policy)

☐ Part 3 Housing Code☐ Part 3A Rural Housing Code☐ Other: _____

Date of Receipt: _____

Applicant Details

Name: _____

Company Name: _____

(If applicable)

Address: _____

Phone: _____

Mobile: _____

Fax: _____

Contact Name if Company: _____

(If applicable)

Email Address: _____

Signature of Applicant: _____

Owner/s Details

Name/s: _____

Address: _____

Daytime Phone: _____

Email: _____

Details of Land to be Developed

Street No: _____

Street Name: _____

Suburb: _____

State: _____

Postcode: _____

Council: _____

Lot No: _____

Section No: _____

DP/IMPS No: _____

Description of Work Proposed

Describe the proposed work: _____

Estimated Cost of the work/development: \$ _____

What is the class of building under the Building Code of Australia? _____

Has development consent been granted for the development?

☐

YES

☐

NO

☐

N/A

If yes, what is the development application number? _____

What date was the development consent granted? _____

Construction Certificate/Complying Development Certificate No: *(If Issued)* _____

Date the Certificate was issued: _____

Builder Details

☐	Licensed Builder	☐	Owner Builder
Name:			
Postal Address:			
Phone:		Mobile:	
Fax:		Email:	
Builders License Number:		Owner Builder Permit Number:	
Home Building Compensation Cover Policy No:		HBC Contract sum:	

Please Note: For more information regarding the inclusions and exclusions from the Home Building Compensation Cover insurance for projects \$20,000 incl. GST and over, please visit: - <http://www.sira.nsw.gov.au/insurance-coverage/home-building-compensation-insurance/do-i-need-home-building-compensation-insurance>

Owner/s Consent

I/we the owners of the subject property hereby give consent for the lodgement of all relevant applications (i.e. for Construction Certificates, Complying Development Certificates, Occupation Certificates, Compliance Certificates) and associated documentation to GMA Certification Group for consideration.

I/we also declare that all documentation presented as part of an application for a Construction Certificate has remained unaltered from that issued with any Development Consent or that any changes have been documented and GMA Certification Group have been advised Accordingly in writing.

Principal Certifier

With reference to this proposed development I/we the owners of the subject property hereby advise of our decision to appoint:

☐ GMA Certification (NSW) Pty Ltd – BPB ABC15

To fulfil the role of a Principal Certifier (PC) as outlined in the Environmental Planning and Assessment Act 1979 (as amended).

I/we understand that this engagement shall be subject to the Terms and Conditions outlined in this application and I/we further understand that the mandatory inspections required by the Act will be carried out during the course of construction along with any others that are deemed to be necessary by the PC during construction.

I/we also advise that I/we are aware of the conditions attached to all Development Consents (i.e. Local Authority Development Consent or Complying Development Consent) applying to this project and understand our responsibilities in relation to those conditions. I/we agree to undertake any works that may be required or to provide any information request by the PC in order that he/she may fulfil their statutory obligations under the Environmental Planning and Assessment Act 1979 (as amended).

I/we are not aware of any existing conflict of interest with the nominated RC as defined by the Building Professionals Act 2005. In the event that a conflict of interest becomes apparent during the assessment stage of the application my signature provided below serves as my authorisation for the transfer of the role and responsibilities of the PC to one of the Registered Certifiers (RC) listed in section 2.4 of the Terms and Conditions of this application.

Owner/s Declaration

I/we declare that I/we have freely chosen to engage the certifier and have read the contract and any accompanying documentation and understand my/our responsibilities and those of the certifier.

Owner/s Declaration cont'd

Name/s:			
Signature/s:		Date:	

Asbestos

Is any bonded asbestos material or friable asbestos material on-site or involved in the works?

Yes	☐	No	☐	If Yes – Approx. M ² :	
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Contaminated Land

Is the allotment identified as contaminated land under S60 of the Contaminated Land Management Act 1997?

Yes	☐	No	☐
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Long Service Levy**Note:** Payment of the long service levy is required prior to the issue of a complying development certificate or construction certificate.

The current levy rate is 0.25% of the value of building and construction works costing \$250,000 or more (inclusive of GST).

The long service can be paid over the internet, go to; <https://www.longservice.nsw.gov.au/bci/levy>**Schedule – (It is compulsory to complete this schedule. The information will be sent to the Australian Bureau of Statistics)****New Buildings**

Number of Storeys (including underground floors)	
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Gross Floor area of new building (m ²):		Gross site area (m ²):	
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Residential Buildings Only

Number of dwellings to be constructed:		Number of pre-existing dwellings on site:	
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Number of dwellings to be demolished:	
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Will the new dwelling(s) be Attached to other new buildings?		Does the site contain a dual occupancy?	
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Will the new building(s) be Attached to an existing building?	
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Materials – Residential Buildings (please indicate the materials to be used in the construction of the new building(s):

Walls	Roof	Floor	Frame
Brick (Double) ☐	Tiles ☐	Concrete or Slate ☐	Timber ☐
Brick (Veneer) ☐	Concrete or Slate ☐	Timber ☐	Steel ☐
Concrete or Stone ☐	Fibre Cement ☐	Other ☐	Aluminium ☐
Fibre Cement ☐	Steel ☐	Not Specified ☐	Other ☐
Timber ☐	Aluminium ☐		Not Specified ☐
Curtain Glass ☐	Other ☐		
Steel ☐	Not Specified ☐		
Aluminium ☐			
Other ☐			
Not Specified ☐			

Terms & Conditions

1. EFFECT OF AGREEMENT

This agreement supersedes and overrides any other documents or oral representation upon which the parties may seek to rely to generate any legal effect or to imply any Contractual obligation.

OBLIGATIONS OF THE PC / RC

2. Issuing of Construction Certificates or Complying Development Certificates:

- 2.1 The PC or RC shall issue a Construction Certificate or Complying Development Certificate:
- 2.1.1 Once the PC or RC is satisfied that the design of the building work(s) complies with the Development Consent and the Regulations; and
- 2.1.2 Once the PC or RC is satisfied that the design as depicted on the drawings and specification comply with the BCA; and
- 2.1.3 Once the owner pays the PC or RC any money owed for work associated with the issuing of a Construction Certificate or Complying Development Certificate.
- 2.2 The PC shall provide the Council with a Notice of Determination within two (2) days of the determination.
- 2.3 During the assessment of the application for a Construction Certificate or Complying Development Certificate, the PC or RC may request as many Certificates or statements from any Certifying Authority or any other party the PC or RC considers necessary.
- 2.4 If during the assessment of the application a conflict of interest becomes apparent the role of the PC will be transferred to one of the following RC's without delay: Mr Geoffrey Mitchell, Mr Neil Redpath or Mr Michael Micallef.

3. INSPECTIONS

- 3.1 The PC shall carry out or arrange to be carried out as many inspections as the PC considers necessary in addition to those nominated as mandatory by the Environmental Planning and Assessment Act 1979.
- 3.2 Person having the benefit of the consent is to take all reasonable steps to give the PC adequate notice prior to critical stage inspections.
- 3.3 Any inspections undertaken, and the notification of the result of any inspection that has been undertaken, in relation to the subject development are prepared and provided to the Owner/s solely for the purpose specified, for the Owner/s exclusive use in regard to the property identified only, and on the undertaking/condition that the Owner/s shall not communicate the contents of the notification of result to any third person who might act to his/her detriment on the basis of the notification. The Owner/s agree to indemnify the Registered certifier and GMA Certification (NSW) Pty Ltd against any loss or damage suffered as a result of the Owner/s failure to observe the abovementioned clause. All inspections undertaken are based on a visual inspection and do not comment therefore on aspects, faults or otherwise, which are below ground level, covered up in any way, or which are not apparent at the time of inspection. No indication is given as to the adequate performance of any plumbing, hydraulic, gas or electrical appliance or fitting that may be installed or included in the building or on the site. Any notification of the result of an inspection is not intended to imply compliance or otherwise with any requirements of any Local Government Authority. Any parts of any structure that have been or are covered, unexposed or inaccessible will not be inspected and therefore any notification of the result of an inspection will have no reference to those parts.

4. ISSUING THE OCCUPATION CERTIFICATE

- 4.1 The PC shall issue an Occupation Certificate for the building works when the PC is satisfied that:
- 4.1.1 All conditions of a Local Development Consent or Complying Development Certificate has been complied with; and
- 4.1.2 The building works are suitable for occupation or use in Accordance with their classification under the BCA; and
- 4.1.3 A fire safety certificate has been issued (if required); and
- 4.1.4 As at the date this agreement is executed, the building does not pose any danger for the occupants in the case of an Interim Occupation Certificate.

5. INSURANCE

- 5.1 The PC shall maintain an insurance policy in Accordance with the Act and shall provide a copy of that policy to the owner upon request.
- 5.2 The PC must not allow any Act or omission which would make any such policy of insurance void or unenforceable.
- 5.3 The extent of any claim or otherwise against the policy held by the RC or PC or against the RC or PC in any way shall be limited to five time (5x) the value of the service fee paid to the RC or PC for the services provided and no more.

OBLIGATIONS OF THE OWNER

6. The Owner shall:

- 6.1 Not engage any other PC after the PC appointed pursuant to this agreement has been engaged. Breach of this condition will entitle the PC to recover any losses or cost of whatsoever nature that flow from such Breach.
- 6.2 Ensure that a Construction Certificate or Complying Development Certificate has been issued prior to the commencement of any works.
- 6.3 Ensure the site is available for the PC to carry out its obligations under this agreement.
- 6.4 Use competent people for all aspects of the building works.
- 6.5 Provide the PC with evidence of professional indemnity and public liability insurance for the building work prior to the commencement of any works.
- 6.6 Provide all relevant drawings, plans, statutory plans and documentation associated with but not limited to any Development Consent, Complying Development Consent and/or any Certificate issued under Part 4A of the Act at the request of the PC.
- 6.7 Attend any meetings if required by the PC to do so.

- 6.8 Comply with any Notice of Intention to Serve an Order that the PC issues.
- 6.9 Provide Compliance Certificates as requested by the PC.
- 6.10 Provide all information that the Owner reasonably can obtain to enable the PC to fulfil its obligation under this agreement.
- 6.11 Provide the PC with the date of Practical completion.
- 6.12 Act in good faith, in Accordance with the Act and in a cooperative fashion.
- 6.13 Ensure compliance with all conditions of the Development Consent relating to any demolition works prior to the issue of any Occupation Certificate.
- 6.14 Provide a least three (3) days' notice in writing of the persons intention to commence work authorised by either the Consent or Certificate of the lot on which the work is to be carried out.
- 6.15 The Owner warrants:**
- 6.15.1 that any Data provided to the PC is Accurate and complete in all respects; and
- 6.15.2 that, in performing the Services, the PC acts with the Owners authority

7. DELIVERY OF THE SERVICES

The PC / RC may Subcontract or licence all or part of its obligations under this agreement without prior notice to the Owner.

8. FEE

- 8.1 Unless otherwise agreed, payment of the fee is required on issue of your Tax Invoice. Overdue payments will Attract interest of 24% per annum. The relevant Fee (and any applicable interest) must be paid prior to the relevant Services being delivered.
- 8.2 Any enforcement Action required to be undertaken pursuant to any legislation will be charged on a cost recovery basis.
- 8.3 The PC reserves the right to change the Fee in the event of a variation to the scope of work for the Services. Any variation from the plan of scheduled works or specifications (including, but not limited to, any variation due to unforeseen circumstances, or as a result of increases to the PC in the cost of materials and labour) will be charged for on the basis of the PC's fee proposal and will be shown as variations on the invoice. Payment for all variations must be made in full at their time of completion.
- 8.4 Payment will be made by cash, or by cheque, or by bank cheque, or by direct credit, or by any other method as agreed to between the Owner and the PC.
- 8.5 Receipt by the PC of any form of payment other than cash does not constitute payment until that payment has been honoured, cleared or recognised by the PC.
- 8.6 GST, other taxes, duties, disbursements and applicable government and council fees and charges will be added to the Fee other than where they are expressly included in the Fee.

9. INTELLECTUAL PROPERTY AND DATA

- 9.1 Nothing in this agreement affects the Intellectual Property Rights of either party, except as set out in this clause.
- 9.2 The Owner grants the PC an unrestricted, royalty free licence to use and manipulate all Intellectual Property Rights in any Data which the Owner provides to the PC to the extent reasonably necessary for the PC to perform their Obligations
- 9.3 The Owner warrants that any Data provided by it to the PC will not infringe the Intellectual Property Rights of any person. The owner indemnifies the PC against any direct loss, costs, expenses, demands or liability arising out of a claim by a third party against the PC alleging that such Data infringes any such Intellectual Property Rights.

10. INDEMNITY AND EXCLUSION OF LIABILITY

10. The PC must indemnify the Owner against all claims, demands, expenses, loss or damage in respect of loss or damage to any property, or the death of or personal injury to any person, caused or contributed to by the PC, a Breach by the PC of this agreement, a wilful unlawful or negligent Act or omission of the PC, and any claim Action or proceeding by a third party against the Owner or its employees officers and contractors caused or contributed to by the PC.
- 10.2 This indemnity is reduced by the extent to which the Owner contributes to the event giving rise to the claim for the indemnity.
- 10.3 The PC must perform the Services at its own risk in all things and releases the Owner from all claims, Actions, proceedings, costs, expenses, losses, suffering, illness and liabilities incurred by the PC or its employees, agents, Subcontractors, third parties, and customers which arise from the performance of the Assessment Services.
- 10.4 Notwithstanding any other provision in this agreement, the PC is not liable to the Owner, nor is it required to indemnify the Owner, for any loss or damage suffered by the Owner or for any claim against the Owner (howsoever arising) for economic, indirect or consequential losses of any kind whatsoever.
- 10.5 The Owner indemnifies the PC and its employees, officers and contractors against all claims, demands, expenses, loss or damage in respect of loss or damage to any property, or the death of or personal injury to any person, caused or contributed to by the Owner, a Breach by the Owner of this agreement, a wilful unlawful or negligent Act or omission of the Owner, and any claim Action or proceeding by a third party against the PC or its employees officers and contractors caused or contributed to by the Owner.
- 10.6 The Owner releases and holds harmless the PC against all claims, demands, expenses, loss or damage arising in connection with the Owners reliance on, or use of, any aspect of the Services, including advice, given to the Owner by the PC in a manner which is not contemplated or authorised by the Applicable Legislation or otherwise not in Accordance with any exclusions or assumptions given by the PC.

11. MUTUAL WARRANTIES

- 11.1 Each party represents and warrants to the other that as at the date of this agreement:

- 11.2 all Actions, conditions and things required to be taken, fulfilled and done by it in order to enable it to enter into, exercise its rights and perform its obligations under this agreement have been done; and
- 11.3 all Authorisations required for its entry into, exercise of its rights under, and performance of its obligations under this agreement have been obtained.

12. FORCE MAJEURE

- 12.1 If a Force Majeure Event causes delay or failure by a party to perform its obligations under this agreement:
- 12.1.1 neither party is liable for such delay or failure; and
- 12.1.2 all obligations of a party under this agreement are suspended until the Force Majeure Event ceases to apply.
- 12.2 A party which is, by reason of a Force Majeure Event, unable to perform any obligation or condition required by this agreement must:
- 12.2.1 notify the other party as soon as possible giving:
- 12.2.1.1 reasonably full particulars of the Force Majeure Event; and
- 12.2.1.2 the date of commencement of the Force Majeure Event and an estimate of the time required to enable it to resume full performance of its obligations; and
- 12.2.1.3 where possible, the means proposed to be adopted to remedy or abate the Force Majeure Event.
- 12.2.2 use all reasonable diligence and employ all reasonable means to remedy or abate the Force Majeure Event as soon as possible.
- 12.2.3 resume performance as soon as possible after termination of the Force Majeure Event; or after the Force Majeure Event abates to an extent which permits resumption of performance.
- 12.2.4 notify the other party when the Force Majeure Event terminates or abates to an extent which permits resumption of performance; and
- 12.2.5 notify the other party when resumption of performance occurs.
- 12.3 If a delay or failure under this clause exceeds 60 days, either party may immediately terminate this agreement by notice to the other party

13. VARIATIONS TO THIS AGREEMENT

- 13.1 If:**
- 13.1.1 The building works do not commence within 60 days from the date of the execution of this agreement; or
- 13.1.2 Any competent person used by the Owner in respect of the building works causes a delay in the progress of the building works for more than 21 days; or
- 13.1.3 Any part of the building works is re-designed by the Owner; or
- 13.1.4 Any part of the building is designed pursuant to a Deemed to Satisfy Provision and is subsequently changed by way of a Performance Solution; or
- 13.1.5 Additional Construction Certificates and/or Compliance Certificates are required to be issued by a Registered Certifier; or
- 13.1.6 An amendment to the Act, the BCA or any other law that requires any aspect of the building work or the PC's work to be varied; or
- 13.1.7 The PC is required to undertake more inspections than those listed as mandatory inspections under the Environmental Planning and Assessment Act 1979; or
- 13.1.8 The Owner does anything that causes a delay to the building works or does anything that delays the ability of the PC to carry out its obligations under this agreement; or
- 13.1.9 A Notice of Intention to Serve an Order is issued by the PC; or
- 13.1.10 The PC is notified of a complaint by the Building Professional Board or a representative from the Local Council with jurisdiction over the subject site; then:
- 13.2 The PC may:**
- 13.2.1 Vary this agreement to the extent that the PC will be able to carry out its obligations under this agreement; and
- 13.2.2 Increase the agreement price, such increase to be made by way of Notice to the Owner stating the reason/s for the increase and the amount of the increase.
- 13.2.3 The variation will permit the PC to claim all costs associated with that delay as reasonably determined by the PC.
- 13.2.4 Notice must be given to the Owner within seven (7) days from the date on which the PC becomes aware that a variation will be necessary.

14. TERMINATION OF AGREEMENT

- 14.1 If:**
- 14.1.1 The person/s or Company responsible for making payment for this service fails to pay any money owing to the PC after seven (7) days of that money becoming payable; or
- 14.1.2 The person/s or Company responsible for making payment for this service has an execution levied against it, assigns or attempts to assign its estate for the benefit of its creditors, intends to or attempts to or makes a composition or Scheme of Arrangement with creditors, has a winding up order made against it, intends or attempts to pass a resolution for winding up, goes into liquidation, has an Official Manager or Receiver appointed, has a Mortgagee taking possession of any part of its property, has an Administrator or a Provisional Liquidator appointed, becomes insolvent or bankrupt; or
- 14.1.3 The Owner or the person/s or Company responsible for making payment for this service Breaches the agreement in any respect; or
- 14.1.4 The Construction Certificate or Complying Development Certificate is not capable of being issued within 180 days or six (6) months (whichever is lesser) from the date of application; or
- 14.1.5 The building works do not commence within 60 days from the date the Construction Certificate or Complying Development Certificate was issued; or
- 14.1.6 The failure of the Owner to complete any works and as a result does not permit the Registered Certifier to issue the Occupation Certificate within 60 days from the date practical completion, occupation or use of the proposed development; or
- 14.1.7 The Owner, for any reason, does not permit the Registered Certifier to issue the Occupation Certificate within 60 days from the date of Practical completion, occupation or use of the proposed development; or

- 14.1.8 The building works have commenced without the issuing of a Construction Certificate; or
- 14.1.9 Within 2 years of the date of issue of the Construction Certificate or Complying Development Certificate, the PC has not been advised by the owner, in writing, that the building works have been completed or an Occupation Certificate has not been issued by the PC; then
- 14.2 The PC may terminate this agreement by sending a written Notice or Termination, stating the Breach/s, to the Owner. Termination will take effect as soon as the Owner receives the Notice of Termination.
- 14.3 If the PC terminates this agreement, then the PC is entitled to payment of Termination Money.
- 14.4 Unless the Owner disputes the Notice of Termination, the Owner must pay all Termination Money to the PC within 14 days of receiving a Notice of Termination.
- 14.5 If the PC terminates the agreement, the PC is entitled to carry out a final inspection, at the Owners expense, prior to termination.
- 14.6 As from the date of final inspection, the Owner must indemnify the PC of any liabilities, including but not limited to professional liability and public liability, of whatsoever nature than emanate from:
- 14.6.1 The need to terminate this agreement or the Building Agreement; or
- 14.6.2 Any matters of non-compliance with the Act on the part of the Owner or any other Contractor.

15. CONFIDENTIAL INFORMATION

Subject to The Act, each party agrees that it will not use any Confidential Information of the other party or allow any Confidential Information of the other party to be used for any purpose, except for the purposes of and in the manner contemplated by this agreement, and agrees that it will keep confidential, take reasonable steps to ensure that the party's officers and employees do not disclose to a third party, maintain proper and secure custody of and not use or reproduce in any form, any Confidential Information belonging to the other party.

16. DISPUTE RESOLUTION

- 16.1 A party must not commence arbitration or court proceedings (except for urgent equitable or injunctive relief) in respect of a dispute under this agreement, unless it first attempts to resolve the dispute by mediation under this clause.
- 16.2 A party claiming that a dispute has arisen under this agreement must give written notice to the other party specifying the nature and details of the dispute.
- 16.3 The mediator must be appointed by the AAC.
- 16.4 The mediation will be invoked by either party serving notice on the AAC and the other party within seven (7) days of a party being notified of a dispute.
- 16.5 Both parties must attend the mediation and must co-operate with the mediator and each other and shall give the mediator whatever the mediator requests.
- 16.6 If the mediator resolves the dispute the resolution must be evidenced by a written agreement that is signed by the mediator and the parties.
- 16.7 If the mediation fails, then either party may take Action to resolve the dispute in a court of competent jurisdiction.
- 16.8 Both parties will remunerate the mediator on a 50/50% basis regardless of any alleged fault and regardless of outcome.
- 16.9 The AAC may request mediation funds to be placed into an AAC trust Account before the mediation commences and may request payment of additional moneys from time to time until the mediation is concluded.

17. MISCELLANEOUS

- 17.1 If for whatever reason an Occupation Certificate is not issued whether it be on Account of the insolvency of the owner, the disappearance of the owner or the termination of the agreement, the PC's responsibilities under the agreement cease forthwith. With respect to any liabilities that may be occasioned under Part 4 of the Act the PC will be able to give evidence that no Action can be brought 10 years after the date upon which the Act that evidenced the ending of the agreement occurred.
- 17.2 In the event that an Occupation Certificate is requested following a period greater than 12 months after the undertaking of a final inspection an additional charge will be applied and charged to the owner of the premises, as determined by the PC in Accordance with GMA Certification (NSW) Pty Ltd current management plan in Place at the time.
- 17.3 This agreement constitutes the entire agreement between the parties about its subject matter and supersedes any prior understanding, agreement, condition, warranty, indemnity, or representation about its subject matter.
- 17.4 A waiver of a provision of or right under this agreement must be in writing signed by the party giving the waiver and is effective only to the extent set out in the written waiver.
- 17.5 EXERCISE OF POWER
- 17.5.1 The failure, delay, relaxation, or indulgence by a party in exercising a power or right under this agreement is not a waiver of that power or right.
- 17.5.2 An exercise of a power or right under this agreement does not preclude a further exercise of it or the exercise of another right or power.
- 17.6 Each indemnity, obligation of confidence and other term capable of taking effect after the expiration or termination of this agreement, remains in force after the expiration or termination of this agreement.
- 17.7 This agreement is governed by the law in New South Wales and is subject to the jurisdiction of the Courts in New South Wales.
- 17.8 CONSUMER LAW
- 17.8.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the Competition and Consumer Act 2010 or the Fair Trading Act 1987 (NSW) (including any substitute to those acts or re-Enactment of them), except to the extent permitted by those Acts, where applicable.

- 17.8.2 Where the Owner buys the Services as a consumer these terms and conditions shall be subject to any laws or legislation governing the rights of consumers and shall not affect the consumer's statutory rights.
- 17.9 Where any Notice is to be forwarded to the Owner the address for such Notice shall be the address stated in the Application Form or to any other address that is notified in writing by the Owner to the PC.
18. NOTICES
- 18.1 A notice, demand, consent, approval or communication under this agreement (Notice) must be in writing, in English and signed by a person authorised by the sender and hand delivered or sent by prepaid post or email to the recipient's address or email address specified in the Schedule, as varied by any Notice given by the recipient to the sender.
- 18.2 A Notice is deemed to be received:
- 18.2.1 if hand delivered, on delivery.
- 18.2.2 if sent by prepaid post, two Business Days after posting (or seven Business Days after posting if posting to or from a Place outside Australia).
- 18.2.3 if sent by email, at the time deemed to be the time of receipt under the Electronic Transactions (Queensland) Act 2001 (Qld) or Electronic Transactions Act 1999 if the notice was being given under a law of the Commonwealth of Australia.
- 18.3 However if the Notice is deemed to be received on a day that is not a Business Day or after 5:00pm, the Notice is deemed to be received at 9:00am on the next Business Day.

DEFINITIONS

The Act means the Environmental Planning and Assessment Act 1979 (NSW). All amendments and references to the Act also mean amendments and references to the Regulations.

AAC means the Association of Accredited Certifiers.

Authorisation means any authorisation, agreement approval, licence, permit, consent, qualification, Accreditation, filing, registration, certificate, resolution, direction, declaration or exemption and any renewal and variation of them by or with a Governmental Agency.

DOP means the Department of Planning.

Performance Solution has the same meaning as the term in the Building Code of Australia 2016.

BCA means the Building Code of Australia 2016 including all applicable amendments.

Building means that which is the subject of the Building Works.

Building Contract means the Contract to construct the Building Works that the Owner enters with the builder.

Building Works means the building works for which a Construction Certificate is to be issued in Accordance with this agreement and is referred to in the "Land to be Developed" section of the Application Form relating to the subject works.

Business Day means a day which is not a weekend or public holiday in New South Wales

Certificates mean statutory certificates and non-statutory certificates.

Registered Certifier means a Registered Certifier within the meaning of the act.

Confidential Information means any documentation or information of a confidential nature supplied by either party to the other in connection with this agreement and includes all scientific, technical, Manufacturing, performance, sales, financial, commercial, Contractual or marketing information possessed by a party but excludes any documentation or information which has been previously published or otherwise disclosed to the general public or is required to be disclosed by law.

Competent people means people authorised to carry out any work associated with Building Works under the Act and includes contractors.

Complying Development Certificate means a Complying Development Certificate within the meaning of the Act.

Conflict of Interest has the same meaning as the term defined by the Building Professionals Act 2005.

Construction Certificate means a Construction Certificate within the meaning of the Act.

Data means information directly or indirectly relating to this agreement and/or the Services and includes software (including source code and object code versions) manuals, diagrams, graphs, charts, projections, specifications, estimates, records, concepts, documents, Accounts, plans, formulae, designs, methods, techniques, processes, supplier lists, price lists, market research, information, correspondence, letters, warranties and Manufacturer's information and data sheets, personal identification numbers (PINS) and Access codes for security and alarm systems, and papers of every description including all copies of and Extracts from them.

Deemed to Satisfy Provision has the same meaning as the same term in the Building Code of Australia 1996.

Development Consent means a Development Consent within the meaning of the Act.

Fire Safety Certificate means a Fire Safety Certificate within the meaning of the Act.

Force Majeure Event means an event beyond the reasonable control of the parties which precludes a party from performing on time an obligation under this agreement. Such circumstances include:

- Acts of God, lightning strikes, earthquakes, floods, storms, explosions, fires and any natural disaster; and
- Acts of war, Acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage and revolution

Inspection Schedule means the mandatory inspections required under the act.

Intellectual Property Rights includes property and rights in respect of or in connection with copyright (including future copyright and rights in the nature of or analogous to copyright), know-how, trade mark, service mark, design, inventions (including patents), semi-conductor or circuit layout rights, trade, business or company names, or other proprietary rights, or any rights to registration of such rights (including all renewals and extensions) whether created before or on or after this agreement.

Law means any statute, regulation, order, rule, subordinate legislation or other document enforceable under any statute, regulation, order, rule or subordinate legislation.

Notice includes any notice issued under the Act or this agreement and in respect of notices in this agreement must be made by pre-paid ordinary mail, facsimile transmission or notice by hand delivery to the Address for Notices in this agreement.

Occupation Certificate means an Occupation Certificate within the meaning of the Act.

Order means an Order within the meaning of the Act.

Owner means the owner or the owner's agent.

Practical completion means the date the builder has completed the Building Works in Accordance with the Building Contract.

Principal Certifier is a Registered Building Surveyor as defined by the Act

Regulations means the Environmental Planning and Assessment Regulation 2000 (NSW) (as amended) and all applicable amendments.

Schedule means the Schedule in this agreement.

Scope of Works means obligations in this agreement and any other tasks set out in the Schedule.

Statutory Notices means those notices that are issued by the PC in Accordance with the Act.

Termination money means the money owing to the PC if the PC terminates the agreement in Accordance with this agreement, being money for work done (with interest if applicable) and for costs incurred (with interest if applicable) and any money that the Owner would have been bound to pay to the PC if the agreement had been totally completed.

INTERPRETATION

In this agreement, unless the context otherwise requires: headings do not affect interpretation; the Schedule forms part of the agreement and is correct; singular includes plural and plural includes singular; words of one gender include any gender; a reference to a party includes its executors, administrators, successors and permitted assigns; a reference to a person includes a partnership, corporation, association, government body and any other entity; a reference to this agreement includes any schedules and annexures to this agreement; an agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally; an agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally; a reference to legislation includes any amendment to it, any legislation substituted for it, and any subordinate legislation made under it; a provision is not construed against a party only because that party drafted it; an unenforceable provision or part of a provision may be severed, and the remainder of this agreement continues in force, unless this would materially change the intended effect of this agreement; the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions; an expression defined in The Act has the meaning given at the date of this agreement; an expression defined in the Corporations Act 2001 (Cth) or the A New Tax System (Goods and Service Tax) Act 1999 (Cth) has the meaning given by that Act at the date of this agreement.

END OF TERMS AND CONDITIONS

GMA Certification Group

GMA Certification (NSW) Pty Ltd T/A

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