ABIC SW 2018 H Tas

Simple Works Contract for Housing
in Tasmania

Contract Price: $

Owner:

Contractor:

Site:

## Cooling-off period and withdrawal notice pursuant to Part 7 of the *Residential Building Work Contracts and Dispute Resolution Act* 2016 (TAS) (“Act”)

## Cooling-off period

### Notice to owner: The owner may end this contract within 5 clear business days after receipt by the owner of both a signed copy of the contract and the residential building consumer guide that is in effect under section 81(3) of the Act by filling in the notice below and giving it to the contractor in one of the following ways:

a personally

### b leaving it at the address of the contractor set out in item 1 of schedule 1 of the contract with a person who appears to be at least 16 years old

### c sending it by pre-paid certified mail to the address set out in item 1 of schedule 1 of this contract

### d sending it by facsimile to the facsimile number (if any) or by email to the email address (if any) set out in item 1 of schedule 1 of this contract.

### The owner cannot withdraw from this contract under the Act if:

### a the contractor and the owner have previously entered into a residential building work contract the terms and contracted services of which are substantially the same as this contract; OR

### b the owner received formal legal advice concerning the contract before entering into the contract.

Detach along dotted line

Notice that contract is ended

### To \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (contractor)

### \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (owner) gives notice that under section 33 of the *Residential Building Work Contracts and Dispute Resolution Act* 2016 (TAS) that the owner is withdrawing from the contract with the contractor and that the contract is ended.

### Please refund any deposit paid by the owner to the contractor less $100 and any out of pocket expenses reasonably incurred by the contractor before the owner withdrew from our contract.

### If no deposit was paid by the owner, the owner will pay the contractor $100 and any out of pocket expenses reasonably incurred by the contractor before the owner withdrew from our contract.

### If the owner withdraws, the contractor is not entitled to more than the contractor would have been entitled to under the contract.

### Owner’s signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

### Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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A most current version of the Residential Building Consumer Guide is available for download from CBOS (Tas): <http://www.justice.tas.gov.au/building/consumer_building_information>.

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| --- | --- | --- |
| Item 1 | The owner | The contractor |
| Name: |  |  |
|  |  |  |
|  |  |  |
| ABN (if applicable): |  |  |
| Accreditation number: |  |  |
| Representative: |  |  |
| Address for notices: |  |  |
|  |  |  |
|  |  |  |
| Email: |  |  |
| Mobile: |  |  |
| Telephone: |  |  |
| Facsimile: |  |  |
|  | If the \**party* is an individual, individual trustee, partnership or unincorporated association |
| Signed by \**party*: |  |  |
| Signed by witness: |  |  |
| Name of witness: |  |  |
| Date of signing: |  |  |
|  | If the \**party* is a corporation, corporate trustee or incorporated association |
| Common seal of \**party*:(if applicable) |  |  |
| Signed by: |  |  |
| Capacity: | Officer / Director / Secretary | Officer / Director / Secretary |
| Print name: |  |  |
| Signed by: |  |  |
| Capacity: | Officer / Director / Sole Director | Officer / Director / Sole Director |
| Print name: |  |  |
| Date of signing: |  |  |

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| --- | --- | --- |
| Item 1Clause A5 | If the owner has financed the \**works* using a lending institution |  |
|  | Name of lender: |  |
|  | Representative: |  |
|  | Address: |  |
|  |  |  |
|  |  |  |
|  | Email: |  |
|  | Mobile: |  |
|  | Telephone: |  |
|  | Facsimile: |  |
| Item 2 | The architect |  |
| Clause A6 | Name: |  |
|  | Registration number |  |
|  | Representative: |  |
|  | Address for notices: |  |
|  |  |  |
|  |  |  |
|  | Email: |  |
|  | Mobile: |  |
|  | Telephone: |  |
|  | Facsimile: |  |
| Item 3 | Special conditions |  |
| Clause B2 | Are there any other special conditions?  | Yes No |
|  | If yes, **schedule 2a** applies. | Strike out whichever doesn’t apply |
|  | Will the owner remain in occupation? | Yes No |
|  | If yes, **schedule 2b** applies. | Strike out whichever doesn’t apply |
|  | **Signed:** **Owner**: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |  **Contractor**: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Item 4 | The \**contract price* |  |
| Clause N1 | \**Cost of building work*: | **$** |
|  | Plus \**GST*  | **$** |
|  | \**Contract price* | **$** |
|  | **Signed: Owner:** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  | Warning – The \**contract price* may be subject to adjustment due to the following: |  |
|  | **Clause B2** | Order of precedence of documents |
|  | **Clause E5** | Limited right to arrange insurances |
|  | **Clause F7** | \**Latent condition* or \**valuable item* |
|  | **Clause G8** | Costs of opening up or testing |
|  | **Clause J1** | Architect may instruct \**variation*  |
|  | **Clause J8** | Claim for \**official document* |
|  | **Clause K4** | Adjustment for \**provisional* or \**prime cost sum* |
|  | **Clause L1** | Adjustment of time with costs |
|  | **Clause M7** | Failure to issue notice of \**practical completion* |
|  | **Clause M8** | Possession before \**practical completion* |
|  | **Clause N8** | If architect fails to issue certificate |
|  | **Clause N15** | Interest on overdue amounts |
|  | **Clause R10** | Change in \**relevant legislation* |
|  | **Signed: Owner**: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Item 5 | The \**works* |  |
| Clause A2 | Brief description of the \**works*: |  |
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| Item 6 | The \**site* of the \**works* |  |
| Clause A2 | The address/location of the \**site*: |  |
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| Item 7 | Security provided by the contractor |  |
| Item 7a | Is the contractor to give security to the owner? | Yes No |
| Clause C1 |
|  |  | Strike out whichever doesn’t apply |
| Item 7b | Owner’s nominated type of security: | Cash RetentionUnconditional Guarantee |
| Clauses C1 |
|  |  | Strike out whichever doesn’t apply. If neither selected, cash retention is default |
| Item 8Clause C2 | Percentage of \**contract price* for cash retention | % |
|  |  | If nothing stated, 5% |
| Item 9Clause C3 | Percentage of \**contract price* for each \**unconditional guarantee* |  |
|  | Contractor gives 2 unconditional guarantees each of: | % |
|  |  | If nothing stated, 2.5% |
| Item 10Clauses C6, C7, N6, N13, N16, Q10, Q18 | Period for payment of certificates and for release of security |  calendar days |
|  | If nothing stated, 7 calendar days |
| Item 11 | Public liability insurance |  |
| Clause E1 | Is the owner or the contractor to take out and maintain public liability insurance? |   |
|  |  | If nothing stated, the contractor |
| Item 12 | Contract works insurance |  |
| Clause E2 | Is the owner or the contractor to take out and maintain contract works insurance? |   |
|  |  | If nothing stated, the contractor |
| Item 13Clause E4.1 | Amount to cover fees of the architect and other consultants |  |
|  |  | If nothing stated, 10% of the \*contract price |
| Item 14Clause E4.1 | Amount to cover cost of demolition and removal of debris |  |
|  |  | If nothing stated, 10% of the \*contract price |
| Item 15Clause E4.2 | Amount of insurance for injury, illness, disease or death |  |
|  |  | If nothing stated, $20,000,000.00 |
| Item 16 | Insurance excess |  |
| Clause E9 | **Clause E1**: Amount of excess for public liability insurance: |  |
|  |  | If nothing stated, $1,000.00 |
|  | **Clause E2**: Amount of excess for contract works insurance: |  |
|  |  | If nothing stated, $1,000.00 |
| Item 17Clause H2 | Percentage for the contractor’s overheads and profit | % |
|  |  | If nothing stated, 15% |
| Item 18 | \**Adjustment of time costs* |  |
| Clause H5 | Stage of completion of the \**works*: | Sum per \**working day* (incl. \**GST*): |
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| Item 19Clause K4.2 | Percentage of difference to be added to the \**contract price* | % |
|  |  | If nothing stated, 10% |
| Item 20Clauses L2, L4, L5 | Allowance for delay due to disruptive weather conditions | \**working days* |
|  |  |  |
| Item 21Clauses L2, L5 | Other allowances for delay having regard to the nature of the contract and the \**works* which do not entitle \**adjustment of time costs* |  |
|  | Cause: | Allowance (\**working days*): |
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| Item 22 | Date for \**practical completion* |  |
| Clause M1 |  |  |
| Item 23Clause M1 | Commissioning tests for \**practical completion* |  |
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| Item 24 | Rate for liquidated damages | $ per calendar day |
| Clause M9 |  | (including any \*GST) |
| Item 25 | Defects liability period for the \**works* | months |
| Clause M13 |  | If nothing stated, 12 months |
| Item 26 | Progress payments |  |
| Clause N3,N4 | Description of each stage | Claimable percentage of \**contract price* |
| **1** |  |  |
| **2** |  |  |
| **3** |  |  |
| **4** |  |  |
| **5** |  |  |
| **6** |  |  |
| Item 27Clause N3 | Information to be included in a progress claim |  |
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| Item 28 | Interest rate on overdue amounts | % |
| Clause N15 |  | If nothing stated, 10% per annum  |
| Item 29 | Official documents |  |
| Item 29a | \**Official documents* required to begin the \**works* but to be obtained by the contractor: |  |
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| Item 29b | \**Official documents* required to complete the \**works* but to be obtained by the owner: |  |
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| Item 30 | \**Deposit* provided by owner |  |
| Item 30aClause N3, N4.2, N16 | Is the owner to give a \**deposit* to the contractor? | Yes No |
| Strike out whichever doesn’t apply |
| Item 30b | If yes in **item 30a**, the amount of \**deposit* is: | $ incl. \**GST* |
| Clauses N3, N4.2, N16 | which is also: | % of the \**contract price* |
|  | Refer to Information Statement for maximum deposit amounts permitted under the \*Act | If nothing stated, $0.00 and 0%Dollar value must not be more than the maximum percentage(s) in the \*Act of the \*contract price |

Special conditions

Item 3 of schedule 1

Clause B2

The owner remains in occupation

Item 3 of schedule 1

These special conditions only apply for projects where the owner will remain in occupation during construction:

Replace the words “**possession of**” with the words “**access to**” in the following subclauses:

A2.1a

A4.1c

D1.1

D1.4c

E1.1

E2.1

E5.1a

F1

F1.1

G5.1

L1.1b

Replace **clause D3.1** with the following:

Subject to **clause D4**, from the date of \**practical completion*, the owner bears the risks described in the following clauses.

Replace **clause M1.3** with the following:

From 4.00pm on the day the architect issues the notice of \**practical completion*, the contractor ceases to have access to the\**works* except by prior arrangement with the owner.

Replace **clause Q3.1b** with the following:

the owner may exclude the contractor from the \**site*.

The order of precedence of \**contract documents* is:

Clause B2

1. The special conditions shown in **schedule 2a**.

2. The owner occupier conditions shown in **schedule 2b**.

3. The conditions set out in this contract and **schedule 1**.

4. The specifications described below:

5. The drawings listed below:

6. All other documents described below:

The \**site information* is:

Clause F3

Contractor’s \**unconditional guarantee* to the owner

Clause C3

for [insert amount $AUD]

in favour of [insert name of owner]

[Insert name of owner, and ABN if owner is a company] of [insert address] (**owner**) has entered into a written contract dated [insert contract date] with [insert name of contractor and ABN] of [insert address] (**contractor**) for the construction of the works described in that contract. The contract states that the contractor may elect to give security for the performance of the contract in the form of an unconditional guarantee.

[Insert name of security provider] unconditionally undertakes that if the owner gives it a written notice stating the basis and extent of its entitlement to draw on the undertaking and the amount to which it is entitled, the security provider will pay the owner the amount which the owner declares is due, up to a maximum of the combined amount of [insert amount $AUD] (the **Amount**).

It is not the responsibility of the security provider to investigate the accuracy or the reasonableness of the contents of the notice or the declarant’s capacity to give the notice. The security provider will make the payments without further reference to the contractor, despite any notice by the contractor or any other person to the security provider not to pay the whole or any part of the amount.

The security provider’s liability under this undertaking is not affected by any variation of the contract or by any waiver by the owner of any default by the contractor.

This undertaking remains in force until the first of the following events occurs:

* the owner notifies the security provider in writing that this undertaking is no longer required;
* the security provider pays the Amount to the owner;
* the owner informs the security provider that the contractor has performed all its obligations and paid all amounts required to be paid under the contract; or
* [insert date of expiry/termination of this undertaking].

This undertaking creates no rights in anyone except the owner and the owner’s successors and cannot be assigned.

This undertaking is governed by the law of [insert jurisdiction].

**EXECUTED** on [insert date] as a **Deed**.

Signed, sealed and delivered on behalf of [insert name of security provider] by its attorney [insert name and address of attorney of security provider] declaring it has no notification of the revocation of the power of attorney granted to it on [insert date] under which this undertaking is executed.

*Signature of attorney*

Signature of witness

\**Provisional sums*

Section K

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Sum allowed |  | Description |  | Particular person† |
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† Note: If the owner intends on using a particular person to carry out the work for which a \**provisional sum* has been allowed the name of that person should be shown above. If the identity of the particular person is not known at the time that this contract is executed the intention to use a particular person should be indicated by inserting ‘Yes’ above in the column headed ‘Particular person’.

\**Prime cost sums*

**Section K**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Sum allowed |  | Description |  | Particular person† |
| $ |  |  |  |  |
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† Note: If the owner intends on using a particular person to carry out the work for which a \**prime cost sum* has been allowed the name of that person should be shown above. If the identity of the particular person is not known at the time that this contract is executed the intention to use a particular person should be indicated by inserting ‘Yes’ above in the column headed ‘Particular person’.

Items to be supplied by the owner for incorporation in the \**works*

Clause N1

Items to be supplied by the owner and installed by the contractor (and only the costs of installation are included in the \**contract price*):

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Items to be supplied and installed by the owner (and no allowance has been included in the \**contract price* for supply and installation):

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