



Appointment of Relevant Building Surveyor

Terms of Appointment

By completing this form, the Owner acknowledges that they have appointed Approval Systems Pty Ltd (ACN 101 049 174) to act as the Relevant Building Surveyor under the *Building Act 1993*. Approval Systems Pty Ltd will, in providing the “**Services**” (as defined in clause 1) or any “**Additional Services**” (as defined in clauses 13 and 14), ensure that such are undertaken by a registered building practitioner, registered under the category of “Building Surveyor - Unlimited”.

I/We	Owner(s) Name	(“Owner”)
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Proposed Building Works:

Located at:	(“Land”)
Property Address	

I/We authorise _____ of _____
to act on my behalf in this matter.

Nominated Levy Payer:
Full Name:
Address:
Telephone:
Email:

I/We agree to the terms and conditions as set out below:	
Owner Signature:	Date:
Building Surveyor Signature:	Date:

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ABN 29 538 736 280

Building Surveying | Consulting | Certification

1 NATURE OF CONTRACT

- 1.1 Approval Systems Pty Ltd shall carry out, upon request by the *Owner* and in accordance with the *Building Act 1993* (“**Act**”) and *Building Regulations 2018* (“**Regulations**”), the *Services* in accordance with this Agreement, which are:
- (a) Assess the building permit application under the Act, the Regulations and Building Code of Australia “deemed to satisfy” controls.
 - (b) Conduct mandatory inspections and issue statutory directions as necessary for proper completion of works.
 - (c) Issue the applicable occupancy permit or certificate of final inspection.
 - (d) Provide copies of all relevant permit documents to council.
 - (e) To retain a natural person qualified and registered to perform the function of the “relevant building surveyor” (“**RBS**”) as defined in the Act.
- 1.2 The Owner shall pay the RBS the fee and fee adjustments in accordance with these terms.

2 OWNER’S WARRANTIES AND INDEMNITIES

- 2.1 The Owner warrants:
- (a) the accuracy and completeness of all information given to the RBS;
 - (b) that the RBS when carrying out the *Services* acts with the Owner’s authority;
 - (c) that no other person has been appointed as RBS for the Land; and
 - (d) that he, she, they or it is the registered proprietor of the Land and the Owner’s Agent is duly authorized. If required by Approval Systems, the Owner will produce further written information in his regard.
- 2.2 The Owner shall indemnify the RBS against any claims in respect of the RBS acting within authority as the Owner’s agent.

3 SERVICE OF NOTICES

- 3.1 A notice (and any other document) shall be deemed to have been given and received:
- (a) if addressed or delivered to the relevant address in this Agreement or last address communicated in writing to the person giving the notice; and
 - (b) on the earliest day of
 - (i) actual receipt;
 - (ii) four (4) days after posting; or
 - (iii) in accordance with Section 236 of the Act.



4 INFORMATION

4.1 The Owner shall:

- (a) promptly answer any reasonable enquiries made by the RBS in connection with the Services;
- (b) direct others to liaise, co-operate and confer with the RBS when necessary; and
- (c) provide the RBS with all relevant information, which the Owner warrants is accurate and correct.

5 LEGISLATIVE REQUIREMENTS – COMPLIANCE

5.1 If a legislative requirement necessitates a change to:

- (a) the Owner's project requirements;
 - (b) the building works;
 - (c) the Services; or
 - (d) a fee or charge or payment of a new fee of charge;
- there shall be a fee adjustment payable by the Owner.

6 THE RBS' REPRESENTATIVES AND KEY PERSONNEL

The RBS shall provide the Services personally or by a duly qualified representative or third party delegated by the RBS.

7 PAYMENT

7.1 Approval Systems shall claim payment in accordance with the fee schedule attached to this Agreement;

7.2 Each claim shall be in writing, include details for the value of Services provided together with any disbursements incurred by the RBS and may include details of other moneys then due to the RBS pursuant to the provisions of this Agreement.

7.3 The Owner shall pay any claim made by Approval Systems upon receipt of the permit application or for progress claims within 14 days of the date of the claim or as agreed.

7.4 In the event an inspector (another registered building practitioner) is used for the purposes of sections 128 and 238 of the Act, additional fees may apply.

7.5 In the event where your overdue account is referred to a collection agency and/or law firm, you will be liable for all costs which would be incurred as if the debt is collected in full, including all reasonable legal costs incurred as a result pursuing an overdue account.



8 INTEREST

Interest shall be due and payable by the Owner on any unpaid amount specified in a claim under clause 7.2 of this agreement , accruing at a rate of 12% per annum.

9 TERMINATION

9.1 The termination of the RBS under this Agreement may only occur with the Owner first obtaining written consent to terminate from the Victorian Building Authority (“**VBA**”) or otherwise pursuant to section 81(1) of the Act.

9.2 If this Agreement is terminated in accordance with clause 9.1, the Owner shall pay to Approval Systems all outstanding payments owing to Approval Systems at the time of termination.

9.3 The Owner agrees that the RBS, for the purpose of section 81(2) of the Act, has unlimited authority to issue a notice to the VBA on behalf of the Owner. This clause does not seek to remove any obligations on the Owner to comply with section 81(2) of the Act.

9.4 Approval Systems shall be entitled to charge the Owner additional fees for costs and disbursements or any other loss arising as a consequence of the termination.

10 THE SERVICES

10.1 Building Permit

- (a) The Owner may lodge an application for a building permit to be issued by the RBS.
- (b) The Owner in making an application for a building permit must:
 - (i) complete an Application for Building Permit Form 1 Annexed hereto;
 - (ii) pay the required fee;
 - (iii) pay the required building permit levy under the Act;
 - (iv) comply with the requirements of the Act;
 - (v) provide all documents and information required under the Act and the Regulations or as requested by the RBS;
 - (vi) comply with the conditions of any Planning Permit or other prescribed approval issued in relation to the Land;
 - (vii) state the contract price for the building work including the costs of labour and materials if there is a contract for the building work, inclusive of GST; or
 - (viii) in any other case provide sufficient information to enable the RBS to estimate the costs of the building work including the cost of labour and materials; and



(ix) include any necessary report and consent of any prescribed reporting or service authority under the Act or any necessary permit or approval of a responsible authority under the *Planning and Environment Act 1987*.

(c) The RBS may:

- (i) request further information from the Owner;
- (ii) issue a building permit for a stage of the building works;
- (iii) issue a building permit with conditions;
- (iv) issue a building permit without conditions; or
- (v) refuse to issue a building permit.

10.2 The building permit once issued shall be forwarded to the Owner and to the relevant Council.

10.3 **If a Building Permit is refused**

If an application for a building permit is refused by the RBS the Owner may make a further application for a building permit.

10.4 **Variation of Building Permit**

The Owner may lodge an application requesting a building permit be varied and or extended by the RBS;

The application must:

- (a) be submitted with an Application to Amend a Building Permit or Plans form;
- (b) include all documents required under the Act and the Regulations or requested by the RBS.

11 **NON-COMPLIANCE**

If the Owner fails to comply with:

- (a) the building permit and/or its conditions;
- (b) any directions issued by the RBS;
- (c) a section of the Act and the Regulations; and
- (d) the RBS provides additional Services under the Act, the Regulations or this Agreement; the Owner shall pay Approval Systems a fee adjustment in accordance with this Agreement.

12 **INSPECTIONS**

12.1 If the RBS is requested by the Owner to carry out an inspection of the building works or the RBS reasonably seeks to cause an inspection in accordance with his or her obligations under the Act, the Owner shall provide the RBS and other affected parties with not less than 24 hours' notice and shall cease any works on the Land until such time as the RBS has caused the building works on the Land to be inspected.



- 12.2 The Owner shall pay the RBS the fee or a fee adjustment required under this Agreement for any inspections.
- 12.3 If due to circumstance such as inclement weather, the builder disregards building regulations, directions, notices or orders issued by the RBS under the Act, or appropriate inquiries or complaints involving the quality of work causing the RBS to inspect the property or attend an appeal or hearing. Approval Systems shall be entitled to charge the Owner an additional fee at either a flat or hourly rate as appropriate.

13 ADDITIONAL SERVICES

13.1 The RBS may be required to perform Additional Services in exercising its obligations under this Agreement, the Act and the Regulations and or any other relevant legislation including but not limited to:

- (a) obtaining additional information and documents from a council or other authority;
- (b) carrying out additional inspections of the building work;
- (c) reporting any matters to the Victorian Building Authority or other authority;
- (d) responding to any requests for information from the Victorian Building Authority or other authority including but not limited to council or the Building Appeals Board;
- (e) issuing any directions, notices or orders under the Act and the Regulations;
- (f) issuing determinations for any matter under the Act or Regulations.

upon identification for the need for these services the Owner will be notified of a fixed fee or fee range as appropriate.

13.2 Upon the RBS carrying out additional Services the Owner shall pay the RBS the fee or a fee adjustment required under this Agreement.

14 OWNER'S OBLIGATIONS

14.1 The Owner hereby acknowledges his/her/its ongoing obligations pursuant to the Act and the Regulations include but are not limited to:

- (a) providing the RBS with unfettered access to the Land;
- (b) not obstructing the RBS in carrying out its functions;
- (c) not providing the RBS with any information which may be false; misleading or deceptive;
- (d) advising the RBS:
 - (i) of any changes in relation to the engagement of a Building Practitioner or an insured architect within 14 days of such change;
 - (ii) of any change to the Owner's address;
 - (iii) if building works cease on the Land;
 - (iv) if the Land is transferred to a new owner; and



- (e) ensuring the building works, which are the subject of any building permit issued by the RBS, are carried out in accordance with the building permit, directions of the RBS, the Act and the Regulations.

15 ENTIRE AGREEMENT

This document embodies the entire agreement between the parties and any previous or simultaneous negotiations, representations, arrangements and agreements are superseded by this Agreement. No amendment or variation may be made to this Agreement other than in writing executed by each of the parties.

16 ADVERSE CONSTRUCTION

These terms are not to be construed to the disadvantage of a party because that party was responsible for their preparation.

17 INDEMNITY

- 17.1 To the maximum extent permitted by law, the Owner shall be responsible for and indemnify Approval Systems and/or the RBS from and in respect of all liabilities, claims, damages, actions, costs and expenses incurred by Approval Systems and/or the RBS on a full indemnity basis, as a result of a breach by the Owner (or its agents or contractors) of any of the warranties, terms and conditions in connection with this Agreement.
- 17.2 The liability of the Owner to Approval Systems and/or the RBS for loss and damage suffered will be reduced proportionately to the extent that such loss or damage was caused by the RBS' failure to comply with its obligations under this agreement, the Act and the Regulations.

18 SEVERANCE

In the event that any condition or provision of this Agreement is held to be invalid or unenforceable for any reason whatsoever that condition or provision shall be read down to the extent necessary to give it, if possible, partial operation, but if that is not possible, the condition or provision may be severed and the remainder of this Agreement shall remain in full effect.

19 DEFINITIONS

In this Agreement—

<i>Building</i>	includes structure, temporary building, temporary structure and any part of a building or structure.
<i>Building Appeals Board</i>	means the Building Appeals Board under Part 10 of the Building Act 1993.
<i>Building Practitioner</i>	has the same meaning as it has in the Building Act 1993.



Building Work	means work for or in connection with the construction, demolition or removal of a building.
Certificate of Consent	means a certificate of consent under Division 3A of Part 3 of the Building Act 1993.
Council	means a council within the meaning of the <i>Local Government Act 1989</i> .
Domestic Building Work	has the same meaning as it has in the <i>Domestic Building Contracts Act 1995</i> .
Fee	means the fee calculated in accordance with the Fee Schedule attached hereto.
Fee adjustment	means a sum to be added to or deducted from the fee.
Function	includes power, authority and duty.
Legislative Requirements	include: <ul style="list-style-type: none"> (a) Acts, ordinances, regulations, by-laws, orders, awards and proclamations of the jurisdiction where Services are being provided; (b) Certificates, licences, consents, permits, approvals and requirements of organisations having jurisdiction in connection with the carrying out of the Services; and (c) Fees and charges payable in connection with the foregoing.
Municipal Building Surveyor	means a person for the time being appointed, employed or nominated by a council as its municipal building surveyor for the purposes of this Act.
Owner	means <ul style="list-style-type: none"> (a) the person who is registered or entitled to be registered as proprietor, or the persons who are registered or entitled to be registered as proprietors, of an estate in fee simple in the land; and (b) in relation to Crown land reserved under the <i>Crown Land (Reserves) Act 1978</i> and managed or controlled by a committee of management, means the Minister administering the Act; and (c) in relation to any other Crown land, means the Minister or <i>public authority</i> that manages or controls the land; (d) in relation to a building, means the owner of the land on which a building is situated.
Victoria Building Authority	means the Victorian Building Authority under Part 12 of the Building Act 1993.



Appendix A
Schedule of additional fees

Fees are calculated at an hourly rate (or part thereof) and each attendance is calculated in multiples of 6-minute units.

The time spent may include telephone attendances, preparation and consideration of correspondence and documents, advice, research, travelling time, consultations, attendance at meeting, court or tribunal hearings, sending of emails, filing or lodging of documents or other work as required to perform the functions of the relevant building surveyor.

Exercising discretionary power (non-DTS)	\$400.00/hour
Attending to any statutory enforcement action	\$400.00/hour
Attending to any administrative issues which may arise due to false or misleading information	\$400.00/hour
Property visits other than for mandatory inspections (Charges will include travel time to and from our office)	\$400.00/hour
Attending to any issues which may arise due to an appeal of any relevant building surveyor decision	\$400.00/hour
Carrying out an assessment and issuing a Building Notice	\$400.00/hour
Carrying out an assessment and issuing a Building Order	\$400.00/hour
Carrying out an assessment and cancelling a Building Notice or Order	\$400.00/hour
Carrying out an assessment and referring a Building Order to the VBA	\$400.00/hour
Carrying out an assessment and as necessary co-operating with any VBA proceedings (including investigations)	\$500.00/hour
Carrying out an assessment relating to either Transfer of Functions OR Termination of appointment	\$400.00/hour
Carrying out any additional services not otherwise provided for in this agreement	\$400.00/hour

Appendix B
Schedule of times

Assessment of Building Permit application:	Minimum 5 business days
Assessment of Application to amend a Building Permit:	Minimum 5 business days
Issuance of Occupancy Permit (following inspection and provision of all required certificates):	Minimum 2 business days

