



VIKING
FURNITURE AND JOINERY

REGISTERED MASTER JOINERS JOINERY SUPPLY AGREEMENT



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REGISTERED MASTER JOINERS

JOINERY SUPPLY AGREEMENT

1. Parties to the Agreement

Client (or Builder on behalf of Client)

Name _____
Contact Person _____
Physical Address _____
Postal Address _____
(if different from above) _____
Email _____
Phone # _____ Mobile # _____
"The Land" (see clause 8 – insert description of legal title of land): _____

Joinery Company

Name _____
Contact Person _____
Person doing the work _____
Physical Address _____
Postal Address _____
(if different from above) _____
Email _____
Phone # _____ Mobile # _____

2. Location where work will be supplied to/installed

Street # _____
Street Name _____
Suburb _____
Town _____

3. Description of the Work

A full description of the work to be undertaken including the materials and products to be used (if known) ("the Work"), is described in the attached quotation ("the Quotation") which forms part of this agreement

4. Commencement Date

Subject to the terms of this agreement, the commencement date of the Work ("the Commencement Date") is the week beginning:

5. Completion Date

Subject to the terms of this agreement, the completion date of the Work ("the Completion Date") is the week beginning:

The Commencement Date and the Completion Dates under clauses 4 and 5 are subject to the work site for the Work being ready for the joinery company's site measure and installation.

6. Delays

If the client and/or joinery company becomes aware of any reason that might cause a potential delay in the manufacture and/or installation of the Work by the Commencement Date and/or the Completion Date under clauses 4 and 5 including due to the joinery company's other work commitments or those of any sub-contractor, the client and/or joinery company must promptly give written notice of the reason to the other party and the parties shall act reasonably to agree new dates as may be necessary

The client acknowledges that the Commencement Date and the Completion Date under clauses 4 and 5 might be extended for reasons causing a delay that are outside of the reasonable control of the joinery company and for which the joinery company will not be responsible, including any delay caused by the client or their agent.

7. Contract Price

The contract price for the Work is the price inclusive of GST stated in the Quotation.

8. Payment terms

Deposits & Progress payments

- ☐ Deposit (payable within 7 days of the date of this agreement) _____
- ☐ Progress Payments for work in progress (frequency e.g. monthly) _____

Final Payment Due

- ☐ Prior to despatch

- ☐ 7 days following invoice date
- ☐ 14 days following invoice date
- ☐ 20th of the month following invoice

8.1 Interest

Interest is payable on any unpaid monies at the rate of % per annum from the date of default until the debt is paid in full.

8.2 Retention of ownership/security interest

Ownership of any goods used or to be used by the joinery company in connection with the Work, including any goods delivered to the work site, shall not pass to the client until the client has paid to the joinery company all amounts owing to the joinery company in connection with the Work.

The client grants to the joinery company a security interest (as that term is defined in the Personal Property Securities Act 1999 (“PPSA”) in all goods used or to be used by the joinery company in connection with the Work to secure all obligations of the client under this agreement.

The client and the joinery company agree that nothing in sections 114(1)(a), 133, and 134 of the PPSA shall apply to these terms and conditions.

The client waives its rights as a debtor under sections 116, 116A, 120(2), 121, 125, 129 and 131 of the PPSA.

Unless otherwise agreed in writing by the joinery company, the client waives its right to receive a verification statement confirming registration of a financing statement or financing change statement relating to security interests created by these terms and conditions.”

8.3 Mortgage

The client upon demand will give and execute in favour of the joinery company a registrable memorandum of mortgage over the Land to secure the amount owing from time to time from the client to the joinery company under this agreement, such mortgage to be in the form of the All Obligations form produced by the Auckland District Law Society and approved by the Registrar General of Land under No. 2018/2210 together with Memorandum number 2018/4344. The client acknowledges that the joinery company is entitled to register a caveat or similar charge against the title to the Land in circumstances where the joinery company is entitled to demand a registrable memorandum of mortgage.

In consideration of the joinery company entering into this agreement, the client appoints the joinery company (and every officer of the joinery company) to be the attorney of the client for the purpose of giving and executing in favour of the joinery company a registrable memorandum of mortgage of the Land to secure all amounts owing from time to time from the client to the joinery company. The client acknowledges and agrees that the appointment of the joinery company to be the client's attorney is made for valuable consideration and is irrevocable.

9. Costs

The client indemnifies the joinery company for all reasonable costs, including legal, incurred by the joinery company in taking any steps in connection with enforcing the terms of this agreement.

10. Site Specific Health and Safety Plan

The joinery company will prepare a health and safety site plan for the work site and will ensure that the plan is placed visibly at the work site at appropriate times during the Work. The client agrees to abide by the plan (including any amendment) and will take all reasonably practicable steps to ensure the client's own safety.

11. Consents for the Work

The client is responsible for ensuring that all building and/or resource consents that are required for the Work are granted a reasonable time in advance of the commencement date for the Work. Compliance with this clause is a condition of the agreement and a failure to comply shall entitle the joinery company to cancel this agreement.

12. Variations of Work

Any variations to the Work, including any adjustment to the contract price under clause 7, must be agreed in writing in advance of the commencement date of the Work. Any adjustment to the contract price for any agreed variation must be agreed in writing, but to the extent that is not reasonably practicable to do so and the client agrees that the variation work (or any part of it) can commence, the client agrees to pay the joiner company's reasonable charge for such work, where labour will be charged at an hourly rate of \$____.00 per hour and materials.

13. Insurance

The following insurances will apply to the Work: *[list by hand and initial the insertion at the time of signing]*

The joinery company agrees to provide evidence of such insurances promptly upon receipt of the client's request.

14. Standard of work and any defects

The joinery company will exercise all reasonable skill and care in carrying out the Works. Any defects in the Works caused by a breach of this clause will be remedied at the joinery company's cost. The joinery company will meet its obligations under the Building Act 2004 (as applicable, including the implied warranties in section 362I (relating to building work in relation to household units), section 362J (proceedings for breach of warranties taken by non-party to contract) and 362K (person may not give away benefit of warranties) of the Act) and under the Consumer Guarantees Act 1993 (as applicable).

Pursuant to section 43 Consumer Guarantees Act 1993, the parties agree this agreement is a business transaction, they are in trade, and to contract out of the Consumer Guarantees Act 1993.

15. Notices & Certificates

Any formal documents, including notices and certificates, in connection with the Work to either party will be delivered to the physical address given in the 'Parties to the Agreement' section of this agreement.

16. Cancellation of agreement

In addition to the parties' rights at law, this agreement may be cancelled by giving 3 working days' notice of cancellation in writing when:

- (a) Any condition of this agreement is not satisfied (clause 11);
- (b) Any monies due and owing by the client to the joinery company is unpaid for more than 7 working days; or
- (c) In the reasonable opinion of the joinery company, it has become reasonably impracticable for it to perform this agreement.

17. Dispute Resolution Process

If a dispute arises in connection with this agreement, the following process shall apply:

- 17.1 The party raising the dispute will give prompt notice in writing of particulars of the dispute and the desired outcome to the other party (the Dispute).
- 17.2 The party receiving notice of the Dispute shall provide its response to the Dispute within 7 days thereafter.

- 17.3 If the Dispute is not resolved between the parties within 21 days of such notice being given the dispute shall be referred to the New Zealand Joinery Manufacturers Federation Inc, who shall provide an impartial, informal mediation service at no cost to the parties. This process shall be confidential to the parties and the privilege under section 57 of the Evidence Act 2006 shall apply.
- 17.4 If the Dispute is not resolved within 21 days thereafter (or within such further time agreed between the parties), either party may, within 7 days thereafter:
- 17.4.1 Refer the Dispute to mediation with the Resolution Institute (see www.resolution.institute). This process shall be confidential to the parties and the privilege under section 57 of the Evidence Act 2006 shall apply. Each party shall meet a half share of the costs of the Institute's services. If the mediation does not achieve a resolution of the Dispute, clause 17.4.2 shall apply; or
- 17.4.2 Refer the Dispute to the Disputes Tribunal or to arbitration for resolution.
- 17.5 If the Dispute is referred to arbitration, the arbitration shall be in accordance with the Arbitration Act 1996 and by a single arbitrator to be agreed on by the parties and failing agreement to be nominated by the President of the New Zealand Law Society.
- 17.6 The parties agree that during this dispute resolution process they will act in good faith towards each other, they will not disclose any details of the Dispute to any third party, and they will not speak ill of each other or of the New Zealand Joinery Manufacturers Inc.

18 Entire Agreement

This agreement constitutes the entire agreement between the parties relating to the Work and supersedes and extinguishes any prior representations, warranties, assurances, or arrangements of any nature, expressed or implied, in writing or oral, relating to the Work.

19. Attachments that form part of this agreement

1. Quotation
2. Disclosure Statement*
3. Ministry of Business, Innovation & Employment Prescribed Checklist*
4. Site Safety Plan (to be provided prior to commencement of work on the work site)

** Included only if the contract price is \$30,000 or more and the Work is "building works" under the Building Act 2004.*

20. Information to client

The joinery company will provide the following information to the client as soon as reasonably practicable after the Completion Date:

- (a) A copy of any guarantee or warranty for materials and/or services in connection with the Work.
- (b) Information about any maintenance requirements, including any processes and materials to be used to maintain the Work.

Signing of Agreement

Client

Signature _____

Name _____

Position _____

Date _____

Joinery Company

Signature _____

Name _____

Position _____

Date _____

Client Checklist

The client acknowledges that they have received the attachments listed below:

- ☐ Quotation
- ☐ Disclosure Statement*
- ☐ Ministry of Business, Innovation & Employment Prescribed Checklist*

** Include only if the contract price is \$30,000 or more and the Work is "building works" under the Building Act 2004.*

Client

Signature _____

Name _____

Position _____

Date _____

Form 1: Information that must accompany all payment claims

Section 20, Construction Contracts Act 2002

IMPORTANT NOTICE

What is this?

This notice is attached to a claim for a payment (a **payment claim**) under the Construction Contracts Act 2002 (the **Act**).

The person who sent this payment claim (the **claimant**) is claiming to be entitled to a payment for, or in relation to, the construction work carried out to date under a construction contract.

Whether that person is entitled to a payment, and how much they are entitled to, will depend on whether you have a construction contract and what you have agreed between yourselves about payments. If you haven't agreed on payments, there are default provisions in the Act.

What should I do with this payment claim?

You can either—

- pay the amount claimed in the payment claim (in full) on or before the due date for payment; or
- if you dispute the payment claim, send the claimant a written payment schedule that complies with section 21 of the Act (a **payment schedule**) stating the amount you are prepared to pay instead (which could be nothing).

The **due date** for a payment is the date agreed between you and the claimant. That due date must be set out in the payment claim. If you haven't agreed on a due date, then the Act says that a payment is due within 20 working days after the payment claim is served on you. (A **working day** is any day other than a Saturday, a Sunday, a public holiday, or any day from 24 December to 5 January.)

When do I have to act?

You should act promptly. Otherwise, you may lose the right to object.

What if I do nothing?

If you don't pay the amount claimed by the due date for payment or send a payment schedule indicating what you will pay instead, the claimant can go to court to recover the unpaid amount from you as a debt owed. In addition, the court may decide that you have to pay the claimant's costs for bringing the court case.

Can I say that I will not pay, or pay less than, the claimed amount?

Yes, by sending a written payment schedule.

NOTE: If you do not send a written payment schedule, the claimant can bring court proceedings against you or refer the matter to adjudication (or both).

How do I say I will not pay, or pay less than, the claimed amount?

To say that you will pay nothing or indicate what you will pay instead, you must send the claimant a written payment schedule.

You must indicate the amount that you are prepared to pay, which could be nothing.

This amount is called the **scheduled amount**.

If the scheduled amount is less than the claimed amount, you must explain in the payment schedule—

- how you calculated the scheduled amount; and
- why the scheduled amount is less than the claimed amount; and
- your reason or reasons for not paying the full amount claimed.

NOTE: The written payment schedule must also state which payment claim the payment schedule relates to.

NOTE: If you state in the payment schedule that you will pay less than the claimed amount or pay nothing at all, the claimant may refer the dispute about how much is owing for adjudication.

How long do I have?

You must send a payment schedule by the date agreed in the contract or, if no date was agreed, within 20 working days after the payment claim was served on you.

If I say I will pay another amount instead, when do I have to pay it?

You must still pay the scheduled amount by the due date for payment.

What if I don't pay the scheduled amount when I say I will?

If you send a payment schedule but do not pay the scheduled amount by the due date, the claimant can go to court to recover the unpaid amount from you as a debt owed or refer the matter to adjudication (or both). Note: A court may also require you to pay that person's costs.

Advice

IMPORTANT: If there is anything in this notice that you do not understand or if you want advice about what to do, you should consult a lawyer immediately.

