

**STANDARD TERMS AND CONDITIONS
FOR THE PROVISION OF ONLINE LODGEMENT OR MANUAL SUBMISSION OF BUILDING
APPLICATIONS, BUILDING SURVEYING AND ASSOCIATED SERVICES**

The below terms and conditions are for the provision of professional building surveying and all other related services, between Patti Smith trading as Pronto Building Permits (ABN 60 345 729 219) and the Client (property owner / or authorised agent of the owner) and furthermore, the person responsible for submitting a building permit application online via the online portal or by manual submission process. You appoint Pronto Building Permits and their respective employees registered as Building Surveyors to act as the Relevant Building Surveyor ("RBS") for the building work on the project pursuant to the provisions of the Building Act 1993. ("Act") and the Building Regulations 2018 ("Regulations") and I/We accept the appointment under the following conditions:

1.0 Our Obligations

- 1.1 Assess your application for a building permit under the Act, Regulations and Building Code of Australia deemed to satisfy relevant provisions.
- 1.2 Assess and if appropriate issue a building permit.
- 1.3 Collect and remit the applicable building permit information to the Victorian Building Authority.
- 1.4 Assess and if appropriate issue the applicable occupancy permit or certificate of final inspection.
- 1.5 Provide copies of all relevant permit documents to the relevant council.
- 1.6 Issue statutory directions, notices or orders if necessary in our discretion for the proper completion of the building work.
- 1.7 Inspections:
 - a) conduct mandatory inspections as specified on the building permit;
 - b) conduct any further inspections whether either requested by you or where required at the discretion by the RBS for the proper completion of the building work.
- 1.8 The information you are required to provide on this building application will be used in compliance with the Building Act 1993 and Building Regulations 2018. The Act requires the Relevant Building Surveyor to forward the information to the Victorian Building Authority.
- 1.9 The Relevant Building Surveyor Functions exclude:
 - a) preparation of the design of the project;
 - b) matters pertaining to Building Quality;
 - c) any guarantee by the Relevant Building Surveyor that the project will be granted a building permit or occupancy permit or certificate of final inspection or that it will be considered compliant in any inspections undertaken;
 - d) any act or activity deemed by the Relevant Building Surveyor to be contrary to the requirements of the Act, Regulations or the Building Code of Australia - National Construction Code, as relevant.

2. Your Obligations

- 2.1 Provide us with all information required to enable us to perform our role.
- 2.2 Pay our fees and disbursements as set out below and in accordance with condition 3 below.
- 2.3. Comply with all your obligations under this terms and conditions document.
- 2.4 When the building application is submitted by the property owner or the authorised agent of the owner by submitting the application you are appointing Patti Smith as the Relevant Building Surveyor.

3. Fees and disbursements

- 3.1 Building permit fee and lodgement fee is required to be paid at time of application and are non-refundable. Additional cancellation fees may be incurred based on works done at time of cancellation.
- 3.2 Minimum Fees for assessing any request to extend a time limit in any approval issued by us \$500.00 plus GST.
- 3.3 Minimum fees for assessing any request for variations to the approved permit documents a minimum fee of \$500.00 plus GST + Extra fee based on additional time/inspections. Included in this fee we will serve a copy of the varied documents, once approved to the relevant council for their records.
- 3.4 Fees for the administration of Building Notices and Building Orders: \$750.00 plus GST per notice or order. This fee allows for a maximum of 3 hours administration.
- 3.5 For all other activity conducted under these terms and conditions:
 - a) Building Inspector \$180 plus GST per hour.
 - b) Building Surveyor \$300 plus GST per hour.
- 3.6 You agree that we have no obligation to issue the building permit unless our invoice(s) have been paid in full.
- 3.7 Under Section 201 of the Act you must pay all State Government building levies before we can issue a building permit.
- 3.8 If a building permit application or building approval is cancelled or withdrawn at your request we are not obliged to refund to you any fees or disbursements paid, subject to refund clause 3.12.

- 3.9 All fees and disbursements referred to in this agreement are shown include GST which must be paid at the same time as the relevant fees and disbursements.
- 3.10 The RBS reserves the right to change the Fee in the event of a variation to the scope of the work for the Relevant Building Surveyor Functions. 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 Building Surveyor in the cost of materials and labour) will be charged for on the basis of the Relevant Building Surveyor's fee proposal and will be shown as variations on the invoice. Payment for all variations must be made in full at the time upon receipt of the invoice.
- 3.11 A request for refund of Building Permit fees can only be made for cancelled applications. The request will be reviewed and applicable fee will be refunded based on works done to date. If a building permit is approved and the works do not proceed for whatever reasons, the refund fee will be determined by our office. Note: the council lodgement fee component refund may only be sought directly from the relevant council and not from Pronto Building Permits.
- 3.12 Refund Policy** - we do not give refunds. Refunds for building applications lodged online will only apply to the council lodgement fee component of the fees charged, and these can only be refunded if the building application is not approved. If a building permit is approved and the works do not proceed for whatever reasons, then the statutory lodgement fee refund may only be sought from the relevant council. If a building permit application is cancelled at the request of the owner and/or agent of the owner for whatever reason then no refund is applicable, except the council lodgement fee component, which only becomes refundable when a formal termination of appointment is approved in accordance with Section 80 of the Building Act 1993, by the Building Practitioners Board and submitted to our office as an official record of such termination.

4. Warranties.

You warrant to us (which we will rely on) that:

- 4.1 You are the registered proprietor of the project or the duly authorised agent of the registered proprietor. If requested by us, you will produce written authority of the registered proprietor authorising you to act on their behalf.
- 4.2 That no other building surveyor has been appointed (or otherwise has commenced duties) in relation to the building work or the project.
- 4.3 You will provide or ensure a safe workplace for all our employees. Inspections requested where adequate safety measures are not in place will be refused and recharges at the applicable rates. Re-inspections will not be carried out unless you have provided us with written verification of a safe workplace.
- 4.4 Any Data provided to the RBS is accurate and complete in all respects;
- 4.5 That, in performing the RBS Functions, the RBS acts with the Client's authority;
- 4.6 To provide accurate total cost of works estimates relevant to the project;
- 4.7 Give the RBS such access to the Project and any relevant site as is required by the Building Surveyor to perform the RBS Functions;
- 4.8 Monitor the cost of the work and maintain records of the cost of work. This duty will fall to the property owner / or authorised agent of the owner (if the variation related to an amendment of a building permit). Notification must be given to the Victorian Building Authority within 28 days of becoming aware of the revised final cost.
- 4.9 The Client shall indemnify and keep the RBS and Pronto Building Permits indemnified from and against all costs, expenses, losses or damages which the Client (including the builder) and any employees of the Client may sustain, incur or suffer or be or become liable for or in respect of any suit action proceeding judgement or claim brought by any person arising from or referable to the terms of engagement or non-compliance with the agreed terms and conditions.

5. Acknowledgments.

Your acknowledge that:

- 5.1 The Client acknowledges that the Building Surveyor is subject to the requirements of the Act. As a result, the Client understands that the Building Surveyor may be required to refuse the Client's application or otherwise not grant a permit sought by the Client.
- 5.2 If the Client engages another person to provide services substantially the same as the Relevant Building Surveyor Functions in respect of the Project, then the Relevant Building Surveyor may terminate this agreement.
- 5.3 You are responsible for obtaining (including the cost of) any required planning permit and will provide us with a copy of the planning permit and approved planning permit drawings. We are not required to issue a building permit until we receive any required planning permit and approved planning permit drawings.
- 5.4 This agreement constitutes the entire agreement between us and you may not rely on any oral discussions or representations made prior to or at the time of signing this agreement.
- 5.5 We are not estimators, quantity surveyors, land surveyors, project managers or site supervisors and you have not engaged us to provide any of these services.
- 5.6 You are responsible for the siting of the allotment site boundaries for which the building permit is issued.
- 5.7 You are responsible for the siting of the building on the allotment in relation to the setbacks of the building from the allotment site boundaries.

- 5.8 You must notify us in writing of each building practitioner engaged by you or on your behalf for the building work, including details of any building practitioner certificate issued to the building practitioner under Part 11 of the Act. Such notice must be given either upon or appointment (where you have already engaged a building practitioner) or within fourteen days of you engaging the building practitioners (where the building practitioner(s) is/are engaged after our appointment.
- 5.9 The Client's ongoing obligations pursuant to the Act and Regulations including but not limited to:
- a) providing the RBS with unfettered access to the subject property;
 - b) not obstructing the RBS in carrying out its Functions;
 - c) not provide the RBS with any information which may be misleading or deceptive;
 - d) advise 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) any change to the Client's address;
 - (iii) if Building Work cease on the subject property;
 - (iv) if the subject property is transferred to a new Client;
 - e) ensuring the Building Work 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 Regulations;
 - f) To make application for and obtain required occupancy permit, certificate of final inspection, report and consent or other permits or approvals deemed by the RBS to be necessary to the carrying out of the Functions.
- 5.10 You may terminate our appointment only with the written consent of the Victorian Building Authority, and that upon any such termination we are entitled to payment of all our fees and disbursements incurred to the date of termination. In the event the building work nominated in this agreement is terminated before commencement or completion, you must notify the Victorian Building Authority of this in writing. Only when this written notice is issued will our appointment end.
- 5.11 All approvals we issue have stipulated on them mandatory timeframes by which the approved building work must commence and must be completed. If you require an extension of time for any of these time limits you must make a formal written request & submit the Extension of Time application form to us stating why a time limit extension should be granted.
- 5.12 Building Notices and Building Orders are formal documents prescribed in the Act and the Regulations to be served when breaches and non-compliance in the building work are identified. Such notices and orders are required to be served as a matter of course from significant areas of non-compliance or where safety is or may be compromised. In the case of routine rectification work we will normally send the registered proprietor of the project an Oral direction report or written direction to fix report (as applicable) and in the event of non-response or an insufficient response within an appropriate time (generally 7,14,30 or 60 days) a Building Notice will be served and further fees will be payable.
- 5.13 We make no repetitions or warranties that:
- a) the building works are commercially viable;
 - b) our appointment is limited to ensuring the building work carried out complies with the Act and Regulations that are applicable at the time;
 - c) any building permit we issue will be an assessment of the drawings for compliance with the Act and Regulations and not the serviceability, quality or functionality of the building work approved by the permit;
 - d) you will be able to gain any required planning permits, if required by the local council;
 - e) the proposed building work are suitable for the issuing of a building permit (unless we issue one);
 - g) in fulfilling our statutory duties, we will issue a building permit, an occupancy permit or a certificate of final inspection;
 - h) that in properly fulfilling our statutory duties, we will take as much time to investigate and determine applications for the building permit and/or occupancy permit or certificate of final inspection as reasonably required;
 - i) we will rely on the accuracy and completeness of all information supplied by you in performing our obligations under this agreement.
- 5.14 Building practitioner means -
- a) a building surveyor; or
 - b) a building inspector; or
 - c) a quantity surveyor; or
 - d) an engineer engaged in the building industry; or
 - e) a draftsman who carries on a business of preparing plans for building work or preparing documentation relating to permits and permit applications; or
 - f) a builder including a domestic builder; or
 - g) a person who erects or supervises the erection of prescribed temporary structures; or
 - h) a person responsible for a building project or any stage of a building project who belongs to a class of people prescribed to be building practitioners; or
 - i) a architect; or
 - k) a person (other than a domestic builder) who does not carry on the business of building.
- 5.15 Include building practitioners with continuing involvement in the building work.

- 5.16 Include any building practitioners with no further involvement in the building work.
- 5.17 The use of the building may also be subject to additional requirements under other legislation such as the Liquor Control reform Act 1998 and the Dangerous Goods Act 1985.
- 5.18 If an owner-builder is undertaking the project, there are restrictions on the sale of the building under section 137B of the Building Act 1993. Section 137B prohibits an owner-builder from selling a building on which domestic building work has been carried out within 6½ years from the completion of the relevant building work unless they have satisfied certain requirements including obtaining compulsory insurance. The Victorian Building Authority maintains a current list of domestic insurance providers.
- 5.19 In signing the application form (form 1 application for a building permit form) the applicant affirms that construction works have not already commenced on site.

6. Release.

To the greatest extent possible at law you release us from any and all liability for any costs, loss, claims or demands arising from:

- 6.1 Our decision not to issue a building permit, and not to issue an occupancy permit and/or a certificate of final inspection.
- 6.2 Any liability of yours to third parties arising from or in relation to:
 - a) building work performed by you or on your behalf or by the builder;
 - b) the performance of our role as relevant building surveyor (including the time we take to perform that role and any decision by us not to issue the building permit, not to issue the occupancy permits or certificates of final inspections as required).

7. Indemnity.

You indemnify us from any costs, loss, claims or demands arising from or in relation to:

- 7.1 Building work performed by you or on your behalf or by the builder.
- 7.2 The performance of our role as the relevant building surveyor (including the time we take to perform that role and any decision by us not to issue the building permit, not issue the occupancy permits or certificates of final inspection).

8. Indemnity.

If you request us to perform additional services that are not included in the scope of services described in this agreement, we are not obliged to proceed with such additional work until you provide us with a written request, which we may or may not agree to. Any additional work we agree to perform, requested or required by:

- 8.1 you; or
- 8.2 the proper performance of our role as relevant building surveyor; or
- 8.3 the Act or Regulations;

Will be invoiced and must be paid upon receipt of invoice.

9. Amendments and Variations to the Building Work

- 9.1 Any and all variations to the approved permit documents requested by you will be assessed only when accompanied by a completed variation application form with sufficient details to enable us to properly assess the variations accompanied by the relevant administration fee as determined by us and based on the nature of the variation sought.

10. Inspections

- 10.1 We will carry out the mandatory inspections listed on the building permit. You are responsible for ensuring that we are given adequate notification for inspections (a minimum of 24 hours is required), and ensuring that works do not continue beyond the notification stage until the inspection is approved.
- 10.2 Should inspections be cancelled, postponed or not be ready, without 24 hours notice, then additional inspection charges will apply at an hourly rate.
- 10.3 Inspections carried out by us will be the minimum required to ensure compliance with the Act and regulations and will not involve supervision of the building work. It is your responsibility (if you are the builder) or that of the builder to construct the building work fully in accordance with the approved permit documents.

11. Interpretation

- 11.1 "You" includes, jointly and severally, the registered proprietor of the project and, if the applicant for the approvals to be issued by us is not the registered proprietor, then the applicant. "You" also includes your successors and assignees. "We or Us" includes our successors and assignees.
- 11.2 These terms and conditions are not to be interpreted in favour or against any party solely on the basis of which party prepared the document.
- 11.3 These terms and conditions may only be varied in writing between the parties.
- 11.4 By agreeing with these terms and conditions we both agree to a legally binding agreement within the jurisdiction of the Courts and Laws of Victoria.
- 11.5 Refund will be determined by Pronto Building Permits.

12. Disclaimer

This publication is provided solely on the basis that readers will be responsible for making their own assessment of matters discussed. No person should rely on the contents without first obtaining independent expert advice. In no event shall the RBS and Pronto Building Permits be liable whatsoever for any direct or indirect or consequential damages or results of any actions taken in the basis of information provided nor for any error in or omission resulting from the use of information stated in this publication. No other organisation or individuals are permitted to reproduce this publication without the prior written consent of the Principles of Pronto Building Permits.