

7. Should any dispute or difference arise between the Proprietor and the Builder, either during the progress of the works or after the determination, abandonment, or breach of this Contract, as to the construction of this Contract, or as to any matter or thing of whatsoever nature arising thereunder or in connection therewith, then either party shall give to the other notice in writing of such dispute or difference and at the expiration of seven days, unless it shall have been otherwise settled, such dispute or difference shall be and is hereby submitted to the arbitration of the Chairman or his nominee for the time being of the Institute of Arbitrators (Victorian Chapter) in accordance with the provisions of the Commercial Arbitration Act 1984 or any statutory modification thereof for the time being in force.

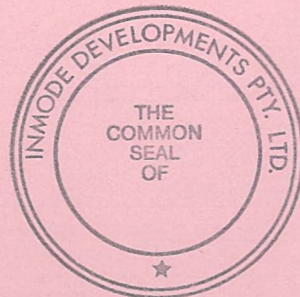
In serving Notice of Dispute or Difference and demand for arbitration, the party serving such notice shall provide evidence that he has deposited with the Secretary of the Institute of Arbitrators (Victorian Chapter) the sum of \$200.00 by way of security for costs of the arbitration proceedings. Such security shall be applied in accordance with the direction from time to time of the Arbitrator, who shall have the power to make from time to time any order in regard to further security for the costs of the arbitration proceedings.

The award made by the said Arbitrator shall be final and binding on both Builder and Proprietor. The costs of the submission, reference and award shall be in the discretion of the said Arbitrator.

- 8. See Annexure "A"
- 9. See Annexure "A"
- 10. See Annexure "A"

AS WITNESS our hands the day and year first hereinbefore written.

The Common Seal of Inmode
Developments Pty. Ltd. was hereunto
affixed in accordance with its
Articles of Association in the
presence of



SIGNED by the Proprietor in
the presence of

.....
(Proprietor to sign)

.....
(Witness to sign)

SIGNED by the Builder in
the presence of

.....
(Builder to sign)

.....
(Witness to sign)



MBAV: FORM CP2

THIS FORM IS FOR THE USE OF MEMBERS OF THE MASTER BUILDERS' ASSOCIATION OF VICTORIA AND THEIR CLIENTS ONLY, AND FOR WORKS WHERE THE CONTRACT IS COST PLUS A COMMISSION PERCENTAGE OR FIXED FEE SUM.

CONTRACT

Made the day of

one thousand nine hundred and

BETWEEN

.....
.....
hereinafter called the Builder of the one part

AND

.....
.....
hereinafter called the Proprietor of the other part WHEREBY it is agreed and declared by and between the parties hereto as follows:-

THE MASTER BUILDERS' ASSOCIATION OF VICTORIA
(COPYRIGHT)



1. The Builder shall subject to the due and punctual payment by the Proprietor of the moneys hereinafter referred to on or before the day of one thousand nine hundred and erect execute perform complete or cause to be erected and completed and deliver up to the Proprietor all the works mentioned in the plans and specifications annexed or intended to be annexed hereto being plans and specifications for a new house at (hereinafter referred to as the said works).

2. The Builder shall for and on behalf of the Proprietor purchase and/or supply all materials labour plant machinery and tools and arrange such sub-contracts as may be necessary or desirable for the carrying on and completion of the said works. All such material shall be purchased by the Builder at current prices and shall be charged to the Proprietor accordingly. All labour shall be employed at rates to be agreed upon between the Proprietor and the Builder or failing such agreement at the rates from time to time current in the building trade. The Builder shall himself be entitled to work upon the job and in computing the amount of wages paid by the Builder there shall be included wages for the Builder at the rate of \$.130..... per day. The Builder shall also pay all building and other fees and comply with any other requirements under any local or Municipal by-laws.

3. The Proprietor shall pay to the Builder the actual cost of the said works with the addition of the sum of \$ or (Insert either a Money Amount or Percentage) thereon in manner hereinafter provided. The actual cost shall be determined from wages sheets, delivery dockets, receipted accounts and other data which shall be supplied by the Builder. In ascertaining cost the Builder shall be entitled to the 2½% cash discount on materials. The cost of the works shall include:-

- (a) Wages paid to workmen and other employees in respect of services and labour supplied wholly in connection with the works, together with the requisite allowance for holidays, sick pay and/or other benefits provided for in current Awards.
- (b) The actual wages or other remuneration paid to foremen, costing clerks, bookkeepers, or others where approved by the Proprietor as being necessary for the proper execution of the works.
- (c) Cost of lodging, fares and travelling time of workmen and others employed in the works which is legally payable by the Builder.
- (d) Payroll Tax on wages paid in connection with the works.
- (e) Fee of Licensed Surveyor or Quantity Surveyor as may be necessary.
- (f) Premiums paid for Public Risk Insurance.
- (g) Levies paid for WorkCare and other insurances.
- (h) Cost of advertising incurred for labour for the works.
- (i) The cost of all building materials, including concrete formwork for and used only in the works.
- (j) Freight charges or cost of cartage paid or incurred by the Builder for transporting all building materials to the site including the use of Builder's own trucks and utilities at prescribed rates.
- (k) The cost of all authorised sub-contract and prime cost items.

(l) Cost of transport to and from the site and cost of erection and dismantling of plant and temporary buildings used in the works but not including the costs of dismantling and temporary removal from the site or its subsequent return after temporary removal unless the consent of the Proprietor for such temporary removal is first obtained.

(m) Cost of replacement (but not first cost) of small tools, ropes and brushware and other similar items used on the works, and costs of sharpening and repairing of small tools.

(n) Charges paid by the Builder for the hire of tubular steel scaffolding and of plant and machinery which is not normally part of a Builder's equipment.

(o) Costs of running, maintenance and repair of plant and equipment while used on the works, such as concrete mixers and hoists which are normally part of a Builder's equipment, subject to such plant and equipment being in good working condition when taken to the works.

(p) Cost of power, oil, petrol, or other fuel used on the works.

(q) Cost of the installation and charges for telephones located in the works.

(r) Any fees paid by the Builder to Municipal or other Authorities.

(s) Sales Tax or any other tax legally payable on building materials or construction.

(t) Cost of making good defects and faults which are not due to materials and workmanship not in accordance with this Contract.

(u) Any other expense properly and reasonably incurred by the Builder in carrying out the works.

(v) Cost of work manufactured at the Builder's workshop at prices as may be agreed to by the Proprietor.

The Builder may at the end of each ~~month~~ fortnight render to the Proprietor a statement of actual cost to date and shall be entitled to receive payment of the amount of cost appearing in such statement together with the sum of \$ or (Insert either a Money Amount or Percentage)

..... thereon, within seven days from the rendering of such statement to the Proprietor together with interest from day to day at the rate of dollars per centum per annum on the gross amount shown in such statement.

4. The Builder in the ordering of all materials hereunder and in the conduct of the works shall be deemed to be the agent of the Proprietor and the Proprietor hereby indemnifies the Builder against all liabilities incurred by him in connection with the said works.

5. The Builder shall not be liable for any delay in completion arising from or caused by strikes lockouts shortage of material or any other cause beyond the control of the Builder.

6. The whole of the terms conditions and warranties of and incidental to this Contract are set out herein and in the plans and specifications above referred to and shall not be in any way altered varied suspended or affected by reference to any prior stipulations condition or agreement whether written or verbal.

ANNEXURE "A"

8. The Proprietor hereby charges the land on which the said works are to be erected with the due payment to the Builder of all monies that are or may become payable to the Builder under this agreement or otherwise arising out of the carrying out the said works.
9. In the event of any discrepancy, conflict or ambiguity in the agreement, the plans or the specifications, this agreement shall take precedence over the specifications and plans and the specifications shall take precedence over the plans.
10. The Builder shall have the right during construction of the works to use substitute materials or items where an item or items or materials named in the specification is or are unavailable at the time required for use or installation.
11. The Builder's right under clause 3 to render fortnightly statements of actual cost incurred to that date shall include the right to demand payment for costs accrued in respect of works and materials supplied but for which invoices are yet to be received. Upon receipt of invoice any required plus or minus adjustments shall be effected.
12. The Builder's fair and reasonable estimate of the total cost of the works, inclusive of all amounts payable under clause 3 of the Contract is \$.
13. The Builder may in its discretion increase the Builder's Margin specified in clause 3 hereof where the Proprietor requests (and the Builder approves) variations to the original Specifications which require additional works to be carried out. The amount of such increase shall not exceed 15% of the cost of the additional works, and the Builder's Margin so varied shall be paid in the manner specified in clause 3.