

KITCHEN CONTRACT FOR WORK BETWEEN \$5,000 AND \$11,999

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CONTRACTOR NAME:

ADDRESS:

DATE:

CONTRACT PRICE:

WARNING: The Price/Contract Price may change. In accordance with the Conditions of Contract, the reasons for possible increases in the Price/Contract Price include: Variations, prime cost items, Unforeseen Circumstances and Provisional Sum Item allowances, interest on overdue payments, increases in taxes such as GST.

Please read all attached information and terms.

Note: This Contract is to be used where the total value of the Contract is between \$5,000 and \$11,999 (including any applicable GST amount). It must not be used where the value of the Work is over \$11,999.

Warning + Note to Owner: Please read clause 10 of Part B on asbestos



Do not sign this Contract u [REDACTED]

Both the Contractor and the Owner should [REDACTED]

PART A: CONTRACT DETAILS

Note: If a payment is made by a business to another business when the payer has not received notification of the recipient's ABN (Australian Business Number) then the payer will be obliged to withhold tax as required by the ATO and send it to the ATO.

1. THE OWNER:

Name(s):		
Address:		
Suburb:	State:	Postcode:
Phone:	Mobile:	
Fax:	Email:	

2. THE CONTRACTOR:

Name(s):		
[REDACTED]		
[REDACTED]		
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]		
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	
Licence No:	Licence Expiry Date:	
Licence Category:		

3. CONTRACT PRICE (Amount in Words)

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

WARNING: The Price/Contract Price

4. SITE DETAILS (Where Work is to be done)

Address:		
Suburb:	State:	Postcode:

5. DESCRIPTION OF WORK/MATERIALS including Product(s) (this must be completed)

NOTE: All documents that are to be part

6. PRIME COST OR PROVISIONAL SUM ITEMS

Prime cost or Provisional Sum Items

	Quantity	Prime Cost/ Provisional Sum Item allowance including GST
		\$
		\$
		\$
		\$
		\$
		\$

		\$
Total: (If space is insufficient, attach a sheet referring to this schedule)		\$

7. RECORD OF ADJUSTMENTS AND VARIATIONS

[REDACTED]

ADJUSTMENTS (If Any)

[REDACTED]

ITEMS	CLAUSE 6	SUM ALLOWED	ACTUAL SUM	ADJUSTMENT (+ OR - AMOUNT)
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$
		\$	\$	\$
TOTAL:				\$

8. VARIATIONS (Part B Clause 8 page 6 and page 7)

DATE AGREED	BRIEF DETAILS	ADDITIONAL OR DELETED COST (+ OR - AMOUNT)
1		\$
2		\$
3		\$
4		\$
5		\$
6		\$
TOTAL:		\$

9. PROGRESS TIMELINE SCHEDULE

a.	[REDACTED]	
b.	[REDACTED]	
c.	[REDACTED]	
d.	[REDACTED]	

e.	Completion Date	
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NOTE: Dates specified in the Progress Schedule may be subject to change in accordance with the Conditions of Contract. The reasons for possible changes include Variations and delays.

10. PAYMENT SCHEDULE (Amounts in Words)

a.	Deposit	████████████████████		\$
b.	1 st Progress Payment	████████████████████	%	\$
c.	2 nd Progress Payment	████████████████████	%	\$
d.	Final Payment	████████████████████	%	\$

NOTE: The description for each progress payment describes what Work will be completed or what costs will be incurred.

11. ACCEPTANCE OF CONTRACT

██
██
██

Owner(s) Signature:	
Date:	

Owner(s) Signature:	
Date:	

Contractor Signature:	
Date:	

Contractor Signature:	
Date:	

Note: The Contractor should check that the Owner's name stated on the Contract is the same as that appearing on the certificate of title for the land. A letter from the lending authority or Owner's bank may be requested in relation to capacity to pay.

PART B: CONDITIONS OF CONTRACT

1. CONTRACTOR'S MAIN OBLIGATIONS

[REDACTED]

2. PAYMENT

The Contract Price includes all matters (including GST) that could be reasonably expected to be necessary for the completion of the Work.

[REDACTED]

3. OWNER'S JOINT AND SEVERAL LIABILITY

If there is more than one Owner, the obligations in this Contract apply to each Owner individually and to all Owners collectively. This clause 3 of Part B survives any termination of this Contract.

4. ACCESS TO THE SITE

[REDACTED]

5. CHECK MEASURING

The Contractor will attend the Site and perform the check measure on or before the check measure date (as defined in Clause 9 of Part A).

[REDACTED]

6. OUR RIGHT TO FIX

The Contractor must make good any loss or damage to the Work or property of the Owner caused by the Contractor or the

[REDACTED]

7. DELAYS

The Contractor will complete the Work by the Completion Date (as defined in Clause 9 of Part A). The Contractor must take all reasonable steps to minimise any delay to the Work.

[REDACTED]

8. PLANS & VARIATIONS

[REDACTED]

[REDACTED]

9. UNFORESEEN CIRCUMSTANCES

To the extent permitted under law, the Contractor will not be responsible or liable for Work arising from factors beyond its control, unforeseen problems or which is outside the initial scope outlined in Part A.

[REDACTED]

10. ASBESTOS

The Owner must advise the Contractor, if asbestos is located in or around the Site or if they have any reason to believe asbestos is located in or around the Site, prior to this Contract being signed.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11. PRIME COST AND PROVISIONAL SUM ITEMS

Except as otherwise agreed between the Owner and the Contractor in this Contract, the Contractor is not responsible for the supply or installation of any appliances or connection to any services.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12. SECURITY INTEREST

The legal title in the Product does not pass to the Owner until all amounts payable under this Contract have been paid in full.

The Owner grants to the Contractor a security interest (and where applicable, a purchase money security interest as that term is defined in the PPSA) in the Products (including all related proceeds) supplied under this Contract as security for all or part of the amount payable by the Owner to the Contractor under this Contract. The Owner authorises the Contractor to register a financing statement with respect to this security interest on the PPSR and agrees to provide any information to the Contractor necessary to register this security interest.

Until this security interest has been satisfied, in addition to any remedies available to the Contractor under Part 4 of the PPSA:
(a) the Products must remain clearly identifiable from any other goods of the Owner;
(b) If the Owner fails to make a due payment in accordance with this Contract, the Contractor may enter the Site and take reasonable action to remove the Product, without being liable to the Owner for any damage to the Site which may be caused by such removal;
(c) The Owner irrevocably authorises, permits and allows the Contractor unrestricted access to the Site to retrieve the Product in accordance with this clause; and
(d) The Owner may not sell or deal with the Products without the Contractor's prior written consent.

Notice requirements under sections 95, 118, 121(4), 130, 132 and 135 of the PPSA shall not apply and not place any obligations on the Contractor in favour of the Owner.

This clause 12 of Part B survives any termination of this Contract

13. WARRANTY

Contractor warrants that Work will be performed with due care and skill, the materials and workmanship of the [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

This clause 13 of Part B survives any termination of this Contract.

14. SUSPENSION

If the Owner is in breach of this Contract in any way whatsoever, the Contractor may by written notice immediately suspend the carrying out of the Works.

The Contractor must recommence the carrying out of the Works within a reasonable time after the Owner remedies the breach, and gives the Contractor written notice of that fact.

15. TERMINATION

If either party is in serious breach of this Contract, the other party must give written notice in accordance with clause 29 detailing the nature of the breach and requesting that the breach be remedied within 14 Days.

[REDACTED]
[REDACTED]
[REDACTED]

16. EFFECT OF ENDING THIS CONTRACT

If this Contract is ended the Owner must without prejudice to any right or remedy, pay the Contractor all amounts due in payment of the Contract Price in accordance with the Payment Schedule with respect to all Work carried out to the day this Contract is ended (End Date). [REDACTED]
[REDACTED]

This clause 16 of Part B survives any termination of this Contract.

17. INSOLVENCY

If a party to this Contract becomes, at any time insolvent, then the other party may terminate this Contract by giving written notice to that effect.

To be insolvent means:

- (a) any act of bankruptcy under the *Bankruptcy Act 1966* by a natural person;
- (b) the appointment of a liquidator, provisional liquidator, receiver, receiver and manager, administrator or the entering into of a deed of arrangement if a corporation; or
- (c) any act of insolvency, under the *Corporations Act 2001* by a corporation.

18. RISK

All Product and materials shall be at the Owner’s risk once delivered to the Site.

19. CHARGE OVER LAND

The Owner agrees to charge the Site (or the land upon which the Works is to be carried out) in favour of the Contractor as equitable mortgagee to secure the payment of all moneys that are, or may become, payable under this Contract to the extent that a court or tribunal of competent jurisdiction has made an order that the Owner pays that amount to the Contractor.

This clause 19 of Part B seeks to establish an interest in the property to which the Contract relates for which a right to lodge a caveat over the property will exist. In the event that a caveat is lodged over the property, the rights of the owner of the property to deal with the property and have such dealings registered in the Lands Titles Office will be restricted. The interest in the property created by this clause 19 of Part B entitles the Contractor to apply to a court for the sale of the property for the purposes of recovering any debt that may be outstanding in relation to this Contract. The Owner is advised to seek independent legal advice in relation to this clause 19 of Part B.

This clause 19 of Part B survives any termination of this Contract.

20. COPYRIGHT

The Contractor owns the copyright in all plans, specifications and workshop drawings created by or on behalf of the Contractor.

If the Owner provides the Contractor with any sketch, plan or other document which infringes upon another person’s copyright or moral right, the Owner will indemnify the Contractor, and keep the Contractor indemnified, against all claims and costs.

This clause 20 of Part B survives any termination of this Contract.

21. DEFAULT INTEREST

If the Owner fails to make any payment due under this Contract on time, the Contractor will charge the Owner interest on the unpaid amount at the interest rate payable on South Australia Supreme Court judgments as varied from time to time.

This clause 21 of Part B survives any termination of this Contract

22. DEBT COLLECTING COST

[REDACTED]

23. WHOLE AGREEMENT

Subject to law, Part A: Contract Details and Part B: Conditions of Contract and the sketches, quotations, plans and the specifications, including any Variations to those plans and specifications:

- (a) comprise this Contract;
- (b) comprise the whole agreement between the Owner and the Contractor; and
- (c) supersede any prior negotiations, discussions or understandings between the Owner and the Contractor.

24. PREVAILING DOCUMENTS

In the event of any inconsistency or ambiguity as to the agreement between the Owner and the Contractor, the Conditions of Contract, the plans and the specifications have precedence in that order.

25. SUBCONTRACTING

[REDACTED]

26. GST

In this clause 26:

- (a) “GST Amount”, “GST-exclusive Consideration”, “Recipient”, “Supply Party” and “Tax Invoice” have the meanings given in this clause 26; and
- (b) other terms used that are defined in the GST Act have the same meanings in this clause 26.

For each supply made by a party ("Supply Party") under or in connection with this Contract on which GST is imposed:

- (c) the amount payable or to be provided for that supply under this Contract but for the application of this clause 26(c) ("GST-exclusive Consideration") will be increased by, and the recipient of the supply ("Recipient") must also pay to the Supply Party, an amount ("GST Amount") equal to the GST-exclusive Consideration multiplied by the prevailing rate of GST; and
- (d) the GST Amount must be paid to the Supply Party by the Recipient without set off, deduction or requirement for demand, at the same time as the GST-exclusive Consideration is payable or to be provided,

Subject to a valid tax invoice ("Tax Invoice") being provided in respect of the GST-exclusive Consideration.

- (e) the Supply Party must provide the Recipient with a Tax Invoice before the due date for payment of the supply.
- (f) If and to the extent an adjustment event arises in respect of a supply made under or in connection with the Contract, then:
 - (i) if the Supply Party's corrected GST Amount is less than the previously attributed GST Amount, the Supply Party must refund the difference to the Recipient;
 - (ii) if the Supply Party's corrected GST Amount is greater than the previously attributed GST Amount, the Recipient must pay the difference to the Supply Party; and
 - (iii) the Supply Party must issue an adjustment note to the Recipient.

27. DISPUTES

In the event of a dispute arising between the Owner and the Contractor in relation to a matter covered by this Contract, the disputing party must notify the other party in writing of the items in dispute. Subject to and without limiting the *Building Work Contractors Act 1995 (SA)*, the Owner or the Contractor may seek to resolve the dispute by consulting with a mutually agreed third party mediator.

28. REMOVAL OF ITEMS

29. GIVING OF NOTICES

Subject to the *Building Work Contractors Act 1995 (SA)* or other applicable legislation, where this Contract requires written notice to be given to a party for any reason, such notice may be served by:

- (a) giving it to the party personally;
- (b) leaving it at the party's address specified in Part A of this Contract; or
- (c) sending it by registered mail to the party's address specified in Part A of this Contract.

30. DEFINITIONS

Unless otherwise stated in this Contract:

Attachment means an attachment, schedule, or annexure to this document;

Commencement Date means the date specified as such in Clause 9 of Part A;

Completion Date means the date specified as such in Clause 9 of Part A;

Conditions of Contract means the terms and conditions in Part B: Conditions of Contract of this document;

Contract means Part A: Contract Details and Part B: Conditions of Contract of this document and any Attachments such as sketches, quotations, plans, specifications and Variations relating to this document;

Contract Price means the amount stated in Clause 3 of Part A, subject to any changes in accordance with the Conditions of Contract;

Contractor means the Contractor named in Clause 2 of Part A;

Days means calendar days;

GST has the meaning given in the GST Act;

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;

Owner means the Owner named in Clause 1 of Part A;

Provisional Sum Item has the meaning given to that term in Clause 11 of Part B and includes a contingency sum and a prime cost item;

Payment Schedule means the schedule set out in Clause 10 of Part A;

PPSA means the *Personal Property Securities Act 2009*;

PPSR means the Personal Property Securities Register established under the PPSA;

Product/s means the cabinets, built-ins and/or other products described in Clause 5 of Part A and set out in the plans and specifications, including any Variations;

Progress Schedule means the schedule set out in Clause 9 of Part A;

Site means the premises described in Clause 4 of Part A where the Works are to be carried out for supply and install or where the Work is to be delivered if the Contract is supply & deliver;

Unforeseen Circumstances means any hidden problems which the Owner did not tell the Contractor about or are only revealed when installing the Product;

Work/s means any one/or more than one of the following: supply, manufacture, install, deliver (as specified in the Contract) and/or provision of other work in relation to the cabinets, built-ins and/or other Products described in Clause 5 of Part A and set out in the plans and specifications, including any Variations; and

Variation means any change in the Works or the method of carrying out the Works; and like words have the same meaning.

All monetary amounts are in Australian currency.

31. SEVERABILITY

Each provision of this Contract shall be read as separate and severable so that if any provision is held by a court of competent jurisdiction to be void or unenforceable for any reason, that provision will be severed from the Contract and the remainder of the Contract will be construed as if the severed provision had never existed.

32. APPLICABLE LAW

This Contract will be governed by, and construed in accordance with, the laws of South Australia.

33. STATUTORY RIGHTS

The *Australian Consumer Law, Competition and Consumer Act 2010* and the *Building Work Contractors Act 1995 (SA)* contain statutory guarantees and warranties that cannot be excluded. These Acts also prescribe remedies available to consumers and customers in circumstances where there is a breach of such warranties and guarantees or there is a defect. Nothing in this Contract operates to exclude or limit those statutory guarantees and remedies insofar as they apply to any one or more of the Contractor, the Owner, the Work and the Products under this Contract.

34. LIMITATION OF LIABILITY

To the fullest extent permitted by law, the following are hereby excluded:

- (a) all express or implied representations and warranties relating to this Contract not contained in it; and
- (b) any liability arising in relation to the Products and/or the Works that the Contractor supplies to the Owner however arising.

The Contractor's total liability for breach of this Contract is limited at the Contractor's option to:

- (a) the replacement of the Products and/or Works or the supply of equivalent Products and/or Works;
- (b) the repair or rectification of the Products and/or Works;
- (c) the payment of the cost of replacing or acquiring equivalent Products and/or Works; or
- (d) the payment of the cost of the repair or rectification of the Products and/or Works.

Subject to the provisions of the Australian Consumer Law and the *Building Work Contractors Act 1995 (SA)* (as applicable) neither party shall be liable to the other for any indirect or consequential loss.

This clause 34 of Part B survives any termination of this Contract.

ATTACHMENTS TO CONTRACT

LIST ANY ATTACHMENTS HERE (including other documents, plans, specifications and designs)