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Building contract agreement template south africa

Unless the parties have made their own terms, the common-law terms will govern the contract, in other words, generally asking what would be reasonable or common practice in the same or similar circumstances. In order for an agreement to come into effect, there must have been an offer by one party, which has been accepted by the other. The acceptance of the offer will conclude the agreement and bring the contract into existence. A contract must always be interpreted as a whole. You are free to accept any offer, not necessarily the lowest, and you may reject all offers tendered, but an offer may only be accepted by the person to whom it was addressed. When you enter into contract with a juristic person (not a natural person) it is prudent to proof that the person representing such juristic person, is indeed authorised to do so. A verbal / oral (shake of the hand) contract is perfectly legal and binding, but its terms and conditions may be difficult to proof should a dispute arise. Therefore any form of written contract will be preferable, even if it is a one page document. In legal disputes, words written by hand will always take precedence over typewritten words, and later written words, take precedence of earlier written words. That is why a dated contract is so important, and all subsequent addendums should be properly dated and initialed. If any dispute arises, the meaning of a word or sentence will be interpreted to be that which is less favourable to the author of the words. If a contractor is not told in very specific terms and conditions (by contract) how and when he should perform certain tasks to get the job done, he is free to perform it in his own manner and time. Conversely, if there is no special agreement (contract) he is not entitled to any payment, until he has completed the work. Drawings as visual instructions together with specifications on such drawings, will all form part of the contract documents. There are different types of building contracts in South Africa: The lump-sum contract The employer's obligation is to pay the agreed contract price when the builder completed the building in accordance with drawings and specifications. The drawings and specification should give the builder a precise idea of the building to be erected, while the employer will know exactly how much he will have to pay for it. The lump-sum contract with bills of quantities The most sophisticated technique for estimating building costs, is by calculating the material to be used and the amount of work to be done, known as a bill of quantities, compiled by a Quantity Surveyor. This has several advantages, because it is much more accurate, and "apples can be compared with apples" as all tenders tender on the same basis, yielding more accurate results. This comes in handy when there are deviations, as the bill of quantities will form the basis of pricing these variations. It can also be used to measure and value work in progress. Cost-plus contract The contractor is reimbursed for all material and labour, plus an agreed fee for his management and profit. Labour-only contract In the less sophisticated market, or where the contractor is undercapitalised, a labour-only contract may be negotiated. If he gets paid by the hour / week / month, instead of an agreed amount on completion, he becomes an employee and not an independent contractor. This becomes significant when claiming to be an "owner builder" in terms of the NHBC definition. This is not all you should know, so ask your architect to explain in more detail Download standard forms of contract from JBCC website. Download the NHBC basic contract specifically designed for the home builder. HOME I BLOG I SERVICES I Municipality Documents I HOA Documents I Articles Documents I Contract Documents I Quality Management Documents I Other General Documents I MAIN DOCUMENTS PAGE Contracts is one of the most important documents in any phase of building, from the house plan stage to the final touches on your house, with the architect, even the casual labourer. YOU NEED a contract for a legal agreement, to ensure you have a footing if going to legal court. NOTE: These documents is for guidance only and you still need to consult a legal advisor. Contracts, Agreements & Suretyship DIENSKONTRAK Afrikaans version Suretyship Contractor agreement Personal Info request A construction contract is an agreement between a client and a contractor that specifies the details of a construction project. The details in a construction contract should include all aspects of the project, including payment, the type of work being done, legal rights of the contractor, and more. For some types of construction projects, you may need government permits in addition to the construction contract before contractors can begin working. Table of Contents 1. What is a Construction Agreement? A Construction Contract Agreement is a written document between a property owner and a general contractor, specifying the construction, renovations, alterations, or other work to be done on the property owner's home or land. This document outlines which parties will be engaged, the price to be paid, the rights of each party, and the date construction will commence and be completed. A simple document will identify the following basic elements: Owner: The party hiring the general contractor to complete construction on his or her property. General contractor: The party responsible for the day-to-day oversight of the construction. License number: The general contractor's state license board number, proving they are a licensed contractor. Worksite: The address of the property where the construction is to be completed. Description of work: A detailed description of the work and construction to be done by the contractor. You can also attach project plans and specifications to the agreement. Contract price and payments: The total price to be paid for the work and how and when payments will be made. Contract documents: any drawings, blueprints, exhibits or other documents that will part of the contract Materials and labor: Which party will supply and pay for the cost of materials and labor. Starting and completion dates: The dates the contractor must start construction and have the construction substantially completed by. Licensing and permits: Which party will be responsible for obtaining any required licenses and permits. Subcontracts: Whether the contractor will hire subcontractors to help perform part of the contractor's obligations. Work changes: How any changes to the agreed upon work will be handled once construction has begun. Warranties: How long will the contractor warrant that his or her work is free from material defects. These additional elements can also be included. Indemnification: The contractor promises to be responsible for any loss or damages incurred by the owner arising out of his or her work. Dispute resolution: Arbitration, mediation, and adjudication are common ways for parties to settle disputes under the contract instead of going through the courts. Termination: When the buyer or contractor can terminate the contract. Inspection: Allows the owner to examine the work done by the contractor at any time during construction to see if it conforms with the contract terms. Insurance: Owners and contractors are both responsible for obtaining insurance to protect against damages and defects, and claims and losses. Liquidated damages: An amount per day that the contractor must pay to the owner for each day past the agreed upon completion date that construction is delayed. Force majeure: Parties will not be responsible for non-performance due to unavoidable occurrences or circumstances beyond their control (e.g. hurricanes, earthquakes, shortage of materials, change in contract plans). In addition, you can also specify how the worksite should be maintained, including supervision of the workers, storage of materials, and where waste can be dumped. A Construction Contract Agreement may also be called: Construction Agreement Construction Contract Construction Management Agreement Service Agreement for Construction Construction Services Contract Contract for Construction Contractor Agreement Contractor Agreement If you are looking to rent or resell your property after construction is completed, create a custom Lease Agreement or Real Estate Purchase Agreement. Construction Contract Sample The sample construction contract agreement below details an agreement between an owner and a contractor. The contractor agrees to perform work on the property owned by the owner. 2. When Do You Need a Construction Contract? You should use a Construction Contract Agreement if you are at either end of the process of building, renovating or altering a building or structure. Perhaps you've finally decided to build your dream home and start living happily ever after. Happily ever after might have to wait because of unreasonable contractor delays or unexpected, excessively high costs. Or maybe you are a local contractor looking to grow your business and take on bigger construction projects. Either way, you'll want to make sure you have an agreement in writing to act as the blueprint until construction is completed to iron out the wrinkles. This agreement allows the parties to put into writing the exact nature and details of the work to be performed, and the responsibilities of each party throughout the course of construction. In addition, it also details the payment terms of the project. In general, there are three different types of pricing arrangements: Lump sum: Also known as the traditional "fixed price" contract, it is the most common pricing arrangement for construction contracts. In a lump sum contract, the parties agree on a fixed price, based on the contractor's appraisal of costs of a complete and final design. Lump sum contracts take into consideration all materials, subcontract, labor, indirect costs, profit, and more. Cost or cost-plus: In a cost-plus contract, the owner reimburses the contractor for all costs incurred during the construction such as materials and labor. The owner also pays an agreed-upon profit margin, usually a flat fee or percentage of total costs. Unit price: A unit price arrangement involves the parties placing a price on every unit, or perhaps piece of work, such as, by item, by cubic yard, by linear foot, or per hour. Pricing Arrangements Benefits/Disadvantages Lump Sum-Contractor is able to ask for a higher markup in anticipation of unforeseen events. Contractor has larger profit if overestimates total cost. Contractor's underestimation of total costs will lower profit. Overestimate may lower chances of being lowest bidder for the contract. Cost/Cost-Plus-Accurate accounting of overhead costs and general conditions. Used when there is variability in amount of materials or time. Costs can rise rapidly. Owner must verify hundreds or thousands of claimed costs. Owner more susceptible to dishonest contractor and fraud. Unit Price-Accurate estimation of overhead costs and general conditions. Used when there is variability in amount of materials or time. Final cost unknown until the completion of the project. Creates an unbalanced bid due to contractor's ability to raise and lower certain item prices. The construction process also involves many moving parts, and clearly defining which party is responsible for what role allows for the process to go more smoothly. A few of the necessary parts that can be expressly assigned to either party include: Obtaining permits – new construction and schedules. Mistakes or delays affect both owners and contractors negatively, causing delays that construction is delayed. Rather than litigating damages in court, the owner and the contractor can agree in advance on a liquidated damages amount. In order for liquidated damages to be upheld, the owner's damages must be uncertain or difficult to determine ahead of time. In addition, the liquidated damages must be a reasonable amount and cannot be a penalty. And the delay in construction cannot be due to circumstances beyond the contractor's control, such as changes in the work or extreme weather. Here are some common causes of delays in construction: Adverse weather. Material shortages. Changes in design. Restrictive regulations. Transportation delays. Delays in obtaining permits. Labor strikes. Including a liquidated damages clause is not without risks. The amount agreed upon may not be enough to cover the full amount of damages that the owner suffered. Or it may be greater than the amount a court would have ordered. However, with a liquidated damages clause, the owner can be assured that he or she will recover some amount for delay in construction, and the contractor can limit his or her exposure. A simple Construction Contract Agreement could help prevent and resolve some of these issues: Owner/Contractor Commencement and completion delays. Payment delays. Imbalanced risk allocation. Poor performance. Additional labor costs. Unsatisfactory or wrong work. Additional material costs. Work changes. Loss of use. Home/lost profits. Early termination. 4. 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