

72 Happy Valley Road, Wellington 6023
M: 0226227817: LL: 043834922
mark@owhirobuilders.nz
owhirobuilders.nz



About Us

Owhiro Builders Limited, is a Wellington construction firm specialising in home renovations and restorations. As your trusted partner we can assure you excellent workmanship from the start of the build to the day we give back your keys.

We are a team of skilled builders and carpenters who will coordinate the redevelopment of your home and property. We collaborate with an industry leading Architect and an independent Quantity Surveyor to make sure your ideas are translated accurately, and your costs are correct to national standards.

Company Details

Owhiro Builders Limited
72 Happy Valley Road, Owhiro Bay,
Wellington 6023
mark@owhirobuilders.nz
owhirobuilders.nz
022 6227817

Architect

Daryl Cockburn MSc (Edinh) DipArch architect planner
Palazzo 31
42 Vivian St & 117 Tory St
Wellington 6011
04 38 28 962
021 36 1805
darylcockburn@iCloud.com
NZRAB 917

Quantity Surveyor

John Barton MNZIQS. Registered QS
Workshop Quantity Surveyors Ltd
PO Box 28029 Kelburn
Wellington 6150
04 475 3980
027 431 1145
wqsltd@xtra.co.nz



Preliminary Contract

Agreement terms

This building contract agreement (this “agreement”) is made and entered into as by and between:

OWHIRO BUILDERS LIMITED
72 happy valley road
Owhiro bay
Wellington

(the "Contractor")

—

(the “Client”)

—

(address)

Background

The purpose of this agreement is to set out the legal contract between the Contractor and the Client and to regulate the matters in connection with Project described in the Specification.

Project Site Address:

Expected Start Date:

Expected Finish Date:

Expected Outcomes: see Schedule 1



Definitions

In this agreement, the following words shall have the following meanings, unless the context requires otherwise:

“Project”	means any piece of work or recurring work to be done from time to time by the Contractor for the Client. The first such Project is fully described in the Schedule.
“Confidential Information”	means all personal and business information about the parties to this agreement. It includes among other things: information about lifestyle, family, home, staff, (including their personal contact information), businesses, methods of doing business.
“Specification”	means a specification of the work constituting a Project.

1. Interpretation

In this agreement unless the context otherwise requires:

- 1.1. a reference to a person includes a human individual, a corporate entity and any organisation which is managed or controlled as a unit.
- 1.2. any agreement by any party not to do or omit to do something includes an obligation not to allow some other person to do or omit to do that same thing;
- 1.3. in the context of permission, “may not” in connection with an action of yours, means “must not”.
- 1.4. the headings to the paragraphs and schedules (if any) to this agreement are inserted for convenience only and do not affect the interpretation.
- 1.5. all money sums mentioned in this agreement are calculated net of GST, which will be charged when payment is due.
- 1.6. In entering into this contract, the Client has not relied on any representation or information from any source.

Relationship of parties

- 1.7. Nothing in this agreement shall create a partnership, agency or other relationship between the parties, other than the contractual relationship expressly provided for in this agreement.
- 1.8. Neither party shall have, nor represent that it has, any authority to make any commitment on the other party's behalf, except as provided in this agreement.

2. Contractor's fees and expenses

- 2.1. Unless specified to the contrary in the Project, the Client will pay the Contractor the sum of \$100.00 per hour (excluding GST)] for completion of the Project.
- 2.2. The Client will pay all outside Consultancy fees necessary for the completion of the Project



- 2.3. After the end of each week, the Contractor will send an invoice to the Client for work done during that week. No money shall be payable until the Contractor has submitted an invoice to the Client.
- 2.4. Each invoice submitted to the Client for time charged by the hour shall contain a breakdown in respect of the time spent by each person.
- 2.5. Invoices submitted to the Client may also contain a fee payable for Consultancy fees in respect of the time spent by each person.
- 2.6. Council and other consent fees are the responsibility of the Contractor to obtain and will be invoiced to the Client.
- 2.7. Payment of the sum specified in the invoice will be made by the Client within 14 days of date of sending the invoice.
- 2.8. The invoices shall include whatever expenses the Contractor has incurred in working on the Project.
- 2.9. The Contractor reserves the right to charge the Client interest in respect of the late payment of any money due under this agreement (both before and after judgment) at the rate of 10 percent above the cash rate from time to time of the Reserve Bank of New Zealand from the due date until receipt of payment.

3. Confidentiality

- 3.1. In this paragraph, "Damage" means both economic loss, loss of reputation and damage to reputation, feelings, work or professional standing.
- 3.2. Each of the parties now undertakes for the benefit of the other that he will not:
 - 3.2.1 divulge to any person whatever or otherwise make use of any Confidential Information relating to the other, which he learns as a result of this contract or any circumstance flowing from the contract;
 - 3.2.2 post any text, nor image, nor audio-visual material, on any social network or other public place which could be hurtful, embarrassing or damaging to the other of us.
- 3.3. The parties agree that any Damage arising directly or indirectly from a breach of the above provisions must be compensated on the basis of the effect on the damaged party.
- 3.4. The Client accepts personal liability for compliance with these provisions by members of his family and the Contractor undertakes to make all employees agents and sub-contractors aware of the confidentiality of Confidential Information and the provisions of this paragraph and to take all such steps as shall from time to time be necessary to ensure compliance by those people with these provisions.
- 3.5. No matter how this contract ends, this paragraph shall be effective for six years from today.

4. Duration and termination

This agreement shall continue until terminated:

- 4.1. by one party giving 14 days' notice of termination to the other; or
- 4.2. immediately by the Contractor if the Client fails to pay any sum due within 14 days of the date of submission of an invoice having been notified of non-payment by the Contractor; or



- 4.3. immediately by either party if the other commits any material breach of any term of this agreement and which in the case of a breach capable of being remedied is not remedied within 28 days of a written request to remedy it; or
- 4.4. immediately if either party is declared bankrupt or insolvent; or has taken or suffered any action for his organisation, liquidation, winding up or dissolution; or had a receiver or liquidator appointed for all or any part of his assets or business.
- 4.5. Without regard to the reason why this agreement ends, the Client will pay the Contractor for all work done to the time the notice of termination is received by the Contractor, calculated to the nearest one hour.

5. Assignment of this contract

- 5.1. Neither party may assign, delegate, sub-contract, mortgage, charge or otherwise transfer any or all of his rights and obligations under this agreement without the prior written consent of the other party, except that a party may assign and transfer all his rights and obligations under this agreement to any person to which he transfers all of his business, provided that the assignee undertakes in writing to the other party to be bound by the obligations of the assignor under this agreement.
- 5.2. The benefit and obligations of this agreement shall be binding on any successor in title.

6. Uncontrollable events

- 6.1. Neither party shall be liable for any failure or delay in performance of this agreement which is caused by circumstances beyond his reasonable control, including any labour dispute between a party and his employees.
- 6.2. The contractor remains liable for any delay or failure by a Sub-contractor or supplier of his, no matter what the reason, unless the delay or failure is also beyond the reasonable control of the contractor.
- 6.3. A termination notice is irrevocable unless both parties agree to re-instate this agreement.
- 6.4. If the agreement is terminated, the termination provisions apply.
- 6.5. If the agreement is terminated, all money due from one party to the other becomes due immediately;
- 6.6. Costs arising from the delay or stoppage will be borne by the party incurring those costs;
- 6.7. The party claiming to be affected by an uncontrollable event will take all reasonable steps to fulfil his obligations under this agreement despite the uncontrollable event.

7. Miscellaneous matters

- 7.1. No amendment or variation to this agreement is valid unless in writing, signed by each of the parties or his authorised representative.
- 7.2. So far as any time, date or period is mentioned in this agreement, or in the terms of the description of the Project, time shall be of the essence.
- 7.3. If any term or provision of this agreement is at any time held by any jurisdiction to be void, invalid or unenforceable, then it shall be treated as changed or reduced, only to the extent minimally necessary to bring it within the laws of that jurisdiction and to prevent it from being void and it shall be binding in that changed or reduced form.



Subject to that, each provision shall be interpreted as severable and shall not in any way affect any other of these terms.

- 7.4. The rights and obligations of the parties set out in this agreement shall pass to any permitted successor in title.
- 7.5. Any obligation in this agreement intended to continue to have effect after termination or completion shall so continue.
- 7.6. No failure or delay by any party to exercise any right, power or remedy will operate as a waiver of it nor indicate any intention to reduce that or any other right in the future.
- 7.7. For the purposes of the Privacy Act 1993 each party consents to the processing of his personal data (in manual, electronic or any other form) relevant to this agreement, by the other and/or any agent or third party nominated by that other and bound by a duty of confidentiality.
- 7.8. Any communication to be served on either Parties by the other will be delivered by hand or sent by express post or recorded delivery. It shall be deemed to have been delivered:
 - If delivered by hand
 - If sent by post and received within 72 hours of posting.
 - If delivered by electronic email and digitally receipted by the intended recipient.
- 7.9. In the event of a dispute between the parties to this agreement, then they undertake to attempt to settle the dispute by engaging in good faith with the other in a process of mediation before commencing arbitration or litigation.
- 7.10. This agreement does not give any right to any third party.
- 7.11. In the event of any conflict between any term of this agreement and the provisions of the constitution of a limited company or any comparable document intended to regulate any other corporate or collective body, then the terms of this agreement shall prevail.
- 7.12. The validity, construction and performance of this agreement shall be governed by the laws of New Zealand and you agree that any dispute arising from it shall be litigated only in New Zealand.

A handwritten signature in blue ink, appearing to read "Mark Forsyth", is written over a light blue rectangular background.

Signed by MARK FORSYTH on behalf of OWHIRO BUILDERS LIMITED:

DATE

Signed by CLIENT or AGENT

DATE



Schedule 1: Description of the Project

Project Title: (name the Project)

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Scope of work to be carried out by the Contractor

The Contractor will:

- Consult with the Client to assess the scope and details of the build
- Estimate the cost of the Project
- Commission an Architect and supply architectural drawings of the project
- Consult regularly with the Client to achieve the desired design of the project
- Engage and commission outside Consultants and Inspectors to achieve compliance and consent
- Tender for sub-contractors (of the Contractors choice) where needed for quotes on specialist work
- Commission an independent Quantity Surveyor to accurately quote the total price of the Project
- Obtain all licenses and Council consents needed to proceed with the Project

The Client will receive and own the originals of all consents; architectural drawings; specifications; Engineer and Consultants reports; and quote.

The Project work is to be Supervised by: Mark Forsyth