

# AIS Certifiers

## Modified Complying Development Certificate Application

Issued Under Environmental Planning and Assessment Act 1979 – Section 6.3 & 6.6 & 6.7

APPOINTMENT OF PRINCIPAL CERTIFYING AUTHORITY – Section 6.6 & 4.29

When completing this application form is taken to form a required contract under 31(2) of the Building and Development Certifiers Act.

APPLICATION FOR; MODIFIED COMPLYING DEVELOPMENT, NOMINATION AS PCA AND OCCUPATION CERTIFICATE

### Owner(s)/Applicant(s)

Full Name/s : \_\_\_\_\_  
Postal address : \_\_\_\_\_  
Contact No. : \_\_\_\_\_  
Email : \_\_\_\_\_ **Signature:** \_\_\_\_\_

### Registered Certifier

Name : Anthony Lewis BDC 0228  Jared Nevill BDC 2523  Dale Brisbane BDC05178   
Postal address : PO Box 201 Berry 2535 Contact No: 0244210004  
Email : info@aiscertifiers.com.au Signature: \_\_\_\_\_

### Land to be developed

Address : \_\_\_\_\_  
Lot : \_\_\_\_\_ DP : \_\_\_\_\_  
Description (e.g. dwelling/house) : \_\_\_\_\_ BCA Class: \_\_\_\_\_

### Builder/Owner builder

(Every approval for residential building work worth more than \$10,000 requires an Owner Builder Permit, or a licensed Builder)

Name : \_\_\_\_\_ Phone : \_\_\_\_\_  
Email : \_\_\_\_\_  
Address : \_\_\_\_\_  
Contractor Lic. No./OB Permit : \_\_\_\_\_ ABN : \_\_\_\_\_

Market value of work \$ : \_\_\_\_\_  
Long Service Levy \$ : \_\_\_\_\_ Paid Y  N  Receipt Y  N   
Nominated PCA : Anthony Lewis BDC 0228  Jared Nevill BDC 2523  Dale Brisbane BDC05178

### Declaration

We as the person(s) of which the certification works are undertaken for hereby declare we have **FREELY CHOSEN** to engage the nominated registered certifier for certification works and that we have read and understand the roles and responsibilities of the Registered Certifier.

Anthony Lewis BDC0228  Jared Nevill BDC2523  Dale Brisbane BDC05178

I/We Agree to the above conditions and the TERMS OF ENGAGEMENT attached.

**Owner:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Modified Complying Development Certificate

### List of documents accompanying this application

**PLEASE ENSURE PAGES 1 & 5 ARE SIGNED BY OWNER**

(Tick if supplied, add more detail if necessary)

Document	Supplied	Author / Reference number	Date
Development consent	<input type="checkbox"/>		
Council stamped plans	<input type="checkbox"/>		
CC Plans (Site, floor, elevations, sections)	<input type="checkbox"/>		
Engineers structural design	<input type="checkbox"/>		
Engineers drainage design	<input type="checkbox"/>		
Civil Engineers Details	<input type="checkbox"/>		
Building specifications	<input type="checkbox"/>		
Basix Certificate	<input type="checkbox"/>		
BAL certificate	<input type="checkbox"/>		
Sewer main location	<input type="checkbox"/>		
Long Service Levy receipt	<input type="checkbox"/>		
Dial Before you Dig	<input type="checkbox"/>		
Council Fees receipts	<input type="checkbox"/>		
Section 94 Contribution Receipt	<input type="checkbox"/>		
Sydney Water Tap in Approval	<input type="checkbox"/>		
Existing Fire Schedule	<input type="checkbox"/>		
Compliance certificates	<input type="checkbox"/>		

# Modified Complying Development Certificate

## Schedule to Complying Development Certificate Application

**Must be completed by applicant where building work is proposed**

### Particulars of the proposal

What is the area of the lot being developed (m<sup>2</sup>)

What is the total floor area of the proposed and existing building/s in (m<sup>2</sup>)

Area in (m<sup>2</sup>) of Bonded Asbestos material or friable asbestos material, if any, that will be

(1) Disturbed

(2) Repaired

(3) Removed in the carrying out of the development

For each **proposed new building**, indicate –

(1) How many storeys (including underground storeys) in the building?

(2) How many existing dwellings on the lot?

(3) Is the new building to be attached to any other new building?

For each **proposed new residential building**, indicate –

(1) How many storeys (including underground storeys) in the building?

(2) How many existing dwellings on the lot?

(3) Are any existing dwellings being demolished as part of this development?

(4) How many separate dwellings are in the new building?

Does the site contain a dual occupancy?

### Materials to be used

**Are any 2<sup>nd</sup> hand materials proposed to be used?**

YES

NO

Place a cross  in the box which best describes the materials which the new work is to be constructed of:

Walls	Code	Roof	Code	Floor	Code	Frame	Code
Brick (double)	11	Tiles	10	Concrete/slate	20	Timber	40
Brick (veneer)	12	Concrete/slate	20	Timber	40	Steel	60
Concrete/stone	20	Fibre cement	30	Other	80	Aluminium	70
Fibre cement	30	Steel	60	Not specified	90	Other	80
Timber	40	Aluminium	70			Not specified	90
Steel	60	Not specified	90				
Aluminium cladding	70						
Timber/weatherboard	40						

# Modified Complying Development Certificate

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This part to be completed by AIS Certifiers

## Insurance details

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Insurer : XI Insurance Company SE, Australia Branch (ABN 36 083 570 441) trading as Brooklyn Underwriting

Dates insured : 03/08/25 – 03/08/26

Policy number : BXLC-DPI-2018-001847

Certificate/Quote# : \_\_\_\_\_

Date of receipt : \_\_\_\_\_

Date of issue : \_\_\_\_\_

## Critical stage inspections required by 109E (3) (d) of the EP&A Act 1979.

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(PCA to  those relevant)

1. after excavation for, and prior to the placement of, any footings,
2. prior to pouring any in-situ reinforced concrete building element,
3. prior to covering of the framework for any floor, wall, roof or other building element,
4. prior to covering waterproofing in any wet areas,
5. prior to covering any stormwater drainage connections,
6. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

## Fees and Charges.

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As per attached Quote/Invoice

Quote Number : \_\_\_\_\_

Invoice Date : \_\_\_\_\_

# Modified Complying Development Certificate

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## TERMS OF ENGAGEMENT OF BUILDING CERTIFICATION SERVICES LISTED UNDER ENVIRONMENTAL PLANNING AND ASSESMENT ACT 1979

By completing this document, WE/ THE OWNER/S are agreeing that you have engaged AIS CERTIFIERS AS EMPLOYER OF

ANTHONY LEWIS BDC0228

JARED NEVILL BDC2523

DALE BRISBANE BDC05178

to act as the Principal Certifier and to provide Certification Work for the project and are entering into an agreement with AIS CERTIFIERS terms and conditions which apply to certification work, (as defined below).

**Signed**

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### **Certification Work**

1.1 *The Certification Work includes, as required for the project:*

1.1.1 *Issue Construction Certificate*

1.1.2 *Carryout mandatory stage inspections*

1.1.3 *Issue the Occupation Certificate*

1.1.4 *Issue compliance certificates*

1.2 *The Certification work EXCLUDES:*

1.2.1 *Building design or advice for the Project*

1.2.2 *Drafting plans or any other documents required for the application;*

1.2.3 *Matters pertaining to building quality*

1.2.4 *Any guarantee by the building surveyor that a complying development certificate will be issued;*

1.2.5 *Any act or activity deemed by the building surveyor to be contrary to the requirements of the Building and Development Certifiers act, the Environmental planning and assessment act 1979 as relevant and other State and Commonwealth legislation pertaining to the oversight of decision-making functions and building work as relevant*

1.3 *The client acknowledges that the Building Surveyor is subject to the requirements of the Building and Development Certifiers act, the environmental planning and assessment act 1979. This mean that the building surveyor must*

1.3.1 *Assess the project in accordance with law and National Construction Code of Australia; and*

1.3.2 *Must avoid conflicts of interest as defined within the Building and Development Certifiers Act; and*

1.3.3 *Must act in the public interest in accordance with the Building and Development Certifiers Act; and*

1.3.4 *Must act in a manner consistent with the code of conduct adopted under the building and development certifiers act.*

1.4 *The client acknowledges that the building Surveyor may engage in any other business, occupation or activity during the Term, provided that does not detrimentally affect the performance of the Certification Work.*

1.5 *If the client engages another person to provide services substantially the same as the Certification Work in respect of the Project, the Building Surveyor may terminate this agreement.*

1.6 *The client agrees for the following employed certifiers from AIS Certifiers Pty Ltd to undertake critical stage inspections: Anthony Lewis (BDC0228), Jared Nevill (BDC2523), Dale Brisbane (BDC05178), Scott Nevill (BDC05269).*

1.7 *The client acknowledges and agrees that they accept the terms and conditions contained in this agreement.*

# Modified Complying Development Certificate

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## Conditions of Contract

### PCA Obligations

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- a. The PCA agrees to carry out mandatory critical stage inspections during the course of construction of the proposed building work (where applicable) as follows-
  - i. Prior to issue of any CC/CDC
  - ii. at the commencement of the proposed building work; and
  - iii. after excavation for, and prior to the placement of any footing; and
  - iv. prior to pouring any in-situ reinforced concrete building element; and
  - v. prior to covering of the framework of any floor, wall, roof or other building element; and
  - vi. prior to covering waterproofing in any wet areas; and
  - vii. prior to covering any stormwater drainage connections; and
  - viii. after the proposed building work has been completed and prior to any occupation certificate being issued in relation to the building; and
  - ix. any other inspections as the PCA considers necessary in addition to those nominated which may be required from time to time to enable the issuing of the final Occupation Certificate.
- b. The owner and the principal contractor acknowledge that the PCA or another certifying authority (with the approval of the PCA) must inspect the mandatory critical stage inspections numbered (a)-vii. The PCA must carry out the final mandatory critical inspection (a)viii.
- c. The PCA shall issue the final Occupation Certificate for the proposed building work when the PCA is satisfied that –
  - i. any preconditions for the issue of the final certificate that are specified in the development consent or Complying Development Certificate have been met; and
  - ii. the building works for which the Certificate has been issued are suitable for occupation for use in accordance with their classification under the Building Code of Australia 1996 (as amended); and
  - iii. a final Fire Safety Certificate has been issued (if required).
- d. The PCA shall issue an Interim Occupation Certificate for the proposed development when the PCA is satisfied that: -
  - i. any preconditions to the issue of any Occupation Certificate as specified in the development consent or Complying Development Certificate been met; and
  - ii. that the building works for which the Construction Certificate has been issued are suitable for occupation for use in accordance with their classification under the Building Code of Australia 1996 (as amended); and
  - iii. the building does not constitute a hazard to the health or safety of the occupants of the building.

### Principal Contractor Obligations

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- i. Before the commencement of any residential building work the principal contractor must provide the PCA with Home Warranty Insurance pursuant to the Home Building Act, 1989.
- ii. The principal contractor must notify the PCA of a date and time for the carrying out of each mandatory critical stage inspection and shall pay the scheduled fees as set out.
- iii. The principal contractor must rectify any defects identified by the PCA during the course of each mandatory critical stage inspection to the satisfaction of the PCA before the principal contractor carries out any further building work or at such other times as may be agreed to by the PCA.
- iv. The principal contractor must not allow any occupation of the building to be permitted without first obtaining an Occupation Certificate (either interim or final) from the PCA.
- v. The principal contractor must ensure that a Construction Certificate or Complying Development Certificate has been issued prior to the commencement of any works.
- vi. The principal contractor must engage competent tradesman to carry out all aspects of the building works.
- vii. The principal contractor must provide all relevant drawings, plans, statutory plans and documentation associated with but not limited to the development consent, the Construction Certificate and any Occupation Certificate at the request of the PCA.
- viii. The principal contractor must attend any meetings if required by the PCA to do so.
- ix. The principal contractor must comply with any notices or orders that the PCA issues.
- x. The principal contractor must provide Compliance Certificates as requested by the PCA.
- xi. The principal contractor must provide all information that the principal contractor reasonably can obtain to enable the PCA to fulfil its obligations to this Agreement.

### Owner Obligations

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- i. The owner agrees to pay all foreseeable charges at the time of application, in accordance with attached invoice.
- ii. The owner agrees to pay any unforeseen charges within 21 days of charge occurring
- iii. The owner must ensure that a Construction Certificate or Complying Development Certificate has been issued and evidence of HBCF insurance or an Owner Builder Permit have been provided to the PCA prior to the commencement of works.
- iv. The owner must ensure that the subject property is available for the PCA to carry out the PCA's obligations under this Agreement.
- v. The owner must attend any meetings if required by the PCA to do so.
- vi. The applicant agrees to provide all approval documents to the Builder.

# Modified Complying Development Certificate

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- vii. The owner must not occupy the building until an Occupation Certificate (either interim or final) has been issued by the PCA.
- viii. The owner agrees that in the event of an interim Occupation Certificate being issued by the PCA and there being outstanding work that is required, be completed by the owner or a condition of development consent that needs to be satisfied by the owner, the owner agrees to complete the outstanding work or satisfy any condition of the development consent within three (3) months from the date of the interim Occupation Certificate or such other time as may be agreed between the owner and the PCA.
- ix. The owner agrees to pay any charges as set out for further inspections that are required to be carried out to enable the issuing of the final Occupation Certificate.

## Termination of this Agreement

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This Agreement may be terminated if any of the following occurs –

- i. Building works are commenced without the issue of a Complying Development Certificate or Construction Certificate.
- ii. The owner or principal contractor fails to provide Home Warranty Insurance pursuant to the Home Building Act, if the building work is residential building work;
- iii. If the PCA terminates this Agreement then the principal contractor and owner must pay any money owing to the PCA for work done and costs incurred by the PCA up to and including the date of termination of this Agreement.

## Replacing the PCA

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The appointed PCA can only be changed or replaced by another PCA with the approval of the original Certifying authority, or with BPB consultation

## Governing Law

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The parties agree that this Agreement is governed by the laws of NSW in particular the Environmental Planning and Assessment Act 1979 and its Regulations, and Building Certifiers and Development Act.

## The Certification Work

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The Building Surveyor may subcontract or licence all or part of its obligations under this agreement without prior notice to the Client

## Fees and Charges

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- i. The fees and charges payable for the certification works are as per the schedule;
- ii. The building surveyor reserves the right to change the Fees and Charges in the event of a variation to the scope of work for the Certification work. Any variations to the certification work (including but not limited to, any variation due to unforeseen circumstances, or a result of increases to the Building Surveyor in the cost of materials and labour) will be charged for and will be shown as variation on the invoice. Payment for all variations must be made in full at their time of completion.
- iii. Payment of an invoice is required within 30 days of issue.
- iv. Payment may be made by cash, or by cheque, or by bank cheque, or by direct credit, or by any other method as agreed to between the client and the AIS certifiers.
- v. Receipt by AIS certifiers of any form of payment other than cash does not constitute payment until that payment has been honoured, cleared or recognised by AIS certifiers.
- vi. GST, other takes, duties, disbursements and applicable government and councils fees and charges will be added to the Fee other than where they are expressly including in the Fee.

## Intellectual Property and Data

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-Nothing in this agreement affects the Intellectual Property Rights of either party, except as set out in this clause.

-The client grants the Building Surveyor an unrestricted, royalty free licence to use and manipulate all intellectual property rights in any Data which the client provides to the building surveyor to the extent reasonably necessary for AIS to perform certification work.

- The client warrants that any Data provided by it to AIS certifiers will not infringe the intellectual property rights of any person. The client indemnifies the building surveyor against any direct loss, costs, expenses, demands or liability arising out of a claim by a third party against the surveyor alleging that such data infringes any such intellectual property rights.

## Indemnity and Exclusion of Liability

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- The building surveyor must indemnify the client and its employees, officers and contractors against all claims, demands, expenses, loss or damage in respect of loss or damage to any property, or the death of or personal injury to any person, caused or contributed to by the building surveyor, a breach by the building surveyor of this agreement, a wilful unlawful or negligent proceeding by a third party against the client or its employees officers and contractors cause or contributed to by the Building Surveyor.
- This indemnity is reduced by the extent to which the client contributes to the event giving rise to the claim for the indemnity.
- The building surveyor must perform the Certification Work at its own risk in all things and releases the client and its employees, officers, members and contractors from all claims, actions, proceedings, costs, expenses, losses, suffering, illness and agents, subcontractors, third parties, and customers which arise from the performance of the certification work.
- Notwithstanding any other provision in this agreement, the building surveyor is not liable to the client nor is it required to indemnify the client, for any loss or damage suffered by the client or for any claim against the client( howsoever arising) for

# Modified Complying Development Certificate

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economic, indirect or consequential losses of any kind whatsoever.

- The Client indemnifies the AIS certifiers and its employees, officers and contractors against all claims, demands, expenses, loss or damage in respect of loss or damage to any property, or the death of or personal injury to any person, caused or contributed to by the client, a breach by the client of this agreement, a wilful unlawful or negligent act or omission of the Client, and any claim action or proceeding by a third party against the AIS certifiers or its employees, officers and contractors cause or contributed to by the client.
- The client release and holds harmless AIS certifiers against all claims, demands, expense, loss or damage arising in connection with the clients reliance on, or use of, any aspect of the Certification Work, including advice, given to the client by AIS certifiers in a manner which is not contemplated or authorised by the act or otherwise not in accordance with any exclusions or assumptions given by AIS certifiers.

## Mutual Warranties

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Each party represents and warrants to the other that as at the date of this agreement:

- All actions, conditions and things required to be taken, fulfilled and done by it in order to enable it to enter into, exercise its rights and perform its obligations under this agreement have been done; and
- All authorisations required for its entry into, exercise of its rights under, and performance of its obligations under this agreement have been obtained.

## Client Warranties and Obligations

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The client warrants;

- That any Data provided to AIS certifiers is accurate and complete in all respects
- That, in performing the certification work AIS certifiers act with the client's authority;
- That no other person has been appointed to perform the certification work in relation to the project.

The client must;

- Provide all information required by AIS certifiers within the time specified by AIS certifiers to enable the Building Surveyor to perform the certification work.
- Give AIS certifiers such access to the project and any relevant site as is required by AIS certifiers to perform the Certification Work.

## Force Majeure

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If a Force Majeure event cause delay or failure by a party to perform its obligations under this agreement

- neither party is liable for such delay or failure; and
- all obligations of a party under this agreement are suspended until the Force Majeure Event cease to apply.

A party which is, by reason of a Force Majeure Event, unable to perform any obligation or condition required by this agreement must;

- notify the other party as soon as possible giving
  - o reasonable full particulars of the Force Majeure Event;
  - o the date of commencement of the Force Majeure Event and an estimate of the time required to enable it to resume full performance of its obligations; and
  - o where possible, the means proposed to be adopted to remedy or abate the Force Majeure Event;
- use all reasonable diligence and employ all reasonable means to remedy or abate the Force Majeure Event as soon as possible;
- Resume performance as soon as possible after termination of the Force Majeure Event or after the Force Majeure Event abates to an extent which permits resumption of performance
- Notify the other party when the Force Majeure Event terminates or abates to an extent which permits resumption of performance; and
- Notify the other party when resumption of performance occurs

If a delay or failure under this clause exceeds 60 days, either party may immediately terminate this agreement by notice to the other party.

## Termination

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AIS certifiers may, at any time, terminate this agreement provided that in doing so AIS certifiers acts reasonable and in accordance with law.

Notwithstanding any other provision of this agreement, the client must pay AIS certifiers the Fees and Charges within 14 days of the termination of this agreement, or such part of the fee which is, at the time, unpaid.

Termination of the agreement under this clause does not affect any accrued rights or remedies of either party.

## Confidential Information

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Subject to the Building Certifiers and Development Act, Environmental planning and assessment act 1979 and other applicable legislation, each party agrees that it will not use any confidential information of the other party or allow any purpose, except for the purposes of an in the manner contemplated by this agreement, and agrees that it will:

- Keep confidential
- Take reasonable steps to ensure that party's officers and employees do not disclose to a third party;
- Maintain proper and securer custody of; and
- Not use or reproduce in any form

Any confidential information belonging to the other party.

# Modified Complying Development Certificate

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## Insurance

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AIS certifiers must always maintain during the Term all insurance required by law.

AIS certifiers must not allow any act or omission which would make any such policy of insurance void or unenforceable.

## Dispute Resolution

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General-

A party must not commence arbitration or court proceeding (except for urgent equitable or injunctive relief) in respect of a dispute under this agreement, unless it first attempts to resolve the dispute by negotiation and mediation under this clause.

A party claiming that a dispute has arisen under this agreement must give written notice to the other party specifying the nature and details of the dispute.

Negotiation

- On receipt of that notice by the other party, the parties must negotiate in good faith to resolve the dispute.
- If the parties are unable to resolve the dispute within 10 business days, they must promptly refer the dispute:
  - o In the case of the Client to the Client's representative; and
  - o In the case of AIS certifiers to the AIS certifiers representative.
- Those persons must meet to resolve the dispute and must be authorised to resolve the dispute.

Mediation

- If those persons are unable to resolve the dispute within 10 business days of referral, a party may refer the dispute for mediation under the mediation rules of the Resolution Institute to:
  - o A mediator agreed by the parties; or
  - o If the parties are unable to agree a mediator within five business days, a mediator nominated by the resolution institute.
- The role of a mediator is to assist in negotiating a resolution of the dispute, A mediator may not make a decision that is binding on a party unless that party has agreed in writing;
  - o Any information or documents disclosed by a party under this clause;
  - o Must be kept confidential; and
  - o May not be used except to attempt to resolve the dispute.
- Each Party must bear its own mediation costs. The parties may bear equally the costs of any mediator.

Performance

If possible, each party must perform its obligations under this agreement during negotiations, mediation and arbitration proceedings.

## Miscellaneous

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Entire Agreement

This agreement:

- Constitutes the entire agreement between the parties about its subject matter;
- Supersedes any prior understanding agreement, condition, warranty, indemnity or representation about its subject matter.

Waiver

A waiver of a provision of or right under this agreement must be in writing signed by the party giving the waiver and is effective only to the extent set out in the written waiver.

Exercise of power

- The failure, delay, relaxation or indulgence by a party in exercising a power or right under this agreement is not a waiver of that power or right
- An exercise of a power or right under this agreement does not preclude a further exercise of it or the exercise of another right of power.

Survival

Each indemnity, obligation of confidence and other term capable of taking effect after the expiration or termination of this agreement, remains in force after the expiration or termination of this agreement.

Consumer Law

- Nothing in this agreement is intended to have the effect of contracting out any applicable provisions of the Competition and Consumer Act 2010 or the Fair trading act 1987 except to the extent permitted by those acts where applicable.
- Where the client buys certification work as a consumer these terms and conditions shall be subject to any laws or legislation governing the rights of consumers and shall not affect the consumers statutory rights.

## Notices

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A notice, demand, consent, approval or communication under this agreement (Notice) must be:

- In writing, in English and signed by a person authorised by the send; and
- Hand delivered or sent by prepaid post or email to the recipients address or email address specified in the schedule, as varied by any Notice given by the recipient to the sender.

Notice is deemed to be received:

- If hand delivered, on delivery;
- If sent by prepaid post, two business days after posting (or seven Business Days after posting to or from a place outside Australia.);
- If sent by email, at the time deemed to be the time receipt under the Electronic Transactions Act 2000 or the electronic transactions act 1999 if the notice was being given under a law of the commonwealth of Australia.

## Modified Complying Development Certificate

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However, if the notice is deemed to be received on a day that is not a business day or after 5:00pm, the notice is deemed to be received at 9:00am the next business day.