



**SYDNEY INDEPENDENT**  
BUILDING INSPECTIONS

## ***SPECIALIST BUILDING INSPECTION REPORT*** ***TERMS OF ENGAGEMENT***

Thank you for requesting Sydney Independent Building Inspections ('SIBI') to undertake a Specialist Building Inspection Report on Your behalf.

**IT IS ESSENTIAL THAT YOU READ AND UNDERSTAND THIS PAGE PRIOR TO ACCEPTING THE TERMS OF ENGAGEMENT.**

The Australian Standard that governs Specialist Building Inspections, strongly recommends that to protect both You the Client and the Inspector from any misunderstanding, that a Specialist Building Inspection Report Terms of Engagement be made, prior to the Inspection.

If You have any special instructions or changes to the Terms of Engagement please include details in the 'Special Instructions' tab of the online booking form or send to Us via facsimile or email prior to accepting the Terms of Engagement.

*Please note that should You change Your mind and not cancel the Inspection in accordance with the Terms of Engagement then You agree that this document forms the agreement between You and Us. We will carry out the inspection and report as ordered by You in accordance with this agreement and You agree to pay for the inspection and report.*

Thank You for Your understanding.

The general terms and conditions set out below apply to the *Specialist Building Inspection* services provided by *Sydney Independent Building Inspections (SIBI)*.

## 1. ROLE OF SIBI

- 1.1 *SIBI* will act in all professional matters as a faithful adviser to its clients. *SIBI* will exercise in reasonable skill and care in the provision of its professional services and will abide by the codes of ethics or practice specified by the relevant professional bodies.
- 1.2 *SIBI* will provide its services to clients in accordance with the scope of work and budgets agreed to with its clients.
- 1.3 If *SIBI* becomes aware of any matter that changes the scope of services to be provided, *SIBI* will notify the client of these changes as soon as practicable after the subject circumstances change.
- 1.4 *SIBI* will exercise normal reasonable care regarding the services provided by Sub-Consultants retained on behalf of a client and will diligently review all their work but the Sub-Consultant will remain ultimately responsible for the services it provides.

Sub-Consultants employed by the client, where appointed and paid directly by the client or by *SIBI* as agent for the client, will be responsible to the client, and *SIBI* responsibility to the client in respect of such Sub-Consultants will be limited to directing them and integrating their services.

## 2. ROLE OF CLIENT

- 2.1 A client will make available to *SIBI* as soon as practical after the provision of services has been agreed, all information, documents, maps and other particulars relevant to the subject provision of services.
- 2.2 A client will nominate a person or persons as their representative and give written notice of the names of the person/s so appointed. A client will agree that the nominated persons have authority to act on its behalf for all purposes regarding services provision. *SIBI* will not be obliged to accept or respond to instructions given by any person other than the nominated person/s.
- 2.3 A client will co-operate with *SIBI* in all reasonable ways regarding the conduct of the provision of services being undertaken on its behalf.
- 2.4 The client will ensure that you, your employees, contractors and agents cooperate with us and do not interfere with or delay the service.

## 3. PROVISION OF SERVICES

- 3.1 The provision of services will be defined in a scope by the task or matters given in *SIBI* proposal submitted to the client. Such a proposal may be amended following consultation with the client, in which case the scope will then be by *SIBI* proposal as modified by any amendments.
- 3.2 All amounts quoted in our proposal, agreement or any other documents we provide you that relates to fees or other amounts payable are exclusive of GST unless expressly included.

## 4. OWNERSHIP OF DOCUMENTS AND COPYRIGHT

- 4.1 *SIBI* will retain ownership and copyright to all reports and other work produced by *SIBI* during the course of fulfilling its provision of services. The client will have a licence to use such documents and material for the purpose of the provision of services, however, such licence will be terminated if the client breaches the obligation to pay *SIBI*.
- 4.2 *SIBI* will be granted a licence over any property or document of the client in the possession of *SIBI* until such time that all invoices issued by *SIBI* have been paid in full.
- 4.3 Records of disbursements and expenses pertaining to the work will be kept by *SIBI* and will be available for inspection by the client or the client's authorised representatives.
- 4.4 *SIBI* is entitled to destroy all documents after seven (7) years from date we send you our final invoice.
- 4.5 The client shall to the extent reasonably possible ensure that *SIBI* input into the commission is duly recognised in any publicity material that is generated by the client in reference to the commission.

## 5. PAYMENTS FOR SERVICE

- 5.1 In return for the provision of services specified in a proposal submitted by *SIBI*, whether provided in stages or wholly, a client agrees to pay *SIBI* the fees and expenses claimed in invoices submitted for the provision of services. Invoices will be submitted on a monthly basis, or at intervals agreed to with the client, and payment is required within 14 days.
- 5.2 A client agrees that if it fails to pay all monies claimed in an invoice, when such payment is due as specified in the subject invoice that *SIBI* will be entitled to:
  - i) Charge interest at the rate of the NAB Business Mortgage Index Rate plus 1%. Such interest will be calculated from the due date for payment as specified in the subject invoice.
  - ii) Cease further work on the commission until such invoice(s) is paid.
- 5.3 *SIBI* reserves the right to review rates quoted and negotiate an increase for any commission that extends longer than 12 months. Any increase is intended to reflect increased costs associated with personnel or equipment that are utilised to complete the commission.

## 6. TERMINATION OF SERVICES

- 6.1 *SIBI* or a client may terminate a commission previously awarded to *SIBI* provided notice of such termination is given in writing with one month's notice and a client agrees to meet all expenses incurred up to the date of receipt of the subject notice by *SIBI*.
- 6.2 Sections 4, 5, 7, 8 and 9 continue to operate after this agreement is terminated.

## 7. SETTLEMENT OF DISPUTES

- 7.1 In the event of a dispute or a claim arising out of, or relating to the Inspection or Report, You must notify us as soon as possible of the dispute or claim by email, fax or mail. You must allow us (which includes persons nominated by Us) to visit the property (which visit must occur within twenty eight (28) days of your notification to Us) and give us full access in order that we may fully investigate the complaint. You will be provided with a written response to your dispute or claim within 28 days of the date of the inspection.
- 7.2 If You are not satisfied with our response You must within twenty one (21) days of Your receipt of Our written response refer the matter to a Mediator nominated by Us from the Institute of Arbitrators and Mediators of Australia. The cost of the Mediator will be borne equally by both parties or as agreed as part of the mediated settlement.
- 7.3 In the event You do not comply with the above Complaint Procedure and commence litigation against Us then You agree to full indemnify Us against any awards, cost, legal fees and expenses incurred by Us in having your litigation set aside or adjourned to permit the foregoing Complaints Procedure to complete.

## 8. LIMITATION OF LIABILITY

- 8.1 To the maximum extent permitted by law *SIBI* liability to the Client as a result of loss or damage sustained by the Client arising from or in any way connected with this Agreement (including but not limited to a negligent act or omission, breach of agreement by employee, personnel or consultant of *SIBI* and error, defect or discrepancy in services or material provided), whether from contract, in tort, in equity or statute based or otherwise shall be limited in aggregate to \$2,000,000.
- 8.2 *SIBI* is not liable to the Client for any consequential or indirect loss or damage whatsoever.
- 8.3 To the extent the limit of liability referred to in this Clause is not permitted by law then any such liability is strictly limited to the re-supply of the service being made again.
- 8.4 The liability of *SIBI* to a client will expire twelve months from the issue of the last account of the project, unless in the meantime a client has made claim in writing upon *SIBI* specifying a negligent act, omission or statement said to have caused an alleged loss or damage sustained or sustainable.
- 8.5 Notwithstanding Clauses 8.1 to 8.4 *SIBI* will not be liable for any loss or damage sustained or sustainable by a client in relation to:
- i) Errors occurring in plans, designs or specifications not designed or prepared by *SIBI*.
  - ii) Errors occurring in the course of consultancy work which are not the responsibility of *SIBI*.
  - iii) The use of *SIBI* work for any purpose other than the purpose for which the work was originally commissioned.
  - iv) The use of any additional or similar works, documents or other information of advice without the approval of *SIBI*.
- 8.6 A client will indemnify *SIBI* for all loss or damage sustained or sustainable by *SIBI* as a result of any breach of contract or negligent act, omission or statement on the part of the client or on the part of his agents or employees.

## 9. CONFIDENTIALITY

- 9.1 “Confidential information” means all information, howsoever described, which is confidential in nature and acquired by *SIBI* (including its personnel) in the provision of the services to the Client.
- 9.2 Confidential information excludes information in the public domain (not as a result of a breach of this agreement), information received from a third person (also not the result of any breach by *SIBI*) or information that *SIBI* knew prior to the Confidential information being made available to *SIBI*.
- 9.3 *SIBI* will at times maintain all Confidential information as confidential and not disclose it in any way to another person without the prior authorisation of the Client or required by law.
- 9.4 All reports, documents, etc will be prepared and made exclusively for the client and *SIBI* will accept no liability whatsoever for claims from third parties to whom the contents of such reports, documents, etc. are made known directly or indirectly by the client, or any other party.
- 9.5 Unless otherwise directed in writing by the Client, *SIBI* retains the right to include references to the scope of services in its promotional material. Such references will not include confidential material.