

## Residential Property Surveyor Services Agreement

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## **General Information**

### **Residential Property Surveyor Services Agreement**

This Residential Property Surveyor Services Agreement is between an Owner and a Surveyor who is hired to perform residential surveying services. It is imperative that this agreement be set out in writing and clearly specifies the services the Surveyor will perform (i.e., mapping, boundary fences, property limits). This agreement sets out the detailed terms of the arrangement including the scope of the surveying work, the hours the Surveyor may work and when the Surveyor will be paid.

It is important that this services agreement be set out in writing rather than via an oral agreement. A written Residential Property Surveyor Services Agreement will be invaluable if there are disagreements or miscommunications regarding the scope and services the property surveyor will perform.

## **Instructions and Checklist**

### **Residential Property Surveyor Services Agreement**

- Both parties should read the agreement carefully.
- Insert all requested information in the spaces provided on the form.
- This form contains the basic terms and language that should be included in similar agreements.
- This form includes exhibits which should be attached and incorporated as part of this agreement.
- This agreement includes an arbitration provision. If you prefer to settle any disputes through the court system, simply remove this language from the “Dispute Resolution and Arbitration” provision and replace with applicable language.
- Both the Owner and Surveyor must sign the Agreement.
- Both parties should retain either an original or copy of the signed agreement.
- All legal documents should be kept in a safe location such as a fireproof safe or safe deposit box.

## Step-by-Step Instructions

### Residential Property Surveyor Services Agreement

The following instructions will walk you through each provision to help you fully understand the terms of your agreement. The numbers below correspond with the respective provision within the Agreement.

**Heading:** Fill in the date the Agreement is entered into and the name of both Owner and Surveyor.

**Section 1: Scope of Work:** Describe in detail the surveying services the Surveyor will provide and the hours in which the Surveyor may work.

**Section 2: Quality.** Specify the quality of the surveying work and Surveyor guarantees that all surveys are done according to industry standards and in a workmanlike manner.

**Section 3: Payment.** Specify the exact amount of any advance payment to the Surveyor and when other payments will be made.

**Section 4: Insurance.** Specify the type of insurance that both Owner and Surveyor must carry.

**Section 5: Warranty and Indemnity** Surveyor warrants all materials and workmanship for a period of five years and any defects will be repaired or replaced at no cost to Owner. If this is not the case, specify otherwise.

**Section 6: Term and Termination.** Fill in the term of the agreement and options for termination and the effects to the project if the agreement is terminated.

**Section 7: Expenses.** Surveyor agrees to bear all reasonable expenses and costs. If this is not the case, specify otherwise.

**Section 8: Assignment.** The Surveyor may not assign any of its duties under this contract to another party without the prior written consent of the Owner.

**Section 9: Miscellaneous.** Specific provisions related to waiver, notices, governing law, agreement content, severability and counterparts. If these provisions are subject to change, set out the particulars.

**Section 10: Dispute Resolution and Arbitration.** The parties agree to settle any disputes by arbitration according to the rules of the American Arbitration Association. If the parties desire to settle disputes through the court system, specify the particulars in writing.

**Signature Blocks.** Both Owner and Surveyor must sign this agreement.

**Schedule 1/Property Description.** Set out a detailed legal description of the property where the surveying will take place.

**Schedule 2/Scope of Work.** Set out a detailed description of the specific survey work to be performed including the commencement and ending dates, materials used and clean-up after completion.

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## RESIDENTIAL PROPERTY SURVEYOR SERVICES AGREEMENT

THIS RESIDENTIAL PROPERTY SURVEYOR SERVICES AGREEMENT (the "Agreement") is made as of this [date] day of [month], 2011 (the "Agreement Date") by and among

[name], of [address] (the "Owner"), and

[name], a [address] corporation (the "Surveyor")

### RECITALS

WHEREAS, Owner is the lawful owner of the Residential Property, whose description is stated in **Schedule 1-Property Description**; and

WHEREAS, Owner desires surveyor work to be carried out for the Residential Property as per the **"Scope of Work"** specified in **Schedule 2** and Surveyor has agreed to perform such work for the Property, on the terms and conditions mentioned herein below;

**Now, therefore, the Parties agree as follows:**

#### 1. SCOPE OF WORK

- 1.1 Surveyor will perform the work as per specifications mention in **Schedule 2-Scope of Work**.
- 1.2 Surveyor will provide the service during normal business hours Monday thru Friday \_\_\_ am to \_\_\_ pm.
- 1.3 Where Owner has authorized Surveyor to sub-contract its obligation, during the course of performance of its obligations, the Surveyor shall make periodic visits to Property to monitor the sub-contractor's workmanship and progress, to check the use of materials, the works' conformity to specification and to report generally on the progress and quality of the works. However, liability for the works shall be limited to omissions or errors reasonably discoverable by the Surveyor undertaking periodic inspections of the Property. Where frequent or constant inspection is necessary or required, sub-contractor, clerk of works or resident engineer should be appointed by the Surveyor/ sub-contractor to supervise the day-to-day administration of the work;
- 1.4 Where the Owner directly appoints a specialist consultant or a works surveyor, the Surveyor shall not be liable for any loss, injury or damage incurred through the default of the specialist or other surveyor. The Surveyor shall be responsible for the direction and integration of the specialist's services or surveyor's works only where expressly required as a part of the services.

1.5 The Surveyor shall not, without the consent or authority of the Owner, give to the sub-contractor or any other surveyor, supplier or person, any instruction the necessary effect of which would materially vary the scope or cost of works.

## 2. **QUALITY**

2.1 Surveyor shall use trained and experienced workmen having all necessary skills needed to satisfactorily complete the work. Surveyor shall finish the work on schedule.

2.2 Surveyor shall guarantee all material to be as specified.

2.3 Surveyor shall perform the work in a workmanlike manner according to industry standard practices. Any deviation from agreed specifications, involving extra costs, will be executed only after written confirmation of Owner is obtained in advance.

## 3. **PAYMENT**

3.1 Owner shall pay an advance payment of \$ \_\_\_\_ to Surveyor \_\_\_\_ weeks prior to the commencement of the work. Another payment of \$ \_\_\_\_ will be paid, upon completion of 50% of the work. The balance of \$ \_\_\_\_ will be paid upon full and satisfactory completion of the work.

3.2 The above specified costs do not include, and the Surveyor shall be entitled to reimbursement of expenditure comprising:

- a. fees, other charges and disbursements of any main or other Surveyor, supplier, clerk of works, other surveyor, professional or consultant engaged with the prior written consent of the Owner whether directly or as agent for the Owner, and whether or not working under the direction or supervision of the Surveyor;
- b. the reasonable cost of producing or reproducing documents, drawings, maps, photographic and other records and presentation materials;
- c. reasonable travel and hotel expenses (including mileage for car travel);
- d. unit charges (but not standing charges) for communications by telephone, telex, facsimile transmission, post, messenger, etc;
- e. fees and advertising costs in connection with applications for local government consents such as planning permission and building regulation consent;
- f. any other fees or expenses which the Owner has authorized the Surveyor in writing to incur.

3.3 On written demand by the Owner, the Surveyor shall provide as appropriate:

- a. time sheets where the fee is based on time charges;
- b. original receipts or other appropriate evidence of expenses or disbursement.

3.4 All payments are exclusive of applicable taxes, which shall be borne by the Owner.

#### 4. **INSURANCE**

- 4.1 Surveyor shall keep in force during progress of the foundation repair, and shall furnish to Owner, upon Owner's request, copies of the following insurance policies:
- a. Surveyor's Risk Insurance in the amount of the Contract Price (including any costs incurred due to change in Scope of Work), naming Owner as loss payee;
  - b. Statutory Worker's Compensation Insurance for Surveyor's employees; and
  - c. Comprehensive General Liability Insurance with limits of \$\_\_\_\_\_ per person, per occurrence for personal injury, (\$\_\_\_\_\_ aggregate), with \$\_\_\_\_\_ coverage for completed operations.

#### 5. **WARRANTY & INDEMNITY**

- 5.1 Surveyor warrants the quality of all materials and workmanship for a period of five years. Any defects in the materials or workmanship will be repaired or replaced at no cost to Owner.
- 5.2 Surveyor shall defend, indemnify and hold harmless Owner against all claims, liabilities, expenses, costs, loss or damage of whatsoever nature (including legal costs on a full indemnity basis incurred by Owner) brought against, suffered or incurred by Owner, and defend any suit brought against Owner, arising out of or in connection with this Agreement, including without prejudice to the generality of the foregoing:
- a. Any breach of the terms and conditions of this Agreement by the Surveyor;
  - b. Any act, omission, fraud and negligence or default whatsoever of sub-Surveyors, employees or agents employed by Surveyor to perform its obligations hereunder;
  - c. Any wrongful, incorrect, dishonest, criminal, fraudulent or negligent work, misfeasance, bad faith, disregard of its duties and obligations hereunder, service, act or omission of /by Surveyor or any of its personnel.

#### 6. **TERM & TERMINATION**

- 6.1 **Term.** This Agreement shall commence from the Commencement Date specified in Schedule 1, and continue for a period of \_\_\_ years, unless terminated earlier by the Owner.
- 6.2 **Termination.** Owner shall have the option to terminate this Agreement,
- a. In the event that the Surveyor fails to complete any part of the work on the deadlines agreed with Owner, and as agreed in Schedule 1;
  - b. In the event that the Surveyor is in material breach of any of its covenants under this Agreement and where capable of remedy, fails to remedy such breach within fifteen (15) days of being notified by Owner to remedy the breach.

6.3 Without prejudice to any other rights or remedies it may have, Owner shall have the right at any time to terminate the Agreement forthwith by serving a written notice of termination on Surveyor:

- a. Surveyor becomes insolvent or ceases to trade or enters into any composition with its creditors; or
- b. A bankruptcy order is made against Surveyor; or
- c. A Receiver or an Administrative Receiver is appointed in respect of any of Surveyor 's assets; or
- d. An order to wind up Surveyor's business is made or a Liquidator is appointed in respect of Surveyor (otherwise than for the purposes of reconstruction or amalgamation).
- e. If Surveyor is prevented from providing the services by any court, other judicial, quasi-judicial, governmental orders, for any reasons attributable to Surveyor.

6.4 **Effect of Termination.** Notwithstanding any other rights and remedies provided elsewhere in the Agreement, on termination of this Agreement with effect from the effective date of termination and thereafter:

- a. Neither Party will represent the other Party in any of its dealings.
- b. The expiration or termination of this Agreement for any reason whatsoever shall not affect any obligation of either Party having accrued under the Agreement prior to the expiration or termination of this Agreement and such expiration or termination shall be without prejudice to any liabilities of either Party to the other Party existing at the date of expiration or termination of this Agreement.

## 7. EXPENSES

7.1 Surveyor agrees to bear all reasonable out-of-pocket expenses and costs (including reasonable attorney and other professional fees and expenses) incurred in connection with the transactions contemplated by Agreement.

## 8. ASSIGNMENT

8.1 This Agreement may not be assigned by Surveyor without the prior written consent of the Owner. Subject to the foregoing, all of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the successors and assigns of the parties. Any attempted assignment of this Agreement by the Surveyor in violation of this section shall be null and void.

## 9. MISCELLANEOUS

9.1 **Waiver.** Any term or provision of this Agreement may be waived at any time by the party entitled to the benefit thereof by a written instrument executed by such party.

- 9.2 **Notices.** Any notice, request, demand, waiver, consent, approval or other communication which is required or permitted hereunder shall be in writing and shall be deemed given only if delivered personally (to the attention of the person identified) to the address of such person maintained on the book and records of the party sending the notice, or sent by telecopy, telegram or by certified mail, postage prepaid, or to such other address as the addressee may have specified in a notice duly given to the sender as provided herein. Such notice, request, demand, waiver, consent, approval or other communication will be deemed to have been given as of the date so delivered or telegraphed or, if mailed, three business days after the date so mailed.
- 9.3 **Governing Law.** This Agreement shall be governed by, and interpreted and enforced in accordance with, the substantive laws of the State of \_\_\_\_\_.
- 9.4 **No Benefit to Others.** The representations, warranties, covenants and agreements contained in this Agreement are for the sole benefit of the parties hereto and their executors, legal representatives, successors and assigns, and they shall not be construed as conferring and are not intended to confer any rights on any other persons.
- 9.5 **Contents of Agreement.** This Agreement together with any documents referred to herein set forth the entire agreement of the parties hereto and supersede any prior agreement or understanding of the parties with respect to the transactions contemplated hereby. This Agreement may not be amended except by an instrument in writing signed by each of the parties hereto, and no claimed amendment, modification, termination or waiver shall be binding unless in writing and signed by the party against whom or which such claimed amendment, modification, termination or waiver is sought to be enforced.
- 9.6 **Severability.** Any provision of this Agreement which is invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof, and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.
- 9.7 **Counterparts.** This Agreement may be executed in any number of counterparts, which when taken together, shall constitute but one and the same instrument. Any and all counterparts may be executed by facsimile.

## 10. DISPUTE RESOLUTION AND ARBITRATION

- 10.1 The Parties agree to negotiate in good faith to resolve any dispute between them arising out of, under or in connection with this Agreement. In the event the negotiations do not resolve the dispute to the reasonable satisfaction of the Parties, then each Party shall nominate a person of respectable professional standing and unimpeachable conduct as its representative. These representatives shall, within thirty (30) days of a written request by any Party to call such a meeting, meet in person and shall attempt in good faith to resolve the dispute.

10.2 Upon the Parties being unable to appoint the representatives as aforesaid, or if the disputes cannot be resolved by such representatives in such meeting as aforesaid, then in such an event, the disputes or differences shall be submitted to final and binding arbitration at the request of either Party upon written notice to that effect to the other Party. In the event of such arbitration:

- a. Such arbitration shall be in accordance with the rules of American Arbitration Association (or any amendment thereof) (which are deemed to be incorporated in this Agreement by reference). All proceedings of such arbitration shall be in the English language. The venue of arbitration shall be \_\_\_\_\_.
- b. The arbitration panel shall consist of three arbitrators, one arbitrator to be appointed by each of the Parties and the third arbitrator to be appointed by two arbitrators so appointed.
- c. Arbitration awards rendered shall be final and binding and. The losing Party, as determined by arbitrators, shall pay all reasonable out-of-pocket expenses (including, without limitation, reasonable attorneys' fees) incurred by the prevailing Party, as determined by the arbitrators, in connection with any dispute unless the arbitrators direct otherwise.
- d. Nothing shall preclude a Party from seeking interim or permanent equitable or injunctive relief, or both, from any court having jurisdiction to grant the same. The pursuit of equitable or injunctive relief shall not be a waiver of the duty of the Parties to pursue any remedy for actual monetary damages through the arbitration described in this Section.

**IN WITNESS WHEREOF**, each Party hereto has signed, or caused to be signed by its officer thereunto duly authorized, this Agreement as of the date first above written.

**Owner**

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Surveyor**

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SCHEDULE 1**  
**PROPERTY DESCRIPTION**

**SCHEDULE 2**  
**SCOPE OF WORK**