



Agreement between Building Owner and Architect for Appointment as Assigned Certifier

Edition 3 (November 2017)

Registered Name or of	<input type="text"/>	<i>(Building Owner)</i>
	<input type="text"/>	Registered No.
	<input type="text"/>	<i>(Address)</i>
appoints on behalf of of	<input type="text"/>	<i>(Assigned Certifier)</i>
	<input type="text"/>	<i>(Company name where relevant)</i>
	<input type="text"/>	<i>(Address)</i>
as Assigned Certifier for	<input type="text"/>	
	<input type="text"/>	<i>(Project name and Address)</i>

on the terms and conditions in this document.

The Assigned Certifier will provide the Building Owner with the services at [B] of this Agreement for the purposes of S.I. No. 9 of 2014, including amendments, alterations and the Code of Practice in force at the time of making this Agreement. The Building Owner will fulfil the obligations at [A] of this agreement and pay the Assigned Certifier the charges at [C], and reimburse the Assigned Certifier for costs incurred at [C].

The Assigned Certifier warrants that she/he is on the Register of Architects provided in the Building Control Act 2007.

BUILDING OWNER

Signed	<input type="text"/>	<i>(Building Owner)</i>	
Witnessed by	<input type="text"/>	<i>(Signature)</i>	<input type="text"/>
	<input type="text"/>	<i>(Director)</i>	<input type="text"/>
If a company, the following should be completed in lieu of signing the above:*			
Witnessed by	<input type="text"/>	<i>(Director)</i>	<input type="text"/>
	<input type="text"/>	<i>(Secretary)</i>	<input type="text"/>
	<input type="text"/>	<i>(Signature)</i>	<input type="text"/>

* to be signed by the Director of a Company

ASSIGNED CERTIFIER

Signed	<input type="text"/>	<i>(Person)</i>	<input type="text"/>
	<input type="text"/>	<i>(Person's name)</i>	<input type="text"/>
Witnessed by	<input type="text"/>	<i>(Signature)</i>	<input type="text"/>
	<input type="text"/>		<input type="text"/>

The Building Owner and the Assigned Certifier should initial any amendments they make to this agreement.

[A]. ROLE AND OBLIGATIONS OF THE BUILDING OWNER

The Building Owner has statutory responsibility for ensuring that the building or works are carried out in accordance with the requirements of the Building Regulations. In relation to the design and construction of buildings, the Building Owner will appoint competent Designers and Builder, including those listed in Appendix 1. (Ref. 3.1 and 3.2 of the Code of Practice for Inspecting and Certifying Building Works produced by the Department of Housing, Planning, Community and Local Government in September 2017).

The Building Owner shall, inter alia:

- Ensure that a Fire Safety Certificate and Disability Access Certificate are obtained where required.
- Sign a Commencement Notice (or 7 Day Notice) to be lodged with the Building Control Authority.
- Sign and submit to the Building Control Authority a notice for the assignment of:
 - a Competent Registered Professional person (the Assigned Certifier) to inspect the works during construction and provide a Certificate of Compliance on Completion and
 - a Competent Builder to construct the building works in accordance with the plans, specifications and Building Regulations, and to sign the Certificate of Compliance on Completion.
- Engage Competent Persons and adequate resources to design, construct, inspect and certify the building works.
- Where the Assigned Certifier or Builder withdraws from the project, the Building Owner will promptly appoint a replacement Assigned Certifier or Builder. Where this happens, the Building Owner shall give notice to the Building Control Authority of the new assignment/s. The Building Owner shall at all times use reasonable endeavours to ensure that an Assigned Certifier and Builder are in place.
- Where there is a change of Building Owner, after the lodgement of a Commencement Notice (or a 7 day Notice) prior to the submission of the Certificate of Compliance on Completion, the new Building Owner shall give notice of the change of Building Owner, and also notify the Building Control Authority in writing of all the revised appointments in place.
- The Building Owner will not assign this agreement without the written agreement of the Assigned Certifier.
- It is recommended that the Building Owner take out and maintain Defects Liability Insurance for a period of 10 years.
- Maintain records.
- Shall not appoint any person to design, construct, manage, inspect or certify the building or works to whom the Assigned Certifier shall reasonably object.
- The Building Owner's obligations shall extend to the maintenance of the relevant building or works in compliance with the Building Regulations.

[B]. SERVICES TO BE PROVIDED BY THE ASSIGNED CERTIFIER

The Assigned Certifier agrees to carry out the services and obligations of the Assigned Certifier under the Building Control (Amendment) Regulations 2014, S.I. No. 9 of 2014 and the associated Code of Practice for Inspecting and Certifying Building Works 2014, including any amendments or alterations at the time of signing this agreement.

The Assigned Certifier is the person assigned by the Building Owner as required under the Building Control (Amendment) Regulations 2014. The Assigned Certifier undertakes:

- to inspect the works in accordance with the Inspection Plan,
- to co-ordinate the inspection activities of others during construction,
- to certify on completion, in conjunction with the Builder, that the building or works have been constructed in compliance with the requirements of the Building Regulations,*

*Certification is provided subject to section 21 of the Building Control Act 1990 and is based on having formed a professional opinion based on the execution of the Inspection Plan. It is reliant on the Ancillary Certificates and test results furnished by others as set out in the Inspection Plan.

- to be the single point of contact with the Building Control Authority during construction,
- to prepare the Preliminary Inspection Plan and oversee adherence to this plan and on completion provide the Inspection Plan as implemented,
- to identify all design professionals and specialists, in conjunction with the builder, from whom certificates are required,
- to identify all certificates required and received from those listed above,
- as agreed with the client, lodge the Commencement Notice and all the statutory documents to the relevant Building Control Authority,
- to co-ordinate the ancillary certification by members of the Design Team and other relevant bodies for the Certificate of Compliance on Completion,
- in consultation with members of the Design Team, plan and oversee the implementation of the Inspection Plan during Construction,
- to co-ordinate and collate all certification of compliance for completion in conjunction with the builder and receive these as formal submissions at agreed intervals and dates,
- on termination or relinquishment of this appointment make available to the Building Owner all certification prepared and inspection reports carried out,
- to maintain records of inspections for 6 years,
- to provide and sign the relevant statutory Form of Undertaking and the Certificates of Compliance at Completion,
- to seek advice from the Building Control Authority in respect of compliance matters, relating to the building or works, where disputes or differences of opinion arise between the parties to the project.

The role of Assigned Certifier does not include responsibility for the supervision of any builder.

[C]. FEES AND COSTS

The fee for the service will be (insert figure in one of the following):

% of the Total Cost of Construction or

€ Where charges are agreed on a lump sum basis or

€ per sq. metre, applied to the total floor area of the project.

A retainer of € is payable in advance of the Assigned Certifier commencing work. This fee is included in the fees set out above.

Additional services will be charged on a time basis as set out below:

Principal: per hour

Technical Support Staff per hour

Value Added Tax at the current rate of 23% is applicable.

For the avoidance of doubt, Additional Services shall include:

- Additional site visits where works have not been satisfactorily completed in accordance with the Inspection Plan.
- Administrative work where certification has not been satisfactorily provided to the Assigned Certifier.
- All other additional work occasioned by the neglect, or poor performance of the Building Owner, builder, Design Team and Certifiers.

Stage Payments and Terms

Fees due at work stages will be:

- Retainer (non-refundable): 10%
- At Commencement Notice: 40%
- At Construction Stage: 30%
- At Certification Stage: 20%

Interim Payments during the Construction Stage will be invoiced at monthly intervals (depending on the expected duration of the project).

Invoices and Requests for Payment by the Assigned Certifier

These shall be paid no later than 28 days after they are received by the Building Owner. The Assigned Certifier will not commence a Work Stage until invoices for previous Work Stages have been paid in full.

Where the amount due on any charge / expenses account has not been paid in full within 28 days of the date of the relevant account, the client will be liable for interest thereon at the current AA overdraft rate calculated 28 days after the account date.

Should the Building Owner cease to be the Building Owner for the purposes of the Building Control (Amendment) Regulations 2014, the Owner shall pay the Assigned Certifier the full amount of fees, charges and costs due in connection with the Agreement upon its termination.

Additional Services to be provided by the Assigned Certifier

An hourly rate charge will apply for additional services or any other works requested outside this agreement and will be billed on a time basis at the following rates:

Principal: €

Technical Support Staff: €

Value Added Tax at the current rate of 23% is applicable.

Estimate of Total Construction Cost at the start of the Design Process

€ excluding VAT at the current rate of 13.5%

If the project cost is not known at the time of signing this Agreement, the Assigned Certifier will use the RIAI Cost Guidelines figures. The cost data base sets down, for guidance only, an average range of costs for some project types. It is used here only to indicate to the Building Owner the order of cost that will be incurred in the engagement of the Architect as Assigned Certifier. It is essential that, after the Sketch Design Process, the projected construction costs are budgeted by competent professionals on the basis of the agreed scheme so that its particular nature is accounted for.

'Total Construction Cost' is defined as the cost of all the work including site development works, certified by the Architect and executed under the Architects' direction. It excludes VAT, planning fees, professional fees, statutory charges, loose furniture and fittings.

Estimate of Costs that will be incurred in the Certification Process

In all cases disbursements necessarily incurred by the Assigned Certifier in connection with the assignment will be chargeable to the Building Owner. These may include:

- Printing, reproduction or purchase costs of all documents, drawings, maps, models, photographs and other records including all those used in communication between the Building Owner, Design Team, the builder and Specialist Contractors, Testers and Suppliers notwithstanding any obligation on the part of the Assigned Certifier to supply such documents to those concerned.
- Hotel and travelling expenses, including mileage allowance for cars.
- All payments made on behalf of the Building Owner by the Assigned Certifier.
- Fees and other charges for specialist professional advice, including legal advice, which have been incurred by the Assigned Certifier with the specific authority or instructions of the Building Owner.
- Postage and telephone charges (where these are exceptional), messages, facsimiles, airfreight and courier services.
- Rental and hire charges for specialised equipment where required and/or agreed by the Building Owner.
- Any other disbursement necessarily incurred and notified in advance to the Building Owner.

On this project these disbursements are estimated, where known, at €

[D]. TERMS AND CONDITIONS OF THE AGREEMENT

Definitions

The definitions here apply to this Agreement and are taken from the DECLG 'Code of Practice for Inspecting and Certifying Building Works' published February 2014, associated with S.I. No.9 of 2014.

'Ancillary Certificates' means a certificate of compliance of elements of the building, design or works with the Building Regulations, and 'Ancillary Certifier' means a person proposed to issue such a statement. (Note; a 'person' also includes a company);

'Assigned Certifier' means the competent person so assigned, in accordance with the Building Control (Amendment) Regulations 2014;

'Builder' means a competent builder appointed, for the purposes of the Building Control (Amendment) Regulations 2014, by the Owner, to build and supervise the works;

'Building Control Authority' means a local Authority to which Section 2 of the Building Control Act 1990 applies;

'Building Control Regulations' means the Building Control Regulations 1997 to 2014;

'Building Owner' means any natural or legal person, public or private, who has for the time being, whether permanently or temporarily, legal title to or a beneficial interest in the relevant building or works, or who is legally responsible for its care and maintenance;

'Building Regulations' means the Building Regulations 1997 to 2014 and any future amendments to them;

'Certificates of Compliance' means certificates of compliance as defined in the Building Control (Amendment) Regulations 2014;

'Code of Practice' means the DECLG 'Code of Practice for Inspecting and Certifying Buildings and Works' published February 2014 related to S.I. No.9 of 2014;

'Commencement Notice' means a notice referred to in Section 6(2) (k) of the Building Control Act 1990;

'Competent Person': a person is deemed to be a competent person where, having regard to the task which he/she is required to perform and taking account of the size and /or complexity of the building or works, the person possesses sufficient training, experience and knowledge appropriate to the nature of the work to be undertaken;

'Compliance' means that the relevant building or works have been designed to achieve the objectives of The Building Regulations as expressed in Section 3(2) of The Building Control Act 1990 subject only to such variance as is identified at Section 9 (1) a, b, and e, of the same Act.

and

that the relevant building or works have been constructed to achieve the objectives of The Building Regulations as expressed in Section 3(2) of The Building Control Act 1990 subject only to such variance as is identified at Section 9 (1) a, b, and e, of the same Act.;

'Construction' includes the execution of works in connection with buildings and any act or operation necessary for, or related to the construction, extension, alteration, repair or renewal of a building and 'construction' shall be construed accordingly;

'Design' includes the preparation of plans, particulars, drawings, specifications, calculations and other expressions of purpose according to which the construction, extension, alteration, repair or renewal concerned is to be executed and 'designed' shall be construed accordingly;

'Design Certifier' means the person who signs the Certificate of Compliance (Design);

'Inspection' has the meaning set down in the relevant sub-sections of Section 7 of the DECLG 'Code of Practice for Inspecting and Certifying Buildings and Works,' of February 2014;

'Inspection Notification Framework' or 'INF' has the meaning set down in Section 7.3 of the DECLG 'Code of Practice for Inspecting and Certifying Buildings and Works' of February 2014;

'Inspection Plan' has the meaning set down in Section 7.1 of the Code of DECLG Practice for Inspecting and Certifying Buildings and Works of February 2014;

'The Minister' means the Minister for Housing, Planning, Community and Local Government;

'Works' includes any act or operation in connection with the construction, extension, alteration, or renewal of a building.

NOTE: These definitions are for the purposes of this agreement only and are not a legal interpretation of definitions contained in the Building Control Regulations.

Termination of the Agreement by the Assigned Certifier

The Assigned Certifier may terminate the agreement, on 10 working days' notice, at any time, to the Building Owner, if they are prevented from executing their duties under the Agreement, either by the Building Owner, the Design Team, Builder, or any one, or combination of them, or the lack of provision of adequate resources and Competent Persons as required under the Code of Practice 3.2(d). The Assigned Certifier shall be entitled to be paid for all work completed at the time of, or arising from, the termination.

Termination of the Agreement by the Building Owner

The Building Owner may terminate the agreement, on 10 working days' notice to the Assigned Certifier, at any time, if in their opinion, the Assigned Certifier is not performing the duties set out in the Code of Practice, when adequate resources and Competent Persons have been made available to the Assigned Certifier.

Upon the termination of the agreement, the Assigned Certifier agrees that the Building Owner is entitled, promptly, to appoint a replacement Assigned Certifier and to give notice to the Building Control Authority of the termination of the agreement and the appointment of a replacement Assigned Certifier.

Termination of the Agreement by the Assigned Certifier or the Building Owner - Handing Over Records

In the event that the Assigned Certifier ends the appointment for any reason, or that it is being terminated by the Building Owner during the course of the Works for any reason, the Assigned Certifier is required to provide to the Building Owner and to the Building Control Authority the records of inspection up to the date on which the appointment ends, along with any available records of certification of compliance of Design and/or Construction up to that date.

A change of Assigned Certifier will require liaison with the Building Control Authority, who will have the obligation to inform the relevant parties what they require in such a situation, in order for the entirety of the building or works to be included in the Completion Certificate.

Interpretation of the Agreement

Any disagreement as to the proper interpretation of this document may, by agreement between the parties, be referred to the President of the RIAI, or to the President's nominee, for a ruling, provided that such a ruling is sought on a joint statement of undisputed facts and the parties agree to accept the ruling as final and binding.

'Certify' (and variations of the word) in the context of the Statutory Certificates referenced in this Agreement means that the Assigned Certifier has formed a professional opinion regarding compliance based on execution of the Inspection Plan and reliance on Ancillary Certification and Tests furnished by others. For the avoidance of doubt, it does not mean that every element of the works has been exhaustively inspected or tested.

Liability

Any liabilities arising from the performance or non-performance of the duties of the Assigned Certifier under this agreement will be borne by Architects on whose behalf the Assigned Certifier is acting.

Construction Contracts Act 2013

The Construction Contracts Act 2013 applies to this agreement.

Dispute Avoidance and Dispute Resolution

Where a dispute arises out of this agreement in respect of payments, the Construction Contracts Act 2013 applies.

The parties agree to try to avoid disputes, and to try to resolve differences which may arise between them, through negotiation. Where parties are unable to resolve any or all of their differences through negotiation, and a dispute arises out of this agreement in respect of any matter, then, without prejudice to any rights of a party under the Construction Contracts Act 2013, the parties agree to consider Mediation.

Should a party not consent to Mediation the dispute may be referred to Conciliation in accordance with the Conciliation Procedures published by the RIAI. If settlement of the dispute is not reached in Mediation or under the Conciliation Procedures either party may, with or without ending the Mediation process;

[a] exercise any statutory right it may have to refer the dispute to Adjudication; and/or

[b] refer the dispute to a court of appropriate jurisdiction.

The Royal Institute of the Architects of Ireland

Founded in 1839, the RIAI is the representative body for professionally qualified architects in Ireland, and is designated by the State as the Competent Authority for the Architectural Profession in Ireland in relation to the EU Directive on Recognition of Professional Qualifications. The affix MRIAI is recognised under Article 46 of Directive 2005/36/EC on mutual recognition of diplomas, certificates and other evidence of formal qualifications in architecture. The Institute is a member of the Architects Council of Europe and of the International Union of Architects. The Institute's objectives include the advancement of architecture; the promotion of high standards of professional conduct and practice; and the protection of architectural training and education.

A high standard of professional competence among RIAI members is required through examination prior to admission, and maintained by information programmes and obligatory continuing professional development.

The Building Control Act 2007 established the Professional Conduct Committee of the RIAI (the PCC). The PCC considers complaints against an architect where it is alleged that the architect has failed to meet the standard of competence that may be reasonably be expected of a registered architect, known as poor professional performance, or has acted in a manner that is disgraceful, dishonourable or in breach of the RIAI Architects' Code of Conduct, known as professional misconduct. Where the PCC finds an architect guilty of poor professional performance or professional misconduct it may apply one or more of the sanctions provided in the Act. The sanctions include: censure; admonishment; a fine; suspension from the register; erasure from the register.

APPENDIX 1

The Structural Engineer is: _____

Registration number _____

Of: _____

At: _____

The Mechanical Engineer is: _____

Registration number _____

Of: _____

At: _____

The Electrical Engineer is: _____

Registration number _____

Of: _____

At: _____

The Quantity Surveyor is: _____

Registration Number _____

Of: _____

At: _____

The PSDP is: _____

Registration number _____

Of: _____

At: _____

The _____ is: _____

Registration number, qualification, professional body _____

Of: _____

At: _____

Sample only

The _____ is: _____

Registration number, qualification, professional body _____

Of: _____

At: _____

The _____ is: _____

Registration number, qualification, professional body _____

Of: _____

At: _____

The _____ is: _____

Registration number, qualification, professional body _____

Of: _____

At: _____

The _____ is: _____

Registration number, qualification, professional body _____

Of: _____

At: _____

Sample only

Sample only

Sample only



PROMOTING | SUPPORTING
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