# FOREWORD

When building a new house, undertaking alterations or renovations to an existing house, or installing a new roof, deck, kitchen, bathroom etc, there is a lot of information to absorb and many decisions to be made. One of the most important decisions to be made is the form of contract that will govern the relationship between the builder, supplier or installer, and the owner. BuildSafe® knows, from its extensive experience in the building and construction industry, how much the contractual arrangements can affect the success and enjoyment of a residential building project. BuildSafe® also knows how important it is that any contract is fair and equitable to all parties in terms of allocating and managing risk, and that the contract is written in a simple and easy to understand manner.

On 1 January 2015, significant new measures came into effect to protect consumers in relation to residential building work. These changes are included in amendments to the Building Act 2004 (Part 4A) and include among other things:

* mandatory written contracts for residential building work costing $30,000.00 (including GST) or more;
* mandatory terms to be included in all residential building contracts;
* provisions that will apply by default to any residential building contract where the contract does not contain all of the minimum requirements, or where there is no written contract;
* a requirement for contractors to provide a checklist and a statement disclosing certain information to potential clients for residential building work if it is likely to cost $30,000.00 (including GST) or more, prior to entering into a residential building contract, or when that information is asked for by a consumer irrespective of the value of the work;
* information regarding current insurance policies, guarantees or warranties, and maintenance that a contractor must provide to a client after the building work is completed regardless of the price of the work; and
* a 12-month mandatory defect period from the date the building work is complete.

BuildSafe® prepared the BuildRight® BSPCC:2016 Conditions of Contract to comply with the new consumer protection measures and to provide builders, contractors, suppliers, installers and home owners with a straightforward, fair, and easy to understand contract to use on small residential building projects where the scope of the work to be carried out is relatively straightforward, and the value of the work is less than $50,000.00.

There are two parts to the BuildRight® BSPCC:2016 Conditions of Contract. The first part is the Contract Agreement which contains the basic details about the Contract including, among other things, the Parties’ names and details, the Contract Price, and the scope of the Contract Works to be completed. The second part of the Contract contains the General Conditions of Contract. These set out in detail the rights and obligations of the Principal and the Contractor under the Contract.

It is important that you read the entire Contract and, if you have any queries or concerns about the terms of the Contract, you should take independent legal advice before signing the Contract.

The Contractor and the Principal must complete and sign the Contract Agreement, initial each page of the General Conditions of Contract and have their respective signatures witnessed. The Contractor and Principal must also initial every page of the Plans and Specifications that describe the Contract Works, and separately initial any alterations (together, the **Contract Documents**). The Parties should each retain a copy of the Contract Documents for their records.

BuildSafe® also provides a suite of additional documents for use in relation to the Contract. These include a Subcontract for use by the Contractor when engaging subcontractors to work on the project, and templates for, among other things: Payment Claims, Payment Schedules, Site Instructions/Variations, Notice and Certificate of Practical Completion, Notice of Defects, Notice and Certificate of Completion, Notice of Dispute, Notice of Adjudication, and Notice of Request for Adjudication. These documents may be downloaded from the BuildSafe® website at [www.buildsafe.co.nz](http://www.buildsafe.co.nz).

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# EXCLUSION OF LIABILITY

You are solely responsible for selecting these documents and you download and use them at your own risk based entirely in reliance on your own judgement and not in reliance on any understandings, statements, opinions, or representations made by BuildSafe®.

In downloading or using these documents, the Parties together and separately release and discharge, BuildSafe®, its agents, and employees, from all liability of any kind (whether involving negligence, misrepresentation, breach of contract, or breach of any equitable, fiduciary, statutory or other duty, or otherwise) which may be alleged to arise in connection with, or to result from, or to in any way relate to the exercise of any of their functions, duties, or powers in relation to the preparation and provision of these Conditions of Contract, unless the act or omission is the fraudulent act of BuildSafe®, its agents or its employees. Any person who has not acted fraudulently and is shown to be unaware of the fraud of any other person, will continue to be released and discharged from liability as provided herein.

The Parties, together and separately, undertake to indemnify and keep indemnified BuildSafe®, its agents, and employees, against all claims, costs, expenses, liabilities, awards, damages, and proceedings of any kind (properly sustained or incurred by them directly, or indirectly made by any third party) in relation to, or in connection with, the exercise of their functions, duties, or powers in relation to the preparation and provision of these Conditions of Contract, or otherwise, unless the act or omission is the fraudulent act of BuildSafe®, its agents, or its employees. If BuildSafe®, or any agent or employee of BuildSafe®, has not acted fraudulently and is shown to be unaware of the fraud of any other person, that person will continue to be indemnified as provided herein.

|  |
| --- |
| BuildRight® BSPCC:2016 - CONTRACT AGREEMENT |

**THIS CONTRACT AGREEMENT** made the Click or tap here to enter text.day of Click or tap here to enter text. 20Click or tap here to enter text..

|  |  |  |
| --- | --- | --- |
| **BETWEEN** | **THE PRINCIPAL** | Click or tap here to enter The Principal’s Name. |
|  |  |
| Postal Address | Click or tap here to enter Postal Address. |
|  |  |
| Street Address | Click or tap here to enter Street Address. |
|  |  |
| Phone Number | Click or tap here to enter Phone Number. |
|  |  |
| Mobile Number | Click or tap here to enter Mobile Number. |
|  |  |
| Fax Number | Click or tap here to enter Fax Number. |
|  |  |
| Email Address | Click or tap here to enter Email Address. |
|  |  |
| **AND** | **THE CONTRACTOR** | Click or tap here to enter The Contractor’s Name. |
|  |  |  |
| Postal Address | Click or tap here to enter Postal Address. |
|  |  |
| Street Address | Click or tap here to enter Street Address. |
|  |  |
| Phone Number | Click or tap here to enter Phone Number. |
|  |  |
| Mobile Number | Click or tap here to enter Mobile Number. |
|  |  |
| Fax Number | Click or tap here to enter Fax Number. |
|  |  |
| Email Address | Click or tap here to enter Email Address. |

(together, the Parties)

# THE PARTIES AGREE THAT:

1. They will carry out and fulfil all obligations imposed on them by the Contract.
2. The Contractor will carry out and complete the Contract Works for the Contract Price, or such greater or lesser sum as may become payable under the terms of the Contract, and will remedy all defects as required by the Contract and at law with all reasonable diligence.
3. Unless otherwise agreed, the Contractor will provide all labour, plant, equipment, materials, and services necessary for the proper completion of the Contract Works.
4. The following items constitute the Contract:
   1. this Contract Agreement;
   2. the General Conditions of Contract BSPCC:2016;
   3. the Special Conditions of Contract referred to in Section J (**Special Conditions**);
   4. the Plans and Specifications appended to the Contract Agreement; and
   5. any other documents specifically referred to in Section K of the Contract Agreement (**Additional Documents**),

(together, the **Contract**).

1. The Contract is an entire agreement between the Contractor and the Principal and supersedes all previous negotiations, communications, representations, agreements and warranties, whether oral or written, with respect to the Contract Works.

# Location of Site

The Contract Works are to be completed at the following location:

Click or tap here to enter text.

# Description of Contract Works

The Contractor agrees to carry out and complete the Contract Works as more particularly described in the Plans and Specifications appended to the Contract including:

Click or tap here to enter text.

# Period for Completion of the Contract Works

The Commencement Date of the Contract Works is: Click or tap to enter a date.

The date for Practical Completion of the Contract Works is: Click or tap to enter a date.

# Damages for Late Completion

The sum of $ Click or tap here to enter text. (incl GST) shall be paid by the Contractor to the Principal for each week, or part thereof, from the due date for Practical Completion up to and including the date when Practical Completion is achieved by the Contractor.

# Payment

Please select one of the two options below to indicate the agreed payment method for this Contract.

This is a lump sum (fixed price) contract.

The Principal shall pay the Contractor the sum of $Click or tap here to enter text. (incl GST) calculated in accordance with Schedule 1 to the Contract Agreement, subject to adjustment in terms of the Contract (the **Contract Price**).

The Contract Price in words: Click or tap here to enter text.

A margin of Click or tap here to enter text.% shall be added to the net price of all materials and subcontractors’ charges in respect of Variations to the Contract Works.

**Variations to the Contract Works:**

The Contractor’s charge out rate to be applied to any additional work (**Variations**) required by the Principal shall be $Click or tap here to enter text. per hour (incl GST).

If more than one rate may be charged, set out below a description of the roles and relevant rates for all employees:

Click or tap here to enter text.

The Contractor shall be entitled to the sum of $Click or tap here to enter text. (incl GST) for preparing any Variation price requested by the Principal.

The Principal shall pay to BuildSafe® the sum of $Click or tap here to enter text. to be held in trust in accordance with the BuildSafe® Terms and Conditions (90% to be released on Practical Completion; 10% to be released on Completion).

**Or**

This is a cost reimbursement (charge-up) contract.

The Principal shall pay the Contractor on a charge-up basis in accordance with Schedule 2 to the Contract Agreement.

The Principal shall pay to BuildSafe® the sum of $Click or tap here to enter text. to be held in trust in accordance with the BuildSafe® Terms and Conditions (90% to be released on Practical Completion; 10% to be released on Completion).

# Working Day Rate

The Contractor shall be entitled to the sum of $Click or tap here to enter text. (incl GST) per day as compensation for time related costs by reason of the net effect of a Variation, or Default by the Principal, or any person for whose acts or omissions the Principal is responsible, unless the nature or the circumstances of the Variation or Default are such as to render it inequitable to use this rate and a reasonable rate shall then be used.

1. **Insurance**

The Parties agree that the insurance requirements of the Contract will be satisfied as follows:

**Please Note:** Parties must complete either section (i) or (ii), and section (iii) below.

1. The Contract Works are new construction and the Contractor has contract works insurance in place for the period of the Contract Works for the sum of $Click or tap here to enter text. (refer to clause 58 of the General Conditions of Contract BSPCC:2016).

The above sum includes the following allowances:

Contract Price……………………………………….. $Click or tap here to enter Contract Price.

Costs of demolition, disposal and preparation for

replacement work……………………………………. $Click or tap here to enter Costs.

Professional fees……………………………………. $Click or tap here to enter Professional fees.

Value of items to be incorporated by Principal…… $Click or tap here to enter Value of items.

Allowance for increased construction costs due to

Variations…………………………………………...... $Click or tap here to enter Variation costs.

Allowance for increased construction costs due to

inflation……………………………………………..... $Click or tap here to enter Inflation.

1. The Contract Works involve work to an existing structure and the Principal has insurance cover in place for the period of the Contract Works for the sum of $Click or tap here to enter text. (refer to clause 60 of the General Conditions of Contract BSPCC:2016).
2. The Contractor shall maintain a public liability insurance policy until the expiry of the Defects Repair Period and any work required to remedy defects notified during the Defects Repair Period has been completed, for the sum of $Click or tap here to enter text. (such sum being not less than two million dollars – refer to clause 62 of the General Conditions of Contract BSPCC:2016).
3. **The Contractor’s Representative** (refer clause 20of the General Conditions of Contract BSPCC:2016)

|  |  |  |  |
| --- | --- | --- | --- |
| Name | Click or tap here to enter Name of Contractor’s Representative. | | |
|  |  | | |
| Phone Number | Click or tap here to enter Phone Number. | Mobile Number | Click or tap here to enter Mobile Number. | |
|  |  | | |
| Email | Click or tap here to enter Email Address. | | |

1. **The Principal’s Representative** (refer clause 21of the General Conditions of Contract BSPCC:2016)

|  |  |  |  |
| --- | --- | --- | --- |
| Name | Click or tap here to enter Name of Subcontractor’s Representative. | | |
|  |  | | |
| Phone Number | Click or tap here to enter Phone Number. | Mobile Number | Click or tap here to enter Mobile Number. | |
|  |  | | |
| Email | Click or tap here to enter Email Address. | | |

1. **Special Conditions**

The following Special Conditions take precedence over the General Conditions of Contract:

Click or tap here to enter text.

1. **Additional Documents**

The following documents (ie emails, quotes, correspondence, tender documents, schedules of quantities etc) form part of the Contract:

Click or tap here to enter text.

1. **Contractor to provide documents**

The Contractor shall provide the following warranties and guarantees for materials and services, as-built drawings, operating and maintenance manuals, and producer statement to the Principal prior to issue of the Practical Completion Certificate:

Click or tap here to enter text.

1. **Prescribed Checklist and Disclosure Statement**

The Principal acknowledges that prior to signing the Contract, the Contractor provided the Principal with a Checklist and a Disclosure Statement in the forms prescribed by the Building (Residential Consumer Rights and Remedies) Regulations 2014.

1. **Signatures of Parties to the Contract**

|  |  |
| --- | --- |
| SIGNED for and on behalf of the **PRINCIPAL**  Signature  Print Full Name | SIGNED for and on behalf of the **CONTRACTOR**  Signature  Print Full Name |
| In the presence of:  *Name:*  *Address:*  *Occupation:*  *Signature* | In the presence of:  *Name:*  *Address:*  *Occupation:*  *Signature* |
| Date: | Date: |

**SCHEDULE 1**

This is a lump sum (fixed price) contract. Please note: this schedule is solely for the purpose of assessing progress payments and valuing Variations under the Contract. The Contractor may substitute this schedule with any similarly detailed trade summary.

The Contract Price is $Click or tap here to enter text. (inclusive of GST).

The Contract Price in words: Click or tap here to enter text.

The Contract Price is made up as follows:

| **BASE CONTRACT ‘A’** | |  |
| --- | --- | --- |
| **ITEM** | **TRADE** | **AMOUNT** |
|  |  | $0.00 |
|  |  | $0.00 |
|  |  | $0.00 |
|  |  | $0.00 |
|  |  | $0.00 |
|  |  | $0.00 |
|  | **\*SUBTOTAL** | **$ 0.00** |
|  | **ADD CONTRACTOR’S MARGIN** | $0.00  0.00  **.00** |
|  | **\*TOTAL BASE CONTRACT ‘A’** | **$ 0.00** |

**\***This table has been formatted to automatically calculate your Subtotal and your Total Base Contract Value.

* Enter in all your amounts and the contractor’s margin.
* Click onto the **\*SUBTOTAL field** (highlighted in yellow). Place your cursor **AFTER** the **DOLLAR** sign (as per example) 
* **Right click** your mouse and select the update field option.

To calculate your **Total Base Contract ‘A’** repeat the same steps as above.

Please note:

* If you add any lines, calculations will need to be changed.
* The same calculation methodology also applies to the following three tables.
* Please call if you have any questions with this form.

|  |  |  |
| --- | --- | --- |
| **MONETARY ALLOWANCES** | | |
| **PRIME COST SUMS ‘B’** | | |
| **ITEM** |  | **AMOUNT** |
|  |  | $0.00 |
|  |  | $0.00 |
|  |  | $0.00 |
|  |  | $0.00 |
|  |  | $0.00 |
|  | **SUBTOTAL** | **$ 0.00** |
|  | **ADD CONTRACTOR’S MARGIN** | $0.00 |
|  | **TOTAL PRIME COST SUMS ‘B’** | **$ 0.00** |

|  |  |  |
| --- | --- | --- |
| **MONETARY ALLOWANCES** | | |
| **PROVISIONAL SUMS (INCLUSIVE OF CONTRACTOR’S MARGIN) ‘C’** | | |
| **ITEM** |  | **AMOUNT** |
|  |  | $0.00 |
|  |  | $0.00 |
|  |  | $0.00 |
|  |  | $0.00 |
|  |  | $0.00 |
|  | **TOTAL PROVISIONAL SUMS ‘C’** | **$ 0.00** |

Please take totals from A, B and C and enter into the below table.

|  |  |  |
| --- | --- | --- |
| **SUMMARY** | |  |
|  | **Total Base Contract ‘A’** | $0.00 |
|  | **Total Prime Cost Sums ‘B’** | $0.00 |
|  | **Total Provisional Sums ‘C’** | $0.00 |
|  |  |  |
| **SUBTOTAL (excluding GST)** | | **$ 0.00** |
| **ADD GST** | | **$ 0.00** |
| **TOTAL CONTRACT PRICE INCLUDING GST** | | **$ 0.00** |

**SCHEDULE 2**

This is a cost reimbursable (charge up) contract.

The Principal has a budget of $Click or tap here to enter text. (inclusive of GST).

The budget price in words: Click or tap here to enter text.

The Principal shall pay the Contractor to undertake the Contract Works on a charge up basis as follows:

|  |  |
| --- | --- |
| **Labour:**  Contractor’s total hourly charge-out rate(s) (including all overheads, margin, travel, off-site project administration, and GST) for each hour engaged on the Contract Works including up to a total of half an hour per day for morning and afternoon tea breaks, but not including any time related to a lunch break, is/are: | $ |
| (specify if more than one rate applies) |  |
|  |  |
|  |  |
| **Materials:**  The net cost (actual cost after deduction of all trade discounts) to the Contractor of supplying materials (inclusive of GST) together with the Contractor’s margin of: | % |
|  |  |
|  |  |
| **Subcontractors:**  The net amount properly payable to subcontractors after the deduction of any discounts (inclusive of GST) together with a Contractor’s margin of: | % |
|  |  |
|  |  |
| **Other:** (please specify details below) |  |
|  | $ |
|  | $ |