

ISSUE 590 **BULLETIN**



CONTRACTS IN THE BUILDING INDUSTRY

October 2015

■ A basic understanding of contracts and when they are required is important to everyone in the building industry.

■ Clarifying and documenting the intentions of both parties to a contract before the work starts can avoid costly and time-consuming disputes and litigation.

■ This bulletin replaces and updates Bulletin 580 of the same name and incorporates the recent legislative changes to building contracts.

1.0 INTRODUCTION

1.0.1 This bulletin explains what a contract is, the types of building contracts available and how they relate to the building process.

1.0.2 The bulletin gives an introductory overview and is not intended as a legal primer or as legal advice. In practice, there may be many exceptions to the general rules this bulletin sets out, but the conditions covered here are those most usually associated with building contracts.

1.0.3 Contracts are part of everyday life. Everyone making a purchase enters into a contract with the party supplying the goods or services. Most of these contracts are verbal or inferred from an action (such as handing over cash for goods), although sometimes there will be documentation such as a receipt. Because of their simple nature, this is usually sufficient for contracts of this type.

1.0.4 Even though contracts in the building industry are usually more complex, attitudes may tend to be cavalier. In the past, a handshake to strike a deal was considered sufficient, and nothing was put in writing. However, disputes and litigation are usually sparked by misunderstandings about the rights and obligations of the parties involved.

1.0.5 Most disputes can be avoided if clear, concise and comprehensive contracts are in place wherever a contractual relationship exists.

1.0.6 This bulletin replaces and updates Bulletin 580 of the same name and incorporates significant changes that have been introduced in the area of contract law in the building industry. The Construction Contracts Act was introduced in 2002 followed by the Building Act in 2004 and its amendments, most recently in 2013.

1.0.7 The intention of the Building Act 2004 is to:

- provide for the regulation of building work, a licensing regime for building practitioners and performance standards for buildings
- promote accountability from those who have responsibilities for ensuring that building work complies with the Building Code.

1.0.8 The most recent amendments to the Building Act 2004 (made in 2013) provide increased consumer protection. They introduced mandatory disclosure requirements for building contractors and minimum contractual requirements for residential works over \$30,000 (including GST). Some of the new requirements also apply regardless of the price of the work.

2.0 PARTIES TO A BUILDING CONTRACT

2.0.1 A building contract is usually an agreement between two parties – an owner or employer (often referred to as the ‘principal’) and the builder or contractor.

2.0.2 The principal may choose to be represented by a contract administrator such as an architect or engineer. In the case where an architect is engaged to act as the principal’s agent, the architect administers the contract on behalf of the principal and also acts in an impartial ‘quasi-judicial’ role between parties to the contract where an exercise of judgement is required – for example, where a question arises over the scope of work. The duty of care in exercising such judgement is that to be expected of a reasonably competent contract administrator using a reasonable level of skill, care and diligence.

2.0.3 In addition to the main building contract with the principal, the main contractor is very likely to have separate agreements with various subcontractors and/or suppliers.

3.0 SCOPE FOR CONTRACTUAL PROBLEMS

3.0.1 In any building process, a variety of contractual relationships may exist, such as those between owner/client and designer, owner and contractor, contractor and subcontractors, subcontractors and suppliers and sometimes between the owner and separate subcontractors.

3.0.2 Often, particularly for minor works or work carried out by friends, contracts are without the full scope of the work being clarified. As a result, misunderstandings can occur, expressed through comments such as:

- “I thought you were going to put in all the fixing dwangs.”
- “I only allowed to pipe out to the tap – I didn’t include the tap.”
- “Your price was supposed to include sanding.”
- “But I only accepted your price on the understanding that you would change to stainless steel fixings.”

3.0.3 Problems can occur in any contractual relationship. Some examples are when:

- the owner and the designer are not specific about their requirements and about the extent of the service required
- the contractor and the owner misunderstand one another’s intentions
- something unforeseeable happens during the course of contract work.

3.0.4 Labour-only contracts can be particularly problematic unless the responsibilities of each party are clearly spelled out and understood by both parties.

4.0 WHAT IS A CONTRACT?

4.1 THE BASIC LEGAL REQUIREMENTS

4.1.1 A contract is a promise that the person will provide goods and/or services in exchange for payment. The parties are able to enforce obligations via the legal process or seek damages for non-performance.



- 4.1.2** For a promise to be enforceable by law as a contract, certain conditions must be met. These are:
- there must be the intention on the part of the parties to enter into a legal relationship
 - an offer must have been made by one party and accepted by the other party
 - there must be an exchange of value – usually goods and services supplied for an agreed price (referred to in legal terms as ‘consideration’)
 - there must be genuine agreement between the parties
 - both parties must have the legal capacity to enter into the agreement
 - the purpose of the contract must be lawful.

4.2 INTENTION

4.2.1 In commercial situations, there is rarely any doubt as to the intentions of the parties to enter into a legal relationship. This can usually be inferred from the nature of the agreement, supported by consideration. Agreements between friends are those most likely not to meet this requirement.

4.3 OFFER AND ACCEPTANCE

4.3.1 The offer must be made with the intention that a legal relationship will follow acceptance, and the identity of the parties and the proposed essential terms must be clear.

4.3.2 The offer must be communicated to the other party (or ‘offeree’). If a party accepts an offer but does not tell the other party, there is no contract.

4.3.3 The offer may be made in writing, by word of mouth or inferred from conduct. For instance, a builder picks up a box of screws in a hardware store, hands over the money and the assistant rings up the purchase. A contract for sale and purchase of goods has been made with no need for words.

4.3.4 Some actions that appear to be offers are in fact only statements. An example of this is goods displayed for sale in a shop or advertisements for tenders in a newspaper. These are in fact invitations to negotiate, and the person who hands over the money or submits the tender is the one actually making the offer.

4.3.5 The offer may be withdrawn at any time before it is accepted.

4.3.6 The offer will lapse if it is not accepted within the stated time. If no time is stated, it will lapse in a ‘reasonable time’.

4.3.7 Acceptance may be made in writing, by word of mouth or inferred from conduct, but it must be communicated to the offerer.

4.3.8 Acceptance must be unqualified and conform strictly to the words of the offer. If, in reply to an offer, conditions are added such as “We accept your tender provided that you complete the work in 10 days and not 15 days,” this becomes a counter offer. This would have to be accepted before a contract came into effect.

4.4 THE AGREED PRICE (CONSIDERATION)

4.4.1 There must be consideration for the contract to be enforceable. Consideration is an exchange of anything of value. This is usually the contract sum in a building contract, but it may take a form other than cash – for example, it could be an exchange for services or a lot in a subdivision in lieu of services. A promise without consideration is not an enforceable contract.

4.5 LEGAL CAPACITY

4.5.1 This means that both parties to a contract must not be subject to any legal limitations because of their age, status, bankruptcy or mental condition.

4.5.2 The person who enters into the contract on behalf of a company must be authorised to act for that company. However, an agent with apparent or ostensible authority may be found to have bound their principal company even though the agent may have been acting outside their actual authority. This would

occur if the other contracting party was unaware that the agent was acting outside of their actual authority when the contract was entered into.

4.6 THE CONTRACT MUST BE LAWFUL

4.6.1 The object of the contract must be lawful. Contracts that would break a law if they were carried out or cause one of the parties to commit a crime or civil wrong are illegal and will contravene the Illegal Contracts Act 1970.

4.6.2 A building contract cannot contract out of some legislation – for example, the Resource Management Act, the Building Act and certain parts of the Construction Contracts Act.

4.7 CONTRACTS MAY BE MODIFIED BY LAW

4.7.1 The terms of contract may be modified by law such as the Contractual Mistakes Act 1977, the Contractual Remedies Act 1979, the Contracts (Privity) Act 1982, the Frustrated Contracts Act 1944, the Consumer Guarantees Act 1993 and the Fair Trading Act 1986. However, as a general rule, the courts will uphold the terms of a contract as agreed between the parties, unless it is clearly wrong to do so.

5.0 IMPLIED WARRANTIES

5.0.1 The Building Act 2004 introduced the following warranties to cover residential building work, with the aim of providing increased consumer protection. These warranties apply regardless of the value of the building work:

- The building work will be done properly, competently and in accordance with the plans and specifications set out in the contract and any relevant building consent.
- All the materials used will be suitable and, unless otherwise stated in the contract, new.
- The building work will be consistent with the Building Act and the Building Code and comply with any other legal requirements.
- The building work will be carried out with reasonable care and skill and completed within the time specified in the contract or a reasonable time if no time is stated.
- The household unit, if it is to be occupied on completion of building work, will be suitable for occupation on completion of that work.
- If the contract states any particular outcome and the owner relies on the skill and judgement of the contractor to achieve it, the building work and the materials will be fit for purpose and be of a nature and quality suitable to achieve that result.¹

5.0.2 These warranties apply whether or not they are written into the contract. The parties cannot contract out of them.

5.0.3 Section 362J of the Building Act provides that future owners of a building can also take proceedings

for a breach of these statutory warranties even though they were not a party to the original contract.

5.0.4 Remedies are available to a client under the Building Act for breaches of these warranties. If the breach is substantial, the owner has the right to cancel the contract immediately. If the breach is not substantial and can be remedied but the building contractor refuses to remedy the breach or fails to succeed in remedying the breach within a reasonable time, the client can engage someone else to remedy the breach and recover the costs of having the breach remedied. Alternatively, the client can cancel the contract. However, 'substantial breach' has a specific meaning, and there are rules for cancelling a contract, so clients should seek legal advice before taking any action. All of these requirements/protections apply to all residential building contracts regardless of the price of the work.

6.0 WHAT FORM MUST A CONTRACT TAKE?

6.0.1 While some forms of contract, such as those for hire purchase agreements or the sale of land, must be in writing, simple oral contracts are, in theory, as binding and as enforceable as written ones. The problem lies in proving what each party intended by the oral contract.

6.0.2 In practice, it is far better that all building contracts are in writing to minimise confusion and reduce the potential for conflict. The form of the contract may vary with the size and value of the job.

6.0.3 Aside from the actual contract form, building contracts invariably require drawings, specifications and sometimes schedules of quantities to define the extent of the work or to set a required standard of performance. The specifications that cross reference to the drawings should include:

- a description of the project and the parties involved
- the form of tender and contract being used
- any referenced documents
- details of the management of the site and project
- the required standard of workmanship.

6.1 MINOR WORKS

6.1.1 All that is necessary for a contract for work for repairs and maintenance or redecorating that is below the \$30,000 threshold is a handwritten sheet showing the start and finish dates, a list of the work to be done and the agreed price. The paper should be signed by the tradesperson and the owner and dated. Both parties should keep a signed copy.

6.1.2 The following is an example of a contract for minor repair work. Note that it is signed and dated by both parties and includes:

- the location of the work
- start and finish dates
- a short description of the work and its extent
- the agreed price and terms of payment.

¹ This is a general summary of the warranties in section 362I of the Building Amendment Act 2013. You must not rely on this summary as an alternative to legal advice or the exact wording of this section of the Act.

123 Moonshine Rd
Waitakitaki

Repair of water damage in bathroom

Remove damaged plasterboard from wall. Cut out and repair rotten studs and dwangs in wall and fix and stop new 10 mm (Brand) water-resistant plasterboard lining. Paint new plasterboard to match, near as possible, existing colour with (Brand) sealer and two coats semi-gloss (Brand) acrylic.

Remove existing vinyl flooring and remove damaged particleboard from floor.

Dwang out for and fit new piece of 20 mm flooring grade plywood. Install new vinyl flooring (vinyl to be supplied by owner). Fit new piece of skirting and paint 3 coats of full gloss (brand) enamel.

Agreed price for this work \$1,050.00 exclusive of GST.

Start date: 1 June 2015 Finish date: 9 June 2015.

Payment to be made on completion.

SignedAlice Client.....
Owner

SignedW Carpenter.....
Builder

Dated21 May 2015.....

6.1.3 This letter form of agreement contains only minimal information but is better than no written contract at all. Additional information could include:

- a more exact description of the extent of the work
- rate of payment for additional work – for example, if the damage is more extensive than originally envisaged
- standards of finishes
- more detailed description of materials
- terms of payment, such as default interest for late payment.

6.1.4 A common mistake is for contractors to include terms of payment on their invoices. However, an invoice is not a contractual document. If terms of trade are to apply, they should be included in the quote or contract, and the owner needs to accept them as part of the contract. If they accept the quote or contract by signing it or by other means of communication, they will be bound by those terms of trade.

6.2 MINOR WORKS (OF LESS THAN \$30,000 IN VALUE)

6.2.1 For alterations, additions and other small works, a more formal short type of contract is better than a simple letter. This could be a standard form (see section 7.0), or it could be specifically written to suit the circumstances. The degree of formality and detail in the contract depends on the size, cost and complexity of the work.

6.2.2 Whichever format is used, the documentation should include at least:

- names and addresses of the parties and their agents, such as designer, engineer or project manager
- location of the work
- sufficient drawings and specifications to describe the full extent and standard of the work and materials
- form of tender and letters of acceptance (where relevant)
- the contract price (and whether it includes GST)
- responsibility for consents and compliance certificates
- dates for commencement and completion and conditions for extension of time (for such things as bad weather and other factors beyond the contractor's control)
- responsibility for insurances
- method and time of payments
- procedures for dealing with variations and omissions including contingencies and increased costs
- format for completion, final inspection, retentions and final payment
- procedures for handover and transfer of insurance
- maintenance and defects liability
- termination or suspension of the contract and method of resolving disputes.

6.3 MANDATORY WRITTEN CONTRACTS FOR RESIDENTIAL WORK

6.3.1 The Building Act 2004 contains consumer rights and remedies for residential building work, which include minimum requirements for residential building contracts.

6.3.2 The regulations specifying details of the new consumer rights and remedies for residential building contracts came into force on 1 January 2015.

6.3.3 For any residential work valued at over \$30,000 (including GST), building contractors are required to:

- use written contracts
- provide a disclosure statement on their legal (licensing) status, skills, qualifications and experience, insurance and warranty cover before entering into the contract (see www.doyourhomework.co.nz)
- provide a prescribed checklist for the owner to read before entering into the contract (see www.doyourhomework.co.nz).

6.3.4 If the value of the work is less than \$30,000 (including GST), a client may still request a disclosure statement and/or the checklist, and it must be provided.

6.3.5 The new requirements apply to repairs and renovations as well as new houses. Exceptions to 'residential work' include contracts for specialised accommodation such as retirement villages (but not independent house units), student accommodation and boarding houses.



6.3.6 The mandatory written contracts are intended to provide clear expectations, transparency and open disclosure about the scope of work, the costs and timeframes. The regulations prescribe what must be included in the mandatory contracts including a description of the building work, the expected start and completion dates, the price and payment mechanisms. They must also include specific clauses relating to mechanisms for:

- negotiating variations
- giving notices
- dealing with delays
- remedying defects
- resolving disputes.

6.3.7 The building contract must also include an acknowledgement that the building contractor has supplied, and the client has received, the disclosure information and checklist.

6.3.8 If the contract does not include certain details, the default contract terms apply from Schedule 3 of the Building (Residential Consumer Rights and Remedies) Regulations 2014 (see www.doyourhomework.co.nz). For example, if the contract does not expressly specify which party will obtain the building consent, the default terms state that this is the building contractor's responsibility. These details where default terms apply include:

- who is responsible for obtaining the building consent(s) and Code Compliance Certificates
- a mechanism for negotiating and agreeing variations to the building work
- the number of payments under the contract and, if there is more than one payment, the interval between payments, the amount of each payment and the date on which each payment is due
- who will carry out or supervise the building work
- the dispute resolution procedures that apply
- how notices are to be given under the contract.

6.3.9 Building contractors are liable for fines if they don't comply with the disclosure, checklist and contract requirements for work valued at over \$30,000 (or, in the case of the checklist and disclosure information, if the client requests these). The fine is \$500 for each breach. Building contractors are also liable for fines of up to \$20,000 if they make false or misleading statements that are material or knowingly omit material information in any communication or document that is part of the prescribed predisclosure information.

6.3.10 The contractor must provide certain details about the terms of their insurance policies and all guarantees and product warranties that come with the project. To avoid getting this wrong and then being sued, a contractor should obtain this information from their insurance broker and suppliers.

6.4 LARGER WORKS

6.4.1 For work such as building a new house, factory or commercial building, a full standard form contract should be used. This will make provision for a wide range of contingencies and may be quite complex.

6.4.2 Before entering into a contract for large work, seek advice from a suitably qualified person with experience of building contracts.

6.5 CONTRACTS IN RESIDENTIAL BUILDING

6.5.1 The type of contract that will be best for a particular project depends on, amongst other things:

- the level of experience of the principal (the client)
- how much responsibility the principal wants to take
- the level of confidence between contractor and principal.

6.5.2 A developer and builder may have found that, by successfully completing previous projects, they

can work well together with a labour-only contract. On the other hand, a homeowner with little building experience and few industry connections may find it far more difficult and would be better off leaving the project management responsibility to others.

6.6 TYPES OF BUILDING CONTRACTS

6.6.1 Regardless of which form of contract is used, the consumer protection measures for residential building work for contracts over \$30,000 (including GST) (section 6.3 above) still apply.

6.6.2 A full contract is one where the builder, as main contractor, assumes full responsibility for the building project, including purchase of materials and labour – hiring subcontractors and so on.

6.6.3 Labour-only contracts are where the principal or owner takes on the responsibility for managing the whole project including organising the builder, subcontractors and materials for the project. In effect, the employer or principal takes on the role of head contractor, and the builder provides only the skills and labour to the project. A successful outcome is more likely where the owner has skill, experience and time. This type of contract is more likely to be undertaken by a developer working with a builder rather than by an inexperienced homeowner.

6.6.4 A managed labour contract is a variation of a labour-only contract in which the principal is responsible for purchase of materials and selecting subcontractors, but a builder oversees the day-to-day on-site management. Again, the responsibilities and roles of each of the parties must be clearly understood at the start.

6.6.5 Design and build contracts take a variety of forms but are generally undertaken for commercial buildings. Typically, the designer is employed and instructed by the main contractor. Designers still have a professional duty of care to the principal, providing the same quality of work as if the principal had employed them directly.

6.6.6 Design and build advantages include:

- responsibility for the entire process lies in one place, with the main contractor
- the contractor can ensure that the design is buildable
- the possibility of fewer changes or easier changes to implement
- combined design and construction expertise may provide efficiency and opportunity for innovation
- possible cost savings from speeding up the process from project inception to start of construction.

6.6.7 Design and build disadvantages include:

- quality assurance is largely in the hands of the contractor with the risk that no more than minimum compliance is provided to lower the cost
- competitive costing may be compromised
- the possibility of a higher contingency risk for the owner.

6.6.8 Cost reimbursement contracts, also known as 'cost plus' or 'charge-up' contracts, have no defined contract price at the start of the project. Typically, rates for labour and costs of materials (and a margin, usually about 10%) are agreed beforehand. As the job progresses, the main contractor is paid the actual costs incurred for materials and labour (including subcontractors) with the margin added. This form of contract is risky for inexperienced principals who may not appreciate the likely costs to be incurred, and there is a risk of tension and distrust developing. An advantage is that changes can be made without the need to follow a formal variation process. Time sheets for the hours incurred should be signed by the principal or the principal's agent on the day the work is carried out. Copies of suppliers' and subcontractors' accounts should be provided to the principal when the payment is claimed.

7.0 STANDARD FORMS OF CONTRACT

7.0.1 Several standard forms of contract are available. In some cases, they are provided by an organisation just for use by its members. Some builders or building companies offer their own standard building contracts.

7.0.2 Each form of contract may offer advantages or disadvantages and may be weighed in favour of one party, so all contracts should be carefully examined. It may be useful to compare any form of contract to one of the Standards New Zealand contracts. Some forms of contract might include differing provisions for retentions, defects liability, progress payments and so on. In some cases, pertinent clauses may not be included at all.

7.0.3 Whichever type of contract is used, the standard forms don't have to be taken as they are. Negotiate changes if necessary (assuming changes comply with the law). Both parties should initial amendments or deletions to standard clauses. Clauses are often inter-related, so check the possible effects of any changes on other clauses.

7.0.4 Examples of commonly used standard contracts are described in sections 7.1 to 7.5.

7.1 STANDARDS NEW ZEALAND

7.1.1 Standards New Zealand contracts are readily available for purchase:

- NZS 3902:2004 *Housing, alterations and small buildings contract* – a form that can be used for typical house additions and alterations or other small building works where no engineer or architect is to be engaged. It is not intended for use in labour-only contracts.
- NZS 3910:2013 *Conditions of contract for building and civil engineering construction* – suitable for major building and civil engineering works where an engineer (or architect) is appointed to administer the contract. This form is the most widely used for non-residential construction work and was extensively modified in 2013.

- NZS 3915:2005 *Conditions of contract for building and civil engineering construction (where no person is appointed to act as engineer to the contract)* – similar to NZS 3910:2013 but where no engineer or other person is appointed to administer the contract.
- NZS 3916:2013 *Conditions of contract for building and civil engineering – Design and construct* – this form, adapted from NZS 3910:2013, addresses the specific requirements of a design-build project where the contractor is responsible for design as well as construction.
- NZS 3917:2013 *Conditions of contract for building and civil engineering – Fixed term* – suitable for situations when a contract is intended to run for a specific term rather than for a specific scope of work. The contract (also based on NZS 3910:2013) is intended for scheduled work and maintenance on buildings over a fixed period.

7.2 NEW ZEALAND INSTITUTE OF ARCHITECTS

7.2.1 These forms are only available for use where a registered architect (and NZIA member) is engaged by the client to administer the contract:

- *NZIA Standard Conditions of Contract SCC 2014* – this document is for use where an architect is commissioned to administer the contract and is suitable for use for building projects of any size or complexity.
- *NZIA Standard Conditions of Contract SCC SF 2014* – suitable for smaller works or projects of less complexity.

7.2.2 These National Building Contract (NBC) forms are available to the public for use where an architect is not involved in contract administration or observation:

- *NBC General 2010* – a contract form that can be used between the principal and contractor on larger projects.
- *NBC Small Works 2010* – a contract form that can be used between the principal and contractor on smaller works or projects of limited complexity.

7.3 REGISTERED MASTER BUILDERS ASSOCIATION OF NEW ZEALAND

7.3.1 These forms are only available for use by members of the Registered Master Builders Association (RMBA):

- *Residential Building Contract (RBC1)* – suitable for houses and other small works. Provision is made for the inclusion of a Master Build Guarantee. There is no defects liability period.
- *Labour Only Building Contract (LOBC0610)*.
- *Minor Works Residential Agreement (0601)* suitable for small works (although after January 2015, not for projects where the value exceeds \$30,000).

7.3.2 In addition to the above, the RMBA offers (for use by members only) various guarantee forms and subcontract forms (such as SA 2009) for both commercial and residential contracts.

7.4 CERTIFIED BUILDERS ASSOCIATION OF NEW ZEALAND

7.4.1 The following forms are available for use only by members of the Certified Builders Association:

- *Fixed Price+* – for use when the cost of a project is largely determined by a fixed quote. It allows for variations to be accommodated. A deposit is held by the builder during construction, and the value of the deposit is adjusted at time of final invoice.
- *Cost and Margin* – hourly charge-out rates of the builder and contractors are agreed, along with a margin on materials and services supplied by or to the builder. Flexible payment options to suit the builder.
- *Cost and Margin (Labour Only)* – used for charge-up work with an agreed hourly rate. Supply of labour only may allow for the supply of some low-value incidentals.
- *Fixed Price+ (Labour Only)* – intended for use when a quote for labour only has been submitted for a project. Variation rates and margins are also agreed upon.
- *Short-form Contract for Small Works & Alterations* – intended for use where the building work is expected to be of such short duration that the contractor will only send one invoice for payment.
- *Preliminary Services* – for use where the contractor has been asked to do some preliminary work such as a feasibility study to determine if the project will go ahead.

7.5 OTHER FORMS OF CONTRACT

7.5.1 Contracts are also available exclusively for the use of members of:

- Architectural Designers New Zealand
- New Zealand Institute of Building – provides conditions of contract aimed at design-build contracts
- National Kitchen and Bathroom Association NZ.

8.0 BENEFITS OF A WRITTEN CONTRACT

8.0.1 A properly prepared contract is a valuable risk-management tool.

8.0.2 It may take some time and effort at the beginning of a job to put in place an appropriate written contract (of a suitable form and complexity for the work involved), but it will assist in due diligence, can minimise conflict and could save a lot of time and money if there is a dispute.

8.0.3 Being proactive and providing a written form of contract gives more influence over where the various risks will be allocated and gives the opportunity to define and set limits around obligations and responsibilities.

8.0.4 A contract must be signed and dated by both parties to ensure it will be enforceable. It is also good practice to initial each page (including tender letters, specifications and each sheet of drawings) and ensure each party has a copy of the signed contract.

8.0.5 Contract agreements should always include agreed procedures for resolution of disputes. The risk of disputes can be minimised with thorough, comprehensive and high-quality documentation, particularly drawings and specifications. Ideally, of course, both parties should actively work to avoid entering into a situation where a formal dispute procedure could arise. Each of the standard contracts referred to in section 7.0 has varying procedures and steps (including mediation and arbitration) for dealing with disputes.

8.0.6 If there is any doubt about specific provisions of the contract agreement, seek legal advice before signing the documents.

9.0 FURTHER INFORMATION

- The Building Act 2004 and Building (Residential Consumer Rights and Remedies) Regulations 2014 can be downloaded from www.legislation.govt.nz.
- Further information on the new consumer protection measures and copies of the prescribed checklist and disclosure statement are available from www.doyourhomework.co.nz.

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