

USING A BUILDING CONTRACT

This contract is difficult to understand. Is it really necessary?

Writing our agreement down will protect us and the builder.



HOAP

HOME OWNERS' ADVICE PAMPHLETS





Why do you need a contract?

At the start of a building project, both the **homeowner** and the **contractor**, need to be certain of what has been agreed. A signed contract is a formal agreement and is useful later if disagreements arise. It is a record of what has been agreed



What are the basics of a contract?

- The parties must be legally able to contract. This means that they must be 21 years or older and must be able to fully understand the contract.
- The expected results (objectives) of the contract must be legal and achievable.
- None of the parties can be forced into a contract. Each party must be happy with the agreement



Must a contract be in writing?

- A contract can be a written or verbal agreement.
- If a contract is not in writing it is always hard to prove what the agreement was when problems arise.
- A written contract can help later to solve disagreements.
- When a contract is in writing you can also use it to guide the work to be done. The parties can refer to the contract whenever they need to.



Who are the parties to a contract?

- The people who make the agreement are called **parties** to the contract, for example the homeowner and the contractor.
- A party can be a group of people such as an organisation. In such a case the group must give one or two people written permission to sign the contract.
- There can be two or more parties to a contract.



Signing the contract

The contract becomes legal when it is signed. A signed contract means that you understand and agree to it. Each party and witnesses initial each page of the contract and all the documents attached to the contract (for example plans or schedules). Witnesses have no responsibilities or rights in the contract. They sign as proof that the parties have signed the contract.

Making payments against a contract

A building contract can either be for labour only or for the completion of the whole job. A contract for the completion of the whole job is called a 'lump sum' contract.

A 'lump sum' contract includes the whole job, labour, materials and subcontracting to plumbers or electricians. A 'lump sum' contract offers the homeowner more protection as any delays or problems that arise are the responsibility of the builder.

Regardless of which kind of contract you choose, it should clearly state what work must be completed by the builder before payment is made. Before paying the builder, make sure that the work has been completed and that you are happy with the quality.

E.g. Lumpsum Contract



1st stage payment
2nd stage payment
3rd stage payment

THE MOST IMPORTANT ADVICE IS

- Draw up a written contract and include as much details as possible
- Do not sign any documents if you do not understand the wording
- Do not pay before the work is done
- Ask for advice if you are not sure

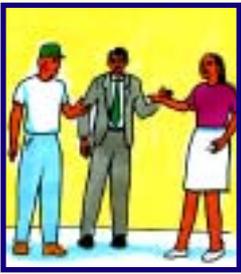


TIPS:

Building a house or making home improvements is sometimes easier if you are part of a group. The group can help by referring you to reliable builders and places where you can find affordable new and second-hand building materials. The group can also help by giving you a contract to use to make a written agreement with your builder. The group may also be able to help you to supervise the builders work.

It is important to put your agreement in writing, even if the group does not have a contract and the builder has a good reputation.

If there is a housing support centre in your community, they may also be able to assist you in contracting a builder.



Dealing with disagreements.

In a contract a disagreement is called a dispute. It is important to agree on how disagreements will be handled before they arise.

If you use a builder who is registered with the National Home Builders Registration Council (NHBC) then they can help you with a dispute. Call their toll free number for assistance 0800 200 824.

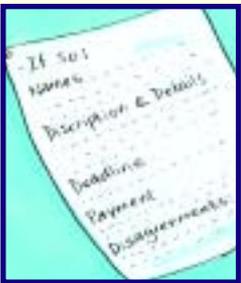
If your builder is not registered with the NHBC you can get assistance from the Housing Consumer Protection Trust. Call their toll free number 0800 111 663.

If your builder is a member of the Master Builders Association, you can ask them for assistance.

The Arbitration Foundation of Southern Africa is a nonprofit organisation which could also provide assistance when drawing up a contract or when a disagreement arises.

The Association of Arbitrators specialises in handling building disputes but they are only based in Johannesburg.

Look in the telephone book for numbers not listed here.



Details to include in a building contract

A contract explains the rights and responsibilities of each party. Include as much detail as possible to make sure that the rights and responsibilities of each party are clear. Include:

- The name and address of each party;
- A clear description and details of the building works and finishes to be completed;
- The price of the goods, materials and labour that must be provided;
- When the contract starts;
- The deadline for completing the whole project or each stage of the project
- When, where and how payment will be made;
- Who is responsible for ordering materials, supplying tools and equipment;
- Who is responsible to repair problems that arise after the building work is completed;
- How changes can be made to the contract;
- What will happen if one of the parties do not carry out their responsibilities;
- How disagreements will be solved if they arise (for example who can be asked to help when disagreements arise);
- How to end the contract if any party feels that the agreement is not being carried out properly.



ALSO SEE OTHER PAMPHLETS ABOUT:

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- Making home improvements



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