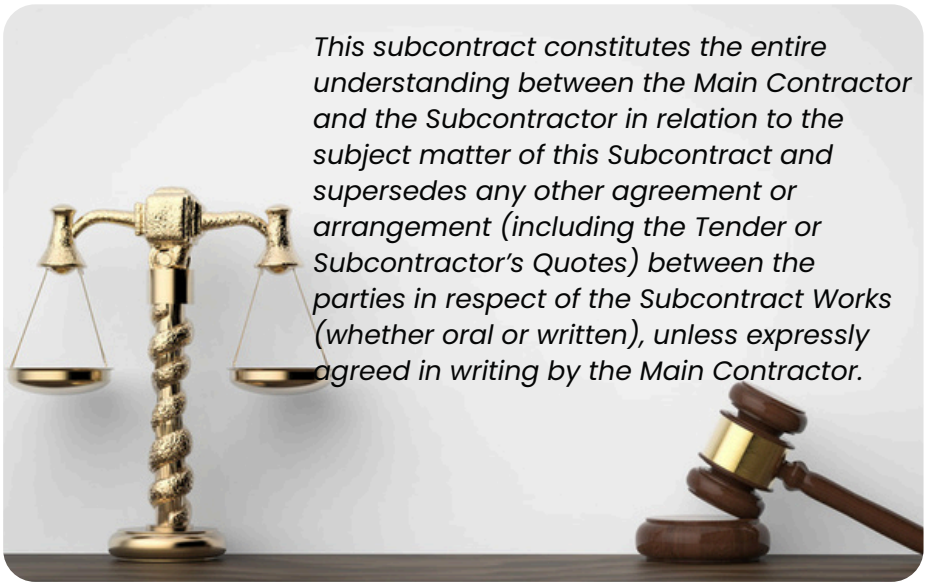


PITFALL 6

Entire Agreement Clause

When there's a dust-up about scope, most subbies reach for their quote. 'I didn't allow for that.' 'That wasn't in my price.' Or they dig out the email where the builder said they'd sort it. Once the contract is signed, none of that might count.

Just about every builder's contract has an 'entire agreement' clause. It usually reads something like this:



This subcontract constitutes the entire understanding between the Main Contractor and the Subcontractor in relation to the subject matter of this Subcontract and supersedes any other agreement or arrangement (including the Tender or Subcontractor's Quotes) between the parties in respect of the Subcontract Works (whether oral or written), unless expressly agreed in writing by the Main Contractor.

That clause makes the signed contract the whole deal. Your quote, the tender clarifications, the emails and what was said at the pre-start can all fall away unless they're written into the contract. Attaching your quote isn't enough either - the order of precedence usually puts it near the bottom. Watch for its cousin too: the non-reliance clause, where you agree you didn't rely on anything the builder said or gave you that isn't in the contract.

Before you sign: go through the scope line by line against your quote. Every exclusion, qualification and assumption you priced on goes into the scope or the special conditions, and so does anything agreed by email, on the phone or at a meeting. If something new comes up after you've signed, get a written variation before you do the work.

Pitfall 6 of 11 from the CC&D Essential Subbies Contract Review Checklist. Want your contract checked before you sign? Email smoko@mail.ccandd.com.au

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