



**BALDWIN SIGN COMPANY**

PO Box 6819  
 Spokane, Washington 99217  
 PH: (509) 489-9191  
 FX: (509) 489-3117

Customer Name: _____	Customer Work Phone/Fax: _____
Customer Address: _____	Job Name/Number: _____
Jobsite Address: _____	Jobsite Phone/Fax: _____

**A. SCOPE OF WORK.** This Agreement identifies the scope and detail of the work to be performed by JNW, INC. d/b/a Baldwin Sign Company ("BALDWIN"). BALDWIN's duty is to perform according to this Agreement only. This Agreement incorporates the following documents. [Check appropriate block below].

- A \_\_\_\_\_- page set of drawings dated \_\_\_\_\_, and prepared by \_\_\_\_\_.
- Specifications as written on the drawings.
- A separate \_\_\_\_\_- page set of specifications dated \_\_\_\_\_, and prepared by \_\_\_\_\_.
- Attachment A. Use Attachment A only if BALDWIN's scope of work is not fully described in the specifications or drawings (as noted above).
- Permits, if applicable, will be paid by Customer and obtained by:  BALDWIN  Customer / Other

All work performed by BALDWIN under a fixed price contract, which is not specifically detailed in the above scope of work, shall be performed and additionally billed pursuant to Section 6 of this Agreement. Customer warrants the sufficiency, completeness and workability of all drawings and/or specifications supplied by Customer.

**B. PRICING FORMAT.** BALDWIN shall charge Customer either a fixed price for the work, or shall charge Customer a on a time and material basis for the work. [Check appropriate block below].

<input type="checkbox"/> <b>FIXED PRICE CONTRACT.</b> Customer agrees to pay a fixed price for the work as follows: <ul style="list-style-type: none"> <li>● Contract price*      \$ _____</li> <li>● Sales tax              \$ _____</li> <li>● Total price            \$ _____</li>   <li>● Down Payment**:</li> </ul> <p>*The fixed contract price does not include applicable permit fees</p> <p>**Down payment is due upon execution of this Agreement.</p>	<input type="checkbox"/> <b>TIME &amp; MATERIALS CONTRACT.</b> Unless a Guaranteed Maximum Price (GMP) is quoted below, the Customer shall be charged for all labor, materials, equipment, and subcontractor's costs together with a 20% mark-up. Labor and truck equipment shall be charged per Section 7 below. Work performed on a Time & Materials Contract is subject to a potential savings bonus pursuant to Section 4 of this Agreement. <ul style="list-style-type: none"> <li>● Guaranteed Maximum Price:    \$ _____</li> <li>● Down Payment:                      \$ _____</li> </ul>
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## GENERAL CONDITIONS

**1. CODES AND PERMITS.** Following execution of this Agreement, in the event that a building department or other government agency subsequently requires work to be performed by BALDWIN which is not specifically referred to in this Agreement, or in the event that BALDWIN discovers work which requires remedial repair, BALDWIN will advise Customer of any changes and perform pursuant to Section 6 of this Agreement. If a building or additional permit is required for this project, BALDWIN will not commence work until the required permit is secured regardless of which party is responsible for securing it.

**2. SCHEDULING.** BALDWIN will expeditiously complete the work, subject to the following: availability of materials, inability to obtain the quality and quantity of materials and / or equipment, availability of adequate sewer, water, electricity, gas or any utility service, restricted access to the worksite, delays in communications with Customer or the project architect, unforeseen site conditions, inclement weather, insufficient or unworkable drawings or specifications, changes in the work, lack of timely receipt of payment from Customer, or other causes beyond BALDWIN's control.

**3. PAYMENT.** BALDWIN may invoice Customer on a periodic basis. Payment is due in full by Customer to BALDWIN within ten (10) days of Customer's receipt of each invoice, including the invoice for final payment. If payment is not timely received, BALDWIN reserves the right to suspend performance, without waiving any rights or remedies, until payment deficits are cured. Any accrued balance which remains unpaid, regardless of whether the amount in dispute is liquidated or unliquidated, shall bear interest at 1.5% per month from the date of the invoice. Unless otherwise agreed upon in writing, Customer shall not be entitled to withhold any retainage or retention from progress payments to BALDWIN. If a down payment is required, the down payment shall be credited to Customer upon the final invoice to Customer. If this Agreement is terminated prior to commencement or completion of the work, Customer shall be refunded the down payment, or credited the down payment, as may be appropriate, after deduction of BALDWIN's bidding costs and labor expended, costs of construction, including administration and mobilization/demobilization expenses.

**4. SAVINGS BONUS.** If work is performed on a Time and Material basis with a GMP, then if BALDWIN's total billings are less than the stated GMP, BALDWIN shall share in the savings and receive 50% of the savings as a bonus. For example, if the GMP is \$10,000 and BALDWIN's total time and material billings to the Customer total \$8,000, then the adjusted charge for the work shall be \$9,000.

### **5. CORRECTION OR COMPLETION OF WORK.**

**A. Punch List.** When BALDWIN determines that the work is substantially complete, BALDWIN will notify Customer accordingly. Customer may then review BALDWIN's work and identify any item(s) which Customer believes should be corrected or completed according to the scope of work described in Section A of this Agreement. This is called a punch list. There shall be only one (1) punch list. The punch list shall be signed and dated by Customer and presented to BALDWIN. BALDWIN shall complete punch list items for which BALDWIN is responsible, as described in the original scope of work. Out of scope work is not included.

**B. Final Payment.** Upon BALDWIN's completion and/or correction of the work identified on Customer's single punch list, described above, final payment shall be tendered within ten (10) calendar days to BALDWIN.

**C. Opportunity to Correct/Complete.** Customer or tenant **shall not:** (i) offset the cost of completing any work stated on the punch list against any balance owed to BALDWIN; (ii) contract with a third party for the performance or completion of work within the scope of this Agreement; or (iii) use BALDWIN's work until and unless BALDWIN is first provided the notice and opportunity to complete the punch list work.

**D. Waiver of All Claims.** All work is accepted "**AS IS**" and any and all further claims against BALDWIN are **waived** if Customer: (i) fails to provide BALDWIN the notice and opportunity to complete punch list work; (ii) contracts with a third party to perform the punch list work or any other work in BALDWIN's scope; (iii) attempts to perform punch list or other work him/herself; (iv) completes the project without first affording opportunity to BALDWIN to complete its work described above, (v) occupies the space in which BALDWIN performed work (or if it is occupied by, i.e., a tenant); or (vi) uses BALDWIN's work in any way.

**6. CHANGES IN THE WORK.** Customer may request change orders after commencement of work. Such requests shall be made directly to BALDWIN or to a lead person as designated by BALDWIN. Change orders shall be reduced to a written change order signed by both Customer and BALDWIN. A written change order must be on a form prepared by BALDWIN,

and shall state the effect of the change order upon the contract price and the completion date. In the absence of a signed change order, all change order work shall be performed on a time and material basis. Customer shall be obligated to pay BALDWIN at BALDWIN's site management (off-site) hourly rate stated below for all time preparing change orders that Customer later decides not to proceed with. If Customer accelerates the schedule of BALDWIN's work, Customer shall be obligated to pay for any overtime labor performed by BALDWIN at overtime rates.

Customer may elect to orally authorize or approve a change order. In this case, BALDWIN may proceed as directed by Customer or Customer's representative without a written change order. Unless a change order has been prepared in writing and signed by both parties, the cost of processing or completing a change order shall be calculated at the rates described below.

**7. DESCRIPTION OF RATES CHARGED / APPLICABLE RATE**

A per hour labor rate for the following shall apply:

- **1 Man/1 Truck:** \$ current rate \_\_/hr
- **2 Man/1 Truck:** \$ current rate \_\_/hr
- **2 Man/2 Truck:** \$ current rate \_\_/hr
- **Shop Labor:** \$ current rate \_\_/hr
- **Journeyman Electrician:** \$ current rate \_\_/hr
- **Apprentice Electrician:** \$ current rate \_\_/hr
- **Site Mgt. (off-site):** \$ current rate \_\_/hr
- **Design:** \$ current rate \_\_/hr

In the absence of a written agreement to the contrary, the effect on the estimated completion date shall be at least twice the proportion by which the contract price is increased by change order. For example, if the requested modification increases the contract price by one percent (1%), then the completion date will be extended by at least two percent (2%).

**8. ALLOWANCES.** Allowances are applicable only if Customer has selected the fixed price option for the agreement. An allowance is an arbitrary dollar value assigned by BALDWIN to a certain item of the work, which is part of the fixed price amount of the contract. An allowance is appropriate for an item that Customer is likely to upgrade or downgrade after the contract is signed and BALDWIN has commenced work. Customer's subsequent selections pertaining to an allowance item will cause the allowance value to either increase or decrease, which will affect the contract price.

Allowance Item	Dollar Amount
_____	\$ _____
_____	\$ _____
_____	\$ _____

**9. DISPUTES AND REMEDIES.** If a dispute arises between the parties, the parties shall promptly meet and attempt in good faith to resolve the dispute. Any unsettled disputes between the parties shall be decided by a suit filed in an appropriate court of jurisdiction, except for claims of \$5,000.00 and under which BALDWIN, at its sole discretion, may elect to resolve in Small Claims Court. If suit is filed in a Superior Court, the suit shall be decided according to the Mandatory Arbitration Rules (MAR) regardless of the amount in dispute and without limitation on the amount awarded by the Arbitrator. The MAR Arbitrator shall determine the validity and enforceability of a lien, if any, the award shall not be limited by otherwise applicable MAR limits. The parties expressly waive their right to a *trial de novo* (appeal) and further expressly agree to accept the Arbitrator's decision as binding and final. In the event a dispute or lawsuit arises and one or both parties seek and receive the assistance of legal counsel, the prevailing party shall be paid its attorneys' fees and costs by the non-prevailing party. The provisions of RCW Ch. 4.84 shall not apply and the exchange of offers of settlement shall not effect the award of attorney's fees to either party.

**10. WARRANTY AND CLAIMS LIMITATIONS.**

**A. Scope of Warranty.** All work will be performed in accordance with the contract documents and in compliance with applicable laws. Upon proper notice by Customer, BALDWIN will promptly return to the project, at BALDWIN's sole expense, and repair or replace, as necessary, any work which does not comply with conditions which are specifically set forth

in this Agreement. Customer's sole warranty remedy is for BALDWIN to return to the project at its own expense to complete or correct work which was incomplete or incorrect.

**B. Warranty Period and Claims Limitations Period.** BALDWIN's warranty expires **one (1) year** from the earlier of the date that the punch list is signed *or* first date of invoice for final payment. Any warranty claim of Customer shall accrue only during this period, without exception. Any warranty claim must be written and sent by mail or fax to BALDWIN during the warranty period or it is waived. Any warranty claim or any other cause of action arising from BALDWIN's performance of this Agreement, must be filed in a court of competent jurisdiction within four (4) months of the expiration of the one (1) year warranty period. Any unresolved, unasserted or undiscovered claim or cause of action, including any claim for breach of contract, warranty, tort and indemnification, etc. which is not filed within four (4) months from the expiration of this one (1) year period is **WAIVED** and barred. Any and all claims asserted under this warranty *or* other terms of this Agreement are expressly limited to claim(s) made in writing and sent to BALDWIN during the one (1) year period as specified above. Warranty work performed by BALDWIN does not extend the warranty. If anyone other than BALDWIN performs or re-performs any of BALDWIN's work, then BALDWIN shall be relieved of its obligations under this warranty and Customer shall be deemed to have **WAIVED** the benefits of this warranty. This provision shall be strictly enforced.

**11. EXCLUSIONS.** BALDWIN expressly disclaims responsibility and shall not be liable for any of the following items:

- Suitability or function of materials specified by Customer (whether or not installed by BALDWIN).
- Suitability or function of materials installed or worked on by another contractor or Customer.
- Safeness or function of design(s) furnished by Customer.
- Manufactured products, fixtures and/or appliances. Customer shall rely solely on the manufacturer's warranty. In the event that any manufacturer's warranty does not provide that the end-user is a beneficiary of its warranty, then BALDWIN shall provide to Customer any warranty from that manufacturer, if any, of which BALDWIN is a beneficiary, but only to that extent.
- Concrete or mortar cracks caused by normal expansion and contraction that do not substantially impair structural elements.
- Cracking in any brick facing, both inside and outside which does not affect the safety or function of such facing. Discolorations due to the elements, rain runoff, weathering, leaching of salts, or bleaching.
- Exterior. This warranty does not cover landscaping, grading, bulkheads, earth movement, instability of soil or earth, walkways, parking lots, marks, scratched, or depressions left by equipment used for it's work.
- BALDWIN will repair any holes resulting from its own excavation, but cannot restore the irrigation, plants, or other landscaping.
- BALDWIN will make best efforts to match any paint required in its scope of work with existing paint, but due to age, wear and other conditions, an exact match is not guaranteed.
- Repair or damage to any Dryvit due to removal of existing signage.
- Consequential Damages.

**12. PREMISES.**

**A.** Upon completion of the work, BALDWIN shall remove all of it's waste materials from the site, together with BALDWIN's tools, construction equipment and surplus materials, leaving the premises in a broom-clean condition. Customer is responsible for properly informing BALDWIN of all property lines, the location of all underground restrictions, easements, right-of-ways, neighborhood and community covenants, and any subsoil conditions prior to commencement of the work, including the location of septic tanks, sprinkler systems, cable TV lines, or drain fields. Otherwise, BALDWIN will assume all soil is clean, unobstructed and of good bearing. BALDWIN shall be responsible for locating utilities which are of public record. BALDWIN has not made any soil studies and is thus proceeding with the construction on the assumption that the underlying soil or land is suitable for the proposed construction, and no extra excavation or backfill will be required. The

determination of any need for a soil analysis, additional excavation, backfill or additional concrete, as well as the additional cost of these items, shall be paid by Customer.

**B.** BALDWIN is not responsible for previously existing, unknown or unobserved conditions in an existing building or on Customer's premises, including, without limitation, any structural, electrical, plumbing or mechanical conditions that may negatively impact BALDWIN's performance of the contract. Upon discovery of any such conditions, BALDWIN may be required by the applicable building authority or by standard construction practices to perform additional work not stated in the contract documents. The contract price has not been increased by BALDWIN to account for these conditions. If extra work is required because of these conditions, the contract price will be adjusted pursuant to Section 6 of this Agreement.

**C.** All installations require minimum standard conditions at the installation site, which are the responsibility of the Customer. Standard conditions include, but are not limited to the following:

- (1) Adequate power at the sign location, including GFCI protection.
- (2) Standard excavation includes less than six (6) yards of material. Delays and obstructions may result in additional charges and change the completion date.
- (3) For purposes of this Agreement, a standard wall is an eight (8) inch thick masonry wall. Walls which are thicker, made of other materials, or have obstructions may result in additional charges and change in the completion date.

**13. HAZARDOUS SUBSTANCES.** Scope and price of BALDWIN's work does not contemplate the performance of any work made necessary because of the presence of hazardous substances. Customer is solely responsible for the inspection, discovery, containment or disposal of hazardous substances. Customer further agrees to indemnify and hold BALDWIN harmless from any damages to person or property that may result from BALDWIN's disturbance of hazardous substances. If hazardous substances are discovered in or on the premises where BALDWIN's performing work, BALDWIN will stop its work until the hazardous substances are properly contained and disposed of.

**14. WORK PERFORMED BY CUSTOMER AND OTHERS.** Customer shall not perform nor permit any other person or company to perform any work within the scope of this Agreement without prior written approval from BALDWIN. Customer shall be responsible for all additional costs incurred by BALDWIN resulting from Customer's work or the work of others hired by Customer. BALDWIN is not responsible for any work performed or materials supplied by Customer or other persons or companies hired by Customer. As stated in the Warranty Section, if anyone other than BALDWIN performs or re-performs any of BALDWIN's work, then BALDWIN shall be relieved of its obligations under this warranty and Customer shall be deemed to have waived the benefits of BALDWIN's warranty.

**15. NO TRANSFER OR ASSIGNMENT.** This contract, including the warranty, may not be assigned by either party to any other person or company without the express written and signed consent of the other party. This prohibition of assignment applies not only to the assignment of rights to compel performance but also to the assignment of any claim or cause of action, including but not limited to claims for breach of contract, breach of warranty, tort and indemnification.

**16. MODIFICATIONS / DRAFTING.** Any alteration to this Agreement must be in writing and signed by both parties. The terms above were mutually negotiated and are not to be construed against the drafter in the event of a dispute.

**17. INTELLECTUAL PROPERTY.** Any and all inventions, discoveries, designs, developments and innovations ("Intellectual Property") conceived by the Customer in any way relating to or arising from performing the Work under this Agreement shall be the exclusive property of Baldwin Signs; and Customer hereby assigns all right, title, and interest in the same to Baldwin Signs. Customer hereby grants a perpetual, non-exclusive license to Baldwin Signs, at no additional cost, for its use of any Intellectual Property created or conceived by owner prior to the term of this Agreement that in any way relates to the Work. If requested by Baldwin Signs, Customer agrees, at Baldwin Signs' expense, to do all things, including execution of such documents as may be necessary for Baldwin Signs to obtain patents, copyrights or the like in order to effect the purposes of this paragraph.

**18. NOTICE.** The Notice below is required to be provided by State law.

**NOTICE TO CUSTOMER**

This contractor is registered with the state of Washington, under Registration Nos. BALDWSC972PM and BALDWSC975OW. This contractor has posted with the state bonds of \$12,000 and \$4,000 for the purpose of satisfying claims against BALDWIN for breach of contract including negligent or improper work in the conduct of BALDWIN's business. The expiration dates of this contractor's registrations are 10/26/2015 and 03/11/2016, which are renewable once every two years.

**THIS BOND MAY NOT BE SUFFICIENT TO COVER A CLAIM THAT MIGHT ARISE FROM THE WORK DONE UNDER YOUR CONTRACT.**

This bond is not for your exclusive use because it covers all work performed by this contractor. The bond is intended to pay valid claims up to \$12,000 that you and other customers, suppliers, subcontractors, or taxing authorities may have.

**FOR GREATER PROTECTION YOU MAY WITHHOLD A PERCENTAGE OF YOUR CONTRACT.**

You may withhold a contractually defined percentage of your construction contract as retainage for a stated period of time to provide protection to you and help insure that your project will be completed as required by your contract.

**YOUR PROPERTY MAY BE LIENED.**

If a supplier of materials used in your construction project or an employee or subcontractor of your contractor or subcontractors is not paid, your property may be liened to force payment and you could pay twice for the same work.

**FOR ADDITIONAL PROTECTION, YOU MAY REQUEST BALDWIN TO PROVIDE YOU WITH ORIGINAL "LIEN RELEASE" DOCUMENTS FROM EACH SUPPLIER OR SUBCONTRACTOR ON YOUR PROJECT.**

BALDWIN is required to provide you with further information about lien release documents if you request it. General information is also available from the state Department of Labor and Industries.

\* \* \*

**By signing below, Customer represents that the terms of this Agreement have been reviewed, in full, including the disclosure statement found in paragraph 17, and all other paragraphs found in the General Conditions, together with any relevant Attachments, and agrees to all terms contained therein:**

Dated: \_\_\_\_\_ **CUSTOMER'S SIGNATURE:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

Dated: \_\_\_\_\_ **JNW, INC.**

**D/B/A BALDWIN SIGN COMPANY:** By: \_\_\_\_\_

Printed \_\_\_\_\_

Its: \_\_\_\_\_

