

QBCC NATURAL DISASTER REPAIRS CONTRACT

(FOR REPAIRS OF ANY VALUE)

This Contract is strictly intended for repairs of any value to a home, duplex or home unit arising from a natural disaster (e.g. a flood, severe storm, cyclone, etc.). This Contract must NOT be used for the construction or rebuilding of an entire home.

- For minor renovations, extensions, improvements and routine repairs priced at \$3,301 - \$19,999, the **QBCC Level 1 Renovation, Extension and Repair Contract** is recommended.
- For renovations, extensions, improvements and routine repairs to a home priced at \$20,000 or more, the **QBCC Level 2 Renovation, Extension and Repair Contract** is recommended.
- For construction of a new home, the **QBCC New Home Construction Contract** is recommended.

THIS PACK CONTAINS:

- **Contractor's Booklet** (includes *Timeframes for Key Obligations* and *General Conditions*)
- **Homeowner's Booklet** (includes *Timeframes for Key Obligations*, *General Conditions* and *Consumer Building Guide*)
- **Schedule for QBCC Natural Disaster Repairs Contract**
- **Prime Cost Items Schedule**
- **Provisional Sums Schedule**
- **Form 1 – Commencement Notice**
- **Form 2 – Extension of Time Claim and Owner's Response to Claim**
- **Form 3 – Progress Claim**
- **Form 4 – Notice of Dispute of Progress Claim**
- **Form 5 – Variation Document**
- **Form 6 – Defects Document**
- **Form 7 – Certificate of Practical Completion**

WARNING FOR CONTRACTOR

Queensland legislation requires you to give the Owner a signed copy of the full Contract, including any plans and specifications, within 5 business days after you sign the Contract.

If the Contract Price is \$20,000 or more you must also give the Owner the Consumer Building Guide (included in Homeowner's Booklet) before they sign the Contract.

These documents form an integrated package which should not be mixed with documents from other contracts. The Contractor is required to give the Owner 1 copy of any Schedule or Form used in implementing the Contract (e.g. Form 3 – *Progress Claim*, Form 5 – *Variation Document*, etc.). **It is very important that you retain a copy of all of these documents and any related correspondence.**

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This Contract must NOT be used for the construction or rebuilding of an entire home.

- For minor renovations, extensions, improvements and routine repairs to a home priced at \$3,301 - \$19,999, the **QBCC Level 1 Renovation, Extension and Repair Contract** is recommended.
- For larger renovations, extensions, improvements and routine repairs to a home priced at \$20,000 or more, the **QBCC Level 2 Renovation, Extension and Repair Contract** is recommended.
- For construction of a new home, the **QBCC New Home Construction Contract** should be used.

CONTRACTOR'S BOOKLET

IMPORTANT NOTE FOR CONTRACTOR

In addition to the General Conditions, **this booklet now includes a new one-page document** titled **'Timeframes for Key Obligations Under this Contract'** which summarises when you need to meet important requirements under the contract and the legislation.

CONTENTS

PAGE NO.

TIMEFRAMES FOR KEY OBLIGATIONS UNDER THIS CONTRACT	2
GENERAL CONDITIONS	3
1. DEFINITIONS	3
2. WITHDRAWAL DURING 'COOLING-OFF' PERIOD	4
3. WARRANTIES UNDER SCHEDULE 1B OF QBCC ACT	4
4. PRICE	5
5. EVIDENCE OF TITLE, SITE BOUNDARIES AND CAPACITY TO PAY CONTRACT PRICE	6
6. COPYRIGHT	6
7. BUILDING APPROVAL	6
8. TERMINATION FOR LACK OF BUILDING APPROVAL	6
9. CONTRACTOR'S INDEMNITY IN FAVOUR OF THE OWNER	6
10. CONTRACTOR TO EFFECT INSURANCES	6
11. ACCESS TO THE SITE	7
12. CARE OF THE WORK UNDER THIS CONTRACT	7
13. WORKPLACE HEALTH AND SAFETY	7
14. COMMUNICATION BETWEEN OWNER AND CONTRACTOR	7
15. COMMENCEMENT AND PERFORMANCE OF THE WORKS	7
16. ASSIGNMENT AND SUBCONTRACTING	7
17. PAYMENT	7
18. INTEREST ON OVERDUE PAYMENTS	8
19. VARIATIONS	8
20. LATENT CONDITION	9
21. TIME FOR PRACTICAL COMPLETION	9
22. EXTENSION OF TIME	9
23. LIQUIDATED DAMAGES	9
24. DISPUTE RESOLUTION	10
25. TERMINATION AFTER NOTICE OF DEFAULT	10
26. TERMINATION FOR BANKRUPTCY OR LIQUIDATION	10
27. PRACTICAL COMPLETION	11
28. DEFECTS AFTER COMPLETION	11
29. NOTICES	11

TIMEFRAMES FOR KEY OBLIGATIONS UNDER THIS CONTRACT

(NOTE: The list below is not exhaustive; 'GC' numbers below indicate the relevant clause number in the General Conditions)

HOMEOWNER	BUILDING CONTRACTOR
WHEN CONTRACT SIGNED	WHEN CONTRACT SIGNED
<ul style="list-style-type: none"> DEPOSIT: On signing, pay deposit stated in the Contract Schedule (GC 17.2) COOLING-OFF PERIOD: Expires 5 business days after Owner receives signed copy of the full contract and (if price is \$20,000 or more) the Consumer Building Guide (Sections 35-38 of Schedule 1B of QBCC Act) 	<ul style="list-style-type: none"> CONSUMER BUILDING GUIDE: Ensure Guide given to Owner before they sign contract COPY OF CONTRACT (incl. plans & specs): Give to Owner within 5 business days of signing (GC 2) HOME WARRANTY INSURANCE: Collect premium from Owner and pay to QBCC within 10 business days
BEFORE WORK COMMENCES ON SITE	BEFORE WORK COMMENCES ON SITE
<ul style="list-style-type: none"> FINANCE: By Finance Date (or if no date stated, within 10 business days from contract date) - give Contractor written evidence of capacity to pay Contract Price (GC 5.2) ACCESS: Ensure Contractor has clear access to Site (GC 11) INSURANCE: Contact home property insurer to check their requirements (especially if insurer paying) 	<ul style="list-style-type: none"> FINANCIAL CAPACITY: Within 5 business days after Finance Date - Contractor may terminate contract if not satisfied with Owner's capacity to pay Contract Price INSURANCE: Ensure all insurances (incl. QBCC Home Warranty Scheme) are in place before work starts (GC 10) LODGE PLANS: Within 10 business days of Owner providing satisfactory evidence of financial capacity (GC 5.2), Contractor must lodge plans (unless Owner responsible for lodgement)
AFTER WORK COMMENCES ON SITE	AFTER WORK COMMENCES ON SITE
<ul style="list-style-type: none"> PROGRESS CLAIMS: Within 5 business days of receipt of progress claim - check the timing and amount of claim agrees with Item 8 of the Contract Schedule and pay valid claim (GC 17.9) VARIATIONS: Respond ASAP to all Variation Documents presented by Contractor (GC 19) EXTENSIONS OF TIME (EOT): Within 10 business days of receiving EOT claim from Contractor - assess, complete and return EOT Claim Form 2 (GC 22.4) AS PRACTICAL COMPLETION APPROACHES: Liaise with lender to ensure final contract payment will be available when required at Practical Completion 	<ul style="list-style-type: none"> COMMENCE WORK: On/before Start Date (GC 15.1) COMMENCEMENT NOTICE: Within 10 business days after starting on Site - give notice to Owner (GC 15.2) VARIATIONS: Give 'Variation Document' (Form 5) to Owner and get approval before starting variation work and before asking for payment - give a signed copy to Owner within 5 business days of agreement on variation (GC 19) EOT: Within 10 business days of becoming aware of (or when you reasonably ought to have become aware of) the cause and extent of the delay - give claim to Owner on Form 2. Give Owner a copy of the fully signed form within 5 business days of their approval (GC 22) AS PRACTICAL COMPLETION APPROACHES: Give owner 5 business days prior written notice of PC (GC 27.1)
AT PRACTICAL COMPLETION (PC)	AT PRACTICAL COMPLETION (PC)
<ul style="list-style-type: none"> CHECK CONTRACT (incl. plans & specs) AND INSPECT WORK with Contractor to ensure PC Stage has been reached (Note: Definition of PC allows for minor defects and minor omissions) DEFECTS DOCUMENT: Compile with Contractor at final inspection, sign and retain a copy (GC 27.2) PC PAYMENT: Pay Contractor immediately all PC requirements in Form 7 are satisfied (GC 27.5) 	<ul style="list-style-type: none"> Before presenting claim for PC Stage (GC 27): <ul style="list-style-type: none"> (a) Inspect contracted work, compile Defects Document with Owner, sign and copy to Owner (b) Give any remaining Certificates of Inspection (incl. 'Final' where applicable) to Owner (c) Complete PC Certificate (Form 7) and hand over property to Owner Present claim for PC Stage to Owner (GC 27.5)

GENERAL CONDITIONS

1. Definitions

1.1 In this Contract, unless the context otherwise requires, words and expressions used have the meaning defined or explained below:

- (a) **“Assessing Certifier”** means the private certifier or Local Government Authority responsible for granting the relevant building approvals and authorisations for the Works.
- (b) **“Building Product”** means any material or other thing associated with, or that could be associated with, a building.
- (c) **“Business Day”** means a day that is not:
 - (i) a Saturday or Sunday; or
 - (ii) a public holiday, special holiday, or bank holiday in Queensland.
- (d) **“Completion Period”** means the Completion Period stated in Schedule Item 6.
- (e) **“Contract Price”** means the total price of the Works stated in Schedule Item 1, including the Fixed Price Component and any allowances for Prime Cost Items and Provisional Sums, as adjusted under this Contract.
- (f) **“Contractor’s Authorised Representative”** means the person identified on the first page of the Contract Schedule (or other person notified in writing to the Owner) as the person empowered by the Contractor to communicate with the Owner, including giving or receiving instructions as to variations.
- (g) **“Date for Practical Completion”** means the date stated in or calculated by reference to Schedule Item 7 or any extended date pursuant to this Contract.
- (h) **“Date of Commencement of Works on Site”** means the date the Works commenced on Site as stated in the Commencement Notice issued by the Contractor.
- (i) **“Date of Practical Completion”** means the date certified in the QBCC Form 7 - *Certificate of Practical Completion* in accordance with Condition 27.
- (j) **“Finance Date”** means the date stated in Schedule Item 10 or, in the event no date is stated, the date 10 business days from the date of this Contract.
- (k) **“Fixed Price Component”** means the sum stated in Schedule Item 1 (a) of the Contract Price being the sum for which the Contractor must supply, in accordance with this Contract, everything necessary for the proper completion of the Works, other than the allowances (if any) for Prime Cost Items or Provisional Sums.
- (l) **“Foundations Data”** means information about the building Site required to prepare footings design and, if required, concrete slab design for the Site.
- (m) **“GST”** means any tax imposed by or through the GST Legislation on supply (without regard to any input tax credit).
- (n) **“GST Legislation”** means *A New Tax System (Goods and Services Tax) Act 1999* and any related tax imposition Act.
- (o) **“Intended Use”**, for a building product, means a use for which the building product is intended to be, or is reasonably likely to be, associated with a building.
- (p) **“Latent Condition”** means any physical condition on the Site, excluding weather condition, which differs substantially from the physical condition which could reasonably be expected by the Contractor at the time of entering into the Contract, if the Contractor had conducted all reasonable inspections of the Site and obtained any necessary reports, including foundations data.
- (q) **“Non-conforming Building Product”** - a building product is a non-conforming building product for an intended use if—
 - (i) the association of the product with a building for the use—
 - is not, or will not be, safe; or
 - does not, or will not, comply with the relevant regulatory provisions; or
 - (ii) the product does not perform, or is not capable of performing, for the use to the standard it is represented to perform by or for a person in the chain of responsibility for the product.
- (r) **“Owner’s Authorised Representative”** means the person identified on the first page of the Contract Schedule (or other person notified in writing to the Contractor) as the person empowered by the Owner to communicate with the Contractor, including giving instructions as to variations.
- (s) **“Practical Completion”** means the date upon which the Works are completed in accordance with the requirements of this Contract, including Condition 3 and Condition 27, apart from minor omissions or minor defects.
- (t) **“Practical Completion Stage”** means that stage of the Works in which Practical Completion will be attained in accordance with this Contract.
- (u) **“Prime Cost Item”** means any item noted in the *Prime Cost Items Schedule* to this Contract and as contemplated by Conditions 4 and 17.
- (v) **“Provisional Sum”** means any item noted in the *Provisional Sums Schedule* to this Contract and as contemplated by Conditions 4 and 17.

- (w) **"Relevant Criteria"** for materials means:
 - (i) generally accepted practices or standards applied in the building industry for the materials; or
 - (ii) specifications, instructions or recommendations of manufacturers or suppliers of the materials.
 - (x) **"Site"** means the Site described in Schedule Item 4 of this Contract.
 - (y) **"Starting Date"** means whichever of the following dates occurs the latest:
 - (i) the Starting Date stated in Schedule Item 5; or
 - (ii) the day which is 10 business days after the issue of the plans duly approved by the Assessing Certifier; or
 - (iii) the day which is 10 business days after the Owner has satisfied its obligations under Condition 5.2.
 - (z) **"Substantial breach by the Contractor"** has the meaning given in Condition 25.4.
 - (aa) **"Substantial breach by the Owner"** has the meaning given in Condition 25.3.
 - (bb) **"work under this Contract"** means all that work necessary to build the Works in accordance with this Contract, including the plans and specifications, and, unless expressly excluded, includes:
 - (i) work to make the Site accessible to the Contractor;
 - (ii) provision of any special equipment;
 - (iii) work to clear the Site for building;
 - (iv) set out of the Works and survey if necessary;
 - (v) necessary structural retaining walls;
 - (vi) sewerage, draining and electrical connections;
 - (vii) provision of temporary water and power during construction; and
 - (viii) provision of clean up and disposal of waste material from the Site.
 - (cc) **"Works"** means the work described in Schedule Item 3 to be built in accordance with this Contract, including variations authorised under the Contract, and which by the Contract is to be handed over to the Owner.
 - (b) if the Contract Price is \$20,000 or more –
 - (i) within 5 **business days** after the day on which the Owner receives from the Contractor a copy of both the Contract, including any plans and specifications, signed by the Owner and the Contractor and the QBCC Consumer Building Guide; or
 - (ii) if the Contract is given to the Owner separately from the Consumer Building Guide, then within 5 **business days** after the day on which the Owner receives the second document.
- 2.2 If the Owner wishes to withdraw relying on any of these circumstances, the Owner must within the cooling-off period give the Contractor a written notice stating that the Owner withdraws from the Contract under section 35 of Schedule 1B of the *Queensland Building and Construction Commission Act 1991* ('the QBCC Act').
- 2.3 If the Owner withdraws from the Contract under this Condition, the Owner must pay the Contractor an amount equal to any out-of-pocket expenses reasonably incurred by the Contractor before the Owner withdrew from the Contract, plus an additional \$100 if the Contractor has provided the Owner with the documents required in accordance with Condition 2.1 (a) or (b). The Contractor must provide details of any out-of-pocket expenses they intend to claim. If, at the time they withdraw, the Owner has already paid more than the Contractor's entitlement under this Condition, the Contractor must promptly refund the excess.
- 2.4 The Owner may not withdraw from the Contract under section 35 of Schedule 1B of the QBCC Act if:
- (a) the Owner and the Contractor had entered a previous Contract in substantially the same terms and relating to the same home or land; or
 - (b) the Owner received formal legal advice about the Contract before entering into the Contract; or
 - (c) the Owner, at the time of entering into the Contract or after entering into the Contract, tells the Contractor that the Owner had received formal legal advice about the Contract before entering into the Contract.

2. Withdrawal during 'cooling-off' period

- 2.1 Subject to Condition 2.4, the Owner may withdraw from the Contract within the times noted below:
- (a) if the Contract Price is less than \$20,000 –
 - (i) within 5 **business days** after the day on which the Owner receives from the Contractor a copy of the Contract, including any plans and specifications, signed by the Owner and the Contractor; or

3. Warranties under Schedule 1B of QBCC Act

- 3.1 The Contractor warrants that:
- (a) the **work under this Contract** will be carried out in an appropriate and skilful way and with reasonable care and skill and reasonable diligence;
 - (b) all materials supplied will be of good quality

and suitable for the purpose for which they are used having regard to the **Relevant Criteria**, and that all materials used will be new unless this Contract expressly provides otherwise;

- (c) the **work under this Contract** will be carried out in accordance with all relevant laws and legal requirements including, for example, the *Building Act 1975*;
 - (d) the **work under this Contract** will be carried out in accordance with the plans and specifications and any other Contract documents described in Schedule Item 13;
 - (e) if the **work under this Contract** consists of the erection or construction of a detached dwelling to a stage suitable for occupation or is intended to renovate, alter, extend, improve or repair a home to a stage reasonably suitable for occupation, that the detached dwelling or home will be suitable for occupation when the **Works** are finished; and
 - (f) any estimate of **Provisional Sums** or **Prime Cost Items** included in the Contract has been calculated with reasonable care and skill, having regard to all the information reasonably available when the Contract is entered into (including information about the nature and location of the building site).
- 3.2 Without limiting any other warranty under this Contract, the Contractor shall ensure that, so far as reasonably practicable:
- (a) a building product associated with the **work under this Contract** is not a **non-conforming building product** for an **intended use**; and
 - (b) the Owner is given all information about the **building product** required by section 74AG(4) of the QBCC Act.
- 3.3 The Contractor must, unless the Contract expressly provides otherwise, supply at the Contractor's cost and expense, everything necessary for the proper completion of the **Works** and for the performance of the **work under this Contract**.
- 3.4 The Owner must pay the Contractor the **Contract Price** for the **Works** in accordance with this Contract.

4. Price

- 4.1 The parties agree that the **Contract Price** stated in Schedule Item 1 comprises the following:
- (a) **Fixed Price Component**;
 - (b) **Prime Cost Items** Component (if any); and
 - (c) **Provisional Sum** Items Component (if any).
- 4.2 If the total sum allowed for **Prime Cost Items** (including the Contractor's margin) and **Provisional Sums** (including the Contractor's margin) exceeds 20% as a proportion of the **Contract Price** as stated in Schedule Item 1, the Contractor must prior to

commencement of the **Works** give to the Owner a written statement setting out the reasons for the inclusion of each item as a **Prime Cost Item** or a **Provisional Sum**.

In any such case, the Contractor is not entitled to any payment under this Contract until such statement is given.

- 4.3 If allowances for **Prime Cost Items** and **Provisional Sums** are included in the **Contract Price**, the total amount of each type of allowance must be shown adjacent to the words '**Prime Cost Items**' and '**Provisional Sums**' in Schedule Item 1 and the Contractor must give the Owner a separate schedule which states, for each **Prime Cost Item** or **Provisional Sum**, the following details:
- (a) a detailed description of the **Prime Cost Item** or of the contracted services to which the **Provisional Sum** relates;
 - (b) a breakdown of the cost estimates provided for by the Contractor in the allowance for the **Prime Cost Item** or **Provisional Sum**; and
 - (c) any margin the Contractor proposes to charge for providing the items or services covered by the allowances (the 'Contractor's margin').
- 4.4 The Contractor warrants that each such estimate in the *Prime Cost Items Schedule* or the *Provisional Sums Schedule* represents the reasonable cost of supplying and delivering each **Prime Cost Item**, or providing the contracted service covered by the **Provisional Sum**, including the Contractor's margin.
- 4.5 If the actual cost of providing a **Prime Cost Item**, or the contract services covered by a **Provisional Sum**, is more than the Contractor's estimate, the Owner must pay the Contractor the increase, plus the Contractor's margin (as stated in the *Prime Cost Items Schedule* or *Provisional Sums Schedule*).
- 4.6 If the actual cost of providing a **Prime Cost Item**, or the contract services covered by a **Provisional Sum**, is less than the Contractor's estimate, the Contractor must deduct the difference, plus the Contractor's margin, from the **Contract Price**.
- 4.7 Prior to or when making a progress claim relating to the cost to the Contractor of supplying a **Prime Cost Item**, or providing the contracted services covered by a **Provisional Sum**, the Contractor must provide the Owner with a copy of any invoice, receipt or other document showing the cost to the Contractor of supplying the item or providing the contracted services under the Contract. The Contractor cannot seek payment for the **Prime Cost Item**, or the contracted service covered by the **Provisional Sum**, until the progress claim following the incorporation of the item in the **Works** or following the completion of the said contracted service.

4.8 As soon as practicable after the Contractor becomes aware that the allowance for any **Prime Cost Item** or **Provisional Sum** Item will be exceeded by more than 10%, and where practicable before the relevant work commences, the Contractor must provide the Owner with a written notice which:

- (a) describes the **Prime Cost Item** or **Provisional Sum**;
- (b) states the amount by which the relevant allowance in the *Prime Cost Items Schedule* or *Provisional Sums Schedule* will be exceeded; and
- (c) identifies the Progress Payment stage under this Contract at which payment for the **Prime Cost Item** or **Provisional Sum** will be required.

GOODS AND SERVICES TAX

4.9 The parties agree and acknowledge that all pricing, consideration and amounts otherwise payable under this Contract (including under any variation pursuant to Condition 19) have been or will be calculated on a **GST** inclusive basis.

5. Evidence of title, site boundaries and capacity to pay Contract Price

- 5.1 Prior to the date of this Contract, the Contractor has satisfied itself as to the Owner's title to the Site and, where relevant to the **Works**, of the boundaries and position of the **Site**.
- 5.2 This Contract is subject to the Owner providing the Contractor by the **Finance Date** with written evidence, satisfactory to the Contractor, of the Owner's capacity to pay the **Contract Price**.
- 5.3 If by the **Finance Date** the Contractor is not satisfied as to the Owner's capacity to pay the **Contract Price**, the Contractor may, no later than 5 **business days** after the **Finance Date**, give written notice to the Owner that this Contract is at an end.
- 5.4 If by the **Finance Date** the Owner fails to provide any written evidence as to its capacity to pay the **Contract Price** or advises the Contractor in writing that it does not have the capacity to pay the **Contract Price**, this Contract is at an end.
- 5.5 If this Contract is ended under this Condition, the Contractor must immediately refund to the Owner any deposit or other money paid by the Owner to the Contractor less any fees, costs and expenses incurred by the Contractor with the Owner's express consent.

6. Copyright

- 6.1 A party supplying plans for use in the performance of this Contract warrants that those plans may be so used and indemnifies the other party against any action by any person claiming ownership or copyright in respect of those plans.

6.2 Where plans are drawn by the Contractor, the Owner agrees that, as between the Owner and the Contractor, the Contractor has copyright in those plans but the Owner has the right to cause the completion of the **Works** by the Contractor in accordance with those plans.

7. Building approval

- 7.1 If building approval is required for the subject work, within 10 **business days** from the date the Owner has satisfied its obligations under Condition 5.2 the party named in Schedule Item 12 (or if no party is named, then the Contractor) must lodge all plans and other documents necessary for permission, consent or approval required for the commencement of building work with the relevant **Assessing Certifier** and any other body having relevant jurisdiction.
- 7.2 All parties must do all such things as may be reasonably necessary to obtain all permissions, consents or approvals required for the commencement of the **Works**.

8. Termination for lack of building approval

- 8.1 Either party may give a written notice to the other party terminating this Contract if, without fault on the part of the party giving the notice, any permission, consent or approval necessary for the commencement of building has not issued within 3 months of the date of this Contract or such further period extended by the parties' agreement in writing.
- 8.2 If the Contract is terminated pursuant to this Condition the parties' entitlements and obligations shall be the same as if the Contract were brought to an end under Condition 5.4 and Condition 5.5 shall apply.

9. Contractor's indemnity in favour of the Owner

The Contractor shall indemnify the Owner against any liability for loss, damage, injury or death arising out of the work under this Contract except where such loss, damage, injury or death is caused by an act or omission of the Owner.

10. Contractor to effect insurances

- 10.1 The Contractor must, at its cost, effect and maintain during the course of this Contract the following insurances:
 - (a) all insurance required by the *Workers' Compensation and Rehabilitation Act 2003*;
 - (b) Queensland Home Warranty insurance (if required for the **Works**), the premium for which must be collected from the Owner and paid to QBCC within 10 **business days** after the date the Contract was entered or before the **work under this Contract** starts (whichever is earlier); and

- (c) Contract Works insurance for the full insurable value of the Contract Work and Public Liability insurance for not less than 5 million dollars, both until 4pm on the **Date of Practical Completion**, with a reputable and financially sound insurer upon usual and reasonable terms which name or include as an insured the Owner and the Contractor for their respective rights.
- 10.2 Prior to commencement of the **Works**, or upon request by the Owner, the Contractor must provide to the Owner written evidence that the Contract Works and Public Liability insurances are current.

11. Access to the Site

- 11.1 The Owner gives the Contractor a licence to access the **Site** sufficient to enable the Contractor to commence and carry out the **work under this Contract** from the **Starting Date** until the Contractor hands over the **Works** to the Owner on the **Date of Practical Completion**.
- 11.2 The Contractor must permit the Owner or any person authorised by the Owner to, under the Contractor's supervision:
 - (a) have reasonable access to the **Site**; and
 - (b) view any part of the **work under this Contract**.

12. Care of the work under this Contract

- 12.1 The Contractor is responsible for the care of the **work under this Contract** from the date on which work **under this Contract** commences on **Site** until the Contractor hands over the **Works** to the Owner on the **Date of Practical Completion**.
- 12.2 The Contractor must promptly make good any loss or damage to that work, or the Owner's property, occasioned by any act, neglect or default of the Contractor or the Contractor's employees, agents or subcontractors and must also make good any such loss or damage which is or which ought to have been the subject of any insurance required by this Contract.

13. Workplace health and safety

The Contractor shall comply with all applicable requirements of the *Work Health and Safety Act 2011*.

14. Communication between Owner and Contractor

The Owner or the **Owner's Authorised Representative** must communicate and deal with the Contractor personally or with the **Contractor's Authorised Representative**. The Owner must not give directions to the Contractor's employees or subcontractors or rely on information provided by

them.

15. Commencement and performance of the Works

- 15.1 The Contractor must commence **work under this Contract** at the **Site** on or before the **Starting Date**.
- 15.2 Within 10 **business days** after the date on which **work under this Contract** commences on **Site**, the Contractor must give a written notice to the Owner (such as QBCC Form 1 - *Commencement Notice*) stating:
 - (a) the date on which **work under this Contract** commenced on **Site**; and
 - (b) the **Date for Practical Completion**.
- 15.3 The Contractor must diligently carry out the **work under this Contract** and must not, except as permitted by this Contract, delay, suspend, or fail to maintain reasonable progress in the performance of that work.

16. Assignment and subcontracting

- 16.1 The Contractor must not assign this Contract or the **work under this Contract** without the prior written consent of the Owner.
- 16.2 The Contractor may subcontract parts of the **work under this Contract** to appropriately licensed tradespersons, but the Contractor remains liable to the Owner for the **work under this Contract**.

17. Payment

- 17.1 The Owner must pay the Contractor the **Contract Price** for the **Works** calculated and adjusted as provided by this Contract in accordance with the provisions of this Condition.
- 17.2 The Owner must pay the Contractor the deposit (if any) stated in Schedule Item 2 upon the signing of this Contract.
- 17.3 After receiving the deposit (if any), the Contractor is entitled to claim either:
 - (a) one Lump Sum Payment as stated in Schedule Item 8(a) upon completion of the **Works**; or
 - (b) a Progress Payment when the Contractor has achieved completion of each of the payment stages set out in Schedule Item 8(b) which claim shall consist of the percentage of the **Contract Price** applicable to that stage as set out in Schedule Item 8(b).
- 17.4 Payment claims under Condition 17.3 shall be subject to the following adjustments (if applicable):
 - (a) an adjustment for any **Prime Cost Item** incorporated in the **Works** to that stage, and not included in a previous Progress Payment, such adjustment being an increase or decrease to the relevant stage payment as set

out in Schedule Item 8 depending on whether the final cost of the **Prime Cost Item** is more or less than the amount allowed and stated in the *Prime Cost Items Schedule*; and

- (b) an adjustment for the value of any **Provisional Sum** Item completed to that stage and not included in a previous Progress Payment, such adjustment being an increase or decrease to the relevant stage payment as set out in Schedule Item 8 depending on whether the final cost of the **Provisional Sum** Item is more or less than the amount allowed and stated in the *Provisional Sums Schedule*; and
 - (c) an increase to the relevant stage payment in respect to an amount payable under an agreed Variation Document where the variation work has been completed and for which payment has not previously been made; and
 - (d) a decrease in the relevant stage payment in respect to an agreed variation which reduces the **Contract Price**.
- 17.5 Any such adjustments referred to in Condition 17.4 shall be recorded by the Contractor on the Form 3 - *Progress Claim* or similar appropriate document and the relevant progress claim shall be adjusted accordingly.
- 17.6 The QBCC Form 3 - *Progress Claim* or similar appropriate document must be accompanied by a QBCC Form 4 - *Notice of Dispute of Progress Claim* or similar appropriate written notice and any certificates of inspection relevant to the payment stage.
- 17.7 The progress claim for the **Practical Completion Stage** must, in addition to the requirements specified for any other progress claim, be accompanied by a completed and signed QBCC Form 6 - *Defects Document* and QBCC Form 7 - *Certificate of Practical Completion*, or similar appropriate documents.
- 17.8 The Contractor must make all reasonable efforts to have the Owner sign the QBCC Form 6 - *Defects Document* or similar appropriate document used to record the minor defects and minor omissions.
- 17.9 Except in regard to the Progress Payment for the **Practical Completion Stage** payable in accordance with Condition 27.5, the Owner must pay the Contractor the Progress Payment, or so much of the relevant claim for Progress Payment as is not disputed by the Owner, within 5 **business days** of receipt of the relevant claim.
- 17.10 If the Owner disputes the relevant claim for Progress Payment or any part of it, the Owner must, within 5 **business days** of receipt of the relevant claim, give to the Contractor a completed and signed QBCC Form 4 - *Notice of Dispute of Progress Claim* or

similar appropriate written notice stating the reasons for so disputing the claim or part of it.

- 17.11 If the dispute is not resolved by the parties within 5 **business days** of the receipt by the Contractor of the notice of the dispute, the dispute must be referred for resolution in accordance with Condition 24.

18. Interest on overdue payments

The Owner must pay the Contractor interest on overdue payments at the rate set out in Schedule Item 11 or at the Commonwealth Bank of Australia Standard Variable Rate applicable to home loans at the time the payment becomes overdue plus 5% per annum (the 'default rate'), whichever is the lesser rate. If no amount is entered in Schedule Item 11 the default rate shall apply.

19. Variations

- 19.1 The **work under this Contract** may be varied by way of an increase, decrease or substitution of **work under this Contract** agreed between the Contractor and the Owner in a written Variation Document provided that, before work commences and before any additional payment is sought, the details of the variation are put in a written Variation Document agreed in writing by both parties.
- 19.2 The Contractor shall not commence work on a variation or be entitled to any payment in respect of a variation unless the variation is documented in accordance with Condition 19.3 and Condition 19.4.
- 19.3 The Variation Document may be a QBCC Form 5 - *Variation Document*, or other similar appropriate document, with the particulars completed in accordance with the requirements of Schedule 1B of the QBCC Act, agreed in writing by both parties.
- 19.4 The Variation Document complies with the requirements of Schedule 1B of the QBCC Act if it:
- (a) is readily legible; and
 - (b) describes the variation; and
 - (c) states the date of the request for the variation; and
 - (d) if the variation will result in a delay affecting the subject work - states the Contractor's reasonable estimate for the period of delay; and
 - (e) states the change to the **Contract Price** because of the variation, or the method for calculating the change to the **Contract Price** because of the variation; and
 - (f) if the variation results in an increase in the **Contract Price** - states when the increase is to be paid; and
 - (g) if the variation results in a decrease in the

Contract Price – states when the decrease is to be accounted for.

- 19.5 The Contractor must give the Owner a readily legible signed copy of the Variation Document within 5 **business days** after the variation is agreed and before the variation work is commenced.
- 19.6 The Contractor must not seek an increase in the Contract Price due to a variation until after the variation work has been completed.

20. Latent condition

The Contractor shall have no entitlement to claim a price increase or an extension of time due to a **Latent Condition** unless, on becoming aware of the **Latent Condition**, and prior to commencing work to address the **Latent Condition**, the Contractor gives the Owner written notice of the **Latent Condition** in QBCC Form 5 – *Variation Document* and/or QBCC Form 2 – *Extension of Time Claim & Owner's Response to Claim*, as the case may be.

21. Time for Practical Completion

- 21.1 The Contractor must achieve **Practical Completion** of the **Works** by the **Date for Practical Completion** stated in or calculated in accordance with Schedule Item 7 or any extended date under Condition 22.

22. Extension of time

- 22.1 Subject to complying with Condition 22.2, the Contractor may only claim and is entitled to a reasonable extension of the **Date for Practical Completion** if:
- (a) the need for the extension of time arises because of one or more of the following causes of delay prevents the Contractor from achieving **Practical Completion** by the **Date for Practical Completion**:
 - (i) a variation complying with Condition 19; or
 - (ii) a delay caused by the Owner or the **Owner's Authorised Representative**; or
 - (iii) a delay event stated in Schedule Item 6B which exceeds the stated allowance; or
 - (iv) another cause of delay which is not reasonably foreseeable and beyond the reasonable control of the Contractor; and
 - (b) the claim is made to the Owner in writing using a QBCC Form 2 – *Extension of Time Claim and Owner's Response to Claim* or similar appropriate document with the particulars, including the cause of the delay and the extension of the **Date for Practical Completion** claimed, completed; and
 - (c) the claim is given to the Owner within 10 **business days** of the earlier of the Contractor becoming aware of the cause and extent of the delay and when the Contractor reasonably

ought to have become aware of the cause and extent of the delay; and

- (d) the Owner approves the claim in writing using the QBCC Form 2 – *Extension of Time Claim and Owner's Response to Claim* or similar appropriate document .
- 22.2 The Contractor must take all reasonable steps to lessen the effect and duration of any delay.
- 22.3 The Contractor must give the Owner a signed copy of the claim for an extension of time within 5 **business days** of the Owner approving the claim.
- 22.4 The Owner must, within 10 **business days** of receiving the Contractor's claim, reasonably assess and return to the Contractor the said QBCC Form 2 – *Extension of Time Claim and Owner's Response to Claim* or similar appropriate document either agreeing to the extension of time claimed or giving reasons for the rejection of the whole or part of the said claim, failing which the said extension of time claim will be deemed to be disputed by the Owner.
- 22.5 Delay or failure by the Owner to agree to an extension of time does not cause the **Date for Practical Completion** to be set at large, but the Contractor shall be entitled to damages arising from the unreasonable rejection of all or part of a claim for an extension of the **Date for Practical Completion**.

23. Liquidated damages

- 23.1 If the Contractor fails to achieve **Practical Completion** of the **Works** by the **Date for Practical Completion**, then the Contractor must pay to the Owner liquidated damages calculated at the rate provided in Schedule Item 9.
- 23.2 If Schedule Item 9 is left blank, a default amount of \$50 per day shall be deemed to apply.
- 23.3 Liquidated damages may only be deducted by the Owner from the amount payable to the Contractor in respect of the **Practical Completion Stage**. If the Owner's entitlement to liquidated damages exceeds the amount payable to the Contractor for the **Practical Completion Stage**, the excess may be recovered by the Owner as a debt due to the Owner by the Contractor.

WARNING TO OWNER

The entitlement to claim, and the amount to be deducted, for liquidated damages must be assessed carefully and in accordance with the Contract. Any valid extensions of time must be taken into consideration when calculating the number of days of liquidated damages which can be claimed.

24. Dispute resolution

- 24.1 If a dispute under the Contract arises between the parties, either party may give the other party a written notice of dispute adequately identifying and providing details of the dispute.
- 24.2 If the dispute is not resolved within 10 **business days** of the receipt of the notice of dispute, either party may refer the matter to a dispute resolution process administered by the Queensland Building and Construction Commission (QBCC).
- 24.3 A party will not commence any proceedings in respect of the dispute in any court or tribunal of competent jurisdiction until the dispute resolution process administered by the QBCC referred to in Condition 24.2 is at an end.
- 24.4 Where a dispute has arisen under or in connection with this Contract, including Condition 22.4, the Contractor must proceed diligently with the **work under this Contract** notwithstanding the existence of the dispute.

25. Termination after notice of default

- 25.1 If:
- (a) a party is in substantial breach of this Contract; and
 - (b) the other party gives a notice to the party in breach identifying and describing the breach and stating the intention of the party giving notice to terminate the Contract if the breach is not remedied within 10 **business days** from the date notice is given in accordance with Condition 29; and
 - (c) the breach is not so remedied,
- then, the party giving that notice may terminate this Contract by a further written notice given to the party in breach and may recover from the party in breach all damages, loss, cost or expense occasioned to the party so terminating by or in connection with the breach or that termination and may set off such claim against payment otherwise due by the party so terminating.
- 25.2 The right to terminate under this Condition is in addition to any other powers, rights or remedies the terminating party may have.
- 25.3 **Substantial breach by the Owner** includes, but is not limited to:
- (a) failing to produce evidence satisfactory to the Contractor of the Owner's capacity to pay the **Contract Price** in compliance with Condition 5 of this Contract;
 - (b) failing to pay any money due and owing to the Contractor for more than 10 **business days**

from receipt of the relevant claim; and

- (c) substantially or persistently obstructing the Contractor in the performance of the **work under this Contract**.

25.4 **Substantial breach by the Contractor** includes, but is not limited to:

- (a) failing to comply with any necessary approvals associated with the **work under this Contract**;
- (b) failing to provide materials which comply with this Contract;
- (c) unreasonably failing to replace or remedy defective work or materials;
- (d) unreasonably failing to perform the **work under this Contract** diligently or unreasonably delaying, suspending or failing to maintain reasonable progress;
- (e) failing to effect or maintain any insurance required by this Contract;
- (f) failing to hold the current, active and appropriate licence required to perform the **Works**, including, without limitation, a licence required under the QBCC Act; and
- (g) the Contractor failing to pay a judgement debt.

26. Termination for Bankruptcy or liquidation

Notwithstanding Condition 25, should either party be made bankrupt or, being a company, go into liquidation, then the other party may, by giving a written notice, immediately terminate the Contract.

WARNING TO OWNER AND CONTRACTOR

New legislation effective from 1 July 2018 makes it illegal to terminate a contract with a company solely because they have gone into voluntary administration, appointed a receiver/managing controller or entered a scheme of arrangement with creditors. For this reason (and the probable loss for Owners of non-completion protection under the Qld Home Warranty Scheme if you terminate your Contract incorrectly), **it is very important that you obtain formal legal advice before terminating the Contract for any reason.**

27. Practical Completion

- 27.1 The Contractor must give to the Owner 5 **business days** prior written notice of the date upon which the Contractor anticipates that the **Works** will reach **Practical Completion**.
- 27.2 On the date specified in that notice as the anticipated date on which the **Works** will reach **Practical Completion**, the Owner or the **Owner's Representative** will inspect the **Works** and if satisfied that the **Works** have reached **Practical Completion**, and if the Contractor produces to the Owner satisfactory written evidence that all relevant inspections and approvals required by the *Sustainable Planning Act 2009* and the *Building Act 1975* and by any body having the relevant jurisdiction have been satisfactorily completed, the Contractor must:
- (a) complete and sign the QBCC Form 6 - *Defects Document* or similar appropriate document identifying minor defects and minor omissions and give a copy to the Owner; and
 - (b) give the Owner a completed and signed QBCC Form 7 - *Certificate of Practical Completion* stating that date as the **Date of Practical Completion**; and
 - (c) hand over the **Works** to the Owner.
- 27.3 If the Owner considers that the **Works** have not reached **Practical Completion** the Owner must give the Contractor written notice of those matters which are required to be done for the **Works** to reach **Practical Completion**. The Contractor must carry out such matters as may be necessary for the **Works** to reach **Practical Completion** and must otherwise proceed in accordance with the preceding paragraph.
- 27.4 The issue of a Certificate of **Practical Completion** does not constitute approval of any **work under this Contract** nor does it prejudice any claim by the Owner in respect of the **work under this Contract**.
- 27.5 When the Contractor has satisfied all of its obligations under Condition 27.2 the Owner must immediately pay the Contractor the progress claim for the **Practical Completion Stage** (as adjusted under Condition 23, if applicable).

28. Defects after completion

- 28.1 The Contractor must make good defects or omissions in the **work under this Contract** which become apparent to the Owner within 12 months of the **Date of Practical Completion**.
- 28.2 If there are any such defects or omissions, the Owner must, as soon as practicable after becoming aware of the defects or omissions, give the Contractor written notice to make good such defects or omissions and must give the Contractor reasonable access to the **Site** for that purpose.

- 28.3 Subject to reasonable access being provided, the Contractor must, within 28 calendar days of the notice being given, rectify any defects or omissions notified to the Contractor under Condition 28.2 during usual business hours.

29. Notices

- 29.1 Any notice under this Contract must, unless otherwise stated, be given in writing and sent to the party to whom the notice is to be given at the address stated in the Schedule, or such other address as is subsequently advised in writing, in one of the following ways:
- (a) delivered to the other party by hand; or
 - (b) delivered by prepaid post to the address noted in the Schedule; or
 - (c) sent by facsimile to the facsimile number noted in the Schedule; or
 - (d) sent by email to the email address noted in the Schedule.
- 29.2 Any notice sent by post is deemed to be given at the time when by the ordinary course of post it would have been delivered.
- 29.3 Any notice sent by facsimile is deemed to be given at the time when a valid transmission report is received by the sender.
- 29.4 Any notice sent by email is deemed to be given in accordance with the following provisions:
- (a) the notice is deemed given at the time the email is sent provided it is sent before 5.00pm on a **business day** at the place of receipt and otherwise on the next **business day** at the place of receipt, provided:
 - (i) the sender's computer or email account does not receive a message that the email has not been delivered (including an 'out of office' message); and
 - (ii) the email has been received fully and in legible form by the receiver; and
 - (iii) the receiver has not advised the sender in writing that a notice cannot be given to them by email for the stated period.

QBCC NATURAL DISASTER REPAIRS CONTRACT

(FOR REPAIRS OF ANY VALUE)

This Contract is strictly intended for repairs of any value to a home, duplex or home unit arising from a natural disaster (e.g. a flood, severe storm or cyclone, etc.). This Contract must NOT be used for the construction or rebuilding of an entire home.

- For minor renovations, extensions, improvements and routine repairs to a home priced at \$3,301 - \$19,999, the **QBCC Level 1 Renovation, Extension and Repair Contract** is recommended.
- For larger renovations, extensions, improvements and routine repairs to a home priced at \$20,000 or more, the **QBCC Level 2 Renovation, Extension and Repair Contract** is recommended.
- For construction of a new home, the **QBCC New Home Construction Contract** should be used.

HOMEOWNER'S BOOKLET

IMPORTANT NOTE FOR THE HOMEOWNER

This QBCC Natural Disaster Repairs Contract Pack consists of the documents listed below. Schedules and Forms are held by the Contractor and will be used and copied to you as required.

- **Contractor's Booklet** (includes *Timeframes for Key Obligations* and *General Conditions*)
- **Homeowner's Booklet** (includes *Timeframes for Key Obligations, General Conditions* and *Consumer Building Guide*)
- **Contract Schedule** (with any relevant plans and specifications attached)
- **Prime Cost Items Schedule** (if relevant)
- **Provisional Sums Schedule** (if relevant)
- **Form 1 – Commencement Notice**
- **Form 2 – Extension of Time Claim and Owner's Response to Claim**
- **Form 3 – Progress Claim**
- **Form 4 – Notice of Dispute of Progress Claim**
- **Form 5 – Variation Document**
- **Form 6 – Defects Document**
- **Form 7 – Certificate of Practical Completion**

IMPORTANT NOTE FOR OWNER

The Contractor must give you a signed copy of the full Contract, including any plans and specifications, within 5 business days after the Contractor signs the Contract. If the Contract Price is \$20,000 or more you must read and sign the Consumer Building Guide at the back of this booklet before you sign the Contract.

These documents form an integrated package which should not be mixed with documents from other contracts. The Contractor is required to give you 1 copy of any schedule or form you are asked to sign (e.g. Form 3 – *Progress Claim*, Form 5 – *Variation Document*, etc.).

It is very important that you retain a copy of all of these documents and any related correspondence.

CONTENTS

PAGE NO.

TIMEFRAMES FOR KEY OBLIGATIONS UNDER THIS CONTRACT	2
PRELIMINARY CONSIDERATIONS FOR NATURAL DISASTER REPAIRS	3
GENERAL CONDITIONS	4
1. DEFINITIONS	4
2. WITHDRAWAL DURING 'COOLING-OFF' PERIOD	5
3. WARRANTIES UNDER SCHEDULE 1B OF QBCC ACT	5
4. PRICE	6
5. EVIDENCE OF TITLE, SITE BOUNDARIES AND CAPACITY TO PAY CONTRACT PRICE	7
6. COPYRIGHT	7
7. BUILDING APPROVAL	7
8. TERMINATION FOR LACK OF BUILDING APPROVAL	7
9. CONTRACTOR'S INDEMNITY IN FAVOUR OF THE OWNER	7
10. CONTRACTOR TO EFFECT INSURANCES	7
11. ACCESS TO THE SITE	8
12. CARE OF THE WORK UNDER THIS CONTRACT	8
13. WORKPLACE HEALTH AND SAFETY	8
14. COMMUNICATION BETWEEN OWNER AND CONTRACTOR	8
15. COMMENCEMENT AND PERFORMANCE OF THE WORKS	8
16. ASSIGNMENT AND SUBCONTRACTING	8
17. PAYMENT	8
18. INTEREST ON OVERDUE PAYMENTS	9
19. VARIATIONS	9
20. LATENT CONDITION	10
21. TIME FOR PRACTICAL COMPLETION	10
22. EXTENSION OF TIME	10
23. LIQUIDATED DAMAGES	10
24. DISPUTE RESOLUTION	11
25. TERMINATION AFTER NOTICE OF DEFAULT	11
26. TERMINATION FOR BANKRUPTCY OR LIQUIDATION	11
27. PRACTICAL COMPLETION	12
28. DEFECTS AFTER COMPLETION	12
29. NOTICES	12
CONTACT LIST	13
CONSUMER BUILDING GUIDE	14
(NOTE: Owner to read and sign this Guide before signing the Contract; Contractor to retain a signed copy)	

TIMEFRAMES FOR KEY OBLIGATIONS UNDER THIS CONTRACT

(NOTE: The list below is not exhaustive; 'GC' numbers below indicate the relevant clause number in the General Conditions)

HOMEOWNER	BUILDING CONTRACTOR
WHEN CONTRACT SIGNED	WHEN CONTRACT SIGNED
<ul style="list-style-type: none"> DEPOSIT: On signing, pay deposit stated in the Contract Schedule (GC 17.2) COOLING-OFF PERIOD: Expires 5 business days after Owner receives signed copy of the full contract and (if price is \$20,000 or more) the Consumer Building Guide (Sections 35-38 of Schedule 1B of QBCC Act) 	<ul style="list-style-type: none"> CONSUMER BUILDING GUIDE: Ensure Guide given to Owner before they sign contract COPY OF CONTRACT (incl. plans & specs): Give to Owner within 5 business days of signing (GC 2) HOME WARRANTY INSURANCE: Collect premium from Owner and pay to QBCC within 10 business days
BEFORE WORK COMMENCES ON SITE	BEFORE WORK COMMENCES ON SITE
<ul style="list-style-type: none"> FINANCE: By Finance Date (or if no date stated, within 10 business days from contract date) - give Contractor written evidence of capacity to pay Contract Price (GC 5.2) ACCESS: Ensure Contractor has clear access to Site (GC 11) INSURANCE: Contact home property insurer to check their requirements (especially if insurer paying) 	<ul style="list-style-type: none"> FINANCIAL CAPACITY: Within 5 business days after Finance Date - Contractor may terminate contract if not satisfied with Owner's capacity to pay Contract Price INSURANCE: Ensure all insurances (incl. QBCC Home Warranty Scheme) are in place before work starts (GC 10) LODGE PLANS: Within 10 business days of Owner providing satisfactory evidence of financial capacity (GC 5.2), Contractor must lodge plans (unless Owner responsible for lodgement)
AFTER WORK COMMENCES ON SITE	AFTER WORK COMMENCES ON SITE
<ul style="list-style-type: none"> PROGRESS CLAIMS: Within 5 business days of receipt of progress claim - check the timing and amount of claim agrees with Item 8 of the Contract Schedule and pay valid claim (GC 17.9) VARIATIONS: Respond ASAP to all Variation Documents presented by Contractor (GC 19) EXTENSIONS OF TIME (EOT): Within 10 business days of receiving EOT claim from Contractor - assess, complete and return EOT Claim Form 2 (GC 22.4) AS PRACTICAL COMPLETION APPROACHES: Liaise with lender to ensure final contract payment will be available when required at Practical Completion 	<ul style="list-style-type: none"> COMMENCE WORK: On/before Start Date (GC 15.1) COMMENCEMENT NOTICE: Within 10 business days after starting on Site - give notice to Owner (GC 15.2) VARIATIONS: Give 'Variation Document' (Form 5) to Owner and get approval before starting variation work and before asking for payment - give a signed copy to Owner within 5 business days of agreement on variation (GC 19) EOT: Within 10 business days of becoming aware of (or when you reasonably ought to have become aware of) the cause and extent of the delay - give claim to Owner on Form 2. Give Owner a copy of the fully signed form within 5 business days of their approval (GC 22) AS PRACTICAL COMPLETION APPROACHES: Give owner 5 business days prior written notice of PC (GC 27.1)
AT PRACTICAL COMPLETION (PC)	AT PRACTICAL COMPLETION (PC)
<ul style="list-style-type: none"> CHECK CONTRACT (incl. plans & specs) AND INSPECT WORK with Contractor to ensure PC Stage has been reached (Note: Definition of PC allows for minor defects and minor omissions) DEFECTS DOCUMENT: Compile with Contractor at final inspection, sign and retain a copy (GC 27.2) PC PAYMENT: Pay Contractor immediately all PC requirements in Form 7 are satisfied (GC 27.5) 	<ul style="list-style-type: none"> Before presenting claim for PC Stage (GC 27): <ul style="list-style-type: none"> (a) Inspect contracted work, compile Defects Document with Owner, sign and copy to Owner (b) Give any remaining Certificates of Inspection (incl. 'Final' where applicable) to Owner (c) Complete PC Certificate (Form 7) and hand over property to Owner Present claim for PC Stage to Owner (GC 27.5)

PRELIMINARY CONSIDERATIONS FOR NATURAL DISASTER REPAIRS

If your repair work arises from a flood, severe storm or cyclone, there may be a number of important preliminary steps you need to take before repair work can commence. While you may, understandably, be eager to move back quickly into your home, especially if you and your family are staying in temporary alternative accommodation, **it is very important for the long term integrity of your property that you do not attempt to rush or cut corners with these initial procedures.** The contractors you will engage have a legal responsibility to perform their work in accordance with all relevant laws and legal requirements, including the *Building Act 1975*. Some preliminary considerations may include:

- ☐ Soon after the natural disaster has safely passed, and **before engaging a contractor to commence repairs, you should urgently contact your home property and contents insurer to determine what you are covered for and what assistance they can provide** (e.g. rental assistance for temporary accommodation). **Your insurer may have procedures they require you to follow or preferred contractors** they will engage and pay on your behalf to perform the work.
- ☐ Try to accurately document the extent of the damage and your losses (take photos if possible).
- ☐ If you make an insurance claim and are unhappy with your insurer's response you should in the first instance contact the Customer Complaints section and ask for your complaint to be dealt with in accordance with the company's internal Dispute Resolution processes. If this does not produce a satisfactory outcome you may wish to contact and lodge a complaint with the Financial Ombudsman Service (FOS – most major banks and insurance companies are member organisations) at telephone 1800 367 287 or via their website at www.fos.org.au.
- ☐ Financial assistance may also be available from other sources such as your home mortgage provider, State or Commonwealth Government grants or from funds provided by public donations or charitable organisations.
- ☐ If funds/grants from such sources will be used to pay for all or part of your repair work, **it is very important that you obtain written confirmation of this financial support, and an authority to proceed with repairs, from the finance provider and provide a copy to the contractor before signing the repairs contract.**
- ☐ Even if your insurer is paying for the repairs, you should receive a hard copy of the repair contract (or access to an electronic version) which should include your name, the contractor's name and licence number, the site address, a description of the contracted work and the contract price.

- ☐ **Inspections by properly qualified/licensed professionals** (e.g. an electrician, engineer, gas fitter, plumber or builder) **may be required to confirm the safety of the property.**
- ☐ Appropriate protective gear (e.g. gloves, face masks, full length clothing, closed-in shoes) should be used and extreme care taken when removing debris as the site may be contaminated with toxic mud and water, sharp objects, etc. washed in from other areas. Any injuries should be quickly cleaned and promptly checked by a doctor.
- ☐ **If your property may have asbestos material** (e.g. in the ceiling or walls or under the floor coverings), **you should not under any circumstances attempt to remove the asbestos yourself but engage properly qualified professionals to do so (see asbestos removal and work safety information on the Department of Justice website www.health.qld.gov.au/asbestos).**
NOTE: Cleaning and drying of the building and surrounding site may be a lengthy process, especially if the site has been under water for a long period. Timber experts suggest that in some cases it may take several months for timber frames to fully dry out and reach the appropriate level of moisture content which can only be accurately checked with special equipment. If the frame is not properly dry or the footings are compromised, major problems with the structure may surface months later.
- ☐ Depending on the nature and extent of the damage, the structural integrity of the footings, frame, roof, etc. and the status of electrical wiring and plumbing may need to be professionally checked before any repair work can commence.
- ☐ For further information and advice about building issues and procedures relevant to the natural disaster which has impacted your property, you should consult building professionals or relevant industry bodies.

When these checks and preliminaries have been carried out and the property is ready for repairs to commence, **you should attempt to obtain at least 2 (preferably 3) written quotes from currently and appropriately licensed contractors** (your home property insurer may help you obtain quotes or they may appoint a particular builder for your project). When obtaining quotes, be sure to confirm the contractor's licence and check their history using the Licensee Search facility on the QBCC website.
NOTE: Quotes are not a substitute for a proper contract but they will give you a rough idea of the likely range of repair costs and the availability of contractors.

GENERAL CONDITIONS

1. Definitions

1.1 In this Contract, unless the context otherwise requires, words and expressions used have the meaning defined or explained below:

- (a) **"Assessing Certifier"** means the private certifier or Local Government Authority responsible for granting the relevant building approvals and authorisations for the Works.
- (b) **"Building Product"** means any material or other thing associated with, or that could be associated with, a building.
- (c) **"Business Day"** means a day that is not:
 - (i) a Saturday or Sunday; or
 - (ii) a public holiday, special holiday, or bank holiday in Queensland.
- (d) **"Completion Period"** means the Completion Period stated in Schedule Item 6.
- (e) **"Contract Price"** means the total price of the Works stated in Schedule Item 1, including the Fixed Price Component and any allowances for Prime Cost Items and Provisional Sums, as adjusted under this Contract.
- (f) **"Contractor's Authorised Representative"** means the person identified on the first page of the Contract Schedule (or other person notified in writing to the Owner) as the person empowered by the Contractor to communicate with the Owner, including giving or receiving instructions as to variations.
- (g) **"Date for Practical Completion"** means the date stated in or calculated by reference to Schedule Item 7 or any extended date pursuant to this Contract.
- (h) **"Date of Commencement of Works on Site"** means the date the Works commenced on Site as stated in the Commencement Notice issued by the Contractor.
- (i) **"Date of Practical Completion"** means the date certified in the QBCC Form 7 - *Certificate of Practical Completion* in accordance with Condition 27.
- (j) **"Finance Date"** means the date stated in Schedule Item 10 or, in the event no date is stated, the date 10 business days from the date of this Contract.
- (k) **"Fixed Price Component"** means the sum stated in Schedule Item 1 (a) of the Contract Price being the sum for which the Contractor must supply, in accordance with this Contract, everything necessary for the proper completion of the Works, other than the allowances (if any) for Prime Cost Items or Provisional Sums.
- (l) **"Foundations Data"** means information about the building Site required to prepare footings design and, if required, concrete slab design for the Site.
- (m) **"GST"** means any tax imposed by or through the GST Legislation on supply (without regard to any input tax credit).
- (n) **"GST Legislation"** means *A New Tax System (Goods and Services Tax) Act 1999* and any related tax imposition Act.
- (o) **"Intended Use"**, for a building product, means a use for which the building product is intended to be, or is reasonably likely to be, associated with a building.
- (p) **"Latent Condition"** means any physical condition on the Site, excluding weather condition, which differs substantially from the physical condition which could reasonably be expected by the Contractor at the time of entering into the Contract, if the Contractor had conducted all reasonable inspections of the Site and obtained any necessary reports, including foundations data.
- (q) **"Non-conforming Building Product"** - a building product is a non-conforming building product for an intended use if—
 - (i) the association of the product with a building for the use—
 - is not, or will not be, safe; or
 - does not, or will not, comply with the relevant regulatory provisions; or
 - (ii) the product does not perform, or is not capable of performing, for the use to the standard it is represented to perform by or for a person in the chain of responsibility for the product.
- (r) **"Owner's Authorised Representative"** means the person identified on the first page of the Contract Schedule (or other person notified in writing to the Contractor) as the person empowered by the Owner to communicate with the Contractor, including giving instructions as to variations.
- (s) **"Practical Completion"** means the date upon which the Works are completed in accordance with the requirements of this Contract, including Condition 3 and Condition 27, apart from minor omissions or minor defects.
- (t) **"Practical Completion Stage"** means that stage of the Works in which Practical Completion will be attained in accordance with this Contract.
- (u) **"Prime Cost Item"** means any item noted in the *Prime Cost Items Schedule* to this Contract and as contemplated by Conditions 4 and 17.
- (v) **"Provisional Sum"** means any item noted in the *Provisional Sums Schedule* to this Contract and as contemplated by Conditions 4 and 17.

- (w) **“Relevant Criteria”** for materials means:
 - (i) generally accepted practices or standards applied in the building industry for the materials; or
 - (ii) specifications, instructions or recommendations of manufacturers or suppliers of the materials.
 - (x) **“Site”** means the Site described in Schedule Item 4 of this Contract.
 - (y) **“Starting Date”** means whichever of the following dates occurs the latest:
 - (i) the Starting Date stated in Schedule Item 5; or
 - (ii) the day which is 10 business days after the issue of the plans duly approved by the Assessing Certifier; or
 - (iii) the day which is 10 business days after the Owner has satisfied its obligations under Condition 5.2.
 - (z) **“Substantial breach by the Contractor”** has the meaning given in Condition 25.4.
 - (aa) **“Substantial breach by the Owner”** has the meaning given in Condition 25.3.
 - (bb) **“work under this Contract”** means all that work necessary to build the Works in accordance with this Contract, including the plans and specifications, and, unless expressly excluded, includes:
 - (i) work to make the Site accessible to the Contractor;
 - (ii) provision of any special equipment;
 - (iii) work to clear the Site for building;
 - (iv) set out of the Works and survey if necessary;
 - (v) necessary structural retaining walls;
 - (vi) sewerage, draining and electrical connections;
 - (vii) provision of temporary water and power during construction; and
 - (viii) provision of clean up and disposal of waste material from the Site.
 - (cc) **“Works”** means the work described in Schedule Item 3 to be built in accordance with this Contract, including variations authorised under the Contract, and which by the Contract is to be handed over to the Owner.
 - (b) if the Contract Price is \$20,000 or more –
 - (i) within 5 **business days** after the day on which the Owner receives from the Contractor a copy of both the Contract, including any plans and specifications, signed by the Owner and the Contractor and the QBCC Consumer Building Guide; or
 - (ii) if the Contract is given to the Owner separately from the Consumer Building Guide, then within 5 **business days** after the day on which the Owner receives the second document.
- 2.2 If the Owner wishes to withdraw relying on any of these circumstances, the Owner must within the cooling-off period give the Contractor a written notice stating that the Owner withdraws from the Contract under section 35 of Schedule 1B of the *Queensland Building and Construction Commission Act 1991* (*‘the QBCC Act’*).
- 2.3 If the Owner withdraws from the Contract under this Condition, the Owner must pay the Contractor an amount equal to any out-of-pocket expenses reasonably incurred by the Contractor before the Owner withdrew from the Contract, plus an additional \$100 if the Contractor has provided the Owner with the documents required in accordance with Condition 2.1 (a) or (b). The Contractor must provide details of any out-of-pocket expenses they intend to claim. If, at the time they withdraw, the Owner has already paid more than the Contractor’s entitlement under this Condition, the Contractor must promptly refund the excess.
- 2.4 The Owner may not withdraw from the Contract under section 35 of Schedule 1B of the QBCC Act if:
- (a) the Owner and the Contractor had entered a previous Contract in substantially the same terms and relating to the same home or land; or
 - (b) the Owner received formal legal advice about the Contract before entering into the Contract; or
 - (c) the Owner, at the time of entering into the Contract or after entering into the Contract, tells the Contractor that the Owner had received formal legal advice about the Contract before entering into the Contract.

2. Withdrawal during ‘cooling-off’ period

- 2.1 Subject to Condition 2.4, the Owner may withdraw from the Contract within the times noted below:
- (a) if the Contract Price is less than \$20,000 –
 - (i) within 5 **business days** after the day on which the Owner receives from the Contractor a copy of the Contract, including any plans and specifications, signed by the Owner and the Contractor; or

3. Warranties under Schedule 1B of QBCC Act

- 3.1 The Contractor warrants that:
- (a) the **work under this Contract** will be carried out in an appropriate and skilful way and with reasonable care and skill and reasonable diligence;
 - (b) all materials supplied will be of good quality

and suitable for the purpose for which they are used having regard to the **Relevant Criteria**, and that all materials used will be new unless this Contract expressly provides otherwise;

- (c) the **work under this Contract** will be carried out in accordance with all relevant laws and legal requirements including, for example, the *Building Act 1975*;
 - (d) the **work under this Contract** will be carried out in accordance with the plans and specifications and any other Contract documents described in Schedule Item 13;
 - (e) if the **work under this Contract** consists of the erection or construction of a detached dwelling to a stage suitable for occupation or is intended to renovate, alter, extend, improve or repair a home to a stage reasonably suitable for occupation, that the detached dwelling or home will be suitable for occupation when the **Works** are finished; and
 - (f) any estimate of **Provisional Sums** or **Prime Cost Items** included in the Contract has been calculated with reasonable care and skill, having regard to all the information reasonably available when the Contract is entered into (including information about the nature and location of the building site).
- 3.2 Without limiting any other warranty under this Contract, the Contractor shall ensure that, so far as reasonably practicable:
- (a) a building product associated with the **work under this Contract** is not a **non-conforming building product** for an **intended use**; and
 - (b) the Owner is given all information about the **building product** required by section 74AG(4) of the QBCC Act.
- 3.3 The Contractor must, unless the Contract expressly provides otherwise, supply at the Contractor's cost and expense, everything necessary for the proper completion of the **Works** and for the performance of the **work under this Contract**.
- 3.4 The Owner must pay the Contractor the **Contract Price** for the **Works** in accordance with this Contract.

4. Price

- 4.1 The parties agree that the **Contract Price** stated in Schedule Item 1 comprises the following:
- (a) **Fixed Price Component**;
 - (b) **Prime Cost Items** Component (if any); and
 - (c) **Provisional Sum** Items Component (if any).
- 4.2 If the total sum allowed for **Prime Cost Items**

(including the Contractor's margin) and **Provisional Sums** (including the Contractor's margin) exceeds 20% as a proportion of the **Contract Price** as stated in Schedule Item 1, the Contractor must prior to commencement of the **Works** give to the Owner a written statement setting out the reasons for the inclusion of each item as a **Prime Cost Item** or a **Provisional Sum**.

In any such case, the Contractor is not entitled to any payment under this Contract until such statement is given.

- 4.3 If allowances for **Prime Cost Items** and **Provisional Sums** are included in the **Contract Price**, the total amount of each type of allowance must be shown adjacent to the words '**Prime Cost Items**' and '**Provisional Sums**' in Schedule Item 1 and the Contractor must give the Owner a separate schedule which states, for each **Prime Cost Item** or **Provisional Sum**, the following details:
- (a) a detailed description of the **Prime Cost Item** or of the contracted services to which the **Provisional Sum** relates;
 - (b) a breakdown of the cost estimates provided for by the Contractor in the allowance for the **Prime Cost Item** or **Provisional Sum**; and
 - (c) any margin the Contractor proposes to charge for providing the items or services covered by the allowances (the 'Contractor's margin').
- 4.4 The Contractor warrants that each such estimate in the *Prime Cost Items Schedule* or the *Provisional Sums Schedule* represents the reasonable cost of supplying and delivering each **Prime Cost Item**, or providing the contracted service covered by the **Provisional Sum**, including the Contractor's margin.
- 4.5 If the actual cost of providing a **Prime Cost Item**, or the contract services covered by a **Provisional Sum**, is more than the Contractor's estimate, the Owner must pay the Contractor the increase, plus the Contractor's margin (as stated in the *Prime Cost Items Schedule* or *Provisional Sums Schedule*).
- 4.6 If the actual cost of providing a **Prime Cost Item**, or the contract services covered by a **Provisional Sum**, is less than the Contractor's estimate, the Contractor must deduct the difference, plus the Contractor's margin, from the **Contract Price**.
- 4.7 Prior to or when making a progress claim relating to the cost to the Contractor of supplying a **Prime Cost Item**, or providing the contracted services covered by a **Provisional Sum**, the Contractor must provide the Owner with a copy of any invoice, receipt or other document showing the cost to the Contractor of supplying the item or providing the contracted

services under the Contract. The Contractor cannot seek payment for the **Prime Cost Item**, or the contracted service covered by the **Provisional Sum**, until the progress claim following the incorporation of the item in the **Works** or following the completion of the said contracted service.

- 4.8 As soon as practicable after the Contractor becomes aware that the allowance for any **Prime Cost Item** or **Provisional Sum** Item will be exceeded by more than 10%, and where practicable before the relevant work commences, the Contractor must provide the Owner with a written notice which:
- (a) describes the **Prime Cost Item** or **Provisional Sum**;
 - (b) states the amount by which the relevant allowance in the *Prime Cost Items Schedule* or *Provisional Sums Schedule* will be exceeded; and
 - (c) identifies the Progress Payment stage under this Contract at which payment for the **Prime Cost Item** or **Provisional Sum** will be required.

GOODS AND SERVICES TAX

- 4.9 The parties agree and acknowledge that all pricing, consideration and amounts otherwise payable under this Contract (including under any variation pursuant to Condition 19) have been or will be calculated on a **GST** inclusive basis.

5. Evidence of title, site boundaries and capacity to pay Contract Price

- 5.1 Prior to the date of this Contract, the Contractor has satisfied itself as to the Owner's title to the Site and, where relevant to the **Works**, of the boundaries and position of the **Site**.
- 5.2 This Contract is subject to the Owner providing the Contractor by the **Finance Date** with written evidence, satisfactory to the Contractor, of the Owner's capacity to pay the **Contract Price**.
- 5.3 If by the **Finance Date** the Contractor is not satisfied as to the Owner's capacity to pay the **Contract Price**, the Contractor may, no later than 5 **business days** after the **Finance Date**, give written notice to the Owner that this Contract is at an end.
- 5.4 If by the **Finance Date** the Owner fails to provide any written evidence as to its capacity to pay the **Contract Price** or advises the Contractor in writing that it does not have the capacity to pay the **Contract Price**, this Contract is at an end.
- 5.5 If this Contract is ended under this Condition, the Contractor must immediately refund to the Owner any deposit or other money paid by the Owner to the Contractor less any fees, costs and expenses incurred by the Contractor with the Owner's express consent.

6. Copyright

- 6.1 A party supplying plans for use in the performance of this Contract warrants that those plans may be so used and indemnifies the other party against any action by any person claiming ownership or copyright in respect of those plans.
- 6.2 Where plans are drawn by the Contractor, the Owner agrees that, as between the Owner and the Contractor, the Contractor has copyright in those plans but the Owner has the right to cause the completion of the **Works** by the Contractor in accordance with those plans.

7. Building approval

- 7.1 If building approval is required for the subject work, within 10 **business days** from the date the Owner has satisfied its obligations under Condition 5.2 the party named in Schedule Item 12 (or if no party is named, then the Contractor) must lodge all plans and other documents necessary for permission, consent or approval required for the commencement of building work with the relevant **Assessing Certifier** and any other body having relevant jurisdiction.
- 7.2 All parties must do all such things as may be reasonably necessary to obtain all permissions, consents or approvals required for the commencement of the **Works**.

8. Termination for lack of building approval

- 8.1 Either party may give a written notice to the other party terminating this Contract if, without fault on the part of the party giving the notice, any permission, consent or approval necessary for the commencement of building has not issued within 3 months of the date of this Contract or such further period extended by the parties' agreement in writing.
- 8.2 If the Contract is terminated pursuant to this Condition the parties' entitlements and obligations shall be the same as if the Contract were brought to an end under Condition 5.4 and Condition 5.5 shall apply.

9. Contractor's indemnity in favour of the Owner

The Contractor shall indemnify the Owner against any liability for loss, damage, injury or death arising out of the work under this Contract except where such loss, damage, injury or death is caused by an act or omission of the Owner.

10. Contractor to effect insurances

- 10.1 The Contractor must, at its cost, effect and maintain during the course of this Contract the following insurances:
- (a) all insurance required by the *Workers'*

Compensation and Rehabilitation Act 2003;

- (b) Queensland Home Warranty insurance (if required for the **Works**), the premium for which must be collected from the Owner and paid to QBCC within 10 **business days** after the date the Contract was entered or before the **work under this Contract** starts (whichever is earlier); and
 - (c) Contract Works insurance for the full insurable value of the Contract Work and Public Liability insurance for not less than 5 million dollars, both until 4pm on the **Date of Practical Completion**, with a reputable and financially sound insurer upon usual and reasonable terms which name or include as an insured the Owner and the Contractor for their respective rights.
- 10.2 Prior to commencement of the **Works**, or upon request by the Owner, the Contractor must provide to the Owner written evidence that the Contract Works and Public Liability insurances are current.

11. Access to the Site

- 11.1 The Owner gives the Contractor a licence to access the **Site** sufficient to enable the Contractor to commence and carry out the **work under this Contract** from the **Starting Date** until the Contractor hands over the **Works** to the Owner on the **Date of Practical Completion**.
- 11.2 The Contractor must permit the Owner or any person authorised by the Owner to, under the Contractor's supervision:
- (a) have reasonable access to the **Site**; and
 - (b) view any part of the **work under this Contract**.

12. Care of the work under this Contract

- 12.1 The Contractor is responsible for the care of the **work under this Contract** from the date on which work **under this Contract** commences on **Site** until the Contractor hands over the **Works** to the Owner on the **Date of Practical Completion**.
- 12.2 The Contractor must promptly make good any loss or damage to that work, or the Owner's property, occasioned by any act, neglect or default of the Contractor or the Contractor's employees, agents or subcontractors and must also make good any such loss or damage which is or which ought to have been the subject of any insurance required by this Contract.

13. Workplace health and safety

The Contractor shall comply with all applicable requirements of the *Work Health and Safety Act 2011*.

14. Communication between Owner and Contractor

The Owner or the **Owner's Authorised Representative** must communicate and deal with the Contractor personally or with the **Contractor's Authorised Representative**. The Owner must not give directions to the Contractor's employees or subcontractors or rely on information provided by them.

15. Commencement and performance of the Works

- 15.1 The Contractor must commence **work under this Contract** at the **Site** on or before the **Starting Date**.
- 15.2 Within 10 **business days** after the date on which **work under this Contract** commences on **Site**, the Contractor must give a written notice to the Owner (such as QBCC Form 1 - *Commencement Notice*) stating:
- (a) the date on which **work under this Contract** commenced on **Site**; and
 - (b) the **Date for Practical Completion**.
- 15.3 The Contractor must diligently carry out the **work under this Contract** and must not, except as permitted by this Contract, delay, suspend, or fail to maintain reasonable progress in the performance of that work.

16. Assignment and subcontracting

- 16.1 The Contractor must not assign this Contract or the **work under this Contract** without the prior written consent of the Owner.
- 16.2 The Contractor may subcontract parts of the **work under this Contract** to appropriately licensed tradespersons, but the Contractor remains liable to the Owner for the **work under this Contract**.

17. Payment

- 17.1 The Owner must pay the Contractor the **Contract Price** for the **Works** calculated and adjusted as provided by this Contract in accordance with the provisions of this Condition.
- 17.2 The Owner must pay the Contractor the deposit (if any) stated in Schedule Item 2 upon the signing of this Contract.
- 17.3 After receiving the deposit (if any), the Contractor is entitled to claim either:
- (a) one Lump Sum Payment as stated in Schedule Item 8(a) upon completion of the **Works**; or
 - (b) a Progress Payment when the Contractor has achieved completion of each of the payment stages set out in Schedule Item 8(b) which claim shall consist of the percentage of the **Contract Price** applicable to that stage as set out in Schedule Item 8(b).

17.4 Payment claims under Condition 17.3 shall be subject to the following adjustments (if applicable):

- (a) an adjustment for any **Prime Cost Item** incorporated in the **Works** to that stage, and not included in a previous Progress Payment, such adjustment being an increase or decrease to the relevant stage payment as set out in Schedule Item 8 depending on whether the final cost of the **Prime Cost Item** is more or less than the amount allowed and stated in the *Prime Cost Items Schedule*; and
 - (b) an adjustment for the value of any **Provisional Sum** Item completed to that stage and not included in a previous Progress Payment, such adjustment being an increase or decrease to the relevant stage payment as set out in Schedule Item 8 depending on whether the final cost of the **Provisional Sum** Item is more or less than the amount allowed and stated in the *Provisional Sums Schedule*; and
 - (c) an increase to the relevant stage payment in respect to an amount payable under an agreed Variation Document where the variation work has been completed and for which payment has not previously been made; and
 - (d) a decrease in the relevant stage payment in respect to an agreed variation which reduces the **Contract Price**.
- 17.5 Any such adjustments referred to in Condition 17.4 shall be recorded by the Contractor on the Form 3 - *Progress Claim* or similar appropriate document and the relevant progress claim shall be adjusted accordingly.
- 17.6 The QBCC Form 3 - *Progress Claim* or similar appropriate document must be accompanied by a QBCC Form 4 - *Notice of Dispute of Progress Claim* or similar appropriate written notice and any certificates of inspection relevant to the payment stage.
- 17.7 The progress claim for the **Practical Completion Stage** must, in addition to the requirements specified for any other progress claim, be accompanied by a completed and signed QBCC Form 6 - *Defects Document* and QBCC Form 7 - *Certificate of Practical Completion*, or similar appropriate documents.
- 17.8 The Contractor must make all reasonable efforts to have the Owner sign the QBCC Form 6 - *Defects Document* or similar appropriate document used to record the minor defects and minor omissions.
- 17.9 Except in regard to the Progress Payment for the **Practical Completion Stage** payable in accordance with Condition 27.5, the Owner must pay the Contractor the Progress Payment, or so much of the relevant claim for Progress Payment as is not

disputed by the Owner, within 5 **business days** of receipt of the relevant claim.

- 17.10 If the Owner disputes the relevant claim for Progress Payment or any part of it, the Owner must, within 5 **business days** of receipt of the relevant claim, give to the Contractor a completed and signed QBCC Form 4 - *Notice of Dispute of Progress Claim* or similar appropriate written notice stating the reasons for so disputing the claim or part of it.
- 17.11 If the dispute is not resolved by the parties within 5 **business days** of the receipt by the Contractor of the notice of the dispute, the dispute must be referred for resolution in accordance with Condition 24.

18. Interest on overdue payments

The Owner must pay the Contractor interest on overdue payments at the rate set out in Schedule Item 11 or at the Commonwealth Bank of Australia Standard Variable Rate applicable to home loans at the time the payment becomes overdue plus 5% per annum (the 'default rate'), whichever is the lesser rate. If no amount is entered in Schedule Item 11 the default rate shall apply.

19. Variations

- 19.1 The **work under this Contract** may be varied by way of an increase, decrease or substitution of **work under this Contract** agreed between the Contractor and the Owner in a written Variation Document provided that, before work commences and before any additional payment is sought, the details of the variation are put in a written Variation Document agreed in writing by both parties.
- 19.2 The Contractor shall not commence work on a variation or be entitled to any payment in respect of a variation unless the variation is documented in accordance with Condition 19.3 and Condition 19.4.
- 19.3 The Variation Document may be a QBCC Form 5 - *Variation Document*, or other similar appropriate document, with the particulars completed in accordance with the requirements of Schedule 1B of the QBCC Act, agreed in writing by both parties.
- 19.4 The Variation Document complies with the requirements of Schedule 1B of the QBCC Act if it:
- (a) is readily legible; and
 - (b) describes the variation; and
 - (c) states the date of the request for the variation; and
 - (d) if the variation will result in a delay affecting the subject work - states the Contractor's reasonable estimate for the period of delay; and

- (e) states the change to the **Contract Price** because of the variation, or the method for calculating the change to the **Contract Price** because of the variation; and
 - (f) if the variation results in an increase in the **Contract Price** – states when the increase is to be paid; and
 - (g) if the variation results in a decrease in the **Contract Price** – states when the decrease is to be accounted for.
- 19.5 The Contractor must give the Owner a readily legible signed copy of the Variation Document within 5 **business days** after the variation is agreed and before the variation work is commenced.
- 19.6 The Contractor must not seek an increase in the Contract Price due to a variation until after the variation work has been completed.

20. Latent condition

The Contractor shall have no entitlement to claim a price increase or an extension of time due to a **Latent Condition** unless, on becoming aware of the **Latent Condition**, and prior to commencing work to address the **Latent Condition**, the Contractor gives the Owner written notice of the **Latent Condition** in QBCC Form 5 – *Variation Document* and/or QBCC Form 2 – *Extension of Time Claim & Owner's Response to Claim*, as the case may be.

21. Time for Practical Completion

- 21.1 The Contractor must achieve **Practical Completion** of the **Works** by the **Date for Practical Completion** stated in or calculated in accordance with Schedule Item 7 or any extended date under Condition 22.

22. Extension of time

- 22.1 Subject to complying with Condition 22.2, the Contractor may only claim and is entitled to a reasonable extension of the **Date for Practical Completion** if:
- (a) the need for the extension of time arises because of one or more of the following causes of delay prevents the Contractor from achieving **Practical Completion** by the **Date for Practical Completion**:
 - (i) a variation complying with Condition 19; or
 - (ii) a delay caused by the Owner or the **Owner's Authorised Representative**; or
 - (iii) a delay event stated in Schedule Item 6B which exceeds the stated allowance; or
 - (iv) another cause of delay which is not reasonably foreseeable and beyond the reasonable control of the Contractor; and
 - (b) the claim is made to the Owner in writing using a QBCC Form 2 – *Extension of Time Claim and Owner's Response to Claim* or similar

appropriate document with the particulars, including the cause of the delay and the extension of the **Date for Practical Completion** claimed, completed; and

- (c) the claim is given to the Owner within 10 **business days** of the earlier of the Contractor becoming aware of the cause and extent of the delay and when the Contractor reasonably ought to have become aware of the cause and extent of the delay; and
 - (d) the Owner approves the claim in writing using the QBCC Form 2 – *Extension of Time Claim and Owner's Response to Claim* or similar appropriate document.
- 22.2 The Contractor must take all reasonable steps to lessen the effect and duration of any delay.
- 22.3 The Contractor must give the Owner a signed copy of the claim for an extension of time within 5 **business days** of the Owner approving the claim.
- 22.4 The Owner must, within 10 **business days** of receiving the Contractor's claim, reasonably assess and return to the Contractor the said QBCC Form 2 – *Extension of Time Claim and Owner's Response to Claim* or similar appropriate document either agreeing to the extension of time claimed or giving reasons for the rejection of the whole or part of the said claim, failing which the said extension of time claim will be deemed to be disputed by the Owner.
- 22.5 Delay or failure by the Owner to agree to an extension of time does not cause the **Date for Practical Completion** to be set at large, but the Contractor shall be entitled to damages arising from the unreasonable rejection of all or part of a claim for an extension of the **Date for Practical Completion**.

23. Liquidated damages

- 23.1 If the Contractor fails to achieve **Practical Completion** of the **Works** by the **Date for Practical Completion**, then the Contractor must pay to the Owner liquidated damages calculated at the rate provided in Schedule Item 9.
- 23.2 If Schedule Item 9 is left blank, a default amount of \$50 per day shall be deemed to apply.
- 23.3 Liquidated damages may only be deducted by the Owner from the amount payable to the Contractor in respect of the **Practical Completion Stage**. If the Owner's entitlement to liquidated damages exceeds the amount payable to the Contractor for the **Practical Completion Stage**, the excess may be recovered by the Owner as a debt due to the Owner by the Contractor.

WARNING TO OWNER

The entitlement to claim, and the amount to be deducted, for liquidated damages must be assessed carefully and in accordance with the Contract. Any valid extensions of time must be taken into consideration when calculating the number of days of liquidated damages which can be claimed.

24. Dispute resolution

- 24.1 If a dispute under the Contract arises between the parties, either party may give the other party a written notice of dispute adequately identifying and providing details of the dispute.
- 24.2 If the dispute is not resolved within 10 **business days** of the receipt of the notice of dispute, either party may refer the matter to a dispute resolution process administered by the Queensland Building and Construction Commission (QBCC).
- 24.3 A party will not commence any proceedings in respect of the dispute in any court or tribunal of competent jurisdiction until the dispute resolution process administered by the QBCC referred to in Condition 24.2 is at an end.
- 24.4 Where a dispute has arisen under or in connection with this Contract, including Condition 22.4, the Contractor must proceed diligently with the **work under this Contract** notwithstanding the existence of the dispute.

25. Termination after notice of default

- 25.1 If:
- (a) a party is in substantial breach of this Contract; and
 - (b) the other party gives a notice to the party in breach identifying and describing the breach and stating the intention of the party giving notice to terminate the Contract if the breach is not remedied within 10 **business days** from the date notice is given in accordance with Condition 29; and
 - (c) the breach is not so remedied,
- then, the party giving that notice may terminate this Contract by a further written notice given to the party in breach and may recover from the party in breach all damages, loss, cost or expense occasioned to the party so terminating by or in connection with the breach or that termination and may set off such claim against payment otherwise due by the party so terminating.
- 25.2 The right to terminate under this Condition is in addition to any other powers, rights or remedies the terminating party may have.
- 25.3 **Substantial breach by the Owner** includes, but is not limited to:

- (a) failing to produce evidence satisfactory to the Contractor of the Owner's capacity to pay the **Contract Price** in compliance with Condition 5 of this Contract;
- (b) failing to pay any money due and owing to the Contractor for more than 10 **business days** from receipt of the relevant claim; and
- (c) substantially or persistently obstructing the Contractor in the performance of the **work under this Contract**.

25.4 **Substantial breach by the Contractor** includes, but is not limited to:

- (a) failing to comply with any necessary approvals associated with the **work under this Contract**;
- (b) failing to provide materials which comply with this Contract;
- (c) unreasonably failing to replace or remedy defective work or materials;
- (d) unreasonably failing to perform the **work under this Contract** diligently or unreasonably delaying, suspending or failing to maintain reasonable progress;
- (e) failing to effect or maintain any insurance required by this Contract;
- (f) failing to hold the current, active and appropriate licence required to perform the **Works**, including, without limitation, a licence required under the QBCC Act; and
- (g) the Contractor failing to pay a judgement debt.

26. Termination for bankruptcy or liquidation

Notwithstanding Condition 25, should either party be made bankrupt or, being a company, go into liquidation, then the other party may, by giving a written notice, immediately terminate the Contract.

WARNING TO OWNER AND CONTRACTOR

New legislation effective from 1 July 2018 makes it illegal to terminate a contract with a company solely because they have gone into voluntary administration, appointed a receiver/managing controller or entered a scheme of arrangement with creditors. For this reason (and the probable loss for Owners of non-completion protection under the Qld Home Warranty Scheme if you terminate your Contract incorrectly), **it is very important that you obtain formal legal advice before terminating the Contract for any reason.**

27. Practical Completion

- 27.1 The Contractor must give to the Owner 5 **business days** prior written notice of the date upon which the Contractor anticipates that the **Works** will reach **Practical Completion**.
- 27.2 On the date specified in that notice as the anticipated date on which the **Works** will reach **Practical Completion**, the Owner or the **Owner's Representative** will inspect the **Works** and if satisfied that the **Works** have reached **Practical Completion**, and if the Contractor produces to the Owner satisfactory written evidence that all relevant inspections and approvals required by the *Sustainable Planning Act 2009* and the *Building Act 1975* and by any body having the relevant jurisdiction have been satisfactorily completed, the Contractor must:
- (a) complete and sign the QBCC Form 6 - *Defects Document* or similar appropriate document identifying minor defects and minor omissions and give a copy to the Owner; and
 - (b) give the Owner a completed and signed QBCC Form 7 - *Certificate of Practical Completion* stating that date as the **Date of Practical Completion**; and
 - (c) hand over the **Works** to the Owner.
- 27.3 If the Owner considers that the **Works** have not reached **Practical Completion** the Owner must give the Contractor written notice of those matters which are required to be done for the **Works** to reach **Practical Completion**. The Contractor must carry out such matters as may be necessary for the **Works** to reach **Practical Completion** and must otherwise proceed in accordance with the preceding paragraph.
- 27.4 The issue of a Certificate of **Practical Completion** does not constitute approval of any **work under this Contract** nor does it prejudice any claim by the Owner in respect of the **work under this Contract**.
- 27.5 When the Contractor has satisfied all of its obligations under Condition 27.2 the Owner must immediately pay the Contractor the progress claim for the **Practical Completion Stage** (as adjusted under Condition 23, if applicable).

28. Defects after completion

- 28.1 The Contractor must make good defects or omissions in the **work under this Contract** which become apparent to the Owner within 12 months of the **Date of Practical Completion**.
- 28.2 If there are any such defects or omissions, the Owner must, as soon as practicable after becoming aware of the defects or omissions, give the Contractor written notice to make good such defects or omissions and must give the Contractor reasonable

access to the **Site** for that purpose.

- 28.3 Subject to reasonable access being provided, the Contractor must, within 28 calendar days of the notice being given, rectify any defects or omissions notified to the Contractor under Condition 28.2 during usual business hours.







29. Notices

- 29.1 Any notice under this Contract must, unless otherwise stated, be given in writing and sent to the party to whom the notice is to be given at the address stated in the Schedule, or such other address as is subsequently advised in writing, in one of the following ways:
- (a) delivered to the other party by hand; or
 - (b) delivered by prepaid post to the address noted in the Schedule; or
 - (c) sent by facsimile to the facsimile number noted in the Schedule; or
 - (d) sent by email to the email address noted in the Schedule.
- 29.2 Any notice sent by post is deemed to be given at the time when by the ordinary course of post it would have been delivered.
- 29.3 Any notice sent by facsimile is deemed to be given at the time when a valid transmission report is received by the sender.
- 29.4 Any notice sent by email is deemed to be given in accordance with the following provisions:
- (a) the notice is deemed given at the time the email is sent provided it is sent before 5.00pm on a **business day** at the place of receipt and otherwise on the next **business day** at the place of receipt, provided:
 - (i) the sender's computer or email account does not receive a message that the email has not been delivered (including an 'out of office' message); and
 - (ii) the email has been received fully and in legible form by the receiver; and
 - (iii) the receiver has not advised the sender in writing that a notice cannot be given to them by email for the stated period.

CONTACT LIST

The contact list below is provided to enable you to conveniently record the names and contact details of people and organisations important to your project. Keep copies of all important papers regarding your project in a safe place.

YOUR PERSONAL CONTACTS RELEVANT TO YOUR BUILDING PROJECT

Person	Name & Email	Other Contact Details
Solicitor	Name: Email:	  
Finance Provider <i>(if any)</i>	Name: Email:	  
Building Designer or Architect	Name: Email:	  
Building Contractor	Name: Email:	  
Site Supervisor	Name: Email:	  
Building Certifier	Name: Email:	  
Local Government	Name: Email:	  
Insurance Company	Name: Email:	  
Building Consultant	Name: Email:	  
Neighbours <i>(if relevant)</i>	Name: Email:	  

CONSUMER BUILDING GUIDE

Your contractor must give you this guide before you sign a contract priced at or over \$20,000

This guide has been developed by the QBCC in accordance with Schedule 1B of the *Queensland Building and Construction Commission Act 1991* ('the Act') to assist home owners undertaking domestic building work with a contract price of \$20,000 or more. It's aimed at helping you avoid disputes and common pitfalls.

COOLING-OFF PERIOD

You may withdraw from the contract within 5 business days after the day you receive copies of both the signed contract (including any plans and specifications) and this guide. However, there are costs for home owners in withdrawing (generally \$100 plus any out-of-pocket expenses reasonably incurred by the contractor up to the time of withdrawal). You must advise the contractor in writing that you are withdrawing under the cooling-off provisions in section 35 of Schedule 1B of the QBCC Act.

QBCC LICENCE

You should **only deal with a QBCC-licensed contractor**. If you engage an unlicensed contractor, your building work may not be covered under the Queensland Home Warranty Scheme. **Before committing, check the contractor's licence and history via the Online Licence Search on the QBCC website or by calling the QBCC.**

QLD HOME WARRANTY SCHEME

Residential construction work valued at more than \$3,300 is covered by the Queensland Home Warranty Scheme. The Scheme provides protection for home owners against non-completion, defective work and subsidence for up to 6 years from completion, provided a licensed contractor performs the work. The building contractor must collect the premium from the owner and pay it to the QBCC within 10 business days after the date the contract was entered into or before the contracted work is started (whichever is earlier). You should receive an email with a Notice of Cover and links to important information about the cover provided within 2 weeks of signing the contract.

WARNING – COST PLUS AND CONSTRUCTION MANAGEMENT CONTRACTS

QBCC strongly recommends home owners obtain formal legal advice before signing either of these types of contracts which increase your legal risk, reduce your Home Warranty Scheme protection and often result in disputes and cost overruns.

COMMENCEMENT NOTICE

For contracts priced at \$20,000 or more, the contractor must give the owner a signed Commencement Notice within 10 business days of work commencing on site. The Notice must state the date work started on site and the Date for Practical Completion.

CONTRACT PRICE

For contracts priced at \$20,000 or more, the contract price, if fixed, must be shown prominently on the first page of the contract schedule. If the contract price is not fixed, the method for calculating it, including any allowances, must be stated in the contract schedule. Allowances (items or services for which the price is not fixed when the contract is signed) should be kept to a minimum as the final cost often exceeds the estimate in the contract. The contract must also contain a warning about any provisions that may alter the contract price.

DEPOSIT LIMITS

The maximum deposit allowed (before work starts on site) is:

- 10% where the total contract price is less than \$20,000
- 5% where the price is \$20,000 or more
- 20% for a contract of any price where the value of the work to be performed off-site is more than 50% of the total contract price.

PROGRESS PAYMENTS

After the deposit is paid, owners and contractors are free to choose the number and timing of progress payments (if any) for their project, provided the amount claimed is directly related to work progress on site and proportionate to (or less than) the value of the work that relates to the claim.

BUILDING APPROVALS AND INSPECTIONS

Building inspections and approvals are the responsibility of a building certifier. Mandatory building inspections may be required at certain stages of construction. The contractor must give you copies of any certificates of inspection as soon as practicable after they receive them from the certifier. You can check the certifier's licence via QBCC's Online Licence Search.

VARIATIONS

Any change to the materials used or work to be performed under the contract is known as a 'variation'. Variations are frequently the cause of cost overruns and building disputes. **All variations must be agreed in writing by the home owner before the variation work commences** and any price increase due to the variation can not be required to be paid until the variation work is started.

DISPUTE PREVENTION

To reduce the risk of a dispute, carefully check and be sure you understand the contract, including any plans and specifications, before signing. Discuss any questions with your contractor and seek independent legal advice if you still have concerns. Once construction starts, maintain regular communication and, where possible, site inspections with your contractor and pay promptly when required under the contract.

DISPUTE RESOLUTION

If a dispute with your contractor occurs, firstly advise them in writing giving them a reasonable time to respond. If this doesn't resolve the problem, explore QBCC's free Early Dispute Resolution (EDR) service and your legal options. **QBCC recommends you obtain independent legal advice before terminating the contract. Incorrect termination may have serious legal and financial consequences and reduce your protection under the Qld Home Warranty Scheme.**

EXTENSIONS OF TIME (EOTs)

The contract must state the Date for Practical Completion for your project, or how the date is to be determined (e.g. 180 days from commencement). The Act sets out circumstances in which a contractor may seek to extend this date (e.g. if you approve a variation to the contract which involves extra work, or the work is interrupted by more rain than could reasonably have been anticipated). The contractor must give you a written EOT claim which you should carefully consider (not unreasonably reject) and respond to promptly in writing. If you approve the claim, the Date for Practical Completion will be extended by the period claimed. If you do not approve the claim, the extension is deemed 'disputed'.

LIQUIDATED DAMAGES (LDs)

LDs are contractual payments to compensate a home owner for extra costs/losses they are likely to incur (e.g. extra rental costs) if the contractor fails to complete the work within the time allowed for in the contract (after allowing for legitimate extensions of time). Carefully consider what, if any, LD amount is appropriate for your project and ensure it is recorded in the contract.

PRACTICAL COMPLETION AND HANDOVER

You are not required to pay the final contract payment until all of the contracted work has been completed in accordance with the contract including any plans and specifications, all legal requirements, and either without any defects or omissions, or with only minor defects or minor omissions that will not unreasonably affect occupation. If you believe there are any minor defects or minor omissions, the contractor must give you a 'defects document' (listing agreed and non-agreed matters). This document should be compiled by you and the contractor during a handover inspection. Check your contract to see if it imposes any extra requirements on the contractor for practical completion.

WARNING: Strict timeframes apply for notifying QBCC about defects. For more information please refer to the Regulatory Guide on the following QBCC website address qbcc.build/rectify-building-work

IMPLIED WARRANTIES

Sections 19 - 26 of Schedule 1B of the Act set out statutory warranties deemed to be part of all regulated domestic building contracts, even if not stated in the contract. The *warranty period* is 6 years from completion, termination or cessation of the work for breaches resulting in structural defects; 1 year for all other breaches. Legal proceedings for any breach must be started within the warranty period or a further 6 months if the breach becomes apparent within the last 6 months of the warranty period.

FOR FURTHER INFORMATION

- Read the booklet, '*Domestic Building Contracts – General Information for owners and contractors*' on the QBCC website.
- Refer to the relevant legislation, Schedule 1B of the QBCC Act.

Quick checklist (Ensure you are able to tick all relevant boxes below before signing the contract)

- I have read this Consumer Building Guide
- I have read and checked all contract documents, including the contract schedule, general conditions and special conditions (if any) and any plans and specifications
- I have checked the building contractor's licence and licence history on the QBCC Online Licence Search
- I note and understand my cooling-off rights (including how and when I may withdraw from the contract if I choose to)
- I have checked the total contract price (including what proportion is comprised of allowances) and I understand the deposit and progress payments set out in the contract schedule
- I have checked the start and finish dates and practical completion requirements in the contract
- (If applicable) I have discussed my questions/concerns about the contract with a practising solicitor

Owner's acknowledgement

Complete and sign the section below to acknowledge that you have received this guide from your building contractor. Once signed, the building contractor will return a copy of this guide to you.

NAME(S): _____

SIGNATURE(S): _____ DATE: ____/____/____



QBCC NATURAL DISASTER REPAIRS CONTRACT

(FOR REPAIRS OF ANY VALUE)

THIS DOCUMENT CONTAINS:

- Schedule for QBCC Natural Disaster Repairs Contract
- Prime Cost Items Schedule
- Provisional Sums Schedule
- Form 1 – *Commencement Notice*
- Form 2 – *Extension of Time Claim and Owner's Response to Claim*
- Form 3 – *Progress Claim*
- Form 4 – *Notice of Dispute of Progress Claim*
- Form 5 – *Variation Document*
- Form 6 – *Defects Document*
- Form 7 – *Certificate of Practical Completion*

These forms are produced on 'No Carbon Required' (NCR) paper.
(Fold this cover under the duplicate copy when filling out forms)

WARNING FOR CONTRACTOR

When each form or Schedule is completed, the Contractor is to retain the original document and give 1 copy to the Owner. Extra copies of forms and Schedules may be downloaded from the QBCC website.

SCHEDULE FOR QBCC NATURAL DISASTER REPAIRS CONTRACT

This Contract is intended for repairs of any value to a home, duplex or home unit arising from a natural disaster (e.g. a flood, severe storm or cyclone, etc.). It must NOT be used for construction or rebuilding of an entire home.

NOTE TO OWNER: To better understand your contractual rights and obligations, **BEFORE SIGNING** you should carefully read this Schedule and the General Conditions in the Homeowner's Booklet, both dated July 2018.

NOTE TO CONTRACTOR: When completed, retain original and give 1 signed copy of this Schedule to the Owner.

The Owner

Owner's name/s: _____

Address: _____

Post Code: _____

Business Phone: _____ Home Phone: _____ Fax: _____

Mobile Phone: _____ Email: _____

Owner has checked the Contractor's licence and history via QBCC's Online Licence Search: ☐ Yes ☐ No

The Owner IS ☐

IS NOT ☐ a Resident Owner. (Tick the appropriate box)

NOTE: An Owner is a Resident Owner if he/she intends to live in the building on completion or within 6 months after completion of the contracted domestic building work.

Owner's Authorised Representative (if any): _____

Address: _____

Post Code: _____

Business Phone: _____ Home Phone: _____ Fax: _____

Mobile Phone: _____ Email: _____

The Contractor (being a licensed contractor)

Contractor's name (must be as shown on licence): _____

Licence Number: _____ ABN No: _____

Contractor confirms: My licence is current, active and appropriate for this work: ☐ Yes ☐ No

Address: _____

Postcode: _____

Business Phone: _____ Home Phone: _____ Fax: _____

Mobile Phone: _____ Email: _____

Contractor's Authorised Representative (if any): _____

Address: _____

Post Code: _____

Business Phone: _____ Home Phone: _____ Fax: _____

Mobile Phone: _____ Email: _____

Item	Subject	Notes	Particulars
1	PRICE Condition 4. WARNING: The Contract Price is subject to change in accordance with Conditions 4, 17, 19, 20 & 23.	For information about Prime Cost (PC) Items and Provisional Sums (PS) see Condition 4 of the General Conditions. Where applicable, a PC/PS Schedule must be completed, signed by both parties and attached to this Schedule.	(a) Fixed Price Component: \$ _____ (incl. GST) (includes deposit in Item 2) (b) Prime Cost Items (if any): \$ _____ (incl. GST) (c) Provisional Sums (if any): \$ _____ (incl. GST) CONTRACT PRICE = \$ _____ (incl. GST) (a) + (b) + (c)

Item	Subject	Notes	Particulars
2	DEPOSIT Condition 17	The maximum deposit is: 10% if the Contract Price is less than \$20,000 or 5% if the Contract Price is \$20,000 or more. However, if the value of contracted services to be performed off-site exceeds 50% of the Contract Price, the maximum deposit is 20%, regardless of the Contract Price.	Deposit: \$ _____ (incl. GST)
3	BRIEF DESCRIPTION OF THE CONTRACT WORK	Insert brief description of the contracted work and attach and refer to any plans and specifications e.g. <i>repair of flood damage to kitchen & living area as per attached plans dated/...../..... and specifications dated/...../.....</i>	_____ _____ _____ _____
4	SITE Condition 11		Site Address: _____ Real Property Description: Lot No: _____ Plan Type (e.g. RP/SP/BUP): _____ Plan No: _____ Local Authority: _____
5	STARTING DATE Conditions 1, 5, 15	WARNING TO OWNER: The lodgement of plans and the Starting Date may be delayed, or this Contract may be terminated by the Contractor, if you do not promptly provide the Contractor with written evidence of your capacity to pay the Contract Price in accordance with Condition 5.	_____/_____/_____ (day) (month) (year)
6	COMPLETION PERIOD (including Construction Days and allowances for likely delays) Conditions 15, 19, 20, 21, 22 & 27.	NOTE TO CONTRACTOR: You must state in Item 6B the allowances (in days) you have made for delay factors, if there is a reasonable likelihood they will affect the time required to carry out the work. NOTE TO OWNER: The Contractor is not entitled to claim an extension of the Date for Practical Completion (Item 7) for a particular anticipated delay (e.g. inclement weather) unless the number of days the Contractor is actually delayed is greater than the allowance stated here for that particular delay.	6A. Construction Days (excluding delays allowed in '6B') Business days needed to construct the Works = <u> A </u> PLUS 6B. Allowances for likely delays: (i) Inclement weather allowance (business days) = _____ (ii) Other likely delays, if any (business days) = _____ Details of delay _____ (iii) Non-working days (incl. w/ends, RDOs, public holidays, etc.) = _____ Total delay days allowed: (i) + (ii) + (iii) = <u> B </u> COMPLETION PERIOD: Construction Days (Item 6A) PLUS Total delay days allowed above (Item 6B) = <u> A+B </u> <i>(This total represents the number of days between the Starting Date and the Date for Practical Completion)</i>
7	DATE FOR PRACTICAL COMPLETION Conditions 15, 20, 21, 22 & 27.	NOTE TO CONTRACTOR: Complete only one of the options in the 'Particulars' column (i.e. date or number of days) and delete the other. The date/completion period includes the allowances for likely delays stated in Item 6B above.	Date: ____/____/_____ (day) (month) (year) OR Completion Period of _____ calendar days (see Item 6 above) from the Starting Date or the date on which the work under this contract is commenced on site, whichever is the earlier. NOTE: This date/period may be affected by legitimate extensions of time (e.g. for approved variations or abnormal wet weather).

Item	Subject	Notes	Particulars																																	
8	PAYMENTS Condition 17	<p>EITHER (Cross out section (a) or (b) below, whichever is not applicable)</p> <p>(a) One Lump Sum Payment of the Contract Price as adjusted under the Contract (excluding the deposit), payable upon completion of the Works \$ _____ (incl. GST)</p> <p>OR</p> <p>(b) Stages Payments</p> <table border="1"> <thead> <tr> <th>Description of Payment Stages (if insufficient space, name each stage below and attach further details of the work to be done in each stage).</th><th>% of Contract Price (incl. any allowances)</th><th>\$ Amount (incl. GST)</th></tr> </thead> <tbody> <tr> <td>Deposit (as shown in Item 2)</td><td>%</td><td>\$</td></tr> <tr> <td></td><td>%</td><td>\$</td></tr> <tr> <td></td><td>%</td><td>\$</td></tr> <tr> <td></td><td>%</td><td>\$</td></tr> <tr> <td></td><td>%</td><td>\$</td></tr> <tr> <td></td><td>%</td><td>\$</td></tr> <tr> <td></td><td>%</td><td>\$</td></tr> <tr> <td></td><td>%</td><td>\$</td></tr> <tr> <td>Practical Completion</td><td>%</td><td>\$</td></tr> <tr> <td>TOTAL (must match Contract Price in Item 1)</td><td>100%</td><td>\$</td></tr> </tbody> </table> <p>WARNING FOR CONTRACTOR: At any point after the deposit has been received, the total of payments required above (including the deposit) must be directly related to, and NOT in advance of, progress of the work on site (e.g. 50% of the Contract Price should not be sought until at least 50% of the work has been completed on site).</p>	Description of Payment Stages (if insufficient space, name each stage below and attach further details of the work to be done in each stage).	% of Contract Price (incl. any allowances)	\$ Amount (incl. GST)	Deposit (as shown in Item 2)	%	\$		%	\$		%	\$		%	\$		%	\$		%	\$		%	\$		%	\$	Practical Completion	%	\$	TOTAL (must match Contract Price in Item 1)	100%	\$	
Description of Payment Stages (if insufficient space, name each stage below and attach further details of the work to be done in each stage).	% of Contract Price (incl. any allowances)	\$ Amount (incl. GST)																																		
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TOTAL (must match Contract Price in Item 1)	100%	\$																																		
WARNING TO OWNER		Insurance protection under the Queensland Home Warranty Scheme administered by the QBCC (where it applies to the contracted work) may be reduced if payments are made in advance of contract requirements and construction progress.																																		
9	LIQUIDATED DAMAGES Condition 23	<p>NOTE TO OWNER AND CONTRACTOR: You must consider what, if any, liquidated damages (LDs) apply to this project and insert either an amount per day or 'NIL' if LDs do not apply. If this space is left blank, a default amount of \$50/day shall apply.</p>	<p>\$ _____ per day for each calendar day of delay in achieving Practical Completion.</p> <p>NOTE TO OWNER REGARDING LIQUIDATED DAMAGES (if applicable): It is very important that you carefully consider and complete this section. The liquidated damages amount should be a genuine estimate of the costs/losses (if any) the Owner believes they will incur if the work under this Contract is not completed by the Date for Practical Completion (including any extra rental and storage costs, lost rent for rental properties, extra finance costs, etc. directly related to the delay in reaching Practical Completion).</p>																																	
10	FINANCE Conditions 1 & 5	<p>WARNING TO OWNER: The Finance Date is the date by which the Owner must provide the Contractor with written evidence, satisfactory to the Contractor, of their capacity to pay the Contract Price (even if no loan is required). Consult your Lender before inserting a date. Delays in providing this evidence may delay the start of your project or lead to termination of the Contract.</p>	<p>The Contract IS/IS NOT subject to Loan Approval. (Cross out whichever does not apply)</p> <p>Lender: _____</p> <p>Lender's Address: _____</p> <p>Amount of Loan: \$ _____</p> <p>Finance Date: ____ / ____ / ____ (day) (month) (year)</p> <p>NOTE: If no date stated, Finance Date is 10 business days from date of Contract.</p>																																	

Item	Subject	Notes	Particulars
11	INTEREST RATE ON OVERDUE PAYMENTS Condition 18		_____ % per annum The rate will not exceed the Commonwealth Bank of Australia Standard Variable Rate for home loans + 5%.
12	PARTY RESPONSIBLE FOR OBTAINING PLAN APPROVALS Condition 7	Approval of plans may not be required for some Level 1 contracts (e.g. where the work is non-structural).	_____ <i>State whether the responsible party is Owner or Contractor (If nothing stated, the Contractor shall be responsible)</i>
13	CONTRACT DOCUMENTS Conditions 2, 4, 5, 10, 15, 17, 19, 22, 24, 25, 26, 27, 28 & 29	Any subsequent amendments or variations to this Contract must be recorded in a Variation Document (such as the QBCC Form 5 - <i>Variation Document</i>) which then forms part of the Contract.	<p>(a) PLANS (dated and attached) supplied by: Contractor <input type="checkbox"/> Owner <input type="checkbox"/> on ___ / ___ / ___ N/A <input type="checkbox"/></p> <p>(b) SPECIFICATIONS (dated and attached) supplied by: Contractor <input type="checkbox"/> Owner <input type="checkbox"/> on ___ / ___ / ___ N/A <input type="checkbox"/></p> <p>(c) PRIME COST ITEMS / PROVISIONAL SUMS Are Prime Cost Items included? YES <input type="checkbox"/> NO <input type="checkbox"/> Are Provisional Sums included? YES <input type="checkbox"/> NO <input type="checkbox"/> If YES to either question, the Contractor must complete and sign the Prime Cost Items and/or Provisional Sums Schedule/s and copy to Owner.</p> <p>(d) FOUNDATIONS DATA supplied by: Contractor <input type="checkbox"/> Owner <input type="checkbox"/> on ___ / ___ / ___ N/A <input type="checkbox"/></p> <p>NOTE: Foundations Data must be obtained in the unlikely event the contracted work requires the construction or alteration of, or may adversely affect, footings or a concrete slab for a building. Unless appropriate and reliable Foundations Data already exists, the Contractor is required to obtain appropriate Foundations Data and copy it to the Owner when the Owner has paid the costs incurred in obtaining the data.</p>
14	SIGNATURES	The Contractor must give the Owner a signed copy of the entire Contract, including any plans and specifications, within 5 business days after entering the Contract.	<p>Signed by the Owner/s: Owner 1: _____ Owner 2 (if any): _____ In the presence of: _____ (signature of witness)</p> <p>Signed by the Contractor: _____ In the presence of: _____ (signature of witness)</p> <p>Dated this: _____ day of _____ 20____</p>
<p>IMPORTANT NOTICE TO OWNER: 'COOLING-OFF' PERIOD</p> <p>Under Schedule 1B of the <i>Queensland Building and Construction Commission Act 1991</i> ('QBCC Act') you may have the right to withdraw from this Contract during the cooling-off period of 5 business days which commences when you have received a signed copy of the entire Contract, including any plans and specifications, and (if the Contract Price is \$20,000 or more) the QBCC Consumer Building Guide. If you wish to withdraw under the 'cooling-off' provisions you must give the Contractor a signed and dated written notice stating that you withdraw from the Contract under section 35 of Schedule 1B of the QBCC Act.</p>			<p>The Owner and the Contractor agree that the Contractor shall carry out the Contract Work described in this Contract for the Contract Price it provides and upon its terms.</p> <p>This Contract includes:</p> <ul style="list-style-type: none"> <input type="checkbox"/> QBCC Natural Disaster Repairs Contract Schedule, PC and PS Schedules (if relevant) and Forms 1-7 (if used), all dated July 2018; <input type="checkbox"/> General Conditions included in the Homeowner's and Contractor's Booklets dated July 2018 and any Special Conditions; and <input type="checkbox"/> Plans, specifications and any other contract documents described in Item 13 of this Schedule.

PRIME COST ITEMS SCHEDULE

(Conditions 4 & 17 of the General Conditions of QBCC Natural Disaster Repairs Contract)

NOTE: This Schedule must be completed if Prime Cost Items are included in the Contract Price.

(For the definition of a 'Prime Cost Item' – refer to Condition 1 of the General Conditions of this Contract)

Detailed description of Prime Cost Item	Contractor's best estimate of price, and breakdown of estimate.		PLUS Contractor's margin (\$ amount or %) 10% if nothing stated	Total for Prime Cost Item (incl. margin & GST)
	No. of items or quantity of materials	Cost per unit (excl. GST)		
Example: Floor tiles for kitchen	50m ²	@ \$30/m ² = \$1,500 excl. GST	+ 10% margin = \$1,500 + \$150 = \$1,650 excl. GST	\$1,650 + 10% GST = \$1,815
TOTAL: (Transfer total to Item 1(b) of Contract Schedule)				\$ _____ <i>(incl. GST)</i>

Signed by the Owner/Owner's Representative

Signed by the Contractor/Contractor's Representative

DATED: ____/____/____
 (day) (month) (year)

DATED: ____/____/____
 (day) (month) (year)

NOTE TO OWNER/S AND CONTRACTOR

These allowances should be kept to a minimum to reduce uncertainty about the final Contract Price.

When this Schedule is completed, Contractor to retain original and give 1 legible copy to Owner.

PROVISIONAL SUMS SCHEDULE

(Conditions 4 & 17 of the General Conditions of QBCC Natural Disaster Repairs Contract)

NOTE: This Schedule must be completed if Provisional Sums are included in the Contract Price.

(For the definition of a 'Provisional Sum' – refer to Condition 1 of the General Conditions of this Contract.)

Description of contracted service covered by the Provisional Sum	Contractor's best estimate of cost of providing the contracted service <u>excl. GST</u> . Include the estimated quantity and unit cost of materials (if any), estimated labour cost, and any other costs (e.g. equipment hire).	PLUS Contractor's margin (\$ amount or %) 10% if nothing stated	Total for Provisional Sum (<u>incl. margin & GST</u>)
Example: Removal and disposal of asbestos material from home damaged by flooding.	Removal of asbestos material: = \$ 1,200 Disposal of asbestos material: (incl. tip fees) = \$ 500 TOTAL \$ 1,700	+10% margin = \$1,700 + \$170 = \$1,870 excl. GST	\$1,870 + 10% GST = \$2,057
TOTAL: (Transfer total to Item 1(c) of Contract Schedule)			\$ _____ (<u>incl. GST</u>)

Signed by the Owner/Owner's Representative

Signed by the Contractor/Contractor's Representative

DATED: ____/____/____
(day) (month) (year)

DATED: ____/____/____
(day) (month) (year)

NOTE TO OWNER/S AND CONTRACTOR

These allowances should be kept to a minimum to reduce uncertainty about the final Contract Price.

When this Schedule is completed, Contractor to retain original and give 1 legible copy to Owner.

FORM 1

COMMENCEMENT NOTICE

(Condition 15 of the General Conditions of QBCC Natural Disaster Repairs Contract)

NOTE TO CONTRACTOR: This notice must be given to the Owner within 10 business days of commencement on Site.

To: (Owner/s) _____
(insert name and postal address of Owner/s)

From: (Contractor) _____
(insert name and business address of Contractor)

Site address: _____

NOTICE

In accordance with Condition 15 of the General Conditions of the Contract we advise:

The date on which work under the Contract commenced on Site was: _____ / _____ / _____
(day) (month) (year)

The Date for Practical Completion (stated in, or calculated in accordance with,
Schedule Item 7) is: _____ / _____ / _____
(day) (month) (year)

SIGNED: _____ DATED: _____
(Contractor/Contractor's Representative to sign here) (day) (month) (year)

NOTE TO OWNER

The Date for Practical Completion is subject to extensions of time authorised under this Contract.



OWNER'S ACKNOWLEDGEMENT OF RECEIPT OF COMMENCEMENT NOTICE

From: (Owner/s) _____
(insert name and postal address of Owner/s)

To: (Contractor) _____
(insert name and business address of Contractor)

Site address: _____

I/we acknowledge receipt of your Commencement Notice dated: _____ / _____ / _____
(day) (month) (year)

advising that work under the Contract commenced on Site on: _____ / _____ / _____
(day) (month) (year)

and that subject to extensions of time authorised under the Contract,
the Works will reach Practical Completion on: _____ / _____ / _____
(day) (month) (year)

SIGNED: _____ DATED: _____
(Owner/Owner's Representative to sign here) (day) (month) (year)

NOTE TO OWNER

Retain the original of the entire Commencement Notice for your files.

Please complete and promptly return to the Contractor a signed copy of this acknowledgement section.

FORM 2

EXTENSION OF TIME CLAIM AND OWNER'S RESPONSE TO CLAIM

(Condition 22 of the General Conditions of QBCC Natural Disaster Repairs Contract)

NOTE TO CONTRACTOR: This blank form may be copied for multiple use. You must attach any relevant supporting documents (eg. dates of business days on which inclement weather prevented work).

To: (Owner/s) _____
(insert name and postal address of Owner/s)

From: (Contractor) _____
(insert name and business address of Contractor)

Regarding construction at: _____
(insert Site address)

The Contractor wishes to claim an extension of time of the Date for Practical Completion.

The cause of the delay in achieving Practical Completion is: _____

(insert full description of a cause of delay from Condition 22.1)

The cause of the delay: ☐ is **not** a cause of delay listed in Schedule Item 6B.
(tick whichever is applicable) ☐ is a cause of delay listed in Schedule Item 6B, but the number of days that the Contractor has actually been delayed is more than the allowance stated in Schedule Item 6B.

The delay arose on: ____ / ____ / ____
(day) (month) (year)

Number of additional **business days** claimed by the Contractor as a consequence of this delay: _____
(business days)

New Date for Practical Completion after allowance for this delay: ____ / ____ / ____
(day) (month) (year)

SIGNED: _____ DATED: ____ / ____ / ____
(Contractor/Contractor's Representative to sign here) (day) (month) (year)

NOTE TO OWNER

The Contractor must give you this form within 10 business days of the earlier of the Contractor becoming aware of the cause and extent of the delay or when the Contractor reasonably ought to have become aware of the cause and extent of the delay. If you accept the Contractor's claim for an extension, then the Date for Practical Completion will be extended by the business days claimed by the Contractor. You must indicate your acceptance, rejection or partial rejection of the Contractor's claim by completing, signing and returning this form, or similar written notice, to the Contractor as soon as possible but within 10 business days of receiving the claim. Keep a copy for your records.

OWNER'S RESPONSE TO EOT CLAIM DATED: ____ / ____ / ____

EOT Claim Response No.

Tick whichever is applicable: ☐ The Owner **agrees with** the extension of time claim.
☐ The Owner **rejects** the extension of time claim.
☐ The Owner **rejects part of** the extension of time claim.
The part of the claim rejected is ____ business days.

The reason/s for rejecting all or part of the extension of time claim is/are: (state reason/s below)

Signed by the Owner/Owner's Representative: _____ DATED: ____ / ____ / ____
(day) (month) (year)

When both parties have completed this form, Contractor to retain original and give 1 legible copy to Owner.

FORM 3

PROGRESS CLAIM

(Conditions 4, 17 & 27 of the General Conditions of QBCC Natural Disaster Repairs Contract)

NOTE TO CONTRACTOR: This blank form may be copied for multiple use. Give this form to the Owner, together with Form 4 and any certificates of inspection relevant to this payment stage.

To: (Owner/s) _____
(insert name and postal address of Owner/s)

From: (Contractor) _____
(insert name and business address of Contractor)

Regarding construction at: _____
(insert Site address)

The Contractor certifies that the Works have reached the Stage described as:

(The Stage must be a Progress Payment Stage as set out in Item 8 of the Contract Schedule)

The Contractor claims payment for the following:

1. The completion of Works to the Stage indicated above in the amount of: \$ _____

(insert the amount in words and figures)

NOTE: The percentage/amount of the Contract Price that can be claimed is set out at Item 8 of the Contract Schedule.

2. Adjustment (if any) for Prime Cost (PC) Items claimed at this Stage: *(Delete this section if this claim does not include PC Items)*

_____ \$ _____
 _____ \$ _____
 _____ \$ _____

(insert description of PC Item/s and whether adjustment is + or - compared to allowance stated in the Contract)

NOTE: The Contractor must attach to this progress claim any invoice, receipt or other document showing the cost of any Prime Cost Item.

3. Adjustment (if any) for Provisional Sums (PS) claimed at this Stage: *(Delete this section if this claim does not include PS Items)*

	\$	
	\$	
	\$	

(insert description of PS Item/s and whether adjustment is + or - compared to allowance stated in the Contract)

NOTE: The Contractor must attach to this progress claim any invoice, receipt or other document showing the cost of any Provisional Sum.

4. Adjustment for variations: *(must have been previously recorded in a Variation Document and authorised by Owner)*

_____ as set out in QBCC Form 5 - <i>Variation Document</i> dated:	/	/	\$ _____
_____ as set out in QBCC Form 5 - <i>Variation Document</i> dated:	/	/	\$ _____
_____ as set out in QBCC Form 5 - <i>Variation Document</i> dated:	/	/	\$ _____
<i>(insert description of variation/s)</i>	<i>(insert Variation Document date)</i>	<i>(insert amount of increase or decrease due to variation)</i>	

TOTAL AMOUNT OF THIS PROGRESS CLAIM: \$ _____

(add or subtract the adjustments in Items 2, 3 & 4 above from the Stage payment stated in Item 1) (incl. GST)

Signed by the Contract/Contractor's Representative: _____ DATED: ____ / ____ / ____
(day) (month) (year)

NOTE TO CONTRACTOR: Where claim is for Practical Completion Stage, you must attach a Defects Document in QBCC Form 6.

NOTE TO OWNER: Except for the Practical Completion Stage, you must pay the amount claimed by the Contractor, or any part of it with which you agree, within 5 business days of receipt of this progress claim. If you dispute all or part of the Contractor's progress claim, you must, within 5 business days of receiving the claim, give the Contractor a QBCC Form 4 – *Notice of Dispute of Progress Claim* or similar written notice stating that you dispute all or part of the progress claim and your reasons for doing so. **For the Practical Completion Stage, you must pay the Contractor immediately after the Contractor has satisfied Condition 27.2 of the General Conditions.**

When form completed, Contractor to retain original and give 1 legible copy to Owner.

FORM 4

NOTICE OF DISPUTE OF PROGRESS CLAIM

(Condition 17 of the General Conditions of QBCC Natural Disaster Repairs Contract)

NOTE TO CONTRACTOR: This blank form may be copied for multiple use and must accompany a QBCC Form 3.

NOTE TO OWNER: If you intend to dispute a progress claim, this form must be returned to the Contractor within 5 business days of receipt of the disputed progress claim.

To: (Contractor) _____
(insert name and business address of Contractor)

From: (Owner/s) _____
(insert name and postal address of Owner)

Regarding construction at: _____
(insert Site address)

(tick whichever is applicable)

☐ The Owner **rejects all of** your progress claim dated: ____ / ____ / ____ (insert date of claim)
(day) (month) (year)

for the Stage described in Schedule Item 8 as: _____

(insert name/description of Stage from the Payment Schedule)

OR

☐ The Owner **rejects part of** your progress claim dated: ____ / ____ / ____ (insert date of claim)
(day) (month) (year)

for the Stage described in Schedule Item 8 as: _____

(insert name/description of Stage from the Payment Schedule)

The value of the part of the progress claim that is rejected is: \$ _____ (incl. GST)
(insert amount)

The reason/s for rejecting all or part of the claim is/are: (set out reason/s)

SIGNED: _____
(Owner/Owner's Representative to sign here)

DATED: ____ / ____ / ____
(day) (month) (year)

When form completed, Owner to give the Contractor the original and Owner to retain 1 legible copy.

FORM 5

VARIATION DOCUMENT

(Condition 19 and 22 of the General Conditions of QBCC Natural Disaster Repairs Contract)

NOTE TO CONTRACTOR: This form, which may be copied for multiple use, must be presented to and signed by the Owner **before** you start any work described in the variation.

To: (Owner/s) _____
(insert name and postal address of Owner/s)

From: (Contractor) _____
(insert name and business address of Contractor)

Regarding construction at: _____
(insert Site address)

This document is for a variation: ☐ required by law
(tick whichever is applicable) ☐ for extra excavation and foundations
☐ requested by the Owner/Owner's Representative
☐ requested by the Contractor/Contractor's Representative for the following reasons: _____

(insert reasons)

The change to the Works is as follows: _____

(insert description of the variation including any change to the work or materials required by reason of the variation)

The Contractor's/Contractor's Representative's reasonable estimate of the period of any delay in the Date for Practical Completion that will result from the variation is: _____ business days (if no change insert 'NIL').

NOTE TO CONTRACTOR/CONTRACTOR'S REPRESENTATIVE

If the variation causes you actual delay you must also submit a QBCC Form 2 - *Extension of Time Claim and Owner's Response to Claim* within 10 business days of the earlier of when you became aware of the cause and extent of the delay, or when you reasonably ought to have become aware of the cause and extent of the delay (see Conditions 19 & 22).

PRICE CHANGE

The variation will change the price payable by the Owner as follows: (tick whichever is applicable)

- ☐ **increase** the price by: \$ _____
(incl. GST)
- ☐ **no change** to price
- ☐ **decrease** the price by: \$ _____
(incl. GST)
- ☐ **increase/decrease** (delete whichever is not applicable) the price by an amount that will be calculated as follows:

(state how the increase/decrease will be calculated)

TIMING OF PRICE CHANGE

The increase or decrease (if any change) in the Contract Price payable by the Owner as a result of the variation will be taken into account in the Contractor's progress claim for the following Stage described in Schedule Item 8:

(insert description of Stage from Schedule Item 8)

NOTE: The Contractor cannot seek payment for an increase in the Contract Price due to a variation before the variation work has been completed.

SIGNED: _____
(Owner/Owner's Representative to sign)

SIGNED: _____
(Contractor/Contractor's Representative to sign)

DATED: ____/____/____
(day) (month) (year)

DATED: ____/____/____
(day) (month) (year)

When form completed, Contractor to retain original and give 1 legible copy to Owner.

FORM 6

DEFECTS DOCUMENT

(Conditions 17 & 27 of the General Conditions of QBCC Natural Disaster Repairs Contract)

NOTE TO CONTRACTOR: This form (which should be completed with the Owner or Owner's Representative at handover) may be copied for multiple use.

Identify below those minor defects or minor omissions which are agreed between the parties and those minor defects or minor omissions which are **not** agreed by the Contractor, then sign and date this form.

AGREED MINOR DEFECTS/MINOR OMISSIONS

The Owner/Owner's Representative and the Contractor/Contractor's Representative agree that the following minor defects or minor omissions exist at Practical Completion.

Item No.	Description of minor defect or minor omission	Date for rectification

MINOR DEFECTS/MINOR OMISSIONS CONTRACTOR DOES NOT AGREE WITH

The Owner/Owner's Representative says that the following additional minor defects or minor omissions exist at Practical Completion. The Contractor does not agree.

Item No.	Description of minor defect or minor omission	Contractor to state why they do <u>not</u> agree that there is a minor defect or minor omission.

(Signed by the Owner/Owner's Representative)

(Signed by the Contractor/Contractor's Representative)

DATED: ____ / ____ / ____
(day) (month) (year)

DATED: ____ / ____ / ____
(day) (month) (year)

When form completed, Contractor to retain original and give 1 legible copy to Owner.

FORM 7

CERTIFICATE OF PRACTICAL COMPLETION

(Conditions 17 & 27 of the General Conditions of QBCC Natural Disaster Repairs Contract)

NOTE TO CONTRACTOR/CONTRACTOR'S REPRESENTATIVE

The Contractor must complete, sign and give a copy of this Certificate to the Owner before demanding the Progress Claim for the Practical Completion Stage.

The Works have reached Practical Completion as:

- ☐ upon inspection of the Works, the Owner was satisfied that the Works had reached Practical Completion in accordance with the requirements of this Contract, including Condition 3 of the QBCC General Conditions of Natural Disaster Repairs Contract; and
- ☐ the Contractor has provided the Owner with all written evidence (including, where the Owner has not engaged the building certifier, copies of all relevant certificates of inspection produced or held by the building certifier) that all relevant inspections and approvals required by the *Sustainable Planning Act 2009* and the *Building Act 1975* and any body having the relevant jurisdiction were satisfactorily completed; and
- ☐ the Contractor has completed and signed a QBCC Form 6 - *Defects Document* and given 1 copy to the Owner; and
- ☐ the Contractor handed over the Works to the Owner on the Date of Practical Completion.

Date of Practical Completion: ____/____/____
(day) (month) (year)

(Signed by the Owner/Owner's Representative)

(Signed by the Contractor/Contractor's Representative)

DATED: ____/____/____
(day) (month) (year)

DATED: ____/____/____
(day) (month) (year)

NOTE TO OWNER/OWNER'S REPRESENTATIVE

If the Contractor has completed all of the requirements listed in this Certificate, the Owner must, upon receiving a signed copy of this Certificate, immediately pay the Contractor the Progress Claim for the Practical Completion Stage (as adjusted for liquidated damages under Condition 23, if applicable).

When form completed and signed by both parties, Contractor to retain original and give 1 legible copy to Owner.