CONTRACT INFORMATION STATEMENT

FOR

ALL CONSTRUCTION MANAGEMENT CONTRACTS
FOR DOMESTIC BUILDING WORK

This Contract Information Statement has been developed and approved by the Queensland Building and Construction Commission (QBCC) under s99 (1) of the Domestic Building Contracts Act 2000 (the “DBC Act”) for use with all Construction Management Contracts for Domestic Building Work in Queensland. No other Contract Information Statement may be used with Construction Management Contracts for Domestic Building Work.

DISCLAIMER

This Contract Information Statement contains information of a general nature to inform homeowners about Construction Management Contracts and the domestic building process. Nothing in this document should be interpreted or relied upon as providing specific legal advice. For advice on particular circumstances, especially regarding individual contracts, you should consult a practising solicitor.
NOTE FOR HOME OWNER

QBCC has had no role in the development or approval of the contract which accompanies this Contract Information Statement. The construction manager has an independent obligation to ensure that their contract complies with the DBC Act. There are important differences between construction management contracts and ordinary domestic building contracts.

Because construction management contracts involve added responsibility and potential risks for home owners, QBCC recommends that you seek formal legal advice before signing this type of domestic building contract.

It is important to ensure that the construction management contract includes, at the time of signing, a fixed price or a guaranteed maximum price for the entire project.

QUICK SUMMARY OF KEY POINTS

FOR OWNERS:

- **MANY CONTRACTS – MORE RESPONSIBILITY**
  Instead of signing just one contract with the builder as is the case with most domestic building contracts, under the construction management approach you will enter into contracts with the construction manager and each of the various trade contractors. You will have obligations under each of these contracts.

- **MORE LEGAL RISK**
  If you terminate one contract (e.g. with the construction manager) you may later find yourself inadvertently breaching other contracts you have entered.

- **ALL WORK MUST CEASE IF NO CONSTRUCTION MANAGER**
  If for any reason your construction manager ceases to work on site (e.g. because you terminate their contract), all work must cease (due to absence of supervision) until you engage a new construction manager or obtain an Owner Builder Permit from QBCC.

- **REDUCED QBCC HOME WARRANTY INSURANCE PROTECTION**
  The nature of the contractual arrangements means that you will NOT receive the full range of protection ordinarily available under the Queensland Home Warranty Scheme (especially for non-completion).

FOR CONTRACTORS:

- **MUST GIVE OWNER A COPY OF THIS STATEMENT WITHIN 5 BUSINESS DAYS**
  This is the only Contract Information Statement approved by QBCC for use with construction management contracts. A copy of this statement, together with a signed copy of the entire contract, including plans and specifications, must be given to the owner within 5 business days of the signing of the contract.

- **MUST ARRANGE AND PAY QBCC INSURANCE FOR TOTAL PROJECT VALUE**
  It is your responsibility as construction manager to arrange and pay the premium for the Queensland Home Warranty Scheme based on the total value of the project you are managing and supervising (including the amounts payable under the construction management contract and all trade contracts).

- **RESPONSIBILITY FOR SUPERVISION**
  QBCC will hold you as construction manager responsible for supervision of all building work performed by the various trade contractors.

- **PRIMARY RESPONSIBILITY FOR COMPLETION OF ALL CONTRACTED WORK AND RECTIFICATION OF DEFECTIVE WORK**
  Although you may not be sub-contracting with trade contractors, as the construction manager QBCC will still hold you primarily responsible for completion of the project and arranging rectification of any defective work.
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PART ONE   : BEFORE YOU START

PURPOSE OF THIS CONTRACT INFORMATION STATEMENT

The DBC Act requires the construction manager to give you, the home owner, a copy of this QBCC-approved Contract Information Statement before you sign a domestic building contract or as soon as practicable (but within 5 business days) after the contract is entered into.

The purpose of this Statement is to inform you, in general terms, of your rights and obligations under a construction management contract to build or renovate a home, as well as some of the characteristics of this type of contract and how it differs from the more common domestic building contract arrangements.

CONSTRUCTION MANAGEMENT CONTRACTS - WHAT ARE THEY AND WHAT’S DIFFERENT ABOUT THEM?

DEFINITION OF ‘CONSTRUCTION MANAGEMENT CONTRACT’

The Queensland Building and Construction Commission Act 1991 (“the QBCC Act”) describes a construction management contract as a contract under which a home owner engages a construction manager to provide building work services relating to building work carried out for the home owner by trade contractors (e.g. carpenters, plumbers, electricians, etc.) under construction management trade contracts (these are contracts the owner signs personally directly with the trade contractors, or the construction manager signs as agent for the owner, for the performance of part of the domestic building project). Building work services performed by construction managers include the provision of administration, advice, management and supervision for the construction of a detached dwelling, or the renovation, alteration, extension, improvement or repair of a home.

Under the DBC Act, construction management contracts for domestic building work with a contract price exceeding $3,300 must comply with all of the form and content requirements set out in the DBC Act (these detailed contract requirements are summarised below in the separate section of this Statement headed “Contract Checklist”).

Supervision is a key responsibility of the construction manager. Irrespective of how the construction manager’s role is defined in the construction management contract, under the QBCC Act it is an offence for a construction manager to fail to provide adequate supervision of the building work performed by the various trade contractors.

WHAT’S DIFFERENT ABOUT CONSTRUCTION MANAGEMENT CONTRACTS?

A key difference between a construction management contract and a standard domestic building contract between a home owner and builder relates to the number of contracts the owner must enter.

Under the more common contract arrangement the home owner only contracts directly with the builder as head contractor, and the trade contractors work directly to the builder. In contrast to this, under a construction management contract arrangement you as the owner will be contracting directly with BOTH the construction manager who oversees the project and each of the trade contractors who will actually carry out the work. You will have rights and responsibilities (including payment obligations) under each of these contracts. It is important to realise that although a construction manager may recommend particular trade contractors, or act as your agent in their engagement, under the construction management model YOU will be contracting directly with each trade contractor (even if the construction manager has signed the trade contracts on your behalf).
**WARNING:** Under a construction management contract, you will commonly take on greater responsibility and potential risk than is usual under a standard building contract. For example, a breach of contract by the construction manager or one trade contractor could result in you breaching, and consequently being liable under, other contracts you have signed. While the construction manager is engaged to manage and supervise the project, ultimately **YOU** must ensure that each of the trade contractors you have contracted with meets their contractual obligations.

**NOTE:** The nature of the construction management contract arrangement means that you will not receive the full range of protection ordinarily available under the Queensland Home Warranty Scheme operated by QBCC. (See separate section headed “Queensland Home Warranty Scheme”).

**WHAT IS THE QBCC?**

The Queensland Building and Construction Commission (QBCC) is a statutory authority established under the QBCC Act primarily to regulate and oversee the residential construction industry in Queensland.

**LICENSING**

Under Queensland legislation, all builders, building designers and most trade contractors must be licensed by QBCC to carry out building work (there are a few exceptions e.g. electricians who have their own licensing system). **Construction managers must hold an appropriate builder’s licence from QBCC** (if unsure about the licence, check with QBCC).

You must ensure that the construction manager and all trade contractors who will be involved with your project are currently and appropriately licensed. The best way to do this is to **ask to see the construction manager’s and trade contractor’s QBCC licence cards before you commit to them, record the name and number on each card, then check the information by visiting the OnLine Licence Search on the QBCC website at www.qbcc.qld.gov.au or phoning QBCC’s statewide number 1300 272 272.

In addition to their licence details, this free service also provides valuable information about the contractor’s past work (including number and value of past domestic building projects) and dispute history (if any).

**CONTRACT CHECK LIST**

Under the DBC Act the construction manager must provide you with a complete copy of the written, signed construction management contract (including all associated documents - see next paragraph) as soon as practicable (but within 5 business days) after you enter into the contract and before work commences. Construction management trade contracts for the work to be performed by trade contractors may be entered into by you directly (i.e. by you signing a contract with each trade contractor, or alternatively, the construction manager may sign the contracts with the trade contractors as agent on your behalf. If the construction manager is arranging and signing trade contracts (e.g. with plumbers, carpenters, electricians, etc.) on your behalf, it is very important that you read these contracts before they are signed, that as far as possible the trade contracts contain a fixed or guaranteed maximum price (in rare cases like rock removal, the trade contractor may need to provide an allowance), and that the construction manager promptly gives you a copy of all of these contract documents.

It is very important that you carefully read and check all of the contract documents, including the **Contract Schedule** (i.e. the document in which you and the construction manager insert your contact details, a brief description of the project, start and finish dates, payment arrangements etc.), **General Conditions**, **schedules of allowances for Prime Cost Items or Provisional Sums** (if any) and any plans and specifications. Make sure you receive a copy of the final version of all of these documents.
QBCC does not produce construction management contracts or construction management trade contracts (i.e. contracts to document your agreements with trade contractors). The QBCC Renovation, Extension and Repair Contract and New Home Construction Contract, which are examples of the more common type of domestic building contract, are available on QBCC’s website and may be of assistance to you for comparison and in assessing your options.

The DBC Act sets out detailed form and content requirements for all contracts for the performance of domestic building work costing more than $3,300, including construction management contracts and construction management trade contracts. These requirements are summarised below:

**Before signing ANY domestic building contract (whether with the construction manager or a trade contractor), you should check it carefully to ensure that:**

- The contract states whether or not you are a ‘resident owner’ (i.e. intend to live in the house within 6 months of completion of the contracted work).
- It is in English, readily legible and includes a detailed description of the contracted work.
- It includes your name, address and contact details and those of the construction manager or trade contractor (as the case may be).
- The construction manager’s or trade contractors licence number is noted on the contract.
- The date the contract is made is stated.
- It sets out in full all the terms of your agreement with the construction manager or trade contractor.
- It states the date the subject work is to start, or how the start date is to be decided.
- If the starting date for the subject work is not yet known, the contract states that the construction manager or trade contractor will ensure the work starts as soon as it is reasonably possible.
- The contract states the date the subject work is to be finished or, if the start date is not yet known, the number of days required to finish the work once it is started.
- It includes a conspicuous notice advising you of the right you may have to withdraw from the contract under the cooling-off provisions of the DBC Act.
- The contract states the allowances that the construction manager or trade contractor has made for any likely delays. This would include the number of days that has been allowed for inclement weather and non-working days (i.e. weekends, public holidays, rostered days off, etc.) and any other delays likely to affect the duration of the project.
- The precise location of the building site (including lot-on-plan, or similar description) is stated.
- The total price and payment provisions are clearly stated and in accordance with the DBC Act (refer to the topic ‘Deposits and Progress Payments’).
- If the contract price is subject to change, the contract contains a warning located near the contract price referring you to any clause in the contract which may have the effect of changing the contract price (e.g. provisions in the contract which allow for increases in the contract price to reflect variations, prime cost items or provisional sums or the introduction of new, or changes to existing, government taxes or charges).
- Definitions of key terms are included.
- All plans and specifications required for the contracted work are included, dated and signed by both parties. These must be sufficiently detailed to enable you or the construction manager or trade contractor to obtain any necessary approvals or authorisations from building certifiers or government authorities. Any requirements you may have as to particular finishes (for example, number of coats of paint required) should be clearly stated in the specifications.
• The contract lists and describes any fixtures or fittings which are NOT included in the contract price but shown on the plans (any fixture or fittings shown in plans and specifications for the work are taken to be included in the contract price unless the contract states they are excluded and you have signed or initialled next to the exclusion statement).

• If the work includes or may adversely affect footings or a concrete slab, the construction manager must obtain appropriate foundations data before entering the contract unless you have already obtained the data and supplied it to the construction manager. Foundations data includes soil testing, contour surveys and other relevant geotechnical information.

• All relevant statutory warranties are included in the contract (see the summary of “Statutory Warranties” in Part Four of this Statement).

SOME MATTERS TO CHECK BEFORE SIGNING

• Make sure you understand any clauses allowing for price or cost increases.

• Where an estimate or allowance, rather than a fixed price, is given in the contract for the supply of an item (e.g. tiles, kitchen appliances, etc.) or the cost of providing a contracted service (e.g. rock removal) a breakdown of the cost estimate must be set out in a separate schedule. [NOTE: In the construction management model these allowances – known as Prime Cost Items and Provisional Sums – would normally be found in the trade contracts not the construction management contract]. For example:
  ❖ You may not have finally selected the particular tiles that you want in the bathroom but you know the general quality, style and perhaps the manufacturer you would like. In this situation, or where the construction manager or trade contractor is unable to give you a fixed price when the contract is signed (e.g. because the tiles are sourced from overseas and temporarily out of stock), the tiles might be included in the contract as a Prime Cost Item in the Prime Cost Items Schedule. The construction manager or trade contractor who is to supply the tiles must make a reasonable estimate of the cost of supplying these tiles. That estimate must be stated in the contract. [NOTE: Allowances in the contract for Prime Cost Items (usually fixtures or fittings e.g. tiles, appliances, bathroom fittings etc.) are for supply only (i.e. they do not include labour for installation)].
  ❖ Sometimes it is not possible for the construction manager or trade contractor to calculate in advance precisely how much work has to be done for a particular task comprising part of the contracted work. For example, it might be the case that the construction manager or trade contractor expects (based on a geotechnical report) to encounter rock when carrying out the excavation work for the footings, but it is not possible to state before site work gets under way exactly how much rock will be encountered. In that case, a reasonable estimate for the cost of doing the rock removal work should be included in the contract as a Provisional Sum in the Provisional Sums Schedule.

• Prime Cost Items and Provisional Sums must be listed in a separate schedule of the contract. For each item or sum on the schedule there must be a detailed description and a reasonable estimate of the cost, and a breakdown of the cost estimate showing at least the estimated quantities of materials or contracted work involved, the unit cost to the construction manager or trade contractor, and any margin they intend to add to any increase in the actual cost of the item or sum.

• The party making the allowance in their contract (usually this will be a trade contractor) must prepare their estimates carefully, taking into account the information reasonably available at the time of entering the contract including the nature and location of the building site. NOTE: Prime Cost Items and Provisional Sums are allowances, not fixed prices. When the price for that Prime Cost Item or Provisional Sum is finally determined (i.e. when the item is supplied or the work performed) it may be higher or lower than the estimate in the contract. Because of this uncertainty, QBCC recommends that owners seek to minimise allowances for Prime Cost Items and Provisional Sums. When claiming payment the trade contractor (or, in rare cases, it might be the construction manager) must provide evidence (e.g. invoices, receipts, etc.) of the final cost of the Prime Cost Item or Provisional Sum for which they have provided an allowance. If the actual cost is higher than the allowance in the schedule you will be required to pay extra, if the actual cost is less, you will pay less than the allowance.
LIQUIDATED DAMAGES

In contracts for major domestic building work the term liquidated damages refers to a dollar amount per calendar day written into the contract by the home owner that is payable by the building contractor (i.e. the construction manager or trade contractor) to compensate the home owner for costs/losses they incur in the event the work is not completed within the timeframe allowed for in the contract.

If liquidated damages are applicable to your project, it is very important that you calculate and insert an appropriate amount in the contract before signing. The DBC Act does not stipulate a maximum or minimum amount per day which a home owner is entitled to write into the contract for liquidated damages. In fact, the DBC Act is silent on liquidated damages. In some circumstances you may not be able to justify the inclusion of any liquidated damages (e.g. if you are unlikely to suffer any loss or cost increase as a result of delays in practical completion). You must be able to substantiate the figure for liquidated damages you write into the contract and it must not be punitive (i.e. it must represent your genuine estimate, at the date of signing the contract, of the actual costs/losses you believe you are likely to suffer without adding any extra cost to 'punish' the contractor).

Where liquidated damages are valid, the appropriate amount you should insert in the contract will depend on the nature of the work and your individual circumstances. For contracts to build an entire home for a resident owner the amount would typically include a daily allowance for any additional rent, storage of furniture/personal effects, finance costs, etc., directly attributable to the delay in the completion date.

THE “COOLING-OFF” PERIOD
(During which you may withdraw from the contract)

Under section 72 of the DBC Act you may have the right to withdraw from a domestic building contract you have signed with a building contractor (i.e. the construction manager or trade contractor) during a period known as the cooling-off period. Time limits apply and a written notice has to be given to the construction manager or trade contractor if you exercise this right. You should be sure you understand your rights before you exercise them. If in doubt, contact a practising lawyer. Be aware, too, that there are certain costs associated with withdrawing.

Under section 72 you may withdraw from the contract within 5 business days of receiving from the construction manager or trade contractor a copy of both:

- The complete, signed contract (including any plans and specifications); and
- A QBCC-approved Contract Information Statement. [NOTE: For construction management contracts this document is the only approved Contract Information Statement].

WHAT IF YOU DON’T RECEIVE COPIES OF THE SIGNED CONTRACT AND A QBCC-APPROVED CONTRACT INFORMATION STATEMENT?

Once the contract is made, you must allow the construction manager or trade contractor up to 5 business days to provide you with your signed copy of the complete contract and QBCC-approved Contract Information Statement. If after 5 business days you still have not received your copies, you may withdraw from the contract.

NOTE: If the construction manager or trade contractor later provides you with copies of these items you may still withdraw from the contract but you only have 5 business days from the date you receive both documents in which to exercise this right.

WHAT IF THE CONTRACT DOESN’T INCLUDE A COOLING-OFF PERIOD NOTICE?

If your contract does not contain a notice advising you of your right to withdraw during the cooling-off period, then under section 74 of the DBC Act you are entitled to withdraw from the contract within 7 calendar days after you become aware that the contract should have contained a cooling-off notice.
HOW TO WITHDRAW

You don't have to provide any reason for withdrawing but you must notify the construction manager or trade contractor you contracted with by delivering a written notice to them, or to their address as shown on the contract, before the cooling-off period expires. The notice must be dated and signed, refer specifically to the contract in question, and state under which section of the DBC Act you are withdrawing (i.e. section 72 or section 74).

WARNING: COST TO YOU OF WITHDRAWING

If you do properly exercise your right to withdraw during the cooling-off period, the construction manager or trade contractor is entitled to receive $100 plus any out-of-pocket expenses reasonably incurred by them up to the date of withdrawal. If, at the time of withdrawal, the construction manager or trade contractor has already received from you a deposit greater than this entitlement, the excess amount must be promptly refunded to you.

YOU MAY NOT WITHDRAW DURING THE COOLING-OFF PERIOD IF …

- You and your construction manager or trade contractor have had a previous contract on similar terms relating to the same detached dwelling, home or land; or
- Before entering the contract you received formal legal advice about the contract; or
- When or after entering into the contract you tell the construction manager or trade contractor that before entering the contract you received formal legal advice about the contract.

DEPOSITS AND PROGRESS PAYMENTS

WHEN AND HOW MUCH?

Under the construction management contract the construction manager will, from time to time, present claims to you for their performance of the management services detailed in your construction management contract. These claims should be based on the progress of the contracted works. The construction manager's role may also include certifying and submitting progress claims from trade contractors, suppliers and consultants with whom you have contracted directly (i.e. certifying that the progress claims are due and that the amounts claimed do not exceed the value of work actually performed). It is very important that before signing the construction management contract, or any contracts with trade contractors, you know how much the progress payments will be and when these payments will be required. You should ensure that progress payments under all of your contracts are linked to actual work performed on site, not just to dates or periods of time as that could lead to you paying when little or no actual progress has occurred on site since the previous payment (e.g. due to wet weather, or the absence of tradespersons).

The DBC Act provides some guidelines with regard to deposits and progress payments for different types of domestic building contracts.

1: DEPOSITS – FOR ALL DOMESTIC BUILDING CONTRACTS OVER $3,300

For all domestic building contracts involving the home owner, including all contracts with construction managers or trade contractors, the deposit paid by the home owner must not exceed 10% of the total contract price where the contract price is less than $20,000, or 5% where the contract price is $20,000 or more. These maximum deposit percentages cannot be exceeded, even if both parties agree.

2: PROGRESS PAYMENTS

(a) FOR CONSTRUCTION MANAGEMENT CONTRACTS TO RENOVATE, REPAIR OR EXTEND AN EXISTING HOME, AND TRADE CONTRACTS TO PERFORM PART OF THE BUILDING PROJECT (i.e. contracts other than “Designated Stages Contracts”). These guidelines apply to progress payments for the following types of contracts:
PROGRESS PAYMENTS (...cont’d)

(1) contracts between home owners and construction managers where the construction management contract does not include and price the full construction of a new home (i.e. where the construction management contract only covers the management fee to be paid to the construction manager, which will usually be the case, or where the project to be managed is not full home construction but limited to the renovation, alteration, extension, improvement or repair of an existing home); and

(2) all contracts under which owners deal direct with trade contractors (e.g. plumbers, carpenters, etc.) to perform part of the project work.

For both of these types of contracts, provided the deposit maximums referred to above (5% or 10%) have not been exceeded, the DBC Act stipulates that you and the construction manager or trade contractor are free to negotiate any progress payment schedule you wish, provided that:

- the progress payments sought are directly related to, and not in advance of, progress of the work on site; and
- the final payment under the schedule is not called for until all of the contracted work has been completed in accordance with the contract and all legal requirements.

(b) FOR CONSTRUCTION MANAGEMENT CONTRACTS FOR THE BUILDING OF AN ENTIRE NEW HOME (i.e. “Designated Stages Contracts”). For construction management contracts only (not trade contracts) which relate to the full home construction, the DBC Act sets out the following standard progress payment schedule:

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<tr>
<th>Stage of work when payment due to construction manager</th>
<th>Percentage of construction manager’s contract fee</th>
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<tbody>
<tr>
<td>1. Deposit</td>
<td>Max. 5%</td>
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<tr>
<td>2. Base Stage</td>
<td>Max. 10%</td>
</tr>
<tr>
<td>3. Frame Stage</td>
<td>Max. 15%</td>
</tr>
<tr>
<td>4. Enclosed Stage</td>
<td>Max. 35%</td>
</tr>
<tr>
<td>5. Fixing Stage</td>
<td>Max. 20%</td>
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<tr>
<td>6. Practical Completion</td>
<td>Balance of original contract price</td>
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[e.g. if the contract manager’s contract fee is say $50,000 to manage the building of a home for which the total cost (apart from this fee) will be $350,000 (i.e. total project cost = $400,000), the maximum deposit payable to the construction manager is 5% of the contract manager’s $50,000 fee = $2,500].

While the maximum deposit of 5% for all contracts priced at $20,000 or above cannot be exceeded under any circumstances, the DBC Act does allow you and the construction manager to agree to change the number, timing and amount of the progress payments from those set out in the standard schedule above but only if the construction manager gives you a notice which satisfies the requirements of the Domestic Building Contracts Regulation 2010.

NOTE: Payments under any alternative progress payment schedule proposed by the construction manager must be directly related to, and not in advance of, the progress of the work on site. If you are unsure of the appropriateness of the progress payment schedule in the contract, you should obtain formal legal advice before signing.

WARNING: DO NOT PREPAY OR OVERPAY

Owners are warned to never pay more than, or in advance of, what is authorised under any of the domestic building contracts they enter with the construction manager or trade contractors. Payments which are both in advance of work progress and more than what is authorised under the contract may not be covered under QBCC’s Queensland Home Warranty Scheme.
**BUILDING APPROVALS**

Where required for the contracted work, appropriate plans and specifications must be included in the contract documents. The approval of plans is performed by a ‘Building Certifier’ who must be licensed by QBCC and may be either an employee of the local government (if the local government still performs building approvals; many don’t) or a Private Certifier (i.e. a self-employed building certifier able to perform building approvals and inspections anywhere in Queensland).

In most construction management contracts the construction manager will engage and liaise with a building certifier on your behalf (check if this is the case in your contract). You can verify that a building certifier is appropriately qualified by entering their details into the Online Licence Search facility on the QBCC website at [www.qbcc.qld.gov.au](http://www.qbcc.qld.gov.au), or phoning QBCC statewide on 1300 272 272.

Make sure that, along with a copy of the contract, you obtain a copy of the plans and specifications from the construction manager when they are finalised and ready for submission to the building certifier. Check the plans are accurate and up to date. Advise the construction manager immediately if there are any errors or omissions. **Obtain a copy of the final approved plans and keep them in a safe place** (they will be very useful when you wish to sell the house). If, as is usual, the construction manager has engaged the building certifier directly, **the construction manager must provide you with copies of each certificate of inspection as they are issued by the building certifier, not simply provide them all to you in one batch at handover.** As soon as is practicable after the work is completed, the construction manager must also provide you with copies of other contract related documents such as reports, notices or orders issued by suppliers of services, including, for example, electricity, gas, telephone, water or sewerage.

**INSURANCES**

**FOR CONSTRUCTION OF A NEW HOME**

Your construction management contract should require the construction manager to produce written evidence that they have arranged and paid for appropriate construction insurance before work commences and will maintain it in place until the date of practical completion. In addition to the statutory home warranty insurance provided by QBCC (see below), the appropriate insurance would normally include cover for Public Liability, Workers’ Compensation (as required under the **Workers’ Compensation and Rehabilitation Act 2003**), and Contracts Works Insurance (sometimes known as ‘Contractors All Risk’) which covers your home during construction against such risks as fire, storm and tempest, flood, theft, vandalism, etc. **Remember you are responsible for insurance of the property (including Public Liability) and contents from the date of practical completion.**

**FOR RENOVATIONS AND EXTENSIONS TO AN EXISTING HOME**

Before work commences on site, advise your existing insurance company of the details of the work to be done, including total value, approximate start and completion dates, etc. You should also advise your insurance company that the work is to be performed under a construction management contract. Your normal home property insurance may be inoperative while renovations or extensions are in progress. After talking to your insurance company you should discuss your insurance requirements with the construction manager and ensure they are addressed in your contract.
QUEENSLAND HOME WARRANTY SCHEME

Subject to certain limitations prescribed by legislation, and policy conditions outlined in the QBCC policy booklet, the Queensland Home Warranty Scheme operated by QBCC provides assistance for loss suffered by home owners as a result of:

- **NON-COMPLETION** - where the building contractor fails to complete the contracted residential construction work *[NOTE: As explained below, this cover may not be available to you under a construction management contract]*;

- **DEFECTIVE WORK** – where the building contractor fails to rectify defects in the contracted residential construction work that is primarily building work; and

- **SUBSIDENCE** – where there is subsidence or settlement of residential construction work covered by the contract.

The construction manager is required to pay the insurance premium for the Queensland Home Warranty Scheme for the total value of your domestic building project (this total should include the amounts payable by you to the construction manager and to all trade contractors with whom you will have a separate contract). The premium amount is determined by the total contract value of your project (which, as previously stated, should be a fixed or guaranteed maximum price).

The construction manager must pay the premium directly to QBCC before the plans can be approved and released by the building certifier. Provided the construction manager has promptly contacted QBCC and paid the premium, you should receive your Certificate of Insurance from QBCC within about two weeks of signing the construction management contract. **Check that the Notified Contract Value on the certificate is the same as the total fixed price or guaranteed maximum price for your entire project. If the amounts vary you should contact QBCC to have your cover amended.**

As mentioned above, if you make payments before the contract requires and in advance of work progress, you may not be covered for those pre-payments under the Queensland Home Warranty Scheme. **Do not make a payment until you have checked that the amount sought agrees with what is required under the contract and that the relevant stage of construction or amount of work has been completed.**

For further details of the Home Warranty Scheme consult the policy booklet provided by QBCC.

**WARNING:** Due to the nature of the contractual arrangements, the QBCC insurance protection available to you under a construction management contract (especially for ‘non-completion’) will in most cases be less than that available to a home owner who engages a builder to perform domestic building work under a standard domestic building contract (e.g. under a normal QBCC, MBQ or HIA Major Works Contract).

**EFFECT OF CONSTRUCTION MANAGEMENT CONTRACT ON NON-COMPLETION COVER**

Under your construction management contract you are engaging the construction manager to carry out building work services (management, supervision, etc.) in relation to domestic building work to be performed by trade contractors. If your construction manager fails to complete the contracted work, and you are able to legally terminate the contract, your insurance entitlement under the Queensland Home Warranty Scheme will generally be limited to the extra cost of engaging a replacement construction manager. However, if, as recommended, your construction management contract includes a fixed or guaranteed maximum price for the entire project, your insurance entitlement may also extend to any overruns in the cost to complete the work beyond the fixed or guaranteed maximum price.
Where a construction management contract is used, to be eligible for consideration of a non-completion claim under the Queensland Home Warranty Scheme a home owner must first properly terminate the contract due to the construction manager's default. **If you terminate the construction management contract, or the construction manager fails to complete your project, it is unlawful for you or the trade contractors to continue to carry out the domestic building work under the construction management trade contracts until another construction manager has been appointed to supervise the overall project.** As the home owner you cannot take over the role of the construction manager and manage the project yourself (including the supervision and coordination of trade contractors) without first obtaining an Owner-Builder Permit from QBCC.

Difficulties in engaging a new construction manager may result in delays on site, which could then cause you to unintentionally breach the construction management trade contracts you have signed with a number of trade contractors (e.g. because the trade contractors cannot complete their work on time due to the absence of supervision). The delays could also mean that some trade contractors may no longer be available to carry out their work. You will not be entitled to non-completion cover with regard to these contracts with the trade contractors. However, if as a consequence of these delays the total cost of completing the entire project exceeds your fixed or guaranteed maximum price, provided there is one in your contract, then as mentioned previously your insurance entitlement may extend to these additional costs. **Please note** that in cases where problems with the construction management contract result in you breaching one or more trade contracts you may not be able to legally terminate these trade contracts because you, not the trade contractors, are likely to be in breach of the contracts. **In any event, formal legal advice is essential before moving to terminate any contract.**

In contrast to this situation under a construction management contract, under a standard domestic building contract the owner only signs one contract which is with the builder who, as head contractor, is responsible for engaging the relevant trade contractors and retains responsibility for any non-performance of the trade contractors or delays in construction.

**WARNING:** **DO NOT RELEASE CONSTRUCTION MANAGER FROM LIABILITY.**

QBBC strongly recommends that you review the construction management contract and your contracts with trade contractors before signing to ensure that the contract provisions do not provide the construction manager, or trade contractors, with a release from liability or an indemnity for their work. Some construction management contracts, in particular, may seek to do this. Given that the key role of a construction manager is to manage and supervise your construction project on your behalf, they ought to be held accountable under the contract for the performance of this service for which you are paying them.

If in your contracts you release the construction manager or trade contractor from liability, or indemnify them, by so doing you may also release QBCC from liability under the Queensland Home Warranty Scheme to the same extent. Effectively, the provision of indemnities or releases from liability may result in you precluding QBCC from assisting you under the Queensland Home Warranty Scheme.

**COST PLUS CONTRACTS**

Under the DBC Act, a cost plus contract is one in which the total amount the construction manager or trade contractor is to receive cannot be calculated when the contract is entered into (this definition would include contractual arrangements under which the construction manager or trade contractor is paid a percentage of costs or, in some cases, an hourly rate without a total payment being declared). The key danger for home owners with this type of contract is that they will not know the full cost of their project until it is completed. **Cost plus contracts are prohibited under the DBC Act unless certain strict conditions are met.** In view of the high incidence of cost overruns and disputes associated with cost plus contracts, QBCC strongly recommends that you seek formal legal advice before signing this type of contract.
NOTE: A construction management contract or a related trade contract may be a cost plus contract if the total amount payable to the construction manager or trade contractor is not clearly stated in the contract, or able to be accurately determined, at the time you are asked to sign it. Carefully check all contracts you receive and if you are unsure or concerned that a particular contract may be a cost plus contract you should have it reviewed by a practising lawyer before you sign.

TERMITE PROTECTION

If your project requires termite protection (all new home constructions and extensions will) ensure that you and your construction manager discuss and agree on an appropriate termite protection system and that this is fully detailed in your construction management contract. Be sure, especially, that you discuss and fully understand the maintenance requirements of your chosen system.

DISPUTE PREVENTION

WHAT CAUSES DISPUTES?

Disputes between home owners and their construction managers or trade contractors may occur for many reasons including:

- Inaccurate or incomplete documentation (including plans and specifications, and variations);
- Poor communication (on both sides);
- Unsatisfactory work;
- Delays caused by either party; and
- The owner’s lack of knowledge of building practices.

STEPS TO HELP YOU AVOID DISPUTES

To minimise the risk of disputes you should ensure that:

- The construction manager and all trade contractors you are contracting with have a current and appropriate QBCC licence for the work they will perform (ask to see their licence cards and check QBCC’s OnLine Licence Search);
- You have checked the construction manager’s or trade contractor’s track record via QBCC’s OnLine Licence Search;
- The construction manager’s or trade contractor’s work is recommended by past customers (ask for names; try to contact them and discuss their experiences);
- You carefully read and fully understand all contracts before signing them (if you have any concerns you should obtain formal legal advice);
- Each contract clearly specifies the extent and timing of the contracted work, total price and payment details (including the deposit and the timing and amount of any progress payments - refer to the section in Part One of this Statement titled ‘Deposits and Progress Payments’);
- Your rights and responsibilities are detailed in the contract and understood;
- You have received and read carefully this Contract Information Statement;
- The contract, and any variation documents for changes to the original contracted work, are signed by both parties (and copies kept on file);
• You maintain regular contact with the construction manager [NOTE: It’s best to raise any concerns about your project with your construction manager as soon as possible]; and

• Be aware of, and carefully follow, the payment arrangements for each contract associated with your project, and make sure that you never pay more than the agreed amount or pay it before it is due.

PART TWO : DURING CONSTRUCTION

BUILDING INSPECTIONS AND QUALITY CONTROL

WHAT IS THE PURPOSE AND TIMING OF THE MANDATORY BUILDING INSPECTIONS?

The primary function of mandatory on-site building inspections is to ensure that construction work complies with the approved plans and recognised building standards, including the Building Code of Australia (BCA).

Building inspections for the construction of a complete dwelling must be performed by a QBCC licensed building certifier, or competent person acceptable to them, at the following mandatory stages: footings; slab; frame; and ‘final’.

In addition to these building inspections, there are mandatory plumbing and drainage inspections which are carried out by officers of the local government. For projects involving the renovation or repair of an existing home some of the inspections mentioned above may not be required.

NOTE: It is NOT the role of the building certifier to ensure compliance with the terms and specifications of the contract or to provide ongoing supervision or quality control.

WHO IS RESPONSIBLE FOR SUPERVISION AND QUALITY CONTROL?

Under your construction management contract the construction manager should have responsibility for ensuring that the contracted work is performed to an acceptable standard of quality and finish and in accordance with the contract (including the associated plans and specifications), legal requirements and recognised industry standards (including the Building Code of Australia).

HOW CAN CONSTRUCTION STANDARDS AND QUALITY BE CONFIRMED?

The construction manager is there to help and advise you on the construction standards and finishes. If you have specific requirements with regard to quality and finish these details should, as far as possible, be discussed beforehand with the construction manager and written into the specification which will form part of a trade contract. If you have any concerns during construction you should promptly discuss these with the construction manager. It is recommended that you carry out regular inspections of the work, by prior arrangement, with the construction manager. The frequency of these on-site inspections will depend on factors such as the nature, size and complexity of the building project (e.g. whether it is a renovation or a new home construction), and your availability, but, as a general guide, they might be carried out every few weeks, especially just before progress payments are due and payable.

If you do not have the knowledge or experience required, or are likely to be too busy or absent for much of the construction period, you may wish to consider engaging a suitably qualified and experienced Building Consultant (e.g. someone qualified as an architect, engineer or builder, etc.) to assist in monitoring work progress and quality. Before engaging a particular consultant you may need to shop around. Be sure to compare not just their price but also their qualifications, industry experience, track record (ask for and contact several past clients) and the range of services they offer.
If you do engage a building consultant (or any other representative) be sure to record the
arrangement in a written contract and take care that the consultant understands exactly what
you want them to do (e.g. to accompany you during on-site inspections with the construction
manager), and that you have informed the construction manager in writing of the consultant’s
appointment and role.

**ACCESS TO THE SITE**

The construction manager engaged to manage the project and any trade contractors with
whom you have contracted to carry out the work are entitled to occupy the site for the
purposes of carrying out their contracted work. Bear in mind that the construction manager,
in particular, has important responsibilities under the *Workplace Health and Safety Act 1995*
which include ensuring that all persons at the site comply with the requirements of that Act. For
this and other reasons, most construction management contracts are likely to stipulate that the
construction manager is entitled to exclude people from the site other than the owner or people
authorised by the owner to be on site (To avoid any uncertainty or disputes you should
advise the construction manager in writing of the names of your authorised representatives who
may visit the site). Depending on the provisions of your contract, other people who may be entitled to visit the site include bank representatives (if you have taken out a
loan for the contracted work), local government officers, building certifiers and QBCC officers.

**Under the DBC Act you (or a person authorised by you) are entitled to reasonable access
to the site to view the work under the construction manager’s supervision but you must
not interfere with the carrying out of the work. Any instructions you may wish to convey to
trade contractors should normally be conveyed through the construction manager (as your
agent) to avoid confusion on site. Any interference could mean that you become liable to the
construction manager for any resulting delays or extra costs.**

**VARIATIONS** *(Changes to the work as originally contracted)*

Any change in the scope of the work to be done under a contract after it is signed (whether
an increase, decrease or a substitution) is known as a ‘Variation’.

The types of variations that could occur under a construction management contract include:

1. a variation concerning the management to be carried out by the construction manager
   (e.g. you may wish to increase the services you want the construction manager to
   perform); and

2. a variation to the materials or fittings to be used, or the work to be carried out, by a
   trade contractor working under the direction of the construction manager.

You should note that where a variation involves a reduction in the quantity or cost of
materials or fittings for your project, or a reduction in the work to be performed, it doesn't
necessarily mean that your total contract price will go down, or that there won't even be extra
cost involved. Unfortunately, variations are frequently the cause of disputes (particularly
where there is a lack of adequate documentation to support the variation or the
variation is not documented and approved by the owner prior to the work
commencing). In most construction management contracts the construction manager's
responsibility will include the presentation of variations to you on behalf of trade contractors.
To protect home owners and reduce the risk of disputes the DBC Act sets out certain strict
requirements for the proper documentation of variations.

**REQUIREMENTS FOR A VARIATION DOCUMENT**

If you wish to request a variation from any party, you should put your request in
writing to the construction manager (be sure to provide sufficient detail, including
drawings/plans where appropriate, to make your requirements absolutely clear).

Where the construction manager or a trade seeks a variation, they must put the
variation in writing to you as soon as practicable and, if the variation means additional
work, the variation must be documented and approved by you before the variation
work is commenced.
The construction manager or trade contractor must give you a copy of the ‘variation document’ as soon as practicable but **within 5 business days** from when the variation is agreed to. The only exception is where the variation is for domestic building work that must be carried out urgently (e.g. urgent repair work) and it is not reasonably practicable, in the particular circumstances, to produce and submit a variation document to you before carrying out the work.

The DBC Act requires that a variation document for a domestic building contract must:

- be in English and legible;
- describe the variation;
- state the reason for the variation;
- provide a reasonable estimate of any delay to the work which may result from implementing the variation;
- state any change to the contract price due to the variation, or at least set out how the price change is to be calculated;
- state when any increase in the contract price as a result of the variation is to be paid, or when any reduction as a consequence of the variation is to be credited (e.g. at which progress payment the adjustment is to be made); and
- be signed by the building contractor (i.e. construction manager or trade contractor). The construction manager or trade contractor must also take reasonable steps to have you sign the document. If you agree with the contents of the document, and are willing to authorise the variation, you should sign it. If you do not understand it, or it does not contain sufficient information, you should ask the construction manager or trade contractor to clarify the document in writing or provide further information in writing.

**VARIATIONS WHICH INCREASE THE CONTRACT PRICE**

If you request a variation which increases the contract price, ensure you have sufficient funds to promptly pay for the variation when payment is required (this will be stated in the variation document). Variations may increase the total cost of the project to a level beyond what your original finance approval, or funds on hand (if you are paying cash), will cover.

**WHEN THE CONSTRUCTION MANAGER OR TRADE CONTRACTOR REQUESTS A VARIATION**

If the construction manager or trade contractor asks you to agree to a variation that they have initiated and it involves additional work, you are only liable to pay for the extra work if it is work that could not reasonably have been foreseen at the time of entering the contract. In any case, the building contractor must still provide the written documentation as detailed above and must not demand payment before the work has commenced.

**PRIME COST ITEMS AND PROVISIONAL SUMS**

**EVIDENCE BEFORE PAYMENT**

Where prime cost items or provisional sums are included in a contract (usually this will be in a trade contract) you are entitled to receive copies of any relevant supporting documents, such as invoices or receipts which show the cost to the contractor of the item or relating to the sum, before or when the contractor seeks payment of the related progress payment (if the contract includes progress payments) or the amount of the contract price (if the contract does not provide for progress payments). The construction manager should be able to assist you with obtaining this documentation from trade contractors. You should never pay for any prime cost items or provisional sums until the items have been supplied or the contracted services performed.
PRACTICAL COMPLETION AND HANDOVER ARRANGEMENTS

It is suggested that when your construction manager advises you of the handover date (which will usually be on, or very soon after, the anticipated Date for Practical Completion) you should arrange a final, pre-handover inspection perhaps a week before the scheduled handover date. This will enable you to identify and discuss any last minute problems before handover.

At the handover inspection itself you should:

- Inspect the house thoroughly to confirm that all contracted work has been completed except for minor defects or minor omissions (i.e. missing items);
- Make sure you work with the construction manager to prepare a list of minor defects and minor omissions (see below for details of this document);
- Refer to the section in Part One of this Statement titled ‘Deposits and Progress Payments’;
- Obtain copies of any outstanding documents (e.g. certificates of inspection, warranties relating to appliances etc.); and
- Promptly provide the final progress payment to the construction manager as per your contract.

DEFECTS DOCUMENT

Part of the construction manager’s responsibility should include assisting you with the final inspection of all contracted work when it has reached practical completion under your contract. If you believe that there are minor defects or minor omissions when the contracted work is completed (this is commonly the case) you should compile a list of these items (known as a ‘defects document’) with the construction manager when you conduct your final inspection. The construction manager must provide you with the defects document on which to record these items. The document must state when each agreed minor defect or minor omission will be attended to. If the listed matters are not addressed within the timeframe stated by the construction manager in the defects document you should follow up with a letter to the construction manager referring specifically to the unresolved minor defects and minor omissions and asking them to address the matters promptly, by a particular date, and provide you with a written response.

In addition to the list of agreed minor defects and minor omissions, the defects document provided by the construction manager must also enable you to list any minor defects or minor omissions which you believe exist but are not agreed by the construction manager to exist. You and the construction manager must sign the defects document. You should not make the final contract payment to the construction manager until this list has been compiled and a signed copy provided to you.

PRACTICAL COMPLETION PAYMENT
(The final payment under the contract)

(a) FOR THE CONSTRUCTION MANAGEMENT CONTRACT

When your contract is for management of the construction of a detached dwelling (including a single detached dwelling or duplex) to a stage suitable for occupation, or to renovate, alter, extend, improve or repair a home to a stage suitable for occupation, you should not make the final payment until:

- All of the contracted work has been completed (except for any minor defects and minor omissions); and
- You have carefully inspected the contracted work with the construction manager, compiled and signed a ‘defects document’ containing a list of any minor defects and minor omissions; and
- The home is reasonably suitable for habitation.
(b) FOR CONTRACTS WITH TRADE CONTRACTORS
(‘construction management trade contracts’)

For your contracts with trade contractors (e.g. plumbers, carpenters, etc.) working under the supervision of the construction manager, you should not make the final payment until the construction manager recommends to do so and you have inspected the work with the construction manager and verified that it has been satisfactorily completed in accordance with the contract terms, plans and specifications, and all legal requirements.

PART THREE : WHAT TO DO IF PROBLEMS DEVELOP

DISPUTE RESOLUTION

If during or upon completion of the work you become concerned about a problem relating to your building project which cannot be resolved quickly and amicably with your construction manager, it is recommended that you follow the steps below:

1. ADVISE YOUR CONSTRUCTION MANAGER PROMPTLY IN WRITING – For problems which arise during construction, you should clearly explain your concerns in writing to the construction manager requesting that they respond in writing within a reasonable timeframe (say 10 business days) with details of how and when they propose to deal with the problem. Make sure you keep a signed and dated copy of your written concerns, and any response from the construction manager, for your records. You should provide reasonable access to your property to allow the construction manager (or relevant trade contractors working under their direction) to address the problem.

As a last resort, your contract may provide legal remedies for breaches of the contract which occur during construction. You should obtain formal legal advice to explore these options.

As mentioned earlier in the section headed ‘Defects Document’ in Part Two of this Statement, prior to requesting the practical completion payment (usually at the handover inspection), the construction manager must provide you with a defects document in which to record minor defects and minor omissions. If the agreed matters are not addressed within the timeframe stated by the construction manager in the defects document you should write to the construction manager referring specifically to the unresolved minor defects and minor omissions and asking them to address the matters promptly, by a particular date, and provide you with a written response.

In addition to addressing these minor defects and minor omissions which were identified at the handover inspection, the construction manager must positively respond to complaints relating to minor defects (referred to by QBCC as “Category 2” defects – see definition below) which become apparent during the first 6 months after the building work is completed.

If the construction manager is still operating, complaints relating to minor defects during this initial period of 6 months after completion and handover of the contracted work should be addressed in writing to the construction manager. Except for urgent matters, it is suggested that rather than approaching the construction manager week by week you compile a list of minor defects as they arise and submit the list to the construction manager just prior to the 6 months deadline. Be sure, however, you diarise and do not miss the 6 months deadline within which you must notify the construction manager or QBCC may be unable to assist you under the Home Warranty Scheme.

PLEASE NOTE:

Because the construction manager has primary responsibility for addressing defects during this initial period, QBCC would not normally progress complaints relating to minor defects until this 6 months period has expired unless the construction manager is uncontactable or no longer licensed.
2. CONTACT QBCC - QBCC is generally able to assist with domestic building disputes concerning defective work, subsidence or the contractor’s inability or unwillingness to complete the contracted work. Please note, however, QBCC is not able to assist where the contract is still afoot or where the dispute is of a purely contractual nature or still before the Queensland Civil and Administrative Tribunal (QCAT).

With regard to the rectification of defective building work (e.g. where the work has failed to meet objective standards of construction or workmanship, such as the Building Code of Australia), QBCC’s Rectification of Building Work Policy classifies defective building work as either being Category 1 or Category 2 defective work.

Category 1 defects are more significant building defects that generally require prompt attention as they are of a structural nature, or could allow water penetration, etc. At any time in the first 6 years after practical completion you may contact QBCC to assist with Category 1 defects provided you have first advised the construction manager in writing (as per the above section headed ‘Advise your Construction Manager...’) and they have failed to promptly address the matter.

Category 2 defects are, in broad terms, those of a minor or cosmetic nature related to poor finish or workmanship. As mentioned in the above section headed ‘Advise your Construction Manager...’, these minor defects which occur during the first 6 months after completion should be taken up with the construction manager who managed and supervised your domestic building project (if they are still operating).

Matters which remain unresolved after this period should be referred to QBCC using the Complaint Form available from the QBCC website. However, if the construction manager is unavailable or ceases to operate during this initial 6 month period, you should try to identify the trade contractor/s responsible for the defective work and request them in writing to rectify the problem within a reasonable time frame. If the relevant trade contractor/s still fails to address the problem, you should advise QBCC in writing using the Complaint Form.

After you have completed and lodged a QBCC Complaint Form, together with supporting papers including copies of all contract documentation (including plans, specifications and any variations), a QBCC technical representative may meet you and your construction manager on site to inspect the work. At the site inspection QBCC will make a determination as to who is responsible for any defects and, where appropriate, direct the construction manager to arrange the rectification of defects or completion of the works. If your construction manager is directed to rectify the works you must allow them, or trade contractors working under their direction, reasonable access to the site. To contact QBCC, call 1300 272 272 statewide or visit the QBCC website at www.qbcc.qld.gov.au

3. REFER THE DISPUTE TO THE QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL (QCAT) – You are also entitled to take any dispute in relation to your domestic building project to QCAT. The Tribunal provides cost effective dispute resolution for domestic building disputes, particularly those of a contractual nature. The Tribunal is able to hear any dispute between you and your construction manager or trade contractor. More information on the Tribunal’s procedures can be obtained by calling 1300 753 228, writing to QCAT at GPO Box 1639 Brisbane, QLD 4001 or visiting the website www.qcat.qld.gov.au

4. OTHER OPTIONS - In addition to the above measures you may have other rights, depending on the provisions of your particular construction management or trade contract. These options may include: the payment of ‘liquidated damages’ in the event the work was not completed within the timeframe allowed for under the contract; mediation (if both parties agree); contract termination, or court action.

WARNING: QBCC strongly recommends that you read your contract very carefully and then obtain independent legal advice from a practising lawyer before acting on any of these options, especially contract termination.
If you are not a legal practitioner and you attempt to terminate your contract yourself there is a high probability you will not do it correctly, with serious legal and financial consequences. For example, if you incorrectly terminate your construction management contract you risk not just legal action against you from the construction manager but there is also a possibility that your actions may cause you to breach your obligations under other contracts associated with your construction management arrangement, such as your contracts with trade contractors.

**CONTRACT TERMINATION UNDER S90 OF THE DBC ACT**

Section 90 of the DBC Act provides home owners with a statutory right to terminate their contracts under very specific circumstances. Under this provision you may, in certain limited circumstances, have the right to terminate a contract in the event of overruns in:

- **the cost** (if the contract price rises by 15% or more after the contract is entered into because of the operation of a cost escalation clause in the contract); or

- **the duration of the contracted work** (if it is not finished within a period that is 1.5 times the period allowed for in the contract) provided that:
  - the reason for the rise in price, or increase in time, could reasonably have been foreseen by the contractor when the contract was entered into; and
  - for a rise in price – the rise is not caused by a delay for which the building owner is responsible.

**NOTE:** Contract termination under s90 of the DBC Act is often complicated and expensive (especially as it is frequently challenged by the other side) and may have unintended consequences for the other contracts you have entered under your construction management arrangement. Formal legal advice is essential before acting on this provision.

**PART FOUR : AFTER MOVING IN**

**MAINTENANCE**

**GENERAL MAINTENANCE**

You should discuss any specific cleaning and maintenance requirements for your project with your construction manager when the work is completed. Information from the suppliers of materials, fittings or products used in the building work (e.g. kitchen appliances) may also be valuable. It is the construction manager’s responsibility to ensure that your property is left clean and tidy and that all waste is removed when the work is completed.

**WATERING AND FOOTING MAINTENANCE**

For projects involving the construction or extension of a home, ask the construction manager to provide you with practical information on the proper maintenance of the footings and slab, including safe watering [e.g. a copy of a CSIRO document on this subject titled, *Foundation Maintenance and Footing Performance: A Homeowner’s Guide* (Building Technology File 18)].

**TERMITE PROTECTION – MAINTENANCE**

On or just before the date of practical completion make sure that the construction manager has provided you with full details of the ongoing maintenance requirements for the termite protection system installed in your newly constructed or renovated home.
Ensure that your construction manager also provides you with a copy of the QBCC Termite Management Systems "Advisory Notes for Homeowners and Builders". (This general information may also be downloaded free of charge from the QBCC website at www.qbcc.qld.gov.au).

If you have any questions about your termite system, and your obligations, don't hesitate to ask the construction manager. After hand over, it's up to you to ensure you properly maintain your property. If you have any concerns about the effectiveness of the termite system, promptly arrange an inspection by a QBCC-licensed pest control operator. In any event, a professional inspection every one to two years is suggested for most termite protection systems.

MANUFACTURERS’ WARRANTIES

On completion/handover, you should have obtained from your suppliers (or in the case of items supplied by a trade contractor these should be obtained by the construction manager) copies of the manufacturers’ warranties for your new household appliances. These warranties, which are commonly of 12 months duration, should be kept in a safe place.

STATUTORY WARRANTIES

The DBC Act provides home owners with a number of Statutory Warranties that are required to be stated in the contract. These warranties are summarised below:

<table>
<thead>
<tr>
<th>MATERIALS - SUITABILITY</th>
<th>All materials will be good and suitable for the purpose for which they are used.</th>
</tr>
</thead>
<tbody>
<tr>
<td>MATERIALS - NEW</td>
<td>Unless otherwise stated in the contract, all materials used will be new.</td>
</tr>
<tr>
<td>COMPLIANCE WITH THE LAW</td>
<td>The contractor will comply with all relevant laws and legal requirements (including the Building Code of Australia)</td>
</tr>
<tr>
<td>SKILL &amp; REASONABLE CARE</td>
<td>The work will be carried out in an appropriate and skilful way and with reasonable care and skill.</td>
</tr>
<tr>
<td>PLANS &amp; SPECIFICATIONS</td>
<td>The work will be carried out in accordance with the plans and specifications if they form part of the contract.</td>
</tr>
<tr>
<td>SUITABILITY FOR OCCUPATION</td>
<td>If work is intended to renovate, alter, extend, improve or repair a home to a stage suitable for occupation, the home will be suitable for occupation when the work is finished.</td>
</tr>
<tr>
<td>REASONABLE DILIGENCE</td>
<td>If the contract is a cost plus contract and does not have a stated completion date or period, the subject work will be carried out with reasonable diligence.</td>
</tr>
<tr>
<td>CALCULATION OF PROVISIONAL SUMS</td>
<td>Provisional sums, if any, have been calculated with reasonable care and skill, having regard to information reasonably available when the contract is entered into.</td>
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</table>

OWNER’S ACKNOWLEDGMENT

Please sign and date below to confirm receipt of this contract information statement.

Dated the ........................................ day of ........................................ 20......

___________________________________________________________________________  _________________________________________________________________________
Construction Manager’s Signature  Owner’s Signature

___________________________________________________________________________  _________________________________________________________________________
Construction Manager’s Name (PRINT)  Owner’s Name (PRINT)

NOTE TO CONSTRUCTION MANAGER

You should retain a copy of this contract information statement, especially this signed acknowledgment page, as proof that you have met your obligation under the DBC Act to provide the owner with a QBCC-approved contract information statement.