

Residential Minor Works Contract - General Conditions (MWC-1 01/2013)**1. DEFINITIONS**

Note – In this **Contract**, certain words and phrases used throughout are defined and are shown in bold when used; e.g., **Owner**

Appendix - means the **Appendix** to the **Schedule** of this **Contract**;

Base Stage - means that stage of the **Works** when:

- * for a home with a timber floor with base brickwork, when the concrete footings for the floor are poured and the base brickwork is built to floor level and the bearers and joists are installed;
- * for a home with a timber floor without base brickwork, the stumps, piers or columns are finished and the bearers and joists are installed;
- * for a home with a suspended concrete slab floor, the concrete footings are poured and the formwork and reinforcing for the suspended slab are installed; and
- * for a home with a concrete floor, other than a suspended concrete slab floor, the floor is finished;

Business Day - means a **Day** that is not a Saturday, Sunday, or public holiday, special holiday or bank holiday in the place in which any relevant act is to be or may be done;

Contract - means these general conditions, the **Schedule**, the **Plans**, **Specifications**, and other documents annexed to, or incorporated by reference, in the **Contract**;

Contract Price - means the amount stated in Item 6 of the **Schedule** as adjusted under this **Contract**;

Contract Works Insurance - means a policy of insurance providing indemnity to the **Contractor**, its subcontractors, the **Owner** and any lending authority against liability for physical loss, destruction or damage to the **Works** or to materials and goods upon or adjacent to the Land;

Contractor - means the person stated in Item 2 of the **Schedule** and includes the **Contractor's** permitted assignees and transferees;

Date for Commencement - means the date by which the **Contractor** must commence the **Works** on the Site;

Date for Practical Completion Stage - means the date by which the **Works** are to reach **Practical Completion Stage** as determined in accordance with Item 13 of the **Schedule**.

Days - means calendar **Days**;

Defects Liability Period - means the period commencing on the Date of **Practical Completion Stage** and ending six (6) months after that date;

Deposit - means the amount to be paid by the **Owner** to the **Contractor** pursuant to Clause 3.1 of this **Contract** and as stated in Item 7 of the **Schedule**;

Enclosed Stage - means that stage of the **Works** when the external wall cladding is fixed; the roof is fixed but without soffit linings necessarily having been fixed or for a tile roof, pointing necessarily having been done or for a metal roof, scribing and final screwing off necessarily having been done; and the structural flooring is laid; and the external doors are fixed (even if only temporarily), but, if a lockable door separating the garage from the rest of the building has been fixed, without the garage doors necessarily having been fixed; and the external windows are fixed (even if only temporarily);

Fixing Stage - means that stage of the **Works** when all the internal linings, architraves, cornices, skirtings, doors to rooms, baths, shower trays, wet area tiling, built in shelves, built in cabinets and built in cupboards are fitted and fixed in position;

Foundations Data - means the information about the Land needed for the preparation of an appropriate footings design for the Land, if appropriate a slab design for the Land and an adequate estimate of the cost of constructing the footings and concrete slab, e.g. soil test, contour plan etc;

Frame Stage - means that stage of the **Works** when the building's frame is finished;

Latent Condition - means any physical condition on or around the Land, including surface and subsurface conditions, which differ materially from the physical conditions reasonably expected by the **Contractor** at the time the **Contract** was entered into;

Owner - means the person stated in Item 1 of the **Schedule** and includes the **Owner's** heirs, executors, administrators, permitted assignees and transferees;

Plans - means the **Plans**, drawings and designs relating to the **Works** described in Item 5(a) of the **Schedule**;

Possession - means when the **Works**, or any part of the **Works**, are taken over, occupied or used by the **Owner** or the **Owner's** employees or agents;

Practical Completion Stage - means that stage of the **Works** when the **Works** are completed in accordance with the **Contract** and all relevant statutory requirements, apart from minor omissions or minor defects, and the **Works** are reasonably suitable for habitation;

Prime Cost Item - means an item (for example, a fixture or fitting) that either has not been selected, or whose price is not known at the time the **Contract** is entered into, the cost for the supply and delivery of which the **Contractor** must make a reasonable allowance in the **Contract**;

Provisional Sum - means an estimate of the cost of carrying out particular work (including the cost of supplying any materials needed for the work) under the **Contract** for which the **Contractor**, after making all reasonable inquiries, cannot give a definite amount at the time the **Contract** is entered into;

Resident Owner - means an **Owner** who is an individual and intends to reside in the building on completion of the **Works** or within six (6) months after completion of the **Works**;

Schedule - means the **Schedule** contained in this **Contract**;

Specifications - means the **Specifications** described in Item 5(b) of the **Schedule**;

Tribunal - means the Queensland Civil & Administrative Tribunal (QCAT) established under the *Queensland Civil & Administrative Tribunal Act 2009*; and

Works - means the whole of the **Work** to be carried out by the **Contractor** under the **Contract**, a description of which is contained in Item 3 of the **Schedule**, and includes variations to the **Works**.

2. CONTRACTOR'S OBLIGATIONS

2.1 The following warranties are incorporated into the **Contract** under Part 4 of the *Domestic Building Contracts Act 2000*:

(a) The **Contractor** will carry out the **Works**:

- (i) in an appropriate and skillful way;
- (ii) with reasonable care and skill;
- (iii) in accordance with the **Plans** and **Specifications**; and
- (iv) in accordance with all relevant laws and legal requirements including, for example, the *Building Act 1975*;

(b) Materials supplied by the **Contractor** for use in the **Works** will be good and suitable for the purpose for which they are to be used and, unless otherwise stated in the **Contract**, will be new;

(c) **Prime Cost Items** and **Provisional Sums** have been calculated with reasonable care and skill; and

(d)

If the **Works** consist of the erection or construction of a detached dwelling or is work intended to renovate, alter, extend, improve or repair a home to a stage suitable for occupation, the **Works** will be suitable for occupation when the **Works** are completed.

3. OWNERS OBLIGATIONS

- 3.1 The **Owner** must pay to the **Contractor** the **Contract Price** in accordance with this **Contract** and pay the **Deposit** to the **Contractor**, upon signing this **Contract**.
- 3.2 The **Contractor** is entitled to claim payment of the **Contract Price** progressively, on completion of the stages set out in Item 8 of the **Schedule**. A progress claim must be in writing, certify that the **Works** have been completed to the relevant stage and set out the amount to be paid to the **Contractor** in accordance with Clause 3.3.
- 3.3 On receiving a progress claim, the **Owner** must pay the **Contractor**, within the period stated in Item 9 of the **Schedule**, a progress payment calculated in accordance with the following:
- the percentage of the **Contract Price** set out in Item 8 for completion of the relevant stage;
 - any adjustment to the **Contract Price** under this **Contract**; and
 - any other amount due and payable by the **Owner** to the **Contractor** under the **Contract** or otherwise.
- 3.4 If the **Owner** fails to make any payment to the **Contractor** within the time for payment under this **Contract**, the **Contractor** is entitled to interest on the outstanding amount at the rate specified in Item 10 of the **Schedule**, payable from the date for payment until the date of payment.
- 3.5 If the **Owner** supplies any documents or **Foundations Data** to the **Contractor**, the **Owner**:
- warrants that the documents or data are accurate and suitable for the purpose for which they are to be used;
 - acknowledges that it is reasonable for the **Contractor** to rely on the documents or data; and
- (c) must supply sufficient number of copies to enable the **Contractor** to undertake the **Works** and to obtain the necessary approvals, if the **Contractor** is required to do so under this **Contract**.
- 3.6 The **Owner**, must not obstruct, interfere with or hinder the carrying out of the **Works**. The **Owner** must take all reasonable steps to prevent all others from obstructing, interfering with or hindering the carrying out of the **Works**.
- 3.7 **Owner** not to interfere with the carrying out of the **Works**
- The **Owner**, must not obstruct, interfere with or hinder the carrying out of the **Works**. The **Owner** must take all reasonable steps to prevent all others from obstructing, interfering with or hindering the carrying out of the **Works**.
If the **Owner** or any person authorised by the **Owner** obstructs, interferes with, or hinders the performance of the **Works**, the **Owner** is liable to the **Contractor** for any delay, and any additional costs incurred by the **Contractor**, if the **Contractor** gives the **Owner** a written notice advising of the delay or the additional cost within five (5) **Business Days** of the **Contractor** becoming aware of the obstruction, interference or hindrance.
 - Health and safety obligations for **Owners**
The Principal **Contractor** has obligations under the *Work Health and Safety Act 2011* to ensure the safety of the person, the person's workers and any other persons on a construction site. This obligation is fulfilled if people are not exposed to risks to their health and safety on a site. This includes the health and safety of **Owners** or their Agents.
The **Owner** agrees to the following obligations under the *Work Health and Safety Act 2011*:
 - To comply with the instructions given for work health and safety at the workplace by the Principal **Contractor** for the construction work at the workplace;
 - Not to wilfully or recklessly interfere with or misuse anything provided for work health and safety at the workplace;
 - Not to wilfully place at risk the health and safety of any person at the workplace; and
 - Not to wilfully injure ones self.

To fulfil the obligations of Principal **Contractor** in ensuring the **Owner** or their Agents health and safety, the **Owner** or their Agent must only attend the designated construction areas whilst supervised by the **Contractor** or the **Contractor's** nominated representative.

Upon written request from the **Owner**, the **Contractor** will give the **Owner** reasonable supervised access to the designated construction areas. Access shall be by prior arrangement with the **Contractor** and shall be during working hours or other times as agreed.

4. DESIGNATED STAGES FOR PROGRESS PAYMENTS

- 4.1 A **Deposit** must not exceed 5% if the **Contract Price** is \$20,000 or greater OR 10% if the **Contract Price** is less than \$20,000.
- 4.2 For a **Contract** to build to the **Enclosed Stage** only, the **Contractor** must not demand more than 20% for the **Base Stage** and 25% for the **Frame Stage**.
- 4.3 For a **Contract** to build to the **Fixing Stage** only, the **Contractor** must not demand more than 12% for the **Base Stage**, 18% for the **Frame Stage** and 40% for the **Enclosed Stage**.
- 4.4 For a **Contract** to build to all stages, the **Contractor** must not demand more than 10% for the **Base Stage**, 15% for **Frame Stage**, 35% for the **Enclosed Stage** and 20% for the **Fixing Stage**.
- 4.5 The **Owner** and **Contractor** may agree to vary the above percentages for each stage, with the exception of the **Deposit**, if there are reasonable grounds to vary the percentages and the reasons are given in Item 8 of the **Schedule**. The **Owner** must initial next to the relevant Item of the **Schedule**.
- 4.6 The **Owner** and **Contractor** may agree to stages that differ from Clause 4.2, 4.3, 4.4 (with the exception of the **Deposit**) if there are reasonable grounds, provided that reasons are given in the **Schedule**. The **Owner** must initial next to the relevant Item of the **Schedule**.
- 4.7 The **Contractor** must not demand or receive an amount under the **Contract**, other than the **Deposit**, unless the amount is directly related to the progress of the subject work.

5. PRIME COST ITEMS AND PROVISIONAL SUMS

- 5.1 If this **Contract** includes any **Prime Cost Items** or **Provisional Sums**, the **Owner** must give to the **Contractor** all necessary written and signed directions requested by the **Contractor** regarding the selection or supply of the items or work represented by either a **Prime Cost Item** or a **Provisional Sum** within five (5) **Business Days**.
- 5.2 If the **Owner** fails to comply with Clause 5.1, the **Contractor** may select and supply an alternative **Prime Cost Item**, as near as reasonably possible in quality to the original **Prime Cost Item**.
- 5.3 If the actual cost of a **Prime Cost Item**, or the actual cost of the work for a **Provisional Sum**, is less than the amount allowed for that item, the difference is deducted from the **Contract Price** and is to be allowed by the **Contractor** in the next progress claim.
- 5.4 If the actual cost of a **Prime Cost Item**, or the actual cost of the work for a **Provisional Sum**, exceeds the amount allowed for that item, the excess amount plus the **Contractor's** margin stated in Part A or B of the **Appendix** to the **Schedule** is added to the **Contract Price** and is to be claimed by the **Contractor** in the next progress claim.
- 5.5

The **Contractor** must give to the **Owner** a copy of any invoice, receipt or other document relating to the actual cost incurred by the **Contractor** for any **Prime Cost Item** or **Provisional Sum** prior to or when seeking payment for, the relevant item or work.

6. VARIATIONS BY AGREEMENT

- 6.1 Either party may give to the other a written notice requesting a variation to the **Works**.
- 6.2 The **Contractor**, may at its discretion, agree to carry out any variation requested by the **Owner**.
- 6.3 The parties may agree to vary the **Works** by adding or omitting work from the **Works**. The **Contractor** must ensure that the parties agreement to vary the **Works** is put in writing in a variation document signed by the **Contractor** and the **Owner** within the shortest practicable time and before any work, the subject of the variation, is carried out.
- 6.4 The variation document provided by the **Contractor** must:
- describe the variation;
 - if the variation was requested by the **Contractor**, state the reason for the variation;
 - state the **Contractor's** estimate of any delay to the **Works** as a result of the variation;
 - state any adjustment to the **Contract Price** as a result of the variation, or how the adjustment will be calculated;
 - state when any adjustment to the **Contract Price** is to be claimed or allowed by the **Contractor**. The part of the variation document, which states how any adjustment to the **Contract Price** is to be claimed or allowed, must be initialled by the **Owner**.
- 6.5 Where a variation results in an increase to the **Contract Price**, the **Owner** must pay the **Contractor** the amount of the increase in accordance with the date stated in the variation document.
- 6.6 If the **Contractor** has requested the variation, the **Contractor** is only entitled to additional payment if the variation was necessary due to circumstances that could not have been reasonably foreseen by the **Contractor** when the **Contract** was entered into.
- 6.7 As soon as practicable, and within five (5) **Business Days**, after a variation is agreed to, the **Contractor** must give the **Owner** a copy of the signed variation document.
- 6.8 The **Contractor** is under no obligation to commence any variation until such time as the **Owner** produces satisfactory evidence to the **Contractor** that the **Owner** has the financial capacity to pay the cost of the variation.

7. VARIATION DUE TO COMPLIANCE WITH STATUTES

- 7.1 (a) The **Contractor** shall:
- comply with all statutory requirements relating to the **Works**;
 - unless otherwise agreed, obtain all consents, approvals and permits necessary for the carrying out of the **Works**;
- (b) The **Contractor** shall give any notice or report and pay any fee in order to comply with Clause 7.1(a);
- (c) If the cost of the **Contractor**:
- in complying with any statute, local authority, private certifier or other body having jurisdiction over the **Works**, increases after the entering into of the **Contract** by the parties; or
 - in carrying out the **Works**, increases after the entering into of the **Contract** by the parties as a result of the introduction or increase of any tax, charge, levy or regulation, the amount of the increase shall be treated as a variation;
- (d) If the **Contractor's** compliance with the statutory requirements requires a variation to the **Works**, the **Contractor** shall with the prior written consent of the **Owner**, vary the **Works** as required and the cost to the **Contractor** of the variation, together with the **Contractor's** Margin on that cost, shall be added to the **Contract Price**.
- 7.2 Prior to the **Contractor** commencing any work the subject of the variation, the **Contractor** must give the **Owner** an estimate of the cost involved in carrying out the variation and the parties must agree to vary the **Works** and confirm their agreement in writing in accordance with Clause 6.3.

To remove doubt, the requirements of Clauses 6.3, 6.4, 6.5 and 6.7 apply to variations under this Clause.

- 7.3 The **Owner** must not unreasonably withhold its consent to a variation under this Clause and must take all steps necessary to sign the variation document provided by the **Contractor**.

8. VARIATIONS FOR LATENT CONDITIONS

- 8.1 The **Contractor** must, upon becoming aware of a **Latent Condition**, promptly give the **Owner** a written notice describing the **Latent Condition**, the **Contractor's** estimate of the work required to overcome the **Latent Condition** and the **Contractor's** estimate of the cost.
- 8.2 Subject to this **Contract**, the **Contractor** shall, with the prior written consent of the **Owner**, vary the **Works** to include the work required to overcome the **Latent Condition**.
- 8.3 Prior to the **Contractor** commencing any work the subject of the variation, the parties must agree to vary the **Works** and confirm their agreement in writing in accordance with Clause 6.3.
- 8.4 The **Owner** must not unreasonably withhold its consent to a variation under this Clause and must take all steps necessary to sign the variation document provided by the **Contractor**.
- 8.5 The **Contractor** cannot recover additional payment for a variation in respect of a **Latent Condition** where the need for the variation has arisen because:
- the **Contractor** failed to obtain the **Foundations Data** before entering the **Contract** and, had the **Contractor** obtained the **Foundations Data**, the need for the additional work could reasonably have been established; or
 - the **Contractor** obtained the **Foundations Data** before entering the **Contract**, and the need for the additional work could reasonably have been established from the **Foundations Data**.
- 8.6 Subject to Clause 8.5, nothing in this Clause imposes any extra obligation on the **Contractor** where the work required to overcome the **Latent Condition** has been allowed for as a **Provisional Sum**.

9. DELAYS AND EXTENSION OF TIME CLAIMS

- 9.1 If the progress of the **Works** is delayed as a result of:
- any variations to the **Works**;
 - proceedings being taken, or threatened by, or disputes with, adjoining neighbouring owners or residents;
 - any industrial action or civil commotion affecting the **Works**, any persons employed upon the **Works**, or the manufacture or supply of materials for the **Works**;
 - the unavailability of any materials necessary to carry out the **Works**;
 - inclement weather or any condition arising as a result of inclement weather;
 - any act, default or omission on the part of the **Owner**; or
 - any other cause beyond the reasonable control of the **Contractor**,
- the **Contractor** shall, within ten (10) **Business Days**, from the day the delay ended, claim a reasonable extension of the **Date for Practical Completion Stage** setting out the causes and consequences of the delay equal to the period of the delay.

- 9.2 Where the reason for the delay has been allowed for by the **Contractor** in Item 12 of the **Schedule**, the **Contractor** is only entitled to an extension of the **Date for Practical Completion** to the extent that the length of the delay exceeds the **Contractor's** allowance.
- 10. OBLIGATIONS OF BOTH PARTIES UPON PRACTICAL COMPLETION STAGE**
- 10.1 On reaching **Practical Completion Stage**, the **Contractor** must give to the **Owner**:
- the **Practical Completion Stage** claim; and
 - a **Practical Completion Stage** notice:
 - stating the date the **Works** reached **Practical Completion Stage**;
 - providing for a final inspection of the **Works** with the **Owner** at a date and time specified in the notice; and
 - attaching any necessary certificates and approvals required from any statutory authority in connection with the **Works** which the **Contractor** is to obtain under this **Contract**.
- 10.2 If at the final inspection of the **Works** the **Owner** agrees that no defects exist and the **Works** have reached **Practical Completion Stage**, the **Owner** must:
- sign a notice to that effect; and
 - pay the **Practical Completion Stage** claim to the **Contractor** in accordance with the **Contract**.
- 10.3 If at the final inspection of the **Works** the **Owner** claims defects exist, or the **Works** are incomplete, the **Contractor** must give to the **Owner** a defects document that:
- lists the minor defects or omissions that the **Contractor** and **Owner** agree exist;
 - lists the minor defects or omissions that the **Owner** claims exist, but that are not agreed by the **Contractor**; and
 - states the date by when the **Contractor** is to correct the listed agreed defects and omissions.
- The **Contractor** must make all reasonable efforts to have the **Owner** sign the defects document. Both the **Owner** and **Contractor** are to retain a copy of the defects document.
- 10.4 The **Contractor** must rectify or complete any agreed items listed in the defects document within the time stated in the defects document or if necessary materials are unavailable, within a reasonable period.
- 10.5 On giving the defects document to the **Owner** and notwithstanding that **Practical Completion Stage** may have been reached with minor omissions or defects, the **Owner** must pay the **Practical Completion Stage** claim to the **Contractor** in accordance with the **Contract**. If the **Owner** wishes to take **Possession** of the **Works** but disputes the amount payable to the **Contractor** and the **Contractor** is a member of the Master Builders Queensland, the **Owner** may pay the disputed amount into the Master Builders Queensland Holding Account.
- The **Owner** is to then give the **Contractor** a receipt showing that the disputed money has been deposited and the **Owner** must pay the undisputed amount to the **Contractor**. On receiving the receipt and payment, the **Contractor** is to hand the keys to the **Owner** and give the **Owner** vacant possession of the **Works**.
- Master Builders Queensland must ensure that any money received into the Holding account by the Association is released:
- upon receipt of written instructions signed by the **Contractor** and **Owner**;
 - upon receipt of a determination or order from the **Tribunal**; or
 - by order of a Court.
- 10.6 The **Owner** must not take **Possession** of the **Works**, nor is it entitled to the keys to the **Works** prior to payment to the **Contractor** of the **Practical Completion Stage**, unless the **Owner** has obtained the **Contractor's** written consent.
- 10.7 If the **Owner** takes **Possession** of the **Works**, or any part of the **Works**, when not entitled to do so under this **Contract**, the **Works** are deemed to have reached **Practical Completion Stage** on the date of **Possession** and the **Owner** is liable to the **Contractor** for any loss or damage arising as a result.
- 11. SUSPENSION OF THE WORKS**
- 11.1 The **Contractor** may, without prejudice to any of the **Contractor's** rights under this **Contract** or at law, suspend performance of the **Works** where the **Owner**:
- fails to comply with any of its obligations under Clause 3;
 - fails to provide the **Contractor** with any information requested by the **Contractor** under Clause 5;
 - takes **Possession** of any part of the **Works** without the prior written consent of the **Contractor** prior to paying the **Practical Completion Stage** payment;
 - unreasonably fails to consent to any variation under Clause 6, Clause 7 or Clause 8 or fails to sign a variation document provided by the **Contractor**; or
 - is in breach of any term of this **Contract**.
- 11.2 The **Contractor** must immediately notify the **Owner** in writing of the suspension and the grounds for the suspension. The **Date for Practical Completion Stage** is deemed to be automatically extended for a period equivalent to the date the **Contractor** gives its notice of suspension until the date the **Contractor** recommences the **Works** on the Land.
- 11.3 The **Owner** must remedy the breach or breaches stated in any suspension notice given to the **Owner** in accordance with Clause 11.2 within ten (10) **Business Days** after receiving the notice from the **Contractor**.
- 11.4 The **Contractor** must recommence the carrying out of the **Works** within ten (10) **Business Days** of the breach or breaches stated in the suspension notice being remedied by the **Owner**.
- 12. OWNER'S RIGHT TO TERMINATE CONTRACT**
- 12.1 If the **Contractor**:
- fails to proceed with the **Works** with due diligence or in a competent manner;
 - unlawfully suspends the carrying out of the **Works**;
 - refuses or persistently neglects to remove or remedy defective work or improper materials, so that the **Works** are adversely affected;
 - is unable or unwilling to complete the **Works** or abandons the **Contract**; or
 - is in substantial breach of this **Contract**,
- the **Owner** may give a written notice to the **Contractor**:
- describing the alleged breach or breaches of the **Contract** by the **Contractor**; and
 - stating the **Owner's** intention to terminate the **Contract** unless the **Contractor** remedies the alleged breach or breaches within ten (10) **Business Days** after receiving the **Owner's** notice.
- 12.2 If the **Contractor** fails to remedy the breach or breaches stated in any notice served by the **Owner** under Clause 12.1, the **Owner** may, without prejudice to any other rights or remedies, terminate this **Contract** by further written notice to the **Contractor**, provided that such notice of termination shall not be given unreasonably or vexatiously and, if so given then any such notice of termination shall be null and void and of no force or effect.

12.3 The **Owner** may not terminate this **Contract** if the **Owner** is in substantial breach of this **Contract**.

13. CONTRACTOR'S RIGHTS TO TERMINATE CONTRACT

13.1 If the **Owner**:

- (a) fails to comply with any of its obligations under Clause 3.
- (b) fails to provide the **Contractor** with any information requested by the **Contractor** under Clause 5.
- (c) unreasonably fails to consent to any variation under Clause 6, Clause 7 or Clause 8 or fails to sign a variation document provided by the **Contractor**;
- (d) fails to remedy any breach specified in a notice of suspension given under Clause 11 within ten (10) **Business Days** of receipt of that notice; or
- (e) is in substantial breach of this **Contract**,

the **Contractor** may give a written notice to the **Owner**:

- (i) describing the breach or breaches of the **Contract** by the **Owner**; and
- (ii) stating the **Contractor's** intention to terminate the **Contract** unless the **Owner** remedies the breach or breaches within ten (10) **Business Days** after receiving the **Contractor's** notice.

13.2 If the **Owner** fails to remedy the **Owner's** breach or breaches stated in any notice served by the **Contractor** under Clause 13.1, the **Contractor** may, without prejudice to any other rights or remedies, terminate this **Contract** by further written notice to the **Owner**.

13.3 The **Contractor** may not terminate this **Contract** if the **Contractor** is in substantial breach of this **Contract**.

13.4 If the **Contractor** terminates the **Contract** in accordance with this Clause, the **Contractor** is entitled to recover from the **Owner** all loss, costs, expenses and damages in connection with the **Owner's** breach, and the termination, as if the **Owner** had wrongfully repudiated this **Contract**.

The **Contractor** may remove from the Land and retain all unfixed materials, goods, plant and equipment previously provided by the **Contractor**.

14. TERMINATION FOR INSOLVENCY

14.1 Either the **Contractor** or the **Owner** may terminate this **Contract** immediately on giving written notice to the other party, if the other party:

- (a) becomes insolvent or financially unable to proceed with the **Contract**;
- (b) commits an act of bankruptcy or is made bankrupt;
- (c) makes a composition or other arrangement with creditors;
- (d) assigns assets for the benefit of creditors generally;
- (e) being a company, enters into a deed of company arrangement or has a controller, administrator or receiver appointed; or
- (f) being a company, goes into liquidation.

14.2 A written notice under Clause 14.1 must state the ground or grounds for the termination relied upon by that party.

15. DEFECTS LIABILITY PERIOD

15.1 The **Contractor** must rectify defects and omissions in the **Works** which become apparent and are notified to the **Contractor** during the **Defects Liability Period**. No retention money is to be held by the **Owner** during the **Defects Liability Period**.

15.2 After **Practical Completion Stage** and prior to the expiration of the **Defects Liability Period**, the **Owner** is to provide to the **Contractor** a written list of any alleged defects arising out of the **Contractor's** defective workmanship or defective or unsuitable materials supplied by the **Contractor** under this **Contract**.

15.3 Subject to reasonable access being provided, the **Contractor** must within 20 **Business Days** of the expiry of the **Defects Liability Period**, rectify any defects notified to the **Contractor** under Clause 15.2 during usual business hours and at no cost to the **Owner**. The **Contractor** is not responsible for rectifying any alleged defects which arise from the fact that something is still to be supplied or done by the **Owner** or which relate to the maintenance of an item which is to be performed by the **Owner** or is the responsibility of the **Owner**.

16. INSURANCE

16.1 The **Contractor** must, in respect of its workers, comply with all requirements of the current WorkCover Act.

16.2 The **Contractor** is to effect and maintain a Contracts Works Policy for the full insurable value of the **Works** in the joint names of the **Owner**, **Contractor** and any lender (if so required) from the **Date for Commencement** until the **Date of Practical Completion Stage** or the date the **Owner** takes **Possession** of the **Works** whichever is earlier.

16.3 The **Contractor** must, during the currency of the **Contract**, effect and maintain a public liability insurance policy covering the liabilities of the **Contractor** and **Owner** to third parties in respect of personal injury, death and loss or damage to property, arising out of, or in connection with, the **Works**.

16.4 The **Contractor** must, on written request from the **Owner**, provide evidence of any insurance policies required to be effected by the **Contractor** under this **Contract** within ten (10) **Business Days**.

16.5 The **Owner** must insure the **Works** from the **Date of Practical Completion Stage**. If the **Works** involve the alteration, addition or repair of an existing building then the **Owner** must effect and maintain an insurance policy for the duration of the **Contract** which provides cover for the full replacement value of the building affected by the **Works** and any contents thereof, against loss or damage, and must provide a copy to the **Contractor** if the **Contractor** makes a request in writing.

17. COOLING OFF PERIOD

17.1 Subject to Clause 17.2, the **Owner** may withdraw from the **Contract** within five (5) **Business Days** after receiving both a signed copy of the **Contract** and a copy of a Contract Information Statement approved by the Building Services Authority.

17.2 In order to withdraw from the **Contract** the **Owner** must give a written notice to the **Contractor** stating that the **Owner** withdraws from the **Contract** under Section 72 of the *Domestic Building Contracts Act 2000*.

17.3 The **Owner** may not withdraw from the **Contract** if:

- (a) the **Owner** and the **Contractor** have previously entered into a **Contract** relating to the same home or land in substantially the same terms;
- (b) the **Owner** has received formal legal advice about the **Contract** before entering into the **Contract**; or
- (c) at any time, the **Owner** tells the **Contractor** that the **Owner** has received formal legal advice about the **Contract** before entering into the **Contract**.

17.4 If the **Owner** withdraws from the **Contract** under this Clause, the **Contractor** must return the **Deposit** to the **Owner** less \$100 and any out of pocket expenses reasonably incurred by the **Contractor** to the date the **Contractor** received the **Owner's** notice. If the **Owner** has not paid the **Deposit**, the amount of \$100 plus the **Contractor's** out of pocket expenses is deemed to be a debt payable from the **Owner** to the **Contractor**.

18. RESOLUTION OF DISPUTES

18.1 By agreement between the parties, a dispute in connection with this **Contract** may be referred to the Master Builders Queensland (MBQ) for conciliation at any time, provided that one of the parties is a member of the MBQ.

If conciliation in accordance with Clause **18.1** is unsuccessful, then the dispute must be referred to the Queensland Civil & Administrative Tribunal (QCAT) for resolution.

19. GOODS AND SERVICES TAX

- (a) For the purposes of this **Contract**, the terms "ABN", "GST", "GST law", "registered", "tax invoice" and "taxable supply" have the meanings given to them in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- (b) The **Contractor** warrants that the **Contractor** is:
 - (i) the holder of any ABN stated in the **Schedule**; and
 - (ii) registered and will continue to be registered until the expiration of the **Defects Liability Period**.
- (c) The **Contract Price** includes GST.
- (d) Where the **Works**, or any part of the **Works**, constitute a taxable supply, the **Contractor** shall comply in every respect with GST law.
- (e) The progress claims that the **Contractor** submits under Clause **3** and Clause **4**, and the **Practical Completion Stage** claim that the **Contractor** submits under Clause **10**, shall be in the form of a tax invoice.

20. SPECIAL CONDITIONS

If applicable, the special conditions set out in Item 15 of the **Schedule** shall take effect as express terms of the **Contract**. The special conditions shall prevail over these general conditions of **Contract** to the extent of any inconsistency.