

**CPCCBC4003A SELECT AND PREPARE A
CONSTRUCTION CONTRACT,
CPCCBC4016A ADMINISTER A CONSTRUCTION
CONTRACT &
CPCCBC4032A APPLY CONTRACT LAW TO SALES
PROCESSES**

THEORY EXAM INSTRUCTIONS

- This exam will occur under standard assessment conditions.
 - An oral examination may be allowed under certain circumstances. Answers will be documented and FT003 (Oral examination declaration form) must be completed.
- Participants must provide enough detail in their responses to demonstrate their knowledge and skills.
- Please fill in the details below, providing your name, signature and date of assessment.
 - Your signature acknowledges that this is your own work.
- If a participant initially answers a question incorrectly but modifies their response, they must follow the instructions below:
 - If a participant changes their response in writing, they must put their initials next to the written change.
 - If a participant changes their response verbally, this must be noted on the exam paper by the assessor.

Participant name Massimiliano Carante

Participant signature



Assessor name

Assessor signature

Date [Click here to enter a date.](#)

Number of questions	Number of questions answered correctly	Satisfactory?	
51		Yes	No

		☐	☐
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Q1. Order the following elements of an agreement from 1 to 4.

Answer

Element Number	Element
2	Acceptance
4	Consideration
3	Intention of legal consequences
1	Offer

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Q2. When would an offer be considered to have lapsed?

Answer

When the time for acceptance expires;
- If the offer is withdrawn before it is accepted; or
- After a reasonable time in the circumstances (generally the greater the value of the contract, the longer the life of the offer)

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Q3. What happens to the offer if new terms are suggested?

Answer

New terms suggested are regarded as a counter offer which can be accepted or rejected. If the cost of domestic building work exceeds \$3,300 it must be covered by a written contract.

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Q4. What does it mean when a contract is supported by 'valuable consideration'?

Answer

It means that one party promises to do something in return for a promise from another party. Consideration is what each party gives to the other as the agreed price for the other's promises. Usually the consideration is the payment of money.

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Q5. Identify two (2) parties who may be deemed to not have the capacity to enter into a contract.

Answer Persons suffering from a mental disability and intoxicated individuals

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Q6. Outline your understanding of 'consent' as it applies to contractual agreements. Identify when 'apparent consent' might not actually exist.

Answer Consent is an act of reason and deliberation. A person who possesses and exercises sufficient mental capacity to make an intelligent decision demonstrates consent by performing an act recommended by another. Consent is implied in every agreement.
Apparent consent may be negated because of mistake, fraud, innocent misrepresentation, duress or undue influence, all of which are defences to the enforcement of the contract

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Q7. Identify the building industry regulator in your state and describe its role, particularly with regards to providing advice about contracts.

Answer NSW: DPE – Department of Planning and Environment
Handle disputes fairly
Educate contractors and consumers about rights & responsibilities

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Q8. Under what laws are domestic building contracts regulated?

Answer Home Building Regulation 2014 (NSW) section 8 – requirements

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Q9. Domestic building contracts must be put in writing once the work exceeds what value?

Answer In NSW \$5000

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Q10. A commercial building contract must be put in writing before the building work is started if the reasonable cost of the work is more than what amount? Identify the relevant law that imposes this requirement.

Answer NSW - \$20,000
Home Building Act 1989 Section 5

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Q11. Contractors must give the owner a signed copy of the entire contract (including any plans and specifications) within how many days after entering the contract?

Answer NSW – 5 business days

☐

Q12. What are the benefits of having a written contract in place between parties?

Answer It is the single greatest protection to ensure that home owners receive the finished product they envisioned and builders get paid and paid on time

☐

Q13. Match the common building contract clauses and definitions below by writing the appropriate letter next to each number in the centre column.

Answer	Clauses	Answers	Definition	☐
1	Acceptances	1 - F	A Provide specific reasons that allow the contract period to be adjusted	
2	Cost adjustments	2 - E	B A provision for which remedies can be sought if breached	
3	Extensions of time	3 - A	C Specifically outlines the tasks to be completed as part of the construction work	
4	Payments	4 - D	D Outlines the requirements for deposits	
5	Scope of work	5 - C	E Address the risk of rise/fall of expenses	
6	Term	6 - B	F Require that the contract be accepted or rejected by a certain date, otherwise the contract will not be binding	

Q14. Which of the following are preliminary contracts that a builder could ask a client to sign prior to signing the main contract? Tick all that apply.

Answer	Choice	Possible Answers	☐
	☒	Contract estimate	
	☒	Contract request	
	☒	Preliminary agreement	

Q15. True or False (Tick your response): Clauses within pre-contract agreements may carry over into the contract, so it is important to discuss these with the client and come to an agreement.

Answer	☒	True	☐
	☐	False	

Q16. Identify and explain the purpose of four (4) standardised building construction contracts – two (2) residential and two (2) commercial.

Answer

Contract name	Description
Level 1 – Renovation, Extension and Repair contracts	For renovations, extensions and routine repairs on existing homes for contracts \$3,301 to \$19,999
Level 2 – Renovation, Extension and Repair contracts	For renovations, extensions and routine repairs on existing homes for contracts \$20,000 and over
Commercial building contracts	A lump sum contract to be used for the construction only of commercial building work with or without a Principal's agent.
Commercial Cost Plus contract	A cost plus contract for use on commercial building projects, where a lump sum price cannot be established, however a fair and reasonable estimate is given

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Q17. Identify an appropriate standardised contract that would be suitable for a commercial works job up to \$100,000.

Answer

Commercial Minor Works Contract

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Q18. Identify one (1) standardised residential building contract and explain the maximum value of the work it may be used for.

Answer

Level 1 – Renovation, Extension and Repair contracts, used for renovations, extensions and routine repairs on existing homes for contracts \$3,301 to \$19,999

☐

Q19. Describe the requirements for each of the topics listed below, with regards to residential contracts priced at \$20,000.

In Queensland, these are outlined in the QBCC Consumer Building Guide, which the consumer must sign before work is undertaken.

Answer

Topics	Definition
Builder's Licence	You should only deal with a QBCC-licensed contractor. If you engage an unlicensed contractor, your building work may not be covered under the Queensland Home Warranty Scheme. Always check the contractor's licence and licence history via QBCC's Online Licence Search
Contract price	The total contract price must be stated on the first page of the contract schedule. For contracts priced at \$20,000 or more, the contract must also contain a warning about any provisions that may cause the contract price to change and if the contract price includes any allowances (items or services for which the price is not fixed at the time the contract is signed), these allowances must be stated in the contract schedule
Building approvals and inspections	Building inspections and approvals are the responsibility of a building certifier. Mandatory building inspections may be required at certain stages of construction. You can check the certifier's licence via QBCC's Online Licence Search
Practical completion and handover	You are not required to pay the final contract payment until all of the contracted work has been completed in accordance with the contract, all legal requirements, and either without any defects or omissions, or with only minor defects or minor omissions that will not unreasonably affect occupation. If you believe there are any minor defects or minor omissions, the contractor must give you a 'defects document' (listing agreed and non-agreed matters). This document should be compiled by you and the contractor during a handover inspection. Check your contract to see if it imposes any extra requirements on the contractor for practical completion
Implied warranties	Under the Act, a range of warranties are deemed to be part of all regulated domestic building contracts. The warranty period is six years for structural defects and one year for all other defects.



Q20. Which of the following documents can be referred to as collectively making up a contract? Tick all that apply.

Answer

Choice	Possible Answers
☒	Engineer specifications
☒	Plans, drawings and specifications
☒	Prime Cost Items Schedule
☒	Processes for applying for extensions of time
☐	Product catalogues
☒	Project timelines and schedules
☒	Provisional Sums Schedule
☒	Rise and fall calculations
☒	Site conditions report
☒	Soil and sedimentation report

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Q21. What is the difference between the Prime Cost Item Schedule and the Provisional Sum Schedule in a contract? Provide an example of each type to help explain your response.

Answer

A Prime Cost item is:

- An amount of money included in a contract sum to purchase a specified item such as tiles, taps, doors or bathroom fittings
- An agreed estimated amount is included at contract signing but the specific products are not selected until a later stage
- A builder must estimate the cost of such items at or above the lowest amount these items could reasonably cost

For example if a client selects a more expensive door than allowed by the PC item, say a \$500 door compared with a \$440 PC amount, a variation will be required to cover the additional \$60. If the PC item varies, so will the final contract sum.

A provisional sum is:

- An amount of money included in contract sum to cover work and/or materials, not detailed when entering the contract
- Typically builders will include a PS for site work costs
- The builder is legally required to take reasonable steps to ensure an accurate site works cost estimate but unforeseen events mean that the provisional sum is exceeded which is added to the contract sum

For example a building site may seem sandy and clean with minimal siteworks required, however, there may be large limestone rocks/tree trunks concealed below the surface which only emerge once siteworks commence, causing cost overrun.

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Q22. Cost adjustment provisions under a contract address risk by providing mechanisms for adjusting contract payment to reflect changes in costs. What can cost adjustment apply to?

Answer

- Labour and materials
- Currency exchange rates for goods purchased in foreign currency
- Other costs, including duties and taxes or shipping and transport

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Q23. True or False (Tick your response): Variations can be requested by both the client and the builder.

Answer

☒	True
☐	False

☐

Q24. How should you deal with a client variation request that consequently requires a time extension? How are time extensions addressed within the contract?

Answer

When a customer asks for a ***time extension*** or 'variation' to the contract it requires: A variation in writing and the issue of an 'extension of time' form – essentially asking the client to grant an extension of the contract period to allow for delays caused by the variations.

The specific reasons for an extension of time are set out in the general conditions of the building contract and include reasons such as: inclement weather and delays caused by the owner, such as changes in the scope of works



Q25. Name the Fair Trade legislation that applies in your state and identify which persons/bodies it applies to.

Answer Department of Fair Trading

☐

Q26. Under the National Consumer Credit Code, before entering into a credit contract, what must the credit provider do?

Answer The credit provider must:

- Make reasonable inquiries about why you want to borrow the money
- Make reasonable inquiries about your financial situation
- Take reasonable steps to verify your financial situation
- Assess whether you can meet the financial obligations of the credit contract (and whether it will meet your needs)
- Determine that the credit contract is 'not unsuitable' for you

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Q27. What does the 'cooling off' period refer to when undertaking domestic building work with a total contract price of \$20,000 or more?

Answer Consumers have certain "cooling off" rights, which may enable them to cancel the contract if they are not satisfied with it. Schedule 1B of the QBCC Act provides for a cooling off period, giving the consumer the option to withdraw from the contract within five days of receipt of the signed contract

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Q28. What are the maximum deposits recommended for a residential building project?

Answer

The QBCC Act sets out maximum deposit percentages that must not be exceeded. If the contract for domestic building work is priced at \$20,000 or more, the maximum deposit is 5%. If the contract price is more than \$3,300 and less than \$20,000, the deposit must not exceed 10%

☐

Q29. Throughout the building schedule, progress payments are made when each new stage is ready to commence.

Identify the recommended stages and percentages for these progress payments on a typical new residential housing building project.

Answer

- Deposit (5%)
- Base Stage (15%)
- Frame Stage (20%)
- Enclosed Stage (25%)
- Fixing Stage (20%)
- Practical Completion (15%)

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Q30. You have been engaged by a client to construct their residential dwelling for \$550,000. Your client is pressuring you to accept a \$70,000 deposit to get priority on their construction. Should you accept the deposit? Explain your response.

Answer

No. The QBCC Act sets out maximum deposit percentages that must not be exceeded. If the contract for domestic building work is priced at \$20,000 or more, the maximum deposit is 5%. A 70,000 deposit would exceed the 5% limit

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Q31. Explain the following types of contractual breach and identify the consequences for the contractual arrangement due to each type of breach.

Answer	Breach	Explanation	☐
	Breach of condition under contract	Terms so important that without them one the parties would not enter into the contract. These are essential terms. If a condition is not fulfilled, the nature of the contract is drastically changed.	
	Breach of warranty under contract	A minor clause in a contract the remedy for breach of which is damages for any loss. Also, a promise to repair or replace defective goods If a warranty is not fulfilled, the nature of the contract is not drastically changed	

Q32. What does repudiation of a contract mean?

Answer	Repudiation is a term used to describe the rejection of a proposal or idea. When a party to a contract is unwilling, or exhibits behaviour which suggests that they are unwilling to perform their contractual obligations, the innocent party has the right to terminate the contract due to repudiation.	☐
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Q33. True or False (Tick your response): In the event of repudiation, the injured party has two options:

- Continue with the contract
- Accept the repudiation and move to terminate the contract

Answer	☒	True	☐
	☐	False	

Q34. Why should you exercise caution, even if you are sure that the other party has repudiated the contract?

Answer If an innocent party chooses to discharge themselves from the contract, they may be able to: a) Sue the defaulting party for damages; b) if Innocent party chooses to insist on performance, then the contract will still be on foot and all of the obligations and liabilities will still be applicable



Q35. What does 'abandonment of contract' mean?

Answer Abandonment can have different meanings. One type of abandonment is contract abandonment, where the parties both have conducted themselves in such a way that the original contract is no longer valid. Both parties may mutually agree to do this, or it can become part of a claim.
Another type of abandonment is where a contractor fails to perform the work on a project by either not starting the project in a reasonable amount of time, or not completing the work, or failing to resume work in a reasonable amount of time. Abandonment of a construction project without legal excuse is a cause for disciplinary action.



Q36. A contract can be terminated for 'cause' or for 'convenience'. Explain these two terms.

Answer A termination for cause occurs when one party stops work because of a deficiency in performance by the other party. Because the contract is terminated as a result of a party's own poor performance, the law typically provides the terminated party with little recourse in the event of a termination for cause.
A termination for convenience, occurs when the owner stops work for reasons other than a deficiency in performance by the contractor. Because a termination for convenience is not the result of poor performance, the law may provide the aggrieved contractor with significant rights against the breaching owner



Q37. Yes or No (Tick your response): Referring to Section 25 of Schedule 2 of the *Competition and Consumer Act 2010* (Cth), would a contract be

unfair if it contains a term that permits the builder, but not the client, to terminate the contract?

Answer

☒	Yes
☐	No

☐

Q38. If time is not of the essence for contract completion and one party fails to perform on time, the other party may terminate the contract after serving notice – specifying a time for performance on the first party. What are the requirements of a valid notice to complete?

Answer

If timeframes are not specified in the contract and one party fails to perform within a reasonable timeframe, the 'injured' party may terminate only after serving the defaulting party with notice which must specify:

- What must occur to perform the contract
- A reasonable time in which the contract must be completed
- A statement of the consequences of not performing in accordance with the notice

If the notice given fails to include any of these elements, it may be deemed unreasonable. The innocent party must either serve another notice or prove repudiation by the defaulting party in order to terminate the contract

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Q39. True or False (Tick your response): Where the notice given (as per Q38.) is deemed invalid, the innocent party must either serve another notice or prove repudiation by the defaulting party, in order to terminate the contract.

Answer

☒	True
☐	False

☐

Q40. When is the client owner required to pay the final contract payment? How might this be affected by defects and omissions?

Answer

The client is not required to pay the final contract payment until all of the contracted work has been completed in accordance with the contract, all legal requirements and either without any defects or omissions or with only minor defects or minor omissions that will not unreasonably affect occupation. If the client believes there are any minor defects or omissions the contractor must give them a “defects document” (listing agreed and non-agreed matters). This document should be complied by the client and the contractor during handover

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Q41. Explain the concept ‘conditions for completion at the cost of the contractor’.

Answer

The Contractor must make good defects or omissions in the **work under this Contract** which become apparent within 6 months of the **Date of Practical Completion**.

If there are any such defects or omissions, the Owner must give the Contractor written notice to make good such defects or omissions within the 6 month period

and must give the Contractor reasonable access to the **Site** for that purpose.

Subject to reasonable access being provided, the Contractor must within 28 calendar days of the notice being given rectify any defects notified to the Contractor during usual business hours.

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Q42. Describe what must be stated in a ‘warranty against defects’ about the person who gives the warranty [as per Section 90 of the *Competition and Consumer Regulations 2010* (Cth)].

Answer

The person’s name and contact details

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Q43. Name one (1) person you should consult if you are considering ousting a contractor from a building site.

Answer To learn more about ousting a contractor from a building site you must consult your lawyer to understand your rights and obligations. ☐

Q44. What document should you refer to if you are considering ousting a contractor from a building site?

Answer To learn more about ousting a contractor from a building site you must consult your contract to understand your rights and obligations. ☐

Q45. How should you handle a customer complaint?

Answer

Dealing with a complaint is never easy, but if viewed positively, can be seen as a way to avoid a repeat problem. To avoid complaints:
Identify the problem and record the complaint – even if verbal
Act promptly and stay calm
Decide what can be done and do what you say you're going to do
Do Not make unrealistic promises
Get a second opinion to confirm your view



Q46. How do you reduce the risk of dispute?

Answer

To reduce the risk of a dispute, both the contractor and owner should:
Carefully read and understand the contract
Check any associated plans and specifications before signing
Discuss questions with contractor and seek legal advice if needed



Q47. What is the process for dispute resolution?

Answer

If a dispute with the contractor occurs, firstly the client should advise their contractor in writing giving them a reasonable time to respond. If this doesn't resolve the problem, the home owner can contact the regulator to explore their legal options. It is critical that the home owner engages a practising solicitor before terminating the contract. Incorrect termination may have serious legal and financial consequences and reduce the home owners Warranty protection



- Q48. During your build the client has emailed you at 7:00pm to say they have been to the premises and noticed the installed bath in the bathroom is the wrong style.

You check the contract and the white goods and chattels list selected by the client. You cross check this with the specifications and your materials order and the receivable order sheets. You establish that the bath, as per these details, is correct and there has been no mistake on your part.

Draft a detailed response email to your client alerting them to the pertinent parts of the contract and specification, cross-referencing the details in regard to this item and its installation.

Answer

Dear Client,

We refer to your correspondence regarding the installed bath in the bathroom being the incorrect style.

After review of the contract, we have found there to be no discrepancy between the bath detailed in the white goods and chattels particulars and the bath currently installed.

Please feel free to contact us if you would like to discuss this further.

Kind Regards,
Andrea



Q49. Where would you find any possible penalties associated with a build?

Answer In the specifications and the contract under liquidated damage clauses.



**Q50. Explain the process for obtaining the final inspection certificate.
Explain how such documentation is to be stored/lodged.**

Answer In QLD, building work is assessable through private building certification under the Planning Act 2016 as well as under specific building regulations. Brisbane City Council must hold records of building approvals and certification information. The legislation also requires that an accredited building certifier must lodge the following document with Council:

- Engagement notice and application details
- Decision notice, approved building plans and any other documentation that contributed to the plan approval
- Completion details such as certificates and any other documents relating to the certification and acceptance of the completed building work

The Planning Act 2016 and the Building Act 1975 require a private certifier to lodge building work documentation with council



Q51. Select and prepare an appropriate standardised contract for the client in the scenario below.

Mr. and Mrs. Cousins intend to engage your company Resilient Homes Pty Ltd (License 141526) in order to build a new low-rise residential dwelling as their future retirement property. Mid-term of this build the clients intend putting their current home on the real estate market for sale.

Additional details:

- The land has been secured and paid for by the Clients.
- Proposed contract amount is \$580,000.00 plus \$85,000 for a kidney shaped 9m x 6m in-ground swimming pool, landscaping, gardens and lawns.
- Mr. and Mrs. Cousins have finance approval from the Commonwealth Bank for \$390,000.00 and the balance in cash. You have received written assurance from the Clients finance company and bank that their finances for the build are fully secured.
- Mr. and Mrs. Cousins want to pay you \$75,000.00 upon signing of the contract to get their build at the top of your priority list.
- The residential dwelling will be a low set single skin masonry structure with hip and valley roof using glazed clay tiles, contrast metal fascia and gutters and colour/rendered finish on a 1000m² level block upon which there are three large standing hardwood trees which will need to be fully removed.
- The Clients want the largest tree wood chipped and the chipped bark retained on site for the future gardens and landscaping.
- Mr. and Mrs. Cousins operate an aluminium window supply company and have advised they will supply all the windows and shower glass for the build.
- The dwelling has four bedrooms with built-ins. The master bedroom has ensuite with toilet, spa bath and double shower and walk-in robe and dressing area. There is an office, gourmet kitchen with stone bench tops and butler's pantry, media room, separate open plan dining adjacent to the kitchen plus slate tiled outdoor entertaining area adjacent to the pool, two living areas (formal and informal), two bedrooms share a bathroom with bath, shower, double vanity and toilet and the guest bedroom is ensuited with shower only, toilet and single vanity, there is a powder room (toilet and vanity only), three car garage (one double and one single) and a store/workshop room at the rear of the double bay garage. A slab is to be put down in the back corner of the allotment for a 5m x 3m garden shed.
- The council approved building plans have been provided by Mr. and Mrs. Cousins these do not include the garden shed slab.
- The construction period excluding inclement weather and possible delays is 23 weeks
- Provisional sums are required for the wet areas, alfresco area and living area tiling. (Only the bedrooms are carpeted).
- Prime costs are required for the solar hot water system and ducted air conditioning
- Provide fictitious details for all other sections of the contract.
- 18 solar panels are to be installed on the roof

Answer

