

BUILD TINY LIMITED TERMS OF TRADE

TERMS

- 1.1 These Terms of Trade ("Terms"), together with any collateral written agreement(s) ("Contract") entered into by you and Build Tiny Limited ("Build Tiny") govern the supply of goods and services ("Tiny House" and/or "Tiny House Works") by Build Tiny to you.

TINY HOUSE DOCUMENTS

2. Discrepancies

- 2.1 In the event of any discrepancy between the Drawings and the Specifications, the Specifications shall take precedence. Figured dimensions shall take precedence over scaled dimensions.

TINY HOUSE WORKS

3. Compliance and Consents

- 3.1 You will be responsible to apply for and obtain any building consents, code compliance certificates and resource consents required for the Tiny House to be located on your property.
- 3.2 You and any third party you contract with for transporting the Tiny House from Build Tiny's premises will be responsible for complying with NZTA regulations and any other applicable laws and you will be responsible for any costs incurred for such transportation.

4. Materials

- 4.1 The legal and beneficial ownership and title to any goods and/or materials which relate to the Tiny House and/or the Tiny House Works shall remain vested in Build Tiny until such time as you have paid Build Tiny all monies due.
- 4.2 You warrant that any goods and/or materials supplied by you for the Tiny House Works will be fit for purpose and free of any defects.
- 4.3 You agree that any warranties or guarantees given by Build Tiny in respect of the Tiny House will not specifically cover goods or materials supplied by you.
- 4.4 Build Tiny will be entitled to pass on any increase in the costs of materials to you since the date of the Contract providing such increase is not reasonably attributable to a delay caused by Build Tiny. Build Tiny will provide proof of such additional costs incurred.

5. Personal Property Securities Act 1999 ("PPSA")

- 5.1 You acknowledge that, for the purposes of the PPSA, these Terms and the Contract create a security interest in all of your present and after acquired personal property and all proceeds thereof including, without limitation, the goods and materials, and any proceeds thereof, supplied by Build Tiny to you for the Tiny House Works as security for all of your obligations to Build Tiny and you agree that Build Tiny may register a financing statement on the Personal Property Securities Register ("PPSR") to perfect its security interest in your present and after acquired personal property and all proceeds thereof, including without limitation, the goods and materials supplied or to be supplied for the Tiny House Works and any proceeds thereof in accordance with the provisions of the PPSA ("Security Interest").
- 5.2 Should the Tiny House be delivered to you prior to final payment you consent to Build Tiny registering a Security Interest on the PPSR.
- 5.3 You waive your right to receive a copy of the verification statement confirming registration of a financing statement or a financing change statement relating to any Security Interest registered by Build Tiny.
- 5.4 You agree that none of your rights as debtor under sections 114(1)(a), 116, 120(2), 121, 133 and 134 of the PPSA shall apply in relation to any Security Interest registered by Build Tiny.

6. Unprocurable Materials

If any materials specified are not reasonably procurable, Build Tiny will consult with you on this and substitute other materials of similar quality and nature as are reasonably practicable. Such substitution shall be treated as a variation in accordance with clauses 7.1 to 7.4 below.

7. Variations

- 7.1 Build Tiny shall carry out all reasonable variations ordered by you provided that you order all

variations in writing and the change to the price stipulated in the Contract Price (specified in the Contract) is agreed in writing and then given effect to through Builder Trend. Build Tiny shall not be obliged to make any variation requested by you which increases the Contract Price unless Build Tiny is satisfied that you are able to pay such increased price.

- 7.2 Any variations requested by you once colours and specifications have been agreed upon and finalised between Build Tiny and you shall be treated as a variation.
- 7.3 Build Tiny shall not be obliged to accept and carry out any requests by you for structural variations.
- 7.4 Build Tiny shall be entitled to charge a fee for a variation and a 14% mark-up on additional costs associated with any variations.

8. Provisional Sums

Provisional Sum means a defined part of the Tiny House Works where the price has not yet been finalised. The Contract Price shall be adjusted by the difference between the actual cost incurred for the material in question (plus a 14% mark-up charged by Build Tiny for this cost) and the Provisional Sum. Build Tiny shall supply to you all invoices and other records of actual costs incurred in respect of a Provisional Sum if requested by you.

9. Delays

- 9.1 Build Tiny shall not be liable for any delays caused by you including, but not limited to, your failure to pay any amount due and owing under the Contract, a variation or an event outside of Build Tiny's reasonable control ("Delay").
- 9.2 Build Tiny will be entitled to pass on and recover from you any costs incurred as a result of a Delay and will provide proof of such additional costs to you.
- 9.3 Should Build Tiny not be able to perform its obligations under the Contract due to a Delay then it shall be entitled to terminate the Contract.

10. Costs

- 10.1 You will, upon demand, pay all expenses, disbursements, and legal costs (on a solicitor/client basis) incurred by Build Tiny of or in connection with the collection, or attempted collection, of overdue moneys; and/or the exercise, enforcement and/or preservation of any right or interest under these Terms and the Contract and any other contract with you.

RISK AND WARRANTIES

11. Insurance and Risk

Risk of the Tiny House and responsibility for insurance will pass to you once the Tiny House leaves Build Tiny's premises.

12. Warranties

- 12.1 Build Tiny warrants that the Tiny House Works will be carried out:
- in a proper and competent manner; and
 - in accordance with the Plans and Specifications.
- 12.2 Build Tiny warrants that all materials to be supplied for use in the Tiny House:
- will be suitable for the purpose for which they will be used; and
 - unless otherwise stated in the Plans and Specifications, will be new.
- 12.3 Build Tiny warrants that the Tiny House Works will:
- be carried out with reasonable care and skill; and
 - be completed within a reasonable time.
- 12.4 Build Tiny warrants that where the Contract states the particular purpose for which the Tiny House is required, or the result that you wish the Tiny House to achieve, that the Tiny House and any materials used in the Tiny House will:
- be reasonably fit for that purpose; or
 - be of such a nature and quality that they might reasonably be expected to achieve that result.
- 12.5 In addition to the warranties provided at clauses 12.1 to 12.4 above, Build Tiny shall provide to you the warranty enclosed with the Contract, and also a pack of third party warranties and guarantees in relation to the Tiny House ("Handover Pack"). The Handover Pack includes details of all warranties and guarantees and any additional steps you must take to ensure the applicability of those warranties and or guarantees. You shall ensure that the documents

relating to the third party warranty and guarantees are completed and delivered to the third party warranty and guarantees provider if applicable.

- 12.6 In the event that you believe you have a right to claim under the warranties in clauses 12.1 to 12.5, you shall immediately notify Build Tiny and Build Tiny shall at its discretion determine whether to remedy itself or the third party guarantee shall apply.
- 12.7 If you are a "Consumer" as defined by Section 2 of the Consumer Guarantees Act 1993 ("CGA") then Build Tiny acknowledges that the CGA will apply to the Tiny House and that you have rights and remedies pursuant to the CGA in addition to the warranties above.

13. Maintenance and Defects

- 13.1 You are responsible for all maintenance of the Tiny House from the time risk passes pursuant to clause 11. You shall ensure that all maintenance is completed in accordance with the manufacturer's instructions and the provided maintenance schedule. You shall notify Build Tiny of any defects as soon as you become aware of the defect.
- 13.2 Any damage or defect resulting from your failure to comply with the warranty conditions of any product or appliance is your responsibility and liability.
- 13.3 For the avoidance of doubt, any damage or defect attributable to the completed Tiny House being in transit shall be your responsibility and liability.

MISCELLANEOUS

14. Dispute Resolution

- 14.1 Any and all disputes arising between the parties will be resolved in the first instance by good faith discussions. In the event those discussions fail to resolve the dispute within a reasonable period, the parties will refer the dispute to mediation, by a mediator to be agreed upon by the parties, or failing such agreement, by a mediator nominated by the Resolution Institute upon request of either party.

15. Confidentiality

- 15.1 In this clause 15, "Damage" means both economic loss, damage to reputation, feelings, work or professional standing, and "Personal Information" means any information about or in connection with, a party to this agreement.
- 15.2 You give permission for images to be taken during the project to be used for progress records and marketing.
- 15.3 You and Build Tiny will not:

- divulge to any person whatever or otherwise make use of any Personal Information relating to the other, which is learnt as a result of entering into the Contract or any circumstances flowing from the Contract;
- post any text, image, or audio-visual material on any social network or other public place which could be hurtful, embarrassing or damaging to the other party.

- 15.4 You and Build Tiny agree that any Damage arising directly or indirectly from a breach of clauses 15.1 to 15.3 above must be compensated on the basis of the effect on the party suffering Damage.

- 15.5 You accept personal liability for compliance with clauses 15.1 to 15.4 by you and members of your family.

16. Limitation Of Liability

- 16.1 The following clause 16.2 applies to:
- a defect in work done or not done;
 - a breach of any contractual obligation arising under this agreement; or
 - negligence or any other tort.
- Any of the foregoing mentioned at clause 16.1 shall be referred as a "Defect" in clause 16.2.
- 16.2 This clause sets out Build Tiny's entire liability (including any liability for the acts and omissions of its employees) to you for any Defect:
- Build Tiny shall have no liability to you in respect of a Defect unless you have given Build Tiny written notice of it within 7 days of the date you became aware of the Defect or the date when you ought to have reasonably become aware of it.
 - You agree to give Build Tiny not less than 14 days in which to put right the Defect.
 - If a number of Defects give rise to substantially the same loss then they shall be regarded as giving rise to only one claim

- under this agreement.
- (d) Build Tiny shall not be liable to you in respect of a Defect, for loss of profits goodwill or any type of special indirect or consequential loss (including loss or damage suffered by you as a result of an action brought by a third party) even if such loss was reasonably foreseeable or Build Tiny had been advised of the possibility of you incurring it.
 - (e) Build Tiny's entire liability in respect of any defect shall be limited to damages of an amount equal to the Contract Price.

16.3 Build Tiny agrees that the above clause 16.2 does not limit any liability under the Consumer Guarantees Act 1993.

17. Governing Law

- 17.1 New Zealand law governs these Terms and New Zealand Courts have non-exclusive jurisdiction.
- 17.2 The failure or delay of Build Tiny to enforce any provision of these Terms shall not be treated as a waiver of any provision and shall not affect Build Tiny's rights to subsequently enforce any provision.
- 17.3 The rights, powers and remedies provided in these

Terms are cumulative and do not prejudice or exclude any rights, powers and remedies provided by law.

- 17.4 If any provision of these Terms is, or becomes invalid or unenforceable, that invalidity or unenforceability shall not affect the provisions of these Terms, all of which shall remain in full force and effect to the extent permitted by law, subject to any modification made necessary by the deletion of the invalid or unenforceable provision in these Terms.