

BUILD TINY LIMITED TERMS OF TRADE

TINY HOUSE DOCUMENTS

- 1. Discrepancies**

In the event of any discrepancy between the Contract's Plans and the Specifications, the Specifications shall take precedence. Figured dimensions shall take precedence over scaled dimensions.

TINY HOUSE WORKS

- 2. Compliance and Consents**
 - 2.1 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.
 - 2.2 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.
- 3. Materials**
 - 3.1 The legal and beneficial ownership and title to any goods or materials which relate to the Tiny House shall remain vested in Build Tiny until such time as you have paid Build Tiny all monies due.
 - 3.2 You warrant that any goods or material supplied by you for the Tiny House Works will be fit for purpose and free of any defects.
 - 3.3 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.
 - 3.4 Should the Tiny House be delivered to you prior to final payment, you consent to Build Tiny registering a charge over the goods and materials under the Personal Property Securities Act 1999 "the PPSA".
 - 3.5 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.
 - 3.6 You agree that none of your rights as debtor under sections 114(1)(a), 116, 119, 120(2), 121, 132, 133 and 134 of the PPSA shall apply in relation to any security interest registered by Build Tiny.
- 4. 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 5.1 to 5.4 below.
- 5. Variations**
 - 5.1 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 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.
 - 5.2 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.
 - 5.3 Build Tiny shall not be obliged to accept and carry out any requests by you for structural variations.
 - 5.4 Build Tiny shall be entitled to charge a fee for a variation and a 14% mark-up on additional costs associated with any variations.
- 6. 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.

- 7. Delays**

Build Tiny shall not be liable for any delays caused by you, a variation or an event outside of Build Tiny's reasonable control ("Delay"). Build Tiny will be entitled to pass on any costs as a direct result of a Delay to you and will provide proof of such additional costs. 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.

RISK AND WARRANTIES

- 8. 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.
- 9. Warranties**
 - 9.1 Build Tiny warrants that the Tiny House work will be carried out:
 - (a) in a proper and competent manner; and
 - (b) in accordance with the Plans and Specifications.
 - 9.2 Build Tiny warrants that all materials to be supplied for use in the Tiny House:
 - (a) will be suitable for the purpose for which they will be used; and
 - (b) unless otherwise stated in the Plans and Specifications, will be new.
 - 9.3 Build Tiny warrants that the Tiny House work will:
 - (a) be carried out with reasonable care and skill; and
 - (b) be completed within a reasonable time.
 - 9.4 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:
 - (a) be reasonably fit for that purpose; or
 - (b) be of such a nature and quality that they might reasonably be expected to achieve that result.
 - 9.5 In addition to the warranties provided at clauses 9.1 to 9.4 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.
 - 9.6 In the event that you believe you have a right to claim under the warranties in clauses 9.1 to 9.5, 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.
 - 9.7 If you are a "Consumer" as defined by Section 2 of the Consumer Guarantees Act 1993 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.
- 10. Maintenance and Defects**
 - 10.1 You are responsible for all maintenance of the Tiny House from the time risk passes pursuant to clause 8. 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.
 - 10.2 Any damage or defect resulting from your failure to comply with the warranty conditions of any product or appliance is your responsibility and liability.

- 10.3 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

- 11. Dispute Resolution**

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.
- 12. Confidentiality**
 - 12.1 In this clause 12, "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.
 - 12.2 You give permission for images to be taken during the project to be used for progress records and marketing.
 - 12.3 You and Build Tiny will not:
 - (a) 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;
 - (b) 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.
 - 12.4 You and Build Tiny agree that any Damage arising directly or indirectly from a breach of the above clause 12.1 to 12.3 must be compensated on the basis of the effect on the party suffering Damage.
 - 12.5 You accept personal liability for compliance with these clauses by you and members of your family.
- 13. Limitation Of Liability**
 - 13.1 The following clause 13.2 applies to:
 - (a) a defect in work done or not done;
 - (b) a breach of any contractual obligation arising under this agreement; or
 - (c) negligence or any other tort.Any of the foregoing mentioned at clause 13.1 shall be referred as a "Defect" in clause 13.2.
 - 13.2 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:
 - (a) 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.
 - (b) You agree to give Build Tiny not less than 14 days in which to put right the Defect.
 - (c) 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.
 - 13.3 Build Tiny agrees that the above clause does not limit any liability under the Consumer Guarantees Act 1993.