

TERMS OF SALE

Project Habitation Pty Ltd is willing to license the Design Package to You (“the Client”) only upon the condition that the Client accepts all of the terms contained in this Agreement. By entering this Agreement, the Client acknowledges they have read, understood and agreed with the Terms of Sale.

This Agreement contains the whole of the terms of the agreement between the Client and Project Habitation Pty Ltd and:

1. All other conduct, representations, agreements or understandings have been superseded by the written Agreement;
2. The representations set out in the Agreement are the only representations relied upon by the Client in entering into the Agreement;
3. The words “the Client”, “You” or “you” all mean the same person who has entered into this Agreement with Project Habitation Pty Ltd.

The terms are to be construed and governed in accordance with the Laws of Queensland, Australia, and the parties to this Agreement agree to submit to the exclusive jurisdiction of the Courts in Queensland.

The Agreement recognises the potential application of the Competition and Consumer Act 2010 (Cwth) and the Fair Trading Act 1999 (Qld) (the “Statutes”) and nothing in the Agreement attempts to exclude the Statutes’ operation which cannot be excluded by this Agreement.

1. General Terms

1.1 Because of the differences in geography and climate throughout Australia, each State has its own building codes, zone requirements and building regulations. The Design Package may need to be modified to comply with local requirements where the house is to be constructed. Project Habitation Pty Ltd authorises the use of the Design Package on the express condition that the Client will consult a local licensed engineer of the client’s choice prior to beginning construction and strictly comply with all local building codes, zoning requirements and other applicable laws, regulations and requirements. The Client accepts that it has not relied upon the Design Package for use outside Australia.

1.2 Project Habitation Pty Ltd exercised the degree of skill, care and diligence normally exercised by building designers for the Design Package.

1.3 Except to the extent prohibited by the Statutes, Project Habitation Pty Ltd accepts no responsibility whatsoever for any breach (including fundamental breach) of this Agreement, negligence, breach of any implied term under legislation, the accuracy or completeness of the Design Package, its fitness for a particular purpose, or its compliance with any regulatory requirements and standards.

1.4 Except to the extent prohibited by the Statutes, Project Habitation Pty Ltd accepts no responsibility whatsoever for the Client’s consequential, exemplary, incidental or indirect loss or damage suffered or incurred, that arises from,



or relates in any way to the use of the Design Package.

1.5 Except to the extent prohibited by the Statutes, the liability of Project Habitation Pty Ltd to the Client in respect of the Design Package is limited to:

- 1.5.1 replacing the Design Package;
 - 1.5.2 the cost of replacing the Design Package;
 - 1.5.3 supplying the Design Package again;
 - 1.5.4 payment of the cost of supplying the Design Package again; or
 - 1.5.5 the sum of \$5,000,
- whichever is the lesser.

1.6 Except to the extent prohibited by the Statutes, after the expiration of one (1) year from the date of purchase of the Design Package, Project Habitation Pty Ltd shall be discharged from all liability whatsoever in respect of the Design Package whether under the law of contract, negligence, other tort or otherwise.

1.7 Each design package is specific to a particular climate in Australia as identified in the details describing that particular Design Package. The Client acknowledges that it has not relied upon the Design Package for any other climatic zone and Project Habitation Pty Ltd accepts no responsibility whatsoever for the loss or damage suffered or incurred, that arises from using a design that was not intended for the Client's particular climate.

1.8 Names of materials and manufacturers and products ("materials") shown on the Design Package do not represent an endorsement or recommendation by Project Habitation Pty Ltd and are provided by way of example only and the Client acknowledges that they have not relied upon the materials in the Design Package as being suitable for their purpose. Final selections of materials are the responsibility of the Client or the Client's Builder, including proper installation of materials, nailing, gluing, caulking, insulating, flashing, roofing, weatherproofing and many other small items and details not necessarily indicated on the Design Package; and the Client accepts that Project Habitation Pty Ltd has no control or responsibility with respect to such matters and also accepts the Client has not relied upon the Design Package for construction and installation purposes.

1.9 The Design Package does not have an architectural or engineering approval, endorsement, signature, seal and/or stamp ("approval"), nor does Project Habitation Pty Ltd represent that it has such approval. The Client agrees to consult the local building official, in the area where the house depicted in the Design Package is to be constructed, who can advise if a review of the Design Package by a licensed designer or engineer is required prior to submission of the Design Package for a building permit.

1.10 ARBITRATION CLAUSE: Any dispute, controversy or claim arising out of, relating to or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be resolved by arbitration in accordance with the ACICA Arbitration Rules. The seat of arbitration shall be Brisbane, Australia. The language of the arbitration shall be English. The number of arbitrators shall be one.

1.11 NON - RELIANCE CLAUSE: Except to the extent prohibited by the Statutes, Project Habitation Pty Ltd makes no warranties, representations or undertakings about any of the content of this website or the content of the Design Package (including, without limitation, any as to the quality, accuracy, completeness or fitness for any particular purpose of such content), or any content of any other website referred to or accessed by hyperlinks through this website. Although Project Habitation Pty Ltd makes reasonable efforts to update the information on its website, it makes no representations, warranties or guarantees, whether express or implied, that the content on its website and that which is contained within the Design Package is accurate, complete or up-to-date.

2. License to the Design Package

When you purchase a Design Package you are thereby granted, subject to these Terms, a limited, non-exclusive license ("License") to use the Design Package to build the house depicted in the Design Package (the "Project") one time and one time only; and to modify and reproduce the Design Package solely to the extent required for purposes of satisfying your specific needs and/or to meet the requirements of your specific state and local building codes, ordinances or regulations in completing the Project (the "design and building requirements"). In addition to any other requirements set forth in these Terms, you agree to comply with the following restrictions, requirements and conditions to which the License is subject:

2.1 You may not assign, sublicense or transfer the License.

2.2 You may not re-use the Design Package (e.g., for building any additional home(s)), without the prior written consent of Project Habitation Pty Ltd, which consent shall require payment of a re-use fee and may be subject to additional conditions, as specified by Project Habitation Pty Ltd.

2.3 You shall not, and shall not authorise or permit anyone else to, sell, redistribute or publish the Design Package, or otherwise disclose the Design Package to anyone other than your Builder, contractors, consultants, lenders or governmental agencies on a “need to know” basis as reasonably required for the purpose of building a single home subject to the License.

2.4 You may not create derivative works based on the Design Package other than such modifications as may be required for your own use in building a single home in accordance herewith.

2.5 You agree that you will have the Design Package reviewed and approved by a local professional designer and or engineer familiar with the design and building requirements for the area where the house is to be built before the start of any construction.

2.6 You agree that you will maintain, and will cause your Builder and other contractors involved in the Project to maintain, sufficient liability and other insurance coverages with insurance companies licensed in the applicable locations, as required to cover all of your obligations under these Terms and Applicable Laws.

2.7 You are hereby granted permission to modify the Design Package; however, copyright to the Design Package remains the sole property of Project Habitation Pty Ltd. No permission is given to claim copyright on the original or any modifications made to the Design Package.

2.8 You are hereby granted permission to reproduce the Design Package but only in connection and as required for the construction of one (1) home as described in the Design Package subject to this License.

2.9 Drawings, sketches and specifications are instruments of service and remain the property of Project Habitation Pty Ltd, whether the Project for which they are prepared is executed or not. They may not be used in whole or in part on other projects, or to complete a project without the express written consent of Project Habitation Pty Ltd and, if such consent is provided, then with appropriate compensation to Project Habitation Pty Ltd, as determined by it.

2.10 You agree to hold harmless and indemnify Project Habitation Pty Ltd from and against all claims, liabilities, losses, damages and costs, including lawyer’s fees, arising out of or connected with the use, construction, conversion, modification, misinterpretation, misuse, or reuse by you or others of the Design Package, electronic files, drawings and data provided by Project Habitation Pty Ltd under this Agreement.

2.11 The Design Package is protected by the Copyright Act 1968 and other Commonwealth of Australia legislation (the “copyright laws”). Any use of the information contained therein beyond the one-time use authorised to the Client by this Agreement, or any duplication, publication, sale or distribution of any part of the Design Package without the prior written consent of Project Habitation Pty Ltd represents a violation of the copyright laws, and you may be subject to prosecution and the prescribed penalties under them.

2.12 Any use of the Design Package and/or modifications of the Design Package, by the Client, builders or others on Client’s behalf is done at their own risk. You are strongly advised to have the Design Package reviewed by a local structural engineer before the start of any construction. The information contained within the Design Package is to indicate design intent and basic construction detailing. It is your responsibility to ensure that you have obtained the proper professional assistance to provide standard construction details and practices, which will result in a structurally sound and weatherproof finished product.

3 Your Builder’s Responsibilities

You acknowledge and agree that: (i) the following items are your Builder’s and your responsibilities; (ii) you will use your best efforts to cause your Builder to fulfil such responsibilities; and (iii) Project Habitation Pty Ltd shall have no responsibility or liability with respect to such items:

3.1 It is the responsibility of your Builder to ensure that all work is in accordance with the latest edition of all

applicable National, State, and Local Building Codes. It is your Builder's responsibility to ensure that all work is in accordance with the latest edition of all applicable Construction Standards.

3.2 Your Builder is responsible for checking the Design Package prior to construction to verify all dimensions and details for overall accuracy appropriate to the local conditions.

3.3 Your Builder is responsible for working with you on decisions for the final selection of materials such as masonry, floor joists, structural members, construction panels, roofing, etc., all of which can create variations in dimension and details.

3.4 Your Builder is responsible for providing standard construction details and practices which will result in a structurally sound and weatherproof finished product.

3.5 Your Builder is responsible for all construction means, methods, sequencing, techniques, and safety on the job site of construction workers and third parties.

3.6 Your Builder is responsible for ensuring that all materials, equipment and components are new and of good quality.

3.7 Your Builder is responsible for ensuring that all manufactured articles, material, and equipment are applied, installed, connected, erected, used, cleaned, adjusted, operated and conditioned as directed by the manufacturers. Your Builder must follow all instruction to sustain and preserve all expressed or implied warranties and guarantees.

4 Accreditation / Promotions

4.1 Project Habitation Pty Ltd retains the right to reproduce, publish and display the house using the Design Package in its portfolios and websites and in galleries, design periodicals and other media or exhibits for the purposes of recognition of creative excellence or professional advancement, and to be credited with authorship of the deliverables in connection with such uses (the "Publicity").

4.2 The Client agrees to allow access to the house using the Design Package during construction and for 1 year after its completion and to fully co-operate with Project Habitation Pty Ltd to facilitate the Publicity.

5 Customisation of the Design

If you request that Project Habitation Pty Ltd customize the Design Package, the following provisions apply:

5.1 Project Habitation Pty Ltd will customize your Design Package ("Customisation Services") on request, as detailed below, and provide customised versions of the Design Package ("Customised Design Package"). "Customised Design Package" is still the Design Package for the purposes of this Agreement. As such, Project Habitation Pty Ltd will retain all Intellectual Property Rights in any Customised Design Package, even if the Customised Design Package reflect your comments or input.

5.2 When you request Customisation Services, Project Habitation Pty Ltd will provide you with a proposed scope of work ("Scope") based on your request, and a price quote. The terms of this Agreement apply to the Customised Design Package quote and the Customisation Services will be deemed to be complete when Project Habitation Pty Ltd provides you with Customised Design Package substantially consistent with the Scope.

5.3 If you request revisions to the Customised Design Package after such delivery, or otherwise require any services outside of the Scope, those Customisation Services are subject to additional fees as specified in the price quote, and are governed by this Agreement.

5.4 By way of clarification, unless otherwise expressly specified in the Scope, the Customisation Services will not include:

5.4.1 architectural or engineering services required to make changes to the Design Package for purposes of compliance with local building codes, local, State or National legislation and standards (the "compliance regime") or to comply with changes in the compliance regime;

5.4.2 construction cost estimating services, materials lists, take offs and other related services;

5.4.3 site evaluation and selection services;

5.4.4 design and construction review services relating to your Builder's, contractor's or construction manager's safety precautions or to the means, methods, techniques, sequences or procedures required for your Builder, contractor or construction manager to perform its work, but not relating to the final or completed structure; or

5.4.5 services made necessary by the default, failure of performance or termination of your Builder, contractor or construction manager under its contract or by defects or deficiencies in the work of your Builder, a contractor or construction manager.

6 Your responsibilities in connection with the Customisation Services

6.1 Provide complete and accurate information regarding custom changes and budget requirements and all physical information about the site and/or building;

6.2 Co-operate fully with Project Habitation Pty Ltd to ensure efficient and satisfactory progress of the Customisation Services.

6.3 Obtain, at your own expense, all soil tests and land surveys that may be required;

6.4 Credit Project Habitation Pty Ltd in publicity involving the Design Package;

6.5 Provide if requested, a written description and/or sketch outlining the proposed changes;

6.6 Project Habitation Pty Ltd shall be permitted to photograph the Project during construction and upon completion for its records and future use, including for the Publicity.

6.7 Allow Project Habitation Pty Ltd to advertise their services with signage on the construction fence during the construction phase of the Project.

7 Suspension or Termination in connection with the Customisation Services

7.1 Either you or Project Habitation Pty Ltd may terminate the Customisation Services at any time after giving the other party 7 days' written notice without being required to give any reason.

7.2 If you terminate the Customisation Services, you will not be entitled to any refund of amounts already paid. If Project Habitation Pty Ltd terminates the Customisation Services, you will be entitled to an equitable refund based on the portion of the Customisation Services prepaid but not already performed, as reasonably determined by Project Habitation Pty Ltd.