

The Lifestyle Cabin Co Limited

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Firstly, thank you making a Lifestyle Cabin your first choice. We know your new solid wood cabin will give you years of excellent service

Terms & Conditions

1. General

- 1.1 The following Terms govern the supply of all Goods and Services by us to you.
- 1.2 Any instructions received by us from you for the supply of Goods and Services shall constitute acceptance of these Terms.
- 1.3 These Terms supersede all other terms, conditions and agreements between us and you and no variation of these Terms will apply unless accepted in writing by us. No other terms and conditions contained in any document or other instrument supplied by you shall apply unless agreed in writing by us.

2. Definitions and Interpretation

- 2.1 In these Terms:
 - 2.1.1 **Cabin** means a lifestyle cabin that we agree to supply to you;
 - 2.1.2 **Consumer Guarantees Act** means the Consumer Guarantees Act 1993;
 - 2.1.3 **Construction Terms** means our further terms and conditions governing the Construction Work;
 - 2.1.4 **Construction Work** means the construction of Cabins on your behalf;
 - 2.1.5 **Default Interest Rate** means 5% per annum greater than our business overdraft interest rate;
 - 2.1.6 **Event of Default** has the meaning given in clause 17.1;
 - 2.1.7 **Fair Trading Act** means the Fair Trading Act 1986;
 - 2.1.8 **Goods** means the Cabins and any other goods to be supplied by us as set out in the Order Form (or as otherwise agreed to be supplied by us);
 - 2.1.9 **GST** means goods and services tax payable under the Goods and Services Tax Act 1985;
 - 2.1.10 **Order Form** means the order form setting out the key terms agreed between us including the Goods and Services being provided and the price being paid;
 - 2.1.11 **Payment Dates** means the payment dates and terms set out in the Order Form (and where applicable the Construction Terms) or in writing by us;
 - 2.1.12 **Services** means services to be provided by us to you in connection with the supply of the Goods including the Construction Work;

- 2.1.13 **Site** means the site where the Cabin is to be constructed;
- 2.1.14 **Terms** means these terms and conditions (as amended from time to time);
- 2.1.15 **We, Us** and other like terms refers to The Lifestyle Cabin Co Limited;
- 2.1.16 **Working Days** means a day other than Saturday, Sunday or public holiday in Auckland;
- 2.1.17 **You, your** and other like terms refers to the customer described in the Order Form or in respect of whom we otherwise agree to supply Goods and/or Services.

2.2 In these Terms

- 2.2.1 Headings are for convenience only and will not affect the interpretation of these Terms;
- 2.2.2 All references to legislation are references to New Zealand legislation in force and include any subordinate legislation, by-law, regulation, order, statutory instrument or determination made under it, any re-enactment of, or amendment to, that legislation and all legislation passed in substitution for that legislation; and
- 2.2.3 The term “includes” or “including” (or similar terms) is deemed to be followed by the words “without limitation”.
- 2.2.4 Where more than one person is named as the customer, each of those people shall be jointly and severally liable for all payments for the Goods and Services and all other obligations under these Terms.

3. **Goods and Services**

- 3.1 The Goods and Services to be supplied by us are as described in the Order Form or as otherwise agreed in writing by us.
- 3.2 We are not obliged to accept any order for Goods and Services (including as set out in the Order Form).

4. **Prices**

- 4.1 The prices of the Goods or Services are (except in the case of manifest error or fraud):
 - 4.1.1 As set out in the Order Form;
 - 4.1.2 Where no price is stated in the Order Form, the price according to our current price list; or
 - 4.1.3 As otherwise agreed in writing by us.
- 4.2 Unless stated otherwise all prices quoted are inclusive of GST.
- 4.3 Unless we agree in writing otherwise you will also pay all freight and dispatch charges in relation to delivery of the Goods.

5. **Payment**

- 5.1 You must pay the price for all Goods and Services as follows:
 - 5.1.1 On the Payment Dates;
 - 5.1.2 In full without deduction or set-off of any kind; and
 - 5.1.3 To the bank account nominated by us in writing from time to time.

6. **Cancellation**

- 6.1 If you wish to cancel an order, cancellation is at our discretion. If we agree to cancellation you may incur a cancellation fee which we will notify to you at the time of the cancellation.
- 6.2 We may cancel any order at any time before the Goods are delivered or the Services are provided by giving written notice to you.
- 6.3 On giving notice of cancellation under clause 6.2 we shall promptly repay to you any sums paid in respect of the price for those Goods and Services but we shall not otherwise be liable for any loss or damage arising from such cancellation.

7. **Customer Warranties**

- 7.1 You warrant that all information contained in the Order Form, including responses to any questions, or any other information provided to us is true and accurate in all material respects.

8. **Customer Acknowledgements**

- 8.1 You acknowledge that it is your responsibility to ensure that:
 - 8.1.1 The Site is suitable for construction of a Cabin including ensuring that the Site is flat and rectangular; and
 - 8.1.2 The construction of a Cabin at the Site will not be in breach of any restriction or covenant affecting the Site or any other regulatory requirement.
- 8.2 We will not be responsible or liable to you if the Site is not suitable for construction of the Cabin or if construction of the Cabin breaches any restriction or covenant affecting the Site.
- 8.3 Clause 8.1.1 does not apply to the extent that we have agreed to carry out foundation and site works to flatten the Site.

9. **Self-Build**

- 9.1 This clause applies where you have elected to construct a Cabin.
- 9.2 You acknowledge that it is your responsibility to construct or procure the construction of the Cabin in compliance with necessary legal requirements including obtaining all necessary consents.
- 9.3 You indemnify us in respect of all losses, damages, claims, costs, expenses and damages caused as a result of your failure to comply with clause 9.2.
- 9.4 We will not be responsible in respect of any damage caused by you in construction of a Cabin.

10. **Construction Terms**

- 10.1 Where we have agreed to construct the Cabin, the Construction Terms will also apply.
- 10.2 In the event of conflict between these Terms and the Construction Terms, the Construction Terms will take precedence.

11. **Risk and Title**

- 11.1 Risk passes to you on delivery of the Goods.
- 11.2 The legal and equitable title to Goods will not pass to us until payment in full for all Goods and Services supplied by us and all other amounts owing to us from you have been paid.
- 11.3 We may register a financing statement in respect of the retention of title under clause 11.2.

12. **Delivery of Goods**

- 12.1 We deliver within New Zealand only.
- 12.2 We will use our reasonable endeavours to fulfil any orders and to make delivery of the Goods at any time that has been agreed but time will not be of the essence and we will not be responsible for any loss or damage sustained by you by reason of any delay in delivery or any failure to fulfil an order or make delivery, howsoever caused.
- 12.3 Delivery will be deemed complete when the Goods are transported to the place stated in the Order Form or otherwise agreed by us.
- 12.4 You shall make all arrangements necessary to take delivery of the Goods whenever and wherever they are tendered for delivery. We shall be entitled to assume that any person accepting delivery of the Goods is authorised to do so on your behalf. Where you do not take delivery of the Goods, without limiting any of our rights or remedies, you shall pay any storage fee in connection with the storage of the Goods until such time as they can be successfully delivered.
- 12.5 Where Goods are to be collected by you rather than delivered you agree to collect the Goods within 1 week of the agreed collection date. Where you do not collect the Goods, without limiting any of our rights or remedies, you shall pay any storage fee in connection with the storage of the Goods until such time as you collect them.

13. **Defective Goods**

- 13.1 You agree to inspect the Goods on delivery and notify us of any alleged damage caused during delivery of the Goods or of any other alleged defect, shortage in quantity, damage or failure to comply with the description.
- 13.2 You shall afford us an opportunity to inspect the Goods within a reasonable time following delivery if you believe the Goods are defective in any way.
- 13.3 Where Goods are defective or do not comply with any warranties provided by us we shall at our discretion:
 - 13.3.1 Repair the Goods;
 - 13.3.2 Replace the Goods; or
 - 13.3.3 Give you a refund.
- 13.4 Subject to clause 15.4, where you are a consumer (as defined in the Consumer Guarantees Act) you may also have rights and remedies under the Consumer Guarantees Act where Goods and Services do not comply with certain guarantees, as referred to in clause 14.2. Clause 13.3 does not limit these rights.
- 13.5 We shall not be liable in respect of defective Goods or in respect of damage to the Goods:
 - 13.5.1 If you have not stored or used the Goods in the a proper manner; or
 - 13.5.2 If you have caused the damage, including where you construct a Cabin.

14. **Warranties**

- 14.1 We warrant as follows (subject to the other provisions of this clause 14 and clause 15):
 - 14.1.1 We have the right to sell the Goods;
 - 14.1.2 The Goods match the description;
 - 14.1.3 The Goods comply with any agreed specifications; and

14.1.4 In the terms of any product warranty included with the Goods.

14.2 Subject to clause 15.4, where you are a consumer (as defined in the Consumer Guarantees Act) certain guarantees may also apply in respect of the Goods and the provision of Services pursuant to the Consumer Guarantees Act. Clause 14.2 does not limit those guarantees.

14.3 Nothing in this clause or clause 15 limits any warranties that may apply under the Building Act 2004.

15. Exclusion of Terms

15.1 Apart from the warranties or guarantees described in clause 14 or any express warranties provided by us we make no representations and give no assurances, warranties or guarantees to you in relation to the Goods or the Services. To the maximum extent permitted by law, any representation, assurance, warranty or, guarantee implied by law, custom or practice is excluded.

15.2 To the maximum extent permitted by law none of our agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by one of our directors in writing nor are we bound by any such unauthorised statements.

15.3 Where you acquire the Goods and/or Services in trade, you and we agree to contract out of the following sections of the Fair Trading Act in accordance with section 5D of the Fair Trading Act:

15.3.1 Section 9: Misleading and deceptive conduct generally;

15.3.2 Section 12A: Unsubstantiated Representations;

15.3.3 Section 13: False or misleading representations.

15.4 Where you acquire the Goods and/or Services in trade, you and we agree to contract out of the Consumer Guarantees Act (to the extent that it is applicable) in accordance with section 43 of the Consumer Guarantees Act.

15.5 You agree that it is fair and reasonable to be bound by clauses 15.3 and 15.4.

16. Liability

16.1 To the maximum extent permitted by law:

16.1.1 We are not liable to you whether in contract, tort or otherwise to you for any indirect or consequential loss or loss of business or other profits under or in connection with these Terms or the use or operation of the Goods and Services or resulting from the exercise or purported exercise of any rights conferred on us by these Terms;

16.1.2 Our monetary liability to you shall be limited to the price of the Goods or Services in question.

16.2 None of our employees, agents or independent contractors shall in any circumstances be liable to you for any loss or damage whether arising or resulting directly, indirectly or consequentially from any act, neglect or default on the part of such person while acting in the course of or in connection with his or her employment, agency or engagement.

17. Default

17.1 You commit an Event of Default if:

17.1.1 Any payment is not made on or before a Payment Date;

17.1.2 You breach any of these Terms (or where applicable the Construction Terms);

17.1.3 In our opinion you will be unable to meet your debts as they fall due;.

- 17.1.4 You commit an act of bankruptcy or are declared bankrupt;
 - 17.1.5 You become insolvent, convene a meeting with your creditors or propose or enter into an arrangement with creditors, or make an assignment for the benefit of your creditors, or;
 - 17.1.6 A receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of you or any of your assets,
- 17.2 Where you are acquiring the Goods and/or Services for the purposes of a business you also commit an Event of Default if you cease or threaten to cease to carry on business.
- 17.3 If an Event of Default occurs, without prejudice to any other rights or remedies available to us under these Terms or otherwise:
- 17.3.1 All amounts owing to us, whether or not due for payment, shall immediately become due and payable;
 - 17.3.2 We may withhold deliveries of Goods or provision of Services;
 - 17.3.3 We may cancel or suspend any order; and
 - 17.3.4 We may charge interest on any overdue amount at the Default Interest Rate from the due date of the outstanding invoice until the date of payment.
- 17.4 If we cancel or suspend any order we will not be liable to you for any loss or damage whatsoever arising from such cancellation.

18. **Use of Third Parties**

- 18.1 We may subcontract with any other person, firm or company to supply the Goods or provide the Services.

19. **Collection, Use and Disclosure of Information**

- 19.1 You agree that we may collect personal information from you that we reasonably require to:
- 19.1.1 Supply the Goods and provide the Services;
 - 19.1.2 Assess your creditworthiness;
 - 19.1.3 Administer and enforce these Terms;
 - 19.1.4 Maintain credit records held by us, any related company and external agencies;
 - 19.1.5 Conduct market research, data processing and statistical analysis; and
 - 19.1.6 Market our goods and services.
- 19.2 You authorise us to collect from third parties any personal information for the purposes set out in clause 19.1.
- 19.3 All such information shall be held by us at our business address and by other parties for the purposes described above in clause 19.1.
- 19.4 You may request access to or correction of the personal information that we hold by contacting us.

20. **Proprietary Information**

- 20.1 We retain ownership of and copyright in all design details, specifications, software, technical handbooks, drawings or other material prepared or supplied by us to you.

21. **General**

- 21.1 We shall not be liable for any delay or failure to comply with our obligations under these Terms which are caused by any act of God, terrorism, war, strike, lock out, industrial action, flood, storm, epidemic, pandemic, or other event beyond our reasonable control.
- 21.2 We do not waive a right, power or remedy if we fail to exercise or delay in exercising the right, power or remedy.
- 21.3 The rights powers and remedies provided in these Terms are cumulative and not exclusive of any rights powers or remedies provided by law.
- 21.4 If any of these Terms shall become invalid, void, illegal or unenforceable, the validity, existence, legality and enforceability of the remaining provisions will not be affected, prejudiced or impaired.
- 21.5 You may not assign any of your rights under these Terms. We may at any time assign the benefit of these Terms to any party on such terms as we consider fit.
- 21.6 We may license or sub-contract all or any of its rights or obligations without the Buyer's consent.

22. **Governing Law**

- 22.1 These Terms and any contract evidenced by these Terms is governed by the laws of New Zealand.
- 22.2 You submit to the non-exclusive jurisdiction of the courts of New Zealand.