



Website Terms of Use

These Terms of Use were last updated on 20 October 2021.

1. Website

1.1. **Site:** This website www.branz.co.nz (the **Website**) is operated by [Building Research Association of New Zealand Incorporated/BRANZ Limited (**Website Owner**)].

1.2. **Agreement to be bound:** These Website terms of use (**Terms of Use**) and our Privacy Policy apply to all users of our Website, whether as a Account User or as a visitor, and whether just browsing or purchasing Products from the Website.

1.3. **If you do not agree:** If you do not agree to be bound by these Terms of Use and the Privacy Policy, then you must stop browsing, accessing or using the Website.

2. Defined Words

2.1. In these Terms of Use, the following words have these meanings:

"Content" means any software (including tools), data, information, picture, graphics and other materials published or made available on the Website, including all third party content.

"Intellectual Property Rights" means any patent, trade mark, service mark, logo, trade name and business name (including rights in goodwill), copyright, moral right, right in a design, drawings, graphics, documents, data, ideas, procedures, calculations, right in or to internet domain names, know-how, right in or to confidential information (including trade secrets) and any other intellectual property rights, whether or not registered and any similar rights worldwide.

"User" means any user of the website that has completed our User registration process and created an account to use the services offered on this Website or no account on the website.

"Products" means goods and services relating to building and construction being offered through this Website, electronic and/or hardcopy information resources ranging from books, research reports, technical papers, bulletins, webinars and other information.

"Terms of Sale" means the terms of sale available here, which apply to the purchase of any Products by you.

"Tools" means any of the software, tools or calculators available for use on, or downloaded from, the Website.

"Unacceptable" means anything that is defamatory, harmful, offensive, upsetting, obscene, inappropriate, false, misleading, unsuitable for persons under the age of 18 years, in violation of any law or regulation, or otherwise considered by us as being unacceptable.

"We", "us" and "our" are a reference to the Website Owner.

"Website" has the meaning given to that term in *clause 1.1*.

"You" and "your" are a reference to you, a User or Account User.

3. Conduct of Users

3.1. Your conduct: In accessing and using the Website whether as a User or an Account User, you acknowledge and agree that you will not do any of the following:

(a) access or use any of the Website or its Content for the purposes of competing with us;

(b) access or print material from the Website for any commercial purpose, unless we expressly authorise you to do so;

(c) on-sell any information or Content obtained from the Website without our prior permission;

(d) provide us with information that is inaccurate, misleading or false;

(e) post or transmit any Content that is or is reasonably likely to be Unacceptable;

(f) abuse, harass, stalk, threaten, breach the confidence of or otherwise violate the rights (such as rights of privacy and publicity) of others;

(g) post or transmit Content that infringes the Intellectual Property Rights of any person;

(h) access an account, without authority, that is not your own or impersonate any other User or Account User;

(i) manipulate, access or otherwise interfere with, without authority, any part of the Website, or post or transmit any Content that contains any virus, malware, spyware or other destructive component;

(j) harvest or collect any Content either manually or via an automated software tool;

(k) commit or encourage a criminal offence, or post or transmit any Content that is prohibited by or violates any applicable law or regulation;

(l) transmit any unsolicited advertising, promotional materials or any other forms of solicitation, unless expressly authorised by us; or

(m) any other conduct that otherwise breaches the Terms of Use.

4. Account Usership specific terms

4.1. **Account Users:** Clause 4 applies to your use of the Website as an Account User. If you are not an Account User, then the terms in clause 4 do not apply to you.

4.2. **Registering:** To become an Account User of the Website, you must complete the applicable online registration form, which will include creating a user login and password. By completing the registration process and/or accessing the Website as a, Account User, you are stating that you are eligible to be an Account User and that you agree to be bound by the Account User specific terms, in addition to the other terms, in these Terms of Use and the Privacy Policy, without qualification. We reserve the right to reject any application to be an Account User.

4.3. **Details:** You confirm that any information you provide to us relating to you through the Account User registration process, or subsequent to registration, is current, complete and accurate at the time you provide it, is not misleading or deceptive, or likely to mislead or deceive. If your details change whilst you are an Account User, you agree to update such information in a timely manner (which can be done by logging onto the Website).

4.4. **User ID and password:** You must ensure that your user ID and password is kept secure and confidential and not revealed to any other person. You are entirely responsible for all activities that occur through the use of your user ID and password. You must notify us immediately of any unauthorised use of your user ID and password or any other breach of security. Following any unauthorised use, you will cease using that password and create a new unrelated password. You indemnify us, our directors, officers and employees against all

costs, expenses and damages incurred in connection with any claim arising from any reasonable reliance by us on any use of your password, including us disclosing information relating to your being an Account User.

4.5. **Communications:** Where, on registering as an Account User or subsequently, you indicate that you wish to receive email communication from us, we may continue to communicate with you using such technology until you indicate otherwise. These communications may include information about our Products and your purchase of the same, features of the Website, notices about applicable fees and charges, transactional information and other information concerning or related to the Website. You may opt-out of receiving email communication at any time by using the unsubscribe link in any email.

4.6. **Termination:** You may cancel your membership at any time by giving us 30 days' notice. We reserve the right in our sole discretion to terminate your membership at any time if you violate these Terms of Use.

5. Transactions

5.1. **BRANZ Shop and Website:** The Website provides impartial evidence-based advice on critical issues in building and construction in New Zealand, and Products for sale.

5.2. **Transactions:** Where a Account User purchases a Product, a contract will be formed between that User and us, and our Terms of Sale will apply.

5.3. **At your own risk:** All information and Products provided on or through the Website are intended to be general in nature, and is provided to you on an "as is" basis. We do not:

(a) give any assurances that any information contained on the Website or in any Products will be suitable for your purposes; or

(b) warrant the accuracy, correctness, reliability and completeness of any information provided in, or obtained through the use of the Website or the Products.

5.4. **Obligations as an Account User or User:** If you purchase Products via the Website (as an Account User) you must complete the transaction in the manner specified including by making full and prompt payment.

6. Prices and payment

6.1. **Account Users and Users:** There is no fee for registering as an Account User or being a User of the Website.

7. Intellectual Property Rights

(a) all the Intellectual Property Rights in the Website and Content (excluding any third party Content), including in any modifications or enhancements to the Website and Content. Unless expressly prohibited, you may access and/or print material from the Website, provided it is used for your own personal or internal business use. Any authorised reproduction of materials or information published on or provided through the Website must be accompanied by an acknowledgment and assertion of our copyright, and other Intellectual Property Rights, in those materials and/or information; and

(b) the various trade marks that appear on the Website. You must not use any of our trade marks without our express written consent.

7.2. **Use of the Tools:** In relation to the Tools:

(a) We grant you a non-exclusive, non-transferable licence to use the Tools for your personal or internal business purposes strictly in accordance with the documentation (if any) provided with the Tools;

(b) the Tools are provided free to you to use at your own risk. We accept no liability or responsibility for any adverse consequences suffered by you or any third party that arise in connection with your use of the Tools;

(c) you will not cause or permit the reproduction, reverse engineering, disassembly or decompilation of the Tools;

(d) we are under no obligation to provide any support or maintenance (including updates, upgrades, patches or bug-fixes) for the Tools.

7.3 **Liability in relation to the Tools**

(a) We do not warrant the accuracy, correctness, reliability and completeness of any information, formulae, or calculation provided through the use of the Tools (together referred to as **Calculations**). We do not undertake to keep any data or information used in the Tools updated. You acknowledge the results from any Calculations are for informational purposes only, and that the assumptions used and figures generated are for purposes of illustration and reference only, and are subject to change depending on a variety of factors, which may not have been taken into account in the computation. To the maximum extent permitted by law, we will not be liable for any form of loss or damage, arising out of or in connection with your reliance on and use of the Tools. You agree that you will not rely solely on the Calculations and will carry out your own calculations (other than by using the Tools) to verify the accuracy, correctness, reliability, and completeness of the Calculations.

(b) The Tools have been developed independent of any resellers, manufacturers or trade associations. The Tools and their outputs do not endorse, recommend, or market any particular product or service. They provide objective assessments and are not to be construed as professional or other specialist advice of any kind.

(c) You will take all necessary action to defend and indemnify us and our directors, officers and employees against all loss and damages suffered or incurred in connection with your use of the Tools.

7.4 **Links:** If you wish to provide a hypertext or other link to the Website, you must first contact us for our permission. We may or may not, in our sole discretion, consent to you linking another website to the Website.

8. Disclaimer, limitation of liability, indemnity and warranties

8.1. **Updates:** We reserve the right to update and amend any information on the Website at any time. We do not warrant that you will have continued access to the Website.

8.2. **Exclusion of liability:** To the maximum extent permitted by law, we will not be responsible or liable to you or any other person for any form of loss or damage, including:

(a) in relation to your access and use of the Website, including if the Website is unavailable (in whole or part) or performing slowly; or

(b) in connection with any errors, omissions or misstatements in any information or material made available on or through the Website;

(c) in relation to any Products that Account Users or Users have purchased from or through the Website; or

(d) resulting from any breach of these Terms of Use by any other Account User or User.

This exclusion applies regardless of whether our responsibility or liability arises in contract, tort (including negligence), statute or otherwise and for any loss or damage however caused (including direct, indirect, incidental, special or consequential loss or damage). If despite the foregoing, we are liable to you for any form of loss or damage, our maximum aggregate liability to you will not exceed \$[10].

8.3. **Indemnity:** You will take all necessary action to defend and indemnify us and our directors, officers and employees against all loss and damages suffered or incurred in connection with any claim brought by a third party against us arising from a breach by you of these Terms of Use or the Privacy Policy.

8.4. **Warranties:** Warranties, conditions or obligations may be implied or imposed by the Consumer Guarantees Act 1993 (CGA), which cannot be excluded, restricted or modified. This clause is not intended to limit your rights under the CGA, except where you use the Website for business purposes, in which case we, expressly contract out of all provisions of the CGA.

9. Linked sites

9.1. **Third parties:** The Website may contain links to other third party websites (**Linked Sites**). Linked Sites are not operated, controlled, or maintained by us and are provided for your convenience only to help you find sites containing information, products or services that may be of interest to you. The inclusion of any link does not imply our endorsement of the Linked Sites or any association by us with their business or owners.

9.2. **Liability:** You access Linked Sites at your own risk and to the maximum extent permitted by law we will not be:

(a) responsible for the availability, content, security, policies, or practices of any Linked Sites;
or

(b) liable for any loss or damage (including direct, indirect, incidental, special or consequential loss or damage) suffered by you from accessing, using, relying on or trading with third parties; or

(c) responsible or liable for any dealings that you have with the third party.

9.3. **No approval:** Any link to a Linked Site does not constitute sponsorship, endorsement, or approval by us of the content, policies, or practices of such Linked Sites.

10. General

10.1. **Suspension and termination:** Without prejudice to any other rights and remedies available to us, if we consider that you have breached these Terms of Use, we may immediately and without written notice to you, suspend or terminate your access to the Website (or any part of the Website). On suspension or termination, you must immediately cease using the Website and must not attempt to gain access to the Website.

10.2. **Amendments:** We reserve the right to change these Terms of Use and the Privacy Policy (**Amendments**) at any time. Any Amendments will be posted on this page on the Website (and the "last updated" date will be updated). By continuing to access the Website you agree to be bound by the Amendments. We recommend you regularly review these Terms of Use and the Privacy Policy to see any updates or changes to our Terms of Use.

10.3. **Law:** These Terms of Use are governed by and will be construed in accordance with the laws of New Zealand. You submit to the exclusive jurisdiction of the courts of New Zealand.

10.4. **Contact:** If you have any questions or concerns in relation to the Website or these Terms of Use, please contact us by email at branz@branz.co.nz (<mailto:branz@branz.co.nz>).