



Terms of Sale

These Terms of Sale were last updated on 15 September 2024

1 Application

- 1.1 These terms of sale (**Terms**) apply to all sales of Products to Customers (**you**) by BRANZ Limited (**BRANZ or we**) through this website (the **Website**) operated by BRANZ.
- 1.2 You must obtain our written confirmation of all variations to these Terms.
- 1.3 We may amend these Terms by notice in writing to you or without notice by updating the Terms available on the Website. The subsequent placing of an order by you is acceptance of the updated Terms.
- 1.4 Defined terms: Where a defined term is used in these Terms, but that term is not defined in the Terms, then such term will have the meaning given to it in the Terms of Use.
- 1.5 In these Terms:
 - "Business Day"** means a day other than a Saturday, Sunday or public holiday in Wellington, New Zealand.
 - "Customer"** or **"you"** or **"your"** refers to each person, firm, company or other entity that orders and/or purchases Products from BRANZ.
 - "Products"** means all goods and services relating to building and construction being offered through this Website, including electronic and/or hardcopy information and resources ranging from books, research reports, technical papers, bulletins, webinars and other information.
 - "We"**, **"us"** and **"our"** refers to BRANZ.

2 Customer Orders

- 2.1 **You may order Products from us by completing the online order form specifying:**
 - (a) your details (including name, email address, billing address, delivery address, credit card details (if required) and any other information requested); and
 - (b) the nature and quantity of the Products required.

- 2.2 The placement of an order is acceptance of these Terms by you.
- 2.3 On our receipt of your order for the Products, you will receive an automated response confirming your details and the Products ordered (**Automated Response**).
- 2.4 Your order will not be binding on us unless and until we either:
- (a) issue a dispatch notice to you where the Products ordered are not of an electronic nature; or
 - (b) where the Products are of an electronic nature, you download the Products.

Each binding order of Products is a separate contract for the supply of the particular Products on these Terms.

- 2.5 We provide no warranty as to the availability of the Products advertised though the Website. We may decline to accept an order, or part of an order, placed by you without giving reasons. We are not liable to you or any third party for declining any order. If you disagree with any of the information contained in the Automated Response, you should notify us within 12 hours of receipt of the Automated Response.
- 2.6 Unless you notify us of a disagreement with an Automated Response in accordance with clause 2.5, the Automated Response is deemed to be correct.
- 2.7 We are not required to accept "change of mind" returns, but if you change your mind in respect of the purchase of the Products after placing the order through the Website, you should contact us to advise that you no longer require the Products. We will then, at our sole discretion, consider whether to substitute the Products ordered for other Products of the same or lesser value, or provide a refund, at which time, we will notify you and if the Products have been dispatched, require the Products to be returned in the same condition as when the Products were dispatched. Returns must be made by you within 5 Business Days of the Products being delivered to your Delivery Address. You are responsible for any delivery and packaging charges on returned Products and these are non-refundable.

3 Price and Tax

- 3.1 Where applicable, the price of Products will be the price specified on the Website (**Price**), subject to any error or any necessary variation to cover any additional fees, duties or charges (including, without limitation any change in exchange rates, imposition of surcharges, currency regulations, alteration in duties) affecting the cost of supply, production and/or delivery of the Products due to circumstances beyond the control of BRANZ.
- 3.2 We may increase or decrease the Price of the Products at any time, without prior notice.
- 3.3 Unless expressly stated otherwise the Price of the Products is exclusive of:
- (a) delivery and packaging charges, and;
 - (b) taxes, levies and duties in connection with the supply of the Products to you, which will all be payable by you.

4 Payment

- 4.1 We will only accept debit and credit card (**Payment Card**) payment for orders placed through the Website that require payment. You will be liable for all orders placed using your Payment Card details, and you agree to indemnify us against any losses, claims or damages arising from the use or misuse of your Payment Card details by you or any other person.
- 4.2 You must make payment to us by Payment Card at the time of purchasing the Products through the Website.

5 Delivery, Risk and Ownership

- 5.1 Delivery of, or access to, the Products will be made at the delivery address or email address (the **Delivery Address**) indicated in your order and the Automated Response.
- 5.2 Where Products are supplied electronically to you, these Products cannot be on-sold or traded by you and are for single use by you only. You may request our consent to share any Product, which we may provide to at our sole and absolute discretion.
- 5.3 If your Delivery Address is:
 - (a) in New Zealand, we will endeavour to have the ordered Products dispatched and delivered to you within 5 Business Days of you placing the order through the Website; or
 - (b) outside New Zealand, we will endeavour to have the ordered Products dispatched and delivered to you within 15 Business Days of you placing the order through the Website.
- 5.4 Any date or time given for delivery is an estimate only and is not a condition of sale or deemed to be of essence. If delivery of the Products is delayed for any reason, we will not be responsible or liable in any way to you or to any other party for loss suffered due to that delay. Please refer to our Limitation of Liability at clause 8.
- 5.5 If you fail or refuse, or indicate to us that you will fail or refuse, to take or accept delivery, then the Products will be deemed to have been delivered when we were willing to deliver them.
- 5.6 We may deliver the Products by instalments and cancel delivery of the Products or any instalments of the Products without prejudice to our rights to recover all money owed to us by you for deliveries already made. If delivery is made by instalments, you will not be entitled to any claim, loss or damage arising from a failure by Us to deliver any instalments on or before the quoted delivery date.
- 5.7 Risk of any loss, damage or deterioration of or to the Products will be borne by you from the date the Products are:
 - (a) dispatched by us to the Delivery Address; or
 - (b) downloaded by you.

- 5.8 Ownership of the Products will remain with us until you have paid for the Products in full, without set-off, deduction or deferment because of any disputes or counterclaims or otherwise. Any intellectual property rights in the Products remains with Us.

6 Damaged or Faulty Products

- 6.1 Subject to clause 5.7 and our obligations under the Consumer Guarantees Act 1993 (**CGA**), if on delivery to the Delivery Address the Products are damaged or faulty, you must advise us in writing and return the damaged or faulty Products to us within five days of those Products being delivered to the Delivery Address. We will, at our sole discretion, consider whether to replace the damaged or faulty Products or provide you with a refund.
- 6.2 If the Products do not arrive at the Delivery Address within a reasonable time following you placing your order and receiving an Automated Response, you must notify us in writing. We may, at our sole discretion, replace the Products free of charge.

7 Force Majeure

- 7.1 We will not be responsible or liable for failure or delay in the performance of our obligations (including, but not limited to delivery of the Products) where failure or delay is occasioned by strike, lockout, shortage of labour, lack of skilled labour, delays in transit, failure or delay by you in performing any of your obligations under these Terms, failure or delays by suppliers, fire, acts of God, natural disaster, riot, terrorism, malicious damage, hostilities, commotions, pandemics, epidemics, national or local government lockdowns, interventions or other directives, or any other causes beyond our reasonable control.
- 7.2 Where the circumstances in clause 7.1 apply, and we cannot deliver the Products, we will refund you for your purchase of any Products (except in the case where we are delayed in the performance of our obligations for a reasonable period).

8 Limitation of Liability

8.1 You will indemnify us against:

- (a) all claims made by third parties against us from any non-permitted use of any Products by you or other breach of the Terms of Sale, or Terms of Use;
- (b) all costs, losses, damages and expenses which we may incur arising out of or in connection with a failure by you to perform your obligations under these Terms.

8.2 Notwithstanding anything in these Terms to the contrary we do not accept any responsibility or liability to any party for any loss arising directly or indirectly from, or connected with the supply or non-supply of the Products or otherwise in connection with these Terms. That loss includes any direct, indirect, incidental, or consequential loss suffered including any loss of profit, income or any intangible losses or any claims, costs, expenses (including legal expenses and related costs) or damage, whether in contract, tort (including negligence), equity, statutory liability (to the extent allowed to be excluded) or otherwise.

8.3 We are also not liable for:

- (a) any statement or recommendation made, or advice, supervision or assistance given by us, our directors, officers, employees, agents, and contractors whether oral or written;
- (b) any loss or damage to the Products or of any liability which arises during the delivery of the Products;
- (c) any delay in delivering the Products;
- (d) any loss or damage relating to the fitness or suitability of the Products for your purpose (including any third party purpose).

8.4 Individual Products may have additional limitations of liability and disclaimers. You should ensure you read these carefully, as they also apply to you.

8.5 Our maximum aggregate liability to you arising out of all claims for loss or damage under these Terms will not exceed the total Price paid by you for Products under the relevant Automated Response.

9 Consumer Guarantees Act 1993

9.1 Where the Products are being acquired by you for business purposes, the Consumer Guarantees Act 1993 will not apply.

10 General

- 10.1 You may not assign or transfer all or any of your rights or obligations under these Terms without our prior written consent which we may give or not give at our discretion.
- 10.2 If any provision of these Terms is judged invalid or unenforceable in a jurisdiction it is severed for that jurisdiction and the remaining provisions of these Terms will continue to operate.
- 10.3 These Terms are governed by and will be construed in accordance with New Zealand law. You submit to the exclusive jurisdiction of the courts of New Zealand.