

PLAN LICENCE AGREEMENT

Plans on Demand Pty Ltd

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Version 1.0

IMPORTANT NOTICE

THIS IS A LEGALLY BINDING AGREEMENT.

Please read this Plan Licence Agreement carefully before purchasing or downloading any Product from the Plans on Demand Platform.

By selecting "I Accept", completing a purchase, or otherwise obtaining access to a Product through the Platform, the Buyer acknowledges that they have read, understood and agree to be legally bound by this Agreement.

If the Buyer does not agree with this Agreement, the Buyer must not purchase, download, access or use any Product.

This Agreement is intended to operate together with applicable Australian law, including the Competition and Consumer Act 2010 (Cth), the Australian Consumer Law, the Copyright Act 1968 (Cth) and applicable electronic transactions legislation.

Nothing in this Agreement excludes, restricts or modifies any consumer guarantee, statutory right or other protection that cannot lawfully be excluded.

PLANS ON DEMAND

PLAN LICENCE AGREEMENT

Between

Plans on Demand Pty Ltd

ACN 699 383 901

("POD")

and

the person, company or other legal entity identified during checkout as the purchaser of the Product

("Buyer")

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PART 1

PRELIMINARY

1. Parties

1.1 Plans on Demand

Plans on Demand Pty Ltd (ACN 699 383 901) ("**POD**") owns and operates the Plans on Demand online platform through which architectural plans and associated digital products are marketed, distributed and licensed.

POD acts as the operator of the Platform and, for the purposes of the transaction between POD and the Buyer, is the contracting party responsible for supplying the Product to the Buyer.

Unless expressly stated otherwise in this Agreement, POD supplies Products pursuant to a distribution licence granted by the relevant Designer and does not acquire ownership of the underlying intellectual property comprised in those Products.

1.2 Buyer

The Buyer is the individual or legal entity identified during the electronic checkout process whose details are recorded in POD's transaction records.

The Buyer may purchase a Product either:

- a. using a registered Platform account;
- b. as a guest purchaser; or
- c. through another purchasing method made available by POD.

Regardless of the purchasing method used, acceptance of this Agreement creates a legally binding contract between POD and the Buyer.

1.3 Designer

Although the Designer is not a contracting party to this Agreement, the Buyer acknowledges that:

- a. each Product has been authored by an independent Designer;
- b. copyright remains vested in that Designer;
- c. POD has authority to grant the licence contained in this Agreement pursuant to a separate Designer Agreement;
- d. nothing contained in this Agreement transfers ownership of copyright from the Designer to POD or the Buyer.

The Buyer acknowledges that certain provisions of this Agreement are intended to benefit the Designer and may be enforceable by the Designer where expressly stated.

2. Recitals

- A. POD operates an electronic marketplace through which architectural plans and related digital design products are licensed for residential construction within Australia.
- B. Each Product available through the Platform has been created by an independent Designer who retains ownership of all intellectual property rights in that Product.
- C. POD has been authorised by the Designer to market, distribute and license the Product to Buyers in accordance with the terms of this Agreement.
- D. The Buyer wishes to obtain a licence to use a particular Product solely for the purpose of constructing one residential dwelling at one nominated property address.
- E. The parties acknowledge that the transaction is the grant of a limited licence only and does not constitute:
 - a. a sale of copyright;
 - b. an assignment of intellectual property;
 - c. the provision of architectural services;
 - d. engineering services;
 - e. building surveying services;
 - f. certification services; or
 - g. site-specific professional advice.
- F. The parties intend that this Agreement clearly defines:
 - a. the scope of the licence granted;
 - b. the permitted use of the Product;
 - c. the restrictions applying to the Product;
 - d. the continuing ownership of copyright by the Designer;
 - e. the respective rights and obligations of POD and the Buyer; and
 - f. the operation of the Australian Consumer Law in relation to the supply of digital Products.

3. Definitions

3.1 In this Agreement, unless the context otherwise requires:

ACL means Schedule 2 to the *Competition and Consumer Act 2010 (Cth)*, known as the Australian Consumer Law.

Adaptation means any amendment, alteration, modification, revision, redrawing, engineering, documentation or other change made to a Product for the purpose of making it suitable for a particular Site, complying with applicable laws, satisfying a regulatory authority, or incorporating site-specific requirements.

Adaptation Agreement means any agreement entered into directly between the Buyer and a Designer or other suitably qualified practitioner for the provision of Adaptation services, to which POD is not a party.

Applicable Law means any statute, regulation, ordinance, code, standard, guideline, determination, planning instrument, building requirement, court order or other legally enforceable requirement applicable in Australia, including all State and Territory legislation.

Approved Consultant means a suitably qualified professional engaged in connection with the Project, including without limitation a structural engineer, geotechnical engineer, land surveyor, civil engineer, building surveyor, energy assessor, NatHERS assessor, bushfire consultant or town planning consultant.

Authorised Purpose means a use expressly permitted under this Agreement.

Business Day means a day other than a Saturday, Sunday or public holiday in Victoria.

Buyer means the individual or legal entity identified during checkout as purchasing the Product and includes any authorised representative acting on that Buyer's behalf.

CAD Files means editable electronic design files including DWG, DXF, RVT, ARCHICAD, BIM, Revit or any other native source files capable of modification.

Chargeback means any reversal, cancellation, disputed transaction or recovery of payment initiated through a financial institution or payment provider.

Confidential Information means any information disclosed by POD or the Designer which is confidential by its nature or designated as confidential, including commercial information, pricing, business methods, source files and proprietary processes.

Construction means the physical construction of the Licensed Dwelling at the Licensed Address.

Consumer has the meaning given by the ACL.

Consumer Guarantee means any guarantee applying under the ACL.

Copyright means all rights comprised in copyright under the *Copyright Act 1968 (Cth)*.

Designer means the independent architect, building designer or other author identified by POD as the creator of the Product.

Designer Agreement means the agreement between POD and the Designer authorising POD to distribute and license the Product.

Designer Intellectual Property means all Intellectual Property Rights owned by or licensed to the Designer relating to the Product.

Digital Product means any electronically supplied architectural drawing, plan set, PDF, render, image or associated document supplied through the Platform.

Documentation means all documents forming part of the Product.

Dwelling means a single residential dwelling, townhouse, second small dwelling or other residential building identified in the Product.

Electronic Acceptance means acceptance of this Agreement by electronic means, including click-wrap acceptance, digital acknowledgement, electronic signature or other electronic method approved by POD.

Force Majeure Event means an event beyond the reasonable control of a party including natural disaster, pandemic, cyber incident, industrial action, governmental action or interruption of utilities.

GST has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

GST Law means the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

Improvement means any enhancement, update, correction or revision made to a Product by the Designer.

Insolvency Event includes liquidation, administration, receivership, bankruptcy, insolvency, assignment for creditors or any analogous event.

Intellectual Property Rights includes all present and future copyright, moral rights, patents, designs, trademarks, trade secrets, confidential information, know-how and other intellectual property recognised anywhere in the world.

Licence means the limited licence granted under this Agreement.

Licence Fee means the purchase price paid by the Buyer for the Product.

Licensed Address means the single property address nominated during checkout and recorded in POD's transaction records, to which the Licence exclusively relates.

Licensed Dwelling means the single residential dwelling authorised to be constructed under this Agreement.

Loss includes any liability, claim, action, damage, cost, expense, penalty or loss (including legal costs on a full indemnity basis).

Major Failure has the meaning given by the ACL.

Minor Failure has the meaning given by the ACL.

Modification means any alteration, amendment, adaptation, revision, addition or deletion made to the Product after delivery.

Moral Rights has the meaning given under Part IX of the *Copyright Act 1968 (Cth)*.

National Construction Code (NCC) means the National Construction Code as amended from time to time.

Party means POD or the Buyer, and **Parties** means both of them.

PDF means a flattened, non-editable Portable Document Format file.

Permitted User means a person authorised under this Agreement to receive or view the Product solely for an Authorised Purpose.

Personal Information has the meaning given in the *Privacy Act 1988 (Cth)*.

Platform means the Plans on Demand website, software, applications and associated online systems operated by POD.

Planning Approval includes any planning permit, development approval or other planning consent required under Applicable Law.

Product means the Digital Product purchased by the Buyer from the Platform, including all associated drawings, plans, images and documentation supplied by POD.

Product Tier means the level of Product purchased by the Buyer, including Conceptual Pack, Permit-Ready Drawings or Full Construction Set.

Professional Responsibility means legal and professional responsibility arising under Applicable Law for the preparation, certification or adaptation of architectural documentation.

Project means the proposed construction of the Licensed Dwelling at the Licensed Address.

Property means the land comprising the Licensed Address.

Purchase Confirmation means POD's electronic confirmation of the completed purchase.

Purchase Price means the amount paid by the Buyer for the Product, inclusive of GST unless otherwise stated.

POD means Plans on Demand Pty Ltd ACN 699 383 901.

Registered Practitioner means a person registered, licensed or otherwise authorised under Applicable Law to provide architectural, design, engineering or other professional services relevant to the Project.

Site means the land at the Licensed Address.

Site Adaptation means the process of modifying the Product so that it is suitable for the Site and complies with Applicable Law.

Site Conditions includes soil conditions, topography, slope, easements, services, flooding, bushfire attack level, wind classification, overlays, covenants and all other physical or legal characteristics affecting the Site.

Single Build means one and only one physical construction of the Licensed Dwelling at the Licensed Address.

Tax Invoice has the meaning given by the GST Law.

Term means the period during which this Agreement remains in force.

Third Party means any person other than POD, the Buyer or the Designer.

Watermark means any digital or physical identifier, copyright notice, logo, address stamp, title block marking, security feature or other identifying information embedded in the Product.

Website Terms means the separate Plans on Demand Website Terms of Service applicable to use of the Platform generally.

Works means all drawings, designs, plans, images, specifications, renderings, schedules and other materials comprising the Product.

4. Interpretation

4.1 Purpose of this Agreement

This Agreement governs the purchase and licensing of Products supplied through the Platform and establishes the contractual rights and obligations of POD and the Buyer.

The Parties acknowledge that:

- a. the Buyer purchases a contractual licence to use the Product, and does not acquire ownership of the Product or the Intellectual Property Rights subsisting in it;
- b. the Designer remains the owner of all Copyright and other Intellectual Property Rights in the Product at all times;
- c. POD acts as the operator of the Platform and the contracting supplier of the Product to the Buyer pursuant to the Designer Agreement;
- d. this Agreement is intended to protect the Intellectual Property Rights of the Designer while facilitating lawful use of the Product by the Buyer for the Authorised Purpose; and
- e. this Agreement is to be interpreted consistently with the Australian Consumer Law and any other Applicable Law that cannot lawfully be excluded or modified.

4.2 General Rules of Interpretation

Unless the context otherwise requires:

- a. headings, tables of contents and clause summaries are inserted for convenience only and do not affect interpretation;
- b. words importing the singular include the plural and vice versa;
- c. words importing one gender include every gender;
- d. a reference to a person includes:
 - i. an individual;
 - ii. a corporation;
 - iii. a partnership;
 - iv. a trust;
 - v. an incorporated or unincorporated association;
 - vi. a government authority; and
 - vii. any other legal or recognised entity;
- e. a reference to legislation includes:
 - i. subordinate legislation;
 - ii. regulations;
 - iii. statutory instruments;
 - iv. amendments;
 - v. consolidations;
 - vi. re-enactments; and
 - vii. legislation replacing that legislation;
- f. references to clauses are references to this Agreement unless otherwise stated;
- g. an obligation imposed on two or more persons binds them jointly and severally;

- h. a right granted to two or more persons is held jointly unless this Agreement expressly provides otherwise;
- i. references to "\$" and "dollars" are references to Australian currency;
- j. references to time are references to Melbourne, Victoria, Australia unless otherwise specified;
- k. references to writing include electronic communications capable of being retained for subsequent reference;
- l. references to "including", "includes", "for example" or similar expressions are to be construed without limitation.

4.3 Electronic Contracting

The Parties acknowledge that:

- a. this Agreement is intended to constitute an electronic contract;
- b. acceptance may occur electronically by any method approved by POD;
- c. no handwritten signature is required for this Agreement to become legally binding;
- d. electronic acceptance satisfies any requirement for a signature to the fullest extent permitted by Applicable Law;
- e. POD may rely upon electronic records maintained by its systems as evidence of acceptance.

Without limitation, acceptance may occur by:

- i. selecting an "Accept" or similar button;
- ii. completing the checkout process;
- iii. making payment;
- iv. downloading a Product;
- v. accessing a Product after purchase; or
- vi. any other electronic conduct clearly indicating acceptance.

4.4 Order of Precedence

If there is any inconsistency between documents relating to a Product, the following order of precedence applies:

- a. this Agreement;
- b. any special terms expressly incorporated into the Purchase Confirmation;
- c. the applicable Product description appearing on the Platform at the time of purchase;
- d. the Website Terms;
- e. any promotional material, Frequently Asked Questions or other informational content published on the Platform.

For the avoidance of doubt, marketing material, blog articles, advertising copy, demonstrations and illustrative examples do not vary or override this Agreement unless expressly incorporated in writing.

4.5 No Rule Against the Drafter

The Parties agree that no rule of construction applies to the disadvantage of a party merely because that party prepared or proposed this Agreement or any part of it.

4.6 Consistency with Australian Consumer Law

This Agreement is intended to operate consistently with the Australian Consumer Law.

Accordingly:

- a. any provision that would otherwise exclude, restrict or modify a Consumer Guarantee shall be read down to the extent necessary to comply with Applicable Law;
- b. where a provision cannot be read down, it shall be severed only to the extent of the inconsistency;
- c. the remaining provisions continue in full force and effect.

Nothing in this Agreement limits or excludes any statutory right which cannot lawfully be limited or excluded.

4.7 Relationship of the Parties

Nothing in this Agreement:

- a. creates a partnership;
- b. creates a joint venture;
- c. establishes an employment relationship;
- d. creates a fiduciary relationship;
- e. appoints either Party as agent for the other,

except to the limited extent expressly provided by this Agreement.

The Buyer acknowledges that POD acts solely as the contracting supplier of the Product under the licence granted pursuant to the Designer Agreement and does not become the author or owner of the Designer's Intellectual Property by reason only of supplying the Product.

4.8 References to the Designer

Where this Agreement confers a right, benefit or protection upon the Designer:

- a. that provision is intended to benefit the Designer directly;
- b. POD may enforce that provision on behalf of the Designer;
- c. where expressly stated elsewhere in this Agreement, the Designer may also enforce that provision directly in respect of its Intellectual Property Rights or other protected interests.

Nothing in this clause makes the Designer liable for POD's contractual obligations to the Buyer except to the extent expressly assumed by the Designer under Applicable Law.

4.9 Good Faith and Commercial Purpose

The Parties acknowledge that this Agreement is intended to facilitate:

- a. the lawful licensing of professionally prepared residential building designs;
- b. the protection of the Designer's Intellectual Property Rights;
- c. the efficient electronic distribution of Digital Products through the Platform; and
- d. compliance with Applicable Law, including consumer protection legislation.

The Parties must exercise any contractual discretion under this Agreement honestly, in good faith and consistently with its commercial purpose, except where this Agreement expressly grants POD an absolute or sole discretion.

4.10 Third Party Rights

Except where this Agreement expressly provides otherwise:

- a. a person who is not a Party has no right to enforce any provision of this Agreement;
- b. this Agreement does not confer contractual rights on any third party.

However, clauses expressly preserving or protecting the Designer's Intellectual Property Rights, Moral Rights, confidentiality, licence restrictions or enforcement rights are intended to benefit the relevant Designer and may be enforced by that Designer where this Agreement expressly provides. This reflects the commercial structure under which POD is the contracting supplier while the Designer retains ownership of the underlying copyright.

5. Licence Structure

5.1 Nature of this Agreement

This Agreement governs the grant of a limited contractual licence by POD to the Buyer to use the Product strictly in accordance with its terms.

The Parties acknowledge and agree that:

- a. this Agreement is a licence only;
- b. it does not constitute a sale or assignment of Copyright or any other Intellectual Property Rights;
- c. the Buyer acquires only the rights expressly granted by this Agreement;
- d. all rights not expressly granted are reserved by the Designer and, where applicable, POD;
- e. the Buyer obtains no proprietary interest in the Product beyond the contractual rights granted under this Agreement.

5.2 Commercial Structure

The Parties acknowledge that the Plans on Demand Platform operates as an electronic distribution platform for professionally prepared residential building designs.

Accordingly:

- a. POD operates the Platform and is the contracting supplier of the Product to the Buyer;
- b. the Product has been created by an independent Designer;
- c. the Designer retains ownership of all Copyright and other Intellectual Property Rights in the Product;
- d. POD distributes and licenses the Product pursuant to authority granted by the Designer under a separate Designer Agreement;

- e. nothing in this Agreement transfers ownership of the Designer's Intellectual Property Rights to POD or to the Buyer.

This commercial structure is intended to ensure that POD is the Buyer's contractual counterparty while preserving the Designer's ownership of the underlying intellectual property.

5.3 One Product — One Licence

Unless POD expressly agrees otherwise in writing, each purchase creates one Licence only.

Each Licence:

- a. relates to one Product;
- b. authorises one Project;
- c. authorises construction of one Licensed Dwelling;
- d. applies to one Licensed Address only;
- e. may be exercised once only.

No purchase authorises multiple builds or multiple sites unless expressly stated by POD in writing.

5.4 Single-Build Licence

Subject to compliance with this Agreement, POD grants the Buyer a:

- a. non-exclusive;
- b. non-transferable;
- c. non-assignable;
- d. non-sublicensable (except as expressly permitted);
- e. revocable in the circumstances set out in this Agreement;
- f. perpetual (for the authorised build only),

licence to use the Product solely for constructing one Licensed Dwelling at the Licensed Address.

For the avoidance of doubt:

- a. the Licence is perpetual only in relation to the authorised Single Build;
- b. completion of that Single Build exhausts the Buyer's construction rights under this Agreement;
- c. no right exists to repeat, duplicate or reconstruct the design at any other location without obtaining a further licence.

5.5 Residential Use Only

The Licence is granted solely for residential construction.

Without limitation, the Product may be used only for the following classes of residential development offered by POD:

- a. Single Storey Dwelling;

- b. Double Storey Dwelling;
- c. Townhouse;
- d. Second Small Dwelling;
- e. any other residential category expressly identified by POD at the time of purchase.

The Product must not be used for commercial, industrial, institutional or mixed-use developments unless POD expressly authorises such use in writing.

5.6 Licensed Address

The Buyer must nominate the Licensed Address during the checkout process.

The Licensed Address forms a fundamental term of this Agreement.

The nominated address:

- a. is incorporated into this Agreement;
- b. forms part of the Purchase Confirmation;
- c. may be embedded into the Product by digital watermark, title block or address stamp;
- d. identifies the only location at which the Product may be used.

The Buyer warrants that the nominated Licensed Address is accurate at the time of purchase.

5.7 Permanently Linked to the Licensed Address

The Licence remains permanently associated with the Licensed Address nominated during purchase.

Except where POD expressly agrees otherwise in writing:

- a. the Buyer cannot substitute another property;
- b. the Buyer cannot transfer the Licence to another address;
- c. the Buyer cannot relocate the Project to another site.

Any use of the Product at a different property constitutes a material breach of this Agreement.

5.8 Sale or Transfer of Land

The Licence is personal to the Buyer and the Licensed Address.

If ownership of the Property changes before or after Construction:

- a. the Licence does not automatically transfer to the purchaser;
- b. the new owner acquires no rights under this Agreement merely by acquiring the Property;
- c. the new owner must obtain a new licence from POD unless otherwise approved in writing.

Nothing in this clause prevents disclosure of the Product during the ordinary sale of the Property as permitted under clause 11 (Permitted Uses).

5.9 Product Tiers

POD may make available different Product Tiers.

The Product Tier purchased by the Buyer is identified in the Purchase Confirmation.

Available Product Tiers may include:

- a. Conceptual Pack;
- b. Permit-Ready Drawings;
- c. Full Construction Set;
- d. any additional tier introduced by POD from time to time.

Each Product Tier grants only those rights expressly associated with that tier.

Purchasing a lower tier does not entitle the Buyer to receive documents included within a higher tier.

5.10 Digital Supply Only

Unless otherwise stated:

- a. Products are supplied electronically only;
- b. no printed plans are included;
- c. Products are supplied as watermarked, flattened PDF documents;
- d. editable CAD Files are not included.

5.11 No Ownership of Intellectual Property

The Buyer acknowledges that payment of the Purchase Price:

- a. purchases only a contractual licence;
- b. does not transfer Copyright;
- c. does not transfer Moral Rights;
- d. does not transfer any Intellectual Property Rights;
- e. does not entitle the Buyer to reproduce or commercially exploit the Product except as expressly authorised by this Agreement.

All Intellectual Property Rights remain vested in the Designer unless expressly stated otherwise.

5.12 Reservation of Rights

POD and the Designer reserve all rights not expressly granted under this Agreement.

Without limitation, neither POD nor the Designer waives any right arising under:

- a. the *Copyright Act 1968 (Cth)*;
- b. the Australian Consumer Law;
- c. any other Applicable Law;
- d. equity;
- e. common law.

No implied licence arises merely because a Product has been purchased or downloaded.

5.13 Independent Professional Services

The Buyer acknowledges that this Agreement relates solely to the licensing of a Product.

Unless expressly stated otherwise:

- a. POD does not provide architectural services;
- b. POD does not provide engineering services;
- c. POD does not provide building surveying services;
- d. POD does not provide planning advice;
- e. POD does not provide certification services;
- f. POD does not provide site-specific professional advice.

Where professional services are required, they are to be obtained separately from appropriately qualified practitioners.

5.14 Relationship with Website Terms

This Agreement governs the Buyer's purchase and use of the Product.

The Website Terms govern access to and use of the Platform generally.

If the Buyer accesses the Platform without purchasing a Product, the Website Terms alone apply.

Upon purchase of a Product:

- a. the Website Terms continue to apply to the Buyer's use of the Platform; and
- b. this Agreement additionally governs the Product and the Licence granted to the Buyer.

To the extent of any inconsistency relating specifically to the Licence or the Product, this Agreement prevails over the Website Terms.

5.15 Fundamental Conditions of the Licence

The Parties acknowledge that the following are fundamental conditions upon which the Licence is granted:

- a. the Licence is limited to a Single Build;
- b. the Licence is limited to the Licensed Address;
- c. the Product may be used only for the Authorised Purposes set out in this Agreement;
- d. the Designer retains ownership of all Intellectual Property Rights;
- e. the Buyer must comply with all licence restrictions contained in this Agreement;
- f. the Product must not be used beyond the scope expressly authorised by this Agreement.

Any substantial departure from these conditions constitutes a material breach entitling POD, and where expressly provided the Designer, to exercise the remedies available under this Agreement and Applicable Law.

PART 2

PURCHASE OF PRODUCTS

6. Formation of Agreement

6.1 Offer and Acceptance

- a. The Platform constitutes an invitation to treat only and does not constitute an offer capable of acceptance.
- b. By selecting a Product, completing the checkout process, accepting this Agreement and submitting payment details, the Buyer makes an irrevocable offer to purchase a licence to the selected Product on the terms of this Agreement.
- c. POD may accept or reject any order in its absolute discretion before acceptance.
- d. A legally binding agreement is formed only when POD accepts the Buyer's offer in accordance with clause 6.2.

6.2 Acceptance by POD

POD accepts the Buyer's offer when the first of the following occurs:

- a. POD issues a Purchase Confirmation;
- b. POD authorises the download of the Product;
- c. POD makes the Product available through the Buyer's account;
- d. POD transmits the Product by email;
- e. POD otherwise communicates acceptance to the Buyer.

Until acceptance occurs, POD is under no obligation to supply the Product.

6.3 Conditions Precedent

The formation of this Agreement is conditional upon:

- a. successful completion of payment;
- b. acceptance of this Agreement by Electronic Acceptance;
- c. nomination of the Licensed Address;
- d. the Buyer's acknowledgment that the Product is licensed and not sold;
- e. the Buyer's confirmation that the Licensed Address is intended for one residential construction project.

Failure to satisfy any condition precedent entitles POD to refuse the transaction without liability.

6.4 Electronic Acceptance

The Buyer acknowledges that by:

- a. clicking "I Agree";
- b. clicking "Purchase";
- c. clicking "Complete Order";
- d. downloading the Product;
- e. accessing the Product after purchase; or
- f. otherwise electronically indicating acceptance,

the Buyer enters into a legally binding agreement with POD.

Electronic acceptance is intended to satisfy all statutory requirements relating to electronic contracting under the *Electronic Transactions Act 1999 (Cth)* and corresponding State and Territory legislation.

6.5 Transaction Records

POD may maintain electronic records including:

- a. the version of this Agreement accepted;
- b. the date and time of acceptance;
- c. the Buyer's identity;
- d. the Licensed Address;
- e. the Product purchased;
- f. the Product Tier;
- g. payment details (excluding full payment card details);
- h. IP address;
- i. browser and device metadata;
- j. download records.

Unless manifest error is established, POD's electronic records constitute prima facie evidence of the transaction and the terms accepted by the Buyer.

6.6 Version Control

The version of this Agreement accepted by the Buyer at the time of purchase governs that transaction.

Subsequent amendments to this Agreement do not retrospectively alter licences already granted unless:

- a. the Buyer expressly agrees;
- b. the amendment is required by Applicable Law; or
- c. the amendment benefits the Buyer without materially prejudicing the Buyer's existing rights.

The version number and effective date accepted by the Buyer shall be recorded by POD and may be referenced in the Purchase Confirmation.

6.7 Purchases by Guests

A Buyer is not required to establish a Platform account in order to purchase a Product.

Guest purchasers are bound by this Agreement in the same manner as registered users.

POD may create internal transaction records for guest purchases to facilitate licence administration, support services and compliance with this Agreement.

7. Licensed Address

7.1 Nomination of Licensed Address

Before completing the purchase, the Buyer must nominate the Site at which the Licensed Dwelling is intended to be constructed.

The nominated Site becomes the Licensed Address.

The Licensed Address forms an essential term of this Agreement.

7.2 Address Forms Part of the Licence

The Buyer acknowledges that the Licensed Address:

- a. identifies the scope of the Licence;
- b. forms part of the contractual description of the Product supplied;
- c. will be recorded by POD;
- d. may be disclosed to the Designer;
- e. may be incorporated into the delivered Product.

7.3 Address Stamping

POD may:

- a. incorporate the Licensed Address into the title block;
- b. digitally watermark the Product;
- c. embed the Licensed Address into metadata;
- d. use other technological methods to permanently associate the Product with the Licensed Address.

The Buyer acknowledges that these measures are implemented to protect the Designer's Intellectual Property Rights and to assist in identifying unauthorised reuse.

7.4 Accuracy of Address

The Buyer warrants that:

- a. the Licensed Address accurately identifies the intended construction site;
- b. the Buyer is authorised to nominate that address;
- c. the Buyer has no present intention of constructing the Product elsewhere.

7.5 Change of Address Before Construction

The Licence is granted solely for the Licensed Address.

Any request to substitute another property must be submitted to POD before any use of the Product occurs.

POD may approve or refuse such a request in its absolute discretion, taking into account:

- a. whether any use of the Product has already occurred;
- b. whether any regulatory authority has received the Product;
- c. whether the Designer consents, where appropriate;
- d. any administrative costs.

Approval, if granted, must be in writing.

8. Product Tiers

8.1 Available Product Tiers

POD may offer one or more Product Tiers including:

- a. Conceptual Pack;
- b. Permit-Ready Drawings;
- c. Full Construction Set;
- d. any future Product Tier introduced by POD.

The Product Tier purchased by the Buyer is identified in the Purchase Confirmation.

8.2 Scope of Product

Each Product Tier includes only those documents expressly described on the Platform at the time of purchase.

Unless expressly stated, Products comprise architectural drawings only and do not include structural engineering, soil testing, geotechnical reports, land surveys, energy ratings, NatHERS assessments, bushfire assessments or certification.

8.3 No Upgrade by Implication

Purchase of one Product Tier does not entitle the Buyer to receive:

- a. documents from another Product Tier;
- b. editable CAD Files;
- c. design services;
- d. future revisions;
- e. Adaptation services.

8.4 Product Descriptions

Images, renders, floor plans and examples displayed on the Platform are illustrative.

The Product delivered may differ in formatting or presentation while remaining substantially consistent with the Product description.

9. Grant of Licence

9.1 Grant

Subject to this Agreement and payment of the Purchase Price, POD grants the Buyer a limited licence to use the Product.

The Licence is:

- a. non-exclusive;
- b. non-transferable;
- c. non-assignable;
- d. non-sublicensable except where expressly permitted;

- e. perpetual for the authorised Single Build;
- f. revocable upon material breach.

9.2 Permitted Purpose

The Licence authorises the Buyer to use the Product solely for:

- a. obtaining planning approval;
- b. obtaining building approval;
- c. engaging Approved Consultants;
- d. obtaining builder quotations;
- e. constructing one Licensed Dwelling;
- f. marketing the Property or the completed dwelling;
- g. disclosure to councils, building surveyors, consultants, builders, lenders and valuers for the purposes of the authorised Project.

9.3 Licence Duration

The Licence continues indefinitely for the authorised Single Build unless terminated earlier in accordance with this Agreement.

Completion of the authorised construction does not extinguish the Buyer's right to retain the Product for lawful record-keeping purposes but does not authorise any further construction.

9.4 Reservation of Rights

All rights not expressly granted remain reserved to the Designer and POD.

10. Licence Restrictions

10.1 General Restriction

The Buyer must not use the Product except as expressly authorised by this Agreement.

10.2 Multiple Construction Prohibited

The Buyer must not:

- a. construct more than one dwelling using the Product;
- b. construct the Product at another Site;
- c. repeat the design after completion of the authorised Project.

10.3 No Transfer

The Buyer must not:

- a. sell;
- b. assign;
- c. gift;

- d. transfer;
- e. sublicense;
- f. mortgage; or
- g. otherwise dispose of the Licence or the Product,

except where expressly permitted by this Agreement.

10.4 Protection of Security Features

The Buyer must not remove, obscure or alter:

- a. watermarks;
- b. copyright notices;
- c. title blocks;
- d. POD branding;
- e. Licensed Address stamps;
- f. metadata; or
- g. any other identifying information embedded in the Product.

10.5 No File Sharing

The Buyer must not upload or distribute the Product through:

- a. cloud-sharing platforms;
- b. plan-sharing websites;
- c. public repositories;
- d. peer-to-peer services;
- e. file-sharing services; or
- f. any platform permitting unauthorised access.

10.6 No Derivative Commercial Products

The Buyer must not:

- a. create a competing design for sale;
- b. commercially exploit the Product;
- c. reproduce the Product for multiple clients;
- d. use the Product as the basis of a plan catalogue or library.

10.7 CAD Files

Unless separately agreed in writing directly with the Designer:

- a. the Buyer is not entitled to receive CAD Files;
- b. POD has no obligation to supply editable files;
- c. any request for editable files must be negotiated directly with the Designer;
- d. POD is not a party to that negotiation.

PART 3

PERMITTED USES

11. Permitted Uses

11.1 Scope of Permitted Use

Subject to this Agreement, the Buyer may use the Product only for the Authorised Purposes expressly set out in this Part.

No right arises by implication.

Any use not expressly permitted is prohibited.

The Buyer acknowledges that the Licence granted under this Agreement is intentionally limited and is not intended to confer unrestricted rights to reproduce, distribute or exploit the Product.

11.2 Exclusive Purpose

The Product may only be used in connection with:

- a. the Licensed Dwelling;
- b. the Licensed Address; and
- c. the authorised Single Build.

The Buyer must not use the Product for any unrelated project.

11.3 No Implied Commercial Rights

Nothing in this Agreement authorises the Buyer to:

- a. commercialise the Product;
- b. incorporate the Product into another commercial design;
- c. reproduce the Product for clients;
- d. operate a design business using the Product;
- e. market the Product itself.

12. Planning and Development Approvals

12.1 Planning Applications

The Buyer may provide the Product to:

- a. the relevant responsible authority;

- b. municipal councils;
- c. referral authorities;
- d. planning consultants;
- e. legal advisers;
- f. other government authorities,

for the sole purpose of obtaining Planning Approval.

12.2 Building Permit Applications

The Buyer may submit the Product to:

- a. a Relevant Building Surveyor;
- b. a private building surveyor;
- c. a municipal building surveyor;
- d. a building certifier;
- e. any authority responsible for issuing building approvals,

for the purpose of obtaining approval to construct the Licensed Dwelling.

12.3 Government Requirements

The Buyer may reproduce those portions of the Product reasonably required by a statutory authority during assessment of the Project.

Such reproduction does not authorise any broader copying of the Product.

12.4 Requests for Further Information

Where a regulatory authority requests:

- (a) amendments;
- (b) clarifications;
- (c) additional information;
- (d) revised drawings,

the Buyer may disclose the Product to the relevant Designer or Registered Practitioner for the purpose of responding to that request.

The Buyer acknowledges that responses to Requests for Further Information (RFIs) commonly require involvement of the authoring Designer.

13. Engagement of Consultants

13.1 Approved Consultants

The Buyer may provide the Product to Approved Consultants engaged for the Project.

Without limitation, this includes:

- a. structural engineers;
- b. civil engineers;
- c. geotechnical engineers;
- d. land surveyors;
- e. energy assessors;
- f. NatHERS assessors;
- g. bushfire consultants;
- h. hydraulic consultants;
- i. building surveyors;
- j. town planners; and
- k. any other Registered Practitioner reasonably required for the Project.

13.2 Limited Purpose

Disclosure to an Approved Consultant is permitted only to enable that consultant to perform services relating to the Licensed Dwelling.

The consultant acquires no ownership or licence to use the Product beyond that limited purpose.

13.3 Consultant Obligations

The Buyer must use reasonable endeavours to ensure that each consultant:

- a. keeps the Product confidential;
- b. uses it only for the Project;
- c. does not reproduce it except as reasonably necessary;
- d. does not retain unnecessary copies following completion of their engagement.

14. Builder Quotations

14.1 Obtaining Quotations

The Buyer may disclose the Product to one or more builders for the purpose of obtaining quotations for construction of the Licensed Dwelling.

14.2 Builder Review

Builders may review the Product solely for:

- a. estimating construction costs;
- b. assessing constructability;
- c. preparing quotations;
- d. discussing construction methodology.

No builder acquires any licence to reuse the Product.

14.3 Multiple Builders

The Buyer may provide the Product to multiple prospective builders.

The Buyer is not required to engage the builder who receives the Product.

14.4 Return or Destruction

Following completion of the quotation process, the Buyer should use reasonable endeavours to ensure that builders no longer involved in the Project permanently delete or destroy unnecessary copies of the Product.

15. Construction of the Licensed Dwelling

15.1 Construction Right

Subject to this Agreement, the Buyer may use the Product to construct one Licensed Dwelling at the Licensed Address.

This is the principal benefit conferred by the Licence.

15.2 One Construction Only

Completion of the authorised construction exhausts the Buyer's construction rights.

The Buyer must not use the Product to construct another dwelling, whether:

- a. at the Licensed Address;
- b. at another address;
- c. by another owner.

15.3 Contractors

The Buyer may provide the Product to:

- a. the principal builder;
- b. subcontractors;
- c. trades;
- d. suppliers,

only where reasonably necessary for constructing the Licensed Dwelling.

15.4 Temporary Site Copies

Temporary printed or electronic copies reasonably required during construction are permitted.

Those copies remain subject to this Agreement and must not be used for any other project.

16. Marketing of the Property

16.1 Permitted Marketing

The Buyer may use the Product in connection with marketing:

- a. the Property;
- b. the Licensed Dwelling;
- c. the completed development.

This includes marketing before, during or after construction.

16.2 Real Estate Agents

The Buyer may provide the Product to:

- a. licensed estate agents;
- b. marketing agencies;
- c. photographers;
- d. advertising agencies,

for the sole purpose of marketing the Licensed Property.

16.3 Marketing Material

Reasonable extracts from the Product may be incorporated into:

- a. brochures;
- b. online advertisements;
- c. auction campaigns;
- d. sale particulars;
- e. promotional material,
provided that:
 - i. the Product is used solely in relation to the Licensed Property; and
 - ii. copyright notices and watermarks are not removed unless authorised.

17. Disclosure to Third Parties

17.1 Permitted Recipients

The Buyer may disclose the Product to:

- a. councils;
- b. planning authorities;
- c. building surveyors;
- d. Registered Practitioners;
- e. consultants;
- f. builders;
- g. lenders;
- h. valuers;
- i. insurers;
- j. legal advisers,

where reasonably required for the Project.

17.2 Lenders

The Buyer may provide the Product to:

- a. banks;
- b. mortgagees;
- c. finance brokers;
- d. valuers,

for the purpose of obtaining finance relating to the Licensed Dwelling.

17.3 Insurers

The Buyer may provide the Product to insurers for underwriting or claims relating to the Project.

17.4 Legal Proceedings

The Buyer may disclose the Product where required:

- a. by law;
- b. by court order;
- c. during legal proceedings;
- d. to legal advisers.

17.5 No Broader Distribution

Nothing in this Part authorises:

- a. public distribution;
- b. publication on websites;
- c. upload to file-sharing services;
- d. sale of copies;
- e. commercial redistribution.

17.6 No Transfer of Licence

Disclosure of the Product to an authorised recipient under this Part:

- a. does not transfer the Licence;
- b. does not transfer Copyright;
- c. does not grant any proprietary interest;
- d. does not authorise the recipient to use the Product for any purpose other than the limited purpose for which it was disclosed.

17.7 Continuing Responsibility

The Buyer remains responsible for ensuring that any person receiving the Product through the Buyer complies with the limitations imposed by this Agreement.

The Buyer is liable for any unauthorised use by a recipient where the Buyer knowingly permits or authorises that use.

PART 4

PROHIBITED USES

18. General Licence Restrictions

18.1 Limited Rights Only

The Buyer may exercise only those rights expressly granted under this Agreement.

All rights not expressly granted are reserved by the Designer and, where applicable, POD.

Nothing in this Agreement shall be construed as granting an implied licence, estoppel, waiver or other right beyond the express terms of this Agreement.

18.2 Strict Construction

The Licence is to be construed narrowly.

If there is any uncertainty regarding whether a particular use is authorised, that use shall be deemed prohibited unless POD has expressly approved it in writing.

18.3 Material Conditions

The Buyer acknowledges that the following are fundamental conditions of the Licence:

- a. one Product;
- b. one Licensed Address;
- c. one Licensed Dwelling;
- d. one authorised construction.

Any departure from those conditions constitutes a material breach of this Agreement.

19. Repeat Construction Prohibited

19.1 One Build Only

The Buyer must not use the Product to construct more than one dwelling.

Without limitation, the Buyer must not:

- a. construct the same dwelling a second time;
- b. construct the Product on another property;
- c. construct the Product for another person;
- d. reuse the Product following demolition or destruction of the original dwelling without obtaining a further licence from POD.

19.2 Multiple Ownership Structures

The Buyer must not avoid clause 19.1 by:

- a. transferring ownership of the Property;
- b. changing trustees;
- c. substituting companies;
- d. nominating another purchaser;
- e. using related entities.

The Licence remains limited to the authorised Single Build regardless of changes in ownership or legal structure.

20. Transfer, Assignment and Dealings

20.1 No Transfer of Licence

Except where expressly authorised by this Agreement, the Buyer must not:

- a. assign;
- b. novate;
- c. transfer;
- d. sell;
- e. gift;
- f. mortgage;

- g. charge;
- h. sublicense; or
- i. otherwise dispose of,

the Licence or any rights granted under it.

20.2 No Commercial Distribution

The Buyer must not distribute the Product:

- a. commercially;
- b. for reward;
- c. as part of another product;
- d. through any marketplace;
- e. to multiple clients.

20.3 No Licence Splitting

The Buyer must not divide the rights granted under this Agreement between multiple persons or projects.

21. Copying and Reproduction

21.1 Limited Copying

The Buyer must not reproduce the Product except where reasonably necessary for the Authorised Purposes expressly permitted by this Agreement.

21.2 Bulk Copying

Without limitation, the Buyer must not:

- a. mass print;
- b. mass reproduce;
- c. create duplicate project sets;
- d. establish an archive for unrelated projects.

21.3 Digital Reproduction

The Buyer must not create multiple digital copies except where reasonably necessary for:

- a. project management;
- b. consultant coordination;
- c. secure electronic backup.

22. Security Features

22.1 No Removal

The Buyer must not remove, obscure, crop, alter or interfere with:

- a. title blocks;
- b. copyright notices;
- c. Designer identification;
- d. registration numbers;
- e. POD branding;
- f. watermarks;
- g. Licensed Address stamps;
- h. embedded metadata;
- i. digital security features.

22.2 Circumvention

The Buyer must not attempt to defeat or bypass any technological protection measure incorporated into the Product.

23. File Sharing and Publication

23.1 Public Distribution

The Buyer must not upload or publish the Product on:

- a. public websites;
- b. cloud sharing platforms;
- c. plan libraries;
- d. design repositories;
- e. file sharing services;
- f. peer-to-peer networks;
- g. artificial intelligence training repositories;
- h. any publicly accessible electronic platform.

23.2 Sharing Platforms

Without limitation, the Product must not be uploaded to any service designed for:

- a. document sharing;
- b. plan sharing;
- c. architectural exchange;
- d. collaborative public repositories.

23.3 Social Media

The Buyer must not publish complete drawings or substantial portions of the Product on social media except where reasonably necessary for marketing the Licensed Property in accordance with clause 16.

24. Derivative Works

24.1 Commercial Derivatives Prohibited

The Buyer must not create or authorise the creation of any derivative work for commercial exploitation without the Designer's prior written consent.

Without limitation, the Buyer must not:

- a. redraw the Product for resale;
- b. incorporate substantial portions of the Product into another catalogue design;
- c. prepare modified versions for commercial sale;
- d. create competing architectural products derived from the Product.

24.2 Reverse Engineering

The Buyer must not:

- a. trace;
- b. scan;
- c. vectorise;
- d. recreate;
- e. reverse engineer;
- f. digitise,

the Product for any purpose inconsistent with this Agreement.

24.3 Artificial Intelligence

The Buyer must not use the Product:

- a. to train an artificial intelligence system;
- b. as input for generative design software intended to create competing works;
- c. to create automated derivative architectural products for commercial use,

without the Designer's prior written consent.

25. CAD Files

25.1 No Entitlement

The Buyer acknowledges that purchase of a Product does not entitle the Buyer to receive:

- a. DWG files;

- b. DXF files;
- c. BIM files;
- d. Revit models;
- e. ArchiCAD files;
- f. editable CAD Files;
- g. any native source files.

25.2 Separate Negotiation

If the Buyer wishes to obtain editable CAD Files:

- a. the Buyer must negotiate directly with the Designer;
- b. any agreement regarding CAD Files is entirely separate from this Agreement;
- c. POD is not a party to that agreement;
- d. POD accepts no responsibility for any separate arrangement.

25.3 No Obligation

Neither POD nor the Designer is under any obligation to provide editable files.

26. Commercial Exploitation

26.1 No Business Use

The Buyer must not use the Product:

- a. in a design business;
- b. in a development business involving repeated use;
- c. for speculative commercial reproduction;
- d. as a template library.

26.2 Developers

Unless separately licensed by POD:

- a. property developers;
- b. builders;
- c. volume builders;
- d. project home companies,

must obtain a separate licence for each construction project.

26.3 Franchises

A licence granted to one entity within a franchise group does not authorise use by another franchisee or related entity.

27. Circumvention of the Licensing Model

27.1 Prohibited Circumvention

The Buyer must not engage in any conduct intended to avoid the commercial licensing model established by this Agreement.

Without limitation, the Buyer must not:

- a. purchase one licence for multiple projects;
- b. acquire a licence on behalf of unrelated third parties;
- c. use nominees to conceal repeat construction;
- d. otherwise seek to obtain the benefit of multiple licences through a single purchase.

28. Consequences of Prohibited Use

28.1 Material Breach

A breach of this Part constitutes a material breach of this Agreement.

28.2 Preservation of Other Rights

The rights and remedies arising from breach of this Part are cumulative and do not limit any other right available under:

- a. the Copyright Act 1968 (Cth);
- b. the Australian Consumer Law;
- c. equity;
- d. common law.

28.3 Injunctive Relief

The Buyer acknowledges that unauthorised use of the Product may cause irreparable harm to the Designer and POD for which damages alone may be an inadequate remedy.

Accordingly, POD and, where this Agreement expressly provides, the Designer are entitled to seek interlocutory, interim and permanent injunctive relief to restrain actual or threatened breaches of this Agreement, in addition to any other remedy available at law or in equity.

28.4 Continuing Obligations

The restrictions contained in this Part survive:

- a. completion of Construction;
- b. termination of this Agreement;
- c. expiry or revocation of the Licence,

to the extent necessary to protect the Designer's Intellectual Property Rights.

PART 5

SITE ADAPTATION

29. Requirement for Site Adaptation

29.1 Product Supplied as a Base Design

The Buyer acknowledges that each Product supplied through the Platform is a professionally prepared architectural design intended to provide the basis for the design of a residential dwelling.

The Product is not represented as being suitable for construction on every site without further professional assessment and, where necessary, adaptation.

The Product is supplied on the basis that it may require site-specific adaptation before it is suitable for submission for statutory approvals or construction.

29.2 Site-Specific Matters

Without limitation, the Buyer acknowledges that the Product has not been prepared having regard to the characteristics of the Licensed Address, including:

- a. title particulars;
- b. easements;
- c. restrictive covenants;
- d. planning overlays;
- e. planning scheme requirements;
- f. zoning controls;
- g. neighbourhood character provisions;
- h. heritage controls;
- i. bushfire attack level (BAL);
- j. flood overlays;
- k. environmental constraints;
- l. wind classification;
- m. soil classification;
- n. geotechnical conditions;
- o. topography;
- p. existing services;
- q. site orientation;
- r. energy efficiency requirements;
- s. NatHERS requirements;
- t. National Construction Code requirements applying at the date of approval; or
- u. any other site-specific legal, environmental or engineering consideration.

The Buyer acknowledges that these matters ordinarily require assessment by appropriately qualified practitioners before construction may lawfully proceed.

29.3 No Representation of Site Suitability

POD does not represent or warrant that the Product:

- a. complies with the planning controls applicable to the Licensed Address;
- b. satisfies Applicable Law at the Licensed Address;
- c. is capable of approval without amendment;
- d. complies with current engineering requirements;
- e. satisfies any local authority requirements;
- f. is suitable for immediate construction without adaptation.

29.4 No Certification

The Buyer acknowledges that neither POD nor the Designer certifies that the Product:

- a. complies with the Building Code or National Construction Code applicable to the Project;
- b. is structurally adequate for the Licensed Address;
- c. satisfies engineering requirements;
- d. is approved for construction;
- e. constitutes a building permit;
- f. constitutes planning approval;
- g. constitutes professional certification.

Nothing supplied under this Agreement constitutes the determination of a Relevant Building Surveyor or any other statutory approval authority.

29.5 Adaptation Pathway

Where adaptation is reasonably required, the Buyer is encouraged to engage the original Designer, or another appropriately qualified Registered Practitioner, to undertake the necessary work.

30. Adaptation Engagement

30.1 Separate Engagement

Any Adaptation of the Product constitutes a separate professional engagement between:

- a. the Buyer; and
- b. the Registered Practitioner performing the Adaptation.

POD is not a party to that engagement.

30.2 No Agency

Nothing in this Agreement appoints:

- a. the Designer as agent of POD;
- b. POD as agent of the Designer;

- c. the Designer as agent of the Buyer;
- d. the Buyer as agent of the Designer.

Each Adaptation Agreement is entirely separate from this Agreement.

30.3 Fees

Fees payable for Adaptation:

- a. are determined solely between the Buyer and the Registered Practitioner;
- b. are independent of the Purchase Price paid under this Agreement;
- c. are not collected by POD unless POD expressly states otherwise in writing.

30.4 Scope of Adaptation Services

An Adaptation may include, without limitation:

- a. compliance with local planning controls;
- b. engineering coordination;
- c. energy efficiency compliance;
- d. NatHERS compliance;
- e. Building Code compliance;
- f. structural revisions;
- g. site-specific amendments;
- h. documentation required by regulatory authorities;
- i. responses to Requests for Further Information;
- j. coordination with consultants.

The precise scope of the Adaptation is determined by the Adaptation Agreement.

30.5 No Responsibility for Adaptation

POD:

- a. does not supervise;
- b. does not review;
- c. does not certify;
- d. does not warrant,

any Adaptation undertaken by another person.

31. Professional Responsibility

31.1 Responsibility for Original Design

Subject to Applicable Law, the original Designer remains professionally responsible only for the Product as originally authored.

31.2 Responsibility for Adaptation

A Registered Practitioner who undertakes an Adaptation assumes professional responsibility for:

- a. the modifications made;
- b. compliance arising from those modifications;
- c. the adapted documentation prepared by that practitioner.

31.3 Original Designer Not Responsible for Subsequent Changes

Where the Product has been modified by any person other than the original Designer, the original Designer:

- a. bears no professional responsibility for those modifications;
- b. gives no warranty regarding those modifications;
- c. is not responsible for the suitability or compliance of the modified design;
- d. is not responsible for any approval obtained using the modified documentation.

31.4 Buyer Obligations for Modifying Practitioner

The Buyer must ensure that any Registered Practitioner engaged to undertake an Adaptation:

- a. is appropriately qualified and registered in the State or Territory of the Licensed Address where registration is required;
- b. prepares the Adaptation using reasonable professional skill and care;
- c. assumes professional responsibility for the modified documentation they issue.
The Buyer must obtain those commitments from the practitioner under the Adaptation Agreement before the Adaptation is undertaken.

31.5 No Assumption of Responsibility

Neither POD nor the original Designer assumes responsibility merely because the Product forms part of an adapted design.

32. Copyright in Modifications

32.1 Continuing Copyright

The Buyer acknowledges that Copyright in the original Product remains vested in the original Designer at all times.

Nothing in any Adaptation transfers ownership of the original Copyright.

32.2 Derivative Works

Any Adaptation constitutes a derivative work based upon the original Product.

Subject to Applicable Law:

- a. Copyright in the original Product remains vested in the original Designer;
- b. Copyright in any original modifications created by another Registered Practitioner belongs to that practitioner unless otherwise agreed;
- c. no person acquires ownership of the original Product by reason only of preparing an Adaptation.

32.3 Licence to Use Adapted Documentation

Any right to use adapted documentation arises solely under:

- a. the Adaptation Agreement;
- b. Applicable Law; or
- c. any separate written agreement between the relevant parties.

Nothing in this Agreement grants rights in modifications beyond the original Product.

32.4 Preservation of Original Copyright

The Buyer must not assert ownership of the original Product merely because:

- a. modifications have been made;
- b. consultants have contributed to the Project;
- c. engineering documentation has been prepared;
- d. the Product has been incorporated into construction documentation.

33. Removal of Original Designer Details

33.1 Removal Required

Where the Product is modified by any person other than the original Designer, the Buyer must ensure that the adapted documents no longer identify the original Designer as the author of the modified work.

Without limitation, the Buyer must ensure that the following are removed or replaced:

- a. the original Designer's name;
- b. registration number;
- c. title block details;
- d. professional certification references;
- e. any other authorship details identifying the original Designer.

33.2 Attribution of Modified Documents

Modified documentation must identify the practitioner responsible for the Adaptation in accordance with Applicable Law and applicable professional standards.

33.3 No False Attribution

The Buyer must not:

- (a) represent that the original Designer prepared modifications they did not prepare;
- (b) identify the original Designer as responsible for an adapted design;
- (c) leave title blocks unchanged where this would create a misleading impression regarding authorship or professional responsibility.

33.4 Moral Rights

Nothing in this Agreement authorises any person to infringe the original Designer's Moral Rights under the *Copyright Act 1968 (Cth)*.

Where modifications are made, they must be undertaken in a manner consistent with Applicable Law concerning attribution and integrity of authorship.

33.5 Survival

The obligations contained in this Part survive:

- a. completion of the Project;
- b. termination of this Agreement;
- c. expiry or revocation of the Licence,

to the extent necessary to preserve the Intellectual Property Rights and professional reputation of the original Designer.

PART 6

INTELLECTUAL PROPERTY

34. Copyright

34.1 Ownership of Copyright

The Buyer acknowledges and agrees that all Copyright subsisting in the Product is and remains vested in the Designer at all times.

Nothing in this Agreement, the purchase of a Product, payment of the Purchase Price or the grant of the Licence transfers ownership of Copyright to the Buyer or POD.

The Buyer acquires only the limited contractual licence expressly granted under this Agreement.

34.2 Copyright Protected Material

Without limitation, Copyright subsists in:

- a. architectural drawings;
- b. floor plans;
- c. elevations;
- d. sections;
- e. details;
- f. schedules;
- g. specifications;
- h. renders;
- i. illustrations;
- j. images;
- k. three-dimensional representations;
- l. digital files;
- m. PDFs;
- n. CAD files;
- o. metadata;
- p. derivative marketing material prepared by POD pursuant to the Designer Agreement;
- q. all other original artistic and literary works comprising the Product.

34.3 Reservation of Rights

All rights not expressly granted to the Buyer are reserved.

Without limitation, neither the Designer nor POD waives any rights arising under:

- a. the *Copyright Act 1968 (Cth)*;
- b. Applicable Law;
- c. equity;
- d. common law.

No implied licence arises merely because the Buyer has purchased the Product.

34.4 No Exhaustion of Copyright

Completion of the authorised Single Build does not exhaust or extinguish the Designer's Copyright.

The Designer retains all Intellectual Property Rights in the Product notwithstanding lawful completion of the Project.

35. Moral Rights

35.1 Preservation of Moral Rights

The Buyer acknowledges that the Designer retains all Moral Rights in the Product under Part IX of the *Copyright Act 1968 (Cth)*.

Nothing in this Agreement constitutes a consent by the Designer to infringement of those Moral Rights.

35.2 Attribution

Subject to clause 33 (Removal of Original Designer Details), the Buyer must not knowingly remove or alter any attribution identifying the Designer as the author of the original Product.

35.3 False Attribution

The Buyer must not:

- (a) falsely represent another person as the author of the original Product;
- (b) falsely represent the Designer as the author of modifications prepared by another person;
- (c) knowingly permit misleading attribution.

35.4 Integrity of Authorship

Except as expressly permitted under this Agreement or Applicable Law, the Buyer must not intentionally subject the Product to derogatory treatment that would prejudice the honour or reputation of the Designer.

For the purposes of this clause, "derogatory treatment" has the meaning given by the *Copyright Act 1968 (Cth)*.

35.5 Survival

The provisions of this clause survive termination or expiry of this Agreement to the extent permitted by law.

36. Designer Ownership

36.1 Intellectual Property

The Buyer acknowledges that all Intellectual Property Rights in the Product remain the exclusive property of the Designer.

Without limitation, this includes:

- a. Copyright;
- b. Moral Rights;
- c. design methodologies;
- d. proprietary detailing;
- e. design concepts;
- f. graphical presentation;
- g. artistic works;
- h. technical documentation;
- i. know-how incorporated into the Product.

36.2 No Assignment

Nothing contained in this Agreement constitutes:

- a. an assignment of Copyright;
- b. an assignment of Intellectual Property Rights;
- c. a transfer of ownership;
- d. a transfer of Moral Rights;
- e. a sale of the Product as intellectual property.

The transaction is solely the grant of a limited contractual licence.

36.3 Improvements

Unless otherwise agreed in writing, any improvements, revisions or updated versions of the Product prepared by the Designer remain the property of the Designer.

The Buyer acquires no right to future versions merely because an earlier version has been purchased.

36.4 Platform Listing

The listing of a Product on the Platform does not diminish or affect the Designer's ownership of the Product.

37. POD Distribution Licence

37.1 Distribution Authority

The Buyer acknowledges that POD supplies the Product pursuant to a separate licence granted by the Designer.

The Buyer acknowledges that POD has authority to:

- a. market the Product;
- b. display the Product;
- c. distribute the Product;
- d. license the Product to Buyers;

- e. collect payment;
- f. issue tax invoices;
- g. administer the Platform.

37.2 POD Does Not Acquire Ownership

The grant of distribution rights to POD does not transfer ownership of the Product to POD.

The Designer remains the owner of all Intellectual Property Rights.

37.3 Platform Administration

POD may:

- a. watermark Products;
- b. apply Licensed Address stamps;
- c. flatten PDF files;
- d. secure Products using technological protection measures;
- e. store Products electronically;
- f. transmit Products electronically;
- g. maintain download systems.

These activities do not affect the Designer's ownership of Copyright.

37.4 Marketing Material

POD may display Product images, renders, previews and other marketing material as authorised by the Designer Agreement.

Such display does not confer any ownership upon POD.

37.5 Third-Party Beneficiary

To the extent necessary to protect the Designer's Intellectual Property Rights and to enforce the licence restrictions in Parts 3, 4 and 5, the Designer is an intended beneficiary of this Agreement and may enforce those provisions directly against the Buyer. POD is under no obligation to monitor, investigate or enforce any breach of this Agreement.

38. No Transfer of Ownership

38.1 Purchase of Licence Only

Payment of the Purchase Price purchases only:

- a. the Product supplied;
- b. the limited Licence granted by this Agreement.

The Buyer does not purchase ownership of the Product.

38.2 No Ownership of Source Files

Unless separately agreed with the Designer:

- a. CAD files;
- b. native design files;
- c. BIM models;
- d. editable source files,

remain the property of the Designer.

The Buyer acquires no entitlement to receive those files merely by purchasing the Product.

38.3 No Ownership of Design Concepts

The Buyer does not acquire ownership of:

- a. design concepts;
- b. layout principles;
- c. design methodology;
- d. architectural style;
- e. artistic expression.

38.4 No Ownership Through Adaptation

Preparation of an Adaptation does not transfer ownership of the original Product.

Ownership of the original Product remains vested in the Designer notwithstanding any Adaptation undertaken by another practitioner.

39. Protection of Intellectual Property

39.1 Buyer Obligations

The Buyer must take reasonable steps to protect the Product against unauthorised use, copying or disclosure.

39.2 Security

Without limitation, the Buyer must:

- a. securely store digital copies;
- b. limit access to persons authorised under this Agreement;
- c. avoid unnecessary duplication;
- d. maintain reasonable cyber security measures to prevent unauthorised access.

39.3 Notification of Infringement

If the Buyer becomes aware of:

- a. unauthorised copying;
- b. unauthorised construction;
- c. unauthorised distribution;
- d. removal of security features;
- e. any infringement of the Designer's Intellectual Property Rights,

the Buyer must promptly notify POD.

39.4 Cooperation

The Buyer must reasonably cooperate with POD and the Designer in investigating suspected infringements of Intellectual Property Rights, including providing relevant information and documents within the Buyer's possession or control.

39.5 Preservation of Evidence

The Buyer must not knowingly destroy evidence relating to suspected infringement of the Product.

39.6 Technological Protection Measures

The Buyer must not:

- a. bypass;
- b. disable;
- c. interfere with;
- d. circumvent,

any technological protection measure incorporated into the Product.

39.7 Injunctive Relief

The Buyer acknowledges that unauthorised use or infringement of the Product may cause substantial and irreparable harm to the Designer and POD for which damages alone may be an inadequate remedy.

Accordingly, POD and, where applicable, the Designer are entitled to seek interlocutory, interim and permanent injunctive relief, specific performance and other equitable remedies in addition to any other remedies available at law.

39.8 Cumulative Remedies

The remedies contained in this Agreement are cumulative and do not exclude any remedy available under:

- a. the *Copyright Act 1968 (Cth)*;
- b. the Australian Consumer Law;
- c. Applicable Law;
- d. equity;
- e. common law.

39.9 Survival

The provisions of this Part survive:

- a. completion of the Project;
- b. termination of this Agreement;
- c. revocation of the Licence;
- d. expiry of this Agreement,

to the extent necessary to protect the Designer's Intellectual Property Rights.

PART 7

DELIVERY OF PRODUCTS

40. Digital Delivery

40.1 Method of Delivery

Following acceptance of the Buyer's order and receipt of cleared payment, POD will make the Product available to the Buyer by one or more of the following methods:

- a. secure electronic download through the Platform;
- b. a download link sent to the email address nominated by the Buyer;
- c. access through the Buyer's Platform account, where the Buyer has created an account; or
- d. another electronic delivery method notified by POD.

Unless POD expressly agrees otherwise in writing, no physical or printed copies of the Product will be supplied.

40.2 Delivery Format

The Product will be delivered as a flattened, non-editable PDF or in another non-editable digital format determined by POD.

The Buyer acknowledges that:

- a. the Product is intentionally supplied in a format designed to restrict unauthorised amendment, extraction and reuse;

- b. the Product may contain embedded security, identification and intellectual property protection features;
- c. editable CAD Files and native source files are not included unless separately agreed in writing with the Designer; and
- d. the delivery format forms part of the intellectual property protection model applying to the Product.

40.3 Time of Delivery

Subject to clause 44, delivery occurs when:

- a. POD makes the Product available for download through the Platform;
- b. POD sends a functioning download link to the Buyer's nominated email address; or
- c. the Product becomes accessible through the Buyer's Platform account,

whichever occurs first.

40.4 Immediate Supply

The Buyer acknowledges that the Product is a digital product intended to be supplied promptly after completion of the purchase.

Where the Product is made available immediately or shortly after payment, the Buyer expressly requests and consents to that immediate digital supply.

Nothing in this clause limits any right or remedy available to the Buyer under the Australian Consumer Law.

40.5 Delivery Records

POD may retain electronic records of:

- a. the date and time the Product was made available;
- b. the date and time any delivery email was sent;
- c. the date and time the Product was first downloaded;
- d. subsequent download activity;
- e. the IP address, device or browser used to access the Product; and
- f. any failed or interrupted download attempt.

Subject to manifest error, those records are prima facie evidence of delivery and access.

40.6 Buyer's Email and Contact Details

The Buyer must ensure that:

- a. the email address provided at checkout is correct;
- b. the Buyer has access to that email address;
- c. communications from POD are not blocked by spam filters or security settings; and
- d. the Buyer promptly notifies POD if any contact information is incorrect.

POD is not responsible for a delivery delay caused solely by inaccurate contact information supplied by the Buyer, subject always to the Australian Consumer Law.

40.7 Technical Requirements

The Buyer is responsible for having reasonable access to:

- a. an internet connection;
- b. a compatible device;
- c. software capable of opening and displaying PDF documents; and
- d. sufficient storage capacity to download and securely retain the Product.

POD does not warrant that the Product will operate with obsolete, unsupported or materially modified software or devices.

40.8 Download Inspection

The Buyer should inspect the downloaded Product promptly and notify POD within a reasonable time if:

- a. the file cannot be opened;
- b. the file is incomplete;
- c. the wrong Product has been supplied;
- d. the file is corrupted; or
- e. the Product materially differs from the Product purchased.

A failure to notify POD immediately does not exclude or limit any non-excludable right under the Australian Consumer Law.

40.9 Replacement Delivery

If POD reasonably determines that a delivery failure, corrupted file, incorrect file or incomplete file resulted from an act or omission of POD or the Platform, POD may:

- a. reissue the download link;
- b. provide a replacement copy;
- c. correct the delivery error; or
- d. provide another remedy required by the Australian Consumer Law.

41. Watermarks

41.1 Application of Watermarks

POD will apply one or more Watermarks to the Product before delivery.

A Watermark may include:

- a. the POD name, logo, monogram or other brand identifier;
- b. the Designer's name or copyright notice;
- c. the Licensed Address;
- d. the Buyer's name or transaction identifier;
- e. the purchase date;
- f. the relevant Product or Licence number;
- g. a statement that the Product is licensed and not sold; or
- h. any other information reasonably used to identify or protect the Product.

41.2 Purpose of Watermarks

The Buyer acknowledges that Watermarks are applied to:

- a. identify the licensed Product;
- b. associate the Product with the Licensed Address;
- c. protect the Designer's Intellectual Property Rights;
- d. discourage unauthorised copying, distribution and repeat construction;
- e. assist POD and the Designer to identify suspected misuse; and
- f. provide evidence of the scope of the Licence.

41.3 No Interference

The Buyer must not, and must not permit any other person to:

- a. remove;
- b. obscure;
- c. crop;
- d. alter;
- e. cover;
- f. erase;
- g. manipulate; or
- h. otherwise interfere with,

any Watermark applied to the Product, except where expressly permitted under this Agreement in connection with an authorised Adaptation.

41.4 Copies Must Retain Watermarks

Any copy of the Product lawfully made under this Agreement must retain all Watermarks and copyright notices appearing on the original Product.

41.5 No Representation of Ownership

The Buyer must not remove or alter a Watermark in a manner that creates or is likely to create the impression that:

- a. the Buyer owns the Copyright in the Product;
- b. the Product was authored by the Buyer or another person;
- c. the Product is not subject to the Licence; or
- d. the Product may be used for more than one build or at another address.

42. Site Address Stamp

42.1 Address-Locked Product

POD will incorporate the Licensed Address into each sheet or substantial component of the Product by:

- a. printing it into the title block;
- b. applying a visible address stamp;
- c. embedding it into the PDF;
- d. recording it in file metadata; or
- e. using another digital identification method.

42.2 Effect of Address Stamp

The Buyer acknowledges that the Site Address Stamp:

- a. forms part of the Product;
- b. records the address to which the Licence is limited;
- c. does not constitute any representation that the Product is suitable for that Site;
- d. does not constitute planning, building, engineering or site certification; and
- e. must not be interpreted as confirmation that the Product complies with Applicable Law at the Licensed Address.

42.3 No Use at Another Address

The Buyer must not use, submit, reproduce or present the Product for any property other than the Licensed Address.

Use of the Product at a different address constitutes:

- a. a material breach of this Agreement;
- b. use outside the scope of the Licence; and
- c. potential infringement of the Designer's Copyright.

42.4 No Removal or Substitution

The Buyer must not:

- a. remove the Licensed Address;
- b. substitute another address;
- c. alter the title block to identify another property;
- d. obscure the Site Address Stamp; or
- e. direct or permit another person to do so.

42.5 Correction of Administrative Error

If the Licensed Address has been incorrectly entered due to an administrative or typographical error, the Buyer must notify POD promptly and before any use of the Product.

POD may require evidence of the correct address before issuing a corrected Product.

POD may refuse to alter the Licensed Address where it reasonably considers that the request is an attempt to transfer the Licence to another Site.

42.6 Adapted Documents

Where an authorised Adaptation is undertaken:

- a. the adapted documents must continue to identify the Licensed Address;
- b. the adapting practitioner must not substitute another property address;
- c. any change to the Licensed Address requires POD's prior written approval; and
- d. the original Designer's details must be removed where required under Part 5.

43. Download Access

43.1 Personal Access

Download access is provided solely to the Buyer for the purposes of exercising the Licence.

The Buyer must not:

- a. share account credentials;
- b. publish a download link;
- c. forward a download link to an unauthorised person;
- d. permit another person to use the Buyer's account to obtain the Product.

43.2 Authorised Recipients

The Buyer may provide a lawfully downloaded copy of the Product to a Permitted User only for an Authorised Purpose.

The Buyer must not provide direct access to the Buyer's Platform account unless POD expressly permits that access.

43.3 Reinstatement of Access

POD may reinstate download access where:

- a. the Buyer experiences a genuine technical failure;
- b. the original download was incomplete or corrupted;
- c. POD considers reinstatement reasonably necessary to facilitate the authorised Project; or
- d. the Australian Consumer Law requires a further supply or remedy.

POD may request reasonable proof of purchase and identity before reinstating access.

43.4 Suspension of Download Access

POD may suspend download access where it reasonably suspects:

- a. fraud;
- b. unauthorised account access;
- c. misuse of a download link;
- d. repeated downloads inconsistent with ordinary project use;
- e. a Chargeback or payment reversal;
- f. breach of this Agreement; or
- g. an infringement or threatened infringement of Intellectual Property Rights.

POD must not exercise this right in a manner that is unfair, misleading or inconsistent with the Australian Consumer Law.

43.5 Security Incident

If the Buyer believes that their account or download link has been compromised, the Buyer must promptly:

- a. notify POD;
- b. change any relevant password;

- c. cease sharing the affected link;
- d. take reasonable steps requested by POD to secure access.

43.6 No Continuing Hosting Obligation

Except to the extent required by Applicable Law, POD will make the Product available for download for so long as the Buyer's Platform account remains open.

The Buyer should securely retain at least one lawful copy of the Product for the duration of the Project and for reasonable record-keeping purposes after completion.

44. Product Availability

44.1 Availability Before Purchase

A Product displayed on the Platform may be withdrawn, suspended, corrected or delisted at any time before POD accepts the Buyer's order.

Display of a Product does not guarantee that it will remain available for purchase.

44.2 Availability After Purchase

Once POD accepts the Buyer's order and grants the Licence:

- a. subsequent delisting of the Product does not, by itself, terminate the Licence;
- b. the Buyer may continue to use a lawfully delivered Product in accordance with this Agreement; and
- c. the Buyer remains subject to all restrictions and obligations applying to the Product.

44.3 Existing Licences Survive Delisting

A Product's removal from the Platform, or the termination of the relationship between POD and the Designer, does not affect a Licence already validly granted to the Buyer, unless that Licence is terminated for breach in accordance with this Agreement.

44.4 Temporary Platform Unavailability

POD may temporarily suspend access to the Platform or download facilities for:

- a. maintenance;
- b. upgrades;
- c. security measures;
- d. fault rectification;
- e. system migration;
- f. compliance with Applicable Law; or
- g. circumstances beyond POD's reasonable control.

44.5 No Uninterrupted Access Warranty

Subject to the Australian Consumer Law, POD does not warrant that:

- a. the Platform will operate continuously;
- b. access will be uninterrupted;
- c. every download will occur without delay;

- d. the Platform will be free from all defects or malicious code; or
- e. the Product will remain hosted indefinitely.

44.6 Material Product Error

If POD becomes aware after purchase that the Product:

- a. was listed in error;
- b. is materially incomplete;
- c. contains a material technical defect;
- d. cannot lawfully be distributed by POD; or
- e. is subject to a substantiated intellectual property claim,

POD may suspend further downloads while investigating the issue.

POD must then take reasonable steps to provide any remedy required under this Agreement or the Australian Consumer Law.

44.7 Product Updates

Unless the Product description expressly states otherwise, the Purchase Price does not include:

- a. future editions;
- b. updates;
- c. amendments arising from legislative or regulatory change;
- d. changes to the National Construction Code;
- e. adaptations for the Licensed Address; or
- f. revisions requested by an approval authority.

Any updated or revised Product may be supplied on terms separately agreed with POD or the Designer.

44.8 Withdrawal for Legal or Safety Reasons

POD may cease making a Product available where POD reasonably considers that continued distribution may:

- a. infringe Intellectual Property Rights;
- b. contravene Applicable Law;
- c. expose Buyers, POD or the Designer to material safety or regulatory risk; or
- d. mislead Buyers regarding the Product's nature or intended use.

44.9 Force Majeure

POD is not liable for delay in delivery or temporary unavailability caused by a Force Majeure Event, except to the extent that liability cannot lawfully be excluded or limited.

44.10 Consumer Rights Preserved

Nothing in this Part excludes, restricts or modifies:

- a. a Consumer Guarantee;
- b. a right to a refund, replacement or other remedy for a failure to comply with a Consumer Guarantee; or

- c. any other right or remedy that cannot lawfully be excluded under the Australian Consumer Law.

PART 8

SITE SUITABILITY

45. General Site Suitability

45.1 Nature of the Product

The Buyer acknowledges that the Product is a pre-prepared architectural design made available for licensing through the Platform and is not prepared specifically for the Licensed Address unless and until it is adapted by a suitably qualified Registered Practitioner.

The Product is intended to provide the architectural basis for the Project, subject to:

- a. investigation of the Site;
- b. review of title and planning constraints;
- c. engineering and consultant input;
- d. adaptation for the Licensed Address;
- e. assessment by the relevant approval authorities.

45.2 No Representation of Universal Suitability

POD does not represent or warrant that the Product, as initially supplied:

- a. is suitable for every property;
- b. is capable of construction on the Licensed Address without modification;
- c. satisfies all planning, building, engineering or regulatory requirements applicable to the Licensed Address;
- d. is suitable for the Buyer's particular circumstances or intended construction method;
- e. will receive planning or building approval.

45.3 Architectural Drawings Only

Unless the applicable Product description expressly states otherwise, the Product comprises architectural drawings only.

The Product does not include:

- a. structural engineering;
- b. civil engineering;
- c. hydraulic engineering;
- d. electrical engineering;
- e. geotechnical engineering;
- f. soil testing;
- g. land surveying;
- h. energy rating or NatHERS assessment;
- i. bushfire assessment;
- j. flood assessment;
- k. planning advice;

- l. building surveying or certification;
- m. quantity surveying;
- n. construction pricing;
- o. legal advice concerning title or development constraints.

45.4 No Certification or Statutory Determination

The Product does not constitute:

- a. a planning permit;
- b. a building permit;
- c. an occupancy permit;
- d. a development approval;
- e. a certification by a building surveyor;
- f. a structural certification;
- g. a determination that the design complies with Applicable Law;
- h. approval to commence Construction.

Nothing supplied by POD constitutes a determination of a council, building surveyor, certifier, planning authority or other statutory decision-maker.

45.5 Site Adaptation Required

Before the Product is relied upon for a planning application, building approval or Construction, the Buyer must obtain the professional review and Adaptation reasonably required for the Licensed Address.

The Buyer is encouraged to engage:

- a. the original Designer;
- b. another appropriately registered building designer or architect; or
- c. another Registered Practitioner lawfully authorised to undertake the relevant Adaptation.

This clause is intended to describe the professional pathway available to the Buyer and is not intended to diminish any non-excludable right arising under the Australian Consumer Law.

46. Planning and Title Requirements

46.1 Planning Controls

The Buyer acknowledges that the Product has not necessarily been assessed against the planning controls applying to the Licensed Address, including:

- a. zoning provisions;
- b. planning overlays;
- c. neighbourhood character requirements;
- d. minimum garden area requirements;
- e. site coverage limits;
- f. setback requirements;
- g. height controls;

- h. private open space requirements;
- i. overlooking and overshadowing controls;
- j. parking and access requirements;
- k. heritage requirements;
- l. vegetation or environmental controls;
- m. local planning policies;
- n. development plan or precinct requirements;
- o. any other planning control applicable to the Site.

46.2 Title and Property Constraints

The Product has not necessarily been prepared having regard to:

- a. easements;
- b. restrictive covenants;
- c. agreements recorded on title;
- d. encumbrances;
- e. building envelopes;
- f. owners corporation rules;
- g. section 173 agreements or equivalent statutory agreements;
- h. drainage or service rights;
- i. rights of carriageway;
- j. title boundary irregularities;
- k. other legal restrictions affecting the Property.

46.3 Buyer's Planning Pathway

The Buyer should arrange for the Product and the proposed Project to be reviewed by an appropriately qualified town planner, land surveyor, legal adviser or Registered Practitioner where those services are reasonably required.

46.4 No Guarantee of Approval

POD does not guarantee that:

- a. planning approval will be granted;
- b. a permit or approval will be granted without conditions;
- c. the Product will be accepted without amendment;
- d. objections will not be made;
- e. approval will be obtained within any particular period.

46.5 Authority Requirements

A council, planning authority or referral authority may require:

- a. amendments to the Product;
- b. additional reports;
- c. further drawings;
- d. design changes;
- e. engineering or specialist input;
- f. responses to Requests for Further Information.

Any such work is outside the Product unless expressly included in the relevant Product Tier.

47. Site Conditions

47.1 Site-Specific Characteristics

The Buyer acknowledges that the suitability and cost of constructing the Product may be affected by the Site Conditions.

Without limitation, relevant Site Conditions may include:

- a. soil classification;
- b. geotechnical characteristics;
- c. slope and topography;
- d. rock;
- e. fill;
- f. groundwater;
- g. drainage;
- h. flooding;
- i. bushfire risk;
- j. wind classification;
- k. coastal exposure;
- l. salinity;
- m. contamination;
- n. existing buildings or structures;
- o. demolition requirements;
- p. existing vegetation;
- q. access limitations;
- r. retaining walls;
- s. service connections;
- t. sewer, water, electricity, gas and telecommunications infrastructure;
- u. neighbouring structures;
- v. boundary conditions;
- w. local construction constraints.

47.2 No Site Investigation by POD

Unless expressly stated otherwise in writing, POD:

- a. has not inspected the Licensed Address;
- b. has not conducted a title search;
- c. has not obtained a feature and level survey;
- d. has not undertaken soil or geotechnical testing;
- e. has not assessed access, services, drainage or environmental conditions;
- f. has not independently verified information supplied by the Buyer concerning the Site.

47.3 Site Reports

The Buyer should obtain all site-specific reports reasonably required for the Project, which may include:

- a. a feature and level survey;
- b. a title search;

- c. a soil report;
- d. a geotechnical report;
- e. a bushfire assessment;
- f. a flood assessment;
- g. an arborist report;
- h. a land capability assessment;
- i. a contamination assessment;
- j. a service location report;
- k. any other report required by a consultant or approval authority.

47.4 Effect on Design and Construction

Site Conditions may require:

- a. changes to foundations;
- b. structural redesign;
- c. retaining structures;
- d. drainage works;
- e. bushfire construction measures;
- f. waterproofing or flood mitigation;
- g. changes to levels, setbacks or siting;
- h. changes to materials or construction methodology;
- i. amendments to the architectural design.

47.5 Site-Specific Costs

POD does not represent or warrant that the Purchase Price or any indicative construction amount includes site-specific costs.

Site-specific costs may include:

- a. excavation;
- b. rock removal;
- c. retaining walls;
- d. abnormal foundations;
- e. service connections;
- f. access works;
- g. demolition;
- h. planning or permit conditions;
- i. environmental remediation;
- j. other costs arising from the Site Conditions.

48. Engineering and Consultant Requirements

48.1 Engineering Not Included

Unless expressly stated in the Product description, the Product does not include structural or other engineering documentation.

48.2 Structural Engineering

The Buyer must obtain structural engineering appropriate for the Licensed Address before Construction where required by Applicable Law, the builder or the relevant building surveyor.

Structural engineering may be required for:

- a. footings and foundations;
- b. slabs;
- c. beams and columns;
- d. retaining walls;
- e. bracing;
- f. framing;
- g. tie-down requirements;
- h. wind and earthquake design;
- i. other structural elements.

48.3 Consultant Coordination

The Product may require coordination with:

- a. structural engineers;
- b. civil engineers;
- c. hydraulic consultants;
- d. energy assessors;
- e. fire and bushfire consultants;
- f. building surveyors;
- g. land surveyors;
- h. other consultants involved in the Project.

48.4 Consultant Amendments

A consultant may require amendments to the Product.

Where an amendment affects the architectural design, the amendment must be undertaken in accordance with Part 5 and must not falsely attribute the modified work to the original Designer.

48.5 No Responsibility for Third-Party Services

Subject to the Australian Consumer Law, POD is not responsible for:

- a. advice provided by consultants;
- b. errors or omissions in third-party reports;
- c. delays caused by consultants;
- d. the cost of consultant services;
- e. modifications required as a result of consultant advice.

48.6 Independent Engagements

All consultants are engaged separately by the Buyer or another party involved in the Project.

POD is not a party to those engagements unless expressly agreed in writing.

49. Compliance Requirements

49.1 Applicable Law Changes

The Buyer acknowledges that planning and building requirements may change after the Product is created or purchased.

- a. Without limitation, changes may occur to:
- b. the National Construction Code;
- c. planning schemes;
- d. building regulations;
- e. energy efficiency requirements;
- f. NatHERS requirements;
- g. disability access requirements;
- h. bushfire construction standards;
- i. engineering standards;
- j. local council policies;
- k. other Applicable Law.

49.2 Compliance at Time of Approval

The Project must comply with Applicable Law applying at the time the relevant application, permit, approval or certification is sought.

A Product prepared under earlier requirements may require revision before approval or Construction.

49.3 No Continuing Update Obligation

Unless expressly included in the Product Tier or separately agreed in writing, neither POD nor the Designer is obliged to:

- a. monitor changes in Applicable Law on behalf of the Buyer;
- b. update the Product following a change in Applicable Law;
- c. revise the Product for a future approval application;
- d. provide updated documents without further charge.

49.4 National Construction Code

POD does not warrant that the Product, without Site Adaptation and consultant input, complies with every requirement of the National Construction Code applicable to the Licensed Address at the date of the Buyer's application.

49.5 Energy Efficiency and NatHERS

The Product does not include a guarantee of:

- a. any particular NatHERS rating;
- b. compliance with energy efficiency requirements;
- c. approval of glazing, insulation, orientation or thermal performance;
- d. suitability for the climate zone applying to the Licensed Address.

An appropriately accredited assessor may require design or specification changes.

49.6 Bushfire, Flood and Other Hazard Requirements

Where the Licensed Address is affected by bushfire, flood, coastal, wind, landslip, environmental or other hazard controls, the Product may require substantial amendment and specialist advice.

49.7 Building Surveyor's Determination

The relevant building surveyor or certifier is responsible for determining whether the documentation submitted for building approval satisfies the applicable statutory requirements.

Neither POD nor the Product replaces that statutory assessment.

49.8 Compliance of Adapted Documents

The practitioner responsible for an Adaptation is responsible, subject to Applicable Law and the terms of the relevant Adaptation Agreement, for the work they perform and the modified documentation they issue.

50. Site Adaptation Pathway

50.1 Purpose of Adaptation

Site Adaptation is the process by which the Product is reviewed and, where necessary, modified for:

- a. the Licensed Address;
- b. Site Conditions;
- c. title and planning constraints;
- d. engineering requirements;
- e. consultant recommendations;
- f. Applicable Law;
- g. approval authority requirements.

50.2 Original Designer

The Buyer may request the original Designer to provide Site Adaptation services.

The original Designer may accept or decline the engagement and may charge a separate professional fee.

50.3 Alternative Registered Practitioner

Where the original Designer is unavailable, not registered in the relevant jurisdiction or does not accept the engagement, the Buyer may engage another suitably qualified Registered Practitioner, subject to:

- a. the licence restrictions in this Agreement;
- b. the copyright requirements in Part 6;
- c. the professional responsibility provisions in Part 5;
- d. removal of the original Designer's details from modified documents where required.

50.4 Interstate Projects

Where the Licensed Address is in a State or Territory in which the Designer is not registered, the Buyer must engage a locally registered practitioner to carry out Site Adaptation.

Each Designer records an interstate preference with POD:

- a. National: the Product is offered for sale for a Licensed Address anywhere in Australia, and the Designer has agreed under the Designer Agreement to release the CAD Files to a POD-verified practitioner registered in that State or Territory, solely for Site Adaptation at that Licensed Address. No further consent of the Designer is required.
- b. Registered States only: the Product is not offered for sale for a Licensed Address outside those States, and no CAD Files are released.

Any release under paragraph (a) requires the practitioner to be verified by POD and to agree in writing to confidentiality and use restrictions no less protective than this Agreement. The Buyer engages that practitioner directly and pays their fees. CAD Files are not supplied to the Buyer.

If no POD-verified practitioner is available in the relevant State or Territory for a Product offered under the National preference, POD will facilitate a reasonable opportunity for the Designer and Buyer to arrange an alternative lawful Site Adaptation pathway. If no such pathway can reasonably be arranged, POD will offer the Buyer a refund of the Licence Fee, subject to any rights and remedies that apply under the Australian Consumer Law.

50.5 Scope and Fees

The scope, timing and fees for Site Adaptation are separate from the purchase of the Product and must be agreed directly with the practitioner undertaking the work.

50.6 POD's Role

POD may assist by:

- a. providing the Designer's contact details;
- b. facilitating an introduction;
- c. identifying a potentially suitable Registered Practitioner;
- d. providing administrative assistance.

Any such assistance does not make POD:

- i. the provider of the Adaptation services;
- ii. the agent of the practitioner;
- iii. responsible for the practitioner's work;
- iv. a party to the Adaptation Agreement.

50.7 No Guarantee of Engagement

POD does not guarantee that:

- a. the original Designer will accept the Adaptation engagement;
- b. a practitioner will be available within a particular period;
- c. Adaptation will be available at a particular price;
- d. the adapted Product will obtain approval.

50.8 Adaptation Before Reliance

The Buyer must not treat the Product as ready for Construction merely because:

- a. it has been purchased;
- b. it contains a Licensed Address stamp;
- c. it is described as Permit-Ready Drawings or a Full Construction Set;
- d. it has been provided to a builder or consultant.

The Product must first undergo any Site Adaptation, engineering, consultant review and approval process required for the Licensed Address.

50.9 Product Tier Descriptions

A description such as “Permit-Ready Drawings” or “Full Construction Set” identifies the level of architectural documentation included in the applicable Product Tier.

It does not mean that:

- a. a permit has been granted;
- b. the Product can be lodged without Site Adaptation;
- c. all consultant documents are included;
- d. the Product complies with every requirement applying to the Licensed Address;
- e. Construction may commence without further approval.

50.10 Consumer Rights Preserved

Nothing in this Part:

- a. excludes, restricts or modifies any Consumer Guarantee;
- b. excludes liability for a representation that cannot lawfully be excluded;
- c. prevents the Buyer from pursuing a remedy available under the Australian Consumer Law.

PART 9

AUSTRALIAN CONSUMER LAW

51. Consumer Guarantees

51.1 Application of Australian Consumer Law

If the Buyer acquires the Product as a Consumer, the supply of the Product may be subject to guarantees, rights and remedies imposed by the Australian Consumer Law.

Those rights and remedies apply according to the nature and circumstances of the supply, including whether the relevant component of the supply is characterised under the Australian Consumer Law as a supply of goods, services or both.

51.2 Non-excludable Rights

Nothing in this Agreement excludes, restricts or modifies, or is intended to exclude, restrict or modify:

- a. any Consumer Guarantee;
- b. any right or remedy conferred on the Buyer by the Australian Consumer Law;
- c. any liability of POD that cannot lawfully be excluded, restricted or modified; or
- d. any other statutory right or remedy that cannot lawfully be excluded, restricted or modified.

Any provision of this Agreement must be read subject to this clause.

51.3 Relevant Consumer Guarantees

To the extent applicable to the supply, the Consumer Guarantees may include guarantees that:

- a. goods are of acceptable quality;
- b. goods are reasonably fit for a disclosed purpose;
- c. goods correspond with their description;
- d. the supplier has the right to supply the goods;
- e. services are rendered with due care and skill;
- f. services, and any resulting product, are reasonably fit for a disclosed purpose or capable of achieving a disclosed result; and
- g. services are supplied within a reasonable time where no time is fixed.

The application of any particular guarantee depends on the legal character and circumstances of the supply.

51.4 Product Description and Agreed Scope

For the purpose of determining the scope of the supply, the Buyer acknowledges that the Product is supplied subject to:

- a. the Product description displayed at the time of purchase;
- b. the Product Tier selected by the Buyer;
- c. the limitations expressly disclosed before purchase;
- d. the requirement for Site Adaptation, engineering, consultant input and statutory approval described in this Agreement; and
- e. the express exclusion from the Product of services and documents not included in the applicable Product Tier.

This clause does not permit POD to avoid a Consumer Guarantee by describing a Product inaccurately or misleadingly.

51.5 Disclosed Purpose

If the Buyer wishes to acquire the Product for a particular purpose or to achieve a particular result beyond the ordinary and expressly stated scope of the Product, the Buyer must disclose that purpose or result to POD before purchase and obtain POD's written confirmation that the Product is suitable for it.

POD does not accept responsibility for an undisclosed purpose or result, subject to any liability that cannot lawfully be excluded.

51.6 No Exclusion by Site-Suitability Provisions

The Site suitability, Adaptation and limitation provisions in this Agreement explain the nature and agreed scope of the Product.

They do not exclude liability where:

- a. the Product does not correspond with its description;
- b. POD has made a misleading representation;
- c. an applicable Consumer Guarantee has not been complied with; or
- d. liability cannot otherwise lawfully be excluded.

51.7 Supplier Responsible for Consumer Remedy

Where POD is the supplier of the Product to the Buyer, the Buyer may direct a claim concerning an alleged failure to comply with a Consumer Guarantee to POD.

POD may consult the Designer or another relevant service provider when investigating the claim, but may not require the Buyer to pursue the Designer instead of POD where the Australian Consumer Law makes POD responsible for providing the remedy.

51.8 Proof of Purchase

POD may require reasonable proof of purchase before assessing a claim, including:

- a. the order number;
- b. Purchase Confirmation;
- c. Tax Invoice;
- d. the email address used for the purchase;
- e. reasonable evidence of payment; or
- f. other information reasonably necessary to identify the transaction.

A Buyer is not required to produce a particular form of proof where the transaction can reasonably be verified by another method.

51.9 Assessment of Claim

POD may reasonably investigate an alleged failure before determining the appropriate remedy.

The Buyer must provide information reasonably required for that investigation, which may include:

- a. a description of the alleged problem;
- b. the affected file or drawing;
- c. screenshots or error messages;
- d. details of the intended use;
- e. relevant communications with consultants or approval authorities;
- f. information identifying whether the Product has been modified.

POD must conduct any investigation within a reasonable time.

51.10 No Misrepresentation of Consumer Rights

Nothing in this Agreement is intended to represent that:

- a. Consumer Guarantees do not apply to digital Products;
- b. all sales are final;
- c. a Buyer has no remedy after downloading or accessing a Product;
- d. the Buyer must pursue the Designer rather than POD; or
- e. a stated contractual warranty period replaces or limits the Australian Consumer Law.

52. Major Failure

52.1 Meaning of Major Failure

A failure is a Major Failure if it constitutes a major failure within the meaning of the Australian Consumer Law.

Depending on the character of the supply, this may include circumstances where:

- a. a reasonable Consumer fully acquainted with the nature and extent of the failure would not have acquired the Product;
- b. the Product materially departs from its description;
- c. the Product is substantially unfit for its ordinary purpose and cannot easily and within a reasonable time be made fit for that purpose;
- d. the Product is substantially unfit for a particular disclosed purpose and cannot easily and within a reasonable time be made fit for that purpose;
- e. the Product is unsafe;
- f. services are substantially unfit for their ordinary or disclosed purpose and cannot easily and within a reasonable time be remedied; or
- g. two or more failures, considered together, would have caused a reasonable Consumer not to acquire the Product.

The statutory tests for major failures and the resulting remedies are determined by the Australian Consumer Law, not solely by POD's classification of the problem.

52.2 Major Failure Concerning Goods

If the Product, or a component of the supply, is legally characterised as goods and has a Major Failure, the Buyer may exercise the remedies available under the Australian Consumer Law, which may include:

- a. rejecting the Product and choosing a refund;
- b. rejecting the Product and choosing a replacement of the same type and similar value, where reasonably available; or
- c. retaining the Product and recovering compensation for the reduction in its value.

52.3 Major Failure Concerning Services

If a component of the supply is legally characterised as services and has a Major Failure, or cannot be remedied, the Buyer may exercise the remedies available under the Australian Consumer Law, which may include:

- a. terminating the contract for the affected services;
- b. obtaining a refund for any unconsumed portion of the affected services;
- c. recovering compensation for the reduction in value of the affected services; or
- d. obtaining another remedy available under the Australian Consumer Law.

52.4 Reasonably Foreseeable Loss

In addition to any other remedy, the Buyer may be entitled to recover compensation for reasonably foreseeable loss or damage caused by a failure to comply with a Consumer Guarantee.

Any entitlement to compensation, including the nature and amount of compensable loss, is determined under the Australian Consumer Law.

52.5 Election of Remedy

Where the Australian Consumer Law gives the Buyer a right to choose between a refund and replacement, POD must not substitute its preferred remedy for the remedy validly chosen by the Buyer.

52.6 Effect of Refund for Major Failure

If POD provides a full refund following lawful rejection of the Product for a Major Failure:

- a. the Licence terminates when the refund is issued;
- b. the Buyer must cease using the Product, except to the extent reasonably required to preserve evidence or pursue a legal right;
- c. the Buyer must not commence or continue an application or Construction using the Product;
- d. the Buyer must take reasonable steps to delete or destroy copies within the Buyer's possession or control; and
- e. clauses intended to protect Intellectual Property Rights continue to apply.

This clause does not require the Buyer to relinquish evidence reasonably required in relation to the claim.

53. Minor Failure

53.1 Remediable Failure

A failure that is not a Major Failure and can be remedied is treated in accordance with the Australian Consumer Law.

POD is ordinarily entitled to remedy a minor failure within a reasonable time, having regard to:

- a. the nature of the Product;
- b. the nature and complexity of the failure;
- c. the effect of the failure on the Buyer;
- d. the stage reached in the Project;
- e. any relevant approval or construction deadlines;
- f. the need to consult the Designer or another practitioner.

53.2 Available Rectification

Subject to the Australian Consumer Law, POD may remedy a minor failure by:

- a. correcting the affected file;
- b. supplying a complete or uncorrupted file;
- c. supplying the Product again;
- d. replacing an incorrect Product with the Product ordered;
- e. correcting an administrative error;
- f. arranging for a technical defect to be corrected;
- g. providing another remedy that places the Buyer in the position required by the Australian Consumer Law.

53.3 No Additional Charge

POD must not charge the Buyer for rectification required because of a failure to comply with a Consumer Guarantee.

53.4 Reasonable Opportunity to Remedy

Where the Australian Consumer Law permits POD to remedy the failure, the Buyer must provide POD with a reasonable opportunity to do so.

Nothing in this clause requires the Buyer to allow rectification where:

- a. the failure is a Major Failure;
- b. the failure cannot be remedied;
- c. POD has refused or failed to remedy the failure within a reasonable time; or
- d. the Australian Consumer Law otherwise entitles the Buyer to reject the Product or terminate the affected supply.

53.5 Failure to Remedy Within Reasonable Time

If POD refuses or fails to remedy a minor failure within a reasonable time, the Buyer may exercise any further remedy available under the Australian Consumer Law.

Depending on the nature of the supply, this may include:

- a. having the failure remedied elsewhere and recovering the reasonable cost;
- b. rejecting the Product;
- c. obtaining a refund or replacement;
- d. terminating the affected service contract;
- e. recovering compensation for reduction in value.

Under the Australian Consumer Law, the supplier generally has an opportunity to fix a minor problem, but further remedies become available if the supplier cannot or does not do so within a reasonable time.

53.6 Matters That Are Not Necessarily Failures

Subject to the Australian Consumer Law, the following do not, of themselves, establish a failure to comply with a Consumer Guarantee where they were clearly disclosed before purchase and are consistent with the Product supplied:

- a. the need for Site Adaptation;

- b. the need for engineering or consultant documentation;
- c. the need to amend the Product for the Licensed Address;
- d. a requirement imposed by a council, building surveyor or other approval authority;
- e. changes in Applicable Law after the Product was prepared or purchased;
- f. the exclusion of CAD Files;
- g. the exclusion of documents or services outside the selected Product Tier;
- h. the absence of a guarantee that approval will be granted.

This clause does not apply where the Product is materially inconsistent with its description or an applicable Consumer Guarantee.

54. Refunds

54.1 Statutory Refunds

POD will provide a refund where required by the Australian Consumer Law.

The existence, nature and amount of any refund will be determined by:

- a. the applicable Consumer Guarantee;
- b. whether the failure is major or minor;
- c. whether POD has remedied or is entitled to remedy the failure;
- d. the remedy elected by the Buyer where the Buyer has a statutory right of election;
- and
- e. the other circumstances of the supply.

54.2 No Blanket Final-Sale Term

The immediate digital delivery or download of a Product does not extinguish the Buyer's rights under the Australian Consumer Law.

No term stating that a Product is non-refundable, final sale or non-returnable applies to the extent that it would exclude or restrict a statutory remedy.

54.3 Change of Mind

Subject to clause 54.4 and unless POD publishes a more favourable change-of-mind policy, POD is not required to provide a refund merely because the Buyer:

- a. changes their mind;
- b. no longer intends to proceed with the Project;
- c. sells or decides not to acquire the Property;
- d. selects the wrong Product or Product Tier despite the information displayed at checkout;
- e. later prefers another design;
- f. does not obtain finance;
- g. does not engage a builder;
- h. considers the costs of Site Adaptation or Construction to be greater than anticipated;
- or
- i. no longer requires the Product.

The Australian Consumer Law does not generally require a supplier to provide a remedy for a simple change of mind, although a supplier may voluntarily offer a separate change-of-mind policy.

54.4 POD Discretionary Refund

POD may, in its discretion, provide a refund, credit, exchange or other accommodation where not legally required.

Any discretionary accommodation:

- a. does not constitute an admission of liability;
- b. does not create an ongoing policy or precedent;
- c. may be subject to reasonable conditions notified to the Buyer; and
- d. does not limit the Buyer's statutory rights.

54.5 Refund Request

A Buyer seeking a refund should contact POD using the contact method stated on the Platform and provide:

- a. the order number;
- b. the Buyer's name and contact details;
- c. the Product purchased;
- d. a description of the alleged problem;
- e. the remedy requested; and
- f. supporting material reasonably available to the Buyer.

54.6 Method of Refund

Unless otherwise required by law or agreed with the Buyer, a refund will be made:

- a. to the original payment method;
- b. in Australian dollars; and
- c. for the amount required by the Australian Consumer Law or otherwise approved by POD.

54.7 Processing Time

POD will process an approved refund within a reasonable time.

The time taken for the refund to appear in the Buyer's account may depend on the payment provider or financial institution.

54.8 Partial Refund

A partial refund or compensation for reduced value may be appropriate where:

- a. the Australian Consumer Law provides for that remedy;
- b. only part of the supply is affected;
- c. the Buyer retains the Product; or
- d. the Buyer and POD agree to that resolution.

POD must not impose a partial refund where the Buyer is legally entitled to choose a full refund.

54.9 Licence Following Refund

Unless otherwise agreed or required by law:

- a. a full refund terminates the Licence;
- b. a partial refund does not terminate the Licence unless the parties agree otherwise;
- c. a replacement Product remains subject to this Agreement and the Licensed Address restriction.

55. Digital Products

55.1 Digital Nature of Product

The Buyer acknowledges before purchase that:

- a. the Product is supplied digitally;
- b. delivery may occur immediately after payment;
- c. the Product may be accessed or copied once delivered;
- d. physical return of the Product is not ordinarily possible;
- e. those characteristics do not exclude any right under the Australian Consumer Law.

55.2 Immediate Delivery Consent

By completing the purchase, the Buyer requests that POD begin supplying the Product immediately following acceptance and payment.

The Buyer acknowledges that this may result in the Product being available before POD could otherwise process a voluntary change-of-mind request.

55.3 Digital Access Is Not Waiver

Downloading, opening, accessing or using the Product does not constitute a waiver of:

- a. any Consumer Guarantee;
- b. a remedy for a Major Failure;
- c. a remedy for a minor failure not remedied within a reasonable time;
- d. any other non-excludable statutory right.

55.4 Technical Failure

A technical issue may constitute a failure requiring remedy where, for example:

- a. the download link does not function;
- b. the file is corrupted;
- c. the Product cannot reasonably be opened using commonly available compatible software;
- d. pages or files included in the Product description are missing;
- e. POD supplies the wrong Product.

POD may investigate and remedy the issue in accordance with clause 53.

55.5 Buyer-Side Technical Issue

Subject to the Australian Consumer Law, POD is not responsible for a problem caused solely by:

- a. the Buyer's unsupported or incompatible device or software;
- b. the Buyer's inadequate internet connection;
- c. corruption occurring after successful delivery due to the Buyer's system;
- d. unauthorised modification of the file;
- e. malware or a security incident originating from the Buyer's systems;
- f. failure to follow reasonable download or access instructions.

55.6 Modified Product

Where the Buyer or a third party modifies the Product, POD is not responsible for a problem caused by that modification.

This clause does not exclude liability for a defect that existed independently of the modification.

55.7 Retention of Copies

A Buyer who has received a remedy may retain a copy only where reasonably necessary:

- a. to preserve evidence;
- b. to comply with law;
- c. to obtain legal advice;
- d. to pursue or defend a claim.

Any retained copy remains subject to the confidentiality and Intellectual Property provisions of this Agreement and must not be used for Construction following termination of the Licence.

56. Limitation of Remedies

56.1 Mandatory Remedies Prevail

Nothing in this clause limits a remedy available under the Australian Consumer Law where that remedy cannot lawfully be limited.

56.2 Contractual Remedies Subject to Law

Except where the Australian Consumer Law gives the Buyer a different remedy, POD may satisfy its obligation concerning a remediable failure by:

- a. correcting the Product;
- b. supplying the Product again;
- c. replacing the affected Product;
- d. paying the reasonable cost of rectification;
- e. providing another remedy agreed with the Buyer.

56.3 No Contractual Cap on Non-excludable Liability

Any monetary cap, exclusion of Consequential Loss or other limitation of liability elsewhere in this Agreement does not apply to the extent that:

- a. it would exclude, restrict or modify a Consumer Guarantee;
- b. it would prevent recovery of reasonably foreseeable loss or damage recoverable under the Australian Consumer Law;
- c. it would otherwise be void or unenforceable under Applicable Law.

56.4 Consumer Household Supply

The Parties acknowledge that Products made available for the design and construction of residential dwellings may be of a kind ordinarily acquired for personal, domestic or household use.

Accordingly, no provision of this Agreement is intended to rely on a statutory limitation that applies only to goods or services not ordinarily acquired for personal, domestic or household use.

56.5 Read-Down

If a provision of this Agreement would otherwise limit a statutory remedy more than permitted by law, that provision must be:

- a. read down to the maximum extent permitted by law; and
- b. if it cannot be read down, severed to the minimum extent necessary.

56.6 No Double Recovery

Nothing in this Agreement entitles the Buyer to recover more than once for the same loss.

This clause does not prevent the Buyer from pursuing cumulative remedies where the Australian Consumer Law permits those remedies.

56.7 Mitigation

To the extent required by law, the Buyer must take reasonable steps to avoid or reduce loss arising from an alleged breach or failure.

Nothing in this clause requires the Buyer to:

- a. accept an inadequate remedy;
- b. incur unreasonable cost;
- c. compromise safety;
- d. surrender a statutory right of election.

56.8 ACL Controls

If there is any inconsistency between this Part and the Australian Consumer Law, the Australian Consumer Law prevails to the extent of the inconsistency.

PART 10

PAYMENT

57. Purchase Price

57.1 Price Payable

The Buyer must pay the Purchase Price displayed at checkout for the selected Product and Product Tier.

Unless the Platform expressly states otherwise, the Purchase Price is:

- a. stated in Australian dollars;
- b. inclusive of GST;
- c. payable in full at checkout; and
- d. exclusive of separate Site Adaptation, engineering, consultant, approval and Construction costs.

57.2 Price Displayed at Checkout

The Purchase Price displayed in the final checkout summary applies to the transaction, subject to:

- a. correction of a manifest pricing error before acceptance;
- b. any valid discount or promotional code;
- c. any mandatory charge clearly disclosed before payment;
- d. Applicable Law.

57.3 No Obligation Before Acceptance

POD may change the price of a Product at any time before accepting the Buyer's order.

A price change does not affect an order already accepted by POD.

57.4 Pricing Error

If a Product is listed at an incorrect price due to a typographical, system or other manifest error, POD may, before accepting the order:

- a. correct the price;
- b. notify the Buyer;
- c. invite the Buyer to proceed at the corrected price; or
- d. cancel the attempted transaction.

57.5 Pricing Error Discovered After Payment

If POD discovers a manifest pricing error after payment but before acceptance or delivery, POD may:

- a. refund the amount paid and cancel the order; or
- b. obtain the Buyer's agreement to proceed at the corrected price.

POD must not debit an additional amount without the Buyer's express authority.

57.6 No Additional Product-Tier Rights

Payment of the Purchase Price entitles the Buyer only to the Product Tier purchased.

It does not include:

- a. Site Adaptation;
- b. CAD Files;
- c. consultant reports;
- d. engineering;
- e. statutory fees;
- f. permit fees;
- g. construction services;
- h. later Product updates,

unless expressly included in the Product description.

57.7 Discounts

A discount:

- a. applies only in accordance with its stated conditions;
- b. has no cash value;
- c. cannot be retrospectively applied unless POD agrees;
- d. may not be combined with another offer unless stated otherwise.

57.8 Promotional Pricing

POD may offer promotional pricing to selected categories of Buyers, including verified builders or partner participants.

The availability of a promotional price does not entitle another Buyer to that price.

57.9 Costs Charged by Third Parties

The Buyer is responsible for charges imposed by the Buyer's financial institution, card issuer or other third party, including:

- a. foreign currency conversion fees;
- b. international transaction fees;
- c. dishonour fees;
- d. other account charges.

POD is not responsible for those charges unless POD imposed or represented them as part of the Purchase Price.

58. GST

58.1 GST-Inclusive Pricing

Unless expressly stated otherwise, all prices displayed to Consumers on the Platform are inclusive of GST.

POD operates an electronic distribution platform within the meaning of section 84-70 of the A New Tax System (Goods and Services Tax) Act 1999 (Cth). Accordingly, POD is treated as

the supplier of the Product to the Buyer for GST purposes and is liable for GST on the supply.

58.2 GST Treatment

If GST is payable on a taxable supply made under this Agreement:

- a. the consideration payable includes the applicable GST unless expressly stated otherwise;
- b. POD will account for GST in accordance with the GST Law;
- c. the Buyer must pay the GST-inclusive Purchase Price.

Under the GST Act, a taxable supply may include the creation or grant of a right, and GST on a taxable supply is generally calculated by reference to the GST-exclusive value of the supply.

58.3 Change in GST

If the rate or application of GST changes after an order is accepted but before the taxable supply is attributed for GST purposes, the amount payable may be adjusted to the extent required by the GST Law.

58.4 Adjustment Event

If an adjustment event occurs for GST purposes, including because of a refund, cancellation or change in consideration:

- a. the parties must make any payment or adjustment required by the GST Law;
- b. POD may issue an adjustment note where required.

58.5 Definitions

Expressions used in this clause that are defined in the GST Law have the meaning given by the GST Law unless the context requires otherwise.

59. Payment Methods

59.1 Accepted Methods

POD may accept payment through the methods displayed at checkout, which at launch may include:

- a. credit or debit card;
- b. Apple Pay;
- c. Google Pay;
- d. Link; and
- e. any other payment method introduced by POD.

59.2 Available Methods May Change

POD may add, remove or suspend a payment method at any time before an order is placed.

Removal of a payment method does not affect a completed transaction.

59.3 Payment Provider

Payments may be processed by a third-party payment service provider.

The Buyer may be required to comply with the provider's applicable terms and privacy arrangements.

59.4 Payment Authority

By submitting payment details, the Buyer represents and warrants that:

- a. the Buyer is authorised to use the nominated payment method;
- b. the payment information supplied is accurate;
- c. the transaction is not fraudulent or unlawful;
- d. sufficient funds or credit are available.

59.5 Payment Information

POD may not receive or retain complete card details where those details are processed directly by the payment provider.

POD may retain transaction identifiers and other payment information reasonably required for:

- a. transaction administration;
- b. refunds;
- c. fraud prevention;
- d. accounting;
- e. legal compliance.

59.6 Payment Failure

If payment is declined, incomplete or unsuccessful:

- a. POD is not required to accept the order;
- b. the Licence does not arise;
- c. POD may invite the Buyer to use another payment method.

59.7 No Buy-Now-Pay-Later at Launch

Unless the Platform expressly states otherwise, POD does not offer a buy-now-pay-later arrangement.

Nothing in this clause prevents POD from introducing an additional payment method in the future on separately disclosed terms.

59.8 Security Checks

POD or its payment provider may undertake reasonable fraud, identity and security checks before accepting a transaction.

POD may delay acceptance while a transaction is being verified.

60. Tax Invoices

60.1 Issue of Tax Invoice

Where required by the GST Law, POD will issue the Buyer with a Tax Invoice for the purchase.

60.2 Electronic Delivery

The Buyer agrees that POD may issue a Tax Invoice electronically by:

- a. email;
- b. download through the Platform;
- c. access through the Buyer's account;
- d. another electronic method reasonably notified to the Buyer.

60.3 Invoice Details

The Tax Invoice may include:

- a. POD's legal name and ABN;
- b. the Buyer's details where required;
- c. the invoice date;
- d. a description of the Product and Product Tier;
- e. the GST-inclusive Purchase Price;
- f. the GST amount or a statement that the total price includes GST;
- g. the order or transaction number;
- h. other information required by the GST Law.

60.4 POD as Supplier to Buyer

For the transaction governed by this Agreement, POD issues the Tax Invoice to the Buyer as the contracting supplier and, for GST purposes, as the entity treated as the supplier under Subdivision 84-C of the GST Act.

Nothing in the Tax Invoice transfers Copyright ownership from the Designer.

60.5 Correcting Invoice Errors

The Buyer must notify POD if the Buyer reasonably considers that a Tax Invoice contains an error.

POD may issue a corrected Tax Invoice or adjustment note where appropriate.

60.6 Duplicate Invoice

POD may provide a duplicate Tax Invoice on reasonable request and verification of the transaction.

61. Chargebacks

61.1 Buyer to Contact POD

Before initiating a Chargeback, the Buyer should contact POD and give POD a reasonable opportunity to investigate and resolve the issue, unless:

- a. the Buyer reasonably suspects fraud or unauthorised use;
- b. urgent action is reasonably required to protect the Buyer's account;
- c. contacting POD would materially prejudice a statutory right; or
- d. the circumstances make prior contact unreasonable.

61.2 No Restriction on Lawful Dispute

Nothing in this Agreement prevents the Buyer from:

- a. disputing an unauthorised transaction;
- b. exercising rights under applicable payment-card rules;
- c. exercising rights under the Australian Consumer Law;
- d. seeking assistance from a financial institution or regulator.

61.3 Notification of Chargeback

If POD receives notice of a Chargeback, POD may:

- a. contact the Buyer;
- b. request information about the dispute;
- c. provide transaction and delivery records to the payment provider;
- d. suspend further download access pending investigation;
- e. take other reasonable action to protect the Product and the Platform.

61.4 Buyer Cooperation

The Buyer must provide reasonable cooperation concerning a Chargeback initiated by or on behalf of the Buyer, including clarifying whether:

- a. the transaction was authorised;
- b. the Product was received;
- c. the dispute concerns a claimed Consumer Guarantee failure;
- d. the dispute has been resolved.

61.5 Fraudulent or Improper Chargeback

The Buyer must not knowingly initiate or maintain a Chargeback:

- a. for a transaction the Buyer authorised;
- b. after receiving and retaining a remedy that fully resolves the dispute;
- c. for the purpose of obtaining both the Product and repayment without a lawful basis;
- d. using false or misleading information.

61.6 Costs

To the extent permitted by law, if a Chargeback is finally determined to have been fraudulent or knowingly initiated without a proper basis, POD may recover from the Buyer:

- a. the unpaid Purchase Price;
- b. reasonable third-party Chargeback fees actually incurred;
- c. reasonable enforcement costs.

This clause does not apply merely because a Chargeback is unsuccessful or because POD and the Buyer disagree about a genuine claim.

61.7 Chargeback Does Not Determine ACL Claim

The outcome of a Chargeback process does not conclusively determine whether:

- a. a Consumer Guarantee was breached;
- b. the Buyer has a remedy under the Australian Consumer Law;
- c. POD has a contractual claim against the Buyer.

Those matters remain subject to Applicable Law.

62. Revocation Following Payment Reversal

62.1 Licence Conditional on Payment

The continued operation of the Licence is conditional upon POD receiving and retaining the Purchase Price, except where repayment occurs because:

- a. POD has provided a refund required by law;
- b. POD has agreed to a refund or credit;
- c. the Buyer has lawfully rejected the Product;
- d. the payment reversal reflects an unauthorised transaction not attributable to the Buyer.

62.2 Suspension Pending Investigation

If payment is reversed, cancelled, dishonoured or charged back, POD may suspend:

- a. the Licence;
- b. download access;
- c. access to the Product through the Platform,

while POD reasonably investigates the circumstances.

62.3 Notice

Except where immediate suspension is reasonably necessary because of suspected fraud, unlawful conduct or urgent intellectual property risk, POD will give the Buyer notice of the suspension and a reasonable opportunity to:

- a. explain the payment reversal;
- b. provide evidence that payment remains valid;
- c. make replacement payment where appropriate;
- d. identify a statutory or agreed basis for the refund.

62.4 Revocation for Unpaid Purchase Price

If:

- a. the Purchase Price has been reversed or remains unpaid;
- b. the Buyer has no lawful entitlement to the reversal or refund; and
- c. the Buyer fails to restore payment within a reasonable period specified by POD,

POD may revoke the Licence by written notice.

62.5 Consequences of Revocation

Following revocation under clause 62.4, the Buyer must:

- a. immediately cease using the Product;
- b. not submit or continue to use the Product for any planning or building application;
- c. not commence or continue Construction using the Product;
- d. take reasonable steps to withdraw copies held by persons engaged by the Buyer;
- e. delete or destroy copies within the Buyer's possession or control, except copies required by law or reasonably retained as evidence.

62.6 Reinstatement

POD may reinstate the Licence when:

- a. cleared replacement payment is received;
- b. the payment provider reverses the Chargeback in POD's favour;
- c. the parties resolve the payment dispute;
- d. POD determines that revocation was not justified.

62.7 Construction Already Commenced

If Construction has commenced before revocation, the Buyer must promptly notify POD.

Nothing in this clause authorises continued use following revocation, but POD may consider:

- a. the stage of the Project;
- b. whether the payment reversal was inadvertent;
- c. whether replacement payment is made promptly;
- d. the rights of innocent third parties;
- e. any remedy required by Applicable Law,

when determining the appropriate enforcement response.

62.8 No Revocation for Lawful ACL Remedy

POD must not revoke the Licence merely to defeat or penalise the Buyer for:

- a. making a genuine Consumer Guarantee claim;
- b. receiving a refund or payment reversal to which the Buyer is lawfully entitled;
- c. reporting an unauthorised transaction;
- d. exercising another non-excludable statutory right.

Where a full refund lawfully terminates the transaction, the Licence ends because the underlying purchase has been unwound, not as a penalty for exercising the statutory right.

62.9 Accrued Rights

Revocation does not affect:

- a. rights accrued before revocation;
- b. a claim concerning earlier unauthorised use;
- c. the Designer's Intellectual Property Rights;
- d. provisions intended to survive termination;
- e. any non-excludable right of the Buyer.

LIABILITY

63. Warranties

63.1 POD Warranties

Subject to this Agreement and the Australian Consumer Law, POD warrants that:

- a. it has authority to grant the Licence described in this Agreement;
- b. it is authorised under the relevant Designer Agreement to distribute and license the Product;
- c. the Product supplied will substantially correspond with the Product description appearing on the Platform at the time of purchase;
- d. the Product will be supplied electronically in the format described in the applicable Product Tier;
- e. POD will exercise reasonable care in making the Product available to the Buyer.

63.2 No Additional Warranties

Except as expressly stated in this Agreement or arising under the Australian Consumer Law, POD does not make any representation or warranty concerning the Product.

63.3 Buyer Acknowledgements

The Buyer acknowledges that before entering into this Agreement the Buyer has been informed that:

- a. the Product is a pre-prepared architectural design;
- b. Site Adaptation may be required;
- c. engineering and consultant documentation may be required;
- d. planning approval and building approval are separate statutory processes;
- e. the Product is licensed and not sold.

63.4 Buyer Warranties

The Buyer warrants that:

- a. all information supplied to POD is accurate;
- b. the Licensed Address has been correctly nominated;
- c. the Buyer will use the Product only as authorised by this Agreement;
- d. the Buyer will comply with all Applicable Laws;
- e. the Buyer will obtain all approvals required for the Project;
- f. the Buyer will engage appropriately qualified practitioners where required.

63.5 Continuing Warranties

Each warranty given by the Buyer is deemed repeated whenever the Buyer accesses, downloads or uses the Product.

64. Disclaimer

64.1 No Design Advice

Subject to the Australian Consumer Law, POD does not provide:

- a. architectural advice;
- b. engineering advice;
- c. planning advice;
- d. surveying services;
- e. certification services;
- f. legal advice;
- g. construction advice.

64.2 No Site Warranty

Subject to clause 51 and the Australian Consumer Law, POD does not warrant that the Product:

- a. is suitable for every property;
- b. complies with all planning controls;
- c. complies with all building requirements;
- d. is capable of approval without amendment;
- e. is ready for immediate construction without Site Adaptation.

64.3 Third Party Services

POD is not responsible for services supplied by:

- a. Designers;
- b. engineers;
- c. surveyors;
- d. consultants;
- e. builders;
- f. certifiers;
- g. councils;
- h. approval authorities,

except to the extent liability cannot lawfully be excluded.

64.4 Regulatory Decisions

POD is not responsible for any decision made by:

- a. a council;
- b. a planning authority;
- c. a building surveyor;
- d. a certifier;
- e. another statutory authority,
- f. including any refusal, delay or condition imposed upon an approval application.

64.5 Estimates

Any indicative:

- a. construction costs;
- b. build times;
- c. planning timeframes;
- d. consultant costs;
- e. approval prospects,

published on the Platform are estimates only and are not contractual promises.

65. Limitation of Liability

65.1 Application

This clause applies only to the extent permitted by Applicable Law.

Nothing in this Agreement limits or excludes liability which cannot lawfully be limited or excluded.

65.2 Liability Limited to Contract Scope

Subject to the Australian Consumer Law, POD's liability is limited to loss directly arising from POD's own breach of this Agreement.

65.3 Excluded Matters

Without limiting clause 65.2, POD is not liable for loss arising from:

- a. Site Conditions;
- b. engineering requirements;
- c. planning requirements;
- d. consultant recommendations;
- e. construction methodology;
- f. builder workmanship;
- g. cost overruns;
- h. delays in approvals;
- i. changes in Applicable Law after purchase;
- j. modifications undertaken by others;
- k. use outside the scope of the Licence.

65.4 Third Party Conduct

Subject to the Australian Consumer Law, POD is not liable for acts or omissions of:

- a. Designers acting under separate Adaptation Agreements;
- b. Registered Practitioners;
- c. consultants;
- d. builders;
- e. approval authorities;
- f. utilities;
- g. payment providers.

65.5 Aggregate Liability

To the extent permitted by law, and except where the Australian Consumer Law provides otherwise, POD's aggregate contractual liability arising from a claim not involving a non-excludable statutory guarantee shall not exceed the Purchase Price paid for the Product giving rise to the claim.

This limitation does not apply where the Australian Consumer Law provides a different remedy or measure of compensation.

65.6 Mitigation

The Buyer must take reasonable steps to mitigate any loss suffered.

66. Consequential Loss

66.1 Excluded Loss

To the maximum extent permitted by law, neither Party is liable to the other for Consequential Loss arising out of this Agreement.

66.2 Meaning of Consequential Loss

For the purposes of this Agreement, Consequential Loss includes:

- a. loss of profit;
- b. loss of anticipated savings;
- c. loss of opportunity;
- d. loss of revenue;
- e. loss of goodwill;
- f. business interruption;
- g. financing costs;
- h. loss of commercial opportunity;
- i. indirect or consequential loss recognised at common law.

66.3 Exceptions

Clause 66.1 does not apply to:

- a. liability arising from fraud;
- b. deliberate misconduct;
- c. infringement of Intellectual Property Rights;
- d. indemnified claims under clause 67;
- e. liability that cannot lawfully be excluded;
- f. reasonably foreseeable loss recoverable under the Australian Consumer Law.

67. Indemnities

67.1 Buyer Indemnity

The Buyer indemnifies POD and the Designer, and their respective officers, employees, contractors and agents, against Loss arising from:

- a. breach of this Agreement by the Buyer;

- b. unauthorised use of the Product;
- c. infringement of the Designer's Intellectual Property Rights arising from the Buyer's conduct;
- d. unauthorised construction outside the Licence;
- e. removal of security features;
- f. unlawful distribution of the Product;
- g. breach of Applicable Law by the Buyer;
- h. negligent acts or omissions of the Buyer.

67.2 Scope of Indemnity

The indemnity extends to reasonable legal costs incurred on a solicitor-client basis in responding to the relevant claim.

67.3 No Double Recovery

POD may not recover more than once in respect of the same Loss.

67.4 Reduction for POD Conduct

The Buyer's liability under this indemnity is reduced to the extent that the Loss was caused or contributed to by the negligent or unlawful conduct of POD.

67.5 Survival

Each indemnity survives termination of this Agreement.

PART 12

TERMINATION

68. Material Breach

68.1 Material Breach

Each of the following constitutes a material breach of this Agreement:

- a. use of the Product for more than one dwelling;
- b. use at an address other than the Licensed Address;
- c. unauthorised commercial exploitation;
- d. removal of Watermarks or security features;
- e. unauthorised publication or file sharing;
- f. infringement of Intellectual Property Rights;
- g. non-payment of the Purchase Price;
- h. fraudulent Chargeback;
- i. any substantial breach of the Licence restrictions.

68.2 Notice to Remedy

Where the breach is capable of remedy, POD may give the Buyer written notice requiring the breach to be remedied within a reasonable period.

68.3 Immediate Termination

POD may terminate this Agreement immediately where:

- a. the breach cannot reasonably be remedied;
- b. the Buyer deliberately infringes Intellectual Property Rights;
- c. the Buyer engages in fraudulent conduct;
- d. immediate termination is reasonably necessary to prevent ongoing misuse of the Product.

69. Suspension

69.1 Suspension Rights

POD may suspend:

- a. download access;
- b. Platform access;
- c. future purchases;
- d. technical support,

while investigating suspected breaches.

69.2 Suspension Not Waiver

Suspension does not constitute:

- a. termination;
- b. acceptance of the breach;
- c. waiver of any rights.

69.3 Reinstatement

POD must reinstate access where:

- a. the investigation establishes no material breach; or
- b. the Buyer remedies the breach to POD's reasonable satisfaction.

70. Revocation

70.1 Revocation of Licence

POD may revoke the Licence where:

- a. this Agreement is terminated;
- b. the Purchase Price is lawfully reversed and not reinstated;
- c. the Buyer materially breaches this Agreement;
- d. continued use would infringe the Designer's Intellectual Property Rights.

70.2 Written Notice

Except where immediate action is reasonably required to prevent ongoing infringement or fraud, POD will notify the Buyer of the revocation.

70.3 Revocation Following Refund

Where the transaction is unwound following a lawful full refund, the Licence terminates when the refund takes effect.

71. Effect of Termination

71.1 Buyer Obligations

Upon termination or revocation, the Buyer must immediately:

- a. cease using the Product;
- b. cease Construction using the Product to the extent legally and practically possible;
- c. cease further submissions of the Product to authorities;
- d. destroy or permanently delete all copies under the Buyer's control, except copies required by law or reasonably retained for evidentiary purposes;
- e. cease representing that the Buyer holds a valid Licence.

71.2 Existing Approvals

Termination of this Agreement does not automatically invalidate any statutory approval already granted.

However, the Buyer acquires no continuing contractual right to use the Product beyond the extent required by Applicable Law.

71.3 Accrued Rights

Termination does not affect:

- a. accrued rights;
- b. accrued liabilities;
- c. claims arising before termination;
- d. any right to damages.

72. Survival

72.1 Continuing Clauses

The following provisions survive termination, expiry or revocation:

- a. Intellectual Property;
- b. Confidentiality;
- c. Moral Rights;
- d. Indemnities;
- e. Consequential Loss;
- f. Limitation of Liability;
- g. Payment obligations accrued before termination;
- h. Australian Consumer Law provisions to the extent applicable;
- i. Dispute Resolution;
- j. Governing Law;

- k. any clause which by its nature is intended to survive.

72.2 Continuing Intellectual Property Protection

Termination or expiry does not affect the Designer's ownership of Copyright or other Intellectual Property Rights.

72.3 Continuing Consumer Rights

Nothing in this Part limits any statutory right or remedy that survives termination under the Australian Consumer Law.

PART 13

GENERAL

73. Electronic Acceptance

73.1 Electronic Contract

The Parties acknowledge and agree that this Agreement is intended to be entered into electronically.

The Buyer enters into this Agreement by Electronic Acceptance.

73.2 Methods of Acceptance

Without limitation, Electronic Acceptance occurs when the Buyer, having selected the acceptance checkbox presented at checkout:

- a. clicks an "I Agree", "Accept", "Purchase", "Complete Order" or similar button;
- b. completes the electronic checkout process;
- c. submits payment for the Product;
- d. downloads or accesses the Product following purchase;
- e. otherwise clearly indicates acceptance through the Platform.

73.3 Binding Agreement

Electronic Acceptance constitutes the Buyer's agreement to be legally bound by this Agreement.

The Parties intend that Electronic Acceptance satisfies any requirement for signature to the fullest extent permitted by the *Electronic Transactions Act 1999 (Cth)* and corresponding State and Territory legislation.

73.4 Electronic Records

POD may rely upon electronic records maintained in the ordinary course of business, including:

- a. acceptance logs;
- b. transaction records;
- c. timestamps;
- d. IP address records;
- e. Platform logs;
- f. payment confirmations;

g. download records,
as prima facie evidence of the formation and terms of this Agreement.

74. Notices

74.1 Form of Notice

A notice or other communication under this Agreement must be:

- a. in writing; and
- b. delivered in accordance with this clause.

74.2 Methods of Service

A notice may be given by:

- a. email;
- b. publication through the Buyer's Platform account;
- c. prepaid post;
- d. personal delivery.

74.3 Email Address

The Buyer's email address is the address provided during registration or checkout, unless updated by written notice to POD.

POD's contact details are those published on the Platform or otherwise notified to the Buyer.

74.4 Time of Receipt

Unless proved otherwise, a notice is taken to be received:

- a. if delivered electronically, when capable of being retrieved by the recipient;
- b. if delivered personally, when delivered;
- c. if posted within Australia, on the third Business Day after posting;
- d. if posted internationally, on the seventh Business Day after posting.

74.5 Platform Notices

POD may notify the Buyer of operational matters relating to the Product, the Licence or the Platform through the Buyer's account or by email.

75. Entire Agreement

75.1 Entire Agreement

This Agreement constitutes the entire agreement between POD and the Buyer concerning the Product and supersedes all prior negotiations, discussions, understandings, representations and agreements relating to the Product.

75.2 No Reliance

Subject to the Australian Consumer Law, the Buyer acknowledges that it has not relied upon any representation or warranty not expressly contained in this Agreement.

Nothing in this clause excludes liability for:

- a. fraud;
- b. fraudulent concealment;
- c. misleading or deceptive conduct;
- d. any representation which cannot lawfully be excluded.

75.3 Incorporated Documents

The following documents form part of this Agreement where applicable:

- a. the Purchase Confirmation;
- b. the applicable Product description;
- c. the Privacy Policy;
- d. the Website Terms, to the extent they are not inconsistent with this Agreement.

In the event of inconsistency relating to the Licence or the Product, this Agreement prevails.

76. Variation

76.1 Existing Licences

The version of this Agreement accepted by the Buyer at the time of purchase governs that transaction.

76.2 Future Amendments

POD may amend this Agreement for future purchases by publishing an updated version on the Platform.

76.3 Existing Transactions

An amendment does not affect an existing Licence unless:

- a. the Buyer expressly agrees;
- b. the amendment is required by Applicable Law;
- c. the amendment is beneficial to the Buyer and does not materially prejudice existing rights.

76.4 Platform Changes

POD may amend operational procedures relating to the Platform provided those changes do not substantially reduce rights already granted to the Buyer.

77. Assignment

77.1 Assignment by Buyer

The Buyer must not assign, novate or otherwise transfer this Agreement or the Licence without POD's prior written consent.

77.2 Assignment by POD

POD may assign or novate this Agreement to:

- a. a related body corporate;
- b. the purchaser of the Platform business;
- c. a successor by merger, acquisition or corporate restructure,

provided the assignee assumes POD's obligations under this Agreement.

77.3 No Release

An assignment does not affect rights accrued before the assignment takes effect.

78. Severability

78.1 Severance

If any provision of this Agreement is held to be illegal, invalid or unenforceable:

- a. that provision is severed only to the extent necessary;
- b. the remaining provisions continue in full force and effect.

78.2 Read Down

Where a provision is capable of being read down to preserve its validity, it shall be interpreted accordingly before severance occurs.

78.3 Consumer Law

A provision inconsistent with the Australian Consumer Law shall be read down or severed only to the minimum extent necessary.

79. Waiver

79.1 No Implied Waiver

A failure or delay by either Party to exercise a right does not constitute a waiver of that right.

79.2 Single Exercise

The exercise of a right once does not prevent further exercise of that right.

79.3 Written Waiver

A waiver is effective only if:

- a. in writing; and

- b. signed or electronically authorised by the Party granting the waiver.

80. Force Majeure

80.1 Force Majeure Event

A Party is not liable for delay or failure to perform an obligation (other than payment obligations) to the extent caused by a Force Majeure Event.

80.2 Force Majeure Includes

Without limitation:

- a. natural disasters;
- b. flood;
- c. bushfire;
- d. pandemic;
- e. epidemic;
- f. war;
- g. terrorism;
- h. cyber attack;
- i. widespread internet outage;
- j. governmental action;
- k. power failure;
- l. industrial disputes beyond the affected Party's reasonable control;
- m. failure of third-party hosting or cloud infrastructure.

80.3 Mitigation

The affected Party must use reasonable endeavours to minimise the effect of the Force Majeure Event.

80.4 Prolonged Force Majeure

If a Force Majeure Event continues for more than ninety (90) consecutive days, either Party may terminate this Agreement by written notice where continued performance has become impossible.

Termination under this clause does not affect accrued rights or liabilities.

81. Governing Law

81.1 Governing Law

This Agreement is governed by the laws in force in the State of Victoria, Australia.

81.2 Applicable Commonwealth Law

The Parties acknowledge that Commonwealth legislation, including the:

- a. *Competition and Consumer Act 2010 (Cth)*;
- b. *Copyright Act 1968 (Cth)*;

c. *Electronic Transactions Act 1999 (Cth)*,

applies according to its terms.

82. Jurisdiction

82.1 Exclusive Jurisdiction

Subject to clause 83 (Dispute Resolution), the Parties submit to the exclusive jurisdiction of the courts of Victoria and the courts competent to hear appeals from those courts.

82.2 Injunctive Relief

Nothing in this Agreement prevents POD or the Designer from seeking urgent interlocutory or equitable relief in any court of competent jurisdiction to protect Intellectual Property Rights or confidential information.

83. Dispute Resolution

83.1 Good Faith Negotiation

A Party claiming that a dispute has arisen under this Agreement must first give written notice describing the dispute.

Within ten (10) Business Days after receipt of the notice, senior representatives of the Parties must use reasonable endeavours to resolve the dispute through good faith negotiations.

83.2 Mediation

If the dispute is not resolved within twenty (20) Business Days after the notice is given, either Party may propose mediation. Mediation is not a precondition to commencing proceedings and neither Party is required to participate.

If both Parties agree to mediation, unless otherwise agreed:

- a. the mediation shall occur in Melbourne, Victoria, or by electronic means;
- b. the mediator shall be appointed by agreement or, failing agreement, by the Australian Disputes Centre;
- c. each Party shall bear its own costs of the mediation;
- d. the mediator's fees shall be shared equally.

83.3 Court Proceedings

Neither Party may commence court proceedings until the notice and negotiation requirements in clauses 83.1 and 83.2 have been satisfied, except where proceedings are reasonably required:

- a. to obtain urgent interlocutory relief;
- b. to preserve evidence;
- c. because limitation periods may expire;
- d. to enforce Intellectual Property Rights;

- e. where the dispute is not capable of resolution through mediation.

83.4 Consumer Rights

Nothing in this clause:

- a. prevents a Consumer from exercising rights under the Australian Consumer Law;
- b. prevents a complaint to a regulator or statutory authority;
- c. requires mediation where Applicable Law prohibits such a requirement.

84. Counterparts

84.1 Electronic Counterparts

This Agreement may be entered into electronically and, where applicable, executed in counterparts.

84.2 Counterparts

Each counterpart constitutes an original.

Together they constitute one agreement.

84.3 Electronic Signatures

Where signatures are required, electronic signatures and Electronic Acceptance satisfy any signature requirement to the fullest extent permitted by Applicable Law.

84.4 Continuing Effect

This Agreement remains binding notwithstanding that acceptance occurs electronically and no physical copy is signed by the Parties.

EXECUTION

Buyer

The Buyer enters into this Agreement by Electronic Acceptance in accordance with clause 73.

Plans on Demand Pty Ltd

This Agreement is accepted electronically by Plans on Demand Pty Ltd upon acceptance of the Buyer's order and grant of the Licence.

No further signature is required by either Party for this Agreement to become legally binding.

END OF AGREEMENT