

## **PARTICULARS AND CONDITIONS OF SALE OF COSY HOME TO BE REMOVED**

### **AUCTION DETAILS:**

**Auctioneer:** Mark McGoldrick

**Place of Auction:** Cosy Homes stand at Home & Leisure Show, Christchurch Arena

**Date and Time of Auction:** 3.00pm Sunday 2 July 2023

**VENDOR:** MindSpace Solutions Limited t/a Cosy Homes

**GST:** The Vendor is registered under the GST Act in respect of the transaction evidenced by this agreement.

**Property:** The Cosy Home referred to in Schedule 1

### **1 Definitions and interpretation**

1.1 In this agreement unless the context otherwise requires:

- (a) “authorisations” means and includes all permissions, consents, authorisations and agreements from any and/or all councils, utility providers and any and all other competent authorities;
- (b) “chattels” means the chattels listed in Schedule 2.
- (c) “Cosy Home” means the Cosy Home referred to in the document from Cosy Homes dated 2/7/2023 and attached as Schedule 1
- (d) “property” and “Cosy Home” means the Cosy Home referred to in clause 1.1 (b) and includes the chattels referred to in Schedule 2.
- (e) “purchaser site” means a site nominated by the purchaser prior to the date and time of auction.
- (f) “removal costs” means preparatory costs for loading of the property onto a truck for transport, transportation costs, transit insurance, material damage insurance where the property is located to a vendor site, storage costs, preparatory costs for the property to be unloaded at the purchaser site and all other costs associated with the delivery of the property to the purchaser site.
- (g) “remote settlement” means settlement of the sale and purchase of the property by way of the purchaser paying the moneys due and payable on the settlement date directly into the bank account of the vendor and providing proof of such payment to the vendor.
- (h) “settlement date” means 10am Monday 3<sup>rd</sup> July 2023 when the property is placed on the truck for delivery to the purchaser site.

- (i) "vendor site" means a site nominated by the vendor pending delivery of the property to the purchaser.
- (j) "working day" means any day of the week other than:
  - (i) Saturday, Sunday, or a public holiday.
  - (ii) a day in the period commencing on the 24<sup>th</sup> December in any year and ending on the 5<sup>th</sup> day of January in the following year, both days inclusive; and
  - (iii) the day observed as the anniversary of any province in which the property is situated.

A working day shall be deemed to commence at 9.00 am and to terminate at 5.00 pm.

- (k) Words in the singular shall include the plural and vice versa.

## **2 Conditions of Sale**

- 2.1 The property including the chattels referred to in Schedule 2 are sold on these Particulars and Conditions of Sale and the General Terms of Sale.
- 2.2 GST will be payable in accordance with the statement of the purchase price in the Memorandum of Contract.
- 2.3 The GST date is: The Settlement Date.
- 2.4 The settlement date is no later than 10am on 3<sup>rd</sup> July 2023 (or sooner by mutual agreement).
- 2.5 The interest rate for late settlement is 15% per annum.

## **3 Conduct of Auction**

- 3.1 The property is offered for sale subject to a reserve price and, subject to the reserve price being met, the highest bidder whose bid is accepted by the auctioneer shall be the purchaser.
- 3.2 The auctioneer may nominate the sum by which the bidding can be raised.
- 3.3 The auctioneer may refuse any bid.
- 3.4 The auctioneer in respect of the sale may submit a bid on behalf of any person. The auctioneer shall identify each vendor bid as it is made.
- 3.5 The vendor may bid personally, or by a representative, or through the auctioneer, provided that the bid is less than the reserve price.
- 3.6 The vendor may withdraw the property at any time before it has been sold and without declaring the reserve price.
- 3.7 If a dispute arises concerning any bid, the auctioneer may determine the dispute or re-offer the property at the last undisputed bid.

- 3.8 The purchaser shall immediately on the completion of the auction:
- (a) sign the Memorandum of Contract, failing which the auctioneer may sign on behalf of the purchaser:
  - (b) pay to the vendor the deposit being 20% of the purchase price unless otherwise agreed.

## **GENERAL TERMS OF SALE**

### **4.0 Deposit**

- 4.1 The purchaser shall pay the deposit being 20% of the purchase price to the vendor immediately by direct bank transfer to the vendor's bank account on the completion of the auction or, where the Cosy Home has been sold prior to, or subsequent to, the auction, on the execution of this agreement by both parties, time being of the essence. The purchaser shall provide proof of payment of the deposit to the vendor.
- 4.2 If the deposit is not paid as set out in subclause 4.1, the vendor may give immediate notice cancelling this agreement and without prejudice to the vendor's right to claim damages for non-performance of this agreement, may re-sell the Cosy Home to another buyer at such price and on such terms and conditions as the vendor agrees.
- 4.3 The deposit shall be in part payment of the purchase price.

### **5.0 Possession and Settlement**

#### **Possession**

- 5.1 Possession shall be given and taken on the settlement date.
- 5.2 On the settlement date, the vendor shall make available to the purchaser all keys to all exterior doors.

#### **Settlement**

- 5.3 The vendor shall prepare a GST tax invoice for the purchase price and other moneys due under this agreement.
- 5.4 On the settlement date the balance of the purchase price, removal costs, interest and other moneys, if any, shall be paid by the purchaser in cleared funds or otherwise satisfied as provided in this agreement or as the vendor directs.
- 5.5 The parties shall complete the settlement by way of remote settlement.

#### **Purchaser Default: Late settlement**

- 5.6 If any portion of the purchase price is not paid upon the due date for payment, then, the vendor is not obliged to give the purchaser possession of the property.

- 5.7 Subject to the provisions of clauses 4.2, the purchaser shall pay to the vendor interest at the interest rate for late settlement on the portion of the purchase price so unpaid for the period from the due date for payment until payment (“the default period”); but nevertheless, this stipulation is without prejudice to any of the vendor’s rights or remedies including any right to claim for additional expenses and damages. For the purpose of this subclause, a payment made on a day other than a working day or after the termination of a working day shall be deemed to be made on the next following working day and interest shall be computed accordingly.

### **Purchaser’s obligations**

- 5.8 The purchaser shall register with the vendor before the purchaser may bid at auction.
- 5.9 The purchaser shall, at the purchaser’s sole cost, risk and liability, in all things save as may be otherwise expressly provided under this agreement, be responsible for obtaining all authorisations and paying all fees, charges, costs, and expenses necessary for and/or arising in connection with the removal of the property, transport of the property, interim storage and re-siting of the property to the purchaser site.
- 5.10 The timeframe for removal of the property from its current location to the purchaser site shall be no later than 10am on Monday 3rd July 2023.
- 5.11 The purchaser shall pay all removal costs. The removal costs shall be charged to the purchaser and shall be payable on the settlement date. In the event that not all removal costs are known at the settlement date, the vendor shall invoice those removal costs as soon as the vendor is able following the settlement date. Upon invoice, the purchaser shall pay the removal costs within 5 working days of such invoice being issued.
- 5.12 In the event that the purchaser fails to remove the property from its current location the vendor may elect to remove the property to a vendor site. In that event the purchaser shall pay all removal costs associated with delivery to a vendor site until delivery is made to the purchaser site.
- 5.13 The purchaser shall allow access to the purchaser site for the sole purpose of delivery of the property to the purchaser site. The purchaser covenants that the purchaser will not occupy the property until the purchaser has obtained relevant authorisations.
- 5.14 The purchaser must ensure that all Health and Safety in Employment laws, regulations and rules, are strictly complied with and acknowledges and agrees to the maximum extent permitted by law that as between the vendor and the purchaser, the purchaser shall be solely liable and responsible as the person in control of a place of work in connection with the purchaser site, the location of the property at the purchaser site, and the activities of, or at the instruction of the purchaser (or of any agent, contractor, subcontractor, employee, representative, consultant, or invitee of the purchaser) under this agreement.

### **Vendor's obligations**

- 5.15 The vendor agrees to keep the property insured up until the settlement date and during transport of the property from the current site or the vendor site to the purchaser site. The purchaser shall pay all transportation and transit insurance costs by direct credit to either the vendor or the transportation company, as the vendor shall direct.
- 5.16 Upon delivery of the property to the purchaser site, the purchaser shall be solely responsible for insurance on the property.
- 5.17 The vendor shall be responsible for the removal of the property from its current site or from the vendor site and delivery to the purchaser site at the purchaser's expense.

### **Warranties representations and entire agreement**

- 6.1 The vendor warrants that it is the owner of the property and that the property is free from any encumbrance.
- 6.2 Other than the warranties provided for in Schedule 3 there are no warranties and representations given by the vendor to the purchaser in relation to the property and the purchaser relies solely and wholly upon the purchaser's own judgment and due diligence enquiries and not in reliance upon any representation or warranty made by the vendor or its agent.
- 6.3 The vendor shall not be liable for any damage to the property while the property is located at the Home and Leisure Show or the vendor site.

### **Notice to complete and remedies on default**

- 7.1 Subject to the provisions of clauses 4.2 if the sale is not settled by the purchaser on the settlement date, the vendor may serve on the other party a settlement notice.
- 7.2 The settlement notice shall be effective only if the vendor serving it is at the time of service either in all respects ready, able and willing to proceed to settle or is not so ready, able and willing to settle only by reason of the default or omission of the purchaser or by circumstances beyond the control of the vendor that prevent the vendor from delivery of the property to the purchaser site.
- 7.3 Upon service of the settlement notice the purchaser shall settle:
  - (a) on or before the fifth working day after the date of service of the notice;  
or
  - (b) on the first working day after the 13<sup>th</sup> day of January if the period of five working days expires during the period commencing on the 6<sup>th</sup> January and ending on the 13<sup>th</sup> day of January, both days inclusive,  
  
time being of the essence, but without prejudice to any intermediate right of cancellation by either party.

- 7.4 If the purchaser does not comply with the terms of the settlement notice served by the vendor, then:
- (1) Without prejudice to any other rights or remedies available to the vendor at law or in equity, the vendor may:
    - (a) sue the purchaser for specific performance; or
    - (b) cancel this agreement by notice and pursue either or both of the following remedies, namely:
      - (i) forfeit and retain for the vendor's own benefit the deposit paid by the purchaser, but not exceeding 20% of the purchase price; and/or
      - (ii) sue the purchaser for damages.
  - (2) Where the vendor is entitled to cancel this agreement, the entry by the vendor into a conditional or unconditional agreement for the resale of the property or any part thereof shall take effect as a cancellation of this agreement by the vendor if this agreement has not previously been cancelled and such resale shall be deemed to have occurred after cancellation.
  - (3) The damages claimable by the vendor under subclause 7.4 (1)(b) (ii) shall include all damages claimable at common law or in equity and shall also include (but shall not be limited to) any loss incurred by the vendor on a bona fide resale contracted within one year from the date by which the purchaser should have settled in compliance with the settlement notice. The amount of that loss may include:
    - (a) interest on the unpaid portion of the purchase price at the interest rate for late settlement from the settlement date to the settlement of such resale; and
    - (b) all costs and expenses reasonably incurred in any resale or attempted resale; and
    - (c) all outgoings (other than interest) on or maintenance expenses in respect of the property from the settlement date to the settlement of such resale.
  - (4) Any surplus money arising from a resale shall be retained by the vendor.

**Non-merger**

- 8.1 The obligations and warranties of the parties in this agreement shall not merge with:
- (1) delivery of the chattels;
  - (2) settlement;
  - (3) delivery of the property.

### **Good and services tax**

- 9.1 The purchaser shall pay (in addition to the purchase price stated without GST) any GST which is payable in respect of the supply made under this agreement as follows:
- (1) the purchaser shall pay to the vendor the GST which is so payable in one sum on the GST date;
  - (2) the vendor will deliver a tax invoice to the purchaser on or before the GST date.
  - (3) where any GST is not so paid to the vendor, the purchaser shall pay to the vendor:
    - (a) interest at the interest rate for late settlement on the amount of GST unpaid from the GST date until payment; and
    - (b) any default GST.
  - (4) it shall not be a defence to a claim against the purchaser for payment to the vendor of any default GST that the vendor has failed to mitigate the vendor's damages by paying an amount of GST when it fell due under the GST Act;
  - (5) any sum referred to in this clause is included in the moneys payable by the purchaser on settlement pursuant to subclause 5.4.

### **No assignment**

- 10.1 The purchaser may not assign this agreement or any rights or obligations under this agreement without the consent of the vendor.

### **Counterparts**

- 11.1 This agreement may be exercised in any number of counterparts (including scanned and emailed PDF counterparts).
- 11.2 Each executed counterpart will be deemed an original and all executed counterparts together will constitute one (and the same) instrument.
- 11.3 This agreement shall not come into effect until each person required to sign has signed at least one counterpart and both the vendor and purchaser have received a counterpart signed by each person required to sign.
- 11.4 If the parties cannot agree on the date of this agreement, and counterparts are signed on separate dates, the date of the agreement is the date on which the last counterpart was signed and delivered to the parties.

## **SCHEDULE 1**

### **Cosy Home**

**The 14.1m x 4.2m, 2 bedroom Cosy Home includes the following features:**

- Building and Resource Consents: Building Consent for the Cosy Home. Consent conditional upon inspections every 7 years to check the durability of the steel joists, may require treatment if subject to corrosion. Unless Option chosen for chassis treatment. Note: this does not include site related costs: site plan; site works; BE Consent site details and RFI relating to the site.
- Feet: 12 x Concrete feet, adjustable height. Two blocks per foot, so finished floor level of ~620mm. enough space for wheels underneath. Install to be arranged by client with Cosy Home instructions. (Should the geotech soil test not show 250kpa then extra engineering design for foundations may be required).
- Shell Build: A high quality 100mm thermal envelope with no thermal bridges, complies up to high wind zone including electrical wiring and 4x double sockets in each bedroom, 7 double sockets in kitchen/living room and 1 in bathroom.
- Chassis Coating: Includes extra coatings to increase the durability to over 50 years (by our calculations) in C3 corrosion zone (~ >1000m from ocean surf).
- Coloursteel: Outside walls colour: Sandstone Grey. Inside walls colour: Titania. Coloursteel walls with joins filled and with coving and skirting. Polystyrene coving on ceilings and low-profile coving on wall-to-wall joins.
- Steps: 3 x 1m Wooden steps for each door (client can attach to deck or unit). Exterior skirting.
- Thermally Efficient. Multiple Upgrades: Coloured Frames, Tilt and Turn, Opening on Master Bedroom side window, 2x Sliding Door 800mm opening, one extra single leaf full glass door at the back, LowE 1.3 Glass, High Quality Head Flashings.
- Timber Jambs and Architraves with Flat Wood Panel Doors.

#### **FLOORING:**

- Flooring: Dining, Lounge, Hallway: Wood look vinyl planks, glued down, with extra floor preparation and clashing. Colour: Harper Oak.
- Flooring: Bedrooms: Carpet: Wool, 45oz, Quality 11mm Underlay. Colour: Glenhope.

#### **BEDROOMS:**

- Master bedroom wardrobe: 3 tracks, 2 White Melamine and 1 Mirror. Inc Ends with Painting with built in cabinets.



- Second bedroom wardrobe: 1x Standalone Unit with 2x Sliding doors, 1x clothes rail and 1x shelf.

#### **KITCHEN:**

- European, Foil Wrapped kitchen, high gloss white, with black metal handles and soft-close doors with integrated in-bench 9 function electric oven with black glass and hobs.
- 800mm pantry.
- Built in rangehood.
- Gloss black (Austral Quartz) bench tops.
- Black sink with black tap with tall neck and a pull out head.
- Black dishwasher, 450mm wide with 24 month warranty.
- Black fridge/freezer with 24 month warranty.
- Tiled splashback: white subway tiles with dark grout across the whole kitchen.

#### **BATHROOM:**

- Soft-Close Toilet.
- 750 wide foil wrapped ceramic vanity with 1 door, 2 drawers and tap.
- Double Towel Rail, toilet towel rail, hand towel hook, extractor fan on separate switch, mirror.
- 1000x800 curved glass shower with a shower dome, this prevents the shower from introducing condensation into the home.
- Foil wrapped wall hung cabinet.
- Surface mounted fan heater.

#### **LAUNDRY:**

- Separate laundry nook with Midea Active Top Loader Washing Machine 5.5kg

#### **ELECTRICAL:**

- LED Lights in each room, 2 in lounge and 3x exterior lights.
- LED strip light under bench overhang.
- LED strip light in the kitchen nook.
- Infinity LED strip feature light with black trim above bench.
- 3x TV cables, running to the master bedroom and lounge, with faceplates and outdoor, weatherproof F-Connector.

- Electrical Additional: Smoke alarms (hallway and lounge); a conduit for future-proofing from switchboard to under the floor to carry solar or other modifications.
- Exterior electric junction box on the underside of the home, with 8m of cable, 32A plug and 32A switched socket.
- Gas: Califont, gas supply to hobs and hot water, supply and install, including bottle station. Includes an outdoor rated power socket for the califont, with an extra socket for general outdoor use.
- Heat Pump: Gree GHW12AG Weka: 4kW Heat pump including installation. 6 year warranty.

### **RELOCATION:**

- Relocation: Pack down for transport (anchor all relevant movable items - they will need to be unpacked by the purchaser once on site).
- Relocation: Transit Insurance.
- Relocation: Transport to destination will be arranged by Cosy Homes. As this cost varies a lot, Cosy Homes will provide a separate quote. Transport costs are not included in this Cosy Homes quote.

### **EXCLUSIONS:**

This quote **does not include** the following features (can be added):

- Wheels, hubs, stubs, axles, tow bar, coupling
- Building Consent for Site Preparation (can be included if local otherwise client is responsible)
- Site Plan Research and Drawings. As this work varies a lot, this cannot be included in the quote, so is charged on a per hour basis if client wishes to engage us
- Resource Consent (may not be needed)
- Site works Project Management (we can provide this service for \$1600)
- Master builders 10 year guarantee. (available with consented homes from \$850 - \$1600)
- Veranda or deck
- Bathroom Accessories: heated towel rail
- Wall Linings (Internal): Add Gib, plaster and paint to walls and ceilings
- Microwave
- Heat Exchange Ventilation
- Transport (with more details, we can get a separate quote from transport companies)

## **SCHEDULE 2**

### **Chattels**

Washing Machine

Oven

Rangehood

Fridge/freezer

Bathroom fan heater

Fixed floor coverings

Light fittings

Heatpump

TV bracket

## **SCHEDULE 3**

### **Vendor's Warranties**

After delivery, Cosy Homes provides a two year warranty as follows: Cosy Homes will provide advice, materials and labour as required to fix faulty materials and workmanship if delivery address is within 50 km of Kaiapoi. Outside this radius, Cosy Homes will provide advice and materials and co-ordinate with the homeowner the labour component of the defect under the contract and reimburse any reasonable costs incurred by the homeowner as agreed.

All warranties provided by manufacturers will be passed on to the purchaser. These include the fridge, microwave, oven, dishwasher, heat pump, smoke alarms, lights, fans and windows.

## MEMORANDUM OF CONTRACT

**Date of Memorandum:** (to be added by Cosy Homes)

**PURCHASER'S NAME:**

("the purchaser")

became the purchaser of the property by being the highest bidder, or by agreeing with the vendor to purchase the property.

The vendor agrees to sell and the purchaser agrees to purchase the property and the chattels included in the sale for the purchase price stated below in accordance with these Particulars and Conditions of Sale and General Terms of Sale.

**Delivery Address:** \_\_\_\_\_

**Is your site ready for delivery on Monday 3<sup>rd</sup> July 2023? YES / NO**

**Do you need us to come and place the feet? (Locally, approx. \$300 + GST) YES / NO**

**If you are not ready for delivery, (e.g. you are wanting to get a site consent), are you able to store the home on your property? YES / NO**

**If you need us to store the home (at your cost), how long for? \_\_\_\_\_**

**Any other delivery comments?**

\_\_\_\_\_  
\_\_\_\_\_

### **Acknowledgements**

The purchaser acknowledges that this agreement relates to the sale of a manufactured transportable home sold by the vendor. The property is not the sale of a residential property for the purposes of the Real Estate Agents Act 2008. Apart from the engagement of an auctioneer to auction the property, there has been no agency granted by the vendor to sell the property.

**Vendor's bank account: Cosy Homes Account 12-3149-0118676-00**

**Signature of purchaser or auctioneer:**

\_\_\_\_\_

**Signature of vendor or auctioneer**

\_\_\_\_\_