

## The terms and conditions of our structural timber design software.

### Important

This is a LEGALLY binding agreement between Hyne Timber (Licensor) and any person (whether in his or her own capacity or on behalf of that person's employer or principal) (You) who downloads, installs or uses the Hyne Timber Design 7.5 software, which includes computer software and may include associated media, printed materials, "online" or electronic documentation, and Internet-based services (collectively referred to as Software).

Before You click on the "I ACCEPT" button and download, install or use the Software, carefully read the terms and conditions of this Agreement.

By clicking on the "I ACCEPT" button, You expressly warrant that You have the authority to enter into this Agreement (in your own capacity or as agent for your employer or principal, as the case may be), that you are located in Australia and that You expressly agree to be bound by and abide by the terms and conditions of this Agreement. This Agreement constitutes the complete agreement between You and the Licensor.

**If You do not agree to the terms and conditions of this Agreement, do not download or use the Software.**

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### 1. GRANT OF LICENCE

1.1 The Licensor grants to You a non-exclusive, non-transferable licence (Licence) to Use (as defined below in clause 1.2) the Software on a single computer at a single location (System) in Australia for a period of 12 months from the date on which You download the Software. If the single computer on which You use the Software is a multi-user system, the Licence covers all users on that single system. You are granted no rights other than as expressly granted under this Agreement.

1.2 In this Agreement, 'Use' shall mean and include utilisation of the Software by copying, transmitting or loading the same into the permanent memory (e.g. hard disk, CD-ROM or other storage device) of the System for the processing of the System instructions or statements contained in such Software; and includes incidentally and automatically copying the object code form of the Software as part of the technical process of running the Software for the purpose for which it is designed, and for the purpose of understanding the functioning of the Software, and no other purpose. One (1) copy of the Software may be made for back-up and one (1) copy for disaster recovery provided they contain the same copyright information as the original.

### 2. RESTRICTIONS

By accepting the Licence You undertake:

- (a) not to copy the Software except as expressly permitted by clause 1 or other provision of this Agreement;
- (b) not to translate, modify, adapt, disassemble, decompile or reverse engineer the Software, except only to the extent expressly permitted by the Copyright Act 1968 (Cth);
- (c) not to lease, rent, loan, redistribute, sub-lease, sub-licence or create derivative works from the Software;
- (d) to supervise and control Use of the Software in accordance with the terms of this Agreement;

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(e) to reproduce and include the copyright notice of the Licensor as it appears in or on the Software on all copies;

(f) not to use the Software for immoral, illegal or for any other purpose which may be determined threatening, abusive or harmful or which may bring the Licensor into disrepute; and

(g) within 14 days after the date of termination or discontinuance of this Agreement for whatever reason, to destroy the Software and all upgrades or copies.

### 3. LIABILITY

3.1 To the extent permitted by the applicable law, the Software is provided 'as is' without any warranty of any kind either express or implied including but not limited to the implied warranties of merchantability, fitness for a particular purpose, title and non-infringement. Where implied conditions and warranties cannot be excluded, to the extent permitted by law, the Licensor limits its liability to the replacement of the Software or supply of equivalent software or the cost thereof.

3.2 You acknowledge that the Software has been designed with reference only to the products of the Licensor, no reference has been made to the products of any other person in the design of the Software and that You make use of the Software at Your own risk.

#### 3.2.1 The Selection and Use of Non Hyne Timber Products

3.2.1.1 By using the Hyne Timber Design 7.5 software you understand and agree that the software includes information about products manufactured by companies other than Hyne Timber (Third Party Information). That Third Party Information may be used by the Design 7.5 software in providing you with design solutions, including in any report or designs produced by Design 7.5 (the Design Solutions).

3.2.1.2 Hyne Timber cannot independently confirm the accuracy or completeness of the Third Party Information and does not warrant that the information is accurate or that any product manufactured by a third party (Third Party Product) will perform in accordance with the Third Party Information or that it will necessarily be suitable for use in your circumstances. You should make your own enquiries from your supplier and confirm that each Third Party Product is suitable for use in your circumstances.

3.2.1.3 To the fullest extent permitted by law, you agree to release and discharge Hyne Timber and its officers and employees from, and covenant not to bring or commence any Claims you may have or, but for this release, might have had, arising out of, or in connection with:

(a) the use of the Design Solutions or Third Party Products by you;

(b) any error, inaccuracy, incompleteness or similar defect in the Design Solutions or any defect in Third Party Products; and

(c) any default, negligence or lack of care in relation to the production of the Design Solutions or the supply of Third Party Products.

3.2.1.4 For the purposes of this release 'Claims' means any actions, liabilities, losses, claims, demands, claims for costs or expenses or any other proceeding (whether arising in contract, tort, under statute or otherwise).

3.3 To the extent permitted by the applicable law, the Licensor does not warrant that the Software will be error-free, free of viruses or that any errors will be corrected and You are solely responsible for all costs and expenses associated with rectification, repair or damage caused by such errors or viruses.

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3.4 To the extent permitted by the applicable law, the Licensor expressly excludes all liability for any loss or damage which may arise as a result of use of the Software by You, howsoever caused (including as a result of negligence of the Licensor or any of its agents).

3.5 To the extent permitted by the applicable law, the Licensor expressly excludes liability for indirect, special, incidental or consequential loss or damage which may arise in respect of the Software howsoever caused (including as a result of negligence of the Licensor or any of its agents) even if advised of the possibility of such damages including but not limited to:

- (a) economic loss including loss of profit, loss of bargain and loss of opportunity;
- (b) loss of use of hardware, software and data; or
- (c) loss or waste of management or staff time or interruption of business.

3.6 This clause 3 does not exclude or limit the application of any provision of any statute (including the Trade Practices Amendment (Australian Consumer Law) Act 2010) where to do so would:

- (a) contravene that statute; or
- (b) cause any part of this clause 3 to be void.

#### 4. UPGRADES

The Licensor may create new versions of the Software (Upgrades) at any time which may correct errors or add new features and may, in its sole discretion, make such Upgrades available on terms it decides. However, the Licensor has no obligation to notify You of any Upgrades or to provide them to You.

#### 5. INTELLECTUAL PROPERTY

You acknowledge that: (a) neither the grant of the Licence nor the use of the Software results in the transfer of any copyright, trade marks or other intellectual property rights subsisting in or used in connection with the Software to You; and (b) the copyright, patents, trade secrets and other intellectual property in the Hyne Timber Design 7.5 software, the underlying technology and documentation are the property of Hyne Timber of 160 Kent Street, Maryborough, Queensland, Australia except for certain agreed material in which all rights, including copyright, are held by the Licensor. Hyne Timber Design 7.5 software is used, copied and distributed by the Licensor.

#### 6. TERMINATION

6.1 You may terminate this Agreement at any time without notice to the Licensor by destroying the Software. The Licensor may terminate this Agreement at any time without notice to You if it decides, in its absolute discretion, that You are in breach of any of the terms of this Agreement. If You are notified of such termination, You must comply with the provisions of clause 2(g) above.

6.2 The termination of this Agreement under clause 6.1 is not the Licensor's sole remedy, and will not prejudice, or amount to a release of, any of

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the Licensor's rights to claim compensation or other remedies in respect of Your acts, omissions, breach, negligence or wilful misconduct occurring prior to such termination.

### 7. COMPLETE AGREEMENT

This Agreement supersedes and cancels all previous agreements and working arrangements whether oral or written, express or implied between the parties in respect of the licensing of the Software.

### 8. HEADINGS

The headings of clauses in this Agreement are for ease of reference only and accordingly neither the headings nor the layout form part of this Agreement for the purposes of interpretation or construction.

### 9. SEVERANCE

If any provision of this Agreement shall be found by any judicial or other competent authority to be invalid or unenforceable, such invalidity or unenforceability shall not affect the remaining provisions of this Agreement which shall remain in full force and effect.

### 10. GOVERNING LAW AND JURISDICTION

This Agreement is governed by the law applicable in Queensland, Australia. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of Queensland, Australia.

YOU HAVE CAREFULLY READ, UNDERSTAND AND AGREE TO BE BOUND BY AND ABIDE BY THE TERMS AND CONDITIONS OF THIS AGREEMENT.