

2023 TERMS & CONDITIONS

*** ANY PAYMENT WILL BE TAKEN AS AN ACCEPTANCE OF THIS CONTRACT – NO SIGNATURE IS REQUIRED**

INTERIOR DESIGN PAYMENT TERMS

All consultations and services are invoiced and are payable in full two (2) business days before appointment or commencement of works or services, unless specified otherwise in writing by the designer. Non-payment or delayed payment will result in the cancelling or rescheduling of the appointment/consult and any further services.

Design Concept Services are payable in advance before commencement of works. No exchange, no refund and no credit on Design Concept Services.

Payment of all invoices is seen as an agreement and contract for works (design, consult, services, materials or other) to commence. Orders for purchased items and services are not placed with supplier until invoice has been paid in full. Non-payment or delayed payment of invoices can and will result in delays to the project timeline.

Note that no exchange, no credit and no refund on custom made, bespoke, imported, speciality orders. No exceptions. Any and all restocking and delivery fees on products and services that have already been ordered, confirmed, installed or delivered will be passed on to the client. No exceptions.

Hourly rates of \$55 including GST per hour apply for the Principal Designer for any extra work performed outside of the original agreed scope of works.

INITIAL CONSULTATION PAYMENT TERMS

Initial Consultation fee is payable seventy-two (72) hours prior to appointment unless otherwise specified by designer. Cancellation prior to this will not incur a fee. Cancellation of appointment within seventy-two (72) hours of said appointment will incur a cancellation fee of \$50 and the balance refunded to the client.

In the case of a postponement of the appointment, 1x reschedule of the date is accepted. If the 2nd appointment date is also cancelled or the client is not present upon site visit, the \$50 cancellation fee will also apply.

PRELIMINARY DESIGN CONCEPT PAYMENT TERMS

Payment of this service will be seen as an agreement that work can commence by the designer on the preliminary design concepts. Only 1x design concept is offered unless otherwise stated in writing by designer. 1x round of revisions is allowed upon presentation of the preliminary concept.

Further changes to an initial concept at the client's request may result in an hourly fee of \$55 inc GST to be charged for said changes.

No documentation, plans or otherwise are deliverable to client at this stage. If the client would like a copy of the preliminary concept, they are purchasable for a price agreed by the designer depending on type and size of the project.

FINAL DESIGN CONCEPT PAYMENT TERMS

Final Design Concept Payment – due within five (5) business days of the Preliminary Concept presentation date.

Final Concept may be presented but will not be delivered to the client until this payment is made in full.

Payment is non refundable, regardless of the stage of development.

DESIGN CONCEPT INSTALLATION/STYLING PAYMENT TERMS

This may include:

- Organisation of delivery of goods to site
- Styling
- Communication with relevant trades or contractors regarding the design concept and its installation.

Payment terms for this service are project dependant and will be made at the designer's discretion. These payment terms will be stated on the client's invoice. In the event that payment terms have not been included on the client's invoice, payment is to be made in full prior to this stage commencing.

Ellie Arthur Interior Design accepts no responsibility or liability for any damages, financial or physical, that are incurred by any and all subcontractors or outside parties. Progress payments for any trade work or specialty work required will not be specified or invoiced by Ellie Arthur Interior Design. They will be directly invoiced from relevant trades to the client direct and will not be the responsibility of Ellie Arthur Design. Please ensure these payments are kept up to date as a result of not doing so may affect the projects timeline.

In the event that a project is delayed due to:

- a. Late payments made from client to any trades, suppliers or outside contractors holding up work OR
- b. Delays in delivery of products or materials to be supplied by the client resulting in the requirement for the designer to then spend additional time working on the project, the client will be charged at an hourly rate for said additional work of \$55 per hour including GST.

PROPERTY STYLING & HIRE TERMS

The 'hire' of this package is subject to the following terms and conditions:

1. Once you have accepted the proposal and wish to proceed a deposit, a copy of your drivers license & 1 other form of identification is required to confirm your booking.

Initial deposit of 50% is payable upon acceptance of the quote. Once this deposit is paid a minimum of 8 days' notice is required to change or cancel your booking. We require the balance of the payment to be made in full no later than 7 business days before your scheduled installation date. If 8 days' notice is not given the deposit will not be refundable in full. If you request not to move forward with the quote or would like to cancel your booking outside of the notice period a \$200 Initial consultation fee will be charged.

2. During the hire period no items should be moved or removed for loan purposes or otherwise without written permission from Designer.

3. All goods shall remain in an unused condition. Loss or damage to goods during the period of the hire shall be the responsibility of the property owner. *See insurance details below*

4. We request that between property inspections and photography that all window coverings, e.g. blinds and curtains etc. are fully closed /drawn to avoid sun damage and fading to stock.

5. We request that between property inspections and photography all outdoor cushions and accessories are stored inside the property or underneath the supplied protection covers (if supplied) to avoid theft and damage from weather.

6. You give permission to share our before and after images of your property for our marketing purposes. Note – no personal information is ever shared.

7. No items are to be used by the Property Owner, the Real Estate Agent or any other parties at any time unless previous approval is granted.

8. If items are used or damaged in any way you may be liable for replacement at full retail prices. For Hire Package Clients that have been granted prior approval & paid extra for the ability to use items. We request that all items remain in the exact condition they are hired to you in. For any damage, stains, destruction or signs of animal contact, items will be charged to you at full retail price.

9. If you are hiring a part package and using your beds but our linen you are required to use our linen for property inspections and photography only. Our linen must be removed and stored and your own linen used for sleeping on the beds in between viewings of the property. The same applies for cushions, throws and accessories etc.

10. Five (5) business days notice must be given to extend the Furniture Hire Package or book in collection of furniture at the end of the hire term. If not, you may be charged an additional fortnights hire.

11. In the event where the furniture package is sold to the prospective purchaser payment should be made in full prior to/at the time of settlement of the contract of sale, unless otherwise negotiated

12. Where a hire contract is terminated early the client will be subject to the balance of any hire charges, which would have been applicable in the case of a month -to-month contract for the period which the hire was held.

13. Our service includes a trained professional interior designer. Stock delivered on the job is always subject to our stylist's choice and stock availability at the time of sign off. By signing this agreement, you agree to give the stylist authority over the goods chosen and installed. If, due to personal taste, you wish to arrange goods to be swapped over this incurs a \$300 charge for each trip taken back out to the property, on the day of installation and thereafter

14. If there are specific requests, they must be submitted in writing a minimum of 3 days prior to installation. Total value of package for insurance purposes is TBA upon completion. Please ensure that you notify your insurer of this content value for the dates on this contract and supply us with a copy of the insurance cover note. Insurance is the sole responsibility of the property owner/clients due to ownership rights to insure furniture.

I/We acknowledge and agree to the terms contained in this Hire Contract and that I/We are acting as a nominated representative for the property or property owner.

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PAYMENT

Payment is accepted via electronic bank transfer and cash only.

CANCELLATION POLICY

INITIAL CONSULTATION - Cancelled within seventy-two (72) hours or more notice prior to appointment will result in a \$50 fee withheld and balance refunded to client. Cancellation prior to this will not incur a fee. Cancellation of appointment within 72hrs of said appointment will incur a cancellation fee of \$50 and the balance refunded to the client. In the case of a postponement of the appointment, 1x reschedule of the date is accepted. If the second appointment date is also cancelled or the client is not present upon site visit, the \$50 cancellation fee will also apply.

PRELIMINARY CONCEPT – Cancellation of this service at any time will be subject to a fee at the designer’s discretion, any may be for the hours worked on the concept so far, for the hourly rate of \$55 including GST per hour.

FINAL CONCEPT – Cancellation of this service at any time will be subject to a fee at the designer’s discretion, any may be for the hours worked on the concept so far, for the hourly rate of \$55 including GST per hour.

1. THE SERVICES

- a. The quality, quantity and description of the Services are as stated in the Scope of Services.
- b. The Designer shall perform and complete the Services in accordance with the Design Contract.
- c. If the Designer performed any services for the Client prior to the operative date of the Design Contract, those services shall be incorporated in the Services and are governed by the terms of the Design Contract.

2. PAYMENT FOR THE SERVICES

- a. The Client shall pay the Designer the Fee in consideration of the performance of the Services in accordance with the Design Contract.
- b. The Designer shall be entitled to payment for the disbursements set out in the Schedule 1 at cost and such other disbursements as are approved by the Client (such approval not to be unreasonably withheld or delayed).
- c. The Designer shall claim payment of the Fee and/or disbursements by rendering invoices to the Client. Each invoice shall be given in writing and shall:
 - i. set out the amount of the Fee claimed;
 - ii. separately identify each disbursement claimed; and
 - iii. separately identify any other claim for payment under the Design Contract.
- d. The Client shall pay the full amount of all invoices within five (5) business days of receipt.
- e. If any payment by the Client to the Designer is overdue, then the Client must pay interest at a rate of 3.5% per month (or part thereof), until the overdue amount is paid in full. Interest is payable on demand. Any payments made by the Client will first be applied to any outstanding interest.
- f. The Client indemnifies the Designer for breaches of clause 2d above.
- g. If any money is owed by the Client to the Designer under the Design Contract, the Designer may withhold performance of any Services (including the supply of Documents and/or Goods) until arrangements for payment have been agreed by the Designer with the Client.

3. TIME FOR PERFORMANCE OF THE SERVICES

- a. The Designer will use commercially reasonable endeavours to perform the Services within the time(s) specified in the Interior Design Agreement (if any).
- b. If no time(s) for performance are specified in the Interior Design Agreement, the Designer will perform the Services within a reasonable time.

4. RISK AND TITLE

- a. Risk of damage to any Goods under the Design Contract passes to the Client upon order of those Goods.
- b. If any Goods are withheld by the Designer pursuant to clause 2g above, risk in the Goods passes to the Client when the Client would have been able to take delivery of the Goods, had the Designer not withheld the Goods.
- c. Title to the Services passes to the Client upon payment for those Services.

5. CLIENT RESPONSIBILITIES AND ACKNOWLEDGEMENT

- a. Without limiting the provisions of the Scope of Services, the Client's responsibilities and obligations under the Design Contract include:
 - i. providing materials and written approvals and/or instructions in accordance with the Design Contract;
 - ii. coordination of any decision making with parties other than the Designer;
 - iii. provision of the builder's working drawings, and schedule of works in a form suitable for use by the Designer; and
 - iv. providing information from third parties required for the Designer to perform the Services.
- b. The Client acknowledges and agrees that:
 - i. it shall be responsible for performing all its obligations under the Design Contract in a reasonable and timely manner and that the Designer's ability to perform the Services in accordance with the Design Contract is contingent upon the Client's prompt performance of its obligations under the Design Contract; and
 - ii. any delays in the Client's performance of its obligations, or variations to the Services caused by the Client, may delay performance of the Services and that any such delay caused by the Client shall not constitute a breach of any of the Designer's obligations under the Design Contract.

6. REVIEW AND APPROVAL OF DOCUMENTS BY THE CLIENT

- a. The Client must, promptly (and in any event, within any time identified in the Design Contract for such review), review any Document(s) provided by the Designer and:
 - i. if the Document(s) comply with the requirements of the Design Contract, approve the Document(s); or
 - ii. if the Document(s) do not comply with the Design Contract, reject the Document(s) and provide details of the non-compliance.
- b. If the Client fails to respond to the Designer within the latter of fifteen (15) days of receipt of the Document(s) and any time specified in the Design Contract for its review, then the Document(s) are deemed to be approved and accepted by the Client.
- c. If the Document(s) are rejected by the Client under clause 6a ii above:
 - i. the Designer shall be entitled to request written clarification of any concern, objection or correction, which must be promptly confirmed by the Client; and
 - ii. subject to receipt of confirmation by the Client as applicable under clause 6c ii above, amend the Document(s) as required to ensure compliance with the Design Contract and resubmit to the Client, in which case clause 6a will reapply in respect of the amended Document(s).
- d. Notwithstanding that a Document complies with the requirements of the Design Contract, the Designer may agree with the Client to amend the Document in which case clause 9 will apply.

7. INTELLECTUAL PROPERTY RIGHTS

- a. The Client acknowledges that the Designer remains the owner of all Designer's Background Intellectual Property (IP).

- b.** The Designer acknowledges that the Client remains the owner of all Client's Background IP.
- c.** The Client acknowledges and agrees that all Developed IP is vested in the Designer and is the Designer's property as and when created, and the Client hereby assigns all rights, title and interest in and to the Developed IP to the Designer.
- d.** The Designer grants to the Client a non-exclusive, non-transferable (except to third parties for the purposes of the Project), revocable licence to use the Designer's Background IP and Developed IP for the sole purpose of the Project.
- e.** The Client must not disclose, reproduce or otherwise deal with the Developed IP or Designer's Background IP, or allow any other person to do the same, for any purpose other than the Project.
- f.** Any modifications, improvements or alterations by the Designer to the Client's Background IP are owned by and vest in the Designer, irrespective of whether the Client has or has not consented to the modifications, improvements or alterations.
- g.** The Client warrants that, unless otherwise provided in the Design Contract, the Client's requirements, design, materials, documents and methods of working, each specified in the Design Contract or provided or directed by the Client, shall not infringe any Intellectual Property Right.
- h.** The Designer warrants that any other documents and methods of working, each provided by the Designer, shall not infringe any Intellectual Property Right.
 - i.** Each party shall indemnify the other against such respective infringements.

8. CONFIDENTIALITY

Each party shall keep all Confidential Information confidential, and shall not without the prior written consent of the other party:

- a.** make available, communicate or disclose the confidential information or any part of it to any person, firm or company other than those of its Personnel requiring the confidential information for the purpose of the Design Contract or for the purpose of complying with applicable laws; or
- b.** use or allow its personnel to use any confidential information for any purpose other than in relation to the provision of obligations under the Design Contract.

9. VARIATIONS

- a.** The Client may vary the Services to be performed by the Designer by giving written notice to the Designer.
- b.** The Designer will vary the Services as instructed by the Client to the extent it is reasonable and possible to do so.
- c.** The Designer shall be entitled to an increase in the Fee for additional works arising from a variation to the Services not caused by the Designer, calculated in accordance with Schedule 2 of the Interior Design Agreement.
- d.** The Designer is entitled to an extension to any time(s) specified in the Design Contract for performance of the Services which is required by reason of a variation not caused by the Designer. The appropriate extension to be given is to be determined by the Designer (acting reasonably).

10. LIABILITY AND CONSEQUENTIAL LOSS

- a.** To the extent permitted by law, the liability of the Designer to the Client arising out of or in connection with the Design Contract is, to the extent permitted by law, limited in the aggregate to the amount of the Fee payable under the Design Contract.
- b.** Notwithstanding any other provision of the Design Contract, the Designer will not be liable to the Client for any loss of revenue, loss of profit or anticipated profit, loss of production, loss of use of any plant or facility, business interruption of any nature, loss of business opportunity, loss of business reputation, loss of contract, value of shares, wasted overheads, payment of liquidated sums, penalties or damages under any agreement or any other indirect, remote, consequential, punitive, exemplary or special loss or damage, but does not include damage or losses arising from claims by third parties in respect of property damage, personal injury, nervous shock or death.

11. DEFAULT AND TERMINATION

- a.** The Design Contract shall commence upon receipt by the Designer of a copy of the Design Contract signed by the Client and shall remain on foot until the completion of the Services or earlier termination of the Design Contract.
- b.** Either party may immediately terminate the Design Contract by written notice to the other if a party:
 - i.** becomes insolvent, files a petition in bankruptcy, makes an assignment for the benefit of its creditors; or
 - ii.** is in default of any of its material responsibilities or obligations under this Design Contract, and such default is not remedied within ten (10) days of receipt of written notice from the other party requiring it to do so.
- c.** If the Design Contract is terminated for any reason, the Designer shall be entitled to payment of:
 - i.** that part of the Fee for Services performed up to and including the through the date of termination; and
 - ii.** the cost of any Goods ordered prior to termination which cannot be cancelled.

12. INDEPENDENT CONTRACTOR AND SUBCONTRACTING

- a.** The parties acknowledge and agree that the Designer is an independent contractor, not an employee of the Client or any company affiliated with the Client and their contract with a builder. The Designer shall provide the Services under the general direction of the Client, but the Designer shall determine, in the Designer's sole discretion, the manner and means by which the Services are to be performed.
- b.** The Design Contract does not create a partnership or joint venture and neither party is authorized to act as an agent or bind the other party except as expressly stated in the Design Contract.
- c.** The Designer shall be permitted to engage and/or use a third-party designer or other service provider as independent contractors in connection with the Services. Notwithstanding the above, Designer shall remain fully responsible for such design agents' compliance with the various terms and conditions of the Design Contract.

13. GOODS

- a.** To the maximum extent permitted by law, the Designer gives no warranties whatsoever in relation to any Goods.
- b.** The parties acknowledge and agree that the Designer may by agreement purchase Goods on behalf of the Client for the purposes of the Services. In the event the Designer does so:
 - i.** the Client must pay the full amount of the Goods upfront prior to the Designer ordering the Goods; and
 - ii.** the Designer accepts no liability in respect of those Goods (including for payment of cancellation fees in the event that the order is cancelled upon request of the Client) other than as expressly provided in the Design Contract.

14. GENERAL

- a. Waiver**
 - i.** A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.
 - ii.** The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.
 - iii.** A waiver by a party is not effective unless it is in writing, signed by that party.
 - iv.** The waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.
- b. Amendment** – no amendment or variation of the Design Contract is valid or binding on the Designer, unless made in writing and signed by the Client and the Designer.
- c. Notices** – All notices to be given hereunder shall be transmitted in writing either by registered mail or electronic mail with return confirmation of receipt and shall be sent to the addresses identified in the Design Agreement, unless notification of change of address is given in writing. Notice shall be effective upon receipt.
- d. No Assignment** – Neither party may assign, whether in writing or orally, or encumber its rights or obligations under the Design Contract or permit the same to be transferred, assigned or encumbered by operation of law or otherwise, without the prior written consent of the other party.

e. Force Majeure – the Designer shall not be deemed in breach of the Design Contract if the Designer is unable to complete the Services or any portion thereof by reason of fire, earthquake, labour dispute, act of god or public enemy, death, illness or incapacity of the Designer or any local, state, federal, national or international law, governmental order or regulation or event.

15. SOCIAL MEDIA AND PROMOTION

By accepting the contracted design services and providing payment, the Client consents to social media and website promotion with photos and descriptions of work. If the client does not consent to photography and/or names being used, they are to advise the designer of this in writing on acceptance of the contract and these terms and conditions.

DEFINITIONS

In these Terms and Conditions:

Design Contract means the clients quote/invoice detailing the scope of works along with these terms and conditions. No signature is required and instead any payment will be seen as the clients full agreement to Scope and to these terms & conditions.

Business Days means a day except Saturdays, Sundays and public holidays in Australia and days between Christmas Day and New Year's Day.

Client means the party named as such in the Interior Design Agreement.

Client's Background Intellectual Property means the Client's Intellectual Property Rights that are in existence at the date of the Design Contract or come into existence after the date of the Design Contract, otherwise than in connection with the Design Contract.

Designer means the party named as such in the Interior Design Agreement.

Designer's Background Intellectual Property means the Designer's Intellectual Property Rights that are in existence at the date of the Design Contract or come into existence after the date of the Design Contract, otherwise than in connection with the Design Contract.

Developed Intellectual Property means all Intellectual Property Rights (present or future) created, discovered or coming into existence in connection with the Design Contract including all Intellectual Property Rights developed by the Designer in performing the Services but excluding any modifications, improvements or alterations to the Designer's Background Intellectual Property developed by the Designer in performing the Services.

Documents means any design documents to be supplied by the Designer as part of the Services.

Fee means the remuneration payable by the Client to the Designer as outlined in Schedule 2 of the Interior Design Agreement and as adjusted from time to time in accordance with the Design Contract.

Goods means any goods specified in the Documents or the Interior Design Agreement, including those to be supplied as part of the Services, but excludes the Documents.

Intellectual Property Rights means all industrial and intellectual property rights whether protectable by statute, at common law or in equity, including all copyright and other similar rights that may subsist or may hereafter subsist in works or any subject matter, rights in relation to inventions (including all patents and patent applications), trade secrets and know-how, rights in relation to designs (whether or not registrable), rights in relation to registered or unregistered trademarks, circuit layout designs and rights in relation to circuit layouts.

Interior Design Agreement means the written agreement between the Client and the Designer for performance of the Services.

Services means:

(a) the work, services and activities to be performed by the Designer stated in the Scope of Services (including, to the extent applicable, supply of the Goods); and

(b) all other work, services and activities that the Designer may be required to perform under the Design Agreement

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