

# TERMS OF ENGAGEMENT

IT IS AGREED BETWEEN Sandalwood Design Limited (“the designer” or “we/us”) AND (“the client” or “you”)

## 1. SERVICES

1.1 The Designer shall provide interior design Services in accordance with the Client’s brief. A specific proposal outlining all work to be undertaken will be presented to the Client. The specific proposal comprises the engagement letter, these terms of engagement, the design scheme and the Client’s brief. The Designer may provide other incidental services as considered necessary for the proper performance of the Services, and such other services as may be agreed between the parties. The Services are limited to those expressly set out in the specific proposal, and any additional services or changes requested by the Client will be treated as a variation in accordance with clause 5.

## 2. COMMENCEMENT OF SERVICES

2.1 The Designer will commence the Services as soon as the specific proposal document is accepted by the Client and the relevant deposit has been paid.  
2.2 The quotation may be withdrawn at any time by Sandalwood Design Ltd. If not withdrawn the quotation is valid for 30 days.

## 3. STANDARD OF SKILL, CARE AND DILIGENCE

3.1 The Designer shall perform their services in accordance with the reasonable standard of skill, care and diligence generally exercised by the profession in New Zealand subject to any financial, physical, time or other restraints imposed by the Client or necessarily resulting from the nature of the engagement.

## 4. INSPECTION

4.1 Where the Designer is required to inspect any work carried out as part of the Services then, unless otherwise agreed in writing, this is limited to periodic visits to assist in interpreting the design and to observe whether the work is being carried out in general accordance with the specific proposal.  
4A. Health and Safety 4A.1 The Designer shall not be responsible for the control of any work site or for health and safety procedures on site. 4A.2 The Client acknowledges that contractors and other third parties engaged in the project are responsible for compliance with all applicable health and safety laws.

## 5. BASIS OF CHARGING

5.1 The Client shall pay the Designer for Services on the time spent per hour or part hour. The hourly rate is \$100.00 plus GST.  
5.2 Disbursements such as office expense and out of pocket expenses are charged in addition to the hourly rate.  
5.3 A one hour minimum charge applies.  
5.4 Travel out of the greater Christchurch area will incur a travel cost at (rate/time charge).  
5.5 Product and Services from third parties and sub-contractors provided to the Client will be charged at the GST inclusive cost plus our mark up.  
5.6 Any work requested by the Client that is outside the scope of the agreed Services or involves changes after approval of any design, specification or proposal will be treated as a variation and charged in accordance with the Designer’s prevailing rates.

## 6. PAYMENT TERMS

6.1 A 40% deposit is required on acceptance of quotation. Balance to be paid within 7 days of invoice.  
6.2 You will be invoiced when the Services are completed.  
6.3 The Client may not withhold payment or make any set-off or

deduction from any amount owing without the Designer’s prior written consent.

6.4 Where payment is not made within 14 days of the due date, the Designer shall be entitled to recover interest from the due date at the rate of 3% per month (being a genuine pre-estimate of costs incurred due to late payment) together with collection costs and any associated legal fees on a solicitor/client basis. Interest accrues before and after judgement.

## 7. VARIATION OF QUOTATION

7.1 The quotation is based on hourly rates and (where applicable) third party and sub-contractor pricing as at the date of the quotation.  
7.2 If the hourly rate or third party or sub-contractor prices for work included in the Services increase then the Designer may pass on such increase together with any margin by increasing the price accordingly.

## 8. COPYRIGHT

8.1 Copyright of all designs, drawing plans and all documents, (whether in electronic or hard copy) remains the property of the Designer. The Client shall be entitled, on payment of all fees and other project-related costs, the non-exclusive right to use these for the specific purpose for which they were prepared, but for no other purpose. They may not be distributed to any third party without consent.  
8.2 The Client acknowledges that all electronic communications and documents may be subject to inadvertent alteration or error in transmission and the Designer shall not be liable for any such matters beyond its reasonable control.

## 9. DUTIES OF THE DESIGNER TO BE ACCURATELY DESCRIBED

9.1 The Client shall not enter into any contract with, nor make any representations to, any third party which describe the Designer’s duties and responsibilities in a manner inconsistent with the terms of this agreement.

## 9A. PRIVACY

9A.1 The Designer collects, uses and stores personal information provided by the Client for the purposes of performing the Services and complying with legal obligations. 9A.2 The Designer will take reasonable steps to protect such information and will comply with the Privacy Act 2020. 9A.3 The Client authorises the Designer to disclose information to third parties where necessary to carry out the Services.

## 10. AGREEMENTS MAY BE POSTPONED OR TERMINATED ON NOTICE

10.1 Any agreement between the Designer and the Client may be postponed or terminated by either party, on the expiration of reasonable notice given in writing.  
10A. Force Majeure 10A.1 Neither party shall be liable for any delay or failure to perform its obligations under this agreement where such delay or failure is due to events beyond its reasonable control, including but not limited to acts of God, natural disasters, pandemics, supply chain disruptions, delays by third party suppliers or contractors, strikes, or governmental restrictions.  
10A.2 The affected party shall notify the other party as soon as reasonably practicable of the circumstances and the expected duration of the delay.  
10A.3 If the delay continues for a period of more than 30 days, either party may terminate the agreement by written notice, without prejudice to any rights accrued prior to termination.

**11. ACTION TAKEN BY THE DESIGNER UPON RECEIPT OF NOTICE**

11.1 Upon receipt of such notice from the Client, the Designer shall take immediate steps to bring the services to a close and to reduce expenditure to a minimum.

**12. ENTITLEMENT TO PAYMENT UPON POSTPONEMENT OR TERMINATION**

12.1 Upon postponement of the services or termination of the engagement, the Designer shall be entitled to payment of fees and other job costs up to the effective date of postponement or termination and further fees and costs incidental to the orderly termination of the services.

**13. OWNERSHIP RISK AND SECURITY**

13.1 Risk of any loss, damage or deterioration of or to goods supplied passes to the Client on delivery. Ownership of goods remains with the Designer and does not pass to the Client until the Client pays in full the amount of those goods.

13.2 The Client acknowledges the Designer has a security interest under the PPSA in all goods supplied by the Designer under these terms as security for payment of any amount owing to the Designer.

**14. WARRANTIES AND LIABILITY**

14.1 In the event of any claim under these terms the sole remedies available to the Client are at the Designer's discretion in that goods may be repaired or replaced or the amount refunded. No claim may be made against the Designer for loss of profits, consequential or indirect damages or special loss.

14.2 To the extent permitted by law, the Designer expressly excludes liability for any claim by the Client or any other person relating to or arising from the supply of goods or performance of Services which is not expressly accepted by the Designer in writing and the Client agrees to indemnify the Designer against any such claim.

14.3 In any event, the Designer's liability arising out of any claim or otherwise under these terms will not exceed the total amount of the goods and/or Services.

14.4 If Services are acquired by the Client for business purposes, the parties agree that the Consumer Guarantees Act 1993 is contracted out of to the maximum extent permitted by law.

14.5 Nothing in these Conditions is intended to have the effect of contracting out of the provisions of the CGA except to the extent permitted under that Act.

**15. DISPUTE RESOLUTION**

15.1 If there is a dispute between the parties arising out of or in connection with this agreement, neither party is to commence any proceedings relating to that dispute until the following procedure has been complied with.

15.2 The Party claiming a dispute has arisen must give written notice to the other party specifying the nature of the dispute.

15.3 The Parties will endeavour, in good faith, to resolve the dispute referred to in the notice by using informal dispute resolution techniques.

15.4 If the Parties do not agree on a dispute resolution technique within fourteen days after the date notice of a dispute was given the dispute is to be mediated according to the standard mediation agreement of Resolution Institute (formerly LEADR New Zealand Incorporated), and the Chair (or nominee) will select the Mediator and determine the Mediator's remuneration.

15.5 Pending resolution of the dispute the conditions of engagement will remain in full effect without prejudicing the Parties respective rights and remedies.

**16. INDEMNITY FOR EXPENSES TO THIRD PARTY**

16.1 The Client indemnifies the Designer against, and shall pay to the Designer upon demand, any cost (including legal costs) claim, damage, expense or liability suffered or incurred by the Designer, whether arising directly or indirectly from the Designer acting

to recover any goods or moneys payable for goods or Services pursuant to the terms of engagement, or otherwise in connection with the exercise or attempted exercise of any of its remedies or rights under the terms of engagement.

**17. ENTIRE AGREEMENT**

17.1 These terms of engagement and any quotation provided constitute the entire contract between the Parties. If there is any inconsistency between this contract and any another other communication between the Parties (written, verbal or otherwise), this contract prevails unless the Parties have otherwise agreed in writing that the other communication prevails to the extent of the inconsistency.

**18. NON-WAIVER**

18.1 No failure or delay by the Designer in exercising any right, power, remedy or privilege in respect of the Client will operate as a waiver thereof, unless the Designer expressly notifies the Client in writing of such a waiver.

**19. CLIENT'S ACKNOWLEDGMENT**

19.1 The Client acknowledges and agrees that in entering into this contract the Client does not rely on any statement, representation, warranty, condition or other statement made by or on behalf of the Designers or any related party in relation to the goods and/or Services.

**20. LIABILITY FOR FEES**

20.1 If the Client is not an individual person then the person who signs to accept these terms of engagement agrees they are personally liable as a contracting party for payment of the Designer's invoices even though they are not named as the client.

**21. DEFINITIONS**

21.1 CGA means the Consumer Guarantees Act 1993.

21.2 Client means the person or entity described as the client in the specific proposal.

21.3 Designer shall include all employees of the Designer.

21.4 Parties means the Designer and the Client.

21.5 PPSA means the Personal Property Securities Act 1999.

21.6 Services means all work undertaken by the Designer, including all design, project management, sourcing of product, liaising with supplier and installers, meetings, preparation of proposals, quotes and orders, communications and travel time, supply of goods and services from third parties and sub-contractors.

**22. SUB-CONTRACTOR**

22.1 Subcontractor shall include every party engaged by the Designer or by any other sub-consultant to perform any part of the services provided for by this engagement, and all employees of any sub-consultant.

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Signed \_\_\_\_\_

Date \_\_\_\_\_

Signed \_\_\_\_\_

Date \_\_\_\_\_