

This Agreement is between **Nimmo Nielsen Collective Pty Ltd ABN 46 619 861 479 (NNC)** and the **Client**.

IT IS AGREED AS FOLLOWS:

1. ACCEPTANCE

This Agreement includes any schedules, annexures, attachments relating to this Agreement that are provided with this Agreement, or separately, also form part of this Agreement. By proceeding with payment, the Client will be deemed to have read, understood and accepted to be bound by the terms and conditions contained herein, and that this digital version is the sole requirement for this Agreement to be binding on the parties. The Client acknowledges and agrees that if they do not accept these terms and conditions, they must not proceed with the E-Design Services.

2. DEFINITIONS

In this Agreement, unless expressed or implied to the contrary:

Approved Purpose means the purpose specified in this Agreement.

Business means the business of NNC and includes any Business carried on under any brand name associated with the Business, or by any subsidiary or associated entity of the Business.

Client includes any Person or Organisation (or Representative of any Person or Organisation) who is the named recipient of the E-Design Services.

Client Content means any content owned or held by the Client, which is relevant to the Services.

Client System means any computer or other technology system owned or operated by the Client, which is relevant to the Services.

Design Materials means any material that exists at the beginning of the Services and which is provided in connection with the Services, in whatever form, including but not limited to design boards, documents, specifications, reports, products, information, data, drawings, graphics, images, and any material provided in connection with the Services that is created, written, or otherwise brought into existence by or on behalf of NNC during the performance of the E-Design Services.

Direction includes agreement, approval, authorisation, certificate, decision, demand, determination, explanation, instruction, measurements, notice, order, permission, rejection, request, and requirement.

E-Design means the online interior design service for the purpose of providing recommendations, ideas, and guidance on interior furnishing, decorative items, and hard-finish materials only.

E-Design Package includes a scaled floorplan but does not include elevations with specific detail for joiners and builders – these are included in our full design Services.

Work or Works means any design or building and construction works.

3. THE SERVICES

3.1 Provision of E-Design Services

- (a) **The Services include standard hard finish selections for bathrooms, kitchens, and laundries, including floor and wall tiles, cabinetry material and handles, benchtop finishes, off-shelf vanities, tap ware, basins, accessories, wallpaper and paint colours.**

- (b) The concept drawings provided for the Services are not intended as professional interior design concept drawings, neither are they meant to be used for engineering or construction purposes. All technical drawings with accurate check-measures must be verified and provided by licenced architects, building designers, engineers, cabinet makers, builders and/or other qualified tradesmen, and NNC makes no guarantees or warranties in relation to any Works associated with the E-Design Services.
- (c) The Services will be delivered digitally via a client portal.
- (d) **A single round of revisions is allowed for. Any further revisions to the final package will be invoiced at \$150 per hour +GST.**
- (e) **The Client agrees, where NNC is engaged for additional services, additional fees will apply, and the Client may be invoiced separately for these fees.**
- (f) The Client acknowledges and agrees all representations, recommendations and referrals made by NNC are made in good faith, but that NNC makes no warranties as to the suitability or reliability of third-party suppliers and contractors, or guarantees as to the outcome or results of the Services where applicable.

2. Payment for the Services

- (a) **Full payment upfront is required for the E Design Services. After the E-Design Package has been completed, the Client will receive a shopping list and/or a quote for selected items.**
- (b) NNC only accepts payment via Electronic Bank Transfer.

3. GST

- (a) Unless otherwise specified, the Fees, trade commissions, and any other ancillary expenses outlined in the invoices are exclusive of GST.
- (b) If GST is payable in respect of a service or product provided under or in relation to this Agreement, the Client must pay to NNC an amount equal to the GST payable on the service or product (GST Amount). The GST Amount is payable by the Client in addition to and at the same time as any consideration for the service or product.

4. Cancellations and Refunds

- (a) E-Design Services are non-refundable. Any requests by the Client for refunds must be detailed in writing and will only be considered when options for remedies or replacements have been exhausted pursuant to the *Competition and Consumer Act 2010 (Cth)*.
- (b) If NNC is forced to cancel the Services for any reason other than a force majeure, the Client will be entitled to a refund for all or part of the Services that have not been provided. This clause has no effect on the Client's obligations for payments to any third-party suppliers.

5. Client Obligations

- (a) The Client will be responsible to ensure they have the necessary computer hardware, software, and internet required for the provision of the Services. NNC accepts no liability with regards to transmission, delay or inability to access the Services via the Client's equipment or digital mediums.
- (b) **The Client is responsible for accurate measurements, dimensions, or any other information required for the provision of the Services. NNC will not be held liable for any incorrect information with regards to floorplans, restrictive access that may**

hinder the specification of sizing for furniture, decorative items, and failure to consider dimensions of doors and stairways.

4. PURCHASES, PRODUCTS AND DELIVERY

1. Products & Lead Times

- (a) **NNC can provide hard samples of finishes where possible, however due to the variation of some products, these samples should be viewed as indicative only.**
- (b) Product images on schedules are a guide and are indicative only. They may not be a true representation of the specified product.
- (c) Colour changes in all materials, be it wood, lacquer, glass, fabric or leather may occur over time and so, in cases of completed works or replacements, any difference in tone that may occur shall not be grounds for consideration or return of the product.
- (d) NNC can supply products directly to the Client, but there is no obligation for the Client to purchase through NNC.
- (e) For products we have sourced from our trade suppliers, we will place all orders and arrange delivery to you.
- (f) URL links will be provided for recommended products from retail suppliers.
- (g) **NNC endeavours to specify items that are in-stock, or with quick lead times, which require swift purchases to avoid stock being unavailable or sold out.**
- (h) All lead times are listed at the time of presenting this quotation. Lead times can change from day to day therefore we cannot guarantee lead time for delay in decisions.
- (i) All lead times are as accurate as possible and whilst we endeavour to meet anticipated lead times, we will not be responsible for extensions to lead times which, for various reasons, may occur outside of our control.

2. Ordering and Payment

- (a) **NNC will not commit to the purchase of any goods from third-party suppliers on behalf of the Client, unless the Supplier has previously consulted with the Client regarding the procurement of said products, the Client has paid to NNC the full amount for the purchase, and the Client agrees they are responsible for the costs and payments of any and all goods sourced from third-party suppliers by NNC, on the Client's behalf.**
- (b) **Full payment is required for stocked items.**
- (c) **A 50% deposit is required for Custom Sofas, Upholstery, Bed Heads and Frames, and a partial deposit may be required to hold any items on back-order.**
- (d) **Delivery costs for furniture, lighting and accessories are generally not included in the quote, as this is determined after the order has been placed with the supplier.**
- (e) **Quoted items are valid for seven (7) days at date of issue and are based on quantities outlined. Any change to items in the quote may affect pricing and the quote may need to be reproduced.**
- (f) **Placement of orders fourteen (14) days after receiving our quote may be subject to an additional fee, where the original product is no longer in stock and an alternative product has to be sourced.**
- (g) **The Client acknowledges that a failure to pay the costs for purchase of the goods may cause delay to the Project, or other such consequence, of which NNC will not be liable for.**

3. Cancellations, Returns and Refunds

- (a) **Orders that are delivered cannot be returned or exchanged.**

- (b) Should you choose to return any item once it has been ordered, such return is strictly at the supplier's discretion and is subject to their re-stocking and handling fee.
- (c) Custom orders cannot be cancelled and are not restock-able or returnable.
- (d) Orders that are not fulfilled are the responsibility of the supplier.
- (e) In the case of faulty or damaged goods, you must notify us or the supplier as soon as possible via email, with images attached where possible. NNC will do all things necessary and reasonably required to assist you, but the repair, replacement or refund of damaged goods is the sole discretion of the supplier, and NNC cannot be held liable in these circumstances.

4. Delivery

- (a) Access limitations must be advised at the time of placing the order as deliveries. If delivery is not possible at all due to access limitations (including if a goods lift is too small or stair access is too tight), the goods will be taken back to the supplier and may incur a return-to-warehouse delivery charge and/or a restocking fee.
- (b) In the event that goods cannot be delivered due to access limitations, a suitable time for re-delivery will need to be arranged. In addition to the delivery charge associated with the unsuccessful delivery, a return-to-warehouse delivery charge and re-delivery charge may be payable depending on the supplier, each equal to the value of the original delivery charge.
- (c) Unless requested or noted, the delivery quote is made on the assumption that the delivery location is on the ground floor or is accessible via a suitable goods lift. It is the responsibility of the Client to ensure that goods lifts may be used at the agreed delivery time.
- (d) Large items will be delivered direct to the Client, however NNC may deliver smaller items, and will arrange a single delivery to the Client at a convenient time during business hours from Monday to Friday.
- (e) At the time of receiving your goods you will be required to inspect the goods and confirm your goods have been received and you are satisfied they are in perfect condition. Any issues in relation to the condition of an item must be raised at the time of delivery and reported within forty-eight (48) hours.

5. CONFIDENTIAL INFORMATION AND PRIVACY

1. Obligations with Respect to Confidential Information

A Recipient:

- (a) may use Confidential Information of the Discloser only for the purposes of this Agreement;
- (b) must keep confidential all Confidential Information of the Discloser except:
 - (i) for disclosure permitted under this **clause 5**; and
 - (ii) to the extent (if any) the Recipient is required by law to disclose such Confidential Information; and
- (c) destroy or return all Confidential Information immediately upon request.

2. Privacy

NNC agrees to comply with the *Privacy Act 1988* (Cth) and all other applicable privacy laws and such other data protection laws as may be in force from time to time which regulate the collection, storage, use, and disclosure of information about identifiable individuals ("**Personal Information**") held by or on behalf of the Client to the extent that they are legally obligated to comply with these laws.

6. INTELLECTUAL PROPERTY

6.1 Ownership

- (a) The Client acknowledges NNC owns all Intellectual Property rights in and to the Design Materials.
- (b) NNC grants the Client a royalty-free, revocable, worldwide, non-exclusive licence to use the Materials strictly for the Approved Purpose and Project, and without the right to grant a sub-licence or assign the licence or re-sell, share or commercially exploit the Design Materials.
- (c) The Client will attribute NNC as the correct author of the Design Materials.
- (d) The Client consents to NNC using the Design Materials for social media posts for promotional and inspirational purposes only, provided the Client's privacy is maintained.

7. LIABILITY

7.1 Total Liability

To the fullest extent permitted by law (and to the extent permitted under Australian Consumer Law), the total liability of NNC under or in connection with this Agreement in respect of all Claims (if any) is limited to the Fees paid or payable for the Services and in any event, will never exceed the available proceeds of the professional indemnity and/or public liability insurance coverage of NNC (as varied from time to time). Notwithstanding, nothing in this Agreement is intended to limit any Australian Consumer Law guarantees or warranties that may apply to the Services and that cannot be excluded.

7.2 Consequential Loss

In no case shall NNC, its officers, employees, affiliates, agents, contractors, or licensors be liable for any Consequential Loss arising from the Client's failure to provide Client Content or approve the Design Materials within a reasonable time, failing the use of any of the Services or for any other Claim related in any way to the Client's use of, or reliance on, the Services, the Material provided as part of NNC's consultation package, website, platforms and/or content or designs or drawings including, but not limited to any errors or omissions in any content, or any loss or damage of any kind incurred as a result of the use of any content posted, transmitted, or otherwise made available via the Services, even if advised of their possibility.

7.3 Indemnity

The Client indemnifies and must keep indemnified NNC against all Claims and Losses suffered by NNC arising out of any breach of this Agreement by the Client; any act or omission of the Client; and any breach of a law by the Client, except to the extent the Claim or Loss is directly caused or contributed to by a reckless or negligent act or omission of NNC.

7.4 Warranties and Guarantees

The Client represents and warrants that all the information, instructions and representations it has provided for the purposes of this Agreement are true, correct, accurate, current and complete.

8. DISPUTE RESOLUTION

- (a) The parties must use reasonable endeavours to resolve all disputes through negotiation.
- (b) If the dispute cannot be resolved through negotiation between the parties within fourteen (14) days of the dispute arising, either party may commence proceedings.

9. GENERAL

9.1. Severability

If any provision or part of this Agreement is void or unenforceable for any reason, then that provision or part will be severed from this Agreement and the rest of this Agreement shall be read as far as possible as if the severed provision or part had never existed.

9.2. Entire agreement and variation

The parties agree that this Agreement is the entire agreement between NNC and the Client in respect of this arrangement and supersedes any other communication or understandings (whether written or oral) between NNC and the Client in that regard and any changes to this Agreement must be agreed in writing between NNC and the Client prior to the changes coming into effect

9.3. Governing law

This Agreement is governed by the laws applicable in the state of New South Wales, Australia, and the parties agree to irrevocably submit to the exclusive jurisdiction of the courts of New South Wales.

9.4. Survivorship

Clauses 1, 2, 5, 6, 7, 8 and this **clause 9.4** survive any expiration or termination of this Agreement and will have effect for the benefit of the parties.