

# ORNO

## INTERIORS

### TERMS AND CONDITIONS

#### Our Disclosures:

Our complete terms and conditions are contained below, but some important points for you to know before you become a customer are set out below:

- all of the Goods are subject to availability;
- we may cancel, at any time before delivery and for whatever reason, an Order that we have previously accepted;
- our liability under these terms is limited to the Fees paid by you for the Goods and/or Services the subject of the relevant claim, and we will not be liable for Consequential Loss; and
- we will have no liability for any Liability that is caused or contributed to by any event or circumstance beyond our reasonable control.

Nothing in these terms limit your rights under the Australian Consumer Law.

#### 1. ACCEPTANCE

1.1 **Parties:** This Agreement is between Orno Interiors Pty Ltd (ABN 79 601 536 010), its successors and assignees (referred to as “we”, “our” and “us”) and you, the person, organisation or entity described in the Proposal and/or Quote, or the person, organisation or entity who makes a purchase through our Website (referred to as “you” and “your”), each a “Party” and collectively the “Parties”. This Agreement applies to all Goods and Services provided by us to you.

1.2 **Acceptance:** You have requested the Goods and/or Services set out in the Proposal and/or Quote or on our Website (as applicable). You accept this Agreement by:

- accepting this Agreement online by checking a box;
- signing and returning the Proposal Acceptance;
- confirming by email that you accept the Proposal and/or Quote;
- instructing us to proceed with the delivery of the Goods and/or Services; or
- making part or full payment for the Goods and/or Services (including any Deposit).

1.3 Where a Deposit is payable, or the Fees are due upfront in full, we will not commence supplying the Goods and/or Services to you until you have paid the such amounts in accordance with the Proposal and/or Quote or as set out on the Website if you make a purchase through the Website (**Payment Schedule**).

1.4 Please contact us if you have any questions. Purchasing Goods and/or Services from us indicates that you have

had sufficient opportunity to read this Agreement and contact us if needed.

#### 2. GOODS AND SERVICES

2.1 You may place an order for Goods and/or Services from us on our Website, over the phone or by email, or in person following a face-to-face consultation (**Order**).

2.2 Where you make you an Order through our Website, once your payment has been validated, we will provide you with an Order confirmation, which may include an Order number, the Party responsible for the Pick-Up or Delivery of the Goods and the Delivery Costs, the relevant Pick-Up Address or Delivery Address (as applicable), a description of the Goods that were Ordered, and the Fee payable by you for the Goods (**Order Confirmation**). A binding agreement comes into existence between the Parties once we have given you an Order Confirmation.

2.3 If you make an Order offline, we may provide you with a Proposal and/or Quote.

2.4 You agree that these terms and conditions, the Proposal and/or Quote or Order Confirmation for online orders, and any document attached or referred to in them form the entire agreement under which we will supply Goods and/or Services to you (**Agreement**).

2.5 The Goods and Services exclude the Exclusions set out in the Proposal and/or Quote or Order Confirmation, and we expressly exclude any responsibility or liability for the supply or performance of any of the goods, services or works set out in the Exclusions.

- 2.6 We may provide the Goods and/or Services to you using our employees, contractors and third party suppliers and delivery partners, and they are included in this Agreement.
- 2.7 Any of your employees, contractors or other third party providers (other than those engaged by us) are your responsibility, and we are not responsible for products, goods or services provided or supplied by those employees, contractors or third party providers.
- 2.8 The Fee and the Goods and Services can be varied by written agreement between us, including by email (**Variation**). If you request a Variation to the Goods and/or Services, we have discretion as to whether we accept the Variation. If we accept the Variation, we will inform you of any increase to the Fee (**Variation Fee**) or any changes required to this Agreement. We will only supply the Goods and/or Services the subject of the Variation once you have paid the Variation Fee in full.
- 3. STOCK AVAILABILITY**  
You acknowledge and agree that:
- whilst we make every effort to ensure availability of our Goods, our stock levels are subject to availability, including from third party suppliers;
  - we may cancel, at any time before delivery and for whatever reason, an order that we have previously accepted, including where there is a considerable delay in dispatching your Order, if for any reason we cannot supply the Goods in your Order (for example for an event beyond our reasonable control) or if Goods ordered were subject to an error on our Website (for example in relation to a description, price or image);
  - in the event that any Goods that you have purchased are out of stock or significantly delayed, we will contact you with alternative Goods, along with an updated estimated Delivery Date & Time, Pick Up Date & Time or lead time (**Alternative Goods**); and
  - you will have the option as to whether to purchase the Alternative Goods, or to cancel your original Order and/or receive a refund, or place your Goods on back-order.
- 4. DELIVERY**
- 4.1 We set out the Proposal and/or Quote, or for online orders, on our Website (and Order Confirmation for special orders), which Party will be responsible for the Delivery Costs, and whether we are responsible for the Delivery of the Goods or you are responsible for Pick-Up of the Goods.
- 4.2 Where we are responsible for the Delivery of the Goods, you acknowledge and agree that we will use our best endeavours to Deliver the Goods to the Delivery Address by the Delivery Date & Time.
- 4.3 Where you are responsible for Pick-Up of the Goods, we will notify you of when the Goods from the Pick-Up Address on or before the Pick-Up Date & Time.
- 4.4 You must make any cancellations or changes to the Delivery Date & Time or the Pick-Up Date & Time within 48 hours before the agreed time, otherwise, a cancellation or re-delivery fee may apply.
- 4.5 If we are unable to Deliver the Goods to you due to you not being at the Delivery Address, or for other reasons caused or contributed to by you, a re-delivery fee may apply.
- 4.6 If your Order contains multiple Goods, you acknowledge and agree that individual Goods may be delivered on different days.
- 5. STORAGE**
- 5.1 When Goods become available and either cannot be Delivered by the Delivery Date & Time, or cannot be Picked-Up by the Pick-Up Date & Time, as a result of delays caused or contributed to by you, we will store the Goods for a limited period of 30 days, following which, a storage fee may apply (**Storage Period**).
- 5.2 To the maximum extent permitted by law, we exclude all responsibility and liability arising from, or connected with, the storage of any uncollected or undelivered Goods following the Storage Period under this clause 5, including any Liability arising from, or connected with, any loss, damage or theft to those stored Goods.
- 5.3 Following the Storage Period, we reserve our statutory rights to dispose of any uncollected Goods pursuant to the *Disposal of Uncollected Goods Act 1970* (WA), including to sell uncollected Goods and to apply any amounts recovered to the payment of any amounts due and payable by you under this Agreement.
- 6. TITLE AND RISK**
- 6.1 Title in the Goods will remain with us until you have paid us the Fee in full in accordance with the Payment Schedule and this Agreement.
- 6.2 Risk in the Goods will pass to you on Delivery of the Goods to the Delivery Address, or Pick-Up of the Goods from the Pick-Up Address, in accordance with this Agreement.
- 7. LEAD TIMES**  
You acknowledge and agree that:
- the Delivery Date & Time, Pick Up Date & Time and any other lead times in relation to the Goods and Services are estimates only and are subject to change depending on the type of Goods and Services Ordered by you; and
  - custom made Orders require longer lead times, which will be discussed and agreed upon at the time you place an Order with us.
- 8. PROJECT MANAGEMENT**
- 8.1 If the Services involves us providing "project management" assistance in relation to the installation of the Goods, or any other construction or building works in connection with your project (together, **Works**), you acknowledge and agree that the relevant project management services will be limited to us:
- referring you to, and assisting you in retaining, necessary trade contractors for the performance of the Works (**Trade Contractors**); and
  - coordinating the Works, and coordinating the relevant Trade Contractors in the performance of the Works.

- 8.2 You acknowledge and agree that:
- (a) we accept no responsibility or Liability arising from, or in connection with, the Works and the Trade Contractors (even where the Trade Contractors have been referred to you by us);
  - (b) you are solely responsible for entering into any necessary arrangements with Trade Contractors in connection with the Works (this includes fulfilling any payment obligations for the undertaking of work directly with the Trade Contractors); and
  - (c) we will not be responsible for any work, services, materials or any other thing offered or supplied by the Trade Contractors to you in connection with the Works.
- 9. PRODUCT APPEARANCE**
- 9.1 You acknowledge that timber naturally exhibits variation in colour, tone, grain, lustre and other natural imperfections, which is what makes natural timber unique, and gives it its charm. Timber responds to temperature and humidity changes and the conditions where it is kept by you can affect timber products you buy from us. Timber may experience small movements and cracks as it adjusts, which is an inherent characteristic of the timber and not a flaw.
- 9.2 We may provide you with samples of the Goods. No two pieces of timber will be the same. Subject to your consumer law rights, we will not accept Liability in respect of any minor variations between samples, brochures, digital images and showroom displays and the actual Goods provided.
- 10. CANCELLATIONS**
- 10.1 Order cancellations must be received by us in writing to [info@ornointeriors.com.au](mailto:info@ornointeriors.com.au) within 7 days of placing the relevant Order with us.
- 10.2 If you cancel an Order for any Goods and/or Services after acceptance of this Agreement, but before the Goods and/or Services have been paid for in full and supplied to you, we may, in our absolute discretion:
- (a) retain the Deposit in full (where applicable);
  - (b) offer you a choice of a refund or store credit, which will be valid for a 3 month period; and/or
  - (c) charge you a restocking fee of 20% of the Fee relevant to the Good (where applicable).
- 10.3 You acknowledge and agree that any changes to or cancellation of custom made Orders cannot be accepted after the Deposit has been paid by you and production of the relevant Goods has begun.
- 10.4 You acknowledge and agree that the retention of the Deposit and payment of the restocking fee under clause 10.2 is reasonable, and represents a genuine pre-estimate of the loss, cost, damage or expense that we will suffer or incur as a result of your cancellation of your Order after acceptance of this Agreement.
- 11. RETURNS**
- 11.1 [[For online Orders], we offer exchanges (subject to stock availability) or refunds of Goods for change of mind where we determine (at our absolute discretion):
- (a) you have provided the proof of purchase and you purchased the Goods within [30] days prior to the request for an exchange or refund;
  - (b) the Goods are in their original condition and have not been used, damaged, tampered with, altered, connected, installed or attempted to be connected or installed;
  - (c) the Goods are in their original undamaged packaging with all tags and instructions still intact;
  - (d) the Goods are not sale items, custom-made, custom-designed, special buy Goods or gift vouchers; and
  - (e) a return and exchanges form has been completed.
- 11.2 We will not cover the costs of delivery or re-delivery for a change of mind return. You must cover these yourself.
- 11.3 You may have rights under the Australian Consumer Law (see below) in addition to this clause.]
- 12. AUSTRALIAN CONSUMER LAW**
- 12.1 You agree that to the maximum extent permitted by law, we exclude all express and implied warranties, representations and guarantees of any kind (whether under statute, law, equity or on any other basis) and all material, work and Goods are provided to you without warranties, representations and guarantees of any kind including, without limitation, warranties as to merchantability, condition, quality and fitness for any particular purpose, and you may have rights under the Australian Consumer Law (see below) in addition to this clause 12.1.
- 12.2 Nothing in this Agreement attempts to modify or exclude the conditions, warranties and undertakings, and other legal rights, under the Australian Consumer Law.
- 12.3 In Australia, Our Goods and Services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the Services, you are entitled:
- (a) to cancel this Agreement with us; and
  - (b) to a refund for the unused portion, or to compensation for its reduced value.
- 12.4 You are also entitled to choose a refund or replacement for major failures with Goods. If a failure with the Goods or a Services does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the Goods and to cancel the contract for the Services and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the Goods or Services.
- 12.5 Where you return Goods to us to seek an Australian Consumer Law remedy, you will need to cover any associated costs (for example delivery costs) of you returning the Goods to us.
- 12.6 Where your claim is a valid claim under the Australian Consumer Law, we will refund your return delivery costs and, depending on the failure, either dispatch a new or

- repaired replacement Good or refund you the Fee of the relevant Good. Please contact us for further information.
- 12.7 This clause 12 will survive the termination or expiry of this Agreement.
13. **MANUFACTURER'S WARRANTY**
- 13.1 The description of the Goods will inform you whether the manufacturer provides a warranty for that Good. Unless otherwise stated, if a warranty applies, the manufacturer warrants that the product will be free from defects (**Manufacturer's Warranty**) for the period set out on the Website, Proposal or Quote, as applicable (**Warranty Period**). If there is a defect in the Goods within the Warranty Period, the manufacturer may, repair or replace the Good, or offer refund or compensation as applicable to the defect.
- 13.2 If the Manufacturer's Warranty applies, please contact us with details of the defect in the Good, alongside any pictures and additional information which we may request (e.g. proof of purchase), and we will liaise with the manufacturer as to your claim under the Manufacturer's Warranty. The manufacturer may require you to return the defective Goods directly to them and the costs of the return may need to be borne by you.
- 13.3 You agree that we do not provide any warranty against defects in the Goods, and, to the maximum extent permitted by law, our obligations to you for any defects in the Goods is limited to the remedies you have available under the Australian Consumer law.
14. **PRICE, INVOICING AND PAYMENT**
- 14.1 You agree to pay us the Fee in accordance with the Payment Schedule. All amounts are stated in Australian dollars and are exclusive of GST, unless expressly stated otherwise.
- 14.2 Where you make an online Order, the payment methods we offer are set out on the Website. We may offer payment through a third-party provider. You acknowledge and agree that we have no control over the actions of the third-party provider, and your use of the third-party payment method may be subject to additional terms and conditions.
- 14.3 If an amount payable by you to us under this Agreement is unpaid after the due date set out in the invoice and/or this Agreement, we may cease to provide the Goods and/or Services to you until we receive payment.
- 14.4 We may charge interest at a rate equal to the Reserve Bank of Australia's cash rate from time to time plus 2% per annum, calculated daily and compounding monthly, on any amounts unpaid after the payment date set out in this Agreement.
- 14.5 If invoices are unpaid after the payment date, we have the right to engage debt collection services for the collection of unpaid and undisputed debts, and the right to commence legal proceedings for any outstanding amounts owed to us.
- 14.6 We reserve the right to report bad debts to independent credit data agencies.
- 14.7 If the Proposal and/or Quote or Order Confirmation states that the Fee is an estimate only, you acknowledge that the final Fee may be more or less than the estimated amounts. We will endeavour to inform you of any material variation in the Fee as it becomes apparent.
15. **GIFT CARDS**
- You acknowledge and agree that:
- (a) "Orno Interiors" gift vouchers are valid for three years from the date of issue;
  - (b) any possible refunds associated with Goods and/or Services paid for with a voucher will not be issued in cash or cash equivalent; rather a new "Orno Interiors" gift voucher will be issued; and
  - (c) gift vouchers will remain your sole responsibility; we will not re-issue or replace lost or stolen gift vouchers, and we exclude all responsibility and liability arising from, or connected with, any lost or stolen gift vouchers.
16. **YOUR OBLIGATIONS AND WARRANTIES**
- 16.1 You warrant and agree that:
- (a) there are no legal restrictions preventing you from agreeing to this Agreement;
  - (b) you will cooperate with us, and provide us with all information that is reasonably necessary to enable us to deliver the Goods and/or Services, in a timely manner;
  - (c) the information you provide to us is true, correct and complete;
  - (d) you will not infringe any third party rights in working with us and receiving the Goods and/or Services;
  - (e) you will inform us if you have reasonable concerns relating to our provision of Goods and/or Services under this Agreement, with the aim that the Parties will use all reasonable efforts to resolve your concerns;
  - (f) you will provide us (and our employees, agents and contractors) with such rights of access to the Premises (or any other necessary premises) and other facilities at the Premises, sufficient to enable us to perform the Goods and Services, and will ensure the Premises is safe and compliant with any relevant occupational, health and safety legislation;
  - (g) you are responsible for obtaining any access, consents, licences and permissions necessary for the Goods and Services to be provided, at your cost, and for providing us (and our employees, agents and contractors) with the necessary consents, licences and permissions;
  - (h) you will not on-sell, re-supply, re-distribute or otherwise provide the Goods and Services that we have provided to you to any third party (whether for commercial profit or gain or otherwise) without our prior written consent;
  - (i) if applicable, you hold a valid ABN which has been advised to us;
  - (j) if applicable, you are registered for GST purposes; and

- (k) you will not employ, canvass, solicit, entice, induce or attempt to employ our employees or contractors.

## 17. PUBLICITY

In consideration for you receiving the Goods and/or Services from us, you unconditionally and irrevocably grant us all rights, consents and permissions necessary to enable us to:

- (a) state that we provided the Goods and/or Services to you;
- (b) use and/or post your testimonials and feedback; and
- (c) use and/or post images or videos that we have taken of your relevant project or the Goods and/or Services,

including, but not limited to, on our Website, on social media and in our promotional material, without requiring us to provide you with any payment or benefit of any kind whatsoever, and without requiring us to obtain any further consents or permissions from you.

## 18. OUR INTELLECTUAL PROPERTY AND MORAL RIGHTS

18.1 The work, materials and services that we provide to you in supplying the Goods and/or Services, including any designs, contains material which is owned by or licensed to us and is protected by Australian and international laws (**Materials**). We own the copyright which subsists in all creative and literary works incorporated into our Materials.

18.2 You agree that, as between you and us, we own all Intellectual Property rights in our Materials, and that nothing in this Agreement constitutes a transfer of any Intellectual Property ownership rights in our Materials.

18.3 Your use of our Materials does not grant you a licence, or act as a right of use, to any of the Intellectual Property in the Materials, whether registered or unregistered, except as stated in this Agreement or with our written permission.

18.4 You must not breach our copyright or Intellectual Property rights by, including but not limited to:

- (a) altering or modifying any of the Materials;
- (b) creating derivative works from the Materials;
- (c) providing or disclosing the Materials to, or allowing our Materials to be used by, any third party; or
- (d) using our Materials for purposes other than as expressly stated in this Agreement (including, without limitation, using our Materials for commercial purposes or on-selling the Materials to third parties).

18.5 We may, at our discretion, supply editable files to you. These are provided only for the express purpose of the work contemplated by this Agreement, are for your business use only, and must not be disclosed, provided to, or used by any other party, except with our written permission.

18.6 All work which we prepare or draft for you, but which does not proceed to be finalised by us for you, remains our Intellectual Property.

18.7 We grant you a non-perpetual, non-exclusive, revocable, worldwide and non-transferable right and

licence to use the Materials for the purposes expressly stated in this Agreement.

## 19. YOUR INTELLECTUAL PROPERTY AND MORAL RIGHTS

19.1 You agree to provide information (including Intellectual Property) to us to enable us to supply the Goods and Services.

19.2 You:

- (a) warrant that you have all necessary rights to provide the Intellectual Property to us;
- (b) grant us a perpetual, non-exclusive, royalty-free, irrevocable, worldwide and transferable right and licence to use the Intellectual Property in any way we require to provide the Goods and/or Services to you; and
- (c) consent to any act or omission which would otherwise constitute an infringement of your Moral Rights.

19.3 If you (or any employee or agent) have Moral Rights in any Intellectual Property that you provide or licence to us, you:

- (a) irrevocably consent to any amendment of the Intellectual Property in any manner by us for the purposes of providing the Goods and/or Services to you;
- (b) irrevocably consent to us using or applying the Intellectual Property for the purposes of providing the Goods and/or Services to you without any attribution of authorship;
- (c) agree that your consent extends to acts and omissions of any of our licensees and successors in title; and
- (d) agree that your consent is a genuine consent under the *Copyright Act 1968* (Cth) and has not been induced by duress or any false or misleading statement.

## 20. CONFIDENTIAL INFORMATION

20.1 You, including your employees and contractors, agree not to disclose our Confidential Information to any third party; to use all reasonable endeavours to protect our Confidential Information from any unauthorised disclosure; and only to use our Confidential Information for the purpose for which it was disclosed or provided by us to you. You acknowledge and agree that the information contained in this Agreement is confidential, and you must not disclose any part of the information contained in this Agreement to any third party, whether during or after the term of this Agreement, without our prior written consent.

20.2 For the avoidance of doubt, you agree that where we prepare or provide you with any designs, such designs are confidential and our Materials, and must not be shared with any of our competitors, or used by you or any other party to manufacture or develop the designs yourself.

20.3 These obligations do not apply to Confidential Information that must be disclosed by law or by a regulatory authority including under subpoena.

20.4 This clause 20 will survive the termination of this Agreement.



**21. FEEDBACK AND DISPUTE RESOLUTION**

- 21.1 Your feedback is important to us. We seek to resolve your concerns quickly and effectively. If you have any feedback or questions about the Goods and/or Services, please contact us.
- 21.2 If there is a dispute between the Parties in relation to this Agreement, the Parties agree to the following dispute resolution procedure:
- (a) The complainant must tell the respondent in writing, the nature of the dispute, what outcome the complainant wants and what action the complainant thinks will settle the dispute. The Parties agree to meet in good faith to seek to resolve the dispute by agreement between them at an initial meeting.
  - (b) If the Parties cannot agree how to resolve the dispute at that initial meeting, any Party may refer the matter to a mediator. If the Parties cannot agree on who the mediator should be, the complainant will ask the Law Society of Western Australia to appoint a mediator. The mediator will decide the time and place for mediation. The Parties must attend the mediation in good faith, to seek to resolve the dispute.
- 21.3 Any attempts made by the Parties to resolve a dispute pursuant to this clause 21 are without prejudice to other rights or entitlements of the Parties under this Agreement, by law or in equity.
- 22. TERM AND TERMINATION**
- 22.1 This Agreement will apply from the date of acceptance of the Proposal and/or Quote (in accordance with the terms of this Agreement) or purchase through our Website (as applicable) and continue until we have completed the supply of the Goods and/or Services (as may be varied in accordance with this Agreement), or the date on which this Agreement is terminated in accordance with this clause 22, if earlier.
- 22.2 This Agreement will terminate immediately upon written notice by a Party (**Non-Defaulting Party**) if:
- (a) the other Party (Defaulting Party) breaches a material term of this Agreement and that breach has not been remedied within 10 Business Days of the Defaulting Party being notified of the breach by the Non-Defaulting Party; or
  - (b) the Defaulting Party is unable to pay its debts as they fall due.
- 22.3 On termination of this Agreement you agree that, to the maximum extent permitted by law, any payments made by you to us are not refundable to you, and you are to pay for all Goods and Services provided prior to termination, including Goods and Services which have been supplied and have not yet been invoiced to you.
- 22.4 On termination of this Agreement, you agree to promptly return (where possible), or delete or destroy (where not possible to return), our Confidential Information and Intellectual Property, and/or documents containing or relating to our Confidential Information and/or Intellectual Property.

- 22.5 On completion of the Goods and Services, we will retain your documents (including copies) as required by law or regulatory requirements. Your express or implied agreement to this Agreement constitutes your authority for us to retain or destroy documents in accordance with the statutory periods, or on termination of this Agreement.
- 22.6 The accrued rights, obligations and remedies of the Parties are not affected by the termination of this Agreement.
- 22.7 This clause 22 will survive the expiry of termination of this Agreement.
- 23. LIMITATIONS**
- 23.1 **Limitations:** Despite anything to the contrary, to the maximum extent permitted by law:
- (a) neither Party will be liable for Consequential Loss;
  - (b) a Party's liability for any Liability under this Agreement will be reduced proportionately to the extent the relevant Liability was caused or contributed to by the acts or omissions of the other Party (or any of its Personnel), including any failure by that other Party to mitigate its loss; and
  - (c) our aggregate liability for any Liability arising from or in connection with this Agreement will be limited to us resupplying the Goods and/or Services to you or, in our sole discretion, to us repaying you the amount of the Fees paid by you to us in respect of the supply of the relevant Goods and/or Services to which the Liability relates.
- 23.2 This clause 23 will survive the termination of this Agreement.
- 24. GENERAL**
- 24.1 **Email:** You acknowledge that we are able to send electronic mail to you and receive electronic mail from you. You release us from any claim you may have as a result of any unauthorised copying, recording, reading or interference with that document or information after transmission, for any delay or non-delivery of any document or information and for any damage caused to your system or any files by a transfer.
- 24.2 **GST:** If and when applicable, GST payable on the Fee for the Goods and Services will be set out on our invoices. You agree to pay the GST amount at the same time as you pay the Fee.
- 24.3 **Relationship of Parties:** This Agreement is not intended to create a relationship between the Parties of partnership, joint venture, or employer-employee.
- 24.4 **Assignment:** Subject to clause 24.5, a Party must not assign or deal with the whole or any part of its rights or obligations under this Agreement without the prior written consent of the other Party (such consent not to be unreasonably withheld).
- 24.5 **Assignment of Debt:** You agree that we may assign or transfer any debt owed by you to us, arising under or in connection with this Agreement, to a debt collector, debt collection agency, or other third party.
- 24.6 **Severance:** If any provision (or part of it) under this Agreement is held to be unenforceable or invalid in any jurisdiction, then it will be interpreted as narrowly as

- necessary to allow it to be enforceable or valid. If a provision (or part of it) under this Agreement cannot be interpreted as narrowly as necessary to allow it to be enforceable or valid, then the provision (or part of it) must be severed from this Agreement and the remaining provisions (and remaining part of the provision) of this Agreement are valid and enforceable.
- 24.7 **Force Majeure:** Neither Party will be liable for any delay or failure to perform their respective obligations under this Agreement if such delay or failure is caused or contributed to by a Force Majeure Event. This clause will not apply to a Party's obligation to pay any amount that is due and payable to the other Party under this Agreement.
- 24.8 **Notices:** Any notice required or permitted to be given by either Party to the other under this Agreement will be in writing addressed to the relevant address in the Proposal and/or Quote or Order Confirmation. Any notice may be sent by standard post or email, and notices will be deemed to have been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission by email.
- 24.9 **Jurisdiction & Applicable Law:** This Agreement is governed by the laws of Western Australia and the Commonwealth of Australia. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in Western Australia.
- 24.10 **Entire Agreement:** This Agreement and any document expressly referred to in them represent the entire agreement between the Parties and supersede any prior agreement, understanding or arrangement between the Parties, whether oral or in writing.
- 25. DEFINITIONS**
- 25.1 **Agreement** has the meaning set out in clause 2.4.
- 25.2 **Business Day** means a day which is not a Saturday, Sunday or bank or public holiday in Western Australia, Australia.
- 25.3 **Confidential Information** includes this Agreement, designs we provide to you, confidential information about us, and the business, structure, programs, processes, methods, operating procedures, activities, products and Goods and Services, trade secrets, know how, financial, accounting, marketing and technical information, customer and supplier lists (including prospective customer and supplier information), ideas, concepts, technology, and other information of us, whether or not such information is reduced to a tangible form or marked in writing as "confidential".
- 25.4 **Consequential Loss** includes any consequential loss, indirect loss, real or anticipated loss of profit, loss of benefit, loss of revenue, loss of business, loss of goodwill, loss of opportunity, loss of savings, loss of reputation, loss of use and/or loss or corruption of data, whether under statute, contract, equity, tort (including negligence), indemnity or otherwise. The Parties acknowledge and agree that your obligation to pay us the Price and any other amounts due and payable by you to us under this Agreement will not constitute "Consequential Loss" for the purposes of this definition.
- 25.5 **Delivery** means the Delivery of the Goods, as set out in the Proposal and/or Quote or Order Confirmation, as applicable.
- 25.6 **Delivery Address** is set out in the Proposal and/or Quote or Order Confirmation, as applicable.
- 25.7 **Delivery Costs** all costs associated with the Delivery of the Goods to the Delivery Address, or the Pick-Up of the Goods from the Pick-Up Address, including the cost of effecting and maintaining insurance of the Goods in transit.
- 25.8 **Delivery Date & Time** is set out in the Proposal and/or Quote or Order Confirmation, as applicable.
- 25.9 **Deposit** means a portion of the Fees that require as upfront payment before we commence the provision of the Goods and/or Services, as further particularised either on our Website for online orders, or in the Proposal and/or Quote.
- 25.10 **Exclusions** are set out in the Proposal and/or Quote or Order Confirmation, as applicable.
- 25.11 **Fees** mean the Goods Fee and/or Service Fee set out in the Payment Schedule, and include the Delivery Costs (where the Proposal and/or Quote or Order Confirmation, as applicable, states that you are responsible for paying for the Delivery Costs) and any Deposit.
- 25.12 **Force Majeure Event** means any event or circumstance which is beyond a Party's reasonable control including but not limited to, acts of God including fire, hurricane, typhoon, earthquake, landslide, tsunami, mudslide or other catastrophic natural disaster, civil riot, civil rebellion, revolution, terrorism, insurrection, militarily usurped power, act of sabotage, act of a public enemy, war (whether declared or not) or other like hostilities, ionising radiation, contamination by radioactivity, nuclear, chemical or biological contamination, any widespread illness, quarantine or government sanctioned ordinance or shutdown, pandemic (including COVID-19 and any variations or mutations to this disease or illness) or epidemic.
- 25.13 **Goods** are set out in the Proposal and/or Quote or Order Confirmation, as applicable.
- 25.14 **GST** means GST as defined in the *A New Tax System (Goods and Goods and Services Tax) Act 1999* (Cth) as amended from time to time or any replacement or other relevant legislation and regulations.
- 25.15 **Intellectual Property** includes any and all present and future rights to intellectual and industrial property throughout the world, and includes all copyright and analogous rights, all rights in relation to inventions (including patent rights), patents, improvements, registered and unregistered trademarks, designs, any corresponding property rights under the laws of any jurisdiction, discoveries, circuit layouts, trade names, trade secrets, secret processes, know-how, concepts, ideas, information, processes, data or formulae, business names, company names or internet domain names, Moral Rights and any Confidential Information.
- 25.16 **Liability** means any expense, cost, liability, loss, damage, claim, notice, entitlement, investigation,

demand, proceeding or judgment (whether under statute, contract, equity, tort (including negligence), indemnity or otherwise), howsoever arising, whether direct or indirect and/or whether present, unascertained, future or contingent and whether involving a third party or a Party to this Agreement or otherwise.

- 25.17 **Moral Rights** means the right of attribution of authorship, the right not to have authorship falsely attributed and the right of integrity of authorship, as defined in the *Copyright Act 1968* (Cth).
- 25.18 **Pick-Up** means your pick-up of the Goods from the Pick-Up Address, as set out in the Proposal and/or Quote or Order Confirmation, as applicable.
- 25.19 **Pick-Up Address** is set out in the Proposal and/or Quote or Order Confirmation, as applicable.
- 25.20 **Pick-Up Date & Time** is set out in the Proposal and/or Quote or Order Confirmation, as applicable.
- 25.21 **Premises** is set out in the Proposal and/or Quote or Order Confirmation, as applicable.

- 25.22 **Proposal** means the proposal to which this Agreement is attached (if applicable).
- 25.23 **Proposal Acceptance** means the document signed by both Parties which represents acceptance of the scope (including provision of the Goods and/or Services), cost of the project (as is outlined in the Proposal and/or the Quote) and this Agreement.
- 25.24 **Quote** means the quote to which this Agreement is attached (if applicable). **Services** are set out in the Proposal and/or Quote or Order Confirmation, as applicable.
- 25.25 **Variation** means amended or additional Goods and Services, including but not limited to changes to the Proposal and/or Quote, Goods and Services, or Fees.
- 25.26 **Website** means our website, available at [www.ornointeriors.com.au](http://www.ornointeriors.com.au).

Unless otherwise defined herein or the context otherwise requires, capitalised terms used in this Agreement will have the meanings given to them in the Proposal and/or Quote or Order Confirmation, as applicable.