

Annie Kyle Interiors Limited – Terms and Conditions

Annie Kyle Interiors Limited ("Annie Kyle Interiors", "we" or "us") agrees to supply goods ("the Goods") and services ("the Services") to you, the Customer in return for payment of the price for those Goods and Services and according to these Terms and Conditions. Upon completing and submitting an order form for the Goods or Service by you ("Order") will (notwithstanding any statement to the contrary by you or your employees or agents) constitute acceptance of these Terms and Conditions. If there is more than one of you, the liability is joint and several.

1 Price and Payment

- 1.1 Subject to clause 1.4, all prices are in New Zealand dollars and are inclusive of GST. But the prices exclude any freight/delivery charges not expressly included in the price ("Delivery Costs"). You agree to pay the Delivery Costs (as applicable) in addition to the price, whether they are imposed before or after the Order.
- 1.2 Payment must be made in full in the forms of cash, afterpay, electronic banking, direct card or credit card through a secure internet provider at the time of the Order for the Order to be processed. For the avoidance of doubt, the Order is not complete until Payment is made in full.
- 1.3 You must not withhold payment or make any deductions of any nature whether by way of set off (legal, equitable or otherwise), counterclaim or otherwise from any amount you owe us. Any default in payment shall make all money payable by you to us immediately due and we may withhold delivery of Goods and/or provision of Services until you provide payment of all money payable by you to us.
- 1.4 Delivery Costs shall be as follows:
 - (a) Any Order exceeding \$400.00 inclusive of GST shall be free of Delivery Costs.
 - (b) For Orders under \$400.00 inclusive of GST with a non-Rural Delivery (RD) South Island delivery address shall incur a standard \$15.00 freight charges.
 - (c) For Orders under \$400.00 inclusive of GST with a non-Rural Delivery (RD) North Island delivery address shall incur a standard \$25.00 freight charges.
 - (d) A rural delivery surcharges will incur for any rural delivery (RD) address.

2 Delivery and Risk

- 2.1 Measurements supplied by you from the Order shall be deemed to be accurate and final at the time the Order is placed. Annie Kyle Interiors shall not be responsible for any inaccuracies for any inaccurate measurements provided by you in the Order.
- 2.2 No alterations or amendments to the Order can be made once the Order has been made.
- 2.3 We have a target delivery date of the Goods of 30 days from the Order being placed. Should there be any reasons where there may be delay, we will keep you updated. However, we do not provide any guarantee in relation to the delivery date.
- 2.4 You agree that a residential address must be provided to us at the time of the Order and you acknowledge that a signature will be required from you to receive the delivery of the Order. You acknowledge that a PO Box number cannot be used as a residential address. A card will be left for you to call in the event that no signatures can be obtained from you at the time of delivery.
- 2.5 Upon dispatch of the Order to your delivery address, a consignment note number will be emailed to you. Delivery generally takes 2-3 working days for non RD South Island's residential address and 2-5 working days for non RD North Island residential address from the date a consignment note number is emailed to you. Please note that deliveries are made during weekdays, Monday to Friday between 8.30am to 5.30pm.
- 2.6 Risk in Goods sold to you will pass to you on delivery being the time the Goods are delivered to your address by us or uplifted from us by you or by a carrier arranged by you or us ("Delivery").
- 2.7 If any of the Goods are damaged or destroyed prior to property in them passing to you, we are entitled, without prejudice to any of our other rights or remedies under these terms and conditions (including the right to receive payment of the balance of the Price for the Goods), to receive all insurance proceeds payable in respect of the Goods whether or not the price has become payable under these terms and conditions. The production of these terms and conditions by us is sufficient evidence of our rights to receive the insurance proceeds without the need for any person dealing with us to make further enquiries.
- 2.8 Any date or time stated for dispatch is an estimate only and not to be treated as a condition of sale.

3 Exclusion of Warranties

- 3.1 If you are in trade and are acquiring the Goods or Services for business purposes, the guarantees under the Consumer Guarantees Act 1993 and sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 do not apply.
- 3.2 Unless you have rights under the Consumer Guarantees Act 1993 or other legislation, which cannot be excluded or limited, there are no warranties express or implied. This disclaimer includes implied warranties as to merchantability and fitness for a particular purpose.
- 3.3 Once you have paid us for the Goods pursuant to the Order, we will pass on to you the benefit of any manufacturer's warranty that applies to the Goods, without being directly liable to you under any such warranty (if available).
- 3.4 Although we will use our best endeavour to provide the most accurate descriptions of our fabrics and provide high resolution quality images on our website, we do not guarantee the depiction of colour or fabric texture placed by you in the Order as reflective of your understanding from the descriptions and images provided on our websites as these may vary based on the type of device, definition and colour settings you have and are using.
- 3.5 You acknowledge that although the quality of the workmanship and the Goods are of high quality, however, certain fabrics, in particular, linens and silk blends used in fabrics pursuant to the Order may have naturally occurring variations which are a characteristic of that fabric and its design and this shall not constitute a fault in the product.

- 3.6 Subject to clause 3.4, in the event that the Goods delivered to you did not match the measurements and descriptions provided in the Order ("Faulty Goods"), you are to contact us within 5 working days from the delivery of the Goods ("Timeframe") and we will use our best endeavour to find a solution with you.
- 3.7 If you do not contact us within the Timeframe, we shall not be required to provide you with any reimbursements or refund in relation to clause 3.6. For the purposes of this clause, contact shall be deemed to have taken effect after either:
 - (a) You have notified us the issue in relation to Faulty Goods through "Send us an Enquiry" from Annie Kyle Interior's website; or
 - (b) You have spoken to the owner, manager or employee of Annie Kyle Interiors in relation to the Faulty Goods.
- 3.8 In the event that an Order cannot be completed for any reasons or if a solution cannot be agreed upon pursuant to clause 3.6, we will then provide you with a full refund.

4 Limitation of Liability

- 4.1 We are not liable to you for any loss or damage arising from delay or failure to perform our obligations due to any matter beyond our reasonable control.
- 4.2 We and our employees and agents shall not be liable to you for any claim for breach of Contract (except as provided in clause 5.3 below) or Statute or breach of duty in Tort (including negligence) or for any claim in Equity or otherwise at law.
- 4.3 Your sole remedy against us shall be limited to breach of contract and the extent of any such liability shall be limited, at our option, to repair or replacement of the Goods, or payment of the cost of repairing or replacing the Goods or acquiring equivalent Goods. If the breach relates to Services the extent of any such liability shall be limited, at our option, to supplying the Services again; or payment of the cost of having the services supplied again. We will not, in any case, be liable for any other losses or damages whether general, exemplary, punitive, direct, indirect or consequential, including loss of business profits.
- 4.4 No action may be brought against us unless notice of such claim is given to us within one week of delivery of the Goods or provision of the Services. We shall be released from all or any liability unless proceedings are brought in a Court of competent jurisdiction within one year of the date of delivery of the Goods or provision of the Services.

5 Default

- 5.1 If you do not pay any monies owed to us ("the unpaid monies") within 10 days of the due date, we may charge penalty interest at a rate of 2.5% per calendar month calculated daily on the unpaid monies from the due date until payment in full is made (including after as well as before any Court judgment).
- 5.2 You indemnify us for and pay, on demand, all costs incurred by us (including legal costs on a solicitor-client basis and debt collection costs) in the recovery or attempted recovery of unpaid monies and/or the enforcement of these Terms and Conditions or the Security Interest contained in these Terms and Conditions.

6 Use of information

- 6.1 You acknowledge that the information in this Order has been collected by us for the purpose of assessing your application for credit, if necessary, collecting any outstanding debt from you and direct marketing activities ("the purposes set out above"). You consent to us disclosing the information, as well as any default in payment by you, to any credit or debt collection agency, and to any person/agency we appoint to collect any outstanding debt from you, if necessary, for the purposes set out above.
- 6.2 If information is provided to any credit or debt collection agency, they will hold that information on their systems and use it to provide their credit reporting service, including updating its credit reporting database and providing that information to other customers they have and you consent to that use and disclosure. We may request, and any person or organization (including any credit or debt collection agencies) may provide, information about you to us, both now and in the future, for the purposes set out above and you consent to us seeking that information in the course of our business and disclosure of that information to us.
- 6.3 If you are an individual, you have the right under the Privacy Act 1993 to see and correct any personal information held by us or any agency about you pursuant to this Application.
- 6.4 You must notify us of any change in circumstances that may affect the accuracy of the information you provided to us. Your failure to provide the personal information sought in the Application may result in the Application being declined.

7 General Provisions

- 7.1 These terms apply to all transactions where we supply Goods or Services to you. If there is any inconsistency between these terms and any order submitted by you or any other arrangement with us, these terms prevail unless otherwise agreed by us in writing.
- 7.2 If any provision of these terms and conditions is held by any court to be illegal, void or unenforceable, such determination shall not impair the enforceability of the remaining provisions.
- 7.3 This contract and its terms are governed by, and shall be construed in accordance with, the laws of New Zealand. Both parties submit to the exclusive jurisdiction of the New Zealand Courts.
- 7.4 We may review and change these terms and conditions at any time and from time to time. Any such change will take effect from the date on which we notify you of the change.