TERMS AND CONDITIONS OF BUSINESS

***1. Introduction***

**1.1 Terms –** These terms apply to the Services you have engaged us to provide under the attached Quote. These terms together with the Quote form the entire Agreement between you and us. If anything in these terms is inconsistent with the Quote, these terms take precedence, unless the Quote specifically amends any of them.

**1.2 Commencement –** The Agreement will start on the earlier of (i) the date set out in the Quote; or (ii) the commencement of the Services.

***2. Services***

**2.1 Services –** We will perform the Services with reasonable skill and care. You confirm that the scope set out in the Quote is sufficient for your purpose.

**2.2 Bookings** – Any booking or request for Services are not confirmed until payment of the first invoice is received.

**2.3 Performance –** We determine the manner or means by which we perform the Services. This includes our right to leave an in-home consultation or fit out at any time.

**2.4 Changes –** Either we or you may request a change to the Services. A material change will be effective only when agreed in writing, including any variation to the fees.

**2.5 Exclusions–** The following are excluded from the Services unless otherwise set out in the Quote; (i) clearing and/or moving of furniture and other items blocking access to work areas, (ii) removal of any large items or furniture from the Site (ii) any building or carpentry work, and (iv) removal and disposal of more than 3 large garbage bags of general waste. If you require a skip bin or collection of any large items, we can organise this at your cost.

**2.6 Completion** - Any date or time quoted for delivery and completion of the Services is an estimate. We will endeavour to complete the Services in the time required by you. We will not be liable for any delay or failure to deliver the Service or Materials as a result of any matter outside our control, or any loss or damage you may suffer as a result.

***3. Your responsibilities***

**3.1 Your obligations –** In order for us to perform the Services, you must ensure that the Services (i) can be completed without interruption, (ii) in a continuous manner, (iii) on the agreed dates, (iv) amenities, water and power freely available; and (v) free and unrestricted access to all required areas within the Site is given.

**3.2 Insurance –** You are responsible for ensuring the Site is adequately insured for the duration of the Services.

**3.3 Health and safety –** You are responsible for compliance with all occupational health and safety laws relating to Site and any other relevant safety standards or legislation. You will inform us of (i) all general and specific safety requirements as and when they arise, in relation to the Site; and (ii) any incident or potential hazard that may cause harm to us or our employees.

**3.4 Unwanted Goods –** It is your responsibility to examine all unwanted goods or food items which are set aside for charitable donation or deemed as rubbish. We are not liable for any loss as a result of items being donated or thrown out.

**3.5 Failure to perform –** Our performance depends on you performing your obligations under the Agreement. We reserve the right to charge any additional costs incurred by us as a result of you failing to perform your obligations. We are not liable for any loss arising from you not fulfilling your obligations.

***4. Price***

**4.1 Payment for Services –** You will make payment for all Services and Materials in accordance with the Quote.

**4.2 Invoices and payment –** Unless otherwise provided in the Quote all invoices are payable within 3 calendar days of the date of the invoice. If you do not pay an invoice on time we may (i) charge you interest at the rate set by law, or (ii) cancel your booking without further notice to you.

**4.3** **Quote –** Our Quote is valid for 7 days. If you do not accept the Quote within 7 days, no agreement is formed between us. We reserve the right to increase the price of any Materials at any time if we are subject to a price increase from the supplier.

**4.4 Taxes –** All prices are exclusive of GST unless otherwise stated in the Quote. You will also pay any taxes, including GST, that are due in relation to the Services and Materials. You will pay us the full amount of any invoice, without set off, regardless of any deduction that you are required by law to make.

**4.5 Additional hours -** Unless stated otherwise, the Quote assumes standard working hours between the hours of 9:00am-4:00pm Monday-Friday. Services required outside these hours may attract out of hours premium rates.

***5. Materials***

**5.1 Materials** – We will take all due and reasonable care when delivering and installing the Materials. Subject to our warranties and any law or regulation to the contrary, we will not be liable for any loss or damage to the Site caused by faulty Materials.

**5.2 Risk –** The risk in all Materials supplied shall pass to you upon delivery. You will not open, dismantle or otherwise handle any Materials unless directed by us. You will be responsible for any loss or damage to the Materials once they have been delivered to Site.

**5.3 Title –** All Materials supplied shall remain our property until all fees have been paid in full.

**5.4 Substitution –** If any Materials specified within the Quote are unavailable at the time of the Services being performed, we in our absolute discretion may substitute a reasonable alternative.

**5.5 Warranties** - All third-party supplier warranties for the Materials will be passed on to you. We will provide copies of receipts at your request for you to take to up any faults directly with the shop/manufacturer.

***6. Photography***

**6.1 Photos–** You consent to us taking photos of our work and the Site for promotional and marketing purposes, including posting on our social media pages and website. You agree that we may do so, as long as we do not disclose your confidential information.

**6.2 Intellectual Property** – We will own the intellectual property rights in the photos and any materials created under the Agreement. You will have a non-exclusive, non-transferable licence to use the intellectual property for your own internal purposes.

***7. Liability***

**7.1 Specific types of loss –** You agree that we will not be liable for (i) loss or damage to the Site, (ii) loss of profit, goodwill, business opportunity, anticipated savings or benefits or (iii) indirect or consequential loss.

**7.2 Our liability –** You agree that we will be liable only when we are at fault for our actions or omissions. Our total liability for all claims connected with the Services, the Agreement or any indemnity (including but not limited to negligence) is limited to the fees payable (excluding GST) under the Agreement.

**7.3 Unlimited liability –** Nothing in the Agreement will limit a person’s liability for: (a) death or personal injury caused by that person’s negligence; (b) that person’s fraud; or (c) anything else that cannot be limited by law.

***8. Termination***

**8.1 Immediate notice –** Either we or you may end the Agreement immediately by giving written notice to the other if (i) the other materially breaches it and does not remedy the breach within 5 business days upon receipt of a notice, (ii) the other is or appears likely to be unable to pay its debts or becomes insolvent.

**8.2 7 days’ notice** –We may end the Agreement on 7 calendar days’ written notice. We will refund any monies you have paid in advance where Services have not yet been performed.

**8.3 Fees payable on termination** – You agree to pay us for all Services we perform up to the date of termination including any Materials already acquired by us. If you cancel for any reason other than clause 8.1, any fees payable in advance will be non-refundable.

***9. Dispute resolution***

**9.1 Mediation –** If a dispute arises, the parties will attempt to resolve it by mediation before commencing legal proceedings.

**9.2 Law and jurisdiction –** This Agreement shall be governed and construed by the laws of South Australia, Australia. Both parties irrevocably submit to the exclusive jurisdiction of South Australia.

***10. General***

**10.1 Force majeure –** No party will be liable to another if it fails to meet its obligations due to matters beyond its reasonable control, including but not limited to an act of God, strike or pandemic.

**10.2 Entire agreement –** The Agreement forms the entire agreement between the parties in relation to the Services. It replaces any earlier agreements, representations or discussions.

**10.3 Your actions –** Where you consist of more than one party, an act or omission of one party will be regarded as an act or omission of all.

**10.4 Assignment –** We may assign, this agreement to a third party upon reasonable notice to you.

**10.5** **Relationship** – We are engaged by you as an independent contractor and nothing in this Agreement creates or constitutes a relationship of employer and employee, principal and agent, trustee and beneficiary or of partnership or joint venture between us.

**10.6 Severability** - Any provision of this Agreement which is void, illegal or otherwise unenforceable will be severed to the extent permitted by law without affecting any other provision of this Agreement.

**10.7 Waiver** - The failure or omission of a party at any time to enforce or require compliance with any provision of this Agreement or exercise any right, election or discretion under this Agreement shall not operate as a waiver of that right, election or discretion.

**10.8 Survival -** The provisions of the Agreement which expressly or by implication are intended to survive its termination or expiry will survive and continue to bind each of the parties including, but not limited to, 2, 4, 5, 6, 7, 8, 9.3, 10 and 11.

**10.9 Data Protection -** Both parties will comply with the Privacy Laws in relation to any Personal Information shared with us under this Agreement.

***11. Interpretation***

In this Agreement the following words and expressions have the meanings given to them below:

**Agreement** – these terms, any agreed service specific terms and the Quote to which they relate;

**GST** – (a) GST has the same meaning as in the GST Law; (b) GST Law means the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

**Materials –** any good or products required to complete the Services;

**Personal Information -** Personal Information as defined in the Privacy Act 1988 (Cth);

**Privacy Law -** (a) the Privacy Act 1988 (Cth);(b) any other applicable legislation, regulation or code affecting privacy or the collection, handling, storage, processing, use or disclosure of data in Australia;

**Quote** - Our offer to perform the Services for you, which is attached to this Agreement;

**Services** –the services rendered, works performed and Materials delivered as set out in the Quote;

**Site** – the premises where the Services are to be rendered as set out in the Quote.

**we, us or our** – refers to Elissa Lindegreen ABN 12 896 558 521 trading as The Mindfully Organised

**you, your** – the party or parties to this Agreement (excluding us)

***Acceptance***

You may accept by:

(a) signing and returning a copy of this document; or

(b) giving us instructions after receiving this document.

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|  | /  / |
| Client Name | Date |

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