

STANDARD FORM OF INTERIOR DESIGN CONSULTANCY AGREEMENT

for use in Hong Kong
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Hong Kong Interior Design Association is the trading name of Interior Design Association (H.K.) Limited

ARTICLES OF AGREEMENT

BETWEEN

Parties	(1)		(the Client”)
		, a corporation incorporated in _____ whose registered office is situated at/, a firm/ an individual whose business address is at (*please delete as appropriate)	
	(2)		(the “Designer”)
, a corporation incorporated in _____ whose registered office is situated at , a firm/an individual whose business address is at (*please delete as appropriate)			

Recitals

- A The Client is desirous of engaging the Designer to act as the interior designer for:

	(the “Project”)
--	------------------------

at:

	(the “Site”)
--	---------------------

- B The Client wishes to appoint the Designer to provide the interior design and project management services set out in Schedule 1 hereto (the “Services”) for the Project and the Designer has agreed to accept such appointment upon and subject to the terms and conditions set out in the Contract.

Interior Design
Consultancy Agreement

It is agreed that:

- 1. The Client hereby appoints the Designer and the Designer hereby accepts appointment for the Project.
- 2. The Designer shall carry out the Services upon and subject to the terms and conditions of the Contract (as defined in the General Conditions hereto).
- 3. The Client shall pay to the Designer the sum of Hong Kong Dollars _____ (HK\$ _____) (the “**Fee**”) or such other sum as shall become payable at the times and in the manner provided in the terms and conditions of the Contract.

Dated

IN WITNESS WHEREOF the parties have signed this Agreement:

Signed by for and on behalf of the Client in the presence of: Signature of Witness Address of Witness Occupation of Witness	Signed by for and on behalf of the Designer in the presence of: Signature of Witness Address of Witness Occupation of Witness
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Interior Design Consultancy Agreement

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1. INTERPRETATION

1.1 Definitions

“**Authority**” means all Hong Kong government departments, bodies, instrumentalities and other public authorities which in any way affect or are applicable to the Project.

“**Budget**” means the sum the Client proposes to expend on the Project inclusive of the professional fees and expense, disbursements, statutory charges and the construction of the Project, but excluding site acquisition costs, the in-house expenses of the Client and any taxes induced thereon.

“**Client’s Requirements**” means the document to be prepared by the Designer and approved by the Client setting out the objective the Client wishes to achieve in the Project (including functional requirements, environmental standards, life span and levels of quality), on the basis of which the Services are to be rendered.

“**Fitting Out Contract**” means the fitting out contract to be entered into between the Client and the main contractor for the execution of the Project.

“**Contract**” means:

- (1) the Articles of Agreement;
- (2) the contractual documents set out in Schedule 2 hereto;
- (3) the Special Conditions set out in Schedule 3 hereto; and
- (4) the General Conditions.

The Contract shall be read as a whole. In case of ambiguities or discrepancies amongst the Contract documents, it shall be resolved according to the order of precedence of the documents forming the Contract as listed above and as listed in Schedule 2 hereto.

“**Defects Liability Period**” means the period of 12 calendar months from date of the issuance of the Certificate of Practical Completion by the Designer, or such shorter period as stated in the Fitting Out Contract.

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“**Practical Completion**” bears the same meaning as defined in the Fitting Out Contract. If the Fitting Out Contract does not contain any definition of “Practical Completion”, it means the state of the Project being complete and fit for use and occupation by the Client, all tests required under the provisions of the Fitting Out Contract having been satisfactorily completed together with any certificate of classification, compliance or occupancy having been obtained from any relevant Authorities with any omissions or defects being limited to items:

- (1) the immediate making good of which by the contractor and/or sub-contractor(s) is not practicable; and
- (2) the existence and the making good of which by the contractor and/or sub-contractor(s) will not cause significant inconvenience to the Client, taking into account the use or intended use of the items concerned and of the areas in which they occur.

Provided always that if the Client has taken possession of the Site or any part thereof, Practical Completion of the Project or any part thereof of which the Client has taken possession shall be deemed to have been achieved for the purposes of the Contract notwithstanding anything contained herein.

“**Procurement Method**” means the method by which the completion of the Project is to be achieved, determining:

- (1) the relations between the Client, the consultants and the contractors;
- (2) the methods of financing and management; and
- (3) the form of the Fitting Out Contract.

“**Term**” means the period from the date hereof until the expiry of the Defects Liability Period.

“**Timetable**” means the timetable for the completion of the Services for the general reference of the parties hereto.

- 1.2 Words importing the singular shall include the plural and vice versa, and a reference to any gender includes a reference to both genders.
- 1.3 Headings are used in the Contract for ease of reference and shall not affect the interpretation of the Contract.
- 1.4 The Contract shall be governed by and construed in accordance with the laws of Hong Kong.
- 1.5 If any one or more of the provisions of the Contract shall be declared or adjudged to be illegal, invalid or unenforceable under any applicable law, such illegality, invalidity or unenforceability shall not vitiate the remainder hereof and the Contract shall be read and construed as if such provision or provisions were not contained herein.

2. DESIGNER'S OBLIGATIONS

The Designer shall:

- (1) provide the Services within the Term with reasonable skill, care and diligence commensurate with the nature, size and complexity of the Project and in conformity with the normal standards of the Designer's profession. For the avoidance of doubt, services which are not expressly included as part of the Services (except services ancillary to or necessary for the proper performance of the Contract) do not form part of the Contract;
- (2) keep the Client fully and properly informed of all material matters which may require further instruction or direction from the Client or which may properly be considered as material to the interest of the Client; and where applicable, inform the Client on its becoming apparent that the Services need to be varied;
- (3) act impartially in its role as a certifier under the Fitting Out Contract;
- (4) co-ordinate with other consultants and contractors employed by the Client for the Project who are set out in Schedule 4 hereto; but, for the avoidance of doubt, nothing contained herein shall render the Designer in any way liable to the act or omission of any of the aforementioned parties, or create contractual relationship between the Designer and any of the aforementioned parties; and

- (5) not make any material alteration to or addition to or omission from the Services or the approved design without the knowledge and consent of the Client before proceeding with such alteration, addition or omission (as the case may be).

3. CLIENT'S OBLIGATIONS

The Client shall:

- (1) pay to the Designer the Fee or such other sum as shall become payable at the times and in the manner provided in the terms and conditions of the Contract.
- (2) supply such information, decisions and approvals to the Designer at such times as is reasonably required for the satisfactory performance of the Services, and all such information, decisions and approvals shall be provided free of charge to the Designer;
- (3) notify the Designer in writing of any agent appointed to act on behalf of the Client through whom all instructions to the Designer shall be given and of any change or dismissal of the agent;
- (4) notify the Designer in writing of any instruction;
- (5) not interfere with the decision of the Designer when he acts in his role as a certifier under the Fitting Out Contract;
- (6) accept that the Designer will rely on the accuracy, sufficiency and consistency of the information supplied by the Client;
- (7) acknowledge that the Designer does not warrant the work or products of others nor warrant that the Services will or can be completed in accordance with the Timetable;
- (8) where necessary, instruct the making of applications for planning submission and approval under the relevant ordinances and regulations; the Designer shall be reimbursed with any statutory charges and any fees, expenses and disbursements in respect of such application, and where such application is not included in the Services, the Designer shall be entitled to additional payment calculated in accordance with Clause 6;

- (9) not require the Designer to enter into any collateral agreement with a third party; and
- (10) upon the Designer's advising on the options therefor, confirm the Procurement Method for the Project.

4. ASSIGNMENT AND SUB-CONTRACTING

- 4.1 Neither the Client nor the Designer shall assign the whole or any part of the Contract without the consent of the other in writing. Such consent shall not be unreasonably withheld.
- 4.2 The Designer shall not sub-contract any part of the Services without the consent of the Client in writing. Any such sub-contracting shall not relieve the Designer of any of its liabilities or obligations under the Contract.

5. PAYMENT

- 5.1 The Client shall pay the Designer the Fee in strict compliance with Schedule 5 hereto. The payment shall be due 7 days after the date of the submission of an invoice.
- 5.2 Without prejudice to the above, where payment is due to the Designer in stages as set out in Schedule 5 and any such stage is unreasonably delayed which is attributable to the default on the part of the Client, the Designer shall be entitled to payment of a fair and reasonable proportion of the Fee commensurate with the Services performed by the Designer.
- 5.3 Any amounts due to the Designer under the Contract which remain unpaid by the Client after the due date for payment shall bear interest at the rate stated in Schedule 5 hereto.
- 5.4 In the event that the Client is in default over payment of amounts at the due date for payment, the Designer may suspend performance of any or all of the Services. This right is subject to the Designer first giving the Client not less than 7 days written notice of such intention and stating the grounds for suspension. The right to suspend performance shall cease when the Client makes payment of the amount due.
- 5.5 The Fee shall not be adjusted except in accordance with the express terms and conditions of the Contract.

- 5.6 Unless otherwise expressly provided in the Contract, no set-off or deduction may be made by the Client from the Fee (including any interim billing invoice) payable to the Designer on account of any expense, liability, claim, loss or damage of whatever nature against the Designer whether arising out of or in connection with the Contract or otherwise at common law.
- 6. ADDITIONAL PAYMENT**
- 6.1 The Client may instruct the Designer to make changes (including additions, omissions or reductions) to the Services and those changes shall become part of the Services from the date of such instruction.
- 6.2 The Designer shall be entitled to payment:
- (1) for the performance of any Services which he could not reasonably have anticipated at the time of entering into the Contract resulting from any instruction from the Client as aforesaid or in order to comply with a requirement from the relevant Authorities occurring after the date of the Contract; and
 - (2) for any additional costs he incurs as a result of delays arising during the performance of the Services, and/or for the performance of any Services rendered outside the term of the Contract, provided that the delays are not attributable to the default on the part of the Designer.
- 6.3 The additional fees to which the Designer is entitled pursuant to this Clause shall be calculated (unless otherwise agreed) on time charge basis and in the manner set out in Schedule 6 hereto.
- 6.4 Within 7 days after receipt by the Client of a claim for additional fees as aforesaid, the Client shall pay to the Designer the amount stated in the claim. The payment shall be due 7 days after the date of the submission of the claim.
- 6.5 In the event that the scope of Services is reduced in any way, it shall not affect or reduce the Fee agreed and payable to the Designer.

7. COPYRIGHT

- 7.1 The copyright in all documents prepared by the Designer in providing the Services and the design, products, such as models, samples, small mock ups and the like, thereby brought into existence shall remain the property of the Designer. Subject to payment by the Client of the Fee properly due to the Designer under the Contract the Designer grants to the Client an irrevocable non-exclusive royalty-free licence to copy and use the documents for and only for any purpose related to the Project.
- 7.2 Without prejudice to the generality of the foregoing, the Designer reserves the rights (unless received notice by the Client in writing) to publish alone or in conjunction with any other person, articles, photographs or other illustrations relating to the Services.
- 7.3 Where appropriate and practicable, suitable credit lines reading the name of the Designer shall be incorporated in drawing title blocks, front pages of specification books prepared in connection with the Project, and on the job site signs.
- 7.4 Where appropriate and practicable, all publication of any photographs or illustrations related to the Project designed by the Designer for the Project (whether in publicity releases or otherwise) shall credit the name of the Designer as the interior designer for the same.
- 7.5 The Designer shall not be liable for any use of the documents, design, products, such as models, samples, small mock ups and the like for any purpose other than for which they were prepared and provided by the Designer.
- 7.6 At any time after completion of the Services and after giving reasonable notice to the Client, the Designer shall be allowed to enter into the Site to take photographs for archive or marketing purposes.

8. SUSPENSION AND TERMINATION

- 8.1 The Client may suspend performance by the Designer of all or any of the Services by giving 7 days written notice to the Designer. If the Services have been suspended for a period of more than 3 months either party may immediately terminate the Contract, by giving written notice to that effect. Where the Client has suspended the Services and the Contract has not been terminated, the Client may, by giving reasonable written notice to the Designer, require the Designer to resume the performance of the Services.

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- 8.2 Either party may terminate the Contract by giving 28 days written notice to the other party.
- 8.3 If either party materially breaches his obligations under the Contract the other party may serve on the defaulting party a notice specifying the breach and requiring his remedy within 14 days, and if the defaulting party thereafter fails to remedy that breach within that period the other party may terminate the Contract by given written notice to the defaulting party.
- 8.4 If the Designer or the Client:
- (1) being a person, commits an act of bankruptcy or is the subject of a petition in bankruptcy or a sequestration order or enters into any scheme of arrangement or any composition with creditors or executes as a debtor a deed of arrangement or a deed of assignment; or
 - (2) being a corporation, has a mortgagee of the corporation enter into possession or assume control of any of the assets of undertaking of the corporation or takes or has taken or instituted against it any action or proceeding whether voluntary or compulsory which has as an object or may result in the winding up of the corporation or is placed under official management or enters into a compromise or other arrangement with its creditors or a receiver or receiver and manger is appointed to carry on its business for the benefit of its creditors or any of them;
- the other party is entitled to terminate the Contract by giving notice to the Designer or the Client as the case may be (which notice will take effect on the date on which its was received by the relevant party) and the other party may recover from the Client or Designer as the case may be any loss or damage suffered as a consequence thereof.
- 8.5 These rights are in addition to those exercisable by the Designer under Clause 5.
- 8.6 If performance of the Services has been suspended under Clause 5 or this Clause or the Contract has been terminated under the provisions of this Clause:
- (1) the Client shall pay the Designer any instalments of the fees due to the Designer up to the date of suspension or termination together with a fair and reasonable proportion of the next following instalment commensurate with the Services performed by the Designer.

- (2) unless the performance of the Services has been suspended because of a material breach by the Designer, the Designer shall not be responsible for the consequence of any delay or disruption to the progress of the Project and the Client shall pay the Designer within 28 days of written demand the consequential costs necessarily incurred as a result of the suspension (including but not limited to cost of re-mobilizing resources for resuming the Project, if applicable).
- (3) unless the Contract has been terminated by the Client because of a material breach by the Designer, the Client shall pay the Designer within 28 days of written demand the consequential costs necessarily incurred as a result of the termination.

8.7 Termination of the Contract shall be without prejudice to any other rights and remedies of the parties under other provisions of the Contract or otherwise at common law.

9. LIMITATION OF LIABILITY

The liability of the Designer shall be limited to such sum as it would be just and equitable for the Designer to pay having regard to the extent of the responsibility of the Designer for the loss or damage suffered on the basis that all other consultants, the contractor and any sub-contractors who have a liability shall be deemed to have provided contractual undertakings to the Client on terms no less onerous than those applying in the case of the Contract and shall be deemed to have paid to the Client such sums as it would be just and equitable for them to pay having regard to the extent of their responsibility for such loss or damage, and in any event shall not exceed 1 time of the Fee or in case the Designer has taken out professional indemnity insurance policy, the compensation paid out from such policy, whichever is lesser.

10. DISPUTE RESOLUTION

Any dispute or difference arising out of or in connection with the Contract shall be referred to and determined by arbitration at Hong Kong International Arbitration Centre and in accordance with its Domestic Arbitration Rules.

11. NOTICE

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- 11.1 Any notice to be given under the Contract shall be in writing and delivered by hand or sent by recorded delivery post to the party at the address shown in the Contract or to such an address as the other party may have specified from time to time by written notice to the other.
- 11.2 Such notice shall be deemed to have been received on the day of delivery by hand and otherwise on the next working day.
-

LIST OF SCHEDULES

- | | |
|-------------------|---|
| Schedule 1 | Scope of Services |
| Schedule 2 | Contractual Documents |
| Schedule 3 | Special Conditions |
| Schedule 4 | Other consultants and contractors employed by the Client |
| Schedule 5 | Payment Schedule |
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Schedule 1 (please see Articles of Agreement)

Scope of Services

A. The services to be provided by the Designer shall be as set out below:

[Please insert the agreed scope of the Services as appropriate. The following are for illustrative purpose only.]

The following services will be provided:

1. **Inception** - initial discussion of Client's Requirements and Budget.
2. **Feasibility studies** - discussion and analysis of Client's Requirements.
3. **Outline scheme proposal** - preparing scheme design in collaboration with consultants, if any; preparing outline scheme proposal of interior design and furnishing selection of major areas, which shall include:-
 - Wall, floor and finish selections in major areas;
 - Indication of initial color palettes;
 - Indication of initial furniture selections;
 - Indication of initial cabinetwork, paneling or custom features.
4. **Project design** - completing design drawings from approved outline scheme proposal.
Project design will consist of the following:
 - Dimension layout plan with annotation;
 - Dimensions elevations with annotations;
 - Furniture design intent drawings;
 - Custom features design intent drawings or images;
 - Floor finishes plans with indication of floor finishes (if any);
 - Reflected ceiling plans with indication of lighting layout and related E&M layout design intent and specifications (if any);
 - Material schedules and sample boards with indications of choice of materials.
5. **Tender Drawings and tender action** - preparing tender drawings with specifications for quantity surveyor ("QS")'s , if any, preparation of tender document; assisting Client and QS to appoint appropriate tenderers.
6. **Construction** -
 - Supplying information to Client and representatives for distribution to nominated main contractor;
 - Examining relevant shop drawings;
 - Making periodic visits to the Site with Client and nominated main contractor up to Practical Completion;
 - Taking part in meetings conducted by contractors to review progress;
 - Reviewing materials and mock-ups delivered to the Site;

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- As appropriate, instructing sample taking and carrying out tests of materials, components, techniques and workmanship and examine the conduct and results of such tests whether on or off site;
 - At intervals appropriate to the stage of construction, visiting the works to inspect the progress and quality of the works and to determine that they are being executed generally in accordance with the Contract;
 - As appropriate, visiting the sites of the extraction and fabrication and assembly of materials and components to inspect such materials and workmanship before delivery to the Site;
 - Directing and controlling the activities of site staff employed through the Designer (if any);
 - Reviewing the progress of the works against the contractor's programme and reporting to the Client;
 - Reviewing specially prepared as-built drawings prepared by main contractor, sub-contractors & specialist suppliers;
 - Reviewing maintenance and operational manuals compiled by main contractor.
7. **Practical Completion** - assisting the client to conduct premises handing over from main contractor; making detail list of defects for contractors and review the making good of defects conducted by contractors.

B. Services excluded from the scope of services

- Services of Authorized Person under the Buildings Ordinance (Cap. 123)
- Consultancy services of structural engineer, mechanical and electrical (M&E) engineer, quantity surveyor, lighting consultant, landscape consultant, graphic designers, artists and other specialist consultants
- Formal enquiries, negotiations, and submissions with the Authorities
- Applications to the Authorities
- Special drawings, models or technical information especially for the use of the Client, for negotiations with adjoining owners, the Authorities, mortgagors and others
- Purchasing administration
- Design and drawings of wiring diagrams, air-conditioning systems, and any other M&E services which require special consultation
- Design of any site, as-built, working drawings or calculations for reinforced concrete, steel, general structural work, plumbing, lifts and all other mechanical services
- Fire services planning and related design
- Investigation of cost feasibility for the Project as a whole
- Tender documentation other than working drawings and specifications
- Professional model making and any graphic works
- Preparing for and attending tenancy tribunals, court hearings, arbitration and other proceedings
- Making structural investigations
- Consultation after Defects Liability Period

Schedule 2 (please see Clause 1.1)

Contractual Documents

The following documents shall form part of the Contract which shall be read as a whole. In case of ambiguities or discrepancies amongst the Contract documents, it shall be resolved according to the order of precedence of the documents forming the Contract as listed in Clause 1.1 of the General Conditions and as listed below.

	Description
1.	
2.	
3.	

Schedule 3 (please see Clause 1.1)

Special Conditions

These Special Conditions are to be read in conjunction with the General Conditions to which these Special Conditions are annexed. Wherever these Special Conditions vary from the General Conditions the terms of these Special Conditions shall take precedence.

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Schedule 4 (please see Clause 2(4))

Other consultants and contractors employed by the Client

These Special Conditions are to be read in conjunction with the General Conditions to which these Special Conditions are annexed. Wherever these Special Conditions vary from the General Conditions the terms of these Special Conditions shall take precedence.

	Name of the consultant/contractor
1.	
2.	
3.	

Schedule 5 (please see Clauses 5.1, 5.2 and 5.3)

Payment Schedule

Example:

Stage	Payment
(1) Deposit payable upon the signing of the Articles of Agreement (the "Deposit")	___% of Fee
(2) Upon confirmation of outline schedule	___% of Fee
(3) Upon confirmation of project design	___% of Fee
(4) Upon completion of tender drawings	___% of Fee
(5) Upon commencement of site work	___% of Fee
(6) Upon completion of ___% of site work	___% of Fee
(7) Upon Practical Completion	___% of Fee
(8) Upon expiration of Defects Liability Period	___% of Fee

The Deposit is non-refundable.

Interest rate for late payment as referred to in Clause 5.3: ___% p.a.

Schedule 6 (please see Clauses 6.3)

Charge-out Rates and Disbursements

A. Charge-out Rates of the Designer's personnel

Where time charges are used as the method of payment for the Services, these shall be calculated on the hours actually expended by the relevant personnel at the following hourly rates:

Grade	Hourly Rate (HK\$)
Director / Associate	
Project Manager/ Senior Interior Designer	
Architectural / Interior Designer	
...	

B. Expenses

In addition to the fees under any other part of the Contract, the Designer shall be reimbursed for all reasonable out of pocket expenses actually and properly incurred in connection with the performance of the Services. Such reimbursable expenses at cost include the following:

[Please insert as appropriate. The following are for illustrative purpose only.]

- local travelling (including mileage for car travel)
- overseas courier and communication charges
- overseas travelling and hotels expenses
- lithography, photocopying, printing etc which are not included in the Fee
- resident site staff (if required by the Client)
- involvement in prolonged claims, arbitration and / or legal proceedings
- other such out-of-pocket expenses as incurred in the performance of the services.

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Additional copies of drawings required than stipulated in the Contract will be subject to extra charge as follows:

For standard paper only

BW (HK\$)	Colour (HK\$)
A4	
A3	
A2	
A1	
A0	

CDR/ DVDR (Recordable CD/DVD) will be charged at HK\$ _____ per disc and also at the Designer's discretion to whether he may wish to disclose the information concerned.