

# TERMS & CONDITIONS OF SALE

## Madrona Bay Designs by Diane Hall

***Please note: It is the client's responsibility to read this information in full prior to placing an order.***

The below Terms and Conditions of Sale refers to Madrona Bay Designs by Diane Hall, LLC., (hereafter known as MBD) and the individual, company, or corporation or agency (hereafter known as the Client), who wishes to purchase a custom pet bed (hereafter known as Pet Bed) from MBD as named in the Purchase Invoice.

### **The Agreement**

This pet bed purchase agreement is made between the Client and MBD. The Client and MBD, collectively, are known hereafter as the "Parties". Both parties agree to enter into this legally binding Agreement. Any Pet Bed purchase (hereafter known as the Order) will be deemed as an acceptance of these terms and conditions and form a contract between MBD and the Client.

Accordingly, the Parties agree as follows:

#### **1. Age Requirement**

1.1 The Client must be 18 years of age, or older.

#### **2. Electronic communication**

2.1 By using this website or communicating with MBD by electronic means, the Client agrees and acknowledges that MBD may communicate with the Client electronically on our website or by sending an email. The Client furthermore agrees and acknowledges that all agreements, notices, disclosures, and other communications that MBD provides electronically satisfy any legal requirement, including but not limited to the requirement that such communications should be in writing.

#### **3. Privacy Policy**

3.1 MBD may collect personal information in dealings with the Client. If so, MBD will abide by MBD's [privacy policy](#). The Client's information will only be collected for MBD's internal records and will not be sold or given to Third Parties.

#### **4. The Order, Payments, Grace Period, and Prices**

4.1 The Client shall pay the Purchase Price, in full, to MBD to begin the processing of and the construction of the Pet Bed, or to ship, in the case of Ready to Ship items. THIS PURCHASE PRICE

INCLUDES A NONREFUNDABLE DEPOSIT OF \$500, except in the case of the 72 hour Grace Period, as described in item 4.2, below. This purchase price does not include any taxes, or any fees, or any duties for the order.

4.2 Following the placement of an Order, a 72 hour grace period shall apply, during which time the Client may cancel the order and receive a full refund. After the 72 hour window, any and all cancellations and changes to the order must be made pursuant to Section 7, below.

## **5. Responsibility for Size and Model Selection of the Pet Bed**

5.1 The Client is solely responsible for ordering the correct model and size of pet bed. In addition, the Client is also responsible for selecting the correct fabric color for the custom cushion. MBD STRONGLY RECOMMENDS ORDERING A SIZING GUIDE PRIOR TO PLACING AN ORDER.

## **6. Fabrication Queue and Lead Time**

6.1 Once MBD receives the full payment of the purchase price (see above), and the Client agrees to the Terms and Conditions of Sale, MBD will immediately put the Order into the next available spot on the construction waiting list (hereafter known as the "Fabrication Queue"). MBD will inform the Client, via the Client's email address, once the Order is moved from the Fabrication Queue and into production (hereafter known as Production).

6.2 Once a Pet Bed has been purchased, MBD will inform the Client of any waitlist status for the Order.

6.3 Once Production has begun on the Pet Bed, it can take up to 12 weeks to complete the Order. (In the case of a waiting list, the lead time can be considerably longer). The Client acknowledges that this lead time does not include shipping/transit time.

## **7. Changes to the Order**

7.1 The Client may only change the Order when the Order is in the Fabrication Queue, and any changes must be in writing, pursuant to Section 10 of this Agreement, see below. SO, NO CHANGES TO THE ORDER MAY BE MADE AFTER THE ORDER MOVES INTO PRODUCTION.

7.2 The Client acknowledges and agrees that any changes to the design or size of the Pet Bed requested by the Client may result in an increase to the price and/or lead time in respect of the Pet Bed. Where MBD agrees to any changes, a revised Purchase Invoice will be sent to the Client. All variation in prices must be agreed to by the Client prior to the manufacture of the Pet Bed.

7.3 ANY INCREASE TO THE PRICE OF THE PURCHASE ORDER resulting from an order change will be paid to MBD within 7 calendar days of the requested change. THE ORDER WILL NOT ADVANCE IN THE FABRICATION QUEUE UNTIL THE PRICE INCREASE HAS BEEN PAID IN FULL. In the event that the price increase is not paid after 30 calendar days, the order will be canceled, as described below in section 10, and the Pet Bed in the Order shall become the sole property of MBD, as described in section 10.4, below.

7.4 ANY DECREASE TO THE PRICE OF THE ORDER as a result of the Order Change will be refunded to the Client within 7 calendar days. The Order will continue to move up in the Fabrication Queue during this time.

## **8. The Construction Process and Materials**

8.1 The Client recognizes that each Pet Bed created by MBD is a one-of-a-kind, handcrafted piece of art, and has its own particular variations, which are its intrinsic features and are part of being a handcrafted item made from organic material. These variations may include, but are not limited to, different wood grains, different wood hues, different kinds of knots in the wood, different kinds of voids in the wood, variations in the appearance of wood dyes and wood stains, differing paint hues, varying brushstrokes, and variations in the placement, quantities, and details of the decorations on the pet bed. Each pet bed produced by MBD is truly unique. As a result, there is absolutely NO guarantee that any delivered pet bed will be *exactly* the same as seen in any picture or in any video content on MBD's website, on MBD's social media, in any of MBD's promotional materials, in any of MBD's packaging materials, or in any of MBD's Sizing Guides. The Client agrees to FULLY accept all the variations, as described above, in the particular Pet Bed that they ultimately receive in the Order.

8.2 The Client acknowledges that wood is a natural material and can vary significantly in grain pattern, color and texture from inch to inch. MBD offers no guarantees for color matching of wood on any of our beds. Also, MBD makes no guarantees that our digital and print images fully represent the variation expected across the species chosen.

8.3 The Client further recognizes that the custom cushion accompanying the Pet Bed may have slight flaws as a result of being handcrafted, including wrinkles and other imperfections that do not affect the proper functioning of the cushion. Due to different dye lots and the nature of the fabric content, the color of the fabric may be different than that seen digitally or in print, or in any fabric swatches provided by MBD.

8.4 The Client also understands and acknowledges that all stain protection applied to the cushion must be reapplied after 1 year to continue to be effective. MBD will provide care instructions and information about any fabric treatments to the Client either digitally or in print when the Pet Bed ships.

## **9. Environmental Factors**

9.1 The Client recognizes and accepts that changes in humidity and prolonged exposure to direct sunlight and air will affect natural wood products. The Client further acknowledges that THE PET BED IN THE ORDER IS FOR INDOOR USE ONLY AND SHOULD NOT BE PLACED NEAR HEATING OR COOLING VENTS.

9.2 The Client fully understands that small cracks and fissures may develop with changes in humidity and temperature. This is a natural, uncontrollable characteristic of solid wood furniture.

## **10. Order Cancellations and Refund Policy**

10.1 The Client may cancel the Order at any time BEFORE IT MOVES INTO PRODUCTION by informing MBD, in writing, of their desire to cancel the Order, keeping in mind that they will forfeit the \$500 non-refundable deposit.

10.2 Because the Purchase Price includes a non-refundable \$500 deposit, any refund to the Client from any cancellation of the Order while it is in the Fabrication Queue, as described in Section 7, above, shall only be for the remainder of the Purchase Price, after subtracting the non-refundable deposit amount. So, the Client shall NOT receive a refund of the full Purchase Price, if the Order is canceled.

10.3 If the Order is canceled AFTER IT HAS MOVED INTO PRODUCTION, the Client agrees to pay a cancellation fee of up to 75% of the purchase price. The amount of the cancellation fee is completely at MBD's discretion. The Client acknowledges and agrees that this figure is a genuine pre-estimate of the loss likely to be suffered by MBD in the event the Client cancels the Order after the commencement of the Production of the Pet Bed.

10.4 Additionally, if the Client fails to verify the Shipping Address within 21 calendar days of receiving either a) the pre-shipping email, as described below in Section 11.4, or b) any other written request from MBD to update the Shipping Address, then the Order shall be canceled.

10.5 Upon any cancellation of the Order, any Pet Bed in the Order shall become the sole property of MBD.

## **11. Shipping**

11.1 The Client hereby confirms that the Client's shipping address, email address, and any Client contact phone number given to MBD are correct, and the Client shall promptly inform MBD of any changes to this shipping address, email address, or to this contact phone number.

11.2. If the Shipping Address changes BEFORE the Order is actually shipped, then the Client shall inform MBD of this change to the Shipping Address, in writing.

11.3 Shipping costs are included for all orders delivered in the United States of America.

11.4 Additional shipping charges, duties, taxes, and fees will apply to international orders. Upon placing an Order to be shipped outside of the United States, a custom shipping invoice will be sent to the Client's email address detailing these additional costs. THIS INVOICE MUST BE PAID IN FULL BEFORE THE ORDER CAN MOVE INTO PRODUCTION, OR SHIP, IN THE CASE OF READY TO SHIP ITEMS.

11.5 Once the Order has been completed and just before shipping, MBD will email the Client at least two pictures of each completed pet bed in the Order to verify the finished condition of each pet bed.

11.6. This pre-shipping email, see Section 11.5 above, shall also ask the Client to verify that the Shipping Address is accurate. The Client shall have up to 21 calendar days to respond to this pre-shipping email and to verify the Shipping Address to MBD. The Order will not be shipped until the Client does verify the Shipping Address to MBD, in writing.

11.7 MBD is not liable for the risk of loss once the Order leaves our workshop. Each Pet Bed is inspected and tested before being carefully packaged for shipping, and is sent out in new condition. In the event that the Order is damaged in transit, MBD shall be responsible for the replacement costs of the Order only.

## **12. Delivery of the Order**

12.1 If the Client as named in the Order is not present at the time of the delivery, it is the Client's responsibility to authorize a nominee to sign for the Order.

12.2 MBD will not be liable for any delay in delivery or for a failure to deliver under any circumstances. All deliveries are subject to shipping and customs clearance and MBD will not be held liable for any delays therein.

12.3 The Client fully understands and acknowledges that they are solely responsible for fully inspecting the Order upon delivery. Any damage should be reported to MBD within three calendar days, in writing. Acceptance of delivery will be taken as confirmation that the Order is in acceptable condition.

12.4 If a damaged shipment is accepted by the Client and is not reported within three calendar days, the Client understands and accepts that they take full responsibility for the cost of the repair or replacement as well as any return shipping charges.

12.5 It is the Client's responsibility to document any damage to the Pet Bed that was caused during transit. This includes major breakage, scratches, chips, splinters and abrasions not intended in the original product construction. If the shipment is rejected due to damage, the cost of the return shipping will be covered by the carrier. MBD will repair or replace your damaged or defective Pet Bed and/or give you a full refund as long as you have followed these return instructions. Repair or refund is at the sole discretion of MBD.

## **13. Title**

13.1 Title and risk in the Order shall pass to the Client on delivery of the Order.

## **14. Warranties**

14.1 MBD warrants that the Pet Bed will be free from defects, in good working order and fit for the purpose for which that type of pet furniture is commonly supplied.

14.2 MBD takes no responsibility and does not give any warranty with respect to the suitability of the Order for a Client's individual purposes.

## 15. Limitation of Liability

15.1 Animals decide for themselves where they want to sleep, and MBD makes no claim or guarantee that any animal will actually choose to sleep in the Pet Bed in the Order.

15.2 MBD shall not be liable to refund a Client should they wish to return the Order for reasons of variations in the color or grain of wood used in the Pet Bed or for variations in paint color or paint application, crystals, cushion fabric color, or design accents. MBD WILL NOT ISSUE REFUNDS IN THE EVENT THAT THE PET BED IS THE WRONG SIZE, OR DESIGN, OR WOOD SPECIES, OR COLOR, OR DOES NOT FIT IN THE CLIENT'S SPACE. No Pet Bed may be returned without MBD's written consent.

15.3 All guarantees, terms, conditions, warranties, undertakings or representations expressed or implied in any way relating to this Agreement are excluded to the maximum extent permitted by law. Notwithstanding this, nothing in this Agreement restricts or modifies any right or remedy including any guarantee imposed or implied under the FTC Consumer Law (if applicable) which contains guarantees to protect consumers of certain goods and services.

15.4 To the extent that MBD is able to determine the same, the liability for breach is limited to (at MBD's sole discretion) the repair or replacement of the Pet Bed or a refund of the price paid by the Client for the Order.

15.5 Save for any liability that MBD may not exclude, to the maximum extent permitted by law, MBD's liability for all claims arising under this Agreement, whether in contract, tort (including without limitation negligence), equity, under statute, under an indemnity, or on any other basis, is limited to an amount equal to the Purchase Price paid by the Client.

15.6 Subject to the provision of this Clause, MBD is not liable for any consequential, indirect or special loss or damage, loss of profits, loss of business, business interruption, cost or amount that the Client is liable for arising out of any loss suffered by third parties under or relating to this Agreement, whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity, or on any other basis, whether or not such loss or damage was foreseeable and even if advised of the possibility of the loss or damage.

15.7 THE CLIENT DOES INDEMNIFY, HOLD HARMLESS, AND DEFEND MBD, ANY OF MBD'S OWNERS, ANY OF MBD'S EMPLOYEES AND ANY OF MBD'S ASSIGNS AGAINST ANY AND ALL LEGAL CLAIMS OR ACTIONS ARISING AFTER THE ORDER ARRIVES AT THE SHIPPING ADDRESS, INCLUDING ALL LIABILITY, CLAIMS, DAMAGE, LOSS, COST AND EXPENDED (INCLUDING, WITHOUT LIMITATION, LEGAL FEES, COSTS AND DISBURSEMENTS, ON A FULL INDEMNITY BASIS) WHETHER INCURRED AGAINST OR BY MBD IN RESPECT OF:

PERSONAL INJURY OR DEATH

DAMAGE TO TANGIBLE PROPERTY; OR

A CLAIM BY A THIRD PARTY, IN RESPECT OF THE USE OF THE PET BED.

To the extent that MBD's loss is caused by its negligence, the Client's liability is diminished.

## **16. Intellectual property**

16.1 ALL THE RIGHTS ARE RESERVED, with the exception of item 16.3, below. The Client fully understands and acknowledges that at all times all intellectual property including, but not limited to, designs, techniques, methods of manufacture, photographs, specifications, artwork, text, patented inventions and registered designs remain the property of MBD.

16.2 The Client fully understands that they must not knowingly allow any intellectual property belonging to MBD to be reverse engineered, or copied or breached in any other manner.

16.3 MBD grants permission for the Client to take photographs or videos of the Order for their own personal use. Such photos or videos should contain attribution to MBD when shared on the Client's social media and on other content platforms.

## **17. Force Majeure**

17.1 MBD will not be liable for the consequence of any circumstance reasonably beyond MBD's control, which affects its obligations under this Agreement.

## **18. Breaches of these Terms and Conditions of Sale**

18.1 Without prejudice to MBD's other rights under these Terms and Conditions of Sale, if you breach this Agreement in any way, MBD may take such action as we deem appropriate to deal with the breach, including temporarily or permanently suspending your access to the website, contacting your internet service provider to request that they block your access to the website, and/or commence legal action against you.

## **19. Indemnification**

19.1 The Client does *indemnify, hold harmless, and defend* MBD, any of MBD's owners, any of MBD's employees, and any of MBD's assigns from and against any and all claims, liabilities, damages, losses and expenses, relating to your violation of these Terms and conditions, and applicable laws, including intellectual property rights and privacy rights. You will promptly reimburse us for our damages, losses, costs and expenses relating to or arising out of such claims.

19.2 We reserve the right, with or without prior notice, (a) to change product or service descriptions, images and references; (b) to limit the available quantity of any product or service; (c) to prevent or prohibit any user or customer from making any or all Transaction(s); and/or (d) to refuse to provide any user or customer with any product or service. Price and availability of any product or service offered through the Site are subject to change without notice. MBD shall not be responsible for any errors in the prices, descriptions or expected delivery time of such products or services.

19.3 Except to the extent any additional contract expressly states otherwise, MBD's maximum liability for all damages arising out of or related to the Pet Bed, regardless of the form of legal action that

imposes liability (whether in contract, equity, negligence, intended conduct, tort or otherwise) will be limited to the total price that the Client paid to purchase the Pet Bed. Such limit will apply in the aggregate to all of the Client's claims, actions and causes of action of every kind and nature.

## **20. Choice of Law and Jurisdiction**

20.1 Governing Law. These Terms and Conditions shall be governed by and construed in accordance with the laws of the State of Washington, without regard to its conflict of law principles.

20.2 Choice of Forum. Any legal suit, action, or proceeding arising out of or relating to these Terms and Conditions shall be commenced in a state court, in the State of Washington, in Thurston County, and each party, the Client and MBD, hereto submits to the exclusive jurisdiction and venue of any such court in any such suit, action, or proceeding.

20.3 Severability. If any provision of these Terms and Conditions is illegal or unenforceable, that provision is severed from these Terms and Conditions and the other provisions shall remain in force.

## **21. Language**

21.1 These Terms and Conditions will be interpreted and construed exclusively in English. All notices and correspondence will be written exclusively in that language.

## **22. Sales Tax**

22.1 MBD does not charge sales tax, except in the case of Washington State residents. All sales and use taxes, if any, due under the laws of any state, any local government authority, or the federal government of the United States, in connection with the Order shall be paid by the Client.

## **23. Contact information**

This website is owned and operated by Madrona Bay Designs by Diane Hall, LLC.. You may contact us regarding these Terms and Conditions of Sale by writing or emailing us at the following address: [info@madronabaydesigns.com](mailto:info@madronabaydesigns.com)

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