



## PURCHASE, LEASE & SERVICES AGREEMENT

1310 W. Laurel St.  
San Antonio, TX 78201  
(210) 667-3603  
<http://decoriq.com>

**THIS AGREEMENT** (this "Agreement"), is entered into by and between **Decor IQ** and Customer. Decor IQ and Customer are each referred to as a "Party" and collectively referred to as the "Parties."

The Parties agree as follows:

### **I. Description of Display Item Purchases and Display Services.**

A. Display Item Purchases. Decor IQ will provide, and Customer will purchase the display items ("Purchased Items" or "Leased Items") listed in the Display Item Purchase List or Leased List attached hereto as part of the Schedule (as defined below in I.B), pursuant to the following conditions:

(1) Availability & Substitutions. Due to product availability or for other reasons outside the control of Decor IQ, Decor IQ may need to make substitutions for Items selected by Customer. If such a condition exists, Decor IQ will notify Customer as soon as possible. While Decor IQ will make reasonable efforts to provide substitutions that are similar to the selected Purchased or Leased Items, it is not always possible, and Decor IQ will consult with Customer on alternative Item options. Any reduction or addition to the Fee for the Items will be reflected in the Invoice(s) sent to Customer pursuant to Section IV.B.

(2) Manufacturer Warranties. The manufacturer warranties apply to any defects in the Purchased Items, and all EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, OR COMPLETENESS ARE EXPRESSLY DENIED BY Decor IQ. Decor IQ will make reasonable efforts to assist Customer in making any warranty claims with a manufacturer of a defective or damaged Purchased Item.

B. Display Services. If contracted for installation & removal services, Decor IQ will install and remove the Items and any Customer-owned display items provided to Decor IQ (collectively, the "Display Items") designated for the temporary display ("Display") as presented in a proposal ("Proposal" as defined below) and set forth in the Schedule/Scope of Work ("Schedule") attached here as Exhibit A (collectively, the "Services"). Decor IQ will provide the Services to Customer in the time frame set forth in the Schedule and will install and remove the Display at the site(s) as set forth in the Schedule. If storage & transportation are also part of the contracted services, Decor IQ will transport the Display Items to and from the included storage location as designated by Customer on the Schedule. If Customer wishes to store all or some of the Display Items through Decor IQ, the Parties will enter into a separate storage agreement.

C. Proposal. The Proposal may but will not always include one or more of the following: photos, portfolio images, mockups, designs, drawings, schematics, presentations, lists, PowerPoints, pricing, quotes, and explanations.

### **II. Décor IQ's Responsibilities.**

A. Décor IQ Personnel. Decor IQ will designate employees or independent contractors ("DIQ Personnel") that it determines, in its sole discretion, to be capable of performing the Services.

B. Reasonable Protection of Property. Decor IQ and Decor IQ Personnel will take all reasonable efforts to protect from damage the property of Customer or any other property they access to reach the Site.

C. Completion of Services. Decor IQ will complete removal of the Display by the agreed upon date following the installation. At the time of removal of the Display, Decor IQ Personnel will use all reasonable efforts to return the Site to the condition it was prior to the Display. If the Display is installed in whole or in part in any structure owned by Customer, Decor IQ Personnel will leave the structure broom swept and free of debris.

D. Insurance. During the term of this Agreement and for a period of 1 year thereafter, Decor IQ will, at its own expense, maintain and carry insurance, in full force and effect that includes, but is not limited to, (i) commercial general liability with a limit of not less than \$1,000,000 for each

occurrence and in aggregate, and (ii) worker's compensation as required under applicable law.

E. Warranty/Disclaimer. Decor IQ will provide the Services set forth in the Schedule in a workmanlike manner, using knowledge and experience for performing the services which meet generally accepted standards in Décor IQ's industry and region. ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, COMPLETENESS, OR EXPECTATION OF PRIVACY ARE EXPRESSLY DENIED BY Décor IQ.

F. Repairs to/Service of Display. Decor IQ will make reasonable efforts to repair, replace or substitute, at its option and its cost, any defective Display Items purchased from Decor IQ (but not Display Items owned by Customer), in a reasonable time after receiving notice from the Customer. In some circumstances, repairs, replacements or substitutions will not be feasible. The Customer shall be responsible for any Display Items owned by Customer and for any damage to Display Items that are not a result of defects in purchased Display Items or improper installation.

### **III. Customer's Responsibilities.**

A. Approvals. Upon entering into this Agreement, Customer will notify Decor IQ of and obtain all necessary permits or approvals ("Approvals"), if any, prior to installation of the Display, including but not limited to such Approvals required by a municipal, county or state government entity, landlord, homeowner's association, co-op or condo board, or hotel or motel owner or manager or the like. Failure of Customer to obtain necessary Approvals, causing cancellation by Customer or Decor IQ under Sections VIII B or C below, will not excuse non-payment of the compensation set forth in the Schedule.

B. Cooperation and Access. Customer will respond promptly to any reasonable request from Decor IQ for instructions, information, or Approvals required by Decor IQ to provide the Services. Customer will reasonably cooperate with Decor IQ Personnel during the installation, any required maintenance, and removal of the Display. Customer will provide to Decor IQ Personnel unobstructed access to the Site while they are installing, maintaining, or removing the Display, and will keep such access clear of any obstructions, including but not limited to vehicles. If the preferred access to the Site requires Decor IQ Personnel to cross another owner's property, Customer will promptly, upon request by Decor IQ, request permission from the other property owner for such limited access, which access Decor IQ agrees to protect in accordance with Section II.E and indemnify pursuant to Section VI.

C. Installation/Removal. Customer permits Decor IQ Personnel to undertake and complete all work on the Site as set forth in the Schedule, and to complete the installation, maintenance, and removal as they see fit. Customer will not interfere with and will keep other persons and pets/animals from interfering with the work of Decor IQ Personnel in installing, maintaining, or removing the Display.

D. Electrical Service/Schematic Drawings. Customer will supply adequate electrical service for the Display and assume all costs for such electrical service. If Decor IQ determines that additional electrical service is required, it shall so advise Customer. Upon Customer's request and at Customer's expense, Decor IQ will seek to rent equipment that is sufficient to supply the necessary additional electric service for the Display or advise Customer on changes that could be made to provide sufficient electricity. Any charges for rented units will either be included as an itemized part of the charges included in the Schedule or will be added as an additional charge. Any charges for changes to the electric service are the responsibility of the Customer. If included in the Schedule, Customer will provide to Decor IQ schematic drawings showing the placement and electrical wiring available on the Site for the Display ("Schematic Drawings"). Any changes to the Schedule requested by Customer that

requires a change to the Schematic Drawings shall be chargeable to the Customer.

E. Removal/Storage of Display Items. On the Removal date(s) set forth in the Schedule, or on such other dates as reasonably agreed between the Parties following installation of the Display, Customer will permit Decor IQ Personnel to complete the Removal of the Display and move the Display Items to the agreed storage area.

F. Insurance. During the term of this Agreement and for a period of 1 year thereafter, Customer will, at his/her own expense, maintain and carry insurance, in full force and effect that includes, but is not limited to general liability with a limit of not less than \$1,000,000 for each occurrence and in aggregate, for coverage of any damage to persons or property caused by the Display or any one of Customer's Display Items.

G. Loss and Damage. Customer will be responsible for any loss or damage to the Display Items during the time they are at the Site (regardless of whether the Display is installed or not), unless it can be shown by competent evidence that the loss or damage was a result of improper installation/removal or gross negligence or willful misconduct on the part of Decor IQ or Decor IQ Personnel while installing, maintaining, or removing the Display.

H. Photo and Video Release. Customer grants to Decor IQ the right and permission to use, re-use, publish, and republish photographic or videographic portraits or pictures of the Display, intact or in part, composite or distorted in character or form, without restriction as to changes or transformations, in conjunction with Customer's name, or reproduction hereof in color or otherwise, and the right to use any printed material in connection with such use and publication. Customer hereby relinquishes any right that it may have to examine or approve the completed photographs or videos, and any printed matter that may be used in conjunction with such materials.

I. For multi-year agreements, the customer must notify Décor IQ in writing of any intended additions to the holiday program by July 31st of the year preceding the upcoming season (e.g., by 7/31/24 for the 2024 holiday program). No changes to the program during the contract term will be permitted if they result in a decrease in the contract's value. Requests for program additions made after July 31st of any year during the agreement period may be approved or denied by Décor IQ at its sole discretion, depending on product availability and timing. Additionally, Décor IQ may assess a surcharge (up to 25%) for any approved requests received after the July 31st deadline during the agreement period.

#### **IV. Compensation.**

A. Fee Schedule. Customer will pay Decor IQ the fees set forth in the Schedule plus any subsequent additional charges agreed between the Parties in writing (the "Fee"), under the payment terms set forth in the Schedule. Any additional Display Items or other products or Services requested by Customer will be deemed accepted by Decor IQ only if an updated Schedule is signed by Decor IQ and Customer. All expenses associated with any changes to the Schedule, made prior to, during, or after installation of the Display, will be at Customer's sole additional cost, and costs for these changes will be invoiced by Decor IQ to Customer.

B. Invoices. Decor IQ will issue an invoice to Customer for each payment on the Fee Schedule, and for any other additional charges owed by Customer to Decor IQ. Payment is due to Decor IQ upon Customer's receipt of an invoice. See Section VIII for Customer's rights and obligations for payment of the Fee if the Display is canceled.

C. Interest. Failure to timely pay any Fee set forth in the Schedule or any additional fee for changes approved by Customer, (1) may result in Decor IQ canceling the Display and (2) will result in interest accruing and payable on all overdue amounts at the rate of 1.5% per month, or 18% per annum, or the maximum amount allowed by law, whichever is less.

D. Taxes. Customer is responsible for all applicable sales & use taxes as mandated by law and billed by Décor IQ.

#### **V. Indemnification.**

Customer will indemnify, defend and hold harmless Decor IQ and its respective officers, directors, employees, independent contractors, agents and their respective heirs, successors and assigns (collectively "Indemnified Party"), from any and all losses damage, liabilities, claims, actions, costs or expenses of any kind (including reasonable attorney's fees) that are incurred by the Indemnified Party arising out of or related to any third-party claim alleging: (A) breach or non-fulfillment of any provision of this Agreement by Customer; (B) any negligence or more culpable act or omission of Customer (including any reckless or willful misconduct) in connection with the performance of his/her obligations under this Agreement; (C) any bodily injury, death of any person, or damage to real or

tangible personal property caused by the negligence or more culpable act or omission of Customer (including any reckless or willful misconduct); and (D) any failure of Customer to comply with any applicable federal, state or local laws, regulations or codes in the performance of his/her obligations under this Agreement.

#### **VI. Intellectual Property.**

Décor IQ owns all intellectual property rights, including but not limited to copyrighted work (such as any Proposal and Schematic Drawings), inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how, and other confidential information, trade dress, trade names, logos, corporate names and domain names, together with all the goodwill associated therewith, derivative works and all other rights (collectively, "Intellectual Property Rights"), in all documents, work product, and other materials that are delivered to Customer as part of the Services or are prepared by or on behalf of Decor IQ in the course of performing the Services. Customer shall not, during the Term of this Agreement or thereafter: (i) apply to register or maintain any application or registration for the Intellectual Property Rights, or any other tradename, trademark, service mark (the "Marks"), copyright or other intellectual property confusingly similar thereto; (ii) use any colorable imitation of the Intellectual Property Rights; (iii) misuse the Intellectual Property Rights; (iv) take any action that would bring the Marks into public disrepute; (v) use the Proposal, the Schematic Drawings or any other work that is copyrighted, proprietary or confidential except for purposes of the transaction contemplated by this Agreement or (vi) take any action that would tend to destroy or diminish the goodwill in or dilute the Marks.

#### **VII. Confidentiality.**

From time to time during the Term of this Agreement, either Party may disclose or make available to the other Party, non-public, proprietary and confidential information of the disclosing Party ("Confidential Information"), that the disclosing Party identifies at the time of disclosure as confidential in writing or verbally (with a writing confirming confidentiality to follow within 3 day). However, Confidential Information does not include any information that: (1) is or becomes generally available to the public other than as a result of the receiving Party's breach of this Section VII; (2) is or becomes available to the receiving Party on a non-confidential basis from a third party, provided that third party is not and was not prohibited from disclosing the Confidential Information; (3) was in the possession of the receiving Party's possession prior to the disclosing Party's disclosure; or (4) was or is independently developed by the receiving Party without using any Confidential Information. The receiving Party will protect and safeguard the Confidential Information with at least a reasonable degree of care under the circumstances and will not use or share the Confidential Information or allow it to be used or accessed by another person or entity, for any purpose other than to exercise the Party's rights or perform the Party's obligations under this Agreement. If the receiving Party discloses the Confidential Information to another person or entity as allowed in this Section, the receiving Party will advise such person or entity of the confidential nature of the information and the Confidentiality obligations provided in this Agreement. If the receiving Party is required by applicable law or legal process to disclose any Confidential Information, it shall, prior to such disclosure, expeditiously notify the disclosing Party of such disclosure requirements and deadlines.

#### **VIII. Term and Termination/Cancellation.**

A. Term. This Agreement will commence on the earlier of the dates on which this Agreement was executed ("Effective Date") and the Services will continue for one-year terms that will automatically renew each year on the Effective Date, unless earlier terminated by written notice of a Party to the other Party, or as described in the scope.

B. Customer Cancellation of Services. Customer may cancel the Display by terminating the Agreement effective upon Décor IQ's receipt of Customer's written notice of cancellation. If Customer's notice of cancellation is received by Decor IQ during or after installation of the Display, Decor IQ will endeavor but cannot guarantee Removal of the Display prior to the Removal dates set forth in the Schedule. No refunds will be given for cancellation of the Services by Customer except at sole discretion of Decor IQ.

C. Cancellation Fees for Purchased Items. If prior to delivery and no later than seven (7) days after the Effective Date, Customer seeks to cancel an order for a Purchased Item, the following cancellation fees apply:

- a. If Decor IQ has the item in stock, a cancellation fee of 10% of the item's price listed on the Schedule.

- b. If Decor IQ has already placed an order with its distributor for the item, a cancellation fee of 25% of the item's price listed on the Schedule.
- c. If Decor IQ has not placed an order with its distributor for the item, a cancellation fee of 5% of the item's price listed on the Schedule.

Once a Purchased Item is delivered to Customer (delivery is the earlier of Décor IQ's delivery of the item to Customer's storage location or installation of the item in the Display), Decor IQ will not accept return of the item and Customer agrees to pay the item's full price listed on the Schedule.

D. Décor IQ Cancellation. Decor IQ may, at its sole discretion, either (i) cancel the Display by terminating this Agreement effective upon Customer's receipt of Décor IQ's written notice of cancellation or (ii) delay completion of its obligations under the Schedule (which delay will not constitute a breach by Decor IQ of its obligations), for any of the following reasons: (1) Customer's failure to pay (a) the Fee set forth in the Schedule when due or (b) any other Decor IQ invoice within 20 days after it was received; or (2) Customer's breach of any obligation in Section III.

E. Liquidated Damages. In the case of a multi-year Services contract, in which Customer cancels the Agreement or Decor IQ cancels the Agreement for any of Customer's breaches as set forth in Section VIII, D (collectively, "Customer's Breach") after the first year and prior to the installation of the Display in any subsequent year, Customer shall pay to Decor IQ an amount equal to 40% of the unpaid Fee or other Decor IQ invoice (the "Liquidated Damages"). The Parties intend that the Liquidated

Damages constitute compensation and not a penalty. The Parties acknowledge and agree that Décor IQ's harm caused by Customer's Breach would be impossible or very difficult to accurately estimate at the time the Parties' entered into this Agreement, and the Liquidated Damages are a reasonable estimate of the anticipated or actual harm that might arise from Décor IQ's cancellation of the Agreement due to Customer's Breach. If Decor IQ cancels the Agreement pursuant to Section VIII, D., Customer's payment of the Liquidated Damages is Customer's sole liability and entire obligation and Décor IQ's exclusive remedy for such Customer's Breach.

**IX. Limitation of Liability.**

IN NO EVENT WILL Decor IQ BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE IS FORESEEABLE AND WHETHER OR NOT DECOR IQ HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

IN NO EVENT WILL DÉCOR IQ'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED ONE (1) TIMES THE FEE PAID OR PAYABLE TO DECOR IQ AS SET FORTH IN THE SCHEDULE.

IN WITNESS WHEREOF, the parties listed on the quote have executed, acknowledged & agreed to the terms outlined in this Agreement by signing & dating the quote.