

The Masonshade Creative Terms of Business:

Following are the terms of business of The Masonshade Creative (**hereinafter Masonshade, We, Our or Us**). Masonshade provides product development and production consultancy services, either as individual service items or collectively as a package combined with such other services as may be agreed from time to time (**hereinafter the Services**) between Masonshade and you the customer (hereinafter Customer, You or Your). Masonshade and Customer are also hereinafter referred to jointly as (the) Parties and individually as (the) Party (as the case may be).

These Terms of Business come into effect on the Effective Date and You agree to be bound by them to the exclusion of any other form of agreement, howsoever expressed.

1. Interpretation and Definitions

a. Interpretation

- i. This Agreement includes the Job Quotation and any amendments or additions or replacements made in accordance with the provisions of this Agreement.
- ii. Except where the context expressly requires otherwise, references to clauses, paragraphs and sub-paragraphs are references to clauses, paragraphs and sub-paragraphs of this Agreement or the Job Quotation as a part of this Agreement
- iii. “writing”, includes communication effected by electronic or facsimile transmission or similar means.
- iv. A statute or a provision of a statute is a reference to that statute or provision as enacted, amended or re-enacted at the relevant time.
- v. The headings used are for convenience only and shall have no effect upon the interpretation of this Agreement.

vi. References to the singular include the plural and vice-versa and references to a gender shall include the other gender.

b. Definitions

Agreement means these terms and conditions and includes the Job Quotation provided as subject to this Agreement together with any amendments agreed in writing between Masonshade and Customer

Business Day/Working Day any day not including a Saturday, Sunday or UK Public Holiday

Customer Supplied Material means designs, drawings, text, images, photographs, supplies or other material (whether or not owned by Customer) for Masonshade to use in providing the Services

Effective Date the earliest of the dates Masonshade is provided by the Customer with a notice in writing to proceed or this Agreement is signed as hard copy by the Parties

Fees means the amounts set out in the Job Quotation and payable in accordance with the terms of this Agreement

Goods means items supplied to the Customer by Masonshade under this agreement including finished or part finished garments, garment samples, fabric samples and other like items including items provided by or on behalf of Masonshade by third parties

Intellectual Property and/or Intellectual Property Rights means all intellectual property, including patents, utility models, trade and service marks, trade names, domain names, right in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or capable of being registered and including registrations and applications for registration of any of these, or rights to apply for the same, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world

Job Quotation means the quotation for the Services provided by Masonshade which forms a material part of this Agreement

Service(s) means the service or services to be delivered as set out in the Job Quotation provided by Masonshade

Term means the term of this agreement as set out herein

Working Hours means hours between 09.00 and 17.00 on a Business Day

2. Authorised Persons

Immediately upon execution of this Agreement the Parties shall each appoint in writing an authorised representative to manage the activities of the work performed under this Agreement. Such representatives shall be deemed the authorised signatories to sign off any stage completions and final completion of the Service.

3. Obligations and undertakings of Customer

The Customer warrants and agrees:

- a. to be responsible for the timely delivery to Masonshade of Customer Supplied Material and briefing, advice, consultation and other resources to enable Masonshade to deliver the Services.
- b. to make timely responses to requests by Masonshade for additional information and/or direction in order that Masonshade is able to maintain its obligations under this Agreement.
- c. Where the Services or part thereof are to be provided at the Customer's premises, the Customer will provide office space, communications (to include broadband access), general office services and facilities in appropriate proportion sufficient for Masonshade to deliver its obligations in an efficient manner.

4. Obligations and undertakings of Masonshade

In consideration of payment of the Fees by the Customer, Masonshade warrants and agrees:

- a. to perform the Services set out in the Job Quotation together with any agreed amendments with reasonable skill and care.

b. to keep the Customer advised of progress in accordance with the agreed schedule and to advise on a timely basis of any matters arising requiring input from the Customer.

c. to use reasonable endeavours to meet its obligations but time shall not be of the essence in the performance of those obligations.

5. Subcontracting

Masonshade reserves the right to subcontract any or all of its obligations under this Agreement but such subcontract arrangements shall not relieve Masonshade of its obligation to the Customer under this Agreement.

6. Warranties

a. In selecting the Services You warrant that You have made proper and due evaluation and that You consider the Services to be fit for purpose for the use intended.

b. Masonshade warrants that the Services provided under this Agreement shall be completed to a reasonable standard commensurate with professional textile design and manufacturing services within the UK. Subject to the limitations set out in clause 18c Masonshade agrees to correct any part of the Services that do not comply with the Job Quotation subject to such part of the Services being correctable and which are notified within a reasonable period for Service items and specifically within 72 hours of documented delivery for shortages and/or faults in manufactured items. Such correction of non-compliant elements of the Services shall be the sole liability of Masonshade and the sole remedy of the Customer.

c. To the fullest extent permitted by applicable laws Masonshade makes no other warranties express or implied for any of the Services provided under this Agreement.

7. Variations to the Services

Requests for variation to the Services from either Party are to be submitted to the other Party in writing. The Parties agree to give full consideration to variation requests and not unreasonably to withhold approval. Agreed variations are to be recorded in writing, to include any changes to the Fees, the performance dates and revised delivery deadlines.

8. Risk and Title

a. Title to the Goods shall remain with Masonshade until such time as payment is made in full to Masonshade for the Goods in question.

b. Risk in the Goods shall be the responsibility of Masonshade up to the point of delivery to the Customer, whereupon all risks shall transfer to the Customer. The point of delivery shall be defined as the date and time that delivery is signified as completed on the consignment notice by the Customer or by the Customer's appointed handling agent (as the case may be).

c. Risk in Goods returned to Masonshade by the Customer or Customer's agent for whatever reason shall be borne by the Customer up until the date and time of signed receipt by Masonshade.

d. The Customer shall ensure that at all times while title to the Goods remains with Masonshade and risk in the Goods remains with the Customer the Goods are clearly and independently identifiable and are insured against all reasonable risks to their full value including, where appropriate the costs of supply and return. Failure of the Customer to adequately insure the Goods shall not relieve the Customer of its strict financial responsibility to Masonshade for the full value of the Goods.

9. Payment

a. The Fees payable by the Customer to Masonshade for Services together with any applicable invoicing milestones are set out in the Job Quotation and exclude any costs of packing and carriage between Masonshade and the Customer.

b. In some instances certain elements of the Fees are provisional due to the variable nature of design projects including without limitation final fabric quantities, design approval options, colour selections, size selections etc. These variable elements are marked on the Job Quotation. Masonshade will use reasonable experience to make the variable elements as accurate as possible and will advise as soon as possible once the variable elements can be set as firm prices.

c. The Fees are exclusive of business taxes including, without limitation, UK VAT and/or other business taxes including those applicable under other jurisdictions. To the extent that such business taxes are properly chargeable by Masonshade the Customer shall pay the same in addition to the Fees and charges against delivery of a valid tax invoice.

d. In addition to the Fees the Customer agrees to reimburse Masonshade for all reasonable out-of-pocket expenses incurred in connection with the provision of the Services provided always that such expenses have the Customer's prior approval.

e. Any disputed invoice amounts are to be notified in writing immediately upon receipt of the invoice and the undisputed portion settled without deduction or set off within 7 (seven) days of the date of the invoice.

10. Late Payments

a. Masonshade shall have the right to charge interest on any amount which is not paid in accordance with the terms of this Agreement. Such interest shall accrue and be calculated in accordance with the rates and terms of the Late Payment of Commercial Debts (Interest) Act 1998 and the Late Payment of Commercial Debts Regulations 2013 for the period from the due date for payment until the date on which payment is made.

b. In the event of late payment Masonshade reserves the right to suspend the Services until Your account is brought up to date. In the event of persistent late payments Masonshade reserves the right to terminate this Agreement for breach in accordance with clause 12.

11. Special Conditions

Where the Services are made subject to any additional or special conditions beyond the provisions set out in this Agreement such additional or special conditions are set out in the Job Quotation and shall form a part of this Agreement.

12. Term and Termination

a. The term of this Agreement and the obligations of the Parties thereto shall extend from the Effective Date until final completion of the Services and shall include any period of additional or extended work beyond the Services set out in the Job Quotation as may be agreed in writing between the Parties.

b. Masonshade reserves the right to terminate this Agreement for convenience on providing a minimum notice of 10 (ten) Working Days.

c. Masonshade reserves the right to terminate this Agreement without further notice if you are in breach of any of the terms of this Agreement and, if the

breach is capable of remedy, fail to remedy it within 5 (five) Working Days after being given written notice of the breach and requiring it to be remedied.

d. Either Party may forthwith terminate this Agreement by giving written notice to the other Party if the other Party goes into liquidation or has a bankruptcy order made against it or appoints a receiver or makes any voluntary arrangement with its creditors or becomes subject to an administration order (within the meaning of the Insolvency Act 1986).

e. Upon termination the Parties shall be relieved of further obligations to each other from the date such termination comes into effect save for the immediate settlement by the Customer of any outstanding amounts already invoiced. Services completed by Masonshade at the date of termination but not yet invoiced shall be invoiced and shall be due for immediate settlement.

f. The provisions of clause 25 (Survival) shall continue in force following termination of this Agreement.

g. The termination of this Agreement given by this Clause 12 shall not prejudice any accrued rights or liabilities of either Party.

13. Non Circumvention

Masonshade uses a variety of specialist subcontractors with whom Masonshade has developed relationships in order to provide elements of the Services. Without the express written agreement of Masonshade and for a period of 1 (one) year from the Effective Date of this Agreement the Customer agrees not to circumvent or bypass Masonshade and approach such subcontractors directly to provide to the Customer any of the elements that constitute the Services under this Agreement, whether for Services immediately under this Agreement (as set out in the Job Quotation) or for repeat or follow up orders, irrespective of quantities, based on elements of the Services substantially the same as contemplated under this Agreement.

14. Copyrights and Design Rights

a. Masonshade acknowledges and agrees that Copyrights and Design Rights already existing in the Customer Supplied Material provided to Masonshade by the Customer and wholly owned by the Customer (or third party owner) shall remain with the Customer (or third party owner) and Masonshade shall acquire no rights of ownership save as may be confirmed in writing between the Parties.

b. Further to clause 14a the Customer shall grant to Masonshade an irrevocable, worldwide, royalty free license to use the Design Rights and Copyrights in the Customer Supplied Material for the purposes contemplated under this Agreement and for Masonshade to provide the Services.

c. Where the Customer Supplied Material is owned by a third party the Customer warrants that it has obtained all necessary clearances and permissions required to use the Customer Supplied Material in the manner contemplated under this Agreement.

d. The Customer shall indemnify and keep indemnified Masonshade from and against all claims, costs, damages and expenses in connection with any claim that any part of the Customer Supplied Material directly infringes the rights of a third party.

e. The Customer acknowledges and agrees that Copyrights and Design Rights created by Masonshade pursuant to Masonshade delivering the Services contemplated under this Agreement (including, without limitation, additional supporting designs, drawings, images and text necessary to support manufacturing and production of Customer owned designs within Customer Supplied Material) shall be wholly owned by Masonshade and shall remain with Masonshade and the Customer shall acquire no rights of ownership save as may be confirmed in writing between the Parties.

f. Further to clause 14e Masonshade shall grant to Customer an irrevocable, non-transferable, worldwide, royalty free license to use Masonshade owned Design Rights and Copyrights related directly to the Services solely for the Customers activities contemplated under this Agreement. Such licence shall strictly exclude the creation of derivative designs by the Customer, its associates, affiliates and agents during or beyond the Term of this Agreement.

g. Where third party text, designs, images, photographs or other material are provided by Masonshade to deliver the Service (Masonshade Supplied Third Party Material) Masonshade hereby warrants and represents that so far as it is aware it has obtained all necessary clearances and permissions required to use the Masonshade Supplied Third Party Material in the manner contemplated under this Agreement.

h. License to use the designs beyond the provisions set out in this clause 14 are to be agreed in writing between the Parties. The Customer acknowledges and

agrees that Masonshade may apply additional charges for extensions or variations to the Masonshade licence grants.

15. Intellectual Property

The Customer acknowledges and agrees that the skills, Know How and methods utilised by Masonshade constitute valuable trade secrets and Confidential Information of Masonshade and its associates. The Customer agrees that all such Intellectual Property Rights in the processes and means of delivery to provide the Services that can properly be claimed to be owned by Masonshade shall remain at all times with Masonshade. The Customer agrees further that the Intellectual Property Rights in any general improvements or changes to the Service provision and methodology made during or subsequent to the Term of this Agreement, including improvements or changes suggested or made by the Customer shall at all times vest in Masonshade and the Customer agrees to take all necessary actions to ensure all such rights are so assigned to Masonshade.

16. Confidentiality

a. All drawings, specifications, designs, documents (including the content of this Agreement, but not its existence) and other incidental data supplied by Masonshade relating to the know-how, business, clients, pricing, services and contracts of Masonshade is proprietary and confidential (Confidential Information). The Customer agrees that it will use such Confidential Information solely for the purposes of this Agreement and will not at any time during or after the termination of this Agreement use or disclose the same either directly or indirectly to any third party without the prior written consent of Masonshade.

b. If so requested by Masonshade, the Customer, its employees, consultants and advisers to whom any Confidential Information requires to be disclosed agree to sign a Masonshade confidentiality agreement.

c. With the sole exception of information required strictly for continuity purposes and within seven (7) days of the termination of this Agreement the Customer shall return to Masonshade all Confidential Information in its possession or, at the sole option of Masonshade, destroy the Confidential Information and warrant in writing its destruction.

17. Promotion of the Services

Masonshade operates a range of promotional initiatives including the use of electronic and social media platforms, newsletters, flyer releases and lecture presentations to detail current and past activities the content of which may

include the names of Customers and Clients. As part of this Agreement, save as You advise to the contrary in writing You agree that Masonshade may use Your name to describe non-confidential information about the Services being provided to You under this Agreement.

18. Limitation of Liability

a. Nothing in this Agreement shall exclude or limit the liability of either of the Parties for death or personal injury due to negligence or for an act of fraud or fraudulent misrepresentation.

b. Masonshade shall not be liable to the Customer, its officers, employees, contractors, representatives or agents for loss of profits, loss of business, depletion of goodwill and/or similar losses, loss of or corruption of data or information, or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses, howsoever caused and You agree to indemnify Masonshade in full against such liability.

c. The maximum aggregate liability of Masonshade and that of its officers, employees, contractors, representatives or agents in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this Agreement shall not exceed a sum equal to the fees already paid by the Customer to Masonshade for the Services set out in this Agreement.

19. Independent Operator

Nothing in this Agreement shall create a partnership or joint venture between the Parties save as expressly provided in this Agreement and neither Party shall enter into or have authority to enter into any engagement or make any representation or warranty on behalf of or pledge the credit of or otherwise bind the other Party.

20. Force Majeure

Neither party shall be liable to the other for delay or failure to perform its obligations under this Agreement resulting from war, armed conflict, civil disturbance, act of God, fire, explosion, accident, flood, industrial dispute, or other cause beyond the reasonable control of that party.

21. Waiver

A failure or delay by Masonshade to exercise any of its rights under this Agreement shall not be deemed to be a waiver of that right in respect of the same or any other provision.

22. Third Party Rights

A person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

23. Severability

If any term of this Agreement is declared void or illegal, it shall be deleted and the remainder of this Agreement shall continue in force with the substitution of legal terms that approximate as closely as is legitimate to the terms declared void or illegal.

24. Amendment

This Agreement shall not be altered, waived, modified or supplemented except as agreed in writing between the Parties.

25. Survival

The representations warranties and covenants contained in clauses 13 (Non Circumvention), 14 (Copyright and Design Rights), 15 (Intellectual Property), 16 (Confidentiality) and 18 (Limitation of Liability), shall survive the Term of this Agreement.

26. Notices

Notices under this Agreement must be in writing and will be sufficiently given if sent to either Party at their respective addresses set out in this Agreement or another address or contact which the Parties may specify by notice to the other under this provision. Such notice will be deemed to be received when delivered in person, when delivered by email provided an electronic receipt is produced or on the fourth business day after posting if sent by first class mail to an address within the UK or on the seventh business day after posting if sent by international airmail to an address outside of the UK.

27. Mediation

In the event of a dispute under this Agreement that cannot be resolved directly between the Parties the Parties irrevocably agree in all cases to pursue a

resolution through mediation by using a recognised mediation process and a formally appointed mediation body. Only at a point where in the exclusive opinion of the appointed mediator the dispute or difference cannot reach a satisfactory conclusion may either or both of the Parties submit to the jurisdiction of the courts for the purposes of hearing and determining the dispute.

28. Legal Fees

In the event that any action is filed or taken in respect of any part of this Agreement the unsuccessful Party in such action shall be liable to pay to the successful Party a reasonable sum for the successful Party's legal fees in addition to all sums that either of the Parties may be called upon to pay.

29. Entire Agreement

This Agreement represents the final, complete, and exclusive statement of the understanding and agreement between the Parties pertaining to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings or agreements made between the Parties. No other agreements, representations, warranties, inducements or promises made by or on behalf of either Party, whether oral or otherwise shall add to or vary this Agreement or be of any force or effect.

30. Governing law and jurisdiction

a. Subject to clause 30 (b) the Parties irrevocably agree that the courts of England shall have exclusive jurisdiction for the purpose of hearing and determining any suit, action or proceedings and/or to settle any disputes arising out of or in any way relating to this Agreement or its formation or validity ("Proceedings") and for the purpose of enforcement of any judgment against its property or assets.

b. Nothing in this clause 30 shall (or shall be construed so as to) limit the right of Masonshade to take proceedings against the Customer in the courts of any country in which the Customer has assets or in any other court of competent jurisdiction nor shall the taking of Proceedings in any one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not) if and to the fullest extent permitted by applicable law.