



RICHARD PATTISON

PATTERN CUTTING

TERMS AND CONDITIONS FOR THE FOR THE SUPPLY OF SERVICES

RICHARD PATTISON LIMITED

1. INTERPRETATION AND DEFINITIONS

1.1 In these Conditions, the following definitions apply:

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Charges: the charges payable by the Customer for the supply of the Services in accordance with clause 5.

Commencement Date: has the meaning set out in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 12.7.

Contract: the contract between the Supplier and the Customer for the supply of Services in accordance with these Conditions.

Customer: the person or firm who engages the Supplier to provide the Services.

Customer Instructions: any written instructions, including designs, drawings, sketches and measurements, provided by the Customer to the Supplier setting out the Customer's requirements for the Services and any instructions as to the Customer's requirements provided orally by the Customer to the Supplier.

Deliverables: the deliverables to be produced by the Supplier for the Customer in the performance of the Services, which may include Pattern Templates, technical specification packs and technical drawings, as agreed by the parties orally or in writing (including email).

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: the Customer's request for Services, as may be communicated by the Customer to the Supplier orally or in writing (including email).

Pattern Template: a pattern template for garments produced by the Supplier for the Customer in the provision of the Services.

Pre-existing Materials: any materials forming part of the Deliverables which have not been specifically created for the Customer.

Sample: shall have the meaning given in clause 4.3.

Services: the pattern cutting services for garments supplied by the Supplier to the Customer from time to time, which may include any of the following services: sample fitting, full service pattern cutting, measuring and/or assessing samples for construction quality, provision of specification packs (including technical drawings and measurement charts), and/or advice and guidance through all stages of the design development and production process, as agreed by the parties orally or in writing in respect of a specific Order.

Supplier: Richard Pattison Limited registered in England and Wales with company number 08078304 whose registered address is at Omega House, 112 Main Road, Sidcup, Kent, DA14 6NE, and whose principal place of business is Unit 107A, Mare Street Studios, 203-213 Mare Street, London, E8 3QE.

1.2 In these Conditions, the following rules apply:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its personal representatives, successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) a reference to **writing** or **written** includes faxes and e-mails.

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase the Services from the Supplier in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted by the Supplier on the earlier of:

- (a) the Supplier confirming acceptance of the Order in writing (including email); or
- (b) any act by the Supplier consistent with fulfilling the Order,

at which point and on which date the Contract shall come into existence (**Commencement Date**).

2.3 No Order which has been accepted by the Supplier may be cancelled by the Customer except with the agreement in writing of the Supplier and provided that the Customer shall pay the Supplier for the Services (or part thereof) as have been supplied prior to the date of cancellation.

2.4 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.

2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3. SUPPLY OF SERVICES

3.1 The Supplier shall use all reasonable endeavours to meet any performance dates specified by the Customer to the Supplier in writing, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

3.2 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

4. CUSTOMER'S OBLIGATIONS

4.1 The Customer shall:

- (a) co-operate with the Supplier in all matters relating to the Services;
- (b) provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is accurate and correct;
- (c) obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start.

4.2 The Customer acknowledges and agrees that where the Customer provides any Customer Instructions to the Supplier, the Supplier shall be entitled to rely on the information contained in, and the accuracy of, such Customer Instructions in producing any of the Deliverables and/or providing the Services. It is the Customer's responsibility to, and the Customer shall ensure that, all Customer Instructions are clear, complete, correct and accurate.

4.3 In respect of any Pattern Template provided to the Customer by the Supplier in the provision of the Services, the Customer acknowledges and agrees that before such Pattern Template is used in the manufacture or production of any garments, a sample garment must be produced by or on behalf of the Customer to ensure that the Pattern Template meets the Customer's requirements and all technical requirements and specifications for manufacture and production (a **Sample**). It is the Customer's responsibility to inspect such Sample to ensure that the Pattern Template meets the Customer's requirements and all technical requirements and specifications for manufacture and production.

- 4.4 Following the production of a Sample pursuant to clause 4.3, the Customer may request the Supplier to make such amendments to the Pattern Template as may be required in order to meet the Customer's requirements or any technical requirements or specifications for manufacture or production, and where amendments to the Pattern Template are made, the Customer acknowledges and agrees that a further Sample must be produced for such revised Pattern Template before the revised Pattern Template is used in manufacture and production.
- 4.5 Use of a Pattern Template in the manufacture or production of any garment without having first produced a Sample pursuant to clause 4.3 or 4.4 shall be at the Customer's sole risk.
- 4.6 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation or provide the required information (**Customer Default**):
- (a) the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
 - (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 4.6; and
 - (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

5. CHARGES AND PAYMENT

- 5.1 The Charges for the Services, including any work carried out by the Supplier in amending a Pattern Template pursuant to clause 4.4, shall be on a time and materials basis:
- (a) the Charges shall be calculated in accordance with the Supplier's then current hourly fee rates, provided by the Supplier to the Customer from time to time; and
 - (b) the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.
- 5.2 Any fee estimate provided by the Supplier is an estimate only.
- 5.3 The Supplier reserves the right to increase its standard hourly fee rates and will give the Customer written notice of any such increase and such increase shall apply to any Order placed by the Customer after the date of such notice.

- 5.4 The Supplier shall invoice the Customer following completion of the Services. The Customer shall pay invoices submitted by the Supplier within 30 days of the date of the invoice in full and in cleared funds to a bank account nominated in writing by the Supplier. Time for payment shall be of the essence of the Contract.
- 5.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 5.6 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per cent per annum above Natwest Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 5.7 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

6. DELIVERABLES

- 6.1 Unless otherwise agreed between the parties, any Intellectual Property Rights subsisting in the Deliverables, shall remain the property of the Supplier, and title to the Deliverables shall not pass to the Customer, until the Supplier receives payment in full (in cash or cleared funds) of all Charges payable by the Customer in respect of the Services.
- 6.2 Upon payment of all Charges payable in respect of the Services by the Customer:
- (a) title to the Deliverables shall transfer to the Supplier; and
 - (b) the Supplier shall, subject to clause 6.3, assign to the Customer the Intellectual Property Rights subsisting in the Deliverables which are specifically created for the Customer.
- 6.3 Any and all know how used by the Supplier in carrying out the Services and producing the Deliverables, and any Pre-existing Materials, shall remain the property of the Supplier and nothing in the Contract shall prevent the Supplier from using such know how and Pre-existing Materials in providing services to other customers.

7. CONFIDENTIALITY

A party (**receiving party**) shall keep in strict confidence all confidential information of the other party (**disclosing party**) relating to its business, products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 7 shall survive termination of the Contract.

8. LIMITATION OF LIABILITY

8.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; or
- (b) fraud or fraudulent misrepresentation.

8.2 Subject to clause 8.1:

- (a) the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:
 - (i) loss of profits;
 - (ii) loss of sales or business;
 - (iii) loss of agreements or contracts;
 - (iv) loss of anticipated savings;
 - (v) loss of or damage to goodwill;
 - (vi) any indirect or consequential loss;
- (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the Charges paid by the Customer to the Supplier under the Contract.

8.3 The Supplier shall have no liability for any loss or damage suffered by the Customer as a result of:

- (a) any errors, inaccuracies or omissions in the information contained in the Customer Instructions or such Customer Instructions being unclear;
- (b) the Customer's failure to produce a Sample prior to using the Pattern Template or a revised Pattern Template in manufacture or production, as required pursuant to clause 4.3 or clause 4.4 (as applicable);

- (c) any amendments or changes to a Pattern Template made by anyone other than the Supplier.

8.4 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

8.5 This clause 8 shall survive termination of the Contract.

9. TERMINATION

9.1 Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so;
- (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (e) the other party (being an individual) is the subject of a bankruptcy petition or order;
- (f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (h) the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;

- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.1(b) to clause 9.1(i) (inclusive); and
- (k) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.

9.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract, or suspend the provision of the Services under the Contract or any other contract between the Customer and the Supplier, with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment and fails to pay all outstanding amounts within 7 days after being notified in writing to do so.

9.3 Without limiting its other rights or remedies, the Supplier may suspend provision of the Services under the Contract or any other contract between the Customer and the Supplier if any of the events listed in clause 9.1 occurs in relation to the Customer.

10. CONSEQUENCES OF TERMINATION

10.1 On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the Customer shall return all and any Deliverables for which the Customer has not made payment in full. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (c) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d) any clauses which expressly or by implication survive termination shall continue in full force and effect.

11. FORCE MAJEURE

11.1 For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law

or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

11.2 The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

12. GENERAL

12.1 Assignment and other dealings

- (a) The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- (b) The Customer shall not, without the prior written consent of the Supplier, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

12.2 Notices

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier or fax.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 12.2(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax, at the time of transmission unless after 5.00 pm in which case it shall be deemed received on the next Business Day.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

12.3 Severance

- (a) If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- (b) If one party gives notice to the other of the possibility that any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to

amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

- 12.4 **Waiver** A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 12.5 **No partnership or agency** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.
- 12.6 **Third parties** A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 12.7 **Variation** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Supplier.
- 12.8 **Governing law** This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.
- 12.9 **Jurisdiction** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).