

ABS Embroidery
Proprietor B.K. Bilverstone
Terms and Conditions of Trading
Revised February 2019

1. Definitions

The following definitions are used in and form part of these Terms and Conditions of Trading. In these Terms and Conditions:

"The Supplier" shall mean ABS Embroidery, its owner and all persons connected with ABS Embroidery for the purposes of trading.

"Goods" and/or "Services" shall mean garments and other items supplied, whether embroidered or not, by the Supplier, to any Third Party, and shall include but not be limited to embroidery-only services of items which are the property of any Third Party. "The Supplier" and "ABS Embroidery" are interchangeable.

"The Customer" shall mean any Third Party to whom Goods and Services are supplied, have been supplied or are to be supplied.

"Foreign Language" or "Foreign Languages" shall mean any and all languages which are not UK or US English.

"Enquiry" or "Enquiries" shall mean any request for information from a Third Party to the Supplier, whether or not that request results in an Order.

"The Order" or "An Order" shall mean confirmed requests for Goods and Services from a Customer, for which, by placing the Order, the Customer has agreed to pay in full, within the time or times specified by the Supplier.

"Artwork" shall mean any image supplied by any Third Party to the Supplier by physical or electronic means, from which the Supplier is required to produce a Stitch File.

"Stitch File" and "Digitised Pattern" shall mean a computer file produced using embroidery software, containing the electronic information necessary to produce an embroidery product.

"Delivery" and "Collection" shall mean the time at which the Customer takes possession of Goods or Services and these words may be interchangeable in these Terms. They need not necessarily be taken to mean specifically an act in which Goods or Services are dispatched by post or other courier nor an act by which a Customer visits the Supplier's premises.

"In Writing" shall mean any non-verbal communication either written by hand, typewritten onto paper or transmitted by electronic and/or digital means.

"The Supplier Will/ Shall Not Be Liable" shall mean that, to the fullest extent permitted at law the Supplier will not be liable for damages of any kind. This is a comprehensive limitation of liability that applies to all damages of any kind, including (without limitation), compensatory, direct, indirect or consequential damages, loss of data, income or profit, of or damage to property and claims of third parties.

2. Goods and Services

2.1. Supply of embroidered goods. The Supplier shall, at his absolute discretion, obtain garments and other textiles which he will machine embroider and supply in accordance with Orders placed by customers and clients, subject to the substitution clause (2.5) in these terms.

2.2. Embroidery only services. The Supplier shall, at his absolute discretion, supply machine embroidery services to customers and clients who provide their own garments and other textiles for embroidery. Such embroidery shall be undertaken entirely at the owner's risk. The Supplier Will Not Be Liable for damages arising out of or in connection with the use of ABS Embroidery.

2.3. Unembroidered goods. The Supplier shall, at his absolute discretion, obtain and supply goods without embroidery and in accordance with Orders placed by customers and clients, subject to the Substitution clause in these terms.

2.4. Quality of supplied goods. The Supplier endeavours to supply only goods from established and reputable sources, unless otherwise specified by the Customer.

2.5. Substitution. ABS Embroidery does not normally carry stock; items are obtained to order. All items obtained by the Supplier on behalf of the Customer are subject to availability. The Supplier reserves the right to substitute garments when those ordered are unavailable. Prices will usually be agreed between the Supplier and the Customer before any substitutions are made unless the urgency of the order or non-availability of the Customer requires the Supplier to make a decision on the Customer's behalf.

2.6. Delivery Times. The Supplier completes all Orders as soon as possible but Customers should allow up to 28 days for delivery from the date of acceptance of an order by the Supplier. Any likelihood of overrunning that period will be notified to the Customer at the earliest possible time. This period does not include bespoke items such as (for example but not exclusively) cummerbunds which need to be made to order by an external manufacturer and which may take longer. In such cases the Supplier will inform the Customer of the estimated lead time at or before acceptance of any order.

2.7. Special Deadlines. The Supplier will endeavour to meet any special deadlines the Customer may have, but will not accept any deadlines which may prove detrimental to pre-existing customers.

2.8 Fast-Track or Express Delivery. The Supplier may, at his absolute discretion, offer a Fast-Track or express delivery turnaround, the period of which will be agreed with the Customer, subject to an additional charge, which will be a MINIMUM of £10.00 and may, depending on circumstances, be up to or exceed 100% of the original order value.

3. Ownership, Copyright and Acknowledgment of Original Artwork and Digitised Designs & Patterns

3.1. The responsibility for ensuring that copyright and ownership laws are maintained in respect of all Artwork supplied by the Customer for inclusion in an Order remains with the Customer. The Supplier only accepts commissions on the strict understanding that the Customer has permission to use any and all Artwork for such purposes. To the fullest extent permitted at law the Supplier Shall Not Be Liable for claims arising from the misuse or breach of copyright and/or ownership of Artwork.

3.2. Notwithstanding and regardless of Artwork, the ownership and copyright of all digitised embroidery patterns provided by the Supplier is asserted and remains with Brian Keith Bilverstone, the owner and proprietor of ABS Embroidery. This assertion extends to the website and catalogue in which these terms and conditions appear.

3.3. The Customer agrees to allow the Supplier to use images of any and all finished products and embroidery patterns and designs for the purposes of advertising and marketing the Supplier's business. This shall include, but not be limited to publication of such images on the Supplier's website.

3.4. From time to time, the Supplier may wish to exhibit garments and/or other textiles bearing logos and/or designs owned by a Customer for the purpose of promoting the Supplier's business. The Supplier will seek the Customer's permission to do this before undertaking any such exhibition.

4. Orders and Ordering

4.1.a. The Customer may make an Order for Goods from the Supplier by electronic mail or by means of a postal or telephone order, or in person. The Supplier will issue a confirmation of order with an appropriate order number. From the time an order is accepted and an order number issued, the Customer is considered to have entered into a contract with the Supplier, which is binding upon both parties.

4.1.b. The Customer shall check the confirmation of order and notify the Supplier of any errors or discrepancies at the earliest available opportunity. The Supplier Will Not Be Liable where the Customer has not, within a reasonable time, notified the Supplier of errors or discrepancies in the confirmation.

4.2. The Customer shall supply to the Supplier all required Artwork in either physical or electronic form at or before the time of the Order.

4.3. Where Artwork is supplied by post or other courier either on floppy discs, Compact Discs, flash drives, memory sticks or any other electronic or digital storage device, or in physical form, items are submitted entirely at the Customer's own risk. No responsibility can be accepted by the Supplier for loss or damage to such items, howsoever caused. Additionally, The Supplier Shall Not Be Liable for damages arising from the loss or damage to any item supplied either by post or other courier or by electronic mail.

4.4. The Customer is responsible for ensuring the accuracy of the Order. By placing an Order for Goods and Services the Customer shall be deemed to have accepted and agreed to be legally bound by these Terms and Conditions.

4.5. ABS Embroidery operates a No Minimum Order Policy on most lines. Where minimum order quantities are necessary, these shall be clearly notified on the Supplier's website. To mitigate postage charges in obtaining stock to order and small-order penalties levied by trade suppliers, the supplier will put all clothing orders onto a waiting list until there are enough items to make these charges acceptable. This does not usually result in much of a delay but, where a Customer is not prepared to wait, you should refer to the Terms for fast-tracking at paragraph 2.8 above.

5. Acceptance of Orders

5.1. The Supplier will normally accept Orders for Goods and Services subject to the exclusions listed later in these Terms and Conditions.

5.2. The Supplier will accept Artwork in a Foreign Language provided that:

a. A full, verbatim translation of any Foreign Language into English is supplied with the Foreign Language content.

b. The translation is accurate and can be verified by an independent translator.

c. The content of the Order conforms in all ways to these terms and conditions, notwithstanding the Foreign Language being used.

An additional charge may be levied where the services of an independent, professional translator are required.

6. Exclusions

6.1. The Supplier reserves the right to refuse to accept any Order which contains, in the Supplier's opinion:

- a. Pornography of any description, either textual or graphic, even if it would otherwise be considered "soft".
- b. Material which is racist, sexist, ageist or inflammatory in any other way.
- c. Offensive, defamatory or libellous material.
- d. Material of a nature which may encourage, support or promote any illegal or banned organisation.
- e. Material of a nature which may encourage, support or promote any contraband or any other illegal or banned substance, item or activity.
- f. Material which may encourage, support or promote political change in any area of the world, other than by the accepted legal processes of that country.
- g. Material which may encourage, support or promote civil or military unrest in any area of the world.
- h. Material which may encourage, support or promote cruelty of any nature, either to humans or to any animal.

This list may not be exclusive and the final decision on whether or not to accept Artwork lies solely and absolutely with the Supplier. The Supplier reserves the right to refuse to accept any Order on any grounds whatsoever without assigning a reason.

7. Catalogue(s)

7.1. Any and all statements, terms, prices and other information shown in Catalogue(s) and Price List(s) and/or Merchandising provided by the Supplier form part of these Terms and Conditions unless otherwise stated. Any part of any Catalogue, Price List or Merchandising supplied by ABS Embroidery may be varied from time to time at the Supplier's absolute discretion.

8. Supplementary Terms and Conditions

8.1. Any and all special Terms (including but not exclusively notifications of discounts and temporary or permanent variations and special terms for specific customers or groups, and terms for customers supplying their own goods for embroidery) form part of these Terms and Conditions, regardless of whether or not they are included herein. These Terms and Conditions may be quoted in whole or in part as part of any supplementary Terms and Conditions.

9. Prices, Charges and Payment

9.1. **VAT.** At the present time, ABS Embroidery is not registered for VAT and so there is no VAT to add to prices and no VAT element will appear on invoices. Should ABS Embroidery become VAT-registered, VAT will be added at the rate in force to all prices, except for items which are exempt from VAT or zero-rated. VAT Registration is subject to law and may occur without notice. If this should happen between a quote being issued and an order being placed, the Supplier will endeavour to notify any Customers who may be affected.

9.2. **Prices.** Any and all prices and other information shown in the Suppliers Catalogue, Price List and/or Merchandising form part of these Terms and Conditions unless otherwise stated. The Supplier reserves the right to vary prices without notice at his absolute discretion. Where a price has been varied following the issue of a quotation, the Supplier will notify the Customer as soon as possible.

9.3. **Quotations.** Validity of quotations is at the Supplier's absolute discretion and may vary from quote to quote. The validity of any written quote will be shown clearly on that quote. Quotations should not be confused with estimates.

9.4. **Estimates.** The Supplier may offer informal costing estimates from time to time, either verbally or in writing, but these are not binding upon any party in any way whatsoever.

9.5. **Payment Terms.** Payment terms are normally Payment with Order. At his absolute discretion, the Supplier may offer Payment on Delivery, Payment on (or before) Collection, Payment on Receipt of Invoice, 30 Days' Credit or any combination or variation of any of these terms. The Supplier will specify terms at the point into which a contract is entered.

9.6. **Credit Terms.** Credit terms are not normally offered. Discussions may be entered into but only in extremely exceptional circumstances and at the Supplier's absolute discretion.

9.7. **Overdue Accounts.** ABS Embroidery reserves the right to charge compound interest at 5% of the gross invoice value per month on overdue invoices, commencing one calendar month following the invoice date. ABS Embroidery will seek debt recovery by any legitimate and lawful means including, but not limited to, claims in the County Court and/or the employment of a licensed debt recovery agency.

9.8. **Dishonoured Cheques.** ABS Embroidery reserves the right to charge a minimum administration fee of £25 for dishonoured cheques. This is the minimum charge and may vary, depending upon costs actually incurred by ABS Embroidery in recovering the debt.

9.9. **Discounts.** The Supplier may, from time to time and at his absolute discretion, offer discounts for any reason which the Supplier may assign. Discounts are not a right of the Customer and may be withdrawn at any time. Discounts are not negotiable. Initial Setup and Carriage Charges are not included in discounts.

9.10. **Trade Prices.** The Supplier does not normally undertake trade or contract work, nor offer trade prices. Exceptions to this may be discussed from time to time but ABS Embroidery's primary market is retail.

9.11. **Methods of Payment.** The following methods of payment are accepted by ABS Embroidery. **Payment is accepted in UK Sterling only.**

a. **Personal Cheque** – Accepted only when made payable to ABS Embroidery. No goods will be supplied until the cheque is fully cleared through the banking system.

b. **Company-Type Cheques.** Cheques from legitimate businesses and unincorporated organisations, made payable to ABS Embroidery, are accepted by arrangement.

c. **PayPal payments** – Accepted at the Supplier's current registered e-mail address. ABS Embroidery reserves the right to levy an additional charge of 5% of the whole amount due to cover PayPal operating charges.

d. **BACS** – Payments are accepted into the Supplier's business account, details of which will be notified to the Customer on request. Customers should allow up to 5 working days for BACS payments to reach the Supplier's account.

e. **UK Postal Orders and International Money Orders in Sterling** – are no longer accepted.

f. **Credit and Debit Cards** – The Supplier accepts all major credit and debit cards, including American Express, but not Diners Club.

g. **Cash** – when presented in person. Notes may be subject to security checks. ABS Embroidery DOES NOT accept £50 notes under any circumstances.

10. Carriage (Shipping and Handling)

10.1. **Charges.** Carriage is normally charged according to weight and volumetric weight as designated by the Carrier, unless otherwise arranged. The Supplier reserves the right to add reasonable charges to cover the cost of packaging and the time taken to arrange shipment.

10.2. **Method.** Goods will normally be shipped via the most cost-effective route. Carriers may include, but not be limited to the Royal Mail or any other courier service. The Supplier may also deliver goods personally by prior arrangement, for which a carriage charge will normally be levied.

10.3. **Insurance and Claims.** Goods will not normally be insured in transit below the value of £100 unless the customer specifically requests it. Costs of insurance, Recorded Delivery or Registered Post must be borne by the Customer and will be included in the Carriage charge. The Supplier Shall Not Be Liable for claims arising from loss or damage to properly packaged goods in transit.

10.4. **Uncollected Orders** Sometimes, a Customer may request to collect a completed Order in person from the Supplier. There is no room for long-term storage of goods at the Supplier's premises so in such cases, the Supplier will hold the goods for a period not exceeding seven days following notification of the Order's completion, unless other arrangements have been made beforehand. After that period the Supplier reserves the right to either:

a. Levy a daily charge of up to £20 (twenty pounds) per day, commencing on the eighth day for each and every day or part of a day that the Order remains uncollected and/or

b. Dispose of the Order by whatever means the Supplier deems appropriate and, if necessary, charge the cost of disposal to the Customer. This applies both to goods supplied by the Supplier and to goods supplied by the Customer.

11. Returns.

Please refer to the **Warranties and Liabilities** clause of these Terms and Conditions.

12. Foundation of Contract and Specifications.

12.1. No Contract will subsist between the Supplier and Customer for the sale of any Goods unless and until the Supplier accepts the order by e-mail, telephone, letter or other means.

12.2. Whilst the Supplier makes every effort to ensure that any and all Goods descriptions and illustrations supplied by him are accurate and current, the Supplier is dependant upon the requirements of each individual Customer. Completed Goods may therefore differ slightly from advertised descriptions.

12.3. The Supplier cannot guarantee product availability. Should Goods ordered be temporarily unavailable the Customer shall be notified of the delay in delivery and given the option to cancel the order. If the Customer does not cancel the Order, the Customer shall be deemed to have accepted the new delivery date.

12.4. By placing an order for Goods and/or Services from the Supplier, the Customer acknowledges that he, she or they have read fully and understood these Terms and Conditions and is entering into a contract based upon these Terms and Conditions by which he, she or they agree to be legally bound.

13. Warranties and Liability.

13.1. The Supplier always uses good quality Garments and Substrates, but cannot guarantee nor offer a warranty upon the quality of manufacture of any Garment or Substrate nor upon the conditions in which the Goods are transported during delivery. If the Customer should discover (within 3 days of delivery) that an item is faulty, then the Supplier will replace the Goods, subject always to the Goods being returned for inspection prior to any replacement being made. To claim under this guarantee the customer must first contact the supplier and obtain returns authorisation. Once authorisation has been obtained the customer should return the alleged faulty Goods to the returns address given. The Goods will then be inspected and if the alleged fault is found a replacement will be issued.

13.1.a. All costs of returning any and all goods must be borne by the Customer. The Supplier will not accept any returns where full carriage and/or delivery costs have not been met, in full, by the Customer.

13.1.b. Returns of embroidered goods are not accepted under any circumstances other than those described in sub-clause 13.1.

13.2. The guarantee detailed at sub-clause 13.1 is not relevant and does not exist where the Customer has supplied their own Garment(s) or other Substrate(s).

13.3. Every care is taken to ensure that all Goods submitted for embroidery by a Customer are returned in the condition in which they were received. However, it should be understood that they will be subjected to a mechanical process during embroidery. Any and all items submitted to the Supplier, which are the property of the Customer or any Third Party on whose behalf the customer is acting, are submitted entirely at the customer's own risk.

13.4. The Supplier will not be liable for damages arising out of or in connection with the use of ABS Embroidery, including use outlined at sub-clause 13.3.

13.5. Sizing information provided by garment manufacturers is beyond the control of ABS Embroidery and ABS Embroidery shall not be liable for the fitting of garments which are supplied correctly and in accordance with the sizes specified by the Customer in their order. ABS Embroidery does not provide sizing advice.

13.6. For the avoidance of doubt, where Goods are sold under a consumer transaction the statutory rights of the Customer are not affected by these Terms and Conditions.

14. General.

14.1. If any provision of these Terms and Conditions is declared by any judicial or any other competent authority to be void, voidable, illegal or otherwise unenforceable or indications to that effect are received by either party from any competent authority then that provision shall be limited or eliminated to the minimum extent necessary so these Terms and Conditions shall otherwise remain in full force and effect and enforceable.

14.2. These Terms and Conditions supersede any prior agreement between the parties whether written or oral under such prior agreements.

14.3. These Terms and Conditions shall be governed by and construed in accordance with the laws of England and the English Courts shall have non-exclusive jurisdiction to decide any dispute concerning these Terms and Conditions or the subject matter of these Terms and Conditions.

14.4. No waiver by the Supplier of any breach of these Terms and Conditions by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provisions.