

These Terms of Service govern the services ("The Services") provided by Auckland University of Technology ("AUT") to you ("The Client") as described by the Textile & Design Laboratory Manager. A condition of AUT providing the Services is that these Terms of Service take precedence over any other agreement or representation regarding the Services.

**1. Limitation of Agency**

The agency of the Textile & Design Laboratory Manager with respect to AUT is limited to commitments on AUT up to a value of NZ\$5,000 (including, but not limited to, services, resources, and liabilities) for the following services:

- a. Digital fabric and made-up product printing
- b. Textile-related CAD work
- c. Knitwear development and production

An agreement outside these limitations cannot be considered binding on AUT, its agents, employees or contractors.

**2. Variations**

Any variations to these Terms of Service must be authorized by the Pro Vice Chancellor (Research & Development) of AUT.

**3. Due skill, care and diligence**

AUT has the knowledge and the ability reasonably required to undertake the Services. In providing the Services, AUT will exercise the degree of skill, care and diligence normally expected of a competent professional organisation.

**4. Business Purposes**

The Client agrees that it is acquiring the Services for the purposes of a business and that the provisions of the Consumer Guarantees Act 1993 are excluded in relation to those Services.

**5. Payment of Fees**

All goods must be paid for on collection unless account facilities have been arranged beforehand.

Account customers' payment terms are 20th of month following month of invoice. Late payments will incur an interest charge of 10% p.a., compounded daily.

**6. Acknowledgement of Risk**

The Client acknowledges the inherent risk involved in the Services undertaken and that AUT cannot guarantee, nor is any warranty given, that any particular result will be achievable. The Client understands and agrees that the Services provided may include advice and recommendations, but all decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, the Client.

**7. Terms Relating to Specific Services**

**a. Digital Fabric and Made-Up Product Printing**

It is the responsibility of the Client to supply digital files in the correct format ready for printing. Details of file format are available on the T+DL website's FAQ page [www.tdl.aut.ac.nz](http://www.tdl.aut.ac.nz). AUT will not accept responsibility for any changes that have been made by AUT to Clients' files at the Clients' request.

Colour variation from monitor to the printed fabric and/or made-up product is inevitable. If specific colours are required it is the responsibility of the Client to supply relevant Pantone reference numbers or colour swatches for matching. All file work including colour matching is chargeable.

It is strongly recommended that printing is applied to fabrics that have been specifically prepared for digital printing. The Textile and Design Lab carries a stock range of such fabrics. However, clients are welcome to supply their own fabrics and/or products and these will be processed on the understanding that no responsibility will be accepted by AUT for shrinkage, skewing, colour change, bleeding and overall print quality, which might be attributed to the fabrics and/or products not being prepared specifically for digital printing. It is the Client's responsibility to provide detailed diagrams illustrating the placement of prints on fabric piece lengths, panels and made-up products where applicable.

AUT recommends that a minimum 1 metre length of fabric or a made up product is processed as a test print in order to determine its suitability for digital printing before any larger quantities are processed. Test prints are chargeable.

It is the Client's responsibility to ensure that all printed product is suitable for its intended applications and meets their specific quality standards in terms of colour fastness, wash fastness, rub fastness etc. and to establish appropriate care instructions and labeling. Charges are based on the overall area of fabric and/or product to be printed.

**b. Knitwear Development and Production**

It is the Client's responsibility to supply yarns that are suitable for machine knitting. AUT will not accept responsibility for any imperfections or poor quality products that are caused by sub-standard yarn quality.

If knitted products require additional hand finishing, linking or sewing, it is the Client's responsibility to arrange for this to be done. Wet finishing of knitwear is a specialised process and it is recommended that Clients arrange for this to be done by a commercial laundry at their own expense. AUT has sample wet finishing facilities only and any requested processing is carried out at the Client's risk.

**8. Intellectual Property**

All intellectual property (including, but not limited to, designs) which is owned by or licensed to a party at the date of this agreement shall remain owned by or licensed to that party. Any new intellectual property created in the course of the Services and which is a specified deliverable under the agreed Services, is to be owned by the Client or if not specified shall be owned by AUT and AUT shall in that case make the intellectual property available to the Client for use in accordance with such reasonable conditions as AUT may place upon the Client but on the understanding that AUT shall retain the right itself to further develop and exploit the intellectual property including by way of license.

Irrespective of ownership but subject to the publicity provisions of these Terms of Service, AUT shall further retain the right to use the results of the Services for research, display and educational purposes.

**9. Limitation of Liability**

AUT will offer all information, advice, and knowledge in good faith, but cannot accept liability for the consequences of the Client acting on the information, advice and knowledge, except where the consequence arises from a malicious act on the part of AUT. AUT disclaims all warranties, either express or implied, including, without limitation, warranties of merchantability and fitness for a particular purpose in respect of the Services.

The Client agrees that AUT, its employees, agents and contractors, shall not be liable to the Client for any actions, damage, claims, liabilities, costs, expenses, or losses in any way arising out of or relating to the Services, for an aggregate amount in excess of the fees paid by the Client to AUT for the Services.

In no event shall AUT, its employees, agents or contractors be liable for consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, or losses (including, without limitation, lost profits and opportunity costs).

The provisions of this clause and clause 6 shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss, whether in contract, statute, tort (including, without limitation, negligence), or otherwise.

**10. Publicity**

AUT reserves the right to publish articles around the work it has done for its Clients in AUT publications and presentations. All publicity related to the Services in non-AUT publications, conferences and presentations must be approved by both the Client and AUT. Neither will use the name of the other in relation to the Services or in any endorsement without written permission from the other Party.

**11. Force Majeure**

AUT will use all reasonable endeavours to carry out the Services in the agreed timeframe, but will not be held liable for delays or other failures to perform that result from events or circumstances beyond the reasonable control of AUT and, in particular, any failure by the Client to provide any agreed resources, information, services, etc.

**12. Termination**

The agreement for the Services can be terminated seven days after written notice by either the Client or AUT. The Client will accept any charges incurred up to receipt of the termination notice and any costs caused by the termination.

**13. Disputes**

Notice of dispute will be given in writing. AUT and the Client will, in good faith, try to resolve that dispute. This process may include mediation. If the dispute is not resolved within 20 working days from the date the dispute was advised, then the dispute will be referred to arbitration in accordance with the Arbitration Act 1996.

**14. Jurisdiction**

This agreement is governed by New Zealand law and the New Zealand courts have jurisdiction in respect of the agreement.