

NATIONAL ASSOCIATION OF MEMORIAL MASONS



CODE OF BUSINESS PRACTICE

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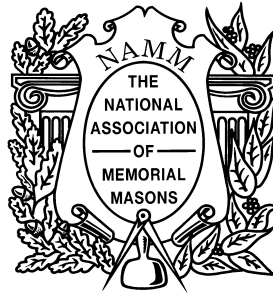
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INTRODUCTION

The establishment and maintenance of public confidence in the skill, honesty and integrity of memorial masons is fundamental to the future success of the profession. Special responsibilities of sensitivity, dignity and reliability are imposed upon the profession as a result of the possible emotional stress which potential clients may experience in coming to terms with the loss of a loved one.

By displaying their Code of Business Agreement certificate, members will be publicising their genuine desire to protect the interests of the public who deal with the profession.

DEFINITIONS

When used in this Code of Business Practice, the following terms are defined thus:

Client: Any person or body who purchases, attempts to purchase or seeks information regarding the purchase of a memorial or a related service.

Firm: An individual, partnership or company, including any employees, subscribing to this Code of Business Practice.

Product: Any memorial, associated article or related service provided by the firm for sale to the client.

Guarantee: Any written or verbal statement made by the firm relating to the performance of any of their products or services whereby, if there is a breach, the firm will provide a remedy.

THE CODE

1. **Confidentiality**

The firm shall at all times observe the confidence of the client and do nothing to prejudice the profession of memorial masons.

2. **Advertising**

All advertising material used by the firm shall be consistent with the standards of taste, ethical consideration, truthfulness and full disclosure required by this Code of Business Practice (*see Guidelines*).

3. **Inspection of the Product**

The firm shall offer the client an adequate opportunity to inspect the product, or a reasonable facsimile and material sample (*see Guidelines*).

4. **Standards of Quality and Workmanship**

Standards of quality and workmanship shall be consistent with the facsimile or sample shown or representations made prior to the sale, having regard to the inherent variations in natural stone products (*see Guidelines*).

5. **Regulations**

(i) The firm shall ensure that the completed product conforms to all regulations or requirements imposed by the relevant cemetery or churchyard authority. **However,**

(ii) where the regulations in a burial ground do not satisfy the standards of safety set out in the Association's Code of Working Practice, the customer and burial authority shall be informed accordingly (*see Guidelines*).

6. **Solicitation**

All solicitation or negotiations with clients shall be undertaken with utmost discretion and good taste, having due regard to the possible emotional stress which the client may be experiencing (*see Guidelines*).

7. **Misrepresentations**

The firm shall not exaggerate or misrepresent the specific qualities of any of their services or products.

/8 Pricing ...

8. Pricing

- (i) The firm shall maintain fair prices for all its products and services.
- (ii) The firm shall, upon request, give separate written prices for each product or service offered.
- (iii) All prices quoted to the general public shall include VAT.

9. Contract

- (i) **Specific terms:** The contract between the firm and the client shall clearly and precisely define the specific terms agreed by both parties. (*See Guidelines*)

The contract shall include an accurate description of the product or service, the total cost, the terms of payment, the extent of any guarantees and the remedies for breach of contract.

- (ii) **Conditional Clauses:** The firm shall not include in its contract any terms which require the client to purchase any associated product or service without the client's specific consent.

- (iii) **Removal of Memorials:** Where the firm has been instructed *by a third party* to remove a memorial from a burial ground to its premises, prior to further work being carried out, and where the client subsequently authorises another memorial mason to carry out that work, the memorial shall be surrendered without let or hindrance.

10. Guarantee

Any guarantee given by the firm shall clearly state the extent, scope and source of the guarantee, the specific defects or risks (*see Guidelines*).

11. Due Care and Attention

The firm shall pay due care and attention to the safety and welfare of others on its property and, when operating on the property of others, shall exercise due care for the protection of that property.

/12. Complaints

12. **Complaints**

Whilst the majority of memorial work carried out by members of the Association is completed in a perfectly satisfactory manner, it is inevitable that there will, on occasions, be situations where a client feels they have a justifiable complaint. In such situations the Association provides a Conciliation and Arbitration Service which provides a simple procedure to help resolve the problem.

Prior to involving the Association in the dispute, the client should attempt to resolve the matter with the member.

If the dispute cannot be resolved to the client's satisfaction, it is recommended that the matter be referred to NAMM's Conciliation and Arbitration Service prior to seeking legal redress (*see Guidelines*).

APPENDIX I

GUIDELINES

(a) **ADVERTISING** (*Clause 3*): This Clause is intended to ensure that any advertising is unambiguous and does not mislead.

Where a product is referred to, advertising should clearly state the nature of the product - e.g. for a memorial: the type, size, material and finish.

Where prices are quoted they must:

include VAT

state whether any lettering is included and, if so, how many letters.

Where an advertisement includes both a price and an illustration, the price should relate to the product illustrated.

If there will be any charges which are not included in the price of the product, e.g. memorial installation costs/delivery, these facts should be clearly stated.

All advertising should conform to Advertising Standards and any claims made in the advertising should be capable of substantiation.

(b) **INSPECTION OF THE PRODUCT** (*Clause 4*): This Clause is intended to minimise the possibility of any dispute occurring between the firm and its client as regards the nature of the product purchased. (*Note: In this Clause “an adequate opportunity” is a minimum period of 7 days from the date the contract is signed.*)

Wherever possible the client should be shown the actual product being purchased. Where the product is not available for the client to inspect, the client should be shown a similar product or sample of the material from which that product is made.

Once the firm is able to provide the client with an opportunity to inspect the product, or a similar product or sample of the material from which that product is made, the client should be offered a *minimum period* of 7 days in which to carry out this inspection before the contract is enforced.

All natural materials are subject to inherent variations in character. Where this variation could substantially alter the material's overall appearance, this should be made clear to the Client at the time of sale. (*See Guideline (f) and Contract/Order Form*)

It is good practice to offer the client the opportunity to view the product prior to any work being carried out which may "customise" the product for that particular client.

(c) **STANDARDS OF QUALITY AND WORKMANSHIP** (*Clause 5*): Any reclaimed material used should be restored to 'as new' condition, and any lettering or ornamentation should be obliterated. ***This includes underside surfaces.***

/(d) Regulations...

(d) **REGULATIONS** (*Clause 6*): In order to minimise the risk of any future legal actions, it is important that burial authorities be informed, in writing, if their regulations do not allow the implementation of the minimum standards laid down in NAMM's Code of Working Practice.

(e) **SOLICITATION** (*Clause 2*): It is recommended that a minimum period of two weeks should be left after the funeral before any approach is made. Also, that any approach then made should be made in a ***carefully worded, written*** form, and that no subsequent approach should be made unless requested.

(f) **CONTRACT - specific terms** (*Clause 9*):

(i) **Layout of inscription:** The fact that the layout etc of the inscription will be left to the lettercarver unless otherwise specifically requested by and agreed with the client should be clearly stated on the front of the contract/order form - ***i.e. it should not merely be included in the general list of conditions of sale.***

(ii) **Materials, title of ownership etc.:** It is recommended that, in order to minimise the risk of certain common problems arising, certain matters such as

- the natural variations found in stone; and
- the fact that the memorial remains the property of the company until full payment is received

be put on the front of the contract/order form - ***i.e. it should not merely be included in the general list of conditions of sale***

(g) **GUARANTEE** (*Clause 10*): It is recommended that no written guarantee shall extend beyond 10 years.

(h) **COMPLAINTS** (*Clause 12*): - **Conciliation and Arbitration Service:**

NAMM has established conciliation and arbitration procedures to provide parties in dispute with a means of resolving their differences without recourse to the Courts.

Where a written complaint has been made to a NAMM member by a client, and has either:

- met with no response,
- been rejected, *or*
- the parties have been unable to settle their dispute within 4 weeks of the date of the written complaint,

the matter can be referred to the Association's Conciliation and Arbitration Services at no cost to either party.

During the period of conciliation any formal legal proceedings must be put in abeyance.

/continued ...

Guideline (h) - Conciliation and Arbitration Service (continued)

Each party will be asked to submit written statements together with any relevant supporting evidence. Where a dispute involves unsatisfactory workmanship or materials an independent report will be prepared by a memorial craftsman for the consideration of the Conciliation Service. The report will be prepared within 4 weeks of the date of the matter being referred to the Conciliation Service.

The Service will provide both parties with a copy of its report, together with its proposals for an equitable resolution of the dispute. Both parties will be asked to confirm their agreement to the proposals in writing.

If after 10 weeks of the date of the matter being referred to the Conciliation Service the matter is not resolved, either party may seek legal redress.

Where a member fails to act upon the findings of the Conciliation Service, or might be guilty of an infringement of the Association's Codes of Practice, the matter will be reported to the Association's Disciplinary Committee for appropriate action.

(Disputes involving non-members: Where a dispute involves a non-member of the Association, the Association will provide an independent report on workmanship and materials for any party requesting it. A charge will be made to cover the cost of providing this service. This charge is payable prior to the report being produced.)

/Appendix II - Model Contract/Order Form ...

APPENDIX II

CONTRACT/ORDER FORM **- an outline suggestion -**

Overleaf is an **outline suggestion** for a Contract/Order Form. The form will be reviewed from time to time and other versions may be produced. *(Note: Because of the need to fit it into this booklet, the form has had to be reduced. Properly produced it would cover more of the page and therefore be larger.)*

This form is designed to be printed in triplicate - each copy preferably on different coloured paper.

It is suggested that the top copy - i.e. the copy with the original of the customer's signature - be kept for the office and the second copy be given to the *customer. The third copy could then be attached, in part or in whole, to the job card.

***Note:** The customer's copy, whichever it is, needs to have the Conditions of Sale (see Appendix III) printed on the reverse side.

OUTLINE SUGGESTION FOR CONTRACT/ORDER FORM



(Company name, address, etc. and
Vat Registration number)

Contract/Order no.....

Date of order.....

Name:	SPECIAL INSTRUCTIONS	Cem/Chyd:
Address:		
Tel.		
Memorial to the late:		Grave No:

<p>MEMORIAL DETAILS:</p> <p>Materials & Finish: Headstone Base Other Shape</p> <p>Ornamentation: Other: Container: Space to be left for additional inscriptions</p> <p>Sketch of memorial (<i>showing all dimensions</i>)/description of work:</p>	<p>NEW/ADDITIONAL INSCRIPTION: (<i>Note: unless otherwise agreed and confirmed in writing, the size, layout and style of the inscription will be left to the judgement of the craftsman in charge.</i>)</p> <p>Style of lettering: Finish of lettering</p> <p>Inscription to read:</p>
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	No. of letters:
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PLEASE NOTE:

MATERIALS: *Natural quarried materials can vary in colour and texture. Products made from them are sold*

subject to such variations, including natural markings and any inherent characteristics.

TITLE: *All goods remain the property of this company until full payment has been received*

I/We have read and understood the Conditions of Sale overleaf.

I/we agree and confirm the details stated on this Order by virtue of being the grave/memorial owner or, having their permission, authorise you to carry out the above work.

COST DETAILS:	£		VAT	
	£	p	£	p
Memorial incl letters & fixing:				
.... Extra letters @ £ each:				
Ornamentation:				
Plinth:				
Removing/Refixing:				
Cleaning				
Re-gild/ enamel. letters @ £ each				
Insurance				
Other:				
Sub-total:				
VAT @ %:				
Cemetery/Churchyard Fees:				
TOTAL:				
Less: deposit paid:				
BALANCE DUE:				

Signed: Date:

(Payment terms)

APPENDIX III

MODEL CONDITIONS OF SALE

1. INTERPRETATION:

In these conditions:-

“Buyer” means the person or company who accepts a quotation of the Seller for Goods, or whose Order for Goods is accepted by the Seller.

“Seller” means the firm of memorials masons named in the Order.

“Goods” means the memorial described in the Order and any works (including inscriptions) to be carried out to complete such memorials.

“Order” means any quotation of the Seller which is accepted by a Buyer or any Order placed by the Buyer which is accepted by the Seller.

“Monument” means any stone or other material on which work has been carried out by the Seller.

2. **MATERIALS:** Natural quarried materials can vary in colour and texture. All Goods are sold subject to these natural variations and therefore cannot be guaranteed identical to any sample produced.

All sizes are approximate and imperial measurements may be converted to metric or vice versa.

3. **DETAILS:** The Buyer should check the details of the Order and the wording therein of the inscription, carefully. Particular care should be taken in the spelling of names and the accuracy of dates. Any alteration should be notified to the Seller within seven days of the date of acceptance of the Order and confirmed in writing by both parties. The Seller cannot otherwise accept responsibility for any errors in an inscription on Goods which comply with the terms of an Order.

4. **COMPLETION:** The Seller will endeavour to deliver the Goods or, if applicable have the Goods available for collection by the Buyer within the time specified in the Order; but if completion of any works are delayed through strikes, lock-outs, accidents, non-delivery of materials to the Seller or other force majeure, a reasonable extension of time will be allowed. Time shall not be of the essence of the contract unless expressly agreed in writing by the Seller.

/5. Title ...

5. **TITLE:** The Title in the Goods remains vested in the Seller and shall not pass to the Buyer until the Seller has received, in cash or cleared funds, payment in full of the price for the Goods.

6. **PAYMENT:** A deposit as specified in the order or, if none is so specified,% of the Price for the Goods shall be paid by the Buyer to the Seller upon acceptance of the Order. Until payment is made of that deposit the Seller shall not be obliged to commence any work, and any date specified for completion of the Order shall be extended by the period of any delay in payment of the deposit.

On completion of any engraving, but before the delivery of the Goods, the Seller may so notify the Buyer and/or submit the invoice for the Goods. The Buyer should then inspect the Goods as soon as possible and any complaint regarding the Goods must then be notified in writing to the Seller within days after the date of such notification or issue of the invoice by the Seller.

The balance of the price for the Goods shall be due and payable within days after the date of issue of the invoice notwithstanding that delivery of the Goods may not have taken place to the intent that the Seller shall be entitled to defer fixing the memorial in the agreed place until after payment in full of the price of the Goods in cash or cleared funds.

If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to charge interest (both before and after any judgement) on the amount unpaid at the rate of% from time to time until payment in full is made.

7. INDEMNITY:

(i) If the Goods shall prove to be faulty in workmanship or material not in accordance with this contract within six years of the Goods being fixed in the agreed place, the Goods (or such part thereof as applicable) shall be made good or replaced by the Seller without any expense to the Buyer, provided always that the fault is not as a result of damage caused by, or as a result of any act by, any third party.

The Seller shall have no liability to the Buyer for any consequential loss to the Buyer arising out of the provision of the Goods (except in respect of death or personal injury resulting from negligence) and the total liability of the Seller for any other loss of the Buyer so arising shall be exceed the price payable by the Buyer for the Goods.

(ii) In the event of a dispute, the National Association of Memorial Masons offers a free and independent Conciliation and Arbitration Service.

/Fees and VAT ...

8. FEES AND VAT: Fees to cemetery and churchyard authorities are the responsibility of the Buyer but may be paid by the Seller and added to the invoice. Notification of such charges is given by the Seller to the Buyer in good faith. Should these charges be increased at any time prior to the date of the fixing of the Goods, the difference shall be paid by the Buyer to the Seller within 7 days of request for payment.

VAT will be payable at the rate applicable at the date of invoice, **or** at the date of payment if this is prior to the invoice being raised, **or** at the date on which the goods are delivered, or made available, if this is 14 days or more prior to the invoice being raised.
