Westland Workgear
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GST No: 043-977-873

CREDIT ACCOUNT APPLICATION

To Be Completed By Applicants - Please complete all sections and read the Terms and Conditions of Trade overleaf or attached.

Customer's Details: ☐ Individual ☐ Sole Trader ☐ Trust ☐ Partnership ☐ Company ☐ Other:				
Full or Legal Name:				
Trading Name: *(If different from above)*				
Physical Address:				Postcode:
Billing Address:				Postcode:
Email Address:				
Phone No:	Fax No:	Mobile No:		
Personal Details: *(please complete if you are an Individual)*				
D.O.B.	Driver's Licence No:			
Business Details: *(please complete if you are a Sole Trader, Trust, Partnership, Company or Other – as specified)*				
Company Number:	Date Incorp. *(current owners)*:			
Nature of Business:	GST No: (*if applicable*)			
Paid Up Capital: $	Estimated Monthly Purchases: $	Credit Limit Required: $		
Principal Place of Business is: ☐ Rented ☐ Owned ☐ Mortgaged (*to whom*):				
Directors / Owners / Trustee *(if more than two, please attach a separate sheet)*				
(1) Full Name:	D.O.B.			
Private Address:	Postcode:			
Driver's Licence No:	Phone No:	Mobile No:		
(2) Full Name:	D.O.B.			
Private Address:	Postcode:			
Driver's Licence No:	Phone No:	Mobile No:		
Account Terms: ☐ 20 Days ☐ COD ☐ Other:				
Purchase Order Required? ☐ YES ☐ NO	Accounts to be emailed? ☐ YES ☐ NO			
Accounts Email Address:				
Accounts Contact:	Phone No:			
Bank and Branch:	Account No:			

Trade References: *(please provide companies that are willing to do trade references)*

Name:	Address:	Phone / Fax / Email:
1.		
2.		
3.		

I certify that the above information is true and correct and that I am authorised to make this application for credit. I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf or attached) of Westland Workgear which form part of, and are intended to be read in conjunction with this Credit Account Application and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein. ***I agree that if I am a director/shareholder (owning at least 15% of the shares) of the Customer I shall be personally liable for the performance of the Customer's obligations under this contract.***

SIGNED (CUSTOMER): _____ **SIGNED (WESTLAND WORKGEAR):** _____

Name: _____ Name: _____

Position: _____ Position: _____

WITNESS TO CUSTOMER'S SIGNATURE:

Signed: _____ Name: _____ Date: _____

OFFICE USE ONLY				
Account / Ref. No.	CREDIT LIMIT	APPROVED BY	DATA INPUTTED	DATE
	$			/ /

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Westland Workgear – Terms & Conditions of Trade

1. Definitions

1.1 "Westland Workgear" means Westland Workgear Limited And Lewis Bernard Simpkin In Partnership T/A Westland Workgear, its successors and assigns or any person acting on behalf of and with the authority of Westland Workgear Limited And Lewis Bernard Simpkin In Partnership T/A Westland Workgear.

1.2 "Customer" means the person/s or any person acting on behalf of and with the authority of the Customer requesting Westland Workgear to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:

(a) if there is more than one Customer, is a reference to each Customer jointly and severally; and
(b) if the Customer is a part of a Trust, shall be bound in their capacity as a trustee; and
(c) includes the Customer's executors, administrators, successors and permitted assigns.

1.3 "Goods" means all Goods or Services supplied by Westland Workgear to the Customer at the Customer's request from time to time (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other).

1.4 "Account" means the Customer's account with Westland Workgear.

1.5 "Guarantor" means any party executing a guarantee of the Account with Westland Workgear.

1.6 "Order" or "Orders" means the order or orders of the Customer to Westland Workgear to supply the Goods and will be on such forms or in such manner as Westland Workgear require from time to time.

1.7 "Price" means the Price payable (plus any Goods and Services Tax ("GST") where applicable) for the Goods as agreed between Westland Workgear and the Customer in accordance with clause 7 below.

2. Acceptance

2.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts delivery of the Goods.

2.2 In the event of any inconsistency between the terms and condtions of the Agreement and any other prior document or schedule that the parties have entered into, the terms of this Agreement shall prevail.

2.3 Any amendment to the terms and conditions contained in this Agreement may only be amended in writing by the consent of both parties.

2.4 The Customer acknowledges and accepts that:

(a) that the supply of Goods on credit shall not take effect until the Customer has completed a credit application with Westland Workgear and it has been approved with a credit limit established for the account; and
(b) in the event that the supply of Goods request exceeds the Customer's credit limit and/or the account exceeds the payment terms, Westland Workgear reserves the right to refuse delivery and/or request an alternative payment method; and
(c) Westland Workgear may at any time refuse an Order by the Customer or decline to approve any application by the Customer for any reason whatsoever; and
(d) the existence of an account by the Customer with Westland Workgear does not automatically entitle the Customer to credit in the future; and
(e) the supply of Goods for accepted orders may be subject to availability and if, for any reason, Goods are not or cease to be available, Westland Workgear reserves the right to vary the Price with alternative Goods as per clause 7.2 subject to prior confirmation and agreement of both parties. Westland Workgear also reserves the right to halt all Services until such time as Westland Workgear and the Customer agree to such changes. Westland Workgear shall not be liable to the Customer for any loss or damage the Customer suffers due to Westland Workgear exercising its rights under this clause.

2.5 The Customer shall be responsible for ensuring that the Goods ordered are suitable for their intended use.

2.6 The Customer is strongly recommended to place an order in writing. Orders should clearly state the Customer's particular requirements. Westland Workgear will not be responsible for errors or omissions due to oversight or to misinterpretation of the Customer's verbal instructions.

2.7 Quotations are only for work in accordance with the original specifications. If through the Customer's error, or omission, work has to be redone or alterations or additions to specifications are required, then Westland Workgear may make an additional charge. In the event that an order is cancelled or suspended by the Customer, then Westland Workgear may immediately require the Customer to pay for work done to the date of cancellation or suspension.

2.8 Westland Workgear reserves the right not to undertake any work which in its opinion is or may be unlawful, offensive, or otherwise inappropriate.

2.9 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 226 of the Contract and Commercial Law Act 2017 or any other applicable provisions of that Act or any Regulations referred to in that Act.

3. Errors and Omissions

3.1 The Customer acknowledges and accepts that Westland Workgear shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):

(a) resulting from an inadvertent mistake made by Westland Workgear in the formation and/or administration of this contract; and/or
(b) contained in/omitted from any literature (hard copy and/or electronic) supplied by Westland Workgear in respect of the Services.

3.2 In the event such an error and/or omission occurs in accordance with clause 3.1, and is not attributable to the negligence and/or wilful misconduct of Westland Workgear; the Customer shall not be entitled to treat this contract as repudiated nor render it invalid.

4. Authorised Representatives

4.1 The Customer acknowledges that Westland Workgear shall (for the duration of the Services) liaise directly with one (1) authorised representative, and that once introduced as such to Westland Workgear, that person shall have the full authority of the Customer to order any Services, and/or to request any variation thereto on the Customer's behalf. The Customer accepts that they will be solely liable to Westland Workgear for all additional costs incurred by Westland Workgear (including Westland Workgear's profit margin) in providing any Services, or variation/s requested thereto by the Customer's duly authorised representative.

5. Change in Control

5.1 The Customer shall give Westland Workgear not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer's details (including but not limited to, changes in the Customer's name, address, contact phone or fax number/s, change of trustees or business practice). The Customer shall be liable for any loss incurred by Westland Workgear as a result of the Customer's failure to comply with this clause.

6. On-Line Ordering

6.1 The Customer acknowledges and agrees that:

(a) Westland Workgear does not guarantee the website's performance;
(b) display on the website does not guarantee the availability of any particular Goods; therefore, all orders placed through the website shall be subject to confirmation of acceptance by Westland Workgear;
(c) on-line ordering may be unavailable from time to time for regularly scheduled maintenance and/or upgrades;
(d) there are inherent hazards in electronic distribution, and as such Westland Workgear cannot warrant against delays or errors in transmitting data between the Customer and Westland Workgear including orders, and you agree that to the maximum extent permitted by law, Westland Workgear will not be liable for any losses which the Customer suffers as a result of online-ordering not being available or for delays or errors in transmitting orders;
(e) when making a transaction through the website, the Customer's information will pass through a secure server using SSL (secure sockets layer) encryption technology. The encryption process ensures that the Customer's information cannot be read by or altered by outside influences;
(f) if the Customer is not the cardholder for any credit card being used to pay for the Goods, Westland Workgear shall be entitled to reasonably assume that the Customer has received permission from the cardholder for use of the credit card for the transaction.

6.2 Westland Workgear reserves the right to terminate the Customer's order if it learns that you have provided false or misleading information, interfered with other users or the administration of Westland Workgear's business, or violated these terms and conditions.

7. Price and Payment

7.1 At Westland Workgear's sole discretion the Price shall be either:

(a) as indicated on any invoice provided by Westland Workgear to the Customer; or
(b) Westland Workgear's quoted price (subject to clause 7.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.

7.2 Westland Workgear reserves the right to change the Price:

(a) if a variation to the Goods which are to be supplied is requested; or
(b) if a variation to the Services originally scheduled (including any applicable plans or specifications) is requested; or
(c) if during the course of the Services, the Goods are not or cease to be available from Westland Workgear's third party suppliers, then Westland Workgear reserves the right to provide alternative Goods; or
(d) where additional Services are required due to the discovery of hidden or unidentifiable difficulties which are only discovered on commencement of the Services; or
(e) in the event of increases to Westland Workgear in the cost of labour or materials (including, but not limited to, any variation as a result of fluctuations in currency exchange rates or increases to Westland Workgear in the cost of taxes, levies, freight and insurance charges, materials and labour, or delays in shipment etc.) which are beyond Westland Workgear's control.

7.3 Variations will be charged for on the basis of Westland Workgear's quotation, and will be detailed in writing, and shown as variations on Westland Workgear's invoice. The Customer shall be required to respond to any variation submitted by Westland Workgear within ten (10) working days. Failure to do so will entitle Westland Workgear to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.

7.4 At Westland Workgear's sole discretion a non-refundable deposit may be required.

7.5 Time for payment for the Goods being of the essence, the Price will be payable by the Customer on the date/s determined by Westland Workgear, which may be:

(a) by way of instalments/progress payments in accordance with Westland Workgear's payment schedule;
(b) for certain approved Customers, due twenty (20) days following the end of the month in which a statement is posted to the Customer's address or address for notices;
(c) the date specified on any invoice or other form as being the date for payment; or
(d) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Customer by Westland Workgear.

7.6 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card (only Visa, MasterCard and Amex are accepted and a surcharge per transaction may apply), or by any other method as agreed to between the Customer and Westland Workgear.

7.7 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by Westland Workgear nor to withhold payment of any invoice because part of that invoice is in dispute.

7.8 Unless otherwise stated the Price does not include GST. In addition to the Price, the Customer must pay to Westland Workgear an amount equal to any GST Westland Workgear must pay for any supply by Westland Workgear under this or any other contract for the sale of the Goods. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition, the Customer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

8. Delivery of Goods

8.1 Delivery ("**Delivery**") of the Goods is taken to occur at the time that:

(a) the Customer or the Customer's nominated carrier takes possession of the Goods at Westland Workgear's address; or
(b) Westland Workgear (or Westland Workgear's nominated carrier) delivers the Goods to the Customer's nominated address even if the Customer is not present at the address.

8.2 At Westland Workgear's sole discretion the cost of delivery is either included in the Price or is in addition to the Price.

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8.3 Any time specified by Westland Workgear for delivery of the Goods is an estimate only. The Customer must take delivery by receipt or collection of the Goods whenever they are tendered for delivery. Westland Workgear will not be liable for any loss or damage incurred by the Customer as a result of delivery being late. In the event that the Customer is unable to take delivery of the Goods as arranged then Westland Workgear shall be entitled to charge a reasonable fee for redelivery and/or storage.

8.4 Westland Workgear may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.

9. Risk

9.1 Risk of damage to or loss of the Goods passes to the Customer on Delivery and the Customer must insure the Goods on or before Delivery.

9.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Customer, Westland Workgear is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by Westland Workgear is sufficient evidence of Westland Workgear's rights to receive the insurance proceeds without the need for any person dealing with Westland Workgear to make further enquiries.

9.3 If the Customer requests Westland Workgear to leave Goods outside Westland Workgear's premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Customer's sole risk.

9.4 In the event that the Customer provides Westland Workgear with any information and/or measurements relating to the supply of the Goods, Westland Workgear shall be entitled to rely on the accuracy of any such information provided by the Customer. The Customer acknowledges and agrees that in the event that any of this information provided by the Customer is inaccurate, Westland Workgear accepts no responsibility for any loss, damages, or costs however resulting from the supply of inaccurate measurements or other information.

9.5 Where the Customer has supplied materials for Westland Workgear to complete the Services, the Customer acknowledges and accepts full responsibility for the suitability of purpose, quality, and any faults inherent in the materials. Westland Workgear shall not be responsible for any defects in the Services, or any loss or damage to the materials (or any part thereof), howsoever arising from the use of materials supplied by the Customer.

9.6 Whilst the right to use an embroidery programme will remain with the Customer, once paid for, the actual "programme" or any means of reproducing the programme will remain the sole property of Westland Workgear.

9.7 Where the Customer supplies products, adequate quantities shall be supplied to cover spoilage. Products and other materials shall not be counted or checked when received unless requested by the Customer in writing. An additional charge may be made by Westland Workgear in respect of any such counting or checking requested by the Customer.

9.8 Westland Workgear is under no obligation to provide samples of Goods ordered other than by virtual (computerised) sample. Whilst every effort will be taken by Westland Workgear to match virtual colours with physical colours, Westland Workgear will take no responsibility for any variation between virtual sale samples and either the virtual sale sample displayed on the Customer's computer and/or the final product. In the event that a physical sample is required this will be provided on request by the Customer and will be charged for as an extra including return freight, the additional charge will be detailed separately in the final invoice.

9.9 Whilst every care is taken by Westland Workgear to carry out the instructions of the Customer, it is the Customers responsibility to undertake a final proof reading of the Goods. Westland Workgear shall be under no liability whatsoever for any errors not corrected by the Customer in the final proof reading. Should the Customer's alterations require additional proofs this shall be invoiced as an extra.

9.10 Whilst all care and attention is undertaken by Westland Workgear to deliver Goods of the highest quality, and to ensure that all components (including fabric, inks, and other materials) are purchased from reputable manufacturers, Westland Workgear does not guarantee the manufacture of such items. Where any defect or alleged defect is beyond the ability of Westland Workgear to control quality, Westland Workgear has no liability.

9.11 In the case of property and materials left with Westland Workgear without specific instructions, Westland Workgear shall be free to dispose of them at the end of twelve months after Westland Workgear received them and to accept and retain any proceeds gained from such disposal to cover Westland Workgear's costs in holding and handling such items, in accordance with clause 8.3.

9.12 The Customer acknowledges and accepts that Goods supplied:

(a) may exhibit variations of colour and shade that are inherent in fabric dye lots. While every effort will be taken by Westland Workgear to match colour and shade of the Goods, Westland Workgear shall not be liable for any loss, damage or costs, howsoever arising resulting from any variation in colour and shading between batches of the Goods or sale samples and the final Goods supplied; and

(b) may experience shrinkage which is considered normal practice for these types of Goods and thereby not covered by Westland Workgear as a defect or under warranty. Westland Workgear shall not be liable for any loss or damage in this event, where circumstances are beyond the control of Westland Workgear.

9.13 Westland Workgear shall be under no liability whatsoever to the Customer for any variation (beyond the reasonable control of Westland Workgear) in colours between the approved prototype and the finished Goods.

9.14 Westland Workgear shall not be held liable for inks wearing off through general wear and tear.

10. Specifications

10.1 The Customer acknowledges that all descriptive specifications, illustrations, dimensions and weights stated in Westland Workgear's or the manufacturer's fact sheets, price lists or advertising material, are approximate only and are given by way of identification only. The Customer shall not be entitled to rely on such information, and any use of such does not constitute a sale by description, and does not form part of the contract, unless expressly stated as such in writing by Westland Workgear.

11. Compliance with Laws

11.1 The Customer and Westland Workgear shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services.

11.2 The Customer shall obtain (at the expense of the Customer) all licenses and approvals that may be required for the Services.

12. Title

12.1 Westland Workgear and the Customer agree that ownership of the Goods shall not pass until:

(a) the Customer has paid Westland Workgear all amounts owing to Westland Workgear; and

(b) the Customer has met all of its other obligations to Westland Workgear.

12.2 Receipt by Westland Workgear of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.

12.3 It is further agreed that until ownership of the Goods passes to the Customer in accordance with clause 12.1:

(a) the Customer is only a bailee of the Goods and must return the Goods to Westland Workgear on request;

(b) the Customer holds the benefit of the Customer's insurance of the Goods on trust for Westland Workgear and must pay to Westland Workgear the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed;

(c) the Customer must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Customer sells, disposes or parts with possession of the Goods then the Customer must hold the proceeds of any such act on trust for Westland Workgear and must pay or deliver the proceeds to Westland Workgear on demand;

(d) the Customer should not convert or process the Goods or intermix them with other goods but if the Customer does so then the Customer holds the resulting product on trust for the benefit of Westland Workgear and must sell, dispose of or return the resulting product to Westland Workgear as it so directs;

(e) the Customer irrevocably authorises Westland Workgear to enter any premises where Westland Workgear believes the Goods are kept and recover possession of the Goods;

(f) Westland Workgear may recover possession of any Goods in transit whether or not delivery has occurred;

(g) the Customer shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of Westland Workgear;

(h) Westland Workgear may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer.

13. Personal Property Securities Act 1999 ("PPSA")

13.1 Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that:

(a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and

(b) a security interest is taken in all Goods and/or collateral (account) – being a monetary obligation of the Customer to Westland Workgear for Services – that have previously been supplied and that will be supplied in the future by Westland Workgear to the Customer.

13.2 The Customer undertakes to:

(a) sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Westland Workgear may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register;

(b) indemnify, and upon demand reimburse, Westland Workgear for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Goods charged thereby;

(c) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods and/or collateral (account) in favour of a third party without the prior written consent of Westland Workgear; and

(d) immediately advise Westland Workgear of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.

13.3 Westland Workgear and the Customer agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.

13.4 The Customer waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA.

13.5 Unless otherwise agreed to in writing by Westland Workgear, the Customer waives its right to receive a verification statement in accordance with section 148 of the PPSA.

13.6 The Customer shall unconditionally ratify any actions taken by Westland Workgear under clauses 13.1 to 13.5.

14. Security and Charge

14.1 In consideration of Westland Workgear agreeing to supply the Goods, the Customer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).

14.2 The Customer indemnifies Westland Workgear from and against all Westland Workgear's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising Westland Workgear's rights under this clause.

14.3 The Customer irrevocably appoints Westland Workgear and each director of Westland Workgear as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 14 including, but not limited to, signing any document on the Customer's behalf.

15. Defects

15.1 The Customer shall inspect the Goods on delivery and shall within seven (7) days of delivery (time being of the essence) notify Westland Workgear of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Customer shall afford Westland Workgear an opportunity to inspect the Goods within a reasonable time following delivery if the Customer believes the Goods are defective in any way. If the Customer shall fail to comply with these provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which Westland Workgear has agreed in writing that the Customer is entitled to reject, Westland Workgear's liability is limited to either (at Westland Workgear's discretion) replacing the Goods or repairing the Goods.

15.2 Goods will not be accepted for return other than in accordance with 15.1 above, and provided that:

(a) Westland Workgear has agreed in writing to accept the return of the Goods; and

(b) the Goods are returned at the Customer's cost within fourteen (14) days of the delivery date; and

(c) Westland Workgear will not be liable for Goods which have not been stored or used in a proper manner; and

(d) the Goods are returned in the condition in which they were delivered and with all packaging material, brochures and instruction material in as new condition as is reasonably possible in the circumstances.

15.3 Westland Workgear may (in its discretion) accept the return of non-defective Goods for credit but this may incur a handling fee of twenty percent (20%) of the value of the returned Goods plus any freight.

15.4 Subject to clause 15.1, non-stocklist items or Goods made to the Customer's specifications are not acceptable for credit or return.

16. Warranty

16.1 Subject to the conditions of warranty set out in clause 16.2 Westland Workgear warrants that if any defect in any workmanship of Westland Workgear becomes apparent and is reported to Westland Workgear within sixty (60) days of the date of delivery (time being of the essence) then Westland Workgear will either (at Westland Workgear's sole discretion) replace or remedy the workmanship.

16.2 The conditions applicable to the warranty given by clause 16.1 are:

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(a) the warranty shall not cover any defect or damage which may be caused or partly caused by or arise through:
  (i) failure on the part of the Customer to properly maintain any Goods; or
  (ii) failure on the part of the Customer to follow any instructions or guidelines provided by Westland Workgear; or
  (iii) any use of any Goods otherwise than for any application specified on a quote or order form; or
  (iv) the continued use of any Goods after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user; or
  (v) fair wear and tear, any accident or act of God.

(b) the warranty shall cease and Westland Workgear shall thereafter in no circumstances be liable under the terms of the warranty if the workmanship is repaired, altered or overhauled without Westland Workgear's consent.

(c) in respect of all claims Westland Workgear shall not be liable to compensate the Customer for any delay in either replacing or remedying the workmanship or in properly assessing the Customer's claim.

16.3 For Goods not manufactured by Westland Workgear, the warranty shall be the current warranty provided by the manufacturer of the Goods. Westland Workgear shall not be bound by nor be responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Goods.

17. Consumer Guarantees Act 1993

17.1 If the Customer is acquiring Goods for the purposes of a trade or business, the Customer acknowledges that the provisions of the Consumer Guarantees Act 1993 do not apply to the supply of Goods by Westland Workgear to the Customer.

18. Intellectual Property

18.1 Where Westland Workgear has designed, drawn or developed Goods for the Customer, then the copyright in any designs and drawings and documents (including, but not limited to CAD drawings) shall remain the property of Westland Workgear. Under no circumstances may such designs, drawings and documents be used without the express written approval of Westland Workgear.

18.2 The Customer warrants that all designs, specifications or instructions given to Westland Workgear will not cause Westland Workgear to infringe any patent, registered design or trademark in the execution of the Customer's order and the Customer agrees to indemnify Westland Workgear against any action taken by a third party against Westland Workgear in respect of any such infringement.

18.3 The Customer agrees that Westland Workgear may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which Westland Workgear has created for the Customer.

19. Default and Consequences of Default

19.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Westland Workgear's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

19.2 If the Customer owes Westland Workgear any money the Customer shall indemnify Westland Workgear from and against all costs and disbursements incurred by Westland Workgear in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Westland Workgear's collection agency costs, and bank dishonour fees).

19.3 Further to any other rights or remedies Westland Workgear may have under this contract, if a Customer has made payment to Westland Workgear, and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by Westland Workgear under this clause 19 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this contract.

19.4 Without prejudice to Westland Workgear's other remedies at law Westland Workgear shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to Westland Workgear shall, whether or not due for payment, become immediately payable if:
(a) any money payable to Westland Workgear becomes overdue, or in Westland Workgear's opinion the Customer will be unable to make a payment when it falls due;
(b) the Customer has exceeded any applicable credit limit provided by Westland Workgear;
(c) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
(d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

20. Cancellation

20.1 Without prejudice to any other remedies Westland Workgear may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions Westland Workgear may suspend or terminate the supply of Goods to the Customer. Westland Workgear will not be liable to the Customer for any loss or damage the Customer suffers because Westland Workgear has exercised its rights under this clause.

20.2 Westland Workgear may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Customer. On giving such notice Westland Workgear shall repay to the Customer any money paid by the Customer for the Goods. Westland Workgear shall not be liable for any loss or damage whatsoever arising from such cancellation.

20.3 In the event that the Customer cancels delivery of Goods the Customer shall be liable for any and all loss incurred (whether direct or indirect) by Westland Workgear as a direct result of the cancellation (including, but not limited to, any loss of profits).

20.4 Cancellation of orders for Goods made to the Customer's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

21. Privacy Act 1993

21.1 The Customer authorises Westland Workgear or Westland Workgear's agent to:
(a) access, collect, retain and use any information about the Customer;
  (i) (including any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Customer's creditworthiness; or
  (ii) for the purpose of marketing products and services to the Customer.
(b) disclose information about the Customer, whether collected by Westland Workgear from the Customer directly or obtained by Westland Workgear from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Customer.

21.2 Where the Customer is an individual the authorities under clause 21.1 are authorities or consents for the purposes of the Privacy Act 1993.

21.3 The Customer shall have the right to request Westland Workgear for a copy of the information about the Customer retained by Westland Workgear and the right to request Westland Workgear to correct any incorrect information about the Customer held by Westland Workgear.

22. Dispute Resolution

22.1 If a dispute arises between the parties to this contract then either party shall send to the other party a notice of dispute in writing adequately identifying and providing details of the dispute. Within fourteen (14) days after service of a notice of dispute, the parties shall confer at least once, to attempt to resolve the dispute. At any such conference each party shall be represented by a person having authority to agree to a resolution of the dispute. In the event that the dispute cannot be so resolved either party may by further notice in writing delivered by hand or sent by certified mail to the other party refer such dispute to arbitration. The arbitration should be under a single arbitrator agreed upon by both parties, or failing agreement, by two arbitrators (one to be appointed by each party) and their umpire (appointed by them prior to arbitration), such arbitration to be carried out in accordance with provisions of the Arbitration Act 1996.

23. Service of Notices

23.1 Any written notice given under this contract shall be deemed to have been given and received:
(a) by handing the notice to the other party, in person;
(b) by leaving it at the address of the other party as stated in this contract;
(c) by sending it by registered post to the address of the other party as stated in this contract;
(d) if sent by facsimile transmission to the fax number of the other party as stated in this contract (if any), on receipt of confirmation of the transmission;
(e) if sent by email to the other party's last known email address.

23.2 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.

24. Trusts

24.1 If the Customer at any time upon or subsequent to entering in to the contract is acting in the capacity of trustee of any trust ("Trust") then whether or not Westland Workgear may have notice of the Trust, the Customer covenants with Westland Workgear as follows:
(a) the contract extends to all rights of indemnity which the Customer now or subsequently may have against the Trust and the trust fund;
(b) the Customer has full and complete power and authority under the Trust to enter into the contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Customer against the Trust or the trust fund. The Customer will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity.
(c) the Customer will not without consent in writing of Westland Workgear (Westland Workgear will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events;
  (i) the removal, replacement or retirement of the Customer as trustee of the Trust;
  (ii) any alteration to or variation of the terms of the Trust;
  (iii) any advancement or distribution of capital of the Trust; or
  (iv) any resettlement of the trust property.

25. General

25.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

25.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the Greymouth Courts of New Zealand.

25.3 Westland Workgear shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by Westland Workgear of these terms and conditions (alternatively Westland Workgear's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).

25.4 Westland Workgear may licence and/or assign all or any part of its rights and/or obligations under this contract without the Customer's consent.

25.5 The Customer cannot licence or assign without the written approval of Westland Workgear.

25.6 Westland Workgear may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this contract by so doing. Furthermore, the Customer agrees and understands that they have no authority to give any instruction to any of Westland Workgear's sub-contractors without the authority of Westland Workgear.

25.7 The Customer agrees that Westland Workgear may amend these terms and conditions by notifying the Customer in writing. These changes shall be deemed to take effect from the date on which the Customer accepts such changes, or otherwise at such time as the Customer makes a further request for Westland Workgear to provide Goods to the Customer.

25.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

25.9 Both parties warrant that they have the power to enter into this contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this contract creates binding and valid legal obligations on them.

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Personal/Directors Guarantee and Indemnity

IN CONSIDERATION of Westland Workgear Limited And Lewis Bernard Simpkin In Partnership T/A Westland Workgear and its successors and assigns ("Westland Workgear") at the request of the Guarantor (as is now acknowledged) supplying and continuing to supply goods and/or services to

_____ ("the Customer") ***[Insert Company Name In Box Provided]***

I/WE (also referred to as the "Guarantor/s") UNCONDITIONALLY AND IRREVOCABLY:

1. **GUARANTEE** the due and punctual payment to Westland Workgear of all monies which are now owing to Westland Workgear by the Customer and all further sums of money from time to time owing to Westland Workgear by the Customer in respect of goods and services supplied or to be supplied by Westland Workgear to the Customer or any other liability of the Customer to Westland Workgear, and the due observance and performance by the Customer of all its obligations contained or implied in any contract with Westland Workgear, including but not limited to the Terms & Conditions of Trade signed by the Customer and annexed to this Guarantee and Indemnity. If for any reason the Customer does not pay any amount owing to Westland Workgear the Guarantor will immediately on demand pay the relevant amount to Westland Workgear. In consideration of Westland Workgear agreeing to supply the Goods to the Customer, the Guarantor charges all of its right, title and interest (joint or several) in any land, realty or other assets capable of being charged, owned by the Guarantor now or in the future, to secure the performance by the Guarantor of its obligations under these terms and conditions (including, but not limited to, the payment of any money) and the Guarantor acknowledges that this personal guarantee and indemnity constitutes a security agreement for the purposes of the Personal Property Securities Act 1999 ("PPSA") and unequivocally consents to Westland Workgear registering any interest so charged. The Guarantor irrevocably appoints Westland Workgear and each director of Westland Workgear as the Guarantor's true and lawful attorney/s to perform all necessary acts to give effect to this clause including, but not limited to, signing any document on the Guarantor's behalf which Westland Workgear may reasonably require to:
   (a) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
   (b) register any other document required to be registered by the PPSA or any other law; or
   (c) correct a defect in a statement referred to in clause 1(a) or 1(b).
2. **HOLD HARMLESS AND INDEMNIFY** Westland Workgear on demand as a separate obligation against any liability (including but not limited to damages, costs, losses and legal fees calculated on a solicitor and own client basis) incurred by, or assessed against, Westland Workgear in connection with:
   (a) the supply of goods and/or services to the Customer; or
   (b) the recovery of monies owing to Westland Workgear by the Customer including the enforcement of this Guarantee and Indemnity, and including but not limited to Westland Workgear's nominees costs of collection and legal costs; or
   (c) monies paid by Westland Workgear with the Customer's consent in settlement of a dispute that arises or results from a dispute between, Westland Workgear, the Customer, and a third party or any combination thereof, over the supply of goods and/or services by Westland Workgear to the Customer.

I/WE FURTHER ACKNOWLEDGE AND AGREE THAT

3. **I/We have received, read and understood Westland Workgear's Terms and Conditions prior to entering into this Guarantee and Indemnity and agree to be bound by those Terms and Conditions.**
4. This Guarantee and Indemnity shall constitute an unconditional and continuing Guarantee and Indemnity and accordingly shall be irrevocable and remain in full force and effect until the whole of monies owing to Westland Workgear by the Customer and all obligations herein have been fully paid satisfied and performed.
5. No granting of credit, extension of further credit, or granting of time and no waiver, indulgence or neglect to sue on Westland Workgear's part (whether in respect of the Customer or any one or more of any other Guarantor(s) or otherwise) and no failure by any named Guarantor to properly execute this Guarantee and Indemnity shall impair or limit the liability under this Guarantee and Indemnity of any Guarantor. Without affecting the Customer's obligations to Westland Workgear, each Guarantor shall be a principal debtor and liable to Westland Workgear accordingly.
6. If any payment received or recovered by Westland Workgear is avoided by law such payment shall be deemed not to have discharged the liability of the Guarantor, and the Guarantor and Westland Workgear shall each be restored to the position in which they would have been had no such payment been made.
7. The term "Guarantor" whenever used in this Guarantee and Indemnity shall, if there is more than one person named as Guarantor, mean and refer to each of them individually and all of them together unless the context otherwise requires, and the obligations and agreements on the part of the Guarantor contained in this Guarantee and Indemnity shall bind them jointly and severally.
8. **I/We have been advised to obtain independent legal advice before executing this Guarantee and Indemnity. I/we understand that I/we am/are liable for all amounts owing (both now and in the future) by the Customer to Westland Workgear.**
9. I/we irrevocably authorise Westland Workgear to obtain from any person or company any information which Westland Workgear may require for credit reference purposes. I/We further irrevocably authorise Westland Workgear to provide to any third party, in response to credit references and enquiries about me/us or by way of information exchange with credit reference agencies, details of this Guarantee and Indemnity and any subsequent dealings that I/we may have with Westland Workgear as a result of this Guarantee and Indemnity being actioned by Westland Workgear.
10. The above information is to be used by Westland Workgear for all purposes in connection with Westland Workgear considering this Guarantee and Indemnity and the subsequent enforcement of the same.

GUARANTOR-1

SIGNED: _____

FULL NAME: _____

HOME ADDRESS: _____

DATE OF BIRTH: _____

SIGNATURE OF WITNESS: _____

NAME OF WITNESS: _____

OCCUPATION: _____

PRESENT ADDRESS: _____

EXECUTED as a Deed this day of 20____

GUARANTOR-2

SIGNED: _____

FULL NAME: _____

HOME ADDRESS: _____

DATE OF BIRTH: _____

SIGNATURE OF WITNESS: _____

NAME OF WITNESS: _____

OCCUPATION: _____

PRESENT ADDRESS: _____

EXECUTED as a Deed this day of 20____

Note: 1. If the Customer is a sole trader or partnership the Guarantor(s) should be some other suitable person(s).
2. If the customer is a club or incorporated society the Guarantor(s) should be the president and secretary or other committee member

WARNING: THIS IS AN IMPORTANT DOCUMENT. YOU SHOULD SEE YOUR OWN LAWYER OR ADVISOR BEFORE SIGNING IT

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