

APPARELMASTER
TERMS OF TRADE

1. In this agreement:
 - “we”, “our” and “us” means Apparelmaster, the Supplier;
 - “you” and “your” means the Customer;
 - “Customer” means any person, entity, business or company contracting with us for a Supply;
 - “Products” means rental workwear and or rental workplace items;
 - “Services” means the laundering of rental workwear and/or the laundering/management of rental workplace items and/or laundering of customer owned customers;
 - “Servicing Address” means the address at which the Supply is to be effected;
 - “Supply” means the supply of Products and/or Services to you by us.

2. You acknowledge that your acceptance of these terms of trade may be confirmed by:
 - (a) signing a printed version of these terms, or
 - (b) by acknowledging receipt of these terms by email, or
 - (c) by instructing us and/or knowingly allowing us to perform the Supply following receipt of these terms.

3. Products / Service

We will perform the Supply and you will accept the Supply as agreed between us and you, the parties to this agreement.

4. We will use our best endeavours to maintain a regular delivery schedule to pick up and deliver the Products to you. You acknowledge we are not obliged to maintain a regular delivery schedule or to affect the Supply on a public holiday and that we may amend our delivery schedule to cater for public holidays or extra-ordinary circumstances upon notice to you.

5. We will mend, alter or replace any Products which have suffered normal wear and tear. You will be responsible for all costs to repair products owned by you and for costs to repair rental products where damage has occurred while in your possession which is not due to normal wear and tear. You agree to advise us immediately of any repairs that are necessary to the Products to ensure their immediate and/or ongoing effectiveness.

6. Our Products are designed to protect your employees’ clothing in general work place conditions. You agree that you will not permit the Products to be used or worn under any conditions which will include exposure to sparks or flames or hazardous chemicals. You agree that you will take all practicable steps to ensure that your employees do not wear or use the Products under hazardous conditions. You also agree that you will not permit your employees to use or wear Products which have become torn or damaged in any manner which may create a hazard. You agree to indemnify us against all damages and expenses arising out of claims involving flammability, chemical damage resistance or the wearing of damaged Products by your employees or agents.

7. You acknowledge and agree that the Supply under this agreement is intended to be used for business purposes. Where you are using the Products or Services for the purpose of your business, you agree that the guarantees and remedies set out in the Consumer Guarantees Act 1993 are excluded from this agreement and will not apply to the Supply under this agreement.

8. You also agree that neither we, nor the manufacturers of the Product, will be liable to you for any consequential loss or damage occurring in any way as a result of this agreement and that any claim you may have against us is limited to the amount of monies paid by you during the current term for the Supply.

9. Access and safety

You must ensure that our staff and our authorised agents have full and safe access (free of any health and safety hazards and risks) to the Servicing Address at any time as required to provide the Supply. You must also provide us with all necessary instructions, documentation and co-operation required by us to provide the Supply. Our employees and agents will comply with your reasonable security and safety instructions while present at the Servicing Address.

10. Prices and payments

You agree to pay us for the supply at the prices and terms agreed. If we increase the prices, we will tell you. You may reject a price increase by notifying us in writing within seven days of receipt of notice of a price increase. If you reject the price increase, we may at our sole discretion cancel this agreement with seven (7) days notice. You must pay in full by the 20th day of the month following delivery of each Supply.

In the event of your default in payment or breach of this Agreement, we may charge you interest compounding monthly on the unpaid overdue balance at the rate of 5% per annum above the current overdraft rate charged by our bankers together with all and any costs we incur as a result of your non-payment and/or breach of this Agreement (including but not limited to, collection costs and legal costs on a solicitor-client basis). We may, at our sole discretion, suspend the Supply while you are in default in payment or in breach of this Agreement.

All weekly/fortnightly/ 4-weekly pricing is based on a 52-weekly charge. All holiday closures have been calculated in our standard & quoted pricing.

11. Ownership of property

With the exception of customer owned products, all Products remain our property at all times. If any Products are lost or destroyed, become unrepresentable through misuse, or are withdrawn from use because you request the level of service to be reduced, you will pay for those Products at their depreciated value. Products will be deemed to be unrepresentable if any of your employees refuse the Products when we deliver them.

12. You acknowledge that these Terms and Conditions constitute a security agreement which creates a security interest in favour of us in all Products supplied by us to you. You waive the right to receive a verification statement in respect of any financing statement or financing change statement relating to the security interest.

13. Indemnity:

To the extent permitted by law, you will indemnify us and our employees and/or agents against all actions, claims, proceedings or costs (including legal costs on a full indemnity basis) which we may incur as a result of:

- a) any person alleging loss or injury due to the Product not being used in the manner recommended by us, by you, your employees or any person having access to or use of the Product while in your possession;

- b) for any loss, liability, damage or injury arising from damaged or defective Product in your possession or control which was not brought immediately to our attention;
- c) any wilful or negligent act or omission by you, your officers, employees, agents or contractors; or
- d) any breach or non-performance of this agreement by you; and
- e) the loss or damage to the Product except to the extent any loss or damage is caused by us.

14. Insurance

You must maintain insurance cover for:

- a) The product for its full replacement value against any loss or damage and must note our as owner of the product with the insurer; and
- b) Liability for loss resulting from any kind of injury or death of any person in connection with use of the product

You must provide us with evidence of insurance upon request.

15. Term of contracted service

You acknowledge that we will be required to make a substantial investment in Products and equipment to fulfil and maintain this agreement. Because of this, and subject to clauses 10 and 19, the initial term of this agreement will be a period of three years, consisting of 156 weekly billings from the date of initial delivery. This agreement will be automatically renewed, from year to year thereafter on a calendar basis, unless terminated:

- a) by written notice given by you or us at least 60 days before expiry date of the initial term or any renewal term, or
- b) pursuant to clauses 10 or 19.

16. Breach of agreement

If you breach this agreement, you will pay us, in addition to any payment required for the Supply already rendered and depreciation on redundant garments, an amount equal to our anticipated profit for the balance of the then-current term, calculated on the average weekly service level, to date of termination.

17. Other agreements

You agree that you do not have a valid contract with any other supplier for the furnishing of garments to the employees covered by this agreement.

Where any provision of these Terms conflicts with a Rental Service Agreement currently in place between us and you, the terms of that Rental Service Agreement shall supersede these Terms.

18. Force Majeure

We shall not be liable to you in relation to any failure to provide the Product/Supply on a particular date due to any other cause beyond our control.

19. Termination

We may suspend the Supply or terminate this agreement, at our sole discretion, on immediate notice to you if:

- a) You are in breach of a material obligation and do not remedy that breach within 7 days of initial notice of breach being given;
- b) You breach any other provisions and/or fail to remedy that breach (if capable of remedy) within 10 business days of notice of breach being given; or

- c) You become insolvent or deemed insolvent, bankrupt, ceases or threatens to cease to carry on business, a receiver, manager, administrator or anything having a similar effect occurs in relation to you or your business.
- d) It is agreed that non-payment, any modification or removal of any product without our approval, refusal to allow access to the Servicing Address or failure by you to notify of damaged or defective Product are material breaches of this Agreement.

20. Removal of Product

On termination of this agreement, howsoever that arises, we may remove all of our Products in your possession or control, and for that purpose may enter the Servicing Address and remove the said product. We shall use all reasonable care in removing the Product but shall not be responsible for restoring that part of the premises to the original state. If we are unable to remove the Product, you shall be liable for the replacement value of the Product that has not been recovered.

21. Debt Collection

You indemnify us for all expenses incurred in relation to the recovery of debts owed you.

22. Jurisdiction

These Terms of Trade are governed by and construed in accordance with the current laws of New Zealand and the parties agreed to submit to the non-exclusive jurisdiction of the courts of New Zealand for any dispute or proceedings arising out of or in connection with these Terms of Trade.

23. Dispute

Any claim or dispute arising under these Terms of Trade shall be determined by arbitration under the Arbitration Act 1996 if the parties are unable to resolve such dispute themselves within one (1) month of the dispute arising. However, nothing in this clause prevents either party from taking immediate steps to seek any equitable relief before the New Zealand courts.

END
