P5 GARMENTS LIMITED TRADING AS WINTERBOTTOM'S SCHOOLWEAR TERMS AND CONDITIONS OF SALE – DATED 20/03/23

1 INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

Business Day: a day (other than a Saturday, Sunday or a public holiday) when banks in London are open for business

Buyer: the person, firm, or company who purchases the Goods from the

Conditions: these terms and conditions as amended from time to time in accordance with clause 15.10.

Contract: the contract between the Seller and the Buyer for the supply of Goods and services (where applicable) in accordance with these Conditions.

Contract Price: the price of the Goods invoiced by the Seller to the Buyer in accordance with clause 9.3.

Force Majeure Event: has the meaning given to it in clause 15.1.

Goods: the goods (or any part of them) set out in the Order.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world. **Order:** the Buyer's order for the supply of Goods, as set out in the Buyer's

purchase order form, or the Buyer's written acceptance of the Seller's quotation, or as the case may be.

Seller: P5 Garments Ltd T/A Winterbottom's Schoolwear (01638003), formally known as Winterbottom's Schoolwear Ltd, its successors or

- 1.2 The headings in these Conditions are for convenience only and shall not affect their interpretation.
- 1.3 A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- 1.4 Any phrase introduced by the terms including, include in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.5 A reference to writing or written includes faxes and emails.

 2. BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by the Buyer to purchase Goods in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Seller issues written acceptance of the Order at which point and on which date the Contract shall come into existence.
- 2.3 The Contract constitutes the entire agreement between the parties. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Seller which is not set out in the Contract.
- 2.4 Any samples, drawings, descriptive matter or advertising issued by the Seller and any descriptions of the Goods contained in the Seller's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.6 Any quotation given by the Seller shall not constitute an offer, and shall be for the current price and strictly limited to the type and quantity of Goods as stated in the quotation.
 2.7 Clause 14 shall apply to export terms and shall override any other
- terms in relation to export to the extent that there is any conflict between those terms and the provisions of clause 14.

- 3.1 The Goods are described in the Seller's catalogue as modified by any applicable specification.
- 3.2 The quantity, quality and description of and any specification for the Goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).

 3.3 To the extent that the Goods are to be manufactured in accordance
- with a specification supplied by the Buyer, the Buyer shall indemnify the Seller against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Seller in connection with any claim made against the Seller for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Seller's use of the specification. This clause 3.3 shall survive termination of the Contract.
- 3.4 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing. The Buyer acknowledges that it does not rely on, and waives any claim for breach of any such representations which are not so confirmed. 3.5 The Seller is unable to advise the Buyer on the fitness of the Goods for any particular purpose, their storage or application. Unless the Seller gives written advice or a written recommendation, the Buyer is entirely responsible for satisfying itself that the Goods are fit for the intended use

either by relying on their own expertise or by obtaining professional advice.

3.6 The Seller reserves the right to amend the specification if required by any applicable statutory or regulatory requirements. Dimensions and other physical properties of the Goods are subject to reasonable manufacturing tolerances.

3.7 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller and the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of any cancellation. However, from the date of the order, a 15-day cooling off period will be allowed during which cancellations or reducing the order will be accepted by the Seller without penalty. Without prejudice to the generality of the foregoing, should the Buyer purport without the agreement in writing of the Seller to cancel any order which has been accepted by the Seller or refuse to accept delivery of any of the Goods such action shall constitute a breach of the agreement and, at the option of the Seller, the Seller shall be entitled to require the Buyer to pay to the Seller by way of liquidated damages an amount equivalent to 60% of the invoice value of the order so purported to be cancelled or 60% of the invoice value of the Goods delivery of which is so refused (as the case may be). In the event of the Seller so requiring, the Buyer shall pay such amount to the Seller (without any deduction) within 10 days of receiving from the Seller written notification of the amount required to be paid. The Seller and the Buyer hereby agree that such amount represents a genuine pre-estimate of the monetary value of the loss and damage likely to be suffered by the Seller as a result of such breach of agreement on the part of the Buyer. For the avoidance of doubt, in the event that the Seller opts to require the Buyer to pay liquidated damages as set out above, and the Buyer duly pays such liquidated damages, neither party shall have any further liability to the other in relation to the Goods in respect of which such liquidated damages are paid.

3.8 In circumstances where the Buyer has entered into a Contract for the

purchase of Goods which are to contain a school logo, name, or other identifying feature, and/or are otherwise specific to a particular school, the Seller may, upon serving not less than 30 days' notice in writing to the Buyer, terminate the Contract in circumstances where the Seller has received a request from a school, should the school have decided to delist the Buyer as an approved supplier to it for whatever reason. The Buyer agrees and understands that the Seller shall not incur any liability to it for any losses (whether direct, indirect or consequential) as a result of the termination of a Contract under this clause 3.8.

4. DELIVERY OF GOODS

4.1 The Seller shall ensure that: (a) each delivery of the Goods is accompanied by a delivery note; and (b) if the Seller requires the Buyer to return any packaging material to the Seller, that fact is clearly stated on the delivery note. The Buyer shall make any such packaging materials available for collection at such times as the Seller shall reasonably

request. Returns of packaging materials shall be at the Seller's expense. 4.2 The Seller shall deliver the Goods to the location set out in the Order or such other location as the parties may agree ("Delivery Location") at any time after the Seller notifies the Buyer that the Goods are ready. Delivery shall be as near as possible to the Delivery Location, where the Seller believes that such place is suitable for unloading during the normal working hours of the Seller on a Business Day.

4.3 Where the Goods are delivered by the Seller, delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location. The Buyer shall be solely responsible for the unloading of the Goods and the Seller shall not be liable for any damage that occurs during such unloading. In the event that the same exceeds a period of one hour then

demurrage may be charged by the Seller to the Buyer.
4.4 Where the Goods are collected by the Buyer then delivery of the Goods shall be completed upon completion of the loading of the Goods. The Seller shall not be liable for any damage that occurs during the loading or unloading of the Goods.

4.5 Any claims by the Buyer in respect of alleged shortage or damage or loss in transit must be notified to the Seller within 24 hours of delivery and confirmed in writing within three days of delivery taking place. Any evident damage to external packaging must be the subject of an endorsement on the Seller's delivery note at the time of delivery. No claim can be made by the Buyer under this clause if an acceptance note relating to the Goods has been signed by the Buyer or his agent or employee without reference to the alleged damage, shortage or loss in transit.

4.6 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer. The Seller shall be entitled to make part delivery of the Goods at any time.

4.7 If the Seller fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Buyer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Seller shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event, the Buyer's failure to provide the Seller with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.

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4.8 If the Buyer fails to accept or take delivery of the Goods within seven Business Days of the Seller notifying the Buyer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by the Seller's failure to comply with its obligations under the Contract in respect of the Goods: (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the Business Day following the day on which the Seller notified the Buyer that the Goods were ready; and (b) the Seller shall store the Goods until delivery takes place, and charge the Buyer on an indemnity basis for all related costs and expenses (including insurance).

4.9 If 28 days after the Seller notified the Buyer that the Goods were ready for delivery the Buyer has not accepted or taken delivery of them, the Seller may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Buyer for any excess over the price of the Goods or charge the Buyer for any shortfall below the price of the Goods.

any shortfall below the price of the Goods.
4.10 The Seller may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.

4.11 The Seller shall be under no obligation to make any delivery of Goods to the Buyer if the Buyer is in breach of any of these Conditions.
4.12 The Seller will not be liable for any reasonable excesses and/or deficiencies in the quantity of Goods delivered up to a variation of 5% between the Goods ordered and the Goods delivered. Where such excess or deficiency is less than or equal to 5%, the Buyer is not entitled to reject such Goods on the grounds that they are not precisely as specified in the Order. Accordingly, the Buyer shall pay for such Goods on a pro rata basis.

4.13 Where the Goods being delivered are in excess of 5% the Buyer can choose to accept the Goods with a 25% discount on the agreed selling price for any stock sold over the 5% excess. If the Buyer decides not to accept the excess over 5% the Buyer shall return the excess and Seller has the right to sell the excess Goods to a third party.

4.14 Where the Buyer has placed a "Made to Order" purchase and the Seller has provided a specific date for delivery the Seller is entitled to deliver the product and raise a sales invoice for the product when the product is ready subject to it being delivered on or after the requested date. Any request by the Buyer for the Seller to hold stock on behalf of the customer will be accepted if the Seller confirms so in writing. Any acceptance of this request means that the Seller will hold stock on a call-off basis but at any point in time if the Seller provides notice in writing to the Buyer it may deliver any balance of stock the Seller wishes to the Customer and raise a sales invoice for the value it has delivered. For the avoidance of doubt the Seller can only deliver the number of garments up to the value that it has agreed to hold in stock for the Buyer less any previous deliveries. Generally, if a Buyer orders 'call-off stock' for a particular season the Seller would expect all stock to be called off by 30 September of that year but it is at the Seller's discretion whether it wants the Buyer to take the stock earlier.

4.15 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 24 hours of delivery and confirmed in writing within three days of delivery taking place. If delivery is not refused, and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

4.16 Any claim by the Buyer which is based on short delivery or non-delivery shall be notified to the Seller in writing (in the case of short delivery) within 7 days of delivery and (in the case of non-delivery) within 30 days of receipt by the Buyer of the Seller's invoice for the goods which the Buyer claims have not been delivered. If the Buyer does not notify the Seller accordingly the Buyer shall not be entitled to reject any goods that have been delivered and the Seller shall have no liability for such short delivery or non-delivery.

5. QUALITY OF GOODS

5.1 The Seller warrants that on delivery, the Goods shall: (a) be as described in the Seller's catalogue or in any specification as appropriate; (b) be free from material defects in design, material and workmanship; and (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979)

5.2 Subject to clause 5.3 if: (a) the Buyer gives notice in writing within 24 hours of delivery that some or all of the Goods do not comply with the warranty set out in clause 5.1; (b) the Seller is given a reasonable opportunity of examining such Goods; and (c) the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business at the Buyer's cost, then the Seller shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

5.3 The Seller shall not be liable for the Goods' failure to comply with the warranty in clause 5.1 if: (a) the Buyer makes any further use of such Goods after giving a notice in accordance with clause 5.2; (b) the defect arises because the Buyer failed to follow the manufacturer's oral or written instructions as to the storage, use or maintenance of the Goods or (if there are none) good trade practice; (c) the defect arises as a result of the Seller following any drawing, design or specification supplied by the Buyer; (d) the Buyer alters or repairs such Goods without the written consent of the Seller; (e) the defect arises as a result of fair wear and

tear, wilful damage, negligence, or abnormal working or wearing conditions; or (f) the Goods differ from the specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards; or (g) the Buyer has not paid in full for the Goods. 5.4 Except as provided in this clause 5.4, the Seller shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.

5.5 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Seller under clause 5.2.

6. RETURNS

6.1 The Buyer may return Goods delivered to and accepted by it subject to the prior agreement of the Seller acting in its entire discretion and on issue of a valid Goods return number and the Goods being in the same condition as they were on delivery. Payment of a handling charge as specified by the Seller will need to be borne by the Buyer.

6.2 Returned Goods will only be accepted at the entire discretion of the Seller and will not be accepted where:

- · Goods are damaged by incorrect care/ handling by the Buyer or,
- Goods have suffered normal wear and tear, accident or mishandling or
 Goods are shop soiled or have discoloured due to lengthy periods in store or
- · Goods are discontinued styles
- · Goods are Made to Order or otherwise bespoke in nature and/ or,
- · The Buyer has changed their mind or placed an incorrect order.

6.3 Goods returned at the Buyer's request not on the Seller's own vehicle shall be at the Buyer's risk regarding insurance for a value not less than the full invoice price.

6.4 Subject to clause 5 specifically ordered or non-stock items are not returnable.

6.5 Costs of collection and re-delivery of replacement items will be met by the Buyer unless attributable to the negligence of the Seller. Only Goods returned in saleable condition can be accepted for credit. The Seller reserves the right to levy a re-stocking and handling charge. All returns must be sanctioned by the Seller prior to Goods being brought back.

7. TITLE AND RISK

7.1 The risk in the Goods shall pass to the Buyer on completion of delivery where the Goods are delivered by the Seller. Where the Goods are collected by the Buyer, the risk in the Goods shall pass to the Buyer when the employees or agents of the Seller have completed lading to the satisfaction of the vehicle's driver.

7.2 Title to the Goods shall not pass to the Buyer until the Seller has received payment in full (in cash or cleared funds) for: (a) the Goods; and (b) any other goods that the Seller has supplied to the Buyer.

7.3 Until title to the Goods has passed to the Buyer, the Buyer shall: (a) hold the Goods on a fiduciary basis as the Seller's bailee; (b) store the Goods separately from all other goods held by the Buyer so that they remain readily identifiable as the Seller's property; (c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods; (d) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Seller's behalf from the date of delivery; (e) notify the Seller immediately if it becomes subject to any of the events listed in clause 12.1; and (f) give the Seller such information relating to the Goods as the Seller may require from time to time, but the Buyer may resell or use the Goods in the ordinary course of its business provided that any such sale of the Goods shall take place as the Seller's bailee and that the entire proceeds of sale are held in trust for the Seller and shall not be mingled with other monies or paid into any overdrawn bank account.

7.4 If before title to the Goods passes to the Buyer the Buyer becomes subject to any of the events listed in clause 12.1, or the Seller reasonably believes that any such event is about to happen and notifies the Buyer accordingly, then, provided the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Seller may have, the Seller may at any time require the Buyer to deliver up the Goods and, if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the Goods are stored in order to recover them.

8. BUYER'S OBLIGATIONS

8.1 The Buyer shall: (a) ensure that the terms of the Order and any specification are complete and accurate; and (b) in the event that the Goods do not accord with the Order, the Buyer must notify the Seller within the time period in clause 5.2, failing which the Buyer will be deemed to have accepted the Goods.

9. CHARGES AND PAYMENT

9.1 The price of the Goods shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list current at the date of acceptance of the Order. Where the Goods are supplied for export from the United Kingdom, the Seller's published export price list relating to the country of destination shall apply. All prices quoted are valid for 30 days only or such lesser period as shall be stated by the Seller on the face of the relevant quotation or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer. 9.2 The Seller reserves the right to increase the price of the Goods by giving notice to the Buyer at any time before delivery, to reflect any increase in the cost of the Goods to the Seller that is due to: (a) any factor beyond the control of the Seller (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and

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other manufacturing costs); (b) any request by the Buyer to change the delivery date(s), the number of deliveries, quantities or types of Goods ordered, or any specification; or (c) any delay caused by any instructions of the Buyer in respect of the Goods or failure of the Buyer to give the Seller adequate or accurate information or instructions in respect of the Goods

9.3 Subject to any special terms agreed in writing between the Buyer and the Seller the Seller shall be entitled to invoice the Buyer for the price of the Goods at any time before or after delivery of the Goods.
9.4 If:-

9.4.1 no credit facilities have been approved by the Seller, all invoices are payable net by credit card or on a pro-forma basis prior to delivery 9.4.2 credit facilities have been approved by the Buyer, invoices are payable by bank transfer to credit the Seller's bank account on or before

the 20th of the month following the date of the invoice for the Goods, and the Buyer shall pay all invoices without any other deductions notwithstanding that delivery may not have taken place and the property in the Goods has not been passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

9.5 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:

9.5.1 cancel the contract or suspend any further deliveries to the Buyer;
9.5.2 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer) and

9.5.3 charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of 5 per cent per annum above HSBC base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest)

being treated as a full month for the purpose of calculating interest).

9.6 In the event that the Seller shall cancel the Contract under the provisions of Clause 9.5.1 above the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of such cancellation. Without prejudice to the generality of the foregoing, at the option of the Seller, the Seller shall be entitled to require the Buyer to pay to the Seller by way of liquidated damages an amount equivalent to 60% of the invoice value of the Contract so cancelled. In the event of the Seller so requiring, the Buyer shall pay such amount to the Seller (without any deduction) within 10 days of receiving from the Seller written notification of the amount required to be paid. The Seller and the Buyer hereby agree that such amount represents a genuine pre-estimate of the monetary value of the loss and damage likely to be suffered by the Seller as a result of such cancellation.

9.7 Where payments are made that are not against specific invoices it is at the Seller's discretion against what invoices the payments will be set off against. In most cases payments will be used to set off against the oldest invoices first. Where possible the Buyer is asked to make payment against specific invoices and on the payment dates specified on the invoices.

9.8 The Seller shall have the right to invoice the Buyer by e-mail where the Buyer has consented to invoices being submitted in this manner. Where invoices are sent out using electronic mail they will be deemed to have been received by the Buyer on the date when they are sent provided that the electronic mail is transmitted between the hours of 9.00am and 5.00pm on a Business Day. If the invoice is sent by e-mail from the Seller to the Buyer outside of the above times then the Buyer will be deemed to have received the invoice on the next Business Day.

9.9 The Buyer shall pay each invoice submitted by the Seller in full and in cleared funds to a bank account on the Invoice or as otherwise notified in writing by the Seller, and time for payment shall be of the essence of the Contract.

9.10 All amounts payable by the Buyer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time ("VAT"). Where any taxable supply for VAT purposes is made under the Contract by the Seller to the Buyer, the Buyer shall, on receipt of a valid VAT invoice from the Seller, pay to the Seller such additional amounts in respect of VAT as are chargeable on the supply of the Goods at the same time as payment is due for the supply of the Goods.

9.11 The Buyer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Buyer shall not be entitled to assert any credit, set-off or counterclaim against the Seller in order to justify withholding payment of any such amount in whole or in part. The Seller may, without limiting its other rights or remedies, set off any amount owing to it by the Buyer against any amount payable by the Seller to the Buyer.

9.12 Non-payment by the Buyer by the due date for payment shall entitle the Seller to demand payment of all outstanding balances under the Contract or any other contract or agreement between the parties whether due or not and to cancel forthwith any outstanding orders and credit facilities without prejudice to all other rights the Seller may have.

9.13 The Buyer must pay to the Seller all and any reasonable expenses and legal costs incurred by the Seller in taking any steps, including Court action, to enforce the Buyer's obligations under the Contract for the payment of any monies owed by the Buyer to the Seller.

10. CONFIDENTIAL INFORMATION

Neither party shall during and after termination of this Contract, without the prior written consent of the other party use or disclose to any other party any information of the other party which is identified as confidential or which is confidential by its nature. This clause 10 shall survive termination of the Contract.

11. LIMITATION OF LIABILITY: THE BUYER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

11.1 Nothing in these Conditions shall limit or exclude the Seller's liability for: (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; (b) fraud or fraudulent misrepresentation; (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); (d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or (e) defective products under the Consumer Protection Act 1987.

11.2 Subject to clause 11.1: (a) the Seller shall under no circumstances whatever be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and (b) the Seller's total liability to the Buyer in respect of all other losses arising under or in connection with the Contract, the total connection with the Contract, the contract to the final contract, the contract of statutory duty, or otherwise, shall in no circumstances exceed the Contract Price.

11.3 Where the Goods are sold under a consumer transaction (as defined by the Unfair Terms in Consumer Contracts Regulations 1999) the statutory rights of the Buyer are not affected by these Conditions.

11.4 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

11.5 This clause 11 shall survive termination of the Contract.

12. TERMINATION

12.1 Without limiting its other rights or remedies, the Seller may terminate the Contract with immediate effect by giving written notice to the other party if: (a) the Buyer defaults in any of its payment obligations; (b) the Buyer commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 10 days after receipt of notice in writing of the breach; (c) any distress or execution is levied upon any assets of the Buyer; (d) a winding up petition is filed in relation to the Buyer, or where the Buyer is an individual, they become subject to a bankruptcy petition or order; (e) the Buyer makes a resolution for its winding up, makes an arrangement or composition with its creditors or makes an application to a Court of competent jurisdiction for protection from its creditors or an administration or winding up order is made or an administrator or receiver is appointed in relation to the Buyer; (f) the financial position of the Buyer deteriorates to such an extent that in the opinion of the Seller the capability of the Buyer adequately to fulfil its obligations in accordance with the Contract has been placed in jeopardy; or (g) the Buyer suspends, or threatens to suspend, payment of its debts and/or threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business

12.2 Without limiting its other rights or remedies, the Seller may terminate the Contract: (a) by giving the Buyer 14 days' written notice; or (b) with immediate effect by giving written notice to the Buyer if the Buyer fails to pay any amount due under this Contract on the due date for payment.

12.3 Without limiting its other rights or remedies, the Seller shall have the right to suspend all further deliveries of Goods under the Contract or any other contract between the Buyer and the Seller if: (a) the Buyer fails to pay any amount due under this Contract on the due date for payment; or (b) the Buyer becomes subject to any of the events listed in clause 12.1, or the Seller reasonably believes that the Buyer is about to become subject to any of them.

12.4 This clause also applies if:

. the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or

. an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or

. the Buyer ceases, or threatens to cease, to carry on business; or the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

13. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason: (a) the Buyer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest; (b) the accrued rights and remedies of the Seller as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and (c) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

14. EXPORT TERMS

14.1 In these Conditions 'Incoterms' means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same

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meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.

- 14.2 Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 14 shall (subject to any special terms agreed in writing between the Buyer and the Seller) apply, notwithstanding any other provisions of these conditions.
- 14.3 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and notifying to the Seller the requirements of any such legislation or regulations requiring action on the part of the Seller and for the payment of any duties in connection with the Goods.
- 14.4 Unless otherwise agreed in writing between the Buyer and the Seller the Goods shall be delivered "Free On Board/ FOB" from the air or sea port of shipment and the Seller shall be under no obligation to give notice under section 32(3) of the Sale of the Goods Act 1979.
- 14.5 The Buyer shall be responsible for arranging for testing and inspection of the Goods at the Seller's premises before shipment. The Seller shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of damage during transit.

15 GENERAL

- 15.1 Force majeure:
- (a) For the purposes of this Contract, "Force Majeure Event" means an event beyond the reasonable control of the Seller including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the party or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or by any failure of the Seller's subcontractors to supply the Seller.
- (b) The Seller shall not be liable to the Buyer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Maieure Event.
- (c) If the Force Majeure Event prevents the Seller from providing any of the Goods for more than 14 days, the Seller shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Buyer.
- 15.2 Assignment and subcontracting:
- (a) The Seller may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.
- (b) The Buyer shall not, without the prior written consent of the Seller, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 15.3 Data and Data Protection:
- (a) The Seller may use any information that the Buyer has provided to the Seller to enable a search to be made with credit reference agencies to assess the creditworthiness of the Buyer and to search against any personal credit records of all directors and/or proprietors of the Buyer (in respect of which the Buyer confirms that all necessary consents from the individuals have been obtained) where the Buyer has sought or has entered into credit terms with the Seller. Such searches may include a search against current or previous addresses in the last three years
- (b) For the purposes of credit referencing, fraud prevention and any money laundering regulations that may apply, the Seller may share the account information and trade history with other lenders and credit reference agencies. The Seller may from time to time review the account of the Buyer, and further searches of credit reference agencies and/or personal credit record searches may be undertaken by the Seller.
- (c) Under the Data Protection Act 2018 those individuals referred to at clause 14.3(a) above have the right to apply for a copy of the information about them held by the Seller, and have the right to correct any inaccuracies in any such information held.
- 15.4 Confidential Information:

Either party may disclose the Confidential Information of the other:

- . when required to do so by law or any regulatory authority, provided that party required to disclose the Confidential Information, where practicable and legitimate to do so:
- . promptly notifies the owner of any such requirement; and . co-operates with the owner regarding the manner, scope or timing of such disclosure or any action that the owner may take to challenge the validity of such requirement; and
- . to its (or any of its associated company's) personnel, sub-contractors' personnel or any person whose duties reasonably require such disclosure, on condition that the party making such disclosure ensures that each such person to whom such disclosure is made:
- . Is informed of the obligations of confidentiality under these terms and conditions: and
- complies with those obligations as if they were bound by them.
- 15.5 Intellectual Property:
- All trademarks and trade names (including without limitation "Winterbottom's" "Winterbottom's Schoolwear" and/ or "P5 Garments"), logos, copyright in any images, brochures, technical patterns, fits and all other intellectual property rights which belong to the Seller ("IP") shall remain in the ownership of the Seller. Nothing in these terms and conditions transfer any rights or grants any licences for the Buyer to use any such IP whether for marketing purposes or any other use. If the Buyer wishes to use any of the IP it must get the Seller's permission in writing

- and sign the relevant licence agreement. 15.6 Waiver and cumulative
- (a) A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by the Seller in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict
- the further exercise of that or any other right or remedy.
 (b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law. 15.7 Severance:
- (a) If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- (b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable
- 15.8 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.
- 15.9 Third parties: A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 15.10 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by the
- 15.11 Governing law and jurisdiction: This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of **England and Wales**