

## GENERAL CONDITIONS OF PURCHASE

### 1 INTRODUCTION

- 1.1 These general conditions of purchase (the "**Conditions**") set out the terms and conditions that will always apply to the purchase of Products and Services by WSM from the Supplier unless WSM and the Supplier have expressly agreed otherwise in writing.
- 1.2 Each Purchase Order shall constitute a separate agreement between the Supplier and WSM's customer for whom WSM is acting as agent, or WSM if acting in their own name, and shall be deemed to incorporate these Conditions and any Additional Terms (if applicable). If there is any conflict, ambiguity or inconsistency with such documents then the following order of precedence shall apply: (a) the Additional Terms (if any); (b) the terms of the Purchase Order; and (c) these Conditions.

### 2 DEFINITIONS AND INTERPRETATION

- 2.1 The following expressions shall have the following meanings in these Conditions:

"**Additional Terms**" means any additional terms and conditions which WSM and the Supplier have agreed in writing shall be applicable to Purchase Orders such as a 'supplier agreement', 'framework agreement', 'form of agreement', 'servicing agreement' or other similar document signed by WSM and the Supplier;

"**Affiliate**" means, with respect to a Party, all Persons: (i) exercising Control, directly or indirectly, over such Party; (ii) over whom such Party exercises Control, directly or indirectly, or commonly exercises Control with other Persons; or (iii) commonly Controlled with such Party; "**Agreement**" means in relation to the Work, collectively these Conditions, the Purchase Order and the Additional Terms (if any), together with all schedules and appendices referred to in each of those documents;

"**Applicable Business Ethics Laws**" means any laws, regulations and/or other legally binding requirements or determinations in relation to bribery, corruption, fraud, tax evasion, money-laundering, terrorism, sanctions, collusion bid-rigging or anti-trust, human rights violations (including forced labour and human trafficking) use of conflict minerals or similar activities which are applicable to either Party or to any jurisdiction in which activities are performed and which shall include: (i) the United Kingdom Bribery Act 2010, (ii) the United States Foreign Corrupt Practices Act (FCPA), 1977, (iii) any related enabling legislation pursuant to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and (iv) any United States, United Nations or European Union sanctions.

"**Control**" and "**controlled**" means: (i) holding beneficially at least fifty per cent (50%) of the issued share capital of such other entity; or (ii) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to: (a) cast, or control the casting of, at least fifty per cent (50%) of the maximum number of votes that might be cast at a general meeting of such other entity; or (b) appoint or remove all, or the majority, of the directors or other equivalent officers of such other entity; or (c) give directions with respect to the operating and financial policies of such other entity with which the directors or other equivalent officers of such entity are obliged to comply;

"**Confidential Information**" means in relation to each Party, all information of a confidential nature relating to the business and/or operations of that Party or its Affiliates (whether such information is disclosed in writing, by delivery of items, orally, by visual presentation, by means of providing access to such information (when, for example, the information is contained on a database or otherwise)) including but not limited to: (i) any such information subsisting in any Intellectual Property Rights of that entity; (ii) any such information which is commercially sensitive or price sensitive; (iii) the business, finances, systems or other affairs of the that entity and (iv) the provisions of these Conditions, any Additional Terms and the content of any Purchase Order;

"**Customer**" shall have the meaning given in the Additional Terms or, if not defined in the Additional Terms, means a third party customer of WSM, pursuant to a management agreement or otherwise

whereby WSM agrees (amongst other things) to procure the Products and/or Services on such customer's behalf or for such customer.

"**Cyber Security Risks**" means any threatened or actual security breach to a Party or its Affiliates' IT systems and data including any cyberattack, unauthorized access of data, and/or any disruption, circumvention, misuse, impairment, loss, destruction, damage or other harm to a Party or its Affiliates";

"**Delivery**" means completion of delivery of Products in accordance with the Agreement;

"**Intellectual Property Rights**" means: (i) patents, designs, trademarks and trade names (whether registered or unregistered), copyright and related rights, database rights, knowhow and Confidential Information; (ii) all other intellectual property rights and similar or equivalent rights anywhere in the world which currently exist or are recognized in the future; and (iii) all applications, extensions and renewals in relation to any such rights;

"**Party**" shall mean either WSM or the Supplier (as applicable), together the "**Parties**";

"**Person**" means any natural person, corporation, limited partnership, general partnership, joint stock company, joint venture, association, company, trust, bank, trust company and any other organization, whether or not a legal entity;

"**Products**" means the goods and/or products to be supplied by the Supplier as set out in the Purchase Order;

"**Public Official**" means (i) any official or employee of any government agency or government-owned or controlled enterprise; (ii) any person performing a public function; (iii) any official or employee of a public international organization; (iv) any candidate for political office; or (v) any political party or an official of a political party;

"**Purchase Order**" means an order for Products and/or Services submitted in writing by WSM to the Supplier which shall incorporate these Conditions and the Additional Terms (if applicable);

"**Purchase Order Number**" means the reference number assigned by WSM;

"**Purchase Price**" shall mean the amount payable to the Supplier for the Work;

"**Sanctioning Body**" means the United Nations, the European Union, the United Kingdom, the United States of America, Norway, any Member State of the European Union and/or the flag state of any Customer vessel(s) identified in the Agreement, and/or any authority acting by or on their behalf in connection with Sanctions Laws.

"**Sanctions Laws**" means applicable sanctions laws, orders, regulations, trade and/or export embargoes, trade and/or export controls, prohibitions, restrictive measures, decisions or executive orders, imposed, administered, enacted and/or enforced by a Sanctioning Body from time to time.

"**Services**" shall mean any services which are identified in a Purchase Order as being to be provided by the Supplier or which are reasonably required or incidental to the provision of the Products;

"**SHE Guidelines**" means the safety guidelines imposed by the relevant Customer and provided by WSM to the Supplier in writing;

"**Supplier**" shall have the meaning given in the Additional Terms or, if not defined in the Additional Terms, means the entity that receives a Purchase Order to supply Products and/or Services;

"**VAT**" means value added tax, sales tax or similar;

"**Work**" shall mean all work to be performed by the Supplier in accordance with the Agreement and

shall include the provision of all Products and/or Services and any other work to be rendered in accordance with the Agreement;

"WSM" means Wilhelmsen Global Services unless otherwise defined in the Additional Terms, acting, as identified in the relevant Purchase Order, directly or as agent on behalf of the Customer;

"WSM Code of Business Conduct and Ethics" means the code of conduct set out at: <https://www.wilhelmsen.com/about-wilhelmsen/governing-elements/code-of-conduct/> as may be amended from time to time;

"WSM Group" means WSM and WSM's Affiliates.

- 2.2 References to "Conditions" are to the provisions in these Conditions. The Condition headings are for convenience only and shall not affect the interpretation of these Conditions. Any phrase introduced by the expressions "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. A reference to "writing" or "written" includes faxes and for the purposes of issuing Purchase Orders only, also includes email and e-commerce portals.

### 3 SUPPLY OF THE PRODUCTS AND SERVICES

- 3.1 The Supplier shall supply such quantities of Products and Services as set out in the Purchase Order in accordance with the Agreement.
- 3.2 The Supplier shall confirm the Purchase Order in writing within 2 (two) working days of receipt of the Purchase Order. The Supplier and WSM shall use the relevant Purchase Order Number assigned in all subsequent correspondence relating to the Agreement.
- 3.3 The order confirmation shall always state the Purchase Price, and the time and place of delivery. However, for the avoidance of doubt, the purchase order confirmation cannot vary the terms of the Agreement and any statement in the confirmation or any other document issued by the Supplier to the contrary shall have no effect.
- 3.4 The Supplier shall at its own cost and risk maintain a reasonable stock for each of the Products to be supplied in quantities sufficient to meet WSM's reasonable requirements and estimated purchase orders (if any). WSM shall not be obliged to order Products from the Supplier and may order products identical or similar to the Products from any third party.
- 3.5 Where the Supplier provides (or is to provide) Services and/or Products, the Supplier and/or its subcontractor(s) shall:
- a) co-operate with WSM in all matters relating to the Work and provide all information (including documents), quotations and specifications reasonably requested by WSM to facilitate the provision of the Services and/or Products;
  - b) procure and maintain at its own expense all tools and equipment required to perform the Work;
  - c) exercise all reasonable skill, care, diligence and proper professional and technical expertise and judgement in its performance of the Work;
  - d) observe, and ensure that the Supplier's and its sub-contractors' personnel observe, all health and safety rules (including SHE Guidelines) and regulations and any other security requirements that apply at any location where the Work is performed;
  - e) familiarize themselves with the location of any hazards which might be encountered in the performance of the Work and take full responsibility for the safety and adequacy of all its operations and methods;
  - f) notify WSM if the Supplier is aware of any defect and/or quality issue related to the Services

and/or Products to be provided;

- g) obtain, and at all times maintain, all necessary licenses, insurances and consents and comply with all relevant legislation applicable to the provision of the Services and/or Products;
- h) comply with the Wilhelmsen Code of Business Conduct and Ethics (<https://www.wilhelmsen.com/about-wilhelmsen/governing-elements/code-of-conduct/>);
- i) comply with the Wilhelmsen Supplier Code of Conduct (<https://www.wilhelmsen.com/about-wilhelmsen/governing-elements/supplier-code-of-conduct/>) ; and
- j) comply with all relevant legal requirements and all applicable laws including Sanctions Laws.

#### **4 MANUFACTURE AND QUALITY ASSURANCE INSPECTION/VERIFICATION**

- 4.1 The Supplier shall manufacture, pack and supply the Products in accordance with: (i) ISO 9001:2008 and any other ISO standard that may apply to the Products; and (ii) all generally accepted industry standards and practices that are applicable.
- 4.2 The Supplier shall ensure that the Products are properly packed and secured in such manner as to enable them to reach their destination in good condition including ensuring that any packaging materials (including wooden packing material such as pallets) used for shipments comply with all applicable statutory and regulatory requirements.
- 4.3 WSM shall be entitled to perform such inspections and factory acceptance tests, as WSM deems necessary to establish that the Products are produced and/or supplied in accordance with the Agreement, including but not limited to examining and verifying the Supplier's quality assurance system and/or its sub-contractors. Such inspections may be performed at the Supplier's and/or the Supplier's sub-contractors' premises (and the Supplier will procure cooperation from its sub-contractor when required by WSM. The Supplier shall procure or provide WSM with necessary assistance in performing such inspections and factory acceptance tests.
- 4.4 The Supplier shall on request furnish WSM with copies of any test reports, material certificates, calculations, etc., that are in the Supplier's possession.
- 4.5 Any such inspection or factory acceptance tests performed will not exempt the Supplier from its responsibility for the Products or Services in accordance with any Purchase Order.
- 4.6 All Products supplied shall be fully compliant with IMO Resolution MEPC 269(68). The Supplier shall provide material declarations and supplier declarations of conformity in accordance with the requirements of and guidance in IMO Resolution MEPC 269(68), Regulation (EU) No 1257/2013 and the European Maritime Safety Agency's (EMSA's) Best Practice Guidance on the Inventory of Hazardous Materials.

#### **5 DELIVERY**

- 5.1 The Supplier shall ensure that Products and Services shall be supplied in accordance with the timeframes specified in the Purchase Order (or in the Additional Terms if applicable). Time shall be of essence in relation to the Work.
- 5.2 Each delivery pursuant to a Purchase Order shall be accompanied by a delivery note from the Supplier showing the Purchase Order Number, the date of the Purchase Order, the type and quantity of Products included in the Purchase Order.
- 5.3 The Purchase Order will set out the applicable terms for delivery. Unless otherwise stated in the Purchase Order, the terms of delivery shall be interpreted in accordance with Incoterms® 2020. If no specific delivery method is specified in the Purchase Order or Additional Terms (if applicable), the delivery

method will be DDP (Delivered Duty Paid) at a place reasonably specified by WSM.

- 5.4 The title to and risk (subject to any warranty claims or antecedent defects) in the Products delivered shall pass to WSM on Delivery.
- 5.5 The Supplier shall ensure that the Work is performed in a prompt, diligent, skillful, fit for purpose and workmanlike manner.
- 5.6 Except to the extent that it may be legally or physically impossible or create a hazard to safety, the Supplier shall comply with WSM's instructions and directions on all matters relating to the Work. The Supplier shall, without delay, provide to WSM all information affecting the Work which WSM may reasonably require.
- 5.7 Unless otherwise agreed, the Supplier shall be responsible for the inspection and testing of all materials, equipment and workmanship required for the Work. All such inspection and testing shall be performed by the Supplier at the Supplier's expense.

## **6 DELAY**

- 6.1 If the Supplier has reason to believe that delivery and/or performance will be delayed, the Supplier shall, without unnecessary delay and latest within 2 (two) working days of becoming aware of the actual or potential delay, inform WSM, by written notification, about the delay. This notification shall give information of (i) the reason for and the expected duration of the delay; and (ii) action(s) taken to avoid, limit or remedy the delay.
- 6.2 If the Work is not delivered or completed or commenced at the time and dates specified in the Agreement, WSM is entitled to liquidated damages from the date on which delivery or completion should have taken place. Unless otherwise specified in the Agreement, the liquidated damages shall be payable at a rate of 0.5% of the total Purchase Price for the delayed Products and/or Services for each day of delay. Unless otherwise specified in the Agreement, the liquidated damages shall not exceed the amount specified in the Purchase Order (or if such amount is not specified, 10% of the total value of the Purchase Price). All amounts of such liquidated damages for which Supplier may become liable are agreed as a genuine pre-estimate of the losses which may be sustained by WSM in the event that Supplier fails in its respective obligations under the Agreement and not a penalty.
- 6.3 If the delay in delivery is such that WSM is entitled to maximum liquidated damages under Condition 6.2, WSM may by notice in writing to the Supplier terminate the Agreement. If WSM terminates the Agreement it shall be entitled, in addition to the maximum liquidated damages, to claim compensation for the losses it has suffered as a result of Supplier's delay and to retain any other rights which it may have at law.

## **7 REJECTION**

- 7.1 If any Products delivered do not comply with the Purchase Order on Delivery, then without prejudice to any other right or remedy that WSM may have, WSM may reject those Products and: (i) obtain substitute products from a third party supplier, or have the rejected Products repaired by a third party, and the Supplier shall reimburse WSM for the costs and expenses it reasonably incurs in doing so; (ii) require the Supplier to repay the Purchase Price of the rejected Products in full (whether or not WSM has previously required the Supplier to repair or replace the rejected Products); and/or (iii) claim damages for any other costs, expenses or losses resulting from the Supplier's delivery of Products that are not in conformity with the Purchase Order.
- 7.2 These Conditions shall apply to any repaired or replacement Products supplied by the Supplier.
- 7.3 The making of any payment at any time shall not prejudice WSM's right of rejection.

## **8 PURCHASE PRICES, PAYMENT**

- 8.1 The Purchase Price is inclusive of the costs of packaging, packing, labelling, delivery (and all associated delivery costs), export documents, invoicing and insurance. In no event shall WSM be responsible for

any fees, charges or expenses not expressly provided for in the Purchase Order.

- 8.2 An invoice for Work may only be raised following Delivery of the Products or performance of the Services (as applicable).
- 8.3 Each invoice shall set out the Purchase Price (or part thereof) payable, quote the relevant Purchase Order Numbers and any other information reasonably requested by WSM. All invoices shall be addressed as follows:
- The Owners of “Vessel Name”  
Wilhelmsen Ship Management Singapore Pte. Ltd.  
1 Kim Seng Promenade  
#15-07/07A/08/09, Great World City West Tower,  
Singapore 237994
- 8.4 Please upload all invoices to our Eyeshare Supplier Portal <https://supplierportal-wsm.eyeshare.no>, quoting the relevant PO No. and vessel name
- 8.5 Subject to the other provisions in this Condition 8, WSM shall arrange for payment of each invoice to be made within the payment terms agreed with the supplier, subject to the supplier submitting their invoice to WSM on the invoice date, in accordance with this Condition 8. The supplier acknowledges that late submission of invoices by suppliers may result in payment delays.
- 8.6 Where, as identified in the relevant Purchase Order, WSM is acting as an agent on behalf of its Customer, payment of such invoices will be made either directly by the Customer or by WSM on behalf of the Customer subject to WSM having received cleared funds from the Customer. For the avoidance of doubt, WSM shall have no liability whatsoever towards the Supplier for payment of such invoices.
- 8.7 If there is any dispute relating to any invoice or other statement of payments due, WSM shall notify the Supplier in writing and the Supplier shall provide all such evidence as may be reasonably necessary to verify the disputed invoice or request for payment. Where only part of an invoice is disputed, the undisputed amount shall be paid in accordance with this Condition 8 provided that WSM has received from the Supplier a revised invoice in respect of the undisputed amount. The Supplier's obligations to supply the Products and/or provide Services shall not be affected by any payment dispute.
- 8.8 Unless otherwise stated in the Purchase Order, the Purchase Price is exclusive of amounts in respect of VAT, sales tax or similar taxes. Any such tax if imposed shall be separately stated on the applicable invoice.
- 8.9 WSM shall have no liability to pay any tax, duty, levy or charge of any kind imposed by any state or state authority by reason of the purchase of the Products and/or Services other than (i) in accordance with Condition 8.8 in circumstances where WSM is contracting with the Supplier directly rather than as an agent on behalf of the Customer and (ii) tax on its overall net income, profits and gains imposed in a state in which WSM is based for tax purposes.
- 8.10 The Supplier shall bear the cost and be responsible for making all necessary arrangements for and the payment of all import and re-export charges including, but not limited to, customs' duties, fees, licenses, import tariffs or similar charges imposed, including any brokerage fees and other ancillary fees in connection therewith on any Product imported and employed or used by the Supplier in the performance of the Work.
- 8.11 The Supplier shall pay and be responsible for all taxes including withholding tax, assessed or levied against or on account of salaries or other benefits paid to the Supplier's employees, its agents and representatives imposed by any governmental authority having jurisdiction over the Supplier and/or the Work
- 8.12 WSM may, without limiting any other rights or remedies it may have, set off any amounts owed by the Supplier against any amounts payable to the Supplier.
- 8.13 Supplier agrees that any dispute that may arise under the Agreement shall not affect any other purchase



orders placed by WSM and/or any WSM Affiliate.

## 9 WARRANTIES

- 9.1 The Supplier represents and warrants that Products supplied by the Supplier:
- a) shall function in accordance with and comply with the Agreement;
  - b) are new, unless agreed otherwise;
  - c) offer the properties, quality and characteristics held out by the Supplier;
  - d) are suitable and fit for any purpose (i) held out by the Supplier, (ii) intended by WSM or the Customer and made known to the Supplier, or (iii) for which similar Products are commonly supplied;
  - e) are free from defects, design faults, construction faults, material faults and workmanship faults;
  - f) are unencumbered by rights of third parties;
  - g) comply with their drawings and specification;
  - h) comply with all applicable statutory and other regulatory requirements including, but not limited to, environment and working conditions, and do not contain prohibited substances and/or preparations; and
  - i) are complete and ready for use and that all auxiliary items that are required for good operation are supplied as part of the delivery, even if not specifically ordered.
- 9.2 The Supplier represents and warrants the Products in accordance with Condition 9.1 for a period of 24 months from the date on which the Products were first put to their intended use by the Customer, unless agreed by the Parties in writing otherwise or the Supplier offers a longer period as standard, in which case the Supplier's standard period applies.
- 9.3 The warranty period for the delivered Products shall be extended by the period during which the Products are out of operation or during which putting them into operation has been delayed as a result of any defect to which this warranty applies.
- 9.4 Following discovery of a defect, WSM may submit a complaint to the Supplier no later than 30 days after the defect was discovered.
- 9.5 Without prejudice to Condition 7.1, if the Products suffer from a defect and/or are non-compliant with Condition 9.1, the Supplier shall repair or replace the defective item at WSM's option. Where a repair is required this will be conducted at a location reasonably specified by the WSM. All delivery costs associated with a repair or replacement of defective Products shall be at the Supplier's expense. If the Supplier is unable to remedy the defect within a reasonable time, WSM shall, having given the Supplier notification to this effect, be entitled to perform or arrange the performance of the remedying of the defect and/or to cancel the Purchase Order (or the relevant part thereof) and be refunded for sums paid by WSM and/or the Customer (as applicable). All necessary costs in connection with remedying the defect shall be paid by the Supplier.
- 9.6 If the Supplier has replaced or repaired the Products, the Supplier warrants that the replaced or repaired Products shall be free from defects and shall comply with Condition 9.1 for a further period of twelve (12) months from the date of replacement or conclusion of the repairs, unless the remaining part of the warranty period pursuant to Condition 9.2 is longer, in which case such longer period shall be deemed to run for the repaired or replaced Products from the date of repair or replacement.
- 9.7 The Supplier warrants that the Work shall be performed in accordance with all applicable laws, SHE Guidelines as well as the WSM Code of Conduct and Business Ethics.

- 9.8 The Supplier represents and warrants that it and its Affiliates have established and implemented all reasonable and prudent measures for the prevention and mitigation of Cyber Security Risks, and that it shall cause its subcontractors (if any) to implement and maintain all reasonable and prudent measures for the prevention and mitigation of Cyber Security Risks. In case of a cyber-attack, the Supplier shall advise WSM within 48 hours of such an attack taking place. The supplier warrants that it shall provide adequate support to restore any affected Operational Technology system supplied by the supplier to its pre-attack condition.

## 10 INTELLECTUAL PROPERTY

- 10.1 All Intellectual Property Rights to materials and designs belonging to a party prior to the execution of the Agreement shall remain the property of such party.
- 10.2 The Supplier hereby grants to WSM and the Customer a perpetual, non-exclusive, transferable, royalty free, irrevocable license to use the Intellectual Property Rights in the Products and any related documentation or information supplied or made available in relation to the Products.
- 10.3 Notwithstanding anything to the contrary, all Intellectual Property Rights in the results of the Work shall vest solely in WSM, including the right to modify and transfer any copyrighted materials. These rights are transferred by the Supplier to WSM immediately and unconditionally from such time as these are developed, and this transfer is accepted immediately by WSM. Insofar as a further (official) document is required for the transfer of such rights, the Supplier shall cooperate unconditionally with the transfer of such rights to WSM at WSM's first request. In order to fulfil its obligations under this Condition 10, the Supplier undertakes to ensure that all Intellectual Property Rights that originate from staff members are assigned to WSM.
- 10.4 The Supplier shall indemnify WSM and its contracting parties against all claims which are based on the allegation that the Products, the results of the Work, or the use or sale thereof, or in relation to goods used by the Supplier during execution of the Agreement, infringes upon any Intellectual Property Rights belonging to a third party. Additionally, if WSM is prevented from utilising its right to use (the results of) the Work or the Products as a result of infringement of Intellectual Property Rights, the Supplier shall be liable either to ensure that WSM acquires such rights or to modify the Service and/or the Products (in a manner that does not reduce the functionality of the Service and/or the Products in any significant respect) such that there is no longer an infringement.
- 10.5 The Parties agree that, except as expressly provided to the contrary, this Agreement does not transfer ownership of, or create any licenses (implied or otherwise), in any Intellectual Property Rights.

## 11 INDEMNITY

- 11.1 The Supplier shall indemnify WSM, the Customer and all WSM Affiliates (each an "**Indemnified Party**") 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 professional costs and expenses) suffered or incurred by an Indemnified Party arising out of or in connection with:
- i. any breach by the Supplier of its confidentiality obligations under these Conditions;
  - ii. any use of the WSM Group's or Customer's Intellectual Property Rights which is not expressly permitted in writing by WSM or the Customer as applicable;
  - iii. any claim made against any Indemnified Party for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the supply or use of the Products or Services;
  - iv. any death, personal injury or damage to property arising out of, or in connection with defective Products, to the extent that the defect in the Products is attributable to the acts or omissions of the Supplier, its representatives, employees, agents, suppliers or subcontractors (including, but not limited to, any claim made against any the Indemnified Party by a third party);



- v. any death, personal injury or damage to property arising out of, or in connection with the performance of Services;
- vi. all claims of third parties with regard to defective Products in the sense of the product liability provisions under applicable law and legislation; and
- vii. any claim made against any Indemnified Party by a third party arising out of, or in connection with, the Work, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance by the Supplier, its representatives, employees, agents, suppliers or subcontractors.

## **12 LIMITATION OF LIABILITY**

- 12.1 Nothing in the Purchase Order, the Additional Terms or these Conditions shall limit or exclude the liability of either Party for:
- i. death or personal injury resulting from negligence;
  - ii. fraud or fraudulent misrepresentation;
  - iii. breach of the terms implied by section 12 of the Sale of Goods Act 1979;
  - iv. the Supplier's liability under the indemnities contained in Conditions 11; or
  - v. any liability which cannot be limited or excluded by applicable law.
- 12.2 Subject to Condition 12.1, each Party's total liability arising under or in connection with each Purchase Order, whether arising in contract, tort (including negligence), for breach of statutory duty or misrepresentation, or otherwise, shall be limited to the greater of five million US dollars (\$5,000,000) or two hundred Percent (200%) of the amount payable to the Supplier under such Purchase Order.
- 12.3 Subject to Conditions 12.1 and 12.2, neither Party shall be liable for any indirect or consequential loss or damage arising out of or related to the Purchase Order, whether arising in contract, tort (including negligence), for breach of statutory duty or misrepresentation, or otherwise, even if that entity was aware of the possibility that such loss or damage might be incurred by the other entity.

## **13 CONFIDENTIALITY**

- 13.1 Each Party undertakes to the other Party to keep confidential any Confidential Information relating to the other Party and/or the other Party's Affiliates (and, in the case of the Supplier, to the Customer) which it obtains under or in connection with the Agreement and not to use such information or disclose it to any other Person, other than as permitted under Condition 13.2, or otherwise use such Confidential Information except to allow the Party to fulfil its obligations under the Agreement. This Condition 13 shall apply from the placing of any Purchase Order or agreeing any Additional Terms (whichever is sooner) and shall survive the termination or expiry of the Agreement. For the avoidance of doubt, potential and actual orders placed by WSM and WSM Affiliates shall be treated as Confidential Information by the Supplier. Accordingly, the Supplier undertakes not to contact any Customer in relation to any actual or proposed Purchase Order unless this is expressly permitted in writing by WSM. For the avoidance of doubt, the Supplier acknowledges that any Confidential Information it obtains from WSM or a WSM Affiliate in relation to a Purchaser Order may not be used by the Supplier in relation to any subsequent negotiations or orders between the Supplier and WSM, any customer of WSM or a WSM Affiliate.
- 13.2 Condition 13.1 shall not apply to the disclosure of Confidential Information: (i) disclosed by a Party to any of its directors, employees, advisers and agents (and, with respect to WSM, disclosed by WSM to the Customer) for the purposes of fulfilling any Agreement; (ii) disclosed with the consent of the Party to whom the Confidential Information relates; and/or (iii) if and to the extent: (A) disclosure is required by applicable law; (B) disclosure is required by any competent regulatory authority or recognized stock

exchange; (C) that such information is in the public domain other than through breach of this Condition 13; or (D) the Confidential Information is supplied in connection with the Products to WSM or a WSM Affiliate for the purposes of using the Products or marketing, selling or distributing the Products.

## 14 EXPIRY AND TERMINATION

- 14.1 The Agreement may be terminated by a Party with immediate effect if the other Party:
- i. commits a material breach of its obligations under the Agreement and such breach is (i) not capable of remedy; or (ii) is capable of remedy but is not remedied within a period of 21 days following receipt of notice in writing requiring it to do so;
  - ii. is declared bankrupt, becomes insolvent, is unable to pay debts or enters into an arrangement with its creditors; or
  - iii. has a petition presented, an order made or a resolution passed for its liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction), administration, bankruptcy or dissolution or if an administrative or other receiver, manager, trustee, liquidator, administrator or similar officer is appointed to the other Party and/or over all or any part of the assets of the other Party.
- 14.2 WSM has the right to cancel (annul) a Purchase Order (in whole or in part) for convenience within 60 days after it has been placed, without liability to the Supplier.
- 14.3 WSM shall in addition to the above, have the right to terminate the Agreement in accordance with the other provisions of these Conditions and as otherwise provided in the Agreement.
- 14.4 Termination or expiry of the Agreement shall not prejudice any of the Parties' rights and remedies which have accrued as at termination or expiry.

## 15 FORCE MAJEURE

- 15.1 For the purposes of this Condition 15, a "Force Majeure Event" means an event the occurrence of which is beyond the reasonable control of the Affected Party, without the fault or negligence of the Affected Party and which, by the exercise of reasonable diligence, the Affected Party is unable to provide against,, including the following: act of God, war, explosions, fires, floods, tempests, earthquake, insurrection, epidemics, acts of terrorism, riot, civil disturbance, rebellion, strike, lock-out or labour dispute but not a strike, lock-out or labour dispute involving the Affected Party.
- 15.2 If a Force Majeure Event occurs which prevents a Party (the "**Affected Party**") from performing any of its obligations to the other (the "**Other Party**") the Affected Party shall not be liable to the Other Party and shall be released from its obligations to the extent that its ability to perform such obligations has been affected by the Force Majeure Event, provided that: (i) in the case of the Supplier, the lack of ability to perform the obligations caused by the Force Majeure Event could not have been prevented by reasonable precautions; (ii) the Affected Party notifies the Other Party in writing as soon as reasonably practical of the occurrence of the Force Majeure Event and the nature and likely duration of its impact upon the Other Party; (iii) the Affected Party takes all reasonable steps to mitigate the impact of the Force Majeure Event on the Other Party and in particular continues to perform those obligations affected by the Force Majeure Event but whose performance has not been rendered impossible to the highest standard reasonably practicable in the circumstances; and (iv) the Affected Party resumes normal performance of all affected obligations as soon as the impact of the Force Majeure Event ceases, and notifies the Other Party in writing of such resumption.
- 15.3 If the impact of the Force Majeure Event upon the Affected Party prevents it from performing a substantial part of its obligations under the Agreement for a period of thirty (30) consecutive days, the Other Party may, by written notice, terminate the Agreement either in whole or in part (in respect of all or some of those Products and/or Services which have been affected by the Force Majeure Event) with immediate effect and without liability to the Affected Party.

## 16 ETHICAL STANDARDS, SANCTIONS LAW, COMPLIANCE AND RECORDS

16.1 The Parties agree that neither Party shall:

- a) Offer, pay or promise to pay either directly or indirectly, anything of value to a Public Official in connection with the Agreement; or
- b) Take any other action which results in a breach by either Party of any Applicable Business Ethics Laws.

The Parties further agree that in the performance of their respective obligations under the Agreement, the Parties and their respective representatives, agents, sub-contractors, suppliers and employees shall comply with all Applicable Business Ethics Laws. The Supplier shall notify WSM immediately in writing with full particulars in the event that the Supplier receives a request from any Public Official requesting illicit payments in connection with the Agreement.

16.2 If either of the Parties or any of their representatives, agents, subcontractors, suppliers or employees breaches Condition 16.1, the other Party may terminate the Agreement with immediate effect. Any termination pursuant to this Condition 16.2 shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to the terminating Party.

16.3 The Supplier shall (and shall ensure that its representatives, agents, sub-contractors, suppliers and employees shall) comply with all applicable child labour and human rights laws relating to the manufacture, packing, packaging, marking, storage, handling, and delivery of the Products and all other obligations of the Supplier under the Agreement.

16.4 The Supplier warrants, represents and undertakes to WSM, that at the date of entering into the Agreement and continuing throughout the performance of the Agreement, neither the Supplier, the Supplier's Affiliates nor any of their representatives, agents, sub-contractors, suppliers and employees are subject to any sanctions, prohibitions, restrictions or designation by any Sanctioning Body and/or Sanctions Laws and that entry into and performance of the Agreement by the Supplier is not prohibited or restricted by, and will not expose the WSM Group nor the Customer to any breach of or liability (or risk of any breach of or liability) pursuant to any Sanctions Laws.

16.5 If at any time during the performance of the Agreement, the Supplier becomes aware of any actual breach of Condition 16.4 and/or that there is a risk of any such breach occurring, the Supplier shall immediately notify WSM.

16.6 If at any time during the performance of the Agreement, WSM becomes aware (whether via the Supplier or otherwise) of any actual breach of Condition 16.4, WSM may immediately terminate this Agreement by written notice to the Supplier, without liability to the Supplier.

16.7 The Supplier shall indemnify and hold harmless the WSM Group and the Customer for all costs, losses, damages, expenses and/or fines incurred as a result of any breach of Condition 16.4.

16.8 Either Party may be required to request information from the other Party which supports a verification statement which banks may require according to Sanctions Laws, including whether a person is a "specially designated national" pursuant to any Sanctions Laws, or a "national" of any country with which transactions are regulated by Sanctions Laws. Both Parties shall provide timely and truthful responses to any such reasonable enquiries the other Party may make to support any required verification statements.

16.9 The Supplier shall maintain complete and accurate records in connection with the Work and all costs incurred and charges made in connection therewith (the "**Records**"). All financial Records in connection with the Work shall be maintained in accordance with international generally accepted accounting principles, consistently applied. The Supplier shall retain all Records for at least three (3) years from the expiry or earlier termination of the Agreement.

## 17 DATA PROTECTION

17.1 "**Personal Data**" shall have the meaning as set out in the GDPR (EU 2016/679) and other applicable

law and legislation regarding personal data ("**Data Protection Regulation**"), and all terms used in this Article 11 shall be construed in accordance with the Data Protection Regulation. WSM authorizes Supplier to process Personal Data on its behalf in so far as necessary for the purposes of the Agreement, and as is set out herein. The Supplier shall treat Personal Data which it obtains in the context of performance of the Agreement or as a result thereof as confidential information as specified in Condition 13 above.

- 17.2 The Supplier agrees that this Condition 17 and the data processing agreement entered into between the Parties (if applicable), shall be the document(s) governing the processing of Personal Data performed by the Supplier on behalf of WSM. The Supplier acknowledges and agrees that WSM in certain cases processes Personal Data on behalf of its own customers, and that Supplier therefore may be required to accept the terms for the processing of Personal Data that have been set out by the Customer.
- 17.3 To the extent the Supplier has access to WSM's Personal Data, the Parties acknowledge that WSM is the Controller, and the Supplier is the Processor acting on behalf of WSM, unless otherwise is set out in the Agreement. Supplier shall ensure that all persons authorized to process Personal Data have committed themselves to confidentiality and have received sufficient training with respect to the handling of Personal Data.
- 17.4 The Supplier shall only process Personal Data in accordance with the Data Protection Regulation and instructions given by WSM and in due observance of the purposes determined by WSM, as set out in the Agreement.
- 17.5 The Supplier does not have the right to make use of third parties in processing Personal Data, whether such party is part of the same group as the Supplier or not, except with WSM's prior written approval. If a third party is engaged, the Supplier shall be responsible for such third party's work as for its own obligations. The Supplier shall ensure that third parties are subject to equivalent requirements regarding data protection as set out in this Condition 17.
- 17.6 The Supplier shall not transfer Personal Data to countries outside the European Economic Area unless and to the extent approved by WSM. If such approval is given by WSM in relation to a country which has not been determined by the European Commission to have an adequate level of protection for personal data, the Supplier acknowledges its obligations as a data exporter and warrants that, prior to the transfer, it: (i) has implemented a valid and appropriate safeguard for the transfer in accordance with Chapter V of the Data Protection Regulation; and (ii) has duly considered the laws and practices of the country in which the recipient is based and that it has implemented all necessary supplemental measures to ensure the protection of the transferred Personal Data, in accordance with applicable recommendations.
- 17.7 The Supplier shall take all necessary technical and organizational measures to prevent unauthorized or unlawful processing of Personal Data. In addition, the Supplier shall take all necessary measures prevent all loss or destruction of, or damage to Personal Data.
- 17.8 The Supplier shall inform WSM immediately if:
- a) the Supplier, for whatever reason, is unable to comply with its obligations under this Condition 17; or
  - b) believes that a data breach, the Supplier shall notify WSM without undue delay after becoming aware of it and, in any case, not later than 48 hours after having become aware of such data breach.
- 17.9 With regards to the processing of contact information for the Parties' employees and representatives:
- a) Both Parties hereto are informed that a) contact Personal Data of their representatives, employees and contractors may be collected and processed by the other Party for the sole purpose of the management of the contractual relationship defined under the Agreement and not per se in relation to the performance of the Agreement.
  - b) Such processing activities shall be strictly restricted for contacting the representatives,

employees and contractors of the other Party for contacting and billing purposes as a result of the contractual relationship. The contact Personal Data shall not be processed for any other purposes and shall not be used for marketing purposes unrelated to the main purpose unless expressly permitted by WSM.

- c) The Parties therefore expressly agree that each of them acts as Data Controller for the processing of the Personal Data collected and processed for the management of the contractual relationship as defined above. In this regard, the Parties commit to comply with the Data Protection Regulation.

- 17.10 The Supplier shall indemnify WSM against any legal proceeding brought by any third party, including employees of WSM that are related to or ensue from the Supplier's breach of its obligations under this Condition 17.

## **18 GENERAL**

- 18.1 The Supplier may not assign any of its contractual rights or obligations under the Agreement without the prior written consent of WSM. If the Supplier sub-contracts any of its obligations, it shall be liable for the actions of its sub-contractors as if they are its own.
- 18.2 Except as otherwise expressly provided, any notice or other communication from any Party to the other Party which is required to be given under the Agreement must be in writing and addressed to the address provided by the other Party on the relevant Purchase Order.
- 18.3 The Agreement constitutes the entire agreement between the Parties and supersedes any arrangement, understanding or previous agreement between them relating to the subject matter it covers. Each Party acknowledges that in entering into the Agreement, it does not rely on, and shall have no remedy in respect of, any statement, representation, assurance, warranty or promise of any Person other than as expressly set out in the Agreement
- 18.4 Except for the rights and protections granted to the Customer and any WSM Affiliate pursuant to these Conditions, a Person who is not a Party to these Conditions may not enforce any provisions under the Contracts (Rights of Third Parties) Act 1999. Any right granted to the Customer and any WSM Affiliate may be enforced directly against the Supplier by that Customer or WSM Affiliate (as applicable). The consent of any WSM Affiliate or any other third party is not necessary for any variation (including any release or compromise in whole or in part of any liability) or termination of the Agreement.
- 18.5 If any provision, or part of a provision, of the Agreement is found by any court or authority of competent jurisdiction to be illegal, invalid or unenforceable, that provision or part-provision shall be deemed not to form part of the Agreement and the legality, validity or enforceability of the remainder of the provisions of the Agreement shall not be affected, unless otherwise stipulated under applicable law
- 18.6 Nothing contained in the Agreement shall limit a Party's right to obtain any provisional remedy, including an injunction, an order for possession, or any other relief which is not available through arbitration from any court of competent jurisdiction as may be necessary in such Party's sole judgement to protect its Intellectual Property Rights or any other of its proprietary interests (including its Confidential Information) or its good name, goodwill, reputation or image.

## **19 GOVERNING LAW AND ARBITRATION**

- 19.1 The Agreement and any dispute or claim arising out or in connection with all or part of the Agreement or its subject matter or formation (including any dispute or claim relating to non-contractual obligations) shall be governed by and construed in accordance with English law.
- 19.2 The Parties agree that if there is any dispute arising in connection with the Agreement, the Parties shall first attempt to resolve the dispute by negotiation. If the Parties are unable to resolve any such dispute by negotiation, such dispute may be referred by either Party to and finally resolved by arbitration under the London Maritime Arbitrators Association ("LMAA") terms current at the time when the arbitration proceedings are commenced, except that where neither the claim nor any counterclaim exceeds the sum of USD 50,000 the arbitration shall be conducted in accordance with the LMAA Small Claims

Procedure. The number of arbitrators shall be three, except that the reference shall be to one sole arbitrator where the LMAA Small Claims Procedure applies. The seat, or legal place, of the arbitration shall be London, England. The language to be used in the arbitration shall be English. Nothing stated in this Condition shall preclude the right of either Party seek security or interim orders (by means of any appropriate remedy or relief, including but not limited to in rem arrests, injunctions, attachments, seizures, sales, detention, the exercise of a lien or otherwise howsoever) from any court of competent jurisdiction as may be necessary.

## **20 INSURANCE**

- 20.1 The Supplier shall maintain (i) a public and product liability insurance policy with a minimum limit of USD 10,000,000 per event and in the annual aggregate; and (ii) if applicable, a marine cargo policy covering the Products at their full market value until risk passes in accordance with the applicable terms of delivery. The Supplier shall also comply with any applicable statutory insurance requirement.