

DATA SUB-PROCESSING AGREEMENT

BACKGROUND

- (A) The purpose of this data sub-processor agreement is to ensure compliance with the requirements of the GDPR and to regulate the Processing of Personal Data by the Agent on behalf of Wilhelmsen Port Services.
- (B) Wilhelmsen Port Services is appointed as agent for Principal(s) (each a Controller) to perform various services relating to their vessels. Wilhelmsen Port Services Processes Personal Data as a Processor in connection with that appointment, in accordance with the instructions of the applicable Controller.
- (C) Wilhelmsen Port Services has appointed the Agent to provide various services.
- (D) The performance of the Services will require the Agent to Process certain Personal Data. The Agent accepts that it will Process Personal Data as a Sub-Processor on behalf of Wilhelmsen Port Services as the main Processor, ultimately on behalf of the applicable Controller, and to comply with the terms of this Agreement when doing so.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

"**Agreement**" means the terms and conditions of this data sub-processing agreement (including its Annexes, Appendices and Schedules) as amended by the Parties in writing from time to time.

"**Applicable Laws**" means the laws of any Member State of the European Union or by the laws of the European Union.

"**Contract**" means the Particulars.

"**Controller**" shall have the same meaning as in the GDPR, and refers in this Agreement to the Principal.

"**Data Protection Legislation**" the GDPR and any applicable national implementing laws, regulations and secondary legislation, as amended, updated, re-enacted or replaced from time to time.

"**Data Subject**" shall have the same meaning as in the GDPR.

"**GDPR**" means the General Data Protection Regulation ((EU) 2016/679)

"**Personal Data**" shall have the same meaning as in the GDPR, and in particular refers to personal data processed by either Party in order to provide the Services.

"**Personal Data Breach**" shall have the same meaning as in the GDPR.

"**Processing**" shall have the same meaning as in the GDPR.

"**Process**" and "**Processes**" shall each have the same meaning as "Processing".

"**Processor**" shall have the same meaning as in the GDPR.

"**Standard Contractual Clauses**" means the 'Standard Contractual Clauses' as laid down in the European Commission Decision 2021/914/EU of 4 June 2021 amended as follows:

- i) Module 3 shall be the applicable module selected for all locations where a module selection is possible and all text applicable to any other module shall not apply;
- ii) Clause 7 shall apply;
- iii) Option 1 shall be the applicable selection for Clause 9;
- iv) 7 days shall be the time period specified in Clause 9;
- v) The optional paragraph in Clause 11(a) shall not apply;
- vi) Option 1 shall be the applicable selection for Clause 17 with the laws of Norway applying;
- vii) Norwegian courts shall be applicable for the purposes of Clause 18(b); and
- viii) The Annexes to the Standard Contractual Clauses shall be replaced with those annexes as attached to this Agreement.

"**Sub-processor**" means any person appointed (in accordance with this Agreement) by or on behalf of the Agent to Process Personal Data on behalf of Wilhelmsen Port Services, ultimately on behalf of the applicable Controller, for the purpose of fulfilling the Agent's obligations under the Agreement.

1.1 Clause, Schedule and Appendix headings shall not affect the interpretation of this Agreement.

1.2 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

1.3 Unless expressed otherwise, a reference to **writing** or **written** includes fax and email.

1.4 Any obligation on a Party not to do something includes an obligation not to allow that thing to be done.

1.5 References to clauses and Schedules are to the clauses and Schedules of this Agreement.

1.6 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.7 Defined terms used in the Standard Contractual Clauses shall first be given the meaning provided for in the Standard Contractual Clauses, if no meaning is provided, the meaning of any such defined term shall be as provided in the Contract or this Agreement (as applicable).

2. **Consideration**

In consideration of Wilhelmsen Port Services proceeding to instruct the Agent under the Contract, the Agent agrees to carry out its obligations under this related Agreement.

3. Data Protection

- 3.1 This Agreement is in addition to, and does not relieve, remove or replace, a Party's obligations under the Data Protection Legislation.
- 3.2 References to Personal Data in this Agreement shall be to any Personal Data processed by the Agent pursuant to or in connection with the Agreement.

4. Subject-matter, commencement and duration of the processing

- 4.1 This Agreement applies to the Processing of Personal Data by the Agent as Processor on behalf of Wilhelmsen Port Services, ultimately on behalf of the applicable Controller, in relation to the Contract.
- 4.2 The Agent may Process Personal Data on behalf of Wilhelmsen Port Services, ultimately on behalf of the applicable Controller, for the duration of the Contract. In the event of a breach of this Agreement or the Data Protection Legislation, Wilhelmsen Port Services may instruct the Agent to stop Processing the Personal Data with immediate effect.

5. Order of precedence

- 5.1 In the event of inconsistencies between the provisions of this Agreement and any other agreements between the Parties, including the Contract, the provisions of this Agreement shall prevail.

6. The nature and purpose of the processing

- 6.1 The nature of the Processing shall be those Processing operations that are necessary to enable the Agent to provide the Services, which may be more particularly described in the Contract.

7. The type of Personal Data and categories of Data Subjects

- 7.1 The types and categories of Personal Data is limited to what is required in order for the Agent to provide the Services, responsibilities, processes and/or functions that it is required to provide under the Contract.
- 7.2 Depending on the Services to be provided, the categories of Data Subjects may include: crew; masters and officers; visitors; passengers; port and airport staff; aircraft carrier staff; surveyors; customs and immigration officials; transport or logistics providers; medical professionals; and any other categories of Data Subjects necessary for the provision of the Services.
- 7.3 The following types of Personal Data may be processed under this Agreement, depending on the Services to be provided:
 - (a) Name
 - (b) Contact details (telephone number/address/e-mail)
 - (c) Passport and immigration details
 - (d) Information about the Data Subjects' movements
 - (e) Social security number

- (f) Employment status/history
- (g) Qualifications
- (h) Health information
- (i) Biometric information
- (j) Financial details (salary information/bank account)
- (k) Financial information of companies/persons
- (l) Information regarding possible criminal conduct (including whether a person has been suspected of, charged with, indicted for or convicted of a criminal act) (sensitive)
- (m) Emails and personal files from Wilhelmsen Port Services' or the Controller's network
- (n) Motor Vehicle License Plate Information

8. Obligations of Wilhelmsen Port Services

- 8.1 As a data Processor, Wilhelmsen Port Services will act only on the instructions of the Controller, and instruct the Agent accordingly.
- 8.2 Wilhelmsen Port Services is also obliged to comply with its obligations as a Processor under the Data Protection Legislation, including but not limited to putting in place appropriate security and assisting the Controller to comply with its own obligations.

9. Agent's obligation to process only on instructions from Wilhelmsen Port Services

- 9.1 The Agent may not Process Personal Data in any other way than regulated by this Agreement.
- 9.2 The Agent shall only Process Personal Data on documented instructions from Wilhelmsen Port Services, or of the Controller if it receives direct instructions from the Controller, unless required to do so by Union or Member State law to which the Agent is subject.
- 9.3 In such a case, the Agent shall inform Wilhelmsen Port Services of that legal requirement before Processing, unless that law prohibits such information on important grounds of public interest.

10. Confidentiality

- 10.1 The Agent must observe professional confidentiality concerning the documentation and Personal Data to which he has access to in accordance with this Agreement or Contract.
- 10.2 The Agent shall ensure that all personnel (including that of any Sub-processors) who have access to and/or Process Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

11. Security

11.1 The Agent shall comply with its obligations as a Processor under the Data Protection Legislation to keep the Personal Data secure.

11.2 In particular, the Agent shall:

- (a) taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, implement appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR; and
- (b) in assessing the appropriate level of security, take account in particular of the risks that are presented by Processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data transmitted, stored or otherwise processed.

11.3 Such measures could include as appropriate:

- (a) The pseudonymisation and encryption of Personal Data;
- (b) The ability to ensure the ongoing confidentiality, integrity, availability and resilience of Processing systems and services
- (c) The ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident;
- (d) A process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the Processing.

11.4 The Agent shall provide physical security to prevent unauthorized access to areas where Personal Data is stored. The Agent shall furthermore ensure that necessary access controls to all Personal Data and relevant IT-systems are established. Access must be based on the employees' need for access, taking into account the relevant work tasks. The use of IT-systems covered by this Agreement shall be logged.

11.5 Electronically stored information that contains Personal Data shall be protected with passwords and other similar technical security measures to ensure that electronically stored information is neither available to unauthorized personnel nor that there is any risk of undesirable alteration / deletion of data. The security must meet generally recognized methods, or better.

12. Audits and information to demonstrate compliance with this Agreement

12.1 The Agent shall make available to Wilhelmsen Port Services on request, with reasonable prior notice, all information necessary to demonstrate compliance with this Agreement, including but not limited to its security obligations and the results of any security audits.

12.2 The Agent shall undertake security audits for systems, etc. covered by this Agreement every year. The audit may include a review of routines and policies, random checks, more extensive site inspections and other suitable control measures. Wilhelmsen Port Services has right of access to the documentation held by the Agent that is relevant to this Agreement.

12.3 Upon reasonable prior written notice from Wilhelmsen Port Services, the Agent shall grant access to

Wilhelmsen Port Services to its premises to carry out an onsite inspection or spot checks.

13. Assistance with responding to requests for exercising Data Subject rights

13.1 The Agent shall assist Wilhelmsen Port Services by appropriate technical and organizational measures, insofar as this is possible, for the fulfilment of Wilhelmsen Port Services' obligation to the Controller to assist the Controller to uphold Data Subjects' rights under the Data Protection Legislation.

13.2 The Agent shall:

- (a) promptly notify Wilhelmsen Port Services if it or any Sub-processor receives a request from a Data Subject under any Data Protection Legislation in respect of Personal Data processed under the Agreement; and
- (b) ensure that neither it nor any Sub-processor responds to such request except on the documented instructions of Wilhelmsen Port Services, or as required by Applicable Laws, in which case the Agent shall, to the extent permitted by Applicable Laws, inform Wilhelmsen Port Services of that legal requirement before it or the Sub-processor (as appropriate) responds to the request.

14. Assistance with breach notifications / communications, impact assessments and consultations

14.1 In the case of a Personal Data Breach, the Agent shall without undue delay and, where feasible, no later than 12 hours after having become aware of it, notify the Personal Data Breach to Wilhelmsen Port Services. Wilhelmsen Port Services is responsible for reporting the breach to the Controller

14.2 The Agent shall also help Wilhelmsen Port Services to assist the Controller in ensuring compliance with its obligations under Articles 32 to 36 of the GDPR (with respect to security, breach notifications / communications, impact assessments and consultations with supervisory authorities or regulators). This will include, for example, providing Wilhelmsen Port Services with sufficient information to allow the Controller to meet any obligations to report or inform Data Subjects of any Personal Data Breach under Data Protection Legislation.

15. Return of deletion of Personal Data

15.1 Upon termination or expiry of this Agreement, the Agent shall at the choice of Wilhelmsen Port Services (as instructed by the Controller), delete or return all Personal Data processed under this Agreement within the time frame requested by Wilhelmsen Port Services. This also applies to any back-up copies. In the event no choice is selected by Wilhelmsen Port Services within a reasonable time, Agent shall delete all Personal Data processed under this Agreement.

15.2 The Agent shall document in writing that deletion has taken place in accordance with the terms of this Agreement.

15.3 Notwithstanding Clauses 15.1 and 15.2, the Agent may retain existing copies of the Personal Data if required to do so by Applicable Laws, but must inform Wilhelmsen Port Services of the relevant Applicable Laws. Any retained information shall be subject to the obligations and restriction as imposed on Agent pursuant to this Agreement.

16. **Co-operation**

16.1 The Agent shall co-operate with Wilhelmsen Port Services and take such reasonable commercial steps as are directed by Wilhelmsen Port Services to assist in the investigation, mitigation and remediation of any Personal Data Breach.

17. **Use of a subcontractor**

17.1 If Wilhelmsen Port Services has granted the Agent a general authorisation to engage another Processor, the Agent must:

- (a) inform Wilhelmsen Port Services of any intended changes concerning the addition or replacement of other Processors, thereby giving Wilhelmsen Port Services the opportunity to object to such changes;
- (b) enter into a written contract with the Sub-processor imposing the same obligations as set out in this Agreement and Article 28 of the GDPR; and
- (c) acknowledges that it remains fully liable for all acts or omissions of each Sub-processor appointed by it, where that Sub-processor fails to fulfil its data protection obligations.

18. **Data transfers**

18.1 Where Wilhelmsen Port Services transfers Personal Data from the European Economic Area ("**EEA**") to the Agent and the Agent is located within the EEA, the Agent shall not transfer (and shall procure that no Sub-processor shall transfer) any Personal Data outside of the EEA unless the prior written consent of Wilhelmsen Port Services has been obtained and the following conditions are fulfilled:

- (a) The Controller, Wilhelmsen Port Services or the Agent has provided appropriate safeguards in relation to the transfer in accordance with the Data Protection Legislation;
- (b) the Data Subjects have enforceable rights and effective legal remedies;
- (c) the Agent complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
- (d) the Agent complies with reasonable instructions notified to it in advance by Wilhelmsen Port Services with respect to the Processing of the Personal Data.

18.2 Where Wilhelmsen Port Services transfers Personal Data from within the EEA to the Agent outside the EEA, or in any other circumstances where such transfer would be prohibited under Data Protection Legislation in the absence of Standard Contractual Clauses, the Agent and Wilhelmsen Port Services, hereby enter into the Standard Contractual Clauses.

19. **Indemnity**

The Agent agrees to indemnify and keep indemnified Wilhelmsen Port Services and Wilhelmsen Port Services Affiliates against all costs, claims, damages (including all legal costs) or expenses incurred by Wilhelmsen Port Services and Wilhelmsen Port Services Affiliates, or for which Wilhelmsen Port Services and Wilhelmsen Port Services Affiliates may become liable, due to any failure by the Agent or Sub-processor and their employees or agents to comply with any obligations under this Agreement.

20. Duration and termination of the Agreement

20.1 This Agreement will continue for as long as the Agent or its Sub-processors Process Personal Data in connection with the Services under the Contract, and will terminate when those Services cease to be provided and Agent has complied with its obligations under this Agreement.

20.2 In the event of a breach of this Agreement or the Data Protection Legislation, Wilhelmsen Port Services may terminate this Agreement and give instructions to the Agent in accordance with Clause 15 of this Agreement.

20.3 Clauses which by their nature are intended to survive termination or expiry, shall so survive such termination or expiry of this Agreement.

21. Amendments to this Agreement

21.1 Subject to Clause 21.2, Wilhelmsen Port Services may, on 30 (thirty) days' written notice to the Agent, revise this Agreement by replacing it with any applicable Processor to Processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).

21.2 Wilhelmsen Port Services may make reasonable amendments to this Agreement by written notice to the Agent from time to time as Wilhelmsen Port Services reasonably considers necessary to meet the requirements of Wilhelmsen Port Services' own contract with the Controller.

* * * * *

ANNEX I

A. LIST OF PARTIES

Data exporter(s):

Name: The legal entity name of the Wilhelmsen Port Services entity which has appointed the Agent under the Contract which is generally listed in the preamble.

Contact person's name, position and contact details: Data Protection Officer
(data.privacy@wilhelmsen.com)

Activities relevant to the data transferred under these Clauses: Those activities set out in the Contract.

Role (controller/processor): Processor

Data importer(s):

Name: The legal entity name of the Agent appointed under the Contract which is generally listed in the preamble.

The data importer is a port agent appointed to carry out a number of different Services relating to the Controller's vessels. The performance of the Services will require the Agent to process certain Personal Data. The Agent accepts that it will process Personal Data as a Sub-processor on behalf of Wilhelmsen Port Services as the main Processor, ultimately on behalf of the applicable Controller.

Address: The registered address for the Agent which has been appointed by the Wilhelmsen Port Services entity under the Contract which is generally listed in the preamble.

Contact person's name, position and contact details: The details of the Agent entity representative which has appointed by the Wilhelmsen Port Services entity under the Contract which is generally listed in the Notices clause.

Activities relevant to the data transferred under these Clauses: Those activities set out in the Contract.

Role (controller/processor): Processor

B. DESCRIPTION OF TRANSFER

Categories of data subjects whose personal data is transferred

Individuals with some connection to the Controller (as defined in Clause 1 of the main Agreement) or Wilhelmsen Port Services, including: crew; masters and officers; visitors; passengers; port and airport staff; aircraft carrier staff; surveyors; customs and immigration officials; transport or logistics providers; medical professionals; and any other categories of Data Subjects necessary for the provision of the Services.

Categories of personal data transferred

- (a) **Name**
- (b) **Contact details (telephone number/address/e-mail)**
- (c) **Passport and immigration details**
- (d) **Information about the Data Subjects' movements**
- (e) **Social security number**
- (f) **Employment status/history**
- (g) **Qualifications**
- (h) **Financial details (salary information/bank account/**
- (i) **Financial information of companies/persons**
- (j) **Emails and personal files from Wilhelmsen Port Services' or the Controller's network**

Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.

- (a) **Health information**
- (b) **Biometric information for the purposes of identification**
- (c) **Information regarding possible criminal conduct (including whether a person has been suspected of, charged with, indicted for or convicted of a criminal act)**

The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).

The Contract is a framework agreement and engagement of the Agent (data importer) will be on a call off basis as and when certain services are required from the Agent.

Nature of the processing

The nature of the processing shall be those processing operations that are necessary to enable the Agent to provide the Services, which may be more particularly described in the Contract.

Purpose(s) of the data transfer and further processing

The personal data transferred will be processed as necessary in order to provide the Services. This may include, for example:

- (a) **Arranging berthing of vessels, loading and discharging cargo;**
- (b) **Arranging and co-ordinating all activities of the terminal operators, stevedores, tallymen and all other suppliers, in the interest of obtaining the best possible operation and despatch of the vessels Wilhelmsen Port Services is appointed agent for;**
- (c) **Arranging for calling forward, reception and loading of outward cargo and discharge and release of inward cargo and to attend to the transshipment of through cargo;**
- (d) **To arrange for bunkering, repairs, husbandry, crew changes, passengers, ship's stores, spare parts and technical, nautical and medical assistance;**
- (e) **To co-operate and assist Wilhelmsen Port Services with its requirements concerning claims handling, P&I matters, General Average and/or insurance, and the appointment of Surveyors;**
- (f) **To attend to all necessary documentation and to attend to consular requirements;**
- (g) **To arrange for and attend to the clearance of the vessel and to arrange for all other services pertaining to the vessel's movements through the port;**
- (h) **To report to Wilhelmsen Port Services the vessel's position and to prepare a statement of facts of the call and/or a port log; and**
- (i) **To keep Wilhelmsen Port Services regularly and timely informed on port and working conditions likely to affect the despatch of Wilhelmsen Port Services's vessels;**

- (j) **Maintaining appropriate records of Wilhelmsen Port Services' financial position concerning the obligations undertaken by the Agent under the Contract on Wilhelmsen Port Services' behalf;**
- (k) **To check all vouchers received for services rendered and to prepare a proper disbursement account in respect of each voyage or accounting period in the agreed format; and**
- (l) **To advise Wilhelmsen Port Services of all amendments to port tariffs and other charges as they become known.**

The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period

The length of time required in order for Agent to perform its obligations under the Contract.

For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing

No (sub-) processors used by data importer.

C. COMPETENT SUPERVISORY AUTHORITY

Identify the competent supervisory authority/ies in accordance with Clause 13:

If the data exporter is based in the EU, the relevant supervisory authority will be the supervisory authority of the country where the data exporter is based.

If the data exporter is not based in the EU but has appointed a representative pursuant to Article 27(1) of Regulation (EU) 2016/679, the relevant supervisory authority will be the supervisory authority of the country where the appointed representative is based.

If the data exporter is not based in the EU and has not appointed a representative pursuant to Article 27(1) of Regulation (EU) 2016/679, the Norwegian Data Protection Authority (Datatilsynet) shall be the relevant supervisory authority.

ANNEX II - TECHNICAL AND ORGANISATIONAL MEASURES INCLUDING TECHNICAL AND ORGANISATIONAL MEASURES TO ENSURE THE SECURITY OF THE DATA

Description of the technical and organisational measures implemented by the data importer(s) (including any relevant certifications) to ensure an appropriate level of security, taking into account the nature, scope, context and purpose of the processing, and the risks for the rights and freedoms of natural persons.

Such measures could include as appropriate:

- (a) **The pseudonymisation and encryption of personal data;**
- (b) **The ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services**
- (c) **The ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;**
- (d) **A process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.**

The data importer shall provide physical security to prevent unauthorized access to areas where personal information is stored. The data importer shall furthermore ensure that necessary access controls to all personal data and relevant IT-systems are established. Access must be based on the employees' need for access, taking into account the relevant work tasks. The use of IT-systems in connection with the performance of the services shall be logged.

Electronically stored information that contains personal information shall be protected with passwords and other similar technical security measures to ensure that electronically stored information is neither available to unauthorized personnel nor that there is any risk of undesirable alteration / deletion of data. The security must meet generally recognized methods, or better.

For transfers to (sub-) processors, also describe the specific technical and organisational measures to be taken by the (sub-) processor to be able to provide assistance to the controller and, for transfers from a processor to a sub-processor, to the data exporter

No (sub-) processors used by data importer.

ANNEX III – LIST OF SUB-PROCESSORS

The controller has authorised the use of the following sub-processors:

None used by data importer.