

STANDARD TERMS AND CONDITIONS FOR THE PROVISION OF SAFETY SERVICES

1. DEFINITIONS AND INTERPRETATION

1.1 **"Associated Company"** means any company controlling, controlled by or under common control with WSS where control means direct or indirect ownership of at least 50% of the voting stock or interest in the company or control of the composition of the board of directors.

1.2 **"Agreement"** means either:

- (i) the SSFA; or
- (ii) where the Parties have not entered into a SSFA, an agreement for the provision of the Safety Services by WSS to the Customer, which shall in each case be deemed to incorporate these STCs.

1.3 **"Certificate of Inspection"** means a certificate issued by WSS certifying that the Safety Equipment has been inspected by WSS and complies with the safety standards for such Safety Equipment as expressly set out in an Order or if no safety standards are expressly set out in an Order, WSS' own internal safety standards for such Safety Equipment.

1.4 **"Charges"** means WSS' rates for the provision of the Safety Services as set out in the SSFA or in the absence of a SSFA, as otherwise notified to the Customer; and all fees, costs, surcharges, pass-through costs, out of pocket expenses, overtime charges, and the costs of waiting time, spare parts, replacements, hydrostatic tests, recharging of cylinders or extinguishers and transportation by road, barge, tender and any other expenses incurred by WSS in connection with the provision of the Safety Services to the Customer.

1.5 **"Confidential Information"** means each item of proprietary information which

would reasonably be regarded as confidential, and the intellectual property rights therein, disclosed by one Party to another, including but not limited to any financial information, procurement and purchasing requirements, business forecasts, sales and marketing plans and information and customer lists relating to that Party or any of its affiliates.

1.6 **"Customer"** shall either:

- (i) have the meaning given to it in the SSFA; or
- (ii) where the Parties have not entered into a SSFA, mean the entity placing the Order for the Safety Services under these STCs.

1.7 **"Order"** means a request made by the Customer to WSS for Safety Services to be performed. An Order may be made in accordance with the SSFA or on a one-off (or 'on the spot') basis.

1.8 **"Parties"** means WSS and the Customer and "Party" shall be construed accordingly.

1.9 **"Safety Equipment"** means the safety systems and equipment onboard ships administered or owned by the Customer upon which WSS shall perform the Safety Services, such safety systems and equipment to be agreed in advance between WSS and the Customer and set out in writing in either the Safety Service Equipment and Systems List which will form part of the SSFA or if there is no SSFA, in an Order.

1.10 **"Safety Equipment Certificate"** means the relevant vessel's official safety equipment certificate issued by the relevant third party classification society with respect to the Safety Equipment's adherence to required standards.

1.11 **"Safety Inspection"** means a safety inspection of the Safety Equipment with related tests.

1.12 **"Safety Inspection and Certificate of Inspection"** shall have the meaning given in Condition 2 of these STCs.

1.13 **"Safety Repairs and Replacement"** shall have the meaning given in Condition 2 of these STCs.

1.14 **"Safety Service Equipment and Systems List"** means a document specifying which Safety Equipment is installed or present on each relevant ship.

1.15 **"Safety Services"** means the safety services that WSS shall provide to the Customer as further described in Condition 2 of these STCs.

1.16 **"Service Chart"** means a report issued by WSS after a Safety Inspection of the Safety Equipment specifying the Safety Inspections that have been carried out, actions taken and actions that may be required in the future in accordance with the safety standards for such Safety Equipment as expressly set out in an Order or if no safety standards are expressly set out in an Order, WSS' own internal safety standards for such Safety Equipment.

1.17 **"Service Chart S"** means a summary of comments and recommendations referring to the Service Charts.

1.18 **"Service Ports"** means those ports where WSS will perform the Safety Services as agreed in writing between the Customer and WSS and set out in the SSFA or in an Order. If no ports are agreed in writing, the Service Ports shall be those ports notified to the Customer by WSS.

1.19 **"SSFA"** or **"Safety Services Fleet Agreement"** means, where applicable, the

agreement with that title entered into between the Customer and WSS.

1.20 **"STCs"** or **"Standard Terms and Conditions"** means these standard terms and conditions.

1.21 **"WSS"** shall mean either:

(i) the entity (either Wilhelmsen Ships Service AS or an Associated Company of Wilhelmsen Ships Service AS) that is a party to the SSFA; or

(ii) where the Parties have not entered into a SSFA, the entity (either Wilhelmsen Ships Service AS or an Associated Company of Wilhelmsen Ships Service AS) providing the Safety Services under these STCs.

1.22 Headings are included in these STCs for ease of reference only and shall not affect their interpretation or construction.

1.23 References to Conditions are, unless otherwise provided, references to conditions of these STCs.

1.24 Where there is a conflict between a SSFA and these STCs, the SSFA shall take precedence to the extent of any such conflict.

1.25 Any reference to any statute or legislation shall be deemed to include any amendments, re-enactments or replacements of such statute or legislation.

1.26 Any reference to "in writing" or "written" shall include email.

2. SCOPE OF WORK

2.1 Safety Inspection and Certificate of Inspection

If WSS agrees to provide a safety inspection and certification service either by accepting an Order or in accordance with a SSFA, WSS shall:

2.1.1 perform a Safety Inspection;

2.1.2 issue a new or update the existing Service Chart; and

2.1.3 issue a Certificate of Inspection provided that repairs or replacements of the Safety Equipment (if any) have been completed in accordance with the requirements and recommendations set out in the Service Chart,

hereinafter referred to as a "Safety Inspection and Certificate of Inspection".

2.2 Safety Repairs and Replacement

If WSS agrees to provide a safety repairs and replacement service either by accepting an Order or in accordance with a SSFA, WSS shall repair or replace the Safety Equipment in accordance with the requirements and recommendations set out in the Service Chart hereinafter referred to as the "Safety Repairs and Replacement" service.

2.3 Service Ports

WSS shall carry out the Safety Services at the Service Ports. WSS has no obligation to complete the Safety Services on all Safety Equipment in one Service Port and if the Safety Services have not been completed in one Service Port, WSS shall perform the Safety Services in the next available Service Port (as nominated by WSS).

2.4 Additional Requirements

WSS shall perform any other services as agreed between the Customer and WSS either in a SSFA, an Order or otherwise in writing. Any additional requirements from the Customer must be specified in writing in connection with each Safety Service and are subject to WSS' written agreement at all times.

3. PRICE

3.1 The Customer shall pay WSS the Charges, in accordance with the SSFA, or if there is no SSFA, as otherwise agreed between the Parties. If no express payment terms have been agreed between the Parties (either in a

SSFA, an Order or otherwise), the Customer must pay WSS the Charges prior to WSS commencing the Safety Services. WSS reserves the right to cancel any Order or to not provide the Safety Services where payment has not been made in accordance with this Condition 3.1.

3.2 Prices made available by WSS are applicable only for the agreed Service Port and any prices for Safety Services outside of these Service Ports are available on request.

3.3 The Customer shall be liable to pay any tax, duty, levy or charge of any kind imposed by any state or state authority by reason of WSS' provision of the Safety Services (other than tax on WSS' overall net income imposed in a state in which WSS is based for tax purposes). Where WSS incurs expenses or is subject to any claims in relation to such payments, the Customer shall at all times fully indemnify WSS and hold it harmless in respect of all penalties, claims, damages, losses, costs and expenses (including but not limited to legal expenses) whatsoever arising incurred in connection with such taxes, duties, levies, charges or similar items of expenditure.

3.4 The Customer shall pay to WSS all sums immediately when due without any deduction or withholding other than as required by mandatory law (and where any deduction or withholding is required by mandatory law the Customer shall increase the amount payable to WSS to reflect the amount that WSS would have received if no deduction or withholding had been made) and the Customer shall not be entitled to assert any credit, set-off or counterclaim against WSS in order to justify withholding payment of any such amount in whole or in part.

4. DELAYED PAYMENT

4.1 WSS shall be entitled to claim interest of four percent (4%) per annum above the base rate of Barclays Bank plc from time to time (before as well as after judgment) on any overdue payment from the due date until payment in full is received by WSS.

4.2 If payment is overdue, WSS is entitled to claim and recover full compensation from the Customer for collection of cost and expenses in and out of court and all legal costs and expenses on a full indemnity basis.

4.3 In the event of default of any payment due, or in the event of the levying of any distress or execution against the Customer or the making by it of any composition or arrangement with creditors or, being a company, the Customer's liquidation or any analogous insolvency procedure in any jurisdiction, then all contracts between the Customer and WSS shall, unless otherwise stated in a SSFA, be terminated immediately and all sums owed (whether invoiced or not) by the Customer to WSS shall become due and payable immediately provided that, in WSS' absolute discretion, WSS may complete any Orders that have already been placed by the Customer at the date of termination and the Customer shall pay all Charges in relation to such Orders in advance if advance payment is requested by WSS. Such termination is without prejudice to the accrued rights and liabilities of the Parties prior to termination.

5. RECORDS

WSS shall keep records of the Service Chart and Certificate of Inspection relevant to each ship covered by this Agreement for a period of time as required by local law in each Service Port.

6. THE CUSTOMER'S OBLIGATIONS

6.1 If requested by WSS, the Customer shall (within a reasonable time period and in any event no later than seven (7) calendar days in advance of WSS performing the Safety Services) supply all drawings, technical documents, data and specifications necessary to allow WSS to perform the Safety Services ("Documentation"). Following the receipt of such Documentation from the Customer, WSS may, in its sole discretion, delay the performance of the Safety Services if the Documentation contains requirements that involve additional preparation time (including, by way of an example only, a requirement for additional parts that need to be ordered in advance).

6.2 Subject to Condition 2.3, the Customer shall confirm in writing to WSS the agreed Service Port and agreed date for the Safety Services to be carried out for each relevant ship.

6.3 The Customer shall ensure that the relevant ship is available at the agreed Service Port and agreed date for the Safety Services to be carried out.

6.4 The Customer shall provide any Orders to WSS with at least four (4) calendar days notice in advance of the date on which the Safety Services are required. Without prejudice to the foregoing notice period, WSS may accept Orders from Customers with a shorter notice period but shall be under no obligation to do so. Any Orders are subject to acceptance by WSS and WSS shall have no obligation to fulfil an Order submitted by the Customer unless the Order has already been accepted by WSS. Acceptance of an Order by WSS shall be indicated either in writing by

WSS or by commencing the performance of the relevant Safety Services by WSS.

6.5 If an Order is placed by the Customer as an agent for a principal (disclosed or undisclosed) then the Customer shall be jointly and severally liable with such principal for the payments of all amounts (including the Charges) due to WSS in connection with the performance of the Safety Services.

6.6 The Customer shall, at all times, comply with any warnings, instructions or safety rules provided to it by WSS from time to time.

6.7 The Customer shall, at all times, comply with, and apply best industry practice at all times in relation to storage, handling and use of all the Safety Equipment.

6.8 The Customer shall inform WSS and keep WSS informed of any applicable laws and regulations in connection with the performance or receipt of the Safety Services.

6.9 The Customer shall take all necessary steps to ensure that it is safe on board the vessels for WSS to perform the Safety Services.

7. REMEDIES

7.1 WSS shall provide the Safety Services in accordance with the description of the Safety Services set out in this Agreement. Subject to Condition 8, to the extent that WSS does not provide the Safety Services in accordance with the description of the Safety Services set out in this Agreement, WSS may, at WSS' option, either: (i) re-perform the relevant Safety Services; or (ii) provide the Customer with a whole or partial refund for the relevant Safety Services.

7.2 Subject to Condition 8, the remedies set out in Condition 7.1 shall only apply if the Customer notifies WSS in writing of any

default within thirty (30) calendar days after any such default is discovered by the Customer or should have been discovered by the Customer. Following such thirty (30) calendar days period, WSS shall have no liability to re-perform the relevant Safety Services or to provide a refund for the relevant Safety Services but may do so at WSS' sole discretion. Where re-performance or a refund is provided by WSS then, to the extent permitted by law, such re-performance or refund will constitute the Customer's sole and exclusive remedy.

8. LIMITATION OF LIABILITY

8.1 Nothing in this Agreement or these STCs shall operate to limit or exclude either Party's liability to the other for death or personal injury resulting from negligence, fraud or fraudulent misrepresentation or any liability which cannot be limited or excluded by mandatory law. This Agreement and these STCs shall be subject at all times to this Condition 8.1.

8.2 WSS shall not be liable to the Customer under or in relation to this Agreement (whether arising from breach of contract, misrepresentation (whether tortious or statutory), tort (including but not limited to negligence), breach of statutory duty, or otherwise) in the event that the Safety Services were not carried out prior to the expiry time of the relevant ship's Safety Equipment Certificate due to the relevant ship not being made available to WSS at the agreed date and agreed Service Port or due to the relevant ship not being made available for sufficient time to allow WSS to complete the Safety Services at such agreed date and agreed Service Port.

8.3 WSS shall not be liable to the Customer under or in relation to this

Agreement (whether arising from breach of contract, misrepresentation (whether tortious or statutory), tort (including but not limited to negligence), breach of statutory duty, or otherwise) for loss or damage arising due to incorrect information being provided by the Customer to WSS or contained within the Safety Service Equipment and Systems List, previous records of safety inspections, safety certificates, Safety Equipment Certificates, Documentation or other information received by WSS, for any defects within Safety Equipment which could not have been reasonably discovered by WSS when providing the Safety Services or for any failure by the Customer to implement the findings of any Safety Inspection and Certificate of Inspection or any other recommendation of WSS.

8.4 WSS shall not be liable to the Customer under or in relation to this Agreement (whether arising from breach of contract, misrepresentation (whether tortious or statutory), tort (including but not limited to negligence), breach of statutory duty, or otherwise) for any of the following types of loss or damage arising under or in relation to this Agreement:

8.4.1 any loss of profits, business, contracts, anticipated savings, goodwill, or revenue, any wasted expenditure, any loss of market, or any loss or corruption of data (regardless of whether any of these types of loss or damage are direct, indirect or consequential); or

8.4.2 any indirect or consequential loss or damage whatsoever, even if WSS was aware of the possibility that such loss or damage might be incurred by the Customer.

8.5 WSS' liability to the Customer under or in relation to this Agreement (whether arising from breach of contract, misrepresentation (whether tortious or statutory), tort (including but not limited to negligence), breach of statutory duty, or otherwise) shall be limited to the lesser of the Customer's direct loss or an amount of five hundred thousand US dollars (\$500,000) per event or series of related events. Notwithstanding the foregoing, WSS' liability under this Agreement shall never exceed an annual aggregate of USD 1 million (\$1,000,000).

8.6 To the extent permitted by law, the Customer will procure that any and all claims to be made against WSS or any Associated Company arising under or in relation to this Agreement will be made by the Customer against WSS only and not by any other member of the Customer's group or by ship-owners or any other third party. For the avoidance of doubt any such claims will be subject to the exclusions and limitations on liability set out in this Agreement.

9. INDEMNIFICATION

9.1 The Customer:

9.1.1 acknowledges and agrees that the Safety Services provided and supplied under this Agreement are, or may be, hazardous to human health;

9.1.2 shall ensure the safe and correct use of the Safety Equipment and assumes all risk and liability for the safe and correct use of the Safety Equipment;

9.1.3 agrees that the Safety Inspection and Certificate of Inspection are provided for the benefit of the Customer only and shall procure that such Safety Inspection and Certificate of

Inspection is not relied upon by any third party or Associated Company of the Customer;

9.1.4 shall familiarise itself and keep itself informed with respect to possible hazards to persons or property involved in the handling and use of the Safety Equipment; and

9.1.5 shall advise its employees, independent contractors and others who handle Safety Equipment for the Customer, and shall take such action as is reasonably necessary to advise others, who are foreseeable users of Safety Equipment of the suspected or proven hazards of Safety Equipment and the proper handling of the Safety Equipment.

9.2 The Customer shall fully indemnify WSS and its Associated Companies and hold them harmless in respect of all penalties, claims, damages, losses, costs and expenses (including but not limited to legal expenses) whatsoever arising, suffered or incurred by WSS or any Associated Companies arising under or in relation to any breach by the Customer of its obligations under Conditions 8.6 and/or 9.1 of these STCs.

10. TERMINATION

If the Parties have entered into a SSFA, the terms of the SSFA shall govern any termination of the SSFA. If the Parties have not entered into a SSFA, WSS may terminate the Agreement at any time upon written notice to the Customer.

11. SUB-CONTRACTORS

WSS may sub-contract any work relating to the Agreement without obtaining the prior consent of the Customer or giving notice to the Customer.

12. ASSIGNMENT

None of the rights or obligations of the Customer under the Agreement may be assigned or transferred in whole or in part

without the prior written consent of WSS. WSS may assign or otherwise transfer its rights and obligations hereunder.

13. CONFIDENTIALITY

13.1 Subject to Condition 13.2, WSS and the Customer agree to keep all Confidential Information confidential, not to use it for any purpose (other than in the context of the Safety Services) and not to disclose it without the prior written consent of the other Party to any third party, unless:

13.1.1 the information was public knowledge at the time of the disclosure;

13.1.2 the information becomes public knowledge other than by breach of the confidentiality requirements set out in this Agreement;

13.1.3 the information subsequently comes lawfully into its possession from a third party; or

13.1.4 such disclosure is required pursuant to any mandatory laws or regulations to which the disclosing Party is subject.

13.2 Each Party shall be entitled to disclose Confidential Information to its directors, shareholders, officers, employees, advisers and consultants having a need to know the same. WSS may disclose the Confidential Information to potential assignees or transferees and may disclose Confidential Information for the purposes of performing the Safety Services (including disclosing information to any sub-contractors or representatives of WSS).

13.3 Neither Party shall make any announcement, statement or press release concerning this Agreement without the prior written consent of the other Party.

14. ETHICAL STANDARDS

14.1 The Parties agree that neither Party shall:

14.1.1 offer or agree to give any person working for or engaged by the other Party any gift or other consideration, which could act as an inducement or a reward for any act or omission to act in connection with this Agreement or any other agreement between the Parties;

14.1.2 enter into this Agreement or any other agreement with the other Party if it has knowledge that, in connection with it, any money has been, or will be, paid to any person working for or engaged by the other Party or that an agreement has been reached to that effect unless (i) details of any such arrangement have been disclosed in writing to the other Party prior to the execution of the relevant agreement and (ii) approval of such arrangement by an authorised representative of the other Party has been obtained;

14.1.3 offer, pay or promise to pay either directly or indirectly, anything of value to a public official in connection with this Agreement. The Parties further agree that in the performance of their respective obligations under this Agreement, the Parties and their respective agents, sub-contractors and employees shall comply with all mandatory laws, rules, regulations and orders of any applicable jurisdiction, including but not limited to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. The Customer shall notify WSS immediately in writing with full particulars in the event that the Customer receives a request from any public official requesting illicit payments; or

14.1.4 take any other action which results in a breach by either Party of any applicable anti-corruption legislation.

14.2 If either Party or any of its agents, sub-contractors or employees breaches Condition 14.1, the other Party may, unless otherwise stated in a SSFA, terminate this Agreement by written notice with immediate effect. Any termination pursuant to this Condition 14.2 shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to the Party not in breach.

15. COMPLIANCE WITH ASSET CONTROL LAWS AND FINANCIAL SANCTIONS

The Parties will comply with applicable anti-terrorist financing and asset control laws, regulations, rules and orders, including but not limited to, the U.S. Department of Treasury, Office of Foreign Assets Control (“**OFAC**”) regulations and the European Union sanctions or restrictive measures.

Pursuant to **OFAC** regulations respecting USD payments, neither party can facilitate USD payments in any transaction related to OFAC sanctioned entities, either directly or indirectly. Either party may be required to request information from the other which supports a verification statement which New York intermediary banks may require according to the OFAC regulations, including whether a person is a “specially designated national” listed by OFAC or any executive order, or a “national” of any country with which transactions are regulated by OFAC. Both parties shall provide timely and truthful responses to any such reasonable enquiries either party may make to the other to support any required verification statements.

16. ENTIRE AGREEMENT

16.1 This Agreement constitutes the entire agreement between the Parties in relation to its subject matter, and replaces and extinguishes all prior agreements, draft agreements, arrangements, undertakings, or collateral contracts of any nature made by the Parties, whether oral or written, in relation to that subject matter.

16.2 Each Party acknowledges that in entering into this Agreement it has not relied upon any oral or written statements, collateral or other warranties, assurances, undertakings or representations which were made by or on behalf of the other Party in relation to the subject-matter of this Agreement at any time before its signature (together “Pre-Contractual Statements”), other than those which are set out expressly in this Agreement.

16.3 Each Party hereby waives all rights and remedies which might otherwise be available to it in relation to such Pre-Contractual Statements, but for Condition 16.2.

16.4 Nothing in this Condition 16 shall exclude or restrict the liability of either Party arising out of its pre-contract fraudulent misrepresentation or fraudulent concealment.

17. FORCE MAJEURE

17.1 In relation to the provision of the Safety Services, the obligations of a Party shall be suspended during any period and to the extent that such Party is prevented or hindered from complying with such obligations by any cause beyond its reasonable control including, but not limited to, strikes, lock-outs, labour disputes, acts of God, war, riot, civil commotion, malicious damage, compliance with any mandatory law or government order, rule, regulation or direction, port security, port

authorities and security restrictions in ports, accident, breakdown of plant or machinery, fire, flood, storm or other adverse weather conditions, difficulty or increased expense in obtaining workmen, materials, supplies or raw materials in connection with the provision of the Safety Services.

17.2 In the event of either Party being so hindered or prevented in accordance with Condition 17.1, the Party concerned shall give notice of suspension as soon as reasonably possible to the other Party, stating the date and extent of the suspension and its cause and the omission to give such notice shall forfeit the right of such Party to claim suspension. Any Party whose obligations have been suspended as aforesaid shall resume the performance of those obligations as soon as reasonably possible after the removal of the cause of suspension and shall so notify the other Party.

17.3 Conditions 17.1 and 17.2 do not apply in relation to the payment obligations of the Customer.

18. MISCELLANEOUS

18.1 Save as expressly provided in this Agreement, no amendment or variation of this Agreement shall be effective unless in writing and signed by a duly authorised representative of each of the Parties to it.

18.2 Any consent given by a Party shall operate as a consent only for the particular matter to which it relates and in no way shall be construed as a waiver or release of any provision of this Agreement nor shall it be construed as dispensing with the necessity of obtaining the specific written consent of the relevant Party in the future unless expressly so provided.

18.3 The failure of a Party to exercise or enforce any right under this Agreement shall

not be deemed to be a waiver of that right nor operate to bar the exercise or enforcement of it at any times thereafter.

18.4 If any part of this Agreement is or becomes invalid, illegal or unenforceable, then such part shall be construed to be deleted from this Agreement, but such deletion will not affect the enforceability of the remainder of the Agreement save that the Parties shall negotiate in good faith in order to agree the terms of a mutually satisfactory provision to be substituted for the invalid, illegal or unenforceable provision which as closely as possible gives effect to their intentions as expressed herein. Failure to agree on such a provision within six months of commencement of such negotiations shall result in automatic termination of this Agreement.

18.5 Save in respect of Associated Companies and employees, agents, sub-agents and sub-contractors of WSS and Associated Companies, who are entitled to enforce: (a) their rights, protections and limitations set out in this Agreement; and (b) all other rights, protections and limitations set out in this Agreement as though they were WSS, subject always to the relevant Associated Company, employee, agent, sub-agent or sub-contractor obtaining the written permission of WSS to enforce such rights, protections and limitations, a person who is not a Party to the Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement. Notwithstanding that any term of this Agreement may be or become enforceable by a person who is not a Party to it, the terms of this Agreement or any of them may be varied, amended or modified or this Agreement may be suspended, cancelled or

terminated by agreement in writing between the Parties or this Agreement may be rescinded (in each case), without the consent of any such third party.

18.6 The Customer agrees it shall not, without the prior written consent of WSS, either on its own account or otherwise, solicit or entice away (or, in each case, attempt so to do), either directly or indirectly, any employee of WSS. This Condition shall not prohibit the Customer from employing WSS' personnel who apply unsolicited to general recruitment advertisements. This provision shall apply for the duration of this Agreement and for a period of six (6) months thereafter or, if earlier, in relation to a particular employee or contractor of WSS, for a period six (6) months after that employee or contractor ceases to be engaged or employed by WSS in connection with the provision of the Safety Services.

18.7 Nothing in this Agreement is intended to transfer any intellectual property rights (including but not limited to patents, designs, trade marks and trade names (whether registered or unregistered), copyright and related rights, database rights and knowhow) in any proprietary information or data from WSS to the Customer. Any developments, amendments, modifications, enhancements or other changes to WSS' intellectual property rights (including but not limited to those intellectual property rights set out above in this Condition 18.7) will vest in WSS and will not vest in the Customer. To the extent that any such developments, amendments, modifications, enhancements or other changes do vest in the Customer, the Customer hereby assigns (and shall procure that all applicable Customer personnel assign) to WSS any and all right, title or interest that the Customer or

Customer personnel may now or hereafter possess in or to such developments, amendments, modifications, enhancements or other changes. The Customer hereby waives (and shall procure that all applicable Customer personnel waive) in favour of WSS, all moral rights subsisting in or associated with such developments, amendments, modifications, enhancements or other changes.

18.8 The Customer shall comply at all times with the Data Protection Act 1998 (or analogous legislation in other jurisdictions) and shall ensure that it has all appropriate rights and consents to pass personal data to WSS for WSS to process in accordance with the terms of the Agreement.

18.9 The rights and obligations of the Parties under this Agreement which are intended to continue beyond the termination or expiry of this Agreement shall survive the termination or expiry of this Agreement.

18.10 The express provisions of this Agreement are in place of all warranties, representations, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise (including but not limited to implied undertakings of satisfactory quality, conformity with description and reasonable fitness for purpose), all of which are hereby excluded by WSS to the maximum extent permitted by mandatory law.

19. DISPUTE RESOLUTION, APPLICABLE LAW AND JURISDICTION

19.1 In the event of a dispute arising out of or relating to this Agreement including any question regarding its existence, validity or termination, the Parties shall first seek

settlement of that dispute by referring such dispute to the commercial managers (or equivalent) of each Party for resolution. If the relevant dispute cannot be resolved to the satisfaction of both Parties within fourteen (14) calendar days of such referral, the dispute shall be referred to the managing directors (or equivalent) of each Party for resolution.

19.2 In the event that the managing directors (or equivalent) of each Party are unable to resolve any dispute, controversy or claim arising under, out of, in connection with, or in relation to this Agreement within seven (7) calendar days of such referral, then the Parties shall attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution's Model Mediation Procedure.

19.3 If the Parties are unable to resolve any dispute arising under, out of, in connection with, or in relation to this Agreement (including but not limited to any dispute or claim relating to non-contractual obligations) by mediation, the Parties agree to submit the dispute to the exclusive jurisdiction of the courts of England and Wales.

19.4 Nothing contained in this 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 mediation 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.

19.5 This Agreement and any disputes or claims arising out of or in connection with its subject matter or formation (including but not

limited to non-contractual disputes or claims)
shall be governed by and construed in
accordance with English law.

END