

**GENERAL TERMS AND CONDITIONS OF SALE**

EDITION DECEMBER 2017

SHIP SUPPLY

**A. APPLICABILITY**

A.1 Unless otherwise explicitly agreed in writing these General Terms and Conditions (the "Terms") shall apply to any and all contracts, orders, sales and deliveries of goods or services by the Seller (as defined in Article B.1).

**B. DEFINITIONS**

Throughout this document the following definitions shall be applied and referred to:

B.1 "the Seller" means Wrist Ship Supply A/S, company reg. no. 19272796, Stigsborgvej 60, 9400 Noerresundby, Denmark, or any affiliated companies, including but not limited to subsidiaries that are fully or partly, directly or indirectly, owned or controlled.

B.2 "the Buyer" means any party requesting quotations, placing orders, purchasing or otherwise receiving Goods from the Seller, including but not limited to the Vessel and her owners, charterers, operators, managers, masters, agents and brokers.

B.3 "Vessel" means the vessel, ship, barge or on- or off-shore facility that receives the Goods, either as end-user or as transfer unit to a third party.

B.4 "Goods" means any and all items ordered by the Buyer or supplied by the Seller, including but not limited to ship stores, accessories, provisions and equipment and any related services provided by the Seller.

B.5 "Order Confirmation" means a written confirmation by Seller of an order placed by the Buyer and/or confirmation of an agreement otherwise by the Seller.

**C. PRICES**

C.1 The Seller's prices are based on the price level of the Goods and all other costs and charges known at the time of concluding the agreement as well as taxes and duties levied. Any price increase on goods, or additional costs borne by the Seller

whatsoever, caused by any change in the Seller's contemplated source of supply or otherwise, occurring after the agreement has been concluded, shall be added to the agreed sales price of the Goods or the services provided by the Seller. The Seller shall give the Buyer prior notice of such increases in the agreed sales price within a reasonable time after the Seller becomes aware of the relevant circumstances.

C.2 All prices and/or tariffs are exclusive of VAT, sales taxes, export or import taxes, dues, quay dues, and other duties and taxes of any kind, which shall be for the account of the Buyer.

**D. ORDER CONFIRMATION**

D.1 Any and all orders are subject to an Order Confirmation by the Seller before such order is binding on the Seller.

D.2 In all cases the Order Confirmation shall be the valid documentation for qualities and quantities ordered as well as for other terms agreed. It is the Buyer's sole responsibility to address any discrepancies between the Order Confirmation and the Buyer's order, and the Seller cannot be held liable for such discrepancies.

D.3 All sales are final. Return of Goods are subject to acceptance by the Seller and may be subjected to a deduction in the refunded purchase amount in the Sellers discretion.

**E. QUANTITY AND QUALITY**

E.1 If, for whatever reason, the quantity or quality agreed is not available for delivery by reasonable means, the Seller cannot be held liable for not supplying the Goods or services in accordance with the Order Confirmation. The Seller shall give the Buyer notice of such shortcomings within reasonable time after the Seller becomes aware hereof. The Seller shall initiate discussions with the Buyer on how to mitigate shortcomings in quantity by supplying the

missing quantities at a convenient port/place suitable for both parties as soon as the outstanding quantity of the Goods is available.

**F. INSPECTION, VERIFICATION, CLAIMS AND LIABILITIES**

F.1 Any master, officer or crew member at the Vessel or agent/representative of the Buyer shall be deemed authorised by the Buyer to receive the Goods, inspect the Goods, and confirm that the Goods are in accordance with the accompanying delivery note. By taking delivery of the Goods, confirmation that the goods are in accordance with the accompanying delivery note shall be deemed given and the goods deemed examined and accepted in every respect by the Buyer, notwithstanding reservations or conditions added to the delivery note by the Buyer at the time of delivery.

F.2 Any and all claims relating to a delivery shall be notified in writing to the Seller no later than 3 calendar days after delivery or anticipated delivery time accompanied by a description of the basis for the claim and photos showing the non-conformity if the claim relates to quantity or quality, otherwise such claim shall be deemed time barred and fully waived by the Buyer.

F.3 Any and all claims which cannot be detected after thorough examination at the time of delivery must be notified in writing to the Seller no later than 14 calendar days after delivery and be accompanied by a detailed description of the basis for the claim and photos showing the non-conformity. Otherwise, such claim shall be deemed time barred and fully waived by the Buyer.

F.4 If the claim relates to delivered Goods the Buyer must return the claimed Goods or provide a report from an independent and reputable surveyor company selected by the Seller to document the claim if the Seller deems such necessary. If a

valid claim exists, one of the following remedies shall apply in the sole discretion of the Seller: 1) a refund of the purchase price of the non-conforming Goods; 2) repair of the non-conforming Goods; or 3) redelivery of the non-conforming Goods.

F.5 The Seller's total liability towards the Buyer under any one Order Confirmation shall always be limited to an amount equal to the stated price of the Goods or services in such Order Confirmation. This applies irrespective of whether the Seller's liability arises out of the delivery of non-conforming Goods, quantities, product liability, delays, or acts or omissions committed by the Seller or the Seller's representative.

F.6 The Seller cannot be held liable for any type of consequential damages or indirect losses hereunder but not limited to any loss of profit, loss of use, loss of revenue, loss of contracts, loss of business, loss of goodwill, increased costs and expenses, lay-time, demurrage or wasted expenditure.

F.7 The Seller cannot be held liable for non-performance due to an event of force majeure which shall mean any cause of events beyond the reasonable control of the Seller, hereunder but not limited to unavailability of Goods from the sources of supply of the Seller, lack of reasonable means of transportation, cyberattacks, hacking of IT systems and the like, and acts of god.

F.8. Limitations of liabilities in these Terms shall apply equally to the delivery of Goods and services hereunder but not limited to storage and/or transportation services, freight forwarding, custodian and/or carrier services.

## **G. DELIVERY**

G.1 Any delivery time agreed shall be regarded as a best estimate and as an approximate delivery time.

G.2 In all cases the Buyer must give not less than 72 hours of notice to the Seller of approximate delivery time, followed by 48 and 24 hours of notice, where last notice must be final and exact.

G.3 The Seller may in its own discretion deliver the Goods of a single Order Confirmation in one or more lot(s).

G.4 The Buyer warrants and ensures that any government permits or approvals necessary for the export of the Goods has been obtained.

G.5 The Seller has delivered the Goods at the earliest of: when the Goods are placed (a) alongside the Vessel at the named port of delivery, or (b) alongside the barge or other vessel carrying the Goods to the Vessel, or (c) placed at the Buyer's disposal. The Buyer has to bear all costs and risks of loss of or damage to the Goods occurring after delivery.

G.6 If storage of Goods is arranged by the Seller on request of the Buyer the risk shall pass at the time the Goods are placed in storage. Transportation from the place of storage shall be for the risk and account of the Buyer.

G.7 If delivery is required outside normal working hours of the operation performing the delivery or on a Saturday, Sunday or religious, national or legal holiday the expenses incidental to delivery at such time shall be reimbursed by the Buyer.

G.8 The Seller, the Seller's representative, driver or any person representing the Seller shall in no event whatsoever be held responsible or liable for any delay.

G.9 If deliveries are made offshore by barge or another vehicle apart from truck, all and any costs related to such delivery shall be for the account and risk of the Buyer. All risks insurance for such barge/vehicle transport shall be made by and for the account of the Buyer, including the risk for goods carried on deck.

## **H. PAYMENT**

H.1 Payment shall be made by the Buyer no later than on the due date stated in the invoice.

H.2 Payment shall, unless otherwise agreed in writing, be made in the currency stated on the invoice, and all payments are to be made free of bank charges and other costs.

H.3 Payment shall be made to the Seller's nominated bank account as stated on the invoice or in cash if no credit has been agreed.

H.4 Payment shall be made in full, without any set-off, deduction and/or discount, unless agreed in writing prior to payment being made.

H.5 In the event that payment is not received by the Seller by the due date the Seller is entitled to interests at the rate of 2 percent per month pro rata without prejudice to any other rights or remedies available to the Seller.

H.6 All costs and expenses incurred by the Seller in connection with the collection of any overdue payments, including but not limited to interest charges, internal costs, expenses to lawyers and debt collectors, court fees, etc, shall be indemnified by the Buyer upon demand from the Seller.

H.7 All payments received by the Seller shall be applied first to settle interest as set out in clause H.5, then to costs as set out in clause H.6, and then to the principal amount.

H.8 Notwithstanding any agreement to the contrary, any and all amounts owed to the Seller will be due and payable immediately in case of bankruptcy, insolvency, moratorium, reorganization or other situations of the Buyer which affect the Seller's rights generally or which in the sole opinion of the Seller adversely affects the financial position of the Buyer.

H.9 The Seller shall at all times be entitled to require that the Buyer provides security for the proper performance of all its payment obligations to the Seller in such manner as shall be deemed sufficient by the Seller. Failure to immediately provide such security shall entitle the Seller, inter alia, to suspend further performance of any and all orders.

## **I. OWNER'S GOODS OR SUPPLIES**

I.1 In situations where the Seller has agreed to store and transport items or goods on behalf of the Buyer (such items are referred to as "Owner's Goods"), the sole risk of the Owner's Goods while

the goods are in the custody of the Seller, or third Parties acting on the Seller's behalf, remains with the Buyer.

I.2 Storage and transportation of Owner's Goods are provided to the Buyer by the Seller only based on prior agreement on each occasion between the parties.

I.3 Owner's Goods are considered as received for transport and/or storage only. The Seller has accepted to carry such goods to the receiving Vessel on the condition that the Seller cannot be held liable for any loss, damage or delay to the said goods (in whole or in part) occurring during offloading, storage, loading and transportation arising including but not limited to negligence on the part of the Seller or subcontractors/representatives, and the Buyer shall indemnify the Seller from any loss and/or liability arising out of the performance of the services related to the Owner's Goods.

I.4 The Buyer acknowledges and accepts that barge transport may be performed as deck cargo, and the Buyer shall have the sole responsibility of proper and sufficient packaging of the Owner's Goods.

I.5 The Seller shall be deemed to have no knowledge of the weight, contents or quality of the Owner's Goods and in no way whatsoever can the Seller be held responsible for same.

I.6 With reference to Article I.5 above it remains the sole responsibility of the Buyer to ensure and the Buyer guarantees that Owner's Goods are stored, transported, exported and imported in accordance with all applicable laws and regulations. The Buyer shall indemnify the Seller all costs borne by the Seller related to the storage, transport, export and/or import of the Owners Goods if such are due to issues of compliance with laws and regulations, or due to health and safety measures taken by the Seller to protect staff or property belonging to the Seller or third parties.

I.7 The Buyer shall ensure that property insurance is covering the Owners Goods during the period of transport and storage by the Seller or its representatives.

I.8 The Seller's liability for carriage or storage of the Buyer's Goods shall always be limited in accordance with the clauses in article F.

## **J. ACCEPTANCE OF THESE TERMS**

J.1 If the company to whom the Order Confirmation is issued is not the registered owner of the Vessel, the Master (or any other Officer or Representative of the Vessel) by signing or stamping the delivery notes or other similar document shall be deemed to have full authority on behalf of the Vessel and her owners to accept these Terms.

## **K. LAW AND ARBITRATION**

K.1 These Terms, and any and all Order Confirmations, agreements and / or transactions to which these Terms apply, shall be governed by and construed in accordance with Danish substantive law. CISG does not apply.

K.2 Any dispute between the Buyer and the Seller, including, but not limited to, any disputes regarding the existence, validity or termination of these Terms, shall be settled by arbitration administered by The Danish Institute of Arbitration in accordance with the rules of arbitration procedure adopted by The Danish Institute of Arbitration and in force at the time when such proceedings are commenced. The place of arbitration shall be Copenhagen. The language of such proceedings shall be English.

K.3 Notwithstanding anything to the contrary in clauses K.1 and K.2 above, the Seller shall - without prejudice to i) any rights hereunder of the Seller and / or ii) any claim raised pursuant to clause K.2 above - have the right to proceed against the Buyer and / or any third party and / or the Vessel in such jurisdiction as the Seller in its sole discretion sees and deems fit, inter alia for the purpose of securing payment of any amount due to the Seller from the Buyer. In such circumstances, the proceedings shall be governed by the General Maritime Law of the United States of America with respect to the existence of a maritime lien (regardless of the country in

which the Seller takes legal action) and in all other respects by the laws (substantive and procedural) of the jurisdiction so chosen by the Seller. To the extent the application of the General Maritime Law of the United States of America with respect to the existence of a maritime lien is not recognized in the jurisdiction discretionarily chosen by the Seller in accordance with this clause K.3, the proceedings against the Buyer and / or any third party and / or the Vessel shall be governed solely by the laws (substantive and procedural) of the jurisdiction chosen by the Seller in accordance with this clause K.3.

## **L. SEVERABILITY**

L.1 Should any part of these Terms be held invalid, void or unenforceable by applicable law, the remainder of the Terms shall remain in full force.

## **M. VALIDITY DATE**

M.1 These Terms shall be in force and valid for any and all contracts, orders, sales and deliveries of goods or services by the Seller with effect from December 1 2017.