



# WGSN MASTER TERMS (July 09)

WORTH GLOBAL STYLE NETWORK INC  
130 FIFTH AVENUE, SEVENTH FLOOR, NEW YORK, NY 10011, USA ("WGSN")

## 1. INTRODUCTION

These terms and conditions (the "**Master Terms**"), the Website Terms and the Purchase Document(s) (as defined below) together (the "**Agreement**") govern the use by [ ] ("Client") of the following products and services provided by WGSN: (a) licenses to access the WGSN Content; (b) Advisory Services; and/or (c) Bespoke Consulting (each as defined below).

**EFFECT OF CLIENT AGREEMENT OF THESE MASTER TERMS.** Where these Master Terms are accepted by an existing Client during any Term or Renewal Term under an existing Purchase Document, they will supersede any previous Master Terms with effect from such acceptance, notwithstanding Clauses 8.1 and 12.8, but without prejudice to such Term or any Renewal Term or any other terms of such Purchase Document.

**CHANGES TO PREVIOUS WGSN MASTER TERMS.** Changes to the 1 January 2009 Master Terms are highlighted for ease of reference.

**EFFECT OF THESE MASTER TERMS ON USE BY THIRD PARTY USERS OF WGSN CONTENT.** Clauses 6 and 7 of these Master Terms also apply to the use of WGSN Content under Clause by any third party with whom any Client shares WGSN Content under Clause 4.4B, as if such third party were the "Client" for the purposes of such clause.

## 2. DEFINITIONS

2.1. In the Agreement, the following words shall have the following meanings:

"**Advisory Services**" means the standard services provided by WGSN for Clients using the WGSN Content;

"**Affiliate**" means any entity controlling, controlled by or under common control with Client or WGSN;

"**Bespoke Consulting**" means the services provided by WGSN for Clients, which may include producing Consulting Deliverables;

"**Charges**" means the charges specified in any Purchase Document payable by Client to WGSN for (a) the WGSN Content; and/or (b) Advisory Services; and/or (c) Bespoke Consulting;

"**Confidential Information**" means all non-public information in any form, furnished or made available in connection with the Agreement by or on behalf of one party ("Disclosing Party") to the other ("Receiving Party") which is marked confidential or restricted, or would be understood by a reasonable person in the Receiving Party's position to be confidential;

"**Consulting Deliverables**" means the tangible deliverables (if any), which may include WGSN Content, produced for Client by WGSN as part of the Bespoke Consulting as identified in the relevant Purchase Document;

"**Effective Date**" means the date when the first Purchase Document is executed by the parties incorporating the terms of the Master Terms;

"**Entity**" means the Client legal entity including Client's Affiliates;

"**Force Majeure**" means any cause preventing a party from performing any or all of its obligations under the Agreement which arises from or is attributable to strikes, lock-outs or other industrial disputes, nuclear accident or acts of God, war or terrorist activity, riot, civil commotion, malicious damage (excluding malicious damage involving the employees of the affected party or its sub-contractors), compliance with any law or governmental order, rule, regulation or direction, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors and, where they are beyond the reasonable control of the party so prevented, any other acts, events, omissions or accidents;

"**ID**" means the username and password assigned to each User to use and access the WGSN Content;

"**Privacy Policy**" means the WGSN privacy policy as published on the Site (and as may be varied from time to time by WGSN upon posting on the Site);

"**Purchase Document**" means each separate document forming part of the Agreement which Client completes to receive (a) the WGSN Content; and/or (b) Advisory Services; and/or (c) Bespoke Consulting;

"**Renewal Date**" means the date set out in a Purchase Document for renewal of the WGSN Content or Advisory Services;

"**Renewal Term**" means in relation to a Purchase Document for WGSN Content and/or Advisory Services each automatic period of renewal following the Term which will have a duration equivalent to the Term for that Purchase Document;

"**Services**" means the Advisory Services & Bespoke Consulting as applicable;

"**Site**" means the website(s) run by WGSN incorporating the WGSN Content;

"**Term**" means in relation to WGSN Content and/or Advisory Services the minimum period of the licence set out in the Purchase Document;

"**User**" means each Client employee, consultant or contractor of Client who has been nominated by Client and agreed with WGSN to have access to or otherwise be supplied with the WGSN Content subscribed for by Client;

"**User Licence**" means a licence granted to User(s) to use WGSN Content during the Term and any Renewal Term in accordance with the terms of the Agreement;

"**Website Terms**" means the website terms governing use of the Site as published on the Site (and as may be varied from time to time by WGSN upon posting on the Site);

"**WGSN Authorised Signatory**" means any individual on the WGSN executive team authorised to enter into legally binding agreements on behalf of WGSN;

"**WGSN Content**" means WGSN or its licensors' reports, scorecards, product comparisons, methodologies, spreadsheets, graphics, tables, charts, images,

data, mood-boards, assessment tools, formulas and algorithms and all other proprietary content and material provided on the Site or to client in other forms or as an output of the Services and any enhancements and modifications thereto, regardless of the means of access or delivery; and "**WGSN Deliverables**" means the WGSN Content and the Consulting Deliverables.

2.2. A reference in the Agreement to the singular includes the plural and vice versa and words in one gender includes both genders.

## 3. CLIENT OBLIGATIONS

3.1. Client will ensure that all use of the Services, the WGSN Content and the Site by Client (including its User(s)) will be made in accordance with the Agreement.

3.2. Client shall pay the Charges in accordance with the payment terms set out in each Purchase Document.

3.3. The Client shall permit WGSN to take such steps as WGSN reasonably considers appropriate to monitor compliance by the Client and User(s) with the provisions of the Agreement and shall co-operate fully with WGSN in relation to such monitoring.

## 4. USER LICENCE FOR WGSN CONTENT

4.1. All intellectual property rights in the WGSN Content are reserved by WGSN or its licensors (as applicable) and no such rights whatsoever are assigned to Client or User(s) under the Agreement. Any misappropriation or unauthorised use of the WGSN Content may unfairly and irreparably harm WGSN and/or its licensors. Client shall not commit or permit any act or omission that would impair WGSN's or its licensors' proprietary and/or intellectual property rights in the WGSN Content.

4.2. Any User Licence granted to Client to the WGSN Content shall be a non-transferable, non-exclusive, limited licence for the number of Users and types of products specified in the Purchase Document to access the WGSN Content within except in the case of use under Clause 4.4A or Clause 4.4B) and for the benefit of the Entity only for the period set out in the Purchase Document. No other use of the WGSN Content (in whole or in part) may be made without the prior written approval of a WGSN Authorised Signatory. Any such approval shall not constitute either a general consent or a waiver of the other provisions of the Agreement.

4.3. Subject to Clause 5, where WGSN Content is provided to Client under the Agreement, a User Licence is required for each User that has access to the WGSN Content. The ID is strictly to be used by the User to which it was assigned only and shall not be used by any other individuals. Failure to comply with this requirement shall constitute a breach of the Agreement and entitle WGSN to suspend all Client access to the WGSN Content.

4.4. A User Licence entitles the User to:

4.4.1. download and display any page from the Site on a computer screen;

4.4.2. download and store WGSN Content on the hard disk of the computer, portable media player or, WGSN Scrapbook (where appropriate) of the User,;

4.4.3. print one copy of any page on the Site (but not further copy it);

4.4.4. use extracts from the WGSN Content to form a collage of ideas (in either electronic or hard copy form) provided that:

(i) the WGSN Content (but not material not taken from the WGSN Content or otherwise owned/licensed by WGSN) is attributed to WGSN by showing the "©WGSN" copyright sign;

(ii) the collage is used strictly only within the Entity; and

(iii) no further copies of the collage are made.

4.4A. A User Licence also entitles the User to make unrestricted use of material described on the Site as "WGSN – downloadable".

4.4B. A User Licence also entitles the User to share, by means of the transfer by e-mail of files from the WGSN IDEAS STUDIO, WGSN Content with manufacturer or supplier partner of the Client (but not including any fashion and/or style information service) for downloading and display only on a single computer screen and the purpose only of discussion between the User and such third party and never for re-use or further dissemination, whether for marketing or any other purpose; and provided that the Client brings such limitation clearly to the attention of any such third party, and such third party agrees that the terms of Clauses 6 and 7 below shall apply to the use of such WGSN Content by such third party as if such third party were the "Client". The Client acknowledges and agrees that access to some WGSN Content may be restricted to other Clients of WGSN only.

4.5. For the avoidance of doubt, Client shall not distribute, reproduce, store, transfer or in any other way use any of the WGSN Content (including by using it as part of any library, news, information, archive, website or similar service) other than as set out above.

4.6. Except strictly as permitted under Clause 4.4A or Clause 4.4B, Client shall not (and shall ensure that its User(s) shall not) sell, lease, transfer, sub-license or otherwise make available or permit access to the WGSN Content or any portion thereof, to any third party or any employee, consultant or contractor other than the Users. Client shall be fully responsible for the User(s)'s use of the WGSN Content and ensuring it is made strictly in accordance with the Agreement.

## 5. SERVICES AND CONSULTING DELIVERABLES

5.1. WGSN warrants that the Services will be performed using reasonable care and skill and in accordance with the description set out in the Purchase Document.

5.2. In the event that the Purchase Document specifies that WGSN will produce Consulting Deliverables, WGSN grants Client a non-exclusive, non-transferable, limited licence to use the Consulting Deliverables including any WGSN Content provided therein within the Entity.

## **6. WARRANTIES AND LIMITATION OF LIABILITY**

- 6.1. Client agrees that the WGSN Deliverables are provided only for general information and are not intended to address particular requirements of Client. In particular, the WGSN Deliverables do not constitute any form of advice, recommendation or arrangement by WGSN and shall not be relied upon by Client or User in making (or refraining from making) any specific investment or other business or personal decisions and acknowledges that professional advice should be obtained before making any such decision.
- 6.2. WGSN will deploy anti virus software across its IT assets and Site but makes no warranty that the WGSN Deliverables are free from infection, viruses or anything else that has contaminating or destructive properties or that Client's use of the WGSN Deliverables will be uninterrupted, error-free or secure or that any defects therein will be corrected.
- 6.3. Because of the number of sources from which WGSN obtains content and the nature of electronic distribution via the world wide web, WGSN does not give any warranties in respect of the WGSN Content. WGSN Content is provided on an "as is", "as available" basis and WGSN does not guarantee its accuracy, timeliness, completeness, performance or fitness for a particular purpose. WGSN reserves the right to modify the WGSN Content at any time.
- 6.4. WGSN does not warrant, endorse, guarantee or assume responsibility for any product or service (i) advertised by a third party on the Site or (ii) offered by a third party through any site hyperlinked to the Site or make any representations about their content or availability. Any use or resultant transaction is made entirely at Client's own risk and WGSN accepts no liability for any losses resulting from such action. Please note that WGSN gives no warranty that links to third party sites on the Site shall be marked as such.
- 6.5. All implied warranties are excluded from the Agreement to the extent that they may be excluded as a matter of law.
- 6.6. Nothing in the Agreement shall limit WGSN's liability for death or personal injury resulting from WGSN's negligence or for fraud.
- 6.7. WGSN's aggregate liability in respect of any loss, damage, liabilities and expenses suffered by Client (or its User(s) or Affiliates) in respect of any Term or Renewal Term and arising out of or in connection with the Agreement, whether in contract, tort (including negligence) or for breach of statutory duty or in any other way, shall not exceed the Charges paid by Client for that Term or Renewal Term as applicable. WGSN shall not be liable in contract, tort (including negligence) or for breach of statutory duty or in any other way for any of the following suffered or incurred by Client (or its User(s) or Affiliates) arising out of or in connection with the Agreement:
- 6.7.1. any loss arising from or in connection with loss of revenues, profits, data, contracts or business or failure to realise anticipated savings;
  - 6.7.2. any loss of goodwill or reputation or any indirect or consequential losses;
  - 6.7.3. any damages arising from failure by the User to use the Site and/or the WGSN Content in accordance with the Agreement; or
  - 6.7.4. third party claims of any kind.

## **7. INDEMNIFICATION**

- 7.1. Client shall be liable to WGSN for all and any breaches of the Agreement by Client and/or the User and any other third party using the ID or WGSN Deliverables accessed through the Client or User(s) and hereby agrees to indemnify and hold WGSN, its employees, agents, officers, directors and other representatives harmless from and against all liabilities, damages, claims, actions, costs and expenses (including legal fees) which WGSN may suffer or incur in connection with or arising from any breach of the Agreement by Client or the User(s) or any such third parties.

## **8. TERMINATION**

- 8.1. The Master Terms are framework terms and conditions which, once signed by the parties, will come into effect each time a Purchase Document is signed by the Client and a WGSN Authorised Signatory.
- 8.2. The Agreement shall (subject to suspension and/or early termination in accordance with these Master Terms):
- 8.2.1. in relation to Purchase Documents for WGSN Content and/or Advisory Services, continue for the Term, and continue thereafter for each Renewal Term unless earlier terminated in accordance with the Agreement; or
  - 8.2.2. in relation to Purchase Documents for Bespoke Consulting, continue for the period set out in the Purchase Document for Bespoke Consulting.
- 8.3. Either party may terminate the Agreement (in whole or with respect to particular Purchase Documents only) with immediate effect by written notice to the other:
- 8.3.1. if the other party commits a material breach of the Agreement which is not remediable, or (where the breach is capable of remedy) is not remedied within 30 days after being required by notice to do so;
  - 8.3.2. for convenience upon written notice at any time after the expiration or termination of all Purchase Documents executed hereunder; or
  - 8.3.3. if the other party becomes or is declared insolvent or takes formal steps to commence bankruptcy (including the making of a bankruptcy order) or makes or proposes any composition with its creditors or the appointment of a receiver or similar officer over or in respect of some or all of its assets or takes any steps to enter into an insolvency process including without limitation the appointment of a liquidator, administrative receiver, administrator, provisional liquidator, receiver or any other office holder over or in respect of some or all of its assets or the filing of any papers at

court in respect of a moratorium or the taking of any steps for dissolution or strike off.

- 8.4. Without prejudice to Clause 8.3, where WGSN reasonably believes that Client has breached the terms of the Agreement (including by late payment of any invoices submitted or misuse of the ID, WGSN may terminate the Agreement with immediate effect or temporarily suspend Client access to the WGSN Content and/or Services (without refund of any Charges).
- 8.5. A Purchase Document may include additional termination provisions applicable only to such Purchase Document. Subject to Clause 8.3, the termination of an individual Purchase Document will not affect any other Purchase Document.
- 8.6. Notwithstanding termination or expiry of the Agreement or any individual Purchase Document, any provisions in the Agreement that by their nature are intended to survive expiration or termination of the Agreement shall continue to have full force and effect.
- 8.7. The Charges shall be refunded to Client on a pro rata basis in the event of termination by Client pursuant to Clauses 8.3.1 or 8.3.3. In the event of termination for any other reason there shall be no refund of any Charges paid by the Client.

## **9. CONSEQUENCES OF TERMINATION**

- 9.1. Immediately following the expiry or termination of a Purchase Document or the Agreement (as applicable), Client will (i) procure that all Users and members of the Entity cease using the WGSN Content and the ID; and (ii) permanently delete from their records and storage media and destroy all copies of the WGSN Content or any parts thereof in Client's possession or under Client's control within 10 days of the expiry of the relevant Purchase Document. Upon termination, WGSN shall also be entitled to suspend all access to the WGSN Content and/or the Services provided under the applicable Purchase Document(s).
- 9.2. If WGSN so requests, Client shall provide WGSN with written confirmation (in the form required by WGSN) that Client has complied with Clause 9.1 (the "Confirmation"). If WGSN does not receive the Confirmation within 28 days of such request, WGSN may charge Client an amount equal to the greater of (i) 65% of the Charges; or (ii) three months of the then current charges for the WGSN Content (in the case of free trials where no Charges are included) (the "Reduced Charge"). Following payment of the relevant Reduced Charge the Client will be able to use all WGSN Content downloaded in accordance with the Agreement up to the date of the Confirmation.

## **10. CONFIDENTIALITY**

- 10.1. Save as expressly permitted hereunder, each party will keep confidential the terms of the Agreement as well as any other Confidential Information disclosed to it by the other party provided this shall not apply to any information which:
- 10.1.1. is/ becomes public knowledge other than by breach of this Clause 10;
  - 10.1.2. is in the possession of the Receiving Party without restriction in relation to disclosure before the receipt date from the Disclosing Party;
  - 10.1.3. is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
  - 10.1.4. is independently developed by the Receiving Party without access to the Confidential Information; or
  - 10.1.5. is required to be disclosed by operation of law, government regulation, or order of a Court of competent jurisdiction, providing the Receiving Party first gives written notice of such disclosure to the Disclosing Party.
- 10.2. The obligations with respect to Confidential Information shall survive termination of the Agreement and continue for as long as such information remains confidential.

## **11. PRIVACY POLICY**

- 11.1. The Client consents to use of the Client and User details in accordance with the Privacy Policy.

## **12. GENERAL**

- 12.1. The Agreement shall be governed by, and construed in accordance with, the laws of the State of New York and the Federal or State courts located in the State of New York shall have exclusive jurisdiction to settle any dispute which may arise out of, under, or in connection with the Agreement.
- 12.2. Client may not assign, sub-license or otherwise transfer any of its rights or obligations under the Agreement without the prior written agreement of a WGSN Authorised Signatory, which shall not be unreasonably withheld or delayed.
- 12.3. Neither party will be held in breach of the Agreement in the event of any delay or failure to perform its obligations by reason and to the extent and duration (only) of any Force Majeure event.
- 12.4. No right, power or remedy conferred upon or reserved for WGSN is exclusive of any other right, power or remedy available to WGSN provided either under the Agreement or as a matter of law and each such right, power or remedy shall be cumulative.
- 12.5. In the event that any provision of the Agreement is held to be invalid or unenforceable, the remaining provisions of the Agreement shall remain in full force and effect.
- 12.6. The Agreement is the complete agreement between WGSN and Client regarding the WGSN Content, Advisory Services and/or Bespoke Consulting (as applicable). Any Client terms or conditions contained in, or incorporated by reference into, a purchase order, confirmation or other document submitted by Client which purport to vary or supersede the Agreement shall be of no effect. Each of the parties agrees that in entering into the Agreement, it has not relied on any statement, representation, warranty, understanding, undertaking, promise or assurance of any person other than as expressly set out in the Agreement.
- 12.7. The Agreement may not be changed or amended except in writing signed by both parties.

12.8. Where the Agreement has been translated into a language other than English and there is any inconsistency between the interpretation of the English version and the translated version, the meaning under the English version shall prevail.

FOR SIGNATURE WHEN CONCLUDED WITH A PURCHASE DOCUMENT.

**WGSN Authorised Signature (CEO and direct reports)**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Job Title: \_\_\_\_\_

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**The signatory confirms that they have full authority to sign on behalf of Client**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Job Title: \_\_\_\_\_

Full Client Name: \_\_\_\_\_

Address: \_\_\_\_\_

Country: \_\_\_\_\_