

Wilmar Distribution Pte. Ltd.

Catering Terms

Definitions:

In these Catering Terms:

“**Consumables**” means the food and drink to be provided by Wilmar to the Customer as part of the Services;

“**Contract**” means the contract between Wilmar and Customer for the Services;

“**Customer**” means a person who purchases the Services from Wilmar;

“**Services**” means food catering services including without limitation the provision of food and drink and includes the goods and services set out in clauses 3.1(a) to (e); and

“**Wilmar**” means Wilmar Distribution Pte. Ltd. and its direct and indirect subsidiaries, including WK Food Solutions Pte. Ltd., Wilmar Kitchen (Singapore) Pte. Ltd., WK F&B Concepts Pte. Ltd. and Wilmar Kitchen Concepts Pte. Ltd..

1. Application of Catering Terms

1.1 Subject to clause 1.2 below:

- (a) these Catering Terms (as varied from time to time) shall apply to and govern the sale of the Services (including the Consumables) by Wilmar to the Customer; and
- (b) these Catering Terms shall apply to, be incorporated into, and form an integral part of, all Contracts.

1.2 These Catering Terms do not apply to the purchase or sale of the Services which are the subject of a separate signed contract entered into between Wilmar and the Customer which does not reference or incorporate these Catering Terms.

2. The Customer's acceptance of these Catering Terms

2.1 The Customer, by:

- (a) placing an order for the Services (including any Order);
- (b) accepting the Services; and/or
- (c) making payment for the Services,

shall be deemed to have accepted these Catering Terms and the incorporation of these Catering Terms into the Contract.

2.2 These Catering Terms take precedence over the Customer's terms and conditions. Neither Wilmar's acceptance of the Customer's order, nor Wilmar's provision of the Services, nor any other acts of Wilmar, shall constitute or be deemed or construed as acceptance of the Customer's terms and conditions.

3. The Services

3.1 The Services offered by Wilmar to the Customer includes:

- (a) the provision of the Consumables to the Customer as specified in the Quotation (as defined below) or other correspondence from Wilmar to the Customer;
- (b) the provision of catering trays and other containers to contain the Consumables (“**Catering Equipment**”);
- (c) where applicable, setting up and taking down of the Catering Equipment at the Customer's venue;
- (d) where applicable, delivery services to deliver the Consumables and the Catering Equipment to the Customer's venue and to collect the Catering Equipment from the Customer's venue (“**Delivery Services**”); and
- (e) the Additional Services (as defined in clause 3.2), if any.

For the avoidance of doubt, the Services do not include waste food disposal at the Customer's venue, unless the Customer expressly requests for such services and Wilmar expressly agrees in writing to provide them.

3.2 Wilmar offers additional services which may be purchased by the Customer, including:

- (a) waiter and butler services;
- (b) provision of live food stations; and
- (c) any other services as agreed between Wilmar and the Customer, (collectively, “**Additional Services**”).

4. Quotation and Price

- 4.1 The fee payable to Wilmar for the Services ("**Fee**") shall be as specified in Wilmar's quotation for the Services issued to the Customer ("**Quotation**") or otherwise in Wilmar's then current price list. The Fee is exclusive of Goods and Services Tax ("**GST**") and any other taxes or duties. The Customer shall bear the GST and all other taxes and duties where required.
- 4.2 Before providing the Services, Wilmar will provide to the Customer a Quotation which will include:
- (a) details of the Consumables (including the proposed menu items), together with the applicable fee;
 - (b) the date and venue for the Services;
 - (c) number of persons catered for;
 - (d) the fee for the Delivery Services; and
 - (e) any additional fees for the Additional Services if applicable ("**Additional Fees**").
- 4.3 Wilmar reserves the right to charge an additional no lift access fee for deliveries to venues without direct lift landing access and/or where steps-climbing is required.

5. Purchase of the Services

- 5.1 To purchase the Services, the Customer must counter sign the Quotation and send the signed Quotation back to Wilmar. The Customer's signing of the Quotation shall be deemed to be the Customer's placement of an order for the Services (including the Consumables) specified in that Quotation ("**Order**").
- 5.2 Cancellation of Order
- (a) If the Customer cancels its Order within five (5) working days (excluding weekends and public holidays) from the requested date of the Services, then the Customer shall be liable to pay to Wilmar 50% of the total Fee excluding GST; and
 - (b) If the Customer cancels its Order less than three (3) working days from the requested date of the Services, then the Customer shall be liable to pay to Wilmar 100% of the total Fee excluding GST.
- 5.3 Amendment of Orders
- If the Customer wishes to amend the Order (including the menu and/or headcount), it must notify Wilmar with its request at least three (3) working days before the requested date of the Services, and Wilmar will notify the Customer of the amendment to the Fee which the Customer shall be deemed to have accepted.

6. Provision of the Services

- 6.1 Wilmar will use commercially reasonable efforts to provide the Services to the Customer substantially in accordance with the relevant Quotation, the accepted Order, and other terms and conditions agreed between Wilmar and the Customer.
- 6.2 Without limiting the generality of clause 6.1, Wilmar will use commercially reasonable efforts to ensure that the Consumables provided at the requested venue:
- (a) are safe for human consumption, provided that the Consumables are consumed no later than the "consume by" time given by Wilmar; and
 - (b) reasonably complies with the Quotation and any other terms and conditions agreed between Wilmar and the Customer, subject to clause 6.3.
- 6.3 Notwithstanding clause 6.2, Wilmar reserves the right (in its sole discretion) to replace menu items with replacement items of equivalent or similar value without prior notice to the Customer.
- 6.4 All illustrations, photographs and drawings are for illustration purposes only. Wilmar does not warrant that the Consumables will comply with these illustrations, photographs or drawings.
- 6.5 In the event of inclement or bad weather, or unforeseen circumstances, Wilmar reserves the right to delay the provision of the Services.

7. Payment

- 7.1 In consideration for the sale of the Services (including the Consumables) to the Customer, the Customer must pay the full Fee to Wilmar (as stated on Wilmar's invoice or any other applicable document) without any deduction, withholding, set-off or counterclaim whatsoever. Such payment shall be made in the manner and within the time stipulated by Wilmar in its invoice.
- 7.2 If the Customer fails to make payment on or before the due date, Wilmar shall be entitled to charge interest on all outstanding amounts from the day after the due date for payment until the date on which it is actually paid in full, at the rate of 24% per annum. Without prejudice to the foregoing and without prejudice to Wilmar's rights, Customer shall reimburse Wilmar for any costs incurred in collecting any late payments (including without limitation legal fees and expenses).

8. Limitation of Liability

8.1 Exclusion of implied warranty

- (a) Subject to the exception set out in clause 6.3, Wilmar warrants to Customer that the Services and the Consumables will comply substantially with the relevant Quotation and any other terms and conditions agreed between Wilmar and the Customer; and
- (b) Other than the warranty set out in clause 8.1(a):
- (i) Wilmar makes no other representations or warranties (whether express or implied) whatsoever in relation to the Services and/or the Consumables (including, without limitation, any warranties of merchantability, fitness for a particular purpose, or non-infringement, whether arising by law, course of dealing, course of performance, usage of trade, or otherwise); and
 - (ii) Wilmar hereby specifically disclaims and excludes all representations and warranties (whether express or implied) in relation to the Services and/or the Consumables (including without limitation all representations and warranties of merchantability, sufficiency, quality and fitness for a particular purpose) to the maximum extent permitted by law.

8.2 Except for Wilmar's liability to the Customer arising from or relating to:

- (a) any term, condition or warranty which cannot be excluded by applicable law;
- (b) wilful misconduct or fraud on the part of Wilmar; and/or
- (c) any breach of the Contract or these Catering Terms,

Wilmar excludes all other liability to the Customer in relation to the Services and to the Consumables to the maximum extent permitted by applicable law, and the Customer hereby releases, waives and forever discharges Wilmar from any and all such other liability.

8.3 To the maximum extent permitted by applicable law, in no event shall Wilmar be liable to the Customer or any third party for any: (a) loss of business, sales, contract, opportunity, profit or anticipated profit, income, and/or revenue; (b) consequential, indirect, incidental, special, exemplary, punitive and/or enhanced damages and/or losses; (c) diminution in value; (d) increased costs and/or (e) loss of and/or damage to goodwill or reputation, regardless of whether any of the foregoing items (a) to (e) were foreseeable and whether or not Wilmar was advised of the possibility of any of the foregoing items (a) to (e).

8.4 To the maximum extent permitted by applicable law, Wilmar's sole liability, and the Customer's sole remedy, for any:

- (a) breach of the Contract or these Catering Terms; and/or
- (b) breach of any warranty or obligation implied or conferred by law which cannot be excluded by applicable law,

shall be limited to either one of the following (as determined by Wilmar in its sole discretion):

- (i) the resupply of the Services (including the Consumables); or
- (ii) a refund of the amounts actually received by Wilmar from the Customer under the Contract for the applicable Services (including the Consumables).

8.5 Wilmar's maximum aggregate liability to the Customer for any and all claims, whether arising out of or related to breach of contract, tort (including negligence), or otherwise, shall not exceed the amounts actually received by Wilmar from the Customer under the Contract.

- 8.6 Nothing herein shall have the effect of limiting or excluding Wilmar's liability for fraud, any breach of the obligations implied by law which cannot be excluded, death or personal injury resulting from its own negligence, and/or any other liability (if any) to the extent the same may not be limited or exceeded as a matter of law.

9. Intellectual Property Rights; Confidentiality

- 9.1 As between Wilmar and the Customer, Wilmar owns and retains all intellectual property rights in relation to the Services. No intellectual property rights are assigned or licensed to the Customer.
- 9.2 The Customer must not disclose the Quotation, the Fee, and any other information disclosed by Wilmar to the Customer which is designated as confidential or reasonably should be understood to be confidential given the nature of the information and the circumstances of the disclosure (collectively, "**Confidential Information**") to any person or entity, except that it may do so only to the extent expressly required by applicable law, regulation, court order or rules of a recognised stock exchange. The Customer must not use the Confidential Information for any purpose other than for the purpose of receiving the Services and enjoying the benefit of the Services.

10. Indemnity

The Customer shall indemnify Wilmar and its officers, directors, employees, agents, affiliates, successors, and permitted assigns (collectively, "**Indemnified Parties**") from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind (including legal fees, costs, the fees of enforcing any against right to indemnification under these Catering Terms, and costs of pursuing any insurance providers) arising or resulting from or out of, caused by or relating to: (a) any breach of these Catering Terms and/or the Contract by the Customer; (b) any violation by the Customer of applicable laws or regulations; and/or (c) any negligence or wilful misconduct on the Customer's part.

11. Force Majeure

Wilmar shall not be responsible or liable to Customer for any failure or delay in the performance of any of its obligations under the Contract where, and to the extent that, such failure or delay arises or results from or out of, or is caused or contributed to by, any act, circumstance, cause, event and/or situation which is not within the reasonable control of Wilmar, including (without limitation) an act of God, fire, storm, flood, earthquake, explosion, accident, war, epidemic, pandemic, rebellion, insurrection, sabotage, quarantine restriction, labour dispute, labour shortage, power shortage or failure, server crashes, revolution, unlawful act against public order or authority, an industrial dispute including strike or other labour disturbances, a governmental restraint, or a shortage or unavailability of raw materials, production capacity or transportation (each, a "**Force Majeure Event**"). Wilmar will use commercially reasonable efforts to provide the Services within a reasonable time after the cessation of the applicable Force Majeure Event.

12. Termination

- 12.1 Wilmar may terminate the Contract immediately by written notice to the Customer if the Customer: (a) commits a material breach of the Contract which, in Wilmar's reasonable opinion, is not capable of being remedied; (b) commits a material breach of the Contract which is capable of being remedied and the Customer fails to remedy the breach within seven (7) days after being required in writing to do so; or (c) becomes insolvent, goes into liquidation whether by voluntary or involuntary action, makes an assignment or composition for the benefit of its creditors, has a receiver or receiver and manager appointed, suspends or ceases its business activities or performs any other act which reasonably suggests that it is insolvent. The Customer acknowledges and agrees that a failure to make payment by the due date under the Contract constitutes a material breach of the Contract.
- 12.2 Upon termination of any Contract, without limiting Wilmar's rights against the Customer, the Customer must pay for all Services which have been provided to the Customer within three (3) days from the date of termination.
- 12.3 Termination of any Contract is without prejudice to and does not affect the accrued rights or remedies of any party thereto arising in any way out of such Contract up to the date of termination.

13. General

- 13.1 Governing law and jurisdiction: These Catering Terms and the Contracts shall be governed by and construed in accordance with the laws of Singapore. The applicability of the 1980 Vienna Convention on the International Sale of Goods is excluded. Wilmar and the Customer each irrevocably agrees that the courts of the Republic of Singapore shall have exclusive jurisdiction to hear, settle and/or determine any dispute, controversy or claim (including any non-contractual dispute, controversy or claim) arising out of or in connection with these Catering Terms and any Contract, including any question regarding their existence, validity, formation or termination. For these purposes, Wilmar and the Customer each irrevocably submits to the jurisdiction of the courts of the Republic of Singapore.
- 13.2 Invalidity: A provision of, or the application of a provision of, these Catering Terms which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction. If any provision in these Catering Terms is or becomes invalid, unenforceable or illegal for any reason, the relevant provision shall be deemed to be modified to the extent necessary to remedy such invalidity, unenforceability or illegality, or if that is not possible, then such provision shall be severed from these Catering Terms without affecting the remaining provisions of these Catering Terms.
- 13.3 Independence: Each party is an independent contractor and not a manager, employee, partner or agent of the other party. Nothing in these Catering Terms or any Contract will create, constitute or evidence any partnership, joint venture, agency, fiduciary obligation, trust or employer-employee relationship between the parties, and a party may not make, or allow to be made, any representation that any such relationship exists between the parties. Unless agreed elsewhere, a party has no power or authority to bind, act for, or to incur any obligation on behalf of the other party, impose any obligation on the other party for the benefit of any third party, or constitute the other party as its commercial agent.
- 13.4 Third Party Rights: An entity or person who is not a party shall not have any rights under the Contracts (Rights of Third Parties) Act 2001 or any other applicable legislation to enforce any of the provisions of these Catering Terms or any Contract.
- 13.5 No Waiver: The non-exercise of, or delay in exercising, any power or right of a party does not operate as a waiver of that power or right or prevent the subsequent enforcement of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right. No waiver by a party of any power or right under these Catering Terms or any Contract will be effective unless it is in writing and signed by that party.
- 13.6 Notice: Wilmar may give notice to the Customer by email, conventional mail or via its website.
- 13.7 Prevalence: No term or condition contained in any request for quotation, purchase order, acknowledgement or other form of writing issued by the Customer (whether printed, typed or handwritten) shall apply to any sale of Products hereunder unless signed by an officer of Wilmar.
- 13.8 Assignment: Wilmar has the right to assign or transfer all or part of its rights, benefits and/or obligations under the Contract or these Catering Terms. In addition, Wilmar has the right to enter into any sub-contract for the performance of any of its obligations under the Contract or these Catering Terms without prior consent from the Customer.
- 13.9 Reference: In all documents which incorporate or are governed by these Catering Terms and/or which form part of the Contract, Wilmar may be referred to as "Seller" or "Wilmar" and the Customer may be referred to as the "Buyer" or "Customer".
- 13.10 Right of Set-Off: The Customer agrees and acknowledges that Wilmar may set off or deduct, from any amounts which:
- (a) are payable by Wilmar to the Customer whether under the Contract or otherwise; or
 - (b) are claimed by the Customer from Wilmar whether under the Contract or otherwise,
- any amounts which:
- (i) are payable by the Customer to Wilmar whether under the Contract or otherwise; or
 - (ii) are claimed by Wilmar from the Customer whether under the Contract or otherwise.