



## **GENERAL TERMS AND CONDITIONS CWM**

### **Dated 23/2/2017, version 1.3**

#### **Article 1**

##### Article 1.1

These General Terms and Conditions apply to CWM Survey & Inspection B.V., CWM Survey & Inspection USA Inc and CWM Rakia Fze (hereafter: CWM) and the persons/employees and third parties working for CWM, amongst others, to the following:

- (a) all agreements entered into with CWM;
- (b) all services rendered by CWM;
- (c) all work carried out by CWM;
- (d) all offers and quotations made by CWM ;
- (e) all forms and conduct and anything else resulting from or in connection with the aforementioned agreements, services, work, offers or quotations, etc. under which, but not restricted to, future assignments and/or amended assignments.

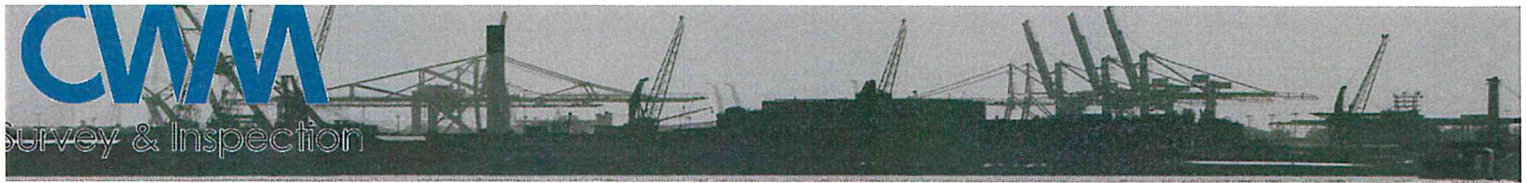
##### Article 1.2

The agreements to be entered into with CWM are agreements of assignment. Everything as mentioned above under article 1.1. sub (a) up to and including (e), to be hereafter collectively also referred to as "assignment". Those granting an assignment to CWM will hereafter be referred to as "Principal". Those granting the assignment to CWM on behalf of another party are required to immediately submit a copy of these General Terms and Conditions to that other.

#### **Article 2**

The stipulations in these General Terms and Conditions have been made on behalf of:

- (a) CWM, including its employees, members of the board, management and persons working in any capacity for CWM;
- (b) all third parties who have been or will be instructed by CWM;
- (c) anybody through whose actions or negligence CWM has or will be held liable;
- (d) all previous employees, members of the board, management of CWM and/or any other persons previously having worked in any other capacity for CWM;
- (e) any possible beneficiaries and legal successors of the parties mentioned under (a) up to and including (d).



### **Article 3**

#### Article 3.1

All assignments will be accepted and carried out exclusively by CWM. This also applies when it is the explicit or implied intention of the Principal that the assignment is to be carried out by a particular person. The applicability of the articles 7:404 BW, 7:407, paragraph 2 BW and 7:409 paragraph 1 BW is explicitly excluded by CWM.

#### Article 3.2

An assignment granted to CWM is to be considered as accepted by CWM only in the event that this has been confirmed in writing by CWM or when CWM has commenced with the execution of the assignment.

#### Article 3.3

Should at a certain moment, whether the assignment has been accepted or not, or after commencement of the execution of the assignment, CWM be of the opinion that the assignment cannot be carried out without risk to persons and/or property, the extent of danger every time to be solely assessed by CWM, CWM is entitled to suspend execution of the assignment or to cancel the agreement in whole or in part without prior written notice, this as desired by CWM, and whilst retaining any (future) right to compensation for costs, damage and interest, such without being liable or becoming liable.

### **Article 4**

The Principal should, at the time of granting the assignment or immediately thereafter, furnish CWM free of charge with all data and information which are necessary in order to carry out the assignment adequately. The Principal guarantees that all data and information provided are correct and complete. CWM is entitled to suspend the commencement and/or execution of the assignment so as to verify the accuracy of the data and information provided.

### **Article 5**

#### Article 5.1

When carrying out the assignment, CWM will attend to matters with due diligence.

#### Article 5.2

The execution of an assignment will be for account and risk of the Principal.

#### Article 5.3

CWM is authorized to take or refrain from taking any measures which in CWM's view are necessary in the interests of the assignment and such for account and risk of the Principal.

#### Article 5.4

CWM is entitled to decide which employee or person working otherwise for CWM is to actually (also) carry out the assignment.





#### Article 5.5

CWM is entitled within the scope of the assignment and the execution thereof to instruct third parties, whereby CWM is free in its choice as to the identity of the third party involved. CWM shall, when choosing the third party, execute due diligence in such choice.

#### Article 5.6

The Principal declares hereby unconditionally and irrevocably that CWM has the authority, either in its own name, or in the name of the Principal, to contract third parties under acceptance of and/or applicability of the general terms and conditions employed by third parties, even when such general conditions include a stipulation, which completely excludes the liability of the third party or (excessively) restricts liability, contains a jurisdiction clause (whether arbitrational or not), a legal option and/or an indemnity clause. All clauses including those limiting, excluding or establishing liability that third parties can invoke, within the framework of the assignment granted, against CWM, can also be invoked by CWM against the Principal.

#### Article 5.7

Third parties are instructed for account and risk of the Principal. CWM is not liable or responsible for shortcomings of third parties, whilst CWM can invoke liability exclusions and liability limitations, which it can invoke also in the case of not or not correctly functioning of the persons mentioned in article 2 paragraph a) up to and including e) the equipment used or to be used, software, databases, registers or other matters.

### **Article 6**

#### Article 6.1

CWM is authorized to declare *force majeure* when the execution of the assignment is partly or in whole – whether or not temporarily – prevented or hampered by circumstances beyond its control, such as - but not limited to - governmental measures, fire, weather circumstances, the (temporary) non-delivery of goods or services by third parties, operational breakdowns, labour stoppages or strikes or illness etc.

CWM can also declare *force majeure* when the execution of the assignment is delayed because CWM has given priority to other assignments when this priority is in all reasonableness necessary.

#### Article 6.2

In the case of *force majeure* on the side of CWM, its obligations will be suspended for the length of the *force majeure*. Should CWM declare *force majeure* for a period longer than a month, then both CWM and the Principal retain the right to annul the part of the assignment not yet executed by means of a written notice to the other party, without being liable for compensation for damages.

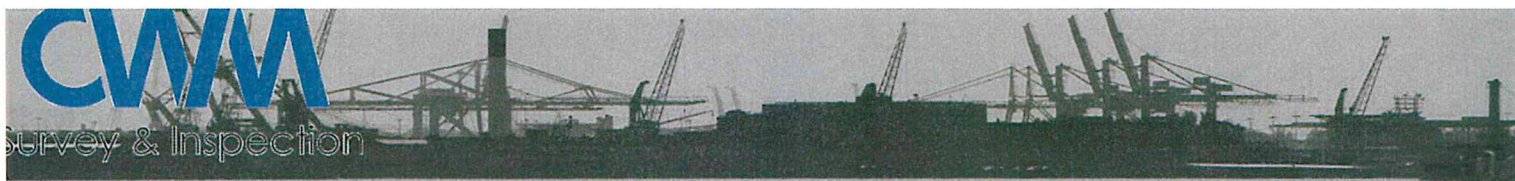
### **Article 7**

#### Article 7.1.

Following the completion of the assignment, CWM will issue a written report of its findings to the Principal. Furthermore, also at the request of the Principal, CWM can issue an interim report to the Principal.

#### Article 7.2.

Subject to and within the limits of the Principal's mandate, as accepted by CWM, the latter will issue reports and certificates which reflect the observations made. CWM does not have the obligation to refer to, give an opinion upon, or announce facts or circumstances which go beyond the framework of the mandate received. The reports delivered by CWM only reflect the facts such as have been identified by CWM at the time of its intervention.



#### Article 7.3.

The scope of the certificates issued by CWM in the framework of a governmental program is limited by the conditions of the contract in force between CWM and a specific governmental agency or by the accreditation granted by the latter. Such certificates reflect pre-determined inspection criteria and cannot be considered as a guarantee of quality or quantity of the goods or fitness of the goods for any particular use. The surveys and inspections conducted by CWM and the certificates made up by CWM deriving from these inspections do by no means result in responsibility or liability for CWM with regard to the content CWM inspected and certified (...) nor can surveys and inspections conducted by CWM and the certificates given by CWM be considered as an unconditional approval of the inspected content. CWM cannot preclude that – in case of inspection of the same content by authorities such as customs or environmental authorities – the conclusions of these authorities with regard to the content differ from the conclusions of CWM. In such case, CWM cannot be held liable for these deviations.

#### Article 7.4.

Reports or certificates issued after tests and/or analysis of samples contain the observations of CWM limited to those samples only, but, irrespective of the wording used, do not express any opinion as to the overall quality of goods from which the samples have been taken. If an opinion on the overall quality is required, a particular agreement must be concluded in advance with CWM for the test and or analysis of the totality of the goods.

### **Article 8**

#### Article 8.1

Should execution of the assignment by CWM lead to liability, then this liability, in compliance with the stipulations mentioned below, will always, and in every circumstance, be restricted to the amount of EUR 1,000,000.00 to be paid out for the matter in question under the applicable (liability) insurance of CWM, such to be increased with the potential amount of the deductible, which in that particular case comes for account of CWM. Liability is restricted to CWM. Individual persons/employees are excluded from liability.

#### Article 8.2

Should, for whatever reason, no payment by virtue of the aforementioned insurance under article 8.1 take place, any liability of CWM is restricted to three times the amount charged by CWM for the assignment in question, excluding V.A.T, such with an absolute maximum of EUR 50.000 excluding VAT.

#### Article 8.3

The Principal indemnifies all parties mentioned in article 2 paragraph a) up to and including e) against claims from third parties within the framework of the assignment granted.

#### Article 8.4

The above mentioned conditions in article 8.1 up to and including 8.3 apply unless the damage and/or liability is a result of CWM's own action or negligence, done either with the intention to cause that damage and/or that liability, or done recklessly and with the knowledge that said damage would probably be the result. This needs to be intentional or reckless behaviour, with the knowledge that the damage would probably arise from the CWM organisation itself, or from the CWM management.

#### Article 8.5

CWM is in any case never liable for consequential loss, including, but not restricted to, loss of profits, time loss and / or loss of hire, cleaning costs, being unable to enter into or continue with agreements and the missing out on income and other forms of indirect damage.





## **Article 9**

Every claim against CWM lapses after a single course of six months. This term shall commence on the day following the day on which the damage causing event occurred, or on the day following the day on which the claim is due, or on the day following the day on which the Principal and/or the aggrieved party becomes aware of the damage, but in any case on the day following the day on which any (interim) written report of findings and/or survey report was issued by CWM or when the assignment was ended by CWM. In any case the date which first occurs is the date on which the term commences.

## **Article 10**

### Article 10.1

CWM may at any time send an (interim) invoice. Settlement of the invoices of CWM and other costs connected to this agreement should, without any right to postponement or set-off, take place within 30 days following the date of the invoice, unless CWM explicitly and in writing has agreed to a different time of payment or CWM, in the relevant matter, unilaterally employs and/or stipulates a different term.

### Article 10.2

In all cases in which agreed or invoiced amounts are invoiced exclusive of taxes, levies or governmental surcharges, including V.A.T, CWM still has the right to invoice such amounts later to the Principal also in cases where on the invoices from CWM or in correspondence sent with an invoice it is stated that the invoice is a final invoice.

### Article 10.3

All costs in connection with payments to be made to CWM, such as banking costs, are always for account of the Principal.

### Article 10.4

The Principal should lodge any possible objections to the amount charged within thirty days of the invoice date in writing to the Managing Director of CWM. Failing this, the Principal will be deemed to have accepted the amount charged as due whilst disputing the indebtedness of the amount payable is thereafter no longer possible.

### Article 10.5

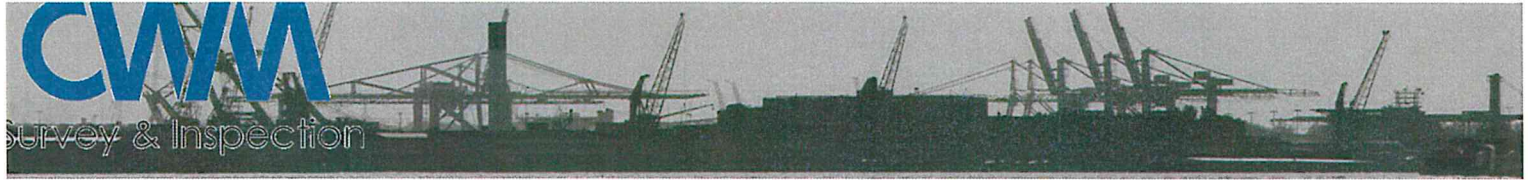
In the event that the Principal has not complied with the aforementioned terms of payment without prior written notice, then he is in default and CWM has the right to choose either to charge a compound delayed payment interest of 1.5% a month (whereby a part of a month shall be counted as a whole month), or the statutory interest as referred to in article 6:119a BW (whereby a part of a month shall also be counted as a whole month).

### Article 10.6

CWM is at all times entitled to request from the Principal (because of her motivating reasons) an advance payment in part or in whole, as well as to request suitable security being put up for the payment obligation. An applicable term of payment or credit limit does not alter this authority.

### Article 10.7

All (extra) judicial costs in connection with collection of fees and expenses incurred by CWM for amounts invoiced and/or amounts to be invoiced (with a minimum of 20% of the amount to be received) are always for account of the Principal.



## **Article 11**

CWM is, at its discretion, entitled to postpone the execution of the assignment or, without prior notice by means of a written declaration, to annul the assignment either in part or in whole, while retaining any (future) right to compensation for costs, damages and interests, this without being liable or becoming liable, should the Principal not, or not on time, comply with any of his obligations completely or satisfactorily when there is the fear that the Principal shall not (cannot) comply with (some of) his obligations on time completely and satisfactorily, is declared insolvent, or his insolvency has been applied for, will be placed in receivership or apply for a moratorium, dissolve the company, as well as when the assets of the company are arrested either in part or in whole.

## **Article 12**

### Article 12.1

The General Terms and Conditions are known as the CWM General Terms and Conditions. In the event of possible deviations or discrepancies between these CWM General Terms and Conditions and those of the Principal, the General Terms and Conditions of CWM prevail.

### Article 12.2

In the event of deviations between the Dutch text of the General Terms and Conditions of CWM and any translation thereof, the Dutch text takes precedence.

### Article 12.3

In the event that CWM deviates from any stipulation in its General Terms and Conditions, which only CWM is permitted to do and in the event that any clause of the CWM General Terms and Conditions is lawfully declared completely or partly null and void or unlawful, then the remaining stipulations and the still valid part of the stipulation, which was partially declared null and void or unlawful, remain unabridged.

## **Article 13**

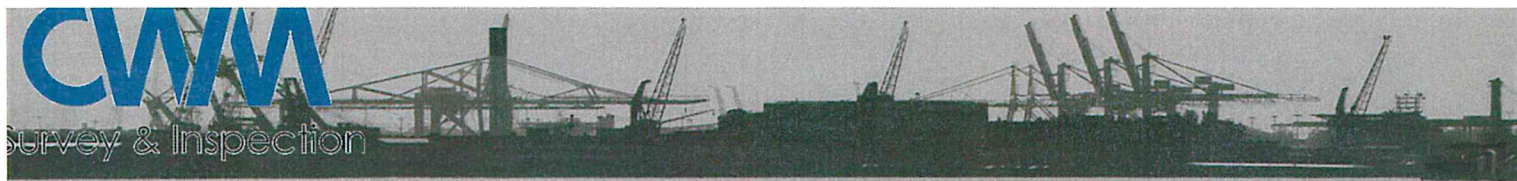
### Article 13.1

All intellectual property rights resulting from the assignment, including copyright, style rights and patent rights belong to CWM whereby in so far that a right can be obtained, established and/or created by filing a registration or other judicial act, only CWM is authorised to do so.

### Article 13.2

Films, photographs, (electronic) files, (work) drawings, illustrations, designs, prototypes, models, moulds and designs etc. made by CWM within the framework of the assignment, remain the property of CWM, whether or not these have been given to the Principal or third parties.





#### **Article 14**

Where CWM is instructed to sell and/or auction any property or goods, whether or not Court permission has been obtained (by the Principal), CWM shall make an effort to obtain a reasonable going-rate price, such taking into account the relevant circumstances, such as the condition of the property and/or goods and the then current market prices etc. In such sales CWM shall always act as agent to the Principal. CWM shall be accountable to the Principal for any realised proceeds. CWM has the right to settle any outstanding amount from the Principal to CWM with the realised proceeds, which right to settlement also covers claims towards the Principal, which are not directly related to the present assignment and/or sale and/ or auction. The Principal shall indemnify CWM against all liability, costs, charges, claims, assessments, fines, taxes, losses and charges of any sort, which arise either directly or indirectly or are connected to the sale and/or auction.

#### **Article 15**

CWM can within the framework of the assignment, be it at the request of the Principal or not, take into custody any samples or objects. CWM is free to refuse such a request for custody or to apply conditions. After completion of the assignment CWM shall keep in custody any sample or object taken into custody for a period of six months, after which the sample and/or object will be destroyed. Should CWM explicitly agree to a request in this matter from the Principal, then this term of storage of six months can be extended. CWM can at any time end the accepted assignment for storage (mindful of a reasonable term of notice) Any storage costs, destruction costs, fines and other related costs to the custody or destruction are for account of the Principal.

#### **Article 16**

All activities carried out by CWM and all instructions taken by CWM and contracts entered into by CWM are subject to Dutch law. Any dispute arising in relation to the instructions taken by CWM or contracts entered into by CWM will be brought before the Rotterdam Court in The Netherlands, notwithstanding CWM's right to apply to the court of the place of residence or establishment of the Principal