

Terms and conditions Promara Ltd of 3 Castlecourt, St Joseph's Rd, Mallow Co.Cork, Ireland ("Surveyor") is a firm that provides Consultant Engineer and Marine Survey services. This document sets out the terms and conditions under which Promara Ltd carries out its Surveys and provides advice to its Clients.

Scope of Work: The Surveyor shall perform the Scope of Work (to include the provision of advice and / or carrying out of any survey and the production of any survey or valuation report) subject to the following terms:

1. Limitations of liability 1.1 The Surveyor shall undertake the services to which these terms relate with reasonable care, skill and diligence.

1.2 The Surveyor shall not be liable under this Agreement for any loss or damage caused in circumstances (i) where there is no breach of a legal duty of care owed to the Client by the Surveyor or (ii) where, notwithstanding any such breach, any loss or damage is not a reasonably foreseeable result of such breach.

1.3 All services and reports are provided for the Client's use only. No liability of any nature is assumed towards any other party and nothing in these terms, or the relationship between the Surveyor and the Client, shall confer any third party a benefit or the right to enforce any provision of these terms.

1.4 The Surveyor shall not be responsible for loss/damage or any increase in loss/damage resulting from any material breach by the Client of any term of this Agreement.

1.5 Any claim by the Client in respect of any breach of the Surveyor's obligations under this Agreement must be notified to the Surveyor as soon as is reasonably practicable after the Client becomes aware of the breach. Where any breach is capable of remedy, the Surveyor must be afforded a reasonable opportunity to put matters right at his expense.

1.6 The Client agrees that the Surveyor's potential liability in respect of loss or damage suffered by the Client as a result of any breach by the Surveyor of any of the Surveyor's obligations under this Agreement and the Client agrees that no liability whatsoever arising whether under this Agreement or otherwise shall attach to the Surveyor except insofar as such liability is covered by the professional indemnity insurance referred to at paragraph 1.7 and the aggregate amount of such liability shall in any event be limited to the agreed indemnity limit of €250,000 ("the Agreed Indemnity Limit") or such higher sum as the parties shall agree in writing prior to commencement of the services to which these terms relate. The Agreed Indemnity Limit represents the upper limit of the Surveyor's potential liability to the Client, under any circumstances.

1.7 The Surveyor shall maintain professional indemnity insurance in the amount of the Agreed Indemnity Limit throughout the period of the performance of the Surveyor's duties hereunder provided that such insurance shall remain available at reasonable market rates.

1.8 The Surveyor's liability shall not extend to particulars, data and other information given to the Surveyor by others or obtained from outside sources, internet sources, publications and the like reasonably relied upon by the Surveyor, including Class records, registry details or other such information and no assurances can be given regarding the accuracy of the same.

1.9 Unless otherwise stated in writing, all services and reports are provided on the basis that they carry no guarantee regarding ownership or title, freedom from mortgages or charges, debts, liens or other encumbrances, or vessel stability, performance or design.

1.10 The Client shall be responsible for any losses, expenses or other costs reasonably incurred by the Surveyor that are caused by a breach of the Client's obligations to the Surveyor hereunder.

1.11 The Surveyor shall not be liable in respect of any breach of his obligations hereunder resulting from unforeseeable causes beyond the his reasonable control

1.12 Notwithstanding any other provision of this Agreement, where the Client is acting in the course of a business or commercial operation:

- a) The Surveyor's liability shall expire 12 months after the Survey Report date; The Surveyor shall thereafter have no liability in contract, tort or otherwise &
- b) The Surveyor shall have no liability whether in contract, tort or otherwise for consequential or economic loss arising under this Agreement or otherwise.
- c) The Surveyor shall have no liability for any breach of his obligations for which written notification shall not have been given within 14 days of the date on which the Client ought reasonably to have become aware of the existence of such breach;
- d) The Surveyor shall have no liability for any loss, injury or damage sustained as a result of (i) any defect in any material or workmanship, or (ii) the act, omission or insolvency of any person other than the Surveyor; the Surveyor shall have no liability to indemnify the Client in respect of any claim made against the Client for any such loss, injury or damage;

1.13 No guarantee is given against faulty design, latent defects or of suitability of any vessel or other item for any particular purpose or of compliance with any particular local, national or international requirement or code, and opinions are given without the benefit of running of machinery or opening up or other dismantling whether of interior linings, machinery or other items or systems;

1.14 The Surveyor shall have no liability whether in contract, tort or otherwise in respect of the consequences of late, incomplete, inadequate, inaccurate or ambiguous instructions or the non-disclosure by the Client of relevant information.

2. Surveys 2.1 The Client's instructions, and the scope of the Surveyor's services, hereunder, shall be defined verbally or in writing. Any subsequent changes or additions to the Scope of Work must be agreed in writing by the Parties.

2.2 The Client undertakes to ensure that full instructions are given to the Surveyor in sufficient time to enable the required services to be performed effectively and efficiently. The Client agrees to disclose to the Surveyor all relevant information of which they have knowledge, or to which they have access, in relation to the vessel to be surveyed;

2.3 The client Undertakes, in consultation with the Surveyor, to procure all necessary access to premises and vessels (including lift-out, trials and facility for inspection ashore and afloat as appropriate) for no less than such a time as shall in each particular circumstance be reasonable to enable all appropriate inspections and tests to be undertaken; and

2.4 The client undertakes to ensure that all appropriate safety measures are taken to provide safe and secure working conditions

2.5 The Surveyor will inspect the vessel as thoroughly as is practicable and endeavour to comment on the more important items where, in the Surveyor's reasonable opinion, major costs consequences are considered likely to arise. It follows that the Surveyor cannot comment on every minor matter but the Surveyor will try to point out where small factors may become more serious.

2.6 The Surveyor's intention is to report on the condition of the hull(s), superstructure and fixtures (if any) of the vessel so far as can reasonably be ascertained from a visual inspection of the vessel at its location at the time of survey. The Client accepts that the Surveyor's survey report(s) cannot cover hidden, unexposed or inaccessible areas of the vessel; neither can the Surveyor undertake to investigate areas that the Surveyor believes to be inaccessible at the time of inspection. Where the Surveyor is unable to gain access to areas commonly accessible, the Surveyor will endeavour to point this out.

2.7 In every case, the Surveyor recommends a full survey of a vessel, to include inspection of the vessel while lifted out and while in the water. Where the Surveyor accepts instructions to survey a vessel solely on the basis of an inspection of the vessel out of the water, the Surveyor makes no representation and gives no warranty as to the watertight integrity or buoyancy of the vessel.

3. Valuations 3.1 All valuation work undertaken shall be in accordance with the Scope of Work and, unless otherwise stated in writing, such work relates solely to the date and place referred agreed in the first place. Valuations are based on opinions only and are not representations of fact, nor do they carry with them any guarantee of the particulars or information on which opinions are based. Valuations assume a willing buyer and willing seller and market conditions applicable at the time of valuation or such other date as is expressly referred to.

4. Fees 4.1 The fee agreed between the Surveyor and the Client for the services to be provided by the Surveyor under this Agreement ("the Survey Fee") shall not include the costs of travel, subsistence and accommodation which will be charged in addition and in accordance with this Clause 4.

4.2 The Survey Fee and all expenses shall become due and payable on such terms and in such amounts as shall be agreed from time to time. VAT or other EU equivalent shall be payable, if applicable, in addition to all fees and expenses. Invoices will be submitted in respect of all fees and expenses when due and the amount of each invoice shall be settled within 20 days of the date of the invoice. Thereafter, interest shall be payable on all sums owing and unpaid at a rate of 3% over Bank of Ireland base rate. No Warranty or Liability attaches to any invoice unpaid after 40 days from date of invoice.

5. Law and disputes 5.1 Any contract or series of contracts made subject to these terms shall be subject to and governed by Irish Law

6. Miscellaneous 6.1 The Surveyor may terminate the appointment at any time

6.4 Neither party shall transfer or assign its rights or obligations under these terms without the prior written consent of the other.

6.6 Except where expressly stated to the contrary in a written document signed by the Parties on or after 1st January 2012, these terms form the entire agreement between the Parties and supersede all previous agreements and understandings. No warranty, condition, description, term or representation is given or to be implied by anything said or written in negotiations between the Parties or their representatives other than this document unless expressly agreed in writing.

6.7 References to "the Surveyor" include the Surveyor's employees and persons, firms and companies appointed or engaged by the Surveyor as the Surveyor's agents for carrying out any work or services under these terms.

6.8 Any communication required to be given under these terms by either party shall be in writing and shall be sufficiently given either by letter, fax or e. mail sent to the other at the contact details previously notified and any such notice shall be deemed to have been given at the time at which it would in the ordinary course of transmission have been received.

6.9 Each party undertakes to maintain the confidentiality of all information supplied by the other and not to divulge such information to third parties without the prior written authority of the other.