

MEMORANDUM OF AGREEMENT
between the
UNITED STATES COAST GUARD
and
INTERNATIONAL CARGO GEAR BUREAU, INC.
GOVERNING THE DELEGATION OF CERTAIN SURVEY
AND CERTIFICATION SERVICES
FOR UNITED STATES OF AMERICA FLAGGED VESSELS

1. PARTIES.

This Memorandum of Agreement delegates authority and sets forth guidelines for cooperation between the United States Coast Guard (Coast Guard) and the International Cargo Gear Bureau Inc. (ICGB)

2. AUTHORITY.

The Coast Guard is statutorily authorized to administer laws and promulgate and enforce regulations for the promotion of the safety of life and property at sea and the protection of the marine environment. In accordance with the authority granted by Title 46, United States Code, Section 3103(1), and as implemented under the regulations in Title 46, United States Code of Federal Regulations, Sections 31.10-16(e)(2), 71.25-25(c)(2), 91.25-25(c)(2), 107.258(a)(2), 107.259(b)(2), the Coast Guard may delegate the authority to perform required cargo gear inspections. The ICGB is authorized to certify the suitability of cargo gear, issue certificates and registers of cargo gear, conduct tests and examinations of cargo gear, and complete required entries for cargo gear certificates.

3. PURPOSE.

3.1 The purpose of this Agreement is to define the terms and conditions under which ICGB can perform the required inspections of cargo gear and lifting appliances onboard U.S. flagged vessels on behalf of the Coast Guard

3.2 This Agreement defines the scope, terms and conditions and requirements of the authority delegated to ICGB.

3.3 The term "Agreement" in this document refers to this Memorandum of Agreement and its Annex or subsequent amendments that may be agreed upon by ICGB and the Coast Guard. In this Agreement, the term "Commandant" refers to the United States Coast Guard Assistant Commandant for Prevention Policy.

3.4 This Agreement relates to surveys or examinations of "Vessels of the United States," as that term is defined by 46 United States Code, Section 116, both in the United States and in foreign countries. Nothing in this Agreement alters in any way the statutory or regulatory authority of the Coast Guard.

3.5 This Agreement shall be governed by and conducted in accordance with United States law.

3.6 This Agreement complies with the requirements of the IMO Code for Recognized Organizations (Resolution MSC .349(92) and MEPC.237(65)) as modified by paragraph 2.5 of Part 1 of the RO Code given the limited scope of work carried out by ICGB on behalf of Coast Guard. Specifically the requirement for a formally documented and audited Quality Management System in Section 7 of Part 2 is waived. Additionally, strict compliance with Part 2 of the Code in general is waived provided that ICGB takes those elements into account in the implementation of its management system insofar as reasonable and practical subject to the satisfaction of the Coast Guard.

4. RESPONSIBILITIES: GENERAL CONDITIONS.

4.1 Delegated functions performed by, and certificates issued by, ICGB will be accepted as functions performed or certificates issued by the Coast Guard, provided that ICGB remains in compliance with all provisions of this Agreement and the Code of Federal Regulations.

4.2 The Coast Guard has delegated to ICGB the authority to conduct the initial and subsequent surveys, periodic re-inspections and examinations and the authority to issue and endorse certain certificates as specified in the Code of Federal Regulations. In carrying out these functions, ICGB shall comply with any restrictions, special instructions or supplemental requirements as required by this Agreement.

4.3 The Coast Guard retains the authority to revoke or suspend any certificates issued by ICGB on behalf of the Coast Guard

5. RESPONSIBILITIES: DEVELOPMENT OF RULES AND/OR REGULATIONS

5.1 ICGB shall provide for review and comment by the Coast Guard any proposed changes to ICGB procedures that may affect any inspection or certification activities by ICGB under this Agreement.

5.2 ICGB shall allow the Commandant of the Coast Guard or his duly appointed representatives to participate in the development of its procedures.

5.3 Where ICGB adopts changes to its procedures for certification that are determined by the Coast Guard to be inconsistent with Title 46, United States Code of Federal Regulations, Chapter I or Coast Guard policy, the Coast Guard shall require ICGB to administer corrective measures or provisions to any procedures or activities that affect any delegated activities on behalf of the Coast Guard.

5.4 The Coast Guard may require supplemental requirements to ICGB procedures when, in the opinion of the Commandant the procedures established by either ICGB procedures or applicable international conventions are not adequate.

6. RESPONSIBILITIES -- OTHER CONDITIONS.

6.1 Remuneration for delegated survey and certification services carried out by ICGB on behalf of the Coast Guard will be charged by ICGB directly to the party requesting such services.

6.2 ICGB shall provide the Commandant, upon request, with a current copy of fee schedules, including changes to the schedule, for all functions delegated under this Agreement.

6.3 In issuing certificates or performing other functions on behalf of the Coast Guard under this Agreement, ICGB shall apply Coast Guard interpretations of international regulations, when they exist.

6.4 ICGB shall ensure that its appointees engaged in the performance of functions delegated under this Agreement are appropriately enrolled by ICGB using a qualification scheme and are familiar with and require compliance with applicable United States laws and regulations, Coast Guard policies, interpretations, and instructions, including, but not limited to:

- (1) as authorized, applicable international conventions to which the United States is a party;
- (2) United States statutes;
- (3) United States federal regulations;
- (4) ICGB procedures; and
- (5) any restrictions, special instructions, and supplemental requirements as required by this Agreement.

6.5 Unless specifically stated otherwise, only qualified and duly enrolled surveyors of ICGB shall carry out the functions described in this agreement exclusively on behalf of ICGB.

6.6 ICGB shall honor any appeal decision made by the Commandant on issues related to delegated functions under this Agreement.

6.7 In the event the Coast Guard is found liable in a court of law for losses or damages sustained due to a negligent act or omission by ICGB, its officers, employees and duly enrolled surveyors or others who were acting on behalf of ICGB pursuant to this Agreement, the Coast Guard is entitled to obtain compensation from ICGB up to, but not exceeding, the amount of the Coast Guard's financial liability:

6.8 While acting on behalf of the Coast Guard under this Agreement, ICGB shall be free to create contracts directly with clients and such contracts may contain ICGB's normal contractual conditions for limiting its legal liability.

6.9 The interpretation by the Coast Guard of the technical aspects of this Agreement shall be final.

6.10 ICGB, in exchange for express assurances of confidentiality, will provide the Coast Guard with information which is otherwise not available to private or public parties. The Coast Guard agrees to withhold such confidential business information from public disclosure in accordance with 5 U.S.C. § 552(b) (4) and 6 C.F.R. part 5, § 5.8. It is further expressly agreed that the Coast Guard will promptly notify ICGB in writing upon receipt of any request for ICGB records, and provide ICGB with reasonable opportunity to protect its confidential information prior to any release of same.

6.12 ICGB shall affect adequate policies of insurance against any liabilities aforesaid and shall keep such policies in force during the continuance of this Agreement. ICGB shall produce satisfactory evidence of such policies upon the Coast Guard's request.

7. RESPONSIBILITIES -- SPECIFICATION OF DELEGATED FUNCTIONS.

7.1 This Agreement applies to any delegated function performed by ICGB for U.S. flagged vessels.

7.2 Coast Guard retains the authority to grant equivalencies and exemptions from the requirements of US or international regulations, and any applicable U.S. supplemental requirements to ICGB rules as these requirements and rules relate to any authorized functions performed on behalf of the Coast Guard under this Agreement.

7.3 ICGB shall attend any U.S. flagged vessel for which it has performed any delegated function on behalf of the Coast Guard at the request of an appropriate Coast Guard official with the cost of attendance to be borne by the vessel owner or operator.

7.4 ICGB shall accept all requests from the Coast Guard and/or vessels' owner or operator to perform delegated services without regard to the vessel's location within the United States and its territories contingent upon ICGB being paid for such services and related expenses as well as being paid for any outstanding amounts owed to ICGB for previous services and expenses.

7.5 All documentation issued by or requested from ICGB pursuant to this Agreement shall be in the English language.

7.6 ICGB shall maintain a corporate office in the United States that has adequate resources and staff to support all delegated functions.

7.7 All records of survey, inspection, examination, review and approval related to delegated functions conducted on behalf of the Coast Guard shall be maintained in the United States for at least two years after issuance of a certificate. ICGB shall make all records and files related to delegated functions available to Coast Guard personnel for examination.

8. RESPONSIBILITIES -- SUPERVISION OF DELEGATED FUNCTIONS.

8.1 ICGB shall allow the Coast Guard to accompany and observe ICGB surveyors upon request. ICGB shall provide advance notice and details of upcoming surveys to the Coast Guard upon request.

8.2 ICGB shall provide the Coast Guard sufficient access necessary to oversee ICGB to ensure that it continues to comply with the minimum standards outlined in this agreement and in regulation.

8.3 ICGB shall provide expeditious access to its instructions, survey procedures, circulars, guidelines and other documents that are related to the performance of the delegated functions under this Agreement to the Commandant.

8.3.1 ICGB shall make available to the Coast Guard written documents related to the performance of the delegated functions. These include, but are not limited to, the following:

- (a) approvals,
- (b) surveys,
- (c) certificates,
- (d) report forms,
- (e) deficiencies, and
- (f) ICGB recommendations.

8.4 ICGB shall grant, upon request, the Coast Guard access to all plans and documents, including survey reports, on the basis of which actions are performed under the delegation or on the basis of which international certificates are issued or endorsed by ICGB on behalf of the Coast Guard.

8.5 ICGB shall provide information and access to the Coast Guard which may conduct oversight of those activities performed under or related to delegated functions conducted on behalf of the Coast Guard pursuant to this Agreement.

8.6 At the request of the Commandant, ICGB shall provide any information, statistics and data related to U.S. flag vessels and their compliance with any of the requirements that are related to the services that are the subject of this agreement.

9. REPORTING AND DOCUMENTATION.

9.1 If a surveyor of ICGB, while performing the delegated functions of this Agreement, discovers any deficiency that poses a significant risk to the safety of life or a threat to the marine environment and which directly or indirectly affects the validity of any aspect of a certificate issued by or on behalf of the US flag administration, ICGB shall notify the Coast Guard Officer in Charge, Marine Inspection for that area as soon as practicable, but no later than 15 days following discovery, a copy of the written notice to the OCMI shall be simultaneously provided to the Commandant (CG-CVC-1).

10. POINTS OF CONTACT.

ICGB shall designate appropriate persons employed exclusively by ICGB to serve as points of contact with the appropriate Coast Guard personnel on matters of interpretation, policy, and the working relationship. The points of contact for matters related to this Agreement are listed below.

Commandant (CG-CVC)

U.S. Coast Guard

Office of Commercial Vessel Compliance
2703 Martin Luther King Jr. Ave Stop 7581.

Washington, DC 20593-7581

Tel: (202) 372-1251

Fax: (202) 372-8386

International Cargo Gear Bureau, Inc.

321 West 44th Street

New York, NY 10036

Tel: (212) 757-2011

Fax: (212) 757-2650

11. MODIFICATION.

Amendments to this Agreement or the acceptance of revised annexes shall become effective only after consultation and written agreement between the Coast Guard and ICGB. Amendments and revised annexes shall go into effect upon authorized signature of both parties. EFFECTIVE DATE.

This Agreement becomes effective upon authorized signature of both the Coast Guard and ICGB.

12. TERMINATION.

12.1 Termination of this Agreement, any delegated functions under this Agreement and any amendments to this Agreement will occur sixty (60) days after written notice has been given by either party.

12.2 Revocation and termination of this Agreement, any delegated functions under this Agreement and any amendments to this Agreement may be made under the following conditions:

12.2.1 Failure of ICGB to maintain the minimum standards set forth in Title 46, Code of Federal Regulations.

12.2.2 Termination of ICGB as a Recognized Organization by the Coast Guard will terminate this Agreement.

12.2.3 Breach of any terms or conditions of this Agreement may be cause for termination of this Agreement.

For the United States Coast Guard

For ICGB

 on July 13, 2017

PAUL F. THOMAS
Rear Admiral,
U.S. Coast Guard
Assistant Commandant for Prevention Policy

 on July 13, 2017

JOSEPH J. COX
Vice President – Regulatory Compliance
International Cargo Gear Bureau, Inc.