

## APLICACIÓN DE LAS MODALIDADES DE COMPRAVENTA DE LOS BUQUES MERCANTES EN UNIDADES MILITARES DE SEGUNDA MANO

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**L**a compra y venta de naves es una actividad permanente en la industria naviera, los usos y procedimientos están perfectamente establecidos. Particularmente el *Norwegian Sale Form* es conocido y reconocido entre los Armadores, broker, abogados y Cortes Internacionales.

En este proceso de compra y venta participan el comprador, el vendedor, los corredores de naves o *broker*, los bancos, las Autoridades Marítimas cuyas banderas enarbolan los buques, las Casas Clasificadoras y los asesores de ambas partes, entre otros.

Los broker son los encargados de cumplir las instrucciones de sus clientes -los Armadores- de poner en el mercado y demandar las naves a transar. El monto de su remuneración es pactado previamente y representa un porcentaje fijo de la transacción. Los broker, como intermediarios entre el vendedor y comprador, son los responsables de proveer con la calidad y en la oportunidad la documentación necesaria para la evaluación y el proceso de transacción.

El proceso de compraventa de naves de segunda mano se podría exponer en las siguientes etapas:

### *Proceso previo de selección.*

Los Armadores definen el barco que necesitan e instruyen a su broker para ser informados de los buques en el mercado cuyas características estén dentro de lo requerido.

El broker responde con un listado de los buques candidatos. La respuesta incluye las características, capacidades y comportamiento (velocidades y consumos en puerto y la mar) de las naves disponibles.

El Armador selecciona los buques candidatos e instruye a su broker para iniciar la etapa de Inspección documentaria.

### *Inspección documentaria.*

Corresponde a la Inspección de los Record de Clasificación de la nave. El dueño autoriza para que el comprador potencial o sus agentes revisen los Archivos de la Clasificación del buque. Estos archivos (Record de Clasificación) contienen el historial del casco y maquinaria del buque. De esta Inspección resultará la decisión de continuar analizando el buque o desechar la oferta.

La Inspección de Record de Clasificación normalmente es encargada por los Armadores a Consultores internacionales, los que se constituyen en las Oficinas de las Sociedades de Clasificación para revisar los archivos, analizar las anotaciones que contienen y finalmente emitir el correspondiente informe.

Usualmente en este tipo de negocios, el tiempo es un parámetro de altísimo valor y es normal que dentro de cinco días o, como máximo, una semana desde el momento en que se les asigna el trabajo de inspección de record, se reciba vía fax o correo electrónico el informe y después, por correo expreso el original con sus copias.

Recibido el informe de Record de clasificación, el equipo técnico del Armador procede a su análisis y emite las recomendaciones para desechar o preseleccionar el buque para la etapa siguiente, que es la inspección física. Asimismo, establece cuáles son los aspectos más relevantes que se deben tener presentes durante la inspección física, a fin de confirmar en terreno las condiciones reales de la nave.

### *Inspección Física.*

Antes de efectuarla es necesario cumplir con algunos pasos previos:

Pedir la autorización para inspeccionar. Esta acción se hace a través del broker.

Normalmente, los buques candidatos están en servicio cumpliendo un itinerario, por lo que es necesario establecer el o los puertos de inspección. La inspección no debe entorpecer las actividades del buque. Es usual que el Capitán del buque exija la firma de una carta que lo releva de

responsabilidad ante posibles accidentes que, por razones ajenas al buque, pudieran sufrir los inspectores.

Asimismo, deberá señalarse lo que se quiere inspeccionar con el mayor detalle, por ejemplo: destapar un cilindro del motor principal, medir deflexión del cigüeñal, inspeccionar estanques de lastre o de carga, etc. Los costos para satisfacer la inspección, si los hubiere, serán con cargo del comprador potencial.

La inspección física incluye la autorización para tomar fotografías y filmar, revisar, copiar y fotocopiar historiales, bitácoras e inventarios. Para ello, el broker del comprador potencial deberá confirmar que el Capitán de la nave está debidamente instruido por sus Armadores para dar las facilidades correspondientes.

Conviene dejar establecido que el buque se transfiere con todos los equipos, instrumentos y elementos que se encuentran a bordo durante la inspección, salvo aquellos que, antes de la inspección física, se indique expresamente que no forman parte de la venta (por ejemplo, algunos Armadores arriendan los equipos de radio). El contrato de compraventa (que se mencionará posteriormente) deberá incluir el detalle de lo que se omite en la transferencia del buque.

Conviene hacer presente que todo el proceso descrito, importa un gasto para el Armador que, aún cuando su monto resulta porcentualmente bajo respecto al precio del buque, deberá considerarse al momento de abordarlo.

La etapa de la Inspección Física termina con el informe del Inspector.

#### *Decisión de compra.*

Una vez inspeccionados todos los buques candidatos, a la luz de los informes de los Record de Clasificación y de la Inspección Física, el Armador rechaza o aprueba la compra. Si decide la compra, deberá instruir a su broker respecto de los pasos que debe seguir. Cuando un buque se pone en el mercado para su venta, es usual que se indique su precio y el tipo de contrato que regulará la transacción.

Por norma general, las compraventas de los buques mercantes se norman por contratos estándares que son el resultado de muchos años de experiencia. Uno de los más conocidos y usado en el área occidental es el conocido como *Norwegian Sale Form -NSF 1993* en su última versión-preparado por la *Norwegian Shipbrokers' Association's* cuyo origen es el *Memorandum of Agreement for sale and purchase of ships, Adopted by The Baltic and International Maritime Council (BIMCO) in 1956*. Sobre la aplicación de este contrato, hay una vasta experiencia internacional y la interpretación de cada una de sus cláusulas y términos constan como precedentes de las controversias juzgadas en las Cortes Internacionales. Como su conocimiento se considera de interés, se ha incluido una copia del Memorandum of Agreement del NSF, en página 272.

#### **Aplicación a la compra de buques militares.**

Surge ahora la pregunta ¿Es posible aplicar el NSF 93 a la compraventa de buques militares de segunda mano?

En mi opinión, la respuesta es sí, reconociendo que no cubre los aspectos propiamente militares, para los cuales, sin embargo, es posible introducir las cláusulas correspondientes.

Acepto que mi visión está enfocada al aspecto de casco y maquinaria, que no cubre los aspectos de soporte logístico post venta, que en el caso de los buques mercantes es más sencillo y se relaciona directamente con los fabricantes de su maquinaria y equipos. Entonces me vuelvo a preguntar ¿Qué nos limita para aplicar el mismo procedimiento y recurrir al fabricante?

Simplificando el tema, intentaré asimilar los agentes de la compraventa de buques mercantes a su paralelo entre Marinas Militares: el broker del vendedor sería el representante de la agencia de ventas del Ministerio de Defensa del país; el de la Armada de Chile, sería el Agregado Naval en ese país.

El principio de las Inspecciones documentaria y física es el mismo; por lo tanto, es imperativo que nuestro Agregado Naval coordine y convenga con los Agentes vendedores el procedimiento señalado.

Una vez establecido, convenido y aceptado el proceso de las inspecciones, se procederá a materializarlas.

El resultado de los informes y la decisión en cada caso de la Autoridad Institucional, determinará el rechazo o la continuación del proceso.

En este punto debemos tener conciencia que se trata de una operación comercial, que por su naturaleza e incidencia en la inversión de fondos del presupuesto de la Institución (y que son de la nación), estamos obligados a exigir toda la información necesaria para la toma de decisión.

En relación a la adaptación del *Norwegian Sale Form* para compras militares es conveniente hacer notar, a modo de ejemplo, algunos aspectos que en él se estipulan.

Cláusula 2. Referida al depósito del 10% del precio del buque abriendo una cuenta conjunta en un Banco internacional de primer nivel, designado de común acuerdo entre el comprador y vendedor. El propósito de la cuenta es asegurar el cabal cumplimiento del contrato. Asimismo, establece lo concerniente a los intereses devengados durante el tiempo que media entre la firma del contrato y la entrega del buque.

Cláusula 4. Inspecciones. El formato prevé dos posibilidades, a) las inspecciones fueron realizadas (caso descrito) y, b) las inspecciones se realizarán después de la firma del contrato. Nótese que entre las líneas 37 hasta el punto seguido en el tercio de la 41 del Memorandum of Agreement, se establecen las condiciones generales para la inspección física, como se indicó anteriormente.

Cláusula 6. Contempla la Inspección de la carena para la entrega del buque, sea que se haya pactado en dique o por buzos debidamente autorizados y certificados por la Clasificación. La cláusula también estipula quién asumirá los costos en caso de encontrarse defectos. En el caso de entrega en dique, le permite al comprador efectuar trabajos a su costa.

Cláusula 7. Repuestos. El contrato establece que el buque se transfiere con todo lo que le pertenece tanto a bordo como en tierra. Asimismo, estipula que todo lo que se encontró a bordo cuando fue inspeccionado, forma parte del buque y debe ser transferido al comprador. Por otra parte, establece que el vendedor podrá usar aquellos repuestos que sean necesarios para el funcionamiento del buque, durante el tiempo que media entre la inspección física y la entrega del buque, previsto que la parte reemplazada sea entregada al comprador.

Esta cláusula 7, regla la modalidad de transferencia para los repuestos en proceso de compra por parte del vendedor. De la misma forma establece el procedimiento para el combustible y lubricantes que se encuentran a bordo al momento de la entrega de la nave.

Cláusula 15. Representantes del Comprador. Esta cláusula estipula el derecho del comprador de destacar hasta 2 personas a bordo a su riesgo y costo, durante el período que media entre la firma del contrato -NSF-, el depósito del 10% de garantía para la seguridad de la compra y la entrega del buque. Estas personas tienen el carácter de observadores y no interferirán la operación de la nave.

Visto lo anterior, nuestro problema radica ahora en cómo adaptar esta modalidad a la compra y venta de unidades militares de segunda mano. A continuación trataré de exponer mi proposición (lo hago en primera persona para reiterar que lo que escribo es mi apreciación personal del tema que, como he dicho, se presta a discusión).

### **Búsqueda en el mercado.**

La iniciación de esta etapa estará condicionada a la conformidad de la Autoridad Política. Se realizará por la vía de contacto con los representantes de las Armadas de países amigos acreditados en Chile, cuyas Marinas Militares están en proceso de renovar su flota y por lo tanto, de enajenar los buques que se quiere reemplazar y que son de interés para la Armada de Chile. Simultáneamente, nuestros Agregados navales destacados en esos países iniciarán los contactos correspondientes. Contemporáneamente a los contactos con las Armadas vendedoras, deberá informársele a éstas la intención de aplicar como base del documento contractual el Formato *Norwegian Sales Form* 1993, incorporando las cláusulas que sean necesarias para cubrir, entre otras, las materias referidas a Armamentos.

### **Inspecciones documentaria y física.**

El procedimiento de inspecciones será el mismo que el ya expuesto, por lo tanto habrá que obtener la conformidad y aceptación de la modalidad propuesta por parte de la Autoridad vendedora, la que deberá informar -en esta etapa- el precio de venta, la fecha de entrega y la descripción general del buque, incluyendo su plano de arreglo general. Todo lo anterior estará sujeto a la aprobación o rechazo por la Armada de Chile.

Los buques candidatos aprobados, iniciarán la etapa de la inspección documentaria. Así, los vendedores deberán facilitar a los Inspectores de la Armada de Chile que se constituirán en sus oficinas, la documentación técnica que les permita formarse un juicio cabal del estado de los buques. El resultado de la inspección documentaria será la aceptación o rechazo de la nave. Cabe la posibilidad

de que inmediatamente después de la inspección documentaria los mismos inspectores practiquen la inspección física del buque.

Al término de las etapas de Inspecciones y la emisión de los correspondientes informes técnicos debidamente sancionados por las Autoridades Chilenas, deberá informarse a los vendedores la aceptación o rechazo de su oferta.

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## **BIBLIOGRAFÍA**

- Sale and Purchase by Ian Goldrein et al. 1993 Lloyd's of London Press Ltd ISBN 1-85044-455-2.
- Memorandum of Agreement SALEFORM 1993.

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\* Capitán de Navío Ingeniero APOLMIL. Ingeniero Naval ETSIN, Madrid.

**MEMORANDUM OF AGREEMENT**

Norwegian Shipbrokers' Association's  
Memorandum of Agreement for sale and  
purchase of ships. Adopted by The Baltic  
and International Maritime Council  
(BIMCO) in 1956.  
Code-name  
SALEFORM 1993  
Revised 1966, 1983 and 1986/87.

**Dated:** .....

..... hereinafter called the Sellers, have agreed to sell, and 1

..... hereinafter called the Buyers, have agreed to buy 2

Name: ..... 3

Classification Society/Class: ..... 4

Built: ..... By: ..... 5

Flag ..... Place of Registration: ..... 6

Call Sign ..... Grt/Nrt: ..... 7

Register Number: 8

hereinafter called the Vessel, on the following terms and conditions: 9

**Definitions** 10

“Banking days” are days on which banks are open both in the country of the currency 11  
stipulated for the Purchase Price in Clause 1 and in the place of closing stipulated in 12  
Clause 8.

“In writing” or “written” means a letter handed over from the Sellers to the Buyers or 13  
vice versa, a registered letter, telex, telefax or other modern form of written 14  
communication.

“Classification Society” or “Class” means the Society referred to in line 4. 15

**1. Purchase Price** ..... 16

**2. Deposit** 17

As security for the correct fulfillment of this Agreement the Buyers shall pay a deposit 18  
of 10 % (ten per cent) of the Purchase Price within banking days from the 19  
date of this Agreement. This deposit shall be placed with 20  
and held by them in a joint account for the Sellers and the Buyers, to be released in 21  
accordance with joint written instructions of the Sellers and the Buyers. Interest. if 22  
any, to be credited to the Buyers. Any fee charged for holding the said deposit shall be 23  
borne equally by the Sellers and the Buyers. 24

**3. Payment** 25

The said Purchase Price shall be paid in full free of bank ..... 26  
on delivery of the Vessel, but not later than 3 banking days after the Vessel is in every 27  
respect physically ready for delivery in accordance with the terms and conditions of 28  
this Agreement and Notice of Readiness has been given in accordance with Clause 5. 29

**4. Inspections** 30

a)\* The Buyers have inspected and accepted the Vessel's classification records. The 31  
Buyers have also inspected the Vessel at/in ..... on ..... 31  
and have accepted the Vessel following this inspection and therefore the sale is 32  
outright and definite, 33  
subject only to the terms and conditions of this Agreement. 34

b)\* The Buyers shall have the right to inspect the Vessel's classification records and 35  
declare whether same are accepted or not within 36

The Sellers shall provide for inspection of the Vessel at/in 37

The Buyers shall undertake the inspection without undue delay to the Vessel. 38  
Should the Buyers cause undue delay they shall compensate the Sellers for the losses 39  
thereby incurred. 39

The Buyers shall inspect the Vessel without opening up and without cost to the 40  
Sellers. 40

During the inspection, the Vessel's deck and engine log books shall be made 41  
available for examination by the Buyers. If the Vessel is accepted after such 42  
inspection, the sale shall become outright and definite, subject only to the terms and 43  
conditions of this Agreement, provided the Sellers receive written notice of acceptance 44  
from the Buyers within 72 hours after completion of such inspection. 44

Should notice of acceptance of the Vessel's classification records and of the 45  
Vessel not be received by the Sellers as aforesaid, the deposit together with interest 46  
earned shall be released immediately to the Buyers, whereafter this Agreement shall be 47  
null and void. 48

*4a) and 4b) are alternatives; delete whichever is not applicable. In the absence of 49  
deletions, alternative 4a) to apply: 50*

**5. Notices, time and place of delivery** 51

a) The Sellers shall keep the Buyers well informed of the Vessel's itinerary and shall 52  
provide the Buyers with..... days notice of the estimated time of arrival at 53  
the intended place of drydocking/underwater inspection/delivery. When the Vessel is 54  
at the place of delivery and in every respect physically ready for delivery in accordance 55  
with this Agreement, the Sellers shall give the Buyers a written Notice of Readiness for delivery. 56

b) The Vessel shall be delivered and taken over safely afloat at a safe and accessible 57  
berth or anchorage at/in ..... 57

in the Sellers' option. 58

Expected time of delivery: ..... 59

Date of cancelling (see Clauses 5 c), 6 b) (iii) and 14): ..... 60

c) If the Sellers anticipate that, notwithstanding the exercise of due diligence by them, 61  
the Vessel will not be ready for delivery by the cancelling date they may notify the 62  
Buyers in writing stating the date when they anticipate that the Vessel will be ready for 63  
delivery and propose a new cancelling date. Upon receipt of such notification the 63

Buyers shall have the option of either cancelling this Agreement in accordance with Clause 14 within 7 running days of receipt of the notice or of accepting the new date as the new cancelling date. If the Buyers have not declared their option within 7 running days of receipt of the Sellers' notification or if the Buyers accept the new date, the date proposed in the Sellers' notification shall be deemed to be the new cancelling date and shall be substituted for the cancelling date stipulated in line 61.

If this Agreement is maintained with the new cancelling date all other terms and conditions hereof including those contained in Clauses 5a) and 5c) shall remain unaltered and in full force and effect. Cancellation or failure to cancel shall be entirely without prejudice to any claim for damages the Buyers may have under Clause 14 for the Vessel not being ready by the original cancelling date.

d) Should the Vessel become and actual, constructive or compromised total loss before delivery the deposit together with interest earned shall be released immediately to the Buyers whereafter this Agreement shall be null and void.

## **6. Drydocking/Divers Inspection**

a)\*\* The Sellers shall place the Vessel in drydock at the port of delivery for inspection by the Classification Society of the Vessel's underwater parts below the deepest load line, the extent of the inspection being in accordance with the Classification Society's rules. If the rudder, propeller, bottom or other underwater parts below the deepest load line are found broken, damaged or defective so as to affect the Vessel's class, such defects shall be made good at the Sellers' expense to the satisfaction of the Classification Society without condition/recommendation\*.

b)\*\* (i) The Vessel is to be delivered without drydocking. However, the Buyers shall have the right at their expense to arrange for an underwater inspection by a diver approved by the Classification Society prior to the delivery of the Vessel. The Sellers shall at their cost make the Vessel available for such inspection. The extend of the inspection and the conditions under which it is performed shall be to the satisfaction of the Classification Society. If the conditions at the port of delivery are unsuitable for such inspection, the Sellers shall make the Vessel available at a suitable alternative place near to the delivery port.

(ii) If the rudder, propeller, bottom or other underwater parts below the deepest load line are found broken, damaged or defective so as to affect the Vessel's class, then unless repairs can be carried out afloat to the satisfaction of the Classification Society, the Sellers shall arrange for the Vessel to be drydocked at their expense for inspection by the Classification Society of the Vessel's underwater parts below the deepest load line, the extent of the inspection being in accordance with the Classification Society's rules. If the rudder, propeller, bottom or other underwater parts below the deepest load line are found broken, damaged or defective so as to affect the Vessel's class, such defects shall be made good by the Sellers at their expense to the satisfaction of the Classification Society without condition/recommendation\*. In such event the Sellers are to pay also for the cost of the underwater inspection and the Classification Society's attendance.

(iii) If the Vessel is to be drydocked pursuant to Clause 6b) (ii) and no suitable dry-docking facilities are available at the port of delivery, the Sellers shall take the Vessel to a port where suitable drydocking facilities are available, whether within or outside the delivery range as per Clause 5b). Once drydocking has taken place the Sellers shall deliver the Vessel at a port within the delivery range as per Clause 5b) which shall, for the purpose of this Clause, become the new port of delivery, In such event the cancelling date provided for in Clause 5b) shall be extended by the additional time required for the drydocking and extra steaming, but limited to a maximum of 14

running days.

c) If the Vessel is drydocked pursuant to Clause 6a) or 6b) above 115

(i) The classification Society may require survey of the tailshaft system, the extent of 116  
the survey being to the satisfaction of the Classification surveyor. If such survey is not 117  
required by the Classification Society, the Buyers shall have the right to require the 118  
tailshaft to be drawn and surveyed by the Classification Society, the extent of the 119  
survey being in accordance with the Classifications Society's rules for tailshaft survey 120  
and consistent with the current stage of the Vessel's survey cycle. The Buyers shall 121  
declare whether they require the tailshaft to be drawn and surveyed not later than by 122  
the completion of the inspection by the Classification Society. The drawing and 123  
refitting of the tailshaft shall be arranged by the Sellers. Should any parts of the 124  
tailshaft system be condemned or found defective so as to affect the Vessel's class, 125  
those parts shall be renewed or made good at the Sellers' expense to the satisfaction of 126  
the Classification Society without condition/recommendation\*. 127

(ii) the expenses relating to the survey of the tailshaft system shall be borne by the 128  
Buyers unless the Classification Society requires such survey to be carried out, in 129  
which case the Sellers shall pay these expenses. The Sellers shall also pay the 130  
expenses if the Buyers require the survey and parts of the system are condemned or 131  
found defective or broken so as to affect the Vessel's class\*. 132

(iii) the expenses in connection with putting the Vessel in and taking her out of 133  
drydock, including the drydock dues and the Classification Society's fees shall be paid 134  
by the Sellers if the Classification Society issues any condition/recommendation\* as a 135  
result of the survey or if it requires survey of the tailshaft system. In all other cases the 136  
Buyers shall pay the aforesaid expenses, dues and fees. 137

(iv) the Buyers' representative shall have the right to be present in the drydock but 138  
without interfering with the work or decisions of the Classification surveyor. 139

(v) the Buyers shall have the right to have the underwater parts of the Vessel cleaned 140  
and painted at their risk and expense without interfering with the Sellers' or the 141  
Classification surveyor's work, if any, and without affecting the Vessel's timely 142  
delivery. If, however, the Buyers' work in drydock is still in progress when the Sellers 143  
have completed the work which the Sellers are required to do, the additional docking 144  
time needed to complete the Buyer's work shall be for the Buyers' risk and expense. 145  
In the event that the Buyers' work requires such additional time, the Sellers may upon 146  
completion of the Sellers' work tender Notice of Readiness for delivery whilst the 147  
Vessel is still in drydock and the Buyers shall be obliged to take delivery in accordance 148  
with Clause 3, whether the Vessel is in drydock or not and irrespective of Clause 5b). 149

\* Notes, if any, in the surveyor's report which are accepted by the Classification 150  
Society without condition/recommendation are not to be taken into account. 151

\*\* 6a) and 6b) are alternatives; delete whichever is not applicable. In the absence 152  
of deletions, alternative 6a) to apply. 153

## 7. Spares/bunkers, etc. 154

The Sellers shall deliver the Vessel to the Buyers with everything belonging to her on 155  
board and on shore. All spare parts and spare equipment including spare tail-end 156  
shaft(s) and/or spare propeller(s)/propeller blade(s), if any, belonging to the Vessel at 157  
the time of inspection used or unused, whether on board or not shall become the 158  
Buyers' property, but spares on order are to be excluded included. Forwarding charges, 159  
if any, shall be for the Buyers' account. The Sellers are not required to replace spare  
parts including spare tail-end shaft(s) and spare propeller(s) blade(s) which are taken 160



out of spare and used as replacement prior to delivery, but the replaced items shall be 161  
the property of the Buyers. The radio installation and navigational equipment shall be 162  
included in the sale without extra payment if they are the property of the Sellers. 163  
Unused stores and provisions shall be included in the sale and be taken over by the 164  
Buyers without extra payment.

The Sellers have the right to take ashore crockery, plates, cutlery, linen and other 165  
articles bearing the Sellers' flag or name, provided they replace same with similar 166  
unmarked items. Library, forms, etc., exclusively for use in the Sellers' vessel(s), shall 167  
be excluded without compensation. Captain's, Officers' and Crew's personal 168  
belongings including the slop chest are to be excluded from the sale, as well as the 169  
following additional items including items on hire:

The Buyers shall take over the remaining bunkers and unused lubricating oils in 170  
storage tanks and sealed drums and pay the current net market price (excluding barging 171  
expenses) at the port and date of delivery of the Vessel. 172

Payment under this Clause shall be made at the same time and place and in the same 173  
currency as the Purchase Price. 174

## **8. Documentation** 175

The place of closing: 176

In exchange for payment of the Purchase Price the Sellers shall furnish the Buyers with 177  
delivery documents, namely: 178

a) Legal Bill of Sale in a form recordable in..... (the country in which the 179  
Buyers are to register the Vessel), warranting that the Vessel is free from all 180  
encumbrances, mortgages and maritime liens or any other debts or claims whatsoever, 181  
duly notarially attested and legalized by the consul of such country or other competent 182  
authority.

b) Current Certificate of Ownership issued by the competent authorities of the flag 183  
state of the Vessel. 184

c) Confirmation of Class issued within 72 hours prior to delivery. 185

d) Current Certificate issued by the competent authorities stating that the Vessel is free 186  
from registered encumbrances. 187

e) \* Certificate of Deletion of the Vessel from the Vessel's registry or other official 188  
evidence of deletion appropriate to the Vessel's registry at the time of delivery, or, in 189  
the event that the registry does not as a matter of practice issue such documentation 190  
immediately, a written undertaking by the Sellers to effect deletion from the Vessel's 191  
registry forthwith and furnish a Certificate or other official evidence of deletion to the 192  
Buyers promptly and latest within (four) weeks after the Purchase Price has been paid 193  
and the Vessel has been delivered

f) Any such additional documents as may reasonably be required by the competent 194  
authorities for the purpose of registering the Vessel, provided the Buyers notify the 195  
Sellers of any such documents as soon as possible after the date of this Agreement. 196

At the time of delivery the Buyers and Sellers shall sign and deliver to each other a 197  
Protocol of Delivery and Acceptance confirming the date and time of delivery of the 198  
Vessel from the Sellers to the Buyers. 199

At the time of delivery the Sellers shall hand to the Buyers the classification 200  
certificates(s) as well as all plans etc., which are on board the Vessel. Other certificates 201  
which are on board the Vessel shall also be handed over to the Buyers unless the 202  
Sellers are required to retain same, in which case the Buyers to have the right to take 203  
copies. Other technical documentation which may be in the Sellers' possession shall 204  
be promptly forwarded to the Buyers at their expense, if they so request. The Sellers 205

may keep the Vessel's log books but the Buyers to have the right to take copies of 206 same.

**9. Encumbrances** 207

The Sellers warrant that the Vessel, at the time of delivery, is free from all ~~charters~~, 208 encumbrances, mortgages and maritime liens or any other debts whatsoever. The 209 Sellers hereby undertake to indemnify the Buyers against all consequences of claims 210 made against the Vessel which have been incurred prior to the time of delivery. 211

**10. Taxes, etc.** 212

Any taxes, fees and expenses in connection with the purchase and registration under 213 the Buyers' flag shall be for the Buyers' account, whereas similar charges in 214 connection with the closing of the Sellers' register shall be for the Sellers' account. 215

**11. Condition on delivery** 216

The Vessel with everything belonging to her shall be at the Sellers' risk and expense 217 until she is delivered to the Buyers, but subject to the terms and conditions of this 218 Agreement she shall be delivered and taken over as she was at the time of inspection, 219 fair wear and tear expected. However, the Vessel shall be delivered with her class 220 maintained without condition/recommendation\*, free of average damage affecting the 221 Vessel's class, and with her classification certificates and national certificates, as well 222 as all other certificates the Vessel had at the time of inspection, valid and unextended 223 without condition/recommendation\* by Class or the relevant authorities at the time of 224 delivery.

"Inspection" in this Clause 11, shall mean the Buyers' inspection according to Clause 225 4a) or 4b), if applicable, or the Buyers' inspection prior to the signing of this 226 Agreement. If the Vessel is taken over without inspection, the date of this Agreement 227 shall be the relevant date.

\* Notes, if any, in the surveyor's report which are accepted by the Classification 228 Society without condition/recommendation are not to be taken into account. 229

**12. Name/markings** 230

Upon delivery the Buyers undertake to change the name of the Vessel and alter funnel 231 markings.

**13. Buyers' default** 232

Should the deposit not be paid in accordance with Clause 2, the Sellers have the right 233 to cancel this Agreement, and they shall be entitled tot claim compensation for their 234 losses and for all expenses incurred together with interest. 235

Should the Purchase Price not be paid in accordance with Clause 3, the Sellers have the 236 right to cancel the Agreement, in which case the deposit together with interest earned 237 shall be released to the Sellers. If the deposit does not cover their loss, the Sellers shall 238 be entitled to claim further compensation for their losses and for all expenses incurred 239 together with interest.

**14. Sellers' default** 240

Should the Sellers fail to give Notice of Readiness in accordance with Clause 5a) or 241 fail to be ready to validly complete a legal transfer by the date stipulated in line 61 the 242 Buyers shall have the option of cancelling this Agreement provided always that the 243 Sellers shall be granted a maximum of 3 banking days after Notice of Readiness has 244 been given to make arrangements for the documentation set out in Clause 8. If after 245

Notice of Readiness has been given but before the Buyers have taken delivery, the Vessel ceases to be physically ready for delivery and is not made physically ready again in every respect by the date stipulated in line 61 and new Notice of Readiness given, the Buyers shall retain their option to cancel. In the event that the Buyers elect to cancel this Agreement the deposit together with interest earned shall be released to them immediately.

Should the Sellers fail to give Notice of Readiness by the date stipulated in line 61 or fail to be ready to validly complete a legal transfer as aforesaid they shall make due compensation to the Buyers for their loss and for all expenses together with interest if their failure is due to proven negligence and whether or not the Buyers cancel this Agreement.

**15. Buyers' representatives** 255

After this Agreement has been signed by both parties and the deposit has been lodged, the Buyers have the right to place two representatives on board the Vessel at their sole risk and expense upon arrival at ..... on or ..... These representatives are on board for the purpose of familiarization and the capacity of observers only, and they shall not interfere in any respect with the operation of the Vessel. The Buyers' representatives shall sign the Sellers' letter of indemnity prior to their embarkation.

**16. Arbitration** 262

a)\* This Agreement shall be governed by and construed in accordance with English law and any dispute arising out of this Agreement shall be referred to arbitration in London in accordance with the Arbitration Acts 1950 and 1979 or any statutory modification or re-enactment thereof for the time being in force, one arbitrator being appointed by each party. On the receipt by one party of the nomination in writing of the other party's arbitrator, that party shall appoint their arbitrator within fourteen days, failing which the decision of the single arbitrator appointed shall apply. If two arbitrators properly appointed shall not agree they shall appoint an umpire whose decision shall be final.

b)\* This Agreement shall be governed by and construed in accordance with Title 9 of the United States Code and the Law of the State of New York and should any dispute arise out of this Agreement, the matter in dispute shall be referred to three persons at New York, one to be appointed by each of the parties hereto, and the third by the two so chosen; their decision or that of any two of them shall be final, and for purpose of enforcing any award, this Agreement may be made a rule of the Court.

The proceedings shall be conducted in accordance with the rules of the Society of Maritime Arbitrators, Inc. New York.

c)\* Any dispute arising out of this Agreement shall be referred to arbitration at , subject to the procedures applicable there.

The laws of shall govern this Agreement .

\* 16a), 16b) and 16c) are alternatives; delete whichever is not applicable. In the absence of deletions, alternative 16a) to apply.

For and behalf of Sellers

For and behalf of Buyers