

NOTES

on

MEMORANDUM OF AGREEMENT

Code Name : NIPPONSALE 1977

for

Sale and Purchase of Ships

Issued 16/12/1965

Amended 13/7/1971

Amended 16/3/1977

**The Documentary Committee of
The Japan Shipping Exchange, Inc.**

NOTES
on
MEMORANDUM OF AGREEMENT
Code Name: NIPPONSALE 1977

Since the MEMORANDUM OF AGREEMENT, Code Name NIPPONSALE 1965, had been first drafted and issued on 16 December, 1965, by the Documentary Committee of the Japan Shipping Exchange, Inc., it had been widely used in international dealings of sale and purchase of ships. It had become keenly felt, however, as time passed, that the text of the Agreement should be carefully reviewed and revised, along with the rapid changes in the international business, especially in the maritime business, including the customs and usages in practice of sale and purchase of ships.

The inadequacy of wordings in the Agreement was further revealed in consideration of cases submitted for arbitration to the Maritime Arbitral Tribunal of the Japan Shipping Exchange, Inc.

Under the circumstances, the Documentary Committee of the Exchange held in April, 1975 passed a resolution to carry out the proposed revision of the Memorandum of Agreement, NIPPONSALE, and organized for this purpose a Sub-Committee comprised of members appointed from among the related business circles, all being distinguished and experienced experts.

The Sub-Committee worked on the basic principle that the Agreement must be suitable for wide use in actual business transactions, giving deliberate consideration to clearness and adaptability of wording and terminology.

Repeated sessions were held for review and discussion over more than twelve months and a final draft was arrived at in January, 1977.

This final draft was submitted to the Documentary Committee and on its approval formally adopted with the Code Name "NIPPONSALE 1977".

We are confident that, through this revision, the Memorandum of Agreement, Code Name "NIPPONSALE 1977" will now be of wide and satisfactory use in sale and purchase of ships in international business transactions.

EXPLANATORY NOTES
on
MEMORANDUM OF AGREEMENT
Code Name: NIPPONSALE 1977

Format, etc.

The old MEMORANDUM OF AGREEMENT, NIPPONSALE 1965, the prototype of this AGREEMENT, was originally printed in modified B4 size.

While this form was appreciated for its unique appearance as well as for its contents, it was sometimes found rather inconvenient for practical use because of its unique size, layout and filing inadaptability.

The present MEMORANDUM OF AGREEMENT, NIPPONSALE 1977, is made in format of ordinary A4 size, the standard paper size for all formal documents currently used in the foreign trade business of Japan. This size will fit in the office procedure when the AGREEMENT is attached to the relative documents including an application for the governmental approval or acknowledgement.

Another improvement is made in indication of line numbers. They are printed on the left margin of each page instead of the right margin as in the former format of the MEMORANDUM OF AGREEMENT, NIPPONSALE 1965. Further the larger types are used and the spaces between the lines are extended. These improvements leave wider spaces on each page so that any additional entry and amendment could be made easily when necessary.

Title and Code Name

The former title "MEMORANDUM OF AGREEMENT" is preserved in view of the practice of the business in which the abbreviation "MOA" has widely been used for sale and purchase of a ship, although there were some opinions which preferred the title, "Contract of Sale for Ship", hoping to get rid of similarity in layout of "SALEFORM", the MEMORANDUM OF AGREEMENT of the Norwegian Shipbrokers' Association.

As for the code name, "NIPPONSALE 1977" is adopted, following the previous one NIPPONSALE, with 1965 altered into 1977, indicating the year of the revision and amendment for the convenience of cross reference of the AGREEMENTS, old and new, as in the case of Code Name of NANYOZAI CHARTER PARTY.

Preamble

Preamble of the revised AGREEMENT does not differ much from the old one, except that below the heading a date line is set as "...19...", and in the 9th line a new wording "hereinafter called the Classification Society" is inserted.

The date line with the indication of "...19..." is set for the purpose of simplicity, avoiding the troublesome entries of the date repeatedly to be made as in the text of the old Agreement, especially in the latter part of the AGREEMENT. The date is to be typewritten at the very earlier part of the AGREEMENT where much typewriting work is exercised in drafting of the contract.

The insertion of the new wording in the 9th line indicated as above, namely the insertion of "hereinafter called the Classification Society," is made with the view to specifically designating here the Classification Society. The name of the Classification Society is required, as referred to later, in connection with the inspection of the bottom and other underwater part or parts of the ship in dealing, and the repeated indications of its name in the AGREEMENT may be dispensed with in the later mentioning of the ship in the latter part of the AGREEMENT, by providing in the 9th line "hereinafter called the Classification Society,".

Clause 1

The wording "within... days from the date of this Agreement" respectively in the 13th and 15th lines of the revised AGREEMENT, NIPPONSALE 1977, used to be "within ... days of their signing this Agreement" in the old Agreement, NIPPONSALE 1965.

There is no further amendment nor alteration in Clause 1.

Clause 2

No alteration from Clause 2 of the old Agreement.

This Clause refers to the price of the ship in dealing on the AGREEMENT.

Entries may be made in this Clause, when necessary, regarding such matters as the currency for payment, the rate of exchange, arrangement in case of devaluation and/or denomination thereof, etc.

Caluse 3

The revisions in this Clause are the wordings in the lines 22nd through 23rd "pay in a deposit of ten (10) per cent of the Purchase Money"; in the line 24th "from the date of this Agreement"; and in the lines 24th – 25th, "in the name(s) of the Sellers and/or the Buyers, interest, if any, to be for the Buyers' account, which deposit shall be placed at the disposal of the Sellers."

In the old Agreement, the wording was "pay a deposit of ... per cent of the Purchase Money to a bank", and the actual amount of the deposit was left to negotiation of the parties, the Sellers and the Buyers. It was revised in this AGREEMENT into "a deposit of ten (10) per cent of the Purchase Money, to a bank", in view of the usage in the current practice of sale and purchase of a ship, where 10% of the Purchase Money is deposited presumably with a bank.

The wording "within ... days of their signing this Agreement" is revised into "within ... days from the date of this Agreement".

In the old Agreement, the deposit was to be made "in the joint names of the Buyers and the Sellers", following the international usage in the dealing of sale and purchase of a ship. In view of, however, the fact that this mode of payment is not allowed currently in the present Law of Foreign Exchange Control of Japan and that the actual payment may sometimes be done overseas even when the Sellers are of the Japanese nationality, the above wording was revised into the present one so that the deposit could be paid in to the account in the joint names of the Sellers and the Buyers, or in the name of the Sellers or the Buyers, according to the case.

Interest, if any, on such deposit, is to be due to the Buyers, in view of the possible fact that such deposit may be kept as such for a considerably long period.

The wording in the old Agreement "which deposit shall be released to the Sellers..." was revised into "which deposit shall be placed at the disposal of the Sellers", in view of the probable practice in which such deposit might be kept in the name of the Sellers.

There was a discussion on advisability of stipulating a provision providing who bears the expenses to open such deposit account at a bank, but it was not materialized in the wording, as the practice charging expense for opening such bank account is rather rare, if any, as an actual case.

It is stipulated that the above deposit is to be placed at the disposal of the Sellers on the presentation to the bank of the duplicate of the notice of readiness for delivery of the vessel. In practice, however, this transfer of the deposit is made on the actual delivery of the vessel to the Buyers or at the time when the Buyers signed Protocol of Delivery and Acceptance of the vessel. In view of such practice, there was an opinion to indicate this practice in the wording. Considering, however, the importance of transfer of the deposit, it was agreed that the matter should be decided during the process of the negotiations between the Sellers and the Buyers, and better left to the present wording, which was drafted in the old Agreement.

Clause 4

Revisions and amendments in Clause 4 are as follows: (1) a provision regarding cash payment by telegraphic transfer is newly stipulated and added in (a); the provision regarding payment on the basis of Letter of Credit previously stipulated in the old Agreement is itemized in (b) of the revised AGREEMENT, and the mode of payment of the balance of the Purchase Money is left to an option of the parties of the AGREEMENT; the payment of the balance is to be made against the Protocol of Delivery and Acceptance of the vessel; and the provision in the old Agreement stipulating the tender of the documents other than the above is transferred to Clause 5 as an independent provision; in the 36th line the wording "from the date of this Agreement" is adopted, and in the 39th line a word "balance" was inserted.

Regarding the stipulation on payment of the balance of the Purchase Money less 10% deposit, the old Agreement provides only payment on the basis of Letter of Credit. In view of, however, the current usage of dealing which is done by payment by telegraphic transfer, the provision to that effect is newly stipulated and added, as stated above.

Payment on the basis of letter of credit is also widely used, especially between the parties respectively reliable and of high status and standing.

Thus the provision stipulates the former mode of payment in (a) and the latter in (b), leaving it to an option of the parties of the AGREEMENT.

As for the documents to be submitted to the bank for payment of the balance, the Purchase Money less 10% deposit, Protocol of Delivery and Acceptance of the vessel is only mentioned in this revised AGREEMENT as requisites. This stipulation is provided from the following viewpoints: regarding settlement of

the balance of the Purchase Money of a vessel, suppose it is provided that, as in the old Agreement, all the relative documents are always required by the bank for such payment, the bank, who is the third party in the said Agreement, will always have to, irrespective of the mode of payment being telegraphic transfer or letter of credit basis, obligatorily confirm the detailed descriptions and statements on the documents submitted to the bank on the terms of payment on the Agreement, and, in some cases, the bank may refuse such payment against the documents submitted thereto on trivial and trifling discrepancy or even clerical error in entries on these documents; it must be however noted that such documents are only required in the procedure of registration by the Buyers of the vessel purchased whereas transfer of Protocol of Delivery and Acceptance of the Vessel is good enough to prove the delivery and acceptance of the vessel to the Buyers or to their bailee; hence the revised Clause 4, in which the provision stipulates payment of the balance through the bank against only the Protocol of Delivery and Acceptance of the Vessel, leaving all other Documents to be tendered directly to the Buyers.

Clause 5

This provision is newly stipulated as Clause 5.

This Clause stipulates the tender of the documents which was in the old Agreement in Clause 4; it is provided in this Clause as an independent one.

In the 45th line, use of the photostatic copy is acknowledged regarding the Government Export Licence which is in Japan a document to be kept in the custody of the Sellers.

The old Agreement required the entry of the number of the Import Licence in the Commercial Invoices, by the stipulation "Commercial Invoices stating the Number of the Import Licence", but the word "stating" and the subsequent wording were deleted as it was not legal requirements.

Clause 6

This refers to Clause 5 of the old Agreement.

The wording in the old Agreement, Clause 5, para. 1, stipulated "The Sellers shall deliver the vessel to the Buyers free from average and with clean swept holds at/in ... not later than ...".

This provision was revised in the revised AGREEMENT, in the lines 49–50th

into the stipulation "The Sellers shall deliver to the Buyers the vessel free from outstanding recommendations and average damages affecting her present class at/in ... not before ..., but not later than ...".

Regarding the wording in the old Agreement, Clause 5, para. 1, stating "free from average, and with clean swept holds at/in ... not later than ...", there are the legal cases in which the expression "free from average" is to be interpreted as "free from claims against the ship", while another interpretation by the business people maintained it as the ship free from any physical average damage or damages affecting her class; hence the wording "free from outstanding recommendations and average damages affecting her present class" is adopted in the revised AGREEMENT.

According to this provision, the Sellers are to deliver the ship to the Buyers with and after complete fulfilment of any repair or improvement recommended or indicated in the latest survey, if any, and still outstanding, by the Classification Society of the ship, and/or any repair or improvement of average damages.

In the process of the discussion on wording of this provision, an opinion suggested the wording "to deliver ... with her present class maintained". But the discussion continued about the meaning of the wording "with her present class maintained": is it good enough only with a Certificate of Maintenance of the Class produced on the basis of the latest Classification Inspection Report (Class Record) or does it require any confirmation or acknowledgement of the maintenance of ship's class with and after an extraordinary inspection of the ship in the dealing – this is still a problem under the present state of business regarding sale and purchase of a ship. The Buyers will exercise strict and severe inspection of the ship, according to this wording, when they receive the ship; the suggested stipulation, "with her present class maintained", might be taken too strict for the Sellers of the second-hand ship; hence the suggested wording was not adopted. The wording "with clean swept holds" was neither adopted, in view of possible too strict and narrow interpretation and application for the Sellers, because there exists a variety of ships with a variety of cargo hold.

As for the period from the completion of an Agreement to delivery of the ship, there is a case where a considerably longer time elapses; in view of such situation, the wording "not before" was inserted so that the time when the delivery is made can be entered, and the wording "not later than" was made into "but not later than"; further the expression "within the time specified as above" was improved into "within the period specified as above."

Days of grace for delay of delivery caused by force majeure and/or by repair in order to pass the inspection was specifically indicated as thirty (30) days, in view of the current custom of the business.

Clause 7

This Clause is made in accordance with the "Institute Drydocking Clause".

Clause 6 in the old Agreement became Clause 7 in the revised AGREEMENT with the word "drawn" inserted in the 67th line.

This Clause stipulates that, in case when the Classification Society requires the tail-end shaft to be drawn, and/or made good or renewed, the cost of drawing and replacing shall be borne by the Sellers irrespective of existence of actual damage or defect thereat.

The problem of expenses for inspection of sea chest and sea valve was discussed, but it was concluded that no stipulation was necessary, as these are included in "underwater parts".

Another opinion was presented and discussed about discrimination of all costs of transporting the ship to drydock and from the drydock to place of delivery, from drydock due, in connection with the wording "costs of transporting the vessel to the drydock and from the drydock to the place of delivery". But in practice, as the cost of docking comes out at the time when the dockmaster gets on board or the tug boat is on service with the ship, the time for separation of the above two expenses could be definitely made clear; hence it is concluded that no specific stipulation is necessary.

The Classification Society and the Classification Society's surveyor in this Clause mean the Society and its surveyor of the Classification Society provided in the Preamble.

Clause 8

In this Clause 8, formerly Clause 7 in the old Agreement, the following new wordings are respectively inserted: "Classification Society's" in the 73rd line, and "three (3)" in the 80th line.

In the 73rd line, "Classification Society's" was inserted before "surveyor", as without this "Classification Society's" before the word "surveyor" in the old Agreement, it was often misunderstood as the presence of the surveyor or a

person who had the same quality thereof for and on the part of the Buyers. There is no need to particularly explain that the Classification Society means the Classification Society stipulated in the Preamble. From the wording "on the inspection" in the old Agreement, the definite article "the" is deleted.

Allowance for the period for taking delivery by the Buyers of the ship and its delay stipulated in Clause 8, para. 2 and para. 3 was in the old Agreement left to negotiation of the parties on the Agreement, but in view of the practice where the former is 3 days and the latter 15 days respectively, these figures are definitely mentioned in the wordings.

The provision where "from the day of the receipt of such notice" has usually some confusion whether or not the day on which the notice is received is included, consequently the wording was revised in "from the day of the receipt of such notice inclusive", so that it means definitely that the day of receipt is included.

There was an opinion to consider the provision is too strict when it stipulates that the Buyers should take delivery of the ship within three (3) days inclusive of the day of receipt of such notice for taking delivery. But the original stipulation is left as drafted in view of the practice that such notice of readiness is given and received on board the ship, and further, in case when the above period of three (3) days is considered too short, it could be changed according to negotiations of the parties.

Regarding the wording in the 76th line in the round brackets, "(Sundays and holidays excepted)", there was an opinion saying that Sundays should be in singular form because of there being no case of two (2) Sundays included in the period of three (3) days for taking delivery of the ship, consequent upon this period ranging over only three (3) days. But the expression in the old Agreement is retained as before in consideration of possible case where Sunday is repeatedly met with as the result of holidays following one Sunday.

Clause 9

Formerly Clause 8 in the old Agreement.

The wording "become actual or constructive total loss" is a revision made in the AGREEMENT.

In the old Agreement, there was the wording "Should the vessel be lost or wrecked before delivery", and this provision was taken as ambiguous whether it included constructive total loss; hence the new stipulation "Should the vessel become actual or constructive total loss". The wording "or be not able to" was improved into "or not be able to" in the 81st line.

The problem of including a provision for strike was discussed. Should a strike be taken as an unavoidable matter for either party, then it may fall in the category of a matter of cause to be excluded in this Clause. But in the case of sale and purchase of a ship, such strike which prevents or affects delivery of the ship is rather rare, and therefore, the matter of strike is left to consideration and a special agreement on the part of the parties.

Clause 10

The provision in Clause 9 of the old Agreement is adopted here in Clause 10.

Delivery of the ship "as she is" means that the Sellers shall not be responsible for any damage not affecting the ship's seaworthiness and/or her class.

Clause 11

The provision in Clause 10 of the old Agreement is adopted here in this Clause 11 with insertion of the wording "unused lubricating oils" in the line 90th, after the wording "bunkers".

At the time when the old Agreement was formed, most of the ships had kept their lubricating oil in drums, and as the result, it was generally considered that lubricating oil should be included in "unbroached stores." The revision as referred to above is due to consideration of the actual circumstances where lubricating oil is stored in a ship's tank and there are a variety of lubricating oil stored in a ship.

There was a discussion about suggested revision of "unbroached stores" into "unused stores." But the word "stores" of a ship usually includes a lot of petty articles such as ship's daily use for living and office use. It was therefore considered that the word "unused stores" might make the matter rather complex.

Clause 12

This is the revision of Clause 11 of the old Agreement.

In this revision, the wordings in the 100th line and after are added as para. 2, as follows: "Personal effects of the Master, Officers and Crew, and hired equipment, if any, shall be excluded from the sale and be removed by the Sellers prior to delivery of the vessel."

Clause 13

The same as Clause 12 of the old Agreement.

Clause 14

Clause 13 of the old Agreement with the following revision, viz., in the 104th line and after, the wording "The Sellers have the right to cancel this Agreement, in which case" is inserted, and in the 105th line and after, the wording "if deposit does not cover the Sellers' loss caused by the nonfulfilment of this Agreement, they shall be entitled to claim further compensation for any loss and for all expenses" is added. The wording "disappointment" in the 76th line of the old Agreement is deleted in the revised AGREEMENT.

The above revision was made for the purpose of placing the rights of the Sellers and the Buyers on the balanced positions, in case of any claim for compensation arising; namely, along with the recent tendency of the huge-sized mammoth ship being built, the value of a ship became fabulously high. As a consequence, in case of any failure of taking delivery of a ship by the Buyers, it would be most probable that the Sellers could not cover their unexpected loss by simple forfeiture of the deposit previously made by the Buyers, and consequently, it is stipulated as above so that the Sellers could claim for compensation against such loss arising from the Buyers' failure in execution of their obligation of the AGREEMENT.

Against failure of the Sellers' obligation, it was stipulated in the old Agreement that the Buyers have the right for disappointment. But in the new AGREEMENT, this word "disappointment" is deleted, owing to difficulty of defining its meaning.

Clause 15

Same as Clause 14 in the old Agreement.

There was an opinion that detailed description and stipulations must be made in this Clause, as foreign maritime people might not be satisfied with the provision of this Clause with little knowledge and understanding of the rules

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of maritime arbitration and activities of the Japan Shipping Exchange, Inc. This suggestion was not, however, realized in revision of this Clause, the reason being simply that the present Rules of the Exchange themselves are now considered to review for revision.

Closing and Signatures

The subject "We" in the old Agreement was changed into "the Sellers and the Buyers" and "hereunto set our hands to" into "signed and executed". These revisions are the results of the considerations that nowadays, the parties are coming to terms in general through communication by telex and/or wire,

respectively staying at their local business offices and the actual work of completion and execution of the AGREEMENT is usually done by the respective Agencies, not by the parties themselves who set their hands on the AGREEMENT. Lots of the entries in this part of the closing and signature in the old Agreement are also dispensed with in the new AGREEMENT; namely the wordings in the old Agreement beginning with "this Agreement" and after continued to "of same tenor and date this ... day of ... One thousand nine hundred and ..." needs lots of typewriting work with entry of the contract date; day, month and year, all in letters, on the reverse side of the contract form where other entries are rather seldom; hence indication of the date is transferred to the heading as explained at the very beginning of these notes; and the wording "on the same tenor and date..." and after are revised into "the day and year first above written." The revision makes it clear that signatures are to be done by the Sellers and the Buyers respectively at the left- and right-hand columns with the leaders, "THE SELLERS", and "THE BUYERS".

The wording in the old Agreement "WITNESS TO THE SIGNATURE OF" for the person certifying genuineness of the persons of signature was deleted. This is because of the recent practice in which this testimony of the signature is seldom used. This deletion may avoid possible mixture or confusion of the columns for parties' signatures and for the signatures of testimony.

..... 19.....

1 IT IS THIS DAY MUTUALLY AGREED between

2

3 hereinafter called the Sellers, and

4

5 hereinafter called the Buyers, that the Sellers shall sell, and the Buyers shall buy, the steamship/motor

6 vessel..... of..... flag, of

7 tons gross and net register tons,

8 about tons summer dead-weight, built

9 classed, hereinafter called the Classification Society, now

10 trading/laid up at, with everything

11 belonging to her, on board and on shore, on the following terms and conditions:

12 1. The sale of the vessel is subject to the Sellers obtaining the Government's

13 Export Licence within days from the date of this Agreement, and subject

14 to the Buyers obtaining the Government's Import Licence within

15 days from the date of this Agreement.

16 In the event of the Licence from either of the Governments mentioned above being unobtainable within

17 the stated period, or either of the Governments attaching such conditions to the sale as are unacceptable to

18 the Sellers or Buyers, then this Agreement shall be null and void.

19 2. The Purchase Price of the vessel shall be

20

21

22 3. As a security for the correct fulfilment of this Agreement, the Buyers shall pay in a deposit of

23 ten (10) per cent of the Purchase Money to a bank nominated by the Sellers within

24 days from the date of this Agreement, in the name(s) of the Sellers and/or the Buyers, interest, if any, to be

25 for the Buyers' account, which deposit shall be placed at the disposal of the Sellers as a part of the Purchase

26 Money on presentation to the above-mentioned bank of the duplicate of the notice of readiness for delivery

27 of the vessel.

28 4. The Buyers shall pay the balance of the Purchase Money as follows:

29 [Delete either of the following (a) or (b). If no deletion is made, (a) is to apply.]

30 (a) The Buyers shall remit the balance of the Purchase Money by telegraphic transfer to a bank nomi-
31 nated by the Sellers not later than days prior to the expected date of
32 delivery of the vessel, which balance shall be paid to the Sellers against the Protocol of Delivery and
33 Acceptance of the vessel duly signed by both parties.

34 (b) The Buyers shall establish an Irrevocable Letter of Credit issued by
35, and confirmed by another bank approved by the Sellers, within

36 days from the date of this Agreement, in terms acceptable to the
37 Sellers, not to expire on or before, for the balance of
38 the Purchase Money, in favour of, which
39 balance shall be paid to the Sellers against the Protocol of Delivery and Acceptance of the vessel
40 duly signed by both parties.

41 5. At the time of delivery of the vessel, the Sellers shall furnish the Buyers with the following docu-
42 ments:

43 (1) Bill of Sale, duly attested by a Notary Public, specifying free from all debts, encumbrances and
44 maritime liens,

45 (2) Photostatic copy of the Government's Export Licence of the vessel,

46 (3) Commercial Invoices,

47 (4) Letter from the Sellers undertaking to supply a Deletion Certificate from the
48 Registry promptly after the vessel be delivered to the Buyers.

49 6. The Sellers shall deliver to the Buyers the vessel free from outstanding recommendations and average
50 damages affecting her present class at/in

51 not before, but not later than
52

53 In the event of the Sellers failing to deliver the vessel within the period specified as above, the Buyers
54 shall have the option of maintaining or cancelling this Agreement, but any delay not exceeding thirty (30)
55 days caused by force majeure and/or caused by repairs in order to pass the inspection under clause 7 of this
56 Agreement to be accepted by the Buyers.

57 7. For the inspection of bottom and other underwater part or parts, the Sellers shall place the vessel in
58 drydock at the above-mentioned port or near thereto prior to delivery.

59 If the rudder, propeller, bottom or other underwater part or parts be found broken, damaged or defec-
60 tive so as to affect the vessel's clean certificate of class, the same shall be made good at the Sellers' expense

61 to the Classification Society's satisfaction so as to retain the vessel's class without qualification.

62 While the vessel is in drydock and if required by the Buyers or the Classification Society's surveyor, the
63 tail-end shaft shall be drawn, and should the same be condemned or found defective so as to affect the
64 vessel's clean certificate of class, it shall be renewed or made good at the Sellers' expense to the Classifica-
65 tion Society's satisfaction so as to retain vessel's class without qualification. The cost of drawing and
66 replacing the tail-end shaft shall be borne by the Buyers unless the Classification Society requires the tail-
67 end shaft to be drawn, made good or renewed.

68 The expense of putting the vessel in and taking her out of drydock and the drydock dues shall be paid
69 by the Buyers unless the rudder, propeller, bottom, other underwater part or parts or tail-end shaft be found
70 broken, damaged or defective as aforesaid, in which event the Sellers shall pay these expenses.

71 The Sellers shall pay all costs of transporting the vessel to the drydock and from the drydock to the
72 place of delivery.

73 8. When the vessel has been approved by the Classification Society's surveyor on inspection stipulated
74 in the preceding clause, the vessel shall be deemed ready for delivery and thereupon the Sellers shall tender
75 to the Buyers a notice of readiness for delivery.

76 The Buyers shall take over the vessel within three (3) days (Sundays and holidays excepted) from the
77 day of the receipt of such notice inclusive.

78 In the event of the Buyers not taking delivery of the vessel within the period specified as above, the
79 Buyers shall pay to the Sellers the sum of per day as demurrage, but
80 such detention shall not exceed fifteen (15) days.

81 9. Should the vessel become actual or constructive total loss before delivery or not be able to be
82 delivered through outbreak of war, political reasons, restraint of Government, Prince or People, or any other
83 cause which either party hereto cannot prevent, this Agreement shall be null and void, and the deposit shall
84 be returned in full to the Buyers.

85 10. The vessel with everything belonging to her shall be at the Sellers' risk and expense until she is
86 delivered to the Buyers, but subject to the terms and conditions of this Agreement, the vessel with every-
87 thing belonging to her shall be delivered and taken over as she is at the time of delivery, after which the
88 Sellers shall have no responsibility for any possible fault or deficiency of any description.

89 11. The Buyers shall take over and pay the current market price at the port of delivery for remaining
90 bunkers, unused lubricating oils and unbroached stores. Unused spare parts and unused spare equipment
91 over and above the requirements of the Classification Society shall be taken over and paid for by the Buyers
92 at original cost price, but not above the current market price at the port of delivery.

93 The Sellers shall prepare an inventory list for the Buyers at the time of delivery.

94 Payment under this clause shall be made prior to delivery of the vessel in the same currency as the
95 Purchase Money.

96 12. The Sellers have the right to take ashore crockery, plate, cutlery, linen and other articles bearing
97 the Sellers' flag or name, provided they substitute for the same an adequate number of similar unmarked
98 items for the Master, Officers and Crew. Library, forms, etc., exclusively for use in the Sellers' vessels shall
99 be taken ashore before the delivery.

100 Personal effects of the Master, Officers and Crew, and hired equipment, if any, shall be excluded from
101 the sale and be removed by the Sellers prior to delivery of the vessel.

102 13. The Buyers undertake to change the name of the vessel and alter funnel markings before trading
103 the vessel under new ownership.

104 14. Should the Buyers fail to fulfil this Agreement, the Sellers have the right to cancel this Agreement,
105 in which case the deposit shall be forfeited to the Sellers. If deposit does not cover the Sellers' loss caused
106 by the non-fulfilment of this Agreement, they shall be entitled to claim further compensation for any loss
107 and for all expenses.

108 If default should be made by the Sellers in the delivery of the vessel with everything belonging to her in
109 the manner and within the time herein specified, the deposit shall at once be returned to the Buyers, and
110 the Sellers shall, in addition, make due compensation for loss caused by the non-fulfilment of this Agree-
111 ment, but such compensation shall only be payable by the Sellers if such default on the Sellers' part is from
112 other causes than those referred to in clause 6 and/or clause 9 of this Agreement.

113 15. Any dispute arising from this Agreement shall be submitted to arbitration held in Tokyo by
114 The Japan Shipping Exchange, Inc., in accordance with the provisions of the Maritime Arbitration Rules of
115 The Japan Shipping Exchange, Inc., and the award given by the arbitrators shall be final and binding on
116 both parties.

IN WITNESS WHEREOF the Sellers and the Buyers have signed and executed TWO COPIES of this Agreement the day and year first above written.

THE SELLERS

THE BUYERS