

Issued Dec. 16, 1965
 Amended Jul. 13, 1971
 Amended Mar. 16, 1977
 Amended Sep. 9, 1993
 Amended Nov. 2, 1999

The Documentary Committee of The Japan Shipping Exchange, Inc.

MEMORANDUM OF AGREEMENT

Place and Date of Agreement		Code Name: NIPPONSALE 1999	(Part I)
1. Sellers (Preamble)		2. Buyers (Preamble)	
3. Vessel's name (Preamble)		4. Flag/Registry (Preamble, Cl. 3 (a) (ii))	
5. Class (Preamble, Cl. 6 (b))		6. Built (year and builder's name) (Preamble)	
7. Gross register tonnage (Preamble)		8. Summer deadweight tonnage (Preamble)	
9. Place/Date of superficial inspection (Preamble, Cl. 5 (a), Cl. 10)		10. Place/Date of class records examination (Preamble)	
11. Purchase Price (Cl. 1)			
12. Place of closing (Cl. 3 (c))			
13. Delivery range (Cl. 4 (a), Cl. 6 (e)(i), (f))			
14. Delivery period (Cl. 4 (a)) and Cancelling Date (Cl. 4 (a), (d), (e))			
15. Places (Cl. 2 (a), Cl. 4 (c))			
16. Liquidated damages, per day (Cl. 7 (c))		The additional clauses, if any, numbered from 16 to [] shall be deemed to be fully incorporated into this Agreement.	

It is mutually agreed that this Agreement shall be performed in accordance with the terms and conditions contained herein.

Signature (Sellers)

Signature (Buyers)

By:

By:

Title:

Title:

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(Part II)

- IT IS THIS DAY MUTUALLY AGREED** between the Sellers 1 referred to in Box 1 (“the Sellers”) and the Buyers referred to in 2 Box 2 (“the Buyers”) that the Sellers shall sell and the Buyers shall 3 buy the Vessel named in Box 3 with particulars as referred to in 4 Boxes 4 - 8 (“the Vessel”), which has been accepted by the Buyers 5 following their superficial inspection of the Vessel and examination 6 of her class records as referred to in Boxes 9 and 10 respectively on 7 the following terms and conditions. 8
- 1. PURCHASE PRICE** 9
The purchase price of the Vessel (“the Purchase Price”) shall be 10 as stated in Box 11. 11
- 2. PAYMENT** 12
- (a) As security for the fulfilment of this Agreement, the Buyers 13 shall remit a deposit of ten (10) per cent of the Purchase Price 14 (“the Deposit”) to a bank nominated by the Sellers within 15 three (3) banking days (being days on which banks are open 16 for the transaction of business in the place stated in Box 15 17 (“Banking Days”)), from the date of this Agreement, in the 18 names of both the Sellers and the Buyers. Any interest earned 19 on the Deposit shall be credited to the Buyers. Bank charges 20 on the Deposit shall be borne equally by the Sellers and the 21 Buyers. The Deposit shall be paid to the Sellers as a part of 22 the Purchase Price in the same manner as the balance of the 23 ninety (90) per cent of the Purchase Price as provided for 24 hereunder. 25
- (b) The Buyers shall remit the balance of the Purchase Price by 26 telegraphic transfer to the said bank immediately after the 27 Notice of Readiness for Delivery is tendered by the Sellers 28 as per clause 7 of this Agreement. The balance shall be paid 29 to the Sellers together with the Deposit against the Protocol 30 of Delivery and Acceptance being duly signed by a 31 representative of each party at the time of delivery of the 32 Vessel. 33
- 3. DOCUMENTATION** 34
- (a) At the time of delivery of the Vessel, the Sellers shall provide 35 the Buyers with the following documents: 36
- (i) the Bill of Sale, duly notarized by a Notary Public, 37 specifying that the Vessel is free from all debts, 38 encumbrances, mortgages and maritime liens; and 39
- (ii) a letter from the Sellers undertaking to supply a Deletion 40 Certificate from the Registry stated in Box 4 as soon as 41 practicable after the Vessel’s delivery; and 42
- (iii) such other documents as may be mutually agreed. 43
- (b) Upon delivery the Buyers and the Sellers shall execute and 44 exchange a Protocol of Delivery and Acceptance, thereby 45 confirming the date and time of delivery of the Vessel. 46
- (c) Closing shall take place at the place stated in Box 12. 47
- 4. DELIVERY PLACE AND TIME** 48
- (a) The Sellers shall ensure that the Vessel is ready for delivery 49 within the Delivery Range stated in Box 13 not before and 50 not later than the dates stated in Box 14, the latter date being 51 the Cancelling Date. 52
- (b) The Sellers shall keep the Buyers informed of the Vessel’s 53 itinerary and give the Buyers thirty (30), fifteen (15), seven 54 (7) and three (3) days notice of the expected date and place 55 of readiness for delivery. 56
- (c) In the event that the Vessel is not ready for delivery on or 57 before the Cancelling Date, the Buyers shall have the option 58 of cancelling this Agreement, provided such option shall be 59 exercised in writing within two (2) Working Days (which 60 shall be the days not falling on Saturdays, Sundays, or Public 61 holidays in the place stated in Box 15) from the Cancelling 62 Date. However, if the failure to deliver the Vessel is caused 63 by any event over which the Sellers have no control, then 64 the Cancelling Date shall be extended by the corresponding 65 time lost due to such event but in no case shall such extension 66 be for a period of more than thirty (30) days. 67
- (d) In the event the Buyers do not elect to exercise the option to 68
- cancel this Agreement in accordance with sub-clause (c) above, 69 they shall have the right to designate a new date for delivery 70 of the Vessel, provided such right is exercised in writing 71 within two (2) Working Days from the Cancelling Date, and 72 such designated date shall be the new Cancelling Date as if 73 stated in Box 14. However if no new Cancelling Date is 74 designated by the Buyers in accordance with this sub-clause 75 there shall be no further Cancelling Date and the Sellers shall 76 deliver the Vessel as soon as practicable. 77
- (e) Notwithstanding the exercise of due diligence by them, if 78 the Sellers anticipate that the Vessel will not be ready for 79 delivery by the Cancelling Date, (whether it be the first agreed 80 Cancelling Date or any subsequent Cancelling Date as 81 provided for in sub-clause (d) above), then the Sellers may 82 notify the Buyers in writing stating the date when they 83 anticipate that the Vessel will be ready for delivery and 84 proposing that that date shall be the new Cancelling Date. 85 Upon receipt of such notification the Buyers shall have the 86 option to cancel this Agreement, provided such option is 87 exercised in writing within two (2) Working Days from the 88 receipt of the aforesaid notification from the Sellers. If the 89 Buyers do not exercise the option to cancel this Agreement, 90 the date proposed by the Sellers shall be the new Cancelling 91 Date as if stated in Box 14. 92
- 5. DELIVERY CONDITION** 93
- (a) The Sellers shall deliver the Vessel to the Buyers in 94 substantially the same condition as when the Vessel was 95 inspected by the Buyers at the place stated in Box 9, fair 96 wear and tear excepted, but free from outstanding 97 recommendations and average damage affecting her present 98 class and with all her class, national and international trading 99 certificates clean and valid at the time of delivery. 100
- (b) Upon the Vessel being delivered to and accepted by the 101 Buyers in accordance with this Agreement the Sellers shall 102 have no liability whatsoever for any fault or deficiency in 103 their description of the Vessel or for any defects in the Vessel 104 regardless of whether such defect was apparent or latent at 105 the time of delivery. 106
- 6. UNDERWATER INSPECTION** 107
- (a) The Sellers may deliver the Vessel without drydocking, 108 subject to the following provisions. 109
- (b) Prior to delivery of the Vessel the Buyers shall have the right 110 to have divers approved by a classification society referred 111 to in Box 5 (“the Classification Society”), carry out an 112 inspection of the Vessel’s underwater parts below the summer 113 load line in the presence of a surveyor of the Classification 114 Society arranged by the Sellers. Such inspection, if any, is to 115 be at the Buyers’ arrangement, risk and expense and is not 116 to interfere with the Vessel’s operation and delivery schedule. 117
- (c) The Buyers shall give a written notice of their intention to 118 have an underwater inspection carried out within two (2) 119 days from the receipt of the seven (7) days notice stipulated 120 in sub-clause (b) of Clause 4. If the Buyers fail to give such 121 a written notice within two (2) days, they shall lose their 122 right to have an underwater inspection. 123
- (d) Upon receipt of the Buyers’ notice the Sellers shall arrange 124 with the Classification Society to carry out an underwater 125 inspection. The cost of the underwater inspection shall be 126 borne by the Buyers unless damage affecting the class is 127 found, in which case the Sellers shall bear the cost. 128
- (e) Should any damage affecting the class be found by such 129 divers’ inspection the following shall apply: 130
- (i) where the damage is of such nature that repairs are not 131 required prior to the next scheduled drydocking by the 132 Classification Society, then the Sellers and the Buyers 133 shall each select a reputable shipyard in the Delivery 134 Range stated in Box 13 or near thereto and obtain from 135 such shipyard a quotation for the cost of repairs of the 136 damage. Each quotation is to be for the direct repair costs 137 of the damage only and is not to include the cost of 138

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dockage and general service expenses. The Sellers shall	139	on board or on shore, used or unused, except such things as are	207
then have the option to either repair the damage prior to	140	in the normal course of operations used during the period	208
delivery of the Vessel or deliver the Vessel without the	141	between the superficial inspection and delivery. The Sellers shall	209
damage being repaired with a reduction from the Purchase	142	provide the Buyers with an inventory list at the time of delivery.	210
Price of the estimated cost of repairs. The estimated cost	143	Forwarding charges, if any, shall be for the Buyers' account.	211
of repairs shall be defined as the average of the two	144	The Buyers shall take over and pay the Sellers for the remaining	212
quotations obtained from the two shipyards;	145	bunkers and unused lubricating oils at the last purchased prices	213
(ii) where the damage is of such nature that repairs are	146	evidenced by supporting vouchers. Payment under this clause	214
required prior to the next scheduled drydocking by the	147	shall be made on or prior to delivery of the Vessel in the same	215
Classification Society, then the Sellers shall repair the	148	currency as the Purchase Price.	216
damage at their cost and expense and to the Classification	149		
Society's satisfaction.	150	11. EXCLUSION FROM THE SALE	217
(f) In the event that the Vessel is drydocked to effect repairs of	151	The Sellers have the right to take ashore all crockery, cutlery,	218
damage in accordance with sub-clause (e) hereof, the Sellers	152	linen and other articles bearing the Sellers' flag or name,	219
shall have the right to designate the drydock place as the	153	provided the Sellers substitute the same for an equivalent number	220
new delivery place if such drydock place is within the	154	and type of similar unmarked items. Books, cassettes and forms	221
Delivery Range stated in Box 13. In such event the Buyers	155	etc., exclusively for use by the Sellers on the Vessel, shall be	222
shall have the right to clean and paint the underwater parts	156	taken ashore before delivery. Personal effects of the Master,	223
of the Vessel at their risk and expense and without interfering	157	Officers and Crew including slop chest and hired equipment, if	224
with the work of the Sellers and a surveyor of the	158	any, are excluded from this sale and shall be removed by the	225
Classification Society and without affecting the Vessel's	159	Sellers prior to delivery of the Vessel.	226
delivery schedule. However if the Buyers' work in drydock	160		
is still in progress when the Sellers have completed their	161	12. CHANGE OF NAME ETC.	227
work, then the additional docking period necessary for	162	The Buyers undertake to change the name of the Vessel and	228
completing such work shall be at the Buyers' risk and	163	alter the funnel markings upon delivery of the Vessel.	229
expense, in which event the Sellers shall have the right to	164		
tender a Notice of Readiness for Delivery on or after	165	13. ENCUMBRANCES ETC.	230
completion of their work.	166	The Sellers shall deliver to the Buyers the Vessel free from all	231
(g) If repairs are required in accordance with sub-clause (e)	167	debts, encumbrances, mortgages and maritime liens. The Sellers	232
hereof, then the Cancelling Date shall be extended by the	168	hereby undertake to indemnify the Buyers against all claims of	233
corresponding time lost to effect such repairs provided that	169	whatever nature made against the Vessel in respect of liabilities	234
such extension shall not in any event exceed thirty (30) days.	170	incurred prior to the time of delivery.	235
7. NOTICE OF READINESS AND LIQUIDATED DAMAGES	171	14. DEFAULT AND COMPENSATION	236
(a) When the Vessel becomes ready for delivery, the Sellers shall	172	(a) Should the Buyers default in the payment of the Deposit or	237
tender to the Buyers a Notice of Readiness for Delivery.	173	the balance of the Purchase Price in the manner and within	238
(b) The Buyers shall take over the Vessel within three (3) Banking	174	the time herein specified, or the Buyers otherwise fail to	239
Days from the day of receipt of such Notice of Readiness for	175	perform their obligations under this Agreement and such	240
Delivery.	176	failure is not remedied within seven (7) days following receipt	241
(c) In the event the Buyers do not take delivery of the Vessel	177	of a notice of default from the Sellers to the Buyers, then the	242
within the period specified above, the Buyers shall pay to	178	Sellers shall have the right to cancel this Agreement. In such	243
the Sellers for each day of the delay up to the tenth (10 th) day	179	event the Deposit if already paid, together with interest	244
of the delay the liquidated damages as stated in Box 16. If	180	accrued thereon, if any, shall be forfeited to the Sellers. If	245
the delay exceeds ten (10) days then the Sellers shall have	181	the Deposit has not yet been paid the Sellers shall have the	246
the right to cancel this Agreement and claim damages for	182	right to receive the amount equivalent to the Deposit from	247
their losses flowing therefrom.	183	the Buyers. If the Deposit or the amount equivalent to the	248
8. TOTAL LOSS AND FORCE MAJEURE	184	Deposit does not cover the Sellers' losses, the Sellers shall	249
Should, before delivery, the Vessel become an actual,	185	have the right to claim further compensation from the Buyers	250
constructive or compromised total loss (not being a result of an	186	to recover such losses.	251
act or omission of the Sellers committed with the intent to cause	187	(b) Should the Sellers default in the delivery of the Vessel with	252
such total loss or recklessly and with knowledge that such total	188	everything belonging to her in the manner and within the	253
loss would probably result therefrom), or should the Vessel not	189	time herein specified, or the Sellers otherwise fail to perform	254
be able to be delivered before the Cancelling Date through the	190	their obligations under this Agreement and such failure is	255
outbreak of war, the restraint of Governments, Princes or People,	191	not remedied within seven (7) days following receipt of a	256
political reasons or any other cause over which the Sellers have	192	notice of default from the Buyers to the Sellers, then the	257
no control, then this Agreement shall be null and void and neither	193	Buyers shall have the right to cancel this Agreement. In such	258
party shall be liable to the other. In such event the Deposit	194	event the Buyers shall have the right to be paid the amount	259
together with interest accrued thereon, if any, shall be	195	equivalent to the Deposit by the Sellers and the Deposit, if	260
immediately released in full to the Buyers.	196	already paid, together with interest accrued thereon, if any,	261
9. TRANSFER OF TITLE AND RISK	197	shall be released to the Buyers. If the amount equivalent to	262
Title and risk to the Vessel, together with everything belonging	198	the Deposit does not cover the Buyers' losses the Buyers	263
to her, shall pass to the Buyers upon both payment of the	199	shall have the right to claim further compensation from the	264
Purchase Price and delivery of the Vessel having occurred.	200	Sellers to recover such losses.	265
Delivery of the Vessel shall be deemed to take place at the date	201	15. ARBITRATION	266
and time specified in the Protocol of Delivery and Acceptance.	202	Any and all disputes arising out of or in connection with this	267
10. BELONGINGS AND BUNKERS	203	Agreement shall be submitted to arbitration held in Tokyo at	268
The Sellers shall deliver to the Buyers the Vessel with everything	204	the Tokyo Maritime Arbitration Commission ("TOMAC") of	269
belonging to her at the time of the superficial inspection referred	205	The Japan Shipping Exchange, Inc. in accordance with the Rules	270
to in the Box 9 including all spare parts, stores and equipment,	206	of TOMAC and any amendments thereto, and the award given	271
		by the arbitrators shall be final and binding on both parties.	272