

# Pacific Maritime

## LAWYERS & CONSULTANTS

11 April 2019

Dear Buyer,

### *Sales Kit for Second Hand Boats*

Congratulations on making the decision to sell your boat, or to buy someone else's! By purchasing the Pacific Maritime Lawyers Boat Buy/Sell Kit you have set yourself up for success.

Please check your that your kit contains the following documents;

- A. Guidance Note
- B. Checklist
- C. Transaction Agreement with Schedules A to E
- D. Schedule B – Inventory
- E. Schedule F – AMSA Bill of Sale
- F. Facts Sheets

If it appears that any of these documents are missing, please make contact. We recommend that you begin with the Guidance Note that will provide instruction for conducting your owner boat sale or purchase.

If your transaction has any complicating factors, Pacific Maritime Lawyers are happy to assist.

Yours faithfully,

**Pacific Maritime Lawyers**

John Kavanagh

**Principal Lawyer, Master Mariner**

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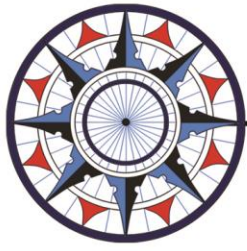
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### BOAT BUY/SELL KIT Guidance Notes

Thank you for entrusting Pacific Maritime Lawyers Pty Ltd to assist with your decision to buy or sell your chosen vessel. This **BOAT BUY/SELL KIT** is designed to allow you to undertake your own buying or selling transaction and will provide for the majority of second-hand boat transactions between private sellers.

Having said that, if your transaction is a little unusual or has some technical issues, then we recommend that you seek professional legal advice, and we invite you to call Pacific Maritime Lawyers on 1300 797 627 if you have any questions or concerns.

This GUIDANCE NOTE and the **BOAT BUY/SELL KIT** will set out the basic instructions and documentation required to undertake a routine recreational boat buy or sell transaction in Australia.

Included in the **BOAT BUY/SELL KIT** are the following;

1. Transaction Agreement;
2. The Boat's Inventory (Schedule B);
3. An Invoice (Schedule E);
4. The Bill of Sale (Schedule F); and
5. The Transaction Checklist for whether you are a buyer or seller (attached to this Guidance Note).

### Finance

If the buyer is borrowing money for the purchase it is important that the loan is approved unconditionally before the finance date. We refer you to Clause 2.6 and box 17 of Schedule A. This clause provides that if buyer finance is rejected then the whole contract may be terminated, and the deposit is returned to the buyer.

It is important that the buyer disclose whether finance is being sought before the transaction agreement is signed, otherwise Clause 2.6 will not be in effect. This disclosure should be noted in box 17 on page 9 of the Transaction Agreement.

### Deposit

A deposit is a usual part of any transaction agreement. The deposit amount is negotiable and can vary from 5% to 50%. It is recommended that the deposit not exceed 20% of the purchase price.

There are two options available for the payment of the deposit;

1. The deposit is paid directly to the seller to secure the purchase of the vessel,
2. The deposit is paid to an independent third party who will hold the deposit on behalf of the seller and buyer until the transaction has taken place.

It is recommended that option 2 is used in all transactions regardless of how large or small the deposit sum might be. Law firm trust accounts are ideal for this purpose as they ensure that neither party can take advantage of the transaction and misuse the deposit funds. Pacific Maritime Lawyers has a trust account that can be utilised for this purpose.

To provide a recent anecdote; an agreement was reached to buy a vessel with a deposit of 50%. This large sum of money was transferred from the buyer directly to the seller. The seller used this money as their own, and then the day before the transaction was completed, the vessel sank and the buyer never received the vessel under the agreement. The sellers then declared bankruptcy and the buyer was left without a vessel and unable to retrieve his deposit funds.

Use of a trust account to hold the deposit would have prevented this situation.

### **Insurance**

The Transaction Agreement provides that the risk of the vessel remains with the seller until the time that the transaction is completed, when it then transfers to the buyer. It is therefore important that, if you are the seller, you retain insurance on the vessel until the transaction is completed. If you are the buyer, that you obtain insurance for the vessel immediately you sign the contract and pay a deposit. An insurance broker will be able to advise on the risks and amounts that should be insured.

If you are financing the vessel, the interest of your financier will need to be noted on the policy (as well as the PPSR). You should discuss this with your financier and ensure your insurance broker attends to this.

You may also have the insurance contract looked at by a lawyer to ensure that it suitably protects your interests. We invite you to contact Pacific Maritime Lawyers to engage this service.

### **Proving Seller's title**

Like any property transaction, the *maxim caveat emptor* or 'buyer beware' applies. That is, the buyer must satisfy themselves that the boat is properly described (you are buying the actual boat that you inspected) and that the seller is, in fact, the owner of the boat.

To do so, you should:

- ④ Take careful note of the details of the Boat, including the registration number (state registration and/or shipping register official number), the HIN number, and any engine or outboard motor numbers.
- ④ Conduct a search of the Australian Ship Register, if the boat is registered on that register. See: <https://www.amsa.gov.au/vessels-operators/ship-registration/list-registered-ships>
- ④ Conduct a search of the Personal Property Securities Register: <https://www.ppsr.com.au/individuals/boat-search>
- ④ ask to see identification details for the other party, so that you are confident that you are dealing with the person described on the contract and in the Boat's documents. Pacific Maritime Lawyers routinely identify parties for transactions, and we can perform that service for a modest fee if required.
- ④ Check the documents supplied carefully, more on that below.

## Documentation

### 1. Transaction Agreement

The contract sets out the obligations of both parties. When contracts are signed by both parties there is a binding agreement and neither party can change their mind.

It is important that you read the Transaction Agreement thoroughly and ensure that you understand your obligations and entitlements.

### 2. Schedule B Inventory

We strongly recommend that prior to taking ownership of the vessel you perform a pre-settlement inspection to ensure that you are satisfied with the vessel and its equipment.

We also recommend that the inventory be completed by a professional marine surveyor.

### 3. Invoice

As a sale of a second-hand boat between individuals not ordinarily engaged in the sale of second-hand vessels, the transaction will usually be GST exempt.

4. Bill of Sale

In maritime law, the Bill of Sale is of critical importance in demonstrating title to a vessel. It is the foundation document for registration on the Australian Shipping Register, if that is important to you. It is in the interests of both buyers and sellers to ensure this document is handed over at settlement.

5. Transaction Checklist

See over the page.



As a purchaser of our Vessel Transaction Conveyancing Kit, if you require any of our services in relation to your transaction, you are entitled to a 10% reduction in our professional fees, from \$1320 to \$1200.

We look forward to working with you and, once again, thank you for choosing Pacific Maritime Lawyers Pty Ltd to represent you.

Yours faithfully,  
Pacific Maritime Lawyers



John Kavanagh  
**Principal Lawyer, Master Mariner**

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## BOAT BUY/SELL KIT Checklist

### Contract

- ☉ Contract signed by both parties?
- ☉ Subject to Finance? Yes/No
- ☉ Timeline
  - Agreement Date:
  - Inspection, Survey & Sea-trial by: AD + 7 days
  - Deposit Due: AD + 7 days
  - Finance Approval: AD + 14 days
  - Completion Date: AD + 21 days

### Identity

- ☉ Buyer & Seller – photo identification; call to use PML identification system: 1300 797 627
- ☉ Boat details checked – state registration current, HIN verified, Outboard motor ID sighted
- ☉ SRO Search (if required): <https://www.amsa.gov.au/vessels-operators/ship-registration/list-registered-ships>
- ☉ PPSR Search (essential): <https://www.ppsr.com.au/individuals/boat-search>

### Deposit (clause 2.3)

- ☉ How much?
- ☉ Stakeholder details?

### Insurance (Risk – clause 9)

- ☉ Buyer – until settlement has completed
- ☉ Seller – immediately upon signing contract and payment of deposit

### Survey & Sea Trial (Clause 6)

- ☉ Marine Surveyor appointed?

- ☉ Inspection conducted?
- ☉ Rejection or rectification?

### **Completion of Sale (Clause 8)**

- ☉ Boat inspected; in same condition as at survey/sea trial?
- ☉ Payment of balance of purchase price by Buyer
- ☉ Seller provide possession of boat
- ☉ Seller provide agreed documents (Schedule D)

## **CONGRATULATIONS** – you have sold or bought your boat!

### **DISCLAIMER**

This BOAT BUY/SELL KIT is suitable for most buying and selling transactions for recreational second-hand vessels in Australia between Australians. It should not merely be duplicated without consideration of an individual's situation. It is not intended to cover every boat sale situation, nor can it anticipate your specific needs.

For example, this BOAT BUY/SELL KIT does NOT cover any of the following situations:

- ☉ If the vessel is foreign-flagged
- ☉ If the vessel is subject to any kind of regulatory order or direction
- ☉ If the vessel is or has been registered for a commercial, research or government use
- ☉ If the vessel exceeds 300 GT
- ☉ If the vessel exceeds 15m in length overall
- ☉ If the vessel is unregistered or does not have a HIN or both

In any of these circumstances, please call Pacific Maritime Lawyers on 1300 797 627 for further guidance.

The BOAT BUY/SELL KIT is an important document that you should carefully review and consider whether it is suitable for your own circumstances BEFORE making any signing any agreement or paying any money. State laws in Australia vary for recreational vessels, and you need to satisfy yourself that the Boat is lawfully registered.

You may have a specific situation not addressed by the BOAT BUY/SELL KIT, and Pacific Maritime Lawyers can address that particular issue for you. For example, various alternative provisions have been provided and may be considered for inclusion when appropriate.

**AGREEMENT FOR THE SALE AND PURCHASE OF A  
SECOND-HAND RECREATIONAL VESSEL**

**This Agreement** is dated the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ (insert the date on which the last Party signs the Agreement) **and is made between:**

The 'Buyer(s)' : \_\_\_\_\_ Full name/s  
of : \_\_\_\_\_ Address

The 'Seller(s)' : \_\_\_\_\_ Full name/s  
of : \_\_\_\_\_ Address

In respect of the **Vessel** \_\_\_\_\_ (name) as described in Schedule A.

**Agreement Timeline**

1	Agreement Signed	Agreement date (AD)
2	Inspection/Survey	AD + 7 days
3	Deposit Due	AD + 7 days
4	Finance	AD + 14 days
5	Agreement Completion Date; • Remaining Purchase Price Due • Settlement Documents Due	AD + 21 days

The Buyer agrees to accept communication and notices by electronic means: YES / NO (circle one)

If yes, please provide email addresses;

Buyer: \_\_\_\_\_

Seller: \_\_\_\_\_



## 1 Interpretation

**Agreement Date** means the date nominated on the front page of this agreement. If no date is nominated then the Agreement Date is the date that the final party to the contract signs.

**Agreement Completion Date** means the date on which all obligations under this contract are completed, including title passing in the Vessel and payment being made

**Buyer** means buyer or buyers and is the parties named as such on the front page of this Agreement.

**Days** means any day, inclusive of weekends and public holidays.

**Deposit** means the amount in Australian Dollars nominated in clause 2.3 of this Agreement.

**Force Majeure Event** means an event, or a series of related events, that is outside the reasonable control of the party affected (including power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars).

**Parties** means the people or companies stated as the buyer or seller nominated on the first page of this agreement.

**Purchase Price** means the amount in Australian Dollars nominated in clause 2.2 of this Agreement.

**Seller** means seller or sellers and is the parties named as such on the front page of this Agreement.

**Vessel** means the Vessel that is named on the front page of this Agreement and described in Schedule A.

## 2 Agreement for Sale

2.1 The Seller agrees to sell and the Buyer agrees to buy the Vessel free from all mortgages, debts, claims and charges of any kind (subject to the conditions and terms of this Agreement), together with all her gear and equipment as set out in the Schedule B attached hereto and signed by the Parties, but not including provisions or the Seller's personal effects, for the Purchase Price.

2.2 The 'Purchase Price': \_\_\_\_\_ **Australian Dollars** (in full words)  
**AUD** \_\_\_\_\_ (numerals)

2.3 The 'Deposit' (if applicable): \_\_\_\_\_ **Australian Dollars** (in full words)

AUD \_\_\_\_\_ (numerals)

2.4 Where a deposit is agreed by the parties, within 7 days of the Agreement Date, or another date agreed by the parties on page 1 of this Agreement, the Deposit is to be paid: *(select one of the following)*

2.4.1 *[if utilising Pacific Maritime Lawyers Trust Account as stakeholder]* to the trust account of Pacific Maritime Lawyers, to be held in joint trust for the Buyer and the Seller until the Completion of Sale in accordance with Clause 2.1:

Pacific Maritime Lawyers Law Practice Trust Account  
Commonwealth Bank of Australia  
BSB: 064 – 000, Account Number: 1496 5471, SWIFT Code: CTBAAU2S

2.4.2 *[If utilising another lawyer's trust account]* to the appointed lawyer's trust account, to be held in joint trust for the Buyer and the Seller until the Completion of Sale in accordance with Clause 2.1.

2.4.3 *[Or]* the Deposit is to be paid to the Seller.

*[strike out the relevant clauses 2.4.1, 2.4.2 or 2.4.3 that are not used]*

2.5 If either party anticipates that, notwithstanding the exercise of due diligence by them, they will not be able to undertake their obligations by the date provided in the Agreement Timeline, they shall notify the other party accordingly in accordance with clause 9 of this Agreement.

### **3 Subject to Finance**

*[Optional clause – strike out if not required – complete box 17 of Schedule A]*

The parties agree that the Agreement is subject to the Buyer obtaining finance at the Buyer's discretion on reasonable terms and conditions and sufficient to complete the Agreement. Finance approval is to be sought by the Buyer, and obtained and notified to the Seller, within 14 days of the Agreement Date. If Finance cannot be obtained and notified within 14 days:

3.1 The Buyer may elect to proceed with the Agreement, in which case this clause has no further effect;

3.2 The Buyer may elect to terminate this Agreement, and the Seller shall refund the Deposit to the Buyer, less the Seller's reasonable expenses of survey and sea trial in accordance with clause 6.5 (if incurred).

### **4 GST**

4.1 The Price is inclusive of all GST which may be payable by the Seller of the Vessel.

4.2 The Seller warrants that the Vessel has been properly imported into Australia and

that all appropriate taxes and dues have been paid and all relevant regulations have been complied with.

## **5 Warranties**

- 5.1 The Seller is not selling the Vessel in the course of a business, trade or profession.
- 5.2 The Buyer is free to inspect, survey and sea trial the Vessel and all gear and equipment included within the sale and to satisfy themselves as to her condition, quality and specification. Save for the implied warranties under the Australian Consumer Law that cannot be excluded, the Vessel, her gear and equipment shall be taken with all defects and faults of description without any allowance or abatement whatsoever, with the exception of latent defects.
- 5.3 The Seller warrants they are the legal and beneficial owner and have the right to transfer property in the Vessel, and that the same is free from all encumbrances, mortgages, charges, liabilities for duties, taxes, debts, or liens of any kind.

## **6 Sea Trial and Survey**

### **Sea Trial**

- 6.1 The Buyer shall, at a venue to be agreed and at their own cost, be entitled to require the Seller to perform a sea trial of the Vessel, her gear and machinery and all items included within the sale, on the following terms, unless otherwise agreed;
  - 6.1.1 The duration of such sea trial shall be proportionate to the cost and complexity of the Vessel and its systems but shall not be shorter than one hour nor longer than four hours.
  - 6.1.2 The sea trial shall take place in reasonable weather conditions and not more than three miles offshore.
  - 6.1.3 The Seller shall be obliged to insure the Vessel for the duration of the sea trial and shall provide any necessary crew.
  - 6.1.4 The Buyer shall be entitled to be accompanied by up to two other persons.
  - 6.1.5 The Buyer and his party shall be responsible for supply of their own life jackets and other personal safety equipment.
  - 6.1.6 The Buyer shall be responsible for the cost of any fuel and oils consumed during the sea trial.

### **Survey**

- 6.2 The Buyer may, at a venue to be agreed and at their own cost, be entitled to require the Seller to submit the Vessel to a survey, at the Buyer's cost. If any survey requires

more than superficial non-destructive dismantling and limited removal of anti-fouling the consent of the Seller must be obtained before such work commences.

### **Rejection or Rectification**

6.3 Within seven days of the completion of the Sea Trial or Survey the Buyer may, by written notice to the Seller:

*Either*

6.3.1 Reject the Vessel outright.

6.3.2 If the Buyer rejects the Vessel, this Agreement shall be automatically terminated and the Seller shall refund the Deposit to the Buyer, less the Seller's reasonable expenses of survey and sea trial in accordance with clause 5.5.

*Or*

6.3.3 Reject the Vessel but offer to proceed with the purchase and accept the Vessel on the condition that the Seller agrees either:

a) to rectify specific listed defects or deficiencies in the Vessel and/or the Inventory before Completion. All required items of work to be completed without undue delay and carried out to meet the expressly specified requirements of the survey; or

b) to a reduction in the Purchase Price to enable the Buyer to rectify such defects or deficiencies after Completion.

6.4 If Notice in accordance with Clause 6.3 is not given, the Sea Trial and Survey shall be deemed to have been to the Buyer's satisfaction.

6.5 In the event of the Buyer giving notice of rejection, all the Seller's reasonable expenses of the Sea Trial and Survey shall be payable by the Buyer from the Deposit and the balance of the Deposit shall be returned to the Buyer forthwith.

## **7 Non-use by Seller**

The Seller agrees not to use the Vessel after completion of the Survey or Sea Trial (Clause 6) except to move the Vessel to a suitable storage location or to deliver the Vessel to the place of Delivery. If the Vessel is not accepted under the terms of this Agreement and the contract is terminated, the Seller may thereafter use the Vessel.

## **8 Payment of Balance and Completion of Sale**

8.1 When the Vessel is at the place of delivery and physically ready for delivery in accordance with this Agreement, the Sellers shall give the Buyers written notice that the vessel is ready for delivery.

- 8.2 On completion, the Seller shall ensure that the Vessel is available for collection by the Buyer at the place of Delivery nominated in Schedule A, Box 21, and that free access for the Buyer is permitted at no additional cost to the Buyer.
- 8.3 Upon Delivery of the Vessel by the Buyer in accordance with Clause 2;
- 8.3.1 The Deposit shall be treated as part payment of the Purchase Price,
- 8.3.2 The Buyer shall pay the balance of the Purchase Price.
- 8.3.3 The Seller shall provide the Buyer with the documents listed in Schedule D, including signed Bill of Sale.
- 8.4 Title in the Vessel shall pass to the Buyer upon completion in accordance with this Clause.
- 8.5 At the completion of the sale, the Buyer and Seller shall exchange the Protocol of Acceptance and Delivery.

## **9 Risk**

- 9.1 Upon delivery of the Vessel to the Buyer risk in the Vessel shall pass to the Buyer.
- 9.2 If the Vessel becomes an actual or constructive loss before completion this Agreement shall terminate and the Deposit shall be immediately returned to the Buyer without interest but without deduction or charge and the Buyer shall have no claim against the Seller for damages. The Buyer shall, however, remain liable for the cost of any yard work or surveyor's fees commissioned by him or at his request.
- 9.3 Until completion and delivery of the Vessel to the Buyer the Vessel shall be at the sole risk of the Seller who shall make good any damage (other than damage caused by the Buyer or his surveyor) sustained before actual delivery to the Buyer.

## **10 Delay by Seller or Buyer**

- 10.1 Where a Force Majeure Event gives rise to a failure or delay in either party performing its obligations under this Agreement (other than obligations to make payment), those obligations will be suspended for the duration of the Force Majeure Event.
- 10.2 **Anticipatory Breach.** If either party anticipates that, notwithstanding the exercise of due diligence by them, they will not be able to undertake their obligations by the date provided in the Agreement Timeline, they shall notify the other party accordingly and the other party may elect, to either:
- 10.2.1 Provide an extension to the time available to undertake the obligation, with the new date substituting the date specified by the Agreement Timeline. The time extension to be agreed between the parties; or

10.2.2 Where the extension of time required under Clause 9.2.1 is not reasonable; to cancel this Agreement.

10.2.3 Upon election to cancel, the deposit (*if applicable*) will be paid to the cancelling party. Further, the party in breach shall make due compensation to the cancelling party for the loss and all expenses together with interest, for the failure to complete the Agreement.

Failure to accept a new date, or cancel the Agreement is entirely without prejudice to any claim for damages the parties may have for failure to complete the Agreement in accordance with the Agreement Timeline.

## **11 Acceptance of Vessel or Rescission of Agreement**

11.1 The Vessel shall be deemed to have been accepted by the Buyer after the expiry of twenty eight days from the date of Completion of this Agreement or the Date of Delivery of the Vessel, whichever is later.

11.2 Any latent defect identified by the Buyer and notified in writing to the Seller before the date of acceptance is to be rectified by the Seller at the Seller's cost.

11.3 The Seller is to have no liability to the Buyer for any latent defect discovered by the Buyer after the expiry of twenty eight days from the date of Completion of this Agreement or the Date of Delivery of the Vessel, whichever is later.

## **12 Dispute Resolution**

12.1 Disputes may, when they cannot be resolved by negotiation, with the written agreement of the Parties, be submitted to mediation, by a single mediator.

12.2 Nothing in this clause shall affect the rights of the Parties to submit any dispute to the Courts of Queensland.

12.3 If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or in part, this Agreement shall continue to be valid as to the other provisions thereof and the remainder of the affected provision.

## **13 Notices**

Any notice to the Buyers or Sellers under this Agreement shall be in writing and shall be sufficiently served if delivered personally or posted by ordinary post to the address set out in this Agreement. If previously undertaken, any notice may also be deemed as served if sent by email or facsimile transmission.

## **14 Electronic communication**

14.1 This contract may be executed in any number of counterparts with the same effect as if the signatures to each counterpart were on the same instrument.

14.2 The parties acknowledge and agree that the original of this contract may be by facsimile or electronic form and agree to accept the facsimile or electronic copy as the original and binding Contract. Although this Contract is not conditional upon the subsequent execution of an original and duplicate by the parties, either party may request the other party to execute an original and duplicate of this contract in which case the parties agree to do so.

**15 Law**

This Agreement shall be governed by the law of Queensland and the Parties agree to submit to the exclusive jurisdiction of the Queensland courts.

**16 Marginal Notes**

The construction of this Agreement is not to be affected by any marginal notes.

**17 Entire Agreement**

This agreement together with any schedule and/or inventory signed by both Seller and Buyer forms the entire agreement between the Parties unless otherwise specifically agreed in writing between them.

**Signed**

**For and on behalf of the Seller**

Signed

Signed

Name Seller 1

Name Seller 2

Date

Date

**In the presence of**

Signed

Signed

Witness

Witness

Witness name, address and occupation

Witness name, address and occupation

**For and on behalf of the Buyer**

Signed

Signed

Name Buyer 1

Name Buyer 2

Date

Date

**In the presence of**

Signed

Signed

Witness

Witness

Witness name, address and occupation

Witness name, address and occupation



**Schedule A DESCRIPTION OF VESSEL**

1	Name of Vessel:	
2	Flag and Port of Registry (if any):	
3	Lying at:	
4	State Registration:	
5	Official Number: IMO Number:	
6	HIN/CIN Number:	
<b>Principal Dimensions</b>		
7	Hull Length Overall:	
8	Beam & Draught	
9	Gross Registered Tonnage:	
10	Engines (make, power and date of build)	
11	Hull Material	
12	Deck Material	
13	Builder	
14	Date of Build	
15	Date of Purchase by Seller	
16	Subject to Finance? <b>YES / NO</b> Clause 2.6	
17	PPSR Search: <b>YES / NO</b> <a href="https://www.ppsr.com.au/individuals/boat-search">https://www.ppsr.com.au/individuals/boat-search</a>	<b>Securities registered</b>
18	Amount of Finance Outstanding at Date of Agreement:	\$
19	GST Payable:	<b>YES / NO</b>

20	Place of Delivery of the Vessel:	
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**Schedule B**  
**INVENTORY**

**(See Clause 1)**

**Schedule C**  
**PROTOCOL OF DELIVERY AND ACCEPTANCE**

<p><b>Vessel Name</b></p> <p><b>Official Number:</b></p> <p><b>Seller(s):</b></p> <p><b>Buyer(s):</b></p> <p><b>Sale and Purchase Agreement dated:</b></p>
<p>The Seller hereby duly acknowledges receipt of the purchase price of AUD <u>(purchase value) Dollars Only</u> and delivers the Vessel to the Purchaser free from all liens, charges, claims, mortgages and encumbrances of any kind at:</p> <p>Date:</p> <p>Time: <span style="float: right;"><i>(include time zone e.g. AEST)</i></span></p> <p>Location:</p> <p>in accordance with the Sale and Purchase Agreement.</p> <p>The Buyer duly accepts delivery, title and risk of the Vessel, her agreed inventory and equipment and agreed documents on the date and at the time and location referred to above and in accordance with the Sale and Purchase Agreement.</p>

**For and on behalf of the Seller(s)**

Signed	Signed
_____ Seller 1	_____ Seller 2
Date	Date
_____ 	_____ 

**For and on behalf of the Buyer(s)**

Signed	Signed
_____ 	_____ 



Date

Date

## Schedule D

### SCHEDULE OF DOCUMENTS (See Clauses 4.2)

The following documents should normally be available; however it should be recognised that they will not always be available and in such circumstances the Parties may agree to amend the Schedule of Documents BEFORE the contract is signed in order that the Buyer knows what documents he/she/it is contractually entitled to receive at Completion. Any deletions or additions should be initialled by the Parties.

1. Contract Documents:
  - A Bill of Sale in favour of the Buyer showing the Vessel is free of all liabilities (Schedule F – AMSA Bill of Sale);
  - A statement declaring that all necessary corporate, shareholder and other action has been taken by the Seller to authorise the execution, delivery and performance of this Agreement;
  - An executed protocol of delivery and acceptance (Schedule C);
  - All certificates or transcripts of registry issued by the relevant competent authorities of the flag state and/or any State or Territory registration as required, including deletion of foreign registration (if relevant);
  - An invoice for the Vessel – Schedule E;
  - All other documents relating to the Vessel as set out in this Schedule D.
2. Bills of Sale tracing ownership from the very first owner of the vessel to the current Seller (if available);
3. Builder's certificate;
4. Builder's invoices;
5. Evidence of date of arrival in Australia and ABF importation clearance (if relevant);
6. An owner's manual;
7. Any other documents in the Seller's possession relating to his acquisition of the vessel, which may include:
  - a. Equipment manuals;
  - b. Service records;
  - c. Receipts for repair work;
  - d. Racing Certificates;
  - e. Mooring charges;
  - f. Harbour dues.

8. Any delivery order or authority necessary to enable the Buyer to take immediate possession of the Vessel.

**Schedule E INVOICE**

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Post Code \_\_\_\_\_

Vessel: \_\_\_\_\_

**INVOICE**

	Amount (AUD)
Deposit	_____ AUD
Settlement Payment	_____ AUD
<b>Total</b>	_____ AUD

Invoice Total	Less deposit already paid	Balance Due
_____ AUD	_____ AUD	_____ AUD

**Signed**

Signed

Signed

\_\_\_\_\_  
Seller 1

\_\_\_\_\_  
Seller 2

Date

Date



**Schedule B Inventory**

Vessel:

Date of Inspection:

Write in details and check  applicable box for each item. There are additional lines at the end of the table for other items not listed.

Item	No.	Included	Excluded	Not applicable	Requiring repair	Repairs agreed	Accepted "as is"
<b>Exterior</b>							
Anchor(s)							
Windlass							
Sails and related gear							
Reefing system							
Rigging							
Solar panels, batteries and inverter							
Swim ladder							
Dodger and bimini							
Winches							
Mounted lift, including running gear							
Mast							

Item	No.	Included	Excluded	Not applicable	Requiring repair	Repairs agreed	Accepted "as is"
<b>Engines/Machinery</b>							
Main Engine(s)							
Generator							
Water heater							
Battery chargers							
Inverter							
Shore power cord							
Fuel tank							
Fresh Water tank							
Bilge pump							
Emergency bilge pump							
<b>Accommodation</b>							
Bunks							
Internal fit out/panels							

Item	No.	Included	Excluded	Not applicable	Requiring repair	Repairs agreed	Accepted "as is"
Stereo/speakers							
Television - Antenna							
Bosuns chair							
<b>Galley and Heads</b>							
Stove/oven							
Propane/Butane fuel system							
Refrigeration/freezer system							
Pressurised water system							
Sinks							
Sewage Holding tank – capacity?							
Macerator pump							
Shower							
Head							
Watermaker/desalinator							
Air conditioning							

Item	No.	Included	Excluded	Not applicable	Requiring repair	Repairs agreed	Accepted "as is"
<b>Navigation &amp; Electronics</b>							
AIS							
Compass – Magnetic/Gyro							
Electronic charts/paper charts							
RADAR/ECDIS							
Echo Depth sounder							
GPS							
Satellite phone and antenna							
VHF or HF Radio – GMDSS?							
Modem/Internet capable?							
Antenna tuner							
Autopilot system							

Item	No.	Included	Excluded	Not applicable	Requiring repair	Repairs agreed	Accepted "as is"
<b>Safety Equipment</b>							
Man overboard retrieval gear							
Fire extinguishers							
Fire blanket							
Offshore medical kit							
Ditch bag with survival kit							
EPIRB (expiry date)							
Life raft							
<b>Additional</b>							
Tender							
Manuals							
Fishing gear							
Boat cover							

<b>Item</b>	<b>No.</b>	<b>Included</b>	<b>Excluded</b>	<b>Not applicable</b>	<b>Requiring repair</b>	<b>Repairs agreed</b>	<b>Accepted "as is"</b>
Trailer							



Australian Government  
Australian Maritime Safety Authority

# BILL OF SALE

Shipping Registration Act 1981

Official number

Ship's name

## Particulars of sale

Seller's full name and residential address

Buyer's full name and residential address<sup>1</sup>

### NOTE

<sup>1</sup> The address must be: Residential address (not PO Box) - for an individual; Principal place of business - for a foreign company or statutory body; Registered office address - Australian company.

Amount paid, or consideration

Number of shares transferred (total of 64 shares)

## Declaration

I, the registered owner and seller, hereby acknowledge the transfer of shares in the ship described above to the buyer for the amount shown. Further, for myself and my successors I covenant with the buyer and his/her/their assigns that I have power to transfer the shares.

Date

Place

Signature of seller(s)

***If the seller is a corporation, the document may be formally executed under the corporate seal. Alternatively, an officer of the corporation may sign it, endorse it with a legible statement of his/her name and designation and have the signature witnessed.***

Signature of witness

Name of witness

Address of witness

Except where indicated by \* the collection of information requested in this form is either required or authorised by the *Shipping Registration Act 1981* (the Act). It will be used for purposes related to the Act (including possible overseas disclosure) and will be available for public search in circumstances as the Act requires. It may be made available to government agencies for statistical and administrative purposes. Failure to provide the information will result in the transaction not being processed. To contact us, or for more information on how to access or correct your personal information or how to make a privacy complaint, visit [www.amsa.gov.au/privacy-policy](http://www.amsa.gov.au/privacy-policy)

## Personal Property Security Register

The Personal Property Security Register (PPSR) is a single national online database of security interests in personal property in Australia. The PPSR is created, organised, and enforced by the *Personal Property Securities Act 2009* (Cth). The PPSR records ownership interests in any property, other than real estate, which has its own register.

### Basic concepts

**Personal property** refers to all property, other than buildings and land. Personal property therefore includes vessels.

**Security interests** refer to any interest that can be enforced against property such as: a debt owed, mortgage, lien, bailment, consignment arrangements, or leases of personal property for a term exceeding 12 months.

In law, an interest, such as a debt owed and secured to a vessel, will disappear upon sale of the vessel to a person who did not know about the interest prior to the purchase. However, if that interest is registered on the PPSR it becomes 'perfected' and can be enforced against an innocent third party, such as the purchaser of a second-hand vessel.

The importance of the PPSR is that if a security interest is registered to the vessel that you intend on purchasing, then that security interest must be released as part of the purchase contract. If the security interest is not released, it may be enforced against you, even if you didn't know that it existed.

What does all this mean? If there is a mortgage on the vessel that has been registered on the PPSR, then it can be enforced against you as an innocent purchaser. If the mortgage is not paid, the mortgagee may repossess the vessel, sell it, and there is nothing that you, the innocent purchaser, can do to prevent that.

It is therefore essential that a search of the PPSR is undertaken before purchasing a vessel.

The fees for searching the PPSR are modest, and may be undertaken online at <https://www.ppsr.gov.au/>. Alternatively, please contact Pacific Maritime Lawyers and we will happily undertake this search for you for a fixed fee of \$49 (Inc GST) plus disbursements.



## State & Territory Registration

Depending on the state you live in, and how you will use your boat (for business or pleasure), you will likely need to register the vessel in your home state once it is purchased. Even if your vessel is exempt from registration, it is recommended that the vessel is registered as a form of evidence of ownership. Additionally, if the vessel is registered to the previous owner, then registration should be transferred to the new owner. State-based registration is primarily directed to ensuring minimum safety standards and having a register of boat owners.

### Different Requirements

In Queensland, all boats with an engine of 3kw or more must be registered when they are on the water. However, all states have different legislation; for example, in the Northern Territory it is not necessary for a recreational vessel to be registered at all. It is important that you contact the relevant body in your state or territory to ensure that you comply with the requirements.

All states have a relevant marine safety department that deals with vessels:

- 🌐 **New South Wales**  
Roads and Maritime Services:  
<https://www.rms.nsw.gov.au/maritime/index.html>
- 🌐 **Victoria**  
VicRoads: <https://www.vicroads.vic.gov.au/registration/new-registration/register-a-vessel>
- 🌐 **Northern Territory**  
NT Gov: <https://nt.gov.au/marine>
- 🌐 **Western Australia**  
Department of Transport: <https://www.transport.wa.gov.au/imarine/marine-information.asp>
- 🌐 **South Australia**  
SA Gov Boating and Marine: <https://www.sa.gov.au/topics/boating-and-marine>
- 🌐 **Tasmania**  
Marine and Safety Tasmania: <https://www.mast.tas.gov.au/>

We recommend you seek advice from your own State or Territory in registration and safety requirements.

## Australian General Shipping Register

A purchaser may also choose to register a recreational vessel on the Australian General Shipping Register (registration is mandatory for vessels exceeding 24 m in length). Registration on the Australian Shipping Register is primarily about national sovereignty for the Vessel (the right to fly the Australian Red Ensign), as well as evidence of title. Registration on the Australian Shipping Register is necessary for vessels intending to be sailed overseas. Importantly, Australian Shipping Registration is in addition to, and does not replace state registration.

In certain circumstances the boat must be registered on the Australian General Shipping Register, such circumstances include:

- If the vessel exceeds 24 m in tonnage length
- If the vessel is going to be used on an international voyage

Commonwealth registration is obtained by application to the Shipping Registration Office, a department of the Australian Maritime Safety Authority (AMSA). The process of registration is described on the AMSA website.

Commonwealth registration can be both complex and time consuming. Pacific Maritime Lawyers are able to assist with the registration of the vessel for a fixed fee of \$495 (inc GST) plus disbursements.

## ASIC Search

If either the seller or buyer is a company, it is recommended that an ASIC search is conducted to establish or confirm the identity of the company. The identity is important to ensure that the boat buy and sell contract is made between the correct parties, and that the people signing the contract are authorised by the company to do so. Failure to follow this simple step can lead to the contract being unenforceable.

A search of the ASIC online register is inexpensive and can be easily conducted online, or by mail for a small additional fee. It is recommended that a company extract be ordered. The extract will contain the company's legal name, the name of the directors, the shareholders in the company, and the business address.

Companies can be used to conceal the true actors, and it is always wise to know who you are dealing with – caveat emptor applies. For example, a company may be used to act as the seller of a vessel. You then transfer say a \$40,000 deposit to the company bank account using the details provided. The company then withdraws that money and disappears. You could be left without a boat, without your \$40,000 and without anyone to chase if the company has no assets.

Ordering an ASIC search may help to protect you from this scenario, and may also indicate that the company is only a shell company that you should not place too much reliance on. Of course, using a stakeholder for the deposit is another option to protect yourself as a purchaser; stakeholder services are offered by Pacific Maritime Lawyers at reasonable rates.

The ASIC register search can be found at <https://asic.gov.au/online-services/search-asics-registers/>.

Pacific Maritime Lawyers also can conduct an ASIC search on your behalf for the fixed fee of \$49 (inc GST) plus disbursements.

## **What is Verification of Identity (VOI)?**

Verification of Identity (VOI) is an identification process, enabling individuals and businesses to ensure that they are dealing with the correct people or representatives.

Legislation surrounding VOI differs by state in Australia. In NSW, SA, QLD, WA and VIC there are VOI requirements set in place that apply to solicitors and conveyancers. Under these requirements, the identity of an individual should be verified in all conveyancing transactions, so that lawyers and conveyancers know that the individual has authority to deal with the land or property.

NT, TAS and ACT do not currently have any legislation requirements in place and buyers and sellers run the risk of being exposed to fraudulent dealings by others.

### **VOI for buyers and sellers**

Lawyers and conveyancers are required to verify the identity of their clients when completing Conveyancing transactions.

Client verification can be completed in line with the Verification of Identity Standard, or by ensuring that reasonable steps have been taken to prove identity.

At Pacific Maritime Lawyers we can complete the buyer / seller VOI process for you so that you have peace of mind for the fixed fee of \$49 (inc GST) plus disbursements.