

SALEFORM 2025: A Modern Rewrite for Vessel Deals in a New Global Reality

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The Norwegian Shipbrokers' Association and BIMCO recently adopted SALEFORM 2025, a new standard form memorandum of agreement (MOA) for the sale and purchase of vessels.

The new standard form introduces welcome updates to existing clauses in the widely used SALEFORM 2012 to reflect industry developments and introduces new clauses reflecting the evolution of the geopolitical and regulatory landscape since the publication of SALEFORM 2012, together with some general modernisation and refinement of the drafting.

The structure of SALEFORM 2025 remains familiar to those routinely using SALEFORM 2012 but contains useful additions that are likely to reduce the scope of negotiations and amendments, whether acting for buyers or sellers – so what's changed?

Payment Provisions

The SALEFORM 2012 definition of "Deposit Holder" has been replaced with "Escrow Agent" and express provision is made within SALEFORM 2025 for an escrow arrangement in respect of the deposit and (if the parties so elect) the "Balance" (which is now a defined term). Parties often address this point during SALEFORM 2012 negotiations, so this is a welcome amendment. The new arrangement requires both the MOA and escrow agreement to be signed before the deposit is lodged and the escrow agent to confirm in writing that it is ready to receive the funds.

Clause 2: Aside from express inclusion of an escrow arrangement, SALEFORM 2025 makes two key introductions. Both seek to avoid one party being tied into a binding MOA where the other is delaying progress:

- i. An express obligation on the parties to provide "know your customer" and anti-money laundering documentation (KYC Documentation) to the escrow agent "without undue delay," which must happen before the buyer is under an obligation to pay the deposit; and
- ii. The parties are given the option to include a termination right stipulating that a party that has completed its KYC documentation with the escrow agent may terminate the MOA if, within a specified number of banking days (the termination right only arises if this number of days is added to Clause 2), the escrow agent has not confirmed that it is in all respects ready to receive the deposit. In such circumstances, neither party incurs any liability to the other, but this option affords an exit route from a transaction that is stagnating due to a party's failure to comply with the escrow agent's onboarding requirements. Delays often arise and cause frustration at the stage between MOA signing and the deposit being lodged, so this termination right, if adopted, is likely to assist with the smooth running of transactions.

Clause 3: Under SALEFORM 2025, parties can select one of three mechanisms to effect payment of the balance or, alternatively, make bespoke amendments to the MOA to reflect a different arrangement:

- i. payment of balance to the sellers' account on delivery (this is the default position in the absence of options (ii) and (iii) being deleted and is the position under SALEFORM 2012, which has often required amendment);
- ii. remittance of the balance by the buyers to the escrow agent's designated account in advance of delivery, to be held to the order of the buyers and then released to the sellers on delivery in accordance with the escrow agreement. However, payment mechanisms require alignment with financing conditions where drawdown is not possible until the vessel is free from encumbrances;
- iii. remittance of the balance by the buyers in advance of delivery through SWIFT using conditional payment instructions to the sellers' bank and to be held to the order of the buyers without allocation to the sellers' account. On delivery, the balance is released by the sellers' bank to the sellers upon receipt of written instructions by the buyers' authorised representative.

This amendment reflects payment mechanisms that have been commonly adopted following the publication of SALEFORM 2012 and can therefore be expected to reduce the level of amendment required to SALEFORM 2025 in straightforward transactions.

Option to Accept the Vessel Without Physical Inspection

Clause 4: SALEFORM 2025 introduces an express option for the buyers to purchase the vessel without physical inspection. This new option exists alongside the SALEFORM 2012 options of the buyers either inspecting and accepting the vessel prior to entry into the MOA or inspecting the vessel after the MOA has been signed. We expect physical inspection of the vessel to continue as the more commonly adopted position, but there are circumstances in which buyers purchase vessels without physical inspection – for example, where the vessel is to be recycled or immediately after a drydocking.

Seller's Obligation to Tender a Valid Notice of Readiness Prior to the Cancelling Date

Clause 5: SALEFORM 2025 clarifies at Clause 5(b) that the sellers shall not be entitled to give notice of readiness to the buyers until the vessel is at the place of delivery and physically ready for delivery in accordance with the MOA. Clause 5(b) goes on to expressly state that if the sellers have not given a valid notice of readiness by the cancelling date, the sellers shall be in breach of the MOA and the provisions of Clause 14 (sellers' default) shall apply. This clarifies the issue that arose in [Orion Shipping v Great Asia Maritime \(the Lila Lisbon\)](#), where it was held that the sellers were under an implied obligation to use "reasonable or due diligence" to deliver the vessel by the cancelling date. You can read more about the Lila Lisbon judgment in [our alert](#), although the Court of Appeal decision is currently the subject of an appeal to the Supreme Court, listed for a June 2026 hearing.

Express Provision for Loss of Bargain Damages for Sellers' Default

Clause 14: In the event that the sellers fail to give notice of readiness or are not ready to validly complete a legal transfer by the cancelling date due to "proven negligence" and the buyers elect to terminate the MOA, the buyers' entitlement to compensation for their losses and all expenses together with interest now expressly includes compensation for their loss of bargain. The SALEFORM 2025 position reflects the current position under English law following the Lila Lisbon Court of Appeal judgment, though it should be noted that this case involved an amended SALEFORM 2012 MOA and, as mentioned above, is currently the subject of an appeal to the Supreme Court. There is no express provision for loss of bargain damages under SALEFORM

2012. As such, the addition of this wording in SALEFORM 2025 is a welcome clarification for the parties and will be of comfort to buyers in a rising market, where their potential loss of bargain (i.e. the difference between the contract price of a vessel on the date of the MOA and the market price for that vessel at the time of termination) could be sizeable.

New Clauses Resulting from the Evolving Geopolitical and Regulatory Landscape

Clauses 16, 17, 18 and 19: Several entirely new clauses have been added to SALEFORM 2025, reflecting significant changes to the geopolitical and regulatory landscape since SALEFORM 2012 was published. These new clauses address anti-bribery and corruption (Clause 16), sanctions (Clause 17 – buyers should note the ongoing post-delivery sanctions warranty), emissions trading schemes (Clause 18) and Fuel-EU Maritime (Clause 19 – parties should note the need for technical review/input ahead of MOA signing). New clauses 18 and 19 each adopt recently published BIMCO stand-alone clauses. These are matters parties have regularly needed to address in amendments to SALEFORM 2012.

Modernisation and Authenticity

SALEFORM 2025 makes a number of amendments that modernise the standard form and deal with the practicalities of how things are typically done – for example, deletion of references to “telefax”, addressing the method and timing of calculations in respect of remaining quantities of bunkers and unused lubricating and hydraulic oils and greases on board the vessel; express provision for a virtual closing as the default position and for closing documents to be exchanged electronically, with originals (to the extent required) to follow post-closing. These amendments reflect what has already been happening for some time in practice.

As part of new *Clause 23* (confidentiality), the party responsible for issuing the final execution version of the MOA warrants that it is “*an authentic SALEFORM 2025 template procured from a properly authorised source and that all modifications to it are clearly visible*”, which provides some comfort to their counterparty.

Comment

Given its useful amendments and additions, we expect SALEFORM 2025 to be widely adopted with necessary amendments to reflect the requirements of the particular transaction. This new standard form significantly modernises the SALEFORM 2012 approach, addresses clear gaps in the standard form and makes many of the amendments that buyers and sellers – and we as their lawyers – regularly make when working with and negotiating SALEFORM 2012, all without fundamentally altering the MOA structure with which those involved in vessel sale and purchase transactions are so familiar. We expect SALEFORM 2025 to be far more widely adopted than the SHIPSALE 22 standard form introduced in 2022.