

Vessel Registration and Mortgage Recordation



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Maritime Administration**

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IMO Resolution A.440(XI)

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Introduction

This document is intended to provide vessel owners, operators, charterers, lending institutions and their representatives with a useful source of information needed to register vessels in the Commonwealth of Dominica and record ship mortgages and related instruments under its laws.

The following chapters are designed to address the questions members of the maritime community ask most frequently. Of course, our staff is always available to consult with you to ensure that your documents qualify for recordation under Commonwealth of Dominica law, and to assist with respect to other features of the Commonwealth of Dominica International Maritime Act 2000, as amended (hereinafter referred to as the “International Maritime Act” or “the Act”). There is no charge for this service. Guidance on the content and interpretation of applicable international conventions, rules, and regulations may also be obtained in consultation with our technical staff.

The registration of a merchant vessel need not be a difficult one. To take advantage of the available opportunities to save time and cost, please review all relevant aspects of the entire process before undertaking to fulfill the necessary requirements step by step.

1

Overview: The Commonwealth of Dominica International Ship Registry

Maritime, financial and legal centers throughout the world have full access to the Commonwealth of Dominica registry through the offices of Dominica Maritime Registry, Inc., in Fairhaven, Massachusetts, USA. Under IMA 2000, a ship may be registered and a mortgage, bill of sale or related instrument in proper form may be recorded at that office.

1.1 Dominica Maritime Registry, Inc.

Pursuant to Section 8 of the Commonwealth of Dominica International Maritime Act and Section 1.2 of the Maritime Regulations, the Government of the Commonwealth of Dominica has appointed the Dominica Maritime Registry, Inc. to manage and supervise its international ship registry program.

Inquiries and applications for the registration of vessels in the Commonwealth of Dominica may be submitted to the representing DMRI office for the owner's location (see Annex 16). You may also request information from the head office for DMRI:

Dominica Maritime Registry, Inc.
Vessel Registration & Recordation Division
32 Washington Street
Fairhaven, MA 02719 USA

Telephone: (508) 992-7170

Facsimile: (508) 992-7120

E-mail: registration@dominica-registry.com

1.2 Vessels Eligible for Registration in the Commonwealth of Dominica

Seagoing vessels of any tonnage engaged in foreign trade are eligible for registration in the Commonwealth of Dominica. (See International Maritime Act, Section 30[1].)

NOTE: All applications for provisional registration are subject to approval by the Deputy Maritime Administrator. Accordingly, the mere submission of an application for provisional registration does not ensure that a vessel will be accepted for entry into the registry or flag of the Commonwealth of Dominica.

1.2.1 VESSEL CLASSIFICATION

All vessels subject to the Safety of Life at Sea Convention (SOLAS) are required to be classed by a Classification Society which has been approved by the Maritime Administrator as a recognized Organization in accordance with IMO Assembly Resolution A.739 (18). However, vessels registered under the provisions of the Caribbean Code may be exempted from this requirement. The following Societies are currently approved for the issuance of International Convention Statutory Certificates on behalf of the Commonwealth of Dominica:

- American Bureau of Shipping (ABS)
- Bureau Veritas (BV)
- Det Norske Veritas (DNV)
- Germanischer Lloyd (GL)
- Lloyd's Register of Shipping (LR)
- Nippon Kaiji Kyokai (NK)

1.2.2 VESSEL AGE

Vessels should not be more than 20 years of age at the time of registration; however, vessels older than 20 years may be granted a waiver for registration on application by the owner accompanied by a written confirmation from the vessel's Classification Society that the vessel is in class and that the Classification Society will issue all statutory certificates to the vessel.

For Non-SOLAS vessels, an opinion as to the vessel's seaworthiness must be completed by a recognized organization and submitted for review by the Deputy Maritime Administrator within

10 days prior to the proposed date of registration and that registration is contingent upon the Deputy Maritime Administrator's acceptance of the survey as proof to the vessel's condition.

Registration applications for vessels 15 years of age or older should be submitted with a Status Report of the vessel's latest Special Survey. Prior to beginning the vessel registration application process, the Special Survey will be reviewed by the Marine Safety Division of the Commonwealth of Dominica Maritime Administration.

1.2.3 VESSEL NAME

No two vessels on the Commonwealth of Dominica registry may have the same name. An applicant may wish to check the availability of a name and reserve that name, for a period of up to six months for an existing vessel and up to two years for a newbuilding, before beginning the vessel registration application process. There is no charge for this name reservation service.

1.2.4 VESSEL OWNERSHIP

As described in Section 31(1) of the International Maritime Act, vessels should be owned by a Commonwealth of Dominica citizen or national or a qualified foreign maritime entity (see Chapter 2). The term "citizen" or "national" includes Commonwealth of Dominica corporations, limited liability companies, partnerships and associations of individuals.

1.2.5 FISHING VESSELS

Only those fishing vessels that are operated by an entity resident in the Commonwealth of Dominica and that land their catches solely in the Commonwealth of Dominica will be considered for registration. Special local regulations and licensing apply to such vessels.

1.3 Vessel Registration and Mortgage Recordation

1.3.1 CLOSINGS

Arrangements for vessel registration, and for the recordation of mortgages, bills of sale and other instruments at the offices of Dominica Maritime Registry, Inc., wherever located, require advance notice, usually forty-eight hours or two business days, to that office. This advance notice is necessary in order to ensure that the documents to be issued to the parties concerned can be prepared in a timely manner.

The issuance of a Provisional Certificate of Registry for a vessel registration may also be accomplished by contacting the Fairhaven, Massachusetts, office at least one week prior to the anticipated closing date. This time is necessary to allow for the conduct of an appropriate vessel survey, if deemed necessary, by DMRI after review of the ship's records.

1.3.2. REGISTRATION FORMS

Forms required for application to register a vessel in the Commonwealth of Dominica may be obtained from Dominica Maritime Registry, Inc. or are available on our web-site:

www.dominica-registry.com

1.3.3 FACSIMILES

Application forms and related documents may, when time is short, be transmitted by facsimile or e-mail to Dominica Maritime Registry, Inc. Such facsimiles will be temporarily accepted upon an undertaking, which must state that the original forms will be delivered not later than five (5) business days after their facsimile transmittal to Dominica Maritime Registry, Inc.

1.3.4 AUTHENTICATIONS

Some of the forms and documents required in order to register a vessel or record a preferred ship mortgage or related instrument under the laws of the Commonwealth of Dominica must either be authenticated or acknowledged. Where applicable, the requirement of authentication or acknowledgment is described elsewhere in this booklet. Consularization is never required.

A formal authentication, acknowledgment, proof of due execution or oath, where required for any document, may be made by or before any one of the following persons in accordance with Chapter V, Section 2(B) herein and the International Maritime Act, Section 36(2):

- a. *Notary Public* or other officer authorized to administer oaths and to take acknowledgments by law in the country in which the documents are executed;
- b. *Special Agent*, which includes personnel available in the offices of Dominica Maritime Registry, Inc.;
- c. *Maritime Administrator* or any *Deputy Administrator* or *Assistant Administrator* of Maritime Affairs of the Commonwealth of Dominica; or

- d. *Apostille* taken in accordance with the provisions of the Hague Convention by a State party to that Convention.

Please refer to Chapter V, Section 2(B)(2), which explains the nature of an acknowledgment. If obtaining an authentication or an oath presents a problem, please contact Dominica Maritime Registry, Inc. for resolution.

1.3.5 MEMORANDUM OF AGREEMENT

When preparing for the sale of a vessel, clients should pay special attention to the drafting of a Memorandum of Agreement. Many Memoranda of Agreement are prepared on forms similar or identical to the Norwegian Shipbrokers' Association's Memorandum of Agreement for Sale and Purchase of Ships adopted by the Baltic and International Maritime Council (BIMCO), generally sold under the code name SALEFORM 1987.

Forms such as this, as well as many vessel construction contracts, usually contain a Documentation Clause (Clause 8 in the case of SALEFORM 1987), providing that the Bill of Sale or Builder's Certificate shall be "...duly notarially attested and legalized by the [flag State] consul...". Again, under the Commonwealth of Dominica Law, consularization is not required for any document.

Where opportunity exists to review a Memorandum of Agreement, contract of sale or construction contract before documents are prepared for registration and recordation under the International Maritime Act, provisions such as the above should be struck out, or modified.

1.3.6 CLOSING AGENDA

The registration of a vessel in the Commonwealth of Dominica, as well as the drafting, signing and recording of mortgages and related instruments may be less time-consuming if the parties prepare their own agreed agenda or checklist of documents and work assignments beforehand.

A checklist of documents should include, if required, the necessary corporate good standing certificates; opinions of counsel; corporate resolutions; checks for payment of all fees and expenses; all required vessel classification certificates, including survey reports; closing

arrangements; scheduled telephone and facsimile communications; arrangements for change of name of the vessel; payment of taxes, fees and expenses in connection with the deregistration of the vessel from its previous registry; proof that the vessel is free and clear of all liens and encumbrances; the protocol of delivery and acceptance, where desired by the parties; and, if possible, the approximate date and time of the registration of the ship in the Commonwealth of Dominica, and recordation of mortgages and other instruments, if any.

2

Vessel Ownership

A ship must carry a Certificate of Registry. The Maritime Administrator of the Commonwealth of Dominica issues this document to the vessel, so that the vessel's Dominican citizenship will be recognized by other nations. The process by which a ship is registered is outlined in Chapter III. This Chapter describes how to form and maintain the ownership of a Commonwealth of Dominica vessel by a qualified entity such as a foreign maritime entity, corporation, Limited Liability Company, partnership or other legally recognized entity.

The rights and benefits of ownership, like the nationality of the ship itself, depend upon international recognition of their validity under Commonwealth of Dominica law. In addition, the international legal requirements incidental to proof of title, and therefore the marketability of the ship, require registration of ownership in accordance with established national law. The procedure by which this status is achieved in the Commonwealth of Dominica is described in this Chapter and applies both to registration and to bareboat registration under Chapter 2 of the International Maritime Act. A copy of the Commonwealth of Dominica Companies Act and International Business Companies Act may be obtained upon request from Dominica Maritime Registry, Inc at a minimal cost.

A vessel registered in the Commonwealth of Dominica may only be owned or bareboat registered by one of the following:

- an individual who is either a citizen or national of the Commonwealth of Dominica
- a foreign maritime entity qualified to own a vessel as provided in Section 30 and Chapter 9 of the International Maritime Act.
- a corporation formed under the International Business Companies Act;
- any local corporation, partnership, limited liability company, or other form of business organization registered under the laws of the Commonwealth of Dominica as a Dominican national owned business and which is authorized to engage in the business of vessel ownership.

2.1 Foreign Maritime Entities

2.1.1 CREATION

These are entities created under the laws of a jurisdiction other than the Commonwealth of Dominica and are eligible to own vessels when registered in the Commonwealth of Dominica pursuant to Section 30 (1) and Chapter 9 of the International Maritime Act.

The following procedures are used.

1. Name of Foreign Maritime Entity: Names for foreign maritime entities may be reserved through the same process as that used for vessel name reservation.
2. Application: Three (3) signed and acknowledged applications, prepared in English, may be submitted to our office for filing. A sample application form is attached at Annex 3.
3. Acknowledgment: These documents must be acknowledged:
 - a. before a notary public,
 - b. by the person signing the instrument under penalty of perjury pursuant to the provisions of the International Maritime Regulations of 2001, or
 - c. by Apostille issued in a country party to the Hague Apostille Convention.
4. Supporting Documents:
 - a. *Certified Copies* - Each application for foreign maritime entity status should be accompanied by a certified copy of the Articles, Charter or other document upon which the existence of the foreign entity is based, certified by an officer, or where appropriate, director of the entity. If such certification cannot be obtained in a timely manner, then the document may be verified by an attorney authorized to practice law in the State or jurisdiction in which the organization applying for status as a foreign maritime entity was formed.
 - b. *Certificate of Good Standing* - An application for foreign maritime entity status should also include evidence of the foreign entity's current existence under the laws of the State of its formation. This may be in the form of a government document (e.g.,

Certificate of Good Standing) or, if a government certificate is not possible, by certification of an attorney of the jurisdiction that, to his/her knowledge, the foreign entity has current legal existence.

c. Evidence of Authority - Where an application is being executed by an Attorney-in-Fact or other person not actually named in the constitutional documents of the entity as having signing authority, a copy of the power of attorney, board resolution or other document authorizing the signatory to execute the application must be provided.

2.1.2 FEES

Fees for the filing of a foreign maritime entity are due upon application for registration (see Annex 5). The annual fee for maintenance of the status of a foreign maritime entity is due each year on the anniversary of its creation. All payments must be made in U.S. dollars. Checks or bank drafts should be drawn on a U.S. bank or U.S. branch of an international bank and made payable to Dominica Maritime Registry, Inc. Wire transfers are also accepted. (see Annex 17)

2.2 Commonwealth of Dominica International Business Companies

Commonwealth of Dominica corporations formed under the International Business Companies Act 1996 ("IBC Act") are called International Business Companies (IBC). Such corporations are exempt from taxes in Dominica, as provided in Section 109 of the IBC Act. In addition, payments, including wages, made by an IBC to persons who are not citizens or residents of the Commonwealth of Dominica are exempt under Section 109 of the IBC Act from any tax or withholding provisions of Commonwealth of Dominica law.

Under Section 5 of the IBC Act, certain activities of an IBC may be undertaken within the Commonwealth of Dominica without subjecting the corporation to Commonwealth of Dominica tax liability, including maintenance of an office, rental property, shares and other securities, and the holding of meetings within Dominica.

The Registrar of Companies is the duly appointed Registrar of International Business Companies. However, registration application must be filed through a registered agent. Details on registered agents may be obtained from DMRI.

2.3 Commonwealth of Dominica National Owned Business Organizations

Business Organizations owned by Commonwealth of Dominica Nationals and formed under the Companies Act of the Commonwealth of Dominica are qualified to own vessels under Section 30 (1) of International Maritime Act. Further details for the formation of such organizations may be obtained from DMRI.

3

Vessel Registration

3.1 Newbuilding Under Construction

A vessel may receive a Certificate of Intended Registry CDVR-3000a during the period that it is under construction. This allows certain asset-based lending procedures to be accomplished before the vessel's delivery date, and may also be useful in obtaining an export license. Virtually all lenders require that where a vessel is under construction and pledged as security for the owner's debt, it be granted a form of certificate identifying it as part of the financing process. The financing divisions of shipyards are often familiar with local lenders specializing in the financing of ship construction.

In many countries where ships are built it is possible to obtain loans during the construction period, secured by a lien on the vessel and sometimes by an assignment of the construction contract and other collateral. In such cases, it is important that the prospective flag chosen by the future owner be acceptable to the lender, the yard, and the Classification Society. The issuance of a Certificate of Intended Registry may be useful to the parties to such a transaction, prior to the delivery of the vessel.

3.1.1 APPLICATION FOR INTENDED REGISTRATION OF NEWBUILDING

To obtain a Certificate of Intended Registry of Newbuilding During Construction at Builder's Yard, the prospective owner should submit an application on Form CDVR-2006, indicating its intention to qualify as such under Section 49 of International Maritime Act, or if not, its intent to dispose of the vessel upon its completion. (See Annex 6)

A Certificate of Intended Registry of Newbuilding During Construction at Builder's Yard form CDVR-3000a will be issued upon acceptance of the application, the shipbuilder's letter and payment of the required fee. This certificate is valid for the period of construction or until the expected date of delivery, whichever is later.

3.1.2 SHIPBUILDER'S LETTER

1. The prospective owner of a newbuilding must also provide, together with the application and fees, a letter from the yard or builder of the vessel, confirming:
 - the vessel is being built by the builder or under his direction
 - the place where the vessel is to be built
 - the time when the vessel is scheduled to be completed
 - the person for whom built
 - the build or hull number
 - the number of decks and masts
 - the length
 - the breadth
 - the depth
 - the tonnage or tonnages
 - any other circumstances as are usually descriptive of the identity of a vessel.

2. The application, fees and shipbuilder's letter should be sent to the DMRI Office located in the owner's region (see Annex 16).

3.1.3 DELIVERED VESSEL NOT REGISTERED UNDER THE COMMONWEALTH OF DOMINICA FLAG

If the newbuilding is not registered under the Commonwealth of Dominica Flag, a letter of Deletion of the Intended Registry Notation will be issued, with a refund of 50% of the intended registry fee.

3.2 Provisional Registration

Under Section 40 of the International Maritime Act, Provisional Certificate of Registry is the name given to the initial navigational document issued by the Commonwealth of Dominica to a vessel that is either a newbuilding, or is being transferred from another registry. An unexpired Provisional Certificate of Registry has the same validity and legal standing as a Permanent Certificate of Registry, and is prima facie evidence that the vessel is duly registered. The requirements for issuance of both a Provisional and Permanent Certificate of Registry should be included in the recommended Closing Agenda described in Chapter I, Section 3(F).

All applications for Provisional Registration are subject to approval by the Deputy Maritime Administrator. Accordingly, the mere submission of an application for provisional registration does not ensure that a vessel will be accepted for entry into the registry or flag of the Commonwealth of Dominica.

3.2.1 APPLICATION FOR REGISTRATION

1. Application Document

The application form for registration, CDVR-2001, is a two-page document, in the form provided in Annex 1. The registration process begins with the submission of the application with the supporting documents itemized in Section 3.2.2 below.

With the permission of Dominica Maritime Registry, Inc., a facsimile of the supporting documents can be accepted for initial registration.

3.2.2 REQUIRED DOCUMENTS TO BE SUBMITTED WITH APPLICATION FOR REGISTRATION

1. Proof of Ownership may be demonstrated by one of the following:

- a. Bill of Sale or Certificate of Ownership and Encumbrance - Proof of ownership is usually the Bill of Sale transferring title to the present owner. A Certificate of Ownership and Encumbrance from the current flag State registry is also acceptable.
- b. Builder's Certificate or Master Carpenter's Certificate should be submitted in the case of a newbuilding.

Please Note: Proof of ownership of a vessel must be submitted when the ship is registered or re-registered in the Commonwealth of Dominica, even where there has not been a change of ownership. If the Bill of Sale, Builder's Certificate or Master Carpenter's Certificate is to be recorded, then one (1) original and two (2) counterparts each duly executed and acknowledged, or with proof of due execution, should be submitted. See Chapter 5, Section 2.1.8.

2. Power of Attorney or Secretary's Certificate of Corporate Resolution: This document should state the authority of an agent or officer to act for or on behalf of the owner in making application

for registration of the vessel and to perform all acts necessary to accomplish the registration (see Annex 4). If the vessel owner is not an entity, he/she must submit an Oath of a Managing Owner or Part Owner (or Agent of Owner, Managing Owner or Part Owner), form CDVR-4005 (See Annex 8).

3. Certificate of Confirmation of Class: A Certificate of Confirmation of Class for an existing vessel, or a Certificate of Seaworthiness, or an Interim Certificate of Class for a Newbuilding, dated not more than ten (10) days prior to registration, must be submitted at time of registration. A facsimile may be submitted with the original to follow.

4. Affidavit of Owner to Transfer Vessel from Current Registry Within Three (3) Months: Form CDVR-4008 (Annex 13) or certified letter from the owner, confirming that the vessel will be deleted from its current registry flag within three (3) months, in order to receive its Permanent Registration with the Commonwealth of Dominica.

5. Application for Ship's Radio Station License (Form CDVR-2004) and a copy of current Cargo Ship Safety Radio Certificate (if applicable)

6. Application for Registration as a Foreign Maritime Entity (Waiver for Dominica IBC) or Application for Creating a Commonwealth of Dominica IBC (International Business Company) (Forms CDVR-2003 and 2003A).

Please refer to Section 2.1 and 2.2 of this document for descriptions of FME's and IBC's.

7. Copy of the vessel's Current Certificate of Registry, if applicable.

8. Acceptance of the Vessel's International Tonnage Certificate (use Form CDVR-2008)

9. Application for Minimum Safe Manning Certificate: A Minimum Safe Manning Certificate (MSMC), required by Maritime Regulation 42, will be issued by the Maritime Administrator, or an official who is authorized to act for and on behalf of the Maritime Administrator, upon receipt and approval of an application, CDVR-2007, (see Annex 11) by DMRI's Marine Safety Division in

Fairhaven, Massachusetts. The MSMC must be issued to each vessel at registration or shortly thereafter setting forth the required minimum numbers of officers and crew, in specified grades and ratings, which have been prescribed for the safe navigation and operation of that vessel.

A copy of the vessel's current Minimum Safe Manning Certificate should accompany the application, if applicable.

10. ISM Code Declaration of Company: The ISM Code means the "International Management Code for the Safe Operation of Vessels and for Pollution Prevention". Now that the ISM Code is in effect, it becomes necessary for the flag State to verify and maintain company and vessel compliance. A database has been developed to facilitate this process. ISM Code Declarations Form CDVR-2009 is designed to collect the initial information required on the Company is to be provided by the client prior to vessel registration. (See Annex 12 for sample form)

Current compliance requirements pertain to tank vessels, chemical carriers, gas carriers, bulk carriers as defined in the ISM Code, and cargo high-speed craft of 500 gross tonnage and upwards; and all passenger vessels, including passenger high speed craft. All other cargo ships and self-propelled mobile offshore drilling units (MODUs) of 500 gross tons and upwards on international voyages, must comply by 1 July 2002. For these ship types, the submittal of Form CDVR-2009 before 1 July 2002, is voluntary. If in doubt, contact DMRI's Marine Safety Division.

Note: Since items 9 and 10 above cannot be executed by an attorney-in-fact, but must be executed by the Chief Executive Officer and/or the Designated Person of a Company, facsimile copies will be acceptable with an accompanying statement that the originals will follow within five (5) working days.

11. Proof of Insurance: This proof of P&I coverage usually takes the form of a "cover note" or similar confirmation, provided by a member of the International Group of P & I Clubs, which verifies that liability insurance coverage is currently in full force and effect for the vessel. In the case of a self-insurer, proof of coverage may be a duly acknowledged statement with an attached auditor's report, setting forth the type and amount of the vessel's liability reserve, and the nature of security provided. In either case, this proof shall cover default of the owner's

repatriation obligations as required under the International Maritime Act. It may be sent by mail or facsimile to the office of Dominica Maritime Registry, Inc. (see Annex 16).

3.2.3 REGISTRATION AND SERVICE FEES

The fee schedule attached at the end of this booklet sets forth in detail the fees and charges payable at registration. (See Annex 5.)

All remittances are payable in United States dollars, by check or bank draft, drawn on a bank or branch of a bank located in the United States. Checks should be made payable to Dominica Maritime Registry, Inc., and sent to the appropriate representing office. For wire transfer information, please contact Dominica Maritime Registry, Inc., or see Annex 17.

Where a ship is to be registered upon transfer from a foreign flag, or is a newbuilding, both registration fees and the first year's Commonwealth of Dominica annual fees and service fees are payable upon registration.

Note: Service Fees become due and owing in full on the anniversary of the vessel's registration each year. Accordingly, where ownership of a vessel is to be transferred shortly after the commencement of a calendar year, the buyer and seller should take particular care, in advance of the closing, to provide for payment of those taxes.

3.2.4 ISSUANCE OF CERTIFICATE OF REGISTRY

A Provisional Certificate of Registry and a Temporary Authority Ship Radio Station License will be issued at the time of registration, provided the completed application, CDVR-2001, required documents, and fees are received and accepted by DMRI. DMRI will also issue the Minimum Safe Manning Certificate as well as a Markings and Carving Note (Form CDVR-2002), which needs to be completed and returned to DMRI prior to Permanent Registration.

The Provisional Certificate of Registry and the Temporary Authority Ship Radio Station License are both valid for a period of three (3) months.

3.3 The Permanent Certificate of Registry

A Permanent Certificate of Registry, as provided in Section 35 of the International Maritime Act, is the navigational document issued by the Maritime Administrator of the Commonwealth of Dominica to a vessel that has previously received a Provisional Certificate of Registry, and has fulfilled all of the additional requirements listed in this Section. Like a Provisional Certificate of Registry, a valid Permanent Certificate of Registry constitutes prima facie authority that the vessel is registered under the laws of the Commonwealth.

3.3.1 APPLICATION FOR PERMANENT CERTIFICATE OF REGISTRY

The required documentation required to issue a Permanent Certificate of Registry (as explained below) should be submitted to the offices of Dominica Maritime Registry, Inc. (See Annex 16.)

3.3.1.2 REQUIRED DOCUMENTS TO BE SUBMITTED WITH APPLICATION

1. Copy of Radio Accounting Authority Contract: Where applicable, a copy of this contract is to be submitted to DMRI before Permanent Registration can be completed.

2. Classification Certificates: The vessel owner should request from the Classification Society, a current certified copy of the vessel's classification certificate(s) (a list of required certificates is included in the Vessel Registration Forms Package, available from DMRI, on the publications CD-rom, or online at: www.dominica-registry.com), showing:
 - a. the present name of the vessel, if different from the name in which the certificates were originally issued; and
 - b. the homeport of "Roseau" or "Portsmouth," "Commonwealth of Dominica".

3. International Convention and Other Certificates are those that formally confirm the vessel's compliance with applicable international maritime conventions. These certificates are accepted only when issued by the vessel's Classification Society, or another authority authorized to issue statutory certificates on behalf of the Maritime Administrator. (See Chapter I, Section 2(A), and Commonwealth of Dominica Maritime Regulation 17.) Certificates will be issued by the Classification Society concerned only upon successful completion of survey and upon request of the owner, or its agent or representative. International regulation of shipping, as well as port State control authorities, have imposed increasing certification requirements on merchant ships,

such as Certificates of Financial Responsibility (COFRs) under the U.S. Oil Pollution Act of 1990 (OPA 90).

- a. Commonwealth of Dominica certificates issued under the provisions of the International Tonnage Convention (1969): The shipowner or its authorized agent should signify acceptance of the certificate by signing it.
- b. Commonwealth of Dominica certificates issued under the provisions of the International Convention on Load Lines, 1966, as amended by the 1969 Protocol: These certificates must be full term and valid.
- c. Commonwealth of Dominica certificates issued under the provisions of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78), Annex I, II and V: The International Oil Pollution Prevention (IOPP) and/or the Noxious Liquid Substances (NLS) Certificates must be full term and valid.

Please note: The certificates required under the provisions of Annex VI will not be required until the Annex has full force and effect. However, owners are advised to consider the requirements of Annex VI, Regulation 13, which shall then be retroactive to 1 January 2000.

- d. Commonwealth of Dominica certificates issued under the provisions of the International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended: The applicable and relevant certificates to cover the requirements of the above convention with respect to Safety Construction, Safety Equipment, Safety Radio, Carriage of Grain, Bulk Chemicals and Gas, Safety Management, etc., must be full term and valid.
- e. Commonwealth of Dominica National or International Maritime Organization Code or Resolution Certificates: These certificates may be required for vessels under 500 gross tons, or non-propelled vessels, fishing vessels, yachts, Mobile Offshore Drilling Units, or other vessels not covered by (c) or (d) above.

4. Commonwealth of Dominica Ship Radio Station License: This license will be issued by the Maritime Administrator upon receipt and approval of an application (see Annex 9) by an officer of Dominica Maritime Registry, Inc.

5. Certificate of Cancellation of Vessel's Former Registry: This document, issued by the previous State of registry, is, of course, not required if the vessel is a newbuilding or if it has been submitted under Section 2(B) of this Chapter. If required, it must be submitted within 90 days of the date of the vessel's initial registration.

6. Civil Liability Certificate for Oil Pollution Damage (1992): The Commonwealth of Dominica is a State Party to the International Convention on Civil Liability for Oil Pollution Damage (1992). Under Article VII of the Convention, a certificate ("the CLC Certificate") attesting that insurance or other financial security is in force in accordance with the provisions of the Convention is issued to each ship. The certificate must be carried on board with a copy deposited with the authorities of the State of registry. The CLC Certificate is required for vessels carrying more than 2,000 tons of oil in bulk as cargo.

7. Affirmation of Markings (CDVR-2002): As per the Dominica Maritime Act, 2000, Ch. II, Part I, Section 50, this form is issued by DMRI at the time of Provisional Registration. This form is to be completed by a Class Society representative or the Master of the vessel. It verifies that: The name, official number and port of registry, and the draught markings above are marked in accordance with the requirements set out below. Permanent registration of the vessel cannot be completed until this form is duly signed and stamped by the surveyor/Master and returned to the DMRI Head Office. (See Annex 14)

(1) *Every documented vessel shall have her name marked upon each bow and upon the stem and the home port of Roseau or Portsmouth shall also be marked upon the stem.*

(2) *These names shall be painted or gilded upon banded or cast Roman letters in light color on a dark background, or in a dark color on a light background, permanently affixed and distinctly visible and the smallest letters used shall not be less than four inches in size.*

(3) *Each vessel of Dominica, in addition to having her name painted on her stem, shall have the same conspicuously placed in distinct, plain letters of not less than six inches in length, on each side of the hull.*

(4) *The Maritime Administrator may prescribe a system of numbering documented vessels, and the designated number of each vessel shall be marked permanently on her main beam.*

(5) *The draft of every registered vessel shall be marked upon the stem and stem post, in English feet or in decimeters, in Arabic numerals, and the bottom of each numeral shall indicate the draft to that line.*

8. Cancellation/Deletion Certificate from Current Registry: The owners of the vessel, at the time of Provisional Registration, must contact the current registry to request a Cancellation Certificate. As DMRI is aware that this request may take time, it allows the owner of the vessel 90 days (the length of the provisional registration), to obtain this certificate.

Note: Section 31(1) of the International Maritime Act allows the Maritime Administrator, for good cause shown, to temporarily amend or modify requirements with respect to Permissions to Transfer and Deletion Certificates issued by the State from which the vessel is being transferred.

9. Memorandum of Particulars (Form CDVR-2011): As described in Section 4.4 of this document, vessels which have a mortgage attached to them, are required to submit a Memorandum of Particulars, which should contain the following information:

- a. the name and official number of the vessel as it appears in the State of underlying registry;
- b. the name of the State of underlying registry;
- c. the type of instrument so registered or recorded;
- d. where applicable, the time, date of reception, and place in the State of underlying registry in which the mortgage or related instrument was recorded or registered;
- e. the book and page, or other relevant particulars, locating and identifying the said instrument in the registry of the foreign State; and where applicable, the amount(s), maturity date and parties to the instrument.

10. Copy of Corporate (Company) Certificate of Good Standing: This certificate is issued by the state in which the corporate/company entity was officially formed. The certificate should be dated no earlier than 12 months prior to the registration date.

Note: Additional documents may be required for special circumstances. Please refer to the Vessel Registration Forms Package for details. This package is available on the DMRI Publications CD-rom and at www.dominica-registry.com.

3.3.3 PERMANENT CERTIFICATE OF REGISTRY

A Permanent Certificate of Registry will be issued to shipowners upon compliance with the above requirements, along with a Permanent Ship Radio Station License and Minimum Safe Manning Certificate. These certificates are valid for one year.

3.4 Renewal of Permanent Registration

Vessels permanently registered with the Commonwealth of Dominica must renew the registration annually. No additional documentation is required, although the Annual Service Fees are due in full by the anniversary of the vessel's registration each year. An invoice will be sent to the owner's billing office 60 days prior to expiration of the Registry Certificate. Renewed certificates will be issued to the owner for posting on the vessel.

3.5 Re-registration of a Commonwealth of Dominica Vessel

The procedures for re-registration are almost identical to those for registration. When a ship that is already registered in the Commonwealth of Dominica is transferred to new ownership, a new Certificate of Registry will be issued in the name of the new owner upon completion of the re-registration process. The vessel will retain its current Official Number and Radio Call Sign.

3.5.1 CERTIFICATE OF PERMISSION FOR SALE

When an owner has entered into an agreement to sell a vessel presently registered in the Commonwealth of Dominica, and the buyer has stated his/her intention to re-register the vessel under the Dominica flag, the seller should request a Certificate of Permission for Sale for the Purpose of Re-registration from DMRI, setting forth the name and domicile of the prospective purchaser and submitting payment of the applicable fee. Although such request must be submitted in writing, no formal "Request Form" is utilized.

3.5.2 APPLICATION FOR RE-REGISTRATION OF VESSEL

The application for Official Number, Call Sign and Registration of Vessel is to be submitted on Form CDVR-2001. (See Annex 1.) If the name of the vessel is to be changed, all forms should be filed using the new name of the vessel, and should also list the vessel's present name in the space provided on the form.

3.5.3 REQUIRED DOCUMENTS TO BE SUBMITTED WITH APPLICATION FOR RE-REGISTRATION

1. Bill of Sale: When a ship presently registered in the Commonwealth of Dominica is transferred and re-registered in the Commonwealth of Dominica, the Bill of Sale or other instrument transferring the vessel must be recorded. Upon re-registration of the vessel, one (1) executed original, and two (2) counterparts each duly executed and acknowledged or with proof of due execution of the Bill of Sale transferring title to the new owner must be submitted to DMRI for recordation. One (1) of the printed forms of a Bill of Sale commonly seen and approved by the international maritime community is acceptable for recordation.

2. Admiralty Sale and Outstanding Obligations: When a vessel has been sold by Order of a Court of Admiralty or Maritime Jurisdiction, the Bill of Sale issued by the Court will be accepted as proof that the vessel is free and clear of recorded liens or encumbrances. Upon registration, three (3) certified copies of the Commonwealth of Dominica's Bill of Sale or Court Order is acceptable. However, all taxes, fees and charges outstanding to the Commonwealth of Dominica must be satisfied prior to the issuance of a new Certificate of Registry.

Note: For recordation under the laws of the Commonwealth of Dominica, the Bill of Sale need not be consularized. The Bill of Sale, however, must be acknowledged or bear proof of due execution. (See Chapter 5, Section 2(B).) A copy of the vessel's currently valid Commonwealth of Dominica Certificate of Registry must be attached, as provided in Section 78 of the International Maritime Act.

3. Classification Certificates: The vessel owner should request from the Classification Society, a current certified copy of the vessel's classification certificate(s) (a list of required certificates is included in the Vessel Registration Forms Package, available from DMRI, on the publications CD-rom, or online at: www.dominica-registry.com), showing:

- a. the present name of the vessel, if different from the name in which the certificates were originally issued; and
- b. the homeport of "Roseau" or "Portsmouth," "Commonwealth of Dominica".

4. International Convention and Other Certificates are those that formally confirm the vessel's compliance with applicable international maritime conventions. These certificates are accepted only when issued by the vessel's Classification Society, or another authority authorized to issue statutory certificates on behalf of the Maritime Administrator. (See Chapter I, Section 2(A), and Commonwealth of Dominica Maritime Regulation 17.) Certificates will be issued by the Classification Society concerned only upon successful completion of survey and upon request of the owner, or its agent or representative. International regulation of shipping, as well as port State control authorities, have imposed increasing certification requirements on merchant ships, such as Certificates of Financial Responsibility (COFRs) under the U.S. Oil Pollution Act of 1990 (OPA 90).

- a. Commonwealth of Dominica certificates issued under the provisions of the International Tonnage Convention (1969): The shipowner or its authorized agent should signify acceptance of the certificate by signing it.
- b. Commonwealth of Dominica certificates issued under the provisions of the International Convention on Load Lines, 1966, as amended by the 1969 Protocol: These certificates must be full term and valid.
- c. Commonwealth of Dominica certificates issued under the provisions of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78), Annex I, II and V: The International Oil Pollution Prevention (IOPP) and/or the Noxious Liquid Substances (NLS) Certificates must be full term and valid.

Please note: The certificates required under the provisions of Annex VI will not be required until the Annex has full force and effect. However, owners are advised to consider the requirements of Annex VI, Regulation 13, which shall then be retroactive to 1 January 2000.

- d. Commonwealth of Dominica certificates issued under the provisions of the International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended: The applicable and relevant certificates to cover the requirements of the above convention with respect to Safety Construction, Safety Equipment, Safety Radio, Carriage of Grain, Bulk Chemicals and Gas, Safety Management, etc., must be full term and valid.
- e. Commonwealth of Dominica National or International Maritime Organization Code or Resolution Certificates: These certificates may be required for vessels under 500 gross

tons, or non-propelled vessels, fishing vessels, yachts, Mobile Offshore Drilling Units, or other vessels not covered by (c) or (d) above.

5. Commonwealth of Dominica Ship Radio Station License: This license will be issued by the Maritime Administrator upon receipt and approval of an application (see Annex 9) by an officer of Dominica Maritime Registry, Inc.

6. Certificate of Cancellation of Vessel's Former Registry: This document, issued by the previous State of registry, is, of course, not required if the vessel is a newbuilding or if it has been submitted under Section 2(B) of this Chapter. If required, it must be submitted within 90 days of the date of the vessel's initial registration.

7. Civil Liability Certificate for Oil Pollution Damage (1992): The Commonwealth of Dominica is a State Party to the International Convention on Civil Liability for Oil Pollution Damage (1992). Under Article VII of the Convention, a certificate ("the CLC Certificate") attesting that insurance or other financial security is in force in accordance with the provisions of the Convention is issued to each ship. The certificate must be carried on board with a copy deposited with the authorities of the State of registry. The CLC Certificate is required for vessels carrying more than 2,000 tons of oil in bulk as cargo.

8. Affirmation of Markings (CDVR-2002): As per the Dominica Maritime Act, 2000, Ch. II, Part I, Section 50, this form is issued by DMRI at the time of Provisional Registration. This form is to be completed by a Class Society representative or the Master of the vessel. It verifies that: The name, official number and port of registry, and the draught markings above are marked in accordance with the requirements set out below. Permanent registration of the vessel cannot be completed until this form is duly signed and stamped by the surveyor/Master and returned to the DMRI Head Office. (See Annex 14)

- (1) Every documented vessel shall have her name marked upon each bow and upon the stern and the home port of Roseau or Portsmouth shall also be marked upon the stern.*
- (2) These names shall be painted or gilded upon banded or cast Roman letters in light color on a dark background, or in a dark color on a light background, permanently affixed and distinctly visible and the smallest letters used shall not be less than four inches in size.*

- (3) *Each vessel of Dominica, in addition to having her name painted on her stern, shall have the same conspicuously placed in distinct, plain letters of not less than six inches in length, on each side of the hull.*
- (4) *The Maritime Administrator may prescribe a system of numbering documented vessels, and the designated number of each vessel shall be marked permanently on her main beam.*
- (5) *The draft of every registered vessel shall be marked upon the stem and stem post, in English feet or in decimeters, in Arabic numerals, and the bottom of each numeral shall indicate the draft to that line.*

9. Cancellation/Deletion Certificate from Current Registry: The owners of the vessel, at the time of Provisional Registration, must contact the current registry to request a Cancellation Certificate. As DMRI is aware that this request may take time, it allows the owner of the vessel 90 days (the length of the provisional registration), to obtain this certificate.

Note: Section 31(1) of the International Maritime Act allows the Maritime Administrator, for good cause shown, to temporarily amend or modify requirements with respect to Permissions to Transfer and Deletion Certificates issued by the State from which the vessel is being transferred.

10. Memorandum of Particulars (Form CDVR-2011): As described in Section 4.4 of this document, vessels which have a mortgage attached to them, are required to submit a Memorandum of Particulars, which should contain the following information:

- a. the name and official number of the vessel as it appears in the State of underlying registry;
- b. the name of the State of underlying registry;
- c. the type of instrument so registered or recorded;
- d. where applicable, the time, date of reception, and place in the State of underlying registry in which the mortgage or related instrument was recorded or registered;
- e. the book and page, or other relevant particulars, locating and identifying the said instrument in the registry of the foreign State; and where applicable, the amount(s), maturity date and parties to the instrument.

11. Copy of Corporate (Company) Certificate of Good Standing: This certificate is issued by the state in which the corporate/company entity was officially formed. The certificate should be dated no earlier than 12 months prior to the registration date.

12. Copy of Radio Accounting Authority Contract: Where applicable, a copy of this contract is to be submitted to DMRI before Permanent Registration can be completed.

Note: Additional forms may be required for special circumstances. Please refer to the DMRI Vessel Registration Forms Package for details. This package is located on the DMRI Publications CD-rom and at www.dominica-registry.com.

3.5.4 RE-REGISTRATION FEES AND SERVICE FEES

Fees for re-registration are payable to DMRI and are listed in Annex 5 to this document (Initial Registration and Service Fee apply). Annual Service Fees become due on the anniversary date of the initial registration.

3.5.5 ISSUANCE OF CERTIFICATE OF REGISTRY

A Provisional Certificate of Registry and Temporary Authority Ship Radio Station License, both valid for three (3) months, will be issued to the new owner upon receipt of the completed application and fees allowing time for the submission of documents as prescribed in Section 4(B) of this Chapter for the issuance of a new Permanent Certificate of Registry.

3.6 Failure to Renew Vessel Registration

When a vessel is registered in the Commonwealth of Dominica and the registration expiration date has been reached without being renewed, the Commonwealth of Dominica Maritime Administration will issue a Prohibition to Sail to the vessel. Ninety days after the expiration the Administration suspends the vessel from the registry. One year after the expiration date, the vessel registration is cancelled and the official name, number, and call sign are made available by the Commonwealth of Dominica for reuse.

3.7 Change of Name of Vessel

When a vessel is registered in the Commonwealth of Dominica and there is a change of name without a change in vessel ownership, although the vessel does not need to be re-registered, a new Provisional Certificate of Registry must be issued to reflect the new name.

3.7.1 PROCEDURE FOR VESSEL NAME CHANGE

1. Letter of Request for Approval of Name Change from the Owner: Every new vessel name must be approved in accordance with Section 52 of the International Maritime Act (See Chapter I, Section 2[C].) A letter from the owner requesting approval must be submitted to Dominica Maritime Registry, Inc. This letter should state the ship's present name, its proposed new name and its official number.

2. Consent of Preferred Mortgagee: If the ship is subject to one or more Commonwealth of Dominica ship mortgages, a written consent from each mortgagee, agreeing to the proposed change of name, must be filed with DMRI before approval is granted.

3.7.2 CHANGE OF VESSEL NAME FEE

When a ship is initially entering the Commonwealth of Dominica flag under a new name, there is no charge for that change of name, however, subsequent name changes will be charged in accordance with the Fee Schedule.

A check for the change of name fee, payable to Dominica Maritime Registry, Inc., should be submitted with the Letter of Request to the representing DMRI office.

3.7.3 CERTIFICATES ISSUED

When the change of name has been approved, the Maritime Administrator will issue a Provisional Certificate of Registry, valid for a period of three (3) months from the date of the change of name.

3.8 Change of Name of Owner

When a vessel is registered in the Commonwealth of Dominica and there is a change in the name of the owning entity (e.g., corporation, partnership, limited liability company, foreign maritime entity), without a change in vessel ownership, although the vessel does not need to be re-registered, a new Certificate of Registry must be issued.

3.8.1 PROCEDURE FOR CHANGE IN NAME OF OWNER

1. Change in Name of Commonwealth of Dominica Entity: All name changes including those due to merger or consolidation must be filed in accordance with the Companies' Act of the Commonwealth of Dominica. Please contact DMRI for further information. (See Annex 16.)

2. Required Documentation: Three (3) certified copies of the Articles of Amendment, Merger or other documentation effecting the name change must be submitted to the representing DMRI office.

3.8.2 FEE FOR CHANGE IN NAME OF OWNER

The required documentation should be submitted along with the fee to Dominica Maritime Registry, Inc. When processing is completed, the Maritime Administrator will issue a new Certificate of Registry to expire on the same date as the original certificate to reflect the new name of the owner.

4

Bareboat Charter Registration

Bareboat charter registration in essence temporarily permits a vessel to fly the flag of another country while ownership continues to be registered in the owner's State. It provides a welcome element of flexibility in a number of commercial situations. While registered pursuant to a bareboat charter, a vessel is allowed, with the consent of its owner's State of registry, to fly the flag of its bareboat charterer's State for a period determined by that State's law or, if for a shorter time, by the term fixed in the bareboat charterparty.

The attributes of registration are therefore divided between the registry of the owner (sometimes called the "underlying" registry), and that of its "user," the bareboat charterer.

Bareboat registration is specifically recognized in international law, as reflected in the International Convention on Maritime Liens and Mortgages, 1993, and the provisions of the U.N. Convention on the Law of the Sea. Under this system, the laws of both the State of bareboat charter registry and the State of underlying registry should contain provisions for maintaining the status of existing mortgages during the period that the vessel is subject to bareboat registration. The laws of both States should also recognize, at least in general terms, the exclusive right of enforcement and jurisdiction by the bareboat charterer's State, whose flag the vessel flies, of its rules and standards for the enforcement of safety at sea, the protection of the marine environment, licensing, and other duties of the flag State, as outlined in Article 94 of the U.N. Convention on the Law of the Sea.

Bareboat registry into or from the Commonwealth of Dominica is not available where the laws of the State into or from which registry is sought do not generally coincide with the provisions of the International Maritime Act, Sections 64 through 73. In particular, the laws of both States should explicitly recognize that the law of the State of underlying registry is exclusively applicable to mortgages and related instruments recorded therein.

4.1 Bareboat Charter Registration into the Commonwealth of Dominica Flag

Where the laws of both States permit, a vessel registered in another State can be bareboat registered under the flag of the Commonwealth of Dominica, giving it the right to fly the Dominica flag as provided in Part III of the International Maritime Act. Commonwealth of Dominica law will apply to all aspects of the vessel's operation, navigation, and management during this period of bareboat registry. The law of the State of underlying registry (not the Commonwealth of Dominica), however, shall apply to the vessel's mortgage and related recorded instruments, in accordance with Section 68 of the Act.

A notice that a mortgage or related instrument has been recorded in the State of underlying registry may itself be recorded, by the Maritime Administrator, if the parties so desire. During the period of bareboat charter registration under the Commonwealth of Dominica flag, the vessel may not fly any flag other than that of the Commonwealth of Dominica, nor show any homeport other than Roseau or Portsmouth.

In order for the application for bareboat registry to be granted, the vessel entering the Commonwealth of Dominica flag must satisfy the requirements for the issuance of a Provisional Certificate of Registry, except of course for ownership and cancellation from present country of registry. Registration will be in the name of the bareboat charterer. The following are required prior to granting Commonwealth of Dominica bareboat charter registration.

4.1.2 APPLICATION FOR BAREBOAT CHARTER REGISTRATION

The application for bareboat charter registration should be completed on the application for Official Number, Call Sign and Registration of Bareboat Charter Vessel, Form CDVR-2014 which may be found in Annex 2. The application should be signed and dated by the charterer. The application, with all required documents, fees, and payment of service fee should then be submitted to the representing DMRI office (see Annex 16).

4.1.3 REQUIRED DOCUMENTS TO BE SUBMITTED WITH APPLICATION

1. Provisional Registration Documents

The documentation for a bareboat charter registration is almost identical to that for an initial registration (see Section 2(B) of this Chapter). The vessel must meet all the requirements for initial vessel registration before the issuance of a Provisional Certificate of Registry, except for:

- a. Proof of Ownership: Registration will be in the name of the bareboat chartering entity, and cancellation from present country of registry is not required.
- b. Charterer's Letter of Request: Copies of a letter of request should be prepared and submitted, typed on the letterhead of and signed by the Commonwealth of Dominica bareboat charterer of the vessel, requesting Commonwealth of Dominica bareboat charter registration, and containing:
 - the present name and official number of the vessel;
 - the present country of registry of the vessel with address, telephone or telefax number of the country's vessel registration bureau or department;
 - the names, addresses and telephone/telefax numbers of the shipowner and vessel's manager;
 - the names, addresses and telex/telefax numbers of all holders of any registered mortgages, hypothecations or similar recorded charges upon the vessel; and
 - the dates contemplated for commencement, and earliest lawful termination, of the bareboat charterparty.
- c. Charterer's Oath or Affirmation of Undertaking: This is a duly acknowledged letter addressed to the Commonwealth of Dominica Maritime Administration, c/o Dominica Maritime Registry, Inc., (see Chapter V, Section 2(B)) pursuant to Sections 64 & 65 of the Act, containing statements that:
 - The vessel will not fly any flag other than the Commonwealth of Dominica flag, nor show any home port other than Roseau or Portsmouth, while the vessel is subject to bareboat registration under the laws of the Commonwealth of Dominica.
 - During the period of registration, the bareboat charterer recognizes that the Commonwealth of Dominica has exclusive jurisdiction over the vessel, in its capacity as flag State.

- The bareboat charterer will promptly notify Dominica Maritime Registry, Inc., to the attention of its Vessel Registration & Recordation Division, whenever the charterparty has been terminated for whatever reason or that another country has accorded to the vessel the right to fly its flag.
- Within 30 days of the termination of the bareboat charterparty or the current Commonwealth of Dominica Provisional Certificate of Registry, whichever is earlier, the charterer will return to DMRI the vessel's Provisional Certificate of Registry and all other certificates issued to it by or on behalf of the Commonwealth of Dominica.
- The bareboat charterer recognizes that, under Section 67 of the International Maritime Act, it shall be liable to pay an administrative penalty as a result of its failure to comply with that section of the Act.

4.1.4 RECORDATION OF CHARTERPARTY

Section 66 of the Act requires that the bareboat charterparty be recorded. The original charterparty, together with any annexes, should be submitted, with English translation if in any other language, with proof of due execution (see Chapter V, Section 2(B)), to Dominica Maritime Registry, Inc. Certification of copies of charterparties and related instruments may be made by a notary public or any other officer authorized to take acknowledgments or authenticate documents, as described in Chapter 5, Section 2(B).

1. Proof of recordation of the charterparty, in the form of a certified copy of such recording issued by DMRI will constitute prima facie evidence of recordation of the charterparty as required by Section 66 of the Act.
2. Please note that any subsequent amendments or addenda to the charterparty or any subsequent bareboat sub-charterparties must be submitted for recording within thirty (30) days of execution with proof of due execution and English translation, if applicable.
3. Official certificate issued by the present country of registry setting forth the ownership of the vessel and recorded encumbrances.

4. Written consents, with proof of due execution, of the shipowner and the mortgagee(s), if any, to the Commonwealth of Dominica registration.

5. Withdrawal of the Right to Fly Present Flag: Satisfactory evidence that the present country of registry will withdraw from the vessel the right to fly its flag while the vessel is under Commonwealth of Dominica bareboat charter registration.

4.1.5 REGISTRATION AND SERVICE FEES

1. Initial registration fees and service fees are payable when the vessel is to be bareboat registered in the Commonwealth of Dominica.

2. The check or bank draft in United States dollars shall be drawn on a U.S. bank or the U.S. branch of an international bank and made payable to Dominica Maritime Registry, Inc. This check should be sent to the representing DMRI office. Details for wire transfers may be found in Appendix 17.

3. The full schedule of fees required at vessel registration appears in Annex 5.

4.1.6 ISSUANCE OF CERTIFICATE OF BAREBOAT REGISTRY

1. Name and Official Number of Vessel: A Provisional Certificate of Bareboat Registry and a Temporary Radio Authority are issued to the bareboat charterer after satisfaction of the above requirements. The Commonwealth of Dominica Provisional Certificate of Bareboat Registry will bear the name and official number of the vessel as they appear on the register of the foreign State of registration.

2. Expiration of Provisional Certificate of Bareboat Registry: Although the Provisional Certificate of Bareboat Registry is generally issued initially for a maximum of two (2) years or for the length of the charter agreement (whichever is less). It may be reissued for further periods of two (2) years, from time to time, upon application of the bareboat charterer, provided that all the requirements of this Section have been and continue to be met.

3. Termination of Charterparty: The Provisional Certificate of Bareboat Registry will not be issued or reissued to a date beyond the termination date of the bareboat charterparty, but as explained above, will be reissued where a bareboat charterparty has been extended.

4.1.7 MORTGAGE ON VESSEL UNDER COMMONWEALTH OF DOMINICA BAREBOAT CHARTER REGISTRATION

The status of a mortgage or related instrument secured by or with respect to a bareboat registered vessel is subject to the law of the owner's State (i.e., that of the "underlying" registry), a fact reflected in Article 16 of the International Convention on Maritime Liens and Mortgages, 1993. Under Section 68 of the International Maritime Act, the Maritime Administrator will accept for recordation a Notice of Foreign Ship Mortgage, or of a similar recorded instrument, that has been recorded or registered in the State of underlying registration of the vessel. When a vessel is bareboat registered in the Commonwealth of Dominica, and a Notice of Foreign Ship Mortgage or similar instrument is to be recorded as provided in Section 68 of the Act, such notice prepared by one of the parties, in the same manner as a Memorandum of Particulars, should contain the following:

1. the name and official number of the vessel as it appears in the State of underlying registry;
2. the name of the State of underlying registry;
3. the type of instrument so registered or recorded;
4. where applicable, the time, date of reception, and place in the State of underlying registry in which the mortgage or related instrument was recorded or registered;
5. the book and page, or other relevant particulars, locating and identifying the said instrument in the registry of the foreign State; and where applicable, the amount(s), maturity date and parties to the instrument.

A certified copy of the foreign mortgage or related instrument must be submitted with the notice described above; however, the notice itself must be executed and acknowledged by counsel or another agent for one of the parties (either the owner or bareboat charterer of the vessel), pursuant to a Power of Attorney, in the same form as any other recorded instrument, in the same manner as set forth in Section 68 of the Act. (See Chapter 5, Section 2(B).) The foreign ship mortgage or similar instrument will be subject only to the laws of the foreign State of

registration of the vessel. If there is more than one such mortgage, or similar instrument, then notices of all such instruments must be filed as provided under Section 68 of the Act, in the same order as they are registered in the foreign State of registration. Notice of any mortgage, or similar instrument, which is subsequently recorded in accordance with the laws of the foreign State of registration of the vessel, must also be promptly submitted for filing in accordance with this Section.

4.2 Bareboat Registry in a Foreign State

Part IV of the International Maritime Act governs bareboat charter registration of a vessel, registered in the Commonwealth of Dominica, under the flag of a foreign State. Under this Part, all preferred ship mortgages recorded in the Commonwealth of Dominica remain in full force and effect, and are governed exclusively by Commonwealth of Dominica law during the period of bareboat registration in the foreign State.

1. Certificate of Permission: A Letter of Permission for Foreign Bareboat Charter Registration will be issued when all requirements in the following sections have been satisfied.

4.2.1 APPLICATION FOR PERMISSION TO BAREBOAT OUT OF THE COMMONWEALTH OF DOMINICA

1. Letter of Application: A letter of application for permission to obtain foreign bareboat charter registration should be submitted to DMRI. No application form is used. One (1) signed original letter of application should be submitted, containing:

- a. the name and official number of the vessel;
- b. the name, address, telefax and telephone numbers of the bareboat charterer;
- c. the vessel's intended service, the nature of the cargo and geographical regions in which it will navigate; and
- d. the dates contemplated for commencement of the charterparty and for its earliest termination.

2. Letter of Permission: A Letter of Permission for Foreign Bareboat Charter Registration will be returned to the owner, indicating the consent of the Commonwealth of Dominica to the proposed foreign bareboat charter registration.

4.2.2 REQUIRED DOCUMENTS TO ACCOMPANY LETTER OF APPLICATION

1. Letter of Consent of Preferred Mortgagees: If the vessel is already subject to one or more Commonwealth of Dominica preferred ship mortgages, the written consent of each mortgagee to the proposed foreign bareboat charter registration, usually in the form of a letter, must be presented to DMRI.

2. Owner's Undertaking: This statement is in letter form, and must be acknowledged as generally described in accordance with Chapter I, Section 3(D), and Chapter V, Section 2(B)(2). In the statement, the owner undertakes:

- a. to furnish the existing Commonwealth of Dominica Certificate of Registry to DMRI within 60 days of the issuance of the Certificate of Permission for Foreign Bareboat Charter Registration or within 30 days of the date of commencement of the charterparty, whichever is later; and
- b. to notify DMRI immediately whenever the charterparty has terminated, for whatever reason, or when the owner has otherwise retaken possession of the vessel.

3. Agreement between Owner and Charterer: Pursuant to Section 72 of the International Maritime Act and Commonwealth of Dominica Maritime Regulation 28, the Maritime Administrator must have evidence in its possession that both the owner and the bareboat charterer are aware that the Commonwealth's jurisdiction over the vessel has been withdrawn during the period of foreign bareboat charter registration, and that as soon as that period ends, the safety and equipment standards required under Commonwealth of Dominica law, in accordance with the applicable international conventions and agreements to which the Commonwealth is party, will be immediately and fully implemented and observed by the owner. The agreement between the owner and the bareboat charterer, acknowledged in accordance with Chapter V, Section 2(B), must contain the following statements:

- a. Waiver of the Vessel's Right to Fly the Commonwealth of Dominica Flag: During the period of foreign bareboat charter registration, the owner and bareboat charterer will neither permit the vessel to fly the flag of the Commonwealth of Dominica, nor show Roseau or Portsmouth as her home port while the vessel remains in the service of the bareboat charterer under the charterparty, and that the owner and bareboat charterer

acknowledge and agree that the vessel shall immediately revert to the jurisdiction and control of the Commonwealth of Dominica when the charterparty is terminated or expires, or possession and control of the vessel is retaken by the owner.

- b. The Vessel's Commonwealth of Dominica Standards will be Maintained: At all times pending the vessel's return to the Commonwealth of Dominica flag, it will be equipped, maintained and navigated to standards which are no less than those laid down in the International Maritime Act and Maritime Regulations, including the relevant International Conventions to which the Commonwealth of Dominica is a party.

4. Charterparty: As provided in Commonwealth of Dominica Maritime Regulation 29, the charterparty upon which foreign bareboat charter registration is to be based must be submitted for filing at the offices of DMRI.

- a. Authentication of Charterparty: This charterparty, and any amendments thereto, must be accompanied by proof of due execution, which is a statement that the charterparty was signed in accordance with the laws of the country or State in which it was signed, and the signature, name and title of the notary public or other official must be legible.
- b. Proof of Due Execution: Please note that this is a legal certification — not an oath — that the instrument was duly executed by the person signing it. Time and expense may be saved if the charterparty itself is signed and acknowledged before a Special Agent of the Maritime Administrator, who can be contacted at DMRI. Authentication may also be by Hague Convention Apostille or by a notary public or other officer authorized to take acknowledgments.

4.2.3 FILING OF CHARTERPARTY

1. Initial Charterparty: A copy of the bareboat charterparty, acknowledged or with proof of due execution, together with all annexes or addenda thereto and any bareboat sub-charter parties, with English translation if in any other language, shall be filed with DMRI. Filing of these documents with DMRI does not make them a part of the public record.

2. Amendments to Charterparty: Subsequent amendments or addenda to the bareboat charterparty, with an English translation if they are in any other language, are to be filed as

provided above together with a letter noting which sections, if any, have been altered, together with consent(s) thereto by the mortgagee(s) of the vessel.

4.2.3 OTHER CONDITIONS OF FOREIGN BAREBOAT CHARTER

Section 73 of the International Maritime Act provides that after the vessel's current Commonwealth of Dominica Certificate of Registry has been surrendered to DMRI, a new Restricted Provisional Certificate of Registry shall be issued, showing that the right to fly the flag of the Commonwealth has been withdrawn. This legally establishes that upon termination of the underlying bareboat charterparty, for whatever reason, the underlying jurisdiction of the Commonwealth shall be reinstated by operation of law. Thus, there is no time that the vessel is stateless. When foreign bareboat charter registration terminates, for whatever reason, the full jurisdiction of Commonwealth of Dominica as flag State is immediately restored by law.

Accordingly, the Provisional Certificate of Registry issued under Section 73(2) of the International Maritime Act, is retained in the custody of the Maritime Administrator during the period of foreign bareboat charter registration, together with the Commonwealth of Dominica Ship Radio Station License.

4.2.4 ISSUANCE OF RESTRICTED PROVISIONAL CERTIFICATE OF REGISTRY

1. Endorsement: The Provisional Certificate of Registry will be endorsed to show that "The certificate grants no right to fly the Dominica flag while the vessel is subject to the bareboat charter filed on (date) with DMRI."

2. Term of Certificate: While the Restricted Provisional Certificate of Registry is valid for a term not exceeding two (2) years, it may be reissued upon application for further periods of not more than two (2) years each; but the date of expiration of each such certificate will not be later than the termination date of the bareboat charterparty in effect at that time.

4.2.5 NEW CERTIFICATE OF REGISTRY AFTER TERMINATION OF BAREBOAT CHARTER

Upon termination of the bareboat charter, or when the vessel's owner retakes possession, the following documents are to be submitted to DMRI.

1. A Letter of Application for a new Provisional Certificate of Registry, together with the issuance fee.
2. An Affidavit of the Owner acknowledged in accordance with Chapter 5, Section 2(B), advising that the bareboat charter has been terminated, or that the owner is in possession and control of the vessel; (See Annex 4.)
3. Evidence of satisfactory completion of:
 - a. a change of flag survey by the vessel's Classification Society, and
 - b. a safety inspection of the vessel conducted by a Nautical Inspector under the instructions of the Marine Safety Division of DMRI.

Upon receipt of the foregoing, a new Provisional Certificate of Registry shall be issued without a restrictive endorsement.

5

Recordation of Mortgages and Other Instruments

The Commonwealth of Dominica International Maritime Act incorporates a range of provisions for the recordation of security-related instruments and documents of title. Recordation gives notice to creditors, purchasers, suppliers and other parties with an interest in such transactions, and furnishes an internationally enforceable structure for the protection of those legal rights recorded with respect to a vessel of the Commonwealth of Dominica. Preferred status, accorded to a mortgage under Chapter 3 (Sections 74–93) of the Act, gives priority to the lender’s mortgage lien over those of certain other claimants.

A vessel, subject to a foreign mortgage lien in its present country of registry, is now permitted to register into the Commonwealth of Dominica flag and have its foreign mortgage lien accompany it into the Commonwealth of Dominica registry. This “tacking” legislation provides for the continuation of the preferred status of the mortgage without interruption. Under the statute, the mortgage’s deletion or release of record by the prior State of registry as a condition of the vessel’s deletion from that registry does not affect the priority of the mortgage lien in the Commonwealth of Dominica for a thirty (30) day period following the vessel’s registration in the Commonwealth of Dominica. If not recorded when the vessel is registered in the Commonwealth of Dominica, a Commonwealth of Dominica mortgage given in continuation of the foreign mortgage may be recorded within such thirty (30) day period, and, in either case, the Commonwealth of Dominica mortgage given in continuation of the foreign mortgage will have the status of a preferred mortgage lien on the vessel with priority dating from the original recording date of the foreign mortgage. (See Section 4 of this Chapter.)

The International Maritime Act, in harmony with the International Convention on Maritime Liens and Mortgages 1993, provides for the maintenance of a public register at which those documents specified in Sections 9, 74, 78, 79, and 87 of the Act, may be recorded. As provided in the Act, such recordations may be made at DMRI. Documents that may be recorded include: Bills of Sale (Section 78); Mortgages (Section 79); Satisfactions, Releases or Discharges of

Mortgages (Section 87); Assignments, and other instruments relating to mortgages on Commonwealth of Dominica vessels (Sections 9 and 74).

The Act is designed to facilitate the recordation and enforcement of credit facilities that embody modern asset-based financing techniques. A Commonwealth of Dominica preferred mortgage may secure sale and lease transactions, contingent and future obligations (Section 81); the Japanese “ne-teito” type of “floating mortgage” facility (Section 81(2)); advances and repayments; guarantees; and multiple types of collateralization incidental to the diversified ownership of more than one vessel.

Mortgages (Section 79) or other instruments submitted for recordation at DMRI may be acknowledged as described in Section 2(B)(2) of this Chapter before a Special Agent or a Deputy Commissioner of Maritime Affairs at that office. For the purpose of conducting closings, conference facilities are available at DMRI, if required. A closing may be held at DMRI, by prearrangement, on a 24-hour basis, together with telephone, telefax and e-mail hookup. Documents from closings at other sites may be faxed to DMRI with originals arriving within five (5) business days.

5.1 Commonwealth of Dominica Preferred Ship Mortgage

5.1.1 RIGHTS SECURED UNDER THE MARITIME ACT

1. A Commonwealth of Dominica preferred ship mortgage may, among other rights, secure:

- a. Debts owed to a party, including a corporation, other than the vessel owner (Section 81);
- b. Contingent obligations (Section 74, Section 81(1)(a));
- c. Charter hire (Sections 75 & 81(2));
- d. Future advances, and future debts (Section 81(1)(a));
- e. An agreed maximum amount even when there is no present commitment to lend (Section 81(c) and (d)), including “account current” and “ne-teito” facilities;
- f. A pledge or assignment of monies or rights, either presently owing or to become due in future (Section 75), including but not limited to hire, insurance and freights;
- g. Revolving credit facilities, including multiple advances and repayments (Section 81(1));

- h. Fees, costs or charges incidental to the sale, operation or charter of a vessel of the Commonwealth of Dominica (Section 75);
- i. Guarantee fees (Section 75);
- j. Amounts denominated in one or more currencies, as well as options to fund mortgage payments in one or more alternate currencies (Section 82);
- k. Currency losses arising from fluctuations between designated currencies where a unit of account is altered (Section 82);
- l. A right arising from a contract to construct, purchase, sell or charter a ship (Section 81(2)(e)) and
- m. Property other than a vessel. (Sections 80(2), 81(2)(e), and 91(1)).

Note: The above list does not enumerate all mortgage-related features of Chapter 3 of the International Maritime Act.

5.1.2 CHARACTERISTICS

1. Recordation:

A Commonwealth of Dominica preferred ship mortgage may be recorded in the offices of DMRI. (See Sections 74 and 78 of the Act.) Preferred ship mortgages are recorded in the public register of the Maritime Administrator.

Mortgages so recorded (see Sections 9 and 79 of the Act), are open to public inspection (see Article 1 of the International Convention on Maritime Liens and Mortgages, 1993), in accordance with the laws of maritime nations governing the recognition and enforcement of ship mortgages (Sections 74 and 79).

All mortgages are recorded (Section 74(1)) to show the time and date of such recordation, the name of the vessel, the names of the parties, and the amount(s) secured by the instrument (Section 74(3)). In time of international crisis, a Commonwealth of Dominica ship mortgage may be recorded by the Maritime Administrator, despite the parties' inability, due to force majeure, to comply with the requirements of Section 31(1) of the Act, concerning documents to be provided from abroad.

Recordation of a Commonwealth of Dominica preferred ship mortgage entitles the parties, where appropriate, to receive a Certificate of Ownership and Encumbrance and an Abstract of Title as official evidence of recordation, containing the above information (Section 79).

2. Acknowledgment:

- a. Commonwealth of Dominica ship mortgages may be acknowledged before a Special Agent or Deputy Commissioner of Maritime Affairs of the Commonwealth of Dominica in the office of the Dominica Maritime Registry, Inc. or as prescribed in Section 2(B)(2) of this Chapter (See Section 10 of the Maritime Act.)
- b. Consularization is never required when recording a Commonwealth of Dominica ship mortgage. (See Chapter I, Section 3(D).)
- c. Other: In addition, a Commonwealth of Dominica ship mortgage need not set forth a maturity or termination date, unless so required by the parties. (See Section 74(4) or Section 81(2) of the Act.) The mortgage may be executed before the date of its recordation (Section 75), and it may be secured by more than one vessel as provided for under Section 80(2). A Commonwealth of Dominica ship mortgage remains in effect until released or discharged, notwithstanding a change in the mortgaged vessel's status in the registry of the Commonwealth of Dominica (Section 76).

5.2 Contents, Execution and Recordation of Recordable Instruments

5.2.1 CONTENTS OF RECORDABLE INSTRUMENTS

A Commonwealth of Dominica ship mortgage must contain the name of the vessel, the names and identities of the parties to the mortgage, the interest in the vessel affected, and the amount(s) of the direct or contingent obligations that are or may become secured under its terms. (See Section 74 and 77 of the Act.) A preferred ship mortgage must also be duly acknowledged or contain proof of due execution or an apostille.

Note on Drafting: Documents to be recorded under the provisions of the International Maritime Act 2000, need not be of unusual length (attention to quality of draftsmanship should prevail over quantity).

1. English Language: All documents recorded under the provisions of the Maritime Act, are required to be in the English language, with the sole exception of notices of foreign language ship mortgages recorded pursuant to the bareboat registry provisions of Section 68 of the Act. In that case, only the cover page and execution page(s) need to be translated into English.

2. Parties to the Mortgage:

- a. Who May be a Mortgagee: Any legal entity or individual may be a mortgagee, and no restriction exists as to its nationality. It is the view of the Maritime Administrator that in the case of a consortium or syndicate of banks, one such bank may be a mortgagee, whether or not it is a trustee, if it is so designated, because this does not affect the recordability of such a mortgage. Accordingly, if there is an express agreement giving that bank the authority to sign on behalf of the other lenders, a mortgage so executed will be recorded by the Maritime Administrator.

It should, however, be noted that in a number of countries, courts have held that in certain cases an agent for other lenders may not itself be a mortgagee; accordingly, it may be advisable to consider naming the principals for whom the agent acts as mortgagees, if it is thought that a court in a State in which the mortgage is to be enforced may adhere to this view.

- b. Written Consent of Mortgagees: The written consent of current mortgagees is required when a junior, new, or subordinate mortgage is recorded, or an existing mortgage is assigned. No new mortgage or assignment will be recorded unless the written consents of all current preferred mortgagees are also presented for filing.

3. Interest Transferred or Affected:

- a. The Vessel: Under Section 74(4)(d) of the Act, a preferred ship mortgage gives public notice of “the interest transferred or affected,” (see also, Sections 77 and 79), which in practice, is a grant, conveyance and mortgage of the “whole of the vessel,” as stated in Section 75 of the Act.

- b. Non-Vessel Property: The mortgage may, where appropriate, contain a statement as to whether it secures any non-vessel property. (See Section 88(6) of the Act.) Provision for separate discharge is, however, not required, and such statement is not a requirement of the Act. (See Section 80(2) of the Act.)

4. Evidence of Debt: Under Section 79 of the International Maritime Act, a preferred ship mortgage, or the documentation recorded with it, must contain “written proof,” of the “amounts and dates of any documents or evidence of debts in support thereof.”

- a. Description of Evidence: In practice, this requirement is usually satisfied by reciting a description of the appropriate mortgage or loan agreement provision(s), such as:
 - *Shipowner’s acknowledgment of indebtedness in “Whereas” Clauses C and D and the covenant to repay in Clause 3 of the first preferred mortgage.*
 - or -
 - *Loan Agreement dated March 27, 1995, in the amount of twenty million dollars (US\$20,000,000) and recitals and covenants in the first preferred mortgage.*

A statement evidencing debt should include a full description of the amounts, dates, and commitment or agreement to lend (the “mortgage recitals”). If such a description is not contained in the mortgage, this information may be furnished by means of a form or copy of a promissory note, facility letter or other written instrument, which can be described in the Memorandum of Particulars.

- b. Date of Maturity: Under Section 74 of the International Maritime Act, it is no longer a requirement that each mortgage holding preferred status set forth a “date of maturity”. The parties to a loan, however, may require that a date of maturity be fixed in the loan agreement. Where a loan “pursuant to agreement” is made under Section 81(2), a statement of either the maturity date or the date of termination is required.
- c. Pursuant to Commitment: If a mortgage deals with a loan made “pursuant to commitment,” and secures future advances and repayments, such as a revolving credit facility, (see Section 81(1)(c)), in order to confer preferred status on the mortgage lien, the mortgage shall include a statement that:

- *the maximum amount that may be outstanding under the mortgage at any one time is [insert]*

.- OR –

- *the aggregate of all possible advances that may be made under the mortgage is [insert];*

d. Pursuant to Agreement: If a mortgage secures a loan made “pursuant to agreement,” the mortgage secures an indebtedness that may arise within some specified time in the future (sometimes referred by lawyers in Asia as a “ne-teito”). (See Section 81(2).) Such a mortgage must include a statement that:

- *the maximum indebtedness that may in future arise under the mortgage is (insert) .*

5. Amount of the Mortgage: As stated above, a Commonwealth of Dominica preferred ship mortgage (see Section 74(4)(e)) furnishes public notice of “the amount or amounts of the direct or contingent obligations” that it secures. The amount secured is usually described in the mortgage recitals, as well as in the recordation clause.

6. Recordation Clause: Mortgages, amendments and related instruments should contain a clause, (often called a “recordation clause”), containing the basic information to be inscribed on the public register. The following is an example of a mortgage recordation clause, for the purpose of illustration only:

For the purpose of recording this first preferred mortgage as required by Section 74 of the Commonwealth of Dominica International Maritime Act, (as amended), the amount is three million, nine hundred thirty thousand dollars (US\$3,930,000) together with interest and performance of mortgage covenants.

7. Attachment of Other Documents: A Commonwealth of Dominica preferred ship mortgage generally takes a form which is, in some ways, similar to that known in some countries as a deed of covenant. Because it is common for the parties to enter into a loan agreement, and because Section 74(1) provides that a mortgage shall not be valid against third persons until

“the instrument evidencing such transaction is recorded,” lawyers often attach such agreements, particularly those containing provisions for default and other covenants, to the mortgage itself.

Accordingly, it is prudent to attach as an exhibit a loan agreement or similar instrument unless all relevant provisions are included in the mortgage itself. It is usually easier and less expensive to attach the loan agreement in the form accepted by the parties, and then to refer to it in the mortgage when necessary. While courts often will enforce the provisions of a loan agreement referred to and incorporated by reference, but which is not attached to the mortgage, the prudent draftsman may, in the interest of economy, safety and expediency, wish to attach, as well as incorporate by reference, whatever documents may be relevant to enforcement of the security. A loan agreement or similar document should always be attached when it is the only way in which third parties can determine the total amount of the mortgage.

8. Number of Copies:

- a. One (1) original and three (3) counterparts of a Commonwealth of Dominica preferred ship mortgage duly executed and acknowledged or with proof of due execution, are necessary for recordation under the Act.
- b. Amendments, Addenda, Assignments, Subordination Agreements, Coordination Agreements, and similar documents are recorded in the same manner as a preferred ship mortgage, that is, in the form of one (1) original and three (3) counterparts, all duly executed and acknowledged or with proof of due execution.
- c. A Satisfaction, Release or Discharge should be submitted in the form of one (1) original and two (2) counterparts, each duly executed and acknowledged or with proof of due execution.
- d. A Bill of Sale or Builder's Certificate submitted for recordation should be submitted in the form of one (1) original and two (2) counterparts each duly executed and acknowledged or with proof of due execution.

5.2.2 EXECUTION OF RECORDABLE INSTRUMENTS

The Signature and Acknowledgment of Recordable Instruments and Related Documents A Power of Attorney or instrument to be recorded under the provisions of the International Maritime Act, must be signed by an officer or authorized agent of the shipowner.

1. Authority to Execute the Instrument: Recordation of an instrument other than a satisfaction, release or discharge of mortgage, in accordance with the provisions of Commonwealth of Dominica law, requires evidence of the signer's authority, such as a Certified Resolution of the Board of Directors, or other body, or a Power of Attorney in favor of the signer. A Board of Directors Resolution must be signed by an officer other than the person who shall execute the mortgage or related instrument.

Note: The requirements of Chapter V, Section 3 for authorization to satisfy, release or discharge a preferred ship mortgage, differ from those governing authority for the execution and recordation of other instruments under the Act.

2. Signature and Acknowledgment: All recorded instruments, including mortgages, Bills of Sale and related instruments, must be acknowledged or bear proof of due execution, a procedure certifying that the document submitted for recordation has been duly executed in accordance with the requirements of Commonwealth of Dominica law. There are a number of different ways in which this can be done. (See Sections 78 and 79 of the Act)

Administration of an acknowledgment or proof of due execution may be performed by a Special Agent of the Maritime Administrator or a Deputy Administrator of Maritime Affairs of the Commonwealth of Dominica. (See Section 10 of the Act)

Such an official is present at the offices of DMRI, and is authorized to perform this service by pre-arrangement at any location to which he or she may travel at the request of the parties.

- a. Acknowledgment: An acknowledgment may also be administered by any official empowered by the local or national law of the State in which the instrument is signed to administer an oath or affirmation or make a similar certification, such as a notary public. No consularization of a recordable instrument, or Power of Attorney executed for that purpose, is ever required under the International Maritime Act. An acceptable form of acknowledgment is set forth in Annex 4 of this booklet.
- b. Proof of Due Execution: Proof of due execution (see Sections 10, 77, 78 and 79 of the International Maritime Act), is an optional form of certification if an oath is not obtainable under the law of the nation or district in which the document is executed. Accordingly, an instrument to be recorded, or a Power of Attorney required to be acknowledged under Commonwealth of Dominica law, may instead bear such proof of due execution.

Proof of due execution is essentially an acknowledgment without an oath, stating that the instrument was duly executed in accordance with the laws of the nation or place of execution, and is subscribed (signed and sealed) by a Commonwealth of Dominica Deputy Commissioner of Maritime Affairs, Special Agent, local notary or other official authorized to take such acknowledgments or legally certify that the instrument was duly executed by the person signing it. An acceptable example of such proof of due execution is as follows:

I, (name of official), being a Notary (or other qualified official) of the (name of nation or State) in (name of town or city), duly appointed and qualified, do hereby certify that on this (date, month and year) before me personally appeared (name), who identified himself/herself to me to be the individual described in, and whose name is subscribed to, and who executed the annexed instrument, and being informed by me of the contents of said instrument, did duly acknowledge to me that he/she executed the same freely and voluntarily for the uses and purposes therein mentioned.

In witness whereof, I have hereunto set my hand and official seal on this [insert] day of [insert], [year].

(Signature of Official)

(Title of Official)

Note: The above example is intended as an illustration and not an exact choice of words.

C. *Apostille*: The Commonwealth of Dominica is a State Party to the Hague Convention of 30 October 1961, as amended, and the apostille of the competent authority in another such State Party will be acceptable if affixed to the instrument.

5.2.3 RECORDATION OF DOCUMENTS

1. The Preferred Mortgage Index: Under Sections 9, 74, 78, 79 and 87 of the International Maritime Act, mortgages, Bills of Sale and related instruments may be recorded in the Preferred Mortgage Index, at the head office of DMRI. (See Annex 16 of this document.) These records are protected from unauthorized interference during the recordation process. Proof of the recorded lien status of a vessel registered in the Commonwealth of Dominica may be furnished by DMRI. Recordation in the Preferred Mortgage Index (see Sections 9 and 79 of the Act), open to public inspection (see Article 1 of the International Convention on Maritime Liens and Mortgages, 1993), conforms to requirements established for the recognition and enforcement of foreign ship mortgages under international maritime law (see Sections 74 and 79 of the Act).

2. Closings: Arrangements for vessel registration and for the recordation of mortgages, Bills of Sale and other instruments at an office or offices of Dominica Maritime Registry, Inc., wherever located, require not less than forty-eight (48) hours notice (two business days) to that office or offices. This notice is necessary in order to assure adequate time to prepare the documents issued to the parties concerned at each office engaged in the closing, as provided in Sections 9, 74, 78, 79, and 87 of the International Maritime Act. Conference and communications facilities exist at each DMRI office for the convenience of clients desiring to conduct such closings on DMRI's premises.

3. Memorandum of Particulars: With each mortgage or related instrument, such as an addendum, amendment, supplement, subordination or coordination agreement, a short document known as a Memorandum of Particulars is submitted to DMRI for use in preparation of the Abstract of Title. The memorandum should be signed on behalf of the mortgagor (the shipowner), and contain the information described in Annex 15.

The information to be inscribed on a Memorandum of Particulars includes a brief recital of the intended effect of the instrument to be recorded. Several examples of such statements follow:

- a. For an Assignment of Mortgage:

Assigns the preferred mortgage dated March 30, 1995, and recorded in Book PM 3 at page 287 to (name of bank), with a reduced total amount of US\$3,000,000 and interest and performance of mortgage and loan agreement covenants.

- b. For an Amendment of Mortgage:

Amends mortgage covenants; reflects assumption of mortgage by _____, Inc.; reduced total amount to US\$7,600,000 and interest and performance of mortgage covenants.

- c. For a First Preferred Mortgage:

To establish a first preferred mortgage lien on the whole of the vessel.

4. Review by Maritime Administrator: It is prudent for the parties to submit draft documents to be recorded for review by the staff of DMRI prior to the scheduled closing date. Such review is, of course, not a determination as to the enforceability of such an instrument in a court of law, but is useful as a means of checking to ensure that the document meets the legal requirements necessary for recordation under Commonwealth of Dominica law.

5. Recordation: Recordation (see Section 74(1) of the Act), affects the registration of such relevant data as the time and date of recordation of the instrument, the name of the vessel, the names of the parties, the amount(s) secured by the instrument, and its date of maturity, if any (see Section 74(4)).

6. Evidence of Recordation: DMRI is authorized under Section 79 of the Act, upon timely request, to issue:

- a. Abstracts of Title, of the public register maintained by the Maritime Administrator, as evidence of recordation of preferred ship mortgages under the laws of the Commonwealth of Dominica;
- b. Certificates of Ownership and Encumbrance, setting forth the status of all recorded mortgages and related instruments with respect to a particular vessel as of the time and date inscribed on the certificate. More than one such certificate may be issued, if it is desired to obtain a written record of the recorded lien status of a vessel of the Commonwealth of Dominica before and after recordation of a particular instrument or instruments; and
- c. Certified and Recorded Copies of Recorded Instruments, which are usually issued at the time of their recordation.

Please Note: To avoid any undue delay, requests for additional certificates, certified copies or authentications should be made in advance.

5.3 Satisfaction, Release or Discharge of Mortgage

The International Maritime Act requires that special procedures be followed when documents evidencing debt are released, discharged or satisfied, in order to protect lenders and owners from the dangers of a mistaken release or discharge of a mortgage, or even possible fraud.

A mortgagee, such as a bank, may directly issue a satisfaction, release or discharge signed by one of its duly authorized officers or officials. However, the mortgagee may prefer to give a Power of Attorney to someone else, such as a lawyer, to prepare, sign and record the satisfaction, release or discharge at an office DMRI.

To be acceptable, one (1) original and two (2) counterparts, each duly executed and acknowledged or with proof of due execution of the satisfaction, release or discharge must be presented to DMRI in fully recordable form.

5.3.1 SATISFACTION, RELEASE OR DISCHARGE OF MORTGAGES BY AN ATTORNEY-IN-FACT

1. Attorney-in-Fact: If a Power of Attorney is issued by the mortgagee, it must authorize the attorney-in-fact, usually a named lawyer or lawyers, or an employee of the bank, to satisfy the mortgage or release the lien of the mortgage. A Power of Attorney must identify the vessel and the mortgage. The mortgage is identified in a Power of Attorney by stating the book and page number and date of recordation and/or execution of the instrument.

2. Bank Employees: The mortgagee may also issue a Power of Attorney to a person or persons who are employees of the bank or who are otherwise employees of the mortgagee, or to any other person(s).

3. Form of Power of Attorney: A Power of Attorney in acceptable form contains the signature of an officer or officers of the mortgagee, either (1) acknowledged or, (2) with proof of due execution. (See Chapter 5, Section 2(B).) A telefax from a person admitted to the practice of law in the place of execution of the power, confirming that a Power of Attorney has been executed and reciting the contents thereof, will be temporarily accepted upon an undertaking, which shall be stated in the telefax, that the original instrument (or a certified copy) and three (3) copies thereof will be presented in due course to DMRI. (See Annex 16.)

5.3.2 SATISFACTION, RELEASE OR DISCHARGE OF MORTGAGE BY OFFICIAL OF THE MORTGAGEE

A satisfaction, release or discharge of a ship mortgage or similar instrument can be signed by an officer or other duly authorized official of the mortgagee. When this is done, the mortgagee must supply DMRI with a certified copy of the document authorizing that officer or official to sign the document. The term "certified" means that the genuineness and validity of the document authorizing signature by the official of the mortgagee is confirmed in writing by a second officer or official of the mortgagee.

The document itself can be a certified copy of the page of the signature book, issued by the bank, showing a specimen signature, together with a statement authorizing his or her power to

sign on behalf of the mortgagee. If this signature book, or page thereof, has already been given to DMRI, a written statement that it is still in effect will save the trouble of transmitting a new specimen signature.

In place of a certified specimen of the officer's signature, other evidence of basic authority of the signing officer or official may be accepted by DMRI. This other evidence may be either:

- a. a sworn or affirmed statement by a senior officer of the mortgagee that the signer is authorized, or
- b. a statement by the signer, acknowledged under oath and specifying the source of his or her authorization.

5.4 First Preferred Commonwealth of Dominica Ship Mortgage Granted in Continuation of Prior Foreign Mortgage

5.4.1 NOTIFICATION

Upon completion of the application for registration of a vessel in the Commonwealth of Dominica, provision has been made to allow the applicant to give the required notice to DMRI that a foreign mortgage will be transferred to the Commonwealth of Dominica.

5.4.2 REQUIRED DOCUMENTATION TO BE SUBMITTED WITH APPLICATION FOR REGISTRATION

If an applicant intends to grant a preferred mortgage on the vessel in continuation of a prior foreign mortgage, the applicant shall comply with all requirements generally relating to Commonwealth of Dominica preferred ship mortgages. In addition, the following information shall be provided to DMRI at the time of submitting the application for registration:

1. the name and registry number of the vessel as it appears in the State of foreign registry as well as the name of the State of foreign registry;
2. the type of instrument so registered or recorded;
3. the time and date of registration or recordation, and place in the State of registry in which the mortgage or related instrument was registered or recorded;
4. the book and page, or other relevant particulars, locating and identifying registration or recordation particulars of the said instrument;

5. where applicable, the amount(s), maturity date and parties to the instrument;
6. a copy of the foreign mortgage or related instrument certified or issued by the appropriate governmental agency in the State of foreign registry (or certified by the mortgagee);
7. evidence of registration or recordation of the prior foreign mortgage (In that regard, a transcript of registry, certified or issued by the appropriate governmental agency in the State of foreign registry shall be accepted as evidence of the granting and recordation of a prior foreign mortgage, hypothecation or similar charge, including the date of recordation (similar to a Certificate of Ownership and Encumbrance) issued by such Administrator.);
8. consent(s) of mortgagee(s) of the prior foreign mortgage to the deletion of the vessel from the foreign registry, the sale and transfer of the vessel to the entity applying to register the vessel in the Commonwealth of Dominica, if applicable, the registration of the vessel in the Commonwealth of Dominica and the granting of the Commonwealth of Dominica mortgage in continuation of the prior foreign mortgage; and
9. the Memorandum of Particulars.

5.4.3 STATUS OF MORTGAGE

The statute provides that the effect of the Commonwealth of Dominica mortgage is not affected if the prior foreign mortgage is deleted from the prior registry as a condition of, or in connection with, deletion of the vessel from the foreign registry. However, in the event of the transfer of ownership, it would be anticipated that the instrument of transfer will refer to the prior foreign mortgage and that the applicant will not wish to have the prior foreign mortgage deleted from the foreign registry until after the execution and recording of the Commonwealth of Dominica mortgage granted in continuation.

If the foreign mortgage satisfies all of the requirements of the statute, the preferred status of the mortgage on the vessel will continue for a period of thirty (30) days following registration of the vessel in the Commonwealth of Dominica allowing time to record a Commonwealth of Dominica mortgage instrument in continuation of the prior foreign mortgage. A sample Commonwealth of Dominica mortgage may be obtained through DMRI. (See Annex 16.)

5.4.4 ACKNOWLEDGMENT

The Commonwealth of Dominica mortgage must be acknowledged or bear proof of due execution as per Section 79 of the International Maritime Act. (See Sect. 5.2.2.2(B) of this Chapter)

6

Transfer of Vessel from the Commonwealth of Dominica Registry

6.1 Application for Transfer

When an owner of a Commonwealth of Dominica registered ship has entered into an agreement to sell its ship, and the purchaser has stated his or her intention to register the vessel in a country other than the Commonwealth of Dominica, the seller submits a written request for Permission to Transfer, containing the name and domicile of the purchaser and the name of the country to which the vessel's registry will be transferred.

If the vessel is being sold for the purpose of scrapping, this must be stated in place of the new country of registry. Should the current owner only wish to transfer the vessel's registry, the request includes the wording "for transfer of the vessel to (name of country) registry and flag, without change of ownership." Requests for Permission to Transfer are sent to the representing DMRI office (see Annex 16).

6.2 Certificate of Permission to Transfer

6.2.1 VALIDITY AND FEES

1. Certificates of Permission to Transfer, are issued for periods of limited validity, as follows:
 - a. For ninety (90) days
 - b. For one hundred eighty (180) days

2. The period of validity is specified by the owner in its application, and the appropriate fee is to be enclosed. The fees (see Appendix 5) also include the subsequent issuance of a Certificate of Cancellation of Registry upon compliance with Section 3 below.

6.2.2 ISSUANCE

A Certificate of Permission to Transfer will be issued when all the fees outstanding against a vessel have been paid.

6.3 Certificate of Cancellation of Registry

A Certificate of Cancellation of Registry will be issued once the following requirements have been met:

1. Certificate of Permission to Transfer

A certificate must be issued to the owner. (See Section 2, above.)

2. Satisfaction of Mortgages

If the vessel is subject to one or more preferred ship mortgages, hypothecations or similar charges, there must be recorded in an office of DMRI an instrument of satisfaction, release or discharge of such preferred mortgage or preferred lien.

3. Fees

Payment in full of any outstanding fees, penalties or charges of whatever nature due against the vessel or her owner must be made.

4. Surrender of Original Vessel Documents

Submission to DMRI of the following original vessel documents is required:

- a. the current Certificate of Registry;
- b. the Commonwealth of Dominica Ship Radio Station License; and
- c. one (1) copy of the Bill of Sale, transferring title to the purchaser, where a change of ownership has occurred.

7

Yacht Registration

7.1 Commercial Yachts

7.1.1 APPLICATION OF REQUIREMENTS FOR REGISTRATION

To the Administration, any pleasure yacht engaged in trade, commerce, on charter or carrying passengers for hire is a commercial yacht. The registration of commercial yachts is limited to those of 24 meters or more in length. The Maritime Administrator may, however, consider waiving the minimum size limitation and other requirements for commercial yachts less than 24 meters in length given the necessary justification.

7.1.2 OWNERSHIP

As described in Section 30 of the International Maritime Act, a Commonwealth of Dominica citizen or national or a qualified foreign maritime entity must own the vessel. (See Chapter 2) The term “citizen” or “national” includes Commonwealth of Dominica corporations, limited liability companies, partnerships and associations of individuals.

7.1.3 SUITABILITY FOR INTENDED SERVICE

As vessels engaged in trade, commercial yachts are subject to SOLAS, Load Line, MAR-POL and STCW Convention requirements, as applicable. Furthermore, under SOLAS, any vessel carrying more than 12 passengers for hire on board is considered to be a passenger vessel, subject to the passenger ship rules, regardless of tonnage and irrespective of whether or not it is being presented as a commercial or private pleasure yacht and as such would not be considered for registration as a yacht, but as a passenger ship. Since SOLAS defines a cargo ship as any ship within the Convention that is not a passenger ship, a commercial yacht of 500 or more gross tons that carries 12 passengers or less for hire must be classed by an organization recognized by the Maritime Administrator and certified as a cargo ship under the Convention. See Chapter I, Section 2(A) for a listing of recognized organizations.

The Administration would prefer those commercial yachts of 24 meters or more in length

and up to 500 gross tons be classed by an organization recognized by the Maritime Administrator in order to satisfy the suitability requirements for registration. Submission of a Certificate of Confirmation of Classification will satisfy this requirement.

7.1.5 TONNAGE MEASUREMENT

Compliance with the 1969 Tonnage Convention and the issuance of a 1969 Certificate of Tonnage Measurement is required for commercial yachts. A recognized Classification Society surveyor or an Authorized Surveyor may perform the measurements and certification. Yachts operating exclusively in the domestic waters of the Commonwealth of Dominica will not require an international certificate of tonnage measurement regardless of size.

7.1.6 SERVICE FEES

Commercial yachts are assessed an initial registration fee and service fee payable at the time of initial registration. An Annual Service Fee is payable annually on the anniversary date of initial registration. Upon receipt of payment, and subject to the requirements of the Maritime Act 2000 and the Commonwealth of Dominica Maritime Regulations as outlined in Section 1.10 of this Chapter, the Maritime Administrator will issue an annual service fee receipt to the owner as proof of payment. The receipt must be attached to the Commercial Yacht Certificate of Registry to maintain its validity.

7.1.7 HOME PORT

The homeport for commercial yachts shall be either the Port of Roseau or Portsmouth in the Commonwealth of Dominica.

7.1.8 INSURANCE

Proof of liability coverage from a P&I club or other underwriter in policy form acceptable to the Maritime Administrator is required. (See Chapter 3, Section 2.2.11)

7.1.9 REGISTRATION DOCUMENTATION

Commercial yachts are registered under the laws of the Commonwealth in the same manner as any other vessel engaged in trade. The standard application requirements outlined in Chapters 1, 2, and 3, except for classification as indicated in Section 1.3 above, and registration

fees as listed in the Fee Schedule (see Annex 5) apply.

7.1.10 STATUTORY COMPLIANCE

1. COLREGS '72: The Commonwealth of Dominica requires all commercial yachts regardless of size to comply with the International Regulations for Preventing Collisions at Sea, 1972 (COLREGS '72), as may be amended from time to time. The commercial yacht's Classification Society or an Authorized Surveyor shall verify COLREGS '72 compliance.

2. Commonwealth of Dominica Safety Code of Practice for Pleasure Yachts: Commercial yachts that are 24 meters or more in length and up to 500 gross tons must meet the requirements of the National Safety Code for Large Yachts. A Commonwealth of Dominica Document of Compliance will then be issued. Commercial yachts of less than 24 meters in length, if accepted for registration, must meet the requirements of the National Safety Code for Small Yachts and will also be issued a Commonwealth of Dominica Document of Compliance.

3. SOLAS '74: Compliance with the applicable provisions of the International Convention for the Safety of Life at Sea, 1974, and its Protocol of 1978, as amended, (SOLAS '74), is required as follows:

- a. Commercial yachts of 500 gross tons or more on international voyages carrying 12 passengers or less for hire must be classed and meet SOLAS cargo ship requirements.
- b. Commercial yachts of any gross tonnage carrying more than 12 passengers for hire on an international voyage will be considered passenger vessels that must be classed as such and must meet SOLAS passenger ship requirements.

Appropriate SOLAS Convention certificates are to be issued by an organization recognized by the Maritime Administrator.

4. Radio Station License: A National Radio Station License is required on all yachts with a radio station on board. An appropriately certified radio operator must also be on board. A SOLAS Ch. IV Convention Safety Radio Certificate will be required for all commercial yachts of 300 gross tons or over which will entail GMDSS compliance. National requirements apply to

yachts of less than 300 gross tons. Guidelines to meet these requirements may be found in the National Safety Code.

5. MARPOL/IOPPC: Compliance with the International Convention for the Prevention of Pollution from Ships, 1973, as amended by the Protocol of 1978 (MARPOL), is required as follows:

- a. Annex I applies to all yachts 400 gross tons or more are required to maintain an oil record book.
- b. All yachts of 400 gross tons or more are required to be issued and carry on board an International Oil Pollution Prevention Certificate (IOPPC) in accordance with Regulation 5 of Annex I.
- c. Annex V applies to all yachts regardless of size unless expressly provided otherwise.
- d. Annex VI, when in full force and effect, shall apply unless expressly provided otherwise. Owners are advised to consider that the provisions of Regulation 13 shall then be retroactive to 1 January 2000.

In addition, all yachts are required to meet local coastal State requirements for the control of pollution in their domestic waters that may exceed those of MARPOL.

6. ILLC '66: Compliance with the International Load Line Convention, 1966 (ILLC '66), is mandatory for all new commercial yachts of 24 meters or more in length or existing commercial yachts of 150 gross tons or more as defined in accordance with ILLC '66. The National Safety Code provides guidelines for the establishment of and application of this load line requirement.

7. Minimum Safe Manning Certification: Minimum safe manning levels will be established for every commercial yacht 80 gross tons and over. Levels are determined by yacht size and propulsion power on either long or short international voyages and operating distance limitations from a port of safe haven. Minimum guidelines are provided in the National Safety Code.

8. Seafarer Certification: Officer and crew certification shall be in accordance with Commonwealth of Dominica Maritime Regulations and STCW 95 requirements. Guidelines are provided in the National Safety Code.

7.1.10 ISSUANCE OF CERTIFICATES OF REGISTRY

1. Commercial Yacht Certificate of Registry: Issuance of a Commercial Yacht Certificate of Registry is subject to the satisfaction of documentation requirements outlined in Chapter 3 as modified by this Chapter.
2. Revalidation: Although issued without an expiration date, the Commercial Yacht Permanent Certificate of Registry is subject to annual revalidation. The continued validity of the Commercial Yacht Permanent Certificate of Registry is contingent upon the following requirements being met by the yacht owner or operator:
 - a. maintaining good standing of the owning entity in the Commonwealth of Dominica;
 - b. paying annual service fees and all other fees or assessments when due;
 - c. retaining current classification status and a valid National Document of Compliance; and
 - d. submitting to the Maritime Administrator each year a satisfactory Safety Inspection Report, Certificate of Survey or Statement of Compliance that must be received by the anniversary date of initial issue of the Commercial Yacht Permanent Certificate of Registry.

A service fee receipt will be issued each year upon receipt of payment. A current service fee receipt must be maintained with the Commercial Yacht Permanent Certificate of Registry for the certificate to be considered valid.

3. Notice of Suspension: Should any of the revalidation requirements above not be fulfilled by the yacht owner or operator, a Notice of Suspension of Registration will be issued by the Maritime Administrator.

4. Termination: Termination of the Commercial Yacht Permanent Certificate of Registry will result from the following reasons:
 - a. If the nonconformance cited in a Notice of Suspension of Registration is not corrected within ninety (90) days of the issuance of the Notice of Suspension, the Commercial Yacht Permanent Certificate of Registry will automatically be voided and the yacht stricken from the registry.

- b. A transfer or change in ownership will result in a termination of the Commercial Yacht Permanent Certificate of Registry unless the yacht is properly re-registered with the Commonwealth of Dominica.

The Commercial Yacht Permanent Certificate of Registry must be returned upon termination of registration for any reason.

7.1.11 ANNUAL SAFETY INSPECTIONS AND SURVEYS

1. Large Yachts: Yachts of 400 gross tons and above are subject to an annual safety inspection performed by the Office of the Maritime Administrator or a recognized classification society or an authorized surveyor on or before the anniversary date of the issuance of the Commercial Yacht Permanent Certificate of Registry. Either of these parties may carry out annual surveys. Completion of annual safety inspections and surveys are conditions for the continued validity of the Commercial Yacht Permanent Certificate of Registry.

2. Small Yachts: Yachts under 400 gross tons must also carry out an annual safety inspection as a condition for the continued validity of the Commercial Yacht Permanent Certificate of Registry. The owner/operator may arrange to have the inspection performed by:

- a. an Authorized Surveyor or classification society, or
- b. the Maritime Administrator, or
- c. a self-assessment scheme approved by the Maritime Administrator.

Statement of Compliance: Either method must result in the submission of a Statement of Compliance by the owner to the Maritime Administrator.

7.1.12 RECORDABLE INSTRUMENTS

Bills of Sale, Builder's Certificates, mortgages and related financial instruments may be recorded.

7.1.13 RENEWAL OF REGISTRATION

Permanent registration is renewable each year from the date of registration. The Annual Service Fees apply annually. Refer to the Fee Schedule for determining the amount due (see Annex 5). An invoice will be issued 60 days prior to the certificate's expiration date to allow for sufficient time to submit payment.

7.1.14 RE-REGISTRATION

See Chapter III, Section 5, for details on the re-registration procedures.

7.2 Private Yachts

7.2.1 APPLICATION OF REQUIREMENTS FOR REGISTRATION

The Administration considers any pleasure yacht not on charter or carrying passengers for hire, not engaged in trade or commerce, and being used solely for the pleasure or recreational purposes of its owner to be a private yacht. More specifically, to be considered a private yacht, a vessel is:

- a. In the case of a vessel owned by a corporate entity, one on which the persons on the vessel are employees, officers or shareholders (including beneficial owners) of the corporate entity, or their immediate family or friends; or
- b. in the case of a trust or other ownership arrangement, one on which the persons on board the vessel are beneficiaries under the trust or beneficial owners of the ownership arrangement, or their immediate family or friends;
- c. and in private use.

7.2.2 MINIMUM SIZE LIMITATION

The registration of private yachts is limited to those of 12 meters or more in length. The Maritime Administrator may, however, consider waiving the minimum size limitation and other requirements for private yachts less than 12 meters in length given the necessary justification.

7.2.3 OWNERSHIP

As described in Section 30 of the Act, a Commonwealth of Dominica citizen or national or

a qualified foreign maritime entity must own the vessel. (See Chapter 2) The term “citizen” or “national” includes Commonwealth of Dominica corporations, limited liability companies, partnerships and associations of individuals.

7.2.4 DECLARATION OF PRIVATE USE

To be registered as a private yacht, an owner must submit at registration a Declaration of Private Use, declaring that the yacht is “not” a commercial yacht or cargo vessel and will not be used for commercial purposes or gain.

The term “private use” means that the vessel is used on a private voyage or excursion, and during such use is not engaged in trade by transporting merchandise or carrying passengers for reward or remuneration (other than as a contribution to the actual cost of the vessel or its operation for the period of the voyage or excursion) or gain, and is not offered for charter or to the public for use.

The Registry permits a private yacht to be chartered out for up to 84 days in any one (1) calendar year to allow for the yacht owner to recoup some of his/her operating expenses. This chartering privilege exempts the yacht from having to be registered as a commercial yacht. However those who wish to charter their private yacht in accordance with these privileges will be required to satisfy the following additional requirements:

- i. Notify the Maritime Administrator in writing of the dates the yacht intends to use the chartering option and verify that the yacht will be in compliance with the following:
- ii. Proper P & I and Hull and Machinery insurance coverage will be in place for the period and scope of the charter(s).
- iii. Compliance with the Maritime Administrator standards for commercial yachts with respect to:
 - a. Manning and licensing; and

- b. Equivalency compliance with lifesaving, firefighting and safety equipment.

See Section 2.12.4.c of this Chapter regarding the penalties associated with the submission of a fraudulent Declaration of Private Use.

7.2.5 SUITABILITY FOR INTENDED USE

Classification by a Classification Society recognized by the Maritime Administrator is not required but is recommended, particularly for private yachts of 24 meters or more in length. For private yachts of 24 meters or more in length that are not classed, a Certificate of Survey issued by a recognized Classification Society surveyor or an Authorized Surveyor or a Statement of Compliance or similar document from an underwriter's assessor retained by the yacht owner must be submitted.

In the case of private yachts of less than 24 meters in length, this survey may be carried out by an Authorized Surveyor, a recognized naval architect or yacht association, qualified boatyard personnel or an underwriter's assessor from whom a Statement of Compliance or similar document would be obtained. In either case, for yachts not constructed to the standards of a recognized Classification Society, verification of reasonably sufficient compliance with the Commonwealth of Dominica Safety Code of Practice for Pleasure Yachts and a reasonable period of satisfactory operation must be provided.

7.2.6 TONNAGE MEASUREMENT

A tonnage measurement must be performed and a certificate of tonnage measurement issued and presented at registration.

1. Private yachts 24 meters or more in length: Compliance with the International Convention on Tonnage Measurement of Ships, 1969, is required. Admeasurements and certification should be performed by a recognized Classification Society surveyor or by an Authorized Surveyor.
2. Private yachts less than 24 meters in length: An Authorized Surveyor, naval architect, yacht association or builder may perform the admeasurements. The issuance of a national tonnage

measurement certificate is optional. A simplified method of measurement authorized by the Maritime Administrator may be used, if necessary.

3. Private yachts operating exclusively in Commonwealth of Dominica domestic waters will not require an international certificate of tonnage measurement regardless of size.

7.2.7 SERVICE FEES

Private yachts are assessed an annual registration fee of \$500.00 and are due on the anniversary of the initial date of registration. Upon receipt of payment, the Maritime Administrator will issue an annual service fee receipt to the owner. The service fee receipt shall be the owner's proof of payment. The receipt must be attached to the Private Yacht Certificate of Registry to maintain its validity.

7.2.8 INSURANCE

Proof of hull and machinery and liability coverage from an underwriter in policy form acceptable to the Maritime Administrator is required.

7.2.9 HOME PORT

Either the port of Roseau or Portsmouth, Commonwealth of Dominica, shall be the home port for private yachts.

7.2.10 REGISTRATION DOCUMENTATION

1. Application: The Application for Private Yacht Registration, Form CDVR-2014, is a single page document in the form provided in Annex 19. The registration process begins with the submission of this application and the supporting documents outlined below to the Office of the Maritime Administrator listed in Annex 16.

2. Required Documents to Accompany the Application: Reference should be made to Chapters 2 and 3 for details on certain of these documents.

- a. Power of Attorney and/or Corporate Resolutions that incorporate a Power of Attorney.
- b. Proof of Ownership, i.e., Bill of Sale, Builder's Certificate.
- c. Declaration of Private Use (see Section 2.4 of this Chapter).

- d. Tonnage Measurement Certificate.
- e. Verification of Suitability for Intended Use –
 - i. if classed, by a Certificate of Confirmation of Class issued by a Classification Society recognized by the Maritime Administrator, or
 - ii. if not classed, by a Certificate of Survey, Statement of Compliance or other document issued by a recognized Classification Society surveyor, an Authorized Surveyor or an underwriter's assessor for the company that will be insuring the yacht (see Section 2.5 of this Chapter).
- f. Either confirmation of Hull and Machinery and P&I coverage or Cover Note on a combined policy of insurance issued by a recognized insurance company in a form acceptable to the Maritime Administrator.
- g. Proof that vessel is free of liens or encumbrances.
- h. If the yacht is not a newbuilding and is currently documented in another country, consent from that country to the vessel's transfer to Commonwealth of Dominica.
- i. Payment of registration fees.
- j. Payment of first year's annual service fee.

7.2.11 STATUTORY COMPLIANCE

COLREGS '72: All private yachts regardless of size must comply with the International Regulations for Preventing Collisions at Sea, 1972 (COLREGS '72), as amended. The Maritime Administrator may, if deemed necessary, require the submission of detailed plans showing the positioning and arrangements of navigation lights for examination prior to registration.

2. Commonwealth of Dominica Safety Code of Practice for Pleasure Yachts:

a. The National Safety Code for Small Yachts should be used as a guideline for private yachts of less than 24 meters in length. Upon owner's request, a Commonwealth of Dominica Document of Compliance may be issued by the Deputy Maritime Administrator on the basis of a Statement of Compliance or similar document submitted by the owner indicating reasonably sufficient compliance with the National Safety Code. The National Safety Code for Large Yachts should be used as a guideline for all private yachts 24 meters and over in length. Upon an owner's request, a National Document of Compliance may be issued by a recognized Classification Society, if classed, or by the Maritime Administrator, if not classed, based on a

Certificate of Survey or Statement of Compliance submitted by the owner indicating reasonably sufficient compliance with the National Safety Code.

3. Radio Station License: A National Radio Station License is required on all yachts with a radio station on board. An appropriately certified radio operator must also be on board. National safety radio communications requirements apply to all private yachts regardless of size. Guidelines to meet these requirements may be found in the National Safety Code.

4. MARPOL/IOPPC: Compliance with the International Convention for the Prevention of Pollution from Ships, 1973, as amended by the Protocol of 1978 (MARPOL), is required as follows:

- a. Annex I applies to all yachts 400 gross tons or more and they are required to maintain an oil record book.
- b. All yachts of 400 gross tons or more are required to be issued and carry on board an International Oil Pollution Prevention Certificate (IOPPC) in accordance with Regulation 5 of Annex I.
- c. Annex V applies to all yachts regardless of size unless expressly provided otherwise.
- d. Annex VI, when in full force and effect, shall apply unless expressly provided otherwise. Owners are advised to consider that the provisions of Regulation 13 shall then be retroactive to 1 January 2000.

In addition, all yachts are required to meet local coastal State requirements for the control of pollution in their domestic waters that may exceed those of MARPOL.

5. Minimum Safe Manning Certificate: No certificate is required; however, owners should follow the guidelines provided in the National Safety Code.

6. Seafarer Certification: Qualification as Yacht Master or equivalent is required on private yachts of 24 meters or more in length or 80 gross tons and above, and qualification as Engineer is also required on private yachts of 1200 kW main engine power and/or 500 gross tons and above. Relevant qualifications will be according to size, propulsion power, and area of operation. Guidelines are provided in the National Safety Code.

7.2.12 ISSUANCE OF CERTIFICATES OF REGISTRY

1. Private Yacht Certificate of Registry: Issuance of a Private Yacht Certificate of Registry will be subject to the satisfaction of documentation requirements as specified in Section 2(J) of this Chapter.

2. Revalidation: Although issued without an expiration date, the Private Yacht Certificate of Registry is subject to annual revalidation. The continued validity of the Private Yacht Certificate of Registry is contingent upon the following requirements being met by the yacht owner or operator:

- a. Maintaining good standing of the owning entity in the Commonwealth of Dominica;
- b. Paying annual service fees, and all other fees or assessments when due; and
- c. Submitting to the Maritime Administrator each year by the anniversary date of the issue of the Private Yacht Certificate of Registry, a Certificate of Survey, Statement of Compliance or other document issued by a recognized Classification Society surveyor, an Authorized Surveyor or underwriter's assessor for the company that will be insuring the yacht.

A service fee receipt will be issued each year upon receipt of payment. A current service fee receipt must be maintained with the Private Yacht Certificate of Registry for the certificate to be considered valid.

3. Notice of Suspension: Should any of the revalidation requirements above not be fulfilled by the yacht owner or operator, a Notice of Suspension of Registration will be issued by the Maritime Administrator.

4. Termination: Termination of the Private Yacht Certificate of Registry will result from the following reasons:

- a. If the nonconformance cited in a Notice of Suspension is not corrected within ninety (90) days of the issuance of the Notice of Suspension, the Private Yacht Certificate of Registry will automatically be voided and the yacht stricken from the registry.

- b. A transfer or change in ownership will result in a termination of the Private Yacht Certificate of Registry unless the yacht is properly re-registered with the Commonwealth of Dominica.
- c. The deliberate filing of a false or fraudulent Declaration of Private Use with the Maritime Administrator will also result in the immediate termination of the Private Yacht Certificate of Registry and the yacht stricken from the registry without appeal.

The Private Yacht Certificate of Registry must be returned to the Maritime Administrator upon termination of registration for any reason.

7.2.13 RECORDABLE INSTRUMENTS

Bills of Sale, Builders Certificates, mortgages and related financial instruments may be recorded.

7.2.14 RE-REGISTRATION

The procedure for re-registration is identical to that for registration as outlined above in this Section, except for the following:

- a. prior approval to sell for the purpose of re-registration must be obtained from the Maritime Administrator by the current owner;
- b. the Bill of Sale or other instrument of Conveyance of Title showing proof of new ownership, with a copy of the yacht's current Private Yacht Certificate of Registry attached, must be presented for recordation; and
- c. the new owner must acknowledge acceptance of the data in the yacht's Certificate of Tonnage Measurement for service fee purposes, by submitting Form CDVR-2008, Acceptance of Certificate of Tonnage Measurement (see Annex 10); but
- d. a Consent to Transfer or Deletion Certificate would not be required since the yacht would be staying in the registry.