

TRABAJO FINAL DE GRADO EN TRADUCCIÓN E INTERPRETACIÓN

Departament de Traducció i Comunicació

EL LENGUAJE JURÍDICO INGLÉS: UNA APROXIMACIÓN CONTRASTIVA AL DISCURSO JURÍDICO ACTUAL

Autora: Elena Milea

Tutora: Dra. Anabel Borja Albi

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Resumen:

En este trabajo analizaré los rasgos distintivos del lenguaje jurídico inglés actual y para ello, me serviré de dos de los documentos que más se traducen en la vida profesional: el contrato de compraventa y el testamento. El lenguaje jurídico es la manifestación conceptual del derecho, de manera que, a través de él circulan mensajes cifrados en el código escrito (leyes, contratos, sentencias, etc.) y en el código oral (ceremonias matrimoniales, declaraciones de expertos en un ámbito temático, etc.) que dictan las conductas que debemos adoptar en la sociedad y restablecen el orden cuando las conductas antisociales alteran la buena convivencia.

El estudio del lenguaje jurídico no se centra en la conducta humana en sí, sino en las manifestaciones comunicativo-lingüísticas, escritas u orales, a través de las que se regula la conducta humana. En este contexto, no hay una definición unívoca del lenguaje jurídico en tanto que su estudio puede enfocarse desde el punto de vista del campo temático, el léxico, la relación que existe entre los interlocutores, etc. Tampoco existe consenso sobre su catalogación como variedad lingüística: dialecto, sublenguaje o registro.

Independientemente de la perspectiva desde la que se enfoque el estudio del lenguaje jurídico en general, y el inglés en especial, no cabe duda de que el discurso jurídico presenta ciertos rasgos específicos. En los documentos aquí analizados (contrato y testamento), estos rasgos se traducen en particularidades macroestructurales (organización del contenido global, aspectos ortotipográficos, etc.), léxicas (terminología, arcaísmos, binomios, etc.), semánticas (nominalizaciones, oraciones pasivas, elementos posmodificadores, etc.), prosódicas (asonancias, rimas, aliteraciones, etc.) y cohesionales (anáfora, elipsis, conjunciones, etc.).

El objetivo principal de este trabajo es realizar un análisis contrastivo del discurso jurídico inglés confrontando las características morfosintácticas y ortotipográficas que se dan en los documentos actuales con las descritas en el pasado.

Palabras clave:

Lenguaje jurídico inglés, características del lenguaje jurídico inglés, variedad lingüística, análisis contrastivo, estudio del lenguaje jurídico.

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INTRODUCCIÓN

Vivimos en la sociedad del conocimiento, reflejo de la expansión económica política y social propiciada por la cooperación intercultural y la globalización. En nuestra mente pueden anidar pensamientos fructíferos e ideas revolucionarias que, si no se expresan, no sirven de nada. El lenguaje nos permite compartir y transmitir el saber y entender la realidad que nos rodea.

Uno de los sectores que mejor reflejan el proceso de expansión económica es la traducción en general, y la jurídica en especial. La traducción jurídica permite conocer y entender las realidades jurídicas de los sistemas y ordenamientos jurídicos que rigen la actividad y la organización de las sociedades humanas. La traducción jurídica utiliza como vehículo de difusión de conocimientos y conceptos legales el lenguaje jurídico. En efecto, el lenguaje jurídico es la piedra angular para el establecimiento de normas jurídicas que regulan las relaciones sociales de una sociedad. La lengua general adquiere formas y rasgos gramaticales especiales cuando se utiliza en ámbitos específicos como el derecho. Y son, precisamente, esas formas y representaciones lingüísticas específicas del lenguaje jurídico inglés las que me propongo analizar en este trabajo –macroestructura, léxico y morfosintaxis–, porque afectan la comprensión y repercuten en la traducción de textos jurídicos. Para ello, utilizaré un modelo de análisis híbrido que he diseñado combinando los criterios de clasificación de los rasgos del lenguaje jurídico inglés de varios autores: Danet (1984 y 1985), Crystal y Davy (1969), Gustafsson (1984) y Charrow, Crandall y Charrow (1982).

El trabajo está articulado en dos bloques principales: uno teórico y otro práctico.

En el bloque teórico esbozaré la relación que existe entre el derecho y el lenguaje jurídico en tanto que el lenguaje jurídico es la herramienta funcional de la difusión de normas jurídicas. A continuación ofreceré una visión general sobre el estudio del lenguaje jurídico atendiendo a factores como el léxico, el campo temático o las relaciones de solidaridad o de jerarquía que existen entre los participantes que intervienen en el negocio jurídico, entre otros. En el último apartado de este bloque recuperaré algunas catalogaciones del lenguaje jurídico como variante lingüística: sublenguaje, dialecto o registro.

El segundo bloque está dedicado a la parte práctica: el análisis contrastivo de las características del lenguaje jurídico inglés. El objetivo principal de este análisis es establecer en qué medida el patrón macroestructural, ortotipográfico y

morfosintáctico descrito por los autores que he mencionado anteriormente se manifiesta en los documentos jurídicos actuales. Tanto los contratos analizados por Crystal y Davy (1969) –*Endowment Assurance Policy* y *Hire Purchase Agreement*– como el texto de Danet (1985) –*Assignment*– son documentos antiguos con una macroestructura rígida y unos rasgos morfosintácticos específicos, y mi objetivo es averiguar si dichos rasgos se han perpetuado en el tiempo o, por el contrario, han variado o desaparecido.

Para responder a esta cuestión, me serviré de un modelo de contrato de compraventa y un modelo de testamento ingleses actuales. La elección de estos documentos atiende a dos razonamientos: uno lingüístico y otro pragmático. Desde el punto de vista lingüístico, ambos documentos pertenecen al mismo registro rígido y fosilizado, de modo que son susceptibles de compartir, si no todas, gran parte de las características discursivas descritas en el pasado. En lo que se refiere a la justificación pragmática, tanto el contrato de compraventa como el testamento son dos de los encargos de traducción más habituales en la práctica profesional.

1. LENGUAJE JURÍDICO Y DERECHO: CREAR DERECHO ES EL MEJOR DERECHO

La vida humana en todas sus dimensiones precisa ser organizada socialmente mediante normas jurídicas que se expresan y se redactan en lenguaje jurídico, regulan nuestras acciones y dictan las conductas que debemos adoptar. Dichas normas constituyen el orden jurídico, el derecho.

Tomando como fuente de inspiración el planteamiento de Danet (1985:273), se podría decir que la principal función del derecho es proveer un marco jurídico para asegurar el desarrollo de las relaciones de convivencia democrática y restaurar el orden social cuando se producen acciones antisociales que alteran dicha convivencia. Me atrevería a decir que la norma jurídica es la «autoridad» conceptual sobre la que descansa la validez del orden jurídico.

La fijación de una costumbre como norma jurídica se produce en el momento en que se expresa o escribe en lenguaje jurídico; podría decirse que el derecho existe porque existe el lenguaje (Solé i Durany, 1989:67-68).

En el ámbito del derecho se distinguen dos sistemas jurídicos generales que deben sus diferencias a sus orígenes históricos: el sistema basado en el derecho de origen romano-germánico y el derivado del *Common Law* británico (Borja, 2000:10).

Sin entrar en detalles, cabe remarcar que la principal diferencia entre los dos sistemas radica en que el derecho romano es codificado y se apoya en leyes escritas que desempeñan la función normativa, mientras que el anglosajón es un derecho centrado en el *case law* (o el derecho consuetudinario basado en decisiones judiciales previas), siendo el juez quien ejerce, en cierto modo, la función legisladora.

2. DEFINICIÓN DEL LENGUAJE LEGAL

Como he mencionado en el apartado anterior, el lenguaje jurídico es la expresión, oral o escrita, de las normas jurídicas, de modo que se trata de un lenguaje de especialidad (pertenece a un ámbito temático específico) y se ubica dentro del campo del derecho.

La amplitud de la definición del lenguaje jurídico depende de la perspectiva desde la que se enfoque el estudio: léxico, ámbito temático, función discursiva, etc.

El estudio del lenguaje jurídico se ha centrado durante muchos años en el rasgo distintivo que lo caracteriza: el vocabulario (Charrow et al., 1982:175).

Así, autores como Mellinkoff (1963) y Dickerson (1965), citados en Charrow et al. (1982:175-176), han enfocado el estudio del lenguaje jurídico inglés únicamente desde el punto de vista terminológico, cerrando la puerta a otras consideraciones como la funcionalidad, la tipología textual y el registro discursivo, entre otros.

En las últimas décadas, esta situación ha cambiado y el estudio del lenguaje jurídico inglés ha experimentado un salto cualitativo importante gracias a que, en sus obras, cada vez más lingüistas y profesionales de la traducción toman en consideración aspectos discursivos como las relaciones que existen entre los interlocutores; la relación que se establece entre el lenguaje jurídico y la planificación lingüística; el campo temático; el enfoque comunicativo-funcional; o el enfoque funcional y social.

Las relaciones de solidaridad o jerárquicas que existen entre los interlocutores

En palabras de Borja (2000:11), el lenguaje jurídico es aquel que

«se utiliza en las relaciones en que interviene el poder público, ya sea en las manifestaciones procedentes de este poder (legislativo, ejecutivo o judicial) hacia el ciudadano, o en las comunicaciones de los ciudadanos dirigidas a cualquier tipo de institución. Y también, naturalmente, el lenguaje de las relaciones entre particulares con transcendencia jurídica (contratos, testamentos, etc.)».

La autora menciona la difusión y el registro como dos de los rasgos principales del lenguaje jurídico.

La relación que se establece entre el lenguaje jurídico y la planificación lingüística

La definición que propone Solé i Durany (1989:66) se basa en el concepto de «jurilingüística»¹. El autor distingue entre el «lenguaje jurídico en sí (relaciones entre la lengua y el derecho desde el punto de vista de la lengua) y la planificación o la política lingüística en sus aspectos jurídicos (relaciones entre la lengua y el derecho desde el punto de vista jurídico)».

Campo temático

Trosborg (1992), citada en Engberg (1994:23), define el lenguaje jurídico como «a specific domain of Language for Specific Purposes, divided into a number of subdomains». Dichos «subdominios» comparten el mismo campo temático, el derecho: *Language of the law, Language of the courtroom, Language in textbooks, Lawyer's speech* y *People talking about the law*.

De acuerdo con esta definición, cualquier tipo de discurso que se produzca dentro del ámbito del derecho es lenguaje jurídico (Engberg, 1994:23).

Enfoque funcional

Kurzon (1989), citado en Engberg (1994:23), aborda el estudio del lenguaje jurídico desde el punto de vista del emisor y el propósito final del texto jurídico; distingue entre «Language of the Law» (tiene función prescriptiva y es habitual en la redacción de contratos y leyes) y «Legal Language» (tiene función informativa y se usa en el ámbito académico).

La principal diferencia entre los dos conceptos radica no tanto en los rasgos semánticos de los textos producidos como en la función textual de estos (Engberg, 1994:24).

Estudio funcional y social

Engberg (1994:25-26) centra su estudio en el lenguaje de las sentencias judiciales y analiza los textos legales teniendo en cuenta, además de la función discursiva, el rasgo social del emisor: «a specific group of legal specialists in their profession». Así, el enfoque del autor es más restrictivo que los dos anteriores en tanto que se refiere solo al

¹ Solé i Durany (1989:3) emplea este término para combinar dos conceptos: «lengua del derecho o lenguaje jurídico» y «derecho de lenguas».

lenguaje de las sentencias judiciales. En este contexto limitativo, el lenguaje jurídico está determinado por las instituciones jurídicas, las leyes y las doctrinas jurídicas, la educación del emisor y el grupo social al que pertenece (Engberg, 1994:26).

3. EL LENGUAJE LEGAL COMO VARIEDAD LINGÜÍSTICA: SUBLENGUAJE, REGISTRO O DIALECTO

La lengua como medio de interrelación social entre personas es un elemento distintivo en tanto que presenta diferencias léxicas, fonéticas, morfosintácticas, etc., según la situación comunicativa, geográfica o histórica en que se emplea y el nivel de conocimiento lingüístico de quien la utiliza.

Habida cuenta de que la lengua no es un sistema unívoco pues «la variedad es un rasgo inherente al lenguaje humano»², la interpretación del lenguaje jurídico como variedad lingüística depende del factor que se tome en consideración.

Coseriu (1981), citado en Duarte y Martínez (1995:14), distingue tres tipos de variedades:

- variedades funcionales o *diafásicas* (vinculadas a la situación comunicativa de los interlocutores, es decir, el registro),
- variedades socioculturales o *diastráticas* (basadas en la diferencia en el estrato socio-cultural de la comunidad lingüística), y
- variedades geográficas o *diatópicas* (dialectos).

Para Engberg (1994:22) el lenguaje jurídico es «a subsection of a national language, a so-called sublanguage».

O'Barr (1981) y Charrow et al. (1982), citados en Danet (1985:275), consideran que los rasgos lingüísticos del lenguaje jurídico son suficientemente relevantes como para considerarlo un dialecto.

En palabras de Duarte y Martínez (1995:20), los lenguajes de especialidad son

«conjuntos de registros o variedades funcionales que se dan en un mismo campo temático o profesional. Los identificamos por la materia de la que se ocupan y por la naturaleza técnica y especializada de la comunicación».

Danet (1980) entiende el lenguaje jurídico como un registro lingüístico que trata sobre «nature, functions and consequences of language use in the negotiation of social

² Véase Duarte y Martínez, 1995:3.

order»:«la naturaleza, las funciones y las consecuencias del uso del lenguaje en las negociaciones del orden social» (Danet, 1980, citada en Danet, 1985:273).

Cabe mencionar que en lo que se refiere al registro, Halliday (1978), citado en Duarte y Martínez (1995:20), identifica tres parámetros contextuales, a saber:

- el **campo**, alude al marco social en que se produce la comunicación (juzgado, administración, casa familiar, etc.) y al tema tratado (derecho, ciencia, venta de productos, etc.); determina el grado de especificidad de un texto (especializado, académico, general, etc.),
- el **modo**, es el medio o canal escogido para la comunicación (oral espontáneo, escrito, audiovisual, etc.), y
- el **tenor**, relacionado con el tono de los interlocutores (tono solemne, formal, íntimo, coloquial, etc.) y el propósito perseguido (tenor persuasivo, informativo, explicativo, etc.).

Danet (1985:276-277), basándose en el modelo de Joos (1961), clasifica el lenguaje jurídico teniendo en cuenta dos de los parámetros descritos por Halliday: el modo y el tenor. Así, en función del contexto de producción y transmisión-recepción del mensaje, la autora identifica tres registros:

- *written* (escrito),
- *spoke-composed* (oral precedido de una fase [instructora] escrita)³, y
- *spoken-spontaneous* (oral-espontáneo).

Desde el punto de vista del grado de formalidad, determinado por la situación comunicativa (relación interpersonal entre los participantes, nivel sociocultural, propósito de la comunicación, etc.), la autora propone la siguiente clasificación:

- registro *frozen* (fossilizado),
- registro *formal* (formal),
- registro *consultative* (consultivo), y
- registro *casual*: (informal) (Danet, 1985:277).

³ La traducción de *spoken-composed* por «oral precedido de una fase (instructora) escrita» atiende al siguiente razonamiento: según afirma Montesano en el artículo en línea «Ventajas e inconvenientes de la oralidad y del modelo oral de juicio», el proceso oral requiere cierta preparación y planificación escrita previas.

De acuerdo con la clasificación de Danet (1985:277), la comunicación *written* puede tener un registro *frozen* (contratos, testamentos o pólizas de seguro) o *formal* (textos legislativos y *briefs*:alegaciones).

En la comunicación *spoken-composed*, el lenguaje puede ser *frozen* (juramentos de testigos, ceremonias matrimoniales, sentencias judiciales), *formal* (declaraciones de expertos en un ámbito temático) o *consultative* (interrogatorios) (Danet, 1985:277).

Huelga decir que la comunicación *spoken-frozen* se sirve de las expresiones prosódicas como un recurso mnemotécnico (Finnegan, 1975 y Ong, 1982, citados en Danet, 1984:161). Como ejemplos tenemos: *the truth, the whole truth and nothing but the truth, so help you God* (juramentos de testigos) y *by the authority vested in me, I now pronounce you husband and wife* (ceremonias matrimoniales).

Por último, en la comunicación *spoken-spontaneous*, que no sigue ningún protocolo preestablecido, el tono puede ser *consultative* (interacción abogado-cliente) o *casual* (reuniones de juristas) (Danet, 1985:277).

Al hablar de registros de una misma lengua, resulta oportuno mencionar el concepto de «diglosia» acuñado por Ferguson (1959), citado en Duarte y Martínez, (1995:13), quien define el término como una situación social en la que, además de los dialectos comunes, hay «una variedad superpuesta muy divergente y muy codificada (a menudo más compleja gramaticalmente)» que goza de prestigio y que se adquiere a través de la educación formal. El autor señala que el idioma árabe es un ejemplo de diglosia: el árabe clásico (*'al-fusha*) tiene usos religiosos y oficiales, mientras que el árabe coloquial (*aljamía*) se utiliza en la comunicación familiar y cotidiana.

4. CARACTERÍSTICAS DEL LENGUAJE LEGAL

El lenguaje jurídico es

«uno de los más fijados ya que funciona sobre la base de textos: se dictan leyes, se levantan actas, se suscriben contratos, se extienden órdenes de registro, etc. [...] y cada uno de ellos, según su finalidad, adopta una única forma definida y precisa» (Duarte y Martínez, 1995:11).

El lenguaje jurídico presenta unos rasgos intratextuales (léxico, morfosintaxis, etc.) y macroestructurales (título, preámbulo, clausulado, etc.) específicos.

Son numerosos los estudios que a lo largo de la última década y media se han propuesto desentrañar las características del lenguaje jurídico inglés.

En este capítulo se presentan las particularidades del lenguaje jurídico inglés actual. La clasificación que articulo a continuación es una propuesta híbrida basada en los estudios de Crystal y Davy (1969:197-215), Danet (1985:281-287 y 1984:143-147), Gustafsson (1984:125-130) y Charrow et al. (1982:176-182).

El objetivo del análisis es observar en qué medida los rasgos del lenguaje jurídico inglés descritos en el pasado –ortotipografía, léxico, sintaxis, mecanismos de cohesión discursiva– se dan en los documentos legales actuales.

Para llevar a cabo el estudio contrastivo, me serviré de dos modelos de documentos jurídicos ingleses: el contrato compraventa (Anexo 1.1) y el testamento (Anexo 1.2). Dada la extensión de los documentos, para acompañar mis afirmaciones, utilizaré como ejemplo ilustrativo solo algunos apartados (figuras 1 y 2) de los textos del Anexo 1. Asimismo, en el Anexo 2 incluiré las copias escaneadas de los tres textos antiguos utilizados en el análisis comparativo.

4.1. Macroestructura y recursos ortotipográficos

El lingüista Van Dijk (1980:10) fue quien acuñó la expresión «macroestructura del discurso» para referirse a la forma en que se organiza el contenido global del texto desde el punto de vista semántico (macroestructura o tema del texto) y formal (supraestructura o esquema que se utiliza para abordar el tema).

Conocer los mecanismos de coherencia discursiva es útil no solo para la organización correcta de la información global en la fase de producción de textos, sino, también, para la comprensión lectora en el proceso de recepción de la información. Así, Bransford y Franks (1971) y Bransford et al. (1972), citados en Gunnarsson (1984:74), afirman que «reading is an active, constructive process whereby the reader constructs a holistic description of the text».

En este apartado analizaré la macroestructura y la ortotipografía de los dos textos presentados en las figuras 1 y 2 desde el punto de vista de la recepción de la información.

THIS AGREEMENT is made...	1
BETWEEN:	2
(1) [...] incorporated in [...], Company Number [...] and having its registered office at [...] (hereinafter referred to as the "Seller");	3
WHEREAS:	4
NOW IT IS HEREBY AGREED:	5
1. DEFINITIONS AND INTERPRETATION	6
1.1 In this Agreement, the following expressions shall, except where the context otherwise requires, have the following meanings:	7
"Accrual Basis of Accounting" means the basis of accounting under which costs and benefits are regarded as applicable to the period in which the liability to the cost is incurred or the right to the benefit arises regardless of when invoiced, paid or received;	8 9 10
"Affiliate" means:	11
For the purpose of this definition a Shell Company means:	12
(iii) any company (wherever registered) which for the time being is directly or indirectly affiliated with either or both of the companies mentioned in (i) or (ii) above.	13 14
"Warranties" means the representations and warranties given under Clause 6;	15
"Warranty Claim" means any claim by the Purchaser in relation to any breach by the Seller of the Warranties.	16
1.2 All references to Clauses, recitals and Schedules are, unless otherwise expressly stated, references to clauses of and recitals and schedules to this Agreement.	17 18
2. SALE AND PURCHASE	19
2.2 The obligations of the Parties under Clause 2.1 are conditional on the satisfaction of the following conditions (the "Conditions Precedent"):	20 21
2.4 If any of the Conditions Precedent have not been satisfied or waived on or before [...] this Agreement shall terminate and cease to have any effect and no Party shall have any liability to another under this Agreement except in respect of Clause 13 and any breach of the terms hereof committed before such date.	22 23 24
3. CONSIDERATION	25
3.1 In consideration of the sale and transfer by the Seller to the Purchaser of the Asset, the Purchaser shall pay the sum of [...]	26
4. COMPLETION	27
4.1 Subject to the satisfaction or waiver of the Conditions Precedent...	28
(a) the Seller shall:-	29
(iii) deliver to the Purchaser a copy, certified as a true copy (in accordance with section 3 of the Powers of Attorney Act 1971) of the Power of Attorney authorising the execution of the Completion Documents on behalf of the Seller; and	30 31 32
4.2 Each of the Parties shall, and shall procure that its respective Affiliates shall, execute such other documents and do all such other acts and things as may reasonably be required in order to effect the disposal of the Asset to the Purchaser and otherwise carry out the true intent of this Agreement.	33 34 35
5. PRE&POST ECONOMIC DATE COSTS AND BENEFITS	36
5.1 The rights and obligations in this Clause 5 shall not come into effect unless and until Completion takes place.	37
5.2 (b) Subject to Clause 5.4, the Purchaser shall pay to the Seller an amount equal to the Pre-Economic Date Benefits received 38 by the Purchaser.	39
5.3 (b) Without prejudice to the generality of the foregoing, the Purchaser agrees to indemnify, keep indemnified and hold harmless the Seller harmless against any Decommissioning Liabilities and any Environmental Liabilities of whatsoever nature and howsoever arising before or after the Post Economic Date.	40 41 42
6. REPRESENTATIONS AND WARRANTIES	43
6.1 (a) Subject to the provisions of this Clause 6, the Seller represents and warrants to the Purchaser that, except insofar as described in the Disclosure Letter or disclosed prior to Completion pursuant to the provisions of Clauses 6.7 and 6.8, the representations made in Schedule 1(A) to this Agreement are true and accurate (in all material respects) (and the Purchaser admits that it has not entered into this Agreement in reliance upon any representation or promise other than those incorporated in the Disclosure Letter or this Agreement).	44 45 46 47 48
6.3 Save only as and to the extent set forth in this Clause 6, the Seller makes no representations or warranties in respect of any matter or thing and disclaims all liability and responsibility for any representation, warranty, statement, opinion or information made or communicated (orally or in writing) to the Purchaser in connection with the transaction contemplated hereby and the Purchaser acknowledges and affirms that it has not relied upon any such representation, warranty, statement, opinion or information in entering into and carrying out the transaction contemplated by this Agreement. Without limiting the generality of the foregoing, the Seller makes no forecasts or evaluations.	49 50 51 52 53 54
6.4 The provisions of this Clause shall operate to limit the liability of the Seller under or in connection with the Warranties and the Disclosure Letter and references to 'such liabilities' shall be construed accordingly. The Parties agree as follows:	55 56
(a) no liability shall attach to the Seller unless the aggregate amount of such liabilities shall exceed the total sum of £[...]	57
or (5% of the Consideration) but if such liabilities shall exceed that sum the Seller shall (subject to the other provisions hereof) be liable for the whole of such liabilities and not merely the excess;	58 59
(b) the aggregate amount of such liabilities shall not exceed £[...];	60
(c) claims against the Seller shall be wholly barred and unenforceable unless written particulars thereof (giving reasonable details of the specific matter or claim in respect of which such claim is made so far as then known to the Purchaser) shall have been given to the Seller within a period of twenty-four (24) months from the Completion Date.	61 62 63
6.6 The Seller shall not do any act or thing, or authorise any act or thing to be done over which it has control or which it can otherwise by the exercise of any right or power prevent from being done, which would prevent any of the Warranties from being true and accurate if repeated immediately prior to Completion [...]	64 65 66

Figura 1: Extractos de algunos apartados de un modelo de contrato de compraventa inglés. En la siguiente página se completa la información de esta figura.

6.6	In the event of any material matter or thing inconsistent with any of the Warranties given by the Seller becoming known or being notified to the Purchaser on or before Completion Date and such matter or thing continuing to be so inconsistent at the Completion Date, the Purchaser shall not be bound to complete the acquisition of the Asset and the Purchaser may, by notice in writing to the Seller prior to Completion, terminate this Agreement, without prejudice to rights and obligations accrued prior to termination.	67 68 69 70
6.	<u>WORKING CAPITAL</u>	71
7.2	The Purchaser shall have the right to verify the statement referred to in Clause 7.1 by reference to the figures derived from the statements of the relevant operator. [...] either: (a) the Purchaser shall be obliged to pay the Seller the sum specified as due to the Seller in the said statement or, as the case may be (b) the Seller shall be obliged to pay the Purchaser the sum specified as due to the Purchaser in the said statement; (all as varied by any adjustment agreed between the Seller and the Purchaser) and whether or not the Purchaser has agreed such statement within the said ninety (90) day period. In the event that the said statement cannot be agreed the provisions of Clause 7.3 shall apply.	72 73 74 75 76 77
7.4	In the event of late payment, the Purchaser shall pay the Seller interest on such further sums as may be payable pursuant to...	78
7.5	In the event that the Seller makes any payments, or receives any receipts, in respect of the period between the Economic Date and the Completion Date, in respect of the Asset, the Purchaser will pay the Seller or the Seller will pay the Purchaser (as the case may be) the amounts involved within twenty (20) Business Days of the Completion Date, or of the date of such payment or receipt, whichever is the later. [...] payments will include, inter alia, cash calls for capital and operating costs and tariffs and receipts will include, inter alia, actual proceeds from the sale of Petroleum produced after the Economic Date.	79 80 81 82 83
7.6	Any and all amounts to be paid pursuant to this Agreement shall be paid in same day funds...	84
9.	<u>INTERIM PERIOD OPERATIONS</u>	85
9.2	The Seller shall:	86
	(a) not, except with the prior written approval of the Purchaser (such approval not to be unreasonably withheld or delayed) amend or agree to amend any of the Asset Documents in any respect insofar as such amendment or agreement to amend relates to or affects the Asset or waive or agree to waive any of its rights or remedies thereunder or arising therefrom in so far as such rights and remedies relate to or affect the Asset;	87 88 89 90
	IN WITNESS WHEREOF this Agreement has been duly executed on the day and year first above written.	91
	<u>SELLER'S WARRANTIES</u>	92
1.4	The Seller:-	93
	(b) has not received any notice that any of the other parties thereto has committed any breach of or is in default under any Asset Document.	94 95
1.5	The Asset Documents are the only deeds, agreements, arrangements or documents affecting the Asset (other than operational agreements entered into by the Operator for and on behalf of [...]).	96 97
2.	<u>Charges</u>	98
	No mortgage, charge (whether fixed or floating), pledge, lien, encumbrance or other security or net profit or royalty interest has been created over the Asset [...]	99 100
4.1	The Seller is duly incorporated with limited liability and validly exists under the laws of England.	101
	<u>SCHEDULE 1 (B)</u>	102
1	Subject to the provisions of this Clause [...] the Purchaser hereby represents and warrants to the Seller as follows:	103
1.2	subject to fulfilment of the conditions set out in Clauses [...], the signing and delivery of this Agreement and the performance of the transactions contemplated by this Agreement, will not contravene or constitute a default under any provision contained in any agreement, instrument, judgment, order, law, licence, permit or consent [...]	104 105 106
1.3	no litigation, arbitration, administrative proceeding, dispute or judgement against the Purchaser (or its Affiliates) [...] which might [...] adversely affect its ability to observe or perform its obligations under this Agreement and the transactions contemplated hereby, is subsisting or [...] pending against the Purchaser or any of its assets or against its Affiliates;	107 108 109

Figura 1: continuación

	<u>Last Will and Testament</u>	110
	THIS WILL is made by me Andrew Example...	111
1.	<u>Revocation</u>	112
2.	<u>Appointment of Executors</u>	113
2.1	I appoint my wife Alison Example to be my Executrix and Trustee.	114
2.2	If my wife Alison Example is unable or unwilling to act as my Executrix and Trustee or if she dies before proving my Will I make the following appointment instead.	115 116
3.	<u>Funeral Directions</u>	117
	I wish my body to be cremated and my ashes scattered over the centre spot at Wembley Stadium Example.	118
4.	<u>Guardianship Appointment</u>	119
	I appoint my sister-in-law Kerry Example to be the guardian of my children who are under 18 years of age.	120
5.	<u>Money Bequest</u>	121
	I give to my godson Barry Example free of all taxes and death duties the sum of five hundred pounds sterling and if my godson Barry Example shall fail to obtain a vested interest leaving issue who survive me and reach the age of 21 years then such issue shall take by substitution and if there shall be more than one of such issue they shall take in equal shares per stirpes but so that no issue shall take whose parent is alive and so capable of taking.	122 123 124 125
6.	<u>Specific Bequest of Personal Chattels</u>	126
6.3	To the extent there are personal chattels not disposed of by my Trustees under the terms of this clause they shall fall into and form part of my Residuary Estate.	127 128
8.	<u>Definition of My Estate</u>	129
	In my Will where the context so admits "my Estate" shall mean:-	130
8.3	The money investments and property from time to time representing all such property.	131
	IN WITNESS WHEREOF these presents written on this (and the preceding) page are subscribed by me at (address) on this _____ day of Two Thousand and ____	132 133
	SIGNED by the above named Andrew Example	134
	as and for his last Will in our presence and then	135
	by us in his	136

Figura 2: Extractos de algunos apartados de un testamento inglés.

Pese a pertenecer al mismo campo del derecho (el derecho privado) y compartir el mismo registro rígido y fosilizado que describe Danet (1985:277), el contrato y el testamento presentan ciertas diferencias macroestructurales determinadas por el género textual: acuerdo de voluntades (contrato) y declaración unipersonal de voluntades (testamento), según la clasificación de García Izquierdo y Borja (2008:50-51). A este respecto Engberg (1994:28-29) postula:

[...] within the sublanguage used in the genre, we are more likely to find code relations between language elements and communicative acts (determined by the standardised situation) in all texts of the genre than between language elements and topics, as topics may change from text to text.

Una de las características macroestructurales del contrato es la organización global de su contenido en una única frase cuyos elementos sintácticos están dispuestos en líneas distintas, en forma de bloques aparentemente independientes (Crystal y Davy, 1969:201):

THIS AGREEMENT is made...

BETWEEN...

WHEREAS the parties wish...

NOW IT IS HEREBY AGREED...

IN WITNESS WHEREOF this Agreement is executed...

EL PRESENTE CONTRATO se celebra...

ENTRE...

CONSIDERANDO QUE las partes desean...

ACUERDAN CUANTO SIGUE...

Y EN PRUEBA DE CONFORMIDAD lo firman... (traducción propia)

De acuerdo con esta disposición macroestructural, y basándome en el modelo de Borja (1998), se podría establecer la siguiente macroestructura textual:

1. Título del documento, lugar de celebración y fecha (*Name of document, place and date*)

THIS AGREEMENT is made...

2. Partes intervinientes (*Identification part*)

BETWEEN...

3. Parte expositiva o preámbulo (*Expositive part, recitals or preamble*)

WHEREAS...

4. Clausulado o parte operativa (*Operative part*)

NOW IT IS HEREBY AGREED...

5. Fórmula de conclusión y otorgamiento (*Testimonium and execution part*)

IN WITNESS OF this Agreement has been executed...

6. Firmas (*Signatures*)

7. Anexos (*Schedules, Annexes*)

Huelga decir que el título permite identificar el tipo de negocio jurídico que se formaliza, eso es, el género textual al que pertenece el documento (contratos, testamentos, patentes, leyes, etc.).

En el testamento no se dan los mismos patrones macroestructurales, es decir, su contenido textual no se plantea como una frase única, dividida en bloques dispuestos en líneas diferentes. En este caso concreto, la progresión apartado-apartado y apartado-contenido (o subapartado) se realiza mediante la numeración correlativa:

THIS WILL is made...

1. Revocation
2. Appointment of Executors
- 2.1 I appoint my wife...
- 2.2 If my wife is...
3. Funeral Directions

IN WITNESS WHEREOF these presents written...

EL PRESENTE TESTAMENTO se otorga...

1. Revocación
2. Nombramiento de albaceas
- 2.1 Nombro a mi esposa...
- 2.2 En el caso de que mi esposa...
3. Disposición del cadáver

EN PRUEBA DE CONFORMIDAD lo firmo... (traducción propia)

Para establecer los apartados principales que forman el esqueleto del testamento, he tomado, de nuevo, el modelo de Borja (1998) que he adaptado como sigue:

1. Nombre del documento (*Name of document*)

THIS WILL is made...

2. Parte operativa (*Operative part*)

Revocación (*Revocation clause*)

Nombramiento de albaceas (*Executor appointment clause*)

Disposición del cadáver (*Body disposal clause*)

Nombramiento de tutores legales (*Guardian appointment clause*)

Distribución patrimonial (*Distribution clauses*)...

3. Fórmula de conclusión y otorgamiento (*Attestation part*)

IN WITNESS OF these presents written...

4. Firmas (*Signatures*)

5. Anexos (*Schedule, Annexes*)

La organización macroestructural de los dos textos se aprecia gracias a los recursos ortotipográficos: mayúsculas, espaciado, numeración de apartados, subrayado y puntuación.

El uso de mayúsculas y el espaciado permiten distinguir los apartados en los que se organiza el contenido, la relación que existe entre estos y su importancia dentro del texto.

Tanto en la figura 1 como en el *Assurance Policy*⁴ de Crystal y Davy, la mayúscula en caja alta se utiliza para organizar el contenido global en bloques macroestructurales:

THIS AGREEMENT:...

BETWEEN:...

WHEREAS:...

NOW IT IS HEREBY AGREED:...

IN WITNESS WHEREOF:...

El subrayado, la sangría, la numeración de los apartados y la negrita (líneas 6, 19, 25) son otros recursos ortotipográficos que, junto con las mayúsculas, se emplean como marcadores macroestructurales del discurso jurídico. Así, los bloques principales se

⁴ Véase Anexo 2.

organizan en subtemas que están numerados correlativamente, se señalan con mayúscula en caja alta y –para indicar su relación subordinada respecto del tema principal– están sangrados y subrayados (líneas 6, 19, 25). En la figura 2 se numeran incluso los párrafos del mismo apartado (líneas 114 y 115). Tanto los bloques principales como los subapartados tienen un espaciado considerable que permite reconocer la macroestructura y facilita la comprensión textual (líneas 2-11 y 111-114).

Los documentos antiguos presentan una macroestructura parecida: mayúsculas en caja alta, negrita y espaciado en *Assurance Policy*; numeración y sangría en *Assignment*⁵ y *Hire Purchase Agreement*⁶.

El hecho de que el patrón macroestructural de los documentos actuales se dé también en los documentos antiguos indica que esta tendencia organizadora es un rasgo distintivo de los documentos jurídicos y no la consecuencia del *boom* informático.

Las mayúsculas, además de delimitar los bloques macroestructurales (líneas 1-5), tienen, también, un valor demarcativo en tanto que permiten destacar los elementos importantes del documento: partes intervinientes, definiciones de términos utilizados en el contexto discursivo, documentos anexos (Crystal y Davy, 1969:199).

Es habitual dar un nombre abreviado a las partes para nombrarlas con mayor agilidad en el resto del documento: *the Seller* (líneas 3, 16, 26), *the Purchaser* (líneas 16, 30, 34), *the Trustees* (línea 127). El nombre abreviado se suele introducir entre paréntesis mediante la fórmula estereotipada *hereinafter referred to as [the “Seller”]* (línea 3). Asimismo, la mayúscula se emplea para señalar los términos que tienen una definición específica (*Accrual Basis of Accounting*, *Affiliate*, líneas 8 y 11) y para referirse a cláusulas y otros documentos anexos (*Clause 6* y *Schedule* en las líneas 15 y 17, respectivamente).

El uso de las mayúsculas para «dignificar»⁷ los agentes del negocio jurídico y señalar los términos ahí definidos es un rasgo grafémico que se da, de igual manera, en los documentos antiguos.

Debido a que antiguamente los textos legales no se escribían para ser leídos, sino para ser conservados y archivados, no se consideraba necesario puntuarlos. Es el caso del documento estudiado por Crystal y Davy (1969), el *Assurance Policy* (Anexo 2.1), en el que no hay ningún signo de puntuación a lo largo del texto.

⁵ Ídem.

⁶ Ídem.

⁷ Término utilizado por Crystal y Davy (1969:199).

Hoy en día esta práctica es poco habitual ya que la tendencia es usar los signos ortográficos como «a guide to grammatical structure, provided, of course, that it is used systematically» (Crystal y Davy, 1969:201). En la figura 1 (líneas 2, 4 y 5) se puede apreciar el uso, en los bloques principales, de los dos puntos (:) para introducir los subapartados: *Between: [...]*, *Whereas: [...]*, *Now it is hereby agreed: [...]*.

4.2. Particularidades léxicas

4.2.1. Terminología

El lenguaje jurídico es un medio de comunicación entre especialistas con una preparación semejante, por lo que el vocabulario que lo conforma –jerga jurídica–no se parece al del lenguaje común.

Haigh (2009:4) distingue entre jerga jurídica (vocabulario especializado que emplean los juristas y que es difícil de entender para un lego en derecho: *annul*, *bequest*) y «terms of art» (palabras técnicas que tienen un significado preciso y fijo, y que no pueden ser sustituidas por otras palabras: *royalty*, *bailment*, *share*). Mellinkoff (1982:7-11) define los «terms of art» como «palabras técnicas con significados específicos» con utilidad muy reducida, limitada al contexto legal.

Lo relevante del tecnolecto no es el vocabulario en sí, más o menos preciso, sino el hecho de que, muchas veces, el grado de precisión de su terminología es el resultado del acuerdo tácito entre los juristas. Así, términos como *tort*, *plaintiff*, *landlord*, *defendant*, *tenancy*, *liable*, se consideran *terms of art* entre los juristas y su significado está fuera de cualquier duda (Crystal y Davy, 1969:210-211).

4.2.2. Términos de uso común con significado específico

En palabras de Danet (1985:279), «legal language has a penchant for using familiar words but with uncommon meanings». *Negligence*, *fresh fish*, *proposal* y *provided* son algunos ejemplos de palabras comunes con significado especial (Charrow et al, 1982:179 y Crystal y Davy, 1969: 210).

En los textos actuales, ejemplos de esta característica son *provisions* y *under*. *Provisions* (línea 45) además de ‘provisiones, alimentos’ también significa ‘estipulaciones, disposiciones, cláusulas’ y *under* además de significar ‘bajo’ también significa ‘de conformidad con lo dispuesto en, en virtud de’ (línea 15), ‘comprendidas en, contempladas en’ (línea 20) o ‘de menos de’ (línea 120) (Alcaraz, 1996:86-87).

4.2.3. Expresiones arcaicas

El lenguaje general es un instrumento de comunicación vivo porque se renueva continuamente: aparecen palabras nuevas y otras caen en el olvido.

El lenguaje jurídico, sin embargo, no sigue esa tendencia: ni se renueva con frecuencia ni, mucho menos, prescinde de los términos antiguos.

La presencia de expresiones arcaicas en el lenguaje jurídico se debe a la influencia del *Old English* (*aforesaid, hereinafter, herein, hereby, thereof, thereto, deemed, made*), el latín (*mens rea, habeas corpus*) y el francés (*proposal, schedule, duly, signed, lien, easement*) (Danet, 1985:279, Charrow et. al., 1982:180, Crystal y Davy, 1969:208-209, Mellinkoff, 1963:13).

En algunos casos, el proceso de adaptación al inglés de algunas palabras de origen latín y francés ha sido parcial en tanto que han sufrido una transformación fonética pero no gráfica; se trata de préstamos lingüísticos que mantienen su escritura original: *alias, fee simple, estoppel* o *res judicata* (Crystal y Davy, 1969:209).

Hereby (líneas 5 y 103), *lien* (línea 99), *duly* (líneas 91 y 101), *signed* (línea 134) *thereto* (línea 94), *thereunder* (línea 89), *therefrom* (línea 90) o *schedules* (línea 18) son algunos ejemplos encontrados en los documentos actuales.

4.2.4. Expresiones binomiales⁸

En los documentos jurídicos ingleses, la presencia de binomios es cinco veces mayor que en otro tipo de textos (Gustafsson, 1984:125).

Los orígenes de las expresiones binomiales se remontan a los tiempos preliterarios y a los albores del lenguaje escrito. La «contaminación»⁹ del lenguaje jurídico con este tipo de expresiones se ha producido por la fuerza de la costumbre, es decir, por la repetición prolongada e irreflexiva de conductas humanas (Danet, 1984:161).

Existe, también, una teoría de la conspiración según la cual los binomios forman parte de una especie de «conjuro» de los juristas para mantener la oscuridad y complejidad del lenguaje jurídico con el fin de perpetuar la relación de poder y dependencia en la sociedad (Danet, 1984:161).

⁸ En el capítulo «Legal Discourse» del libro *Handbook of Discourse Analysis*, págs.281-283, Danet distingue entre los dobletes (rasgo léxico del lenguaje legal) y las expresiones binomiales (rasgo sintáctico). Sin embargo, en el libro *The magic flute: A prosodic analysis of binomial expressions in legal Hebrew*, págs. 144-145, aboga por emplear el concepto de «binomial expressions»:«expresiones binomiales» para referirse tanto a los dobletes como a las estructuras paralelas también. En este trabajo utilizaré el término «expresión binomial» o «binomio» como hiperónimo para referirme tanto a los dobletes como a los tripletes y las expresiones multinominales («word lists»).

⁹ En el libro *The magic flute: A prosodic analysis of binomial expressions in legal Hebrew*, pág. 143, Danet afirma que el lenguaje legal está «contaminated by poetization».

Los binomios son «a sequence of two words pertaining to the same form-class, placed on an identical level of syntactic hierarchy and ordinarily connected by some kind of lexical link» (Malkiel (1959:113).

El autor propone una clasificación basada en la relación semántica que existe entre los términos que forman los binomios: cuasisinonimia, complementariedad mutua, oposición, subdivisión y consecuencia (Malkiel, 1959:125-129). En la misma línea Gustafsson (1984:133) distingue entre sinónimos, antónimos y complementarios.

Alcaraz y Hughes (2009:28) destacan que la expresión binomial es «un rasgo característico del lenguaje jurídico, a caballo entre la lexicología y la morfosintaxis, [una] redundancia expresiva a través de constelaciones sintáctico-semánticas».

De acuerdo con Smith (1968), los binomios refuerzan la idea de «sense of truth» y crean «illusion of certainty»:

[...] when a thematic connection or opposition is to some degree reinforced by syntactic correspondance and formal repetition, the linguistic structure so formed appears particularly stable and authoritative (Smith, 1968, citado en Danet, 1984:163).

Gustafsson (1984:135-139) proporciona una lista de binomios como *aid and abet*, *cease and desist*, *in or on*, *in or in the vicinity of*, *discrimination or segregation*, entre otros.

Charrow et al. (1982:177) emplean el término «word lists» para referirse a las expresiones multinominales y ponen como ejemplo: *A witness who has special knowledge, skill, experience, training or education in a particular science, profession or occupation*.

En el Anexo 3 recopiló los binomios que aparecen en los textos analizados aquí. Términos como *before or after* (línea 42), *last will and testament* (línea 110), *unable and unwilling* (línea 115) aparecen, también, en de la tabla de Gustafsson (1984). Otros, como *matter or thing* (línea 67), *representation, warranty, statement, opinion or information* (línea 50), *deeds, agreements, arrangements or documents* (línea 96), *for and on behalf of* (línea 97), no están en la lista de la autora pero, a mi entender, son susceptibles de ser considerados binomios.

4.2.5. Carácter formal y conservador

El carácter formal del lenguaje jurídico viene determinado por el uso de arcaísmos como *hereby*, *deemed*, *duly*, por una parte, y la preferencia por usar el verbo modal auxiliar *shall* en lugar de *will*, por otra (Crystal y Davy, 1969:208 y Danet, 1985:281).

De acuerdo con Tiersma (1999:95), los arcaísmos revisten el lenguaje jurídico de un aire de formalidad: «legal language often strives toward great formality, it naturally gravitates towards archaic language».

El cuanto al conservadurismo jurídico, utilizar fraseología cuya fidelidad semántica ha sido probada es la forma más segura de evitar ambigüedades (Tiersma, 1999:97). En la misma línea, Crystal y Davy (1969:213) afirman:

[...] what has been tested and found adequate is best not altered. It is for this reason that the lawyers turn to some form of precedent before going into print themselves; [...] and are reluctant to alter formulae which have always been known to work before.

En los documentos actuales encontramos, además de *duly* (líneas 91 y 101) y *hereby* (líneas 5 y 103), una oración condicional en la línea 123 donde *shall* se utiliza tanto en la *if-clause* como en la *main clause*: *if my godson... shall fail to obtain... then such issue shall take...* Asimismo, en la línea 130 se utiliza *shall mean* en lugar de *means*.

La falta de interjecciones como *Goodness!*, *Not at all!*, *Indeed!* y el empleo de fórmulas orales como *the truth*, *the whole truth*, *and nothing but the truth*, *so help me God* y *Oyez, oyez, oyez* o *I do solemnly swear* son, también, indicadores de formalidad (Borja, 2000:23 y Charrow et al, 1982:176).

4.2.6. Uso de frases preposicionales inusuales

Danet (1985:281) destaca la presencia de *in the event of + noun* (*in the event of default* por *if the borrower should default*) y *as to* como dos de los elementos preposicionales de uso frecuente en los documentos jurídicos ingleses.

Siguiendo el criterio de la autora, en la línea 78 encontramos *in the event of late payment* que podría ser sustituido por *if the purchaser should fail to pay*.

4.2.7. Uso reiterado de any

Pese a ser ambiguo e indeterminado en su significado general, *any* ha adquirido un valor inclusivo dentro del lenguaje jurídico inglés y su «calculada imprecisión»¹⁰ contribuye al significado global del texto jurídico. En el ejemplo *the Hirer shall be or remain liable in respect of any damage... caused by reason of any breach... of any stipulation...*, el Arrendatario responderá por *cualquier* tipo de daños y perjuicios causados por *cualquier* incumplimiento de *cualquier* cláusula (Crystal y Davy, 1969:212).

¹⁰ Término utilizado por Crystal y Davy (1969:212).

En la línea 16, se indica que *Warranty Claim* significa *cualquier* tipo de reclamación respecto de *cualquier* incumplimiento de las *Warranties* pactadas. El uso reiterado de *any* se aprecia en la línea 94 donde aparece cuatro veces.

La expresión *performed or observed* busca el mismo valor inclusivo: en el ejemplo *the Hirer shall remain liable in respect of any stipulation [...] to be performed or observed*, el Arrendatario no solo tiene que realizar determinadas cosas, sino que, además, tiene que cumplir con otras obligaciones contractuales que no impliquen «realizar cosas» en el sentido físico (Crystal y Davy, 1969:212).

En la línea 108, y pese al orden inverso de las palabras, el binomio *observe or perform* cumple la misma función.

4.3. Particularidades sintácticas

Las particularidades sintácticas son, probablemente, más distintivas que las léxicas y las que más problemas de comprensión plantean para un lego en derecho (Danet, 1985:281).

4.3.1. Nominalizaciones

Estudiosos como Crystal y Davy (1969:205), Charrow et al. (1982:177) y Danet (1985:281) coinciden en que la nominalización es otra de las características propias del lenguaje jurídico. *Make such provisions* por *provide* y *give time for the payment of any debts* por *give time for the persons owing debts to pay* son ejemplos que aparecen en los documentos antiguos (Danet, 1985:281).

En la figura 1 encontramos los siguientes ejemplos: *makes any payment* por *pays* (línea 79), *makes no representations or warranties* por *doesn't represent or warrant* (línea 49), *subject to fulfilment of the conditions* por *subject to fulfilling the conditions* (línea 104).

4.3.2. Uso de pasivas

La prominencia de construcciones pasivas en los textos jurídicos ha sido observada por numerosos autores: Danet (1985), Charrow y Charrow (1979), Shuy y Larkin (1978) o Sales et al. (1977), los tres últimos citados en Danet (1985:282).

En los documentos antiguos hallamos ejemplos como *it is hereby declared* y *not fully paid* (Danet, 1985:282).

En las figuras 1 y 2 encontramos *it is hereby agreed* (línea 5) y *these presents written...are subscribed by me* (línea 132). En las líneas 61-62, hay una pasiva

compleja, difícil de entender a primera vista: *written particulars thereof (giving reasonable details of the specific matter or claim in respect of which such claim is made so far as then known to the Purchaser)* que podría sustituirse por *written particulars thereof (giving reasonable details of the specific matter or claim the Purchaser is aware of at that moment in respect of such claim)*.

Las construcciones pasivas no siempre pueden ser sustituidas por la voz activa debido a que el agente que realiza la acción no está identificado: *any interests... which cannot be transferred by this Deed* (Danet, 1985:282).

En la figura 1 tenemos *the period in which the liability to the cost is incurred* (línea 9), *under which costs and benefits are regarded* (línea 8), *things as may reasonably be required* (línea 34) y *any and all amounts to be paid* (línea 84).

En mi opinión, la voz pasiva se emplea, también, para centrar el foco de atención en el complemento directo sobre el que recae la acción, convirtiéndolo en sujeto: *this Agreement has been duly executed on...* en lugar de *the Parties have duly executed this Agreement...* (línea 91).

4.3.3. Whiz deletion

Whiz-deletion es una expresión utilizada por los lingüistas para indicar que se ha suprimido la partícula *wh* seguida de alguna forma verbal de *to be*. Este tipo de elipsis se da en las oraciones subordinadas de relativo, denominadas también oraciones adjetivas debido a que desempeñan una función similar a la de los adjetivos. Hay dos tipos de oraciones de relativo:

- *defining relative clause* (oraciones de relativo especificativas): *documents affecting* por *documents which affect* (línea 96) y *a copy of the Power of Attorney authorising* por *a copy of the Power of Attorney which authorises* (línea 31).
- *non-defining clauses* (oraciones de relativo explicativas): *[company name] incorporated in... and having its...* por *[company name] which has been incorporated in... and which has its...* (línea 3).

4.3.4. Uso del condicional

El uso de frases condicionales largas y complejas es otro rasgo del lenguaje jurídico inglés (Danet, 1985:282). En la figura 2 (líneas 122-125) hay dos oraciones condicionales dentro de la misma frase: *if my godson shall fail to obtain... such issue*

shall take... and if there shall be more than... they shall take... En la figura 1 (líneas 79-80) hay una oración condicional dentro de otra: *in the event that the Seller makes any payments... in respect of the period between the Economic Date and the Completion Date, in respect of the Asset...*

4.3.5. Elementos posmodificadores

Crystal y Davy (1969:205-206) se refieren a los elementos posmodificadores como «a source of oddity»: «fuente de anomalía» originada por la necesidad de evitar confusiones. Como ejemplo ponen *the payment TO THE OWNER of the total amount*. En la figura 1 (línea 26) encontramos *in consideration of the transfer BY THE SELLER TO THE PURCHASER of the Asset...*

4.3.6. Longitud y complejidad de las frases

La longitud y la complejidad de las frases suelen ir de la mano (Danet, 1985:282). En la figura 2 las frases suelen ser cortas y las que tienen una extensión más larga no presentan, en general, problemas de comprensión (líneas 122-126). Todo lo contrario ocurre en la figura 1 donde la mayoría de las frases tienen más de tres líneas: “*claims against the Seller...*” (líneas 61-63) o *in the event that the Seller...* (líneas 79-83).

De acuerdo con Hiltunen (1984:107), «[...] embedding, as used in legal texts, may significantly complicate them both structurally and perceptually».

En este sentido, cabe señalar que algunas frases largas tienen la particularidad de intercalar una oración subordinada entre el verbo auxiliar y el verbo principal (Crystal y Davy, 1969:283 y Danet, 1985:283). *Shall, and shall procure that its respective Affiliates shall, execute* (línea 33) o *shall (subject to the other provisions hereof) be liable* (línea 58) son algunos ejemplos encontrados en los documentos actuales.

En lo que se refiere al uso del verbo modal *shall* en los documentos jurídicos, en general, indica obligatoriedad. De acuerdo con Gunnarsson (1984:85), hay cinco categorías de verbos modales que se emplean para indicar normas de acción:

1. *is entitled to, may*, indican derecho: *the Purchaser may...terminate this Agreement* (línea 70),
2. *shall, has a duty to*, tienen significado deóntico (indican deber, obligación): *the Purchaser shall be obliged to pay the Seller* (línea 74),
3. *may not*, indica prohibición. En la figura 1, la prohibición se expresa a través de *shall: such liabilities shall not exceed £ [_]* (línea 60).

4. *need not*, indica exención y
5. *should*, indica recomendación: *records [...] should be preserved by the Seller.*¹¹

Asimismo, Gunnarsson (1984:85) indica que *mean* se utiliza en las definiciones de términos y *shall apply* en las estipulaciones: “*Affiliate*” *means...* (línea 11) y *the provisions of Clause 7.3 shall apply...* (línea 77).

4.3.7. Determinantes

El lenguaje inglés tiene propensión por el uso de *such* y *said* como determinantes (Danet, 1985:283). Así, en las líneas 57-59, *such* aparece tres veces y en las líneas 74-76, *said* aparece cuatro veces. *Said* y *such* –que en los textos jurídicos suele aparecer despojado del artículo indefinido *a* (*such date*, línea 24 y *such matter*, línea 68)– son dos de los marcadores textuales que permiten identificar un texto jurídico a simple vista, y su uso reiterado es debido a la necesidad de evitar cualquier tipo de ambigüedad. Esta necesidad hace que adjetivos como *happy* o *wise* y adverbios como *very* o *rather* tengan poca o ninguna presencia en este tipo de documentos (Crystal y Davy, 1969:209).

Con respecto al uso de los adjetivos, Gustafsson (1984:132) afirma que dada la finalidad generalmente descriptiva de estos, su presencia en los textos legislativos (que tienen función prescriptiva) es escasa.

En los documentos objeto de este análisis, no aparece ninguno de los adjetivos y los adverbios mencionados.

Por lo que se refiere a los elementos adverbiales, muchas veces están coordinados: *the Society shall on the expiration of the term of years specified in the Schedule hereto or on the previous death...* (Crystal y Davy, 1969:204).

En los documentos actuales no he observado esta tendencia.

4.3.8. Carácter impersonal

Dada la necesidad de objetividad, precisión y neutralidad respecto de los agentes que intervienen en el negocio jurídico, es frecuente ver en los textos jurídicos términos impersonales como *seller-purchaser* (líneas 3 y 38), *principal-agent*, *franchisor-franchisee*, *grantor-grantee*, o *landlord-tenant*.

Huelga mencionar que a diferencia de los contratos (donde hay al menos dos agentes que intervienen en el negocio jurídico), en el testamento interviene solo un

¹¹ El ejemplo no está incluido en los textos de las figuras 1 y 2 sino que ha sido extraído del modelo de contrato de compraventa incluido en el Anexo 1.1, apartado *Taxation*, punto 8.4(e), pág. 51.

agente – *testator*:testador– que no necesita de la presencia de un fedatario público¹² para manifestar su voluntad, de manera que se redacta en primera persona del singular (líneas 114, 120, 122).

4.3.9. Negaciones

Habida cuenta de la búsqueda de precisión en la imposición de obligaciones y la concesión de derechos, las negaciones son prominentes en los textos jurídicos. Como apunta Danet (1985:283), los adverbios *not* (líneas 37 y 94) y *never*, junto con el prefijo *un* (línea 115), la preposición *unless* (línea 57) y la conjunción *except* (línea 7), son vocablos que persiguen la rigurosidad semántica.

4.4. Particularidades prosódicas

4.4.1. Aliteraciones, asonancias y rimas

Según Danet (1984:144) los recursos retóricos – aliteraciones, asonancias y rimas, *end-weight*– son formas de «mobilization of the resources of language [...] in order to create the illusion of control over the social and natural world».

La autora ilustra su afirmación con ejemplos como *call in collect and receive or sell and dispose* (aliteración por repetición de los sonidos /k/ y /l/, en *call* y *collect*, y del sonido /s/, en *receive or sell and dispose*) y *whatsoever* and *wheresoever* (rima consonante por la repetición de *–soever*) (Danet, 1985:284).

En los textos actuales hay casos parecidos, susceptibles de ser considerados elementos prosódicos: línea 96, *deeds, agreements, arrangements or documents* (asonancia por repetición del sonido /i:/, en *deed* y *agreements*, y del sonido /ə/, en *agreements, arrangements or documents*); línea 106, *agreement, instrument, judgement, order, law, licence* (rima consonante por la repetición de *–ment* y aliteración por la repetición del sonido /l/ en *law* y *licence*); línea 41, *whatsoever* and *howsoever* (rima por la repetición de *–soever*).

4.4.2. Principio end-weight

Modern English displays a very marked partiality to short plus long: either monosyllable plus...disyllable, or two monosyllables of unequal size, rarely a mono-or disyllable plus a polysyllable (Malkiel, 1959:149).

En los documentos jurídicos, existe una distribución desigual entre el tema y el rema, que se traduce en el empleo de binomios como mecanismo lingüístico para

¹² En España el testamento se otorga en presencia del notario público; el notario redacta el documento en primera persona y utiliza la tercera persona del singular para referirse a las partes comparecientes.

introducir información adicional al final de la frase, es decir, donde aparece el rema, ya que se sigue el «principio del peso al final de la frase»: «the principle of end-weight» Gustafsson (1984:127-129).

Cabe mencionar que Danet (1985:284) distingue entre las expresiones binomiales que siguen el principio de *end weight*, es decir, el vocablo con más sílabas (o con el mismo número de sílabas) aparece en la segunda parte de la construcción paralela; y aquellas que no siguen este principio, eso es, los términos más largos se sitúan en la primera parte. Añade la autora que estos últimos son menos frecuentes que los que siguen el principio de *end weight*.

To have and to hold, last will and testament y full and complete pertenecen al primer grupo y *discrimination and segregation y accorded or denied*, al segundo (Gustafsson, 1984:123, 132 y 134).

En los textos objeto de este trabajo encontramos *right and remedies* (línea 90), *before or after* (línea 42), *last will and testament* (línea 110) o *unable or unwilling* (línea 115), todos del primer grupo.

4.5. Mecanismos de cohesión discursiva

4.5.1. Anáfora

Como he mencionado antes, el lenguaje jurídico necesita imprimir a sus términos un significado preciso que eluda, en lo posible, las ambigüedades. Uno de los mecanismos que ayuda a evitar la ambigüedad y a transmitir la idea de precisión es la anáfora. En el caso de los textos actuales, la tendencia es usar de forma reiterada –a expensas de la calidad literaria del texto– términos como *Seller, Purchaser, Trustee, Party*, o *Parties* en detrimento de los pronombres personales (*he, they*) o de los adjetivos demostrativos (*him, their*). Aun así, en la línea 124 *they* aparece una vez previa mención de *such issue*.

Otro de los recursos empleados para alcanzar el mayor grado de precisión es el uso de *such y said* como, por ejemplo, en las líneas 75-76.

En la figura 2, la tendencia es usar el pronombre personal *I*, para aludir al agente principal, y sustantivos como *wife* o *sister-in-law* (seguidos del nombre propio), para referirse a los beneficiarios testamentarios: *my wife Alison Example* (línea 114), *my sister-in-law Kerry Stage* (línea 120). *My Trustees* se emplea para referirse a los beneficiarios testamentarios en plural (línea 127).

4.5.2. Conjunciones

Tal y como menciona Danet (1985:285), el uso de *hereinafter*, *aforesaid*, *said* o *such*, además de buscar la rigurosidad, contribuyen a la cohesión discursiva y textual.

A lo largo de las figuras 1 y 2 *such* aparece veinte veces y *said* cuatro.

4.5.3. Sustitución

«Substitutions may be generally rare in legal English, though [...] we do find a transition from *has proposed* to *such proposal* a switch from an active verb to a nominalization» (Danet, 1985:285)

El siguiente ejemplo que reproduzco a continuación está extraído del modelo de contrato de compraventa (incluido en el Anexo 1), apartado *Representations and Warranties*, punto 6.5, página 46:

6.5 If any amount **is paid** to the Purchaser pursuant to a Warranty Claim and an amount which is referable to that Warranty Claim is subsequently recovered by the Purchaser from a third party, so much of the amount paid as does not exceed the amount recovered from the third party (less all reasonable costs, charges and expenses incurred in obtaining **such payment** and in recovering such amount from the third party) shall be repaid to the Seller forthwith.

4.5.4. Elipsis

Los casos de *whiz-deletion* que he mencionado en los apartados anteriores son un claro ejemplo de elipsis. *Companies mentioned* por *which have been mentioned* (línea 14), *transaction contemplated* por *which are contemplated* (línea 51) y *provision contained* por *provisions which are contained* (línea 105) son otros ejemplos de elipsis.

4.5.5. Cohesión textual

La reiteración –que se debe, en parte, a la sustitución de los pronombres por denominaciones abreviadas–, la presencia de superordinadas y nominalizaciones, y la prominencia de expresiones binomiales son elementos de cohesión discursiva propios de los documentos jurídicos ingleses.

CONCLUSIONES

El análisis comparativo aquí desarrollado pone de relieve que el lenguaje jurídico inglés presenta, en la actualidad (al menos en los géneros textuales de los contratos y los testamentos), unos rasgos característicos intratextuales y macroestructurales propios, suficientes para afirmar que se trata de un lenguaje especializado, formal, formulaico y conservador. En efecto, los documentos actuales conservan, si no todos, gran parte de los rasgos discursivos descritos en el pasado.

En primer lugar, la macroestructura de los documentos actuales resulta igual de rígida que la de los textos antiguos; los únicos cambios destacables están relacionados con los signos de puntuación, que utilizados de forma sistemática (como por ejemplo el uso de dos puntos en los bloques principales, figura 1) son un recurso estilístico propio de los textos jurídicos. Se han perpetuado tanto los aspectos relacionados con la división macroestructural como los ortotipográficos (por ejemplo, las mayúsculas con valor demarcativo o las convenciones tipográficas para dividir el contenido: numeración arábica, sangría, etc.).

En lo que se refiere a los rasgos gramaticales, muchas de las características morfosintácticas descritas en el pasado se han mantenido a lo largo del tiempo. Así, se observa que los textos actuales –al igual que los estudiados en el pasado– están cuajados de tecnicismos, expresiones binomiales y reiteraciones de determinados términos (*Seller, Purchaser, such, said, etc.*) que conforman parte de los rasgos lingüísticos del discurso jurídico inglés.

La presencia, en los documentos actuales, de expresiones como *hereby* ('en virtud de la presente, por la presente') y *by the power vested in me* ('por el poder que me ha sido concedido') –cuya función es producir efectos jurídicos– son ejemplos que dan buena fe del carácter arcaico, formulaico y conservador del lenguaje legal.

La sintaxis actual, que junto con los recursos gramaticales es uno de los aspectos que más problemas de comprensión generan, destaca por el uso de nominalizaciones, elementos posmodificadores, anáforas, oraciones largas e intrincadas, pasivas, etc.

En lo que se refiere a las razones que me han llevado a escoger este tema, me gustaría mencionar que el trabajo no pretende ser una argumentación personal sino un análisis contrastivo cuyo objetivo final es mejorar mis competencias traductoras y adquirir conocimientos especializados que me permitan diseñar un mapa conceptual

sobre la organización y el funcionamiento de los textos jurídicos ingleses para poder afrontar con garantías de éxito la tarea de traducción jurídica.

BIBLIOGRAFÍA

- Alcaraz Varó, E. (1996). *El inglés jurídico: Textos y documentos*. 2ª ed. Barcelona: Ariel.
- Alcaraz Varó, E. y Hughes, E. B. (2009). *El español jurídico*. Barcelona: Ariel.
- Aliteración. (s. f.). En *Figuras fónicas de Retóricas.net*. Recuperado de <http://www.retoricas.com/2009/06/definicion-de-aliteracion.html>. [Consulta: 3 de septiembre de 2014].
- Anáfora. (s. f.). En *Figuras sintácticas de Retóricas.net*. Recuperado de <http://www.retoricas.com/2009/06/definicion-de-anafora.html>. [Consulta: 3 de septiembre de 2014].
- Borja Albi, A. (1998). *Estudio descriptivo de la traducción jurídica: un enfoque discursivo*. (Tesis doctoral). Facultat de Traducció i Interpretació, Universitat Autònoma de Barcelona, Barcelona.
- Borja Albi, A. (2000). *El texto jurídico inglés y su traducción al español*. Barcelona: Ariel.
- Charrow, V. R., Crandall, J. A. y Charrow, R. P. (1982). Characteristics and Functions of Legal Language. En Kittredge, R. y Lehrberger, J. (Eds.), *Sublanguage: studies of language in restricted semantic domains* (175-190). Nueva York: de Gruyter.
- Crystal, D. y Davy, D. (1969). The Language of Legal Documents. En Crystal, D. y Davy, D. (Eds.), *Investigating English Style* (193-217). Harlow: Longman.
- Danet, B. (1984). The magic flute: A prosodic analysis of binomial expressions in legal Hebrew. En Danet, B. (Ed.), *Studies of Legal Discourse: Special Issue. Text*, 4(1-3), 143-172.
- Danet, B. (1985). Legal Discourse. En Van Dijk, T. (Ed.), *Handbook of Discourse Analysis: Disciplines of Discourse*, 1, 273-296. Londres: Academic Press.
- Duarte, C. y Martínez, A. (1995). *El lenguaje jurídico*. Buenos Aires: A-Z.
- Engberg, J. (1994). How Legal Language works-Modal Expressions in Judgements. *LSP and Theory of Translation. 14th Vakki Symposium 1994*. Vasa, Finlandia.
- García Izquierdo, I. y Borja Albi, A. (2008). A Multidisciplinary Approach To Specialized Writing And Translation Using A Genre Based Multilingual Corpus Of Specialized Texts. *LSP & Professional Communication, Fagsprog og Fagkommunikation, An International Journal*, 8(1), 50-51. Copenhagen, Dinamarca. Selskab for Fagsprog og Fagkommunikation.
- Gunnarsson, B. (1984). Functional comprehensibility of legislative texts: Experiments with a Swedish act of parliament. *Text*, 4(1-3), 71-105. Amsterdam: Mouton Publishers.
- Gustafsson, M. (1984). The syntactic features of binominal expressions in legal English. *Text*, 4(1-3), 123-141. Amsterdam: Mouton Publishers.
- Haigh, R. (2009). *Legal english*. 2ª ed. Recuperado de <http://books.google.es/books?id=n294AgAAQBAJ&printsec=frontcover&hl=es#v=onepage&q&f=false>. [Consulta: 28 de agosto de 2014].

- Hiltunen, R. (1984). The type and structure of clausal embedding in legal English. *Text*, 4(1-3), 107-121. Amsterdam: Mouton Publishers.
- Malkiel, Y. (1959). Studies in irreversible binomials, *Lingua*, 8, 113-160.
- Mellinkoff, D. (1963). *The Language of the Law*. Oregon: Resource Publications.
- Mellinkoff, D. (1982). *Legal Writing: Sense and Nonsense*. St. Paul: West.
- Montesano, L. A. (s. f.). Ventajas e inconvenientes de la oralidad y del modelo oral de juicio. *La Ley*. Recuperado de <http://www.dab.com.ar/articles/105/ventajas-e-inconvenientes-de-la-oralidad-y-del-mod.aspx> [Consulta: 25 de agosto de 2014].
- Rima. En *Vademecum Poético de Vademecum-poético.blogspot.com*. Recuperado de <http://vademecum-poetico.blogspot.com.es/2009/10/la-rima-definicion-y-clases.html>. [Consulta: 4 de septiembre de 2014].
- Solé i Durany, J. R. (1989). La llengua del dret. *Limits*, 7 (noviembre 1989).
- Tiersma, P. (1999). *Legal Language*. Londres: The University of Chicago Press.
- Van Dijk, T. (1980). *Macrostructures: An Interdisciplinary Study of Global Structures in Discourse, Interaction, and Cognition*. Nueva Jersey: Lawrence Erlbaum.

ANEXO 1

ANEXO 1.1: Modelo de contrato de compraventa inglés

AGREEMENT

for the sale and purchase of assets in relation to

the [.....] Field

THIS AGREEMENT is made this _____ day of _____ 200_____

BETWEEN:

(1) [company name] incorporated in [.....]
(Company Number [.....]) and having its registered office at [...]
(hereinafter referred to as the “Seller”); and

(2) [company name] incorporated in [.....]
(Company Number []) and having its registered office at [....]
(hereinafter referred to as the “Purchaser”); and

WHEREAS:

(A) The Seller wishes to sell and the Purchaser wishes to purchase the Asset (as hereinafter defined);

(B) The Parties wish to set out herein the terms and conditions upon which the aforesaid sale and purchase shall take place;

NOW IT IS HEREBY AGREED:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, the following expressions shall, except where the context otherwise requires, have the following meanings:

“Accrual Basis of Accounting” means the basis of accounting under which costs and benefits are regarded as applicable to the period in which the liability to the cost is incurred or the right to the benefit arises regardless of when invoiced, paid or received;

“Affiliate” means:

(a) in the case of a Party which is a Shell Company, any other Shell Company.

For the purpose of this definition a Shell Company means:

- (i) N.V. Koninklijke Nederlandsche Petroleum Maatschappij (a Dutch company);
- (ii) The “Shell” Transport and Trading Company, p.l.c. (an English company); and
- (iii) any company (wherever registered) which for the time being is directly or indirectly affiliated with either or both of the companies mentioned in (i) or (ii) above.

For the purposes of this paragraph (a):

- (A) a company is directly affiliated with another company or companies if the latter is (are) beneficial owner(s) of shares (or their equivalent) controlling more than fifty percent (50%) of votes exercisable at a general meeting (or its equivalent) of such company; and
- (B) a company is indirectly affiliated with a company or companies (“the parent or parents”) if a series of companies can be specified beginning with the parent(s) and ending with the particular company, so related that each company or companies except the parent(s) is directly affiliated with one or more companies in the series.

(b) in the case of a Party which is not a Shell Company:

- (i) if the Party is a subsidiary of another company the Party's ultimate holding company and any subsidiary (other than the Party itself) of the Party's ultimate holding company, or

- (ii) if the Party is not a subsidiary of another company any subsidiary of the Party.

For the purpose of this paragraph (b) “holding company” and “subsidiary” shall have the meanings given to those expressions in Section 736 of the Companies Act 1985, as amended by Section 144 of the Companies Act 1989.

“Asset” means:-

- (a) an undivided legal interest in the Licence(s); and
- (b) the Seller's entire undivided beneficial right, title and interest in and under the following:-
 - (i) the Licence(s) to the extent relating to the [] Field;
 - (ii) the Operating Agreement (such right, title and interest as of the date hereof being []%;
 - [(iii) the Unit Agreement (such right, title and interest as of the date hereof being []%);]
 - (iv) the Asset Documents;
 - (v) the Asset Property;
 - (vi) the Asset Data;

“Asset Data” means all data held by the Seller (excluding Traded Data) directly relating to Block [] whether in hard copy or in original form (where available) including but not limited to geoscientific and engineering data and logs;

“Asset Documents” means the deeds, agreements, letters and other documents specified in Schedule 2 as the same may have been assigned, amended or novated from time to time;

“Asset Property” means [[Unit] Facilities as defined in the Operating Agreement [Unit Agreement] - to be clarified for each Asset];

“Block” means an offshore area located on the United Kingdom Continental Shelf (UKCS) forming part of a License and being separately designated and numbered as a block on the reference map showing all UKCS Licence Blocks deposited at the UK Department of Trade and Industry.;

“Business Day” means a day, other than a Saturday or Sunday, on which banks are or, as the context may require, were generally open for normal business in London;

“Completion” the fulfilment by the Parties of their respective obligations pursuant to Clause 4.1;

“Completion Date” means the date occurring [three (3) Business Days] after satisfaction or waiver of the last of the Conditions Precedent (other than that contained in []) or such other date as shall be agreed between the Parties;

“Completion Documents” means documents substantially in the form set out in Schedule 5;

“Completion Venue” means the offices of the Purchaser in [...] or such other location as the Parties may agree;

“Conditions Precedent” has the meaning given in Clause 2.2;

["Connected Agreement" means [_____];]

“Consideration” means the consideration payable by the Purchaser to the Seller for the Asset in accordance with Clause 3 hereof;

“Data Room Documents” means the documents relating to the Asset made available for the Purchaser's inspection in the data room located at the Seller's offices at [] from [] to [], together with such other documents as the Seller may have notified to the Purchaser in writing prior to the date hereof and as specified in the Disclosure Letter and, in the event that Completion takes place, such other documents as the Seller may have notified to the Purchaser in writing during the Interim Period and, where context so admits, any one or more of such documents, an inventory of which is contained in Schedule 4 to this Agreement;

["Decommissioning Agreement"] means the [...] Agreement dated [...] and being the [...] Amendment to the Operating Agreement;]

“Decommissioning Liabilities” means any costs, charges, expenses, liabilities and obligations incurred in abandoning and/or decommissioning any Asset Property (including but not limited to wells and facilities) whether such costs, charges, expenses, liabilities and obligations are incurred pursuant to any statutory, common law or other obligation [and regardless of negligence on the part of the Seller];

“Deed of Indemnity” means a deed of indemnity in substantially the form contained in Schedule 6 to this Agreement;

“Disclosure Letter” means the disclosure letter from the Seller to the Purchaser in which disclosure is made against certain specific

warranties dated of even date herewith and delivered to the Purchaser immediately prior to the signature of this Agreement;

“Economic Date” means 00.01 hours on [.....];

“Effective Date” means 23:59 hours on [.....];

“Environmental Liabilities” means all costs, charges, expenses, liabilities and obligations (other than Decommissioning Liabilities) incurred in respect of the Asset in relation to cleaning up, removing debris or any Asset Property from and for reinstating any area of land, foreshore or seabed, wherever situated, whether such costs, charges, expenses, liabilities and obligations are incurred pursuant to any statutory, common law or other obligation and regardless of negligence on the part of the Seller;

“[] Field” means the hydrocarbon accumulation known as the [....] Field underlying Blocks [] and [] of the United Kingdom Continental Shelf;

“Interim Period” means the period from the Economic Date until the Effective Date;

“the Licence(s)” means United Kingdom Petroleum Production Licence No. P.[];

“Operating Agreement” means the [operating agreement] dated [.....] relating to the Licence(s);

“Operator” means the operator of the [....] Field from time to time;

“Party” means, the Seller or the Purchaser and “Parties” means both of them;

“Pre-Economic Date Benefits” means all benefits, credits and other value attributable to the Asset to the extent applicable on an Accrual Basis of Accounting to the period prior to the Economic Date;

“Pre-Economic Date Costs” means all costs, charges, expenses, liabilities and obligations in respect of the Asset to the extent applicable on an Accrual Basis of Accounting to the period prior to the Economic Date;

“Post-Economic Date Benefits” means all benefits, credits and other value attributable to the Asset to the extent applicable on an Accrual Basis of Accounting to the period after the Economic Date;

“Post-Economic Date Costs” means all costs, charges, expenses, liabilities and obligations in respect of the Asset to the extent applicable on an Accrual Basis of Accounting to the period after the Economic Date;

“Reference Interest Rate” means [.....];

“Secretary of State” means the Secretary of State for Trade and Industry or any other person for the time being responsible for carrying out the functions at present carried out by her in relation to the Asset;

“Secretary of State Consents” means the approval of the Secretary of State to the transactions contemplated by this Agreement and the Completion Documents, the consent of the Secretary of State to the assignment of the Licence(s) and the agreement of the Secretary of State to the substitution of the Purchaser for the Seller as the operator under the Licence and as a designated owner in relation to the []

Field under the Petroleum Act 1987;

“Traded Data” means, with respect to Block [], data which relates to an area outside such Block and which has been acquired by trade, purchase or otherwise by and on behalf of the Seller (either alone or in conjunction with other parties) as a licensee of the Licence(s), from a third party or parties, where such data cannot be provided to the Purchaser because such transfer is prohibited by the agreement under which they were acquired;

[“Unit Agreement” means the [Unit Operating Agreement] dated [...] relating to the [] Field;]

“the Seller's Account” means Account Number [...] (Ref: [...])
Account Name: [] at: [];

“Warranties” means the representations and warranties given under Clause 6;

“Warranty Claim” means any claim by the Purchaser in relation to any breach by the Seller of the Warranties.

- 1.2 All references to Clauses, recitals and Schedules are, unless otherwise expressly stated, references to clauses of and recitals and schedules to this Agreement.
- 1.3 The headings in this Agreement are inserted for convenience only and shall be ignored in construing this Agreement.
- 1.4 Save in respect of the foregoing definition of “Affiliates,” any reference to any statute or statutory instrument in this Agreement shall be a reference to the same as amended, supplemented or re-enacted from time to time.

- 1.5 Unless the context otherwise requires, reference to the singular shall include the plural and vice versa, reference to any gender shall include all genders, and references to persons shall include natural persons, bodies corporate, unincorporated associations and partnerships.

2. SALE AND PURCHASE

- 2.1 Subject as herein provided the Seller as legal and beneficial owner hereby agrees to sell the Asset free from all liens, charges, mortgages, pledges, encumbrances or security interests whatsoever relating thereto [(other than as described in the Disclosure Letter)] to the Purchaser for the Consideration and the Purchaser agrees to accept the Asset all as at Completion.

- 2.2 The obligations of the Parties under Clause 2.1 are conditional on the satisfaction of the following conditions (the “Conditions Precedent”):

[2.2.1 the Purchaser having entered into agreements with the Seller to acquire the Seller's interest in the [], [] and [] Fields and completion of such transactions occurring simultaneously with Completion in accordance with the provisions of this Agreement];

[2.2.2 receipt by the Seller of a waiver in writing by the Co-Venturers of their rights pursuant to the provisions of Clause [] of the Operating Agreement or satisfaction of such provisions without any Co-Venturer attempting to acquire the Asset in accordance with such provisions;]

[2.2.3 confirmation from all other parties to the Operating Agreement that:

- (a) they are satisfied with the form of letter of credit

to be forwarded by the Purchaser under Clause [] hereof; and

- (b) that the other parties to the [Operating Agreement] - [Unit Agreement] shall release the Seller from the security provided by the Seller pursuant to the Decommissioning Agreement;]

[2.2.4 the Seller having confirmed in writing to the best of its knowledge and belief there has not occurred prior to the Completion Date any substantial loss of or physical damage to the Asset Property which would materially and adversely affect the value of the Asset];[or see 4.1 and 4.5]

2.2.5 the Secretary of State Consents having been duly obtained by the Seller; and

2.2.6 the due execution by the signatory parties (other than the Parties) of the Completion Documents and the receipt by the Parties from the other parties to the Completion Documents of all requisite consents and approvals to the transactions contemplated by this Agreement.

2.3 The Parties shall use all reasonable endeavours to ensure that the Conditions Precedent are satisfied as soon as reasonably practicable.

2.4 If any of the Conditions Precedent have not been satisfied or waived on or before [] this Agreement shall terminate and cease to have any effect and no Party shall have any liability to another under this Agreement except in respect of Clause 13 and any breach of the terms hereof committed before such date.

3. **CONSIDERATION**

3.1 In consideration of the sale and transfer by the Seller to the Purchaser of the Asset, the Purchaser shall pay the sum of [] together with such sum as shall be payable in accordance with the provisions of Clause 7 of this Agreement to be apportioned as follows:-

[(a) to plant, machinery, industrial buildings and other fixed assets included in the Asset Property, the sum of [.....] ; and

(b) to the remainder of the Asset:-

(i) the sum of [.....]; and

(ii) [such sum as shall be payable in accordance with the provision of Clause 7 of this Agreement;]

or to be apportioned on such other basis as the Parties may agree.]

3.2 [The Purchaser shall pay simple interest on the Consideration calculated on a daily basis at the rate of two per cent (2%) above the Reference Interest Rate from the Effective Date until the Completion Date.]

4. COMPLETION

4.1 Subject to the satisfaction or waiver of the Conditions Precedent [and Clause 4.5] completion of the sale and purchase of the Asset shall take place on the Completion Date at the Completion Venue when the following shall take place in the following order:-

(a) the Seller shall:-

(i) deliver to the Purchaser copies of the Secretary of State Consents;

- (ii) deliver to the Purchaser the Completion Documents duly executed by all of the parties thereto other than the Secretary of State and the Purchaser;
 - (iii) deliver to the Purchaser a copy, certified as a true copy (in accordance with section 3 of the Powers of Attorney Act 1971) of the Power of Attorney authorising the execution of the Completion Documents on behalf of the Seller; and
 - [(iv) deliver written confirmation that the Condition Precedent referred to in Clause 2.2.4 has been fulfilled.]
- (b) the Purchaser shall:-
- (i) pay the Seller the Consideration together [with interest accrued pursuant to Clause 3.2] by means of a direct transfer in cleared readily available funds to the Seller's Account no later than close of business London time, on the Completion Date;
 - (ii) execute all the Completion Documents to which it is to be party and deliver copies thereof, certified as true copies, to the Seller;
 - (iii) deliver to the Seller a copy, certified as a true copy [(in accordance with section 3 of the Powers of Attorney Act 1971) of the Power of Attorney] authorising the execution of the Completion Documents on behalf of the Purchaser;
 - (iv) [deliver to the Operator a letter of credit in the form and amount agreed with the Operator to the Purchaser's liability pursuant to the Decommissioning

Agreement]; and

- (v) deliver to the Seller the Deed of Indemnity, duly executed by the Purchaser and [].

4.2 Each of the Parties shall, and shall procure that its respective Affiliates shall, execute such other documents and do all such other acts and things as may reasonably be required in order to effect the disposal of the Asset to the Purchaser and otherwise carry out the true intent of this Agreement.

4.3 The Seller shall deliver to the Purchaser the Asset Data, the Asset Documents, the Data Room Documents and such other documentation relevant to the Asset as the Purchaser may reasonably request as soon as practicable following the Completion Date but no later than 30 days following the Completion Date.

[4.4 If Completion does not take place on or before 24:00 hours on [], either Party may terminate this Agreement by written notice to the other, to be without prejudice to rights and obligation accrued prior to termination.]

4.5 [If, prior to Completion, material loss or damage is sustained to any of the Asset Property, the Purchaser shall not be obliged to complete the sale and purchase of the Asset and shall have the right by notice in writing to the Seller to terminate this Agreement without prejudice to rights and obligations accrued prior to termination.] [See 2.2.4].

4.6 [Completion under this Agreement and completion under the Connected Agreement shall take place simultaneously.]

5. PRE & POST ECONOMIC DATE COSTS AND BENEFITS

- 5.1 The rights and obligations in this Clause 5 shall not come into effect unless and until Completion takes place.
- 5.2 (a) The Seller agrees to indemnify, keep indemnified and hold harmless the Purchaser against Pre-Economic Date Costs which are paid by the Purchaser.
- (b) Subject to Clause 5.4, the Purchaser shall pay the Seller an amount equal to the Pre-Economic Date Benefits received by the Purchaser.
- 5.3 (a) The Purchaser agrees to indemnify, keep indemnified and hold harmless the Seller against any Post-Economic Date Costs which are paid by the Seller; provided that the payment of the sums required to be paid under Clause 7 shall wholly satisfy such obligation to indemnify in respect of Post Economic Date Cost applicable on an Accrual Basis of Accounting to the period prior to the Effective Date.
- (b) Without prejudice to the generality of the foregoing, the Purchaser agrees to indemnify, keep indemnified and hold harmless the Seller against any Decommissioning Liabilities and any Environmental Liabilities of whatsoever nature and howsoever arising before or after the Post Economic Date.
- (c) Subject to Clause 5.4, the Seller shall pay the Purchaser an amount equal to the Post-Economic Date Benefits received by the Seller.
- 5.4 Joint account insurance proceeds shall be paid to the Party who (save and except for its receipt of such insurance proceeds) would

ultimately bear therelevant insured loss. If each of the Parties suffered part of such loss, payment of a portion of the insurance proceeds shall be made to each Party equal to the proportion of the relevant insured loss ultimately borne by it.

6. REPRESENTATIONS AND WARRANTIES

- 6.1 (a) Subject to the provisions of this Clause 6, the Seller represents and warrants to the Purchaser that, except insofar as described in the Disclosure Letter or disclosed prior to Completion pursuant to the provisions of Clauses 6.7 and 6.8, the representations made in Schedule 1(A) to this Agreement are true and accurate [in all material respects] [and the Purchaser admits that it has not entered into this Agreement in reliance upon any representation or promise other than those incorporated in the Disclosure Letter or this Agreement].
- (b) The Purchaser represents and warrants to the Seller that the representation made in Schedule 1(B) to this Agreement are true and accurate.
- 6.2 The Warranties referred to in Clause 6.1 shall be deemed to be repeated immediately prior to Completion.
- 6.3 Save only as and to the extent set forth in this Clause 6, the Seller makes no representations or warranties in respect of any matter or thing and disclaims all liability and responsibility for any representation, warranty, statement, opinion or information made or communicated (orally or in writing) to the Purchaser in connection with the transaction contemplated hereby and the Purchaser acknowledges and affirms that it has not relied upon any such representation, warranty, statement, opinion or information in entering into and carrying out the transaction contemplated by this

Agreement. Without limiting the generality of the foregoing, the Seller makes no forecasts or evaluations.

6.4 The provisions of this Clause shall operate to limit the liability of the Seller under or in connection with the Warranties and the Disclosure Letter and references to 'such liabilities' shall be construed accordingly. The Parties agree as follows:

- (a) no liability shall attach to the Seller unless the aggregate amount of such liabilities shall exceed the total sum of £[] or [5% of the Consideration] but if such liabilities shall exceed that sum the Seller shall (subject to the other provisions hereof) be liable for the whole of such liabilities and not merely the excess;
- (b) the aggregate amount of such liabilities shall not exceed £[...] [the Consideration];
- (c) claims against the Seller shall be wholly barred and unenforceable unless written particulars thereof (giving reasonable details of the specific matter or claim in respect of which such claim is made so far as then known to the Purchaser) shall have been given to the Seller within a period of [twenty-four (24) months] from the Completion Date.

6.5 If any amount is paid to the Purchaser pursuant to a Warranty Claim and an amount which is referable to that Warranty Claim is subsequently recovered by the Purchaser from a third party, so much of the amount paid as does not exceed the amount recovered from the third party (less all reasonable costs, charges and expenses incurred in obtaining such payment and in recovering such amount from the third party) shall be repaid to the Seller forthwith.

6.6 The Seller shall not do any act or thing, or authorise any act or

thing to be done over which it has control or which it can otherwise by the exercise of any right or power prevent from being done, which would prevent any of the Warranties from being true and accurate if repeated immediately prior to Completion. If, notwithstanding the foregoing provisions of this Clause 6.6, any matter or thing occurs after the date hereof but prior to Completion which would be inconsistent with the Warranties being true and accurate [in all material respects] on Completion, the Seller shall give notice in writing to the Purchaser as soon as reasonably practicable and in any event prior to Completion stating such matter or thing and that it is disclosed pursuant to this Clause 6.6.

- 6.7 In the event of any material matter or thing inconsistent with any of the Warranties given by the Seller becoming known or being notified to the Purchaser on or before Completion Date and such matter or thing continuing to be so inconsistent at the Completion Date, the Purchaser shall not be bound to complete the acquisition of the Asset and the Purchaser may, by notice in writing to the Seller prior to Completion, terminate this Agreement, without prejudice to rights and obligations accrued prior to termination.
- 6.8 [The Seller shall not be liable under any Warranty Claim in respect of any matter(s) of which the Purchaser or its agents or those for whom it is otherwise responsible have knowledge (actual or constructive) whether as the result of its/their investigation of the Asset (including access to the Data Room Documents for that purpose) or otherwise.]
- 6.9 [The Purchaser warrants to and agrees and undertakes with the Seller that there are no circumstances (save as the disclosed in the Disclosure Letter) within the actual knowledge of the Purchaser or its agents or those for whom it is otherwise responsible at the date hereof and no circumstances will exist at Completion which will (or might)

entitle the Purchaser to make any Warranty Claim against the Seller and, insofar as there are any such circumstances, the Purchaser shall not be entitled to make any Warranty Claim in respect thereof.]

[NOTE: Additional Sellers or Purchasers warranties may be included in Schedule 1(A) or (B)]

7. WORKING CAPITAL

- 7.1 The Purchaser shall pay the Seller or the Seller shall pay the Purchaser (as the case may be) a sum to reflect the monetary value of working capital attributable to the Asset as set out in [Schedule 4]. The said sum shall be set out in a statement to be prepared and given by the Seller to the Purchaser within [ninety (90) days] after the Completion Date. Such statement shall be a statement of working capital and a statement of adjustments made pursuant to [Schedule 4].
- 7.2 The Purchaser shall have the right to verify the statement referred to in Clause 7.1 by reference to the figures derived from the statements of the relevant operator. The Seller shall endeavour to provide such supporting data to the Purchaser as can reasonably be obtained. The Purchaser shall be obliged to complete its verification within [ninety (90)] days of receipt of the said statement and either: (a) the Purchaser shall be obliged to pay the Seller the sum specified as due to the Seller in the said statement or, as the case may be (b) the Seller shall be obliged to pay the Purchaser the sum specified as due to the Purchaser in the said statement; (all as varied by any adjustment agreed between the Seller and the Purchaser) and whether or not the Purchaser has agreed such statement within the said [ninety (90)] day period. In the event that the said statement cannot be agreed the provisions of Clause 7.3 shall apply.
- 7.3 In the event that the Seller and the Purchaser cannot agree the

statement referred to in Clause 7.1, the same shall be referred for resolution to an independent chartered accountant appointed by the Seller and the Purchaser or in the event of the Seller and the Purchaser differing as to such appointment by the President for the time being of the Institute of Chartered Accountants of England and Wales. The decision of the chartered accountant so appointed shall, in the absence of manifest error, be final and binding on the Seller and the Purchaser, and settlement of any outstanding amount due to or by either the Seller or the Purchaser shall be made within [five (5) Business Days] of such decision. The costs of the independent chartered accountant shall be borne equally by the Seller and Purchaser and such chartered accountant shall be deemed to be acting as an expert and not as an arbitrator.

- 7.4 In the event of late payment, the Purchaser shall pay the Seller or the Seller shall pay the Purchaser (as the case may be) interest on such further sums as may be payable pursuant to Clauses 7.1, 7.2 and/or 7.3 from the date such sums are due to be paid to the date and sums are paid (both dates inclusive) at a rate per annum [five per cent (5%)] above the Reference Interest Rate calculated on a daily basis using simple interest.
- 7.5 In the event that the Seller makes any payments, or receives any receipts, in respect of the period between the Economic Date and the Completion Date, in respect of the Asset, the Purchaser will pay the Seller or the Seller will pay the Purchaser (as the case may be) the amounts involved within [twenty (20) Business Days] of the Completion Date, or of the date of such payment or receipt, whichever is the later. For the purpose of this Clause, payments will include, inter alia, cash calls for capital and operating costs and tariffs and receipts will include, inter alia, actual proceeds from the sale of Petroleum produced after the Economic Date.

- 7.6 Any and all amounts to be paid pursuant to this Agreement shall be paid in same day funds, in the case of payments to the Seller to the Seller's Account and in the case of payments to the Purchaser to such bank account as the Purchaser shall nominate in writing.

8. TAXATION

- 8.1 Each Party shall deliver to the Board of Inland Revenue (the "Revenue") in a timely fashion a notice in accordance with paragraph 3 of Schedule 17 to the Finance Act 1980 [and shall not make an application under paragraph 4 of the said Schedule for the provision of Parts II and III of the said Schedule not to apply to the transfer of the Asset pursuant hereto.]
- 8.2 The Parties acknowledge that in the periods up to [] the Seller will have incurred expenditure in relation to the Field which can be claimed for Petroleum Revenue Tax purposes under either Schedule 5 or 6 to the Oil Taxation Act 1975. The Seller shall take all actions and do all things reasonably in its power to ensure that such expenditure is claimed and, in particular, the Seller shall prepare and sign all Schedule 6 claims in respect of such expenditure and provide copies of the same to the Purchaser on or before [].
- 8.3 The Seller and the Purchaser agree that the allocation with respect to the Asset set out in Clause 3 is a just apportionment of the Consideration. The Seller and the Purchaser agree that they will each present their returns for tax purposes on the basis of the said allocation and that they will use all reasonable endeavours to agree with the Oil Taxation Office ("OTO") the figures so presented. No part of the Consideration attributed to the Balance of Asset allocation pursuant to [Schedule 2] shall be treated as a reimbursement of expenditure which the Seller has incurred whether comprising tangible drilling expenditure or otherwise.

- 8.4 (a) The Purchaser warrants that it is registered for VAT in the U.K. and that it intends to use the Asset for its own trade of exploration/exploitation.
- (b) The Seller warrants that it is registered for VAT in the U.K.
- (c) The Purchaser undertakes that it will use the Asset acquired as part of its going concern for a sufficient period to comply with the requirements of Article 5 of the Value Added Tax (Special Provisions) Order 1995, so that the transfer thereof is neither a supply of goods nor a supply of services for VAT purposes.
- (d) The Parties believe that the transfer hereunder is a transaction which is outside the scope of Value Added Tax by virtue of Article 5 of the Value Added Tax (Special Provisions) Order 1995. However, if the Seller is advised in writing by HM Customs and Excise that such transaction is subject to Value Added Tax, the Purchaser undertakes to pay the Purchaser, on presentation of a Value Added Tax invoice, any amounts due in respect of Value Added Tax within thirty (30) days of demand.
- (e) The Parties agree that the Seller shall make application to the HM Customs and Excise under Section 49(1)(b) Value Added Tax Act 1994 for a direction that the records relating to the interests which under paragraph 6 Schedule 11 Value Added Tax Act 1994 have been maintained by the Seller should be preserved by the Seller notwithstanding the provisions of the said section. The Seller shall forthwith upon receipt thereof provide Purchaser with a copy of any such direction, and Purchaser shall retain access at all reasonable times during business hours to all books and records retained by the Seller or its Affiliates in relation to value added tax matters concerning the interests, and the Seller

covenants to retain such records as required by paragraph 6 Schedule 11 Value Added Tax Act 1994.

- 8.5 The Parties shall indemnify each other in respect of any amounts paid by the Parties with respect to the Asset pursuant to any notice issued under paragraph 4 of Schedule 15 to the Finance Act 1973 received by the Parties after the date hereof, provided that the income which gave rise to such assessment was in respect of work performed in relation to the Asset or any part thereof prior to Completion. Notwithstanding anything else in this Agreement, the Parties agree to pay any tax required to be paid pursuant to any such notice of assessment which is received on or after the date hereof, and which relates to the Asset.
- 8.6 The Seller acknowledges and agrees that the notice under paragraph 3 of Schedule 17 to the Finance Act 1980 (PRT80) in respect of the transactions contemplated by this agreement will be completed and filed by the Seller.
- [8.7 For the avoidance of doubt, the Parties agree the date of transfer of the Asset for all purposes (including without limitation Petroleum Revenue Tax and Corporation Tax purposes) shall be deemed to be the Economic Date and not the Completion Date.]
- 8.8 If any liability for or right to repayment of PRT in connection with the Asset which relates to the period of ownership prior to the Economic Date arises after the Economic Date and the adjustment giving rise to such liability or right is in respect of income and expenditure of the Seller during such period of ownership then the liability or repayment shall be the responsibility or entitlement of the Seller. Any repayment of PRT in connection with the Asset arising otherwise in respect of the Seller's period of ownership shall be the entitlement of the Purchaser.

8.9 The Seller undertakes to submit Statements of Value in connection with payment of Royalty in relation to the Asset to the Department of Trade and Industry (“DTI”) for the period [...] to [...]. To the extent that the final liability of the Seller to make payment of Royalty for such periods differs from payments on account already made by the Seller to the DTI in that respect, the Seller shall be responsible for settlement of any additional amount due together with interest thereon for such periods and shall also be entitled to any repayment due together with interest thereon for such periods.]

9. INTERIM PERIOD OPERATIONS

9.1 Between the date hereof and Completion, the Seller shall (to the extent it is able so to do having regard to the provisions of the Operating Agreement [Unit Agreement]):-

- (a) continue to carry on its activities in relation to the Asset in the ordinary and usual course so as to protect and maintain the same [in accordance with good oil field practice] and comply with previously agreed decisions of the Operating Committee in relation to the Assets;
- (b) consult with the Purchaser with regard to the Asset and co-operate with the Purchaser so as to ensure an efficient handover of the Asset on Completion and use its reasonable endeavours to protect or procure the protection of the Asset for the benefit of the Purchaser;
- (c) insofar as reasonably practicable, keep the Purchaser fully informed in a timely manner on any and all matters (not of a routine nature) relating to the Asset; and
- (d) not to do or omit to do anything which would result in a breach of any of the Warranties given by it.

[NOTE: additional provisions may be required]

9.2 The Seller shall:

- (a) not, except with the prior written approval of the Purchaser (such approval not to be unreasonably withheld or delayed) amend or agree to amend any of the Asset Documents in any respect insofar as such amendment or agreement to amend relates to or affects the Asset or waive or agree to waive any of its rights or remedies thereunder or arising therefrom in so far as such rights and remedies relate to or affect the Asset;
- (b) If is considers in good faith that a particular matter or proposal is of a nature which may have an adverse effect on the value of the Asset, notify the Purchaser in writing, consult (to the extent reasonably practicable) with the Purchaser in relation to that matter or proposal, take account of any representation which the Purchaser may make and, provided always that such action shall not be prejudicial to any of the Seller's other business interest and the Seller shall not be in breach of any contractual, legal, statutory or regulatory requirement whatsoever by doing so, carry out the wishes of the Purchaser in so far as it is reasonably practicable to do so following such consultation; and
- (c) As soon as reasonably practicable provide the Purchaser (to the extent it is contractually and legally permitted to do so) with details of any matter relating to or affecting the Asset on which the Seller is entitled to vote (a "Voting Matter") and, prior to exercising its vote on a Voting Matter, consult (to the extent reasonably practicable) with the Purchaser in relation to the Voting Matter, take account of any representations which the Purchaser may make and provided always that such action shall not be prejudicial to any of the Seller's other business interests

and the Seller shall not be in breach of any contractual, legal, statutory or regulatory requirement whatsoever by doing so, exercise its voting rights in a manner which is not inconsistent with the Purchasers' representations.

10. ASSIGNMENT

No Party shall have the right to assign, transfer or otherwise dispose of its rights and/or obligations under this Agreement without the consent of the other Party, which consent shall not be unreasonably withheld.

11. INTEREST

Where, in this Agreement, any date is specified as being the due date for payment and payment is not made on that date, simple interest shall be paid on the amount outstanding on a daily basis (after as well as before any judgement) from the start of the due date to the end of the day preceding the date of actual payment at the rate of five per cent (5%) above the Reference Interest Rate.

12. COSTS

The Parties shall pay their own costs and expenses in connection with this Agreement and the documents executed pursuant hereto.

13. CONFIDENTIALITY

This Agreement shall be held confidential by the Parties and shall not be divulged in any way to any third party by one Party without the prior written approval of the other Parties; provided that any Party may, without such approval, disclose such terms to:-

- (a) any Affiliate of it provided the disclosing Party procures that such Affiliate maintains such terms confidential; or

- (b) any outside professional consultants or other professional advisers consulted in connection with the terms of this Agreement, provided the disclosing Party obtains a similar undertaking of confidentiality (but excluding this proviso) from such consultants; or
- (c) any bank or financial institution from whom such Party is seeking or obtaining finance, provided the disclosing Party obtains a similar undertaking of confidentiality (but excluding this proviso) from such bank or institution; or
- (d) the extent required by any applicable laws, the Licence, or the requirements of any recognised stock exchange in compliance with its rules and regulations; or
- (e) any Government agency lawfully compelling such terms; or
- (f) any Court of competent jurisdiction acting in pursuance of its powers; or
- (g) the extent that the terms of this Agreement become public knowledge or for any other reason ceases to be confidential otherwise than through breach of this undertaking.

14. ANNOUNCEMENTS

Neither Party shall make a public announcement or statement regarding the execution of this Agreement, the Completion Documents or Completion without the prior agreement of the other Party, such agreement not to be unreasonably withheld. [Where otherwise required to make a public announcement by law or in accordance with the directions of any governmental or regulatory authority, the Parties shall consult together and shall together take such steps as may be necessary to comply with all legal or regulatory requirements].

15. MISCELLANEOUS

- 15.1 Except insofar as any term or provision of this Agreement is satisfied on Completion, this Agreement shall remain in full force and effect after Completion.
- 15.2 No waiver by either Party of any breach of a provision of this Agreement shall be binding unless made expressly in writing. Any such waiver shall relate only to the breach to which it expressly relates and shall not apply to any subsequent or other breach.
- 15.3 This Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the Parties.
- 15.4 This Agreement represents the entire agreement between the Parties and supersedes all warranties and representations previously made and all prior negotiations, proposals, statements of intent, understandings and agreements relating to the subject matter hereof. Each of the Parties agrees that it will have no remedy in respect of any untrue representations or statement made by the other Party or its advisers (unless made fraudulently) and upon which it relied in entering into this Agreement.
- 15.5 To the extent that there is an inconsistency between this Agreement and any of the Completion Documents, this Agreement shall prevail as between the Parties.
- 15.6 [Unless expressly stated, no term this Agreement is intended to be enforceable by third parties under the Contracts (Rights of Third Parties) Act 1999 and, where an obligation is expressly stated to be enforceable by a third party, the consent of that third party will not be required to rescind or vary the relevant term.]
- 15.7 [If the Connected Agreement is terminated prior to Completion of

this Agreement and completion under the Connected Agreement, either Party may terminate this Agreement.]

16. NOTICES

16.1 Any notices given pursuant to this Agreement shall be in writing and may be given by hand at, or sent by pre-paid first class post or facsimile to, the appropriate address stated in Clause 16.3 (or such other address as may be given for the purposes of this Agreement by notice to the other Parties).

16.2 Any such notice given as aforesaid shall be deemed to have been given at the time of delivery if delivered by hand on a Business Day or the first Business Day following the day of delivery by hand if delivery did not take place on a Business Day or following the day of sending it if sent by facsimile or the second Business Day following the day of sending if sent by pre-paid first class post.

16.3 The respective addresses for service are:

Seller: []

Purchaser: []

17. GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of England and each of the Parties hereby submits to the exclusive jurisdiction of the English courts.

IN WITNESS WHEREOF this Agreement has been duly executed on the day and year first above written.

Signed for and on behalf of

.....

SCHEDULE 1 (A)

SELLER'S WARRANTIES

1. Licence and Asset Documents

1.1 The Seller is the legal and beneficial owner of the Asset and is a licensee of the Licence(s).

1.2 The Licence(s), and the other Asset Documents, and all rights and interests thereunder or deriving therefrom of the Seller are in full force and effect and no act or omission of the Seller has occurred which would or might entitle the Secretary of State to revoke the Licence or any part thereof and no notice has been given to the Seller by the Secretary of State of any intention to revoke the Licence or any part thereof.

1.3 All accrued obligations and liabilities imposed by the Licence(s) (including without limitation, work obligations) have been duly fulfilled and discharged and there are no outstanding work obligations to be fulfilled under the Licence(s) and the Secretary of State has not given notice to the Seller of any intention to require further works to be conducted (whether in relation to exploration or development) or to call for the submission of or impose a development programme or abandonment programme.

1.4 The Seller:-

(a) has not committed any [material] breach of any Asset Document; and

(b) has not received any notice that any of the other parties thereto has committed any breach of or is in default under any Asset Document.

1.5 The Asset Documents are the only deeds, agreements, arrangements or documents affecting the Asset (other than operational agreements entered into by the Operator for and on behalf of []).

- 1.6 The copies of the Asset Documents which have been made available by the Seller or its representatives to the Purchaser or its representatives are true copies of the originals.
- 1.7 To the best of the Seller's knowledge and belief all data, information or documents that have been supplied or made available to the Purchaser or to its advisers which originates from the Seller (save to the extent that this has been produced or taken from data, information or documents originating from another source) (i) was correct in all material respects at the time that it was created, to the extent that it is factual in content and (ii) was produced in good faith at the time that it was created, to the extent that it is interpretative in content.

2. Charges

No mortgage, charge (whether fixed or floating), pledge, lien, encumbrance or other security or net profit or royalty interest has been created over the Asset other than those arising under the Licence and the Asset Documents nor, subject as aforesaid, is there in effect any agreement or commitment to create the same.

3. Litigation

The Seller is not a party to any [material] litigation or arbitration or administrative proceedings or to any dispute in relation to the Asset and so far as the Seller is aware no such litigation, arbitration or administrative proceedings are threatened or pending or likely either by or against the Seller.

4. Seller

- 4.1 The Seller is duly incorporated with limited liability and validly exists under the laws of [England].
- 4.2 The Seller has the corporate power and has taken all necessary corporate and

all other action to enter into and complete this Agreement, which Agreement will constitute legally binding obligations on the Seller and not cause the Seller to violate any applicable law, judgement, order, permit, or any other agreement, consent or instrument binding upon the Seller.

4.3 Upon execution by all relevant parties of the Completion Documents, neither the signing and delivery of this Agreement nor the performance of any of the transactions contemplated by this Agreement shall:-

- (a) contravene or constitute a default under any provision contained in any agreement, instrument, judgement, order, law, licence, permit or consent by which the Seller or any of its Assets is further affected; or
- (b) cause any limitation on it or the powers of its Directors, whether imposed by or contained in any document which contains or establishes its constitution or in any law, order, judgement, agreement, instrument or otherwise, to be exceeded

which in either case is material in the context of this Agreement.

SCHEDULE 1 (B)

- 1 Subject to the provisions of this Clause [] the Purchaser hereby represents and warrants to the Seller as follows:
 - 1.1 the documents which contain or establish the Purchaser's constitution incorporate provisions which authorise, and all necessary corporate action has been taken to authorise, the Purchaser to execute and deliver this Agreement and perform the transactions contemplated hereby;
 - 1.2 subject to fulfilment of the conditions set out in Clauses [...], the signing and delivery of this Agreement and the performance of the transactions contemplated by this Agreement, will not contravene or constitute a default under any provision contained in any agreement, instrument, judgment, order law, licence, permit or consent by which the Purchaser or any of its Affiliates or any of their respective assets is bound or affected and which would result in the Purchaser being unable to perform its obligations under this Agreement;
 - 1.3 no litigation, arbitration, administrative proceeding, dispute or judgement against the Purchaser (or its Affiliates) or to which the Purchaser (or its Affiliates) is a party which might by itself or together with any other such proceedings have a material adverse effect on the Purchaser's business, assets or condition and which would materially and adversely affect its ability to observe or perform its obligations under this Agreement and the transactions contemplated hereby, is subsisting or, so far as the Purchaser is aware, threatened or pending against the Purchaser or any of its assets or against its Affiliates; and
 - 1.4 the Purchaser is duly incorporated with limited liability and validly existing under the laws of [England/Scotland/].

ANEXO 1.2: Modelo de testamento inglés

Last Will and Testament

THIS WILL is made by me **Andrew Example** of (full address).

1. **Revocation**

I revoke all earlier Wills and testamentary dispositions.

2. **Appointment of Executors**

2.1 I appoint my wife **Alison Example** to be my Executrix and Trustee.

2.2 If my wife **Alison Example** is unable or unwilling to act as my Executrix and Trustee or if she dies before proving my Will I make the following appointment instead.

2.3 I appoint **Jack Example** to be my Executor and Trustee.

2.4 The expression "my Trustees" means my personal representatives and the trustees of this Will and of any trust that might arise under it.

3. **Funeral Directions**

I wish my body to be cremated and my ashes scattered over the centre spot at Wembley Stadium Example.

4. **Guardianship Appointment**

I appoint my sister-in-law **Kerry Example** to be the guardian of my children who are under 18 years of age.

5. **Money Bequest**

I make the following gift of money:

I give to my godson **Barry Example** free of all taxes and death duties the sum of five hundred pounds sterling and if my godson **Barry Example** shall fail to obtain a vested interest leaving issue who survive me and reach the age of 21 years then such issue shall take by substitution and if there shall be more than one of such issue they shall take in equal shares per stirpes but so that no issue shall take whose parent is alive and so capable of taking.

6. **Specific Bequest of Personal Chattels**

6.1 I give all my personal chattels not otherwise specifically gifted by my Will or any Codicil free of all taxes and death duties to my Trustees as beneficial

legatees.

6.2 I request my Trustees within three months of my death but without imposing any binding trust or legal obligation and without conferring any interest on any other person to dispose of the same in accordance with any memorandum of wishes of mine which may come to my Trustees' attention within one month of my death.

6.3 To the extent there are personal chattels not disposed of by my Trustees under the terms of this clause they shall fall into and form part of my Residuary Estate.

6.4 In this clause the expression "personal chattels" shall have the meaning given by s.55(1)(x) of the Administration of Estates Act 1925.

7. **Further Specific Bequest**

I give to **Jack Example** free of all taxes and death duties my long case Grandfather Clock.

8. **Definition of My Estate**

In my Will where the context so admits "my Estate" shall mean:-

8.1 All my property of every kind wherever situate.

8.2 All my property of every kind wherever situate over which I have a general power of appointment.

8.3 The money investments and property from time to time representing all such property.

9. **Administration of My Estate**

My Trustees shall hold my Estate upon trust to retain postpone or sell it and will:-

9.1 Pay any debts funeral and testamentary expenses.

9.2 Satisfy all gifts of specified property referred to in my Will.

9.3 Pay all the gifts of money referred to in my Will.

9.4 Deal with the remainder ("my Residuary Estate") as I now direct.

10. **Gift of Residue**

I give my Residuary Estate to my wife **Alison Example** and if my wife **Alison Example** shall fail to obtain a vested interest leaving issue who survive me and reach the age of 21 years then such issue shall take by substitution and if there shall be more than one of such issue they shall take in equal shares per stirpes but so that no issue shall take whose

parent is alive and so capable of taking.

11. **Substitutional Provisions**

If the above provisions for the distribution of my Residuary Estate fail then the following shall apply:

12. **Gift of Residue**

I give my Residuary Estate to **Battersea Charity** of 4 Battersea Park Road London SW8 4AA whose registered number is **206394**.

13. **Charities**

If at my death any charity to which I have made a gift does not exist, the gift will not fail but my Trustees may pay it to such other charity with similar aims as they shall think fit.

14. **Declaration excluding section 33 of the Wills Act 1837**

Section 33 of the Wills Act 1837 (as substituted by section 19 of the Administration of Justice Act 1982) shall not apply to any of the foregoing clauses.

15. **Standard Provisions**

The Standard Provisions of the Society of Trust and Estate Practitioners (1st Edition) shall apply with the deletion of paragraph 5. Section 11 Trusts of Land and Appointment of Trustees Act 1996 (consultation with beneficiaries) shall not apply.

IN WITNESS WHEREOF these presents written on this (and the preceding) page are subscribed by me at (**address**) on this ____ day of ____ Two Thousand and ____

SIGNED by the above named **Andrew Example** as and for his last Will in our presence and then by us in his

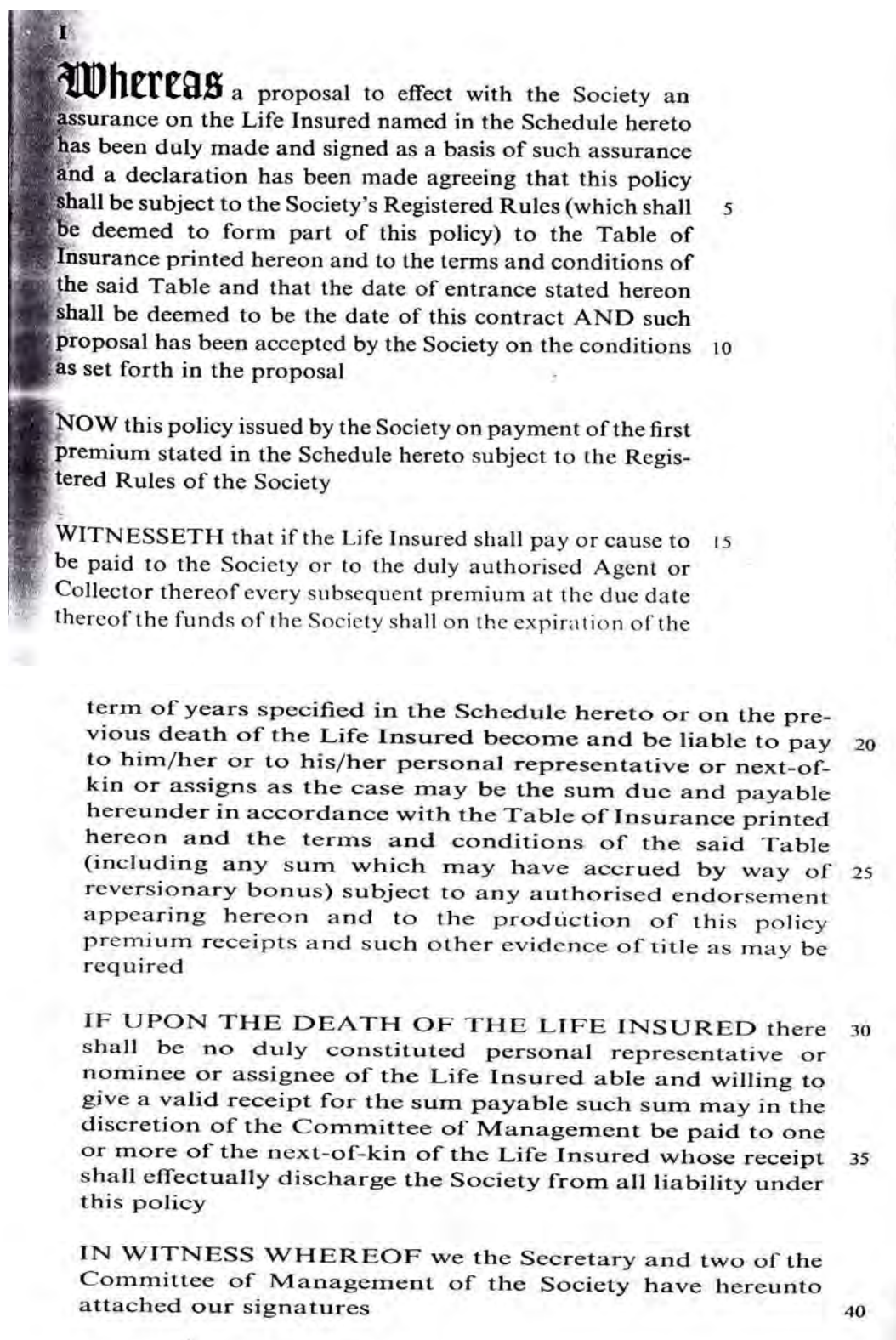
.....
Signature of Testator

.....
Signature of first Witness

.....
Signature of second Witness

ANEXO 2

ANEXO 2.1: Copia escaneada del *Endowment Assurance Policy*



II

7. Notwithstanding the termination of the hiring under Clause 6 the Hirer shall pay all rent accrued due in respect of the hiring up to the date of such termination and shall be or remain liable in respect of any damage caused to the Owner by reason of any breach by the Hirer of any stipulation herein contained and on the part of the Hirer to be performed or observed. 45

8. At any time before the Owner shall have recovered possession of the goods and before the Hirer shall have terminated the hiring under Section 4 of the Hire-Purchase Act 1938 (as amended) the Hirer may on the payment to the Owner of the total amount of any instalments then remaining unpaid of the rent hereinbefore reserved and agreed to be paid 50

during the term and the further sum of ten shillings purchase the goods:

Provided that such payment as aforesaid shall be a condition precedent to the exercise of the option to purchase so conferred (this agreement not being an undertaking by the Owner to sell the goods on credit or without such payment as aforesaid being first made) and accordingly any notice unaccompanied by such payment as aforesaid of an intention to exercise the said option shall be void and shall not constitute a binding agreement to purchase or sell the goods. 55

ANEXO 2.3: Copia escaneada del Assignment

This Assignment

is made the

day of

197 Between

(hereinafter called "the Debtor" which expression shall where the context admits if more persons than one are parties hereto of the first part include each or either or any of them alternatively so that every assurance covenant declaration appointment and agreement by the Debtors herein contained or implied shall be several as well as joint but shall where joint relate only to property hereby assured which belongs to or can be appointed by the Debtors jointly and where several relate only to property hereby assured which belongs to or can be appointed by the party making such assurance covenant declaration appointment or agreement separately) of the first part

(hereinafter called "the Trustee" which expression shall where the context admits include his representatives or other the trustees for the time being hereof) of the second part and the several PERSONS COMPANIES AND PARTNERSHIP FIRMS being Creditors of the Debtor whose names and addresses are set forth in the Schedule hereto and all other persons (if any) who are now Creditors of the Debtor and shall assent hereto in writing or otherwise (all of which parties are hereinafter called "the Creditors" which expression shall where the context admits include the persons respectively deriving title under them) of the third part ~~Whereas~~—

(1) The Debtor indebted to the Creditors respectively in the divers sums of money set opposite to their respective names in the Schedule hereto (such debts where more persons than one are parties hereto of the first part being unless otherwise described in that Schedule the Debtors' joint debts) and to other persons in divers sums of money and being unable to pay the same in full have proposed to make such provision for the payment thereof as is hereinafter contained:

(2) The Creditors have agreed to accept such proposal and to enter into the covenants on their part hereinafter contained

Now in pursuance of the said agreement and for the consideration aforesaid ~~This Deed Witnessed~~ and it is hereby declared as follows:—

1. The Debtor as Beneficial Owner do hereby convey assign and appoint unto the Trustee (and as to real estate) in fee simple All the real and personal estate whatsoever and wheresoever which belongs to the Debtor beneficially (except as follows):—

- (a) property held by the Debtor for any term of years (not being a mortgage term) or shorter term
- (b) interest in and charges on land the title to which is registered under the Land Registration Acts
- (c) all shares standing in the name of the Debtor which are not fully paid up or to the holding of which some liability is attached
- (d) any interests in property which cannot be transferred by this Deed or which cannot be transferred without creating a forfeiture and
- (e) the tools of trade (if any) of the Debtor and the necessary wearing apparel and bedding and other personal necessities of the Debtor and his family not exceeding (in the case of each Debtor) the value of pounds

And also (by way of conveyance and not of exception) All property whether real or personal which the Debtor now has power by deed or writing (otherwise than by Will only) to appoint as the Debtor may think fit Together with all books of account vouchers papers and writings relating to the affairs of the Debtor

To hold as to real estate Unto the Trustee in fee simple and as to personal estate Unto the Trustee absolutely Upon trust:—

(a) To carry on the business (if any) of the Debtor and to call in collect and receive or sell and dispose of all or any part of the property either by public auction or private contract with liberty to give time for the payment of any purchase money or to take any security for the same or any part thereof and with full power to bring defend compromise or abandon any legal proceedings relating to the trust estate or any part thereof and to give time for the payment of any debts owing to the Debtor and to accept payment thereof by instalments composition or otherwise and to abandon any debts which shall be considered bad and generally to adjust and settle all accounts questions and disputes relating to the trust estate or any part thereof between the Trustee and the Debtor or any other person in such manner and upon such terms as the Trustee shall think fit.

(b) Out of the money to be so realised—
(i) First to pay the expenses of the collection realisation and conversion into money of the said estate:

(ii) Secondly to pay all costs charges and expenses of or incidental to convening and holding any meeting of the Creditors held before the execution hereof and the negotiations therefor and the investigation of the affairs of the Debtor and preparing executing stamping and registering this deed and the execution of the trusts hereof and carrying the same into effect including the professional charges of the Trustee (to which the Trustee shall be entitled in the same manner as if he were not a trustee and had been employed as agent to perform the services rendered by him):

(iii) Thirdly to pay and discharge all claims which would be required by law to be paid in full in priority to other debts if the Debtor had become and been adjudged bankrupt on the date hereof:

(iv) Subject as aforesaid to divide the residue of the said money rateably amongst the Creditors in proportion to the amounts of their respective debts in like manner in all respects as the said money would be divisible under the law of bankruptcy if the Debtor had been on and at the date hereof duly adjudged bankrupt (and where more persons than one are parties hereto of the first part according to the law of administration in bankruptcy of the joint and separate estates of joint debtors):

(v) To pay the residue (if any) of the said money to the Debtor according to the respective rights and interests affecting the same.

ANEXO 3

Lista de binomios encontrados en los documentos analizados

TÉRMINOS QUE APARECEN EN LA LISTA DE GUSTAFSSON	TÉRMINOS SUSCEPTIBLES DE SER CONSIDERADOS BINOMIOS
before or after	(to) acknowledge and affirm
by and on behalf of	act and thing
from time to time	agreement, consent or instrument
last will and testament	agreement, instrument, judgement, order, law, licence, permit or consent
(to) observe or perform	alone or in conjunction with
right or power	any and all
rights or remedies	any one or more of
terms and conditions	as and for
(un)able or (un)willing	(to) assign or transfer
	(to) assign, amend or novate
	bank or financial institution
	barred and unenforceable
	books and records
	by or in accordance with
	(to) commit breach of or be in default
	contractual, legal, statutory or regulatory (requirement)
	(to) contravene or constitute a default
	costs and benefits
	costs, charges and expenses
	costs, charges, expenses, liabilities and obligations
	data, information or documents
	deeds, agreements, arrangements or documents
	duly incorporated and validly existing
	either or both
	(to) execute and deliver
	fall into and form part of
	for and on behalf of
	fulfilled and discharged
	(be) in full force and effect
	(to) indemnify, keep indemnified and hold harmless
	law, judgement, order, permit,
	legal and beneficial (owner)
	liability for or right to
	liens, charges, mortgages, pledges, encumbrances or security interests
	litigation, arbitration, administrative proceeding, dispute or judgement
	matter or thing

	mortgage, charge, pledge, lien, encumbrance or other security or net profit or royalty interest
	negotiations, proposals, statements of intent, understandings and agreements
	not to do or omit to do
	obligations and liabilities
	on or before
	public announcement or statement
	relating to or affecting
	(to) represent and warrant
	representation, warranty, statement, opinion or information
	representations and warranties
	rights and interests
	rights and obligations
	sale and purchase
	satisfaction or waiver
	save (only) as and to the extent
	terminate and cease
	threatened or pending
	(to) warrant and agree and undertake
	under or in connection with
	true and accurate
	whatsoever and howsoever