



GENCON 22

BIMCO

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BIMCO DÖKÜMANTASYON KOMİTESİ ÜYESİ



GENCON 76 ve 94 sefer charterpartileri kuru yük bağlantılarında ve taşımacılığında geniş kullanım alanı bulmuştur.

BIMCO tarafından yayımlanan BIMCO Dokümantasyon Komitesi olarak GENCON 2022 sürümünün hazırlanması esnasında, komisyon çalışmalarında emeği ve değerli katkıları bulunan sevgili hocamız Prof Dr. Fehmi Ülgener'e ve derneğimizin BIMCO delegesi değerli meslektaşımız Bahadır Tonguç'a Gemi Brokerleri Derneği Yönetim Kurulu adına teşekkürlerimizi sunarız.

GENCON 22 charterpartisinin denizcilik camiasına hayırlı olmasını diliyor, tüm sektör paydaşlarımıza sağlıklı, bereketli ve problemsiz bağlantılar diliyorum.

Gemi Brokerleri Derneği Başkanı

İsmail Şahin

GİRİŞ

Gencon charterpartisi uzun yıllardır endüstride en çok kullanılmakta olan standart tip sefer charter sözleşmesidir, aslında bir bakıma bu amaçla kaleme alınmıştır, taşıma türüne özel bir takım charterpartilerin (rider klozlarla) tadil edilerek kullanılması yerine, genel olarak a noktasından b noktasına yapılacak taşımalar için genel mahiyette ancak dengeli ve güvenilir bir sözleşme yapılmak istenmiş ve bu büyük bir oranda başarı ile sonuçlanmıştır. İlk olarak 1922 yılında hazırlanmış olan Gencon, sonradan 1976 ve 1994 yıllarında iki kere kapsamlı olarak elden geçirilmiş ve bu şekilde günümüze kadar ulaşmıştır.

Alt komite çalışmalarına BIMCO adına gözlemci olarak katılmış bulunduğum Gencon 22 charterpartisi bilindiği üzere 2022 yılının ilk yarısında dokümantasyon komitesi tarafından kabul edilmiş olup denizcilik piyasalarına sunulmuştur.

Dökümantasyon komitesi toplantılarında çeşitli defalar dile getirmiş olduğum üzere Gencon charterpartisinin yeni formu kaleme alınırken bu charterpartinin başta gelen özellikleri olan

- ufak ve orta boyda donatanlara yönelik
- kolayca ve sıklıkla kullanılabilen, bundan dolayı fazla komplike olmayan

yapı gözden geçirilmiş ve büyük / kurumsal donatanlar haricinde kalanların kullanımında bazı zorluklarla karşılaşabileceği bir oluşum meydana gelmiştir.

Ancak hemen ifade edelim ki, belirtilen sakıncasının yanında, yeni form bir çok konuda önemli denilebilecek kurallar getirmektedir. Bunun yanında, ileri de görüleceği üzere, bir çok konunun daha evvel kaleme alınmış genel Bimco Klozlarına atıfta bulunularak çözüme kavuşturulması, bizim de desteklediğimiz, pratik bir çözüm anlamına gelmektedir.

Gencon 22 formunun bir önceki 94 formuna göre benzerlikleri olduğu gibi önemli farkları da bulunmaktadır. Ancak bize göre bir önceki versiyona kıyasen daha dengeli ve uyumsuzlukların meydana gelmesini önlemeye yönelik özellikler barındırmaktadır.

Aşağıda uygulama bakımından önem arzeden iki konudaki düzen mukayeseli bir şekilde okuyucunun dikkatine sunulmaktadır.

-I-
DONATANIN SORUMLULUĞU

İnceleme konusu charterpartinin önemli klozlarının başında “donatanın sorumluluğu” klozu bulunmaktadır. Bu kloz, aşağıda da görüleceği üzere, Gencon 94 formuna kıyasen önemli ölçüde değiştirilmiştir. Yeni kloz ilk bakışta donatanın sorumluluğunu genişletir gibi görünse de, bir çok bakımdan sözleşmenin standartlık özelliğinin korunmasında özel bir rol üstlenmektedir. Bu husus yazımızın sonunda ayrıntılı olarak açıklanacaktır.

Adı geçen kloz ile donatanın sorumluluğunun taşıyanın La Haye-Visby Kurallarındaki sorumluluğunu aşmaması amaçlanırken, donatanın göstermesi gerekli özen ve dikkati iki safha ile sınırlanmaktadır; buna göre gemi

- yükleme başlangıcında yüke elverişli ve
- yolculuk başlangıcında denize elverişli

bir halde bulundurulmalıdır. Bu durum söz konusu olduğu takdirde donatan yüke gelen zarardan dolayı taşıyan kadar sorumlu olmakta, bu da kendisinin P&I himayesinin sorunsuz olarak devamını sağlamaktadır.¹

Aşağıda bu durum ayrıntıları ile incelenmektedir:

2. Donatanın sorumluluğu²

İşbu charterparti gereğince charterer tarafından üstlenilmiş olan riziko ve sorumluluklara tabi olmak kaydıyla,

a.i. Donatan sözleşme konusu yükün iki liman arasında taşınması amacıyla

(1) Bu yükü selametle varma limanına ulaştırabilmek için “yüke elverişli” ve

(2) kullanılacak rota bakımından “denize ve yola elverişli”

bir gemi tedarik etmek için makul bir özen ve dikkat sarfetmekle yükümlüdür.

ii. Donatan yükün yüklenmesi ile boşaltılması arasındaki sürede özen ve dikkat gösterecek ve bu şekilde taşıyacaktır.

b. Yukarıda (a)(i) bendindeki yükümlülüklerle tabi olmak şartıyla, donatan şahsına veya gemiye yöneltilmiş yükün zıya veya hasara uğraması, gecikmesi veya her hangi bir yükümlülüğün ifa edilememesinden kaynaklanan taleplere karşı, taşıyanın La Haye-Visby Kuralları gereğince sahip olduğu hak, defî ve sınırlardan yararlanabilecektir.

Donatan ilgili kloza göre gemisinin

- her bir yük için bunun yüklenmesi sırasında bu yükü taşımaya elverişli olmasını
- ve

¹ Bu sayede yeni Gencon formunda Paramount Klozunun kullanılmasına gerek kalmamaktadır.

² Gencon 22 2.Owners' Responsibilities Subject to any risks or responsibilities that the Charterers have assumed under this Charter Party, (a)(i) the Owners shall exercise due diligence to provide a Vessel that shall: (1) at the commencement of loading each cargo at each loading port or place under this Charter Party be properly manned, equipped and supplied for its loading and have holds, refrigerating and cool chambers and all other parts of the Vessel in which cargo is to be carried fit and safe for its reception, carriage and preservation; and (2) at the commencement of each cargo-carrying voyage be seaworthy and properly manned, equipped and supplied; and (ii) the Owners shall, from the time when it is loaded to the time when it is discharged, properly and carefully carry, keep and care for the cargo.

(b) Subject to their obligations under subclause (a)(i) above, the Owners shall be entitled to rely on all rights, defences, immunities and limitations of liability that are available to a “Carrier” under the Hague-Visby Rules, which rights, defences, immunities and limitations are deemed to be applicable to any claim that may be made against the Owners or the ship for the loss, damage, delay or failure in performance of whatsoever nature.

- her bir yük seferi için bunun başlangıcında denize ve yola elverişli olmasını sağlamak için tedbirli bir donatanın sarf etmekle yükümlü olduğu dikkat ve özeni göstermek zorundadır.

Bu durumu aşağıdaki örneklerle canlandırabiliriz:

- gemi A limanından bir ambarına torbalı çimento almış, B limanından ise diğer ambarına soya unu yüklemiştir. Bu örnekte geminin her iki ambarının da A Limanının da yüke elverişli bir şekilde olmasına gerek bulunmamaktadır.
- Buna karşılık gemi A ile B Limanı arasında arızalanmış ve gemi bu arıza giderilmeden B Limanından ayrılmışsa, sonradan bu suretle meydana gelecek zararlar bakımından gemi A Limanındaki yük için denize elverişli, ancak B Limanındaki yük bakımından denize elverişsizdir.

İnceleme konusu kloz ile yükün zayi olması, hasarlanması, gecikmesi veya taşıma taahhüdünün her hangi bir şekilde ifa edilememesiyle bağlantılı tazminat taleplerine karşı donatan La Haye-Visby Kurallarındaki taşıyanın savunma hakları / sorumluluk sınırlamalarından faydalanabilecektir.

Dolayısı ile donatan yükleme başlangıcında gemiyi söz konusu yükü taşımaya elverişli halde bulundurmaması ve bu seferin başlangıcında denize ve yola elverişli bir hale getirmemesinden kaynaklanan zararlardan sorumludur; bu sırada kendisinden beklenen dikkat ve özen ölçüsü tedbirli bir donatanın dikkat ve özeni kadardır. Donatanın bu şekilde davranmadığı hallerde ortaya çıkan sorumluluğu taşıyanın La Haye-Visby Kuralları gereğince olan sorumluluğu kadar olup, elinde iki savunma mekanizması bulunmaktadır:

- Gemiye yükleme başlangıcında yük bakımından yüke elverişli ve sefer başlangıcında denize ve yola elverişli hale getirmek için tedbirli bir donatan gibi hareket ettiğini (yani "*due diligence*" göstermiş olduğunu) ispat etmek veya
- La Have-Visby Kurallarındaki sorumsuzluk hallerinden birinin yükün zıya veya hasara uğramasına sebep olduğunu ortaya koymak (örneğin yüke gelen zararın navigasyon kusurundan kaynaklandığı, ya da yetkili makam kararlarının bir sonucu olduğu veya malın kendine has özelliklerinden meydana geldiği)

Donatanın bu hallerden her hangi birisini ispat edememesi halinde

- bu kendisinin yüke gelen zarardan sorumlu olduğu anlamına gelmektedir ki, böyle bir durumda sorumluluğu sadece parça ya da koli başına sınırlı bir sorumluluktur, diğer bir ifadeyle donatan meydana gelen zararın tamamından değil, sadece koli veya parça başına sınırlı bir şekilde sorumlu olacaktır. (La Haye-Visby IV.5.a)
- Buna karşılık yükle ilgili donatanın bu zararı kasden verdiğini ya da sonucunda zarar meydana geleceğini bile bile hareket etmiş olduğunu ispatlayabildiği takdirde, donatan zarardan sınırsız olarak sorumlu hale gelecektir.

GENCON 22 – GENCON 94 “Donatanın sorumluluğu” klozu kıyaslaması

Gencon 94 Donatanın Sorumluluğu Klozu³

Donatan yüke gelen ziya, hasar veya teslimdeki gecikmeden bu sadece kendisinin ya da görevlendirmiş olduğu yöneticinin gemiyi her bakımdan denize elverişli hale getirmek, yakıt, yağ ve kumanyasını sağlamak, gerektiği şekilde gemi adamlarını tedarik etmek bakımından şahsen göstermesi gereken özeni sarf etmemesi veya kendisinin ya da görevlendirmiş olduğu yöneticinin şahsi kusur veya ihtimalinin bulunması halinde sorumludur.

Kaptan veya diğer gemi adamları veya bu klot bakımından donatanın fiillerinden sorumlu olduğu gemide ya da kıyı-da istihdam edilen diğer şahısların kusur veya ihmalleri ya da geminin yükleme sırasında veya yolculuğun başlangıcında veya bundan sonraki her hangi bir anda denize elverişsizliği sebebiyle meydana gelenler de dahil olmak üzere diğer her türlü sebepten ileri gelen ziya, hasar ya da gecikme zararlarından donatanın sorumluluğu bulunma-maktadır.

Yukarıda belirtilen hususların paralelinde her iki klozu şu şekilde kıyaslamamız mümkündür:

- Donatan Gencon 94 uyarınca sadece (gemiyi denize ve yola elverişli hale getirmek konusundaki) kendisinin (veya görevlendirmiş olduğu yöneticinin) şahsi kusur ya da ihmalden ileri gelen zararlardan sorumluyken
- Gencon 22 charterpartisine göre kendisi geminin yükleme ve yolculuk başlangıcında elverişsiz olması halinde buradan kaynaklanan yük zararlarından, elverişsizlik hali kendi (veya görevlendirmiş olduğu yöneticinin) şahsi kusur ya da ihmalden kaynaklanmasa da sorumludur.

Dolayısıyla 94 charterpartisinde ön planda olan donatanın şahsi kusuru iken, 22de ise belirli bir an itibarıyla geminin içinde bulunduğu şartlardır. Buradan da görülmektedir ki, Gencon 22 charterpartisinde donatanın sorumluluğu genişletilmiştir. Ancak buradaki değişikliği donatan aleyhine yorumlamak, diğer bir ifade ile Gencon 94'ün 22'ye kıyasen donatan için daha avantajlı olduğunu ileri sürmek pek de doğru değildir, zira aşağıda da görüleceği üzere 94 düzeni donatanı aşırı koruduğu iddiasıyla hem eleştirilmekte, hem de bir çok halde değiştirilmektedir. Zira Gencon 94 charterpartisindeki inceleme konusu klot emredici hükümlere bir çok halde aykırı düşmekte ve geçersiz hale gelmektedir, zira konişmentolu taşımalar bakımından bunun (çarterlerden başka şahıs olan) hamilinin tabi olacağı sorumluluk sistemi La Haye-Visby Kuralları ile emredici olarak belirlenmiştir. Bu sistemi konişmento hamili aleyhine değiştiren tüm konişmento şartları (başta aykırı şartlar barındıran charterpartilere yapılan atıflar olmak üzere) geçersiz hale gelmekte ve yerine konvansiyon hükümleri geçmektedir.

³ Gencon 94 2. Owners' Responsibility Clause: The Owners are to be responsible for loss of or damage to the goods or for delay in delivery of the goods only in case the loss, damage or delay has been caused by personal want of due diligence on the part of the Owners or their Manager to make the Vessel in all respects sea-worthy and to secure that she is properly manned, equipped and supplied, or by the personal act or default of the Owners or their Manager. And the Owners are not responsible for loss, damage or delay arising from any other cause whatsoever, even from the neglect or default of the Master or crew or some other person employed by the Owners on board or ashore for whose acts they would, but for this Clause, be responsible, or from unseaworthiness of the Vessel on loading or commencement

-II- BEKLEME SÜRELERİ

Gencon 22 charterpartisinin bekleme süreleri ile ilgili genel düzeninde göze ilk çarpan taraflara baştan SHINC ve SHEX alternatiflerini tanınmasıdır; öyle ki taraflar sözleşme metnini tadil etmeksizin süreler bakımından pazar ve diğer tatil günlerinin sayıma katılıp katılmayacaklarını kararlaştırabilmektedirler.

Kısaca hatırlayacak olursak, Gencon 94 charterpartisine göre bekleme sürelerine uygulanan kurallar aşağıdaki şekildedir:

- Geminin yükleme / boşaltma limanına veya bunun sınırına ulaşması anında buradaki tüm rıhtımlar meşgulse, gemi serbest pratikada bulunsun ya da bulunmasın, gümrük işlemleri tamamlanmış olsun ya da olmasın çalışma saatleri dahilinde hazırlık ihbarını verebilmektedir. Geminin fiilen yükleme / boşaltma için hazır olduğu kaptan tarafından beyan edildiği takdirde, starya ve sürastarya süreleri, gemi rıhtıma yanaşmış ve her bakımdan yükleme / boşaltma için hazırlanmış gibi işleyeceklerdir. Bekleme yerinden rıhtıma ulaşmak için harcanan süre starya'dan sayılmayacaktır. Denetim sonunda, geminin yükleme / boşaltma için hazır olmadığı tespit edilirse, bu andan itibaren geminin yeniden hazır hale gelmesine kadar geçecek süre starya'dan sayılmayacaktır.
- starya süresinin hesaplanmasında hava müsaadeli ("*weather permitting*") zaman göz önüne alınacak, fiilen faaliyette bulunulmuş olmadığı takdirde (ki bu durumda sadece fiilen kullanılan süre staryadan sayılacaktır) Pazar ve tatil günleri sayıma dahil edilmeyecektir.

Gencon 22'de ise bu konu daha ayrıntılı olarak dört başlık altında düzenlenmiştir:

1. Hazırlık İhbarı

9.4 Hazırlık İhbarı

(a) Hazırlık ihbarı, her bir yükleme ya da boşaltma liman ya da yeri için, gemi burada rıhtıma güvenli bir şekilde bağlanmış ve yükleme ya da boşaltmaya her bakımdan hazır olduğu anda, gece ya da gündüz farketmeksizin 22 ve 23.kutularda belirtilen tarafların her birine, bu sarih bir

⁴ 9. Notice of Readiness

(a) At each port or place of loading or discharge, Notice of Readiness shall be tendered in writing to the parties identified in Boxes 22 and 23 respectively at any time, day or night, when the Vessel is in the loading or discharging berth, securely moored, and is in all respects ready to load or discharge, provided that if such recipient is not clearly and fully identified, and the Charterers have given no clear and timely written instruction, Notice of Readiness may be tendered to the Charterers.

(b) Notice of Readiness at the first or sole port or place of loading may be tendered prior to 00.01 local time at the loading port(s) or place(s) on the date stated in Box 20. However, laytime shall not begin before that time unless cargo operations are sooner commenced.

(c) In the event that at any port or place of loading or discharge more than one Notice of Readiness is tendered, each such Notice of Readiness shall be deemed to have been tendered without prejudice to any such preceding or subsequent Notice of Readiness.

(d) If the loading or discharging berth is not designated or reachable on the Vessel's arrival at or off the port or place in question, the Vessel shall be entitled to tender Notice of Readiness from any waiting place that may be ordered by any relevant authority, or failing such order, at the customary anchorage, whether in free pratique or not, whether customs cleared or not. Laytime and time on demurrage shall then count as if the Vessel were in berth and in all respects ready for loading or discharging, but time used in actually moving from such waiting place or customary anchorage to the loading or discharging berth shall not count as laytime or time on demurrage.

(e) Before tendering Notice of Readiness from the designated waiting place or customary anchorage at the loading port, the Owners shall exercise due diligence to ensure that all holds in which cargo is there to be loaded are clean, dry and in all respects suitable to receive the cargo. However, if, after the commencement of laytime, and despite the exercise of such due diligence, the Vessel's holds are found on inspection not to be ready in all respects to load, time actually lost after such failed inspection until the Vessel is found after a subsequent impartial re-inspection to be ready to load shall not count as laytime or time on demurrage.

şekilde anlaşılabilir ve charterlerden yeterli bilgi alınamıyorsa, chartererin kendisine, yazılı olarak verilecektir.

(b) Hazırlık ihbarı yükleme limanı ya da yeri tek ise burada, birden fazla ise ilk liman ya da yerde, 20.kutuda belirtilen tarihte yerel saatle 00:01'den önce verilmelidir. Bununla beraber bekleme süresi ("starya"), faaliyetler daha önce başlamamışsa, bu andan önce sayılmaya başlamaz.

(c) Her hangi bir yükleme ya da boşaltma liman veya yerinde birden fazla hazırlık ihbarında bulunmuşsa, her bir ihbar bir önce verilmiş ya da bir sonra verilecek olan ihbarları etkilemez.

(d) Yükleme ya da boşaltma yapılacak rıhtım geminin limana ya da bunun sınırlarına ulaştığı anda belirlenmemiş ya da ulaşılamaz bir durumda ise, gemi, liman yetkilileri tarafından gösterilen demir yerine, böyle bir yer gösterilmemişse, mutad demir yerine ulaştığında, serbest pratikada olsun ya da olmasın, gümrük işlemleri tamamlanmış olsun ya da olmasın hazırlık ihbarına bulunabilir. Böyle bir durumda bekleme süresi ("starya") ve sürastarya süresi gemi rıhtıma yanaşmış ve her bakımdan yükleme ya da boşaltmaya hazırmışcasına işlemeye başlar, ancak geminin demir yerinden yükleme ya da boşaltma yerine geçerken harcadığı fiili zaman bekleme süresi ("starya") ve sürastaryadan sayılmaz.

(e) Yükleme limanında belirlenen bekleme bölgesinde ya da mutad demir yerinde hazırlık ihbarını vermeden önce donatan yüklerin konulacağı ambarların temiz, rutubetsiz ve her bakımdan yükü alabilecek durumda olmasını sağlamak için gerekli dikkat ve özeni gösterecektir; buna rağmen ambar denetimi sırasında gemi hazır olarak kabul edilmezse, bu andan itibaren geminin yük için hazır olduğuna karar verilecek denetime kadar geçecek süre bekleme süresinden ("starya") ya da sürastaryadan sayılmaz.

Gencon 22 hazırlık ihbarının verilmesi ve starya süresinin başlayabilmesi bakımından karma bir sistem öngörmektedir; buna göre gemi rıhtıma yanaşınca hazırlık ihbarı verilmektedir, yanaşabileceği bir rıhtım bulunmadığı takdirde, demir yerinden de ihbarda bulunulabilmektedir.

Aşağıda Gencon 22 ihbar düzeni ile ilgili esaslar kısaca açıklanmaktadır:

- a. Hazırlık ihbarı ne zaman verilebilir ? Hazırlık ihbarı her bir liman için, geminin her bakımından hazır bir şekilde rıhtıma güvenli bir şekilde bağlanmış olması şartıyla gece ya da gündüz farketmeksizin verilebilir. İhbar görevinin yükleme limanı ya da yeri tek ise burada, birden fazla ise ilk liman ya da yerde, 20. kutuda belirtilen tarihte yerel saatle 00:01'den önce yerine getirilmesi gerekir, ancak buradaki zamanın hesaba katılabilmesi için faaliyetlerin fiilen başlaması gerekmektedir.
- b. Hazırlık ihbarının kime yapılması gerekir ? İhbar 22 ve 23.kutularda belirtilen tarafların her birine, bu sarıh bir şekilde anlaşılabilir ve charterlerden yeterli bilgi alınamıyorsa, chartererin kendisine, yazılı olarak verilecektir.
- c. Hazırlık ihbarı nerede verilebilir ? Yükleme ya da boşaltma yapılacak rıhtım geminin limana ya da bunun sınırlarına ulaştığı anda belirlenmemiş ya da ulaşılamaz bir durumda ise, gemi, liman yetkilileri tarafından gösterilen demir yerine, böyle bir yer gösterilmemişse, mutad demir yerine ulaştığında, serbest pratikada olsun ya da olmasın, gümrük işlemleri tamamlanmış olsun ya da olmasın hazırlık ihbarını verebilir. Klozun bu kısmının yapısı Gencon 94 paralelindedir, diğer bir ifade ile, daha kapsamlı olarak yazılmış gibi görünse de, her iki klozun da vardığı nokta aynıdır, geminin limanda yanaşacak bir yer bulamaması halinde dahi hazırlık ihbarını vermesi mümkün kılınmaktadır.⁵
- d. Hazırlık ihbarının geçersiz sayılması: Her iki charterparti de hazırlık ihbarı verildikten sonra geminin ambarlarının yükü almaya elverişli olmadığına anlaşılması halinde, (farklı ifade tarzları ile birlikte) süre sayımının elverişlilik sağlanana kadar

⁵ Gencon 22 ve 94 charterpartileri geminin demirlediği yerden rıhtıma geçiş süresini zaman hesabına katmamaktadırlar. Ancak geminin demir yerinden yükleme ya da boşaltma yerine geçerken harcadığı fiili zaman starya ve sürastaryadan sayılmaz.

duracağını düzenlemektedirler. Bunların arasındaki tek fark, Gencon 22'nin starya yanına sürastarya süresini de eklemesidir, dolayısıyla burada "once on demurrage, always on demurrage" prensibine sarıh bir şekilde istisma getirilmektedir. Gencon 94 çarterpartisinde ise bu konu muğlak olduğundan dolayı taraflar arasında uyumsuzluk çıkartabilmektedir.

- e. Hazırlık ihbarını demir yerinden vermiş olan geminin ambarlarının rıhtıma yanaştığı anda yükü almaya elverişli olmadığına anlaşılması ve sözleşmedeki kançelo tarihinin de temizliğin bitmesinden önce olması durumunda, fesih tarihi 96 saate kadar uzatılabilmektedir. Bu da Gencon 22 çarterpartisinin getirmiş olduğu diğler bir yeniliktir.

2.

Starya Süresinin başlangıcı

11.⁶ Bekleme süresinin ("Starya") Başlaması

Yukarıdaki 10(b) klotuna tabi olmak kaydıyla, her bir yükleme veya boşaltma liman ya da yerinde bekleme süresi ("starya") aşağıdakilerden hangisi daha önceyse o anda başlar.

(a) Yük faaliyetlerinin başlaması ile

(b) SHINC kaydının geçerli olduğu hallerde, hazırlık ihbarı öğleye kadar verilirse, saat 14:00'te ve mesai saatleri içinde olmak kaydıyla öğleden sonra verilirse ertesi gün saat 08:00'de

(c) SHEX kaydının geçerli olduğu hallerde, hazırlık ihbarı bir çalışma günü sırasında öğleye kadar verilirse, saat 14:00'te, öğleden sonra verilirse, ertesi gün saat 08:00'de; hazırlık ihbarı çalışma yapılmayan günde verilmişse, ilk çalışma günü saat 14:00'te

Starya süresinin başlangıcı: Gencon 94 klot 6.c'de basit bir düzenleme ile starya süresinin ne zaman başlayacağı ortaya konulmaktadır. Buna göre: "Starya süresi hazırlık ihbarı saat 12:00'ye kadar verildiği takdirde saat 13:00'de, saat 12:00'den sonra çalışma saatleri dahilinde verildiği takdirde, ertesi çalışma günü saat 06:00'da başlayacaktır."

Gencon 22 klot 11'de bu konu SHINC ve SHEX alternatifleri bakımından ayrı ayrı düzenlenmektedir:

Yukarıdaki 10(b) klotuna tabi olmak kaydıyla, her bir yükleme veya boşaltma liman ya da yerinde bekleme süresi ("starya") aşağıdakilerden hangisi daha önceyse o anda başlar.

(a) Yük faaliyetlerinin başlaması ile

(b) SHINC kaydının geçerli olduğu hallerde, hazırlık ihbarı öğleye kadar verilirse, saat 14:00' te ve mesai saatleri içinde olmak kaydıyla öğleden sonra verilirse ertesi gün saat 08:00'de

(c) SHEX kaydının geçerli olduğu hallerde, hazırlık ihbarı bir çalışma günü sırasında öğleye kadar verilirse, saat 14:00'te, öğleden sonra verilirse, ertesi gün saat 08:00'de; hazırlık ihbarı çalışma yapılmayan günde verilmişse, ilk çalışma günü saat 14:00'te

⁶ 11. Commencement of Laytime

Subject to subclause 10(b) above, laytime at each port or place of loading and discharging shall commence at the earlier of:

(a) commencement of cargo operations; or

(b) where SHINC terms apply, 1400 hours if Notice of Readiness is tendered up to and including noon, and 0800 hours on the next day if Notice of Readiness is tendered after noon but during office hours; or

(c) where SHEX terms apply, 1400 hours if Notice of Readiness is tendered up to and including noon on a working day, and 0800 hours on the next working day if Notice of Readiness is tendered after noon, or, if Notice of Readiness is tendered on a non-working day, 1400 hours on the next working day.

12.⁷ Bekleme Süresinin ("Starya") İşlemesi

(a) Yer değiştirme: Geminin aynı liman dahilinde ikinci ya da diğer bir rıhtımda yükleme ya da boşaltmaya devam etmesi veya donatandan kaynaklanmayan sebeplerden dolayı, bulunduğu rıhtımdan ayrılması ve buraya tekrar dönmesi gerekiyorsa, yer değiştirme için kullanılan zaman bekleme ("starya") ya da sürastarya süresi olarak hesaba katılır. Her türlü römorkör ve kılavuz masrafları charterer tarafından karşılanır.

(b) Çevre kirliliği: Yükten kaynaklanan sebeplerden dolayı yükleme veya boşaltma faaliyetinin çevre kirliliği ya da halk sağlığı gerekçeleriyle gecikmesi durumunda kaybedilen zaman bekleme ("starya") ya da sürastarya süresi olarak hesaba katılır. Tozlanmanın engellenmesi için yapılan masraflar dahil, belirtilen sebeple yapılan bütün harcamalardan charterer sorumlu olur.

(c) Geminin yükleme veya boşaltma ya da bekleme için gönderildiği rıhtım ya da demir yerinin devamlılık arz edecek şekilde güvenli olabilmesi için, geminin yerinin geçici olarak değiştirilmesi veya koruyucu maksatla römorkör, kılavuz ya da harici yardım tedarik edilmesi gibi donatan tarafından ilave tedbirlerin alınması gerekmişse, bu amaçla yapılan masraflardan charterer sorumlu olur, ancak bu hüküm bekleme süreleri hesabını etkilemez.

(d) Yük faaliyetlerinin sona ermesi: Bekleme süresi ("starya") ve sürastarya, istifçilerin malzemelerinin geminin dışına çıkarılması dahil olmak üzere yük faaliyetlerinin sona ermesine kadar aralıksız bir şekilde devam eder. Her yükleme limanında charterere doğru bilgileri haiz yük belgelerinin tedarik edilmesi amacıyla 3er saat süre tanınır. Bu sürenin geçmesine rağmen gemi yük belgelerinin henüz gelmemiş olması sebebiyle yolculuğa başlayamamışsa, bekleme süresi ("starya") ve sürastarya kaldığı yerden, söz konusu belgeler gelene kadar, işlemeye tekrar başlar.

Starya süresinin işlemesi: Gencon 94 6.klozun devamında zaman sayımı için kurallar ortaya konulmaktadır. Buna göre "hava şartları izin verdiği takdirde yük 16.kutuda belirtilen sayıdaki kesintisiz gün / saatte yüklenecek, pazar ve tatil günlerinde çalışıldığı takdirde, kullanılan zaman sayılacak, aksi takdirde bu günler hesaba katılmayacak ve yine hava şartları izin verdiği takdirde yük 16.kutuda belirtilen sayıdaki kesintisiz gün / saatte boşaltılacaktır".

Bu konu Gencon 22 charterpartisinde farklı düzenlenmektedir:

- Yukarıda da belirtildiği üzere taraflar klozun giriş bendindeki SHINC veya SHEX alternatiflerinden birini seçerek süreler dahilinde tatil günlerinin hesaba katılıp katılmayacağını zaten kendileri seçmektedirler. Klozun b bendinde ise "Hava şartları geciktirmediği ya da engellemediği takdirde, yük 19(i). (veya ii) kutuda belirtilen sayıda birbirini takip eden günde veya buradaki birim üzerinden hesap-lanan sürede yüklenecektir" ifadesi bulunduğundan dolayı starya süresi dahilinde kötü hava şartlarının yükleme ya da boşaltma faaliyetlerini engellediği sürelerin sayıma katılmayacağı anlaşıl-maktadır.
- Dolayısıyla burada iki charterparti arasındaki fark 22'de SHINC ve SHEX alternatifleri olmasına karşılık 94 formunda fiilen faaliyette bulunulan süreler bakımından SHINC, bulunulmayan süreler bakımından ise SHEX prensibinin geçerli gibi görünmesidir.

⁷ 12. The Running of Laytime

- (a) *Shifting: In the event that the Vessel is required to load or discharge at a second or subsequent berth within the same port, or to shift out of and back to the same berth, other than for Owners' purposes, shifting time between the berths shall count as laytime or time on demurrage and any related tug and pilot expenses shall be for the account of the Charterers.*
- (b) *Environmental: Any delay in loading or discharging arising out of environmental or public health concerns relating to the cargo shall count as laytime or time on demurrage, and all related expenses, including measures for dust suppression, shall be for the account of the Charterers.*
- (c) *If a berth, mooring, anchorage or other location at which the Vessel is directed to load, discharge or lay by is such that the Owners may have to incur additional costs to ensure the continuing safety of the Vessel, including temporarily shifting away or hiring standby tugs, pilots or other external assistance, any such additional costs shall be for the account of the Charterers. This provision shall not affect the computation of laytime.*
- (d) *Completion of Cargo Operations: Laytime or demurrage shall run continuously until completion of cargo operations, which includes the removal of any stevedores' equipment from the vessel. The Charterers shall be permitted three hours at each loading port in which to provide a full set of accurate cargo documents. If the Vessel is prevented from sailing upon the expiry of that period as a result of awaiting a full set of accurate cargo documents, laytime or demurrage shall recommence and run until such documents are received.*

Gencon 22 charterpartisinin inceleme konusu olan klozunda ayrıca bazı özel haller açık olarak sıralandırmaktadırlar:

- (a) Yer değiştirme: Geminin aynı liman dahilinde ikinci ya da diğer bir rıhtımda yükleme ya da boşaltmaya devam etmesi veya donatandan kaynaklanmayan sebeplerden dolayı, bulunduğu rıhtımdan ayrılması ve buraya tekrar dönmesi gerekiyorsa, yer değiştirme için kullanılan zaman bekleme ("starya") ya da sürastarya süresi olarak hesaba katılır. Her türlü römorkör ve kılavuz masrafları charterer tarafından karşılanır.
- (b) Çevre kirliliği: Yükten kaynaklanan sebeplerden dolayı yükleme veya boşaltma faaliyetinin çevre kirliliği ya da halk sağlığı gerekçeleriyle gecikmesi duru-munda kaybedilen zaman bekleme ("starya") ya da sürastarya süresi olarak hesaba katılır. Tozlanmanın engellenmesi için yapılan masraflar dahil, belirtilen sebeple yapılan bütün harcamalardan charterer sorumlu olur.
- (c) Geminin yükleme veya boşaltma ya da bekleme için gönderildiği rıhtım ya da demir yerinin devamlılık arz edecek şekilde güvenli olabilmesi için, geminin yerinin geçici olarak değiştirilmesi veya koruyucu maksatla römorkör, kılavuz ya da harici yardım tedarik edilmesi gibi donatan tarafından ilave tedbirlerin alınması gerekmişse, bu amaçla yapılan masraflardan charterer sorumlu olur, ancak bu hüküm bekleme süreleri hesabını etkilemez.
- (d) Yük faaliyetlerinin sona ermesi: Bekleme süresi ("starya") ve sürastarya, istifçilerin malzemelerinin geminin dışına çıkarılması dahil olmak üzere yük faaliyetlerinin sona ermesine kadar aralıksız bir şekilde devam eder. Her yükleme limanında charterere doğru bilgileri haiz yük belgelerinin tedarik edilmesi amacıyla 3er saat süre tanınır. Bu sürenin geçmesine rağmen gemi yük belgelerinin henüz gelmemiş olması sebebiyle yolculuğa başlayamamışsa, bekleme süresi ("starya") ve sürastarya kaldığı yerden, söz konusu belgeler gelene kadar, işlemeye tekrar başlar.

3.

Starya süresinin devamı ve sayımı

10. Bekleme süresi(a) Şartları ile çelişkili olmaması şartıyla, "BIMCO Laytime Definitions for Charter Parties 2013" işbu charterpartinin bir parçası hükmündedir.

"SHINC" ibaresi bekleme süresinin ("starya") durmaksızın işleyeceği ve tatil günleri ile liman düzeni uyarınca çalışılmayan günlerde dahi, bu sırada fazla mesai ödenerek faaliyette bulunulsa bile, zaman sayımının kesilmeyeceği anlamına gelir.

"SHEX" ibaresi bekleme süresinin ("starya") hesabında tatil günleri ile liman düzeni uyarınca çalışılmayan günlerin hesaba katılmayacağı, zaman sayımının kesileceği anlamına gelir.

(b) (i) *Yükleme ve boşaltma için ayrı bekleme ("starya") süresi Hava şartları geciktirmediği ya da engellemediği takdirde, yük 19(i).kutuda belirtilen sayıda birbirini takip eden günde veya buradaki birim üzerinden hesaplanan sürede yüklenecektir. Hava şartları geciktirmediği ya da engellemediği takdirde yük 19(ii).kutuda belirtilen sayıda birbirini takip eden günde veya buradaki birim üzerinden hesaplanan sürede yüklenecektir. Yükleme ve boşaltma süreleri birbirine mahsup edilemez şeklindedir.

(ii) *Yükleme ve boşaltma için ortak bekleme ("starya") süresi Hava şartları geciktirmediği ya da engellemediği takdirde, yük 19(iii).kutuda belirtilen sayıda birbirini takip eden günde veya buradaki birim üzerinden hesaplanan sürede yüklenecek ve boşaltılacaktır

*Yukarıdaki alternatiflerden hangisinin seçilmiş olduğu 19.kutuda belirtilecektir.

(c) Eksik yükleme / ölü navlun: Bekleme süresinin ("starya") fiilen taşınan yük üzerinden hesaplandığı ve gemiye eksik yük verilmesine rağmen tam navlun ödeneceği hallerde, bekleme

süresi ("starya") konişmentodaki yük miktarı ile eksik verilen yük miktarı birlikte dikkate alınarak hesaplanacaktır.⁸

Kloz bekleme süreleri ile ilgili kavramlar bakımından "The BIMCO Laytime Definitions for Charter Parties 2013" adlı Bimco belgesine atıfta bulunmakta ve oradaki tanımları sözleşme bakımından geçerli hale getirmektedir.

Bunun yanında tatil günlerinin sayıma katılıp katılmayacağı konusunda taraflara, Gencon 94 formundan farklı olarak, SHINC ve SHEX alternatifleri sunulmaktadır. Yukarıda da belirtilmiş olduğu üzere, Gencon 94 formu düzenleniş şekli itibarı ile SHEX kalıbında olup, SHINC için sözleşme metninin ilgili kısmının iptal/tadil edilmesi gerekmektedir.

Süreler Gencon 94 formundaki gibi yükleme ve boşaltma için ayrı ayrı ve birlikte olarak iki alternatif kapsamında düzenlenmektedirler. Sözleşmenin tarafları ön sayfadaki 19.kutuda bunlardan hangisini seçtiklerini belirteceklerdir.

Aynı kloz çatısı altında Gencon 22 ilginç bir düzenlemede bulunmakta ve starya süresinin fiilen taşınan yük üzerinden hesaplandığı hallerde, gemiye çarterpartide belirtilenden daha az bir miktarda yük teslim edildiği ve çarterlerin bunun için ölü navlun ödemeyi kabul etmiş olduğu durumlarda, eksiklik miktarının starya süresinin hesabında da göz önüne alınacağı belirtilmektedir. Diğer bir ifade ile, Gencon çarterlerin ölü navlun ödemeyi kabul ettiği hallerde starya süresinin hesaplanmasında (fiilen yüklenen yük değil) sözleşmede yazan yük miktarının göre hareket edileceğini ortaya koymaktadır.

⁸ 10. Laytime

(a) The BIMCO Laytime Definitions for Charter Parties 2013 shall be deemed incorporated and form part of this Charter Party, except where inconsistent with its terms.

The expression "SHINC" shall mean that laytime is to run continuously and without interruption for public holidays or customary days of rest at the port or place in question, whether or not work is done at overtime rates.

The expression "SHEX" shall mean that there shall be excluded from laytime public holidays and customary days of rest at the port or place in question ("non-working days"), unless used.

(b) (i)* Separate laytime for loading and discharging:

The cargo shall be loaded either within the number of running days or at the rate stated in Box 19(i), except to the extent that the actual loading is delayed or prevented by weather.

The cargo shall be discharged either within the number of running days or at the rate stated in Box 19(ii), except to the extent that the actual discharging is delayed or prevented by weather.

Laytime for loading and discharging shall be non-reversible.

(ii)* Total laytime for loading and discharging:

The cargo shall be loaded and discharged either within the total number of running days or at the rate stated in Box 19(iii), except to the extent that the actual loading and/or discharging is delayed or prevented by weather.

*Alternative (i) or (ii) shall apply as agreed in Box 19.

(c) Short-loading/deadfreight: Where laytime is to be calculated on the basis of the quantity of cargo shipped and the Charterers have agreed to pay full freight in respect of any short-shipment, the laytime shall be calculated on the basis of the bill of lading quantity plus the quantity of such short-shipment.

4. Sürastarya

13.⁹ Sürastarya ve Hızlandırma Primi

(a)Sürastarya ücreti charterer tarafından 25.kutuda belirtilen miktar üzerinden, hızlandırma primi ise, donatan tarafından tasarruf edilen bekleme süresi ("starya") için sürastarya ücretinin yarısı dikkate alınarak ödenecektir.

(b)Aksi kararlaştırılmadığı takdirde, geminin bulunulan an itibarıyla gerekli hiz-meti, charterer, yardımcı şahısları, acente veya taşeronunun sebep olmadığı bir hal-den dolayı icra edememesi hariç, sürastarya süresi aralıksız ve kesintisiz olarak devam eder.

(c)Sürastarya ücreti gün sonunda tahakkuk eder ve donatan faturasının tebellüğ edilmesiyle ödenir.

Gencon 22 charterpartisinin Gencon 94 formundan farklılık gösterdiği klozlardan bir diğeri de sürastarya ("demurrage") düzenindedir. Klozun ilk bendi her hangi bir fark ortaya koymamakta, ama ikinci bend yeni bir mekanizma ortaya koymaktadır:

- (a) Sürastarya ücreti charterer tarafından 25.kutuda belirtilen miktar üzerinden, hızlandırma primi ise, donatan tarafından tasarruf edilen bekleme süresi ("starya") için sürastarya ücretinin yarısı dikkate alınarak ödenecektir.
- (b) 2002 yılındaki Stolt Tankers – Landmark Chemicals davasında İngiliz mahkemesi **sürastarya süresi dahilinde geminin belirli bir hizmeti verememesi durumunda, chartererin bu hizmeti fiilen kullanacak hali ya da iradesi olmasa dahi, süre sayımının durması gerektiğine dair vermiş olduğu karar**, uygulamada bunun hem "once on demurrage always on demurrage" prensibine aykırı olduğundan dolayı, hem de sürastarya ücretinin İngiliz Hukukundaki "sözleşmenin kuruluşu anında hesaplanmış bir tazminat" olduğu ("liqui-dated damages") fikrine aykırı bulunması sebepleriyle eleştirilmiştir.

Gencon 22 sürastarya klozu da bu mahkeme kararını göz önünde tutarak ve buradaki sakıncanın kısmen giderilmesi amacı ile özel bir düzenleme ortaya koymaktadır. Buna göre, aksi kararlaştırılmamış olduğu takdirde, chartererin an itibarıyla fiilen ihtiyacı olan hizmeti, kendisi, yardımcı şahısları ve acentesinin yol açmadığı bir sebepten ötürü geminin verememesi saklı kalmak kaydıyla, sürastarya süresi devamlı olarak ve kesintisiz bir şekilde işler.

- (c) Klozun son bendinde ise her hangi bir yenilik bulunmamaktadır. Sürastarya ücreti gün sonunda tahakkuk eder ve donatan faturasının tebellüğ edilmesiyle ödenir.

⁹ 13. Demurrage and Despatch

(a) Demurrage shall be payable by the Charterers at the rate stated in Box 25 and despatch shall be payable by the Owners at half the demurrage rate on all laytime saved.

(b) Except as provided otherwise, demurrage shall accrue continuously and without interruption save where, and then only to the extent that, time is actually lost to the Charterers by the Vessel not being available to perform the service immediately required unless caused by the act or omission of the Charterers or their servants, agents or subcontractors.

(c) Demurrage shall fall due day by day and shall be payable upon receipt of the Owners' invoice.

III. Gencon 22 ile getirilen yenilikler

Part I

Birinci bölümün sonundaki imza hanesinden hemen önce “*Bimco authenticity*” klozu yer almaktadır. Buna göre adı geçen klotun olmadığı bir metnin orijinal Bimco metni olarak değerlendirilmeme ihtimali bulunmaktadır.

Part II

Clause 1 – Scope of Contract Voyage

Gencon 94 formuna göre daha sarıh bir şekilde düzenlenmiştir:

5. Kutuda ismi, 6. kutuda gros ve net tonu, 7. Kutuda metrik ton üzerinden yaz mevsimi yük taşıma kapasitesi, 8. Kutuda şu andaki pozisyonu ile 9. Kutuda bu sözleşme ile ilgili olarak tahminen yüklemeye hazır olacağı tarihin belirtildiği geminin 3. kutuda yazılı donatanı ile 4. Kutuda gösterilen charterer aşağıdaki hususlar çerçevesinde anlaşmışlardır:

Adı geçen gemi, önceki taahhütler yerine getirilince derhal 10. Kutudaki yükleme limanı (limanlarına) veya rıhtımına (rıhtımlarına) ya da güvenli olarak ulaşabilmek ve daima yüzer halde kalmak şartıyla, buraya en yakın yere giderek chartererin teslim etmekle yükümlü olduğu 12. kutudaki tam ve her bakımdan yeterli yükü (kararlaştırılmış olduğu takdirde, güverte yüküne ilişkin riziko ve sorumluluk charterere ait olacaktır) alacak ve konişmentoların imzalandığı anda verilen talimata uygun olarak 11. Kutudaki boşaltma liman (limanlarına) ya da rıhtımına (rıhtımlarına) ya da güvenli olarak ulaşabilmek ve daima yüzer halde kalmak şartıyla, buraya en yakın yere giderek yükü teslim edecektir.

Clause 2 – Owners' Responsibilities

ÖZEL BÖLÜM VAR

Sorumluluk konusundaki 94 ve 22 formlarını şu şekilde kıyaslamamız mümkündür:

- Donatan Gencon 94 uyarınca sadece (gemiye denize ve yola elverişli hale getirme konusundaki) kendisinin (veya görevlendirmiş olduğu yöneticinin) şahsi kusur ya da ihmalden ileri gelen zararlardan sorumluyken
- Gencon 22 charterpartisine göre kendisi geminin yükleme ve yolculuk başlangıcında elverişsiz olması halinde buradan kaynaklanan yük zararlarından, elverişsizlik hali kendi (veya görevlendirmiş olduğu yöneticinin) şahsi kusur ya da ihmalden kaynaklanmasa da sorumludur.

Dolayısıyla 94de ön planda olan donatanın şahsi kusuru iken, 22de ise belirli bir an itibarıyla geminin içinde bulunduğu şartlardır. Buradan da görülmektedir ki, Gencon 22de donatanın sorumluluğu genişletilmiştir.

Ancak buradaki değişikliği donatan aleyhine yorumlamak, diğer bir ifade ile Gencon 94'ün 22'ye kıyasen donatan için daha avantajlı olduğunu ileri sürmek pek de doğru değildir, zira aşağıda da görüleceği üzere 94 düzeni donatanı aşırı koruduğu iddiasıyla hem eleştirilmekte, hem de bir çok halde değiştirilmektedir. Zira Gencon 94deki klot emredici hükümlere bir çok halde aykırı düşmekte ve geçersiz hale gelmektedir, zira konişmentolu taşımalar bakımından bunun (çarterlerden başka şahıs olan) hamilinin tabi olacağı sorumluluk sistemi La Haye-Visby Kuralları ile

emredici olarak belirlenmiştir. Bu sistemi konişmento hamili aleyhine deęiřtiren tüm tüm şartlar (bařta aykırı şartlar barındıran çarterpartilere yapılan atıflar olmak üzere) geçersiz hale gelmekte ve yerine konvansiyon hükümleri geçmektedir.

Clause 3 – Cargo

Gencon 22 ile getirililen yeniliklerden biri de yük bakımından tarafların ve özellikle çartererin yükümlülüklerinin sarıh bir şekilde tarif edildięi bir kloz eklenmesidir.

Her ne kadar Gencon FIOS temelli bir çarterparti olmaya devam etse de, 94 formundan farklı olarak tarafların yük bakımından üzerlerine düşen görevlerin açık bir şekilde tarif edilmesi tercih edilmiştir. Buna göre

- (a) bendinde yük ile ilgili belgeler, bunun daima hukuka uygun olması, özellikleri itibarı ile planlanan yolculuęa uygun ve dayanıklı bir durumda olması, istif için gerekli olan teçhizat gibi konuları düzenlemekte ve çarterere yük ile ilgili belgeleri zamanında beyan etme yükümlülüęünü vermektedir.
- (b) bendinde geminin ambarlarına birlikte yüklenen yüklerin birbirlerine karışması, ya da birbirlerini etkilemesi hallerini öngörmekte ve ayrıca böyle bir durumda eksik ya da fazla teslim hallerini düzenlemektedir.
- (c) **bendi, geminin kısmen tahsisi halinde, armatöre geriye kalan kısım için başka yük alma hakkı vermektedir.** (*“Part Cargo: Where the Cargo to be shipped under this Charter Party is less than a full cargo for the Vessel, the Owners shall be entitled to load additional or top-off cargo within the Vessel’s natural segregation for their own account or that of other charterers, and such additional or top-off cargo may be loaded and/or discharged before or after the Charterers’ Cargo, all as part of the contract voyage.”*)
- (d) bendi çevreye zarar verebilecek yük artıklarının gemiden alınmasını çartererin yükümlülüęü olarak tanımlamaktadır.
- (e) bendi mavnalara ya da mavnalardan yapılan yükleme ve boşaltma faaliyetlerini düzenlemektedir. (bu bend sadece geminin hafifletilmesi için yapılan faaliyetlerle ilgili olup, ayrıca STS operasyonuna muvafakat vermemektedir.)

Clause 4 – Loading and Discharging

Bu klozu da izah ederken, FIOS temelli olduęunu göz önünde tutmamız gerekmektedir.

Buna göre masraf ve sorumluluęu çarterere ait olmak üzerine yapılacak olan istif faaliyetlerinin geminin denize elverişlilięini etkilemesi durumunda (NYPE 2015 paralelinde) kaptanın nezaret etme görevi öne çıkarılmakta ve çartererin sorumluluęu bu görevin gereęi gibi yerine getirilmiř olmasına bağlanmaktadır. Bu paralelde

- (a) bendi yükleme ve boşaltma faaliyetleri ile yükün güvenli bir şekilde istiflenmiř olmasını doğrudan doğruya çartererin sorumluluk sahasına almaktadır.
- (b) bendi geminin güvenlik sebebi ile geçici surette rıhtımı terk etmesi halinde meydana gelecek ek masraflar konusunu düzenlemektedir.
- (c) ve (d) bendleri ise geminin aydınlatma teçhizatı ile vinçlerinin kullanılmasını söz konusu etmekte ve istifçilerin veridkleri zararları düzenlemektedir.

Clause 5 – Cargo Fumigation

Yükün ilaçlanmasının gerekli olduğu hallerde sözleşmenin taraflarının üzerine düşen külfetleri göstermek için kaleme alınmış olan bir kloz olup, ilaçlamanın gerekli olmadığı hallerde, klozunun iptal edilmesi mümkündür.

Gencon yükün ilaçlanması konusunu metnine dahil ederek, hububat taşımalarından tercih edilen Synacomex charterpartie bu suretle rakip olmuştur.

Bu kloza göre;

- (a) Charterer ilaçlamayı ister limanda ya da demir yerinde ister yolculuk sırasında yaptırabilecektir.
- (b) İlaçlama tamamen ve doğrudan doğruya charterer risk ve sorumluluğunda gerçekleştirilecek ve ilgili tüm masraflara kendisi katlanacaktır. Aynı şekilde charterer donatanın ilaçlama sebebi ile karşılaştığı sorumluluk hallerini üstlenmek durumundadır.
- (c) Kural ya da yerel uygulamalar gereği ilaçlama sırasında gemi personelinin gemi dışına çıkarılması gerekmezse, bu masrafların muhatabı da charterer olacaktır.
- (d) İlaç ile ilgili tüm malzeme, tortu ve artıklar boşaltma limanında risk, sorumluluk ve masrafları charterere ait olmak üzere gemiden çıkarılacaktır.
- (e) İlaçlama sebebi ile kaybedilen zarar gecikmeden kaynaklanan zarar kapsamına değerlendirilip sözleşmede yazan sürastarya ücreti üzerinden tazmin edilecektir.
- (f) Chartererin ilaçlama yaptırması yükün gemiye yüklenmesi sırasında içinde bulunduğu durum bakımından bir delil olarak değerlendirilmeyecek, donatan ve kaptan da ilaçlama sebebi ile konişmentoya yük hakkında ek kayıt koyma hakları bulunmayacaktır.

Clause 6 – Deck Cargo

- (a) Güverte yükü klozunun devreye girebilmesi donatanın sarıh muvafakatine bağlı kılınmaktadır.
- (b) bendinde, muvafakat verildiği takdirde, chartererin söz konusu taşımaları kaptanı tatmin edecek şekilde özenli bir şekilde gerçekleştireceği, gerekli olan istif malzemelerini tedarik edeceği ve rizikosu kendine ait olmak üzere, kaptanın nezareti altına güverteye istifleyeceği belirtilmektedir.
- (c) bendinden ise, donatanın kusur ve ihmalden kaynaklanan zararlar da dahil olmak üzere, güverte yüküne gelen zıya ve hasardan dolayı sorumluluğun charterere ait olduğu ortaya konulmaktadır.

Clause 7 – Freight

Navlun klozu bunun nasıl ödeneceğini ortaya koymaktadır.

- (a) bendi navlunun ne zaman tahakkuk edeceğini göstermektedir.
- (b) bendi, lumpsum navlun haricinde yükün yüklendikçe tahakkuk edeceğini düzenlemektedir.
- (c) bendi lump-sum navlunun yükleme tamamlandığı anda tahakkuk edeceğini ortaya koymaktadır.
- (d) bendi, gemi ya da yük zayi olsun olmasın navlunun iade yapılamayacağını belirtmektedir.
- (e) bendinde navlun fiilen tahsil edilmeden “*freight prepaid*” kayıtlı konişmento verilmeyeceğini ifade etmektedir.

Clause 8 – ETA Notices

Bu kloz birinci kısım ile birlikte çalışmakta ve burada yazılı ihbar bilgilerine atıfta bulunmaktadır.

Clause 9 – Notice of Readiness

Aşağıda Gencon 22 ihbar düzeni ile ilgili esaslar kısaca açıklanmaktadır:

- a. Hazırlık ihbarı ne zaman verilebilir: Hazırlık ihbarı her bir liman için, geminin her bakımından hazır bir şekilde rıhtıma güvenli bir şekilde bağlanmış olması şartıyla gece ya da gündüz fark etmeksizin verilebilir. İhbar görevinin yükleme limanı ya da yeri tek ise burada, birden fazla ise ilk liman ya da yerde, 20. kutuda belirtilen tarihte yerel saatle 00:01'den önce yerine getirilmesi gerekir, ancak buradaki zamanın hesaba katılabilmesi için faaliyetlerin fiilen başlaması gerekmektedir.
- b. Hazırlık ihbarının kime yapılması gerekir: İhbar 22 ve 23.kutularda belirtilen tarafların her birine, bu tarihte bir şekilde anlaşılabilir ve chartererden yeterli bilgi alınamıyorsa, chartererin kendisine, yazılı olarak verilecektir.
- c. Hazırlık ihbarı nerede verilebilir: Yükleme ya da boşaltma yapılacak rıhtım geminin limana ya da bunun sınırlarına ulaştığı anda belirlenmemiş ya da ulaşamaz bir durumda ise, gemi, liman yetkilileri tarafından gösterilen demir yerine, böyle bir yer gösterilmemişse, mutad demir yerine ulaştığında, serbest pratikada olsun ya da olmasın, gümrük işlemleri tamamlanmış olsun ya da olmasın hazırlık ihbarını verebilir. Klozun bu kısmının yapısı Gencon 94 paralelindedir, diğer bir ifade ile, daha kapsamlı olarak yazılmış gibi görünse de, her iki klozun da vardığı nokta aynıdır, geminin limanda yavaşca bir yer bulamaması halinde dahi hazırlık ihbarını vermesi mümkün kılınmaktadır.
- d. Hazırlık ihbarının geçersiz sayılması: Her iki charterparti de hazırlık ihbarı verildikten sonra geminin ambarlarının yükü almaya elverişli olmadığı anlaşılması halinde, (farklı ifade tarzları ile birlikte) süre sayımının elverişlilik sağlanana kadar duracağını düzenlemektedirler.
- e. Hazırlık ihbarını demir yerinden vermiş olan geminin ambarlarının rıhtıma yanaştığı anda yükü almaya elverişli olmadığı anlaşılması ve sözleşmedeki kaçelo tarihinin de temizliğin bitmesinden önce olması durumunda, fesih tarihi 96 saate kadar uzatılabilir. Bu da Gencon 22 charterpartisinin getirmiş olduğu diğer bir yeniliktir.

Clause 10 – Laytime

Kloz bekleme süreleri ile ilgili kavramlar bakımından “*The BIMCO Laytime Definitions for Charter Parties 2013*” adlı Bimco belgesine atıfta bulunmakta ve oradaki tanımları sözleşme bakımından geçerli hale getirmektedir. Bunun yanında tatil günlerinin sayıma katılıp katılmayacağı konusunda taraflara, Gencon 94 formundan farklı olarak, SHINC ve SHEX alternatifleri sunulmaktadır. Yukarıda da belirtilmiş olduğu üzere, Gencon 94 formu düzenleniş şekli itibarı ile SHEX kalıbında olup, SHINC için sözleşme metninin ilgili kısmının iptal/tadil edilmesi gerekmektedir.

Süreler Gencon 94 formundaki gibi yükleme ve boşaltma için ayrı ayrı ve birlikte olarak iki alternatif kapsamında düzenlenmektedirler. Sözleşmenin tarafları ön sayfadaki 19.kutuda bunlardan hangisini seçtiklerini belirteceklerdir.

Aynı kloz çatısı altında Gencon 22 ilginç bir düzenlemede bulunmakta ve starya süresinin fiilen taşınan yük üzerinden hesaplandığı hallerde, gemiye charterpartide belirtilenden daha az bir miktarda yük teslim edildiği ve chartererin bunun için ölü navlun ödemeyi kabul etmiş olduğu durumlarda, eksiklik miktarının starya süresinin hesabında da göz önüne alınacağı belirtilmektedir. Diğer bir ifade ile, Gencon chartererin ölü navlun ödemeyi kabul ettiği hallerde starya süresinin hesaplanmasında (fiilen yüklenen yük değil) sözleşmede yazan yük miktarının göre hareket edileceğini ortaya koymaktadır.

Clause 11 – Commencement of Laytime

Starya süresinin başlangıcı: Gencon 94 kloz 6.c'de basit bir düzenleme ile starya süresinin ne zaman başlayacağı ortaya konulmaktadır. Buna göre:

“Starya süresi hazırlık ihbarı saat 12:00'ye ka-dar verildiği takdirde saat 13:00'de, saat 12:00' den sonra çalışma saatleri dahilinde verildiği takdirde, ertesi çalışma günü saat 06:00'da başlayacaktır.”

Gencon 22 kloz 11'de bu konu SHINC ve SHEX alternatifleri bakımından ayrı ayrı düzenlenmektedir:

“Yukarıdaki 10(b) klozuna tabi olmak kaydıyla, her bir yükleme veya boşaltma liman ya da yerinde bekleme süresi (“starya”) aşağıdakiler-den hangisi daha önceyse o anda başlar.

a.Yük faaliyetlerinin başlaması ile

b.SHINC kaydının geçerli olduğu hallerde, hazırlık ihbarı öğleye kadar verilirse, saat 14:00' te ve mesai saatleri içinde olmak kaydıyla öğleden sonra verilirse ertesi gün saat 08:00'de

c.SHEX kaydının geçerli olduğu hallerde, hazırlık ihbarı bir çalışma günü sırasında öğleye kadar verilirse, saat 14:00'te, öğleden sonra verilirse, ertesi gün saat 08:00'de; hazırlık ihbarı çalışma yapılmayan günde verilmişse, ilk çalışma günü saat 14:00'te”

Clause 12 – The Running of Laytime

Starya süresinin işlemesi: Gencon 94 6.klozun devamında zaman sayımı için kurallar ortaya konulmaktadır. Buna göre *“hava şartları izin verdiği takdirde yük 16.kutuda belirtilen sayıdaki kesintisiz gün / saatte yüklenecek, pazar ve tatil günlerinde çalışıldığı takdirde, kullanılan zaman sayılacak, aksi takdirde bu günler hesaba katılmayacak ve yine hava şartları izin verdiği takdirde yük 16.kutuda belirtilen sayıdaki kesintisiz gün / saatte boşaltılacaktır”.*

Bu konu Gencon 22 charterpartisinde farklı düzen-lenmektedir:

- Yukarıda da belirtildiği üzere taraflar klozun giriş bendindeki SHINC veya SHEX alternatiflerinden birini seçerek süreler dahilinde tatil günlerinin he-saba katılıp katılmayacağını zaten kendileri seçmektedirler. Klozun b bendinde ise *“Hava şartları geciktirmediği ya da engellemediği takdirde, yük 19(i). (veya ii) kutuda belirtilen sayıda birbirini takip eden günde veya buradaki birim üzerinden hesaplanan sürede yüklenecektir”* ifadesi bulunduğundan dolayı starya süresi dahilinde kötü hava şartlarının yükleme ya da boşaltma faaliyetlerini engellediği sürelerin sayıma katılmayacağı anlaşılmaktadır.
- Dolayısıyla burada iki charterparti arasındaki fark 22'de SHINC ve SHEX alternatifleri olmasına karşılık 94 formunda fiilen faaliyette bulunan süreler bakımından SHINC, bulunulmayan süreler bakımından ise SHEX prensibinin geçerli gibi görünmesidir.

Gencon 22 charterpartisinin inceleme konusu olan klotunda ayrıca bazı özel haller açık olarak sıralandırmaktadırlar:

Clause 13 – Demurrage and Despatch

Gencon 22 charterpartisinin Gencon 94 formundan farklılık gösterdiği klotlardan bir diğeri de sürastarya (“*demurrage*”) düzenindedir. Klotun ilk bendi her hangi bir fark ortaya koymakta, ama ikinci bend yeni bir mekanizma ortaya koymaktadır:

- a. Sürastarya ücreti charterer tarafından 25. kutuda belirtilen miktar üzerinden, hızlandırma primi ise, donatan tarafından tasarruf edilen bekleme süresi (“*starya*”) için sürastarya ücretinin yarısı dikkate alınarak ödenecektir.
- b. 2002 yılındaki Stolt Tankers – Landmark Chemicals davasında İngiliz mahkemesi sürastarya süresi dahilinde geminin belirli bir hizmeti verememesi durumunda, charterer bu hizmeti fiilen kullanacak hali ya da iradesi olmasa dahi, süre sayımının durması gerektiğine dair vermiş olduğu karar, uygulamada bunun hem “*once on demurrage always on demurrage*” prensibine aykırı olduğundan dolayı, hem de sürastarya ücretinin İngiliz Hukukundaki “*sözleşmenin kuruluşu anında hesaplanmış bir tazminat*” olduğu (“*liquidated damages*”) fikrine aykırı bulunması sebepleriyle eleştirilmiştir.
- c. Gencon 22 sürastarya klotu da bu mahkeme kararını göz önünde tutarak ve buradaki sakıncanın kısmen giderilmesi amacı ile özel bir düzenleme ortaya koymaktadır. Buna göre, aksi kararlaştırılmamış olduğu takdirde, charterer an itibarıyla fiilen ihtiyacı olan hizmeti, kendisi, yardımcı şahısları ve acentesinin yol açmadığı bir sebepten ötürü geminin verememesi saklı kalmak kaydıyla, sürastarya süresi devamlı olarak ve kesintisiz bir şekilde işler.
- d. Klotun son bendinde ise her hangi bir yenilik bulunmamaktadır. Sürastarya ücreti gün sonunda tahakkuk eder ve donatan faturasının tebellüğ edilmesiyle ödenir.

Clause 14 – Cancelling

- (a) **bendi kaçıncı tarihinin geceyarısına kadar geminin (9.klot gereğince) NOR verememiş olması halinde, charterer bu andan itibaren 48 saat içinde feshi ihbarda bulunabileceğini öngörmektedir. Bu Gencon 22'nin getirdiği yeniliklerdendir. Fesih hakkının kullanılması geminin ulaşmasına (“*arrived ship*”) değil geçerli bir NOR verememesine bağlanmaktadır.**
- (b) geminin geciktiği ve kaçıncı tarihini kaçıracağı bariz bir haldeyse, donatan charterere bu durumu bildirerek yeni bir ETA verecektir. Charterer bu mesajı aldıktan itibaren 48 saat içinde ya yeni ETA'yı kabul edecek ya da sözleşmeyi feshedecektir.
- (c) bendi ise bu klotun tarafların birbirlerine karşı olan tazminat taleplerini etkilemeyeceğini ortaya koymaktadır.

Clause 15 – Lien

Gencon 22, 94 formuna kıyasen üzerinde donatanın rehin hakkına sahip olduğu alacaklara ilişkin örnekleri artırmıştır. Bu örneklerin sayısının artması rehin hakkının genişletilmiş olması anlamına gelmemektedir.

Clause 16 – Suspension and Termination

İşbu kloz da Gencon 22 yeniliklerindedir.

Buna göre chartererin navlun ya da sözleşme gereğince borçlu olduğu diğer meblağları ödememesi durumunda donatan

(a) bendi uyarınca sözleşmenin ifa edilmesini askıya alabilmekte ve

(b) bendine göre bu durumun 96 saatten fazla sürmesi (veya uygun bir miktarda teminat sağlanmaması) halinde sözleşmeyi fesih edebilmek ve / veya yükü boşaltmak hakkını kazanmaktadır.

Kloz söz konusu mekanizmanın işletilmesi sebebi ile donatanın konişmento hamillerine karşı meydana gelmesi muhtemel sorumluluğu bakımından da charterere karşı talep hakkı vermektedir.

Clause 17 – Strikes

(a) Grev klozu, 1994 formundaki düzenleme paralelinde fiilen geminin yüklemesini doğrudan doğruya etkileyen grev ve lokavt hallerine ilişkindir.

(b) bendine göre yükleme limanında ilk on gün için sürastarya ücreti %50 olarak hesaplanacak, bu süreden sonra tam ücret göz önüne alınacaktır.

(c) bendinde ilginç bir düzenleme yapılmaktadır. Buna göre (b) bendindeki hala uzamışsa, 25.günden sonra ödenmesi gereken, hangisi daha fazla ise, sözleşmedeki sürastarya ücreti ya da (harcanan yakıtın da eklenmesi suretiyle) geminin piyasada günlük TC birimidir.

(d) bendinde ise aynı düzenleme boşaltma limanı için yapılmaktadır.

Clause 18 – General Exceptions Clause

Gencon 22 formunda ilk defa genel bir sorumluluk istisna klozuna yer verilmiştir. Mücbir sebep ya da force majeure klozu olarak da isimlendirilen bu kloz uyarınca taraflar, kontrolleri dışında meydana gelen harici sebeplerden dolayı sözleşmenin icra edilmesi ile ilgili zararlara ilişkin sorumluluktan kurtulmaktadırlar.

“Neither the Vessel nor the Owners nor the Charterers, nor their respective servants, agents or subcontractors, shall, unless otherwise expressly provided in this Charter Party, be responsible for loss of or damage or delay to or failure to supply, load, discharge or deliver the Cargo as a result of the following events unless they can reasonably be avoided or guarded against: Act of God; act of war; act of public enemies, act of pirates or assailing thieves; arrest or restraint of princes, rulers or people; seizure under legal process (other than when caused by breach of obligations relating to this Charter Party), provided that reasonable steps are taken to furnish adequate security promptly to release the Vessel or Cargo; floods; fires; blockades; riots; insurrections; civil commotions; earthquakes; explosions; infectious or contagious disease; or any other similar event. However, nothing in this Clause shall interrupt the running of laytime or time on demurrage nor relieve the Charterers of, nor diminish their obligation for, payment of any sum that is due to the Owners under this Charter Party.”

Clause 19 – Bills of Lading

Gencon 94 formundan farklı olarak yeni formda, imzalanması istenen konişmentonun Congenbill 22 formuna kıyasen taşıyan aleyhine şartlar içermeyeceği ifade edilmektedir. Dolayısıyla başka standart konişmentoların da kullanılması mümkündür, yeter ki bunlar

taşıyanın yükü ile ilgililere karşı olan durumunu Congenbill 22'den daha kötü bir duruma getirmesin.

Bunların yanında Congenbill formu da tadil edilmiştir. Burada ki değişikliklerden biri de, konişmentoda charterparti tarih kısmının doldurulmamış olması halinde, birden fazla charterpartiden hangisine atıfta bulunduğu sorusuna verilecek cevaptır; böyle bir durumda sefer charterpartisi (head cp) konişmento bakımından geçerlilik kazanmaktadır.

Clause 20 – BIMCO Electronic Bills of Lading Clause 2014

Standart Bimco Klozu.

Bu suretle Gencon charterpartisinin teknolojik gelişmelere ve özellikle dijital ticarete uyum sağlaması hedeflenmiştir.

Clause 21 – Classification and Insurance

Geminin sınıfı ve mali sorumluluk sigortası ile ilgili kloz.

Clause 22 – Liberty and Deviation

Sapma klozu Gencon 94 formuna göre genişletilmiş ve sapma istisnalarına ilişkin örneklerin sayıları artırılmıştır. Buna göre kaçakların gemiden çıkarılması, acil tıbbi yardım alınması, yedek parça tedarik edilmesi gibi hususlar kloz metnine dahil edilmişlerdir.

(b) bendi uyarınca bu klozun işbu charter-parti altında düzenlenecek konişmentolara eklenmesi gerekmektedir.

Clause 23 – Substitution

Gencon 22 formu yenilik olarak müstakil bir ikame klozu barındırmaktadır. Buna göre, chartererin muvafakatine tabi olmak şartı ile, (ki muvafakat ancak makul bir sebebin varlığı halinde verilmeyebilir) donatanın kaçıncı tarihi benzer olan benzer özellikleri haiz diğer bir gemiyi ikame edebilme hakkı bulunmaktadır.

Clause 24 – Sub-let and Assignment

Gencon 22 Formuna yeni katılan klotlardan biri de charterer'e alt taşıma yapma ya da işbu sözleşmeyi başkasına temlik etme hakkı veren klotdur. Bu da, yukarıda belirtilen klot gibi, sözleşmenin karşı tarafının muvafakatine tabidir, ancak bunun verilmemesi sadece makul sebeplerin varlığı halinde mümkündür.

Clause 25 – Taxes and Dues

Gencon 94 13.klotunun aynısı

Clause 26 – Agency

Acente klozunda Gencon 22, 94 formuna göre önemli farklar barındırmaktadır:

- (a) bendi uyarınca, donatanın / geminin limanda kullanacağı acenteyi charterer tayin edecektir, ancak acente ücreti donatan tarafından ödenecektir. Acente yük ya da chartererin diğer yükümlülükleri adına faaliyette bulunduğu sırada ise (konış-mento imzalamak dahil olmak üzere) charterer acentesi olarak kabul edilecektir.**
- (b) aksine bir kayıt olmadığı takdirde, donatan ve charterer kendi adamlarının kusur ve ihmallerinden dolayı sorumlu olacaklardır, bu bakımdan yükleten ve gönderilen chartererin acentesi olarak kabul edileceklerdir.**
- (c) bendi ise tayin edilecek acentelerin vasıfları bakımından minimum standartlar ortaya koymaktadır.**

Clause 27 – Limitation of Liability

Gencon 22 ile birlikte getirilen sorumluluğun sınırlandırılmasına ilişkin bu klozda öncelikle sözleşme metninde yazılan herhangi bir hususun taraflarının sınırlı sorumluluk hakkından feragat olarak değerlendirilemeyeceği ifade edilmektedir.

(b) ise chartererin talimatı uyarınca farklı rıhtımların kullanılmasından dolayı donatan sınırlı sorumluluk hakkından yararlanamamaktaysa, chartererin aradaki farkı donatana ödemesi gerektiğini öngörmektedir.

Clause 29 – General Average

Gencon 94 sözleşmesinin 29.klozu 2016 tarihli York Anvers Kurallarına işlerlik kazandırmaktadır.

Clause 30 – BIMCO Ice Clause for Voyage Charter Parties 2005

Standart Bimco Klozu.

Clause 31 – BIMCO ISPS/MTSA Clause for Voyage Charter Parties 2005

Standart Bimco Klozu.

Clause 32 – BIMCO Sanctions Clause for Voyage Charter Parties 2020

Standart Bimco Klozu.

Clause 33 – BIMCO War Risks Clause for Voyage Chartering (VOYWAR 2013)

Standart Bimco Klozu.

Clause 34 – BIMCO Piracy Clause for Single Voyage Charter Parties 2013

Standart Bimco Klozu

Clause 35 – Brokerage

İşbu kloz broker komisyonlarının donatan tarafından fiilen tahsil edilmiş meblağlar üzerinden hesaplanacağını düzenlemektedir.

Clause 36 – Notices

Başlatılan tahkim prosedürleri ile ilgili olarak hukuki ihbarlara ilişkin işbu kloz aşağıdaki 37(f) klozuna atıfta bulunmaktadır.

Clause 37 – BIMCO Law and Arbitration Clause 2020

Standart Bimco Klozu.

Clause 38 – Original Charter Party

Gencon 22'nin son klozu, talep halinde her bir tarafın diğerine imzalı bir sözleşme kopyası vermekle yükümlü olduğunu belirtmektedir.

1. Shipbroker	2. Place and Date
3. Owners/Place of business (full style address, email)	4. Charterers/Place of business (full style address, email)
5. Vessel (i) Name: (ii) IMO Number: (iii) Class/Classification Society: (iv) P&I Club:	6. GT/NT (i) GT: (ii) NT:
	7. DWT all told on summer load line in metric tons (about)
8. Present position (Cl. 1)	9. Expected ready to load (about) (Cl. 1)
10. Loading port(s) or place(s) (Cl. 1)	11. Discharging port(s) or place(s) (Cl. 1)
12. Cargo (also state quantity and margin in Owners' option, if agreed) (Cl. 1) (i) Part cargo (yes/no): (ii) Commodity(ies): (iii) Quantity: (iv) Margin/tolerance:	
13. Cargo transfer operations (state whether Charterers are permitted to use barges/lighters) (Cl. 3(e))	
14. Freight rate (state rate or lumpsum and amount and currency) (Cl. 7(a))	15. Freight payment (state how and when payment is to be made and name of beneficiary and bank account) (Cl. 7(a))
16. Cargo handling gear (state if Vessel's cargo handling gear shall not be used) (Cl. 4(c))	

<p>17. Laytime (if separate laytime for loading and discharging is agreed, fill in (i) and (ii). If total laytime for loading and discharging, fill in (iii) only) (Cl. 10(b))</p> <p>(i) Loading (state days or rate, and if SHINC or SHEX):</p> <p>(ii) Discharging (state days or rate, and if SHINC or SHEX):</p> <p>(iii) Total laytime for loading and discharging (state days or rate, and if SHINC or SHEX):</p>	
18. Laydays/Cancelling (Cl. 9(d), 14(a))	19. Demurrage (state rate and whether per day or pro rata) (Cl. 13(a))
20. Freight Tax (state for whose account) (Cl. 25(c))	21. Vessel's agents (state party to nominate) (Cl. 26)
22. General Average (Cl. 29)	23. Brokerage commission and to whom payable (Cl. 35)
24. ETA Notices for loading (Cl. 8) to be given to:	25. ETA Notices for discharging (Cl. 8) to be given to:
26. Notice of Readiness for loading (state party(ies) for notices) (Cl. 9(a))	27. Notice of Readiness for discharging (state party(ies) for notices) (Cl. 9(a))
28. Owners' contact details for operational notices (Cl. 36)	29. Charterers' contact details for operational notices (Cl. 36)
30. Email address for receipt of arbitration notices and communications on behalf of Owners (Cl. 37)	31. Email address for receipt of arbitration notices and communications on behalf of Charterers (Cl. 37)
32. Law and Arbitration (choose law and arbitration venue. If alternative (g)(Other) is chosen, Clause 37 must be appropriately filled in or replaced, failing which alternative (a)(English law/London arbitration) shall apply) (Cl. 37).	
33. Additional clauses (state numbers, if agreed)	

It is mutually agreed that this Charter Party shall be performed in accordance with the terms and conditions contained in Part I, including additional clauses, if any agreed and stated in Box 33, as well as Part II. In the event of a conflict of terms and conditions, the provisions of Part I shall prevail over those of Part II to the extent of such conflict.

The party responsible for issuing the final execution version of this Charter Party warrants that it is an Authentic BIMCO Template procured from a properly authorised source and that all modifications to it are clearly visible. "Authentic BIMCO Template" means a BIMCO-approved standard contract in an editable electronic format.

Signature (Owners)	Signature (Charterers)
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1. Scope of Contract Voyage

It is agreed between the Owners and the Charterers that:

- (a) the Vessel now at the position stated in Box 8 and expected ready to commence loading under this Charter Party on or about the date stated in Box 9 shall, unless prevented or hindered by events beyond the Owners' control, commence its approach voyage to the port or place stated in Box 10 as soon as its prior commitments have been completed, or if more than one port or place or a range of ports or places is stated, to the first port or place, or so near thereto as it may safely get and lie always afloat; and
- (b) the Charterers shall ship and the Vessel shall carry the Cargo stated in Box 12; and
- (c) upon completion of loading, the Vessel shall proceed to the discharging port(s) or place(s) stated in Box 11, or, if a range of ports or places is stated, to the nominated port(s) or place(s), or so near thereto as it may safely get and lie always afloat, and there deliver the Cargo.

2. Owners' Responsibilities

Subject to any risks or responsibilities that the Charterers have assumed under this Charter Party,

- (a) (i) the Owners shall exercise due diligence to provide a Vessel that shall:
 - (1) at the commencement of loading Cargo at each loading port or place under this Charter Party be properly manned, equipped and supplied for its loading and have holds, refrigerating and cool chambers and all other parts of the Vessel in which such Cargo is to be carried fit and safe for its reception, carriage and preservation; and
 - (2) at the commencement of each Cargo-carrying voyage be seaworthy and properly manned, equipped and supplied;and
- (ii) the Owners shall, from the time when it is loaded to the time when it is discharged, properly and carefully carry, keep and care for the Cargo.
- (b) The Owners shall be entitled to rely on all rights, defences, immunities, time bars and limitations of liability that are available in any event to a "Carrier" under the Hague-Visby Rules. Furthermore, unless the loss, damage, delay or failure in performance in question has been caused by a breach of subclause (a)(i) above, the Owners shall also be entitled to rely on all other rights, defences, immunities, time bars and limitations of liability that are available to a "Carrier" under the Hague-Visby Rules.

All such rights, defences, immunities, time bars and limitations of liability are deemed to be applicable to any claim that may be made against the Owners or the ship for loss, damage, delay or failure in performance of whatsoever nature.

3. Cargo

- (a) The Charterers shall ensure that at their risk, responsibility and expense:
 - (i) all Cargo loaded under this Charter Party will be properly and clearly described and documented, and (as appropriate) marked and/or numbered, packed, loaded, stowed, and trimmed and/or secured strictly in accordance with all applicable laws, regulations and conventions (including any relevant IMO recommendations or circulars), with any special requirements to be provided or complied with by the Charterers;

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(ii) all packing, stowing, lashing and securing materials (including pallets, crates and dunnage) will be properly treated, handled and disposed of in accordance with all applicable laws and regulations, duly marked, and accompanied by all proper certification;

(iii) the shipment, export, transportation and import of the Cargo will be and will remain lawful in all respects;

(iv) the Cargo when presented for loading (including any necessary strapping, packing, internal securing and/or lifting lugs) will be in all respects fit and suitable for loading, stowage, carriage and discharge; and

(v) all necessary information will be provided to the Owners to enable the Owners to submit timely and accurate advance Cargo declarations.

(b) Bulk Cargo: Unless caused by the act, neglect or default of the Owners or their servants, agents or subcontractors:

(i) where bulk cargo is shipped and stowed other than in accordance with the Vessel's natural segregation, the Charterers shall be responsible for any resulting claim for commingling, contamination, spoiling, deterioration in quality or loss of cargo; and

(ii) where bulk cargo is to be delivered to more than one receiver or discharged at more than one berth or anchorage, other than in accordance with the Vessel's natural segregation, the Charterers shall be responsible for any resulting claim for short delivery or over-landing caused thereby, including any fines or legal costs.

(c) Part Cargo: Where the Cargo to be shipped under this Charter Party is less than a full cargo for the Vessel, the Owners shall be entitled to load additional or top-off cargo within the Vessel's natural segregation for their own account or that of other charterers, and such additional or top-off cargo may be loaded and/or discharged before or after the Charterers' Cargo, all as part of the contract voyage.

(d) Cargo Harmful to the Marine Environment: If the Cargo may be harmful to the marine environment according to the criteria of the relevant provisions of MARPOL Annex V, as amended from time to time, the removal, custody, storage and disposal of all Cargo residues (including hold washing water) shall be at the risk, responsibility and expense of the Charterers, and any resulting loss of time shall be compensated by the Charterers at the demurrage rate stated in Box 19.

(e) Lighterage: Unless stated otherwise in Box 13, the Charterers may require the Vessel to load and/or discharge Cargo from/into barges or lighters. Such transfer operations shall be at the Charterers' risk and responsibility, and the Charterers shall provide and pay for adequate fendering and any other necessary equipment, all to the reasonable satisfaction of the Master. If, at any time, in the Master's reasonable judgement the transfer operations are, or are likely to become, unsafe, the Master may order them to be suspended or discontinued in which event the Master shall have the right to order the barges or lighters away from the Vessel or to remove the Vessel. In the case of lighterage, the lighter shall be considered the relevant berth for the purposes of this Charter Party.

4. Loading and Discharging

(a) The Charterers shall under the supervision of the Master but at their risk, responsibility and expense:

(i) load, tally, stow, trim and/or secure the Cargo, and take the Cargo from the holds and discharge it; and

(ii) ensure that the Vessel is left with Cargo properly stowed, trimmed and/or secured so as not to impair the Vessel's seaworthiness for the laden voyage and also for any shifting between loading berths, ports and places, and between discharging berths, ports and places. Any related expenses shall be for the Charterers' account and laytime or time on demurrage shall continue to count.

(b) (i) If a berth, mooring, anchorage or other location at which the Vessel is directed to load, discharge or lay by is

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such that the Owners may have to incur additional costs to ensure the continuing safety of the Vessel, including temporarily shifting away or hiring standby tugs, pilots or other external assistance, any such additional costs shall be for the account of the Charterers.

(ii) In the event that the Vessel has to vacate the berth during cargo operations for reasons of safety, the Charterers shall ensure that any Cargo then on board is safely stowed and secured at their risk, responsibility and expense.

(c) **Cargo Handling Gear and Lighting:** Unless the Vessel is gearless, or Box 16 states that the Vessel's gear shall not be used, the Owners shall provide free use of the Vessel's cargo-handling gear and sufficient power to operate the same. Unless caused or contributed to by the act or neglect of the Charterers' servants, agents or subcontractors, time actually lost by breakdown of the Vessel's cargo-handling gear or lack of sufficient power shall not count as laytime or time on demurrage. The Owners shall provide free use of lighting as on board.

(d) **Stevedore Damage:**

(i) The Charterers shall be responsible for stevedore damage (fair wear and tear excepted) to any part of the Vessel. The Charterers shall be liable for all costs for repairing such damage and for any time lost thereby, which shall be paid at the demurrage rate stated in Box 19.

(ii) The Master or the Owners shall notify the Charterers or their agents and the stevedores of any damage as soon as reasonably possible, failing which the Charterers shall not be responsible for any such damage. Such notice shall describe the damage and shall invite the Charterers to appoint a surveyor to assess the extent of such damage.

(iii) Stevedore damage affecting seaworthiness shall be repaired without any delay before the Vessel sails from the port where such damage was caused or discovered or otherwise as required by the Vessel's Classification Society. Stevedore damage restricting the Vessel's trading capabilities shall be repaired before leaving the last port of discharge, failing which the Charterers shall be liable for any resulting losses. All other stevedore damage which is not repaired before leaving the last port of discharge shall be repaired by the Owners and settled by the Charterers on receipt of the Owners' supporting invoice.

5. Cargo Fumigation

(a) The Charterers shall have the option to fumigate the Cargo in the Vessel's holds in port and/or at anchorage and/or in transit. Such fumigation shall be performed always in accordance with all applicable IMO Recommendations as amended from time to time. Fumigation shall not be commenced without written confirmation from the Master that loading (including trimming and/or securing) is complete.

(b) Fumigation shall be at the Charterers' risk and responsibility. Any costs and expenses incurred in connection with or as a result of such fumigation, including but not limited to gas detection equipment, respiratory protective equipment and crew training, shall be for the Charterers' account. The Charterers shall indemnify the Owners for any liabilities, losses or costs arising out of or resulting from Cargo fumigation.

(c) If local authorities or IMO Recommendations require the crew to be accommodated ashore as a result of fumigation ordered by the Charterers, all costs and expenses reasonably incurred in connection thereto including, but not limited to, transportation, accommodation and victualling shall be for Charterers' account.

(d) At the discharging port or place all fumigant remains, residues and fumigation equipment shall be removed from the Vessel as soon as possible and disposed of by the Charterers at Charterers' risk, responsibility, cost and expense in accordance with MARPOL Annex V or any other applicable rules relating to the disposal of such materials.

(e) All time lost to the Owners in connection with or as a result of fumigation performed in accordance with subclause (a) above prior to commencement of laytime and/or after cessation of laytime or time on demurrage

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shall be considered as detention and shall be compensated by Charterers at the demurrage rate stated in Box 19. Any unused laytime shall be deducted from such detention, in which case any despatch payable shall be deducted from such compensation.

- (f) The exercise by the Charterers of the option to fumigate the Cargo under this Clause shall not be construed as evidence as to the condition of the Cargo at the time of shipment, and the Master or the Owners may not clause bills of lading solely by reason of fumigation.

6. Deck Cargo

- (a) The Vessel shall not be required to load or carry Cargo on deck without the Owners' written agreement.
- (b) If the Owners permit the Charterers to load or carry Cargo on deck, the Charterers shall:
- (i) ensure, always to the reasonable satisfaction of the Master, that such carriage on deck does not exceed the permissible loads on the deck/hatch covers and will not impair the seaworthiness, stability and navigability of the Vessel;
 - (ii) provide and pay for any extra fittings that are required for deck or hatch cover Cargo; and
 - (iii) properly load, stow, dunnage, lash and secure such Cargo at their risk and expense under the supervision of the Master.
- (c) Cargo that is carried on deck is carried at the Charterers' risk and the Owners are not to be responsible for loss or damage of whatsoever nature and howsoever arising irrespective of whether or not due to the Owners' negligence. The Charterers shall ensure that all bills of lading that are issued in relation to such deck Cargo shall record the fact that such Cargo has been shipped on deck.

7. Freight

- (a) The freight shall be paid as stated in Boxes 14 and 15 and shall be paid in full without discount or deduction. Freight shall be paid in readily available and transferable funds and free of bank charges except as imposed by the Owners' bank.
- (b) Freight other than lumpsum freight is earned progressively throughout the loading and is to be calculated in accordance with the quantity recorded in the Mate's Receipts.
- (c) Lumpsum freight is earned on completion of loading.
- (d) Freight is non-returnable, ship and/or Cargo lost or not lost.
- (e) Neither the Owners nor the Master shall be required to sign or endorse bills of lading showing freight prepaid unless such freight has been received in full by the Owners.

8. ETA Notices

The Owners or the Master shall give notices of the Vessel's ETA to the Charterers and to the parties stated in Boxes 24 and 25, as appropriate, and shall notify them without unreasonable delay of any material change in the Vessel's position.

9. Notice of Readiness

- (a) Subject to subclause (b) below, at each port or place of loading or discharge, Notice of Readiness shall be tendered in writing to the party(ies) identified in Boxes 26 and 27 respectively at any time, day or night, when the Vessel is in the loading or discharging berth, securely moored, and is in all respects ready to load or

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discharge. Before tendering Notice of Readiness, the Owners shall exercise due diligence to ensure that all holds in which Cargo is there to be loaded are clean, dry and in all respects suitable to receive the Cargo.

- (b) If the loading or discharging berth is not designated or reachable on the Vessel's arrival at or off the port or place in question, the Vessel shall be entitled to tender Notice of Readiness from any waiting place that may be ordered by any relevant authority, or failing such order, at the customary anchorage, whether in free pratique or not, whether customs cleared or not. Laytime and time on demurrage shall then count, even if the holds were subsequently to fail the initial inspection under subclause (c) below, as if the Vessel were in berth and in all respects ready for loading or discharging, but time used in actually moving from such waiting place or customary anchorage to the loading or discharging berth shall not count as laytime or time on demurrage.
- (c) If, after the commencement of laytime such holds are found on initial inspection not to be ready in all respects to load, only such time as is actually lost until the Vessel is found after a subsequent joint re-inspection to be ready to load shall not count as laytime or time on demurrage. However, if after a subsequent joint re-inspection the holds are found not to be ready upon the expiry of ninety-six (96) hours or by 23.59 hours local time on the cancellation date, whichever is the later, the Charterers shall have the option of terminating this Charter Party in writing within twelve (12) hours thereafter, provided the Vessel remains Cargo-free at the time the option is exercised. If the Charterers exercise their right of termination under this subclause, they shall compensate the Owners at the demurrage rate for all time spent waiting for a berth after tendering Notice of Readiness pursuant to subclause (b) above.

The provisions of this subclause and the exercise or non-exercise by the Charterers of their rights under this subclause shall not prejudice any claims which the Owners or the Charterers may have against each other.

- (d) Notice of Readiness at the first or sole port or place of loading may be tendered prior to 00.01 hours local time at the loading port(s) or place(s) on the date stated in Box 18. However, laytime shall not begin before that time unless Cargo operations are sooner commenced.
- (e) In the event that at any port or place of loading or discharge more than one Notice of Readiness is tendered, each such Notice of Readiness shall be deemed to have been tendered without prejudice to the validity of any preceding or subsequent Notice of Readiness.

10. Laytime

- (a) The BIMCO Laytime Definitions for Charter Parties 2013 shall be deemed incorporated and form part of this Charter Party, except where inconsistent with its terms.

The expression "SHINC" shall mean that laytime is to run continuously and without interruption for public holidays or customary days of rest at the port or place in question, whether or not work is done at overtime rates.

The expression "SHEX" shall mean that there shall be excluded from laytime public holidays and customary days of rest at the port or place in question unless used.

- (b) (i)* Separate laytime for loading and discharging:

The Cargo shall be loaded either within the number of running days or at the rate stated in Box 17(i), except to the extent that the actual loading is delayed or prevented by weather.

The Cargo shall be discharged either within the number of running days or at the rate stated in Box 17(ii), except to the extent that the actual discharging is delayed or prevented by weather.

Laytime for loading and discharging shall be non-reversible.

- (ii)* Total laytime for loading and discharging:

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The cargo shall be loaded and discharged either within the total number of running days or at the rate stated in Box 17(iii), except to the extent that the actual loading and/or discharging is delayed or prevented by weather.

*Alternative (i) or (ii) shall apply as agreed in Box 17.

- (c) Short-loading: Where laytime is to be calculated on the basis of the quantity of Cargo shipped and the Charterers have agreed to pay full freight in respect of any short-shipment, the laytime shall be calculated on the basis of the bill of lading quantity plus the quantity of such short-shipment.

11. Commencement of Laytime

Subject to subclause 9(d), laytime at each port or place of loading and discharging shall commence at the earlier of:

- (a) commencement of Cargo operations; and
- (b) (i) where SHINC terms apply, 14.00 hours local time if Notice of Readiness is tendered up to and including noon, and 08.00 hours local time on the next day if Notice of Readiness is tendered after noon but during office hours; or
(ii) where SHEX terms apply, 14.00 hours local time if Notice of Readiness is tendered up to and including noon on a working day, and 08.00 hours local time on the next working day if Notice of Readiness is tendered after noon, or, if Notice of Readiness is tendered on a non-working day, 14.00 hours local time on the next working day.

12. The Running of Laytime

- (a) Shifting: In the event that the Vessel is required to load or discharge at a second or subsequent berth at the same port or place, or to shift out of and back to the same berth, other than for the Owners' purposes, shifting time between the berths shall count as laytime or time on demurrage and any related tug and pilot expenses shall be for the account of the Charterers.
- (b) Environmental: Any delay in loading or discharging arising out of environmental or public health concerns relating to the Cargo shall count as laytime or time on demurrage, and all related expenses, including measures for dust suppression, shall be for the account of the Charterers.
- (c) Completion of Cargo Operations: Laytime or time on demurrage shall run continuously until completion of Cargo operations, which includes the removal of any stevedores' equipment from the Vessel. The Charterers shall be permitted three hours after completion of cargo operations at each loading port or place in which to provide a full set of accurate Cargo documents. If the Vessel is prevented from sailing upon the expiry of that period as a result of awaiting a full set of accurate Cargo documents, laytime or time on demurrage shall recommence and run until such documents are received.

13. Demurrage and Despatch

- (a) Demurrage shall be payable by the Charterers at the rate stated in Box 19 and despatch shall be payable by the Owners at half the demurrage rate on all laytime saved.
- (b) Except as provided otherwise, demurrage shall accrue continuously and without interruption save where, and then only to the extent that, time is actually lost to the Charterers by the Vessel not being available to perform the service immediately required unless caused by the act or omission of the Charterers or their servants, agents or subcontractors.
- (c) Demurrage shall fall due day by day and shall be payable upon receipt of the Owners' invoice.

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14. Cancelling

- (a) Without prejudice to subclause (b) below, should the Vessel not have tendered Notice of Readiness at the first or sole port of loading in accordance with Clause 9 (Notice of Readiness) by 23.59 hours local time on the cancellation date stated in Box 18, the Charterers shall have the option of cancelling this Charter Party within forty-eight (48) hours after 23.59 hours local time on the cancellation date.
- (b) Should the Owners anticipate that, despite the exercise of due diligence, the Vessel will not be able to tender such Notice of Readiness at the first or sole port or place of loading by 23.59 hours local time on the cancellation date, they shall notify the Charterers accordingly without delay, stating when the Vessel is expected to be able to tender Notice of Readiness and asking whether the Charterers will exercise their option of cancelling the Charter Party, or agree to a new cancellation date on 23.59 hours local time on the date notified by the Owners. Such option must be declared by the Charterers within forty-eight (48) hours after the receipt of the Owners' notice or by 23.59 hours local time on the cancellation date, whichever is the earlier. If the Charterers do not exercise their option of cancelling, then the proposed new cancellation date shall replace the cancellation date stated in Box 18. The provisions of this subclause (b) shall operate only once, and if the Vessel shall not have tendered Notice of Readiness in accordance with Clause 9 (Notice of Readiness) by 23.59 hours local time on such new cancellation date, the Charterers shall have the option of cancelling this Charter Party within forty-eight (48) hours after 23.59 hours local time on the new cancellation date.
- (c) The provisions of this Clause and the exercise or non-exercise by the Charterers of their rights under this Clause shall not prejudice any claims which the Owners or the Charterers may have against each other.

15. Lien

The Owners shall have a lien on the Cargo and on all sub-freights payable in respect of the Cargo for freight, deadfreight, demurrage, general average contributions, salvage, claims for compensation or damages and for all other amounts due under or pursuant to this Charter Party and all costs of recovering same, including legal costs.

16. Suspension and Termination

- (a) Without prejudice to Clause 15 or to any other rights or claims whatsoever that the Owners may have, should the Charterers fail to pay freight, deadfreight, demurrage or other compensation in accordance with the requirements of this Charter Party, the Owners shall be entitled at any time thereafter to suspend the performance of any and all of their obligations hereunder.
- (b) If the Charterers fail either to rectify their failure to pay in full or to provide security for such sums in terms acceptable to the Owners within ninety six (96) hours of their receiving a notice from Owners to do so, the Owners shall be entitled to terminate this Charter Party at any time thereafter while such sums remain outstanding and/or to discharge the Cargo at any port or place, and such action shall not be considered to be a breach or deviation under any relevant bills of lading.
- (c) The Charterers shall indemnify the Owners for all damages, losses, expenses or liabilities that they may incur as a result of the Owners exercising their rights under this Charter Party including any liability that the Owners may incur to third parties by doing so. The Charterers shall promptly provide appropriate security or substitute security to avoid any delays to the Vessel in the event of its actual or threatened arrest or detention. Compensation for time lost to the Owners shall be paid by the Charterers at the demurrage rate.

17. Strikes

- (a) If at any time before commencement of loading the Cargo at the first or sole port or place of loading, there exists a strike or lockout that is likely to delay or prevent the actual loading or any part of it at any port or place of loading, the Owners may request the Charterers to affirm that laytime and time on demurrage shall count as if there were no strike or lockout. Unless the Charterers have made such affirmation in writing within twenty-

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four (24) hours, the Owners shall have the option of cancelling this Charter Party and any Notice of Readiness given during such period of twenty-four (24) hours shall not prejudice such right of cancellation. Where the Charterers have made such affirmation, subclause (b) below shall not apply to such strike or lockout.

- (b) If at any time after commencement of loading the Cargo, strike(s) or lockout(s) delay or prevent the actual loading at any port or place of loading, any demurrage caused thereby shall be incurred at half rate for the first ten (10) cumulative days and thereafter (subject to subclause (c) below) at full rate.
- (c) In any case, where strike(s) or lockout(s) delay or prevent the actual loading, at any port or place of loading, for a cumulative total delay of twenty-five (25) days, the Owners shall be entitled thereafter to be compensated at the higher of (i) a daily rate equivalent to the demurrage rate, and (ii) the prevailing market hire rate plus bunkers consumed until completion of loading.
- (d) If strike(s) or lockout(s) delay or prevent the actual discharging of the Cargo or any part of it, at any discharge port or place, any demurrage caused thereby shall be incurred at half rate for the first ten (10) cumulative days and thereafter at full rate until the end of the twenty fifth (25) cumulative day. Should discharge continue beyond the twenty fifth (25) cumulative day of delay, the Owners shall be entitled thereafter to be compensated at the higher of (i) a daily rate equivalent to the demurrage rate, and (ii) the prevailing market hire rate plus bunkers consumed until completion of discharge.
- (e) All amounts due under this Clause shall be paid every seven (7) days unless otherwise agreed.
- (f) Except as provided in this Clause, neither party shall be responsible for the consequences of strike(s) or lockout(s) which prevent or affect the actual loading or discharging of the Cargo.

18. General Exceptions Clause

Neither the Vessel nor the Owners nor the Charterers, nor their respective servants, agents or subcontractors, shall, unless otherwise expressly provided in this Charter Party, be responsible for loss of or damage or delay to or failure to supply, load, discharge or deliver the Cargo as a result of the following events unless they can reasonably be avoided or guarded against: Act of God; act of war; act of public enemies, act of pirates or assailing thieves; arrest or restraint of princes, rulers or people; seizure under legal process (other than when caused by breach of obligations relating to this Charter Party), provided that reasonable steps are taken to furnish adequate security promptly to release the Vessel or Cargo; floods; fires; blockades; riots; insurrections; civil commotions; earthquakes; explosions; infectious or contagious disease; or any other similar event. However, nothing in this Clause shall interrupt the running of laytime or time on demurrage nor relieve the Charterers of, nor diminish their obligation for, payment of any sum that is due to the Owners under this Charter Party.

19. Bills of Lading

The Master or the Vessel's agents, provided written authority (a copy of which is to be furnished to the Charterers) has been given by the Owners to the agents, shall, without prejudice to this Charter Party, sign bills of lading as presented in terms no less favourable to the carrier than those of CONGENBILL 2022 and always in conformity with the mate's receipts. The Charterers shall indemnify the Owners against all consequences or liabilities that may arise as a result of signing bills of lading to the extent that the provisions or contents of such bills of lading impose or result in the imposition on the carrier and/or the Owners of any exposure, liability or responsibility that is more onerous than those to which the Owners would have been subject had the claim been made against them under this Charter Party.

20. BIMCO Electronic Bills of Lading Clause 2014

- (a) At the Charterers' option, bills of lading, waybills and delivery orders referred to in this Charter Party shall be issued, signed and transmitted in electronic form with the same effect as their paper equivalent.

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- (b) For the purpose of subclause (a) above the Owners shall subscribe to and use Electronic (Paperless) Trading Systems as directed by the Charterers, provided such systems are approved by the International Group of P&I Clubs. Any fees incurred in subscribing to or for using such systems shall be for the Charterers' account.
- (c) The Charterers agree to hold the Owners harmless in respect of any additional liability arising from the use of the systems referred to in subclause (b) above, to the extent that such liability does not arise from the Owners' negligence.

21. Classification and Insurance

The Owners shall ensure that:

- (a) the Vessel is classed with the Classification Society stated in Box 5(iii); and
- (b) the Vessel is insured for third party liabilities with the P&I Club or liability underwriter stated in Box 5(iv);

and that it will be so maintained throughout the term of this Charter Party unless agreed otherwise by the Charterers, such agreement not to be unreasonably withheld.

22. Liberty and Deviation

- (a) The Vessel shall have liberty to sail with or without pilots, to tow or go to the assistance of vessels in distress, to deviate for the purpose of saving life or property and for any other purpose reasonably necessary for the safe continuation of the voyage, including calling at any place for bunkers, taking on board spares, stores or supplies, repairs to the Vessel, crew changes, landing of stowaways or persons rescued at sea, medical emergencies and ballast water exchange, and the Owners shall not be liable for any loss or damage (including delay) arising or resulting therefrom.
- (b) This Clause shall be incorporated into any sub-charter and any bill of lading issued pursuant hereto.

23. Substitution

With the prior written consent of the Charterers, which shall not be unreasonably withheld, the Owners may nominate and provide a substitute vessel of materially similar characteristics within the laydays/cancelling spread stated in Box 18, provided that the Owners shall always remain responsible for the due performance of this Charter Party. Such substitute vessel shall become the Vessel for the purposes of this Charter Party.

24. Sub-let and Assignment

With the prior written consent of the Owners, which shall not be unreasonably withheld, the Charterers may sub-let or assign this Charter Party, provided that the Charterers shall always remain responsible for the due performance of this Charter Party.

25. Taxes and Dues

- (a) On the Vessel: The Owners shall pay all dues, charges, duties and taxes customarily levied on the Vessel, howsoever the amount thereof may be assessed.
- (b) On the Cargo: The Charterers shall pay all dues, charges, duties and taxes customarily levied on the Cargo, howsoever the amount thereof may be assessed.
- (c) On freight: Unless otherwise agreed in Box 20, taxes levied or calculated on the freight shall be for the Charterers' account.

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26. Agency

- (a) Unless stated otherwise in Box 21, the Vessel will be consigned to agents to be nominated by the Charterers. Such agents will be appointed and paid by the Owners at the ports or places of loading and discharge, but shall in any and all matters relating to or arising out of or in connection with the cargo and its loading, discharge and delivery (including the preparation and presentation of bills of lading), be deemed to be the agents of the Charterers.
- (b) Always subject to the terms of this Charter Party, the parties shall each be responsible for the act, neglect or default of their respective servants, agents and sub-contractors. Shippers and receivers shall be deemed to be the agents of the Charterers in the performance of any function which is the responsibility of the Charterers under this Charter Party.
- (c) Unless otherwise agreed, the agents shall comply with the minimum quality standards that are prescribed by FONASBA (The Federation of National Associations of Ship Brokers and Agents), ISO (The International Organisation for Standardisation) or other equivalent quality standards.

27. Limitation of Liability

- (a) Nothing contained in, or done or not done, under this Charter Party shall constitute a surrender or waiver of any right of limitation which might otherwise be available as a matter of law to the Owners, the Charterers, the Vessel, its registered or disponent owners, or the managers, operators, charterers, any person or party for whose act, neglect or default such parties may be liable, or the liability insurers of such parties.
- (b) The Charterers shall ensure that the terms and conditions of access and use at any berth or place to which they may require the Vessel to proceed (unless expressly named in this Charter Party) shall not prejudice any such right of limitation and shall indemnify the Owners against any loss, damage or liability arising or resulting from failure to do so.

28. Protective Clauses

The New Jason Clause, Both-to-Blame Collision Clause and International Group of P&I Clubs/BIMCO Himalaya Clause for Bills of Lading and Other Contracts 2014 as contained in CONGENBILL 2022 shall be deemed incorporated and form part of this Charter Party and shall be expressly incorporated in any bill of lading issued under this Charter Party.

29. General Average

General Average shall be adjusted, stated and settled in London, unless otherwise stated in Box 22, according to York-Antwerp Rules 2016.

Cargo's contribution to General Average shall be paid to the carrier even when such average is the result of a fault, neglect or error of the Master, Pilot or Crew.

30. BIMCO Ice Clause for Voyage Charter Parties 2005

The Vessel shall not be obliged to force ice but, subject to the Owners' approval having due regard to its size, construction and class, may follow icebreakers.

(a) Port of Loading:

- (i) If at any time after setting out on the approach voyage the Vessel's passage is impeded by ice, or if on arrival the loading port is inaccessible by reason of ice, the Master or Owners shall notify the Charterers thereof and request them to nominate a safe and accessible alternative port.

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If the Charterers fail within 48 hours, Sundays and holidays included, to make such nomination or agree to reckon laytime as if the port named in the contract were accessible or declare that they cancel the Charter Party, the Owners shall have the option of cancelling the Charter Party. In the event of cancellation by either party, the Charterers shall compensate the Owners for all proven loss of earnings under this Charter Party.

(ii) If at any loading port the Master considers that there is a danger of the Vessel being frozen in, and provided that the Master or Owners immediately notify the Charterers thereof, the Vessel may leave with Cargo loaded on board and proceed to the nearest safe and ice free place and there await the Charterers' nomination of a safe and accessible alternative port within 24 hours, Sundays and holidays excluded, of the Master's or Owners' notification. If the Charterers fail to nominate such alternative port, the vessel may proceed to any port(s), whether or not on the customary route for the chartered voyage, to complete with Cargo for the Owners' account.

(b) Port of Discharge:

(i) If the voyage to the discharging port is impeded by ice, or if on arrival the discharging port is inaccessible by reason of ice, the Master or Owners shall notify the Charterers thereof. In such case, the Charterers shall have the option of keeping the Vessel waiting until the port is accessible against paying compensation at the demurrage rate stated in Box 19 or of ordering the Vessel to a safe and accessible alternative port.

If the Charterers fail to make such declaration within 48 hours, Sundays and holidays included, of the Master or Owners having given notice to the Charterers, the Master may proceed without further notice to the nearest safe and accessible port and there discharge the Cargo.

(ii) If at any discharging port the Master considers that there is a danger of the Vessel being frozen in, and provided that the Master or Owners immediately notify the Charterers thereof, the Vessel may leave with Cargo remaining on board and proceed to the nearest safe and ice free place and there await the Charterers' nomination of a safe and accessible alternative port within 24 hours, Sundays and holidays excluded, of the Master's or Owners' notification. If the Charterers fail to nominate such alternative port, the vessel may proceed to the nearest safe and accessible port and there discharge the remaining Cargo.

(iii) On delivery of the Cargo other than at the port(s) named in the contract, all conditions of the bills of lading shall apply and the Vessel shall receive the same freight as if discharge had been at the original port(s) of destination, except that if the distance of the substituted port(s) exceeds 100 nautical miles, the freight on the Cargo delivered at the substituted port(s) shall be increased proportionately.

31. BIMCO ISPS/MTSA Clause for Voyage Charter Parties 2005

(a) (i) The Owners shall comply with the requirements of the International Code for the Security of Ships and of Port Facilities and the relevant amendments to Chapter XI of SOLAS (ISPS Code) relating to the Vessel and "the Company" (as defined by the ISPS Code). If trading to or from the United States or passing through United States waters, the Owners shall also comply with the requirements of the US Maritime Transportation Security Act 2002 (MTSA) relating to the Vessel and the "Owner" (as defined by the MTSA).

(ii) Upon request the Owners shall provide the Charterers with a copy of the relevant International Ship Security Certificate (or the Interim International Ship Security Certificate) and the full style contact details of the Company Security Officer (CSO).

(iii) Loss, damages, expense or delay (excluding consequential loss, damages, expense or delay) caused by failure on the part of the Owners or "the Company"/"Owner" to comply with the requirements of the ISPS Code/MTSA or this Clause shall be for the Owners' account, except as otherwise provided in this Charter Party.

(b) (i) The Charterers shall provide the Owners and the Master with their full style contact details and, upon request, any other information the Owners require to comply with the ISPS Code/MTSA.

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- (ii) Loss, damages or expense (excluding consequential loss, damages or expense) caused by failure on the part of the Charterers to comply with this Clause shall be for the Charterers' account, except as otherwise provided in this Charter Party, and any delay caused by such failure shall count as laytime or time on demurrage.
- (c) Provided that the delay is not caused by the Owners' failure to comply with their obligations under the ISPS Code/MTSA, the following shall apply:
- (i) Notwithstanding anything to the contrary provided in this Charter Party, the Vessel shall be entitled to tender Notice of Readiness even if not cleared due to applicable security regulations or measures imposed by a port facility or any relevant authority under the ISPS Code/MTSA.
- (ii) Any delay resulting from measures imposed by a port facility or by any relevant authority under the ISPS Code/MTSA shall count as laytime or time on demurrage, unless such measures result solely from the negligence of the Owners, Master or crew or the previous trading of the Vessel, the nationality of the crew or the identity of the Owners' managers.
- (d) Notwithstanding anything to the contrary provided in this Charter Party, any costs or expenses whatsoever solely arising out of or related to security regulations or measures required by the port facility or any relevant authority in accordance with the ISPS Code/MTSA including, but not limited to, security guards, launch services, vessel escorts, security fees or taxes and inspections, shall be for the Charterers' account, unless such costs or expenses result solely from the negligence of the Owners, Master or crew or the previous trading of the Vessel, the nationality of the crew or the identity of the Owners' managers. All measures required by the Owners to comply with the Ship Security Plan shall be for the Owners' account.
- (e) If either party makes any payment which is for the other party's account according to this Clause, the other party shall indemnify the paying party.

32. BIMCO Sanctions Clause for Voyage Charter Parties 2020

- (a) For the purposes of this Clause:
- "Sanctioned Activity" means any activity, service, carriage, trade or voyage subject to sanctions imposed by a Sanctioning Authority.
- "Sanctioning Authority" means the United Nations, European Union, United Kingdom, United States of America or any other applicable competent authority or government.
- "Sanctioned Party" means any persons, entities, bodies, or vessels designated by a Sanctioning Authority.
- (b) Owners warrant that at the date of this Charter Party and throughout its duration they, the registered owners, bareboat charterers, intermediate disponent owners, managers, the Vessel and any substitute are not a Sanctioned Party.
- (c) Charterers warrant that at the date of this Charter Party and throughout its duration they and any subcharterers, shippers, receivers and cargo interests are not a Sanctioned Party.
- (d) If at any time either party is in breach of subclause (b) or (c) above then the party not in breach may terminate and/or claim damages resulting from the breach.
- (e) If performance of this Charter Party involves a Sanctioned Party or a Sanctioned Activity, without prejudice to any other rights that may be available in subclause (d) above:
- (i) if loading has not commenced, Owners may cancel this Charter Party; or

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(ii) if the voyage or the loading has commenced, Owners may refuse to proceed and discharge any cargo already loaded at any safe port or place of their choice (including the port or place of loading) in complete fulfilment of this Charter Party,

provided always that if this Charter Party provides that loading and/or discharging is to take place within a range of ports or places that do not involve a Sanctioned Party or a Sanctioned Activity, Owners must first request Charterers to nominate an alternative port or place and may cancel the Charter Party or refuse to proceed on the voyage only if such nomination is not made within forty-eight (48) hours after the request.

- (f) If in compliance with subclause (e) above anything is done or not done, such shall not be deemed a deviation, but shall be considered due fulfilment of this Charter Party.
- (g) Charterers shall indemnify Owners against any and all claims brought by the owners of the cargo and/or the holders of bills of lading, waybills or other documents evidencing contracts of carriage and/or subcharterers against Owners by reason of Owners' compliance with such alternative voyage orders or delivery of the cargo in accordance with subclause (e) above.
- (h) Charterers shall procure that this Clause shall be incorporated into all sub-charters and bills of lading, waybills or other documents evidencing contracts of carriage issued pursuant to this Charter Party.

33. BIMCO War Risks Clause for Voyage Chartering (VOYWAR 2013)

(a) For the purpose of this Clause, the words:

(i) "Owners" shall include the shipowners, bareboat charterers, disponent owners, managers or other operators who are charged with the management of the Vessel, and the Master; and

(ii) "War Risks" shall include any actual, threatened or reported:

War, act of war, civil war or hostilities; revolution; rebellion; civil commotion; warlike operations; laying of mines; acts of piracy and/or violent robbery and/or capture/seizure (hereinafter "Piracy"); acts of terrorists; acts of hostility or malicious damage; blockades (whether imposed against all vessels or imposed selectively against vessels of certain flags or ownership, or against certain cargoes or crews or otherwise howsoever), by any person, body, terrorist or political group, or the government of any state or territory whether recognised or not, which, in the reasonable judgement of the Master and/or the Owners, may be dangerous or may become dangerous to the Vessel, cargo, crew or other persons on board the Vessel.

- (b) If at any time before the Vessel commences loading, it appears that, in the reasonable judgement of the Master and/or the Owners, performance of the Contract of Carriage, or any part of it, may expose the Vessel, cargo, crew or other persons on board the Vessel to War Risks, the Owners may give notice to the Charterers cancelling this Contract of Carriage, or may refuse to perform such part of it as may expose the Vessel, cargo, crew or other persons on board the Vessel to War Risks; provided always that if this Contract of Carriage provides that loading or discharging is to take place within a range of ports, and at the port or ports nominated by the Charterers the Vessel, cargo, crew, or other persons on board the Vessel may be exposed to War Risks, the Owners shall first require the Charterers to nominate any other safe port which lies within the range for loading or discharging, and may only cancel this Contract of Carriage if the Charterers shall not have nominated such safe port or ports within 48 hours of receipt of notice of such requirement.
- (c) The Owners shall not be required to continue to load cargo for any voyage, or to sign bills of lading, waybills or other documents evidencing contracts of carriage for any port or place, or to proceed or continue on any voyage, or on any part thereof, or to proceed through any canal or waterway, or to proceed to or remain at any port or place whatsoever, where it appears, either after the loading of the cargo commences, or at any stage of the voyage thereafter before the discharge of the cargo is completed, that, in the reasonable judgement of the Master and/or the Owners, the Vessel, cargo, crew or other persons on board the Vessel may be exposed to War Risks. If it should so appear, the Owners may by notice request the Charterers to nominate a safe port for the

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discharge of the cargo or any part thereof, and if within 48 hours of the receipt of such notice, the Charterers shall not have nominated such a port, the Owners may discharge the cargo at any safe port of their choice (including the port of loading) in complete fulfilment of the Contract of Carriage. The Owners shall be entitled to recover from the Charterers the extra expenses of such discharge and, if the discharge takes place at any port other than the loading port, to receive the full freight as though the cargo had been carried to the discharging port and if the extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route, the Owners having a lien on the cargo for such expenses and freight.

- (d) If at any stage of the voyage after the loading of the cargo commences, it appears that, in the reasonable judgement of the Master and/or the Owners, the Vessel, cargo, crew or other persons on board the Vessel may be exposed to War Risks on any part of the route (including any canal or waterway) which is normally and customarily used in a voyage of the nature contracted for, and there is another longer route to the discharging port, the Owners shall give notice to the Charterers that this route will be taken. In this event the Owners shall be entitled, if the total extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route.
- (e) (i) The Owners may effect War Risks insurance in respect of the Vessel and any additional insurances that Owners reasonably require in connection with War Risks and the premiums therefor shall be for their account.
- (ii) If, pursuant to the Charterers' orders, or in order to fulfil the Owners' obligation under this Charter Party, the Vessel proceeds to or through any area or areas exposed to War Risks, the Charterers shall reimburse to the Owners any additional premiums required by the Owners' insurers. If the Vessel discharges all of her cargo within an area subject to additional premiums as herein set forth, the Charterers shall further reimburse the Owners for the actual additional premiums paid from completion of discharge until the Vessel leaves such area or areas. The Owners shall leave the area or areas as soon as possible after completion of discharge.
- (iii) All payments arising under this Sub-clause (e) shall be settled within fifteen (15) days of receipt of Owners' supported invoices.
- (f) The Vessel shall have liberty:
- (i) to comply with all orders, directions, recommendations or advice as to departure, arrival, routes, sailing in convoy, ports of call, stoppages, destinations, discharge of cargo, delivery, or in any other way whatsoever, which are given by the government of the nation under whose flag the Vessel sails, or other government to whose laws the Owners are subject, or any other government of any state or territory whether recognised or not, body or group whatsoever acting with the power to compel compliance with their orders or directions;
- (ii) to comply with the requirements of the Owners' insurers under the terms of the Vessel's insurance(s);
- (iii) to comply with the terms of any resolution of the Security Council of the United Nations, the effective orders of any other Supranational body which has the right to issue and give the same, and with national laws aimed at enforcing the same to which the Owners are subject, and to obey the orders and directions of those who are charged with their enforcement;
- (iv) to discharge at any alternative port any cargo or part thereof which may expose the Vessel to being held liable as a contraband carrier;
- (v) to call at any alternative port to change the crew or any part thereof or other persons on board the Vessel when there is reason to believe that they may be subject to internment, imprisonment, detention or similar measures;

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(vi) where cargo has not been loaded or has been discharged by the Owners under any provisions of this Clause, to load other cargo for the Owners' own benefit and carry it to any other port or ports whatsoever, whether backwards or forwards or in a contrary direction to the ordinary or customary route.

- (g) The Charterers shall indemnify the Owners for claims arising out of the Vessel proceeding in accordance with any of the provisions of subclauses (b) to (f) above which are made under any bills of lading, waybills or other documents evidencing contracts of carriage.
- (h) When acting in accordance with any of the provisions of subclauses (b) to (f) of this Clause anything is done or not done, such shall not be deemed to be a deviation, but shall be considered as due fulfilment of the Contract of Carriage.

34. BIMCO Piracy Clause for Single Voyage Charter Parties 2013

- (a) If, after entering into this Charter Party, in the reasonable judgement of the Master and/or the Owners, any port, place, area or zone, or any waterway or canal (hereinafter "Area") on any part of the route which is normally and customarily used on a voyage of the nature contracted for becomes dangerous, or the level of danger increases, to the Vessel, cargo, crew or other persons on board the Vessel due to any actual, threatened or reported acts of piracy and/or violent robbery and/or capture/seizure (hereinafter "Piracy"), the Owners shall be entitled to take a reasonable alternative route to the discharging port and, if they so decide, immediately give notice to the Charterers that such route will be taken. Should the Vessel be within any such place as aforesaid which only becomes dangerous, after entry, it shall be at liberty to leave it.
- (b) In any event, if the Vessel proceeds to or through an Area exposed to the risk of Piracy the Owners shall have the liberty:
 - (i) to take reasonable preventative measures to protect the Vessel, crew and cargo including but not limited to re-routing within the Area, proceeding in convoy, using escorts, avoiding day or night navigation, adjusting speed or course, or engaging security personnel and/or deploying equipment on or about the Vessel (including embarkation/disembarkation);
 - (ii) to comply with the requirements of the Owners' insurers under the terms of the Vessel's insurance(s);
 - (iii) to comply with all orders, directions, recommendations or advice given by the Government of the Nation under whose flag the Vessel sails, or other Government to whose laws the Owners are subject, or any other Government, body or group (including military authorities) whatsoever acting with the power to compel compliance with their orders or directions; and
 - (iv) to comply with the terms of any resolution of the Security Council of the United Nations, the effective orders of any other Supranational body which has the right to issue and give the same, and with national laws aimed at enforcing the same to which the Owners are subject, and to obey the orders and directions of those who are charged with their enforcement.
- (c) This Clause shall be incorporated into any bills of lading, waybills or other documents evidencing contracts of carriage (hereinafter "Contracts of Carriage") issued pursuant to this Charter Party. The Charterers shall indemnify the Owners against all consequences or liabilities that may arise from the Master signing Contracts of Carriage as presented to the extent that the terms of such Contracts of Carriage impose or result in the imposition of more onerous liabilities upon the Owners than those assumed by the Owners under this Clause.
- (d) If in compliance with this Clause anything is done or not done, such shall not be deemed a deviation, but shall be considered as due fulfilment of this Charter Party. In the event of a conflict between the provisions of this Clause and any implied or express provision of the Charter Party, this Clause shall prevail.

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35. Brokerage

A brokerage commission at the rate(s) stated in Box 23 on the freight, deadfreight and demurrage received by the Owners under this Charter Party shall be paid by the Owners to the party(ies) stated in Box 23.

36. Notices

For the purpose of giving notices, except for notices given under the BIMCO Law and Arbitration Clause 2020, the Owners' contact details are stated in Box 28 and the Charterers' contact details are stated in Box 29. Any notice or approval to be given under this Charter Party shall be in writing.

37. BIMCO Law and Arbitration Clause 2020

The Parties have been given a choice of law and arbitration alternatives in Box 32 and this is the clause that shall apply.

- (a) This contract shall be governed by and construed in accordance with English law and any dispute arising out of or in connection with this contract shall be referred exclusively to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof save to the extent necessary to give effect to the provisions of this clause. The seat of arbitration shall be London even where any hearing takes place in another jurisdiction.
- (b) The reference shall be to three (3) arbitrators unless the Parties agree otherwise.
- (c) The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association (LMAA) Terms.
- (d) In cases where neither the claim nor any counterclaim exceeds the sum of USD 100,000 (or such other sum as the Parties may agree) the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure.

In cases where the claim or any counterclaim exceeds the sum agreed for the LMAA Small Claims Procedure and neither the claim nor any counterclaim exceeds the sum of USD 400,000 (or such other sum as the Parties may agree) the Parties may agree that the arbitration shall be conducted in accordance with the LMAA Intermediate Claims Procedure.
- (e) The terms and procedures referred to in subclauses (c) and (d) above shall be those current at the time when the arbitration proceedings are commenced.
- (f) Any and all notices and communications in relation to any arbitration proceedings under this clause, including commencement notices and appointment of arbitrators, shall be treated as effectively served from the date and time the e-mail was sent if sent by e-mail to the e-mail addresses below:

Owners

E-mail address(es) for receipt of notices and communications on behalf of the Owners:

Charterers

E-mail address(es) for receipt of notices and communications on behalf of the Charterers:

Either party shall be entitled to change and/or add to the e-mail addresses above by sending notice of change to the other party at the above address (or, if previously amended by notice, the relevant amended addresses).

Nothing in this Clause shall prevent any notice and communication in relation to any arbitration proceedings in connection with this contract being served by other effective means.

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38. Original Charter Party

Upon demand, each party shall promptly provide to the other a duly executed original of this Charter Party with each page initialled by the signatory(ies) thereto.

Sample copy



Part I

RECOMMENDED
THE BALTIC AND INTERNATIONAL MARITIME COUNCIL
UNIFORM GENERAL CHARTER (AS REVISED 1922, 1976 and 1994)
(To be used for trades for which no specially approved form is in force)
CODE NAME: "GENCON"

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1. Shipbroker	2. Place and Date
3. Owners/Place of business (Cl. 1)	4. Charterers/Place of business (Cl. 1)
5. Vessel's name (Cl. 1)	6. GT/NT (Cl. 1) /
7. DWT all told on summer load line in metric tons (abt.) (Cl. 1)	8. Present position (Cl. 1)
9. Expected ready to load (abt.) (Cl. 1)	
10. Loading port or place (Cl. 1)	11. Discharging port or place (Cl. 1)
12. Cargo (also state quantity and margin in Owners' option, if agreed; if full and complete cargo not agreed state "part cargo") (Cl. 1)	
13. Freight rate (also state whether freight prepaid or payable on delivery) (Cl. 4)	14. Freight payment (state currency and method of payment; also beneficiary and bank account) (Cl. 4)
15. State if vessel's cargo handling gear shall not be used (Cl. 5)	16. Laytime (if separate laytime for load. and disch. is agreed, fill in a) and b). If total laytime for load. and disch., fill in c) only) (Cl. 6)
17. Shippers/Place of business (Cl. 6)	(a) Laytime for loading
18. Agents (loading) (Cl. 6)	(b) Laytime for discharging
19. Agents (discharging) (Cl. 6)	(c) Total laytime for loading and discharging
20. Demurrage rate and manner payable (loading and discharging) (Cl. 7)	21. Cancelling date (Cl. 9)
	22. General Average to be adjusted at (Cl. 12)
23. Freight Tax (state if for the Owners' account (Cl. 13 (c)))	24. Brokerage commission and to whom payable (Cl. 15)
25. Law and Arbitration (state 19 (a), 19 (b) or 19 (c) of Cl. 19; if 19 (c) agreed also state Place of Arbitration) (if not filled in 19 (a) shall apply) (Cl. 19) (c) Other (state applicable law and arbitration venue in text box) (a) State maximum amount for small claims/shortened arbitration (Cl. 19)	26. Additional clauses covering special provisions, if agreed

It is mutually agreed that this Contract shall be performed subject to the conditions contained in this Charter Party which shall include Part I as well as Part II. In the event of a conflict of conditions, the provisions of Part I shall prevail over those of Part II to the extent of such conflict.

Signature (Owners)	Signature (Charterers)
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PART II
“Gencon” Charter (As Revised 1922, 1976 and 1994)

1.	It is agreed between the party mentioned in Box 3 as the Owners of the Vessel named in Box 5 , of the GT/NT indicated in Box 6 and carrying about the number of metric tons of deadweight capacity all told on summer loadline stated in Box 7 , now in position as stated in Box 8 and expected ready to load under this Charter Party about the date indicated in Box 9 , and the party mentioned as the Charterers in Box 4 that: The said Vessel shall, as soon as her prior commitments have been completed, proceed to the loading port(s) or place(s) stated in Box 10 or so near thereto as she may safely get and lie always afloat, and there load a full and complete cargo (if shipment of deck cargo agreed same to be at the Charterers' risk and responsibility) as stated in Box 12 , which the Charterers bind themselves to ship, and being so loaded the Vessel shall proceed to the discharging port(s) or place(s) stated in Box 11 as ordered on signing Bills of Lading, or so near thereto as she may safely get and lie always afloat, and there deliver the cargo.	1 2 3 4 5 6 7 8 9 10 11 12 13 14	The Charterers shall be responsible for damage (beyond ordinary wear and tear) to any part of the Vessel caused by Stevedores. Such damage shall be notified as soon as reasonably possible by the Master to the Charterers or their agents and to their Stevedores, failing which the Charterers shall not be held responsible. The Master shall endeavour to obtain the Stevedores' written acknowledgement of liability. The Charterers are obliged to repair any stevedore damage prior to completion of the voyage, but must repair stevedore damage affecting the Vessel's seaworthiness or class before the Vessel sails from the port where such damage was caused or found. All additional expenses incurred shall be for the account of the Charterers and any time lost shall be for the account of and shall be paid to the Owners by the Charterers at the demurrage rate.	77 78 79 80 81 82 83 84 85 86 87 88
2.	Owners' Responsibility Clause The Owners are to be responsible for loss of or damage to the goods or for delay in delivery of the goods only in case the loss, damage or delay has been caused by personal want of due diligence on the part of the Owners or their Manager to make the Vessel in all respects seaworthy and to secure that she is properly manned, equipped and supplied, or by the personal act or default of the Owners or their Manager. And the Owners are not responsible for loss, damage or delay arising from any other cause whatsoever, even from the neglect or default of the Master or crew or some other person employed by the Owners on board or ashore for whose acts they would, but for this Clause, be responsible, or from unseaworthiness of the Vessel on loading or commencement of the voyage or at any time whatsoever.	15 16 17 18 19 20 21 22 23 24 25 26 27	6. Laytime <i>* (a) Separate laytime for loading and discharging</i> The cargo shall be loaded within the number of running days/hours as indicated in Box 16 , weather permitting, Sundays and holidays excepted, unless used, in which event time used shall count. The cargo shall be discharged within the number of running days/hours as indicated in Box 16 , weather permitting, Sundays and holidays excepted, unless used, in which event time used shall count. <i>* (b) Total laytime for loading and discharging</i> The cargo shall be loaded and discharged within the number of total running days/hours as indicated in Box 16 , weather permitting, Sundays and holidays excepted, unless used, in which event time used shall count. <i>(c) Commencement of laytime (loading and discharging)</i> Laytime for loading and discharging shall commence at 13.00 hours, if notice of readiness is given up to and including 12.00 hours, and at 06.00 hours next working day if notice given during office hours after 12.00 hours. Notice of readiness at loading port to be given to the Shippers named in Box 17 or if not named, to the Charterers or their agents named in Box 18 . Notice of readiness at the discharging port to be given to the Receivers or, if not known, to the Charterers or their agents named in Box 19 . If the loading/discharging berth is not available on the Vessel's arrival at or off the port of loading/discharging, the Vessel shall be entitled to give notice of readiness within ordinary office hours on arrival there, whether in free pratique or not, whether customs cleared or not. Laytime or time on demurrage shall then count as if she were in berth and in all respects ready for loading/discharging provided that the Master warrants that she is in fact ready in all respects. Time used in moving from the place of waiting to the loading/discharging berth shall not count as laytime. If, after inspection, the Vessel is found not to be ready in all respects to load/discharging time lost after the discovery thereof until the Vessel is again ready to load/discharging shall not count as laytime. Time used before commencement of laytime shall count.	89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121
3.	Deviation Clause The Vessel has liberty to call at any port or ports in any order, for any purpose, to sail without pilots, to tow and/or assist Vessels in all situations, and also to deviate for the purpose of saving life and/or property.	28 29 30 31		
4.	Payment of Freight <i>(a)</i> The freight at the rate stated in Box 13 shall be paid in cash calculated on the intaken quantity of cargo. <i>(b) Prepaid.</i> If according to Box 13 freight is to be paid on shipment, it shall be deemed earned and non-returnable, Vessel and/or cargo lost or not lost. Neither the Owners nor their agents shall be required to sign or endorse bills of lading showing freight prepaid unless the freight due to the Owners has actually been paid. <i>(c) On delivery.</i> If according to Box 13 freight, or part thereof, is payable at destination it shall not be deemed earned until the cargo is thus delivered. Notwithstanding the provisions under (a), if freight or part thereof is payable on delivery of the cargo the Charterers shall have the option of paying the freight on delivered weight/quantity provided such option is declared before breaking bulk and the weight/quantity can be ascertained by official weighing machine, joint draft survey or tally. Cash for Vessel's ordinary disbursements at the port of loading to be advanced by the Charterers, if required, at highest current rate of exchange, subject to two (2) per cent to cover insurance and other expenses.	32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49		
5.	Loading/Discharging <i>(a) Costs/Risks</i> The cargo shall be brought into the holds, loaded, stowed and/or trimmed, tallied, lashed and/or secured and taken from the holds and discharged by the Charterers, free of any risk, liability and expense whatsoever to the Owners. The Charterers shall provide and lay all dunnage material as required for the proper stowage and protection of the cargo on board, the Owners allowing the use of all dunnage available on board. The Charterers shall be responsible for and pay the cost of removing their dunnage after discharge of the cargo under this Charter Party and time to count until dunnage has been removed. <i>(b) Cargo Handling Gear</i> Unless the Vessel is gearless or unless it has been agreed between the parties that the Vessel's gear shall not be used and stated as such in Box 15 , the Owners shall throughout the duration of loading/discharging give free use of the Vessel's cargo handling gear and of sufficient motive power to operate all such cargo handling gear. All such equipment to be in good working order. Unless caused by negligence of the stevedores, time lost by breakdown of the Vessel's cargo handling gear or motive power - pro rata the total number of cranes/winchmen required at that time for the loading/discharging of cargo under this Charter Party - shall not count as laytime or time on demurrage. On request the Owners shall provide free of charge cranesmen/winchmen from the crew to operate the Vessel's cargo handling gear, unless local regulations prohibit this, in which latter event shore labourers shall be for the account of the Charterers. Cranesmen/winchmen shall be under the Charterers' risk and responsibility and as stevedores to be deemed as their servants but shall always work under the supervision of the Master. <i>(c) Stevedore Damage</i>	50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76	7. Demurrage Demurrage at the loading and discharging port is payable by the Charterers at the rate stated in Box 20 in the manner stated in Box 20 per day or pro rata for any part of a day. Demurrage shall fall due day by day and shall be payable upon receipt of the Owners' invoice. In the event the demurrage is not paid in accordance with the above, the Owners shall give the Charterers 96 running hours written notice to rectify the failure. If the demurrage is not paid at the expiration of this time limit and if the vessel is in or at the loading port, the Owners are entitled at any time to terminate the Charter Party and claim damages for any losses caused thereby.	122 123 124 125 126 127 128 129 130 131
			8. Lien Clause The Owners shall have a lien on the cargo and on all sub-freights payable in respect of the cargo, for freight, deadfreight, demurrage, claims for damages and for all other amounts due under this Charter Party including costs of recovering same.	132 133 134 135 136
			9. Cancelling Clause <i>(a)</i> Should the Vessel not be ready to load (whether in berth or not) on the cancelling date indicated in Box 21 , the Charterers shall have the option of cancelling this Charter Party. <i>(b)</i> Should the Owners anticipate that, despite the exercise of due diligence, the Vessel will not be ready to load by the cancelling date, they shall notify the Charterers thereof without delay stating the expected date of the Vessel's readiness to load and asking whether the Charterers will exercise their option of cancelling the Charter Party, or agree to a new cancelling date. Such option must be declared by the Charterers within 48 running hours after the receipt of the Owners' notice. If the Charterers do not exercise their option of cancelling, then this Charter Party shall be deemed to be amended such that the seventh day after the new readiness date stated in the Owners' notification to the Charterers shall be the new cancelling date. The provisions of sub-clause (b) of this Clause shall operate only once, and in case of the Vessel's further delay, the Charterers shall have the option of	137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152

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cancelling the Charter Party as per sub-clause (a) of this Clause.	153	same, (freight payable on loaded quantity only) having liberty to complete with other cargo on the way for their own account.	227
10. Bills of Lading	154	(b) If there is a strike or lock-out affecting or preventing the actual discharging of the cargo on or after the Vessel's arrival at or off port of discharge and same has not been settled within 48 hours, the Charterers shall have the option of keeping the Vessel waiting until such strike or lock-out is at an end against paying half demurrage after expiration of the time provided for discharging until the strike or lock-out terminates and thereafter full demurrage shall be payable until the completion of discharging, or of ordering the Vessel to a safe port where she can safely discharge without risk of being detained by strike or lock-out. Such orders to be given within 48 hours after the Master or the Owners have given notice to the Charterers of the strike or lock-out affecting the discharge. On delivery of the cargo at such port, all conditions of this Charter Party and of the Bill of Lading shall apply and the Vessel shall receive the same freight as if she had discharged at the original port of destination, except that if the distance to the substituted port exceeds 100 nautical miles, the freight on the cargo delivered at the substituted port to be increased in proportion.	228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243
Bills of Lading shall be presented and signed by the Master as per the "Congenbill" Bill of Lading form, Edition 1994, without prejudice to this Charter Party, or by the Owners' agents provided written authority has been given by Owners to the agents, a copy of which is to be furnished to the Charterers. The Charterers shall indemnify the Owners against all consequences or liabilities that may arise from the signing of bills of lading as presented to the extent that the terms or contents of such bills of lading impose or result in the imposition of more onerous liabilities upon the Owners than those assumed by the Owners under this Charter Party.	155 156 157 158 159 160 161 162 163	(c) Except for the obligations described above, neither the Charterers nor the Owners shall be responsible for the consequences of any strikes or lock-outs preventing or affecting the actual loading or discharging of the cargo.	244 245 246
11. Both-to-Blame Collision Clause	164	17. War Risks ("Voywar 1993")	247
If the Vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, neglect or default of the Master, Mariner, Pilot or the servants of the Owners in the navigation or in the management of the Vessel, the owners of the cargo carried hereunder will indemnify the Owners against all loss or liability to the other or non-carrying vessel or her owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said cargo, paid or payable by the other or non-carrying vessel or her owners to the owners of said cargo and set-off, recouped or recovered by the other or non-carrying vessel or her owners as part of their claim against the carrying Vessel or the Owners. The foregoing provisions shall also apply where the owners, operators or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect of a collision or contact.	165 166 167 168 169 170 171 172 173 174 175 176 177	(1) For the purpose of this Clause, the words:	248
12. General Average and New Jason Clause	178	(a) The "Owners" shall include the shipowners, bareboat charterers, disponent owners, managers or other operators who are charged with the management of the Vessel, and the Master; and	249 250 251
General Average shall be adjusted in London unless otherwise agreed in Box 22 according to York-Antwerp Rules 1994 and any subsequent modification thereof. Proprietors of cargo to pay the cargo's share in the general expenses even if same have been necessitated through neglect or default of the Owners' servants (see Clause 2).	179 180 181 182 183	(b) "War Risks" shall include any war (whether actual or threatened), act of war, civil war, hostilities, revolution, rebellion, civil commotion, warlike operations, the laying of mines (whether actual or reported), acts of piracy, acts of terrorists, acts of hostility or malicious damage, blockades (whether imposed against all Vessels or imposed selectively against Vessels of certain flags or ownership, or against certain cargoes or crews or otherwise howsoever), by any person, body, terrorist or political group, or the Government of any state whatsoever, which, in the reasonable judgement of the Master and/or the Owners, may be dangerous or are likely to be or to become dangerous to the Vessel, her cargo, crew or other persons on board the Vessel.	252 253 254 255 256 257 258 259 260 261 262
If General Average is to be adjusted in accordance with the law and practice of the United States of America, the following Clause shall apply: "In the event of accident, danger, damage or disaster before or after the commencement of the voyage, resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Owners are not responsible, by statute, contract or otherwise, the cargo shippers, consignees or the owners of the cargo shall contribute with the Owners in General Average to the payment of any sacrifices, losses or expenses of a General Average nature that may be made or incurred and shall pay salvage and special charges incurred in respect of the cargo. If a salving vessel is owned or operated by the Owners, salvage shall be paid for as fully as if the said salving vessel or vessels belonged to strangers. Such deposit as the Owners, or their agents, may deem sufficient to cover the estimated contribution of the goods and any salvage and special charges thereon shall, if required, be made by the cargo, shippers, consignees or owners of the goods to the Owners before delivery."	184 185 186 187 188 189 190 191 192 193 194 195 196 197 198	(2) If at any time before the Vessel commences loading, it appears that, in the reasonable judgement of the Master and/or the Owners, performance of the Contract of Carriage, or any part of it, may expose, or is likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks, the Owners may give notice to the Charterers cancelling this Contract of Carriage, or may refuse to perform such part of it as may expose, or may be likely to expose, the Vessel, her cargo, crew or other persons on board the Vessel to War Risks; provided always that if this Contract of Carriage provides that loading or discharging is to take place within a range of ports, and at the port or ports nominated by the Charterers the Vessel, her cargo, crew, or other persons onboard the Vessel may be exposed, or may be likely to be exposed, to War Risks, the Owners shall first require the Charterers to nominate any other safe port which lies within the range for loading or discharging, and may only cancel this Contract of Carriage if the Charterers shall not have nominated such safe port or ports within 48 hours of receipt of notice of such requirement.	263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278
13. Taxes and Dues Clause	199	(3) The Owners shall not be required to continue to load cargo for any voyage, or to sign Bills of Lading for any port or place, or to proceed or continue on any voyage, or on any part thereof, or to proceed through any canal or waterway, or to proceed to or remain at any port or place whatsoever, either after the loading of the cargo commences, or at any stage of the voyage thereafter before the discharge of the cargo is completed, that, in the reasonable judgement of the Master and/or the Owners, the Vessel, her cargo (or any part thereof), crew or other persons on board the Vessel (or any one or more of them) may be, or are likely to be, exposed to War Risks. If it should so appear, the Owners may by notice request the Charterers to nominate a safe port for the discharge of the cargo or any part thereof, and if within 48 hours of the receipt of such notice, the Charterers shall not have nominated such a port, the Owners may discharge the cargo at any safe port of their choice (including the port of loading) in complete fulfilment of the Contract of Carriage. The Owners shall be entitled to recover from the Charterers the extra expenses of such discharge and, if the discharge takes place at any port other than the loading port, to receive the full freight as though the cargo had been carried to the discharging port and if the extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route, the Owners having a lien on the cargo for such expenses and freight.	279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301
(a) <i>On Vessel</i> -The Owners shall pay all dues, charges and taxes customarily levied on the Vessel, howsoever the amount thereof may be assessed.	200	(4) If at any stage of the voyage after the loading of the cargo commences, it appears that, in the reasonable judgement of the Master and/or the	302 303
(b) <i>On cargo</i> -The Charterers shall pay all dues, charges, duties and taxes customarily levied on the cargo, howsoever the amount thereof may be assessed.	201 202 203 204		
(c) <i>On freight</i> -Unless otherwise agreed in Box 23, taxes levied on the freight shall be for the Charterers' account.	205 206		
14. Agency	207		
In every case the Owners shall appoint their own Agent both at the port of loading and the port of discharge.	208 209		
15. Brokerage	210		
A brokerage commission at the rate stated in Box 24 on the freight, dead-freight and demurrage earned is due to the party mentioned in Box 24.	211 212		
In case of non-execution 1/3 of the brokerage on the estimated amount of freight to be paid by the party responsible for such non-execution to the Brokers as indemnity for the latter's expenses and work. In case of more voyages the amount of indemnity to be agreed.	213 214 215 216		
16. General Strike Clause	217		
(a) If there is a strike or lock-out affecting or preventing the actual loading of the cargo, or any part of it, when the Vessel is ready to proceed from her last port or at any time during the voyage to the port or ports of loading or after her arrival there, the Master or the Owners may ask the Charterers to declare, that they agree to reckon the laydays as if there were no strike or lock-out. Unless the Charterers have given such declaration in writing (by telegram, if necessary) within 24 hours, the Owners shall have the option of cancelling this Charter Party. If part cargo has already been loaded, the Owners must proceed with	218 219 220 221 222 223 224 225		

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Owners, the Vessel, her cargo, crew or other persons on board the Vessel may be, or are likely to be, exposed to War Risks on any part of the route (including any canal or waterway) which is normally and customarily used in a voyage of the nature contracted for, and there is another longer route to the discharging port, the Owners shall give notice to the Charterers that this route will be taken. In this event the Owners shall be entitled, if the total extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route.	304 305 306 307 308 309 310 311 312 313 314	(5) The Vessel shall have liberty:- (a) to comply with all orders, directions, recommendations or advice as to departure, arrival, routes, sailing in convoy, ports of call, stoppages, destinations, discharge of cargo, delivery or in any way whatsoever which are given by the Government of the Nation under whose flag the Vessel sails, or other Government to whose laws the Owners are subject, or any other Government which so requires, or any body or group acting with the power to compel compliance with their orders or directions; (b) to comply with the orders, directions or recommendations of any war risks underwriters who have the authority to give the same under the terms of the war risks insurance; (c) to comply with the terms of any resolution of the Security Council of the United Nations, any directives of the European Community, the effective orders of any other Supranational body which has the right to issue and give the same, and with national laws aimed at enforcing the same to which the Owners are subject, and to obey the orders and directions of those who are charged with their enforcement; (d) to discharge at any other port any cargo or part thereof which may render the Vessel liable to confiscation as a contraband carrier; (e) to call at any other port to change the crew or any part thereof or other persons on board the Vessel when there is reason to believe that they may be subject to internment, imprisonment or other sanctions; (f) where cargo has not been loaded or has been discharged by the Owners under any provisions of this Clause, to load other cargo for the Owners' own benefit and carry it to any other port or ports whatsoever, whether backwards or forwards or in a contrary direction to the ordinary or customary route.	315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340	(c) In case of more than one loading port, and if one or more of the ports are closed by ice, the Master or the Owners to be at liberty either to load the part cargo at the open port and fill up elsewhere for their own account as under section (b) or to declare the Charter Party null and void unless the Charterers agree to load full cargo at the open port. <i>Port of discharge</i> (a) Should ice prevent the Vessel from reaching port of discharge the Charterers shall have the option of keeping the Vessel waiting until the re-opening of navigation and paying demurrage or of ordering the Vessel to a safe and immediately accessible port where she can safely discharge without risk of detention by ice. Such orders to be given within 48 hours after the Master or the Owners have given notice to the Charterers of the impossibility of reaching port of destination. (b) If during discharging the Master for fear of the Vessel being frozen in deems it advisable to leave, he has liberty to do so with what cargo he has on board and to proceed to the nearest accessible port where she can safely discharge. (c) On delivery of the cargo at such port, all conditions of the Bill of Lading shall apply and the Vessel shall receive the same freight as if she had discharged at the original port of destination, except that if the distance of the substituted port exceeds 100 nautical miles, the freight on the cargo delivered at the substituted port to be increased in proportion.	361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381
18. General Ice Clause	341	(6) If in compliance with any of the provisions of sub-clauses (2) to (5) of this Clause anything is done or not done, such shall not be deemed to be a deviation, but shall be considered as due fulfilment of the Contract of Carriage.	342 343 344	19. Law and Arbitration	382
<i>Port of loading</i> (a) In the event of the loading port being inaccessible by reason of ice when the Vessel is ready to proceed from her last port or at any time during the voyage or on the Vessel's arrival or in case frost sets in after the Vessel's arrival, the Master for fear of being frozen in is at liberty to leave without cargo, and this Charter Party shall be null and void. (b) If during loading the Master, for fear of the Vessel being frozen in, deems it advisable to leave, he has liberty to do so with what cargo he has on board and to proceed to any other port or ports with option of completing cargo for the Owners' benefit for any port or ports including port of discharge. Any part cargo thus loaded under this Charter Party to be forwarded to destination at the Vessel's expense but against payment of freight, provided that no extra expenses be thereby caused to the Charterers, freight being paid on quantity delivered (in proportion if lumpsum), all other conditions as per this Charter Party.	345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360			* (a) This Charter Party shall be governed by and construed in accordance with English law and any dispute arising out of this Charter Party shall be referred to arbitration in London in accordance with the Arbitration Acts 1950 and 1979 or any statutory modification or re-enactment thereof for the time being in force. Unless the parties agree upon a sole arbitrator, one arbitrator shall be appointed by each party and the arbitrators so appointed shall appoint a third arbitrator, the decision of the three-man tribunal thus constituted or any two of them, shall be final. On the receipt by one party of the nomination in writing of the other party's arbitrator, that party shall appoint their arbitrator within fourteen days, failing which the decision of the single arbitrator appointed shall be final. For disputes where the total amount claimed by either party does not exceed the amount stated in Box 25** the arbitration shall be conducted in accordance with the Small Claims Procedure of the London Maritime Arbitrators Association. * (b) This Charter Party shall be governed by and construed in accordance with Title 9 of the United States Code and the Maritime Law of the United States and should any dispute arise out of this Charter Party, the matter in dispute shall be referred to three persons at New York, one to be appointed by each of the parties hereto, and the third by the two so chosen; their decision or that of any two of them shall be final, and for purpose of enforcing any award, this agreement may be made a rule of the Court. The proceedings shall be conducted in accordance with the rules of the Society of Maritime Arbitrators, Inc.. For disputes where the total amount claimed by either party does not exceed the amount stated in Box 25** the arbitration shall be conducted in accordance with the Shortened Arbitration Procedure of the Society of Maritime Arbitrators, Inc.. * (c) Any dispute arising out of this Charter Party shall be referred to arbitration at the place indicated in Box 25 , subject to the procedures applicable there. The laws of the place indicated in Box 25 shall govern this Charter Party. (d) If Box 25 in Part I is not filled in, sub-clause (a) of this Clause shall apply. * (a), (b) and (c) are alternatives; indicate alternative agreed in Box 25 . ** Where no figure is supplied in Box 25 in Part I, this provision only shall be void but the other provisions of this Clause shall have full force and remain in effect.	383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417



LAYTIME DEFINITIONS FOR CHARTER PARTIES 2013

PREAMBLE

Words, phrases, acronyms and abbreviations (“Words and Phrases”) used in a Charter Party shall be defined, for the purposes of Laytime only, in accordance with the corresponding Words and Phrases set out below, when any or all such definitions are expressly incorporated into the Charter Party.

"Charter Party" shall include any form of contract of carriage or affreightment including contracts evidenced by bills of lading.

Singular/Plural

The singular includes the plural and vice versa as the context admits or requires.

List of Definitions

1. PORT shall mean any area where vessels load or discharge cargo and shall include, but not be limited to, berths, wharves, anchorages, buoys and offshore facilities as well as places outside the legal, fiscal or administrative area where vessels are ordered to wait for their turn no matter the distance from that area.
2. BERTH shall mean the specific place where the Vessel is to load or discharge and shall include, but not be limited to, any wharf, anchorage, offshore facility or other location used for that purpose.
3. REACHABLE ON ARRIVAL shall mean that the charterer undertakes that an available loading or discharging Berth be provided to the Vessel on arrival at the Port which the Vessel can reach safely without delay.
4. ALWAYS ACCESSIBLE shall mean that the charterer undertakes that an available loading or discharging Berth be provided to the Vessel on arrival at the Port which the Vessel can reach safely without delay. The charterer additionally undertakes that the Vessel will be able to depart safely from the Berth and without delay at any time before, during or on completion of loading or discharging.
5. LAYTIME shall mean the period of time agreed between the parties during which the owner will make and keep the Vessel available for loading or discharging without payment additional to the freight.

6. PER HATCH PER DAY shall mean that the Laytime is to be calculated by dividing the quantity of cargo by the result of multiplying the agreed daily rate per hatch by the number of the Vessel's hatches. Thus:

$$\text{Laytime} = \frac{\text{Quantity of cargo}}{\text{Daily rate} \times \text{Number of hatches}} = \text{Days}$$

Each pair of parallel twin hatches shall count as one hatch. Nevertheless, a hatch that is capable of being worked by two gangs simultaneously shall be counted as two hatches.

7. PER WORKING HATCH PER DAY or PER WORKABLE HATCH PER DAY shall mean that the Laytime is to be calculated by dividing the quantity of cargo in the hold with the largest quantity by the result of multiplying the agreed daily rate per working or workable hatch by the number of hatches serving that hold. Thus:

$$\text{Laytime} = \frac{\text{Largest quantity in one hold}}{\text{Daily rate per hatch} \times \text{Number of hatches serving that hold}} = \text{Days}$$

Each pair of parallel twin hatches shall count as one hatch. Nevertheless, a hatch that is capable of being worked by two gangs simultaneously shall be counted as two hatches.

8. DAY shall mean a period of twenty-four (24) consecutive hours. Any part of a Day shall be counted pro rata.
9. CALENDAR DAY shall mean a period of twenty-four (24) consecutive hours running from 0000 hours to 2400 hours. Any part of a Calendar Day shall be counted pro rata.
10. CONVENTIONAL DAY shall mean a period of twenty-four (24) consecutive hours running from any identified time. Any part of a Conventional Day shall be counted pro rata.
11. WORKING DAY shall mean a Day when by local law or practice work is normally carried out.
12. RUNNING DAYS or CONSECUTIVE DAYS shall mean Days which follow one immediately after the other.
13. RUNNING HOURS or CONSECUTIVE HOURS shall mean hours which follow one immediately after the other.
14. HOLIDAY shall mean a Day other than the normal weekly Day(s) of rest, or part thereof, when by local law or practice work during what would otherwise be ordinary working hours is not normally carried out.
15. WEATHER WORKING DAY shall mean a Working Day or part of a Working Day during which it is or, if the Vessel is still waiting for her turn, it would be possible to load/discharge the cargo without interruption due to the weather. If such interruption occurs (or would have occurred if work had been in progress), there shall be excluded from the Laytime a period

calculated by reference to the ratio which the duration of the interruption bears to the time which would have or could have been worked but for the interruption.

16. WEATHER WORKING DAY OF 24 CONSECUTIVE HOURS shall mean a Working Day or part of a Working Day of 24 consecutive hours during which it is or, if the vessel is still waiting for her turn, it would be possible to load/discharge the cargo without interruption due to the weather. If such interruption occurs (or would have occurred if work had been in progress) there shall be excluded from the Laytime the period during which the weather interrupted or would have interrupted work.
17. WEATHER WORKING DAY OF 24 HOURS shall mean a period of 24 hours made up of one or more Working Days during which it is or, if the Vessel is still waiting for her turn, it would be possible to load/discharge the cargo without interruption due to the weather. If such interruption occurs (or would have occurred if work had been in progress), there shall be excluded from Laytime the actual period of such interruption.
18. (WORKING DAY) WEATHER PERMITTING shall have the same meaning as WEATHER WORKING DAY OF 24 CONSECUTIVE HOURS.
19. EXCEPTED or EXCLUDED shall mean that the Days specified do not count as Laytime even if loading or discharging is carried out on them.
20. UNLESS SOONER COMMENCED shall mean that if turn-time has not expired but loading or discharging is carried out, Laytime shall commence.
21. UNLESS SOONER COMMENCED, IN WHICH CASE ACTUAL TIME USED TO COUNT shall mean that actual time used during turn-time shall count as Laytime.
22. UNLESS USED shall mean that if Laytime has commenced but loading or discharging is carried out during excepted periods, actual time used shall count as Laytime.
23. TO AVERAGE LAYTIME shall mean that separate calculations are to be made for loading and discharging and that any time saved in one operation is to be set off against any excess time used in the other.
24. REVERSIBLE LAYTIME shall mean an option given to the charterer to add together the time allowed for loading and discharging. Where the option is exercised the effect is the same as a total time being specified to cover both operations.
25. NOTICE OF READINESS shall mean the notice to the charterer, shipper, receiver or other person as required by the Charter Party that the Vessel has arrived at the Port or Berth, as the case may be, and is ready to load or discharge.
26. TIME LOST WAITING FOR BERTH TO COUNT AS LOADING OR DISCHARGING TIME or AS LAYTIME shall mean that if no loading or discharging Berth is available and the Vessel is

unable to tender Notice of Readiness at the waiting-place then any time lost to the Vessel is counted as if Laytime were running, or as time on Demurrage if Laytime has expired. Such time ceases to count once the Berth becomes available. When the Vessel reaches a place where she is able to tender Notice of Readiness, Laytime or time on Demurrage resumes after such tender and, in respect of Laytime, on expiry of any notice time provided in the Charter Party.

27. WHETHER IN BERTH OR NOT (WIBON) or BERTH OR NO BERTH shall mean that if the designated loading or discharging Berth is not available on arrival, the Vessel on reaching any usual waiting place at the Port, shall be entitled to tender Notice of Readiness from it and Laytime shall commence in accordance with the Charter Party.
28. WHETHER IN PORT OR NOT (WIPON) shall mean that if the designated loading or discharging Berth and the usual waiting place at the Port are not available on arrival, the Vessel shall be entitled to tender Notice of Readiness from any recognised waiting place off the Port and Laytime shall commence in accordance with the Charter Party.
29. VESSEL BEING IN FREE PRATIQUE shall mean that the Vessel complies with port health requirements.
30. DEMURRAGE shall mean an agreed amount payable to the owner in respect of delay to the Vessel once the Laytime has expired, for which the owner is not responsible. Demurrage shall not be subject to exceptions which apply to Laytime unless specifically stated in the Charter Party.
31. DESPATCH MONEY or DESPATCH shall mean an agreed amount payable by the owner if the Vessel completes loading or discharging before the Laytime has expired.
32. DESPATCH ON ALL WORKING TIME SAVED or ON ALL LAYTIME SAVED shall mean that Despatch Money shall be payable for the time from the completion of loading or discharging until the expiry of the Laytime excluding any periods excepted from the Laytime.
33. DESPATCH ON ALL TIME SAVED shall mean that Despatch Money shall be payable for the time from the completion of loading or discharging to the expiry of the Laytime including periods excepted from the Laytime.

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