



Institute of International  
Shipping and Trade Law



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**THE SEVENTH NATIONAL LAW UNIVERSITY ODISHA –  
BOSE & MITRA & CO. INTERNATIONAL MARITIME  
ARBITRATION MOOT, 2020**

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**CASE STUDY\***



सत्ये स्थितो धर्मः

**NATIONAL LAW UNIVERSITY ODISHA, CUTTACK**

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*\* The case study has been drafted by **Ms. Jananidivya Soundararajan**, Legal Counsel, Global Claims, Maritime Law and Claims, Maersk Line Fleet Management and Technology India Pvt. Ltd. and **Mr. Tom Copland**, Head of Maersk Legal Shared Services, Maritime Law and Claims, Maersk Line Fleet Management and Technology India Pvt. Ltd. **The participants or their affiliates are barred from approaching the Drafters for any kind of assistance regarding this competition. Any contact shall lead to immediate disqualification of the concerned team.***

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## THE OUTLINE OF THE PROPOSITION

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### Background of the Case

Timaeus Cargo Lines, Denmark (“**TCL**” or “**Charterers**”) had to settle a claim with their customer for damage to cargo (“**Claim**”). The sum of the Claim paid out by the Charterers amounts to a total of USD 89,918.42 and the Claim arose out of a BOXTIME Charterparty entered into by and between the Charterers and Atlantis Empire, Hong Kong on 18 July 2016 (“**Atlantis**” or “**Owners**”) in respect of the vessel *J Momoa*. The Charterparty is herein after referred to as either the “**Agreement**” or “**Charterparty**”.

### Background of the Claims

1. It is noted from the survey reports that the damage occurred to multiple consignments of refrigerated fruit (bananas) as a result of temperature fluctuations inside a TCL container bearing number TWCU6830612 during its transit from South America to Russia. The temperature fluctuations resulted in over-ripening.
2. From the survey reports, it appears that the temperature fluctuations were caused by container malfunction and/or inadequate monitoring of the container temperatures by ship and/or shore personnel. According to the survey reports in respect of the container the temperature fluctuations could have been caused by problems with the container condenser fan motor and the container temperature sensor issues respectively. Periods of power shortages are also flagged up as having occurred.

### Law and Jurisdiction/Notification

3. The Agreement is subject to English law and any dispute arising out of it shall be referred to London arbitration on LMAA terms.
4. After multiple communications between the Charterers and the Owners and, upon the Owner’s rejection of the Charterers’ Claim, the Charterers advised the Owners of their nominated arbitrator on 23 November 2019.

**Parties' points of contention:**

5. The Charterers' seek recovery compensation from the Owners for the Claim settled with the Charterers' customer. From Owners' correspondence to TCL's Claim Handlers the main issues appear to crystallise into the following categories:

Whether or not:

- a. the Owners performed their part of the Agreement with regard to the monitoring/taking due care of reefer containers/refrigerated cargo;
- b. it should be expected of the Owner (vessel's crew) to advise Charterers if the reefer was malfunctioning or was it only their duty to maintain logs.
- c. the Charterers performed their part of the Agreement with regard to keeping the Owners informed/notifying the Owners of the Claim.

This message was sent from outside of TCL. Please do not click links or open attachments unless you recognise the source of this email and know the content is safe.

*Last Correspondence*

----- **Original Message** -----

**From:** Sebastian and Flounder Shipbrokers [container.ops.dk@sebastianandflounder.com]

**Sent:** 11/19/2019 5:43 PM

**To:** [rus.import@tcl.com](mailto:rus.import@tcl.com)

**Subject:** Recovery Claim IMAM-CS // BL311515 // J Momoa / 1708 // TWCU6830612 [ ]

MSGNO: 362872218

J Momoa - Recovery Claim IMAM-CS // BL311515 // J Momoa / 1708 // TWCU6830612  
-----

From owners

quote

We refer to your message below, be it without prejudice or admission of liability.

We note that you are claiming compensation for damage, if any, to cargo of container TWCU6830612 allegedly caused during voyage no. 1708 on J Momoa.

trust master's reply is clear, see quoted:

QTE

1. With regard to your below message, kindly note below basis past records available on board :

POL : Guayaquil (GYE) on 04.07.2018

POD : St. Petersburg (PLP) on 30.07.2018

- Reefer was working satisfactory on 04th July' 18, as attached log.
  - Unit found Trip during morning round on 05th July' 18; Ship staff attended and repaired the unit. Unit was maintaining temp and sent Malreef MNY17-0509 for same, as attached.
  - On 13th July' 18, captioned unit found Not In Range Alarm and not maintaining Temperature. Same attended and repaired. Unit was Maintaining temp followed by Malreef MNY17-0585.
  - Subjected unit was working satisfactory from 14th July until 28th July' 18, as attached monitoring log.
  - On 29th July' 18, Unit found with alarm AL-15, same attended with Malreef MNY17-0509A.
  - Vessel unable to receive TEMPRATURE list during this period of time.
- Trust it is clear that TEMPRATURE data was not available to our master during that period , and as per governing CP ship's crew shall endeavour to monitor and record and/or manually keep logs . Crew followed above, and same is proving due diligence .
  - containers carried on board the vessels were not properly maintained by TCL and that this is actually the reason for the high level of malfunctioning giving rise to the temperature fluctuations resulting in damage to the cargo

-

## 2. Notice and responsibility:

- i. Charterers are to notify Owners when there is a claim above US\$3,000 in accordance with Clause 16H of the Agreement. This was not done, and Owners were not invited to attend the cargo surveys. Therefore, Owners are not responsible for any claims exceeding US\$3,000;
- ii. Responsibility lies with Charterers for the plugging/unplugging of the containers in accordance with Clause 5(a)(ix) of the Agreement. Therefore, Owners are not responsible for the consequences of such plugging/unplugging.

In the light of the foregoing, we must conclude that our liability is not engaged in this matter and that we cannot entertain your claim.

Accordingly, we will proceed to close our file.

UNQTE

Kind regards,  
Hannah Ásgeirsson  
Atlantis Operations  
unquote

Brgds,

-----  
Kailani Jensen  
Operation - Post Fixture

Direct phone:+45 3344 5566

AOH: AOH the office number transfers to the duty person

E-Mail: container.ops.dk@sebastianandflounder.com

From: [rus.import@tcl.com](mailto:rus.import@tcl.com) <[rus.import@tcl.com](mailto:rus.import@tcl.com)>

Sent: 2019-11-04 10:08:49

To: Sebastian and Flounder Shipbrokers (CPH)

Subject: RE: Recovery Claim IMAM-CS // BL311515 // J Momoa / 1708 // TWCU6830612 [ ]

Dear Kailani,

Good Day,

No response received since April 2019. Please expedite the matter.

Best Regards,  
Hank Parsons  
TCL

----- **Original Message** -----

From: [rus.import@tcl.com](mailto:rus.import@tcl.com) [rus.import@tcl.com]

Sent: 10/31/2019 2:53 PM

To: [container.ops.dk@sebastianandflounder.com](mailto:container.ops.dk@sebastianandflounder.com)

Subject: RE: Recovery Claim IMAM-CS // BL311515 // J Momoa / 1708 // TWCU6830612 [ ]

Dear Kailani,

Good Day,

Could you please push owners for this claim settlement?

Best Regards,  
Hank Parsons  
TCL

----- **Original Message** -----

From: [rus.import@tcl.com](mailto:rus.import@tcl.com) [rus.import@tcl.com]

Sent: 10/5/2019 11:43 AM

To: [container.ops.dk@sebastianandflounder.com](mailto:container.ops.dk@sebastianandflounder.com)

Subject: RE: Recovery Claim IMAM-CS // BL311515 // J Momoa / 1708 // TWCU6830612 [ ]

Dear Kailani,

Good Day,

Owners comments are noted.

- TEMPRATURE data clearly evidencing malfunction and the details are already provided.
- As per contract we shall rely upon TEMPRATURE data and not on reefer monitoring.
- TEMPRATURE data evidencing malfunction was not cured in time which establish that the due diligence was not performed by owners.
- Furthermore owners failed to clarity reason for keeping the units off for several period leads to damage the cargo.

Considering above and based on evidences provided earlier owners liability is established and hence we expect speedy settlement of this claim.

Best Regards,  
Hank Parsons  
TCL

----- **Original Message** -----

From: Sebastian and Flounder Shipbrokers [[container.ops.dk@sebastianandflounder.com](mailto:container.ops.dk@sebastianandflounder.com)]

Sent: 4/20/2019 5:32 PM

To: [rus.import@tcl.com](mailto:rus.import@tcl.com)

Subject: RE: Recovery Claim IMAM-CS // BL311515 // J Momoa / 1708 // TWCU6830612  
MSGNO: 354647786

Recovery Claim IMAM-CS // BL311515 // J Momoa / 1708 // TWCU6830612  
-----

Good afternoon,

From Owners.

+++

We refer to your message dd 16/04/2019, be it without prejudice or admission of liability.

We note that you are continuing to claim compensation for damage, if any, to cargo of container TWCU6830612 allegedly caused during voyage no. 1708 on J Momoa. Owners have reopened the file upon receipt of your message, but fail to find any new elements in charterers' last.

The vessel's reefer logs are clear and evident. All units have been monitored (at least) once daily. The crew has fulfilled her liabilities under the charter party, particularly clause 17 B, and maintained due care for all reefer and other units on board. Charterers have been kept duly informed on the observations and actions taken by the crew on the subject unit by means of the different malreef reports. Charterers will note that when taking into account the time zone of the vessel the different reports were issued and sent in time. In the light of the foregoing, we must maintain that our liability is not engaged in this matter and that we cannot entertain your claim. Accordingly, we will proceed to close our file.

Kind regards,  
Hannah Ásgeirsson  
Atlantis Operations

+++

Best Regards,

-----  
Kailani Jensen  
Operation - Post Fixture

Direct phone:+45 3344 5566

AOH: AOH the office number transfers to the duty person

E-Mail: [container.ops.dk@sebastianandflounder.com](mailto:container.ops.dk@sebastianandflounder.com)

---

From: [RUS.import@TCL.com](mailto:RUS.import@TCL.com) <[rus.import@tcl.com](mailto:rus.import@tcl.com)>

Sent: 16/04/2019 10:34:55

To: Sebastian and Flounder Shipbrokers

Subject: RE: Recovery Claim IMAM-CS // BL311515 // J Momoa / 1708 // TWCU6830612

Dear Kailani,

Please find below comments. Owners liability is clearly established and hence there is no reason to not challenge rejection.

Malfunction & Off power:

04/07/2018 to 06/07/2018: 33 hours

11/07/2018 to 13/07/2018: more than 100 hours

27/07/2018 to 30/07/2018: more than 58 hours



1. Evidence of malfunction: Temperature data.
  2. Evidence of damage & extent of loss to cargo: Survey Report.
  3. Cause of loss: malfunction during voyage – confirmed by survey report.
1. 04/07/2018: Reefer unit was not working fine. Refer attached TEMPRATURE data.
  2. 05/07/2018: there was no repair done since as per TEMPRATURE data unit was kept **off** from 04/07/2018 20:34 till 05/07/2018 16:35. Refer TEMPRATURE data Event Log. Furthermore, there is no proof that this report was sent on 05/07/2018. If yes, please send us that email.
  3. Next Report issued on 13<sup>th</sup>? May we ask the reason for delayed issuance since malfunction started since 11<sup>th</sup>. This is clear indication of failure to fulfil obligations as per charter party terms 17(b) of monitoring unit once daily. TEMPRATURE data is clearly stating supply temp was increasing from 14 to 16 DC during 11<sup>th</sup> & 12<sup>th</sup>. Hence, Owners are fully liable for not monitoring the units.
  4. Completely disagree with comment made: "Subjected unit was working satisfactory from 14th July until 28th July' 17" since there was malfunction noted during 27/07/2018 till 30/07/2018 as per TEMPRATURE data. Again, this proof that unit was not monitored properly, and Owners failed to fulfil obligations as per terms 17.b of charter party terms.
  5. "Vessel unable to receive TEMPRATURE list during this period of time" - As per charter party terms: 17; b, owners are liable to monitor units once daily even they do not receive TEMPRATURE data. Hence it does not add any value to the facts.

Claim was intimated well within 24 months of stipulated time frame as per carter party clause no. 16.e.

Hope all are clarified now. Please seek for urgent settlement of this long standing claim.

As the B/L carrier we, TCL, hereby hold you fully responsible and liable for any and all consequences such as but not limited to loss, damage, claims, damages, liability, fines, penalties, costs and expenses of whatever nature that the carrier or any of its agents, servants, officers, employees and/or sub-contractors may suffer or incur or be held to pay/settle arising out of or in any way connected with this matter.

All rights are expressly reserved.

Best Regards,  
Hank Parsons

----- **Original Message** -----

From: Sebastian and Flounder Shipbrokers [[container.ops.dk@sebastianandflounder.com](mailto:container.ops.dk@sebastianandflounder.com)]  
Sent: 1/26/2019 3:55 PM  
To: [rus.import@tcl.com](mailto:rus.import@tcl.com)  
Subject: Recovery Claim IMAM-CS // BL311515 // J Momoa / 1708 // TWCUC6830612  
MSGNO: 352993238

Recovery Claim IMAM-CS // BL311515 // J Momoa / 1708 // TWCUC6830612  
-----

From Owners.  
+++

Dear,

We refer to your message dd 16/01/2019, be it without prejudice or admission of liability.

We note that you are claiming compensation for damage, if any, to cargo of container TWCU6830612 allegedly caused during voyage no. 1708 on J Momoa. Upon investigation of your claim we must conclude that your claim file is incomplete. First of all it does not contain sufficient evidence to suggest that the damage (if any) is due to fault of the carrier. In this respect, we consulted with the master who reverted as follows:

QTE

With regard to your below message, kindly note below basis past records available on board :

POL : Guayaquil (GYE) on 04.07.2018

POD : St. Petersburg (PLP) on 30.07.2018

- Reefer was working satisfactory on 04th July' 18, as attached log.
- Unit found Trip during morning round on 05th July' 18; Ship staff attended and repaired the unit. Unit was maintaining temp and sent Malreef MNY17-0509 for same, as attached.
- On 13th July' 18, captioned unit found Not In Range Alarm and not maintaining Temperature. Same attended and repaired. Unit was Maintaining temp followed by Malreef MNY17-0585.
- Subjected unit was working satisfactory from 14th July until 28th July' 17, as attached monitoring log.
- On 29th July' 18, Unit found with alarm AL-15, same attended with Malreef MNY17-0509A.
- Vessel unable to receive TEMPRATURE list during this period of time.

Attached

- 1- Monitoring Logs from 04th July to 30th July.
- 2- Malreef reports.
- 3- Loading Sheet- TWCU6830612

UNQTE

Secondly, you obviously failed to inform us of this alleged incident in a timely manner. In the absence of a protest at the time of discharge, we must conclude that the cargo was discharged in sound condition.

In the light of the foregoing, we must conclude that our liability is not engaged in this matter and that we cannot entertain your claim. Accordingly, we will proceed to close our file.

Kind regards,  
Hannah Ásgeirsson  
Atlantis Operations

+++

Best Regards,

-----  
Kailani Jensen

Operation - Post Fixture

Direct phone:+45 3344 5566

AOH: AOH the office number transfers to the duty person

E-Mail: [container.ops.dk@sebastianandflounder.com](mailto:container.ops.dk@sebastianandflounder.com)

---

**From:** [RUS.Import@TCL.com](mailto:RUS.Import@TCL.com) [rus.import@TCL.com]

**Sent:** 01/16/2019 5:23 PM

**To:** [container.ops.dk@sebastianandflounder.com](mailto:container.ops.dk@sebastianandflounder.com)

**Subject:** Recovery Claim // IMAM-CS // BL311515 // J Momoa / 1708 // TWCU6830612

Dear Kailani,

Good Day,

Please find below draft mail for recovery claim against the said vessel. Kindly find attached documents and help us to pursue the recovery.

This message was sent from outside of TCL. Please do not click links or open attachments unless you recognise the source of this email and know the content is safe.

*First Notice*

----- **Original Message** -----

**From:** [RUS.Import@TCL.com](mailto:RUS.Import@TCL.com) [rus.import@TCL.com]

**Sent:** 01/16/2019 5:23 PM

**To:** [container.ops.dk@sebastianandflounder.com](mailto:container.ops.dk@sebastianandflounder.com)

**Subject:** Recovery Claim // IMAM-CS // BL311515 // J Momoa / 1708 // TWCU6830612

Dear Ariel,

Good Day,

Please find below draft mail for recovery claim against the said vessel. Kindly find attached documents and help us to pursue the recovery.

**Without Prejudice**

Our Reference No. IMAM-CS

TCL Transportation Document(s): BL311515

Vessel(s)/Voyage(s): J Momoa 26M/1708

Container No: TWCU6830612

Place of Incident: During voyage (slot no. 340804)

Date of Incident: During 04/07/2018 to 30/07/2018

Claim amount: USD 89,918.42

Kind Attn: Claims Department

This is regarding our claim pertains to the captioned Bill of Lading No. The captioned container unit was shipped from Guayaquil, Ecuador to St Petersburg, Russia, under the Bill of Lading (B/L) no. BL311515.

As per the evidences received, we found container has been kept off power & malfunction several times during 04/07/2018 to 30/07/2018 which causes damage to cargo & our valued customer suffered loss of USD 89,918.42.

Considering the merits of the claim, which in our opinion is genuine, we intend to settle the claim in full. Please let us have your agreement on the same before we conclude the claim within next 15 days.

Since the cargo was damaged due to negligence / faulty operation under your custody, we do not have any option but to hold you fully liable for the loss.

Hence kindly refer attached document, acknowledge our claim and arrange to reimburse the amount at the earliest.

As the B/L carrier we, TCL, hereby hold you fully responsible and liable for any and all consequences such as but not limited to loss, damage, claims, damages, liability, fines, penalties, costs and expenses of whatever nature that the carrier or any of its agents, servants, officers, employees and/or sub-contractors may suffer or incur or be held to pay/settle arising out of or in any way connected with this matter.

All rights are expressly reserved.

Best Regards,  
Hank Parsons

3. Charterparty



1. Shipbroker <b>SEBASTIAN &amp; FOUNDER SHIPBROKERS</b> DK-Copenhagen Ø, Denmark		THE BALTIC AND INTERNATIONAL MARITIME COUNCIL (BIMCO) UNIFORM TIME CHARTER PARTY FOR CONTAINER VESSELS CODE NAME: "BOXTIME"	
3. Owners/Disponent Owners & Place of Business, Telephone, Telex and Telefax Number  <b>ATLANTIS EMPIRE</b> <b>HONGKONG</b>  (See Cl. 62)		2. Place and Date <b>Copenhagen, 18 July 2016</b> <b>2. ORIGINAL</b>  4. Charterers & Place of Business, Telephone, Telex and Telefax Number  <b>Charterers</b> <b>TIMAEUS CARGO LINES</b> <b>DENMARK</b>	
5. Vessel's Name <b>J MOMDA</b>	6. Call Sign/Telex Number <b>TBA</b>		
7. GRT/NRT Approx. <b>26850MT/12750MT</b>	8. DWT on Summer Freeboard <b>About 33460 MT</b>	9. TEU Capacity (Maximum) <b>2556 TEU - See also Part III</b>	
10. Class (Cl. 5) <b>As per description</b>	11. Flag <b>Hong Kong-</b>	12. Service Speed (See Part III)	13. Fuel Consumption (See Part III)
14. Type(s) of Fuel(s) (Cl. 12 (d)) <b>RMK 700</b>		15. Maximum Bunker Capacity <b>As per description</b>	
16. Bunkers/Price on Delivery (Min. - Max.) (Cl. 12 (a) and (c))		17. Bunkers/Price on Redelivery (Min. - Max.) (Cl. 12 (a) and (c))	
18. Place of Delivery (Cl. 1 (b)) <b>Dropping last dock /shipyard pilot ex yard Ulsan, South Korea.</b>		19. Earliest Date of Delivery (local time) (Cl. 1 (b)) <b>15 AUGUST 2016, 13 00hrs Local time</b>	
20. Latest Date of Delivery (local time) (Cl. 1 (b)) <b>26 August 2016,</b>		21. Place of Redelivery (Cl. 6 (m)) <b>See Clause 51</b>	
22. Trading Limits (Cl. 3 and Cl. 5 (c)) <b>See Recap and Cl. 59</b> <i>World Wide trading always within INL. always via safe port(s)/berth(s) / always afloat excluding Iceland, Greenland, Faroe Islands, Great Lakes, Cuba (unless US sanctions are lifted), Turkish occupied part of Cyprus, Turkey (if vessel flying Cyprus flag), Iraq, Russian pacific ports, Somalia, Eritrea, North Korea, Albania, war/war risked countries and countries which result in blacklisting / sanctions by United Nations /EU.</i>			
23. Period of Charter and Options if any (Cl. 1 (a), Cl. 6 (m) and Cl. 7 (f)) <b>See Cl. 57</b>		24. State number of Days Options have to be declared after commencement of Charter Period (Cl. 1 (a)) <b>See Cl. 57</b>	
25. Rate of Hire per Day and to whom payable (Cl. 1 (a), Cl. 7 (a) and (b)) <b>See Cl. 58</b>		26. Quantity of Hazardous Goods allowed (Cl. 4 (b)) <b>In accordance with vessel's certificate of compliance</b>	
27. Insured Value of Vessel (Cl. 18 (a)) <b>TBA</b>		28. Dally Rate for Supercargo (Cl. 13 (h)) <b>USD per day</b>	
		29. Victualling Rate per Meal for other Charterers' Servants etc. (Cl. 13 (j)) <b>See Cl. 33</b>	
30. Name of Owners' P & I Club (Cl. 18 (b)) <b>TBA</b>		31. Name of Charterers' P & I Club (Cl. 18 (b)) <b>... Ltd.</b>	
32. Charterers' maximum Claim settlement authority (Cl. 16 (h)) <b>USD 3,000.-/ claim</b>		33. General Average to be adjusted at (Cl. 14 (c)) <b>London - English Law to Apply</b>	
34. Law and Arbitration (state a, b, or c of Cl. 20, as agreed; if c agreed-also state Place of Arbitration) (Cl. 20) <b>a</b>		35. Brokerage Commission and to whom payable (Cl. 21) <b>... commission may be deducted from hire.</b>	
36. Number of Additional Clauses covering special Provisions <b>Clauses Nos. 23 - 64</b>			

It is mutually between the party mentioned in Box 3 (hereinafter referred to as "the Owners") and the Party mentioned in Box 4 (hereinafter referred to as "the Charterers") that this Contract shall be performed in accordance with the conditions contained in Part I including additional clauses, if any agreed and stated in Box 36, and Part II as well as Part III. In the event of a conflict of conditions, the provisions of Part I and Part III shall prevail over those of Part II to the extent of such conflict but no further.

Signature (Owners) 	Signature (Charterers) 
------------------------	----------------------------

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CLAUSE NO.

1. PERIOD OF CHARTER PARTY AND DELIVERY

2. OWNERS' UNDERTAKING

3. TRADING LIMITS

4. PERMITTED CARGOES

- a) Uncontainerised Goods
- b) Hazardous Goods
- c) Live Animals
- d) Radioactive Goods
- e) Arms & Ammunition

5. OWNERS' OBLIGATIONS

Maintain in Class and efficient operation.

- a) Container Lashings
- b) Crew Assistance
- c) Documentation
- d) Insurance of the Vessel
- e) Fumigation and/or Deratisation
- f) Smuggling

6. CHARTERERS' OBLIGATIONS

- a) Provision of Details
- b) Instructions to the Master
- c) Stevedoring
- d) Charterers' Lashings
- e) Condition of Container
- f) Sewage Stowage in Containers
- g) Stowage Planning
- h) Operating Expenses
- j) Bunker Fuel
- k) Agency Costs
- l) Damage to Vessel
- M) Redelivery
- n) Additional Premiums
- o) Advances to Master
- p) Contraband

7. HIRE

- a) Rate
- b) Payment
- c) Default
- d) Redelivery Adjustment
- e) Deductions
- f) Extension

8. OFF HIRE

- a) Unable to Comply with Instructions
- b) Deviation
- c) Blocking & Trapping
- d) Requisition
- e) Loss of Time

9. LOSS OF VESSEL

10. LASHINGS AND STEVEDORING

- a) Owners' Lashings
- b) Charterers' Lashings
- c) Stowage Planning
- d) Stevedoring *Stevedoring*
- e) Liability

11. VESSEL'S GEAR

- a) Regulations
- b) Conditions
- c) Suez and Panama Canal
- d) Refrigeration
- e) Lighting

12. BUNKER FUEL

- a) Quantity at Delivery/Redelivery
- b) Pre and Post Charter Bunkering
- c) Purchase Price
- d) Specification
- e) Consumption
- f) Bunkering

13. CHARTERERS' REQUIREMENTS

- a) Plans
- b) Flag, Funnel, Name and Configuration
- c) Ballast Warranty
- d) Weather Routing
- e) communications Facilities
- f) Logs and Witnesses
- g) Replacement of Master and Officers
- h) Supercargo
- j) Victualling
- k) ~~Sub-letting~~ *Substitution and sub-contracting*
- l) Inspections
- m) Sub-Letting
- n) Laid-Up Returns
- o) Signing Bills of Lading

14. OWNERS' REQUIREMENTS

- a) Maintenance
- b) Bills of Lading
- c) General Average
- d) Salvage
- e) Liens

15. SUNDRY MATTERS

- a) Pilotage/Towage
- b) Watchmen
- c) Stowaways
- d) On/Off Hire Surveys
- e) Sub-Contractors

16. CHARTERERS' RESPONSIBILITIES/LIABILITIES

- a) Charterers' Responsibilities
- b) Claims Handling
- c) General Indemnity
- d) Fines etc.. Indemnity
- e) Time Limit
- f) Agency
- g) General Average Exclusion
- H) Claims Authority

17. OWNERS' RESPONSIBILITIES/LIABILITIES

- a) For Goods and Containers
- b) For Refrigerated Goods
- c) Limitation on Liability
- d) Time Limit
- e) For Personal Injury
- f) Limitation Proceedings
- g) Consequential Loss

18. INSURANCES

- a) Hull and Machinery
- b) Protection and Indemnity (P & I)
- c) War Risks

19. WAR

20. LAW AND ARBITRATION

- a) London
- b) *New York*
- c) *Alternative Alternative*

21. COMMISSION

22. NOTICES

## PART II "BOXTIME" Charter Party

It is agreed on the date shown in Box 2 between the party named in Box 3 as the Owners of the Vessel named in Box 5 and the party named in Box 4 as the Charterers as follows:

### 1. Period of Charter Party and Delivery

(a) In consideration of the hire detailed in Box 25 the Owners let and the Charterers hire the Vessel for the period together with any optional extension(s) thereto as indicated in Box 23. Such options, always at the Charterers' discretion, must be declared to the Owners within the period as indicated in Box 24.

(b) ~~The Owners shall deliver the Vessel to the Charterers at the Place of Delivery as indicated in Box 18. Unless agreed by the Charterers to the contrary, delivery shall take place no earlier than the time/date as indicated in Box 19 and no later than the time/date as indicated in Box 20.~~

*Laycan to be narrowed to a 30 ds spread 6 mos prior delivery  
Laycan to be narrowed to a 10 ds spread 3 mos prior delivery  
Laycan to be narrowed to a 5 ds spread 1 mos prior delivery  
Laycan to be narrowed to a 2 ds spread 14 ds prior delivery  
Owners will keep charterers advised of any major changes in vessels expected delivery dates, but particularly if same would mean a re-tendering of any of the delivery notices or laycan narrowings.*

~~If prior to delivery the Owners give notice to the Charterers that the Vessel will not be ready for delivery by the time/date as indicated in Box 20, the Charterers shall declare within 48 hours after receiving notice thereof from the Owners whether they cancel or will take delivery of the Vessel but without prejudice to the Charterers' right to claim proved damages.~~

*In the event Owners warrant that, despite the exercise of due diligence by them, the vessel will not be ready for delivery by the original cancelling date/time as indicated in box 20, and provided the Owners are able to state with reasonable certainty the date on which the Vessel will be ready, Owners will nominate a new laycan having a 45 days spread within the following 145 days after the originally agreed cancelling date after having allowed for/added permissible delays if any (as defined in the shipbuilding contract Article VIII (1) referred to in Clause 64). If the new laycan falls within a time-frame whereby the spread would be less than 45 days, then the spread to be that required as per the agreed narrowing.*

*If the vessel is delayed beyond the originally agreed cancelling date, the Charterers have the right to put the vessel off-hire for upto 10(ten) days after delivery in order to assist phasing into Charterers service.*

*If the Vessel is delayed for more than 30 days, after having allowed for/added permissible delays if any, liquidated damages shall be payable by the owners to the charterers as per clause 63.*

*If the vessel is likely to be delayed more than 145 days, after having allowed for/added permissible delays if any as referred to above, Owners to notify the Charterers as soon as possible if such a delay is expected and what new laycan would be required (if Owners are not exercising their right to cancel the Charter Party as per Clause 64) and Charterers to declare within 2 working days after receipt of such notification if they maintain or cancel the charter party. In the event of a situation arising where Owners could lawfully cancel the contract, Owners will discuss this with Charterers prior to taking a final decision to cancel or not. If Owners decide to exercise their right to cancel the shipbuilding contract, Charterers right to extend the cancelling date beyond the 145 days (after having allowed for/added permissible delays) becomes null and void and neither Owners nor Charterers to have any claim against the other*

(c) ~~If the Owners are unable to deliver the Vessel at the Place of Delivery as indicated in Box 18 for any reason beyond the control of the Owners, delivery shall take place at the nearest point to the nominated Place of Delivery to which the Vessel may safely and reasonably proceed.~~

~~The Owners shall give notice of readiness to deliver to the Charterers and/or the Charterers' local agents when in position to come on hire.~~

(d) Delivery shall be effected at any time, day or night, Saturdays, Sundays and holidays included.

(e) At the time of delivery the Vessel shall be clean and in all respects fit to receive goods and ISO standard containers.

(f) The Charterers' acceptance of delivery of the Vessel shall not prejudice

their rights against the Owners under this Charter Party.

### 2. Owners' Undertaking

The Owners undertake that, at delivery, the Vessel shall be of the description set out in Parts I and III hereof.

### 3. Trading Limits

~~The Vessel shall be employed in lawful trades within Institute Warranty Limits (IWL) International Navigation Limits (INL) and within the Trading Limits as indicated in Box 22 for the carriage of lawful goods between safe ports or places where she can safely lie always afloat. The Vessel shall not be obliged to force ice nor to follow ice-breakers.~~

The Owners warrant that, at the time of signing this Charter Party, the Vessel has not traded to any countries which would make the Vessel unacceptable for calls at ports within the Trading Limits as indicated in Box 22. The Charterers shall provide a list of such countries.

*Subject to Owners' prior written approval, Charterers have the right to break INL against paying extra insurance, if any (see cl. 6(n)). However, it is specifically agreed that the vessel can break INL to trade in ice.*

### 4. Permitted Cargoes

Except as provided below, the Vessel shall be used exclusively for the carriage of goods in ISO standard containers complying with the International Convention for Safe Containers.

~~(a) Uncontainerised Goods: Uncontainerised goods may be carried only with the prior consent of the Owners and the Master provided that they are suitably prepared for carriage.~~

*Upon Master's approval, which not to be unreasonably withheld, the Charterers have liberty to weld padeyes into the Vessel's weatherdeck and holds to secure containers, cargo and/or equipment at Charterers' risk and expense.*

*On redelivery such padeyes are to be removed including proper paint work, subject to Master's satisfaction, at the Charterers' risk and expense, in their time.*

*Should the Owners so desire, Master to advise reasonable precautions to be taken when welding / removing padeyes and Charterers to ensure same is carried out.*

*The Charterers are to be liable for loss or damage to cargo as a result of their failure to use due care to ensure that padeyes are properly and sufficiently welded.*

*The Charterers have the option to load uncontainerised lawful general cargo on and under deck (on flat racks, artificial tween decks, but not directly on weatherdeck, hatch covers or tank top) at their risk, expense and responsibility. Acceptance of such cargo always to be subject to Master's approval.*

(b) ~~Hazardous Goods: The Owners agree that the Charterers may carry the maximum quantity as indicated in Box 26 of hazardous goods in containers, provided same are loaded, stowed, discharged and documented in accordance with IMO regulations, any mandatory local requirements and regulations of the flag state. With regard to the allowed IMO cargo it is agreed that any possible extra insurance and any special and/or additional safety equipment required by local law or regulations in scheduled port(s) of call to be provided and paid for by Charterers.~~

*Charterers are allowed to ship calcium hypochlorite as classified in the IMDG code under un nos 1479, 1748, 2208 and 2880 to be carried, loaded, stowed, segregated and documented in accordance with the IMDG code and the interim recommendations for its carriage issued by the International Group of P and I Clubs. Calcium hypochlorite always to be carried in live reefer containers.*

(c) ~~Live Animals: Live animals may be carried only with the prior consent of the Owners and the Master.~~

(d) ~~Radioactive Goods: Radioactive goods other than isotopes shall be excluded. Radioactive isotopes may be carried only with the prior consent of the Owners and the Master and provided that they are of such a category as not to invalidate the Vessel's P & I cover and total loss value.~~

(e) ~~Arms & Ammunition: Arms and ammunition may be carried only with the prior consent of the Owners and the Master, except for sporting/hunting purposes, which may always be carried. However, shipments of arms and ammunition are allowed if either shipper or consignee is a government official organisation in either U.S.A., Denmark or South Africa or UN, but always to be carried in accordance with applicable rules, laws and regulations, which includes Belgian, Hong Kong or flag state Laws/Regulations.~~

*(f) Furthermore following cargo is excluded: chemical and toxic waste.*

### 5. Owners' Obligations

Except as provided elsewhere in this Charter Party, the Owners shall, at their expense, maintain the Vessel in the Class as indicated in Box 10, in a thoroughly efficient state of hull and machinery and in every way fitted for the container service throughout the currency of this Charter Party.	65 66 67 68	(h) <i>Operating Expenses:</i> All port charges, light and canal dues, pilotage, towage, consular charges, <i>compulsory expenses for launches, garbage, watchmen, security guards</i> and all other charges and expenses relating to the operation of the Vessel <i>and hazardous goods carried</i> not otherwise provided for in this Charter Party, other than charges or expenses relating to the crew.	137 138 139 140
The Owners shall, inter alia, provide and pay the cost of the following:	69	(j) <i>Bunker Fuel:</i> (See Clause 12).	141
(a) <i>Container Lashings:</i> (See Clause 10 (a)).	70	(k) <i>Agency Costs:</i> All agency fees and expenses for normal ship's husbandry at all ports or places of call.	142 143
(b) <i>Crew Assistance</i> with inter alia:	71	<i>Normal Ship's husbandry is determined as clearance by customs and immigration of Vessel, minor crew changes, minor deliveries of stores &amp; spare parts. Normal ship's husbandry is to be attended by Charterers free of any agency fee but actual expenses incurred e.g. taxi fares, transport etc. to be charged Owners at actual costs.</i>	
(i) <del>preparing the Vessel's cranes, derricks, winches and/or cargo handling gear for use,</del>	72 73 74	<i>In case of major vessel repairs, crew's hospitalization, embarkation or disembarkation for more than 4 men, general average or other major items are to be handled by Charterers Agent, Owners are to pay normal agency fee in accordance with local tariffs plus expenses incurred, or Owners are to appoint their own Agents.</i>	
(ii) opening and closing any hatches (other than portoon type hatches), ramps and other means of access to goods and containers, docking, undocking and shifting operations in port,	75 76	(l) <i>Charterers are not to be responsible for damage to the Vessel or loss or damage to its equipment or any cost in connection hereto if caused by stevedores during the currency of this Charter Party unless the stevedore involved and Charterers are notified by the Master/Owners in writing immediately after the occurrence but latest within 24 hours of the occurrence or in the event of hidden damage or loss as soon as possible thereafter but latest when such loss or damage could have been discovered by the exercise of due diligence. The Master shall endeavour to obtain written acknowledgement by the stevedore involved in the handling leading to a loss and/or damage prior vessels departure unless it is made good in the meantime. The Charterers shall only pay for stevedore damage if notified in writing whether or not payment has been made by or on behalf of the stevedore to the Charterers.</i>	144
(iii) bunkering,	77	<i>Owners must ensure to use the format and numbering system as provided by Charterers.</i>	
(v) maintaining power during loading and discharging operations, <del>instructing crane drivers and winchmen in use of Vessel's gear</del>	78 79	<i>The Charterers not to be responsible for damages to vessels hatch cover rubber seals unless caused by containers during cargo operation.</i>	
(vi) supervising stevedores lashing and unlashings goods and containers and the regular checking of lashings at sea when weather conditions permit (See Clause 10 (d)(ii)),	80 81 82	<i>Damage, not limited to but including stevedore damage, for which the Charterers are responsible affecting the class, seaworthiness or the proper working/abilities of the Vessel and/or her equipment shall be repaired and replacement works executed by Owners or Owners' sub-contractors without delay to the Vessel after each occurrence in the Charterers' time and shall be paid for by the Charterers. Other repair- and replacement works necessitated by damage for which the Charterers are responsible shall be carried out latest 12 month after the occurrence, unless otherwise agreed by Charterers. Such repair- and replacement works to be carried out in Charterers' time and may - at Owners' convenience - be performed by Owners' crew provided such work does not interfere with Charterers' operations. All cost of such reasonable repair- and replacement works shall be for the Charterers' account, provided Charterers in due course has been notified in writing and given access to survey if any. Above payments covers all costs related directly or indirectly to the said damages, the repair- and replacement works and shall be considered a full and final settlement between Owner and Charterer. Any invoice forwarded to Charterers must be broken down per damage report.</i>	
(viii) monitoring, <i>and</i> recording performances <i>once daily</i> and, when available, supplying labour <i>and standard tools</i> for the repairing of the Charterers' refrigeration machinery, weather permitting (See Clause 17 (b)).	83 84 85	<i>Damage to Vessel: Any damage to the Vessel or loss or damage to its equipment caused by stevedores during the currency of this Charter Party shall be reported by the Master to the Charterers or their agents in writing, within 24 hours of the occurrence or as soon as possible thereafter but latest when the loss or damage could have been discovered by the exercise of due diligence. The Master shall endeavour to obtain written acknowledgement by the party causing loss or damage unless it is made good in the meantime. The Charterers shall pay for stevedore damage whether or not payment has been made by stevedores to the Charterers.</i>	145 146 147 148 149 150 151 152
(ix) <i>plugging / unplugging of reefer containers, if required, as Charterers' servants.</i>	86	<i>Damage for which the Charterers are responsible affecting seaworthiness, or the proper working of the Vessel and/or her equipment, shall be repaired without delay to the Vessel after each occurrence in the Charterers' time and shall be paid for by the Charterers. Other repairs to damage for which the Charterers are responsible shall also be carried out in the Charterers' time but, if this is not possible, such repairs shall be carried out whilst the Vessel is in drydock in the Owners' time provided this does not interfere with the Owners' repair work, or by the Vessel's crew at the Owners' convenience. All costs of such repairs shall be for the Charterers' account.</i>	153 154 155 156 157 158 159 160 161
The above services shall be rendered by the crew if required, provided port, local and international labour regulations permit, and except when repairing the Charterers' refrigeration machinery any overtime incurred shall be for the account of the Owners.	86 87 88 89		
(c) <i>Documentation:</i> Any documentation relating to the Vessel that may be required to permit the Vessel to trade within the limits as indicated in Box 22, including, but not limited to, certificates of financial responsibility for oil pollution, provided such oil pollution certificates are obtainable from the Owners' P & I club or some other available source as per Clause 30, valid international tonnage certificate, Suez and Panama tonnage certificates, valid certificate of registry and certificates relating to the strength and/or serviceability of the Vessel's gear (See Clause 11 (a)).	90 91 92 93 94 95 96 97		
(d) <i>Insurance of the Vessel:</i> (See Clause 18).	98		
(e) <i>Fumigation and/or deratisation:</i> The provision of certificates thereof at the commencement of the Charter Party and the renewal thereof throughout the Charter Party except if this is required as a result of the Charterers' goods and containers carried under this Charter Party, in which case these expenses shall be for the account of the Charterers.	99 100 101 102 103		
(f) <i>Smuggling:</i> In the event of smuggling by the Master, Officers and/or crew, the Owners shall bear the cost of any fines, taxes or imposts levied and the Vessel shall be off hire for any time lost as a result thereof (See Clause 6 (p)).	104 105 106		
<b>6. Charterers' Obligations</b>	107		
Except as provided elsewhere in this Charter Party, the Charterers shall provide and pay the costs of the following throughout the currency of this Charter Party:	108 109 110		
(a) <i>Provision of Details:</i> The provision of full and accurate details of goods and containers (including any documentation required at any ports of call), their weights and stowage positions to the Master as early as possible but not later than preferably upon arrival at the port of loading, with regular updating thereof and the provision of a full and accurate plan of the stowage of all goods and containers actually loaded prior to sailing. Such details shall include:-	111 112 113 114 115 116 117		
(i) gross weights of containers	118		
(ii) any feature of the goods requiring attention by the crew during the voyage including but not limited to any hazardous or other dangerous feature and/or the need for carriage within a specified temperature range.	119 120 121 122		
<i>All delays/expenses resulting therefrom to be for Charterers' account.</i>			
(b) <i>Instructions to the Master:</i> The Master, although appointed by the Owners shall at all times during the currency of this Charter Party be under the orders and directions of the Charterers as regards employment and agency. The Charterers shall be obliged at all times to furnish the Master with full and timely instructions.	123 124 125 126 127		
(c) <i>Stevedoring:</i> (See Clause 10 (d)(i)).	128		
(d) <i>Charterers' Lashings:</i> (See Clause 10 (b)).	129		
(e) <i>Condition of Containers:</i> The Charterers warrant that all containers carried pursuant to this Charter Party have been constructed to a design approved by a Classification Society and are properly maintained.	130 131 132		
(f) <i>Stowage in Containers:</i> The correct stowage and safe securing of all goods within containers (including securing to flat rack containers) to withstand the rigours of the voyage.	133 134 135		
(g) <i>Stowage Planning:</i> (See Clause 10 (c)).	136		

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(m) <del>Redelivery: Redelivery of the Vessel at the Place of Redelivery as indicated in Box 21 unless agreed by the Owners or provided elsewhere to the contrary, in the same condition to that pertaining when the Vessel was delivered, fair wear and tear excepted, at the end of the period as indicated in Box 23. The Charterers shall give the Owners one-month notice of expected date and Place of Redelivery which advice shall be updated 10, 5 and 2 days prior to expected redelivery.</del>	162 163 164 165 166 167 168	Is paid prevailing on the date when the expenditure was incurred.	236
(n) <del>Additional Premiums: All additional premiums for hull and machinery, war risks, including blocking and trapping, or protection and indemnity insurance incurred by the Owners over and above the premiums payable by the Owners. The Owners shall allow the Charterers to arrange these additional covers on their behalf if the Charterers so request and if the proposed insurers and terms are acceptable to and pre-approved by the Owners. If the Charterers arrange such insurance the Charterers' insurers shall confirm cover latest 24 hours before the Vessel is due to be exposed to the risk so insured (See Clause 18).</del>	180 181 182 183 184 185 186 187 188	(f) <del>Extension: The Charterers shall arrange the Vessel's trading so as to permit redelivery at the place and in the period as indicated in Boxes 21 and 23, respectively. If the Vessel is not chartered for a minimum/maximum period and the Vessel is sent on a final voyage reasonably calculated to allow redelivery within such period at the Place of Redelivery as provided under this Charter Party, and the voyage is prolonged for reasons beyond the Charterers' control the Charterers shall have the use of the Vessel at the rate and on the conditions of this Charter Party for such extended time as may be required for completion of said voyage and redelivery as aforesaid.</del>	237 238 239 240 241 242 243 244 245
(o) <del>Advances to Master: The Charterers shall procure that their local agents at all ports of call shall, upon request by the Master, make funds available to him for disbursements, which advances the Charterers may recoup from the Owners by deduction from the hire payments in accordance with Clause 7(e). Cash for the vessel's ordinary disbursements at any port may be advanced by the Charterers, as required by the Owners, subject to 2.5 per cent commission and such advances shall be deducted from the hire. The Charterers, however, shall in no way be responsible for the application of such advances. Such request to be forwarded to the Charterers minimum 5 banking days before cash has to be delivered.</del>	189 190 191 192 193	8. Off Hire	246
(p) <del>Contraband: In the event that contraband and/or unmanifested drugs or goods are found to have been shipped as part of the goods and/or in containers on board, any fines, taxes, securities or imposts levied shall be for the Charterers' account, and the Vessel shall remain on hire during any time lost as a result thereof, unless it can be established that the Master, Officers and/or crew are involved in smuggling (See Clause 5 (f)). In this event any security required shall be provided by the Owners.</del>	194 195 196 197 198 199 200	After delivery in accordance with Clause 1 hereof, the Vessel shall remain on hire until redelivered in accordance with Clause 6(m), except for the following periods:	247 248 249
7. Hire	201	(a) <del>Unable to Comply with Instructions: If the Vessel is unable to comply with the instructions of the Charterers on account of:</del>	250 251
(a) <del>Rate: The Charterers shall pay hire at the rate stated in Box 25, per day or pro rata for part of a day, from the time the Vessel is delivered to the Charterers until her redelivery to the Owners. All calculation of hire shall be made by reference to Universal Time Co-ordinated (U.T.C.).</del>	202 203 204 205	(i) any damage, defect, breakdown, or deficiency of the Vessel's hull, machinery, equipment or repairs or maintenance thereto, including dry-docking excepting those occasions when Clause 6 (l) applies,	252 253 254
(b) <del>Payment: Payment of hire shall be made in cash in full and without discount, semi-monthly in advance. Payable for periods of one month, each hire period following the calendar month payable to Owners on the 15th of the same month. If hire or any instalment thereof is not paid as aforesaid the Charterers shall pay interest at the rate of 0.1 per cent per day on the amount outstanding from and including the due date until the date of payment.</del>	206 207 208 209 210	(ii) any deficiency of the Master, Officers and/or crew, including the failure, refusal or inability of the Master, Officers and/or crew to perform service immediately required, whether or not within the control of the Owners,	255 256 257 258
(c) <del>Default: In default of punctual and regular payment as herein specified, the Owners may require the Charterers to make payment of the amount due within 96 running hours of receipt of notification from the Owners, failing which the Owners will have the right to withdraw the Vessel without prejudice to any claim the Owners may have against the Charterers under this Charter Party. Further, so long as the hire remains unpaid, the Owners shall be entitled to suspend the performance of any and all of their obligations hereunder and shall have no responsibility whatsoever for any consequences thereof in respect of which the Charterers hereby indemnify the Owners. Hire shall continue to accrue and any extra expenses resulting from such suspension shall be for the Charterers' account.</del>	211 212 213 214 215 216 217 218 219 220 221	(iii) arrest of the Vessel at the suit of a party where a claim is not caused by the Charterers, their servants, agents or sub-contractors (See Clause 5(f)),	259 260 261
(d) <del>Redelivery Adjustment: Should the Vessel be on her voyage towards the Place of Redelivery at the time payment of hire becomes due, said payment shall be made for the estimated time necessary to complete the voyage, less disbursements made by the Charterers for the Owners' account, including the estimated value of bunker fuel on board at redelivery. When the Vessel is redelivered to the Owners any difference shall be refunded to or paid by the Charterers as appropriate, but not later than three months after redelivery of the Vessel.</del>	222 223 224 225 226 227 228 229	(iv) any delay occasioned by any breach by the Owners of any obligation or warranty in this Charter Party.	262 263
(e) <del>Deductions: On production of supporting vouchers the Charterers shall be entitled to deduct from payments of hire any expenditure incurred on behalf of the Owners which may be payable by the Owners under this Charter Party including a disbursement fee of 2,5 pct. If such expenditure is incurred in a currency other than that in which hire is payable, conversion into such currency for the purpose of deduction shall be effected at the rate of exchange at the place of the bank where hire</del>	230 231 232 233 234 235	If any of the above incidents affect the full use of the Vessel, it shall be off hire. If they partially affect the use of the Vessel, it shall be off hire for time actually lost to the extent such incidents affect the Charterers' use of the Vessel (See also Clause 11(b)). See additional Cl. 29.	264 265 266 267
		(b) <del>Deviation: In the event of the Vessel deviating (which expression includes putting back, or putting into any port or place other than that to which she is bound under the instructions of the Charterers) other than to save life or property hire shall cease to be payable from the commencement of such deviation until the time when the Vessel is again ready to resume her service from a position not less favourable to the Charterers than that at which the deviation commenced, provided always that due allowance shall be given for any distance made good towards the Vessel's destination and any bunkers saved. However, should the Vessel alter course to avoid bad weather or be driven into port or anchorage by stress of weather, the Vessel shall remain on hire and all costs thereby incurred shall be for the Charterers' account.</del>	268 269 270 271 272 273 274 275 276 277 278 279
		(c) <del>Blocking and Trapping: If during the currency of this Charter Party the Vessel is blocked or trapped in circumstances where Clause 19 (b) applies, the Vessel shall be off hire for the period blocked or trapped. If the Vessel is blocked or trapped for a period of 365 consecutive days this Charter Party shall be terminated.</del>	280 281 282 283 284
		(d) <del>Requisitions: Should the Vessel be requisitioned by any government or governmental authority during the period of this Charter Party, it shall be off hire during the period of such requisition and any hire or other compensation paid by any government or governmental authority in respect of such requisition shall be paid to the Owners. However, the Charterers shall have the option of cancelling the balance period of this Charter Party, provided this option is exercised within 14 days of receipt of notice of requisition.</del>	285 286 287 288 289 290 291
		(e) <del>Loss of Time: In the event of loss of time for which the Owners are responsible, including but not limited to terms of employment of Master, Officers and/or crew, the Vessel shall be off hire for the time thereby lost.</del>	292 293 294
		Any time during which the Vessel is off hire under this Charter Party may be added to the charter period, at the option of the Charterers. Such option shall be declared not less than two months before expected latest redelivery, or latest two weeks after the event if less than two months before latest expected redelivery.	295 296 297 298 299
		(f) <del>Cancellation: Should the vessel be off-hire for more than 30 consecutive days or should an off-hire event be estimated by Owners to last for more than 30 consecutive days, the Charterers shall have the option to cancel this Charter Party with immediate effect in accordance with charter terms, provided the Vessel is free of cargo and hire paid in advance is to be immediately refunded by the Owners. In case the Owners estimate the off-hire event to exceed 30 days, Charterers to declare within 3 week days, whether or not they wish to cancel the Charter Party.</del>	300
		9. Loss of Vessel	300
		Should the Vessel be lost, or become a constructive total loss, hire shall cease at noon on the day of her loss or constructive total loss, and if missing, from noon on the date when last heard of, and any hire paid in advance and not earned shall be returned to the Charterers and payment of any hire due shall be suspended until the Vessel is reported safe.	301 302 303 304 305
		10. Lashings and Stevedoring	306

(a) *Owners' Lashings*: The Owners shall supply and maintain in good working order throughout the currency of this Charter Party sufficient lashing and securing equipment to facilitate the proper lashing and securing in accordance with the plan supplied by the Owners of the maximum number of ISO standard containers *standard high cube containers and forty-five foot containers* which may be canted in accordance with the details provided in Part III hereto. The Owners further warrant that both the strength of the lashings and the design of the lashing pattern are adequate for the stowage in accordance with Part III hereto and that these have been approved by the Vessel's Classification Society. 307-311

(b) *Charterers' Lashings*: Should any additional or alternative lashings to those supplied by the Owners be required, these shall be supplied by the Charterers at their expense. Should the Charterers supply gear, equipment or stores, the Master shall keep a record of it and care for it. Such gear, equipment or stores shall be redelivered to the Charterers at the time required by the Charterers in the same condition as supplied fair wear and tear excepted. 312-322

(c) *Stowage Planning*: The Charterers shall ensure that stowage is effected in accordance with the requirements of this Charter Party and of the Vessel's stability and cargo securing manual including, inter alia, that stack and tier weights are not exceeded and that heavy containers are not stowed over light containers on or under deck, except with the Master's prior approval. 323-325

(d) *Stevedoring*: 328

(i) The Charterers shall provide and pay for the cost of all stevedoring operations during the currency of this Charter Party including, inter alia, receipt, loading, handling, stowing, lashing, securing, unsecuring, unlashings, unstowing, discharging, tallying and delivering of all uncontainerised goods and containers and shall be liable to the Owners for all loss or damage caused to the Vessel by the improper or careless performance of such operations. 329-335

(ii) The Master shall supervise stevedores undertaking the tasks outlined in Clause 10 (d) (i) to ensure that these are done correctly and to his satisfaction. The Master shall ensure that all lashings are regularly checked whilst at sea, weather permitting. 336-339

(e) *Liability*: Except in respect of the failure of any lashing supplied by the Charterers, the Owners shall be responsible, subject to the provisions of Clause 17, for the consequences of the failure of any lashings or lashing pattern design or execution or the failure to properly service lashings during the voyage. 340-344

11. *Vessel's Gear* 345

(a) *Regulations*: The Vessel's cargo gear if any, and any other equipment shall comply with the regulations of the countries to which the Vessel will be employed and the Owners shall ensure that the Vessel is at all times during the currency of this Charter Party in possession of valid certificates of efficiency to comply with such regulations. If stevedores are not permitted to work due to failure of the Master and/or the Owners and/or the Owners' agents to comply with the aforementioned regulations or because the Vessel is not in possession of such valid certificates of efficiency, then the Charterers may suspend hire for the time lost thereby and the Owners shall pay all expenses incurred incidental to and resulting from such failure (see Clause 5 (c)). 346-356

(b) *Condition*: All cargo handling gear, including derrick(s), crane(s) and winch(es) if any, shall be kept in good working order and the Owners shall maintain, repair and/or replace such gear whenever necessary. In the event of loss of time due to a breakdown of derrick(s), crane(s) or winch(es) for any period by reason of disablment or insufficient power, hire shall be reduced pro rata for the period of such inefficiency in relation to the number of hatches affected, unless caused by mishandling by the Charterers or their servants. If the Charterers continue working by using shore-crane(s) the Owners shall pay such craneage but not exceeding the hire payable for such period, in which case the Vessel shall not be off hire pro rata as stipulated above. The Vessel shall, however, be pro-rata off hire if shore-cranes are not available during stoppages of derrick(s) crane(s) or winch(es) and all other unavoidable expenses thereby incurred shall be for the Owners' account. 357-370

(c) *Suez and Panama Canal*: The Vessel shall be maintained during the currency of this Charter Party with all necessary fittings for Suez and Panama Canal transit in good working order. 371-373

(d) *Refrigeration*: The Owners shall ensure that all refrigeration facilities as described in PART III are maintained in good working order throughout the currency of this Charter Party. 374-376

(e) *Lighting*: The Owners shall ensure that the Vessel will supply sufficient lighting to deck and holds to permit 24 hour working free of expense to the Charterers and that such lighting will comply with the port regulations at all ports of call throughout the currency of this Charter Party. 377-380

12. *Bunker Fuel* 381

(a) *Quantity at Delivery/Redelivery*: The Vessel shall be delivered with approximately the quantity of fuel as indicated in Box 16 and, unless indicated to the contrary in Box 17 the Vessel shall be redelivered with an approximately similar quantity, provided that the quantity of fuel at redelivery is at least sufficient to allow the Vessel to reach safely the nearest port at which fuel of the required type is available. 382-387

(b) *Pra and Post Charter Bunkering*: Provided that it can be accomplished without hindrance to the operation of the Vessel, the Owners shall allow the Charterers to bunker for the account of the Charterers prior to delivery and the Charterers shall allow the Owners to bunker for the account of the Owners prior to redelivery, in both cases by prior arrangement between the parties. 388-393

(c) *Purchase Price*: Unless otherwise stated in Boxes 16 and 17, the Charterers shall purchase the fuel on board at delivery and the Owners shall purchase the fuel on board at redelivery at the Platts Oil Gram mean prices at the ports and dates of delivery and redelivery, respectively, or the nearest bunkering port thereto. 394-398

(d) *Specification*: The Charterers shall supply fuel of ISO standard 8217:2005 or any subsequent amendments thereof. The specific fuel grade to be supplied in accordance with the Vessel Description PART III and box 14. Charterers and owners are aware of the Marpol annex VI rules and will comply with same in connection with bunkering wherever applicable. 399-404

(e) *Consumption*: The Vessel's fuel consumption in port and at sea shall not exceed the amounts shown in PART III, at all times for port consumption; and weather conditions not exceeding Douglas Seastate 3 and with winds not exceeding Beaufort Scale 3 for consumption at sea. In case of dispute Owners and Charterers should settle matter reasonable and amicable, however, if they fail to do so, the dispute should be referred to a mutually agreed independent third party expert 405-410

(f) *Bunkering*: The Charterers shall supply fuels of the specification and grades stated in box 14. The Chief Engineer shall co-operate with the Charterers bunkering agents and fuel suppliers and comply with their requirements during bunkering, including but not limited to checking, verifying and acknowledging sampling, readings or soundings, meters, etc. before, during and/or after delivery of fuels. 411-416

(ii) *During delivery a representative sample of each grade of fuels shall be drawn throughout the entire bunkering operation and that sample shall be thoroughly mixed and carefully divided into five (5) identical samples. The sample shall be drawn at a point as close as possible to the vessel's bunker manifold.* 417-422

(iii) *The five (5) identical samples shall be securely sealed and provided with labels showing the Vessel's name, identity of delivery facility, product name, delivery date and place and point of sampling and seal number, authenticated with the Vessel's stamp and signed by the supplier's representative and the Master of the Vessel or his authorized representative. 3 samples shall be retained by the Vessel of which one shall be retained on board for future possible Marpol requirements, two samples to be handed over to the barge. Samples including potential samples received from the bunker barge are to be retained onboard in accordance with Marpol guidelines until fuel has been used, however, always for a minimum period of 12 months.* 423-438

(iv) *Vessel will participate in the DNV, Lintec of similar fuel quality testing programme. Fuel analysis to be carried out after each bunkering and results to be shared between Owners and Charterers. Fuel bunkered not to be burned prior test results known. If the test results show the fuel being off-spec, bunkers not to be burned without consent of Owners and the Charterers. If any claim should arise in respect of the quality or specification of the fuel supplied, the Owners and the Charterers agree to have a second sample analysed by a mutually agreed qualified analyst Det Norske Veritas, Lintec or similar fuel testing programme.* 439-454

*Upon joint agreement between Charterers and Owners, Owners/Master are to attempt to burn the off-spec bunkers, however should such an attempt prove un-successfull or harmful to the engine, Owners are entitled to request Charterers to remove the documented off-spec bunkers, at Charterers expenses.* 455-460

*If the vessel is already signed up with a fuel quality testing programme as above, Charterers to compensate owners according to CL 33 per month pro rata. If the vessel is not signed up, Charterers will sign the Vessel up and deduct a monthly contribution according to CL 33 per month pro rata from each monthly hire payment.* 461-466

Test results to be forwarded to the following e-mail addresses:



(g) Charterers not to commingle different bunker stems in the same storage tank, Master will be instructed accordingly. Due to incompatibility of oils at certain times, it may be necessary on occasions to reduce bunker tank capacity figures in order to avoid mixing supplies. Accordingly, should Charterers request master to 'bunker to capacity', final quantities shall be taken at the sole discretion of the master and/or chief engineer.

(h) Sludge Removal

Sludge removal, if any, is always to be for Charterers account and in Charterers time. Master is to follow directions from Charterers regarding landing of sludge including, but not limited to any relevant procedure required by Charterers in terms of reporting, documentation and registration of sludge onboard/landed. Sludge is only to be landed to facilities and companies duly approved by Charterers.

(d) Specification: The Charterers shall supply fuel of the B.S.M.A.100:1080 specification or any amendment thereto as indicated in Box 14. 399 400

(e) Consumption: The Vessel's fuel consumption in port and at sea shall not exceed the amounts shown in PART III, at all times for port consumption and in smooth water with winds not exceeding Beaufort Scale 4 for consumption at sea. 401 402 403 404

(f) Bunkering: The Chief Engineer shall co-operate with the Charterers' bunkering agents and fuel suppliers and comply with their requirements during bunkering, including, but not limited to, checking, verifying and acknowledging readings or soundings, meters etc. before, during and/or after delivery of fuel. 405 406 407 408 409

Three (3) samples of all fuel shall be taken during delivery, sealed and signed by suppliers, Chief Engineer and the Charterers' agent, each of whom should retain one sample. If any claim should arise in respect of the quality or specification of the fuel supplied, the Owners and the Charterers agree to have samples of the fuel analysed by a mutually agreed qualified analyst. 410 411 412 413 414 415

13. Charterers' Requirements 416

(a) Plans: On signing this Charter Party the Owners shall, if the Charterers so request, furnish the Charterers with the following documents in English: 417 418

- (i) General Arrangement Plan 419
(ii) Capacity Plan 420
(iii) Container Stowage Plan 421
(iv) Plan of Deck and (where the Vessel not cellular) Under Deck Container Lashing Plan approved by the Vessel's Classification Society. 422 423
(v) Trim and Stability Book 424
(vi) Hydrostatic Curves Plan 425
(vii) Loading Scale 426
(viii) Tank Plan 427

and any other operational documents that the Charterers may reasonably request and which are necessary for the safe and efficient operation of the Vessel. All documents received by the Charterers shall be returned to the Owners on redelivery. Before commencement and during the period of this Charter Party the Owners shall, if so requested, furnish the Charterers with plans and any other operational documents including 1 free copy of the vessels container stability stowage programme as well as the licence file (in English) that the Charterers may reasonably request and which are necessary for the safe and efficient operation of the vessel. 428 429 430 431

(b) Flag Funnel Name and Configuration: The Charterers, if required, shall be allowed to fly their house flag, paint the funnel in the Charterers' colours and/or the name of the Line on the Vessel's side, change the Vessel's name, subject to the authorities' approval, and/or change the Vessel's container stowage configuration provided Owners' approval has been obtained to carry different sized containers, all during the currency of this Charter Party. If the Charterers elect to exercise any or all of these options all alterations necessary shall be effected during the Charterers' time and at the Charterers' expense. Unless the Owners elect to waive this requirement or enter into an alternative agreement with the Charterers, the Vessel shall be returned to its condition prior to the commencement of the Charter Party at the Charterers' expense before redelivery. 432 433 434 435 436 437 438 439 440 441 442

(c) Ballast Warranty: The Owners warrant that the Vessel is capable of operating under this Charter Party in ballast without requiring any solid ballast and using fuel and water ballast only. 443 444 445

(d) Weather Routing: The Charterers may supply the Master with weather 446

routing information during the currency of this Charter Party. In this event the Master shall comply with the reporting procedure of the Charterers' weather routing service. 447 448 449

(e) Communications Facilities: The Owners shall permit the Charterers use of the Vessel's communication facilities at cost during the currency of this Charter Party. Should the Charterers request the vessel to be entered into a satellite tracking programme same will be accepted by Owners. All expenses in this respect are to be borne by the Charterers. 450 451 452

(f) Logs and Witnesses: The Owners shall maintain full deck, engine room and, where appropriate, refrigeration logs during the currency of this Charter Party and the Charterers shall have full access to all the Vessel's logs, rough and official, covering this period. The Owners undertake to produce all such documentation promptly upon request of the Charterers. 453 454 455 456 457

The Owners also undertake to endeavour to assist the Charterers by producing or assisting the Charterers to trace the Vessel's witnesses as may be requested by the Charterers to give testimony in connection with matters arising in relation to this Charter Party and such expenses as may be incurred shall be for the Charterers' account. 458 459 460 461 462

(g) Replacement of Master and Officers: If the Charterers shall have reason to be dissatisfied with the conduct of the Master or Officers, the Owners shall, on receiving particulars of the complaint, investigate same and, if justified confirmed, replace the offending party(ies) at the Owners' expense. 463 464 465 466

(h) Supercargo: The Owners shall provide and maintain a clean and adequate room for the Charterers' supercargo if any, furnished to the same standard as officers' accommodation. Supercargo shall be victualled with the Vessel's officers. The Charterers shall pay for accommodation and victualing of any supercargo at the daily rate as indicated in Box 28. 467 468 469 470 471

(j) Victualing: The Owners, when requested and authorised by the Charterers or their agents, shall victual other officials and servants of the Charterers at the rate per person per meal as indicated in Box 29. 472 473 474

(k) Sub-Letting: The Charterers shall have the right to sub-let all or part of the Vessel with the prior consent of the Owners, which shall not be unreasonably withheld, whilst still remaining responsible to the Owners for the performance of this Charter Party. Sub-letting to Charterers in countries stated in the trading exclusions and any other countries which are subject to U.N. and/or EU and/or vessel's flag state boycott are specifically excluded. 475 476 477 478

(l) Inspections: The Owners shall co-operate with the Charterers to facilitate the Charterers' inspection of the Vessel at any time, upon receipt of reasonable notice, in the Charterers' time. 479 480 481

(m) Substitution and Sub-Contracting: Unless the Charterers' prior consent be obtained in writing, which shall not be unreasonably withheld, the Owners may not: 482 483 484

- (i) substitute any other vessel for that named herein, even though it might be of identical specification, before, at the beginning of or throughout the currency of this Charter Party or, 485 486 487
(ii) sub-contract any of their obligations including the management of the Vessel. In the event of any sub-contracting the Owners shall remain responsible for the performance of this Charter Party. It is understood that technical management of the vessel on delivery will be performed by NSSPL or 488 489 490
(iii) change the flag of the Vessel. 491

(n) Laid-Up Returns: The Charterers shall have the right to order the laying-up of the Vessel at any time and for any period of time at a safe berth or place and in the event of such laying-up the Owners shall promptly take steps to effect all the economies in operating costs, including insurance, which may be possible and give prompt credit to the Charterers in respect of all such economies. At the request of the Charterers, the Owners shall at any time provide an estimate of the economies which would be possible in the event of the laying-up of the Vessel. The laying-up port or place shall be at the Charterers' option but shall always be safe and acceptable to the Owners' insurers. Should the Charterers in liaison with the Owners decide that the Master, Officers and crew should be paid off, then the cost of repatriation and, later, cost of rejoining, including laying-up preparation and reactivation cost and all expenses incurred shall be for the Charterers' account. The Charterers shall give sufficient notice of their intention in this respect to enable the Owners to make necessary arrangements for decommissioning and recommissioning. 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507

Any returns of premium or calls payable to the Owners by reason of the Vessel remaining within the confines of any port area in excess of any minimum period provided for in the Owners' insurance policies shall be remitted to the Charterers upon receipt by the Owners, provided the Vessel was on hire for the full period, otherwise such return shall be shared pro rata between the Owners and the Charterers according to the proportion of qualifying time on and off hire. 508 509 510 511 512 513 514

(o) Signing Bills of Lading: If required, the Master shall sign bills of lading as presented by the Charterers. If required, the Charterers and/or their agents are hereby authorised by the Owners to sign bills of lading on the Owners' and/or the Master's behalf (See Clauses 16 (a), (b) and (c)). The Charterers shall indemnify the Owners and the Master against all consequences or liabilities arising therefrom. 515 516 517 518 519 520

14. Owners' Requirements 521

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(a) <i>Maintenance</i> : The Owners shall have the right to take the Vessel out of service for emergency repairs at any time and for routine maintenance by prior arrangement with the Charterers. The Owners shall endeavour to accommodate the Charterers' requirements in determining the timing of such maintenance and the Charterers shall endeavour to accommodate the Owners' choice of location for maintenance (See Clause 8(a)(i)).	522 523 524 525 526 527	the Vessel has commenced loading. The off hire survey shall be conducted in the Charterers' Owners' time/expense. The on/off hire surveys shall be conducted simultaneously to the loading discharging operations, if possible and provided not hindering the working of the vessel.	604 605
(b) <i>Bills of Lading</i> : The Charterers warrant that bills of lading issued in respect of the carriage of goods and containers under this Charter Party shall contain the following clauses:	528 529 530	Both surveys shall cover condition of the Vessel and amounts of fuel on board and the Owners shall procure that the Master, Chief Engineer, Officers and crew shall co-operate with the surveyors in conducting such surveys.	606 607 608 609
(i) A clause paramount applying the Hague or Hague-Visby Rules or a carriage of goods by sea statute making either of these mandatorily applicable, in either case according to the practice prevalent at the port(s) of loading.	531 532 533 534	(e) <i>Sub-Contractors</i> : In this Charter Party the term "sub-contractor" shall include sub-contractors and their respective servants, agents and sub-contractors.	610 611 612
(ii) A "New Jason" clause.	535	(f) <i>Nothing contained in this Charter Party shall be construed as a demise of the Vessel to the Charterers and the Owners remain responsible for the navigation of the Vessel, acts of pilots and tug boats, insurance, crew, and all other matters, same as when trading for their own account.</i>	
(iii) A "General Average" clause providing for adjustment at a port or place at the option of the Carrier according to the York-Antwerp Rules 1994 1974 or any amendment thereto.	536 537 538	16. Charterers' Responsibilities/Liabilities	613
(iv) A "Himalaya" or "Circular Indemnity" clause giving the Owners the benefit of the bill of lading terms and conditions and/or protection from tortious claims by third parties.	539 540 541	(a) <i>Charterers' Responsibilities</i> : Except as elsewhere provided in this Charter Party and without prejudice to the Charterers' right to initiate recovery against the Owners under Clause 17, the Charterers shall be responsible for all claims in respect of any liability or expense whatsoever or howsoever arising in connection with the goods and containers carried pursuant to this Charter Party or their carriage (even if such liability arises wholly or in part by reason of the act, neglect or default of the Owners or of such servant, agent or sub-contractor).	614 615 616 617 618 619 620 621
(v) A "Sister Ship Salvage" clause.	542	(b) <i>Claims Handling</i> : If any such claim or allegation as described in Clause 16(a) shall be made against the Owners or against any vessel owned by any of them, the Charterers will:	622 623 624
(vi) A "Both-to-Blame Collision" clause.	543	(i) take over the conduct and defence of such claim or allegation and settle same at their own expense obtaining, where appropriate, releases in joint names or, should the Owners so request,	625 626 627
(c) <i>General Average</i> : General average shall be adjusted at the place as indicated in Box 33 according to the York-Antwerp Rules 1994 1974 or any amendment thereto by an adjuster appointed by the Owners. In the event of general average or salvage, the Charterers shall provide an acceptable temporary security covering all goods and containers to avoid delay and secure their release so that transit/delivery may continue. The Owners agree that the Charterers temporary guarantee may be exchanged in due course for a full set of securities from the appropriate interested parties covering all goods and containers. The Charterers agree to co-operate with the Owners and the Owners' appointed adjusters, to assist by supplying manifest and other information and, where required, to endeavour to secure the assistance of the Charterers' local agents in the collection of security, at the Owners' expense.	544 545 546 547 548 549 550 551 552 553 554 555 556	(ii) put the Owners in funds to meet legal fees, witness and third party expenses and settlement funds, excluding the Owners' own office expenses, to deal with such claim or allegation themselves.	628 629 630
All goods and containers shall contribute in general average, whether shipped on or under deck. Charter hire shall not contribute.	557 558	(c) <i>General Indemnity</i> : If in spite of Clause 16(a) any claims as therein described are nevertheless made, the Charterers shall indemnify the Owners and such servant, agent or sub-contractor against all consequences whatsoever thereof, without prejudice to the Charterers' right subsequently to initiate action against the Owners.	631 632 633 634 635
General average shall be adjusted in any currency at the sole option of the Owners. Exchange into the currency of adjustment shall be calculated at the rate prevailing on the date of payment for disbursements and on the date of completion of discharge of the Vessel for allowances, contributory values, etc.	559 560 561 562 563	(d) <i>Fines etc. Indemnity</i> : The Charterers shall indemnify the Owners against any expenses, fines, liabilities, losses, damages, claims or demands which the Owners may incur or suffer by reason of any failure of the goods or containers or the documentation relating thereto to comply with any relevant laws, regulations directions or notices of customs, port and other authorities, or by reasons of any infestation, contamination or condemnation of goods or containers or infestation, damage or contamination of the Vessel by the Charterers' goods or containers.	636 637 638 639 640 641 642 643
(d) <i>Salvage</i> : All time lost and all legal and other expenses (excluding any damage to the Vessel) incurred in saving or attempting to save life or property shall be borne equally by the Owners and the Charterers. All salvage and proceeds from derelicts shall be divided equally between the Owners and the Charterers after deducting the Master's, Officers' and crew's share. The Charterers shall be bound by all measures taken by the Owners in order to secure payment of salvage and to settle its amount.	564 565 566 567 568 569 570	(e) <i>Time Limit</i> : The Charterers shall be discharged from all liability under this Charter Party unless notice of arbitration in accordance with Clause 20 is given within 45 24 months of redelivery.	644 645 646
(e) <i>Liens</i> : The Charterers warrant that they will not suffer, nor permit to be continued, any lien or encumbrance incurred by them or their agents, which might have priority over the title and interest of the Owners in the Vessel. In no event shall the Charterers procure, nor permit to be procured, for the Vessel any supplies, necessities or services without previously obtaining a statement, signed by an authorised representative of the furnisher thereof, acknowledging that such supplies, necessities or services are being furnished on the credit of the Charterers and not on the credit of the Vessel or of the Owners and that the furnisher claims no maritime lien on the Vessel therefor.	571 572 573 574 575 576 577 578 579 580	(f) <i>Agency</i> : Without prejudice to sub-clause 16 (a) the Owners authorise and empower the Charterers to act as the Owners' agents and/or trustees to stipulate for the Owners to have as against other persons the benefit of any immunities, exemptions or liberties regarding the goods and containers the subject of this Charter Party or their carriage but the Charterers shall have no authority to make any contracts imposing any obligations upon the Owners in connection with the goods and containers or their carriage.	647 648 649 650 651 652 653
The Owners shall have a lien on the Charterers' goods and containers and upon all sub-freights and/or sub-hire for unpaid charter hire, unreimbursed Charterers' expenses initially paid by the Owners and contributions in general average properly due, unless the Charterers/Charterers' P&I Club put a bank guarantee acceptable to Owners as well as Owners' underwriters and P&I Club.	581 582 583 584	(g) <i>General Average Exclusion</i> : Nothing in this Clause 16 shall apply to preclude any claim made by the owners of any property on board the Vessel for general average contribution in accordance with the York-Antwerp Rules 1974 1994 or any amendment thereto.	654 655 656 657
15. Sundry Matters	585	(h) <i>Claims Authority</i> : The Charterers shall make no payment in excess of the amount as stated in Box 32 in settlement of a claim for which they intend to seek recovery from the Owners without prior consultation with the Owners. The Owners authorise the Charterers to grant extensions of time in respect of such claims provided the Charterers give the Owners immediate notice thereof.	658 659 660 661 662 663
(a) <i>Pilotage/Towage</i> : Although engaged by the Charterers or their agents and paid by the Charterers, all pilotage, towage and other such services to the Vessel to assist with navigation shall be engaged as agents of the Owners who, for the purposes of this Charter Party, shall remain responsible for the due performance thereof. Nothing contained in this Charter Party shall be construed as a demise of the Vessel to the Charterers and the Owners remain responsible for the navigation thereof at all times.	586 587 588 589 590 591 592	17 Owners' Responsibilities/Liabilities	664
(b) <i>Watchmen</i> : The cost of compulsory shore gangway watchmen shall be borne equally between the Owners and by the Charterers throughout the currency of this Charter Party.	593 594 595	Except as elsewhere provided in this Charter Party, the responsibilities and liabilities of the Owners shall be as follows:	665 666
(c) <i>Stowaways</i> : Any costs incurred in respect of stowaways shall be for the Owners' account, unless it can be established that the means by which the stowaway gained access to the Vessel was by secreting away in the Charterers' goods and containers prior to loading, in which case all such costs shall be for the Charterers' account.	596 597 598 599 600	(a) <i>For Goods and Containers</i> : The Owners shall be liable for loss, damage or expense in respect of goods and containers arising or resulting from:	667 668
(d) <i>On/Off Hire Surveys</i> : Joint on and off hire surveys shall be conducted by mutually acceptable surveyors at the Places of Delivery and Redelivery, respectively. The on hire survey shall be conducted in the Owners' Charterers' time/expense unless	601 602 603	(i) lack of due diligence on their part before and at the beginning of each voyage to make the Vessel seaworthy and to properly man, equip and supply it and make all parts of the Vessel in which goods and containers are carried fit and safe for their reception, carriage and preservation, unless the Charterers consent to load containers in parts of the Vessel which the Master considers to be unfit, in which case the Charterers shall indemnify the Owners.	669 670 671 672 673 674 675
		(ii) failure on their part properly and carefully to carry, keep and care for the goods and containers while on board, or	676
		(iii) unreasonable deviation from the voyage ordered or approved by the	677 678

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Charterers.	679	terers. If successful, any unrecovered costs of such proceedings shall be borne equally between the Owners and the Charterers. If unsuccessful, the costs shall be borne by the party responsible under the terms of this Charter Party for the factor which caused the proceedings to fall. If more than one factor contributed and the Owners and the Charterers were each responsible for at least one factor the costs shall be borne equally.	734 735 736 737 738 739
(b) For Refrigerated Goods: In respect of blown-air containers, the Owners shall be responsible only to maintain the supply of air at the required temperature to the containers, provided proper instructions are given to the Master by the Charterers and the containers are presented at the carriage temperatures.	680 681 682 683 684		
In respect of integral refrigerated containers or blown-air containers with a marine refrigeration clip-on unit attached or any containers with any machinery for temperature/atmosphere control containing goods, the Owners shall be responsible for the provision of electrical power only. The Owners shall <i>weather permitting</i> endeavour to monitor and record the performance <i>minimum once daily</i> of all such units whilst on board in accordance with the Charterers' instructions and endeavour to repair and rectify any breakdown, fault or deficiency which may occur in respect of such units, using the resources on board the Vessel. If repair works are performed, all additional expenses incurred by the Owners, including spare parts, shall be for the account of the Charterers and the Vessel's crew shall always be considered the Charterers' servants. If such resources are insufficient, the Owners shall immediately notify the Charterers so they may take action to obtain any required spares or specialised repair facilities.	685 686 687 688 689		(g) <i>Consequential Loss</i> : Under no circumstances shall the Owners be responsible for any indirect or consequential loss arising from loss, damage or delay to goods and containers, howsoever caused.
<i>Owners confirm that vessel's crew are experienced in repair of reefer containers, have the necessary standard tools including environmentally friendly refrigerant recovery equipment and will use best endeavours to provide emergency repairs on all reefer containers and equipment loaded on board the vessel. Charterers will provide reefer spareparts, repair kits and non-standard tools and relevant manuals, as necessary.</i>	690 691 692 693 694 695 696 697		(h) <i>Notwithstanding anything herein to the contrary, neither the Owners nor the Ship shall be entitled to the benefit of any limitation of liability if it is proved that the loss or damage resulted from an act or omission of the Owners, done with intent to cause loss or damage, or recklessly and with knowledge that loss or damage would probably result.</i>
Except as provided above, the Owners shall not be liable for malfunctioning of integral refrigerated containers and power packs put on board by the Charterers.	698 699 700		18. Insurances
The Owners shall be entitled to reject and require the Charterers to discharge any container loaded at a temperature not within the required carriage temperature range or meeting the Charterers procedures for hot stuffing. If, at the Charterers' request, the Owners consent to receive and carry such container(s), the Charterers shall indemnify the Owners against all consequences thereof.	701 702 703		(a) <i>Hull and Machinery</i> : The Owners warrant that the Vessel is insured under Institute Time Clauses or similar clauses for IWL INL trading against loss, damage and collision liabilities for the value as indicated in Box 27 which cover will be maintained throughout the currency of this Charter Party. Upon 10 days notice to the Charterers, the Owners shall be entitled to effect any reasonable change to this value. The Owners agree that their insured value for the purpose of this Clause shall represent the Charterers maximum liability to the Owners for damage to the Vessel in accordance with Clause 6 (i), including time spent on repairs.
(c) <i>Limitation of Liability: Subject always to the Owners' right to limit liability under the applicable limitation convention, The the liability of the Owners to the Charterers for loss, damage or expense in respect of goods and containers as herein provided shall be limited as follows:</i>	704 705		(b) <i>Protection and Indemnity (P &amp; I)</i> : The Owners and the Charterers warrant that the Vessel is entered on full terms with their respective P & I Clubs as indicated in Boxes 30 and 31 and that such entries will be maintained with all calls paid up to date throughout the currency of this Charter Party.
(i) In respect of goods liability shall be on the same basis as applicable under mandatory law between the Charterers and a third party by reason of the Charterers having issued a bill of lading or similar contract of carriage, provided that such Bill of Lading contains no declaration of value. Where no mandatory law so applies, liability shall be limited to SDR 666.67 per package or unit or 2 SDR per kilo of gross weight of the goods lost or damaged, whichever is the higher.	706 707 708		(c) <i>War Risks</i> : The Owners warrant that the Vessel is insured against loss of the Vessel by War Risks and War P & I Risks for IWL INL trading excluding additional premium/restricted/ prohibited areas, which cover will be maintained throughout the currency of this Charter Party.
GB Pounds 100 per package.	709		19. War
(ii) In respect of containers, liability shall be the reasonable cost of repair or the value of the container at the time of such loss or damage, whichever is the lesser. The value of a leased container is the value stated in the lease agreement and for an owned container it is its market value. For the purpose of this Charter Party containers not owned or leased by the Charterers shall be regarded as goods for liability purposes.	710 711 712 713		(a) Unless the consent of the Owners be first obtained, the Vessel shall not be ordered to nor obliged to:-
(d) <i>Time Limit</i> : Except as provided in Clause 1 (6)(h), the Owners shall be discharged from all liability under this Charter Party in respect of claims for which extensions of time have not been sought and obtained by the Charterers unless notice of arbitration in accordance with Clause 20 is given within 24 months of the delivery of the goods or the date when the goods should have been delivered, 45 months of the delivery of goods if the claim relates to goods, or the date when the Charterers become aware of the Incident giving rise to the claim for all other claims. <i>When the Hamburg Rules apply compulsorily the above time bar shall be extended to 36 months.</i>	714 715 716 717 718 719 720		(i) remain in or pass through any area which is dangerous or is likely to become dangerous as a result of war, hostilities, warlike action or piracy, actual or threatened, nor
(e) <i>For Personal Injury: The Owners shall remain responsible for and shall indemnify the Charterers against any claims for personal injury, howsoever caused, incurred on or about the Vessel unless caused by the negligence of the Charterers, their servants, agents or sub-contractors or any defect in the Charterers' goods and/or containers save that, where the vessel's crew, under this Charter Party, are to be considered the Charterers' servants (including but not limited to lashing/unlashing, crane driving, plugging/unplugging of reefers), and any injury of any nature is caused to any person (including crew members) by the negligent act or omission of any crew member or crew members, then the Owners are to remain responsible and shall indemnify the Charterers against any such claim. The Owners shall indemnify the Charterers against any claims for personal injury incurred on or about the Vessel unless caused by the negligence of the Charterers, their servants, agents or sub-contractors or any defect in the Charterers' goods and/or containers.</i>	721 722 723 724 725 726 727		(ii) call at any port where there is any revolution, civil war, civil commotion or any threat thereof, nor
(f) <i>Limitation Proceedings</i> : The Owners shall have the control and conduct of any limitation proceedings on the joint behalf of the Owners and the Charterers.	728 729 730 731		(iii) carry any goods that may in any way expose her to any risk of seizure, capture or detention.
	732 733		(b) However, should the Owners consent to allowing the Vessel to proceed, notwithstanding the existence or threat of the danger(s) outlined in Clause 19 (a), the Owners agree that the Vessel proceeds at their own risk in consideration of the Charterers agreeing that the Owners may effect the following insurances for which the Charterers will reimburse the Owners the net cost of premium/calls therefor. (See Clause 6 (n))
			(i) Reinstatement of the War Risks cover on Hull and P & I for trading to the required area.
			(ii) Any further additional premia necessary to maintain Hull cover whilst blocked or trapped pending release of the Vessel, acceptance of constructive total loss by insurers or trapped for 365 consecutive days, whichever shall first occur.
			(iii) Insurance of hire on the Vessel for not exceeding 365 days.
			(c) In the event of the wages of the Master Officers and/or crew and/or other of the Vessel's operating expenses are affected by any of the factors mentioned in (a) above, the amount of any increase shall be added to the hire due upon production of the Owners' account therefor together with appropriate receipts and paid by the Charterers to the Owners with the next hire payment.
			(d) The Vessel shall have the liberty to comply with any orders or directions of whatsoever nature given by the government of the nation where the Owners are domiciled or whose flag the Vessel flies or any other government or person or body acting, or purporting to act, with the authority of such government or by any party having, under the terms of the war risk insurance on the Vessel, the right to give such orders or directions.
			(e) In the event of the outbreak of war, whether there be a declaration of war or not, between any two or more of the following countries: <i>the Nation of Owner's domicile and Vessel's flag and provided Vessel's trade is directly affected, or involving the nation where the Owners are domiciled or whose flag the Vessel flies: People's Republic of China, Denmark, France, Federal Republic of Germany, Greece, United States of America, United Kingdom, Union of Soviet Socialist Republics, Russia</i> either the Owners or the Charterers may cancel this Charter Party and, unless otherwise agreed, the Vessel shall be redelivered to the Owners at the port of destination in accordance with Charter terms, or, if debarred under this Clause from reaching or entering it, at a near open and safe port at the Owners' option after discharge of any goods and containers on board.

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(f) If in compliance with the provisions of this Clause anything is done or is not done, such shall not be deemed a deviation.	806 807
20. Law and Arbitration	808
*) (a) London: This Charter Party shall be governed by English law and any dispute arising out of this Charter Party shall be referred to arbitration in London one arbitrator being appointed by each party, in accordance with the Arbitration Acts 1950 and 1979 1996 or any statutory modification or re-enactment thereof for the time being in force. 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 apply. If two Arbitrators properly appointed shall not agree they shall appoint an umpire whose decision shall be final.	809 810 811 812 813 814 815 816 817
<i>Small Claims Procedure</i>	
<i>For disputes where the total amount claimed by either party does not exceed the amount of USD 50,000.- the arbitration shall be conducted in accordance with the Small Claims procedure of the L.M.A.A.</i>	
*) (b) New York: Should any dispute arise out of this Charter Party, the matter in dispute shall be referred to three persons in 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 the purpose of enforcing any award, this agreement may be made a rule of the Court. The arbitrators shall be members of the Society of Maritime Arbitrators, Inc. of New York and the proceedings shall be conducted in accordance with the rules of the Society.	818 819 820 821 822 823 824 825
*) (c) Alternative: Any dispute arising out of this Charter Party shall be referred to arbitration at the place indicated in Box 34, subject to the law and procedures applicable there.	826 827 828
If Box 34 in Part I is not filled in, sub-clause (a) of this Clause shall apply.	829
*) (a), (b) and (c) are alternatives; indicate alternative agreed in Box 34.	830
21. Commission	831
The Owners shall pay a commission at the rate stated in Box 35 to the party mentioned in Box 35 on any hire paid under this Charter Party but in no case less than is necessary to cover the actual expenses of the Brokers. If the full hire is not paid owing to breach of Charter Party by either of the parties the party liable therefor shall indemnify the Brokers against their loss of commission.	832 833 834 835 836 837
Should the parties agree to cancel this Charter Party, the Owners shall indemnify the Brokers against any loss of commission but in such case the commission shall not exceed the brokerage on one year's hire.	838 839 840
22. Notices	841
Any notice to the Owners shall be sent to the address as indicated in Box 3.	842
<p>Mrs. Ariele Eric ATLANTIS EMPIRE CAUSEWAY BAY, HONG KONG Ariele@atlantis.com</p>	
Any notice to the Charterers shall be sent to	843
<p>Mr. Arthur Cusby TIMAEUS CARGO LINES DENMARK A.C.@TEL-tom</p>	
	844

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- Clause 54. ITF Clause
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- Clause 56. Exceptions
- Clause 57. Period
- Clause 58. Hire
- Clause 59. Trading
- Clause 60. Name and Funnel

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- Clause 62 Performance Guarantee
- Clause 63 Liquidated Damages For Delay
- Clause 64 Successful Delivery

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[REDACTED]



**RIDER CLAUSES**

to

Charter Party dated [REDACTED]

for

m.v. " [REDACTED ] - To be renamed as " [REDACTED ]

[REDACTED]

**Clause 23. "Hamburg Rules"**

Neither the Charterers nor their agents shall permit the issue of any Bills of Lading or waybills whether or not signed on their behalf or on behalf of the Owners voluntarily incorporating the Hamburg Rules or any legislation under which the Hamburg Rules are compulsorily applicable in respect of any contract of carriage under or during the period of this Charter Party or any sub-charter.

In the event that the Owners sustain a liability arising from the application of the Hamburg Rules in circumstances where those Rules were not compulsorily applicable and where the Owners would not otherwise have sustained a liability then the Charterers shall indemnify the Owners for all loss and damage sustained thereby.

Should the Charterers direct the Vessel to countries where the Hamburg Rules are compulsorily applicable or otherwise cause the contract of carriage under Bills of Lading or waybills to be subject to the Hamburg Rules and should the Owners thereby sustain a liability, then the Charterers shall indemnify the Owners for all loss and damage in excess of the loss and damage which the Owners would have sustained if the Hague or Hague Visby Rules had applied.

**Clause 24. U.S. Anti-Drug Abuse Act 1986 Clause for Time Charters**

In pursuance of the provisions of the U.S. Anti Drug Abuse Act 1986, or any re-enactment thereof, the Charterers warrant to exercise the highest degree of care and diligence in preventing unmanifested narcotic drugs and marijuana to be loaded or concealed on board the Vessel.

Furthermore, all time lost and all expenses incurred, including fines, as a result of the Charterers' breach of the provisions of this Clause

[REDACTED]

*[Handwritten signature]*

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shall be for the Charterers' account and the Vessel shall remain on hire.

Should the Vessel be arrested as a result of the Charterers' non-compliance with the provisions of this Clause, the Charterers shall at their expense take all reasonable steps to secure that within a reasonable time the Vessel is released and at their expense put up bail to secure release of the Vessel.

The Owners shall remain responsible for all time lost and all expenses incurred, including fines, in the event that unmanifested narcotic drugs and marijuana are found in the possession or effects of the Vessel's personnel.

**Clause 25. House to House Bills of Lading**

Charterers to indemnify and keep Owners harmless for any additional expenses and/or damages to containers and/or cargo if through or house to house Bills of Lading are signed if damages/additional expenses occur after actual discharge or prior loading of containers/cargo from/on the Vessel.

**Clause 26. Dry docking**

Vessel is on a 5 year dry and class renewal schedule, and shall only dry dock every 5 years except in case of emergency and/or shipyard guarantee dry docking or as required by vessel's classification society which cannot be avoided or postponed. In case Owners need to dry dock the vessel (except in case of emergency) then Owners are to tender 90 days prior notice of suggested place and date of dry docking to Charterers, and such is to be mutually agreed between owners and Charterers. Dry docking as well as phase-out place and timing is to be convenient to charterers, but approval is not to be unreasonably withheld by Charterers. Vessel is to phase-in at the same place vessel phased out, or at place in equivalent distance to the dry dock, as mutually agreed between owners and charterers. For regular docking Charterers to place the Vessel at Owners disposal without cargo on board but Owners will endeavour to dry dock the Vessel with maximum permissible cargo on board in which case Charterers are allowed to keep such cargo also on board at their risk and expense.

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**Clause 27. Boycott**

In the event of loss of time or detention due to boycott of the Vessel by or refusal to work of shore labourers or due to government restriction or their recommendations, all and solely caused by Vessel's flag or by reason of the terms and conditions on which the members of the crew are employed or by reason of any previous trading prior to this Charter Party of this Vessel or trading of any other Vessel under same ownership, payment of hire shall cease from the time of commencement of such boycott or refusal to work or hindrance to the Vessel until work is resumed. Owners to reimburse to Charterers all directly related expenses incidental to and resulting from such blockage or boycott. In the event of loss of time or detention by reason of any previous trading of this Vessel payment of hire shall continue.

**Clause 28. ISM**

From the date of coming into force of the International Safety Management (ISM) code in relation to the Vessel and thereafter during the currency of this Charter Party, the Owners shall procure that both the Vessel and "the company" (as defined by the ISM code) shall comply with the requirements of the ISM code. Upon request the Owners shall provide a copy of the relevant Document of Compliance (DOC) and Safety Management Certificate (SMC) to the Charterers. Except as otherwise provided in this Charter Party, loss, damage, expense or delay caused by a negligent failure on the part of the Owners of "the company" to comply with the ISM code shall be for the Owners' account.

**Clause 29. Phase-in after Off-Hire**

Notwithstanding anything to the contrary in the c/p it is agreed that if Vessel is off-hire for any other reason than scheduled dry-docking, Owners to give Charterers a daily 'notice of readiness to re-enter the service' (n.o.r.t.r.s.).

For each full seven consecutive days Vessel is off-hire, Charterers have the option to let Vessel remain off-hire (for Owners' account) for up to 48 hrs longer as follows:



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Off-hire from 0 upto and incl. 7 days : 00 hours  
Off-hire exceeding 7 upto and incl. 14 days : 48 hours  
Off-hire exceeding 14 upto and incl. 21 days : 96 hours  
Off-hire exceeding 21 upto and incl. 28 days : 144 hours

Charterers to declare when they want the Vessel to re-enter the service within the 48 hrs spread latest 1 working day after receiving notice from Owners that off-hire will exceed 7 days (and similar for each further 7 days interval).

The Vessel must re-enter Charterers service in a position not less favourable to Charterers than that which off-hire commenced, unless a different re-enter port can be mutually agreed between Owners and Charterers.

If Charterers require Vessel back at an earlier date than what Owners have tendered notice (n.o.r.t.r.s.) for, Charterers have the option to require Owners to request the yard/dock to work overtime in order accommodate required re-entry-date. Additional expenses in this respect - overtime payment to crew/yard/dock less additional t/c hire earned due earlier on-hire time/date) to be paid by Charterers.

### **Clause 30. Bimco Oil Pollution Charterparty Clause for non-tank Vessels**

Financial Responsibility in Respect of Pollution (for all ships other than self propelled tank Vessels and non self propelled tank Vessels carrying more than 2000 tons of persistent oil in bulk as cargo)

1. Owners warrant that throughout the currency of this charter they will provide the Vessel with the following certificate:

Certificates issued pursuant to Section 1016 (a) of the Oil Pollution Act 1990, and Section 108 (a) of the Comprehensive Environmental Response, Compensation and Liability Act 1980, as amended, in accordance with part 138 of Coast Guard Regulations 33 CFR, from (insert earliest date of laycan), so long as these can be obtained by the Owners from or by (identify applicable scheme or schemes).

2. Notwithstanding anything whether printed or typed herein to the contrary:

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- [REDACTED]
- a) save as required for compliance with paragraph 1 hereof, Owners shall not be required to establish or maintain financial security or responsibility in respect of oil or other pollution damage to enable the Vessel lawfully to enter, remain in or leave any port, place, territorial or contiguous waters of any country, state or territory in performance of this charter.
  - b) Charterers shall indemnify Owners and hold them harmless in respect of any loss, damage, liability or expense (including but not limited to the cost of any delay incurred by the Vessel as a result of any failure by Charterers promptly to give alternative voyage orders) whatsoever and howsoever arising which Owners may sustain by reason of any requirement to establish or maintain financial security or responsibility in order to enter, remain in or leave any port, place or waters, other than to the extent provided in paragraph (1) hereof.
  - c) Owners shall not be liable for any loss, damage, liability or expense whatsoever and howsoever arising which Charterers and/or the holders of any bill of lading issued pursuant to this charter may sustain by reason of any requirement to establish or maintain financial security or responsibility in order to enter, remain in or leave any port, place or waters, other than to the extent provided in paragraph (1) hereof.
3. Charterers warrant that the terms of this clause will be incorporated effectively into any bill of lading issued pursuant to this charter.

### **Clause 31. Uniforms**

Officers as well as other crew members are required to wear uniform dress when on duty in port. Crew may wear company issue boiler-suits as may officers when required for their duties on board.

It must be ensured that all on board ship always keep their uniforms/boiler-suits clean and tidy, and that they conduct themselves so as to represent their Owners as well as their Charterers in a dignified manner.

[REDACTED]

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**Clause 32. Passenger Clause**

Fare paying passengers are under no circumstances allowed to be carried unless Charterers' prior written agreement has been obtained which not to be unreasonably withheld.

**Clause 33. Lump sum Settlements**

It has been agreed that each of the following items will be settled on a lumpsum-per-month basis, which to be settled together with monthly hire:

- a- lashing - USD [redacted] per container paid to crew directly.
- b- cables/communication - USD [redacted] per month pro rata
- c- representation/entertai. - USD [redacted] per month pro rata
- d- super cargo - USD [redacted] per day
- e- meals - USD [redacted] per month pro rata
- f- fuel testing - USD [redacted] per month pro rata
- h- repair of stvd damages - USD [redacted] per man hour plus materials
- i- repair of reefers - USD [redacted] per man hour plus materials
- j- crane driving by crew - USD [redacted] per man hour if permitted by port/stevadores
- k- change to EU flag - if requested to be paid 'at cost' according to invoices.  
Any change in crew requirements for new flag state rules also to be paid for by Charterers.

No further additional charges will be levied - except where allowed for herein and as per cp.

Payment of monthly lumpsum for fuel testing is subject to the following addresses being copied on fuel test directly, and immediately upon finalization of analysis:



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If it is documented during the timecharter that the expenses are significantly higher or lower than the agreed lumpsum amount for cables/communication meals, entertainment and lost and damaged lashing equipment, then the lumpsums agreed to be adjusted accordingly.

Further to the above, crew services provided as above are deemed to be performed as Charterers servants. Crew may assist stevedores with lashing/unlashing duties and plugging/unplugging reefers provided they are not required for normal shipboard duties and provided permitted by local and international regulations. If the vessel is delayed due to crew providing any of the above services, vessel to remain on hire. Repair of reefer containers to be carried out provided it is safe to do so and weather permitting. Crane driving may be performed by vessels crew provided permitted by local and international rules and provided crew are not required for normal shipboard duties.

Lost/damaged lashing equipment: USD [REDACTED] per month pro rata. (If this amount proves insufficient, Owners have the right to request to change this lumpsum having provided proof of actual costs).

### **Clause 34. Rules about Alcohols and Drugs**

#### **Alcohol (Beer, Wine and Spirits/Liquors)**

1. Neither the crew nor anyone else on board the Vessels shall be intoxicated at any time. Under this policy, a blood alcohol content of 40 mg / 100 ml or greater is considered non-compliance.
2. Alcohol must not be consumed:
  - Within the last 4 hours prior to watch duty and during watch duty no matter the level of alcohol concentration.
3. All purchases of alcohol are for the Owners' account, to be handled by the master only.
4. Purchase of alcohol at sea is only allowed outside territorial waters.

#### **Drugs (Narcotics and Similar Substances)**

Charterers do not accept that members of the crew and/or other persons

on board the Vessel consume unauthorised drugs or that any kind of drugs is brought or exists on board the Vessel's (apart from medicine narcotics) or that drugs have been taken in such a time that remains of

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drugs, however small, occur in the urine. Attention is drawn to the fact that such remains may occur long time after drugs have been taken.

**Control**

Owners undertake to perform unannounced drug / alcohol testing and screenings. An objective of this policy should be that the frequency of the unannounced testing to be adequate to act as an effective abuse deterrent, and that all officers be tested at least once a year through unannounced testing. Unannounced test of all officers and ratings for alcohol, alcohol concentrations, drugs and drug remains may be arranged for vessels chartered by Maersk Line, on the Charterers' account. Charterers assume Owners will take immediate action towards any crew member in violation with this policy, replacing him/her at first given opportunity.

Owners further warrant that the policy will remain in effect during the term of this Charter and that Owner shall exercise due diligence to ensure that the policy is complied with. It is understood that an actual non-compliance shall not in and of itself mean that the Owner has failed to show due diligence.

**Clause 35. Guidelines for Treating Stowaways**

Owners confirm that they and the Vessel's Officers/crew are familiar with the proposed IMO "Guidelines on the Allocation of Responsibilities to Seek the Successful Resolution of Stowaway Cases" dated 27th November, 1997 and as far as responsibilities on behalf of Owners and Vessel's Officers/crew are concerned will follow these guidelines for the duration of this charter even though these guidelines are not yet ratified.

**Clause 36. Performance Clause**

Owners to exercise due diligence to maintain a performance of the vessel in relation to speed and consumption corresponding with the description of the Vessel throughout the period of this charter party. At the same time Owners to ensure the Vessel is being manoeuvred and voyages are planned with the aim of achieving the most optimal economic use of the Vessel, main engine and auxiliary engines in order to ensure a minimal consumption at all times with the most economical trim. Owners will ensure master is making optimal use of weather

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routing tools as well as any voyage optimisation systems provided by Charterers in order to prosecute voyage in the most efficient economic fashion, with due consideration to safety of crew, ship and cargo. Owners agree and will direct the master to report any data that Charterers may reasonably request for a performance measurement system.

Owners agree that vessel can slow steam with a minimum continuous rating equivalent to 40% MCR. In as far as owners may so desire then charterers shall assist with sharing of technical know-how on potential modifications allowing the vessel to slow steam as described above.

It is recognized that slow steaming shall result in savings on cylinder as well as system lubrication oils. It is however also acknowledged by charterers that slow steaming may necessitate more frequent cleaning of turbo chargers, the vessels exhaust system as well as the economizer and will result in more wear and tear of auxiliary blowers necessitating that an extra piece of auxiliary blower incl. impeller, gasket and electronic motor is kept onboard.

Charterers shall reimburse owners any documented additional costs for the purchase and delivery of an extra auxiliary blower incl. impeller, gasket and electronic motor.

The Owners agree to take part in any studies that Charterers may deem necessary with an aim of improving the economic performance of the vessel, and Owners also agree to share with Charterers any findings and best practices that Owners may have identified on potential savings on economic operation of the vessel.

### **Clause 37. Lashing/securing/unlashing/unsecuring of container**

Lashing/securing/unlashing/unsecuring of container to be performed by shore labour to the satisfaction of the Master and under the supervision of officers and crew. Provided local port regulations permit and subject to availability of crew, lashing/unlashing/securing/unsecuring may be performed by ships crew as Charterers servants in case of emergency, subject to Masters approval, which not to be unreasonably withheld. In such case Charterers to pay as per clause 33 for containers effectively lashed and unlashed.

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**Clause 38. Extended Port stays**

For Vessel in a service where no port stay is scheduled to last 24 hrs or longer, Charterers agree to extend the longest scheduled port stay up to a total duration of 24 hrs (from 'all fast') to perform necessary maintenance / overhaul to maintain the efficiency of the Vessel. Charterers will allow for one extended port stay per month as above against a two weeks written notice from Owners. If Owners' proposed date/port is unacceptable for Charterers, Charterers to nominate an alternative date/port for such extended port stay, to take place within 7 days after Owners' proposed date.

**Clause 39. Spreaders**

Vessel has no spreader on board.

**Clause 40. U.S. trade unique bill of lading identifier clause.**

The Charterers warrant that each transport document accompanying a shipment of cargo destined to a port or place in the U.S.A. shall have been endorsed with a unique bill of lading identifier as required by the U.S. customs regulations (19 crf part 4 section 4. 7a) incl. subsequent changes, amendments or modifications thereto, not later than the first port of call. Non compliance with the provisions of this clause shall amount to breach of warranty for the consequences of which the Charterers shall be liable and shall hold the owners harmless and shall keep them indemnified against all claims whatsoever which may arise and be made against them. Furthermore all time lost and all expenses incurred incl. fines as a result of the Charterers breach of the provisions of this clause shall be for the Charterers account.

**Clause 41. Unlawful and/or illegal merchandise**

Any unlawful and/or illegal merchandise and/or goods pertaining to the cargo found inside containers are solely Charterers responsibility and all resulting consequences are to be borne by Charterers.

**Clause 42. Sales clause**

Subject to the Charterers prior approval, which is not to be unreasonably withheld, Owners have the right to sell the vessel to an owner acceptable to Charterers with a good performance record in container liner trades or an alternative record acceptable to Charterers.

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## 2. ORIGINAL

Charterers to declare such approval or their reasons for declining same, within 10 working days after an official request is made. The charter party is to be transferred to the new Owners, and a novation agreement is to be prepared and Charterers are to be compensated USD [redacted] from the old Owners for their expenses in connection with the change of ownership. The vessel is not to be delayed and Charterers schedule is to remain unaffected by the change in ownership. The Owner and Charterer shall provide their fullest co-operation to the new Owner in this regard.

**Clause 43. Supercargo letter of indemnity**

To the Owners of the m/v ..... in consideration of your allowing me to make a voyage from ..... to ..... in the above Vessel, I, .... hereby undertake not to make a claim of any nature whatsoever against you, your servants or agents whether or not such claim be occasioned by the negligence, act or default of you or any of you, nor to claim against any person whom you or any of you may be liable to indemnify by contract or otherwise, and I also agree to relinquish any right which I may acquire to participate in salvage monies. I also agree to indemnify you and such of you against any claim whatever by any person rising out of any act, omission or default by me on the voyage. I also undertake to insure and indemnify you against any charges or expenses which you pay or become liable to pay for hospital, medical, burial or repatriation or maintenance on my account, and further to insure and indemnify you against any claim whatsoever by any person arising out of any act, omission or default by men during the voyage. It is further expressly agreed hereby that throughout this guarantee the word 'Owners' shall include the servants and agents of the owners of the said Vessel, whether afloat or ashore, and any person or persons whom the said Owners may be liable to indemnify against such claims by contract or otherwise.

Date :  
Signature:  
Address :

**Clause 44. Epidemics clause**

[redacted]

*Handwritten initials/signature*

## 2. ORIGINAL

The Vessel not to be ordered to nor bound to enter and place which world health organisation defines dangerous due to fever or epidemics. Any detention in this connection to be for Charterers' account.

### **Clause 45. Taxes/dues**

All taxes and/or dues on the Vessel and/or cargo and on freight arising out of cargoes carried or ports visited (as per Charterers' instructions) under this charter party shall be for Charterers' account.

### **Clause 46. Foul bottom**

If the vessel speed is reduced as a result of the bottom becoming fouled by reason of the vessel being in port/anchorage for an uninterrupted period in excess of 15 days on-hire, then owners are not to be responsible for reduction of speed and increased consumption due to the fouled bottom. Charterers may ask Owners to arrange for a bottom cleaning, for which time and expenses to be shared equally between Charterers and Owners. Should the vessel however be fouled for other reasons than above, having an impact on the consumption measured to be more than what can be reasonably expected, owners to arrange cleaning and such cleaning cost to be covered by owners. Such cleaning to be done in charterers time. Timing of any bottom cleaning operation to be mutually agreed.

### **Clause 47. Charterers Servants**

Any reference in this Charter to crew being considered as Charterers' servants shall be construed as a reference to their being Charterers' servants only as regards liability for the cargo and containers themselves and stevedore damage to the Vessel and, save in respect of personal injury which shall be subject to the provisions thereon in Clause 17, in all other respects shall remain the servants of the Owners who will remain responsible for their actions the same as when trading for their own account.

### **Clause 48. C-TPAT Clause**

Charterers are a validated member of the U.S. C-TPAT (Customs-Trade Partnership Against Terrorism), and will enroll into similar frameworks under development, amongst others currently in the EU based on the WCO (World Customs Organisation) Framework of Standards. It is

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## 2. ORIGINAL

Charterers' obligation to communicate their cargo custodial responsibilities under C-TPAT and other customs-to-business supply chain security partnerships to Owners.

Where relevant to Owners' obligations under this charterparty, and in compliance with applicable laws and regulations, Owners must have processes in place to screen prospective employees and to periodically check current employees, as appropriate.

Owners will periodically be requested to confirm their commitment to Charterers' security expectations. For further information regarding the C-TPAT security commitment, Owners are asked to consult the U.S. Customs and Border Patrol (CBP) website for the appropriate security Criteria at:

[http://www.customs.gov/xp/cgov/import/commercial\\_enforcement/ctp\\_at/security\\_criteria/](http://www.customs.gov/xp/cgov/import/commercial_enforcement/ctp_at/security_criteria/)

### **Clause 49. ISPS/MTSA Clause For Time 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.

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## 2. ORIGINAL

(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.

Where sub-letting is permitted under the terms of this Charter Party, the Charterers shall ensure that the contact details of all sub-charterers are likewise provided to the Owners and the Master.

Furthermore, the Charterers shall ensure that all sub-charter parties they enter into during the period of this Charter Party contain the following provision:

"The Charterers shall provide the Owners with their full style contact details and, where sub-letting is permitted under the terms of the charter party, shall ensure that the contact details of all sub-charterers are likewise provided to the Owners".

(ii) Loss, damages, expense or delay (excluding consequential loss, damages, expense or delay) 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.

(c) Notwithstanding anything else contained in this Charter Party all delay, costs or expenses whatsoever 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. All measures required by the Owners to comply with the Ship Security Plan shall be for the Owners' account.

(d) 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.

### Clause 50. Delivery

Dropping last dock /shipyard pilot ex yard Ulsan, South Korea.



2. ORIGINAL

**Clause 51. Redelivery**

Dropping last outbound sea pilot Colombo / Tanjung Pelepas / Singapore / South Japan / South Korea range or Hong Kong, Yantian, Qingdao, Xingang, Shanghai, Dalian or Hamburg / Algeciras / Gioia Tauro range or United States East Coast, United States Gulf, Caribbean incl. Manzanillo (Panama)/Freeport (Bahamas) in Charterers' option any time day night Sundays or holidays included.

**Clause 52. Quiet Enjoyment**

The Owners shall only be entitled to grant a mortgage or any other encumbrance over the Vessel if at the date of grant of such mortgage or the date of grant of such encumbrance the intended mortgagee or holder of such proposed encumbrance grants an undertaking in favour of the Charterers substantially in the form enclosed in Exhibit 1, such undertaking to be acceptable to the Charterers.

Such undertaking shall be legally enforceable against such mortgagee or holder of such encumbrance and shall provide that such mortgagee or holder of such encumbrance warrants to the Charterers that the Charterers' quiet and peaceful possession, use and enjoyment of the vessel is not and shall not be in any way prejudiced as a consequence of the existence or enforcement of such mortgage or encumbrance, provided that and for as long as the Charterers are not in material breach of its obligations under the time charter.

EXHIBIT 1

QUOTE

[Redacted text]

Re: [ ] dated [ ] and [ ] (the "Time Charter")

We refer to the above mentioned Time Charter between yourselves and [ ] (the "Owner") relating to one newly constructed (1) 2,550 TEU class container carrier presently known as builder's hull number [ ] (the "Vessel").

*Handwritten initials/signature*

## 2. ORIGINAL

[REDACTED]

Under a secured loan facility agreement dated 21 August 2007 (the "Senior Loan Agreement") made between (i) the Owner (as borrower), (ii) the banks listed in schedule 1 to that Senior Loan Agreement (as lenders) (collectively, the "Senior Lenders"), (iii) [REDACTED] (" [REDACTED] ") (as agent for the Senior Lenders) (the "Senior Agent"), (iv) [REDACTED] (as swap provider) (the "Senior Swap Provider") and (v) [REDACTED] (as mandated lead arranger and security agent for the Senior Finance Parties (hereinafter defined)) (the "Senior Mortgagee" and together with the Senior Lenders, the Senior Agent and the Senior Swap Provider, the "Senior Finance Parties") for the finance of the purchase of the Vessel, the Owner will grant a first priority statutory mortgage and deed of covenants collateral thereto (collectively, the "Senior Mortgage") in the Vessel in favour of the Senior Mortgagee as security agent on behalf of the Senior Finance Parties upon the completion and delivery of the Vessel to the Owner on the terms and subject to the conditions set out in the Senior Loan Agreement and the Senior Mortgage.

Under a secured loan facility agreement dated 6 February 2008 made between (i) the Owner (as borrower), (ii) certain banks and financial institutions (as lenders) (collectively, the "Junior Lenders"), (iii) certain banks and financial institutions (as swap banks) (collectively, the "Junior Swap Providers"), (iv) [REDACTED] and [REDACTED] [REDACTED] (as lead arrangers) (collectively, the "Junior Lead Arrangers"), (v) [REDACTED] [REDACTED] [REDACTED] (as co-arrangers) (collectively, the "Junior Co-Arrangers"), (vi) [REDACTED] [REDACTED] [REDACTED] Branch (as bookrunners) (collectively, the "Junior Bookrunners") and (vii) [REDACTED] (as agent and security trustee for the Junior Finance Parties (hereinafter defined)) (in that capacity, the "Junior Mortgagee" and together with the Junior Lenders, the Junior Swap Providers, the Junior Lead Arrangers, the Junior Co-Arrangers and the Junior Bookrunners, the "Junior Finance Parties") (the "Junior Loan Agreement"), the Owner will grant a second priority statutory mortgage and deed of covenants collateral thereto (collectively, the "Junior Mortgage") in the Vessel in favour of the Junior Mortgagee, subject to the Senior Mortgage, as security on behalf of the Junior Finance Parties upon the completion and delivery of the Vessel to

[REDACTED]

[Handwritten initials/signature]



2. ORIGINAL

[REDACTED]

the Owner on the terms and subject to the conditions set out in the Junior Loan Agreement and the Junior Mortgage.

We refer to Clause [ ] of the Time Charter and hereby undertake that we will not prejudice in any way, disturb in any circumstances or interfere with your quiet and peaceful possession, use and enjoyment of the vessel as a consequence of the existence or enforcement of such Senior Mortgage and Junior Mortgage, PROVIDED THAT and for as long as (i) you are not in material breach of your obligations under the Time Charter, including but not limited to the payments of charter hire as stipulated in Clause [ ] of the Time Charter directly to the Owner's account (account number [ ]) held with the Senior Mortgagee, and if you are, we have given written notice to you of such and the nature of such material breach and such material breach is not remedied within ten (10) working days notice thereof and (ii) the Owner has not terminated the letting and hiring of the Vessel under the Time Charter in accordance with its terms.

By counter-signature of this letter, you hereby undertake to give your consent to its content and to a sale of the Vessel by the Senior Mortgagee in exercise of the Senior Mortgagee's right of sale as senior mortgagee should the same arise under the terms of the Senior Mortgage, with the benefit of and subject to the Time Charter to a buyer nominated by the Senior Mortgagee and approved by you in writing in advance of which such buyer shall undertake to you to perform the Time Charter or a novation of the Time Charter on identical terms, such approval not to be unreasonably withheld, it being agreed that the following are amongst but not limited to the factors for which it would be reasonable for you to withhold your acceptance and approval:

(i) you or another company or entity in the [REDACTED] of companies is involved in a dispute with the nominated buyer (whether or not legal proceedings have been commenced) of a nature or seriousness which would mean it is inappropriate for us to enter into a relationship with such party;

(ii) the nominated buyer and/or the group of which it is a member is a commercial competitor of us or of a any other company or entity in the [REDACTED] group of companies;

[REDACTED]

2. ORIGINAL

(iii) it would be illegal under applicable law binding upon companies or entities in the TIMAEUS CARGO LINES for any of them to enter into a relationship with the nominated buyer; or

(iv) In our opinion the nominated buyer is incapable of fully performing its obligations under the Time Charter."

Words and expressions used in this letter shall have the same meanings as in the Time Charter save where the context requires otherwise.

A person who is not a party this letter may not enforce its terms under the Contract (Rights of Third Parties) Act 1999.

This letter shall be legally enforceable against the undersigned and shall be governed by English law, and any dispute relating to it shall be subject to the exclusive jurisdiction of the High Court of Justice in London.

Yours faithfully  
For and on behalf of [ ]  
UNQUOTE

**Clause 53. Double banking clause**

Charterers confirm that the lighterage is both contractual and customary:

a) Contractual

The lighterage is in accordance with all contracts involved such as B/L, C/P etc.

Further, the contract with the party doing the lighterage is on standard terms or on most favourable terms locally.

b) Customary

The lighterage will be carried out in port or other customary place, and it is an established practice in that particular place for ships and cargo of the relevant type.

*Handwritten initials/signature*

## 2. ORIGINAL

Charterers have the right to load and / or discharge, lighten or transship on double-banking basis, or by any other means available at loading and / or discharging port or at anchorages where vessels of similar size customarily accomplish such operations, subject always to Master's satisfaction.

Charterers are to supply at their time and expense any additional equipment or facilities, such as fenders, considered necessary by the Master for such transferral of cargoes. If at any time during such operations, the Master considers it unsafe to continue due to adverse weather conditions, Master may order the other lighter / barge(s) away from his vessel or to remove his own vessel in order to avoid prejudicing the safety of the vessel(s).

Vessel always to remain on-hire during lightening / topping-up operations. Any additional insurance premium, if levied by Owners' Underwriters, to be for Charterers' account. The Charterers shall further indemnify the Owners for any costs, damage, liabilities resulting from such operation.

The vessel shall remain on hire for any time lost including periods for repairs as a result of such operation. Any damages caused by the above operations will be notified to the Charterers as soon as they could be reasonably discovered.

### **Clause 54. ITF Clause**

Vessel to be ITF compliant, or the crew employed under terms and conditions acceptable to an ITF affiliated union, throughout the cp in order to allow unrestricted trading to permitted ports/countries under this cp.

This clause does not cover (and is not intended to cover) cabotage or similar trades whereby a specific nationality of crew is required or where a specific wage scale is required.

### **Clause 55. Change of Flag**

Unless the vessel is sailing under EU flag at the time of delivery, Owners to reflag the vessel to EU flag (except Gibraltar, Isle of Man and Cyprus) for Charterers account, at cost against invoices, if requested by Charterers within 30 days of such request. Such reflagging request is subject to the Owners' financiers permission,

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which not to be unreasonable withheld. Opting EU flag requires the remaining period under the charter party to be a minimum of 6 months. While the vessel is sailing under EU flag after reflagging at Charterers' request, Charterers to pay at cost according to invoices. Any change in crew requirements for new flag state rules also to be paid for by Charterers. Charterers can opt to reflag the vessel back to non-EU flag and cease the lumpsum with a 30-day notice.

### **Clause 56. Exceptions**

As between the Owners and the Charterers, responsibility for any loss, damage, delay or failure of performance under this Charter Party not dealt with in Clauses 16 and 17 shall be subject to the following exceptions:

Act of God, act of war, act of terrorism, civil commotions, strikes and lockouts beyond the reasonable control of the Owners or Charterers as the case may be, restraint of princes and rulers, quarantine restrictions and saving or attempting to save life or property at sea.

In addition, any responsibility of the Owners not dealt with in Clause 17 shall be subject to the following exceptions:

- (a) Any act, neglect or default of the Master, pilots or other servants of the Owners in the navigation or management of the Vessel or
- (b) fire not due to the fault or privity of the Owners or their manager or
- (c) any latent defect in the Vessel's hull, equipment or machinery not discoverable by due diligence.

The above provisions shall in no way affect the provisions as to off-hire in this Charter Party.

### **Clause 57. Period**

96 mos +/-120 days option 12 months option 12 months option 12 months +/- 90 days on whichever period finally performed. Exact period in charterers option.

1st option to be declared latest cob Copenhagen 89 months after delivery.

1st option, if declared, to count as of 96 months after delivery at 00:01 hrs UTC.

2nd option to be declared latest cob Copenhagen 101 months after delivery.

## 2. ORIGINAL

2nd option, if declared, to count as of 108 months after delivery at 00:01 hrs UTC.

3rd option to be declared latest cob Copenhagen 113 months after delivery.

3rd option, if declared, to count as of 120 months after delivery at 00:01 hrs UTC.

### **Clause 58. Hire**

USD [REDACTED] per day or pro rata including overtime for the firm period.

USD [REDACTED] per day or pro rata including overtime for the first optional period.

USD [REDACTED] per day or pro rata including overtime for the second optional period.

USD [REDACTED] per day or pro rata including overtime for the third optional period.

For periods of one month, each hire period following the calendar month payable to owners on the 15th of the same month. Upon delivery Charterers will pay hire until the end of the calendar month + bunkers on delivery.

### **Clause 59. Trading**

World Wide trading always within INL. always via safe port(s)/berth(s) / always afloat excluding Iceland, Greenland, Faroe Islands, Great Lakes, Cuba (unless US sanctions are lifted), Turkish occupied part of Cyprus, Turkey (if vessel flying Cyprus flag), Iraq, Russian pacific ports, Somalia, Eritrea, North Korea, Albania, war/war risked countries and countries which result in blacklisting / sanctions by United Nations /EU.

### **Clause 60. Name and Funnel Mark**

Vessel to deliver with a name of Charterers choice and with Charterers' funnel mark.

Upon redelivery, the Owners to re-name the vessel and to remove the vessels funnel mark in Owners' time and at Owners' expense.

### **Clause 61 Carriage of rare and valuable cargo**

Notwithstanding the owners obligations under this charter party for the safe carriage of the cargo on board , should the Charterers wish to

[REDACTED]

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load specie, bullion, precious metals or rare stones, plate, works of art or other objects of a rare or precious nature, bank notes or other forms of currency, bonds or other negotiable instruments, the Charterers undertake that the extent of the Owner liability shall not exceed that for which they would be liable under the carriage of non precious cargo.

Clause 62

[Redacted]

To: [Redacted]

Ref: [Redacted] s ....., ....., ....., etc Charter Parties dated:

It is hereby acknowledged that in consideration of the Charterers accepting the owning company of the above-mentioned Vessels as [Redacted] we [Redacted] of (...address...), being a wholly owned subsidiary of [Redacted] (...address...), hereby jointly with Boxlog of (...address...) guarantee the full proper and correct performance of [Redacted] their obligations as Owners, as defined in the above-mentioned Charter Parties.

This guarantee is deemed to be in force from the time of delivery of the first vessel until six months after the delivery date of the final vessel, unless varied or cancelled by mutual agreement.

This guarantee is to be governed and construed in accordance with English law and under the exclusive jurisdiction of the courts of England.

Signed: .....

(The wording of the Boxlog guarantee to be adapted logically)

Clause 63 Liquidated Damages for Delay

If the Vessel is delayed for more than 30 days after the originally agreed cancelling date, after having allowed for/added permissible delays as defined in the shipbuilding contract Article VIII (1) as attached, liquidated damages shall be payable as of [Redacted]

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## 2. ORIGINAL

commencement of the 31st day after the originally agreed cancelling date, having allowed for/added permissible delays as mentioned above, until the time/date of actual delivery, or cancelling as follows but only upto a maximum of 145 days after the originally agreed cancelling date and having allowed for/added permissible delays:

1st day of delay to 31st day - zero

31st to 145th day of delay – USD [REDACTED] per day/pro rata

(Days or number of days are as defined above – including allowing for/adding permissible delays)

It is understood that in the event of delays, but not cancellation of the Charter Party, the amount of liquidated damages to be paid is as above and without a maximum amount, except as defined and stipulated herein.

It is expressly agreed that no liquidated damages shall be paid for any delay caused by Force Majeure incidents or occurrences, as defined in the shipbuilding contract Article VIII (1) as attached.

Such payment to be made as liquidated damages for delay and not penalty.

If the total delay exceeds the 145 days (after having allowed for/added permissible delays) the terms of clause 1 shall apply. In any case, the liquidated damages payable by Owners to Charterers shall not apply for days exceeding the total of 145 days. If either of the parties cancel the Charter Party, Owners are to pay a maximum of USD [REDACTED] Charterers as liquidated damages for delay.

Payment of liquidated damages, if any, to be made when the total has been finally calculated and agreed.

### **Clause 64 Successful Delivery**

This agreement is subject to successful delivery of the vessel from the shipyard. This "subject" does not apply if Owners fail to make a lawfully due instalment payment to the shipyard or Owners otherwise unlawfully frustrate or terminate the shipbuilding contract.

*[Handwritten signature]*



## 2. ORIGINAL

If the contract is cancelled due to a force majeure incident (as defined in the shipbuilding contract Article VIII - part 1 as attached) or if the Owners cancel the vessel(s)/contract(s) due to non-contractual fulfilment by the shipyard - such as speed deficiency over 8/10th of a knot, consumption in excess of 9% of the contractual figure, deadweight being in excess of 1026 mt less than the contractual figure or nominal container capacity being more than 75 teu less than the original contractual figure - then this charter party is to be considered null and void and neither Owners nor Charterers to have any claim against the other, other than liquidated damages due and payable as per Clause 63.





ARTICLE VIII : DELAYS AND EXTENSIONS OF TIME (FORCE MAJEURE)

1. CAUSES OF PERMISSIBLE DELAY

The term permissible delay shall mean causes which are beyond the control of the BUILDER and or subcontractor which were not existing or known to the BUILDER at the date of this CONTRACT or the effect of which could not have been avoided or reduced by the exercise of due diligence by the BUILDER and which actually delay the construction schedule of the VESSEL by reason of the following events (but so that time lost due to the coincidence of two or more events shall not be counted more than once); namely war, acts of state or government, blockade, revolution, insurrections, mobilization, civil commotion, riots, strikes, sabotage, lockouts, Acts of God or the public enemy, plague or other epidemics, quarantines, shortage or prolonged failure of electric current, freight embargoes, or defects in major forgings or castings, or delays or defects in the BUYER's supplies as stipulated in Article XII, if any, defects in materials, machinery or equipment which could not have been detected by the BUILDER using reasonable care or earthquakes, tidal waves, typhoons, hurricanes, prolonged or unusually severe weather conditions or destruction of the premises or works of the BUILDER or its sub-contractors, or of the VESSEL, or any part thereof, by fire, landslides, flood, lightning, explosion, or delays in the BUILDER's other commitments resulting from any such causes as described in this Article which in turn actually delay the construction of the VESSEL or the BUILDER's performance under the CONTRACT, or delays caused by the CLASSIFICATION SOCIETY or the BUYER's faulty action or omission, or other causes beyond the control or reasonable expectation of the BUILDER, or its sub-contractors, as the case may be, or for any other causes which, under the terms of this CONTRACT, authorise and permit extension of the time for delivery of the VESSEL. Then, in the event of delays due to the happening of permissible delays, the DELIVERY DATE of the VESSEL under this CONTRACT shall be extended for a period of time which shall not exceed the total accumulated time of all such permissible delays.

Permissible delays are to be distinguished from non-permissible unauthorised delays on account of which the CONTRACT PRICE of the VESSEL is subject to adjustment as provided in Article III hereof.

2. NOTICE OF DELAYS

As soon as practicably possible after commencement of any delay and in any event within two (2) weeks of commencement of any delay on account of which the BUILDER claims that it is entitled under this CONTRACT to an extension of the DELIVERY DATE of the VESSEL, excluding delays due to arbitration, the BUILDER shall advise the BUYER in writing or facsimile of the date such delay commenced, the reasons thereof and, if possible, its estimated duration of the probable delay in the delivery of the VESSEL, and shall supply the BUYER if reasonably available with evidence to justify the delay claimed. Within one (1) week after such delay ends, the BUILDER shall likewise advise the BUYER in writing or facsimile of the date that such delay ended, and also, shall specify the period of time by which the BUILDER claims the DELIVERY DATE should be extended by reason of such delay.

If the BUILDER fails to notify the BUYER of its claim for an extension to the Delivery Date within two (2) weeks of commencement of any delay, then the delay shall only be deemed to have commenced when the BUYER receives notice from the BUILDER of any delay. Failure of the BUYER to object to the BUILDER's

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notification of any claim for extension of the date for delivery of the VESSEL within one (1) week after receipt by the BUYER of such notification shall be deemed to be a waiver by the BUYER of its right to object to such extension until such time as a notice is served on the BUILDER.

### 3. RIGHT TO CANCEL FOR EXCESSIVE DELAY

If the total accumulated time of all permissible and non-permissible delays, excluding delays due to (i) arbitration under Article XIII, (ii) the BUYER's defaults under Article XI, (iii) modifications and changes under Article V or (iv) delays or defects in the BUYER's supplies as stipulated in Article XII, aggregates two hundred and ten (210) days or more, then, the BUYER may, at any time thereafter, cancel this CONTRACT by giving a written notice of cancellation to the BUILDER. Such cancellation shall be effective as of the date the notice thereof is received by the BUILDER.

If the BUYER has not served the notice of cancellation as provided in the above or Article III.1. hereof, the BUILDER may, at any time after expiration of the accumulated time of the delay in delivery, either two hundred and ten (210) days in case of the delay in this Paragraph or one hundred and eighty (180) days in case of the delay in Article III.1, notify the BUYER of the future date upon which the BUILDER estimates the VESSEL will be ready for delivery and demand in writing, e-mail or facsimile that the BUYER make an election either to cancel this CONTRACT or to consent to the delivery of the VESSEL at such future date, in which case the BUYER shall, within ten (10) days after receipt of such demand, make and notify the BUILDER of such election. If the BUYER elects to consent to the delivery of the VESSEL at such future date (or other future date as the parties may agree):

- (a) Such future date shall become the contractual delivery date for the purposes of this CONTRACT and shall be subject to extension by reason of permissible delays as herein provided, and
- (b) If the VESSEL is not delivered by such revised contractual delivery date (as extended by reason of permissible delays), the BUYER shall have the same right of cancellation upon the same terms as provided in the above and Article III.1.

If the BUYER shall not make an election within ten (10) days as provided hereinabove, the BUYER shall be deemed to have accepted such extension of the DELIVERY DATE to the future delivery date indicated by the BUILDER.

(End of Article)

## 2. ORIGINAL

### 6. REDUCTION AND CANCELLATION

It is expressly understood and agreed by the parties hereto that in any case, if the BUYER cancels this CONTRACT under this Article, the BUYER shall not be entitled to any liquidated damages.

Reductions permitted hereunder are independent of each other and in the event of there being contingencies which necessitate the application of two or more paragraphs, there shall be separate reductions in the CONTRACT PRICE in respect of each contingency.

(End of Article)

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*[Handwritten initials]*

2. ORIGINAL

**Part III  
To  
Charter Party Dated [REDACTED]**

**MV " [REDACTED] - To be renamed " [REDACTED]  
- [REDACTED]**

**Geared cellular container vessel - ice class E3  
Type 'HHI 2500' design**

Yard / Flag / Class

Engine / bridge aft

Flag:

Hong Kong

Management:

Ship Management Services (PTE) LTD.(NSSPL)

Builder:

Co. Limited, Korea

Delivery date:

15 March 2010 - 15 June 2010

Class:

GL +100 A5 E3 BWM SOLAS II-2 REG 19 + MC AUT IW ERS

Ice class:

E3

IMO number:

Measurement

International:

GT  
Appr. 26850

NT

Appr. 12750

Suez:

To be advised

Panama:

To be advised

To be advised

Deadweight:

About 33.460 MT DWAT on scantling (or design) draft of abt. 11.50m summer salt water

Dimensions

LOA: 210.00m

LBP: 199.00m

BM: 30.20m

Depth moulded: 16.70m

Scantling draft (mld) 11.50m

Design draft: 11.50m

Communication

Call sign: To be advised

Phone: To be advised

Fax: To be advised

Telex: To be advised

Email: To be advised

Imo-No.: To be advised

All intakes given below are based on IMO rules:

## 2. ORIGINAL

### Intake 20' units

2556 units 20'x8'x8'6" ISO standard

Stowage:

Hold: 944 units

Deck: 1612 units

Intake high cube (9'6" high) 40' containers 2 tiers high cube containers can be stowed in any hold (except hold number 1 fore part)

Vessel is generally designed to load ISO containers 8' wide, 8'6" height and 20'/40' length (cell guides set to 40').

2 x 20' containers can be stowed each 40' cell in holds upto 4 tiers high from the tanktop, then at least 1 tier of 40' container must be stowed on top.

45' containers can be stowed on deck as from the second tier (with 40' container below).

Containers in holds to be stowed in fixed cell guide system maximum 10 containers athwartships and maximum 6 tiers high.

Containers on deck stowed maximum 12 rows athwartships and maximum 6 tiers high.

Lashing by twistlocks and lashing rods. Type of twistlocks: to be advised, but intention is for semi-automatic twistlocks and mid-locks.

Cell guides in holds are set for 40' containers (or 2 married 20' containers).

Vessel is fully OSHA fitted.

---

### Stability example

Intake based on homogenous weights, no empty containers loaded, 20' containers 8' 6" high and a centre of gravity 45% of its height:

14mt = 1834 TEU

all figures are given subject to vessel overall stability, trim, visibility, canal regulations, permissible lashing gear break loads, Class approved lashing booklet, bunkers on board and maximum permissible weights.

---

### Reefer containers

The vessel fitted with 600 reefer sockets (for FEU) whereof 350 on deck/hatch covers and 250 in holds.

The vessel is fitted with a reefer monitoring system - suitable for use with containers equipped with a modern modem system.

Vessels power supply is sufficient to power all reefer sockets based on a power requirement of 7kw per 40' container.

Charterers and Owners jointly to explore the possibility to load an additional tier of reefers under deck with due consideration to available power and ventilation.



## 2. ORIGINAL

High cube and ventilation – two tiers of HC containers to be stowed at any tier in holds except in hold 1F. A high cube plan is not available yet. Mechanical cargo hold ventilation: supply: 70m<sup>3</sup>/min per FEU reefer container.  
Exhaust: nil.

### Container stackweights

Hatch covers:  
20' – 60 mt  
40' – 100 mt

Holds:  
20' – upto 25 mt/TEU  
40' – upto 30 mt/FEU

For detailed and definitive maximum loadings and limitations, the class approved Cargo Securing Manual to be the ruling document.

Holds are almost box shaped within the limits of vessel's hull shape.

Vessel is equipped with fire/smoke detection system in holds and a fixed high-pressure co2 fire extinguishing system and seawater sprays.

5 Holds

10 Hatches (non-sequential watertight pontoon hatch covers)

-----  
No.1 fore: 12,60m x 15,36/10,32m  
No.1 aft: 12,60m x 20,40/15,36m  
No.2 fore: 12,60m x 25,72/20,40m  
No. 2 aft: 12,60m x 25,72m  
No. 3 fore: 12,60m x 25,72m  
No. 3 aft: 12,60m x 25,72m  
No. 4 fore: 12,60m x 25,72m  
No. 4 aft: 12,60m x 25,72m  
No. 5 fore: 12,60m x 25,72m  
No. 5 aft: 12,60m x 25,72m

Hatch no.1 fore has two panels, all other hatches have 3 panels each. Maximum panel weight 33mt.

Mechanical ventilation in all holds.

### Dangerous cargoes (acc. SOLAS II-2 REG.19)

Cargo holds are suitable for carriage of dangerous goods of classes 1.4S, 2, 3, 4, 5.1, 6.1, 8 and 9 of Chapter II-2 Reg. 19 of SOLAS amendment except hydrogen, hydrogen mixture, acetylene, ethyl nitrite, ethyl nitrate and carbon disulphide.

Simultaneous loading of reefer containers and dangerous cargo in holds is not permitted.

All dangerous cargo to be loaded in conformity with vessels Document of

HP CC  
Crew

## 2. ORIGINAL

Compliance and subject to exclusions mentioned in this Charter Party.

### Cranes

4 electro-hydraulic single jib cranes arranged midships.  
Each crane capacity 40mt swl – working radius, minimum about 2.8m/maximum about 29,5m

### Speed / consumption (to be reconfirmed after seatrials)

Under smooth sea/weather conditions not exceeding Beaufort force 3 and/or Douglas sea state 3, on even keel, at 90% MCR, 15% sea margin and at design draft:

Service speed: about 21.50 knots on about 82,00 mt IFO 700 CST.

Speed and/or consumption be adjusted depending on the load required for reefer containers or hold ventilation.

### MDO consumption:

Vessel's auxiliary engines are designed to operate on heavy fuel oil but MDO may be used at sea in case of low load, emergency and/or navigation with reduced speed and/or in restricted areas like approaches, shallow waters and when manoeuvring in ports/rivers/channels/canals. Use of MDO to be at chief engineer's sole discretion.

In winter conditions vessel may use additional power/MDO for running heating systems.

### HFO / MDO Quality standards

The fuel oil supplied to be accordance with:

ISO Fuel Standard 8217: 2005/(e) Type RMK700 (700 CST) (or any subsequent amendment/ revision thereto)

The MDO supplied to be accordance with.

ISO Fuel Standard 8217: 2005/(e) Type DMB (or any subsequent amendment/ revision thereto)

Charterers to provide sufficient quantity of MDO during seaspasages for operating auxiliaries/generators in case of emergency and for manoeuvring.

Vessel will be enrolled in a fuel testing program. Charterers to contribute as per Clause 33.

The sulphur content of the fuel to be max 1.5% (or other applicable limits) when the vessel is trading in designated SECA areas (or other areas of control) and such sulphur limit is in force.

Fuel always to correspond to the requirements of MARPOL Annex VI and all European Union/US and local regulations in force.

### Tank Capacities (100% capacity):

HFO (incl. service/settling tanks):	4.160,00	cbm
MDO (incl. service tank):	160,00	cbm



## 2. ORIGINAL

Water Ballast (incl. aft peak tank): 9.400,00 cbm  
Fresh water: 260,00 cbm

Endurance: abt 24.000 nm

Vessel is equipped with a ballast water management system.

### Ice trading and equipment

Vessel is ice classed to Germanischer Lloyd ice class E3.

Vessel is equipped with steam hose connections on deck for rapid de-icing of container equipment on deck. (Vessels machinery is burning additional MDO if boiler is used to supply steam for this purpose). Steam hoses are not on board.

### Machinery and operational equipment

Main engine: 1 x [redacted] 7RTA72U-B  
Nominal rating (MCR) 21.560 kw x 99 rpm  
NCR 19.404 kw x 95.6 rpm

Auxiliary engines: 4 x 1600 kW /450V  
1 x Emergency of 200 kW /450V

Bowthruster: 1000 kw controllable pitch propeller type

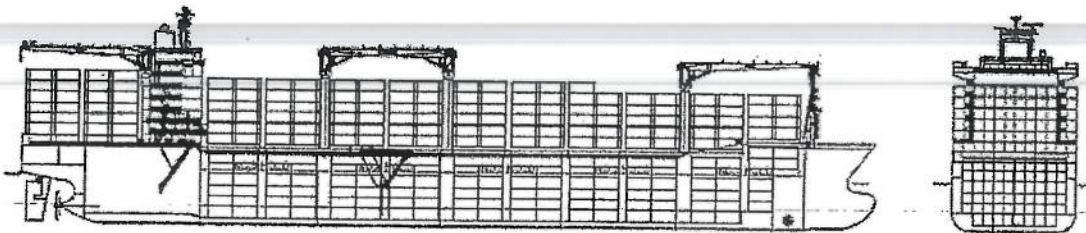
Propellor: 1 fixed pitch propellor  
Rudder: semi-balanced streamlined type

Fresh water generator: Production upto about 25mt per day  
Incinerator: For burning of sludge oil and solid wastes (if permitted by local/international rules)

Main and auxiliary engines comply with MARPOL 73/78 Annex VI Regulation 13 (Mandatory code for NoX limits).

Fitted with modern nautical aids and loading computer (Seacos type).  
Fitted with automatic anti-heeling system.

All details about. (If necessary the speed/consumption figures shall be adjusted in line with re-confirmed figures of "[redacted]" - the first vessel of this series).  
(11-06-2007)



*Handwritten signature/initials*



## 2. ORIGINAL

### Charterers technical questions:

- 1 pls adv type of twistlocks  
Semi-auto, midlocks, and conventional TL at bottom. In the holds auto stacking cones are used.
- 2 pls specify intake at 14 ts/teu homogenous load with g.m. of 60 cm. 1834 TEU
3. a) Please advise LATEST date approved by class for class renewal during drydockig. Class maintenance certificates will be provided at the date of delivery.  
b) Please advise earliest possible date for class renewal during drydocking. TBA: 5 years after delivery from the shipyard (please also see cp)
- 4 pls advise max teu (8' 6") intake, meeting IMO visibility rules, and with max number of tiers on deck as per lashing manual. 2592 TEU at even keel (2 top tiers in hold to be FEU).
- 5 pls advise 45ft High Cube intake. 320 x 45ft High Cube
- 6 pls advise vsl's max bunker receiving capacity in mt/hour: 500m3/h
- 7(a) Lashing:  
vsl to be fully fitted w/lashing material for a full load of contrs up to vsl's max nominal capacity incl but not limited to high cubes. Confirmed
- 7(b) OSHA (Occupational Safety and Health Administration):  
Vsl including lashing material to fully comply with OSHA 2232 and all relevant revisions thereof and amendments thereto throughout the time charter period. Requirements include but is not restricted to a full supply of semi-automatic twistlocks for on deck stowage, and automatic stacking cones (hanging stackers) for under deck stowage. Vessel complies with OSHA 1918.85
- 7(c) Automatic twistlocks:  
Owners to confirm the vessel is not and will not be equipped with fully automatic twistlocks whilst the vessel is on charter to Charterers. Confirmed.
- 8 reefers:
  - a) pls adv reefer plug type (cee-norm): Wiska Varitain One Touch Eco
  - b) pls adv earth pin pos: 3 o'clock
  - c) pls adv volt/hz/amp: 440V / 50-60Hz / 32A
  - d) pls advise max number of 40ft High Cube reefers which can be loaded without the use of extension cables/pig tails. This number NOT to include:
    - containers loaded in 3rd tier or 2nd tier outer row each side unless vessel is equipped with lashing bridges for service of containers in 2nd and 3rd tier
    - containers in first bay570. There are no lashing bridges.
  - e) pls advise no. of reefer plugs under deck: 250
  - f) pls advise max number of 40ft High Cube reefers accomodable under deck without the use of extension cables/pig tails. With a reefer cable of 20m: 250
  - g) pls confirm that reefer sockets comply with iso1496-2: Confirmed
  - h) pls confirm that reefer sockets are protected by a fuse or circuit breaker with a rating of not less than 30 amps. Confirmed



i) pls confirm that reefers of all sizes incl. 40ft high cube reefers can be monitored and repaired in all reefer positions - including, but not confined to change of reefer compressors of upto 150 kilo and dimensions lwh of 350 mm X 700 mm X 610 mm: Confirmed but always subject to weather and safety conditions. There are no lashing/maintenance bridges and hence service in the third layer will not always be possible. Do charterers have suggestions on how to repair and monitor in the third layer on deck. There is a DAEYANG reefer monitoring system on board. Are charterers reefers compatible with this system?

- j) total power (kw) available for reefer plugs at sea. 4200kw
- k) total power (kw) available for reefer plugs during port/cargo operation. (For geared vessels when own cranes are used, for gearless vessels when shore cranes are used). 4200kw
- l) please confirm ventilation available under deck per reefer position and per 40ft high cube reefer expressed in cbm/hr
  - per reefer : 4200 cbm/hr
  - per 40ft hc reefer: 4200 cbm/hr

9 owners to confirm that vsI and crew is able to provide the proper service and maintenance, on all msl reefer containers and equipment. required tools for servicing units, shall be available onboard. this includes vaccum pump, service manifolds and wrench for service valve.

Yes owners' crew can carry out proper reefer service and maintenance. Are tools to repair MSL reefers delivered by MSL?

10 Ism: pls confirm Expiry Date of ISM certification. TBA on delivery

11 pls advise type and number of spreaders on board. None are on board.

12 pls advise vsI's speed/consumption at min MCR and at 40 pct MCR at design draft. 17,0 knots @ FOC 39,1 MT/D HFO

13 For vessels where Turkey is not mentioned in the trading exclusions and for vessels not flying Cyprus flag.

Pls confirm that no certificates onboard are issued in Cyprus or have references to owners, technical managers etc being based in Cyprus. Confirmed

14 Fuel testing. Pls advise if vessel is signed up with independent fuel testing company, affirmativly which one. Ship will be enrolled in the VISWA lab fuel testing program.

15 Pls advise speed/consumption basis 85 pct MCR and 15 pct sea margin both at design draft and scantling draft.

21,1 knots @ 81,6 MT/D HFO

16 Please advise speed/consumption in the below table with the design speed basis 90 pct MCR and 15 pct sea margin:

	Design Draft	Scantling Draft
- design speed minus 1 knt:	xx.x knt/xx.x mt	xx.x knt/xx.x m
- design speed minus 2 knt:	xx.x knt/xx.x mt	xx.x knt/xx.x m
- design speed minus 3 knt:	xx.x knt/xx.x mt	xx.x knt/xx.x m
- design speed minus 4 knt:	xx.x knt/xx.x mt	xx.x knt/xx.x m
- design speed minus 5 knt:	xx.x knt/xx.x mt	xx.x knt/xx.x m

Scantling draft = Design draft = 11,5m

90% MCR: 21,5 knots @ 86,6 MT/D HFO

About 20,2 knots	70,4 MT/D
About 19,2 knots	58,9 MT/D
About 18,2 knots	48,2 MT/D

About 17,2 knots 40,4 MT/D  
About 16,2 knots 33,4 MT/D

2. ORIGINAL

Consumption figures are including the +5% tolerance as per ship building contract.

17 Vessel e-mail

Owners to confirm vessel has E-mail system of min 250 KB, enabling charterers to send attachments such as stowage files to the vessel. Such E-mail system not to require charterers setting up an account with owners E-mail provider. Confirmed

18 ISO-14001 certification.

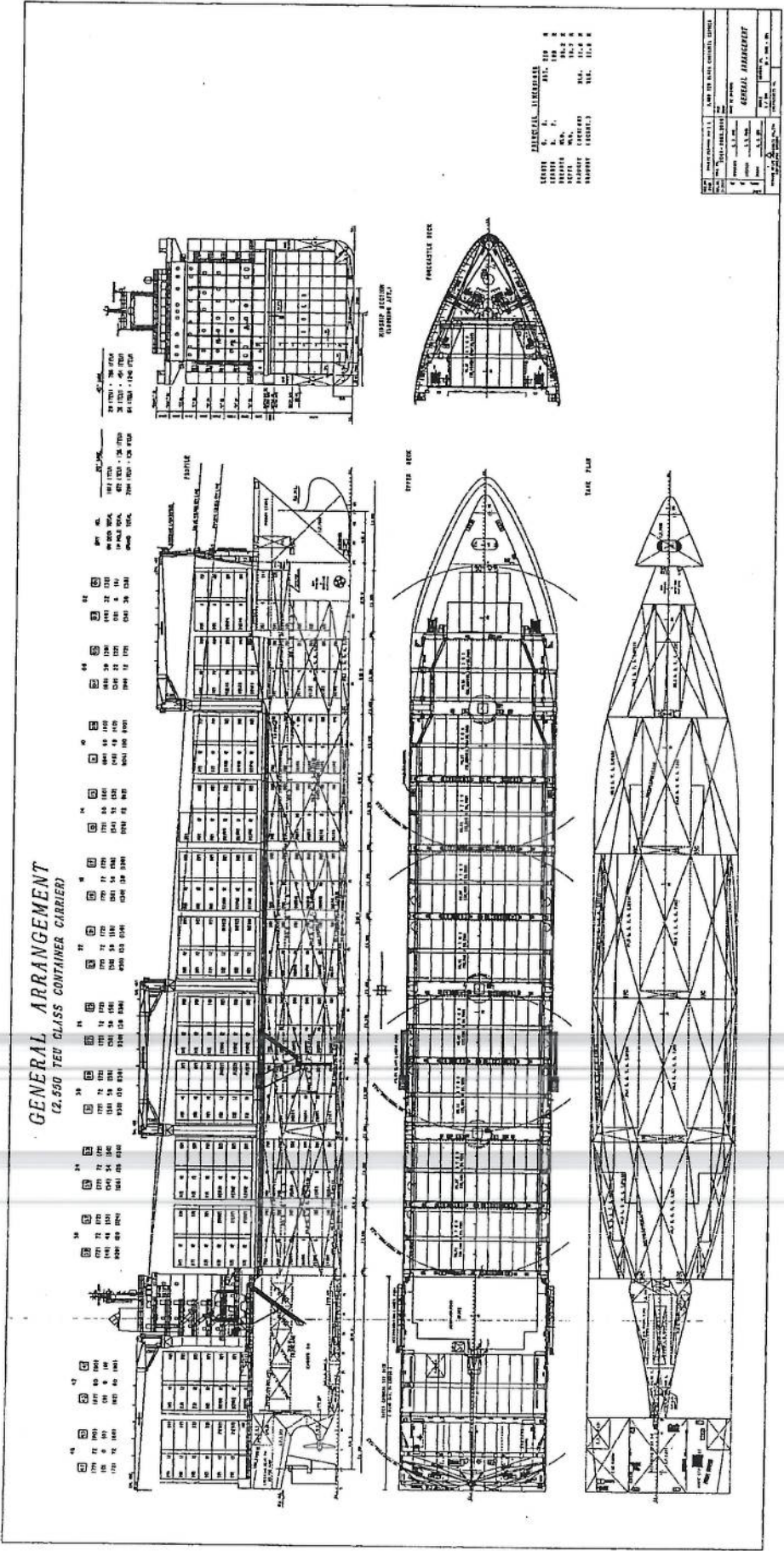
- are owners certified (if yes, then from when). Owners not but technical managers are certified.

- If owners are not certified yet, do they intend to be certified, have they started the process and when do they expect to be certified? Owners are still investigating if certification makes sense. Owners are not technical managers nor crew managers.

- If owners are not and don't intend to be certified, - please explain why not. See the above answer.

19 charterers questionnaire and above technical questions will be included as a part of the Charter Party.

aff U  
cur cew



*Handwritten initials/signature*

# 2. ORIGINAL

[Additional Container Loading Table at Bay No.34,38 (7 tier) ]

		Hatch			
		No.	Bay No.	Additional	
		Container			
		Remark			
		20ft	40ft	20ft	40ft
5F	33	34	-	-	Due to the crane boom, No.33 bay cannot be loaded additionally.
		35		12	
5A	37	38		12	12
		39		12	
*Total : 20ft Container - 36 EA (Bay No. 35, 37, 39)					
40ft Container - 12 EA (Bay No.38)					

4. Bill of Lading

		<b>BILL OF LADING</b>	SCAC
			B/L No. <b>BL311515</b>
Shipper <b>Donnelly Banana SA</b> RUC 0990123071001 AV 25 DE JUNIO 620 ENTRE SANTA ROSA Y VELA MACHALA EL ORO ECUADOR		Booking No. <b>311515</b>	
		Export references	Svc Contract
Consignee <b>LIMITED COMPANY " Hercules -Logistic</b> <b>MOSCOW REGION</b> <b>ORO-FOMINSKY DISTRICT,</b> <b>VILLAGE SOF'INO KIEVSKOE HIGHWAY,</b> <b>54 KM BUILDING 31, RUSSIA</b>		This contract is subject to the terms and conditions, including the law & jurisdiction clause and limitation of liability & declared value clauses, of the current TCL Line Bill of Lading (available from the carrier, its agents and at www.TCLline.com), which are applicable with logical amendments (mutatis mutandis). To the extent necessary to enable the Consignee to sue and to be sued under this contract, the Shipper on entering into this contract does so on his own behalf and as agent for and on behalf of the Consignee and warrants that he has the authority to do so. The shipper shall be entitled to change the Consignee at any time before delivery of the goods provided he gives the Carrier reasonable notice in writing.	
Notify Party <b>"INTENSIVNIK</b> <b>RUSSIA 198,</b> <b>PR.STACHEK ,</b> <b>BUSINESS CENTRE IMPERIAL , OFFICE 239</b>		Delivery will be made to the Consignee or his authorised agent on production of reasonable proof of identity (and, in the case of an agent, reasonable proof of authority) without production of this waybill. The Carrier shall be under no liability whatsoever for misdelivery unless caused by the Carrier's negligence.	
		Onward inland routing (Not part of Carriage as defined in clause 1. For account and risk of Merchant)	
Vessel <b>J Momoa</b>	Voyage <b>1708</b>	Place of Receipt. Applicable only when document used as Multimodal Waybill	
Port of Loading <b>Guayaquil</b>	Port of Discharge <b>St Petersburg</b>	Place of Delivery. Applicable only when document used as Multimodal Waybill	

**PARTICULARS FURNISHED BY SHIPPER**

Kind of Packages; Description of goods; Marks and Numbers; Container No./Seal No.	Weight	Measurement
17 containers said to contain 20655 BOXES ARTES SPC  BOXES OF FRESH BANANAS GREEN ARTES SPC CAVENDISH FIRST CLASS ECUADORIAN TYPE 22XU GROSS WEIGHT 20.60 KGS PER BOX "SHIPPER PROVIDED HS6 CODE: 080390 VENTILATION 30 CBM DAE 028-2017-40-00412367  TONU4515268 ML-EC2010335 40 REEF 9'6 1215 BOXES ARTES SPC 25029.000 KGS 40.0000 CBM Temperature: 13.6 C Shipper Seal : 093501 TWCU6859663 ML-EC2011407 40 REEF 9'6 1215 BOXES ARTES SPC 25029.000 KGS 40.0000 CBM Temperature: 13.6 C Shipper Seal : 081194 TMAU1003755 ML-EC2010334 40 REEF 9'6 1215 BOXES ARTES SPC 25029.000 KGS	425493.000 KGS	680.0000 CBM

Freight & Charges	Rate	Unit	Currency	Prepaid	Collect
Carrier's Receipt. Total number of containers or packages received by Carrier. <b>17 containers</b>	Place of Issue of Waybill <b>Guayaquil</b>	Shipped, as far as ascertained by reasonable means of checking, in apparent good order and condition unless otherwise stated herein the total number or quantity of Containers or other packages or units indicated in the box opposite entitled "Carrier's Receipt"			
Shipped on Board Date ( Local Time ) <b>2018-07-03</b>	Date Issue of Waybill <b>2018-07-18</b>				
Declared Value Charges (see clause 7.3 of the TCL Line Bill of Lading) for Declared Value of US\$					
This transport document has one or more numbered pages			<b>TCL del Ecuador CA</b> As Agent(s) for the Carrier		

40.0000 CBM  
 Temperature: 13.6 C  
 Shipper Seal : 270025  
 TNBU0408491 ML-EC2011405 40 REEF 9'6 1215 BOXES ARTES SPC 25029.000 KGS  
 40.0000 CBM  
 Temperature: 13.6 C  
 Shipper Seal : 367332  
 TNBU3222598 ML-EC2012439 40 REEF 9'6 1215 BOXES ARTES SPC 25029.000 KGS  
 40.0000 CBM  
 Temperature: 13.6 C  
 Shipper Seal : 384623  
 TWCU5237177 ML-EC2010342 40 REEF 9'6 1215 BOXES ARTES SPC 25029.000 KGS  
 40.0000 CBM  
 Temperature: 13.6 C  
 Shipper Seal : 381203  
 TWCU6744643 ML-EC2010347 40 REEF 9'6 1215 BOXES ARTES SPC 25029.000 KGS  
 40.0000 CBM  
 Temperature: 13.6 C  
 Shipper Seal : 053156  
 TWCU6830612 ML-EC2010328 40 REEF 9'6 1215 BOXES ARTES SPC 25029.000 KGS  
 40.0000 CBM  
 Temperature: 13.6 C  
 Shipper Seal : 370537  
 TNBU3040335 ML-EC2011406 40 REEF 9'6 1215 BOXES ARTES SPC 25029.000 KGS  
 40.0000 CBM  
 Temperature: 13.6 C  
 Shipper Seal : 081761  
 TNBU3577828 ML-EC2010336 40 REEF 9'6 1215 BOXES ARTES SPC 25029.000 KGS  
 40.0000 CBM  
 Temperature: 13.6 C  
 Shipper Seal : 094938  
 TWCU6731522 ML-EC2010330 40 REEF 9'6 1215 BOXES ARTES SPC 25029.000 KGS  
 40.0000 CBM  
 Temperature: 13.6 C  
 Shipper Seal : 369173  
 TWCU6723110 ML-EC2010348 40 REEF 9'6 1215 BOXES ARTES SPC 25029.000 KGS  
 40.0000 CBM  
 Temperature: 13.6 C  
 Shipper Seal : 053157  
 TWCU5321863 ML-EC2012437 40 REEF 9'6 1215 BOXES ARTES SPC 25029.000 KGS

Freight & Charges	Rate	Unit	Currency	Prepaid	Collect

40.0000 CBM  
 Temperature: 13.6 C  
 Shipper Seal : 367914  
 TONU4807948 ML-EC2010337 40 REEF 9'6 1215 BOXES ARTES SPC 25029.000 KGS  
 40.0000 CBM  
 Temperature: 13.6 C  
 Shipper Seal : 369172  
 TNBU0102794 ML-EC2011404 40 REEF 9'6 1215 BOXES ARTES SPC 25029.000 KGS  
 40.0000 CBM  
 Temperature: 13.6 C  
 Shipper Seal : 089942  
 TNBU3098430 ML-EC2010350 40 REEF 9'6 1215 BOXES ARTES SPC 25029.000 KGS  
 40.0000 CBM  
 Temperature: 13.6 C  
 Shipper Seal : 089941  
 TWCU5217910 ML-EC2010339 40 REEF 9'6 1215 BOXES ARTES SPC 25029.000 KGS  
 40.0000 CBM  
 Temperature: 13.6 C  
 Shipper Seal : 369171  
 Goods shipped in refrigerated container(s) set at shipper's requested carriage temperature  
 as per above  
 SHIPPER'S LOAD, STOW, WEIGHT AND COUNT  
 FREIGHT COLLECT  
 CY/CY

Freight & Charges	Rate	Unit	Currency	Prepaid	Collect



# Terms for Carriage

## 1. Definitions

“**Carriage**” means the whole or any part of the carriage, loading, unloading, handling and any and all other services whatsoever undertaken by the Carrier in relation to the Goods.

“**Carrier**” means Timaeus Cargo Lines A/S of 50 Esplanaden, DK-1098, Copenhagen K, Denmark.

“**Container**” includes any container (including an open top container), flat rack, platform, trailer, transportable tank, pallet or any other similar article used to consolidate the Goods and any connected equipment.

“**Freight**” includes all charges payable to the Carrier in accordance with the applicable Tariff and this bill of lading.

“**Goods**” means the whole or any part of the cargo and any packaging accepted from the Shipper and includes any Container not supplied by or on behalf of the Carrier.

“**Hague Rules**” means the provisions of the International Convention for the Unification of Certain Rules relating to Bills of Lading signed at Brussels on 25<sup>th</sup> August 1924.

“**Holder**” means any Person for the time being in possession of this Bill of Lading or to whom rights of suit and/or liability under this bill of lading have been transferred or vested.

“**Merchant**” includes the Shipper, Holder, Consignee, Receiver of the Goods, any Person owning or entitled to the possession of the Goods or of this bill of lading and anyone acting on behalf of such Person.

“**Multimodal Transport**” arises if the Place of Receipt and/or the Place of Delivery are indicated on the reverse hereof in the relevant boxes.

“**Ocean Transport**” arises if the Carriage is not Multimodal Transport.

“**Person**” includes an individual, corporation, or other legal entity.

“**Subcontractor**” includes owners, charterers and operators of vessels (other than the Carrier), stevedores, terminal and groupage operators, road and rail transport operators, warehousemen, and any independent contractors employed by the Carrier performing the Carriage or whose services or equipment have been used for the Carriage and any direct or indirect subcontractors, servants and agents thereof whether in direct contractual privity or not.

“**Terms and Conditions**” means all terms, rights, defences, provisions, conditions, exceptions, limitations and liberties hereof.

“**US COGSA**” means the US Carriage of Goods by Sea Act 1936.

“**Vessel**” means any water borne craft used in the Carriage under this bill of lading which may be a feeder vessel or an ocean vessel.

## 2. Carrier's Tariff

The terms and conditions of the Carrier's applicable Tariff are incorporated herein. Attention is drawn to the terms therein relating to free storage time and to container and vehicle demurrage or detention. Copies of the relevant provisions of the applicable Tariff are obtainable from the Carrier upon request. In the case of inconsistency between this bill of lading and the applicable Tariff, the bill of lading shall prevail.

## 3. Warranty

The Merchant warrants that in agreeing to the Terms and Conditions hereof he is, or has the authority to contract on behalf of, the Person owning or entitled to possession of the Goods and this bill of lading.

## 4. Sub Contracting

4.1 The Carrier shall be entitled to sub contract on any terms whatsoever the whole or any part of the Carriage.

4.2 It is hereby expressly agreed that:

(a) No Subcontractor, agent or servant shall in any circumstances whatsoever be under any liability whatsoever to the Merchant for any loss, damage or delay of whatsoever kind arising or resulting

directly or indirectly from any act, neglect or default on the Subcontractor, agent or servant's part while acting in the course of or in connection with the Goods or the Carriage of the Goods.

(b)

(i) The Merchant undertakes that no claim or allegation whether arising in contract, bailment, tort or otherwise shall be made against any servant, agent, or Subcontractor of the Carrier which imposes or attempts to impose upon any of them or any vessel owned or chartered by any of them any liability whatsoever in connection with the Goods or the Carriage of the Goods whether or not arising out of negligence on the part of such Person. The Subcontractor, agent or servant shall also be entitled to enforce the foregoing covenant against the Merchant; and

(ii) if any such claim or allegation should nevertheless be made, to indemnify the Carrier against all consequences thereof.

(c) Without prejudice to the generality of the foregoing provisions of this clause, every exemption, limitation, condition and liberty contained herein (other than Art III rule 8 of the Hague Rules) and every right, exemption from liability, defence and immunity of whatsoever nature applicable to the Carrier or to which the Carrier is entitled hereunder including the right to enforce any jurisdiction provision contained herein (clause 26) shall also be available and shall extend to every such Subcontractor, agent or servant, who shall be entitled to enforce the same against the Merchant.

4.3 The provisions of clause 4.2(c) including but not limited to the undertaking of the Merchant contained therein, shall extend to all claims or allegations of whatsoever nature against other Persons chartering space on the carrying vessel.

4.4 The Merchant further undertakes that no claim or allegation in respect of the Goods shall be made against the Carrier by any Person other than in accordance with these Terms and Conditions which imposes or attempts to impose upon the Carrier any liability whatsoever in connection with the Goods or the Carriage of the Goods, whether or not arising out of negligence on the part of the Carrier, and if any such claim or allegation should nevertheless be made, to indemnify the Carrier against all consequences thereof.

## **5. Carrier's Responsibility: Ocean Transport**

5.1 Where the Carriage is Ocean Transport, the Carrier undertakes to perform and/or in his own name to procure performance of the Carriage from the Port of Loading to the Port of Discharge. The liability of the Carrier for loss of or damage to the Goods occurring between the time of acceptance by the Carrier of custody of the Goods at the Port of Loading and the time of the Carrier tendering the Goods for delivery at the Port of Discharge shall be determined in accordance with Articles 1-8 of the Hague Rules save as is otherwise provided in these Terms and Conditions. These articles of the Hague Rules shall apply as a matter of contract.

5.2 The Carrier shall have no liability whatsoever for any loss or damage to the Goods, howsoever caused, if such loss or damage arises before acceptance by the Carrier of custody of the Goods or after the Carrier tendering the cargo for delivery. Notwithstanding the above, to the extent any applicable compulsory law provides to the contrary, the Carrier shall have the benefit of every right, defence, limitation and liberty in the Hague Rules as applied by clause 5.1 during such additional compulsory period of responsibility, notwithstanding that the loss or damage did not occur at sea.

5.3 Where US COGSA applies then the provisions stated in the said Act shall govern during Carriage to or from a container yard or container freight station at the Port of Loading before loading on the vessel or at the Port of Discharge before delivery to an inland carrier.

5.4 If the Carrier is requested by the Merchant to procure Carriage by an inland carrier and the inland carrier in his discretion agrees to do so, such Carriage shall be procured by the Carrier as agent only to the Merchant and Carrier shall have no liability for such carriage or the acts or omissions of such inland carrier.

## **6. Carrier's Responsibility Multimodal Transport**

Where the Carriage is Multimodal Transport, the Carrier undertakes to perform and/or in his own name to procure performance of the Carriage from the Place of Receipt or the Port of Loading, whichever is applicable, to the Port of Discharge or the Place of Delivery, whichever is applicable. The Carrier shall have no liability whatsoever for loss or damage to the Goods occurring before acceptance by the Carrier of custody of the Goods or after the Carrier tendering the Goods for delivery at the applicable points, and, the Carrier shall be liable for loss or damage occurring during the Carriage only to the extent set out below:

6.1 Where the stage of Carriage where loss or damage occurred is not known.

(a) The Carrier shall be relieved of liability for any loss or damage where such loss or damage was caused by:

- (i) an act or omission of the Merchant or Person acting on behalf of the Merchant other than the Carrier, his servant, agent or Subcontractor;
- (ii) compliance with instructions of any Person entitled to give them;
- (iii) insufficient or defective condition of packing or marks;
- (iv) handling, loading, stowage or unloading of the Goods by the Merchant or any Person acting on his behalf;
- (v) inherent vice of the Goods;
- (vi) strike, lock out, stoppage or restraint of labour, from whatever cause, whether partial or general;
- (vii) a nuclear incident;
- (viii) any cause or event which the Carrier could not avoid and the consequences whereof he could not prevent by the exercise of reasonable diligence.

(b) The burden of proof that the loss or damage was due to a cause(s) or event(s) specified in clause 6.1 shall rest on the Carrier, but if there is any evidence the loss or damage is attributable to one or more cause or event specified in clause 6.1(a)(iii), (iv) or (v), it shall be presumed that it was so caused. The Merchant shall, however, be entitled to prove that the loss or damage was not, in fact, caused either wholly or partly by one or more of these causes or events.

6.2 Where the stage of Carriage where the loss or damage occurred is known notwithstanding anything provided for in clause 6.1 and subject to clause 18, the liability of the Carrier in respect of such loss or damage shall be determined:

(a) if the loss or damage is known to have occurred during Carriage by sea for shipments not to or from the United States of America or waterborne Carriage not in the U.S. by the Hague Rules Articles 1-8. These articles of the Hague Rules shall apply as a matter of contract; or

(b) if the loss or damage is known to have occurred during any inland carriage not in the U.S. in accordance with the contract of carriage or tariffs of any inland carrier in whose custody the loss or damage occurred or in accordance with clauses 6.1 and clause 7.2(a), whichever imposes lesser liability on the Carrier; or

(c) if the loss or damage is known to have occurred during Carriage by sea, for shipments to or from the United States of America, or waterborne Carriage in the United States of America or Carriage to or from a container yard or container freight station at Port of Loading before loading on the carrying vessel or at the Port of Discharge before delivery to the inland carrier, by the provisions of U.S. COGSA; or

(d) if the loss or damage is known to have occurred during any inland carriage in the U.S., in accordance with the contract of carriage or tariffs of any inland carrier in whose custody the loss or damage occurred or U.S. COGSA whichever imposes lesser liability on the Carrier.

## **7. Compensation and Liability Provisions**

7.1 Subject always to the Carrier's right to limit liability as provided for herein, if the Carrier is liable for compensation in respect of loss of or damage to the Goods, such compensation shall be calculated by reference to the value of the Goods plus Freight and insurance if paid. The value of the Goods shall be determined with reference to the commercial invoice, customs declaration, any prevailing market price (at the place and time they are delivered or should have been delivered), production price or the reasonable value of goods of the same kind and/or quality.

7.2 Save as is provided in clause 7.3:

(a) the Carrier's liability shall in no event exceed 2 SDR per kilo of the gross weight of the Goods lost, damaged or in respect of which a claim of whatsoever nature arises unless clause 7.2(b) applies;

(b) for shipments to or from the U.S., the liability of the Carrier and/or Vessel shall not exceed USD 500 per Package or customary freight unit, or any lesser limitation afforded per Clause 6.2.

7.3 The Merchant agrees and acknowledges that the Carrier has no knowledge of the value of the Goods and higher compensation than that provided for in this bill of lading may be claimed only when, with the consent of the Carrier, (i) for multimodal shipments from the U.S. where U.S. inland carriage is undertaken, the Merchant elects to avoid any liability limitation provided herein by prepaying extra freight and opting for full liability under the Carmack Amendment by complying with the terms in Carrier's Tariff; and (ii) in all other cases, the Shipper declares and the Carrier

states the value of the Goods declared by the Shipper upon delivery to the Carrier has been stated in the box marked "Declared Value" on the reverse of this bill of lading and extra freight paid. In that case, the amount of the declared value shall be substituted for the limits laid down in this bill of lading. Any partial loss or damage shall be adjusted pro rata on the basis of such declared value.

7.4 Nothing in this bill of lading shall operate to limit or deprive the Carrier of any statutory protection, defence, exception or limitation of liability authorised by any applicable laws, statutes or regulations of any country. The Carrier shall have the benefit of the said laws, statutes or regulations as if it were the owner of any carrying Vessel.

## **8. General**

8.1 The Carrier does not undertake that the Goods or any documents relating thereto shall arrive or be available at any point or place at any stage during the Carriage or at the Port of Discharge or the Place of Delivery at any particular time or to meet any particular requirement of any licence, permission, sale contract, or credit of the Merchant or any market or use of the Goods and the Carrier shall under no circumstances whatsoever and howsoever arising be liable for any direct, indirect or consequential loss or damage caused by delay. If the Carrier should nevertheless be held legally liable for any such direct or indirect or consequential loss or damage caused by delay, such liability shall in no event exceed the Freight paid.

8.2 Save as is otherwise provided herein, the Carrier shall in no circumstances be liable for direct or indirect or consequential loss or damage arising from any other cause whatsoever or for loss of profits.

8.3 Once the Goods have been received by the Carrier for Carriage the Merchant shall not be entitled neither to impede, delay, suspend or stop or otherwise interfere with the Carrier's intended manner of performance of the Carriage or the exercise of the liberties conferred by this bill of lading nor to instruct or require delivery of the Goods at other Port or Place than the Port of Discharge or Place of Delivery named on the reverse hereof or such other Port or Place selected by the Carrier in the exercise of the liberties herein, for any reason whatsoever. The Merchant shall indemnify the Carrier against all claims, liabilities, losses, damages, costs, delays, attorney fees and/or expenses caused to the Carrier, his Subcontractors, servants or agents or to any other cargo or to the owner of such cargo during the Carriage arising or resulting from any impediment, delay, suspension, stoppage or interference whatsoever in the Carriage of the Goods.

8.4 These Terms and Conditions shall govern the responsibility of the Carrier in connection with or arising out of the supplying of a Container to the Merchant whether before, during or after the Carriage.

## **9. Notice of Loss, Time Bar**

Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the Carrier or his agents at the Place of Delivery (or Port of Discharge if no Place of Delivery is named on the reverse hereof) before or at the time of removal of the Goods or if the loss or damage is not apparent within three days thereafter, such removal shall be prima facie evidence of the delivery by the Carrier of the Goods as described in this bill of lading. In any event, the Carrier shall be discharged from all liability whatsoever in respect of the Goods unless suit is brought within one year after their delivery or the date when they should have been delivered.

## **10. Application of Terms and Conditions**

These Terms and Conditions shall apply in any action against the Carrier for any loss or damage whatsoever and howsoever occurring (and, without restricting the generality of the foregoing, including delay, late delivery and/or delivery without surrender of this bill of lading) and whether the action be founded in contract, bailment or in tort and even if the loss, damage or delay arose as a result of unseaworthiness, negligence or fundamental breach of contract.

## **11. Shipper-Packed Containers**

If a Container has not been packed by the Carrier:

11.1 This bill of lading shall be a receipt only for such a Container;

11.2 The Carrier shall not be liable for loss of or damage to the contents and the Merchant shall indemnify the Carrier against any injury, loss, damage, liability or expense whatsoever incurred by

the Carrier if such loss of or damage to the contents and/or such injury, loss, damage, liability or expense has been caused by any matter beyond his control including, inter alia, without prejudice to the generality of this exclusion:

- (a) the manner in which the Container has been packed; or
- (b) the unsuitability of the Goods for carriage in Containers; or
- (c) the unsuitability or defective condition of the Container; or
- (d) the incorrect setting of any thermostatic, ventilation, or other special controls thereof, provided that, if the Container has been supplied by the Carrier, this unsuitability or defective condition could have been apparent upon reasonable inspection by the Merchant at or prior to the time the Container was packed.

11.3 The Merchant is responsible for the packing and sealing of all shipper packed Containers and, if a shipper packed Container is delivered by the Carrier with any original seal intact, the Carrier shall not be liable for any shortage of Goods ascertained at delivery.

11.4 The Shipper shall inspect Containers before packing them and the use of Containers shall be prima facie evidence of their being sound and suitable for use.

## **12. Perishable Cargo**

12.1 Goods, including Goods of a perishable nature, shall be carried in ordinary Containers without special protection, services or other measures unless there is noted on the reverse side of this bill of lading that the Goods will be carried in a refrigerated, heated, electrically ventilated or otherwise specifically equipped Container or are to receive special attention in any way. The Merchant undertakes not to tender for Carriage any Goods which require refrigeration, ventilation or any other specialised attention without giving written notice of their nature and the required temperature or other setting of the thermostatic, ventilation or other special controls. If the above requirements are not complied with, the Carrier shall not be liable for any loss of or damage to the Goods howsoever arising.

12.2 The Merchant should note that refrigerated Containers are not designed

- (a) to freeze down cargo which has not been presented for stuffing at or below its designated carrying temperature and the Carrier shall not be responsible for the consequences of cargo being presented at a higher temperature than that required for the Carriage; nor
- (b) to monitor and control humidity levels, albeit a setting facility exists, in that humidity is influenced by many external factors and the Carrier does not guarantee the maintenance of any intended level of humidity inside any Container.

12.3 The term "apparent good order and condition" when used in this bill of lading with reference to goods which require refrigeration, ventilation or other specialised attention does not mean that the Goods, when received, were verified by the Carrier as being at the carrying temperature, humidity level or other condition designated by the Merchant.

12.4 The Carrier shall not be liable for any loss of or damage to the Goods arising from latent defects, derangement, breakdown, defrosting, stoppage of the refrigerating, ventilating or any other specialised machinery, plant, insulation and/or apparatus of the Container, Vessel, conveyance and any other facilities, provided that the Carrier shall before and at the beginning of the Carriage exercise due diligence to maintain the Container supplied by the Carrier in an efficient state.

## **13. Inspection of Goods**

The Carrier shall be entitled, but under no obligation, to open and/or scan any package or Container at any time and to inspect the contents. If it appears at any time that the Goods cannot safely or properly be carried or carried further, either at all or without incurring any additional expense or taking any measures in relation to the Container or the Goods, the Carrier may without notice to the Merchant (but as his agent only) take any measures and/or incur any reasonable additional expense to carry or to continue the Carriage thereof, and/or to sell or dispose of the Goods and/or to abandon the Carriage and/or to store them ashore or afloat, under cover or in the open, at any place, whichever the Carrier in his absolute discretion considers most appropriate, which sale, disposal, abandonment or storage shall be deemed to constitute due delivery under this bill of lading. The Merchant shall indemnify the Carrier against any reasonable additional expense so incurred. The Carrier in exercising the liberties contained in this clause shall not be

under any obligation to take any particular measures and shall not be liable for any loss, delay or damage howsoever arising from any action or lack of action under this clause.

## **14. Description of Goods**

14.1 This bill of lading shall be prima facie evidence of the receipt by the Carrier in apparent good order and condition, except as otherwise noted, of the total number of Containers or other packages or units indicated in the box entitled "Carrier's Receipt" on the reverse side hereof.

14.2 No representation is made by the Carrier as to the weight, contents, measure, quantity, quality, description, condition, marks, numbers or value of the Goods and the Carrier shall be under no responsibility whatsoever in respect of such description or particulars.

14.3 The Shipper warrants to the Carrier that the particulars relating to the Goods as set out on the reverse hereof have been checked by the Shipper on receipt of this bill of lading and that such particulars, and any other particulars furnished by or on behalf of the Shipper, are adequate and correct. The Shipper also warrants that the Goods are lawful goods, and contain no contraband, drugs or other illegal substances or stowaways, and that the Goods will not cause loss, damage or expense to the Carrier, or to any other cargo.

14.4 If any particulars of any letter of credit and/or import license and/or sales contract and/or invoice or order number and/or details of any contract to which the Carrier is not a party are shown on the face of this bill of lading, such particulars are included at the sole risk of the Merchant and for his convenience. The Merchant agrees that the inclusion of such particulars shall not be regarded as a declaration of value and in no way increases Carrier's liability under this bill of lading.

## **15. Merchant's Responsibility**

15.1 All of the Persons coming within the definition of Merchant in clause 1, including any principal of such Person, shall be jointly and severally liable to the Carrier for the due fulfilment of all obligations undertaken by the Merchant in this bill of lading.

15.2 The Merchant shall be liable for and shall indemnify the Carrier against all loss, damage, delay, fines, attorney fees and/or expenses arising from any breach of any of the warranties in clause 14.3 or elsewhere in this bill of lading and from any other cause whatsoever in connection with the Goods for which the Carrier is not responsible.

15.3 The Merchant shall comply with all regulations or requirements of customs, port and other authorities, and shall bear and pay all duties, taxes, fines, imposts, expenses or losses (including, without prejudice to the generality of the foregoing Freight for any additional Carriage undertaken) incurred or suffered by reason of any failure to so comply, or by reason of any illegal, incorrect or insufficient declaration, marking, numbering or addressing of the Goods, and shall indemnify the Carrier in respect thereof.

15.4 If Containers supplied by or on behalf of the Carrier are unpacked by or for the Merchant, the Merchant is responsible for returning the empty Containers, with interiors clean, odour free and in the same condition as received, to the point or place designated by the Carrier, within the time prescribed. Should a Container not be returned in the condition required and/or within the time prescribed in the Tariff, the Merchant shall be liable for any detention, loss or expense incurred as a result thereof.

15.5 Containers released into the care of the Merchant for packing, unpacking or any other purpose whatsoever are at the sole risk of the Merchant until redelivered to the Carrier. The Merchant shall indemnify the Carrier for all loss of and/or damage and/or delay to such Containers, and all liability claims from third parties or costs or fines resulting from Merchant's use of such Containers. Merchants are deemed to be aware of the dimensions and capacity of any Containers released to them.

## **16. Freight Expenses and Fees**

16.1 Full Freight shall be payable based on particulars furnished by or on behalf of the Shipper. The Carrier may at any time open the Goods or Container(s) and, if the Shipper's particulars are incorrect the Merchant and the Goods shall be liable for the correct Freight and any expenses incurred in examining, weighing, measuring, or valuing the Goods.

16.2 Full Freight shall be considered completely earned on receipt of the Goods by the Carrier and shall be paid and non returnable in any event.

16.3 All sums payable to the Carrier are due on demand and shall be paid in full in United States currency or, at the Carrier's option, in its equivalent in the currency of the Port of Loading or of Discharge or the Place of Receipt or of Delivery or as specified in the Carrier's Tariff.

16.4 The Merchant's attention is drawn to the stipulations concerning currency in which the Freight is to be paid, rate of exchange, devaluation, additional insurance premium and other contingencies relative to Freight in the applicable Tariff. In the event of any discrepancy between Freight (incl. charges etc) items in the bill of lading and any Carrier invoices, the latter shall prevail.

16.5 All Freight shall be paid without any set off, counter claim, deduction or stay of execution at latest before delivery of the Goods.

16.6 If the Merchant fails to pay the Freight when due he shall be liable also for payment of service fee, interest due on any outstanding and/or overdue sum reasonable attorney fees and expenses incurred in collecting any sums due to the Carrier. Payment of Freight and charges to a freight forwarder, broker or anyone other than the Carrier or its authorised agent, shall not be deemed payment to the Carrier and shall be made at the Merchant's sole risk.

16.7 Despite the acceptance by the Carrier of instructions to collect Freight, duties, fees, demurrage/detention and costs and expenses from the shipper or consignee or any other Person, then, in the absence of evidence of payment (for whatever reason) by such shipper or consignee or other Person when due, the Merchant shall remain responsible for and for the payment of such Freight, duties, fees, demurrage/detention and costs and expenses on receipt of evidence of demand within the meaning of clause 16.3.

16.8 If the Carrier, at its sole discretion, grants credit on any sums payable to the Carrier, the terms and conditions applicable to any credit (Credit terms) are available from the Carrier or his authorised agents or at <https://terms.TCLLine.com/credit>. The applicable Credit terms will automatically apply to any granting of credit by the Carrier, unless otherwise agreed by the Carrier.

## **17. Lien**

The Carrier shall have a lien on the Goods and any documents relating thereto for all sums payable to the Carrier under this contract and for general average contributions to whomsoever due. The Carrier shall also have a lien against the Merchant on the Goods and any document relating thereto for all sums due by the Merchant to the Carrier under any other contract whether or not related to this Carriage. The Carrier may exercise his lien at any time and any place in his sole discretion, whether the contractual Carriage is completed or not. In any event any lien shall extend to cover the cost of recovering any sums due and for that purpose the Carrier shall have the right to sell the Goods by public auction or private treaty, without notice to the Merchant. The Carrier's lien shall survive delivery of the Goods.

## **18. Optional Stowage, Deck Cargo and Livestock**

18.1 The Goods may be packed by the Carrier in Containers and consolidated with other goods in Containers.

18.2 Goods whether packed in Containers or not, may be carried on deck or under deck without notice to the Merchant. The Carrier shall not be required to note, mark or stamp on the bill of lading any statement of such on deck carriage. Save as provided in clause 18.3, such Goods (except livestock) carried on or under deck and whether or not stated to be carried on deck shall participate in general average and shall be deemed to be within the definition of goods for the purpose of the Hague Rules or US COGSA and shall be carried subject to such Rules or Act, whichever is applicable.

18.3 Goods (not being Goods stowed in Containers other than flats or pallets) which are stated herein to be carried on deck and livestock, whether or not carried on deck, are carried without responsibility on the part of the Carrier for loss or damage of whatsoever nature or delay arising during the Carriage whether caused by unseaworthiness or negligence or any other cause whatsoever and neither the Hague Rules nor US COGSA shall apply.

## **19. Methods and Routes of Carriage**

19.1 The Carrier may at any time and without notice to the Merchant:

(a) use any means of transport or storage whatsoever;

(b) transfer the Goods from one conveyance to another including transshipping or carrying the same on a Vessel other than the Vessel named on the reverse hereof or by any other means of transport whatsoever and even though transshipment or forwarding of the Goods may not have been contemplated or provided for herein;

(c) unpack and remove the Goods which have been packed into a Container and forward them via Container or otherwise;

(d) sail without pilots, proceed via any route, (whether or not the nearest or most direct or customary or advertised route) at any speed and proceed to, return to and stay at any port or place whatsoever (including the Port of Loading herein provided) once or more often, and in any order in or out of the route or in a contrary direction to or beyond the port of discharge once or more often;

(e) load and unload the Goods at any place or port (whether or not any such port is named on the reverse hereof as the Port of Loading or Port of Discharge) and store the Goods at any such port or place;

(f) comply with any orders or recommendations given by any government or authority or any Person or body acting purporting to act as or on behalf of such government or authority or having under the terms of the insurance on any conveyance employed by the Carrier the right to give orders or directions.

19.2 The liberties set out in clause 19.1 may be invoked by the Carrier for any purpose whatsoever whether or not connected with the Carriage of the Goods, including but not limited to loading or unloading other goods, bunkering or embarking or disembarking any person(s), undergoing repairs and/or drydocking, towing or being towed, assisting other vessels, making trial trips and adjusting instruments. Anything done or not done in accordance with clause 19.1 or any delay arising therefrom shall be deemed to be within the contractual Carriage and shall not be a deviation.

## **20. Matters Affecting Performance**

If at any time Carriage is or is likely to be affected by any hindrance, risk, danger, delay, difficulty or disadvantage of whatsoever kind and howsoever arising which cannot be avoided by the exercise of reasonable endeavours, (even though the circumstances giving rise to such hindrance, risk, danger, delay, difficulty or disadvantage existed at the time this contract was entered into or the Goods were received for Carriage) the Carrier may at his sole discretion and without notice to the Merchant and whether or not the Carriage is commenced either:

(a) Carry the Goods to the contracted Port of Discharge or Place of Delivery, whichever is applicable, by an alternative route to that indicated in this bill of lading or that which is usual for Goods consigned to that Port of Discharge or Place of Delivery. If the Carrier elects to invoke the terms of this clause 20(a) then, notwithstanding the provisions of clause 19 hereof, he shall be entitled to charge such additional Freight as the Carrier may determine; or

(b) Suspend the Carriage of the Goods and store them ashore or afloat under these Terms and Conditions and endeavour to forward them as soon as possible, but the Carrier makes no representations as to the maximum period of suspension. If the Carrier elects to invoke the terms of this clause 20(b) then, notwithstanding the provisions of clause 19 hereof, he shall be entitled to charge such additional Freight and costs as the Carrier may determine; or

(c) Abandon the Carriage of the Goods and place them at the Merchant's disposal at any place or port, which the Carrier may deem safe and convenient, whereupon the responsibility of the Carrier in respect of such Goods shall cease. The Carrier shall nevertheless be entitled to full Freight on the Goods received for the Carriage, and the Merchant shall pay any additional costs incurred by reason of the abandonment of the Goods. If the Carrier elects to use an alternative route under clause 20(a) or to suspend the Carriage under clause 20(b) this shall not prejudice his right subsequently to abandon the Carriage.

## **21. Dangerous Goods**

21.1 No Goods which are or which may become of a dangerous, noxious, hazardous, flammable, or damaging nature (including radioactive material) or which are or may become liable to damage any Persons or property whatsoever, and whether or not so listed in any official or unofficial, international or national code, convention, listing or table shall be tendered to the Carrier for Carriage without previously giving written notice of their nature, character, name, label and classification (if applicable) to the Carrier and obtaining his consent in writing and without distinctly



marking the Goods and the Container or other covering on the outside so as to indicate the nature and character of any such Goods and so as to comply with any applicable laws, regulations or requirements. If any such Goods are delivered to the Carrier without obtaining his consent and/or such marking, or if in the opinion of the Carrier the Goods are or are liable to become of a dangerous, noxious, hazardous, flammable or damaging nature, they may at any time or place be unloaded, destroyed, disposed of, abandoned or rendered harmless without compensation to the Merchant and without prejudice to the Carrier's right to Freight.

21.2 The Merchant warrants that such Goods are packed in a manner adequate to withstand the risks of Carriage having regard to their nature and in compliance with all laws, regulations or requirements which may be applicable to the Carriage.

21.3 The Merchant shall indemnify the Carrier against all claims, liabilities, loss, damage, delay, costs, fines and/or expenses arising in consequence of the Carriage of such Goods, and/or arising from breach of any of the warranties in clause 21.2 including any steps taken by the Carrier pursuant to clause 21.1 whether or not the Merchant was aware of the nature of such Goods.

21.4 Nothing contained in this clause shall deprive the Carrier of any of his rights provided for elsewhere.

## **22. Notification, Discharge and Delivery**

22.1 Any mention in this bill of lading of parties to be notified of the arrival of the Goods is solely for information of the Carrier. Failure to give such notification shall not involve the Carrier in any liability nor relieve the Merchant of any obligation hereunder.

22.2 The Merchant shall take delivery of the Goods within the time provided for in the Carrier's applicable Tariff. If the Merchant fails to do so, the Carrier may without notice unpack the Goods if packed in containers and/or store the Goods ashore, afloat, in the open or under cover at the sole risk of the Merchant. Such storage shall constitute due delivery hereunder, and thereupon all liability whatsoever of the Carrier in respect of the Goods or that part thereof shall cease and the costs of such storage shall forthwith upon demand be paid by the Merchant to the Carrier.

22.3 If the Carrier is obliged to discharge the Goods into the hands of any customs, port or other authority, such discharge shall constitute due delivery of the Goods to the Merchant under this bill of lading.

22.4 If the Goods are unclaimed within a reasonable time or whenever in the Carrier's opinion the Goods are likely to deteriorate, decay or become worthless, or incur charges whether for storage or otherwise in excess of their value, the Carrier may at his discretion and without prejudice to any other rights which he may have against the Merchant, without notice and without any responsibility attaching to him sell, abandon or otherwise dispose of the Goods at the sole risk and expense of the Merchant and apply any proceeds of sale in reduction of the sums due to the Carrier by the Merchant.

22.5 Refusal by the Merchant to take delivery of the Goods in accordance with the terms of this clause and/or to mitigate any loss or damage thereto shall constitute a waiver by the Merchant to the Carrier of any claim whatsoever relating to the Goods or the Carriage thereof.

## **23. Both to Blame Collision Clause**

The Both to Blame Collision and New Jason clauses published and/or approved by BIMCO and obtainable from the Carrier or his agent upon request are hereby incorporated herein.

## **24. General Average and Salvage**

24.1 General average to be adjusted at any port or place at the Carrier's option and to be settled according to the York Antwerp Rules 1994, this covering all Goods carried on or under deck. General average on a Vessel not operated by the Carrier shall be adjusted according to the requirements of the operator of that Vessel.

24.2 Such security including a cash deposit as the Carrier may deem sufficient to cover the estimated contribution of the Goods and any salvage and special charges thereon, shall, if required, be submitted to the Carrier prior to delivery of the Goods. The Carrier shall be under no obligation to exercise any lien for general average contribution due to the Merchant.

24.3 Should the Carrier in its own discretion choose to post general average and/or salvage security due from cargo interests or pay general average and/or salvage contributions due from

cargo interests, the Merchant hereby assigns to the Carrier all his rights in respect of the general average and/or salvage.

24.4 If a salving ship is owned or operated by the Carrier, salvage shall be paid for as fully as if the said salving ship belonged to strangers.

## **25. Variation of the Contract and Validity**

25.1 No servant or agent of the Carrier shall have the power to waive or vary any Terms and Conditions unless such waiver or variation is in writing and is specifically authorised or ratified in writing by the Carrier.

25.2 In the event that anything herein contained is inconsistent with any applicable international convention or national law, which cannot be departed from by private contract, the provisions hereof shall to the extent of such inconsistency but no further be null and void.

## **26. Law and Jurisdiction**

For shipments to or from the U.S. any dispute relating to this bill of lading shall be governed by U.S. law and the United States Federal Court of the Southern District of New York is to have exclusive jurisdiction to hear all disputes in respect thereof. In all other cases, this bill of lading shall be governed by and construed in accordance with English law and all disputes arising hereunder shall be determined by the English High Court of Justice in London to the exclusion of the jurisdiction of the courts of another country. Alternatively and at the Carrier's sole option, the Carrier may commence proceedings against the Merchant at a competent court of a place of business of the Merchant.



## Athanasius Kircher Surveyors

### Survey Summary Page

Reference No.	32726
Vessel Name	J Momoa
Bill of Lading No.	BL311515
Container No.	TWCU6830612
Type of Commodity	Bananas
AKS Comments	

Cause of loss: ripeness and soft green. One of 17 containers on B/L, no other reported issues.

Container gated in for export 2nd July 2018. Data logger starts 29th June with return air within 2°C of set point after 40 hours. On three occasions lasting between 21 and 38 hours on 4/5th, 12/13th and 28/29th July supply air is higher than expected up to 21.5°C, return 22.75°C, at such time container is on the vessel. During these periods' logger records alarm code 15 - loss of cooling.

In our opinion higher than expected temperature has led to soft/ green and ripening of the fruit during the course of transit. Pre-shipment issues of anthracnose, cigar end rot and crown rot reported by surveyor are likely to have been exacerbated as a result.

Work order in states 5kg of refrigerant was added by repair shop 2RX in ECGYE. Subsequent to voyage a work order details the evaporator coil was replaced due to a leak.

### Stage 1: General Information

AKS Reference No.	32726
Incident Ref No. (if applicable)	N/A
Surveyors file reference no.	170808-3
Vessel Name	J Momoa
Voyage No.	1708
Bill of Lading No.	BL311515
Container No.	TWCU6830612
Type of Commodity	Bananas
Country of Origin	Ecuador

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Country of Destination Russian Federation

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Has the consignment been surveyed? Yes

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If yes, was consignment in a sound condition / has claim been No withdrawn?

## Stage 2: Survey Details

TWCU6830612

Reason for survey Cargo Damage

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Nature of Loss / Root Cause High temperature compared to set point

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Date of instruction 08/08/2018

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Date of survey 08/08/2018

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Difference 0 days

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Carriage Temp °C 13.6

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Vent settings (cbm/hr) 30

---

Humidity settings (%) 0

---

Controlled Atmosphere No

## Stage 3: Container Details

TWCU6830612

Was container on site at the time of survey Yes

---

Was the container still loaded full / part at time of survey Yes

---

If Yes upload photo



DSC01062.Jpg

Condition of Container	Sound
Container sealed	Not known
Container Type	Reefer 40' (40' x 8' x 9'6")
Container Date of Manufacture	07/2005
Reefer Manufacturer	StarColdz
Container Software Version (if known)	n/a

## Stage 4: Transit

TWCU6830612

Scheduled transit time if known (days)	N/A
Date container gated out (empty - for export)	02/07/2018
Date container gated in (full - for export)	02/07/2018
Date loaded to vessel	03/07/2018
Date of final discharge	31/07/2018
Was consignment delivered to Consignees	Yes
Date of delivery to Consignees	08/08/2018
Actual Transit Time	37 days
Delivery Note sighted	No

Add another file  
N/A

## Stage 5: B/L Details

TWCU6830612

B/L sighted	Yes
-------------	-----

Does container no(s) on the B/L match the instruction sheet	Yes
Shipper	Donnelly Banana SA
Shipper same as Commercial Invoice	Not known
Consignees	Hercules -Logistic
Consignees address, phone number, Email	1439395 MOSCOW REGION, ORO FOMINSKY DISTRICT., VILLAGE SOF'INO KIEVSKOE HIGHWAY., 54 BUILDING 31, RUSSIA,
Nature of Consignees business	Wholesale of fruits and vegetables
Consignment insured	Not known
Commercial Invoice Value (US\$)	N/A
Terms of Sale	Not known
Number of cartons per container	1215
Net weight of cargo (kgs)	n/a
Sound Market Value (SMV) please state per carton / kg	50-70 rub/kg

## Stage 6: Stowage

TWCU6830612

Place of survey

Volhonskoe highway. 11 G

Approx distance from port (km)	15
Third party warehouse	No
Is this the first place of delivery	Yes
Stowage Pallets/Block Stowed	Block Stowed
Configuration of stow if known i.e. how many rows/tiers	boxes stacked on top of each other in rows. 5X10
Height of block stow if seen (in cms)	n/a

---

Container maximum load line exceeded

No

---

Explanation of stowage as seen, or advised

The bananas are packed into cardboard boxes with ventilation holes. Inside the box bananas are packed in banavac bags.

---

Upload photograph of stowage (if seen)



DSC010621.Jpg

---

Distance of cargo / pallets from door end (cm) n/a

---

Is exposed floor area covered

No

---

Is the evaporator grill clear

Yes

---

Are there any airflow obstructions

No

---

CA curtain membrane intact

No

---

Kick (baffle) plate in correct position?

Yes

---

Is T-bar floor unobstructed

No

---

Are ethylene tubes fitted?

No

---

---

Drain plugs	No
-------------	----

---

Other parties present and whom they represent expert

warehouse

---

Have Consignees had issues with previous shipments	Yes
--	-----

---

If yes, Description of previous issues

Cargo damage

---

Consignees regularly receiving similar containers	Yes
---	-----

## Stage 7: Packaging / Delivery / Storage Details

TWCU6830612

---

Consignees Ref No.	n/a
--------------------	-----

---

Carton weight (kg)	20
--------------------	----

---

Class	1
-------	---

---

Banavac bag	Yes
-------------	-----

---

Poly Bag	No
----------	----

---

Individual bags	No
-----------------	----

---

IFCO crates (plastic crates)	No
------------------------------	----

---



---

Upload photo side profile



DSC01073.Jpg

---

Upload photo top profile



DSC01072.Jpg

---

Upload photo bottom/underneath profile



DSC01075.Jpg

---

Upload photo of end profile



DSC01074.Jpg

---

Upload photo Product label / Traceability label



DSC010731.Jpg

---

Add another file

N/A

---

Cold Store / Warehouse temperature °C

13

---

Inspection area temperature °C

22

---

Have bananas been gassed?

No

---

Classification: Internal

## Stage 8: Survey Findings / Condition

TWCU6830612

Describe general condition of produce and other information considered relevant (remove cartons from top, middle and bottom)

Considerable proportion of bananas had dark green and green colour, hard and firm fruit. Good latex flow. Without chilling. Some boxes were with ripe yellow bananas and ripening green bananas with soft pulp. Anthracnose, rotting of the crown, neck and finger.

Explanation of Grower Codes / Pack Dates

0033.1

## Stage 9: Survey Findings / Condition

TWCU6830612

Was the consignment still in the container?

Yes

Carton No.	n
Grower codes	n
Location of Carton(Tier)	top
Pulp Temp °C	15.6
Detailed Description of Fruit	Considerable proportion of bananas had dark green and green colors, hard and firm fruit. Good latex flow. Without chilling. Some boxes were with ripe yellow bananas and ripening green bananas with soft pulp. Anthracnose, rotting of the crown, neck and finger.
%Ripes	100
%Chill	0

%Other	n/a
Carton No.	n
Grower codes	n
Location of Carton(Tier)	middle
Pulp Temp °C	15.1
Detailed Description of Fruit	
<p>Considerable proportion of bananas had dark green and green colors, hard and firm fruit. Good latex flow. Without chilling. Some boxes were with ripe yellow bananas and ripening green bananas with soft pulp. Anthracnose, rotting of the crown, neck and finger.</p>	
%Ripes	100
%Ripes	100
%Chill	0
%Other	n/a
Carton No.	n
Grower codes	nn
Location of Carton(Tier)	bottom
Pulp Temp °C	14.6
Detailed Description of Fruit	
<p>Considerable proportion of bananas had dark green and green colors, hard and firm fruit. Good latex flow. Without chilling. Some boxes were with ripe yellow bananas and ripening green bananas with soft pulp. Anthracnose, rotting of the crown, neck and finger.</p>	
%Ripes	0
%Chill	0
%Other	n/a

Carton No.	n
Grower codes	n
Location of Carton(Tier)	top
Pulp Temp °C	15.4
Detailed Description of Fruit	
Considerable proportion of bananas had dark green and green colors, hard and firm fruit. Good latex flow. Without chilling. Some boxes were with ripe yellow bananas and ripening green bananas with soft pulp. Anthracnose, rotting of the crown, neck and finger.	
%Ripes	0
%Chill	0
%Other	n/a
Carton No.	n
Grower codes	n
Location of Carton(Tier)	middle
Pulp Temp °C	15.7
Detailed Description of Fruit	
Considerable proportion of bananas had dark green and green colors, hard	
Considerable proportion of bananas had dark green and green colors, hard and firm fruit. Good latex flow. Without chilling. Some boxes were with ripe yellow bananas and ripening green bananas with soft pulp. Anthracnose, rotting of the crown, neck and finger.	
%Ripes	100
%Chill	0
%Other	n/a
Carton No.	n
Grower codes	n

Location of Carton(Tier)	bottom
Pulp Temp °C	14.6
Detailed Description of Fruit	
Considerable proportion of bananas had dark green and green colors, hard and firm fruit. Good latex flow. Without chilling. Some boxes were with ripe yellow bananas and ripening green bananas with soft pulp. Anthracnose, rotting of the crown, neck and finger.	
%Ripes	0
%Chill	0
%Other	n/a
Carton No.	n
Grower codes	n
Location of Carton(Tier)	top
Pulp Temp °C	16.1
Detailed Description of Fruit	
Considerable proportion of bananas had dark green and green colors, hard and firm fruit. Good latex flow. Without chilling. Some boxes were with ripe yellow bananas and ripening green bananas with soft pulp. Anthracnose, rotting of the crown, neck and finger.	
%Ripes	100
%Chill	0
%Other	n/a
Carton No.	n
Grower codes	n
Location of Carton(Tier)	middle
Pulp Temp °C	15.9

Detailed Description of Fruit	
Considerable proportion of bananas had dark green and green colors, hard and firm fruit. Good latex flow. Without chilling. Some boxes were with ripe yellow bananas and ripening green bananas with soft pulp. Anthracnose, rotting of the crown, neck and finger.	
%Ripes	100
%Chill	0
%Other	n/a
Carton No.	n
Grower codes	n
Location of Carton(Tier)	bottom
Pulp Temp °C	14.2
Detailed Description of Fruit	
Considerable proportion of bananas had dark green and green colors, hard and firm fruit. Good latex flow. Without chilling. Some boxes were with ripe yellow bananas and ripening green bananas with soft pulp. Anthracnose, rotting of the crown, neck and finger.	
%Ripes	0
%Chill	0
%Other	n/a
Carton No.	n
Grower codes	n
Location of Carton(Tier)	top
Pulp Temp °C	14.5

Detailed Description of Fruit	
Considerable proportion of bananas had dark green and green colors, hard and firm fruit. Good latex flow. Without chilling. Some boxes were with ripe yellow bananas and ripening green bananas with soft pulp. Anthracnose, rotting of the crown, neck and finger.	
%Ripes	100
%Chill	0
%Other	n/a
Carton No.	n
Grower codes	n
Location of Carton(Tier)	middle
Pulp Temp °C	14.7
Detailed Description of Fruit	
Considerable proportion of bananas had dark green and green colors, hard and firm fruit. Good latex flow. Without chilling. Some boxes were with ripe yellow bananas and ripening green bananas with soft pulp. Anthracnose, rotting of the crown, neck and finger.	
%Ripes	0
%Chill	0
%Other	n/a
Carton No.	n
Grower codes	n
Location of Carton(Tier)	bottom
Pulp Temp °C	14.5



Detailed Description of Fruit

Considerable proportion of bananas had dark green and green colors, hard and firm fruit. Good latex flow. Without chilling. Some boxes were with ripe yellow bananas and ripening green bananas with soft pulp. Anthracnose, rotting of the crown, neck and finger.

%Ripes	100
%Chill	0
%Other	n/a

Upload Photographs



DSC01053.Jpg



DSC01055.Jpg



DSC01061.Jpg



DSC010622.Jpg



DSC01063.Jpg



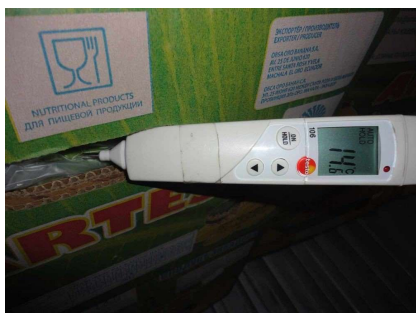
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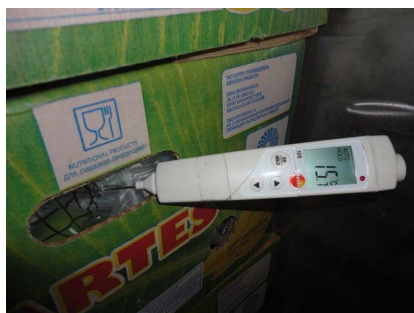
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DSC01066.Jpg



DSC01067.Jpg



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DSC01071.Jpg



DSC010721.Jpg



DSC010732.Jpg



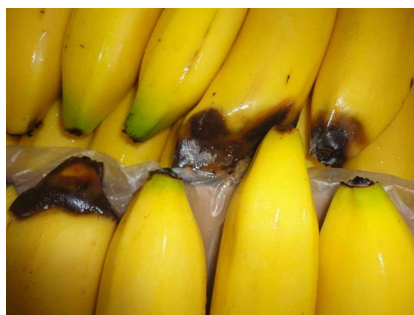
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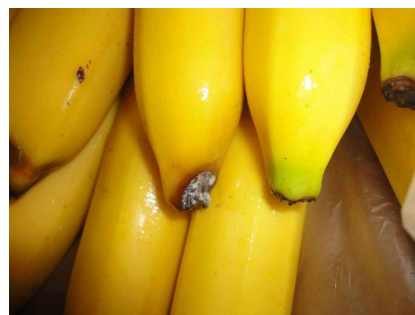
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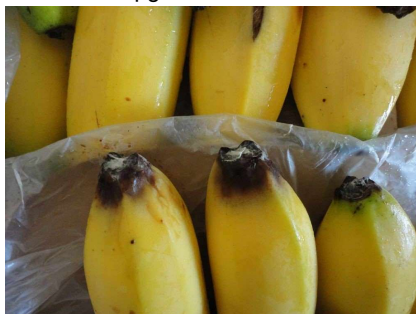
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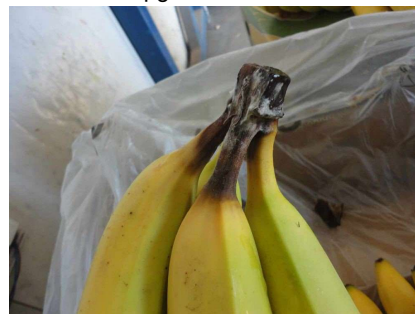
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DSC01080.Jpg



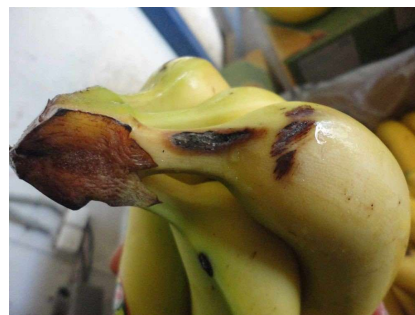
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DSC01083.Jpg



DSC01084.Jpg



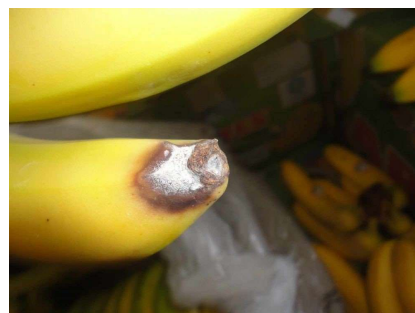
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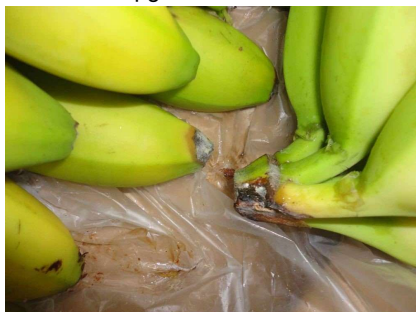
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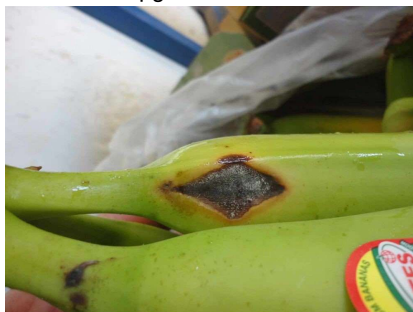
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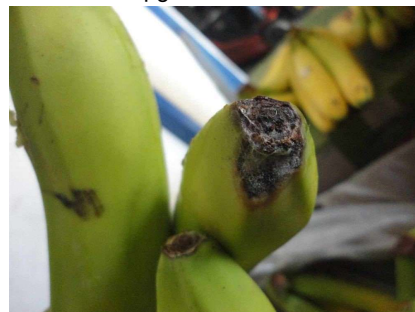
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DSC01094.Jpg



DSC01095.Jpg



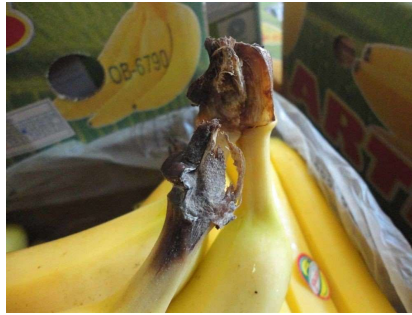
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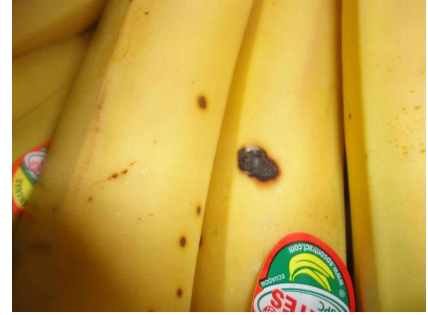
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DSC01100.Jpg



DSC01101.Jpg



DSC01102.Jpg



DSC01103.Jpg



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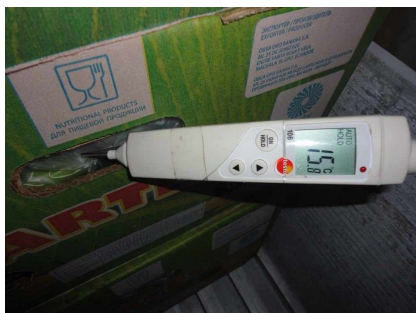
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DSC01109.Jpg



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DSC01113.Jpg



DSC01111.Jpg



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DSC01115.Jpg



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DSC01117.Jpg



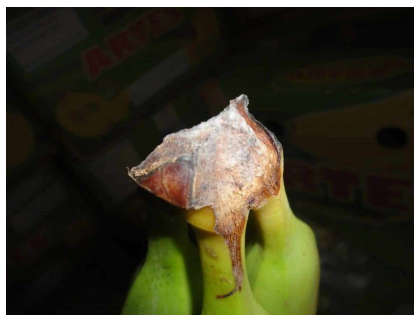
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DSC01119.Jpg



DSC01121.Jpg



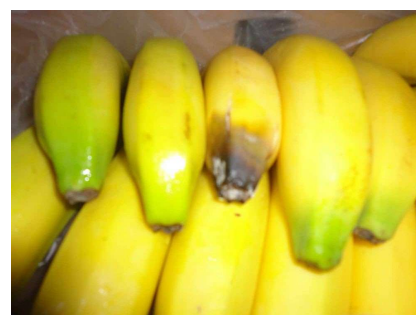
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DSC01123.Jpg



DSC01124.Jpg



DSC01125.Jpg



DSC01126.Jpg



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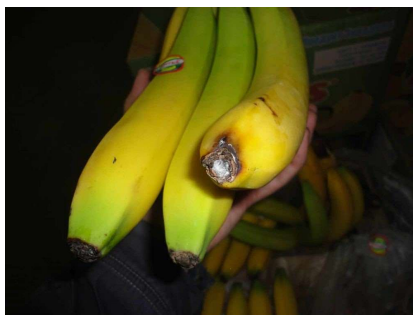


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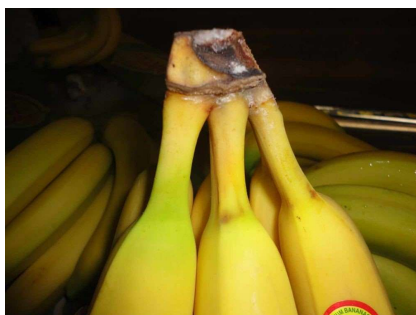
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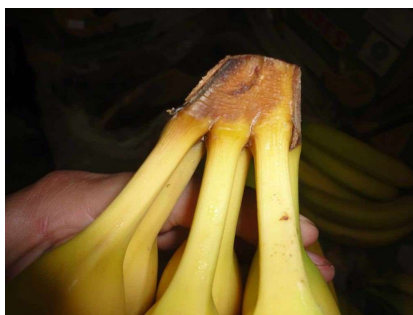
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DSC01131.Jpg



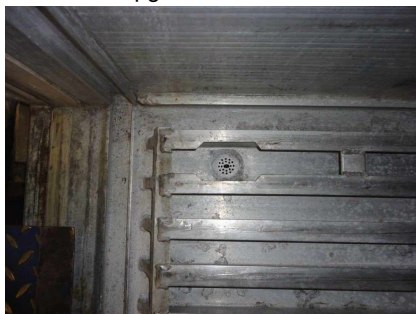
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DSC01133.Jpg



DSC01136.Jpg



DSC01139.Jpg



DSC01137.Jpg



DSC01138.Jpg



DSC01140.Jpg



DSC01141.Jpg



DSC01142.Jpg



DSC01143.Jpg



DSC01144.Jpg



DSC01145.Jpg



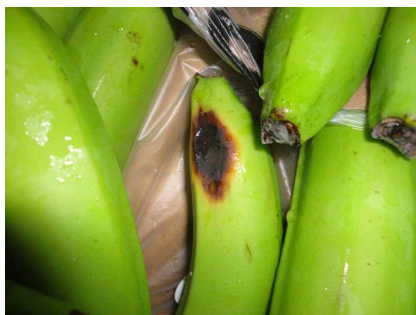
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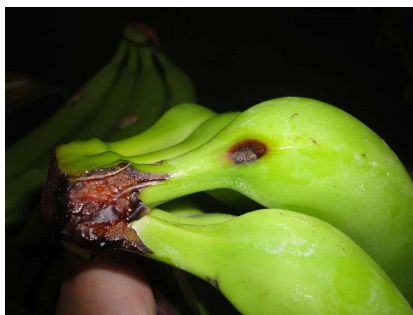
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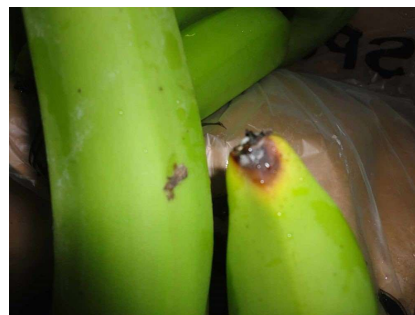
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DSC01151.Jpg



DSC01152.Jpg



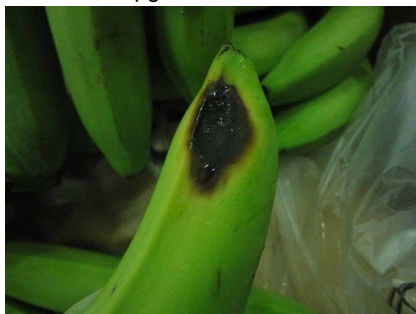
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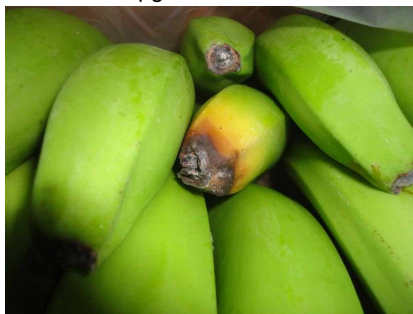
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DSC01155.Jpg



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DSC01158.Jpg



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DSC01162.Jpg



DSC01163.Jpg



DSC01160.Jpg



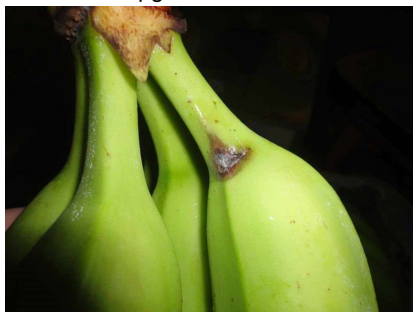
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DSC01166.Jpg



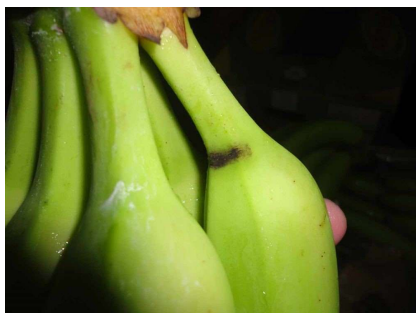
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DSC01168.Jpg



DSC01165.Jpg



DSC01169.Jpg



DSC01170.Jpg



DSC01171.Jpg



## Stage 10: Condition

TWCU6830612

Are pulps hard/soft/mixture

Mixture

---

Photo of fruit cut longitudinally



DSC011541.Jpg

---

Add another file



DSC011551.Jpg

---

Description of colour

1-7

---

Quality issues

Yes

---

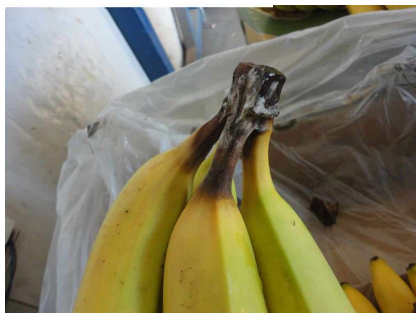
Description of quality issues

Anthraxnose, rotting of the crown, neck and finger

Classification: Internal

---

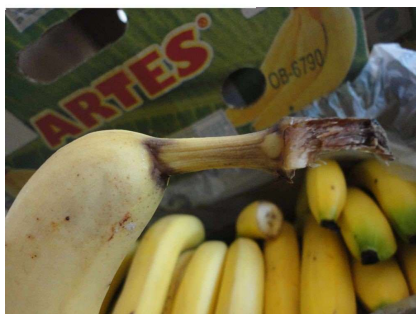
Photo of crown rot



DSC010821.Jpg

---

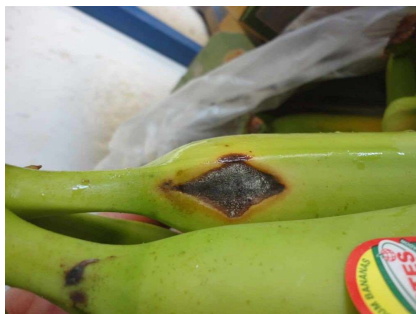
Photo of neck rot



DSC010951.Jpg

---

Photo of anthracnose



DSC010891.Jpg

---

Other



DSC010771.Jpg

---

Total % of quality issues n/a

## Stage 11: Conclusion / Documentation

TWCU6830612

Steps Consignee taking to mitigate / reduce loss

Sorting, gassing and selling good quality bananas

---

Do you agree with this course of action Yes

---

Salvage prospects Yes

---

Reason for survey Cargo Damage

---

Nature of Loss / Root Cause High temperature compared to set point

---

Please state opinion on likely cause of damage probable cause of spoilage of bananas, a short-term increase in temperature and poor quality bananas.

---

Comments on shippers temperature recording instrument see the attached file

---

Copies of temperature recorder attached Yes

---



Commercial Invoice N/A

---

Packing List N/A

---

Phytosanitary Certificate N/A

---

Certificate of Origin  
N/A

---

Loading report N/A

---

Collection note N/A

---

Delivery note N/A

---

QC report  
N/A

---

Datalogger / Trend chart N/A

---

Shippers temperature records

---

Other  
N/A

---

Add another file N/A

---

## Stage 12: Additional Information

Additional information not already covered in the report

N/A

---

Conclusion / Summary

Total loss about 29%  
109 boxes of yellow bananas and 240 boxes of soft green .

---

Upload documents N/A

## Stage 13: Sign Off

Surveyor's name

Peter Throckmorton.

---

Date Submitted to AKS

01/09/2018























Extracted on: 16-01-2018 11:11

## TEMPRATURE LOGS

### Event log

Event Time	Event Description
07-08-2018 23:49	Data Retrieval Container Control Unit
07-08-2018 22:47	Data Retrieval Container Control Unit
07-08-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
06-08-2018 23:49	Data Retrieval Container Control Unit
06-08-2018 22:47	Data Retrieval Container Control Unit
06-08-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
05-08-2018 23:07	Data Retrieval Container Control Unit
05-08-2018 22:05	Data Retrieval Container Control Unit
05-08-2018 03:37	Operating Mode Change: Cool reduced
05-08-2018 03:37	Operating Mode Change: Modulation
05-08-2018 03:36	Power ON with Battery
05-08-2018 02:11	Power Loss with Battery
05-08-2018 02:11	Operating Mode Change: Power Off (Battery Backed Recording)
05-08-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
04-08-2018 23:50	Data Retrieval Container Control Unit
04-08-2018 22:49	Data Retrieval Container Control Unit
04-08-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
03-08-2018 23:50	Data Retrieval Container Control Unit
03-08-2018 22:48	Data Retrieval Container Control Unit
03-08-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
02-08-2018 23:49	Data Retrieval Container Control Unit
02-08-2018 22:48	Data Retrieval Container Control Unit
02-08-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
01-08-2018 23:49	Data Retrieval Container Control Unit
01-08-2018 22:47	Data Retrieval Container Control Unit
01-08-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
31-07-2018 23:48	Data Retrieval Container Control Unit
31-07-2018 22:46	Data Retrieval Container Control Unit
31-07-2018 19:46	Operating Mode Change: Modulation
31-07-2018 19:43	Operating Mode Change: Cool reduced
31-07-2018 19:42	Power ON with Battery
31-07-2018 19:42	AC Power Phase Switch: Normal

31-07-2018 14:53	Power Loss with Battery
31-07-2018 14:53	Operating Mode Change: Power Off (Battery Backed Recording)
31-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
30-07-2018 23:22	Data Retrieval Container Control Unit
30-07-2018 22:21	Data Retrieval Container Control Unit
30-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
29-07-2018 23:11	Data Retrieval Container Control Unit
29-07-2018 22:09	Data Retrieval Container Control Unit
29-07-2018 17:00	Data Retrieval Container Control Unit
29-07-2018 15:58	Data Retrieval Container Control Unit
29-07-2018 06:48	Operating Mode Change: Cool reduced
29-07-2018 06:48	Operating Mode Change: Modulation
29-07-2018 06:40	Power Loss with Battery
29-07-2018 06:40	Power ON with Battery
29-07-2018 06:29	Power ON with Battery
29-07-2018 06:28	Power Loss with Battery
29-07-2018 06:01	Container Control Defrost Initiation: Source=Probe Check, Loss of Cool
29-07-2018 05:50	Operating Mode Change: Cool reduced
29-07-2018 05:49	Power Loss with Battery
29-07-2018 05:49	Power ON with Battery
29-07-2018 05:49	Operating Mode Change: Hi speed Evaps only
29-07-2018 05:00	Extended Container Alarm Activity: 15 Occurence=148
29-07-2018 04:00	Extended Container Alarm Activity: 15 Occurence=148
29-07-2018 03:00	Extended Container Alarm Activity: 15 Occurence=144
29-07-2018 02:00	Extended Container Alarm Activity: 15 Occurence=145
29-07-2018 01:00	Extended Container Alarm Activity: 15 Occurence=148
29-07-2018 00:00	Extended Container Alarm Activity: 15 Occurence=148
29-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
28-07-2018 23:50	Data Retrieval Container Control Unit
28-07-2018 23:00	Extended Container Alarm Activity: 15 Occurence=148
28-07-2018 22:48	Data Retrieval Container Control Unit
28-07-2018 22:00	Extended Container Alarm Activity: 15 Occurence=148
28-07-2018 21:00	Extended Container Alarm Activity: 15 Occurence=148
28-07-2018 20:00	Extended Container Alarm Activity: 15 Occurence=148
28-07-2018 19:00	Extended Container Alarm Activity: 15 Occurence=148
28-07-2018 18:00	Extended Container Alarm Activity: 15 Occurence=147
28-07-2018 17:00	Extended Container Alarm Activity: 15 Occurence=1
28-07-2018 16:00	Extended Container Alarm Activity: 15 Occurence=148
28-07-2018 15:00	Extended Container Alarm Activity: 15 Occurence=148
28-07-2018 14:00	Extended Container Alarm Activity: 15 Occurence=148

28-07-2018 13:00	Extended Container Alarm Activity: 15 Occurrence=145
28-07-2018 12:00	Extended Container Alarm Activity: 15 Occurrence=147
28-07-2018 11:00	Extended Container Alarm Activity: 15 Occurrence=148
28-07-2018 10:00	Extended Container Alarm Activity: 15 Occurrence=148
28-07-2018 09:00	Extended Container Alarm Activity: 15 Occurrence=148
28-07-2018 08:00	Extended Container Alarm Activity: 15 Occurrence=145
28-07-2018 07:00	Extended Container Alarm Activity: 15 Occurrence=148
28-07-2018 06:00	Extended Container Alarm Activity: 15 Occurrence=148
28-07-2018 05:00	Extended Container Alarm Activity: 15 Occurrence=148
28-07-2018 04:00	Extended Container Alarm Activity: 15 Occurrence=148
28-07-2018 03:00	Extended Container Alarm Activity: 15 Occurrence=1
28-07-2018 02:00	Extended Container Alarm Activity: 15 Occurrence=144
28-07-2018 01:00	Extended Container Alarm Activity: 15 Occurrence=148
28-07-2018 00:00	Extended Container Alarm Activity: 15 Occurrence=148
28-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
27-07-2018 23:50	Data Retrieval Container Control Unit
27-07-2018 23:00	Extended Container Alarm Activity: 15 Occurrence=145
27-07-2018 22:49	Data Retrieval Container Control Unit
27-07-2018 22:00	Extended Container Alarm Activity: 15 Occurrence=148
27-07-2018 21:47	Data Retrieval Container Control Unit
27-07-2018 21:00	Extended Container Alarm Activity: 15 Occurrence=148
27-07-2018 20:45	Data Retrieval Container Control Unit
27-07-2018 20:00	Extended Container Alarm Activity: 15 Occurrence=148
27-07-2018 19:57	Extended Container Alarm Activity: 15 Occurrence=1
27-07-2018 19:57	Probe register
27-07-2018 19:57	Operating Mode Change: Alarm shutdown
27-07-2018 19:26	Operating Mode Change: Cool reduced
27-07-2018 19:17	Container Control Defrost Initiation: Source=Probe Check, Loss of Cool
27-07-2018 05:20	Operating Mode Change: Modulation
27-07-2018 05:20	Operating Mode Change: Cool reduced
27-07-2018 01:01	Operating Mode Change: Modulation
27-07-2018 01:01	Operating Mode Change: Cool reduced
27-07-2018 00:59	Operating Mode Change: Cool reduced
27-07-2018 00:59	Operating Mode Change: Modulation
27-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
26-07-2018 23:50	Data Retrieval Container Control Unit
26-07-2018 23:42	Operating Mode Change: Modulation
26-07-2018 23:42	Operating Mode Change: Cool reduced
26-07-2018 22:48	Data Retrieval Container Control Unit
26-07-2018 22:47	Operating Mode Change: Cool reduced

26-07-2018 22:47	Operating Mode Change: Modulation
26-07-2018 22:20	Operating Mode Change: Modulation
26-07-2018 22:20	Operating Mode Change: Cool reduced
26-07-2018 21:59	Operating Mode Change: Modulation
26-07-2018 21:59	Operating Mode Change: Cool reduced
26-07-2018 21:46	Data Retrieval Container Control Unit
26-07-2018 20:46	Operating Mode Change: Cool reduced
26-07-2018 20:46	Operating Mode Change: Modulation
26-07-2018 20:45	Data Retrieval Container Control Unit
26-07-2018 19:18	Operating Mode Change: Cool reduced
26-07-2018 19:18	Operating Mode Change: Modulation
26-07-2018 16:06	Operating Mode Change: Cool reduced
26-07-2018 15:54	Operating Mode Change: Modulation
26-07-2018 15:42	Operating Mode Change: Hi speed Evaps only
26-07-2018 15:35	CCPC Operation Enabled: Source= Timer, TsupSP= -2.0, TILim= 0.5, ThLim=
26-07-2018 14:59	Operating Mode Change: Cool reduced
26-07-2018 14:59	Operating Mode Change: Modulation
26-07-2018 12:24	Operating Mode Change: Cool reduced
26-07-2018 12:24	Operating Mode Change: Modulation
26-07-2018 01:28	Operating Mode Change: Modulation
26-07-2018 01:28	Operating Mode Change: Cool reduced
26-07-2018 00:59	Operating Mode Change: Modulation
26-07-2018 00:59	Operating Mode Change: Cool reduced
26-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
24-07-2018 23:49	Data Retrieval Container Control Unit
24-07-2018 23:30	Operating Mode Change: Cool reduced
24-07-2018 23:30	Operating Mode Change: Modulation
24-07-2018 22:48	Data Retrieval Container Control Unit
24-07-2018 21:45	Operating Mode Change: Modulation
24-07-2018 21:45	Operating Mode Change: Cool reduced
24-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
23-07-2018 23:49	Data Retrieval Container Control Unit
23-07-2018 22:47	Data Retrieval Container Control Unit
23-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
22-07-2018 23:51	Data Retrieval Container Control Unit
22-07-2018 22:50	Data Retrieval Container Control Unit
22-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
21-07-2018 23:49	Data Retrieval Container Control Unit
21-07-2018 22:48	Data Retrieval Container Control Unit
21-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,

20-07-2018 23:49	Data Retrieval Container Control Unit
20-07-2018 22:48	Data Retrieval Container Control Unit
20-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
19-07-2018 23:49	Data Retrieval Container Control Unit
19-07-2018 22:47	Data Retrieval Container Control Unit
19-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
18-07-2018 23:49	Data Retrieval Container Control Unit
18-07-2018 22:48	Data Retrieval Container Control Unit
18-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
17-07-2018 23:50	Data Retrieval Container Control Unit
17-07-2018 22:48	Data Retrieval Container Control Unit
17-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
16-07-2018 23:50	Data Retrieval Container Control Unit
16-07-2018 22:48	Data Retrieval Container Control Unit
16-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
15-07-2018 23:48	Data Retrieval Container Control Unit
15-07-2018 22:47	Data Retrieval Container Control Unit
15-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
14-07-2018 23:49	Data Retrieval Container Control Unit
14-07-2018 22:47	Data Retrieval Container Control Unit
14-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
13-07-2018 23:57	Data Retrieval Container Control Unit
13-07-2018 22:55	Data Retrieval Container Control Unit
13/07/2017 18:45	Power ON with Battery
13/07/2017 18:45	Controller Configuration Changed
13/07/2017 18:45	Operating Mode Change: Hi speed Evaps only
13-07-2018 18:45	Operating Mode Change: Modulation
13-07-2018 18:44	Power Loss with Battery
13-07-2018 18:00	Extended Container Alarm Activity: 15 Occurence=144
13-07-2018 17:58	Extended Container Alarm Activity: 15 Occurence=1
13-07-2018 17:58	Probe register
13-07-2018 17:58	Operating Mode Change: Alarm shutdown
13-07-2018 17:26	Operating Mode Change: Cool reduced
13-07-2018 17:19	Container Control Defrost Initiation: Source=Probe Check, Loss of Cool
13-07-2018 17:10	Extended Container Alarm Activity: 15 Occurence=1
13-07-2018 17:10	Probe register
13-07-2018 17:10	Power Loss with Battery
13-07-2018 17:10	Power ON with Battery
13-07-2018 16:37	Operating Mode Change: Modulation
13-07-2018 16:37	Operating Mode Change: Cool reduced



13-07-2018 16:33	Container Control Defrost Initiation: Source=Probe Check, Loss of Cool
13-07-2018 16:18	Power Loss with Battery
13-07-2018 16:18	Power ON with Battery
13-07-2018 16:18	Controller Configuration Changed
13-07-2018 16:00	Extended Container Alarm Activity: 15 Occurence=148
13-07-2018 15:31	Data Retrieval Container Control Unit
13-07-2018 15:18	Extended Container Alarm Activity: 15 Occurence=1
13-07-2018 15:18	Probe register
13-07-2018 15:18	Operating Mode Change: Alarm shutdown
13-07-2018 14:46	Operating Mode Change: Cool reduced
13-07-2018 14:44	Operating Mode Change: Modulation
13-07-2018 14:40	Container Control Defrost Initiation: Source=Probe Check, Loss of Cool
13-07-2018 14:26	Power Loss with Battery
13-07-2018 14:26	Power ON with Battery
13-07-2018 14:00	Extended Container Alarm Activity: 15 60 Occurence=147
13-07-2018 13:32	Data Retrieval Container Control Unit
13-07-2018 13:00	Extended Container Alarm Activity: 15 60 Occurence=148
13-07-2018 12:00	Extended Container Alarm Activity: 15 60 Occurence=148
13-07-2018 11:00	Extended Container Alarm Activity: 15 60 Occurence=1
13-07-2018 10:00	Extended Container Alarm Activity: 15 60 Occurence=147
13-07-2018 09:00	Extended Container Alarm Activity: 15 60 Occurence=148
13-07-2018 08:00	Extended Container Alarm Activity: 15 60 Occurence=147
13-07-2018 07:00	Extended Container Alarm Activity: 15 60 Occurence=147
13-07-2018 06:00	Extended Container Alarm Activity: 15 60 Occurence=148
13-07-2018 05:00	Extended Container Alarm Activity: 15 60 Occurence=147
13-07-2018 04:00	Extended Container Alarm Activity: 15 60 Occurence=148
13-07-2018 03:00	Extended Container Alarm Activity: 15 60 Occurence=1
13-07-2018 02:00	Extended Container Alarm Activity: 15 60 Occurence=147
13-07-2018 01:00	Extended Container Alarm Activity: 15 60 Occurence=148
13-07-2018 00:00	Extended Container Alarm Activity: 15 60 Occurence=148
13-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
12-07-2018 23:50	Data Retrieval Container Control Unit
12-07-2018 23:00	Extended Container Alarm Activity: 15 60 Occurence=148
12-07-2018 22:48	Data Retrieval Container Control Unit
12-07-2018 22:00	Extended Container Alarm Activity: 15 60 Occurence=147
12-07-2018 21:00	Extended Container Alarm Activity: 15 60 Occurence=147
12-07-2018 20:00	Extended Container Alarm Activity: 15 60 Occurence=147
12-07-2018 19:00	Extended Container Alarm Activity: 15 60 Occurence=147
12-07-2018 18:00	Extended Container Alarm Activity: 15 60 Occurence=1
12-07-2018 17:00	Extended Container Alarm Activity: 15 60 Occurence=148

12-07-2018 16:00	Extended Container Alarm Activity: 15 60 Occurence=147
12-07-2018 15:00	Extended Container Alarm Activity: 15 60 Occurence=147
12-07-2018 14:00	Extended Container Alarm Activity: 15 60 Occurence=148
12-07-2018 13:33	Operating Mode Change: Alarm shutdown
12-07-2018 13:03	Operating Mode Change: Cool reduced
12-07-2018 13:02	Extended Container Alarm Activity: 15 60 Occurence=2
12-07-2018 13:02	Probe register
12-07-2018 13:00	Controller Configuration Changed
12-07-2018 12:54	Container Control Defrost Initiation: Source=Probe Check, Loss of Cool
12-07-2018 12:54	Operating Mode Change: Defrost
12-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
11-07-2018 23:49	Data Retrieval Container Control Unit
11-07-2018 22:48	Data Retrieval Container Control Unit
11-07-2018 01:22	Operating Mode Change: Modulation
11-07-2018 01:22	Operating Mode Change: Cool reduced
11-07-2018 00:52	Operating Mode Change: Cool reduced
11-07-2018 00:52	Operating Mode Change: Modulation
11-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
10-07-2018 23:49	Data Retrieval Container Control Unit
10-07-2018 22:47	Data Retrieval Container Control Unit
10-07-2018 21:46	Data Retrieval Container Control Unit
10-07-2018 20:44	Data Retrieval Container Control Unit
10-07-2018 16:37	Operating Mode Change: Modulation
10-07-2018 16:37	Operating Mode Change: Cool reduced
10-07-2018 15:28	Operating Mode Change: Cool reduced
10-07-2018 15:28	Operating Mode Change: Modulation
10-07-2018 12:33	Operating Mode Change: Modulation
10-07-2018 12:33	Operating Mode Change: Cool reduced
10-07-2018 11:12	Operating Mode Change: Cool reduced
10-07-2018 11:12	Operating Mode Change: Modulation
10-07-2018 08:56	Operating Mode Change: Modulation
10-07-2018 08:56	Operating Mode Change: Cool reduced
10-07-2018 06:52	Operating Mode Change: Cool reduced
10-07-2018 06:52	Operating Mode Change: Modulation
10-07-2018 05:17	Operating Mode Change: Cool reduced
10-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
09-07-2018 23:50	Data Retrieval Container Control Unit
09-07-2018 22:49	Data Retrieval Container Control Unit
09-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
08-07-2018 23:49	Data Retrieval Container Control Unit

08-07-2018 22:48	Data Retrieval Container Control Unit
08-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
07-07-2018 23:50	Data Retrieval Container Control Unit
07-07-2018 22:49	Data Retrieval Container Control Unit
07-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
06-07-2018 23:49	Data Retrieval Container Control Unit
06-07-2018 22:47	Data Retrieval Container Control Unit
06-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
05-07-2018 23:49	Data Retrieval Container Control Unit
05-07-2018 22:47	Data Retrieval Container Control Unit
05-07-2018 16:35	Power ON with Battery
05-07-2018 16:35	Operating Mode Change: Hi speed Evaps only
05-07-2018 16:35	Operating Mode Change: Modulation
04-07-2018 20:34	Operating Mode Change: Modulation
04-07-2018 20:34	Power Loss with Battery
04-07-2018 20:34	Operating Mode Change: Power Off (Battery Backed Recording)
04-07-2018 20:21	Extended Container Alarm Activity:
04-07-2018 20:14	Extended Container Alarm Activity: 24 Occurrence=2
04-07-2018 19:42	Operating Mode Change: Cool reduced
04-07-2018 19:42	Operating Mode Change: Modulation
04-07-2018 19:42	Data Retrieval Container Control Unit
04-07-2018 19:36	Extended Container Alarm Activity:
04-07-2018 19:29	Extended Container Alarm Activity: 24 Occurrence=2
04-07-2018 19:13	Extended Container Alarm Activity:
04-07-2018 19:10	Extended Container Alarm Activity: 24 Occurrence=3
04-07-2018 19:10	Operating Mode Change: Alarm shutdown
04-07-2018 18:51	Operating Mode Change: Cool reduced
04-07-2018 18:51	Operating Mode Change: Modulation
04-07-2018 18:40	Data Retrieval Container Control Unit
04-07-2018 18:37	Extended Container Alarm Activity:
04-07-2018 18:30	Extended Container Alarm Activity: 24 Occurrence=4
04-07-2018 17:39	Data Retrieval Container Control Unit
04-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
03-07-2018 23:21	Data Retrieval Container Control Unit
03-07-2018 22:20	Data Retrieval Container Control Unit
03-07-2018 05:53	Operating Mode Change: Cool reduced
03-07-2018 05:53	Operating Mode Change: Modulation
03-07-2018 05:52	Power ON with Battery
03-07-2018 05:10	Power Loss with Battery
03-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,

02-07-2018 23:50	Data Retrieval Container Control Unit
02-07-2018 22:49	Data Retrieval Container Control Unit
02-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
01-07-2018 23:50	Data Retrieval Container Control Unit
01-07-2018 22:49	Data Retrieval Container Control Unit
01-07-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
30-06-2018 23:49	Data Retrieval Container Control Unit
30-06-2018 22:48	Data Retrieval Container Control Unit
30-06-2018 00:00	Compressor & Unit Operating Hours: Source= Activate at Midnight,
29-06-2018 23:36	Data Retrieval Container Control Unit
29-06-2018 22:35	Data Retrieval Container Control Unit
29-06-2018 19:30	Data Retrieval Container Control Unit
29-06-2018 18:28	Data Retrieval Container Control Unit
29-06-2018 05:24	Operating Mode Change: Cool reduced
29-06-2018 05:24	Operating Mode Change: Modulation
29-06-2018 05:07	Power ON with Battery
29-06-2018 05:00	Power Loss with Battery
29-06-2018 04:42	Operating Mode Change: Modulation
29-06-2018 01:55	Operating Mode Change: Modulation
29-06-2018 01:55	Operating Mode Change: Cool reduced
29-06-2018 01:54	Power ON with Battery



Extracted on: 16-01-2018 11:11

TEMPRATURE LOGS

Alarm log

Alarm Time	Alarm Description
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## MALFUNCTION REPORT (MALREEF)

This MALREEF to be sent to [cenequvslsup@tcl.com](mailto:cenequvslsup@tcl.com) only when MON system is not available/ out of order onboard.

REEFER HOTLINE NUMBER: +91 99999 99999

### Information

<b>Vessel Code*</b>	26M	<b>Vessel Name*</b>	J Momoa
<b>Date (mm/dd/yy)*</b>	5-Jul-18		
<b>ETA Next Port (mm/dd/yy)*</b>	6-Jul-18	<b>ETA Next Port Time*</b>	06-06-2018 23:00

<b>Load Port</b>	GYE	<b>Port Name</b>	GUAYAQUAIL
<b>Next Port*</b>	BLB	<b>Port Name</b>	BALBOA
<b>Discharge Port</b>	PLP	<b>Port Name</b>	ST PETERSBURG

### Measurements

<b>A1 Container Number*</b>	TWCU6830612
<b>A2 Unit Model Number*</b>	69NT40-561-001
<b>A3 Stowage Position</b>	340804
<b>B1 Set Point*</b>	<b>13.60</b>
<b>B2 Ventilation Setting</b>	CLOSED
<b>B3 Commodity*</b>	Fruit / Banana
<b>B4 Operator</b>	
<b>B5 Reefer Type*</b>	Std Reefer
<b>C1 Date when failure observed</b>	05.07.2018
<b>C2 Duration of Malfunction*</b>	
<b>C3 Max Temp Deviation During</b>	
<b>D1 Error Code and Description</b>	
<b>D2 Alarms Displayed on Unit</b>	

<b>E1 Action taken to solve Malfunction*</b>	DURING MORNING ROUNDS UNIT FOUND TRIP, TROUBLE SHOOTING CHECKED POWER PLUG, CABLE AND BREAKER FOUND NORMAL. CHECKED ALL MOTORS, COMPRESSORES AND CONNECTION FOUND NORMAL. CHECKED ALL CONTACTORS FOUND NORMAL RE-
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<b>E2 Evap. Fan rotation and coil checked *</b>	
<b>F1 Repairs needed when discharged ? *</b>	NO
<b>G1 Should Failure have been observed at</b>	
<b>G2 Date of last PTI ?</b>	
<b>G3 Company performing PTI ?</b>	

### Conclusions

MAN WORKING HOURS : 2X0,5 HRS = 1HRS	
<b>K1 Does Defrost Operation seem normal ?</b>	YES
<b>K2 If 'No', please state abnormality</b>	

\* - Mandatory fields

Kindly use Conclusions field for free text

### Temperature Measured on Display, Manually or by OHM

<b>H1 Supply Air Temperature*</b>	13.60
<b>H2 Return Air Temperature*</b>	14.40
<b>H3 Ambient air Temperature *</b>	
<b>H4 Evaporator Temperature *</b>	
<b>H5 Cargo Probes Temperature for special</b>	

### CA reefer measurements / out of range only, (I-1 to I11) For Control

<b>I1 Cd01 Membrane Temp Set Point</b>	
<b>I2 Cd02 Input Temp Set Point</b>	
<b>I3 Cd05 Software Revision</b>	
<b>I4 Cd07 Nitrogen Supply Pressure</b>	
<b>I5 Cd13 Latest O2 Calibration Span</b>	
<b>I6 Cd19 Air Compressor State</b>	
<b>I7 Cd26 Oxygen Solenoid State</b>	
<b>I8 Cd27 Nitrogen Purity Valve State</b>	
<b>I9 Alarms displayed on CA controller</b>	
<b>I10 Set Point[%] O2 : CO2 :</b>	
<b>I11 Act Point[%] O2 : CO2 :</b>	

### Pressure - if no guages then manually measured by gauge manifold set when compressed

<b>J1 Compressor Suction Pressure R134a*</b>	2,30
<b>J2 Compressor Discharge Pressure</b>	10,60
<b>J3 Compressor Suction Pressure 2 R-23</b>	
<b>J4 Compressor Discharge Pressure 2 R-23</b>	

<b>L1 Any useful comments on operation</b>	
<b>M1 Assistance required at next port* ?</b>	NO

### PARTS CONSUMED FOR REPAIRS

QUANTITY      TICLE/PART NUMB. DESCRIPTION OF SPARE CONSUMED



## MALFUNCTION REPORT (MALREEF)

This MALREEF to be sent to [cenequvlsup@tcl.com](mailto:cenequvlsup@tcl.com) only when MON system is not available/ out of order onboard.

REEFER HOTLINE NUMBER: +91 99999 99999

### Information

Vessel Code*	26M	Vessel Name*	J Momoa
Date (mm/dd/yy)*	13-Jul-18		
ETA Next Port (mm/dd/yy)*	20-Jul-18	ETA Next Port Time*	20-07-2018 23:00

Load Port	GYE	Port Name	GUAYQUIL
Next Port*	RTM	Port Name	ROTTERDAM
Discharge Port	PLP	Port Name	ST PETERSBURG

### Measurements

A1 Container Number*	TWCU6830612
A2 Unit Model Number*	69NT40-561-001
A3 Stowage Position	340804
B1 Set Point*	13.60
B2 Ventilation Setting	CLOSED
B3 Commodity*	Fruit / Banana
B4 Operator	
B5 Reefer Type*	Std Reefer
C1 Date when failure observed	13.07.2018
C2 Duration of Malfunction*	
C3 Max Temp Deviation During	
D1 Error Code and Description	
D2 Alarms Displayed on Unit	

E1 Action taken to solve Malfunction*	DURING MORNING ROUNDS UNIT FOUND NOT MAINTANING SET TEMPERATURE.TROUBLE SHOOTING CHECKED SUCTION AND DISCHARGE PRESSUER FOUND LOW RECHARGED WITH REQUIRED AMOUNT OF R-134a FERON.GAS CARRIED OUT LEAK TEST
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E2 Evap. Fan rotation and coil checked *	
F1 Repairs needed when discharged ? *	NO
G1 Should Failure have been observed at	
G2 Date of last PTI ?	
G3 Company performing PTI ?	

### Conclusions

MAN WORKING HOURS : 2X 1.5HRS = 3HRS

K1 Does Defrost Operation seem normal ?	YES
K2 If 'No',please state abnormality	

\* - Mandatory fields

Kindly use Conclusions field for free text

### Temperature Measured on Display, Manually or by OHM

H1 Supply Air Temperature*	13.60
H2 Return Air Temperature*	14.30
H3 Ambient air Temperature *	
H4 Evaporator Temperature *	
H5 Cargo Probes Temperature for special	

### CA reefer measurements / out of range only,(I-1 to I11)For Control

I1 Cd01 Membrane Temp Set Point	
I2 Cd02 Input Temp Set Point	
I3 Cd05 Software Revision	
I4 Cd07 Nitrogen Supply Pressure	
I5 Cd13 Latest O2 Calibration Span	
I6 Cd19 Air Compressor State	
I7 Cd26 Oxygen Solenoid State	
I8 Cd27 Nitrogen Purity Valve State	
I9 Alarms displayed on CA controller	
I10 Set Point[%] O2 : CO2 :	
I11 Act Point[%] O2 : CO2 :	

### Pressure - if no guages then manually measured by gauge manifold set when compre

J1 Compressor Suction Pressure R134a*	1.10
J2 Compressor Discharge Pressure	11.60
J3 Compressor Suction Pressure 2 R-23	
J4 Compressor Discharge Pressure 2 R-23	

L1 Any useful comments on operation	
M1 Assistance required at next port* ?	NO

### PARTS CONSUMED FOR REPAIRS

QUANTITY	TICLE/PART NUMB.	DESCRIPTION OF SPARE CONSUMED
0.6KG	R-134a	FERON

## MALFUNCTION REPORT (MALREEF)

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REEFER HOTLINE NUMBER: +91 99999 99999

### Information

Vessel Code*	26M	Vessel Name*	J Momoa
Date (mm/dd/yy)*	29-Jul-18		
ETA Next Port (mm/dd/yy)*	30-Jul-18	ETA Next Port Time*	30-07-2018 20:00

Load Port	GYE	Port Name	GUAYAQUAIL
Next Port*	PLP	Port Name	ST PETERSBURG
Discharge Port	PLP	Port Name	ST PETERSBURG

### Measurements

A1 Container Number*	TWCU6830612
A2 Unit Model Number*	69NT40-561-001
A3 Stowage Position	340804
B1 Set Point*	13.60
B2 Ventilation Setting	CLOSED
B3 Commodity*	Fruit / Banana
B4 Operator	
B5 Reefer Type*	Std Reefer
C1 Date when failure observed	29.07.2018
C2 Duration of Malfunction*	
C3 Max Temp Deviation During	
D1 Error Code and Description	
D2 Alarms Displayed on Unit	AL- 15 LOSS OF COOLING

### Temperature Measured on Display, Manually or by OHM

H1 Supply Air Temperature*	13.60
H2 Return Air Temperature*	14.40
H3 Ambient air Temperature *	
H4 Evaporator Temperature *	
H5 Cargo Probes Temperature for special	

**E1 Action taken to solve Malfunction\***  
 DURING MORNING ROUNDS UNIT FOUND ALARM AL-15 LOSS OF COOLING NOT MAINTANING SET TEMPERATURE. TROUBLE SHOOTING CHECKED SUCTION AND DISCHARGE PRESSUER USING GUAGE MANIFOLD FOUND LOW CARRIED OUT LEAK TEST FOUND

### CA reefer measurements / out of range only,(I-1 to I11)For Control

I1 Cd01 Membrane Temp Set Point	
I2 Cd02 Input Temp Set Point	
I3 Cd05 Software Revision	
I4 Cd07 Nitrogen Supply Pressure	
I5 Cd13 Latest O2 Calibration Span	
I6 Cd19 Air Compressor State	
I7 Cd26 Oxygen Solenoid State	
I8 Cd27 Nitrogen Purity Valve State	
I9 Alarms displayed on CA controller	
I10 Set Point[%] O2 : CO2 :	
I11 Act Point[%] O2 : CO2 :	

E2 Evap. Fan rotation and coil checked *	
F1 Repairs needed when discharged ? *	NO
G1 Should Failure have been observed at	
G2 Date of last PTI ?	
G3 Company performing PTI ?	

### Pressure - if no guages then manually measured by gauge manifold set when compre

J1 Compressor Suction Pressure R134a*	1.80
J2 Compressor Discharge Pressure	11.30
J3 Compressor Suction Pressure 2 R-23	
J4 Compressor Discharge Pressure 2 R-23	

### Conclusions

MAN WORKING HOURS : 2X2 HRS = 4HRS	
K1 Does Defrost Operation seem normal ?	YES
K2 If 'No',please state abnormality	

L1 Any useful comments on operation	
M1 Assistance required at next port* ?	NO

### PARTS CONSUMED FOR REPAIRS

QUANTITY	TICLE/PART NUMB	DESCRIPTION OF SPARE CONSUMED
1.6KG	R-134a	FERON

\* - Mandatory fields

Kindly use Conclusions field for free text

# THE LONDON MARITIME ARBITRATORS ASSOCIATION



## THE LMAA TERMS

2017

**Effective for arbitral proceedings commenced on or after 1 May 2017**

## THE LMAA TERMS 2017

### PRELIMINARY

1. These Terms may be referred to as "the LMAA Terms 2017".
2. In these Terms, unless the context otherwise requires,
  - (a) "the Act" means the Arbitration Act 1996;
  - (b) "the Association" means the London Maritime Arbitrators Association; "Member of the Association" includes full, retired and supporting members; "President" means the President for the time being of the Association or, where he cannot act, such other member of the Committee of the Association as he may designate;
  - (c) "tribunal" includes a sole arbitrator, a tribunal of two or more arbitrators, and an umpire;
  - (d) "original arbitrator" means an arbitrator appointed (whether initially or by substitution) by or at the request of a party as its nominee and any arbitrator duly appointed so to act following failure of a party to make its own nomination.
3. The purpose of arbitration according to these Terms is to obtain the fair resolution of maritime and other disputes by an impartial tribunal without unnecessary delay or expense. The arbitrators at all times are under a duty to act fairly and impartially between the parties and an original arbitrator is in no sense to be considered as the representative of his appointer.

### APPLICATION

4. These Terms apply to arbitral proceedings commenced on or after 1st May 2017. Section 14 of the Act shall apply for the purpose of determining on what date arbitral proceedings are to be regarded as having commenced.
5. These Terms shall apply to an arbitration agreement whenever the parties have agreed that they shall apply and the parties shall in particular be taken to have so agreed:
  - (a) whenever the dispute is referred to a sole arbitrator who is a full Member of the Association and whenever both the original arbitrators appointed by the parties are full Members of the Association, unless both parties have agreed or shall agree otherwise;
  - (b) whenever a sole arbitrator or both the original arbitrators have been appointed on the basis that these Terms apply to their appointment;

and whenever a sole arbitrator or both the original arbitrators have been appointed on the basis referred to at (b), such appointments or the conduct of the parties in taking part in the arbitration thereafter shall constitute an agreement between the parties that the arbitration agreement governing their dispute has been made or varied so as to incorporate these Terms and shall further constitute authority to their respective arbitrators so to confirm in writing on their behalf.

6. In the absence of any agreement to the contrary, the parties to all arbitral proceedings to which these Terms apply agree:

(a) that the law applicable to their arbitration agreement is English and;

(b) that the seat of the arbitration is in England.

7. (a) Subject to paragraph (b), the arbitral proceedings and the rights and obligations of the parties in connection therewith shall be in all respects governed by the Act save to the extent that the provisions of the Act are varied, modified or supplemented by these Terms.

(b) Where the seat of the arbitration is outside England and Wales the provisions of these Terms shall nevertheless apply to the arbitral proceedings, save to the extent that any mandatory provisions of the law applicable to the arbitration agreement otherwise provide.

## THE ARBITRAL TRIBUNAL

8. (a) If the arbitration agreement provides that these Terms are to apply but contains no provision as to the number of arbitrators, the agreement shall be deemed to provide for a tribunal of three arbitrators as in (b) below.

(b) Subject to the terms of the arbitration agreement, if the tribunal is to consist of three arbitrators:

(i) each party shall appoint one arbitrator not later than 14 days after service of a request in writing by either party to do so;

(ii) the two so appointed may at any time thereafter appoint a third arbitrator so long as they do so before any substantive hearing or forthwith if they cannot agree on any matter relating to the arbitration, and if the two said arbitrators do not appoint a third within 14 days of one calling upon the other to do so, the President shall, on the application of either arbitrator or of a party, appoint the third arbitrator;

(iii) the third arbitrator shall be the chairman unless the parties shall agree otherwise;

(iv) before the third arbitrator has been appointed or if the position has become vacant, the two original arbitrators, if agreed on any matter, shall have the power to make decisions, orders and awards in relation thereto;

- (v) after the appointment of the third arbitrator decisions, orders or awards shall be made by all or a majority of the arbitrators;
  - (vi) the view of the third arbitrator shall prevail in relation to a decision, order or award in respect of which there is neither unanimity nor a majority under paragraph (v).
9. Subject to the terms of the arbitration agreement, if the tribunal is to consist of two arbitrators and an umpire:
- (a) each party shall appoint one arbitrator not later than 14 days after service of a request in writing by either party to do so;
  - (b) the two so appointed may appoint an umpire at any time after they themselves are appointed and shall do so before any substantive hearing or forthwith if they cannot agree on any matter relating to the arbitration, and if the two said arbitrators do not appoint an umpire within 14 days of one calling upon the other to do so, the President shall, on the application of either arbitrator or of a party, appoint the umpire;
  - (c) the umpire shall attend any substantive hearing and shall following his appointment be supplied with the same documents and other materials as are supplied to the other arbitrators;
  - (d) the umpire may take part in and, if the original arbitrators so agree, chair the hearing and deliberate with the original arbitrators;
  - (e) decisions, orders and awards shall be made by the original arbitrators unless and until they cannot agree on a matter relating to the arbitration. In that event they shall forthwith give notice in writing to the parties and the umpire, whereupon the umpire shall replace them as the tribunal with power to make decisions, orders and awards as if he were the sole arbitrator.
10. Where each of two parties is to appoint an arbitrator, and one party refuses to do so, or fails to do so within the time specified, the provisions of section 17 of the Act will apply, unless the parties agree otherwise.
11. Subject to the terms of the arbitration agreement, where it provides for these Terms to apply and if the tribunal is to consist of a sole arbitrator, if within 14 days of one party calling for arbitration the parties have not agreed upon a sole arbitrator: (a) either party may apply in writing for the appointment of a sole arbitrator by the President of the LMAA; (b) such application shall be accompanied by a remittance in favour of the LMAA for making the appointment (the amount of such remittance being specified from time to time on the LMAA's website); (c) the party applying to the President shall give a concise explanation of the issues likely to arise, and as to whether any particular expertise on the part of the arbitrator is required but shall not suggest any particular names of potential arbitrators; (d) the President, having considered the nature of the dispute, shall appoint a sole arbitrator and give notice of such appointment to the parties.

## JURISDICTION

12. Notwithstanding the terms of any appointment of an arbitrator, unless the parties otherwise agree the jurisdiction of the tribunal shall extend to determining all disputes arising under or in connection with the transaction the subject of the reference, and each party shall have the right before the tribunal makes its award (or its last award, if more than one is made in a reference) to refer to the tribunal for determination any further dispute(s) arising after the commencement of the arbitral proceedings. When and how such dispute is dealt with in the reference shall be in the discretion of the tribunal.

## TRIBUNAL'S FEES

13. Provisions regulating fees payable to the tribunal and other related matters are set out in the First Schedule. Save as therein or herein otherwise provided, payment of the tribunal's fees and expenses is the joint and several responsibility of the parties. An arbitrator or umpire shall be entitled to resign from a reference in the circumstances set out in paragraph (C) of the First Schedule.

## ARBITRATION PROCEDURE

14. (a) It shall be for the tribunal to decide all procedural and evidential matters, but the tribunal will where appropriate have regard to any agreement reached by the parties on such matters. The normal procedure to be adopted is set out in the Second Schedule, subject to the tribunal having power at any time to vary that procedure.  
  
(b) In the absence of agreement it shall be for the tribunal to decide whether and to what extent there should be oral or written evidence or submissions in the arbitration. The parties should however attempt to agree at an early stage whether the arbitration is to be on documents alone (i.e. without any oral hearing) or whether there is to be such a hearing.

## INTERLOCUTORY PROCEEDINGS

15. (a) In all cases parties should be guided by the procedure set out in the Second Schedule.  
  
(b) Applications for directions should not be necessary but, if required, they should be made in accordance with the Second Schedule.  
  
(c) ***Arbitrations on documents alone***  
Following completion of the steps covered by the Second Schedule, if it has been agreed by the parties or is determined by the tribunal that the case is to be dealt with on documents alone, the tribunal will then give notice to the parties of its intention to proceed to its award and will so proceed unless either party within 7 days requests, and is thereafter granted, permission to serve further submissions and/or documents.

(d) **Oral hearings**

If it is determined or agreed that there shall be an oral hearing, then following the fixing of the hearing date a booking fee will be payable in accordance with the provisions of the First Schedule.

## POWERS OF THE TRIBUNAL

16. In addition to the powers set out in the Act, the tribunal shall have the following specific powers to be exercised in a suitable case so as to avoid unnecessary delay or expense, and so as to provide a fair means for the resolution of the matters falling to be determined:

(a) The tribunal may:

- (i) direct either that no expert be called on any issue(s) or that no expert evidence shall be called save with the permission of the tribunal;
- (ii) limit the number of expert witnesses to be called by any party or the length of any report to be served by any such witness.

(b) Where two or more arbitrations appear to raise common issues of fact or law, the tribunals may direct that they shall be conducted and, where an oral hearing is directed, heard concurrently. Where such an order is made, the tribunals may give such directions as the interests of fairness, economy and expedition require including:

- (i) that time limits for service of submissions may be abbreviated or modified in the interests of saving costs or minimising delay, or otherwise enhancing efficiency;
- (ii) that the documents disclosed by the parties in one arbitration shall be made available to the parties to the other arbitration upon such conditions as the tribunals may determine;
- (iii) that the evidence given in one arbitration shall be received and admitted in the other arbitration, subject to all parties being given a reasonable opportunity to comment upon it and subject to such other conditions as the tribunals may determine.

(c) If a party fails to comply with a peremptory order of the tribunal to provide security for costs, then without prejudice to the power granted by section 41(6) of the Act, the tribunal shall have power to stay that party's claim or such part of it as the tribunal thinks fit in its sole discretion.

## PRELIMINARY MEETINGS

17. (a) The tribunal may decide at any stage that the circumstances of the arbitration require that there should be a preliminary meeting to enable the parties and the tribunal to review the progress of the case; to reach agreement so far as possible upon further preparation for, and the conduct of the



hearing; and, where agreement is not reached, to enable the tribunal to give such directions as it thinks fit.

(b) A preliminary meeting should be held in complex cases including most cases involving a hearing of more than 5 days' duration. Exceptionally more than one preliminary meeting may be required.

(c) All preliminary meetings (whether required by the tribunal or held on the application of the parties) should be preceded by a discussion between the parties' representatives who should attempt to identify matters for discussion with the tribunal, attempt to reach agreement so far as possible on the directions to be given, and prepare for submission to the tribunal an agenda of matters for approval or determination by it.

(d) Before the preliminary meeting takes place the parties should provide the tribunal with a paginated bundle of appropriate documents, together with information sheets setting out the steps taken and to be taken in the arbitration, a list of any proposed directions whether agreed or not and an agenda of matters for discussion at the hearing. The information sheets should include estimates of readiness for the hearing and the likely duration of the hearing.

## SETTLEMENT

18. It is the duty of the parties (a) to notify the tribunal immediately if the arbitration is settled or otherwise terminated (b) to make provision in any settlement for payment of the fees and expenses of the tribunal and (c) to inform the tribunal of the parties' agreement as to the manner in which payment will be made of any outstanding fees and expenses of the tribunal, e.g. for interlocutory work not covered by any booking fee paid. The same duty arises if the settlement takes place after an interim award has been made. Upon being notified of the settlement or termination of any matter the tribunal may dispose of the documents relating to it.
19. Any booking fee paid will be dealt with in accordance with the provisions of paragraph (D)(1)(d) of the First Schedule. Any other fees and expenses of the tribunal shall be settled promptly and at latest within 28 days of presentation of the relevant account(s). Notwithstanding the terms of any settlement between them the parties shall remain jointly and severally responsible for all such fees and expenses of the tribunal until they have been paid in full.

## ADJOURNMENT

20. If a case is for any reason adjourned part-heard, the tribunal will be entitled to an interim payment, payable in equal shares or otherwise as the tribunal may direct, in respect of fees and expenses already incurred, appropriate credit being given for the booking fee.

## AVAILABILITY OF ARBITRATORS

21. (a) In cases where it is known at the outset that an early hearing is essential, the parties should consult and ensure the availability of the arbitrator(s) to be appointed by them.
- (b) If, in cases when the tribunal has already been constituted, the fixture of an acceptable hearing date is precluded by the commitments of the original appointee(s), the provisions of the Fourth Schedule shall apply.

## THE AWARD

22. The time required for preparation of an award must vary with the circumstances of the case. The award should normally be available within not more than six weeks from the close of the proceedings. In many cases, and in particular where the matter is one of urgency, the interval should be substantially shorter. At the end of the hearing or in the case of an arbitration on documents alone, upon receipt of final submissions the tribunal will, if asked, do its best to indicate when its award will be available.
23. The members of a tribunal need not meet together for the purpose of signing their award or of effecting any corrections thereto.
24. (a) An award will contain the reasons for it unless the parties agree otherwise.
- (b) The parties may agree to dispense with reasons in which case notice shall be given to the tribunal before the award is made. [Note: the effect of such agreement is to exclude the court's jurisdiction under section 69 of the Act to determine an appeal on a question of law arising out of the award; see section 69(1)]
- (c) Where in accordance with paragraph (b) the parties have agreed to dispense with reasons the tribunal will issue an award without reasons together with a document which does not form part of the award but which gives, on a confidential basis, an outline of the reasons for the tribunal's decision (hereafter called "privileged reasons").
- (d) Unless the court shall otherwise determine, the document containing privileged reasons may not be relied upon or referred to by either party in any proceedings relating to the award.
25. As soon as possible after an award has been made, the tribunal shall give written notice thereof to the parties which notice will also inform the parties of (a) the amount of the outstanding fees and expenses of the tribunal and (b) that the award will be made available to be sent to or collected by the parties upon full payment of such amount. At the stage of notification neither the award nor any copy thereof need be served on the parties and the tribunal shall be entitled thereafter to refuse to deliver the award or any copy thereof to the parties except upon full payment of its fees and expenses.

26. If any award has not been paid for and collected within one month of the date of publication, the tribunal may give written notice to any party requiring payment of the costs of the award, whereupon such party shall be obliged to pay for and collect the award within 14 days.
27. (a) In addition to the powers set out in section 57 of the Act, the tribunal shall have the following powers to correct an award or to make an additional award:
- (i) The tribunal may on its own initiative or on the application of a party correct any accidental mistake, omission or error of calculation in its award.
  - (ii) The tribunal may on the application of a party give an explanation of a specific point or part of the award.
- (b) An application for the exercise of the powers set out above and in section 57 of the Act must be made within 28 days of the date of the award unless the tribunal shall think fit to extend the time.
- (c) The powers set out above shall not be exercised without first affording the other parties a reasonable opportunity to make representations to the tribunal.
- (d) Any correction of or explanation for an award may be effected in writing on the original award or in a separate memorandum which shall become part of the award. It shall be effected within 90 days of the date of the original award unless all parties shall agree a longer period.
28. If the tribunal considers that an arbitration decision merits publication and gives notice to the parties of its intention to release the award for publication, then unless either or both parties inform the tribunal of its or their objection to publication within 21 days of the notice, the award may be publicised under such arrangements as the Association may effect from time to time. The publication will be so drafted as to preserve anonymity as regards the identity of the parties, of their legal or other representatives, and of the tribunal.

## **SERVICE OF DOCUMENTS**

29. Where a party is represented by a lawyer or other agent in connection with any arbitral proceedings, all notices or other documents required to be given or served for the purposes of the arbitral proceedings together with all decisions, orders and awards made or issued by the tribunal shall be treated as effectively served if served on that lawyer or agent.

## GENERAL

30. Where an award reserves any questions relating to costs and/or interest any application to the tribunal to deal with such matter should be made within three months of the award unless the tribunal agrees a longer period.
31. Three months after the publication of an award the tribunal may dispose of its papers unless either (a) the parties or any of them request it not to do so, or (b) it is notified of an application to a court in England and Wales arising out of the award. In either case the tribunal may dispose of the papers six months after such request or a final decision of the court, unless one of the parties reasonably requests the tribunal to retain the papers for a further period.
32. In relation to any matters not expressly provided for herein the tribunal shall act in accordance with the tenor of these Terms.

## THE FIRST SCHEDULE

### TRIBUNAL'S FEES

#### (A) Appointment fee

An appointment fee is payable on appointment by the appointing party or by the party at whose request the appointment is made. The appointment fee shall be a standard fee fixed by the Committee of the Association from time to time\*. Unless otherwise agreed, the appointment fee of an umpire or third arbitrator shall in the first instance be paid by the claimant, and the appointment fee of an agreed sole arbitrator shall be paid by each party in equal shares.

#### (B) Interim fees

An arbitrator may in his discretion require payment of his fees to date (which expression shall for these purposes include any expenses) at appropriate intervals (which shall be not less than three months). Any such demand for payment shall be addressed to the arbitrator's appointing party and shall be copied to any other member of the tribunal and other parties. A sole arbitrator, third arbitrator or umpire shall require payment from the parties in equal shares. Any such demand for payment is without prejudice (a) to ultimate liability for the fees in question and (b) to the parties' joint and several liability therefor. Without prejudice to the foregoing, a party may ask an arbitrator to provide an interim account of his fees at intervals which shall not be less than three months.

#### (C) Right to resign for non-payment

If any amount due under (A) or (B) above remains unpaid for more than 28 days after payment has been demanded, the arbitrator in his sole discretion may give written notice to his appointer and to the other parties and arbitrators that he will resign his appointment if such amount still remains unpaid 14 days after such notification. Without prejudice to ultimate liability for the fees in question, any other party may prevent such resignation by paying the amount demanded within the said 14 days. Upon any resignation under this paragraph the arbitrator will be entitled to immediate payment of his fees to date, and shall be under no liability to any party for any consequences of his resignation.

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\* The current fees as fixed by the LMAA Committee will be found on the LMAA website at [www.lmaa.london/notes-on-fees.asp](http://www.lmaa.london/notes-on-fees.asp)

#### (D) Booking fees

1. (a) For a hearing of up to 10 days' duration there shall be payable to the tribunal a booking fee of such sum per arbitrator as the Committee of the Association may from time to time decide, for each day reserved. The booking fee will be invoiced to the party asking for the hearing date to be fixed or to the parties in equal shares at the discretion of the tribunal and shall become due and shall be paid within 14 days of confirmation of the reservation or six months in advance of the first day reserved ("the start date"), whichever date be the later. If the fee is not paid in full by the due date, the tribunal will be entitled to cancel the reservation forthwith without prejudice to its entitlement to be paid the fee in question or the appropriate proportion thereof in accordance with sub-paragraph (d) below. In the event of a cancellation under this provision either party may secure reinstatement of the reservation by payment within 7 days of any balance outstanding.
  - (b) For hearings over 10 days' duration the booking fee in sub-paragraph (1)(a) above shall for each day reserved be increased by 30% in the case of a hearing of up to 15 days and 60% in the case of a hearing of up to 20 days and may, at the discretion of the tribunal, be subscribed in non-returnable instalment payments. For hearings in excess of 20 days the booking fee shall be at the rate for a hearing of 20 days plus such additional sum as may be agreed with the parties in the light of the length of the proposed hearing.
  - (c) The booking fee for any third arbitrator or umpire shall be due and payable as above, save that the booking fee due to any third arbitrator or umpire appointed less than six months before the start date shall be due forthwith upon his appointment and payable within 14 days thereof.
  - (d) Where, (i) at the request of one or both of the parties, or (ii) by reason of settlement of any dispute, or (iii) by reason of cancellation pursuant to sub-paragraph (a) above or (iv) by reason of the indisposition or death of any arbitrator or umpire a hearing is adjourned or a hearing date vacated prior to or on or after the start date, then, unless non-returnable instalment or other payments have been agreed, the booking fee will be retained by (or, if unpaid, shall be payable to) the tribunal (i) in full if the date is adjourned or vacated less than three months before the start date or on or after that date, (ii) as to 50 per cent if the date is adjourned or vacated three months or more before the start date. Any interlocutory fees and expenses incurred will also be payable or, as the case may be, deductible from any refund under (ii).
  - (e) Where, at the request of one or both of the parties, or by reason of the indisposition or death of any arbitrator or umpire a hearing is adjourned or a hearing date is vacated and a new hearing date is fixed, a further booking fee will be payable in accordance with sub-paragraphs (a) and (b) above.
2. An arbitrator or umpire who, following receipt of his booking fee or any part thereof, is for any reason replaced is, upon settlement of his fees for any interlocutory work, responsible for the transfer of his booking fee to the person appointed to act in his place. In the event of death, the personal representative shall have corresponding responsibility.

### (E) Security for Tribunal costs

1. Without prejudice to the rights provided for in paragraphs (A), (B) and (D) above, a tribunal is entitled to reasonable security for its estimated costs (including its fees and expenses) up to the making of an award. In calculating such amount credit will be given for any booking fees paid. A tribunal is entitled to request security whenever it considers it appropriate to do so, and may stipulate when such security is to be provided. Where a tribunal has not stipulated for security to be provided at an earlier date, it shall be provided no later than 21 days before the start of any oral hearing intended to lead to an award or, in the case of a documents-only arbitration, no later than immediately before the tribunal starts reading and drafting with a view to producing an award.
2. If a tribunal exercises the right to request security under sub-paragraph (1) above, it shall advise the parties of its total estimated costs no later than 28 days before the security must be in place.
3. Requests for security hereunder shall be addressed to the party requesting any oral hearing, and to the claimant in the case of a documents-only arbitration unless a tribunal considers, in the exercise of its discretion, that security should be provided in whole or in part by another party. If a party directed to provide security fails to provide such security within the time set any other party will be given 7 days' notice in which to provide it, failing which the tribunal may suspend its work pending provision of security, and vacate any hearing dates or, in the case of a documents-only arbitration, refrain from reading and/or drafting.
4. For the avoidance of doubt, in any case where time does not allow for the periods in sub-paragraphs (1)-(2) above, the tribunal shall be entitled at its discretion to set such shorter periods as are reasonable in the circumstances.
5. The form of such security shall be in the tribunal's discretion. Normally an undertaking from an appropriate firm of lawyers or a P&I or Defence Association will be acceptable. However, a tribunal may require a cash deposit or bank guarantee. Any undertaking or guarantee must undertake to pay the sum covered no later than 5 weeks after publication of the relevant award and shall not be conditional upon the award being released (unless the costs thereof are wholly covered by the relevant security).
6. No estimate given hereunder shall prejudice the tribunal's entitlement to its reasonable fees and expenses.
7. Any security provided or payment made in accordance with these provisions shall be without prejudice to ultimate liability as between the parties for the fees and expenses in question, and to the parties' joint and several liability to the tribunal until all outstanding fees and expenses have been paid in full.
8. For the avoidance of doubt, (a) a failure to provide security for a tribunal's estimated costs in accordance with an order or direction of a tribunal constitutes, for the purpose of these Terms, a failure to comply with an order or direction which would enable a tribunal to make a peremptory

order pursuant to section 41(5) of the Act, and (b) if a claimant fails to comply with a peremptory order to provide such security, a tribunal may make an award dismissing the claimant's claim pursuant to section 41(6) of the Act.

#### **(F) Accounting for payments made on account**

Where the case proceeds to an award, or is settled after the start of the hearing, appropriate credit will be given for any amounts paid under paragraphs (B), (D) or (E) above in calculating the amount to be paid in order to collect the award, or as the case may be, the amount payable to the tribunal upon settlement of the case.

#### **(G) Accommodation**

1. If accommodation and/or catering is arranged by the tribunal, the cost will normally be recovered as part of the cost of the award, but where a case is adjourned part-heard or in other special circumstances, the tribunal reserves the right to direct that the cost shall be provisionally paid by the parties in equal shares (or as the tribunal may direct) promptly upon issue of the relevant account. Prior to booking accommodation and/or catering the tribunal may, if it thinks fit, request that it be provided with security sufficient to cover its prospective liabilities in respect thereof.
2. If accommodation is reserved and paid for by the parties and it is desired that the cost incurred be the subject of directions in the award, the information necessary for that purpose must be furnished promptly to the tribunal.



## THE SECOND SCHEDULE

### ARBITRATION PROCEDURE

1. The normal procedure requires service of submissions by each party as set out below. Whether the submissions are informal or are framed more formally as statements of case, they must:
  - (a) set out the position of the parties in respect of the issues that have arisen between them as clearly, concisely and comprehensively as possible;
  - (b) be contained in numbered paragraphs;
  - (c) be accompanied by paginated supporting documentation relevant to the issues between the parties, other than documents which accompanied previous submissions. Such documentation shall be served on all other parties.

A party intending to serve supporting documentation upon the tribunal must check with the tribunal whether it wishes to receive copies of all or some of the documentation at that stage. The aim should be for a tribunal to see enough documentation to be able to identify the issues in the case but not to be burdened with, for instance, copy invoices at the commencement of a reference.

2. An allegation that relevant documentation has not been disclosed with any submissions will not normally be a reason for allowing additional time for service of submissions in response. However, a failure at the appropriate stage to disclose relevant documentation may be penalised in costs.
3. Claim submissions are normally to be served within 28 days after appointment of a sole arbitrator or, if the tribunal is to consist of more than one arbitrator, within 28 days after appointment of the second arbitrator.
4. Save in exceptional cases (e.g. applications for interim or partial final awards for sums which are said to be indisputably due and owing) defence and, if applicable, counterclaim submissions are to be served within 28 days after service of the claim submissions.
5. Submissions in reply are to be served within 14 days after service of defence submissions unless there is also a counterclaim, in which case 28 days shall be allowed for submissions in reply and defence to counterclaim. Any submissions in reply to the defence to counterclaim are to be served within 14 days thereafter. If a party wishes to serve any further submissions, it should apply to the tribunal for permission to do so, explaining why such further submissions are necessary.
6. Bare denials in defence and subsequent submissions in response to an allegation will not be acceptable. If an allegation is denied, reasons must be given and if appropriate a positive contrary case put forward.

7. Applications for security for costs will not normally be considered until after service of defence submission. Any application must be accompanied by a justification for it and a breakdown of the costs which it is reasonably anticipated will be incurred up to the stage of the reference for which security is sought. In the light of paragraph (E) of the First Schedule it will not be appropriate for security for costs to include any provision for the costs of a tribunal, except in relation to costs already paid to a tribunal (or any member of a tribunal) by the party seeking security for costs, or in relation to costs of a tribunal in respect of which the party seeking security for costs has already provided security.
8. If a party wishes to obtain disclosure of certain documents prior to service of submissions, it must seek the agreement of the other party, failing which it should make an appropriate written application to the tribunal, explaining the rival positions of the parties in question.
9. Subject to any specific agreement between the parties or ruling from the tribunal, the parties are entitled at any stage to ask each other for any documentation that they consider to be relevant which has not previously been disclosed. Parties will not generally be required to provide broader disclosure than is required by the courts. Generally, a party will only be required to disclose the documents on which it relies or which adversely affect its own case, as well as documents which either support or affect the other party's case.
10. In appropriate cases the tribunal may order the service of a statement of truth signed by an officer or by the legal representative of a party confirming the accuracy of any submissions or of any declarations that a reasonable search for relevant documentation has been carried out.
11.
  - (a) Unless the parties agree that the reference is ready to proceed to an award on the exclusive basis of the written submissions that have already been served, both parties must complete the Questionnaire set out in the Third Schedule within 14 days of the service of the final submissions as set out in paragraph 5 above. Every such Questionnaire must contain the declaration set out at the end thereof, which shall be signed by a properly authorised officer of the party on whose behalf it is served. Completed Questionnaires must be served on the tribunal and all other parties. Unless the parties agree, the tribunal will then establish the future procedural course of the reference, either on the basis of the Questionnaires and any other applications made to it in writing or, if appropriate, after a preliminary meeting.
  - (b) In order to avoid uncertainty and minimise delay following an exchange of Questionnaires, a tribunal will normally allow the parties 21 days from the date of such exchange to agree future procedural directions, or to make submissions regarding such directions, following which period a tribunal will make such directions, or take such action regarding the future conduct of the proceedings, as it considers appropriate on the basis of the material before it, including the Questionnaires.

12. Subject to contrary agreement of the parties or an appropriate ruling by the tribunal, the parties will be required to exchange statements of evidence of fact (whether to be adduced in evidence under the Civil Evidence Acts or to stand as evidence in chief) as well as expert evidence covering areas agreed by the parties or ordered by the tribunal within a time scale agreed by the parties or ordered by the tribunal. Statements of evidence of fact or expert evidence that have not been exchanged in accordance with these provisions will not be admissible at a hearing without permission of the tribunal.
13. Parties and tribunals should actively consider ways in which to make the arbitral process as cost-effective and efficient as possible. In doing so, they should take account of the guidelines set out in the Checklist set out in the Fourth Schedule, in relation to matters such as: the preparation of factual and expert evidence; the use of documents; skeleton arguments, and transcripts.
14. Any application to a tribunal for directions as to procedural or evidential matters should, save in exceptional circumstances, be made only after the other parties have been afforded an opportunity to agree, within 3 working days, the terms of the directions proposed. Any application that has not previously been discussed with the representatives of such other parties and that does not fully record the rival positions of the parties will normally simply be rejected by a tribunal. If a party has been requested by another party to discuss and agree any application, but has failed to respond within 3 working days (or such other time as may be allowed by the tribunal), the tribunal will not seek to elicit the comments of that party or make orders conditional on objections not being received.
15. Parties should not routinely copy to the tribunal exchanges between them unless and until a ruling is required or there is other good reason to keep it informed.
16. Communications regarding procedural matters should be made expeditiously.
17. Tribunals will not acknowledge receipt of correspondence despite any request to that effect unless there is particular reason to do so.
18. Only in the most exceptional circumstances can it be appropriate for a party to question the terms of any procedural order made or seek a review of it by the tribunal.
19.
  - (a) If a tribunal considers that unnecessary costs have been incurred at any stage of a reference, it may on the application of a party or, after giving the parties the opportunity to comment, of its own volition make rulings as to the liability for the relevant discrete costs. Unnecessary costs may be incurred by, e.g., inappropriate applications or appropriate applications inappropriately resisted, unnecessary communications, excessive photocopying or duplicated communications. Tribunals may order such costs to be assessed and paid immediately.

- (b) A tribunal will be entitled, in exercising its discretion as to liability for costs, and in assessing costs, to take account of unreasonable or inefficient conduct by a party, including a failure to comply with the Checklist at the Fourth Schedule, and to take account of offers made without prejudice save as to costs. A tribunal may also take into account the costs estimates provided by both parties in the LMAA Questionnaire.

(For the avoidance of doubt, the English High Court procedure as to Part 36 offers is not applicable to arbitrations conducted under these Terms, and paragraph (b) above is not intended to limit the matters which may be considered by a tribunal in the exercise of its discretion.)

20. A party should give prompt notice to other parties and to a tribunal of its instruction of lawyers or other representatives to represent it in an arbitration, and of any change in its representation. In the absence of exceptional circumstances, late instruction of legal or other representatives, or a change in representation, will not be considered as a valid ground for delaying the progress of an arbitration, nor as a valid ground for the adjournment of a hearing.
21. Where parties agree that an order or direction which is agreed between them shall be deemed to be an order of the tribunal, they must notify the tribunal of such agreement, and, unless otherwise directed by the tribunal, the agreed order or direction shall take effect as an order or direction of the tribunal, and shall be an order or direction of the tribunal for the purpose of section 41 of the Act (which deals with the powers of a tribunal in the case of a party's default).
22. Parties are at liberty to apply to a tribunal for directions which differ from those contemplated above, but any such application should clearly explain why it is appropriate for some different course to be followed.

## THE THIRD SCHEDULE

### QUESTIONNAIRE

(Information to be provided as required in paragraph 11 of the Second Schedule to the LMAA Terms)

Note: The Questionnaire is an important document in the arbitration process. It provides an opportunity to consider the issues that have been raised in the submissions, and the most appropriate way of progressing an arbitration.

The following requirements regarding the Questionnaire should be observed: (a) where more than one question is raised in a section of the Questionnaire, separate answers should be provided for each question; (b) when responding to Question 13 (as to witnesses of fact and experts), parties should state whether it is considered necessary for all factual witnesses and experts to give evidence in person, or whether it would be necessary or desirable for some witnesses to give evidence by video link or similar means; (c) when responding to Question 15(a) (as to the estimated costs of each party), a breakdown of the figures should be provided, identifying separately, amongst other things the actual or estimated fees of: solicitors/consultants (and the number anticipated to be required), Counsel (and specifying whether senior or junior Counsel will be involved), and experts, including relevant charge out rates.

As many as possible of the procedural issues should be agreed by the parties. If agreement has been possible, then please make that clear in the answers to the Questionnaire.

1. What, briefly, is the nature of the claim (e.g. "unsafe port" or "balance of accounts dispute")?
2. What is the approximate quantum of the claim?
3. What is the approximate quantum of any counterclaim?
4. What are the principal outstanding issues requiring determination raised by the claim and any counterclaim?
5. Are any amendments to the submissions required?
6. Are any of the issues in the reference suitable for determination as a preliminary issue?
7. Are there any areas of disclosure that remain to be dealt with?
8. Would a preliminary meeting be useful, and if so at what stage?
9. What statement evidence is it intended to adduce, from whom and when? Which issues will be addressed by statement evidence? Is it possible to limit the length of statements or to avoid duplication of evidence? If there is to be a hearing what oral evidence will be adduced?
10. What expert evidence is it intended to adduce by way of reports and/or oral testimony and by when will experts' reports be exchanged? Which issues will be addressed by expert evidence? Can the

length of experts' reports be limited? Unless the parties agree or the tribunal rules that a meeting between experts would not be appropriate, when should the meeting take place and when should a record of that meeting be provided?

11. What is the suggested timetable for the close of submissions if the case is to go ahead on documents alone or for a hearing if that is appropriate?
12. What is the estimated length of the hearing, if any?
13. Which witnesses of fact and experts is it anticipated will be called at the hearing, if there is to be one? Will interpreters be required at the hearing for any witnesses?
14. Is it appropriate for a hearing date to be fixed now? (Save in exceptional circumstances, a hearing date will not be fixed until the preparation of the case is sufficiently advanced to enable the duration of the hearing to be properly estimated; this will normally be after disclosure of documents has been substantially completed.)
15. (a) What are the estimated costs of each party
  - (i) up to completion of this Questionnaire; and
  - (ii) through to the end of the reference?(b) Is this an appropriate case for the tribunal to cap costs, and if so why and at what level?
16. Does any party consider that it is entitled to security for costs and, if so, in what amount?
17. Are there any orders which are now sought?
18. Have the parties considered whether mediation might be worthwhile?

**DECLARATION (TO BE SIGNED BY A PROPERLY AUTHORISED OFFICER OF THE PARTY COMPLETING THE QUESTIONNAIRE: SEE SECOND SCHEDULE, PARA. 11):**

On behalf of the [*claimant/respondent*] I, the undersigned [*name*] being [*state position in organization*] and being fully authorised to make this declaration, confirm that I have read and understood, and agree to, the answers given above. I also understand that in the event of the arbitration settling or being otherwise terminated, I will immediately notify the tribunal.

Signed ..... Dated .....

## THE FOURTH SCHEDULE

### CHECKLIST

The following guidelines are issued with a view to making the decision-making process as cost-effective and efficient as possible. Those objectives should be borne in mind in applying them.

#### 1. Arbitrations on documents alone

(a) The parties should consider at the outset whether the case is suitable to be decided without an oral hearing (see Second Schedule paragraph 11(a)).

(b) If the arbitration is to be decided on documents alone, the parties should consider how best to present the case to the tribunal. In particular, they should consider amalgamating the documents which each party has provided into a single chronological bundle. They should also take into account such matters referred to in paragraphs 2-4 below as may be relevant in the particular case.

#### 2. Factual evidence

(a) Witness statements should always be in numbered paragraphs, and should contain margin cross-references to where documents appear in other bundles.

(b) Consideration should be given to supplementary witness statements picking up the paragraph numbering from the initial statement, so that the two can be read as one continuous document.

(c) The parties should seek to agree well in advance of any hearing whether or not the witness should be required to give oral evidence.

(d) The parties should seek to agree whether all or some of a witness' statement may stand as evidence in chief. Unless otherwise agreed or ordered by the tribunal, the witness statement shall stand as evidence in chief.

(e) If a witness is to give oral evidence through or with the assistance of an interpreter, a copy of that witness' statement in his own language should be available. (The same applies to any critical document upon which the witness may be examined). Parties are expected to deal with arrangements for interpreters, and to seek to agree the identity of interpreters, well in advance of a hearing.

(f) In a substantial case involving a number of witnesses, it makes sense to have separate bundles of the claimants' and respondents' witness statements respectively.

#### 3. Expert evidence

(a) Paragraphs 2(a)-(d) above are repeated.

(b) The reports of the claimants' and respondents' respective experts should normally be in separate bundles, unless they are not voluminous.

(c) If the reports annex documents (and this practice is to be discouraged, save as to documents adduced by experts themselves), documents that appear elsewhere should not be duplicated here.

(d) Experts should be instructed that, when giving evidence, they should ensure that the version of any report or document to which they may wish to refer bears the same numbering as that before the tribunal. Reports should contain margin cross-references to where documents appear in other bundles.

(e) Without prejudice to the tribunal's power to require experts to give evidence simultaneously ("hot-tubbing"), the parties should seek to agree whether this would be appropriate.

#### 4. Documents for hearing

(a) Serious effort must be made to ensuring the elimination of unnecessary documents and the inclusion of only one copy of any document (with particular attention to emails). Only documents relevant to the issues (as distinct from loosely touching on the case) should be included.

(b) Where documentation is at all substantial, a core bundle should normally be produced, containing the documents essential to the disputes. Sufficient space should be allowed for the insertion of as many pages again as it presently contains. Normally it will be appropriate for documents in the core bundle to have the same page numbering as in the main bundle sequence where such documents appear.

(c) Consideration must be given to the orderly presentation of documents, e.g. by topic or chronologically. The default position is that documents should be presented chronologically. Repetition of emails in bundles is to be avoided, so far as possible. Thus, email "chains" should either be broken up into separate messages, paginated individually and in time order, or should incorporate a series of exchanges that do not occur elsewhere.

(d) Bundles should be paginated consecutively. Although flags or dividers can be useful in moderation, they should not replace or interrupt consecutive pagination and individual documents should not be separated by dividers unless they are very substantial. A 5cm-thick ring binder should contain no more than 300 sheets, and *pro rata*.

(e) Bundles should be clearly marked with a large letter or number on both the spine and the left-hand inside cover. Each bundle should have its own unique letter or number, i.e. wherever possible avoid A(1), A(2) etc., although such denominations may be appropriate where, e.g., what is effectively one bundle is divided because of size.

(f) Photographs should be reproduced to the highest possible quality in the bundles, and originals should be available at a hearing whenever possible.

(g) In a substantial case, consideration should be given to the tribunal receiving bundles in A5 rather than A4 format, but the tribunal must be consulted on any such proposal.

(h) Where an unstructured document is liable to be subject to close analysis, thought should be given to adding line or paragraph numbers.



(i) There should be no bundles of solicitors' correspondence unless it is certain that such correspondence is going to be referred to at the hearing, in which event only what is relevant should be included.

## 5 Skeleton arguments

(a) The parties should seek to agree whether skeleton arguments are to be exchanged consecutively or concurrently.

(b) Skeleton arguments should be in numbered paragraphs.

(c) The skeleton argument of the party who is opening the proceedings should (a) contain sufficient detail that no more than a brief oral presentation will be required; (b) be accompanied by a *dramatis personae*, chronology and agreed timetable for the presentation of argument and the calling of witnesses (c) identify any documents or authorities which it is desired that the tribunal read in advance of the hearing and (d) give an estimate of the amount of time which pre-reading is likely to involve.

(d) Assuming that the skeleton arguments and other documents relevant to the tribunal's understanding (a) reach the tribunal no later than two working days before the hearing and (b) do not involve an inordinate amount of time to absorb, the parties are entitled to assume that such have been read by the tribunal.

## 6. Transcripts

(a) Transcripts should be paginated consecutively, with dividers for each separate day.

(b) See para. 4(g) above.

## THE FIFTH SCHEDULE

### RECONSTITUTION OF THE TRIBUNAL

The following provisions are directed to avoiding delay which the parties or either of them consider unacceptable, but if both parties prefer to retain a tribunal as already constituted they remain free so to agree.

1. The governing factor will be the ability of the tribunal to fix a hearing date within a reasonable time of the expected readiness date as notified by the parties on application for a date or, if they are not agreed as to the expected readiness date, within a reasonable time of whichever forecast date the tribunal considers more realistic.
2. For hearings of up to 10 days' estimated duration, what constitutes a reasonable time will (unless the parties apply for a date further ahead) be determined by reference to the estimated length of hearing as follows:

<b>Estimated Duration</b>	<b>Reasonable Time</b>
(i) Up to 2 days	3 months
(ii) 3-5 days	6 months
(iii) 6-10 days	10 months

"Relevant time-scale" is used below to mean whichever of the foregoing periods is applicable and, in cases of more than 10 days' duration, such corresponding time-scale as the tribunal may consider appropriate.

3. A sole arbitrator who is unable to offer a date within the relevant time-scale will offer to retire and, if so requested by the parties or either of them, will retire upon being satisfied that an appropriate substitute appointment has been effected by the parties; in event of their disagreement, either party may request the President to make the necessary substitute appointment.
4. In all other cases, unless all members of the tribunal are able to offer a matching date within the relevant time-scale:
  - (A) the tribunal will have regard to any agreed preference of the parties, but if there is no agreed preference the tribunal will fix:
    - (i) the earliest hearing date that can be given by any member(s) able to offer a guaranteed date within the relevant time-scale;
    - (ii) if a guaranteed date within the relevant time-scale cannot be offered by any member of the tribunal, the earliest date thereafter which can be guaranteed by any member(s) of the tribunal; on the basis, in either case, that any member then unable (by reason of a prior commitment) to

guarantee the date so fixed will (unless that prior commitment has meanwhile cleared) retire by notice given six clear weeks prior to the start date.

(B) Upon notification of any such retirement an appropriate substitution will be effected as follows:

- (i) If an original arbitrator retires the substitute shall be promptly appointed by his appointer or, failing such appointment at least 21 days prior to the start date the substitute will then be appointed by the umpire or third arbitrator or, if an umpire or third arbitrator has not yet been appointed, the substitute will be appointed by the President;
- (ii) If an umpire or third arbitrator retires the substitute will be appointed by the original arbitrators.

5. For the purpose of Paragraph (4):

- (a) "appropriate substitution" means appointment of a substitute able to match the hearing date established in accordance with sub-paragraph (A);
- (b) "start date" means the first date reserved for the hearing;
- (c) An umpire or third arbitrator will retain power to make any necessary substitution under sub-paragraph (B)(i) notwithstanding that he may himself have given notice of retirement under sub-paragraph (A) and an original arbitrator will retain the like power under subparagraph (B)(ii).

6. An arbitrator or umpire who retires as mentioned above shall:

- (i) be entitled to immediate payment of his fees and expenses incurred up to the date of his retirement; and
- (ii) incur no liability to any party by reason thereof.