

2ND NATIONAL LAW UNIVERSITY ODISHA
MARITIME LAW MOOT COURT COMPETITION, 2015



MOOT PROBLEM¹

¹ The moot problem has been drafted by Mr. Archit Dhir from “The Chambers of George A. Rebello”, 415 Vardhman Chambers, 17 Cawasji Patel Street, Fort, Mumbai 400 001. The participants or their affiliates are barred from approaching “The Chambers of George A. Rebello” for any kind of assistance regarding this competition.

AMDSC
"CHASING THE HORIZON"

***** INTERNAL REPORT*****

4th JANUARY 2008

Attention Team: Management

CC'd: Team Logistics

Happy Turds Group (HTG) has approached to time charter our vessel m.v. ANKU at USD 75,000/day payable every month in advance for a time period of 18 months. This is the first time we are contracting with them.

I will revert with the final contract once the terms are finalized.

Ryan

AMDSC
“CHASING THE HORIZON”

14th JANUARY 2008

To HTG: Schauer

After negotiations on the terms, it is time we get the deal fixed. Please find attached the proposed charterparty. Kindly revert soon so that we can circulate the final contracts for signatures in due course.

Ryan

HAPPY TURDS GROUP

THE SEA AT OUR FEET

20th JANUARY 2008

To AMDSC: Ryan

We have gone through the proposed terms of the charter party. They are indeed in consonance with the negotiations and we accept them. The subjects are lifted at 1500 hours today.

Kindly note, keep us informed on the vessel position as we need it for urgent business and the delivery at the specified loading port by 1st February 2008, as per the charterparty is essential.

Schauer

Note:

- *The charterparty based on standard form NYPE 93 was signed and entered into between AMDSC and HTG. A blank NYPE 93 charterparty is annexed hereto as “Annexure 1” for purposes of reference.*
- *For the relevance of the problem,*
 - i. *The following rider clause was added: “Anti Technicality Clause: 48 hour notice to be given before the Owners are entitled to invoke the withdrawal clause.”*
 - ii. *The speed of m.v. ANKU was described as 20 knots/hour.*
- *The Vessel was delivered on 1st February 2008.*

HAPPY TURDS GROUP

THE SEA AT OUR FEET

***** INTERNAL REPORT*****

3rd MARCH 2008

Attention Team: Chartering Department

CC'd: Manager, Chartering Operations

We have come to know that m.v. ANKU experienced a breakdown in its engine and was stranded for 5 days before grounding. We've had a word with AMDSC. They are insisting that it wasn't their fault and have claimed that it was a latent defect in the engine.

Our commercial team is still calculating the substantial losses we have suffered.

Schauer

AMDSC
“CHASING THE HORIZON”

2nd MAY 2008

To HTG: Schauer

We note that there is a default in payment of May hire by you. Considering the friendly negotiations and terms we have shared and the trade practice, we deem it fit to give you a short notice for payment of the due amount.

We hereby give you 42 hours to make the payment; otherwise we would be compelled to withdraw the vessel.

Ryan

AMDSC
“CHASING THE HORIZON”

4th MAY 2008

To HTG: Schauer

We note that you were in default of the notice dated 2nd May 2008, and therefore we hereby withdraw our vessel on the 43rd hour.

Ryan

HAPPY TURDS GROUP

THE SEA AT OUR FEET

4th MAY 2008

To AMDSC: Ryan

Your withdrawal is completely unfounded. We had made the payment of the hire due for May withholding USD 475,000 in the 44th hour, well in compliance with the anti technicality clause (reproduced below) which is a rider clause to the CP. Your act is baseless and we seek to get in touch for direct negotiations on the same with the head of your department.

Schauer

“Anti Technicality Clause: 48 hour notice to be given before the Owners are entitled to invoke the withdrawal clause.”

AMDSC
“CHASING THE HORIZON”

5th MAY 2008

To HTG: Schauer

In response to your email dated 4th May, we write to inform you that the withholding of the payment of hire is erroneous in law as we are not responsible for the engine breakdown. It is completely wrong on your part to withhold for the engine breakdown and if any such claim of off-hire is maintainable then the same shall be entertained through a legitimate recourse to dispute resolution as per the charterparty.

Ryan

HAPPY TURDS GROUP

THE SEA AT OUR FEET

***** INTERNAL REPORT*****

7th MAY 2008

Attention Team: Chartering Department

CC'd: Manager, Chartering Operations

The c/p dated 20th January, 2008 was terminated by AMDSC on insufficient grounds. Time is tight and we need the vessel to proceed to another port. After strenuous negotiations with the management head, we have concluded that entering into a second c/p would be the most feasible option, however, without prejudice to our respective rights and remedies.

Instead of signing a new charterparty, we and AMDSC have agreed in writing *inter alia* to the following terms with a clause stating “*All other terms and conditions as per previous C/P with logical amendments*”. The subjects were lifted today at 1600 hours.

The altered specifications in the second c/p are as below:

Delivery date: 10th May 2008

Hire/day: USD 150,000/day

Duration of contract: 24 months

Schauer

HAPPY TURDS GROUP

THE SEA AT OUR FEET

10th SEPTEMBER 2008

To AMDSC: Ryan

The c/p entered into described the vessel as being capable of doing 20 knots/hour. However, we note that it was a clear misdescription and the vessel could perform only at 10 knots/hour. Relying on such misdescription, we hereby terminate the c/p and seek to redeliver the vessel.

Schauer

Note: The market equivalent TC rate as of this date is USD 25,000/day.

AMDSC

"CHASING THE HORIZON"

11th SEPTEMBER 2008

To HTG: Schauer

Your termination notice dated 10th September 2008 is completely unfounded. The vessel was delivered in May and your termination in September shows your mind bent towards benefiting from the market fluctuations. We at AMDSC refuse to accept redelivery and insist on maintaining the charter. The Vessel would be at your disposal and shall wait at anchorage for your instructions.

Ryan

AMDSC
“CHASING THE HORIZON”

***** INTERNAL REPORT*****

1st JANUARY 2009

Attention Team: Management

CC'd: Team Logistics

Our vessel m.v. ANKU had been waiting at anchorage for HTG's instruction for more than 4 months now, but considering their default in redelivery and cold attention to the terms of the charterparty, we have decided to terminate the charterparty and a letter to such effect has been sent today.

In the previous week, we were in negotiations with Suzie Nanu Pinto (SNP) Charterers and have concluded a deal with them. Our vessel m.v. ANKU will be delivered at the named port on 15th January 2009.

Ryan

Note: The market TC rate for the month of January 2009 is USD 50,000/day.

AMDSC
“CHASING THE HORIZON”

12th JANUARY 2009

To HTG: Schauer

Following our termination letter dated 1st January 2009, we seek to commence arbitration under the charterparty. Your termination of the second charter party on 10th September 2008 was unfounded as we never accepted the redelivery. Assuming but not conceding to the allegation of misdescription of speed, the claim is unsustainable considering that you kept silent for long enough to show acquiescence.

By the terms of the charter party, the parties agreed that all the disputes arising out of this contract shall be arbitrated at London in accordance with the English Arbitration Act, 1996 and any award shall be final and binding upon the parties thereto.

We hereby inform that disputes have arisen between the parties to the charter party and you as charterers are in breach of the charter party. We as owners refer these disputes and any other dispute(s) to arbitration.

We as owners appoint Mr. Born as our arbitrator.

Ryan

HAPPY TURDS GROUP

THE SEA AT OUR FEET

15th JANUARY 2009

To AMDSC: Ryan

We note the notice of arbitration dated 12th January 2009.

We hereby appoint Mr. Matt as our arbitrator. But we reserve our right to challenge the jurisdiction of the tribunal, as there was no specific incorporation of arbitration clause in the second c/p.

Schauer

ISSUES BEFORE THE ARBITRAL TRIBUNAL

1. Jurisdictional Issue
 - (i) Whether the arbitral tribunal has jurisdiction to hear the present dispute.
 - (ii) Whether the arbitration clause was validly incorporated from the first Charter Party into the second Charter Party in the absence of specific incorporation.
2. Whether the Charterers were entitled to make an adjustment hire following a period of off-hire?
3. Whether the Owners committed a repudiatory breach by withdrawing the vessel without giving a valid notice pursuant to the Anti technicality Clause.
4. Whether non-payment of hire amounted to breach of the Charter Party by the charterers, and the effect of subsequent payment.
5. Whether mis-description of speed in the second Charter Party amounted to breach and entitled the charterers to terminate the charter party.
6. Whether by continuing with the Charter Party for 4 months, the charterers had waived their right to terminate/claim damages.
7. If the Charterers had repudiated the Charter Party, whether the Owners were entitled to exercise their right to elect and keep the vessel waiting at the anchorage.
8. Quantification of damages.

Recommended by:
The Baltic and International Maritime Council (BIMCO)
The Federation of National Associations of
Ship Brokers and Agents (FONASBA)

New York Produce Exchange Form
Issued by the Association of Ship Brokers and Agents (U.S.A.), Inc.

THIS CHARTER PARTY, made and concluded in
this _____ day of _____

Between

Owners of the Vessel described below, and

Charterers.

Name	Flag	Built	(year).	
Port and number of Registry				11
Classed		in		12
Deadweight		long*/metric* tons (cargo and bunkers, including freshwater and		13
stores not exceeding		long*/metric* tons) on a salt water draft of		14
on summer freeboard.				15
Capacity		cubic feet grain	cubic feet bale space.	16
Tonnage	GT/GRT.			17
Speed about		knots, fully laden, in good weather conditions up to and including maximum		18
Force	on the Beaufort wind scale, on a consumption of about		long*/metric*	19
tons of				20

* Delete as appropriate.

** Delete as appropriate.
For further description see Appendix "A" (if applicable)*

1. Duration

The Owners agree to let and the Charterers agree to hire the Vessel from the time of delivery for a period of

within below mentioned trading limits.

2. Delivery

The Vessel shall be placed at the disposal of the Charterers at

shall be ready to receive cargo with clean-swept holds and tight, staunch, strong and in every way fitted for ordinary cargo service, having water ballast and with sufficient power to operate all cargo-handling gear simultaneously.

The Owners shall give the Charterers not less than

delivery.	38
3. <u>On-Off Hire Survey</u>	39
Prior to delivery and redelivery the parties shall, unless otherwise agreed, each appoint surveyors, for their respective accounts, who shall not later than at first loading port/last discharging port respectively, conduct joint on-hire/off-hire surveys, for the purpose of ascertaining quantity of bunkers on board and the condition of the Vessel. A single report shall be prepared on each occasion and signed by each surveyor, without prejudice to his right to file a separate report setting forth items upon which the surveyors cannot agree. If either party fails to have a representative attend the survey and sign the joint survey report, such party shall nevertheless be bound for all purposes by the findings in any report prepared by the other party. On-hire survey shall be on Charterers' time and off-hire survey on Owners' time.	40 41 42 43 44 45 46 47
4. <u>Dangerous Cargo/Cargo Exclusions</u>	48
(a) The Vessel shall be employed in carrying lawful merchandise excluding any goods of a dangerous, injurious, flammable or corrosive nature unless carried in accordance with the requirements or recommendations of the competent authorities of the country of the Vessel's registry and of ports of shipment and discharge and of any intermediate countries or ports through whose waters the Vessel must pass. Without prejudice to the generality of the foregoing, in addition the following are specifically excluded: livestock of any description, arms, ammunition, explosives, nuclear and radioactive materials,	49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64
(b) If IMO-classified cargo is agreed to be carried, the amount of such cargo shall be limited to _____ tons and the Charterers shall provide the Master with any evidence he may reasonably require to show that the cargo is packaged, labelled, loaded and stowed in accordance with IMO regulations, failing which the Master is entitled to refuse such cargo or, if already loaded, to unload it at the Charterers' risk and expense.	65 66 67 68 69
5. <u>Trading Limits</u>	70
The Vessel shall be employed in such lawful trades between safe ports and safe places within _____ excluding _____ as the Charterers shall direct.	71 72 73 74 75 76
6. <u>Owners to Provide</u>	77
The Owners shall provide and pay for the insurance of the Vessel, except as otherwise provided, and for all provisions, cabin, deck, engine-room and other necessary stores, including boiler water; shall pay for wages, consular shipping and discharging fees of the crew and charges for port services pertaining to the crew; shall maintain the Vessel's class and keep her in a thoroughly efficient state in hull, machinery and equipment for and during the service, and have a full complement of officers and crew.	78 79 80 81 82
7. <u>Charterers to Provide</u>	83
The Charterers, while the Vessel is on hire, shall provide and pay for all the bunkers except as otherwise agreed; shall pay for port charges (including compulsory watchmen and cargo watchmen and compulsory garbage disposal), all communication expenses pertaining to the Charterers' business at cost, pilotages, towages, agencies, commissions, consular charges (except those pertaining to individual crew members	84 85 86 87

or flag of the Vessel), and all other usual expenses except those stated in Clause 6, but when the Vessel puts into a port for causes for which the Vessel is responsible (other than by stress of weather), then all such charges incurred shall be paid by the Owners. Fumigations ordered because of illness of the crew shall be for the Owners' account. Fumigations ordered because of cargoes carried or ports visited while the Vessel is employed under this Charter Party shall be for the Charterers' account. All other fumigations shall be for the Charterers' account after the Vessel has been on charter for a continuous period of six months or more.

The Charterers shall provide and pay for necessary dunnage and also any extra fittings requisite for a special trade or unusual cargo, but the Owners shall allow them the use of any dunnage already aboard the Vessel. Prior to redelivery the Charterers shall remove their dunnage and fittings at their cost and in their time.

8. Performance of Voyages

(a) The Master shall perform the voyages with due despatch, and shall render all customary assistance with the Vessel's crew. The Master shall be conversant with the English language and (although appointed by the Owners) shall be under the orders and directions of the Charterers as regards employment and agency; and the Charterers shall perform all cargo handling, including but not limited to loading, stowing, trimming, lashing, securing, dunnaging, unlashng, discharging, and tallying, at their risk and expense, under the supervision of the Master.

(b) If the Charterers shall have reasonable cause to be dissatisfied with the conduct of the Master or officers, the Owners shall, on receiving particulars of the complaint, investigate the same, and, if necessary, make a change in the appointments.

9. Bunkers

(a) The Charterers on delivery, and the Owners on redelivery, shall take over and pay for all fuel and diesel oil remaining on board the Vessel as hereunder. The Vessel shall be delivered with: long*/metric* tons of fuel oil at the price of per ton; tons of diesel oil at the price of per ton. The vessel shall be redelivered with: tons of fuel oil at the price of per ton; tons of diesel oil at the price of per ton.

** Same tons apply throughout this clause.*

(b) The Charterers shall supply bunkers of a quality suitable for burning in the Vessel's engines and auxiliaries and which conform to the specification(s) as set out in Appendix A.

The Owners reserve their right to make a claim against the Charterers for any damage to the main engines or the auxiliaries caused by the use of unsuitable fuels or fuels not complying with the agreed specification(s). Additionally, if bunker fuels supplied do not conform with the mutually agreed specification(s) or otherwise prove unsuitable for burning in the Vessel's engines or auxiliaries, the Owners shall not be held responsible for any reduction in the Vessel's speed performance and/or increased bunker consumption, nor for any time lost and any other consequences.

10. Rate of Hire/Redelivery Areas and Notices

The Charterers shall pay for the use and hire of the said Vessel at the rate of \$ U.S. currency per ton on the Vessel's total deadweight U.S. currency, daily, or \$ summer freeboard, per 30 days, carrying capacity, including bunkers and stores, on commencing on and from the day of her delivery, as aforesaid, and at and after the same rate for any part of a month; hire shall continue until the hour of the day of her redelivery in like good order and condition, ordinary wear and tear excepted, to the Owners (unless Vessel lost) at

unless otherwise mutually agreed.

The Charterers shall give the Owners not less than expected date and probable port of redelivery.

days notice of the Vessel's

For the purpose of hire calculations, the times of delivery, redelivery or termination of charter shall be adjusted to GMT.

11. Hire Payment

(a) Payment

Payment of Hire shall be made so as to be received by the Owners or their designated payee in , viz in currency, or in United States Currency, in funds available to the Owners on the due date, 15 days in advance, and for the last month or part of same the approximate amount of hire, and should same not cover the actual time, hire shall be paid for the balance day by day as it becomes due, if so required by the Owners. Failing the punctual and regular payment of the hire, or on any fundamental breach whatsoever of this Charter Party, the Owners shall be at liberty to withdraw the Vessel from the service of the Charterers without prejudice to any claims they (the Owners) may otherwise have on the Charterers.

At any time after the expiry of the grace period provided in Sub-clause 11 (b) hereunder and while the hire is outstanding, the Owners shall, without prejudice to the liberty to withdraw, be entitled to withhold 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, and hire shall continue to accrue and any extra expenses resulting from such withholding shall be for the Charterers' account.

(b) Grace Period

Where there is failure to make punctual and regular payment of hire due to oversight, negligence, errors or omissions on the part of the Charterers or their bankers, the Charterers shall be given by the Owners clear banking days (as recognized at the agreed place of payment) written notice to rectify the failure, and when so rectified within those days following the Owners' notice, the payment shall stand as regular and punctual.

Failure by the Charterers to pay the hire within days of their receiving the Owners' notice as provided herein, shall entitle the Owners to withdraw as set forth in Sub-clause 11 (a) above.

(c) Last Hire Payment

Should the Vessel be on her voyage towards port of redelivery at the time the last and/or the penultimate payment of hire is/are due, said payment(s) is/are to be made for such length of time as the Owners and the Charterers may agree upon as being the estimated time necessary to complete the voyage, and taking into account bunkers actually on board, to be taken over by the Owners and estimated disbursements for the Owners' account before redelivery. Should same not cover the actual time, hire is to be paid for the balance, day by day, as it becomes due. When the Vessel has been redelivered, any difference is to be refunded by the Owners or paid by the Charterers, as the case may be.

(d) Cash Advances

Cash for the Vessel's ordinary disbursements at any port may be advanced by the Charterers, as required by the Owners, subject to 2S percent 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.

12. Berths

The Vessel shall be loaded and discharged in any safe dock or at any safe berth or safe place that Charterers or their agents may direct, provided the Vessel can safely enter, lie and depart always afloat at any time of tide.

13. <u>Spaces Available</u>	183
(a) The whole reach of the Vessel's holds, decks, and other cargo spaces (not more than she can reasonably and safely stow and carry), also accommodations for supercargo, if carried, shall be at the Charterers' disposal, reserving only proper and sufficient space for the Vessel's officers, crew, tackle, apparel, furniture, provisions, stores and fuel.	184 185 186 187
(b) In the event of deck cargo being carried, the Owners are to be and are hereby indemnified by the Charterers for any loss and/or damage and/or liability of whatsoever nature caused to the Vessel as a result of the carriage of deck cargo and which would not have arisen had deck cargo not been loaded.	188 189 190
14. <u>Supercargo and Meals</u>	191
The Charterers are entitled to appoint a supercargo, who shall accompany the Vessel at the Charterers' risk and see that voyages are performed with due despatch. He is to be furnished with free accommodation and same fare as provided for the Master's table, the Charterers paying at the rate of _____ per day. The Owners shall victual pilots and customs officers, and also, when authorized by the Charterers or their agents, shall victual tally clerks, stevedore's foreman, etc., Charterers paying at the rate of _____ per meal for all such victualling.	192 193 194 195 196 197
15. <u>Sailing Orders and Logs</u>	198
The Charterers shall furnish the Master from time to time with all requisite instructions and sailing directions, in writing, in the English language, and the Master shall keep full and correct deck and engine logs of the voyage or voyages, which are to be patent to the Charterers or their agents, and furnish the Charterers, their agents or supercargo, when required, with a true copy of such deck and engine logs, showing the course of the Vessel, distance run and the consumption of bunkers. Any log extracts required by the Charterers shall be in the English language.	199 200 201 202 203 204
16. <u>Delivery/Cancelling</u>	205
If required by the Charterers, time shall not commence before _____ and should the Vessel not be ready for delivery on or before _____ but not later than _____ hours, the Charterers shall have the option of cancelling this Charter Party.	206 207 208
<u>Extension of Cancelling</u>	209
If the Owners warrant that, despite the exercise of due diligence by them, the Vessel will not be ready for delivery by the cancelling date, and provided the Owners are able to state with reasonable certainty the date on which the Vessel will be ready, they may, at the earliest seven days before the Vessel is expected to sail for the port or place of delivery, require the Charterers to declare whether or not they will cancel the Charter Party. Should the Charterers elect not to cancel, or should they fail to reply within two days or by the cancelling date, whichever shall first occur, then the seventh day after the expected date of readiness for delivery as notified by the Owners shall replace the original cancelling date. Should the Vessel be further delayed, the Owners shall be entitled to require further declarations of the Charterers in accordance with this Clause.	210 211 212 213 214 215 216 217 218
17. <u>Off Hire</u>	219
In the event of loss of time from deficiency and/or default and/or strike of officers or crew, or deficiency of stores, fire, breakdown of, or damages to hull, machinery or equipment, grounding, detention by the arrest of the Vessel, (unless such arrest is caused by events for which the Charterers, their servants, agents or subcontractors are responsible), or detention by average accidents to the Vessel or cargo unless resulting from inherent vice, quality or defect of the cargo, drydocking for the purpose of examination or painting bottom, or by any other similar cause preventing the full working of the Vessel, the payment of hire and overtime, if any, shall cease for the time thereby lost. Should the Vessel deviate or put back during a voyage, contrary to the orders or directions of the Charterers, for any reason other than accident to the cargo or where permitted in lines 257 to 258 hereunder, the hire is to be suspended from the time of her deviating or putting back until she is again in the same or equidistant position from the destination	220 221 222 223 224 225 226 227 228 229

and the voyage resumed therefrom. All bunkers used by the Vessel while off hire shall be for the Owners' account. In the event of the Vessel being driven into port or to anchorage through stress of weather, trading to shallow harbors or to rivers or ports with bars, any detention of the Vessel and/or expenses resulting from such detention shall be for the Charterers' account. If upon the voyage the speed be reduced by defect in, or breakdown of, any part of her hull, machinery or equipment, the time so lost, and the cost of any extra bunkers consumed in consequence thereof, and all extra proven expenses may be deducted from the hire.

18. **Sublet**

Unless otherwise agreed, the Charterers shall have the liberty to sublet the Vessel for all or any part of the time covered by this Charter Party, but the Charterers remain responsible for the fulfillment of this Charter Party.

19. **Drydocking**

The Vessel was last drydocked

*(a) The Owners shall have the option to place the Vessel in drydock during the currency of this Charter at a convenient time and place, to be mutually agreed upon between the Owners and the Charterers, for bottom cleaning and painting and/or repair as required by class or dictated by circumstances.

*(b) Except in case of emergency no drydocking shall take place during the currency of this Charter Party.

** Delete as appropriate*

20. **Total Loss**

Should the Vessel be lost, money paid in advance and not earned (reckoning from the date of loss or being last heard of) shall be returned to the Charterers at once.

21. **Exceptions**

The act of God, enemies, fire, restraint of princes, rulers and people, and all dangers and accidents of the seas, rivers, machinery, boilers, and navigation, and errors of navigation throughout this Charter, always mutually excepted.

22. **Liberties**

The Vessel shall have the liberty to sail with or without pilots, to tow and to be towed, to assist vessels in distress, and to deviate for the purpose of saving life and property.

23. **Liens**

The Owners shall have a lien upon all cargoes and all sub-freights and/or sub-hire for any amounts due under this Charter Party, including general average contributions, and the Charterers shall have a lien on the Vessel for all monies paid in advance and not earned, and any overpaid hire or excess deposit to be returned at once.

The Charterers will not directly or indirectly suffer, nor permit to be continued, any lien or encumbrance, which might have priority over the title and interest of the Owners in the Vessel. The Charterers undertake that during the period of this Charter Party, they will not procure any supplies or necessities or services, including any port expenses and bunkers, on the credit of the Owners or in the Owners' time.

24. **Salvage**

All derelicts and salvage shall be for the Owners' and the Charterers' equal benefit after deducting Owners' and Charterers' expenses and crew's proportion.

25. <u>General Average</u>	271
General average shall be adjusted according to York-Antwerp Rules 1974, as amended 1990, or any subsequent modification thereof, in and settled in currency.	272 273 274
The Charterers shall procure that all bills of lading issued during the currency of the Charter Party will contain a provision to the effect that general average shall be adjusted according to York-Antwerp Rules 1974, as amended 1990, or any subsequent modification thereof and will include the "New Jason Clause" as per Clause 31.	275 276 277 278
Time charter hire shall not contribute to general average.	279
26. <u>Navigation</u>	280
Nothing herein stated is to be construed as a demise of the Vessel to the Time Charterers. The Owners shall 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.	281 282 283
27. <u>Cargo Claims</u>	284
Cargo claims as between the Owners and the Charterers shall be settled in accordance with the Inter-Club New York Produce Exchange Agreement of February 1970, as amended May, 1984, or any subsequent modification or replacement thereof.	285 286 287
28. <u>Cargo Gear and Lights</u>	288
The Owners shall maintain the cargo handling gear of the Vessel which is as follows:	289 290 291 292
providing gear (for all derricks or cranes) capable of lifting capacity as described. The Owners shall also provide on the Vessel for night work lights as on board, but all additional lights over those on board shall be at the Charterers' expense. The Charterers shall have the use of any gear on board the Vessel. If required by the Charterers, the Vessel shall work night and day and all cargo handling gear shall be at the Charterers' disposal during loading and discharging. In the event of disabled cargo handling gear, or insufficient power to operate the same, the Vessel is to be considered to be off hire to the extent that time is actually lost to the Charterers and the Owners to pay stevedore stand-by charges occasioned thereby, unless such disablement or insufficiency of power is caused by the Charterers' stevedores. If required by the Charterers, the Owners shall bear the cost of hiring shore gear in lieu thereof, in which case the Vessel shall remain on hire.	293 294 295 296 297 298 299 300 301 302
29. <u>Crew Overtime</u>	303
In lieu of any overtime payments to officers and crew for work ordered by the Charterers or their agents, the Charterers shall pay the Owners, concurrently with the hire or pro rata.	304 305 306
30. <u>Bills of Lading</u>	307
(a) The Master shall sign the bills of lading or waybills for cargo as presented in conformity with mates or tally clerk's receipts. However, the Charterers may sign bills of lading or waybills on behalf of the Master, with the Owner's prior written authority, always in conformity with mates or tally clerk's receipts.	308 309 310
(b) All bills of lading or waybills shall be without prejudice to this Charter Party and the Charterers shall indemnify the Owners against all consequences or liabilities which may arise from any inconsistency between this Charter Party and any bills of lading or waybills signed by the Charterers or by the Master at their request.	311 312 313 314
(c) Bills of lading covering deck cargo shall be claused: "Shipped on deck at Charterers', Shippers' and	315

Receivers' risk, expense and responsibility, without liability on the part of the Vessel, or her Owners for
any loss, damage, expense or delay howsoever caused."

31. Protective Clauses

This Charter Party is subject to the following clauses all of which are also to be included in all bills of lading
or waybills issued hereunder:

(a) CLAUSE PARAMOUNT

"This bill of lading shall have effect subject to the provisions of the Carriage of Goods by Sea Act of the
United States, the Hague Rules, or the Hague-Visby Rules, as applicable, or such other similar national
legislation as may mandatorily apply by virtue of origin or destination of the bills of lading, which shall
be deemed to be incorporated herein and nothing herein contained shall be deemed a surrender by the
carrier of any of its rights or immunities or an increase of any of its responsibilities or liabilities under said
applicable Act. If any term of this bill of lading be repugnant to said applicable Act to any extent, such
term shall be void to that extent, but no further."

and

(b) BOTH-TO-BLAME COLLISION CLAUSE

"If the ship comes into collision with another ship as a result of the negligence of the other ship and any
act, neglect or default of the master, mariner, pilot or the servants of the carrier in the navigation or in
the management of the ship, the owners of the goods carried hereunder will indemnify the carrier against
all loss or liability to the other or non-carrying ship or her owners insofar as such loss or liability represents
loss of, or damage to, or any claim whatsoever of the owners of said goods, paid or payable by the other
or non-carrying ship or her owners to the owners of said goods and set off, recouped or recovered by the
other or non-carrying ship or her owners as part of their claim against the carrying ship or carrier."

The foregoing provisions shall also apply where the owners, operators or those in charge of any ships or
objects other than, or in addition to, the colliding ships or objects are at fault in respect to a collision or
contact."

and

(c) NEW JASON CLAUSE

"In the event of accident, danger, damage or disaster before or after the commencement of the voyage
resulting from any cause whatsoever, whether due to negligence or not, for which, or for the
consequences of which, the carrier is not responsible, by statute, contract, or otherwise, the goods,
shippers, consignees, or owners of the goods shall contribute with the carrier in general average to the
payment of any sacrifices, losses, or expenses of a general average nature that may be made or incurred,
and shall pay salvage and special charges incurred in respect of the goods."

If a salving ship is owned or operated by the carrier, salvage shall be paid for as fully as if salving ship
or ships belonged to strangers. Such deposit as the carrier or his agents may deem sufficient to cover
the estimated contribution of the goods and any salvage and special charges thereon shall, if required,
be made by the goods, shippers, consignees or owners of the goods to the carrier before delivery."

and

(d) U.S. TRADE - DRUG CLAUSE

"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."

Non-compliance with the provisions of this clause shall amount to breach of warranty for consequences
of which the Charterers shall be liable and shall hold the Owners, the Master and the crew of the Vessel
harmless and shall keep them indemnified against all claims whatsoever which may arise and be made
against them individually or jointly. Furthermore, all time lost and all expenses incurred, including fines,
as a result of the Charterers' breach of the provisions of this clause shall be for the Charterer's 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 the bails 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."

and

(e) **WAR CLAUSES**

"(i) No contraband of war shall be shipped. The Vessel shall not be required, without the consent of the Owners, which shall not be unreasonably withheld, to enter any port or zone which is involved in a state of war, warlike operations, or hostilities, civil strife, insurrection or piracy whether there be a declaration of war or not, where the Vessel, cargo or crew might reasonably be expected to be subject to capture, seizure or arrest, or to a hostile act by a belligerent power (the term "power" meaning any de jure or de facto authority or any purported governmental organization maintaining naval, military or air forces).

(ii) If such consent is given by the Owners, the Charterers will pay the provable additional cost of insuring the Vessel against hull war risks in an amount equal to the value under her ordinary hull policy but not exceeding a valuation of In addition, the Owners may purchase and the Charterers will pay for war risk insurance on ancillary risks such as loss of hire, freight disbursements, total loss, blocking and trapping, etc. If such insurance is not obtainable commercially or through a government program, the Vessel shall not be required to enter or remain at any such port or zone.

(iii) In the event of the existence of the conditions described in (i) subsequent to the date of this Charter, or while the Vessel is on hire under this Charter, the Charterers shall, in respect of voyages to any such port or zone assume the provable additional cost of wages and insurance properly incurred in connection with master, officers and crew as a consequence of such war, warlike operations or hostilities.

(iv) Any war bonus to officers and crew due to the Vessel's trading or cargo carried shall be for the Charterers' account."

32. War Cancellation

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:

either the Owners or the Charterers may cancel this Charter Party. Whereupon, the Charterers shall redeliver the Vessel to the Owners in accordance with Clause 10; if she has cargo on board, after discharge thereof at destination, or, if debarred under this Clause from reaching or entering it, at a near open and safe port as directed by the Owners; or, if she has no cargo on board, at the port at which she then is; or, if at sea, at a near open and safe port as directed by the Owners. In all cases hire shall continue to be paid in accordance with Clause 11 and except as aforesaid all other provisions of this Charter Party shall apply until redelivery.

33. Ice

The Vessel shall not be required to enter or remain in any icebound port or area, nor any port or area where lights or lightships have been or are about to be withdrawn by reason of ice, nor where there is risk that in the ordinary course of things the Vessel will not be able on account of ice to safely enter and remain in the port or area or to get out after having completed loading or discharging. Subject to the Owners' prior approval the Vessel is to follow ice-breakers when reasonably required with regard to her size, construction and ice class.

34. Requisition

Should the Vessel be requisitioned by the government of the Vessel's flag during the period of this Charter Party, the Vessel shall be deemed to be off hire during the period of such requisition, and any hire paid by the said government in respect of such requisition period shall be retained by the Owners. The period during which the Vessel is on requisition to the said government shall count as part of the period provided for in this Charter Party.
If the period of requisition exceeds _____ months, either party shall have the option of cancelling this Charter Party and no consequential claim may be made by either party.

35. Stevedore Damage

Notwithstanding anything contained herein to the contrary, the Charterers shall pay for any and all damage to the Vessel caused by stevedores provided the Master has notified the Charterers and/or their agents in writing as soon as practical but not later than 48 hours after any damage is discovered. Such notice to specify the damage in detail and to invite Charterers to appoint a surveyor to assess the extent of such damage.

(a) In case of any and all damage(s) affecting the Vessel's seaworthiness and/or the safety of the crew and/or affecting the trading capabilities of the Vessel, the Charterers shall immediately arrange for repairs of such damage(s) at their expense and the Vessel is to remain on hire until such repairs are completed and if required passed by the Vessel's classification society.

(b) Any and all damage(s) not described under point (a) above shall be repaired at the Charterers' option, before or after redelivery concurrently with the Owners' work. In such case no hire and/or expenses will be paid to the Owners except and insofar as the time and/or the expenses required for the repairs for which the Charterers are responsible, exceed the time and/or expenses necessary to carry out the Owners' work.

36. Cleaning of Holds

The Charterers shall provide and pay extra for sweeping and/or washing and/or cleaning of holds between voyages and/or between cargoes provided such work can be undertaken by the crew and is permitted by local regulations, at the rate of _____ per hold.

In connection with any such operation, the Owners shall not be responsible if the Vessel's holds are not accepted or passed by the port or any other authority. The Charterers shall have the option to re-deliver the Vessel with unclean/upswept holds against a lumpsum payment of _____ in lieu of cleaning.

37. Taxes

Charterers to pay all local, State, National taxes and/or dues assessed on the Vessel or the Owners resulting from the Charterers' orders herein, whether assessed during or after the currency of this Charter Party including any taxes and/or dues on cargo and/or freights and/or sub-freights and/or hire (excluding taxes levied by the country of the flag of the Vessel or the Owners).

38. Charterers' Colors

The Charterers shall have the privilege of flying their own house flag and painting the Vessel with their own markings. The Vessel shall be repainted in the Owners' colors before termination of the Charter Party. Cost and time of painting, maintaining and repainting those changes effected by the Charterers shall be for the Charterers' account.

39. Laid up Returns

The Charterers shall have the benefit of any return insurance premium receivable by the Owners from their underwriters as and when received from underwriters by reason of the Vessel being in port for a minimum period of 30 days if on full hire for this period or pro rata for the time actually on hire.

40. Documentation

The Owners shall provide any documentation relating to the Vessel that may be required to permit the

Vessel to trade within the agreed trade limits, 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, 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.

41. Stowaways

(a) (i) The Charterers warrant to exercise due care and diligence in preventing stowaways in gaining access to the Vessel by means of secreting away in the goods and/or containers shipped by the Charterers.

(ii) If, despite the exercise of due care and diligence by the Charterers, stowaways have gained access to the Vessel by means of secreting away in the goods and/or containers shipped by the Charterers, this shall amount to breach of charter 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 whatsoever and howsoever incurred, including fines, shall be for the Charterers' account and the Vessel shall remain on hire.

(iii) Should the Vessel be arrested as a result of the Charterers' breach of charter according to sub-clause (a)(ii) above, the Charterers shall 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.

(b) (i) If, despite the exercise of due care and diligence by the Owners, stowaways have gained access to the Vessel by means other than secreting away in the goods and/or containers shipped by the Charterers, all time lost and all expenses whatsoever and howsoever incurred, including fines, shall be for the Owners' account and the Vessel shall be off hire.

(ii) Should the Vessel be arrested as a result of stowaways having gained access to the Vessel by means other than secreting away in the goods and/or containers shipped by the Charterers, the Owners shall 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.

42. Smuggling

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.

43. Commissions

A commission of _____ percent is payable by the Vessel and the Owners to

on hire earned and paid under this Charter, and also upon any continuation or extension of this Charter.

44. Address Commission

An address commission of _____ percent is payable to

on hire earned and paid under this Charter.

45. Arbitration

(a) NEW YORK
All disputes arising out of this contract shall be arbitrated at New York in the following manner, and subject to U.S. Law:

One Arbitrator is to be appointed by each of the parties hereto and a 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 commercial men, conversant with shipping matters. Such Arbitration is to be conducted in accordance with the rules of the Society of Maritime Arbitrators Inc.

For disputes where the total amount claimed by either party does not exceed US \$
the arbitration shall be conducted in accordance with the Shortened Arbitration Procedure of the Society of Maritime Arbitrators Inc.

(b) LONDON
All disputes arising out of this contract shall be arbitrated at London and, unless the parties agree forthwith on a single Arbitrator, be referred to the final arbitrament of two Arbitrators carrying on business in London who shall be members of the Baltic Mercantile & Shipping Exchange and engaged in Shipping, one to be appointed by each of the parties, with power to such Arbitrators to appoint an Umpire. No award shall be questioned or invalidated on the ground that any of the Arbitrators is not qualified as above, unless objection to his action be taken before the award is made. Any dispute arising hereunder shall be governed by English Law.

For disputes where the total amount claimed by either party does not exceed US \$
the arbitration shall be conducted in accordance with the Small Claims Procedure of the London Maritime Arbitrators Association.

**Delete para (a) or (b) as appropriate*

*** Where no figure is supplied in the blank space this provision only shall be void but the other provisions of this clause shall have full force and remain in effect.*

If mutually agreed, clauses
incorporated in this Charter Party.

APPENDIX "A"

To Charter Party dated
Between
and

Owners
Charterers

Further details of the Vessel: