

A typical “**BARECON 89 Standard Bareboat Charter Revised (2001) Agreement**”, showing some of the important standard clauses are indicated below in tabular form:

Name of Clause	Issues which are contained in the clause as shown in the column to the left.
<b>PART I</b>	Consists of boxes used to fill-up the contract's fundamental variable information pertaining to Parts II, III, IV and V.
<b>PART II</b>	
<b>Clause 1: Various definitions, including that of Owners, Charterers, Vessel and, Financial Instrument</b>	To refer to the concerned two boxes in PART I containing the appropriate information. “Vessel” is used throughout the charter, and, “Financial Instrument”( a wide definition has been used) refers to mortgages, deed of covenant or such other financial security instrument.
<b>Clause 2: Charter Period</b>	A specific new clause has been added, showing the period of the Charter
<b>Clause 3:Delivery</b>	The charterers are required to direct the owners to deliver the vessel to a prescribed ready “safe” berth. The vessel is to be properly documented on delivery. The documentation needs to comply with the requirements of the Flag State and the Classification Society. The vessel's survey cycles need to be up-to-date and, the trading and Class certificates need to be valid for an agreed number of months, following the delivery. If by chance, the vessel sustains a damage, which would affect the retention of the Class, immediately prior to delivery, the charterers can seek to negotiate an amenable settlement with the owners in respect of such damage that has occurred between the final-inspection and the delivery of the vessel.
<b>Clause 4:Time of Delivery</b>	Contains the usual provisions relating to the date before which the vessel can not be delivered. There is included an obligation for the owners to exercise due diligence to deliver the vessel no later than the cancelling date
<b>Clause 5: Cancelling</b>	This clause shows a time-limit of 36 running hours following the cancelling date during which the charterers must decide whether to exercise their option to cancel the vessel, if it arrives late. In case the charterers fail to decide within that time, they lose their entitlement to cancel the charter. The 36 running hours period is designed to deter the charterers from acting in an evasive or indecisive manner as regards the vessel, and, also for

	preventing the owners from seeking alternative employment at the earliest opportunity. This clause has three sub-clauses, the details of which are not considered for the targeted audience.
<b>Clause 6:Trading Restrictions</b>	The charterers undertake not to employ the vessel under terms that are not in conformity with the terms of the insurance, without prior consent from the insurers with respect to such employment. There could also be circumstances where the prior consent of the owners' ought to be also obtained in the event of the charterers wanting to employ the vessel under terms that are not in compliance with the insurance policy(even though it is the charterers who take the insurance policy). Charterers to report planned dry-dockings and major repairs as well as the vessel's intended employment.
<b>Clause 7:Surveys on delivery and redelivery</b>	Deals with the usual on-hire and off-hire survey procedures, and, the allocation of cost and time between the contracting parties. No provision is there in respect of dry-docking the vessel in relation to the on-hire or off-hire surveys, since this is not considered normal practice in bareboat charters and, it ought to be left to the parties in each individual case, to negotiate.
<b>Clause 8 : Inspection</b>	This clause gives the owners the right to inspect the vessel (for three reasons), throughout the period, after giving reasonable notice to the charterers. The first reason is for the satisfaction of the owners for ensuring that the vessel is being properly maintained. The second reason is to carry out the inspection while the vessel is in dry-dock, in case the charterers have not dry-docked the vessel at the intervals agreed under Clause 10. The third reason is to permit the owners to inspect the vessel, "for any other commercial reason", say, prior to a potential sale. A provision has been added to this clause, stating clearly that all the time spent on account of inspections, surveys or repairs, should form part of the contract-period and therefore, on the charterers' account.
<b>Clause 9 : Inventories, oil and stores</b>	Spare parts are not considered as "consumable stores" within the meaning of the contract. The charterers are required to replace, at their expense, any spare parts listed in the inventory and used during the charter period, prior to redelivery. With respect to the items to be taken over and paid for at delivery

	<p>and redelivery, the list excludes water (as produced by the vessels themselves) and oils(since bunkers and lubricating oils are already included in the list.</p>
<p><b>Clause 10: Maintenance and Operation</b></p>	<p>Since during the bareboat chartering period, the vessel is in full possession and at the absolute disposal for all purposes, of the charterers, the responsibility for maintenance and operation and all costs and expenses arising from these activities, rests with the charterers. In case the charterers fail to effect repairs, etc., within a reasonable time, and on account of this breach in meeting their obligations, the owners are entitled to withdraw the vessel. The vessel's Class has to be kept fully up-to-date. The vessel is required to be redelivered to the owners in the same or as good structure, state, condition and class as that in which she was delivered, fair wear and tear not affecting Class excepted. In order to minimise the risk of disputes arising, it is clearly stressed that the charterers must redeliver the vessel with the Class fully maintained, to the satisfaction of the concerned Classification Society. The trading certificate is to remain valid for a pre-agreed number of months, following the redelivery. The vessel ought to also have her survey-cycles up to date and Class Certificates valid for at least the number of months as mentioned in Part I.</p> <p>In case unforeseen structural changes or requirements for new expensive safety equipment do arise, under a long-term charter, a scope is left open to re-negotiate the charter in case, the expenses required to be incurred exceed a certain agreed percentage of the vessel's marine insurance value.</p> <p>It is the charterer's obligation not only to equip the vessel in all respects, but also to man her, pay the wages to the Master, officers and crew, thereby giving full freedom to the charterers to choose and appoint personnel.</p> <p>The charterers are responsible for annual flag state fees. Full-liability falls on the charterers as regards the liability under bills of lading or any other document as may have been signed by the Master or officers, regardless of whether they have / had been appointed by the owners or charterers.</p>

	<p>The charterers are required to keep the owners and mortgagees informed of the vessel's intended employment, planned-dry docking and, major repairs.</p> <p>With the owner's consent, the charterer's have the right, to change the name and/or the flag of the vessel during the currency of the charter. However, all costs-incurred and time-spent on account of getting the vessel registered / deregistered for this purpose, are to be borne by the charterer. It is however not the usual practise for major registries like Liberia and Panama, to transfer the ownership of the vessel, when it is registered under a bareboat charter.</p> <p>The charterers do not have to obtain the owner's consent to make changes to the vessel, as required by the Class.</p> <p>Unless desired by the Class or the Flag State otherwise, the interval period between dry-dockings has been increased from 18 to 60 calendar months, on account of the durable qualities of modern marine coatings and common commercial dry-docking practices.</p>
<b>Clause 11: Hire</b>	<p>The charterers have a fundamental obligation to pay hire-charges to the owners punctually (including the grace period), i.e. as per the charter, stating, "time shall be of essence", in accordance with the terms of the charterer. Unless this is so adhered to by the charterers, the owners would be entitled to claim damages for costs / losses incurred as a consequence of delays in the payment of hire.</p> <p>Hire charges ought to be paid, strictly, on the basis of "30 running days" and in advance. This obviously makes it easier for the charterers in that, they would not be required to make frequent corrections to the payment date, to cover for payments falling due on weekends and holidays. It is stated in this clause that, "hire shall be paid (mind you, not "payable") continuously throughout the Charter-period", emphasizing that, there is no "off hire" under a bareboat charter. In case the charterers default in paying within the grace period (to cover for bona fide</p>

	<p>delays), the owners are well-entitled to withdraw the vessel and terminate the Charter without further notice.</p> <p>Interest is payable on all delayed payments of hire and falls due within 7 running days of the date of the owner's invoice specifying the amount. In case the invoice is absent, the interest is payable, at the time of the next hire payment.</p>
<b>Clause 12. Mortgage</b>	Omitted
<b>Clause 13. Insurance and repairs</b>	<p>The responsibility for arranging and paying insurances, and, in effecting repairs, rests solely with the charterers. The strict contractual obligation to arrange for and maintain insurances on the part of the charterers carries with it a contractual right vested in the owners entitling them to withdraw the vessel, if the charterers fail to arrange and keep any of the insurances.</p>
<b>Clause 14. Insurance, repairs and Classification</b>	<p>This clause is strictly optional and is applicable only if expressly agreed and so stated in Part I. In case this clause is agreed to, the previous clause, i.e. clause 13 stands null and void. The major difference between clauses 13 and 14 is that, in clause 14, the responsibility for arranging and keeping the hull and machinery and war-risk insurances, has been shifted back to the owners. The responsibility for obtaining and paying for cover against P &amp; I risks, however, remains with the charterers, failing which this is to be taken as a breach of contract. In the case of a short-term bareboat charter of, say three or four months, it is not considered appropriate that a renewal of the Class, should fall upon the charterers.</p>
<b>Clause 15. Redelivery</b>	<p>A warranty on the part of the charterers is available, which states that they will not permit the vessel to commence a voyage which cannot reasonably be completed, before the end of the charter period. In case the charterers fail to redeliver the vessel within the charter period, a mechanism is provided to compensate the owners for the period following the expiration of the Charter, right till the time the vessel is redelivered. The charterers need to pay either the daily equivalent to the agreed rate of hire plus 10%, or pay the current market rate for the vessel, whichever is higher.</p> <p>The charterers are to ensure that the vessel's trading</p>

	certificates, in addition to Class certificates, are valid and up-to-date for the agreed number of months (to match clause 3 above).
<b>Clause 16. Non-lien</b>	The purpose of this clause is to prevent the charterers from getting to finance their operation by offering suppliers a maritime lien on the vessel. This provision on being brought to the notice of the suppliers, no lien should arise. To give proper publicity to this "non-lien" clause, it is proposed that a properly worded notice is to be displayed in a conspicuous place on the vessel during the period of the charter.
<b>Clause 17. Indemnity</b>	<p>The clause provides an indemnity to the owners in the event of loss, damage, or expense required to be incurred on account of the charterer's operation of the vessel, e.g. if the vessel is arrested or detained; against liabilities from the owners' representatives signing bills of lading or other documents.</p> <p>Owners are also to indemnify the charterers against the consequences of arrest. Besides, the clause provides an indemnity to protect the charterers against any loss, damage or expense that may arise out of arrest or detention of the vessel, for which the owners are responsible.</p>
<b>Clause 18. Lien</b>	This clause grants the owners and the charterers a lien for their respective claims against each other. In other words, the Owners ought to have a lien upon all cargoes and sub-freights{freight payable by the sub-charterer( Person or company who charters a ship for a party, who is not the owner but who, in turn, has chartered the ship) normally to the charterer} belonging to the charterer and any bill of lading freight for all claims under this charter, and the Charterers are to have a lien on the vessel for all moneys paid in advance and not earned.
<b>Clause 19. Salvage</b>	All salvage and towage performed by the vessel shall be for the Charterers' benefit, and the cost of damage repairs as necessary, shall be borne by the Charterers'.
<b>Clause 20. Wreck Removal</b>	Should the vessel become a wreck or an obstruction to navigation, the Charterers shall indemnify the Owners against any sums whatsoever which the Owners may become liable to pay, and shall pay in consequence of the vessel becoming a

	wreck or obstruction.
<b>Clause 21. General Average</b>	An express statement must be there to state that the owners ought not to contribute to general average
<b>Clause 22. Assignment, Sub-charter and Sale</b>	The clause provides the Charterers with a right to sub-charter the vessel on the condition that formal consent has been obtained in writing from the Owners. It also provides the issue of sale of the vessel during the period for which the charter is valid. In any case the sale of the vessel is subject to the formal consent of the owners as received in writing.
<b>Clause 23. Contracts of Carriage</b>	<p>The provision covers "waybills"(a document as issued by a carrier giving details and instructions relating to the shipment of a consignment of goods. It will normally show the names of the consignor and consignee, the point of origin of the consignment, its destination and route) and "passenger tickets", in addition to electronic and conventional "bills of lading". The clause has been divided into two sub-clauses, the first meant for cargo and the second for passengers. The charterers undertake to ensure that a "Paramount Clause" {the clause is generally found in a bill of lading or in a charter party. The main purpose of the clause is to incorporate the terms and conditions of the Hague or Hague-Visby Rules (or the Hamburg Rules) into the document which evidences the "contract of carriage of goods by sea"} is incorporated in all documents issued for the carriage of goods under the charter.</p> <p>The clause also directs the charterers to include in the applicable documents, the usual protective clauses such as, the amended "New Jason Clause" and the "Both-to-Blame Collision Clause" (it is part of the marine insurance policy that states that if a vessel collides with another, due to the negligence of both, the owners and shippers of both the vessels must share in the losses in proportion with the monetary values of their cargo and interests before the collision).</p> <p>A sub-clause refers to the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974, as the relevant liability regime.</p>
<b>Clause 24. Bank Guarantee</b>	This is an optional clause to be utilised in circumstances where

	the charterers do not have substantial assets and the owners require some form of financial guarantee for the charter.
<b>Clause 25. Requisition / Acquisition</b>	Omitted
<b>Clause 26. War Risks</b>	<p>The clause is based on the CONWARTIME 93 Standard War Risks Clause for Time Charters, amended to suit a bareboat charter.</p> <p>The owners shall have the right to require the vessel to leave an area that is at risk of war.</p> <p>It provides the owners and the charterers with a mutual right of cancellation in the event of a war between specified countries, e.g. any two of the five permanent members of the UNSC.</p> <p>The charterers have the liberty to comply with applicable orders, directions, recommendations, etc.. The word "liberty" is merely to provide the charterers with the freedom to comply with applicable orders and directions without any contractual consequences arising under the charter, such as that which may tantamount to a breach of the charterers obligations.</p>
<b>Clause 27. Commission</b>	Omitted
<b>Clause 28. Termination</b>	<p>It provides clear provisions regarding the termination of the charter, which could be on account of:</p> <p>(i) termination by default in hire-payment, vide clause 11 above, on the part of the charterers. However, there is an "anti-technicality" provision, to the effect that, should there be a genuine reason for the charterers or their bankers failing to make punctual payment, then the owners are to give the charterers a written notice of the number of banking days within which the failure must be rectified. Once this notice is breached, the owners have the right to terminate the Charter, forthwith; default on the part of the charterers to comply with clauses 6 and 13 above. Since it may not be always possible for the charterers to rectify certain situations immediately, provision is made available for the owners to agree to a grace-period, within which the breach needs to be rectified. The charterer is to ensure that on account of non-compliance of clause 10 above,</p>

	<p>the vessel's insurance cover is not to be prejudiced.</p> <p>(ii) termination by default on account of a breach by the owners (which continues for 14 running days), which entitles the charterer to terminate the contract, say, in the event that the charterers are deprived of the use of the vessel; &amp;</p> <p>(iii) Extraordinary termination. This would instance in the event of total or constructive or compromised or arranged total loss of the vessel. It is to be taken clear note of that, the vessel is not deemed to be lost, until she becomes an actual total loss, or, an agreement has been reached in respect of her loss, with the vessel's underwriters. If the agreement fails as to the vessel's loss, with her underwriters, the matter is to be adjudicated by a competent tribunal.</p> <p>Winding-up, liquidation, dissolution or bankruptcy of either party, gives the parties the option of terminating the contract. Should the owners wish the charterers to rectify a breach, they must give very prompt notice.</p> <p>Termination of the charter ought not to prejudice the parties' rights, neither should any claims that the parties might have against each other be prejudiced.</p>
<b>Clause 29. Repossession</b>	<p>Practically speaking, a situation might arise when the charterers terminate the charter early and do not pay the outstanding crew wages and/or repatriation costs when abandoning the ship. The charterers are to act as "gratuitous bailees (%%) only" to the owners, whereby the charterers must care (which includes, settling the wages of their crew and disembarkation / repatriation expenses; safe navigation and delivery of the vessel at the current or next port of call, or a place which is convenient for the owners) for the vessel without compensation, until the owners can physically repossess her. It is required of the owners' representative to board the vessel and take physical repossession as soon as reasonably practicable, following the termination of the charter.</p>

	(%%) – a person or party to whom goods are delivered for a purpose, such as custody or repair, without transfer of ownership.
<b>Clause 30. Dispute Resolution</b>	Besides the BIMCO's Law and Arbitration Clause 1998, there is also a "mediation" clause. Mediation is a technique that is recognised as being economical on time and money, over traditional methods of dispute resolution for certain types of disputes. However, the mediation process is only brought into play, once the arbitration proceedings have started, as may be mutually so decided by the parties. The reason behind having this parallel process is that no single party will be able to invoke mediation, as a delaying tactic.
<b>Clause 31. Dispute Resolution</b>	This provides a single point of reference establishing the agreed method of communication between the parties for the duration of the period of the charter
<b>PART III</b>	
<b>Provisions to apply for new-building vessels(optional)</b>	<p>This Part only applies if expressly agreed and so mentioned in Part I. The purpose is that the owner should not be held responsible on account of "latent defects" which may manifest themselves much later than after delivery from the building yard and, the repairs to which are thus not recoverable under the building contract. Therefore, the owners would only be liable to the charterers, to the extent that the owners have a valid claim against the builders under the "Guarantee Clause" of the building contract, which usually covers repairs and replacements or any defects which appear within the first 12 months of the delivery. Defects appearing later than 12 months, would not give rise to any claim against the owners.</p> <p>A mechanism is provided which would enable the parties to decide as to on whose account liquidated damages (including the liability of raising a claim against the builders) for physical defects or deficiencies, ought to be directed.</p>
<b>Time and Place of Delivery</b>	Provides for the possibility of cancellation or termination of the charter before the delivery under certain circumstances, for example, if the owners become entitled under the building contract, to reject the vessel, or, if for valid reasons, the builders become entitled under the building contract, not to

	<p>deliver the vessel.</p> <p>Delivery of the vessel to the charterers will take place when the vessel is ready for delivery and "duly documented".</p> <p>Parties are to mutually decide, on which party's account the liquidated damages towards, say, delay in delivery, ought to accrue. This should be indicated in the appropriate box in Part I.</p>
<b>Guarantee Works</b>	This is self-explanatory
<b>Name of vessel</b>	This is self-explanatory
<b>Survey on Redelivery</b>	The charterers have the right to inspect the vessel at all times during the course of her construction.
<b>PART IV</b>	
<b>Hire Purchase Agreement(optional)</b>	Omitted
<b>PART V</b>	
<b>Provisions to Apply for Vessels Registered in a Bareboat Charter Registry(optional)</b>	Omitted
<b>Definitions</b>	Omitted
<b>Mortgage</b>	Omitted
<b>Termination of Charter by Default</b>	Omitted