

IV. Bareboat Charter Parties: Main Terms, Clauses, and Forms.

A. Introduction

1. The charterer leases the vessel from the owner and takes full control and management of the vessel, appointing the Master and crew. The charterers provide stores, bunkers and undertake repairs, insurance and dry docking.
2. Under a bareboat charter, charterers pay:

- a. Hire (monthly);
- b. Crew;
- c. Fuel and boiler water;
- d. provisions and stores;
- e. Repairs (except for latent defects);

Latent defect: something that is not discoverable by reasonable diligent examination.

Once the charterer takes the vessel, all the warranties, the warranty of seaworthiness and everything else fall on the charterer. The owner has the obligation of the warranty of delivering a seaworthy vessel at the beginning of the charter, after that, the warranty of seaworthiness belongs to the charterer. However, in case of latent defects which might show up after the vessel had been delivered to the charterer, for this, the owner would still be responsible.

租船人負擔船舶船級之維持及適航性

因此如果不是因為交船前與交船時存在的隱藏瑕疵(inherent vice)造成船舶無法營運，租船人不得因船舶故障而主張離租(off hire)，船東得享有租船人給付全年 365 或 366 天的租金。

- f. Hull and machinery insurance (the owner is beneficiary for the total loss of the ship.);
- g. P & I insurance (Protection and Indemnity insurance);
- h. Voyage expenses.

From Item a ~ h, we can infer that

→租船人負擔除折舊費用與船舶貸款之還本付息(船東支付)以外的所有成本與費用

→船東須負擔折舊費用、利息費用、公司管理費用與船舶貸款的還款。

i. 載貨證券的簽發：

①船長，②空船租賃租船人，③經前二者授權之代理行

j. 運送人之責任：租船人負擔

k. 相對地，請思考 Bareboat charterers 的成本計算！

l. Bareboat charters: a financial instrument !

通常是航商取得船舶營運的方式之一 ==> *以租代購；*售後回租。

為(財務或營運)租賃合約，通常是長期性質，租期甚或至船舶使用年限截止

例如，①租船人：石油公司、貨櫃航運公司；②船東：德國 KG 或挪威 KS 基金公司如 König & Cie, Flotten- Fonds, Dr Peters GmbH

3. The actual name or correct name is not “BAREBOAT CHARTER”; it is “**DEMISE CHARTER**”. Because the element that determines whether or not a charter is a demise (讓渡) charter is the element of “control”, whose servants are those crews and officers.

B. MAIN TERMS IN A BAREBOAT CHARTER

空船租賃的主要條款：

1. CHARTERERS

—A/C *TAI-PROSPERITY NAVIGATION CORP., PANAMA*

A/C : ACCOUNT, ACCT

2. **DESCRIPTION OF THE VESSEL** : the contract is fixed onto a particularly named vessel, no substitute shall be allowed. (除非雙方另有約定)

— *VESSEL* :

MV 'FAR EASTERN CAVALIER'

PANAMANIAN FLAG, BUILT 2023

82,096.9MT DWT ON 14.45M SSW

GT/NT 44,543/26,987

LOA 229/BM 32.26 M

7 HO/HA, 3,489,046 CUFT GRAIN

14KN ON 32MT (BALLAST) AND

13.5KN ON 32MT (LADEN) VLSFO (380CST) + 0.1MT LSMGO

IN PORT 4 MT VLSFO PLUS 0.1 MT LSMGO

ALL ABT

船東的保證(OWNERS WARRANTIES)事項:

Seaworthiness (upon delivery) of the vessel.

船東的保證(Owners Warranty)事項：Vessel's seaworthiness 船舶具備適航能力

情形一：現成船 - Seaworthiness (Upon Delivery) of the vessel

- (1) 船東單純將自有之現成船以空船租賃方式出租予租船人：

船東須保證交船時船舶具備適航能力。

- (2) 售後回租 (Sale and Lease-back) 交易下的空船租賃

售後回租：

賣方，A Co.(原船東) ===(出售船舶)==>買方， B Co.(新船東)

(新)船東 B Co. =====(出租船舶)==>租船人， A Co.

- ① 原船東出售船舶給新船東，在交付船舶給新船東之際，同時也由新船東將船舶出租給原出售船舶的船東，原出售船舶的船東即成為空船租賃契約中的租船人。

- ② 原船東在出售船舶給新船東的買賣船合約 (Memorandum of Agreement, MOA) 中，即負有責任須向新船東保證船舶在移交給新船東的當時具有適航

能力。

- ③ 因此新船東在將船舶回租予原船東的空船租賃契約中也將負擔在交船時船舶須具備適航能力的責任。
- ④ 經由買賣船契約與將船舶出租給原船東之空船租賃契約的連接，在這類將船舶售後回租的交易中，船舶在空船租賃交船時，須具備適航能力的責任，在實質上完全由出售船舶的原船東即隨後以空船租賃承租船舶的租船人負擔。

情形二：新(購/造)船

- (1) 空船租賃合約中，指定租船人負責新船建造監工，則船東必會在空船租賃合約中規定，船東免除負擔保證船舶在交船之際具備適航能力的保證。
- (2) 空船租賃合約中，未指定租船人負責新船建造監工，則船東在交船時，仍對船舶具備適航能力負有保證之責。

在空船租賃期間租船人負擔船舶船級(classification)及適航能力(Seaworthiness)之維持，因此如果不是因為交船前與交船時存在的隱藏瑕疵(latent defect)，造成船舶無法營運，租船人不得因船舶故障而主張離租(off hire)，船東得享有租船人給付全年 365 或 366 天的租金。

3. LAYDAYS AND CANCELLING DATE

—*LAYCAN : NOV. 1—30, 2023*

4. PLACE OF DELIVERY

—*DEL : DLOSP KAOHSIUNG, ATDNSHINC*

ATDNSHINC : ALL TIME DAY AND NIGHT SUNDAY HOLIDAY INCLUDED

5. PLACE OF REDELIVERY

—*REDEL : WWD*

—*REDEL : SINGAPORE TO JAPAN RANGE*

—*REDEL : DLOSP YOKOHAMA*

WWD : WORLDWIDE

6. PERIOD

—*PERIOD : 10 CALENDAR YEARS MINUS OR PLUS 15 DAYS IN CHOPT*

7. HIRE RATE

—*HIRE : USD12,500. — PER DAY*

8. TRADING EXCLUSION

—*TRADING EXCLUSION : WORLDWIDE TRADING IS ALLOWED, BUT SO*

*THAT THE VESSEL SHALL NOT BE SUBJECT TO,
OR THREATENED WITH, BLACKLISTING OR
BOYCOTTING AT TIME OF REDELIVERY.*

9. BUNKER CLAUSE

*—BUNKERS : BUNKERS ON DEL TO B AS ON BOARD, VLSFO ABT 900 MT
AND LSMGO ABT 60MT.
BUNKERS ON REDEL TO B ABT SAME QTTY AS ON DEL.
THE VALUE OF BOD TO B PAID BY CHARTERERS TOGETHER
WITH THE 1ST HIRE PAYMENT.*

*10. CHARTERERS PURCHASE OPTION (CALL OPTION)

*—CHARTERERS HAVE A RIGHT TO PURCHASE THE VESSEL
(CHARTERERS' CALL OPTION) ON THE FOLLOWING DATES AND AT
THE FOLLOWING PRICES ON STRICT "AS IS WHERE IS" TERMS:
31 DECEMBER 2028 - US\$37 MILLION
31 DECEMBER 2029 - US\$35 MILLION
31 DECEMBER 2030 - US\$33 MILLION
31 DECEMBER 2031 - US\$31 MILLION
31 DECEMBER 2032 - US\$29 MILLION
31 DECEMBER 2033 - US\$27 MILLION
USE OF THIS CALL OPTION MUST BE DECLARED IN WRITING NOT
LESS THAN 90 DAYS BEFORE THE DATE ABOVE.*

*11. SALE OF THE VESSEL

*— OWNERS HAS THE RIGHT TO SELL THE VESSEL AT ANY TIME
DURING THE CHARTER, PROVIDING THAT THE OWNERS SHALL
GIVE THE CHARTERER 6-MONTH PRIOR NOTICE BEFORE THE SALE.*

12. COMMISSIONS AND ADDRESS COMMISSION

*—COMM : 2.5PCT OF ADDCOMM TO CHARTERERS OR THEIR NOMINEES,
1.25PCT OF COMM TO JASON CHARTERING INC. AND 1.25PCT
OF COMM TO LEXINGTON BROKING CORP.*

13. CHARTER PARTY

—OTHERS AS PER "BARECON 2017" C/P

14. SUBJECT CLAUSE

—SUB TO CHARTERERS BOARD APPROVAL FOR RECONFIRMATION

WITHIN 2 WORKING DAYS AMTF
AMTF : AFTER MAIN TERMS FIXED

*S ARE OPTIONAL.

※ Disputes arising out of vessel's conditions at delivery and redelivery.

PART II
BARECON 2017 Standard Bareboat Charter Party

The Charterers warrant that they will not permit the Vessel to commence a voyage (including any preceding ballast voyage) which cannot reasonably be expected to be completed in time to allow redelivery of the Vessel within the Charter Period and in accordance with the notices given. Notwithstanding the above, should the Charterers fail to redeliver the Vessel within the Charter Period, the Charterers shall pay the daily equivalent to the rate of hire stated in Box 17(i) applicable at the time plus ten (10) per cent or the market rate, whichever is the higher, for the number of days by which the Charter Period is exceeded. Such payment of the enhanced hire rate shall be without prejudice to any claims the Owners may have against the Charterers in this respect. All other terms, conditions and provisions of this Charter Party shall continue to apply.

Subject to the provisions of Clause 13 (Maintenance and Operation), the Vessel shall be redelivered to the Owners in the same condition and class as that in which it was delivered, fair wear and tear not affecting class excepted.

Clause 10, PART II, BARECON 2017 Standard Bareboat Charter Party.