

Standard form pandemic clauses and force majeure clauses¹

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¹ While every effort has been made to ensure the information provided here is correct, potential users should always consult the published versions of clauses, available on the websites of the respective issuing Organizations.

² **NOTE:** The [BIMCO Infectious or Contagious Diseases Clause for Time Charter Parties 2022](#) was published on 23 June 2022. The text of the clause was, however, kindly made available to UNCTAD by BIMCO, ahead of its publication, for training purposes. Some brief reference to the clause could therefore be included as part of the final training course and materials, and the full text is set out in this updated compilation.

Bespoke pandemic clauses

BIMCO Infectious or Contagious Diseases Clause for Time Charter Parties 2022

a) For the purposes of this Clause:

“Disease” means a highly infectious or contagious disease that may cause serious illness to humans.

“Preventative Measures” means all reasonable, applicable and available measures to prevent exposure to the Vessel, its crew or other persons on board to a Disease.

“Risk of Exposure” means a risk of exposure to a Disease which arises or substantially increases at a port or place nominated by the Charterers which in the Owners’ reasonable judgement cannot be avoided by Owners/Master taking Preventative Measures, whether such risk of exposure existed at the time of entering into this Charter Party or occurred thereafter. “Exposure Risk Notice” means a written notice from the Owners to the Charterers of a Risk of Exposure that includes supporting evidence thereof.

b) The Owners/Master shall take Preventative Measures in relation to the Vessel throughout the currency of this Charter Party.

If costs for such Preventative Measures during the currency of the Charter Party exceed US\$[] such excess costs shall be for the Charterers’ account (if left blank then all costs shall be for the Owners’ account).

c) If, in connection with a Disease, the Vessel is quarantined, refused admission at any port, or otherwise delayed, the Vessel shall remain on hire during such time and the Charterers shall be liable for any direct losses, damages and/or expenses incurred by the Owners during the currency of this Charter Party.

However, if any such quarantine, refused admission, or delays are caused by the Owners’ acts or omissions or arise due to the Vessel’s activity prior to this Charter Party, the Vessel shall be off-hire for any time lost and the Owners shall be liable for any direct losses, damages and/or expenses incurred by the Charterers as a result.

d) The Vessel shall not be obliged to proceed to, continue to or remain at a place where in the Owners’ reasonable judgement there is a high risk from a Disease to the crew or other persons on board the Vessel which cannot be prevented by taking Preventative Measures.

Where the Owners decide not to proceed to, continue to or remain at a place as above and provided they have given the Charterers an Exposure Risk Notice:

- i) the Owners shall request new voyage orders from the Charterers which the Charterers shall, subject to their redelivery obligations and any other terms of this Charter Party, issue within a reasonable time.*
- ii) Pending such instructions, the Vessel shall have the right to proceed to the nearest safe waiting place.*
- iii) The Vessel shall remain on hire during such period and the Charterers shall indemnify the Owners for any costs, expenses or liabilities incurred by the Owners in relation to claims from holders of bills of lading as a consequence of the Vessel waiting for and/or complying with the alternative voyage orders.*

e) When acting in accordance with any of the provisions of this Clause anything is done or not done,

such shall not be deemed to be a deviation, but shall be considered as due fulfilment of this Charter Party.

f) The Charterers shall procure that the provisions of this Clause are incorporated into all sub- charters, bills of lading, waybills or other documents evidencing contracts of carriage that are issued in relation to this Charter Party.

BIMCO Infectious or Contagious Diseases Clause for Voyage Charter Parties 2015³

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

“Disease” means a highly infectious or contagious disease that is seriously harmful to humans.

“Affected Area” means any port or place where there is a risk of exposure to the Vessel, crew or other persons on board to the Disease and/or to a risk of quarantine or other restrictions being imposed in connection with the Disease.

(b) The Vessel shall not be obliged to proceed to or continue to or remain at any place which, in the reasonable judgement of the Master/Owners, becomes an Affected Area after the date of this Charter Party

(c) In accordance with Sub-clause (b):

(i) at any time before loading commences, the Owners may give notice to the Charterers cancelling this contract of carriage or may refuse to perform such part of it as will require the Vessel to enter or remain at an Affected Area;

(ii) if loading has commenced, the Owners may notify the Charterers that the Vessel will leave with or without cargo on board, provided always that if the Charter Party provides that loading or discharging is to take place within a range of ports, the Owners shall first request the Charterers to nominate any other safe port which lies within the range for loading and discharging and may only cancel this Charter Party or leave the loading port if the Charterers fail to nominate such alternative safe port within forty-eight (48) hours of receipt of notice of such request. If part cargo has been loaded, the Vessel may complete with cargo for the Owners’ account at any other port or ports whether or not on the customary route for the chartered voyage.

(d) If prior to or after arrival and in accordance with Sub-clause (b) the discharging port is determined to be in an Affected Area, the Owners may request the Charterers to nominate an alternative safe port which lies within the Charter Party range. If the Charterers fail to make such nomination within forty-eight (48) hours of receipt of the Owners’ request, the Owners may discharge the cargo, or such cargo remaining on board if discharging has not been completed, at any safe port of their choice (including the port of loading) in complete fulfilment of the contract of carriage. If discharge takes place at any port other than the loading port or at a port that lies outside the range of ports in the Charter Party, the Owners shall be entitled to recover from the Charterers the extra expenses of such discharge, to receive full freight as if the cargo had been carried to the discharging port and, if the extra distance exceeds 100 miles, to additional freight which shall be the same percentage of the freight contracted for as the percentage which the extra distance represents to the distance of the normal and customary route. The Owners shall have a lien on the cargo for such extra expenses and freight.

(e) The Owners shall not be obliged to sign, and the Charterers shall not allow or authorise the signing of, bills of lading, waybills or other documents evidencing contracts of carriage for any

³ Available at [Bimco Infectious or Contagious Diseases Clause for Voyage Charterparties 2015](#).

Affected Area.

(f) If, notwithstanding Sub-clauses (b) to (e), the Vessel does proceed to or continue to or remain at an Affected Area:

(i) The Owners shall notify the Charterers of their decision but the Owners shall not be deemed to have waived any of their rights under this Charter Party.

(ii) The Owners shall endeavour to take such reasonable measures in relation to the Disease as may from time to time be recommended by the World Health Organisation.

(iii) Any additional costs, expenses or liabilities whatsoever arising out of the Vessel visiting or having visited an Affected Area, including but not limited to screening, cleaning, fumigating and/or quarantining the Vessel and its crew, shall be for the Charterers' account and any time lost shall count as laytime or time on demurrage.

(g) The Vessel shall have liberty to comply with all orders, directions, recommendations or advice of competent authorities and/or the Flag State of the Vessel in respect of arrival, routes, ports of call, destinations, discharge of cargo, delivery or in any other respect whatsoever relating to issues arising as a result of the Vessel being or having been ordered to an Affected Area.

(h) If in compliance with this Clause anything is done or not done, such shall not be deemed a deviation but shall be considered as due fulfilment of this Charter Party. In the event of a conflict between the provisions of this Clause and any implied or express provision of this Charter Party, this Clause shall prevail to the extent of such conflict, but no further.

(i) The Charterers shall indemnify the Owners for claims arising out of the Vessel proceeding in accordance with any of the provisions of Sub-clauses (b) to (h) which are made under any bills of lading, waybills or other documents evidencing contracts of carriage.

(j) The Charterers shall procure that this Clause shall be incorporated into all bills of lading, waybills or other documents evidencing contracts of carriage issued pursuant to this Charter Party.

BIMCO Infectious or Contagious Diseases Clause for Time Charter Parties 2015⁴

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

"Disease" means a highly infectious or contagious disease that is seriously harmful to humans.

"Affected Area" means any port or place where there is a risk of exposure to the Vessel, crew or other persons on board to the Disease and/or to a risk of quarantine or other restrictions being imposed in connection with the Disease.

(b) The Vessel shall not be obliged to proceed to or continue to or remain at any place which, in the reasonable judgement of the Master/Owners, is an Affected Area.

(c) If the Owners decide in accordance with Sub-clause (b) that the Vessel shall not proceed or continue to an Affected Area they shall immediately notify the Charterers.

(d) If the Vessel is at any place which the Master in his reasonable judgement considers to have become an Affected Area, the Vessel may leave immediately, with or without cargo on board, after notifying the Charterers.

(e) In the event of Sub-clause (c) or (d) the Charterers shall be obliged, notwithstanding any other terms of this Charter Party, to issue alternative voyage orders. If the Charterers do not issue such alternative voyage orders within forty-eight (48) hours of receipt of the Owners' notification, the

⁴ Available at [BIMCO Infectious or Contagious Diseases Clause for Time Charter Parties 2015](#). Explanatory notes at [BIMCO - Main features of the Infectious or Contagious Diseases Clauses](#)

Owners may discharge any cargo already on board at any port or place. The Vessel shall remain on hire throughout and the Charterers shall be responsible for all additional costs, expenses and liabilities incurred in connection with such orders/delivery of cargo.

(f) In any event, the Owners shall not be obliged to load cargo or to sign, and the Charterers shall not allow or authorise the issue on the Owners' behalf of, bills of lading, waybills or other documents evidencing contracts of carriage for any Affected Area.

(g) The Charterers shall indemnify the Owners for any costs, expenses or liabilities incurred by the Owners, including claims from holders of bills of lading, as a consequence of the Vessel waiting for and/or complying with the alternative voyage orders.

(h) If, notwithstanding Sub-clauses (b) to (f), the Vessel does proceed to or continue to or remain at an Affected Area:

(i) The Owners shall notify the Charterers of their decision but the Owners shall not be deemed to have waived any of their rights under this Charter Party.

(ii) The Owners shall endeavour to take such reasonable measures in relation to the Disease as may from time to time be recommended by the World Health Organisation.

(iii) Any additional costs, expenses or liabilities whatsoever arising out of the Vessel visiting or having visited an Affected Area, including but not limited to screening, cleaning, fumigating and/or quarantining the Vessel and its crew, shall be for the Charterers' account and the Vessel shall remain on hire throughout.

(i) The Vessel shall have liberty to comply with all orders, directions, recommendations or advice of competent authorities and/or the Flag State of the Vessel in respect of arrival, routes, ports of call, destinations, discharge of cargo, delivery or in any other respect whatsoever relating to issues arising as a result of the Vessel being or having been ordered to an Affected Area.

(j) If in compliance with this Clause anything is done or not done, such shall not be deemed a deviation, nor shall it be or give rise to an off-hire event, but shall be considered as due fulfilment of this Charter Party. In the event of a conflict between the provisions of this Clause and any implied or express provision of this Charter Party, this Clause shall prevail to the extent of such conflict, but no further.

(k) The Charterers shall indemnify the Owners if after the currency of this Charter Party any delays, costs, expenses or liabilities whatsoever are incurred as a result of the Vessel having visited an Affected Area during the currency of this Charter Party.

(l) The Charterers shall procure that this Clause shall be incorporated into all sub-charters and bills of lading, waybills or other documents evidencing contracts of carriage issued pursuant to this Charter Party.

INTERTANKO COVID-19 ('Coronavirus') Clause – Voyage charterparties⁵

1. Notwithstanding any other term to the contrary in this charterparty, the Vessel will not be required to call at any port, place, country or region if in the Master's or Owners' reasonable judgement there may be a risk of exposure of the crew or other persons on board to Covid-19 ('Coronavirus').

2. Should Charterers order the Vessel to a port, place, country or region which is presently or subsequently becomes affected by the Coronavirus virus (the 'Coronavirus Affected area'), and if such

⁵ Available at [INTERTANKO Covid-19 \('Coronavirus'\) Clause – Time charterparties](#). An explanatory note is available at [INTERTANKO Covid-19 \('Coronavirus'\) Clause – Voyage charterparties \(Explanatory Notes\)](#).

order has not been refused in accordance with sub-clause 1 hereof then the following provisions to apply:

a) If, prior to reaching the load or discharge port, in the reasonable judgement of the Master or Owners, the level of risk of exposure of the crew and other persons on board to the Coronavirus virus becomes unacceptable, Owners shall be entitled to request fresh voyage orders from Charterers.

b) If, following tender of notice of readiness, either prior to or during loading or discharge, in the reasonable judgment of the Master or Owners, the level of risk of exposure of the crew or other persons on board to the Coronavirus virus becomes unacceptable, the Vessel may proceed to a safe waiting place and Owners shall be entitled to request fresh orders from Charterers.

c) Any time taken for the purposes of obtaining free pratique shall be for Charterers' account and shall not prevent the tender of a valid and effective notice of readiness.

d) Charterers shall arrange at their time and expense for all appropriate inspections and certification, including but not limited to screening, cleaning, fumigation, quarantine of the Vessel and/or crew or other persons on board and the obtaining of medical advice and/or treatment, as required at any port or place where the Vessel calls under this charterparty.

e) Owners shall promptly provide any recent crew health records, evidence of the Vessel's prior trading pattern, and other existing documentation required by the port authorities for the purposes of free pratique. Owners shall ensure that shore leave for any crew member in a Coronavirus Affected Area shall be prohibited.

f) In the event Charterers fail to provide alternative voyage orders as required in sub-clause 2 (a) or (b) above within 48 hours of receiving the request for new orders, Owners shall be entitled to discharge the cargo at any safe port of their choice (including at the loading port) which shall be considered as complete fulfilment of this charterparty. Owners shall be entitled to recover from Charterers the extra expenses of such discharge and to receive the full freight as though the cargo had been carried to the discharge port, Owners shall have a lien on the cargo for such expenses and freight.

3. Should the Vessel be boycotted, refused admission to port, quarantined, or otherwise delayed in any manner whatsoever by reason of having proceeded to an Coronavirus Affected Area, the Vessel shall remain on-hire for all time lost and any direct losses, damages and/or expenses incurred by Owners as a result shall be paid by Charterers. In the event that the Vessel is boycotted, refused admission, or otherwise delayed as stated above within 30 days after having been redelivered under this charterparty, then Charterers are to compensate Owners for all time lost as a result as if the Vessel is still on hire, in addition to compensating Owners for all direct losses, damages, and or expenses which may arise as a result of the above.

4. Owners and Charterers agree that the outbreak of Coronavirus virus shall not be considered as force majeure or as a frustrating event of the charterparty.

5. The Vessel shall have liberty to comply with all orders, directions, recommendations, precautionary measures or advice of any governmental or International authority and/or the Flag State of the Vessel relating to or arising as a result of the Vessel being ordered to a Coronavirus Affected Area.

6. Charterers shall ensure that all Bills of Lading for cargo to be carried under this charterparty shall incorporate the above provisions.

INTERTANKO Covid-19 ('Coronavirus') Clause – Time charterparties⁶

1. *Notwithstanding any other term to the contrary in this charterparty, the Vessel will not be required to call at any port, place, country or region if in the Master's or Owners' reasonable judgement there may be a risk of exposure of the crew or other persons on board to Covid-19 ('Coronavirus').*
2. *Should Charterers order the Vessel to a port, place, country or region which is presently or subsequently becomes affected by the Coronavirus virus (the 'Coronavirus Affected area'), and if such order has not been refused in accordance with sub-clause 1 hereof then the following provisions to apply:*
 - a) *If, prior to reaching the load or discharge port, in the reasonable judgement of the Master or Owners, the level of risk of exposure of the crew and other persons on board to the Coronavirus virus becomes unacceptable, Owners shall be entitled to request fresh voyage orders from Charterers.*
 - b) *If, following tender of notice of readiness, either prior to or during loading or discharge, in the reasonable judgment of the Master or Owners, the level of risk of exposure of the crew or other persons on board to the Coronavirus virus becomes unacceptable, the Vessel may proceed to a safe waiting place and Owners shall be entitled to request fresh orders from Charterers.*
 - c) *Any time taken for the purposes of obtaining free pratique shall be for Charterers' account and shall not prevent the tender of a valid and effective notice of readiness.*
 - d) *Charterers shall arrange at their time and expense for all appropriate inspections and certification, including but not limited to screening, cleaning, fumigation, quarantine of the Vessel and/or crew or other persons on board and the obtaining of medical advice and/or treatment, as required at any port or place where the Vessel calls under this charterparty.*
 - e) *Owners shall promptly provide any recent crew health records, evidence of the Vessel's prior trading pattern, and other existing documentation required by the port authorities for the purposes of free pratique. Owners shall ensure that shore leave for any crew member in a Coronavirus Affected Area shall be prohibited.*
3. *Should the Vessel be boycotted, refused admission to port, quarantined, or otherwise delayed in any manner whatsoever by reason of having proceeded to an Coronavirus Affected Area, the Vessel shall remain on-hire for all time lost and any direct losses, damages and/or expenses incurred by Owners as a result shall be paid by Charterers. In the event that the Vessel is boycotted, refused admission, or otherwise delayed as stated above within 30 days after having been redelivered under this charterparty, then Charterers are to compensate Owners for all time lost as a result as if the Vessel is still on hire, in addition to compensating Owners for all direct losses, damages, and or expenses which may arise as a result of the above.*
4. *Owners and Charterers agree that the outbreak of Coronavirus virus shall not be considered as force majeure or as a frustrating event of the charterparty.*
5. *The Vessel shall have liberty to comply with all orders, directions, recommendations, precautionary measures or advice of any governmental or international authority and/or the Flag State of the Vessel relating to or arising as a result of the Vessel being ordered to a Coronavirus Affected Area.*
6. *Charterers shall ensure that all Bills of Lading for cargo to be carried under this charterparty shall incorporate the above provisions.*

⁶ Available at [INTERTANKO Covid-19 \('Coronavirus'\) Clause – Time charterparties](#). Explanatory notes available at [INTERTANKO Covid-19 \('Coronavirus'\) Clause – Time charterparties \(Explanatory Notes\)](#).

INTERTANKO Covid-19 ('Coronavirus') Additional Vetting Inspection Clause

In the event of cancelled SIRE/CDI inspections in a Coronavirus Affected Area, the SIRE/CDI requirements in this charterparty shall be suspended and shall not be re-instated until the Vessel's trading pattern permits such inspection.

BIMCO COVID-19 Crew Change Clause for Time Charter Parties 2020⁷

(a) In addition to any other right to deviate under this contract, the Vessel shall have liberty to deviate for crew changes if COVID-19-related restrictions prevent crew changes from being conducted at the ports or places to which the Vessel has been ordered or within the scheduled period of call. Any deviation under this clause shall not be deemed to be an infringement or breach of this contract, and Owners shall not be liable for any loss or damage resulting therefrom.

(b) Owners shall exercise the right under subclause (a) above with due regard to Charterers' interests and shall notify Charterers in writing as soon as reasonably possible of any intended deviation for crew changes purposes.

(c) Charterers shall procure that subclause (a) shall be incorporated into any and all sub-charter parties, bills of lading, waybills or other documents evidencing contracts of carriage issued pursuant to this Charter Party.

(d) During the period of such deviation the Vessel shall:

*(i) * remain on hire, but at a reduced rate of hire of USDper day. In the absence of an agreed amount, fifty per cent (50%) of the hire rate shall apply. The cost of bunkers consumed shall be shared equally between Owners and Charterers.*

*(ii) * be off-hire and the cost of bunkers consumed shall be for Owners' account.*

(e) While the Vessel is at the port of deviation all port charges, pilotage and other expenses arising out of such crew changes shall be for the Owners' account.

**(d)(i) and (d)(ii) are alternatives. Delete whichever is not applicable. In the absence of deletions alternative (d)(i) shall apply.*

INTERTANKO Owners' Right to Change Crew Clause – Time Charterparties⁸

Charterers warrant that:

(i) they are aware of and support the aims of the Neptune Declaration on Seafarer Wellbeing and Crew Change; and

(ii) they shall not object to and/or impose any restriction owners' right to change crew where such change is allowed by local or national laws or regulations applicable to intended port calls.

Any time lost solely caused by crew change to be for Owners' account.

⁷ Available with explanatory notes at [BIMCO COVID-19 Crew Change Clause for Time Charter Parties 2020](#).

⁸ Available at [INTERTANKO Owner's Right to Change Crew Clause – Time Charterparties](#).

Charterers P&I Club Voyage Charterparty Contagious Disease Clause⁹

Notwithstanding any other provision in this charter party the Charterers shall not be liable for any damage and/or delay due to voyage orders that result in the Vessel calling at a port where fever and/or epidemics and/or contagious disease are prevalent in the circumstances where such fever and/or epidemics are widely publicised. It will be the responsibility of the Master and/or crew to maintain an up to date knowledge of the spread of these fevers and/or epidemics and/or contagious disease and advise the Charterers of any issues with the voyage order as soon as possible once the voyage order has been made. Should any other provision in this charter party conflict with this clause then this clause shall be considered paramount and as such will override any contrary provision.

Charterers P&I Club Time Charterparty Contagious Disease Clause¹⁰

Notwithstanding any other provision in this charter party the Charterers shall not be liable for any damage and/or delay due to voyage orders that result in the Vessel calling at a port where fever and/or epidemics and/or contagious disease are prevalent in the circumstances where such fever and/or epidemics are widely publicised. Should there be any delay and/or damage to the Vessel due to calling at a port where fever and/or epidemics and/or contagious disease are prevalent then the Vessel will be off-hire until the full working of the Vessel is restored to Charterers. It will be the responsibility of the Master and/or crew to maintain an up to date knowledge of the spread of these fevers and/or epidemics and/or contagious disease and advise the Charterers of any issues with the voyage order as soon as possible once the voyage order has been made. Should any other provision in this charter party conflict with this clause then this clause shall be considered paramount and as such will override any contrary provision.

Charterers P&I Club Adapted Contagious Disease Clause¹¹

a) The Vessel shall not be obliged to proceed to or from, or continue to, or through, or remain at, any port, place, area or country (hereinafter "Affected Area") which will expose the Vessel and crew, or other persons on board the Vessel, to the risk of infection from highly infectious diseases as determined and notified by the World Health Organization to be harmful to human health;

b) The Vessel should not proceed, or continue to, or through, or remain in an Affected Area provided Owners are able to document through competent international authorities the risk of infection in which case they must immediately contact the Charterers. Wherever legally permissible, bearing in mind obligations under insurances and other contracts, including but not limited to Bills of Lading (under which Owners may also have binding obligations and a need to maintain insurance coverage) Charterers shall use reasonable endeavours [sic] to issue alternative voyage orders;

c) The Vessel shall have liberty to comply with all orders, directions, recommendations or advice of competent authorities and/ or the Flag State of the Vessel in respect of arrival, routes, ports of call, destinations, discharge of cargo, delivery, or in any other respect whatsoever relating to issues arising as a result of the Vessel being ordered to an Affected Area;

⁹ Available at <https://www.themecogroup.co.uk/charterers-liability-insurance/publication/covid-19-qa/>.

¹⁰ Available at <https://www.themecogroup.co.uk/charterers-liability-insurance/publication/covid-19-qa/>.

¹¹ Available at <https://www.themecogroup.co.uk/charterers-liability-insurance/publication/covid-19-qa/>.

d) Any additional costs and expenses arising out of the Vessel visiting an Affected Area, including but not limited to screening, cleaning, fumigating and/ or quarantining the Vessel and its crew for such diseases either in the Affected Area, or at subsequent ports of call, shall be for the Charterers' account provided said costs are reasonably incurred and are fully documented and provided further they have not been generated by Vessel/Crew/Owners' fault or negligence in complying with this Clause.

e) If in compliance with this Clause anything is done or not done, such shall not be deemed a deviation, but shall be considered as due fulfilment of this Charter Party. In the event of a conflict between the provisions of this Clause and any implied or express provision of the Charter Party, this Clause shall prevail to the extent of such conflict, but no further.

Force Majeure clauses

BIMCO - Force Majeure Clause 2022¹²

(a) Definitions - "Force Majeure" means the occurrence of an event or circumstance as defined in (b) below ("Force Majeure Event") that prevents a party from performing one or more of its contractual obligations ("the Affected Party"), provided that such party proves:

- (i) the existence of a Force Majeure Event;*
- (ii) that such Force Majeure Event is beyond its reasonable control;*
- (iii) that the Force Majeure Event could not reasonably have been foreseen at the time of the conclusion of the contract; and*
- (iv) that the effects of the Force Majeure Event could not reasonably have been avoided or overcome by the Affected Party.*

(b) Force Majeure Events – For the purpose of this Clause the following shall be Force Majeure Events:

- (i) actual, threatened or reported war, act of war, civil war or hostilities; revolution; rebellion; civil commotion; warlike operations; laying of mines;*
- (ii) act of piracy and/or violent robbery and/or capture/seizure; act of terrorists; act of hostility or malicious damage;*
- (iii) blockade, generally imposed trade restriction, embargo;*
- (iv) act of government or public authority whether lawful or unlawful, compliance with any law or governmental order, expropriation, seizure of works, requisition, nationalisation;*
- (v) plague, epidemic, pandemic;*
- (vi) act of God, natural disaster or extreme natural event such as earthquake, landslide, flood, or extraordinary weather condition;*
- (vii) explosion; fire; destruction of equipment; destruction of port facilities; obstruction of waterways; cyber security incident; break-down of transport, communication, information system or power supply; in each case unless caused by negligence of the Affected Party;*
- (viii) ionising radiation or contamination by radioactivity, chemical or biological contamination;*
- (ix) general labour disturbance such as boycott, strike and lock-out, occupation of factories*

¹² Available clause and explanatory notes at [BIMCO FORCE MAJEURE CLAUSE 2022](#).

and premises; in each case unless limited to the employees of the Affected Party or a third party engaged by it; or

(x) any other similar event or circumstance unless caused by negligence of the Affected Party.

(c) Notices and Mitigation – The Affected Party shall:

(i) give written notice of the Force Majeure without delay to the other party identifying the relevant Force Majeure Event and its anticipated effect on the performance of one or more of its contractual obligations;

(ii) exercise reasonable endeavours to minimise the effect of the Force Majeure Event upon its performance of the contract and provide any relevant information and documentation to the other party in relation to the Force Majeure and the measures taken; and

(iii) notify the other party as soon as the Force Majeure Event ceases to prevent performance of its contractual obligations.

(d) Cooperation – The parties shall cooperate to minimise the effects of the Force Majeure on performance of the contract and shall discuss in good faith alternative ways in which the contract can be performed and/or the effect of the Force Majeure can be minimised.

(e) Non-liability for breach – Neither party shall be considered in breach of contract nor liable in damages for delay in or for non-performance of one or more of its contractual obligations to the extent caused by the Force Majeure from the time a valid notice under subclause (c)(i) was given.

(f) Continuing payment obligations – Nothing in this Clause shall impact on either party’s payment obligations under the contract unless those payment obligations are directly affected by the Force Majeure.

(g) Termination – Where a valid notice has been given in accordance with subclause (c)(i) above and the Force Majeure has the effect of:

(i) rendering the performance of the contract impossible, illegal or radically different from what was intended at the time of the conclusion of the contract; or

(ii) substantially affecting the performance of the contract as a whole and the duration of the Force Majeure exceeds [.....] days from the time notice was given (if this space is left blank then this subclause (g)(ii) shall not apply), either party has the right to terminate the contract by written notification within a reasonable period to the other party.

Where a party terminates under this subclause (g) both parties shall be discharged from future obligations only and neither may claim damages for the other’s future non-performance. The parties must perform all obligations not affected by Force Majeure up to the date of the termination with any sums paid in advance and not earned or due being refunded, save where the contract or applicable law provides otherwise. Nothing in this Clause shall impact on any separate rights of termination under this contract or at law.

ICC Force Majeure Clause (Long Form)¹³

1. Definition. “Force Majeure” means the occurrence of an event or circumstance (“Force Majeure Event”) that prevents or impedes a party from performing one or more of its contractual obligations under the contract, if and to the extent that the party affected by the impediment (“the Affected

¹³ Available clause and explanatory notes at [ICC Force Majeure Clause & explanatory notes](#).

Party”) proves: a) that such impediment is beyond its reasonable control; and b) that it could not reasonably have been foreseen at the time of the conclusion of the contract; and c) that the effects of the impediment could not reasonably have been avoided or overcome by the Affected Party.

2. *Non-performance by third parties.* Where a contracting party fails to perform one or more of its contractual obligations because of default by a third party whom it has engaged to perform the whole or part of the contract, the contracting party may invoke Force Majeure only to the extent that the requirements under paragraph 1 of this Clause are established both for the contracting party and for the third party.

3. *Presumed Force Majeure Events.* In the absence of proof to the contrary, the following events affecting a party shall be presumed to fulfil conditions (a) and (b) under paragraph 1 of this Clause, and the Affected Party only needs to prove that condition (c) of paragraph 1 is satisfied:

a) war (whether declared or not), hostilities, invasion, act of foreign enemies, extensive military mobilisation;

b) civil war, riot, rebellion and revolution, military or usurped power, insurrection, act of terrorism, sabotage or piracy;

c) currency and trade restriction, embargo, sanction;

d) act of authority whether lawful or unlawful, compliance with any law or governmental order, expropriation, seizure of works, requisition, nationalisation;

e) plague, epidemic, natural disaster or extreme natural event;

f) explosion, fire, destruction of equipment, prolonged break-down of transport, telecommunication, information system or energy;

g) general labour disturbance such as boycott, strike and lock-out, go-slow, occupation of factories and premises

4. *Notification.* The Affected Party shall give notice of the event without delay to the other party.

5. *Consequences of Force Majeure.* A party successfully invoking this Clause is relieved from its duty to perform its obligations under the Contract and from any liability in damages or from any other contractual remedy for breach of contract, from the time at which the impediment causes inability to perform, provided that the notice thereof is given without delay. If notice thereof is not given without delay, the relief is effective from the time at which notice thereof reaches the other party. The other party may suspend the performance of its obligations, if applicable, from the date of the notice.

6. *Temporary impediment.* Where the effect of the impediment or event invoked is temporary, the consequences set out under paragraph 5 above shall apply only as long as the impediment invoked prevents performance by the Affected Party of its contractual obligations. The Affected Party must notify the other party as soon as the impediment ceases to impede performance of its contractual obligations.

7. *Duty to mitigate.* The Affected Party is under an obligation to take all reasonable measures to limit the effect of the event invoked upon performance of the contract.

8. *Contract termination.* Where the duration of the impediment invoked has the effect of substantially depriving the contracting parties of what they were reasonably entitled to expect under the contract, either party has the right to terminate the contract by notification within a reasonable period to the other party. Unless otherwise agreed, the parties expressly agree that the contract may be terminated by either party if the duration of the impediment exceeds 120 days.

9. *Unjust enrichment.* Where paragraph 8 above applies and where either contracting party has, by reason of anything done by another contracting party in the performance of the contract, derived a

benefit before the termination of the contract, the party deriving such a benefit shall pay to the other party a sum of money equivalent to the value of such benefit.

Shell 2010 Force Majeure Clause¹⁴

34.1 Neither the Seller nor the Buyer shall be liable for a failure to perform any of its obligations under the Agreement insofar as that party proves that the failure was due to an impediment beyond its control;

34.2 An impediment within Section 34.1 above shall:

34.2.1 include delay, hindrance, reduction in, interference with, curtailment or prevention of a party's performance of its obligations hereunder resulting from events such as the following, this list not being exhaustive:

- (a) war, whether declared or not, civil war, riots and revolutions, acts of piracy, acts of sabotage;
- (b) natural disasters such as violent storms, cyclones, earthquakes, tidal waves, floods, destruction by lightning;
- (c) explosions, fires, destruction of tankage, pipelines, refineries or terminals and any kind of installations;
- (d) boycotts, strikes, lock-outs, labour disputes of all kinds, go-slows, occupation of factories and premises;
- (e) any curtailment, reduction in, interference with, failure or cessation of, supplies of crude oil from any of the Seller's or the Seller's suppliers sources of supply or by any refusal to supply crude oil whether lawful or otherwise by the Sellers suppliers (provided in fact the sources of supply are for the purposes of the Agreement);
- (f) any compliance with any law, regulation or ordinance, or with any order, demand or request (including any obligation arising out of the exercise of a requirement to deliver crude oil of the grade deliverable hereunder by way of royalty-in-kind) of an international, national, port, transportation, local or other authority or agency or of any body or person purporting to be or to act for such authority or agency or any corporation directly or indirectly controlled by any of them; and

34.2.2 not include delay, hindrance, interference with, curtailment or prevention of a party's accrued obligation to make payment under the Agreement whether in respect of price, dispatch, demurrage or any other financial obligation whatsoever.

34.3 The party seeking relief (the "Relying Party") shall as soon as possible after the impediment becomes known to it give notice in writing to the other party of such impediment and the effects, or the reasonably anticipated effects, on its ability to perform in as much detail as possible and the appropriate relief sought. The appropriate relief takes effect from the time the other party receives the notice. Failure to give notice as soon as possible may make the Relying Party liable in damages to the other party for loss which otherwise could reasonably have been avoided.

34.4 The appropriate relief under this section shall be as follows:

34.4.1 in respect of an impediment that renders impossible the Relying Party's performance of its obligations, immediate termination of the affected delivery obligation(s) without liability for damages, penalties and other contractual sanctions;

34.4.2 in respect of an impediment that delays, hinders, reduces or interferes with the

¹⁴ Available at [Shell Crude 2010 contract](#).

performance of the delivery obligation(s), immediate postponement of those obligations without liability for damages, penalties and other contractual sanctions for a period until midnight local time on the last date of the Laydays, or until such time as the impediment is removed, whichever is the earlier. The impediment shall not, however, operate to extend the term of the Agreement. Further, should the impediment continue beyond midnight local time on the last day of the Laydays then it shall be deemed to render the Relying Party's obligations impossible and Section 34.4.1 above shall apply thenceforth;

34.4.3 the Relying Party, if the Seller, shall not be obliged to purchase afloat or otherwise from other suppliers to make good shortages or deficiency of delivery resulting from an impediment.

34.5 Without prejudice to the foregoing provisions of this Section, if at any time the Seller's availability of crude oil of the grade deliverable hereunder is curtailed or interfered with as a result of the Seller's actions being based on compliance with a request or requirement of or made by or through the International Energy Agency ("IEA") then, for so long as such curtailment or interference continues, the Seller shall be entitled to withhold, reduce or suspend delivery hereunder to such extent as the Seller shall in its absolute discretion determine, and the Seller shall not be bound to acquire by purchase or otherwise additional quantities from other suppliers.

34.6 Nothing in this Section shall be taken to limit or prevent the operation of the Common Law doctrine of frustration (including frustration of the adventure, of purpose or of the Agreement).

Repsol 2017 – Force Majeure Clause¹⁵

7.1. No failure or delay by either Party in fulfilling any of its obligations contained in the Agreement shall give rise to any claim by one Party against the other, except in relation to obligations to make payments under the Agreement, if such failure or delay arises out of force majeure, which for the purposes of the Agreement shall be any occurrence or circumstance reasonably beyond the control of that Party which could not be foreseen the moment of the contract formation.

7.2 Examples of force majeure include, but are not limited to: acts of God, war, whether declared or undeclared, civil disorder, riot, strike, lockout, sabotage, embargo, storm, earthquake, perils of the sea, accident of navigation, fire, breakdown or interruption of the functioning of installations production plant or machinery or other facilities of the Seller or of the means of transportation of the Oil or Product, non-availability of feedstock, stoppage or restraint to labour in or about the plant of the Seller or its supplier, governmental laws, regulations or directions or acts of any officer, department agency, committee or similar bodies, national or international. Notwithstanding anything to the contrary contained in this Agreement, in the event that a Force Majeure Event shall have occurred and be continuing for consecutive period of thirty (30) Days, either Party shall be entitled to terminate this Agreement upon ten (10) Days written notice to the other Party.

7.3 For the purposes of this Clause 7, the terms "Seller" and "Party" where applied to the Seller shall include the relevant Seller's Suppliers, Affiliates and subsidiaries and the Seller shall be entitled to rely on an event of force majeure affecting the relevant Seller's Suppliers, Affiliates and subsidiaries.

7.4 The Seller shall not be required to make up deliveries omitted on account of the occurrence of incidents of force majeure.

7.5 Notwithstanding this Clause 7, the Buyer shall not be relieved of any obligation to make payment for all amounts due under the Agreement for despatch, demurrage, detention or any other financial obligation whatsoever. This provision shall not apply in case when the Buyer is banned to order payments to the Seller due to the embargo, assets freezing and any other restrictive measures adopted by the government, public administration, supranational bodies and international organisations of

¹⁵ Available at [Repsol 2017](#).

Buyer's jurisdiction against Seller, its designated banks or the country of its jurisdiction. In this case the Buyer shall perform payment as soon as embargo, assets freezing and other restrictive measures have been lifted.

7.6 Each Party shall promptly notify the other upon occurrence of any circumstances excusing or likely to excuse that Party's non-performance or delay under this Clause 7 and, if possible describe its extent and estimated duration. That Party shall also communicate when the effects of the force majeure event terminate.

7.7 If by any reason or cause reasonably beyond the control of the Seller, including but not limited to the reasons set out in Clause 7.2, in the Seller's reasonable opinion there is a curtailment or shortage or interference of the Seller's sources or anticipated sources of supply, or transportation of any grade of Oil or Product from whatever country such that the Seller is unable to meet its own planned requirements, or anticipates that it will be unable to meet its own planned requirements, and those of its Associated Companies and Affiliates and its requirements for sales to customers, including the Buyer, the Seller may allocate on a fair and reasonable basis according to its own discretion, its available supply of the grades of Oil or Product among its own requirements, those of its subsidiaries and Affiliates and its requirements for sales to customers including the Buyer. In no circumstances shall the Seller be required to search for alternative sources of supply of Oil or Product under the Agreement when there are shortages or deficiencies of deliveries resulting from an impediment of any kind.

GAFTA -Force Majeure Clause¹⁶

17. PREVENTION OF DELIVERY "Event of Force Majeure" means (a) prohibition of export or other executive or legislative act done by or on behalf of the government of the country of origin or of the territory where the port or ports named herein is/are situate, restricting export, whether partially or otherwise, or (b) blockade, or (c) acts of terrorism, or (d) hostilities, or (e) strike, lockout or combination of workmen, or (f) riot or civil commotion, or (g) breakdown of machinery, or (h) fire, or (i) ice, or (j) Act of God, or (k) unforeseeable and unavoidable impediments to transportation or navigation, or (l) any other event comprehended in the term "force majeure".

Should Sellers' performance of this contract be prevented, whether partially or otherwise, by an Event of Force Majeure, the performance of this contract shall be suspended for the duration of the Event of Force Majeure, provided that Sellers shall have served a notice on Buyers within 7 consecutive days of the occurrence or not later than 21 consecutive days before commencement of the period of delivery, whichever is later, with the reasons therefor.

If the Event of Force Majeure continues for 21 consecutive days after the end of the period of delivery, then Buyers have the option to cancel the unfulfilled part of the contract by serving a notice on Sellers not later than 138 the first business day after expiry of the 21-day period.

If this option to cancel is not exercised then the contract shall remain in force for an additional period of 14 consecutive days, after which, if the Event of Force Majeure has not ceased, any unfulfilled part of the contract shall be automatically cancelled.

If the Event of Force Majeure ceases before the contract or any unfulfilled part thereof can be cancelled, Sellers shall notify Buyers without delay that the Event of Force Majeure has ceased. The period of delivery shall be extended, from the cessation, to as much time as was left for delivery under the contract prior to the occurrence of the Event of Force Majeure. If the time that was left for delivery under the contract is 14 days or less, a period of 14 consecutive days shall be allowed.

¹⁶ Available at [GAFTA contract 64](https://www.quadrantchambers.com/sites/default/files/media/document/trading_and_force_majeure_in_a_time_of_covid-19_1.pdf). Explanatory notes at Trading and force majeure in a time of COVID-19, Quadrant Chambers, Chirag Karia QC, 2020. https://www.quadrantchambers.com/sites/default/files/media/document/trading_and_force_majeure_in_a_time_of_covid-19_1.pdf.

The burden of proof lies upon Sellers and the parties shall have no liability to each other for delay and/or non fulfilment under this clause, provided that Sellers shall have provided to Buyers, if required, satisfactory evidence justifying the delay or non-fulfilment.

FOSFA contract 11 – Force Majeure Clause¹⁷

24. FORCE MAJEURE: *Should shipment of the goods or any part thereof be prevented at any time during the last 30 days of the contract shipment period by reason of Act of God, strikes, lockouts, riots, civil commotions, fires or any other cause comprehended by the term Force Majeure at port/s of loading or elsewhere preventing transport of the goods to such port/s, the time allowed for shipment shall be extended to 30 days beyond the termination of such cause, but should the contract shipment period be less than 30 days such extension shall be limited to the number of days allowed for shipment under the contract shipment period. Should such cause exist for a period of 60 days beyond the contract shipment period the contract or any unfulfilled part thereof so affected shall be cancelled. Sellers invoking this clause shall notify Buyers with due despatch. When goods of a specific origin are sold with the option of shipment from alternative ports and shipment from all alternative ports is not prevented Sellers may only invoke this clause with regard to the specific port/s provided that the port/s has/have been notified to Buyers as the intended port/s of loading prior to or within 7 days of the occurrence but if the occurrence commences within the last 7 days of the contract shipment period the port/s of loading to be notified not later than the first business day following the contract shipment period. Shipment after the contract shipment period shall be limited to the port/s so nominated. Buyers have no claim against Sellers for delay in shipment or cancellation under this clause provided that Sellers shall have supplied to their Buyers, if required, satisfactory evidence justifying delay or non-fulfilment to establish any claim for extension or cancellation under this clause. In case of default after extension the default date shall be similarly deferred.*

¹⁷ Available at [FOSFA Contract 11](#).