

PART IV
BARECON 2017 Standard Bareboat Charter Party
PURCHASE OPTION
(OPTIONAL, only applicable if Box 28 has been completed)

1. The Charterers shall have an option to purchase the Vessel (the "Purchase Option") exercisable on each of the dates stated below as follows:

Date (state number of months after delivery of the Vessel)	Purchase Price (the "Purchase Option Price")
(months)	(amount and currency)

2. To exercise their Purchase Option, the Charterers shall notify the Owners in writing not later than six (6) months prior to the relevant date stated in the table above. Such notification shall not be withdrawn or cancelled.
3. If the Charterers exercise their Purchase Option, the ownership of the Vessel shall be transferred to them on the relevant date. If such date is not a Banking Day, the ownership of the Vessel shall be transferred on the next Banking Day, on a strictly "as is/where is" basis, at the Charterers' sole cost and expense.
4. The Owners shall obtain and provide the Charterers with such documents and take such actions as the Charterers may reasonably request to facilitate the sale and the registration of the Vessel under the flag designated by the Charterers.
5. The Owners warrant that the Vessel at the time of transfer of ownership shall be free of any of Owners' encumbrance or mortgage and that they have not committed any act or omission which would impair title to the Vessel.
6. The Owners make no representation or warranty as to the seaworthiness, value, condition, design, merchantability or operation of the Vessel, or as to the quality of the material, equipment or workmanship in the Vessel, or as to the fitness of the Vessel for any particular trade.
7. In exchange for the transfer of ownership of the Vessel, the Charterers shall pay the Purchase Option Price to the bank account nominated by the Owners together with any unpaid charter hire and other amounts due and payable under this Charter Party.
8. Upon payment and transfer of ownership in accordance with Clause 7 above, this Charter Party and all rights and obligations of the parties shall terminate without prejudice to all rights accrued due between the parties prior to the date of termination and any claim that either party might have.

PART V
BARECON 2017 Standard Bareboat Charter Party
PROVISIONS TO APPLY FOR VESSELS REGISTERED IN A BARECOAT CHARTER REGISTRY
(OPTIONAL, only to apply if expressly agreed and stated in Box 29)

1. Definitions

“Bareboat Charter Registry” shall mean the registry stated in Box 29(ii) whose flag the Vessel will fly and in which the Charterers are registered as the bareboat charterers during the period of this Charter Party.

“Underlying Registry” shall mean the registry stated in Box 29(i) in which the Owners of the Vessel are registered as Owners and to which jurisdiction and control of the Vessel will revert upon termination of the Bareboat Charter registration.

2. The Owners have agreed to and the Charterers shall arrange for the Vessel to be registered under the Bareboat Charter Registry. The Charterers shall be responsible for all costs thereof.
3. Upon termination of this Charter Party for any reason whatsoever the Charterers shall immediately arrange for the deletion of the Vessel from the Bareboat Registry.
4. In the event of the Vessel being deleted from the Bareboat Charter Registry due to any default by the Owners, the Charterers shall have the right to terminate this Charter forthwith and without prejudice to any other claim they may have against the Owners under this Charter Party.



BARECON 2017

Standard bareboat charter party

Explanatory Notes

These Explanatory Notes set out the reasoning behind the clauses that are not self-explanatory.

The BARECON bareboat charter was first published in 1974. It has become one of BIMCO's most successful and widely used charter parties and was last updated in 2001. Although BARECON is rarely the subject of disputes over the interpretation of its clauses, we felt that it would benefit from a thorough review and update to make sure it keeps pace with modern commercial developments.

The new edition of BARECON is slightly leaner than its predecessor because we have removed provisions that were no longer relevant and consolidated wordings to avoid unnecessary duplication. We have added a number of new and helpful definitions to the contract that have been requested by users – not least of which is a definition of “latent defects”.

New features include an option for the charterers to extend the charter period; tighter notice requirements on delivery and redelivery; a right for the charterers to place staff on board for familiarisation prior to delivery; and a suggested formula to help calculate charterers' contribution for mandatory modifications and new equipment required during the charter period.

The most significant changes to BARECON are the insurance provisions. In May 2017 the UK Supreme Court gave judgment in the “Ocean Victory”. Among the issues dealt with by the Supreme Court was the impact of BARECON's insurance provisions on the right to claim against third parties. Although the case is of greater significance to insurers than bareboat owners and

charterers, we took the opportunity to spell out in very clear terms how BARECON's insurance provisions are intended to work in this context.

The revision of industry-standard contracts like BARECON is made possible only with the help, guidance and enthusiasm of the many people who gave their time freely to assist us. There are too many to name individually, but there are five people in particular who deserve special mention. They are the members of the BARECON subcommittee, led by Captain Ajay Hazari, who devoted many long hours reviewing and writing and then rewriting the amendments and new clauses. We would like to thank the subcommittee for their considerable efforts in producing BARECON 2017:

Capt. Ajay Hazari, Anglo-Eastern Ship Management (Chairman)

Mr Robert Almström, Stena RoRo

Mr Stephan Bade, Leonhardt & Blumberg

Mr Karl Even Rygh, Nordisk Defence Club

Mr Adrian Moylan, Gard P&I Club

Structure

The charter party is divided into five sections. Part I is a box layout used to insert specific contract information such as the name of the parties, identity of the vessel, charter period, amount of hire, etc. Part II contains the standard terms and conditions. Part III optional for newbuilding vessels, Part IV is the purchase option, and Part V is optional for vessels registered in a bareboat registry.

Part II

Clause 1 (Definitions)

The Definitions section includes terms that appear in several places throughout the charter party.

Clause 2 (Charter Period)

This clause, together with Box 16, sets out the charter period. The charterers now have the option to extend the charter period by the number of months stated in Box 18(i) and at the rate stated in Box 17(ii).

Clause 3 (Delivery)

Subclause 3(a) – The owners have an absolute obligation to deliver a seaworthy vessel which is ready for the services required by it under the bareboat charter party and which corresponds to the information given in Boxes 4-6. To protect the charterers' position because they cannot bring any claims against the owners after they have taken delivery of the ship, the ship has to be delivered in the same condition as it was during the charterers' previous inspection (fair wear and tear excepted). Wording has also been added to ensure that the ship will be delivered at a place where surveyors, crew, etc. can readily embark and where equipment can be taken off.

Subclause 3(b) – The ship must be properly documented on delivery in accordance with the requirements of the flag state and the classification society. This provision also requires that the ship's survey cycles are up to date and that class certificates are valid and "unextended" for an agreed number of months following delivery. The parties have to agree what period of time should apply in their situation. If they don't agree or forget to fill in the box, then 6 months applies by default. This is to avoid a situation where the ship is delivered in accordance with the charter party, but the certificates will expire before the charterers are able to obtain renewals. The reference to trading certificates (such as certificates of financial responsibility (COFR)) has been deleted as they are not transferable and will have to be procured by the charterers.

Subclause 3(c) – Owners are responsible for costs for repairs or renewals due to “latent defects” in the ship which existed at the time of delivery. The parties should agree to a time limit when the latent defects must have manifested themselves. If they can’t agree, then it will be 12 months from delivery. What is meant by “latent defect” is often a source of discussion under BARECON. To assist owners and charterers we have added a definition in Clause 1 (Definitions) setting out that it is a defect which cannot be discovered on an examination as a reasonably careful skilled person would make.

Clause 5 (Cancelling)

Under Subclause 5(a), the charterers can choose to cancel the charter party if the ship is not delivered by the agreed cancelling date. Subclause 5(b) gives the owners the possibility in the event of a delay to send a notice to the charterers with a new “ready” date, asking if they will cancel the charter party. The charterers then have three banking days after receiving the notice to cancel. If they choose not to cancel, or if they don’t respond, then the later “ready” date given by the owners will be the new cancelling date.

This mechanism is helpful to the owners because it can avoid them having to send their ship on a potentially long ballast voyage, only to be cancelled by the charterers on arrival. Instead, if the charterers agree to cancel, the owners can try to secure alternative employment at the earliest opportunity. It also helps the charterers by encouraging the owners to tell them well in advance of any potential delays to the ship. However, it is important to note that this clause in no way lessens the owners’ obligation under Clause 4 (Time for Delivery) to exercise due diligence to deliver the ship by the cancelling date.

Subclause 5(c) clarifies that if the charterers exercise their cancellation rights it will not affect any claim for damages they may otherwise have against the owners.

Clause 6 (Familiarisation)

This is a new clause that gives the charterers and the owners the right to place representatives on board the ship prior to delivery and redelivery. The representatives are there to familiarise themselves with the ship but without interfering with its operation. How long the representatives stay on board the ship should be agreed on a case by case basis. The requirements for a newbuilding will be very different to a trading ship.