

BIMCO FuelEU Maritime Clause for Time Charter Parties 2024

ATTENTION: The Parties may wish to consider whether it is necessary to make amendments to the existing Charter Party to reflect the use of alternative fuels including biofuels.

"Compliance Balance" means the measure of the Vessel's over- or under-compliance with regard to the limits for the yearly average GHG intensity of the energy used on board by the Vessel during Voyages within the scope of FuelEU Maritime, which is calculated in accordance with Part A of Annex IV of FuelEU Maritime.

"FuelEU Database" means the electronic database for the monitoring and recording of compliance with FuelEU Maritime established by the European Commission.

"FuelEU Maritime" means Regulation (EU) 2023/1805 of the European Parliament and of the Council, governing the use of renewable and low-carbon fuels in maritime transport, and amending Directive 2009/16/EC as amended from time to time, including all implementing acts and delegated acts and regulations.

"FuelEU Penalty" means the penalty in respect of a Reporting Period calculated in accordance with FuelEU Maritime taking into account, where applicable under this Clause, any multiplier as set out in Article 23(2) of FuelEU Maritime.

"GHG Intensity" means the amount of GHG emissions per megajoule (MJ) of the fuels and energy, expressed in grams of CO₂ equivalent units (gCO₂eq/MJ), used on board the Vessel under the scope of FuelEU Maritime, calculated in accordance with the methodology set out in Annex I of FuelEU Maritime.

"Reporting Period" means a period from 1 January to 31 December of the year during which information referred to in FuelEU Maritime is monitored and recorded.

"Verification Period" means the calendar year following a Reporting Period.

"Voyage" means a voyage as defined in Article 3, point (c), of Regulation (EU) 2015/757.

(a) The Parties acknowledge that the Vessel is required to comply with FuelEU Maritime and the Owners shall upon delivery inform the Charterers of the Vessel's Compliance Balance for the previous two Reporting Periods and the aggregated Compliance Balance for the current Reporting Period up to the date of delivery.

(b) For each respective Reporting Period during the Charter Period, the Owners shall ensure that the Vessel has a monitoring plan recorded in the FuelEU Database and that the GHG Intensity of the fuels and energy consumed by the Vessel is monitored and reported for verification by an independent verifier in accordance with FuelEU Maritime.

(c) The Charterers shall have the option to enable the Vessel to comply with FuelEU Maritime through the supply of fuels and energy provided that: (i) such fuels comply with the bunker specifications and clauses contained in this Charter Party; and (ii) the bunker delivery notes (BDNs) and electricity delivery notes (EDNs) are provided in accordance with FuelEU Maritime; and if applicable, (iii) they are certified and documented to the satisfaction of the verifier to meet the sustainability and the GHG emissions saving criteria set out under FuelEU Maritime to obtain any benefit(s) in FuelEU Maritime calculations.

(d) Within the first fifteen (15) days [of each month/after each Voyage]* and upon redelivery, the Owners shall notify the Charterers in writing of the aggregated Compliance Balance of the Vessel incurred during the Charter Period in the then current Reporting Period. If the aggregated Compliance Balance has a negative value, the Owners shall provide to the Charterers the calculation and independently validated information used in the calculation of a surcharge equal to the FuelEU Penalty expected for that previous month or that Voyage (whichever applies) and upon redelivery (the **Surcharge**). The Surcharge shall be payable in accordance with subclause (f).

(e) For the purpose of calculating any Surcharge, the following shall be excluded:

(i) fuel and energy consumed during any undisputed off-hire periods;

(ii) the effects of any banking, borrowing or pooling decisions made prior to the commencement of the Charter Period unless otherwise agreed; and

(iii) the effects of the Vessel having had a negative Compliance Balance for two consecutive Reporting Periods or more prior to the commencement of the Charter Period.

(f) The Charterers shall pay the Surcharge(s) to the Owners on a [monthly/per Voyage] basis or, if no payment frequency is selected, at the same time as the final hire payment is due or within the first seven (7) days of June of the Verification Period(s), whichever is earlier.

(g) Where the Surcharge is paid on a monthly/per Voyage basis and the aggregated Compliance Balance remains the same as the previous month/Voyage, no Surcharge shall be payable for the current month/Voyage. If a negative aggregated Compliance Balance for a specific month/Voyage in a Reporting Period is reduced or eliminated, the Charterers shall be entitled to reimbursement of a sum corresponding to such improvement from the Surcharge(s) provided that a Surcharge(s) has been paid by the Charterers on a monthly/per Voyage basis within that specific Reporting Period. The Owners shall reimburse the Charterers within seven (7) days of the written notification of the aggregated Compliance Balance.

(h) If the Charterers fail to pay the Surcharge(s) in accordance with subclause (f), the Owners shall, by giving the Charterers five (5) days' notice, have the right to suspend the performance of any or all of their obligations under this Charter Party until such time as payment of the Surcharge(s) are received in full by the Owners. The Owners' right to suspend performance under this subclause shall be without prejudice to any other rights or claims they may have against the Charterers under this Charter Party.

(i) If the Charter Period covers a complete Reporting Period, the Charterers shall have the right to instruct the Owners to bank or pool any Compliance Balance in accordance with FuelEU Maritime. The Owners shall register in the FuelEU Database any banking or pooling of any Compliance Balance generated under that Reporting Period in accordance with the Charterers' instructions, provided that such instructions are received by the Owners no later than [X**] days prior to 30 April of a Verification Period. The Charterers shall be responsible for any liability or costs arising as a consequence of such instructions.

(j) If the Charter Period covers at least two consecutive Reporting Periods, the Charterers shall have the right to instruct the Owners to borrow from the following Reporting Period provided the following Reporting Period falls entirely within the Charter Period. The Owners shall register in the FuelEU Database any borrowing in accordance with the Charterers' instructions, provided such instructions are received by the Owners no later than [X**] days prior to 30 April of a Verification Period.

(k) If the Charterers' instruction to borrow or pool pursuant to subclauses (i) and (j) reduces or eliminates the Vessel's negative Compliance Balance for that Reporting Period, and provided that the Charterers have paid a Surcharge(s), the Owners shall reimburse the Charterers a sum equivalent to the difference between the final Surcharge paid for the relevant Reporting Period and the FuelEU Penalty for that Reporting Period, no later than [X**] days after receipt of the FuelEU Document of Compliance.

(l) ***If the Charter Period covers at least two consecutive Reporting Periods, and the Vessel has a negative Compliance Balance for the last two consecutive complete Reporting Periods or more during the Charter Period prior to redelivery, the Charterers shall pay to the Owners upon redelivery, by way of liquidated damages and not as a penalty (in addition to any Surcharge(s) paid), the sum of [insert currency and amount]. The Charterers and the Owners agree this sum is a legitimate and fair estimate of the Owners' future exposure to the FuelEU multiplier after redelivery in accordance with FuelEU Maritime.

(m) ***If the aggregated Compliance Balance incurred during the Charter Period for any Reporting Period is positive, the Owners will pay the Charterers a sum equal to [insert currency and amount] per tonne of CO₂ equivalent of positive Compliance Balance (remaining after any banking and/or pooling) up to a maximum of [insert currency and amount] within [X**] days after 30 June of the corresponding Verification Period or upon redelivery (whichever is earlier).

(n) It is expressly agreed that the rights and obligations of the Parties set out in subclauses (i), (j), (k) and (m) shall survive the expiration or termination of this Charter Party unless or until the Parties have fulfilled or satisfied their respective obligations under FuelEU Maritime.

(o) **** If the Charter Period continues beyond 1 January 2030, the Owners shall ensure that the Vessel is in every way fitted to connect to onshore power supply and use it for all the Vessel's electrical power demand at berth where the Vessel is obliged to connect to on-shore power supply in accordance with FuelEU Maritime and where the port of call has the requisite facilities. In such cases, the Charterers shall pay for the electricity used for the Vessel's power demand at berth provided: (i) The Vessel is moored for cargo operations or other employment of the Charterers; (ii) the Vessel is not off-hire; and (iii) such electricity is not consumed for purposes which are strictly attributable to the Owners.

** If the parties do not elect one of the two options in subclause (d), the default shall be "after each Voyage".*

*** If number of days is not inserted in subclauses (i) and/or (j) and/or (k) and/or (m), the default shall be seven (7) days.*

**** If currency and amount are not inserted in subclauses (l) and/or (m), then those subclause(s) shall not apply.*

***** Subclause (o) is only applicable to container vessels and passenger vessels.*