



FONASBA

**BIMCO**

# AGENCY APPOINTMENT AGREEMENT

PART I

|  |   |                      |
|--|---|----------------------|
|  |   | 1. Date of Agreement |
| 2. Agent (full style and address)  | 3. Principal (full style and address)   |                      |
| FONASBA Quality Standard Certification<br><input type="checkbox"/> Yes <input type="checkbox"/> No   |   |                      |
| 4. Vessel<br><br>Name:<br>IMO number:  | 5. Port(s) of call  |                      |
| 6. Estimated time of arrival   | 7. Purpose of call  |                      |
| 8. Services (tick the boxes to apply) (Clause 3)<br><br><input type="checkbox"/> Inward Clearance of Vessel<br><input type="checkbox"/> Outward Clearance of Vessel<br><input type="checkbox"/> Cargo Operations<br><input type="checkbox"/> Husbandry<br><input type="checkbox"/> Other (specify) | 9. Agent's bank details<br><br>Currency:<br>Bank:<br>Address:<br>Account Number:<br>Account Name:<br>IBAN:<br>BIC/SWIFT code: |                      |
| 10. Remuneration (See Annex A)   | 11. Funding (See Annex B)   |                      |
| 12. Agent contact details  | 13. Principal contact details   |                      |
| 14. Dispute Resolution (Clause 18 BIMCO Dispute Resolution Clause state (a), (b), (c), or (d); if (c) agreed state Singapore or English law; if (d) agreed, governing law and place of arbitration must be stated)   |   |                      |
| 15. Additional Clauses, if any   |   |                      |

It is mutually agreed that this Agreement shall be performed subject to the conditions contained herein consisting of Part I, Part II and Annexes A and B. In the event of a conflict of conditions, the provisions of Part I shall prevail over those of Part II and Annexes A and B to the extent of such conflict but no further.

|                                     |   |
|-------------------------------------|---|
| Signature and Company Stamp (Agent) | Signature and Company Stamp (Principal) |
| <br><br><br>                        | <br><br><br>                            |

**PART II**  
**Agency Appointment Agreement**

**Definitions**

**“Agent”** means the party stated in Box 2.

**“Principal”** means the party stated in Box 3.

**“Inward Clearance of the Vessel”** means making arrangements to allow entry of the vessel and shall include, but not be limited to, complying with the requirements of statutory and regulatory authorities and arranging and coordinating the provision of inward port services.

**“Outward Clearance of the Vessel”** means making arrangements to allow departure of the vessel and shall include, but not be limited to, complying with the requirements of statutory and regulatory authorities and arranging and coordinating the provision of outward port services.

**“Cargo Operations”** means activities relating to cargo and passengers and shall include, but not be limited to, coordination of stevedores and terminal operators, reporting cargo to relevant customs authorities and documentation.

**“Husbandry”** means activities relating to the day to day running of the vessel and shall include but not be limited to: attending to the Master and all crew matters; coordination of ship supplies and repairs; and attending to third parties such as classification society and flag state representatives and surveyors.

**“Remuneration”** means the fee, commission or other sum payable to the Agent for performing the services specified in Box 8 or as may otherwise be agreed.

**“Funding”** means the terms on which Remuneration will be paid and Disbursements settled.

**“Disbursements”** means expenses payable to third parties in relation to the port call.

**Terms and Conditions**

1. The Agent has agreed to act on behalf of the Principal in accordance with this Agreement.
2. The Agent acts at all times as agent for and on behalf of the Principal and has authority to place orders with suppliers as agent for the Principal.
3. The Agent shall perform the services stated in Box 8 with due dispatch but shall not be liable for any loss or damage arising from any delay which the Agent could not reasonably prevent.
4. The Agent shall maintain regular contact with the Master and Principal and keep them fully informed about all matters relating to or affecting the services being provided.

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5. The Agent shall liaise with and ensure that third parties including, but not limited to, port and terminal operators, port service providers, and shore authorities are provided with relevant information and timely notices. The Agent shall pass on information provided by the Principal promptly, but is not liable for the accuracy of the information.
6. The Agent shall use best endeavours to encourage shore authorities, port and terminal operators, and port service providers to render their invoices in a timely manner and take prompt action to obtain any invoices that are not provided. The Agent shall check the invoices and make timely payments to the relevant parties.
7. The Agent shall be remunerated as specified in Box 10 in respect of the services specified in Box 8. Remuneration for other services will be agreed between the parties. The Principal is not obliged to use the Agent to perform such other services.
8. Where the Agent has spent time and incurred costs due to unexpected occurrences creating additional work or delay to the Vessel, the Agent shall be reimbursed the actual expenses and paid an appropriate fee for the additional work.
9. Where the Agent has spent time and incurred costs in anticipation of the Vessel's call which is subsequently cancelled, the Agent shall be reimbursed the actual expenses and paid an appropriate fee for the work.
10. Any proforma Disbursements account is a non-binding estimate. The final Disbursements account may vary from the proforma and the Principal is liable to pay the actual Disbursements.
11. Payment to the Agent shall be in accordance with Box 11. Where applicable, the Principal shall pay by electronic transfer to the Agent's bank account specified in Box 9. If the Principal should fail to comply, the Agent may:
  - (a) at any time give immediate notice of the termination of the agency;
  - (b) inform any suppliers, service providers or authorities that the Agent has not been put in funds;
  - (c) take any necessary measures to detain the Vessel in port until such funds are received; and
  - (d) retain such documents as the Agent has in its possession pending payment.
12. If the Principal fails to make payment in full of any sums due to the Agent on demand or within any period agreed in writing, the Agent shall be entitled to recover interest on any sums outstanding at the rate of 2% above LIBOR applicable during the period when the sums are outstanding.
13. The Agent shall be entitled to deduct from the sums held for the Principal's account any amount due from the Principal.

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**14. *Liability to Principal***

The Agent shall not be liable to the Principal for any loss, damage, delay or expense of whatsoever nature, whether direct or indirect, (including but not limited to loss of profit arising out of or in connection with detention of or delay to the Vessel) and howsoever arising in the course of performance of this Agreement, unless same is proved to have resulted solely from the negligence or wilful default of the Agent.

Save where loss, damage, delay or expense has resulted from the Agent's personal act or omission committed with the intent to cause same or recklessly and with knowledge that such loss, damage, delay or expense would probably result, the Agent's liability for each incident or series of incidents giving rise to a claim or claims shall never exceed a total of ten (10) times the Remuneration specified in Box 10 which shall be deemed earned in any event.

*Himalaya*

It is hereby expressly agreed that no employee of the Agent (including every sub-contractor from time to time employed by the Agent) shall in any circumstances whatsoever be under any liability whatsoever to the Principal for any expense, loss, damage or delay of whatsoever kind arising or resulting directly or indirectly from any act, neglect, or default on its part while acting in the course of or in connection with its employment and, without prejudice to the generality of the foregoing provisions in this Clause 14, every exemption, limitation, condition and liberty herein contained and every right, exemption from liability, defence and immunity of whatsoever nature applicable to the Agent or to which the Agent is entitled hereunder shall also be available and shall extend to protect every such employee or sub-contractor acting as aforesaid and for the purpose of all the foregoing provisions of this Clause 14 the Agent is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all persons who are or might be its servants or agents from time to time (including sub-contractors as aforesaid) and all such persons shall to this extent be or be deemed to be parties to this Agreement.

- 15.** Except to the extent and solely for the amount therein set out that the Agent would be liable under Clause 14, the Principal hereby undertakes to keep the Agent and its employees, agents and sub-contractors indemnified and to hold them harmless against all actions, proceedings, claims, demands or liabilities whatsoever or howsoever arising which may be brought against them or incurred or suffered by them arising out of or in connection with the performance of this Agreement, and against and in respect of all costs, loss, damage and expenses (including legal costs and expenses on a full indemnity basis) which the Agent may suffer or incur (either directly or indirectly) in the course of the performance of this Agreement.
- 16.** The Agent, with the consent of the Principal, shall have authority to appoint sub-agents to perform services on behalf of the Principal, including such services as may be subject to these conditions, remaining at all times responsible for the actions of the sub-agent.
- 17.** The Agent shall be discharged from all liability whatsoever to the Principal unless suit is brought within one year of the act or default of which complaint is made.

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- 18.** The parties agree to refer any disputes to arbitration and to incorporate the BIMCO Dispute Resolution Clause 2016 into this agreement. They have elected the governing law and jurisdiction referred to in Box 14. In the absence of a declared choice, Subclause (a), English law and London arbitration shall apply.
  
- 19.** Notwithstanding anything in this Agreement, the Agent or the Principal shall not be required to do anything which constitutes a violation of the laws and regulations of any State to which either of them is subject.

Sample Copy

**ANNEX A: REMUNERATION**

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Sample Copy

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|-------------------------------------|---|
| Signature and Company Stamp (Agent) | Signature and Company Stamp (Principal) |
|-------------------------------------|---|

Annexes to Agency Appointment Agreement

**ANNEX B: FUNDING**

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Sample Copy

|                                     |   |
|-------------------------------------|---|
| Signature and Company Stamp (Agent) | Signature and Company Stamp (Principal) |
|-------------------------------------|---|