



GENERAL AGENCY AGREEMENT

FONASBA ANNUAL MEETING

DUBAI, OCTOBER 2017

THE SECOND BORN IN THE FONASBA – BIMCO FAMILY



**AGENCY APPOINTMENT
AGREEMENT**



**GENERAL AGENCY
AGREEMENT**

PURPOSES OF AAA

Regulate appointment of an agent for a single / occasional port call;

Mainly dedicated to Tramp trade agencies;

To be used mainly with Charterers nominated agents.



 		AGENCY APPOINTMENT AGREEMENT PART I	
		1. Date of Agreement	
2. Agent (full style and address) FONASBA Quality Standard Certification <input type="checkbox"/> Yes <input type="checkbox"/> No		3. Principal (full style and address)	
4. Vessel Name: 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) <input type="checkbox"/> Inward Clearance of Vessel <input type="checkbox"/> Outward Clearance of Vessel <input type="checkbox"/> Cargo Operations <input type="checkbox"/> Husbandry <input type="checkbox"/> Other (specify)		9. Agent's bank details Currency: Bank: Address: Account Number: Account Name: IBAN: BIC/SWIFT code:	
10. Remuneration (See Annex A)		11. Funding (See Annex B)	

PURPOSES OF GAA

Regulate appointment of a General agent, following a recurring trade in a certain geographical area;

Offering a negotiation basis;

To be used mainly with Owners nominated agents.

 FONASBA		 BIMCO		GENERAL AGENCY AGREEMENT	
				PART I	
		1. Date of Agreement			
2. Agent (full style and address)		3. Principal (full style and address)			
FONASBA Quality Standard Certification <input type="checkbox"/> Yes <input type="checkbox"/> No					
4. Commencement date/Period		5. Notice of termination			
6. Territory		7. Trade			
8. Activities (tick the boxes to apply) (Clause 7 and Annex C) <input type="checkbox"/> Marketing and sales <input type="checkbox"/> Port agency <input type="checkbox"/> Husbandry agency <input type="checkbox"/> General agency <input type="checkbox"/> Documentation <input type="checkbox"/> Other (specify)		9. Agent's bank details Currency: Bank: Address: Account Number: Account Name: IBAN: BIC/SWIFT code:			
10. Remuneration (See Annex A)		11. Liability cap (Clause 19(i)(b))			

I'M GONNA MAKE HIM AN OFFER HE CAN'T REFUSE

The feeling often is that the principal when looking for a general agent for a certain territory (being of course free to appoint whomever he wants) is in the position of dealing with the agent 'Padrino style' ...



COOPERATION BETWEEN FONASBA AND BIMCO...

...offering to both the agent and the principal a certain degree of fairness to start the discussions on details of the agreement and of the contract details with an adequate and balanced point of view.



GAA DOCUMENT AT A GLANCE

As you can easily see the format is the same as the first document drafted (AAA) and brings to our minds the good old GenCon format and most of other Bimco documents.

FONASBA BIMCO AGENCY APPOINTMENT AGREEMENT PART I	
1. Date of Agreement	2. Agent (full style and address)
3. Principal (full style and address)	4. Vessel
5. Port of Call	6. Estimated time of arrival
7. Purpose of Call	8. Services (tick the boxes to apply) (Clause 3)
9. Agent's bank details	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 Singapore or English law; if (d) agreed, governing law and place of arbitration must be stated)
15. 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)	16. 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, B and C. In the event of a conflict of conditions, the provisions of Part I shall prevail over those of Part II and Annexes A, B and C to the extent of such conflict but no further.

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

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FONASBA BIMCO GENERAL AGENCY AGREEMENT PART I	
1. Date of Agreement	2. Agent (full style and address)
3. Principal (full style and address)	4. Commencement date/Period
5. Notice of termination	6. Territory
7. Trade	8. Activities (tick the boxes to apply) (Clause 7 and Annex C)
9. Agent's bank details	10. Remuneration (See Annex A)
11. Liability cap (Clause 19(i)(b))	12. Funding (See Annex B)
13. Agent contact details	14. Principal contact details
15. 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)	16. 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, B and C. In the event of a conflict of conditions, the provisions of Part I shall prevail over those of Part II and Annexes A, B and C to the extent of such conflict but no further.

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

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GAA DOCUMENT AT A GLANCE

- Commencement and duration
- Notice of termination
- Territory / Trade

4. Vessel Name: IMO number:	5. Port(s) of call
6. Estimated time of arrival	7. Purpose of call

4. Commencement date/Period	5. Notice of termination
6. Territory	7. Trade
8. Activities (tick the boxes to apply) (Clause 7 and	9. Agent's bank details

GAA DOCUMENT AT A GLANCE

- New activities, typical of a General Agent doing 'commercial' work for the principal
- Port agency may or may not be part of the agreement

8. Services (tick the boxes to apply) (Clause 3)

- ☐ Inward Clearance of Vessel
- ☐ Outward Clearance of Vessel
- ☐ Cargo Operations
- ☐ Husbandry
- ☐ Other (specify)

8. Activities (tick the boxes to apply) (Clause 7 and Annex C)

- ☐ Marketing and sales
- ☐ Port agency
- ☐ Husbandry agency
- ☐ General agency
- ☐ Documentation
- ☐ Other (specify)

GAA DOCUMENT AT A GLANCE

Limitation of liability:

- Same can be clearly stated as a fixed amount
- Or can be (if the box will be left blank) 10 times the remuneration agreed and stated

11.Liability cap (Clause 19(i)(b))

Applies only if an amount is stated; if left blank, Clause 19(i)(a) applies.

A LOOK AT THE CLAUSES

Mutual exclusivity:

- The agent shall not represent competitors
- The principal shall not appoint other agents

3. The Agent will not accept representation of other shipping companies or engage in NVOCC or freight forwarding activities in the Territory, which are in direct competition with the trade specified in Box 7, without prior written consent which shall not be unreasonably withheld.

4. The Principal undertakes not to appoint any other party in the Territory for the Activities set out in Box 8, unless and solely to the extent required to do so by the terms of a charter party or other contract of carriage. In such event, all other Activities under this agreement shall be performed by the Agent.

A LOOK AT THE CLAUSES

Sub-agents responsibilities: it is to be stated if the agent will be responsible for their acts or not

6. The Agent may appoint sub-agents subject to prior written approval by the Principal.

(a)* The Agent shall be responsible for any loss or damage to the Principal arising from sub-agents' negligent, reckless or wilful acts or omissions in the discharge of their obligations under this Agreement.

(b)* The Agent shall not be responsible for the negligent acts or defaults of any sub-agents unless the Agent fails to exercise due care in the appointment and supervision of such sub-agent. Notwithstanding the foregoing the Agent shall be responsible for the acts of its subsidiary companies appointed within the context of this Clause.

The Agent shall not be responsible for failure to exercise due care in the appointment of any sub-agent nominated by the Principal.

** Subclauses (a) and (b) are alternatives. Strike out the one not to apply. If no choice has been made, Subclause (a) shall apply.*

A LOOK AT THE CLAUSES

Definition and description of the activities that can be expanded with due appendixes if need be

(a) Marketing and sales

(i) Undertaking marketing and sales in the Territory by maintaining contact with shippers,

(b) Port agency

(i) Arranging for berthing of vessels, loading and discharging of cargo and/or passengers in

(c) Husbandry agency

(i) Attending the Master and all crew matters, consular requirements, organising medical and dental treatment and supervising crew changes;

(d) General agency

(i) Co-ordinating all activities of port and/or sub-agents, as set forth in this Agreement, in order to ensure the proper performance of the Principal's vessels in the Territory

(ii) attending to the Principal's claims handling are

(e) Documentation

On behalf of the Principal, issuing bills of lading and manifests, delivery orders, certificates and such other documents as may be required.

A LOOK AT THE CLAUSES

Funding:

- Methods and times of funding are to be agreed if necessary;
- Agent should not be required to anticipate expenses

10. For the avoidance of doubt, the Agent shall not be required or expected to use or commit its own funds to finance the Principal's interests or obligations.

11. The Principal shall advance Funding at such times and in such sums as agreed and set out at Annex B (Funding), required for the fulfilment of the Agent's obligations and to meet Disbursements and Remuneration payable under this Agreement. Funding shall be paid into the Agent's bank account stated at Box 9. The account details and number will not be changed during the existence of this Agreement.

A LOOK AT THE CLAUSES

Requirements of adequate insurance for both parties

18. Insurance

(a) The Agent shall, throughout the duration of this Agreement, maintain adequate and appropriate insurance cover for:

- (i) negligent acts or defaults in the performance of its obligations under this Agreement; and
- (ii) public liability insurance.

(b) The Principal shall, throughout the duration of this Agreement, maintain shipowners' protection and indemnity insurance or charterers' cover, as appropriate. If the Principal does not have such cover, the Agent shall be entitled to terminate this Agreement with immediate effect by giving written notice to the Principal.

(c) The Principal and the Agent shall, on the request of the other, provide evidence of such insurance cover.

A LOOK AT THE CLAUSES

A closer look into liability issues

(i) 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 or sub-agents if Clause 6(a) applies.

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)* a total of ten (10) times the Remuneration specified in Box 10 which shall be deemed earned in any event; or

(b)* the amount agreed and stated in Box 11.

**Subparagraphs (a) and (b) are alternatives. If Box 11 is not completed, subparagraph (a) shall apply.*

FONASBA PROMISE TO THE MEMBERS

In order to assist users, FONASBA will be developing a series of trade specific clauses. The intention is to address the requirements of different sectors through rider provisions that can be agreed or refined according to individual trade and party needs. Recommended provisions will be made available in due course.

Let's work together to define at best the specific rider clauses for every specific trade: the path is clear and the right steps have been taken to continue mutual understanding and cooperation between principals and agents.