IN THE MATTER OF AN ARBITRATION HELD IN LONDON

RESPONDENT’S MEMORANDUM

Claimant: Zeus Shipping and Trading Company

Respondent: Hestia Industries

TEAM 12
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LIST OF AUTHORITIES

A. CASES

ACD Tridon Inc v Tridon Australia [2002] NSWSC 896

Allergan Pharmaceuticals Inc v Bausch & Lomb Inc [1985] FCA 369

APJ Priti [1987] 2 Lloyd’s Rep 37

Codelfa Construction Pty Ltd v State Rail Authority of New South Wales (1982) 149 CLR 337

Comandate [2006] FCAFC 192

Davies Contactors ltd v Fareham Urban District Council [1956] AC 696

Denny, Mott and Dickinson Ltd v James B Fraser & Co Ltd [1944] AC 265

Electra Air Conditioning BV v. Seeley International Pty Ltd [2008] FCAFC 169

Ferris v. Plaiseter (1994) 34 NSWLR

Fiona Trust & Holding Corp v Privalov [2007] UKHL 40

FirstLink Investments Corp Ltd v GT Payment Pte Ltd and Others [2014] SGHCR 12

Francis Travel [1996] NSWSC 104

Hunter and Others v The Northern Marine Insurance Company, Limited, and Others (1888)

13 App. Cas 717

IBM Australia (1994) 34 NSWLR 474

Leeds Shipping Co v. Société Française Bunge (The Eastern City) [1958] 2 Lloyd’s Rep 127

Motor Oil Hellas Refineries SA v Shipping Corp of India (The Kanchenjunga) [1990] 1 Lloyd's Rep 457


Ocean Victory [2013] EWHC 2199 (Comm)

Paper Products Pty Ltd v Tomlinsons (Rochdale) Ltd [1993] FCA 346

Sailing-Ship “Garston” Co. v. Hickie & Co (1885) 15 Q.B.D. 580

Sulamercia CIA Nacional De Seguros SA v Enesa Engenharia SA [2012] EWCA Civ 638

Tatem Ltd v. Gamboa [1939] 1 KB 132

The “Titan Unity” [2013] SGHCR 28

The Belgia [1916] 2 A.C. 183 (PC)

The Stork [1954] 2 Lloyd’s Rep 397

Walter Rau Neusser Oel und Fett AG v Cross Pacific Trading Ltd [2005] FCA 1102

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RESPONDENT’S CASE

I. STATEMENT OF FACTS

A. PARTIES

1. The Claimant is Zeus Shipping Trading Company, a company in the tanker ships industry based in Poseidon. The Claimant owns a fleet of tankers, one of which is the “Athena” (the “Vessel”). The Respondent is Hestia Industries, a new producer of Liquefied Natural Gas (LNG) based in Hades.

B. THE CHARTERPARTY

2. On 1 July, the Respondent sent a request for proposal to the Claimant for an LNG tanker which to transport LNG from Hades to Poseidon. The Claimant responded on 14 July 2014 with the proposal for the hire of the Vessel for a voyage from Hades. The Claimant attached their own form of voyage charterparty with the proposal. On 16 July, in an email correspondence titled “Your offer dated 14 July 2014”, the Respondent indicated its intention to amend the arbitration clause to exclude all forms of disputes which relate to but do not arise out of the terms of the charterparty.

3. On or about 22 July 2014, the parties entered into an agreement for the hire of the Vessel for a voyage from Hades to Poseidon for the transportation of cargo in the form of 260,000m$^3$ of LNG (“The Charterparty”). This is evidenced by the agreement which was executed on behalf of the Respondents in an email titled “MV Athena – Charterparty”, which was sent on 22 July 2014.

C. PERFORMANCE OF THE CHARTERPARTY
4. On 20 September 2014, the Claimant informed the Respondent that the Vessel was on its way to the port of Hades, and that the estimated time of arrival at Hades was 0900hrs on 3 October 2014.

5. On 3 October 2014, the Vessel arrived at the port of Hades and the Master subsequently issued a Notice of Readiness (“NOR”). On the same day, the port of Hades was closed for approximately two hours due to protests being held. However, the Respondent completed the loading operation on 6 October 2014, within the time permitted pursuant to Clause 9 (c)(i) of the Charterparty. At 0900hrs on 7 October 2014, the Vessel completed the customs and port clearance and subsequently sailed from the port of Hades towards Poseidon, signifying the end of the Vessel’s operations at the port of Hades.

6. On the same day, after a military coup, the new President of Hades issued an order to the Coast Guard to intercept the Vessel and to make it return to port in Hades. Thereafter, the Coast Guard intercepted the Vessel outside the territorial and port limits of Hades. Under no obligation to return to the port of Hades, the Master decided to comply with the Coast Guard to return to the port of Hades without the authority of the Claimant, and was removed from command by the Claimant on 8 October 2014.

7. On 10 October 2015, the Respondent informed the Claimants that the Vessel’s deviation from its designated voyage to Poseidon was contrary to the Charterparty, and that the cargo must be delivered to Poseidon by 2 November 2014. The failure to do so would result in significant losses to the Respondent.

8. On 30 April 2015, as the Vessel was still detained in the port of Hades, the Respondent informed the Claimant that as the delay was in excess of 6 times the length of time which was anticipated by the parties for the voyage to be completed. The Charterparty
was henceforth frustrated, and the Respondent informed the Claimant of its intention to
arrange for alternate vessels to transship the cargo. However, as non-Hades flagged
vessels were not allowed in the port of Hades, there were no alternative means of
transporting the cargo other than to wait for the Vessel to be released.

9. On 30 September 2015, after the resignation of the President, the Coast Guard released
the Vessel. Preparations were thereafter conducted by the Claimant to sail from the port
of Hades towards Poseidon.

10. On 6 October 2015, the Claimant informed the Respondent that the Vessel has left the
loading place for the purpose of Clause 9 (c)(i) of the Charterparty, indicating that
demurrage has ceased to accrue. This was before the Vessel could leave the port of
Hades.

11. On 7 October 2015, the Vessel was led out to open waters by the tugs in order to begin
the voyage to Poseidon. Hestug, a business owned by the Respondent, was utilised for
the tug services required to facilitate the Vessel’s voyage to Poseidon. However, due to
the tampering of the Vessel’s propellers during the period it was detained at the port of
Hades, both the Vessel’s propeller shafts broke. The tugs from Hestug subsequently
undertook salvage efforts and managed to preserve the Vessel and cargo on board.
II. **SUMMARY OF THE ISSUES**

12. The following issues arise for determination by the Tribunal:

   a. Whether this Tribunal has jurisdiction to determine the substantive merits of the parties claim, given that the Charterparty contains an express arbitration clause providing for London arbitration.

   b. Whether the Respondent is liable to the Claimant for the claim for demurrage/detention.

   c. Whether the Claimant is liable to the Respondent for the salvage reward for the towage services to the Vessel.
III. PRELIMINARY ISSUE OF JURISDICTION

13. The Respondent appears conditionally before this Arbitral Tribunal ("Tribunal") as it disputes this Tribunal’s jurisdiction to hear the substantive claims of the dispute.

A. THIS TRIBUNAL MAY RULE ON ITS OWN JURISDICTION

14. Pursuant to section 30 of the English Arbitration Act\(^1\) ("Arbitration Act"), which provides for the *Kompetenz-Kompetenz* principle, this Tribunal may rule on the preliminary questions of its own substantive jurisdiction\(^2\). The aim of the principle is to avoid paralyzing the proceeding when the competence of the arbitral tribunal is questioned by one of the parties.

B. THIS TRIBUNAL DOES NOT HAVE JURISDICTION TO HEAR THE SUBSTANTIVE CLAIMS IF THE MAIN CONTRACT IS VOID AS THE LIMITS OF SEPARABILITY DOCTRINE ARE UNCERTAIN

15. This doctrine of separability (recognised in most jurisdictions and is enshrined in the leading arbitral rules e.g. LCIA, ICC and UNCITRAL) allows arbitrators to decide the dispute even when the main contract is null and void, assuming invalidity does not affect the arbitral agreement itself. When the relevant point is, for instance, related to the validity of the signature on the arbitration agreement and consequently with the competence of the arbitral tribunal itself, it is the *Kompetez* concept- not separability- that allows the arbitrators to first rule on their own jurisdiction.

16. Despite increased recognition of separability, arguments are still being raised that the principle is trumped by challenges to the validity of the main contract.\(^3\)

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1 Arbitration Act 1996 (UK), c 23.
2 Art 21(1) UNCITRAL Arbitration Rules, Art 6(2), ICC Arbitration Rules, Art 23 of LCIA Rules and Art 16 (1) Model Law
3 Joachim Delaney and Katharina Lewis, “The Presumptive Approach to the Construction of Arbitration Agreements and the Principle of Separability - English Law Post *Fiona Trust* and
17. The House of Lords in *The Fiona Trust* fully endorsed the principle of separability invalidating it only on grounds that related specifically to the arbitration agreement, being obtained by fraud or bribery, and not merely a consequence of invalidity of the main agreement.\(^4\)

18. Australian courts have endorsed the principle of separability but not spelt out its limits.\(^5\) They differ from English law in endorsement and delineation of the principle of separability. Australian law has a test for limits of the principle. President Kirby in *Ferris v Plaiseter* referred to circumstances where existence of the contract itself is contested and direct issues on arbitration agreement.\(^6\) *Walter Rau* qualifies the principle where “fraud or vitiating conduct be directed to the arbitration itself”.\(^7\) In *IBM Australia*,\(^8\) Mahoney JA “accept[ed] the device of separability” adding one qualification of the court’s “function to decide…in a way which will do justice” reminding them that “existence of an arbitration clause does not oust the jurisdiction of the court to determine the dispute” and that there are cases where “justice will be best served by allowing the court to resolve it.”\(^9\) This reasoning applies here and is emphasised by the argument below.

C. THIS TRIBUNAL DOES NOT HAVE JURISDICTION TO HEAR THE SUBSTANTIVE CLAIMS BECAUSE THE PROPER SEAT AND FORUM OF ARBITRATION IS AUSTRALIA.

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\(^4\) *Fiona Trust & Holding Corp v Privalov* [2007] UKHL 40.
\(^5\) Article 16(1) of Model Law and IAA.
\(^6\) *Ferris v Plaiseter* (1994) 34 NSWLR.
\(^7\) *Walter Rau Neusser Oel und Fett AG v Cross Pacific Trading Ltd* [2005] FCA 1102, [89].
\(^8\) *IBM Australia* (1994) 34 NSWLR 474.
\(^9\) ibid, 497.
1) **The Parties did not decide that the forum and seat of arbitration would be London.**

19. Greater weight should be attached to the expressed intentions and business arrangements of the parties that will indicate that the Respondents did not want the substance of disputes such as the ones at hand to be arbitrated in London.

20. A letter dated 16th July 2014 expressly stated that there was “one amendment” proposed to the charter party in that the respondent was “not prepared to arbitrate disputes that relate to but do not arise out of the terms of the charter party” giving an example of one of the four vitiating factors of contract law “misrepresentation”. The court should apply its powers of construction to find that frustration falls into the category of disputes that the Respondent expressly stated would not be arbitrated in London.

21. This reflected a “company policy regarding dispute resolution provisions in contracts”.

22. The courts should “interpolate” into the contract the Respondent’s wish that issues such as frustration are not to be arbitrated in London.

2) **Australian Law should be used to govern arbitrability**

23. When decided what law to apply to the arbitration clause there is a choice between law of the agreement, law of the charter and law of the seat. Just because the question of arbitrability and jurisdiction is being decided in courts of London does not necessarily mean that English Law governs arbitrability.

24. There is a three-part test to decide this10.

   a. Have the parties made an express choice of law to govern the arbitration agreement?

   b. Have the parties made an implied choice?

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10 *Sulamercia CIA Nacional De Seguros SA v Enesa Engenharia SA* [2012] EWCA Civ 638.
c. What law has the closest connection to the arbitration agreement?

25. There is a rebuttable presumption under case law that the substantive law of the underlying contract (Australian law) will indicate the parties’ implied choice. Choosing a seat is not enough to rebut and only if nothing can be so implied with the “closest and most real connection” test be used. There is no indication by written notice or any other correspondence that this is to be rebutted and so the law governing the arbitrability of the contract should be Australian and not English.

3) The arbitration agreement is “null and void, inoperative or incapable of being performed”.11

26. S 7 (5) of International Arbitration Act (Australia) states: “A court shall not make an order under subsection 20 if the court finds that the arbitration agreement is null and void, inoperative or incapable of being performed”.

27. The arbitration agreement is non-enforceable because the substantive law of the underlying agreement applied to the arbitration agreement and it makes no sense for system of rules applying to conduct of arbitration to govern the substantive obligation of the parties. Distinguish from First Link where this was not an issue as it was decided that Swedish law governed the arbitration agreement.12 If Australian law is found to govern in this case then the Respondent can succeed where the plaintiffs in First Link failed. It would make no sense here for the dispute to be heard in London using laws of Australia, making the agreement “incapable” of being performed (s16 Model Law has force of law in Australia).

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12 FirstLink Investments Corp Ltd v GT Payment Pte Ltd and Others [2014] SGHCR 12.
4) Alternatively, the phrase “disputes arising under” in clause 30 of the charter party does not extend to and was not intended to extend to frustration.

28. Although the seat of arbitration may be in London, Australian Law should decide scope of the clause, as indicated above.

29. English contract law provides that unless the language of an arbitration clause is made clear that certain questions are to be excluded from the arbitrator’s jurisdiction, it was to be assumed that the parties, as rational businessmen, were likely to have intended any dispute arising out of the relationship. This is clearly not the case here, as stated above in the Respondent’s letter that clearly indicates its wishes. Australian law does not follow this approach and there is neither presumption in favour of, nor against arbitration “I would doubt that an Australian Courts would treat the policy favouring international commercial arbitration as a mandate requiring “liberal” construction of an arbitration clause”. The question of whether there is jurisdiction “to deal with non-contractual matters is to be resolved by careful construction of the wording of the arbitration clause”. Australian case law has looked closely between different wordings in arbitration agreements. The words “arising out of” or “from” continue to be given wide interpretation. However, “arising under” the agreement is considered to be more restrictive. In Allergan Pharmaceuticals Inc v Bausch & Lomb Inc, the arbitration clause was given widest construction but the point of contention was in

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13 ibid (n 4).
14 ACD Tridon Inc v Tridon Australia [2002] [119, 135-136].
15 ibid, [136].
18 Allergan Pharmaceuticals Inc v Bausch & Lomb Inc [1985] FCA 369, [34].
absence of “any substantive nexus or connection”\(^{19}\) with the contract, which arguable
the frustration claim at hand can be equated to. The wording and drafting is not an issue
here, it is the external interference with the contract, which needs to be arbitrated upon.

30. Under Australian law there is a rebuttable presumption that parties intend all disputes to
be decided by the same tribunal but this can be rebutted\(^{20}\). In *Paper Products*\(^{21}\), the
Federal court interpreted an arbitration clause using the words “arising under” and
noted it was normally “unlikely to have been the intention of the parties to artificially
divide their disputes into contractual matters…and non contractual matters which
would fall to be dealt with in the courts” but in this case they “agreed upon a restricted
form of words” to “limit the reference to matters arising ex contractu, there is little
room for movement”.\(^{22}\) The Respondent has made the same restriction by use of the
same wording and the additional letter dividing the disputes in the way noted in this
passage.

31. Furthermore, a recent Federal Court decision\(^{23}\) led Mansfield J accepted the *Fiona
Trust* method of construction but added parties “should nevertheless agree upon an
optional alternative dispute resolution process- by way of court proceedings- in certain
circumstances”.\(^ {24}\)

D. THIS TRIBUNAL SHOULD DETERMINE THAT THE PROPER FORUM
AND SEAT OF ARBITRATION IS AUSTRALIA.

32. Article 20 of the Arbitration Act states that:

\(^{19}\) ibid, [34].
\(^{21}\) ibid (n 18).
\(^{22}\) ibid, [16].
\(^{23}\) ibid (n 20).
\(^{24}\) Ibid (n 20) [36].
(2) Notwithstanding the provisions of paragraph (1)…the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property or documents”.

33. Following this statutory guideline, the most prudent location would be where it would be most convenient for parties and where most of the witnesses to the dispute may be located. In this case the dispute is primarily concerned within the zone of Western Australia and so the most appropriate forum and seat of arbitration is within Australia.

34. The following connecting factors point to Australia as the most appropriate forum and seat of arbitration:

a. The Respondent is a company incorporated and listed in Australia
b. Many important witnesses and evidence are located in Australia.

c. The Cargo was loaded in Australia

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IV. DEFENCES TO THE CLAIM FOR DEMURRAGE

A. THE RESPONDENT’S PLEADING OF FRUSTRATION IS NOT A DISPUTE 'ARISING UNDER' THE CHARTERPARTY.

35. The Respondent submits that the force majeure clause does not cover an event of this nature and that a military coup was not listed in the Force Majeure clause.

1) *The interpretation of force majeure clauses.*

36. Courts tend to interpret force majeure clauses narrowly; that is, only the events listed and events similar to those listed will be covered. The Respondents submit that the supervening event was neither expressly listed in the contract, nor falls within the scope of the force majeure clause.

B. CHARTERPARTY WAS FRUSTRATED BY REASON OF THE DELAY THAT OCCURRED IN DELIVERY OF THE CARGO.

37. The Charterparty was frustrated as the consequences were so beyond the reasonable comprehension of both parties and occurred without any provision in the Charterparty. The supervening event made it physically impossible to perform the contract.

2) *The supervening event occurred after the contract was formed.*

38. The Respondents submit that the contract was frustrated on 30th April. The Respondent submits that the circumstances were not in existence at the time was entered into and that the event was not foreseeable. It is an event beyond the Respondent’s control.

3) *The delay strikes at the very root of the contract.*
39. In *Tatem Ltd v Gamboa* it was the view that it was no longer possible to achieve the substantial purpose of the contract. Goddard J held that;

‘If the foundation of the contract goes, either by the destruction of the subject-matter or by the reason of such long interruption or delay that the performance is really in effect that of a different contract, and the parties have not provided what in that event is to happen, the performance of the contract is to be regarded as frustrated.’

40. The Respondent submits that the delay vis-a-vis MV Athena is a total, ongoing, indefinite delay of such unreasonable and inordinate length that frustrates the Charterparty. The fundamental purpose of the Charterparty was destroyed.

4) **The supervening event is not due to the fault of either party.**

41. The further fulfilment of the contract has been brought to an abrupt stop by this irresistible and extraneous cause for which neither party is responsible and therefore the contract shall terminate forthwith and cause the parties to be discharged. The cause of what has brought the doctrine into operation is ‘frustration of the common venture’- due to an event that has supervened since the making of the contract, the parties are frustrated in the sense that the substantial object they had in view is no longer attainable.

5) **The events were entirely beyond the parties’ contemplation at the time they entered into the contract.**

42. Performance was expected to be completed by 2nd November 2014. The supervening event made such performance impossible and resulted in a state of affairs that the

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27 *Tatem Ltd v. Gamboa* [1939] 1 KB 132.
28 Ibid, 139-144.
29 *Denny, Mott and Dickinson Ltd v James B Fraser & Co Ltd* [1944] AC 265.
parties could not have reasonably foreseen. Clearly the contract did not envisage a governmental coup as there was no provision made in the contract to deal with an event of this nature and the parties never agreed to be bound in the different situation that had unexpectedly emerged.

6) **It renders further performance radically different from what was contemplated when entering into the contract.**

43. The supervening event significantly altered the nature of the voyage charterparty as the delay caused an extremely long delay, having a serious effect on contractual obligations. The serious consequences emanating from the supervening event renders performance radically different from that contracted for.\(^{30}\) Both parties shall be discharged from further performance.\(^{31}\)

44. The supervening event goes beyond the risk assumed under the contract and therefore these uncontrollable circumstances have rendered performance impossible. The classic test of frustration from England was applied in the leading Australian case.\(^{32}\) Following from that case, the situation resulting from the governmental coup was fundamentally different from the situation contemplated by the contract on its true construction. The coup created a situation in which there was a huge delay, thus, the contract could only be performed in a manner completely different from that contemplated in the contract.

C. **THE MASTER WAS NEGLIGENT.**

45. The Respondent submits that the Master of the vessel was negligent in returning the vessel back to the port of origin as the vessel had left the port and was not in the territory of Hades.

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\(^{30}\) *Davies Contactors ltd v Fareham Urban District Council* [1956] AC 696.

\(^{31}\) *Motor Oil Hellas Refineries SA v Shipping Corp of India (The Kanchenjunga)* [1990] 1 Lloyd's Rep 457.

\(^{32}\) *Codelfa Construction Pty Ltd v State Rail Authority of New South Wales* (1982) 149 CLR 337
D. THE VESSEL HAS IN FACT LEFT THE PORT OF HADES.

46. The Vessel has in fact left the port of Hades. The loading of the cargo was completed at 2350hrs on 6th October 2014, and the Vessel sailed from Hades on the following day at 0900hrs. Under the Statement of Facts, it clearly demonstrates that the Vessel has sailed from the port of Hades, highlighting that the Vessel has completed the cargo operations and sailed from the port of Hades within the laytime allowed.

1) The Vessel was arrested outside the port of Hades.

47. Although the Coast Guard was able to turn the Vessel back, the Vessel has already left the port for the purpose of proceeding on her voyage without any intention of returning to the port of Hades. The Charterparty is one that is utilised for mercantile purposes, and the definition of a port within box 5 must be construed in its commercial or business sense.33 A port, in the ordinary business and commercial sense of the word, requires an element of safety in it for the ship and the cargo.34 It must be interpreted as an area where merchant vessels load or discharge cargo, instead of in the open seas where no cargoes are ever discharged or unloaded.35 Hence, as the Vessel was arrested in the open seas where there is no element of safety, and where no cargo operations could be carried out, it must have been arrested outside of the port of Hades. Due to the aforementioned factors, the Respondent submits that no demurrage could have accrued as the Vessel has already left the port of Hades.

V. DEFENCE TO CLAIM FOR DETENTION

48. The duty to nominate a safe port by the Respondents is a qualified one rather than an absolute one as there is nothing similar to a NYPE 46 type clause in the Charterparty to suggest that the principles of Eastern City shall apply regarding an absolute safe port warranty.36

A. THE PORT WAS PROSPECTIVELY SAFE UPON NOMINATION.

49. The safe port obligation therefore only requires the Respondents to exercise “reasonable care” in determining whether the port was prospectively safe.37 On the facts, there was nothing to suggest how the strikes by a minor protest group in Hades on 20st July could have been foreseen to cause any large scale problems that could lead to the detention. Indeed, strikes and demonstrations are a normal occurrence in many countries and it would be commercially unsound to regard a port as unsafe simply because of a strike. Furthermore, the Respondents submit that the precise act that caused the vessel to be detained was not due to the strikes or unrest at the port but the fact that the Master decided to return with the coast guard despite being under no obligation to do so, thus this removes the causal link and casts the detention as a remote outcome.

50. On the facts, there was no unsafety as to the port as it was an abnormal event unrelated to the prevailing characteristics of the port.38 It is after all the Master’s negligent mishandling of the vessel, that contributed to the detention of the vessel.

B. THE CLAIMANTS WAIVED THEIR RIGHTS UNDER THE WARRANTY.

51. Even if the port may be assumed to be prospectively unsafe, according to the *APJ Priti* principle,\(^{39}\) if the entire port itself is prospectively unsafe, the Claimant should not have agreed to going to the port in the first place. On the facts, the strike events on 20st July was well publicized in the media and if the Claimant was indeed worried about any danger, then it could have raised the issue before signing the Charterparty. Yet it was never mentioned at all by the Claimants all throughout the few months leading up to loading. According to *Stork*,\(^{40}\) the conduct of the Claimant in this case therefore results in the rights to enforce this warranty being forfeited.

**VI. RESPONDENT’S CLAIM FOR SALVAGE**

52. The Respondent makes a counterclaim for the cost of the salvage operation that was undertaken in respect of the Vessel. It is submitted that as the tugs belonging to the Respondent undertook a salvage operation in respect of the Athena, successfully preserving the value of the vessel and cargo, it is entitled to salvage award. The entitlement to payment for salvage is based upon the International Convention on Salvage 1989. Article 12 Condition for Reward stipulates that salvage operations which have had a useful result give right to a reward. Hestug, a company owned by the Respondent qualifies for reward as the Claimant is the owner of the vessel.

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\(^{39}\) *APJ Priti* [1987] 2 Lloyd’s Rep 37.

\(^{40}\) *The Stork* [1954] 2 Lloyd’s Rep 397.
VII. PRAYER FOR RELIEF

For the reasons set out above, the Respondent requests the Tribunal to:

DECLINE jurisdiction in favour of litigation in Australia.

DECLARE that the Respondent has no liability to pay demurrage, detention, or any damages claimed.

FIND that the Respondent is entitled to the salvage reward flowing from the salvage operation carried out on the Vessel.

AWARD interest and costs in favour of the Respondent.