IG PROFORMA LETTERS OF INDEMNITY REVIEW

Introduction

The IG Bills of Lading Committee (the "Committee") has conducted a review of the suite of standard Letter of Indemnity ("LOI") wordings recommended for use in the following situations:

- Delivery of Cargo Without Production of the Original Bill of Lading
- Delivery of Cargo at a Port other than that Stated in the Bill of Lading
- Delivery of Cargo at a Port other than that Stated in the Bill of Lading and Without Production of the Original Bill of Lading

The work of the Bills of Lading Committee was greatly assisted by a numbeof r of commentaries on the wordings published over the years, together with input from traders and charterers through liaison with BIMCO. The Committee also had input from a former Admiralty Judge in finalising the wordings. Although some amendments were made to the proforma wordings by the Committee as a result of the decision in the Bremen Max in 2009, this appears to have been the first wholesale review of the wordings for a considerable period.

The Committee approached the review with an open mind, not ruling out the potential for a full redraft of the wordings. The potential for significant changes in content had been suggested by some commentators, whilst participants in the Committee's debates also suggested procedural changes to how LOIs are typically handled (such as, for example, a single LOI being signed by all parties in an LOI chain). However, during the review, the English High Court had the opportunity to look in detail at the LOI wordings and issues of enforcement arising out of them in a series of decisions concerning disputes arising from a chain of LOIs issued in respect of a cargo valued at US$76 million carried on the Miracle Hope. From these decisions, the Committee took comfort that the LOI wordings were not fundamentally deficient and that there was therefore likely to be more lost than gained by the uncertainty created by a radical change to either the content, format or procedure currently being employed by the industry when dealing with the current LOI wordings (a position which was endorsed by the former Judge who was consulted). As such, the new drafts are an evolution of the old.

General Comments

All three LOI wordings contain the same operative terms (with basic logical differences), so corresponding amendments have been made to all three proforma LOI texts. The introductory paragraphs of each LOI have been broken down into smaller paragraphs to improve the flow of the document whilst still reflecting the request(s) being made in each case.

While a relatively small number of disputes about the LOI wordings come before the courts, this should not detract from the fact that a LOI is a contract between (usually) a shipowner and the party issuing the LOI which is potentially worth many millions of dollars. Things usually go smoothly, but if things go wrong, a vessel is likely to be arrested and the shipowner may be forced to commence legal proceedings to force performance of the LOI terms by the issuer of the LOI. Whilst they are a largely unavoidable feature of international trade, a LOI should be something which both shipowners and the parties issuing LOIs take very seriously.

IG PROFORMA LETTERS OF INDEMNITY REVIEW (Continued)

For the first time, a note has therefore been attached to the proforma itself to remind recipients of the potentially very high value of the contract into which they are entering and the need to consider the creditworthiness of the party offering the LOI. The note also highlights the significant consequences of delivering a cargo without presentation of an original bill of lading for a recipient's P&I cover.

The Committee has retained the proforma reference to English law and jurisdiction for a number of reasons which are discussed in the Notes.

Although the Committee acknowledged that bank counter-signature was rare (and potentially only using a bank's own text), they felt that the proforma bank counter-signature texts should be retained, if only to serve as a template to indicate the points to consider if a bank is to counter-sign the LOI. No substantial amendments have been made to the bank texts themselves.

EXPLANATORY NOTES

The following explanatory notes are intended to explain the Committee's thoughts behind the amendments which have been made or other decisions on the recommended wordings. They focus on the indemnity for delivery without production of an original bill, although corresponding amendments have been made to the indemnity for delivery at a port other than stated in the bill.

General

There are three basic IG-recommended LOIs, one each for; Delivery of Cargo Without Production of the Original Bill of Lading; Delivery of Cargo at a Port other than that Stated in the Bill of Lading; Delivery of Cargo at a Port other than that Stated in the Bill of Lading and Without Production of the Original Bill of Lading. Each LOI also has an additional version which sets out terms for counter-signature by a bank. Save for the preambles of the LOIs (which broadly describe the request being made to the carrier in each case), the operative provisions of each LOI and corresponding bank counter-signature wording are the same. As a result, the same amendments have therefore been made to the operative provisions of each of the LOI texts. The text for bank counter-signature has not been substantively amended. In the experience of the Committee, although LOIs are seldom counter-signed by banks (and where they are, a bank's own wording is generally used), the Committee felt that preserving the suite of bank wordings was worthwhile in case it is used and also in order to provide a template against which to compare any wording provided by a bank.

Introductory Note

A Note has been added to remind recipients of the potentially very high value of the LOI contract into which they are entering and the need to consider the creditworthiness of the party offering the LOI, as well as the significant consequences of delivering a cargo without presentation of an original bill of lading for a recipient's P&I cover.

Vessel, Port, Cargo & Bill of Lading Details

The format of this section has been expanded and headings have been added for the insertion of additional information. The intention of these amendments/additions is to make it absolutely clear which bill(s) of lading and cargo are covered by the LOI.

Preliminary Paragraphs

To improve the flow of the document, the first paragraph of the old LOI wording (which consisted of one sentence) has been split into two paragraphs. The first deals with what has happened to the bill of lading. The second sets out the request being made. The previous reference to "but the bill of lading has not arrived" has been changed to "but the Bill(s) of lading is (are) not currently available to be presented". This reference more accurately encompasses the many reasons why there is no bill of lading to be tendered for the cargo and the specific requirement which cannot be fulfilled by the receiver.

EXPLANATORY NOTES (Continued)

Changes have been made to the wording which now makes up the second paragraph. The requirement to deliver the cargo to the person/company nominated by the requestor (or the person/company reasonably believed to be them) is retained. The carrier may wish to have a specific person identified and details of their identity recorded in the LOI so that they can be checked, but the proforma wording is left deliberately wide to give the greatest protection to the carrier. An additional representation/undertaking as to the status of the party to whom delivery is to be made has been added to strengthen the promises being given by the requestor, and to make the nature of what the requestor is saying clear to them.

Operative Paragraphs

Para 1 – is unamended.

Para 2 – is unamended. This provision may have significant impact: an order to provide substantial funds to defend legal proceedings was made in the 2020 Miracle Hope litigation.

Para 3 – this paragraph has been broken down into three sub-paragraphs to ease interpretation. Further amendments have also been made. An express obligation to provide security, etc., if a vessel or property belonging to or controlled by the recipient of the LOI has been added. This puts, for example, a charterer receiving an LOI as part of a chain of LOIs and whose own vessel (or a vessel chartered by them) is arrested for security, in the same position as the owner of the vessel which carried the cargo whose vessel is arrested.

The obligation to provide security has deliberately been left without limitation in sub paragraph (a). Where the recipient of the LOI has put up security to obtain release of the vessel, wording has been added to make it clear that the obligation under the LOI is to replace that security (or to provide counter security, etc.) even if the security which has been put in place exceeds the value of the vessel arrested. This addresses the fact that a recipient of an LOI should not be prejudiced if, for example, it was appropriate for them to simply put up the security demanded to avoid further interference with their vessels and/or property, regardless of whether the security they have put up exceeds the value of the vessel which carried the cargo or which was subsequently arrested.

Para 4 – amendments have been made to this paragraph to make it clear that so far as the references to bulk facilities (whether for liquid or dry cargo) are concerned, (a) once discharge is made and the cargo becomes part of a larger mass of cargo so that it effectively becomes impossible to identify that cargo again, and where (b) even if delivery has not physically been made to the receiver themselves (because for example the cargo is physically delivered to the operator of a tank farm, silo, etc.), delivery to the required person is nevertheless deemed to have occurred.

Para 5 – this paragraph has been amended to make it clear that that the LOI obligations only come to an end if the bills of lading have ultimately reached the party that took delivery of the cargo and are thus accomplished.

EXPLANATORY NOTES (Continued)

Para 6 – this paragraph is unamended.

Para 7 – this paragraph has been amended to refer enforcement and/or disputes under the LOI to the exclusive jurisdiction of the English Courts. This paragraph was the subject of wide debate. Options considered were, e.g., to mirror the governing charterparty law and jurisdiction clause, or to leave the choice of law and jurisdiction to the parties to negotiate. A decision to retain English law was made for a number of reasons. These included the extensive powers to issue injunctions in the High Court, the power to consolidate proceedings, the experience of the High Court in dealing with LOI disputes, the use of the Contracts (Rights of Third Parties) Act to "perfect" indemnity chains and the benefit of including an express choice in the proforma wording as a means of encouraging adoption of the same choice of law and jurisdiction in a chain of LOIs to ease enforcement up or down an LOI chain.

Signature Provisions & Notes

Small amendments have been made to the signature provisions. The intention is to clearly identify the person signing the LOI. Notes have also been added to emphasise not only the importance of identifying the person in question, but in taking time to consider their capacity to bind the company in question to a set of stringent terms and to significant potential financial exposure. Addressing these points should narrow the scope for potential argument that the person signing did not have authority to bind the company in question and invalidating the LOI.

Wording Incorporating a Bank's Agreement to Join In The Letter Of Undertaking

These wordings have been retained in the proforma indemnity wordings, although the Banks will generally insist on using their own inhouse wordings if they are involved. The only amendments are to paragraph 2. (to mirror the provisions of paragraph 3(b) of the indemnity wording) which were missing from the previous version of the Bank wording and are intended to close down any argument that the Bank would not have to respond in the same circumstances as the requestor.

LOI A NO BILL

A Standard Form Letter of Indemnity to be given in return for Delivering Cargo Without Production of the Original Bill of Lading

Important
Delivery of cargo without presentation of the original bill of lading will take an owner/carrier or other recipient of a Letter of Indemnity outside the scope of their P&I cover. Acceptance of a Letter of Indemnity in the form set out below does not reinstate P&I cover and you may be at risk of significant financial exposure. You should therefore satisfy yourself of the financial standing of the party providing the Letter of Indemnity.

To: [insert name of Owners and/or Managers as appropriate]

[insert date]

The Owners and/or Managers of the [insert name of Vessel]

[insert address]

Dear Sir or Madam

Vessel: [insert name of vessel]
Port of Loading: [as stated in bill of lading]
Port of Discharge: [as stated in bill of lading]
Cargo: [insert description of cargo incl. weight, volume, measurement, quantity figures and remarks as set out in bill of lading]
Bill(s) of Lading: [insert identification numbers, date and place of issue.]

The above Cargo was shipped on the above Vessel by [insert name of shipper] and consigned to [insert name of consignee or party to whose order the bills of lading are made out, as appropriate] for delivery at the Port of Discharge but the Bill(s) of Lading is (are) not currently available to be presented.

We, [insert name of party requesting delivery], hereby represent and undertake that [insert name of the party to whom delivery is to be given] is the party lawfully entitled to delivery of the said Cargo and request you to deliver the said Cargo to [insert same name] or to such party as you believe to be or to represent [insert same name] or to be acting on behalf of [insert same name] at [insert place where delivery is to be made] without production of the original Bill(s) of Lading.

In consideration of your complying with our above request, we hereby agree as follows:

1. To indemnify you, your servants and agents and to hold all of you harmless in respect of any liability, loss, damage or expense of whatsoever nature which you may sustain by reason of delivering the Cargo in accordance with our request.

2. In the event of any proceedings being commenced against you or any of your servants or agents in connection with the delivery of the Cargo as aforesaid, to provide you or them on demand with sufficient funds to defend the same.

3. If, in connection with the delivery of the Cargo as aforesaid, the Vessel, or any other vessel or property in the same or associated ownership, management or control, or any vessel or property in your ownership, management or control, should be arrested or detained or

should the arrest or detention thereof be threatened, or should there be any interference in the use or trading of the Vessel or such other vessels or property (whether by virtue of a caveat being entered on the Vessel's or such other vessel's registry or otherwise howsoever), to:

(a) provide on demand such bail or other security as may be required to prevent such arrest or detention or to secure the release of the Vessel or such other vessel or property or to remove such interference;

(b) if you have already provided security, provide on demand equivalent substitute or counter security, whether or not you have made any prior demand upon us and whether or not such security exceeds the value of the Vessel or such other vessel, and

(c) indemnify you in respect of any liability, loss, damage or expense caused by such arrest or detention or threatened arrest or detention or such interference, whether or not such arrest or detention or threatened arrest or detention or such interference may be justified.

4. If the place at which we have asked you to make delivery is a bulk liquid, dry bulk cargo or gas terminal or other facility, or another vessel, lighter or barge, then discharge or delivery to such terminal, facility, vessel, lighter or barge shall be deemed to be delivery to the party to whom we have requested you to make such delivery.

5. As soon as all original bills of lading for the above Cargo shall have come into our possession, to deliver the same to you, whereupon (always provided that the said bills of lading have been properly tendered by the party to whom the Cargo was actually delivered) our liability hereunder shall cease.

6. The liability of each and every person under this indemnity shall be joint and several and shall not be conditional upon your proceeding first against any person, whether or not such person is party to or liable under this indemnity.

7. This indemnity shall be governed by and construed in accordance with English law and each and every person liable under this indemnity submits to the exclusive jurisdiction of the High Court of Justice of England.*1

Note:
1. The proforma wording provides for English law and jurisdiction and the wording is drafted on the basis of English law. Choosing English law and the English courts gives a number of benefits. Choosing a different legal or court system may mean that these benefits are lost or that enforcement of the obligations within the letter is more difficult or inconsistent with the enforcement of any other letters of indemnity given in the same charterparty chain.

Yours faithfully for and on behalf of [insert name of Requestor]
The Requestor
Full name .....
Signature .....
Authorised signatory*2

Note:
2. Care should be taken to (a) clearly identify who is signing the letter and (b) have them take reasonable steps to demonstrate that they have authority to sign the letter (such as the use of an official stamp, identification of their role/title, etc).

LOI AA NO BILL WITH BANK

AA Standard Form Letter of Indemnity to be given in return for Delivering Cargo Without Production of the Original Bill of Lading Incorporating a Bank's Agreement to join in the Letter of Indemnity

Important

Delivery of cargo without presentation of the original bill of lading will take an owner/carrier or other recipient of a Letter of Indemnity outside the scope of their P&I cover. Acceptance of a Letter of Indemnity in the form set out below does not reinstate P&I cover and you may be at risk of significant financial exposure. You should therefore satisfy yourself of the financial standing of the party providing the Letter of Indemnity.

To: [insert name of Owners and/or Managers as appropriate]

[insert date]

The Owners and/or Managers of the [insert name of Vessel]

[insert address]

Dear Sir or Madam

Vessel: [insert name of vessel]
Port of Loading: [as stated in bill of lading]
Port of Discharge: [as stated in bill of lading]
Cargo: [insert description of cargo incl. weight, volume, measurement, quantity figures and remarks as set out in bill of lading]
Bill(s) of Lading: [insert identification numbers, date and place of issue.]

The above Cargo was shipped on the above Vessel by [insert name of shipper] and consigned to [insert name of consignee or party to whose order the bills of lading are made out, as appropriate] for delivery at the Port of Discharge but the Bill(s) of Lading is (are) not currently available to be presented.

We, [insert name of party requesting delivery], hereby represent and undertake that [insert name of the party to whom delivery is to be given] is the party lawfully entitled to delivery of the said Cargo and request you to deliver the said Cargo to [insert same name] or to such party as you believe to be or to represent [insert same name] or to be acting on behalf of [insert same name] at [insert place where delivery is to be made] without production of the original Bill(s) of Lading.

In consideration of your complying with our above request, we hereby agree as follows:

1. To indemnify you, your servants and agents and to hold all of you harmless in respect of any liability, loss, damage or expense of whatsoever nature which you may sustain by reason of delivering the Cargo in accordance with our request.
2. In the event of any proceedings being commenced against you or any of your servants or agents in connection with the delivery of the Cargo as aforesaid, to provide you or them on demand with sufficient funds to defend the same.

LOI AA NO BILL WITH BANK (Continued)

3. If, in connection with the delivery of the Cargo as aforesaid, the Vessel, or any other vessel or property in the same or associated ownership, management or control, or any vessel or property in your ownership, management or control, should be arrested or detained or should the arrest or detention thereof be threatened, or should there be any interference in the use or trading of the Vessel or such other vessels or property (whether by virtue of a caveat being entered on the Vessel's or such other vessel's registry or otherwise howsoever), to:

   (a) provide on demand such bail or other security as may be required to prevent such arrest or detention or to secure the release of the Vessel or such other vessel or property or to remove such interference;

   (b) if you have already provided security, provide on demand equivalent substitute or counter security, whether or not you have made any prior demand upon us and whether or not such security exceeds the value of the Vessel or such other vessel, and

   (c) indemnify you in respect of any liability, loss, damage or expense caused by such arrest or detention or threatened arrest or detention or such interference, whether or not such arrest or detention or threatened arrest or detention or such interference may be justified.

4. If the place at which we have asked you to make delivery is a bulk liquid or gas terminal or other facility or a dry bulk cargo terminal or other facility, or another vessel, lighter or barge, then discharge or delivery to such terminal, facility, vessel, lighter or barge shall be deemed to be delivery to the party to whom we have requested you to make such delivery.

5. As soon as all original bills of lading for the above Cargo shall have come into our possession, to deliver the same to you, whereupon (always provided that the said bills of lading have been properly tendered by the party to whom the Cargo was actually delivered) our liability hereunder shall cease.

6. The liability of each and every person under this indemnity shall be joint and several and shall not be conditional upon your proceeding first against any person, whether or not such person is party to or liable under this indemnity.

7. This indemnity shall be governed by and construed in accordance with English law and each and every person liable under this indemnity submits to the exclusive jurisdiction of the High Court of Justice of England.*1

Note:
1. The proforma wording provides for English law and jurisdiction and the wording is drafted on the basis of English law. Choosing English law and the English courts gives a number of benefits. Choosing a different legal or court system may mean that these benefits are lost or that enforcement of the obligations within the letter is more difficult or inconsistent with the enforcement of any other letters of indemnity given in the same charterparty chain.

Yours faithfully for and on behalf of [insert name of Requestor]
The Requestor
Full name .....
Signature .....
Authorised signatory*2

Note:
2. Care should be taken to (a) clearly identify who is signing the letter and (b) have them take reasonable steps to demonstrate that they have authority to sign the letter (such as the use of an official stamp, identification of their role/title, etc).

LOI AA NO BILL WITH BANK (Continued)

We, [insert name of the Bank], hereby agree to join in this Indemnity providing always that the Bank's liability:

1. shall be restricted to payment of specified sums of money demanded in relation to the Indemnity (and shall not extend to the provision of bail or other security)
2. shall be to make payment to you forthwith on your written demand in the form of a signed letter certifying that the amount demanded is a sum due to be paid to you under the terms of the Indemnity and has not been paid to you by the Requestor or is a sum which represents monetary compensation due to you in respect of the failure by the Requestor to fulfil its obligations to you under the Indemnity. For the avoidance of doubt the Bank hereby confirms that:
   (a) such compensation shall include, but not be limited to, payment of any amount up to the amount stated in proviso 3 below in order to enable you:
      (i) to arrange the provision of such bail or other security as may be required to prevent the arrest or detention of the Vessel, or any other vessel or property in the same or associated ownership, management or control, or any vessel or property in your ownership, management or control or any interference in the use or trading of the Vessel or such other vessels or property (whether by virtue of a caveat being entered on the Vessel's or such other vessel's registry or otherwise howsoever), or
      (ii) to secure the release of the Vessel or such other vessel or property or to remove such interference;
   (b) if you have already provided security, to provide on demand equivalent substitute or counter security of any amount up to the amount stated in proviso 3 below, whether or not you have made any prior demand upon us or the Requestor and whether or not such security exceeds the value of the Vessel or such other vessel.
3. shall be limited to a sum or sums not exceeding in aggregate [insert currency and amount in figures and words]
4. subject to proviso 5 below, shall terminate on [date six years from the date of the Indemnity] (the 'Termination Date'), except in respect of any demands for payment received by the Bank hereunder at the address indicated below on or before that date
5. shall be extended at your request from time to time for a period of two calendar years at a time provided that:
   (a) the Bank shall receive a written notice signed by you and stating that the Indemnity is required by you to remain in force for a further period of two years, and
   (b) such notice is received by the Bank at the address indicated below on or before the then current Termination Date.

   Any such extension shall be for a period of two years from the then current Termination Date and, should the Bank for any reason be unwilling to extend the Termination Date, the Bank shall discharge its liability by the payment to you of the maximum sum payable hereunder (or such lesser sum as you may require).

   However, in the event of the Bank receiving a written notice signed by you, on or before the then current Termination Date, stating that legal proceedings have been commenced against you as a

result of your having delivered the said Cargo as specified in the Indemnity, the Bank agrees that its liability hereunder will not terminate until receipt by the Bank of your signed written notice stating that all legal proceedings have been concluded and that any sum or sums payable to you by the Requestor and/or the Bank in connection therewith have been paid and received in full and final settlement of all liabilities arising under the Indemnity.

6. shall be governed by and construed in accordance with the law governing the Indemnity and the Bank agrees to submit to the jurisdiction of the court stated within the Indemnity.

It should be understood that, where appropriate, the Bank will only produce and deliver to you all original bills of lading should the same come into the Bank's possession, but the Bank agrees that, in that event, it shall do so.

The Bank agrees to promptly notify you in the event of any change in the full details of the office to which any demand or notice is to be addressed and which is stated below and it is agreed that you shall also promptly notify the Bank in the event of any change in your address as stated above.

Please quote the Bank's Indemnity Ref ...in all correspondence with the Bank and any demands for payment and notices hereunder.

Yours faithfully

For and on behalf of [insert name of bank]

[insert full details of the office to which any demand or notice is to be addressed]

Signature

LOI B OTHER PORT

B Standard Form Letter of Indemnity to be given in return for Delivering Cargo at a Port other than that Stated in the Bill of Lading

Important

Delivery of cargo at a port other than stated in the bill of lading will take an owner/carrier or other recipient of a Letter of Indemnity outside the scope of their P&I cover. Acceptance of a Letter of Indemnity in the form set out below does not reinstate P&I cover and you may be at risk of significant financial exposure. You should therefore satisfy yourself of the financial standing of the party providing the Letter of Indemnity.

To: [insert name of Owners and/or Managers as appropriate]

[insert date]

The Owners and/or Managers of the [insert name of Vessel]

[insert address]

Dear Sir or Madam

Vessel: [insert name of vessel]
Port of Loading: [as stated in bill of lading]
Port of Discharge: [as stated in bill of lading]
Cargo: [insert description of cargo incl. weight, volume, measurement, quantity figures and remarks as set out in bill of lading]
Bill(s) of Lading: [insert identification numbers, date and place of issue.]

The above Cargo was shipped on the above Vessel by [insert name of shipper] and consigned to [insert name of consignee or party to whose order the bills of lading are made out, as appropriate] for delivery at the Port of Discharge but we, [insert name of party requesting substituted delivery], hereby request you to order the Vessel to proceed to and deliver the said cargo at [insert name of substitute port or place of delivery] against production of at least one original Bill(s) of Lading.

In consideration of your complying with our above request, we hereby agree as follows:

1. To indemnify you, your servants and agents and to hold all of you harmless in respect of any liability, loss, damage or expense of whatsoever nature which you may sustain by reason of delivering the Cargo in accordance with our request.
2. In the event of any proceedings being commenced against you or any of your servants or agents in connection with the delivery of the Cargo as aforesaid, to provide you or them on demand with sufficient funds to defend the same.
3. If, in connection with the delivery of the Cargo as aforesaid, the Vessel, or any other vessel or property in the same or associated ownership, management or control, or any vessel or property in your ownership, management or control, should be arrested or detained or should the arrest or detention thereof be threatened, or should there be any interference in the use or trading of the Vessel or such other vessels or property (whether by virtue of a

caveat being entered on the Vessel's or such other vessel's registry or otherwise howsoever), to:

(a) provide on demand such bail or other security as may be required to prevent such arrest or detention or to secure the release of the Vessel or such other vessel or property or to remove such interference;

(b) if you have already provided security, provide on demand equivalent substitute or counter security, whether or not you have made any prior demand upon us and whether or not such security exceeds the value of the Vessel or such other vessel, and

(c) indemnify you in respect of any liability, loss, damage or expense caused by such arrest or detention or threatened arrest or detention or such interference, whether or not such arrest or detention or threatened arrest or detention or such interference may be justified.

4. If the place at which we have asked you to make delivery is a bulk liquid, dry bulk cargo or gas terminal or other facility, or another vessel, lighter or barge, then discharge or delivery to such terminal, facility, vessel, lighter or barge shall be deemed to be delivery to the party to whom we have requested you to make such delivery.
5. The liability of each and every person under this indemnity shall be joint and several and shall not be conditional upon your proceeding first against any person, whether or not such person is party to or liable under this indemnity.
6. This indemnity shall be governed by and construed in accordance with English law and each and every person liable under this indemnity submits to the exclusive jurisdiction of the High Court of Justice of England.*1

Note:
1. The proforma wording provides for English law and jurisdiction and the wording is drafted on the basis of English law. Choosing English law and the English courts gives a number of benefits. Choosing a different legal or court system may mean that these benefits are lost or that enforcement of the obligations within the letter is more difficult or inconsistent with the enforcement of any other letters of indemnity given in the same charterparty chain.

Yours faithfully for and on behalf of [insert name of Requestor]
The Requestor
Full name .....
Signature .....
Authorised signatory*2

Note:
2. Care should be taken to (a) clearly identify who is signing the letter and (b) have them take reasonable steps to demonstrate that they have authority to sign the letter (such as the use of an official stamp, identification of their role/title, etc).

LOI BB OTHER PORT WITH BANK

BB Standard Form Letter of Indemnity to be given in return for Delivering Cargo at a Port other than that Stated in the Bill of Lading Incorporating a Bank's Agreement to join in the Letter of Indemnity

Important

Delivery of cargo at a port other than stated in the bill of lading will take an owner/carrier or other recipient of a Letter of Indemnity outside the scope of their P&I cover. Acceptance of a Letter of Indemnity in the form set out below does not reinstate P&I cover and you may be at risk of significant financial exposure. You should therefore satisfy yourself of the financial standing of the party providing the Letter of Indemnity.

To: [insert name of Owners and/or Managers as appropriate]

[insert date]

The Owners and/or Managers of the [insert name of Vessel]

[insert address]

Dear Sir or Madam

Vessel: [insert name of vessel]
Port of Loading: [as stated in bill of lading]
Port of Discharge: [as stated in bill of lading]
Cargo: [insert description of cargo incl. weight, volume, measurement, quantity figures and remarks as set out in bill of lading]
Bill(s) of Lading: [insert identification numbers, date and place of issue.]

The above Cargo was shipped on the above Vessel by [insert name of shipper] and consigned to [insert name of consignee or party to whose order the bills of lading are made out, as appropriate] for delivery at the Port of Discharge but we, [insert name of party requesting substituted delivery], hereby request you to order the Vessel to proceed to and deliver the said cargo at [insert name of substitute port or place of delivery] against production of at least one original Bill(s) of Lading.

In consideration of your complying with our above request, we hereby agree as follows:

1. To indemnify you, your servants and agents and to hold all of you harmless in respect of any liability, loss, damage or expense of whatsoever nature which you may sustain by reason of delivering the Cargo in accordance with our request.
2. In the event of any proceedings being commenced against you or any of your servants or agents in connection with the delivery of the Cargo as aforesaid, to provide you or them on demand with sufficient funds to defend the same.
3. If, in connection with the delivery of the Cargo as aforesaid, the Vessel, or any other vessel or property in the same or associated ownership, management or control, or any vessel or property in your ownership, management or control, should be arrested or detained or should the arrest or detention thereof be threatened, or should there be any interference in the use or trading of the Vessel or such other vessels or property (whether by virtue of a

caveat being entered on the Vessel's or such other vessel's registry or otherwise howsoever), to:

(a) provide on demand such bail or other security as may be required to prevent such arrest or detention or to secure the release of the Vessel or such other vessel or property or to remove such interference;

(b) if you have already provided security, provide on demand equivalent substitute or counter security, whether or not you have made any prior demand upon us and whether or not such security exceeds the value of the Vessel or such other vessel, and

(c) indemnify you in respect of any liability, loss, damage or expense caused by such arrest or detention or threatened arrest or detention or such interference, whether or not such arrest or detention or threatened arrest or detention or such interference may be justified.

4. If the place at which we have asked you to make delivery is a bulk liquid, dry bulk cargo or gas terminal or other facility, or another vessel, lighter or barge, then discharge or delivery to such terminal, facility, vessel, lighter or barge shall be deemed to be delivery to the party to whom we have requested you to make such delivery.
5. The liability of each and every person under this indemnity shall be joint and several and shall not be conditional upon your proceeding first against any person, whether or not such person is party to or liable under this indemnity.
6. This indemnity shall be governed by and construed in accordance with English law and each and every person liable under this indemnity submits to the exclusive jurisdiction of the High Court of Justice of England.*1

Note:
1. The proforma wording provides for English law and jurisdiction and the wording is drafted on the basis of English law. Choosing English law and the English courts gives a number of benefits. Choosing a different legal or court system may mean that these benefits are lost or that enforcement of the obligations within the letter is more difficult or inconsistent with the enforcement of any other letters of indemnity given in the same charterparty chain.

Yours faithfully for and on behalf of [insert name of Requestor]
The Requestor
Full name .....
Signature .....
Authorised signatory*2

Note:
2. Care should be taken to (a) clearly identify who is signing the letter and (b) have them take reasonable steps to demonstrate that they have authority to sign the letter (such as the use of an official stamp, identification of their role/title, etc).

LOI BB OTHER PORT WITH BANK (Continued)

We, [insert name of the Bank], hereby agree to join in this Indemnity providing always that the Bank's liability:

1. shall be restricted to payment of specified sums of money demanded in relation to the Indemnity (and shall not extend to the provision of bail or other security)
2. shall be to make payment to you forthwith on your written demand in the form of a signed letter certifying that the amount demanded is a sum due to be paid to you under the terms of the Indemnity and has not been paid to you by the Requestor or is a sum which represents monetary compensation due to you in respect of the failure by the Requestor to fulfil its obligations to you under the Indemnity. For the avoidance of doubt the Bank hereby confirms that:
   (a) such compensation shall include, but not be limited to, payment of any amount up to the amount stated in proviso 3 below in order to enable you:
      (i) to arrange the provision of such bail or other security as may be required to prevent the arrest or detention of the Vessel, or any other vessel or property in the same or associated ownership, management or control, or any vessel or property in your ownership, management or control or any interference in the use or trading of the Vessel or such other vessels or property (whether by virtue of a caveat being entered on the Vessel's or such other vessel's registry or otherwise howsoever), or
      (ii) to secure the release of the Vessel or such other vessel or property or to remove such interference;
   (b) if you have already provided security, to provide on demand equivalent substitute or counter security of any amount up to the amount stated in proviso 3 below, whether or not you have made any prior demand upon us or the Requestor and whether or not such security exceeds the value of the Vessel or such other vessel.
3. shall be limited to a sum or sums not exceeding in aggregate [insert currency and amount in figures and words]
4. subject to proviso 5 below, shall terminate on [date six years from the date of the Indemnity] (the 'Termination Date'), except in respect of any demands for payment received by the Bank hereunder at the address indicated below on or before that date
5. shall be extended at your request from time to time for a period of two calendar years at a time provided that:
   (a) the Bank shall receive a written notice signed by you and stating that the Indemnity is required by you to remain in force for a further period of two years, and
   (b) such notice is received by the Bank at the address indicated below on or before the then current Termination Date.

   Any such extension shall be for a period of two years from the then current Termination Date and, should the Bank for any reason be unwilling to extend the Termination Date, the Bank shall discharge its liability by the payment to you of the maximum sum payable hereunder (or such lesser sum as you may require).

   However, in the event of the Bank receiving a written notice signed by you, on or before the then current Termination Date, stating that legal proceedings have been commenced against you as a

LOI BB OTHER PORT WITH BANK (Continued)

result of your having delivered the said Cargo as s pecified in the Indemnity, the Bank agrees that its liability hereunder will not terminate until receipt by the Bank of your signed written notice stating that all legal proceedings have been concluded and that any sum or sums payable to you by the Requestor and/or the Bank in connection therewith have been paid and received in full and final settlement of all liabilities arising under the Indemnity.

6. shall be governed by and construed in accordance with the law governing the Indemnity and the Bank agrees to submit to the jurisdiction of the court stated within the Indemnity.

It should be understood that, where appropriate, the Bank will only produce and deliver to you all original bills of lading should the same come into the Bank's possession, but the Bank agrees that, in that event, it shall do so.

The Bank agrees to promptly notify you in the event of any change in the full details of the office to which any demand or notice is to be addressed and which is stated below and it is agreed that you shall also promptly notify the Bank in the event of any change in your address as stated above.

Please quote the Bank's Indemnity Ref ...in all correspondence with the Bank and any demands for payment and notices hereunder.

Yours faithfully

For and on behalf of [insert name of bank]

[insert full details of the office to which any demand or notice is to be addressed]

Signature

LOI C NO BILL AND OTHER PORT

3A Standard Form Letter of Indemnity to be given in return for Delivering Cargo at a Port other than that Stated in the Bill of Lading and Without Production of the Original Bill of Lading

Important

Delivery of cargo at a port other than stated in the bill of lading and without presentation of the original bill of lading are both operations which will take an owner/carrier or other recipient of a Letter of Indemnity outside the scope of their P&I cover. Acceptance of a Letter of Indemnity in the form set out below does not reinstate P&I cover and you may be at risk of significant financial exposure. You should therefore satisfy yourself of the financial standing of the party providing the Letter of Indemnity.

To: [insert name of Owners and/or Managers as appropriate]

[insert date]

The Owners and/or Managers of the [insert name of Vessel]

[insert address]

Dear Sir or Madam

Vessel: [insert name of vessel]
Port of Loading: [as stated in bill of lading]
Port of Discharge: [as stated in bill of lading]
Cargo: [insert description of cargo incl. weight, volume, measurement, quantity figures and remarks as set out in bill of lading]
Bill(s) of Lading: [insert identification numbers, date and place of issue.]

The above Cargo was shipped on the above Vessel by [insert name of shipper] and consigned to [insert name of consignee or party to whose order the bills of lading are made out, as appropriate] for delivery at the Port of Discharge but we, [insert name of party requesting substituted delivery], hereby request you to order the Vessel to proceed to and deliver the said cargo at [insert name of substitute port or place of delivery].

Further, as the Bill(s) of Lading is (are) not currently available to be presented, we also hereby represent and undertake that [insert name of the party to whom delivery is to be given] is the party lawfully entitled to delivery of the said Cargo and request you to deliver the said Cargo to [insert same name] or to such party as you believe to be or to represent [insert same name] or to be acting on behalf of [insert same name] at [insert place where delivery is to be made] without production of the original Bill(s) of Lading.

In consideration of your complying with either or both of our above requests, we hereby agree as follows:

1. To indemnify you, your servants and agents and to hold all of you harmless in respect of any liability, loss, damage or expense of whatsoever nature which you may sustain by reason of delivering the Cargo in accordance with our request.

2. In the event of any proceedings being commenced against you or any of your servants or

agents in connection with the delivery of the Cargo as aforesaid, to provide you or them on demand with sufficient funds to defend the same.

3. If, in connection with the delivery of the Cargo as aforesaid, the Vessel, or any other vessel or property in the same or associated ownership, management or control, or any vessel or property in your ownership, management or control, should be arrested or detained or should the arrest or detention thereof be threatened, or should there be any interference in the use or trading of the Vessel or such other vessels or property (whether by virtue of a caveat being entered on the Vessel's or such other vessel's registry or otherwise howsoever), to:

   (a) provide on demand such bail or other security as may be required to prevent such arrest or detention or to secure the release of the Vessel or such other vessel or property or to remove such interference;

   (b) if you have already provided security, provide on demand equivalent substitute or counter security, whether or not you have made any prior demand upon us and whether or not such security exceeds the value of the Vessel or such other vessel, and

   (c) indemnify you in respect of any liability, loss, damage or expense caused by such arrest or detention or threatened arrest or detention or such interference, whether or not such arrest or detention or threatened arrest or detention or such interference may be justified.

4. If the place at which we have asked you to make delivery is a bulk liquid, dry bulk cargo or gas terminal or other facility, or another vessel, lighter or barge, then discharge or delivery to such terminal, facility, vessel, lighter or barge shall be deemed to be delivery to the party to whom we have requested you to make such delivery.

5. As soon as all original bills of lading for the above Cargo shall have come into our possession, to deliver the same to you.

6. The liability of each and every person under this indemnity shall be joint and several and shall not be conditional upon your proceeding first against any person, whether or not such person is party to or liable under this indemnity.

7. This indemnity shall be governed by and construed in accordance with English law and each and every person liable under this indemnity submits to the exclusive jurisdiction of the High Court of Justice of England.*1

Note:
1. The proforma wording provides for English law and jurisdiction and the wording is drafted on the basis of English law. Choosing English law and the English courts gives a number of benefits. Choosing a different legal or court system may mean that these benefits are lost or that enforcement of the obligations within the letter is more difficult or inconsistent with the enforcement of any other letters of indemnity given in the same charterparty chain.

Yours faithfully for and on behalf of [insert name of Requestor]
The Requestor
Full name .....
Signature .....
Authorised signatory*2

Note:
2. Care should be taken to (a) clearly identify who is signing the letter and (b) have them take reasonable steps to demonstrate that they have authority to sign the letter (such as the use of an official stamp, identification of their role/title, etc).

LOI CC NO BILL AND OTHER PORT WITH BANK

3A Standard Form Letter of Indemnity to be given in return for Delivering Cargo at a Port other than that Stated in the Bill of Lading and Without Production of the Original Bill of Lading Incorporating a Bank's Agreement to join in the Letter of Indemnity

Important

Delivery of cargo at a port other than stated in the bill of lading and without presentation of the original bill of lading are both operations which will take an owner/carrier or other recipient of a Letter of Indemnity outside the scope of their P&I cover. Acceptance of a Letter of Indemnity in the form set out below does not reinstate P&I cover and you may be at risk of significant financial exposure. You should therefore satisfy yourself of the financial standing of the party providing the Letter of Indemnity.

To: [insert name of Owners and/or Managers as appropriate]

[insert date]

The Owners and/or Managers of the [insert name of Vessel]

[insert address]

Dear Sir or Madam

Vessel: [insert name of vessel]
Port of Loading: [as stated in bill of lading]
Port of Discharge: [as stated in bill of lading]
Cargo: [insert description of cargo incl. weight, volume, measurement, quantity figures and remarks as set out in bill of lading]
Bill(s) of Lading: [insert identification numbers, date and place of issue.]

The above Cargo was shipped on the above Vessel by [insert name of shipper] and consigned to [insert name of consignee or party to whose order the bills of lading are made out, as appropriate] for delivery at the Port of Discharge but we, [insert name of party requesting substituted delivery], hereby request you to order the Vessel to proceed to and deliver the said cargo at [insert name of substitute port or place of delivery].

Further, as the Bill(s) of Lading is (are) not currently available to be presented, we also hereby represent and undertake that [insert name of the party to whom delivery is to be given] is the party lawfully entitled to delivery of the said Cargo and request you to deliver the said Cargo to [insert same name] or to such party as you believe to be or to represent [insert same name] or to be acting on behalf of [insert same name] at [insert place where delivery is to be made] without production of the original Bill(s) of Lading.

In consideration of your complying with either or both of our above requests, we hereby agree as follows:

1. To indemnify you, your servants and agents and to hold all of you harmless in respect of any liability, loss, damage or expense of whatsoever nature which you may sustain by reason of delivering the Cargo in accordance with our request.
2. In the event of any proceedings being commenced against you or any of your servants or agents in connection with the delivery of the Cargo as aforesaid, to provide you or them on demand with sufficient funds to defend the same.

LOI CC NO BILL AND OTHER PORT WITH BANK (Continued)

3. If, in connection with the delivery of the Cargo as aforesaid, the Vessel, or any other vessel or property in the same or associated ownership, management or control, or any vessel or property in your ownership, management or control, should be arrested or detained or should the arrest or detention thereof be threatened, or should there be any interference in the use or trading of the Vessel or such other vessels or property (whether by virtue of a caveat being entered on the Vessel's or such other vessel's registry or otherwise howsoever), to:
   (a) provide on demand such bail or other security as may be required to prevent such arrest or detention or to secure the release of the Vessel or such other vessel or property or to remove such interference;
   (b) if you have already provided security, provide on demand equivalent substitute or counter security, whether or not you have made any prior demand upon us and whether or not such security exceeds the value of the Vessel or such other vessel, and
   (c) indemnify you in respect of any liability, loss, damage or expense caused by such arrest or detention or threatened arrest or detention or such interference, whether or not such arrest or detention or threatened arrest or detention or such interference may be justified.
4. If the place at which we have asked you to make delivery is a bulk liquid, dry bulk cargo or gas terminal or other facility, or another vessel, lighter or barge, then discharge or delivery to such terminal, facility, vessel, lighter or barge shall be deemed to be delivery to the party to whom we have requested you to make such delivery.
5. As soon as all original bills of lading for the above Cargo shall have come into our possession, to deliver the same to you.
6. The liability of each and every person under this indemnity shall be joint and several and shall not be conditional upon your proceeding first against any person, whether or not such person is party to or liable under this indemnity.
7. This indemnity shall be governed by and construed in accordance with English law and each and every person liable under this indemnity submits to the exclusive jurisdiction of the High Court of Justice of England.*1

Note:
1. The proforma wording provides for English law and jurisdiction and the wording is drafted on the basis of English law. Choosing English law and the English courts gives a number of benefits. Choosing a different legal or court system may mean that these benefits are lost or that enforcement of the obligations within the letter is more difficult or inconsistent with the enforcement of any other letters of indemnity given in the same charterparty chain.

Yours faithfully for and on behalf of [insert name of Requestor]
The Requestor
Full name .....
Signature .....
Authorised signatory*2

Note:
2. Care should be taken to (a) clearly identify who is signing the letter and (b) have them take reasonable steps to demonstrate that they have authority to sign the letter (such as the use of an official stamp, identification of their role/title, etc).

LOI CC NO BILL AND OTHER PORT WITH BANK (Continued)

We, [insert name of the Bank], hereby agree to join in this Indemnity providing always that the Bank's liability:

1. shall be restricted to payment of specified sums of money demanded in relation to the Indemnity (and shall not extend to the provision of bail or other security)
2. shall be to make payment to you forthwith on your written demand in the form of a signed letter certifying that the amount demanded is a sum due to be paid to you under the terms of the Indemnity and has not been paid to you by the Requestor or is a sum which represents monetary compensation due to you in respect of the failure by the Requestor to fulfil its obligations to you under the Indemnity. For the avoidance of doubt the Bank hereby confirms that:

   (a) such compensation shall include, but not be limited to, payment of any amount up to the amount stated in proviso 3 below in order to enable you:

      (i) to arrange the provision of such bail or other security as may be required to prevent the arrest or detention of the Vessel, or any other vessel or property in the same or associated ownership, management or control, or any vessel or property in your ownership, management or control or any interference in the use or trading of the Vessel or such other vessels or property (whether by virtue of a caveat being entered on the Vessel's or such other vessel's registry or otherwise howsoever), or

      (ii) to secure the release of the Vessel or such other vessel or property or to remove such interference;

   (b) if you have already provided security, to provide on demand equivalent substitute or counter security of any amount up to the amount stated in proviso 3 below, whether or not you have made any prior demand upon us or the Requestor and whether or not such security exceeds the value of the Vessel or such other vessel.
3. shall be limited to a sum or sums not exceeding in aggregate [insert currency and amount in figures and words]
4. subject to proviso 5 below, shall terminate on [date six years from the date of the Indemnity] (the 'Termination Date'), except in respect of any demands for payment received by the Bank hereunder at the address indicated below on or before that dat
5. shall be extended at your request from time to time for a period of two calendar years at a time provided that:

   (c) the Bank shall receive a written notice signed by you and stating that the Indemnity is required by you to remain in force for a further period of two years, and

   (d) such notice is received by the Bank at the address indicated below on or before the then current Termination Date.

   Any such extension shall be for a period of two years from the then current Termination Date and, should the Bank for any reason be unwilling to extend the Termination Date, the Bank shall discharge its liability by the payment to you of the maximum sum payable hereunder (or such lesser sum as you may require).

   However, in the event of the Bank receiving a written notice signed by you, on or before the then

current Termination Date, stating that legal proceedings have been commenced against you as a result of your having delivered the said Cargo as specified in the Indemnity, the Bank agrees that its liability hereunder will not terminate until receipt by the Bank of your signed written notice stating that all legal proceedings have been concluded and that any sum or sums payable to you by the Requestor and/or the Bank in connection therewith have been paid and received in full and final settlement of all liabilities arising under the Indemnity.

6. shall be governed by and construed in accordance with the law governing the Indemnity and the Bank agrees to submit to the jurisdiction of the court stated within the Indemnity.

It should be understood that, where appropriate, the Bank will only produce and deliver to you all original bills of lading should the same come into the Bank's possession, but the Bank agrees that, in that event, it shall do so.

The Bank agrees to promptly notify you in the event of any change in the full details of the office to which any demand or notice is to be addressed and which is stated below and it is agreed that you shall also promptly notify the Bank in the event of any change in your address as stated above.

Please quote the Bank's Indemnity Ref ...in all correspondence with the Bank and any demands for payment and notices hereunder.

Yours faithfully

For and on behalf of [insert name of bank]

[insert full details of the office to which any demand or notice is to be addressed]

Signature