While not intended to be exhaustive, some of these include:

- P&I club cover. There are cover implications whenever a master, or member, issues a bill of lading with knowledge that it contains an incorrect statement as to the quantity of cargo loaded on board the ship (or, for that matter, quality or condition). An LOI doesn’t resolve these issues. Instead, such an LOI stands in the place of P&I club cover.
- It doesn’t matter how ‘watertight’ the LOI wording is if the signatory is of dubious financial means. In these circumstances, a bank countersignature is always prudent.
- Careful thought should always be given to the law and jurisdiction clause of any LOI. Think about where the requestor (and its assets) is based and whether it will be easy to enforce an English High Court judgment locally, in that jurisdiction, if enforcement proves necessary. For example, in China, English High Court judgments are unenforceable and it would be better to amend the law and jurisdiction clause of the LOI to read London arbitration. See our earlier publication on this topic on our website.

With the above in mind, what follows is a suggested draft LOI capable of being tailored to meet circumstances where a shipper or charterer insists upon shoreside figures being inserted onto a bill of lading, compared to (different) shipside figures.

There are numerous considerations to take into account when preparing a letter of indemnity (LOI).
Draft letter of indemnity continued

We, [insert name of charterer/shipper requesting changes], hereby request you to issue Bill(s) of lading differing from the Mate’s Receipts as follows:

To insert the following shoreside figure(s), provided by the [insert name] terminal (“Shoreside figures”) onto the Bill(s) of Lading, rather than, and in substitution for, the Ship’s own figures as to the quantity of Cargo loaded on board the Ship, as stated in the Mate’s Receipts:

Shoreside figures: [insert]
Ship’s own figures (as per Mate’s Receipts): [insert]

In consideration of your complying with 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 complying with any and/or all of the above requests.

2. In the event of any proceedings being commenced against you or any of your servants or agents in connection with your complying with any and/or all of the above requests, to provide you or them on demand with sufficient funds to defend the same.

3. If, in connection with your complying with any and/or all of the above requests, the ship, or any other ship or property in the same or associated 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 ship (whether by virtue of a caveat being entered on the ship’s registry or otherwise howsoever), to provide on demand such bail or other security as may be required to prevent such arrest or detention or to secure the release of such ship or property or to remove such interference and to 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. 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.

5. This indemnity shall be governed by and construed in accordance with English law and each and every person liable under this indemnity shall at your request submit to the jurisdiction of the High Court of Justice of England.

Yours faithfully,
For and on behalf of [insert name of Requestor]
The Requestor

................................................................................................................................................
Signature

For and on behalf of [insert name of bank] Bankers

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Signature