

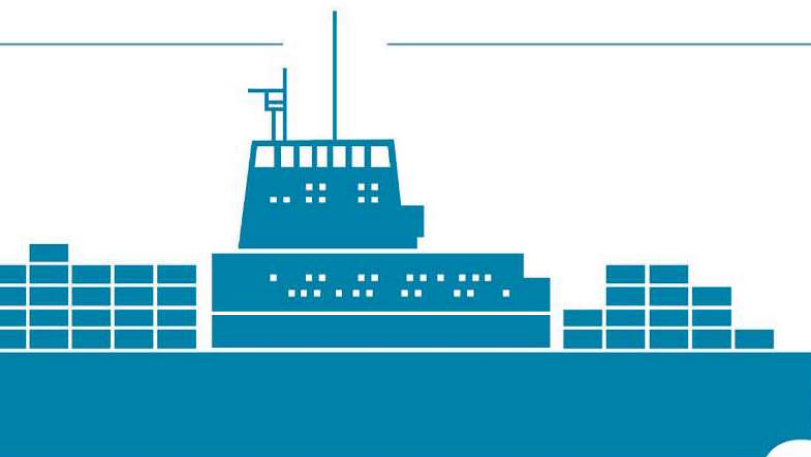
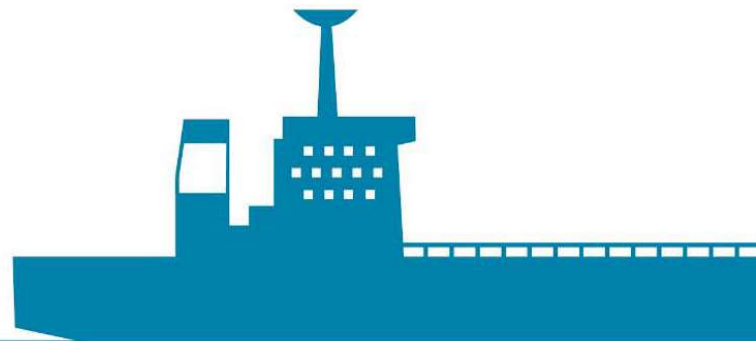


Charter Party Disputes & Cargo Claims

LeRoy Lambert
General Counsel

Hannah Morris
Underwriting Director

Clement Lehembre
Claims Executive



STANDARD CLUB New York Forum

7 June 2018

Charter party disputes / cargo claims roundtable	
1	Letters of indemnity – what’s the big deal?
2	Reefer cargoes
3	Clause paramount—should your charter always include one?
4	Safe port / safe berth: warranty / due diligence / <i>The Athos</i> / decision / right to refuse orders
5	Abandoned / overboard cargoes: what’s an owner to do?
6	Description of goods in bills of lading—preserve your right to limit!
7	Recent English cases: “always accessible” / bulk cargoes – limitation of liability / “within port limits” / who is your agent?
8	Recent FD&D matters in the New York office
9	The Both to Blame Collision Clause: what’s that about?
	AOB



Letters of indemnity

Letters of indemnity are issued every day – what's the big deal from a club perspective?

- 1 Rule 3.13 contains the terms upon which the club provides cover for liabilities arising out of the carriage of goods by a member. Unless the board otherwise determines, there is no cover if a liability arises out of
 - a. delivery of cargo without production of original bill of lading
 - b. a bill of lading which records the date of shipment on a date other than the date on which the cargo was in fact loaded
 - c. a bill of lading issued with the knowledge of the member "with an incorrect description of the cargo or its quantity or its condition"
 - d. Liabilities arising out of the above scenarios are commercial/operational decisions taken by a member; the law does not oblige the member to deliver cargoes in these circumstances or to issue incorrect bills of lading; indeed, the law prohibits the latter; liability arises as a matter of choice by a member; not a mutual risk shared by all.
- 2 Scenarios
 - a. When master knows the quality or quantity is not correctly described in the bill of lading
 - b. When the original bill of lading has not arrived at the discharge port
 - c. When the cargo is to be delivered at a port other than the one named in bill of lading
 - d. Commingling
 - e. Blending
 - f. "Switch" bills
 - g. One original on board
- 3 Charterers and cargo owners, however, have long pressured members to issue incorrect bills of lading and/or deliver cargoes without production of original bills of lading.
 - a. The International Group recognized the practice and approved the text of "letters of indemnity" (LOI's) which addressed SOME (not all) of these scenarios, namely, (b) and (c) above
 - b. BUT using these forms does NOT "reinstate" cover. If a claim arises, the member is NOT covered for the liability unless the board in its discretion agrees
 - c. There are no IG forms for scenarios (a), (d), (e), (f) and (g) above, although there is ongoing discussion about (d) and (e).
- 4 Additional cover as a solution? Cargo deviation cover (attached).



Enclosures to Tab 1:

- Circulars: 9 March 2001 and 20 Oct 2010
- IG approved form for delivery without production of bill of lading
- IG approved form for change of destination
- Unapproved form: commingling/blending
- Web alert 16 December 2015: re delivery of cargo against one original bill of lading retained on board
- Cargo deviation cover



club circular

TO ALL MEMBERS

9th March 2001

Dear Sirs,

BILLS OF LADING - DELIVERY OF CARGO

Standard forms of letters of indemnity to be given in return for:

- (A) Delivery of cargo without production of the original bill of lading
- (B) Delivery of cargo at a port other than that stated in the bill of lading
- (C) Delivery of cargo at a port other than that stated in the bill of lading and without production of the original bill of lading

In December 1998, the clubs in the International Group issued a circular to members recommending revised wordings of the standard form Letters of Indemnity for use by members in circumstances where they are requested to deliver cargo without production of the original bill of lading and/or to deliver cargo at a port other than that stated in the bill of lading.

As a result of comment from shipowners and shipowners' organisations, a further review of the wordings has been undertaken and further modifications to the standard wordings have now been made. Moreover, discussions have taken place between the International Group and the British Bankers Association (BBA) and a separate standard wording has been agreed on the basis of which banks members of the BBA will now be prepared, in principle, to join in the Letters of Indemnity while, through the auspices of the International Chamber of Commerce, the BBA will endeavour to promote this agreed standard wording within the international business community. The BBA has also given its general approval to this circular.

In consequence of the agreement reached with the BBA, the three recommended standard form Letters of Indemnity are now issued in two versions: INT GROUP A (for delivery of cargo without production of the original bill of lading), INT GROUP B (for delivery of cargo at a port other than that stated in the bill of lading against production of at least one original bill of lading), and INT GROUP C (for delivery of cargo at a port other than that stated in the bill of lading and without production of the original bill of lading) for use when the commercial party requesting delivery (the "Requestor") will alone be signing the Letter of Indemnity, and INT GROUP AA, INT GROUP BB and INT GROUP CC for use when a bank will be joining in the Letter of Indemnity and which forms incorporate, in addition to the same indemnities given by the Requestor under INT GROUP A, B and C, the separate standard wording agreed with the banks.

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Registered in England No 2561548

The Standard Steamship Owners' Protection and Indemnity Association (Bermuda) Limited

The principal features of the new wordings are explained below.

Financial Limit

The liability of the Requestor should generally not be limited. However, where a bank is to join in the Letter of Indemnity it will generally insist upon a fixed monetary limit. The amount of the limit must be a matter for negotiation in order that it properly reflects the potential exposure in the particular circumstances, taking into account, *inter alia*, the sound market value of the cargo at the time of delivery, but it is recommended that the limit should be a minimum of 200% of the sound market value of the cargo at the time of delivery.

Duration of security

Under INT GROUP A and AA, the liability of the Requestor (and, hence, the bank under AA) terminates upon the delivery of all original bills of lading to the shipowner. If the original bills of lading are not delivered to the shipowner, the Requestor's liability under the Letter of Indemnity continues.

Subject to delivery of all original bills of lading as stated, and to the two exceptions described below, the bank's liability under INT GROUP AA is for an initial period of six years, but which is automatically renewable from time to time for further periods of two years at the request of the shipowner. The exceptions are (1) that, rather than agree to an extension of its liability, the bank has the option of discharging its liability by paying the maximum amount payable under its indemnity and (2) that, in the event of a demand being made by the shipowner to the bank for payment under the indemnity before the termination date, or in the event of the bank being notified by the shipowner of the commencement of legal proceedings against the shipowner before the termination date, the liability of the bank will continue until the demand has been paid or the legal proceedings have been concluded, the bank, if called upon so to do, paying the amount of any judgment or settlement payable by the shipowner if the Requestor has failed to do so.

Under INT GROUP B, C, BB and CC, since it is possible for a claim to be pursued against a shipowner for delivering cargo at a port other than that stated in the bill of lading despite cargo being delivered against production of the original bill of lading, or all original bills of lading being subsequently delivered to the shipowner (in particular, in circumstances where a charterer may require a cargo owner to receive his cargo at such other port against his wishes and request the shipowner to accommodate his request), the liability of the Requestor will continue until it can be established to the satisfaction of the shipowner that no such claim will be made.

Accordingly, unless the shipowner is satisfied that no claim of this nature will be made, the liability of the bank under INT GROUP BB and CC will be as described under INT GROUP AA above.

Scope of security

The Requestor is obliged to provide bail or other security not only to prevent or lift the arrest of the ship the subject matter of the indemnity, but also any other ship in the same or associated ownership, management or control. In addition, the Requestor is obliged to provide bail or other security to prevent interference in the use or trading of the ship, such as a caveat being entered on the ship's registry to prevent the sale of the ship the subject matter of the indemnity.

Where a bank joins in the Letter of Indemnity it will generally not agree to provide bail or other security. However, the bank will pay any amount up to the limit of its liability under the Letter of Indemnity in order to enable the shipowner to arrange the provision of security if the Requestor fails to provide bail or other security.

Tankers

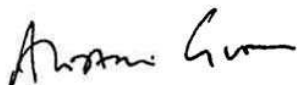
A provision designed to give greater security to tankers has been incorporated, whereby requested delivery of a bulk liquid or gas cargo to a terminal or facility, or to another ship, lighter or barge is to be deemed to be delivery to the party to whom delivery has been requested.

Members are again reminded that, unless the Board otherwise determines, there is no cover in respect of liabilities arising out of the delivery of cargo without production of the original bill of lading and/or delivery at a port other than that stated in the bill of lading and that, in such circumstances, members are strongly advised to ensure that they are fully satisfied with the financial standing and authority of those who are to issue and sign these indemnities.

The standard form Letters of Indemnity are designed to cover a broad range of trades and operations, and members may wish to modify the standard forms to suit particular requirements. However, in this event, it must be appreciated that if a bank is to join in the Letter of Indemnity there may be limited scope for amendment, and that the Requestor's bank will have to be consulted if any material change is contemplated. The Managers will be pleased to advise members regarding any proposed modification.

Finally, it is not uncommon for members to be requested by charterers to agree clauses in charter parties which expressly provide for the delivery of cargo without production of bills of lading and/or at ports other than those stated in the bills of lading against Letters of Indemnity. Members are strongly advised not to accept such clauses and it is recommended that members seek advice from the Managers before responding to such requests.

Yours faithfully,



A.J. Groom
Chief Executive
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E-mail: alistair.groom@ctg-eu.com

CIRCULAR

SETTING THE STANDARD FOR SERVICE AND SECURITY

TO ALL MEMBERS

20 October 2010

Dear Sirs

INTERNATIONAL GROUP STANDARD FORM LETTERS OF INDEMNITY AND DELIVERY OF CARGO WITHOUT PRODUCTION OF BILLS OF LADING

The purpose of this circular is to:

- 1 remind members of the implications for club cover of delivering cargo without production of the bills of lading and of the International Group of P&I Clubs (IG) standard form letters of indemnity and
- 2 advise members of new precautions to be taken when accepting a letter of indemnity for delivery of cargo without production of the original bill of lading

Club cover and letters of indemnity

If cargo is delivered without production of the original bill of lading there may be an allegation that the cargo has been delivered to the wrong party. Members are reminded that, unless the board otherwise determines, there shall be no recovery from the club in respect of liabilities arising out of the delivery of cargo without production of the original bill of lading and/or delivery at a port other than that stated in the bill of lading. If they cannot produce the bill of lading, cargo claimants may offer a letter of indemnity. In such circumstances, members are strongly advised to ensure that they are fully satisfied with the financial standing and authority of those who are to issue and sign these indemnities.

The standard form letters of indemnity are designed to cover a broad range of trades and operations, and members may wish to modify the standard forms to suit particular requirements. However, in this event, it must be appreciated that if a bank is to join in the letter of indemnity there may be limited scope for amendment, and that the bank will have to be consulted if any material change is contemplated. The managers will be pleased to advise members regarding any proposed modification.

Members may be requested by charterers to agree clauses in charter parties which expressly provide for the delivery of cargo without production of bills of lading and/or at ports other than those stated in the bills of lading against letters of indemnity. Members are strongly advised not to accept such clauses and it is recommended that members seek advice from the managers before responding to such requests.

.. / ...

The Standard Steamship Owners' Protection and Indemnity Association (Bermuda) Limited

www.standard-club.com

Incorporated in Bermuda No. 01837. Authorised and regulated by the UK Financial Services Authority

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CTC
CHARLES TAYLOR
CONSULTING

The IG has previously recommended three standard forms of letters of indemnity to be issued when the party requesting delivery is to sign the letter of indemnity. These letters are given in return for:

- (A) delivery of cargo without production of the original bill of lading (INT GROUP A wording)
- (B) delivery of cargo at a port other than that stated in the bill of lading (INT GROUP B wording)
- (C) delivery of cargo at a port other than that stated in the bill of lading and without production of the original bill of lading (INT GROUP C wording).

A second version of each of these letters of indemnity was drafted for use when a bank counter signs (INT GROUP AA, INT GROUP BB and INT GROUP CC wordings respectively).

Delivery of cargo without production of bills of lading – new additional precautions

Following a recent English court decision (Farenco Shipping Co Ltd –v- Daebop Shipping Co Ltd (LLR (2009) Vol 1 81 (the 'BREMEN MAX')) the club recommends that members take two further precautions if they choose to accept a letter of indemnity for delivery of cargo without production of the original bill of lading.

1. *The identity of the party to whom delivery is to be made*

The opening paragraph of the letter of indemnity includes several items of information that should be inserted when the letter of indemnity is issued. It is recommended that as well as inserting the name of the specific party to whom delivery is to be made, members should request that the wording is extended to include that party's representatives (in the INT GROUP A, AA, C and CC wordings). For example, if the member is asked to deliver the cargo to XYZ Ltd, the letter of indemnity should expressly state the party to whom delivery is to be made is:

"XYZ Ltd or to such party as you believe to be or to represent XYZ Ltd or to be acting on behalf of XYZ Ltd".

If a specific party only is named in the letter of indemnity, the member may be assuming the burden of properly identifying that party. If the member then mis-identifies the party, and delivers to a different party, there is then the risk that the member is not entitled to an indemnity, because he has not satisfied the pre-conditions in the letter of indemnity for delivery to the named party. The wording suggested above is designed to ensure so far as possible, that if the member believes that the party to whom physical delivery of the cargo is given is XYZ Ltd or is acting on behalf of XYZ Ltd, he can rely on the letter of indemnity.

2. *Timing of demands for security under the letter of indemnity*

If a member delivers cargo without production of the bill of lading (in return for a letter of indemnity) and it is alleged that it has mis-delivered the cargo, the claimant may demand security. If so, the member should immediately give notice to the issuer of the letter of indemnity that:

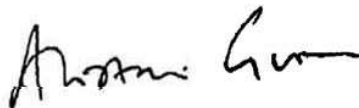
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- (a) a claim has been notified,
- (b) security has been demanded from the member, and
- (c) the member now requires to be secured by the issuer in accordance with paragraph number 3 of the letter of indemnity.

It is essential that this is done before the member provides any security to the claimant. The member may prejudice his right to demand and receive security under the letter of indemnity if he provides security to the claimant before making his own demand for security under paragraph number 3 of the letter of indemnity.

All clubs in the International Group have issued circulars on this subject.

Yours faithfully



Alistair Groom
Chief Executive
Charles Taylor & Co Limited

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G19 (A)

**STANDARD FORM LETTER OF INDEMNITY TO BE GIVEN IN RETURN FOR
DELIVERING CARGO WITHOUT PRODUCTION OF THE ORIGINAL BILL OF LADING**

[insert date]

To : [insert name of Owners]
The Owners of the [insert name of ship]
[insert address]

Dear Sirs

Ship: [insert name of ship]
Voyage: [insert load and discharge ports as stated in the bill of lading]
Cargo: [insert description of cargo]
Bill of lading: [insert identification numbers, date and place of issue]

The above cargo was shipped on the above ship by [insert name of shipper] and consigned to [insert name of consignee or party to whose order the bill of lading is made out, as appropriate] for delivery at the port of [insert name of discharge port stated in the bill of lading] but the bill of lading has not arrived and we, [insert name of party requesting delivery], hereby request you to deliver the said cargo to [insert name of party to whom delivery is to be made] or such party as you believe to be or to represent _____ or to be acting on behalf of _____ at [insert place where delivery is to be made] without production of the original bill of lading.

added
in 2019 →

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 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.

/Cont ...

4. If the place at which we have asked you to make delivery is a bulk liquid or gas terminal or facility, or another ship, lighter or barge, then delivery to such terminal, facility, ship, 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, or otherwise to cause all original bills of lading to be delivered to you, whereupon 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 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

G19 ⑧

**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**

[insert date]

To : [insert name of Owners]
The Owners of the [insert name of ship]
[insert address]

Dear Sirs

Ship: [insert name of ship]
Voyage: [insert load and discharge ports as stated in the bill of lading]
Cargo: [insert description of cargo]
Bill of lading: [insert identification numbers, date and place of issue]

The above cargo was shipped on the above ship by [insert name of shipper] and consigned to [insert name of consignee or party to whose order the bill of lading is made out, as appropriate] for delivery at the port of [insert name of discharge port stated in the bill of lading] but the bill of lading has not arrived and we, [insert name of party requesting delivery], hereby request you to deliver the said cargo to [insert name of party to whom delivery is to be made] or such party as you believe to be or to represent _____ or to be acting on behalf of _____ at [insert place where delivery is to be made] without production of the original bill 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.
4. 3. If, in connection with the delivery of the cargo as aforesaid, 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 vessel (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.

/Cont ...

4. If the place at which we have asked you to make delivery is a bulk liquid or gas terminal or facility, or another ship, lighter or barge, then delivery to such terminal, facility, ship, 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, or otherwise to cause all original bills of lading to be delivered to you, whereupon 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 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

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 to arrange the provision of security to release the ship (or any other ship in the same or associated ownership, management or control) from arrest or to prevent any such arrest or to prevent any interference in the use or trading of the ship, or other ship as aforesaid, and

/Cont ...

- (b) in the event that the amount of compensation so paid is less than the amount stated in proviso 3 below, the liability of the Bank hereunder shall continue but shall be reduced by the amount of compensation paid.
- 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.

/Cont ...

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

G18 (A)

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

(insert date)

To: [Insert name of Owners]
the Owners of the [insert name of ship]

Dear Sirs,

Ship: [insert name of ship]
Voyage: [insert load/discharge port, as stated in the bill of lading]
Cargo: [insert description of cargo]
Bill(s) of lading: [insert identification number, date, place of issue]

The above cargo was shipped on the above ship by [insert name of shipper] and consigned to [insert name of consignee or party to whose order the bill of lading is made out, as appropriate] for delivery at the port of [insert name of discharge port stated in the bill of lading] but we, [insert name of party requesting substituted delivery], hereby request you to order the ship 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 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 the ship proceeding and giving delivery of the cargo against production of at least one original bill of lading 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 ship proceeding and giving 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 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.

/Cont ...

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

G18 (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 INCORPORATING A BANK'S AGREEMENT TO JOIN IN THE LETTER OF INDEMNITY

(insert date)

To: *[Insert name of Owners]*
the Owners of the *[insert name of ship]*

Dear Sirs,

Ship: *[insert name of ship]*
Voyage: *[insert load/discharge port, as stated in the bill of lading]*
Cargo: *[insert description of cargo]*
Bill(s) of lading: *[insert identification number, date, place of issue]*

The above cargo was shipped on the above ship by *[insert name of shipper]* and consigned to *[insert name of consignee or party to whose order the bill of lading is made out, as appropriate]* for delivery at the port of *[insert name of discharge port stated in the bill of lading]* but we, *[insert name of party requesting substituted delivery]*, hereby request you to order the ship 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 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 the ship proceeding and giving delivery of the cargo against production of at least one original bill of lading 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 ship proceeding and giving 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 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 vessel (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.

/Cont ...

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

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 or 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 to arrange the provision of security to release the ship (or any other ship in the same or associated ownership, management or control) from arrest or to prevent any such arrest or to prevent any interference in the use or trading of the ship, or other ship as aforesaid, and
 - (b) in the event that the amount of compensation so paid is less than the amount stated in proviso 3 below, the liability of the Bank hereunder shall continue but shall be reduced by the amount of compensation paid.

/Cont ...

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 the 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.

/Cont ...

- 4 -

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

**LETTER OF INDEMNITY
FOR BLENDING/COMMINGLING CARGOES ON BOARD
AND SUBSTITUTING BILLS OF LADING**

Date []

[Insert name of shipowner]
[insert address]

Dear Sirs

Ship: [insert name of ship]
Voyage: [insert details]
Charterparty dated [insert date] between [insert name of parties]
Bills of Lading [insert identification numbers, dates and places of issue]

The above vessel has loaded the following cargo(es):

- a) at [place] on [date], [insert quantity loaded] m/t of [type of cargo]
- b) at [place] on [date], [insert quantity loaded] m/t of [type of cargo]

and bills of lading have been issued as follows:

Bills of lading [insert identification numbers, dates and places of issue]

Further to the above, the vessel is to load/ has loaded [delete as appropriate] the following cargo(es):

- c) at [place] [date], [insert quantity loaded] m/t of [type of cargo]
- d) at [place] [date], [insert quantity loaded] m/t of [type of cargo]

and bills of lading were to be/have been [delete as appropriate] issued accordingly.
Bills of lading [insert identification numbers, date and place of issue]

We, [insert name of requesting party], Charterers of the above vessel under the above charterparty, now wish the cargo(es) referred to in (... [a, b, c or d]) and ([a, b, c or d]) above to be blended/commingled on board the vessel and hereby request you order the vessel to perform the said blending/commingling of the cargo(es).

We also request you to substitute the original bills of lading for the cargo(es) referred to in ([a, b, c or d]) and ([a, b, c or d]) above with new bills of lading for cargo(es) referred to in ([a, b, c or d]) and ([a, b, c or d]). The new bills of lading are to be issued in the same form and content as the substituted bills, except as follows:

(i) [insert details of changes, e.g., to issue date, shipper, consignee, etc.]

(ii) they will contain in description of the cargo the following statement: "[insert quantity] m/t of [type of cargo] blended/commingled on board from [insert quantity] m/t of [type of cargo] loaded at [loading port] on [date] and [insert quantity] m/t of [type of cargo] loaded at [loading port] on [date]"

(iii) they will contain the following exclusion of carrier's liability: "the carrier shall not be liable for any loss or damage to the cargo whatsoever and howsoever arising from the blending/commingling, whether or not arising from negligence on the part of the carrier, their servants or agents"

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 and howsoever arising, including but not limited to any liability in connection with change of quantity, quality or pumpability and/or any damage to the vessel including tanks, pumps and lines, and which you may sustain by reason of blending/commingling cargo(es) on board and/or by issuing bills of lading in accordance with our request.
2. To accept full responsibility and risk for the success or otherwise of the blending/commingling operation and the consequences of any failure of whatsoever nature and howsoever arising from the operation, whether or not arising from your, your servants' or your agents' negligence.
3. To pay you on demand the amount of any loss, damage or expense of whatsoever nature and howsoever arising which you, your servants or agents may incur or be faced with incurring by reason of blending/commingling cargo(es) on board and/or by issuing bills of lading in accordance with our request.
4. To treat all time used during or arising from blending/commingling cargo(es) on board and/or by issuing bills of lading as time on hire/laytime or time on demurrage [delete as appropriate].
5. To provide to your satisfaction, and as a pre-requisite to the commencement of any blending/commingling operation, the following:
 - (a) A letter of indemnity in these terms, with authorised signatures.
 - (b) Surrender of all of the original bills of lading for the cargo(es) referred to in ([a, b, c or d]) and ([a, b, c or d]) together with written confirmation from the holders/transferees of those bills of lading that they have lawful title to the cargo(es) and are authorised in their own right and by the owners of the cargo(es) to:
 - (i) Authorise the blending/commingling operation and substitution of those original bills of lading as requested herein.
 - (ii) Accept substitution of those bills of lading by new bills of lading in the terms stated above, such substitution taking effect at the time of issue of the new bills of lading.
6. In the event of any proceedings being commenced against you or any of your servants or agents in connection with blending/commingling cargo(es) on board and/or issuing bills of lading in accordance with our request, to provide you or them on demand with sufficient funds to defend the same.
7. If, in connection with blending/commingling cargo(es) on board and/or issuing bills of lading in accordance with our 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 vessel (whether by virtue of a caveat being entered on the ship's registry or otherwise), 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 interference may be justified.
8. 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