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To: Transport Industry Operators



In our newsletter last month, we talked about some essential terms in house Air Waybills. In this issue, as the continuation of the loss prevention exercise for freight forwarders, we would like to discuss some essential terms in house Bills of Lading.

Period of responsibility

On the front page of the house Bill of Lading, there should be "Place of receipt" and "Place of delivery" in addition to "Port of loading" and "Port of discharge". Otherwise, the freight forwarders' business will be limited to those shipments from port to port only. But the freight forwarders are doing a lot of "door to door" and "warehouse to warehouse" business every day.

Definition of carrier

The freight forwarder is the carrier under its own house Bill of Lading contract with the shipper and consignee. The freight forwarder cannot state that the carrier under its own house Bill of Lading contract is a shipping company. The shipping company has not given such authority to the freight forwarder to say so. The shipping company is only the carrier under its own Master Bill of Lading or Sea Waybill contract.

Hague or Hague Visby Rules

This house Bill of Lading contract term stipulates that the Hague Rules or the Hague Visby Rules applies to the carriage of the cargoes by sea.

General Average and Salvage

This house Bill of Lading contract term makes the shipper and consignee indemnify the freight forwarder against any General Average and Salvage claims.

Uncollected cargoes

This house Bill of Lading contract term gives the freight forwarder the right to sell or dispose of the uncollected cargoes. Without this contract term, the freight forwarder may be liable to the shipper or consignee for conversion if the freight forwarder sells or disposes of the uncollected cargoes without any authority.

Particular and General lien

This house Bill of Lading contract term gives the freight forwarder the right to lien the cargoes if the shipper or consignee fails to pay off any outstanding debts due to the freight forwarder no matter the outstanding debts are related to the cargoes under the house Bill of Lading or not.

Freight charges

This house Bill of Lading contract term stipulates that (i) the freight charges shall be deemed fully earned and non-returnable upon receipt of the cargoes by the freight forwarder, (ii) the shipper or consignee shall not reduce the freight charges on account of any claim, counterclaim or set-off, and

(iii) the carrier shall be entitled to interest (e.g. 2% per month) if the shipper or consignee fails to pay the freight charges timely (e.g. within one month).

Liberty to carry

This house Bill of Lading contract term gives the right to the freight forwarder to decide on the means, manner, routes and procedures in the performance of the services under the house Bill of Lading contract.

Limitation of liability

This house Bill of Lading contract term gives the right to the freight forwarder to limit its liability to say 2 SDR per Kg of the gross weight of the cargoes concerned for cargo loss, damage, delay, misdirection, misdelivery and any other cargo claims in relation to incidents that happen outside the sea carriage.

Per event limit

This house Bill of Lading contract term gives the freight forwarder a further limit of liability per event (e.g. 200,000 SDR per event).

Frustration

This house Bill of Lading contract term gives the right to the freight forwarder to terminate and/or abandon the services if the services are affected by any risk, delay, hindrance, difficulty and/or disadvantage of any kind whatsoever (e.g. port congestion, strike, the failure of the shipper or consignee to pay the freight charges for more than 2 months).

Suit time limit

This house Bill of Lading contract term discharges the freight forwarder of all liability if the shipper or consignee does not sue the freight forwarder within say 9 months.

Law and jurisdiction

This house Bill of Lading contract term stipulates what law (e.g. the Hong Kong law) governs the contract and what court (e.g. the Hong Kong courts) exclusively determines claims or disputes.

We suggest freight forwarders check their own house Bills of Lading to see whether the above contract terms are contained therein.

Please feel free to contact us if you have any questions about house Bills of Lading.

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