



What Makes a Contract Special?

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Insurers are seeing an increase in wrongful release cases. Generally, during an economic downturn, the cases for wrongful release rise for several reasons. Perhaps the consignee cannot pay or the shipper goes bankrupt, but, more often, the Freight Forwarder is forced into releasing under pressure.

If the Freight Forwarder believes something does not feel right, this is often the case. Threats of being sued or rising demurrage/storage might be made to persuade the Forwarder in doing something he wouldn't usually do.

The correct mechanism to release the cargo is the acceptance of one original endorsed bill of lading. Carriers may use Express or Telex release, but this requires trust from both the shipper and carrier.

Five common faults of Forwarders' mistakes:

1. Original bills of lading. Ensure this is correctly endorsed if negotiable and is the original. If the fine wording looks blurred or misspelt, it is likely a fraudulent document.
2. Express or Telex Bills. Must ensure both the shipper and consignee shown on the document have confirmed payment in writing and agree to the release. A letter of indemnity (LOI) is required from the consignee to confirm they have sighted and agree to the terms and conditions.
3. Non-negotiable and negotiable bills. Avoid accepting negotiable House bills with non-negotiable Master bills. Ensure any endorsement is clear and matches to the consignee. Remember that no Express/Telex release can be negotiable. The consignee must always remain the same.
4. Never accept a letter of indemnity as security to release the cargo. The only security to accept is a First-Class Bank Guarantee for 200% of cargo value.
5. Never be misled by local law or threatened. Without the correct mechanism to release the cargo, the only other genuine way is to obtain a court order. Remember that shipping is international and requires all jurisdictions to comply.

If bills of lading are lost by the courier, this can be a cost error. The courier compensation will be based on weight, so, for a paper document, this will be minimal. The shipper will often blame the Forwarder and ask them to provide the bank guarantee. Generally, the shipper, not the Forwarder, must provide the bank guarantee because as soon as the documents leave the premises, they become the shipper's responsibility.

Never agree to waive the Guarantee or accept a LOI because you consider someone a good client. This would leave you uninsured, and you could receive claims for not only the full cargo amount but consequential damages as well.

Members should always check with their insurance provider before any release. This will protect you against any claim and can remove the commercial pressure often applied by the merchant.

Questions? Please contact us at info@worldinsuranceagency.com.