



Corporate Banking

top@doc Newsletter

Particulars regarding the “claim settling agent” on an insurance document



Indication of the “claim settling agent” on the transport insurance document to be presented under a documentary credit is a frequent request. This condition appears, on first sight, to pose no problem. But, as so often happens, the devil is in the detail. Why this is the case and how to correctly prepare an insurance document is explained using a case study in top@doc’s current issue.

WellDone Ltd. receives a credit in its favour that covers the export of goods to India. The terms of the credit provide, inter alia, for the presentation of an insurance document:

“Full set insurance policy/certificate issued to the order of applicant, covering institute cargo clauses (A) and institute war, strike clauses (cargo), indicating the name and phone/fax no. the claim settling agent in India, claims are payable in India.”

WellDone Ltd. submits the documents required for drawings on the credit to its principal banker, Careful Bank. The credit payable at sight is available with Careful Bank which had confirmed it by order of the issuing bank. For this reason, WellDone Ltd. takes it for granted that the countervalue of the documents will be credited to its account in the very near term.

However, rather than making the payment, Careful Bank advises WellDone Ltd. that it will not accept the documents given the fact that the requested information concerning the

“claim settling agent” has not been stated on the insurance certificate.

Initially, WellDone Ltd. is quite astonished by the non-acceptance of the documents since the insurance certificate in question shows the following:

“In case of loss or damages immediately contact:

MSC John Doe

Harbour Lane No. 23

Chennai

India

Phone: + 91 44 123 456 78

Fax: + 91 44 234 567 89”

WellDone Ltd. believes that the requirement for indicating a “claim settling agent” on the insurance certificate has thus been met and that the non-acceptance of the documents on the part of Careful Bank is therefore not justified.

In response to its respective inquiry, WellDone Ltd. gets the following explanation from Careful Bank:

The insurance certificate presented states that in the case of loss or damage “MSC John Doe” is to be contacted. However, this does not fulfill the requirement for indicating a “claim settling agent”. “MSC John Doe” might as well act, according to this wording, as a “surveyor” who, as an expert for

transportation damage, surveys and documents any damage and determines the amount of such damage or loss.

On the other hand, the “claim settling agent” is the insurer’s local agent. As such, he is authorised to arrange for the settlement and/or direct payment of the sustained and insured damage.

Both functions (surveyor and insurer’s local agent) may be performed by one and the same person. However, this is not a mandatory rule.

The insurance document does not clearly state that “MSC John Doe” actually acts as “claim settling agent”. Therefore, the credit requirement is not fulfilled.

The non-acceptance of the documents is now understandable to WellDone Ltd. – and it instructs the insurer to issue a new insurance certificate which now shows the following:

“claim settling agent:
MSC John Doe
Harbour Lane No. 23
Chennai
India
Phone: + 91 44 123 456 78
Fax: + 91 44 234 567 89”

The insurance certificate is thus compliant with the terms and conditions of the credit. Since the other documents show no discrepancies whatsoever and the insurance certificate was replaced within the presentation period, WellDone Ltd. will shortly receive payment for the countervalue of the documents.

Do you have any questions or suggestions regarding top@doc?

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