

## **DAVE LOG s.r.o. Forwarding Terms 2024**

DAVE LOG s.r.o. uses in its activities the following forwarding conditions governed by the Civil Code 89/2012 Coll. (hereinafter referred to as "the New Civil Code" or "the NCC")

### **Preamble:**

Section 2471 (art.1) of the NCC defines the forwarding contract as follows:

"By the forwarding contract, the Forwarder commits the Principal to arrange in his own name and on his account transport of the consignment from a certain place to a certain other place, or to arrange or carry out related transport operations, and the ordering party undertakes to pay the Forwarder the remuneration. Other provisions on the forwarding contract include Section 2471 (art. 2) and Section 2472 to Section 2482 of the NCC.

### **Art. I.**

#### **Forwarder's Rights and Obligations**

##### The Forwarder is obliged

- 1) to carry out their activities with the necessary care. The Forwarder in particular:
  - a) duly takes care of the things the Principal entrusted to him and of the things he has received for the Principal,
  - b) keeps, for the needs of the ordering party, for a reasonable period of time or for a period of time agreed the documents, which he has obtained in performing the delivery contract,
  - c) warns the Principal of the obvious misstatement of his instructions. If the ordering party insists on instructions, the Forwarder is not liable for any damage. The Forwarder is entitled to ask the ordering party to supplement his orders. The Forwarder is not obliged to review the accuracy of the data provided by the ordering party,
  - d) at the request of the Principal, to give the name of the carrier with whom he has concluded the contract of carriage,
  - e) provides the Principal with a report on the damage which the consignment is threatened or has already been incurred as soon as it becomes aware of it, without undue delay.

- 2) The Forwarder is liable for damage incurred on the consignment received in the provision of the transport, or for the provision or performance of related transport operations, if he cannot prove that the damage could not have been averted or its extent could not have been diminished with the necessary care.
- 3) In case of a danger of delay, the Forwarder proceeds in the interest of protecting the consignment even without the order of the ordering party, to protect the interests of the Principal according to the information known to the Forwarder.
- 4) The Forwarder identifies the weight of the consignment only if agreed with the ordering party. For new facts, the Forwarder is obliged to immediately inform the Principal.
- 5) Unless otherwise agreed in writing, he examines and searches for a more convenient way of shipment within the scope of commercial usage.
- 6) The Forwarder follows the instructions of the Principal regarding customs clearance. In the case where it is not possible to carry out customs clearance according to the instructions of the ordering party, he is obliged to inform the Principal about it without delay.

The Forwarder is entitled to

- 1) request the Principal to provide the order for delivery (Forwarding order) in writing, unless the contract is concluded in writing,
- 2) require the Principal a reasonable advance payment covering the costs associated with the performance of the contract, before commencing with the performance of the contract,
- 3) demand from the Principal the agreed remuneration or, if not agreed, a remuneration to be paid according to the Forwarder's rates, or an appropriate remuneration which is normally provided at the time of the conclusion of the contract and under similar contractual terms. In addition, the Forwarder shall also be entitled to the reimbursement of the necessary and useful expenses, as well as the costs expediently incurred in carrying out the Forwarding contract,
- 4) require the Principal to pay the remuneration once he has entered into a contract with the carrier and has handed over the consignment to him,
- 5) at the request of previous Forwarders, to exercise all their rights resulting from their lien on the consignment in order to satisfy their rights. If he satisfies them, they pass on to him, together with the lien, which ensures them,

- 6) act at his sole discretion while maintaining the interests of the Principal, which are known, in particular when choosing the mode of transport, the type of means of transport and the route if he has not received sufficient or feasible instructions.
- 7) exercise the right of lien and retention:
  - a) When securing his claims arising from the shipping contract, the Forwarder has a legal lien on the shipment as long as the shipment is with the Forwarder or someone who has it with him on his behalf, or as long as the Forwarder has documents that authorize him to handle the shipment.
  - b) When exercising the lien, the Forwarder proceeds in accordance with the provisions of § 1359 et seq. NOS. The Forwarder is not obliged to sell the shipment at a public auction in accordance with § 1360 NOZ. When using his right to sell it in another way, he can use the services of a certified auctioneer, with the condition that the sale of the consignment must be published at least twice in a national newspaper with an interval of at least 14 calendar days before the day of the pledge sale.
  - c) At the same time, the Forwarder may, of his own free will, detain a consignment that he has with him to secure the payable or unpaid debt of the Principal.
  - d) When exercising the right of retention, the Forwarder proceeds according to the provisions of § 1397 et seq. NOS.
  - e) The Forwarder may exercise the right of retention both in order to secure the payment of his due claims to the Principal, and also of unpaid claims, if there is a reasonable fear that they will not be paid by the Principal, and the Principal has not provided adequate security for the Forwarder's request.
  - f) When both rights (lien and retention) are concurrent, it is up to the Forwarder to decide in which way to monetize the shipment.

## **Art. II. Rights and Obligations of the Principal**

### The Principal is entitled and obliged

- 1) give the Forwarder a written order for arranging the transport of the consignment (Forwarding order) if the contract is not in writing and if the Forwarder asks for it,

- 2) if the consignment is immediately subject to substantial damage, immediately upon receipt of the information, he shall send further instructions to the Forwarder, otherwise the Forwarder shall have the right to sell the consignment in accordance with § 2126 and § 2127 of the NCC,
- 3) pay the Forwarder the agreed remuneration once the Forwarder has entered into a contract with the carrier, or to provide him with a reasonable advance payment to cover the costs associated with the performance of the Forwarding contract,
- 4) to pay the Forwarder the agreed remuneration or, if not agreed, the remuneration according to the rates of the Forwarder, or an appropriate remuneration at the time of conclusion of the contract and under similar conditions, as well as the cost actually incurred by the Forwarder in performance of the Forwarding contract,
- 5) revoke the order if the order for arranging the transport is not accepted without undue delay unless otherwise agreed between the Forwarder and the ordering party,
- 6) give the Forwarder the correct information on the contents of the consignment and its nature, as well as all the information necessary to conclude the contract of carriage, such as its weight, type, number of packing, and the indication of whether it is dangerous goods within the meaning of ADR, RID, etc., as well as to notify the Forwarder of the higher value of the shipment, in particular if the Principal requests the insurance of the full value of the shipment for reasons of higher value. Otherwise, he is obliged to compensate to the Forwarder any damage that has incurred,
- 7) to draw the Forwarder's attention in a normal way to the public-law, customs duties related to the shipment of consignments, unless such obligations are known to the Forwarder. The Principal shall be liable to the Forwarder for all consequences of non-compliance with this obligation,
- 8) to provide the Forwarder with an agreed remuneration in case of cancellation of the order, after deducting the saved expenses. If the ordering party proves to have cancelled the order for reasons attributable to the Forwarder, the Forwarder shall only be entitled to the refund of his expenses,

- 9) to reimburse the Forwarder the costs incurred and the appropriate remuneration for arranging the return of the consignment, if the recipient refuses to take over of the consignment,
- 10) to pay the Forwarder's receivables for shipping, custom duties, taxes, and other charges paid by the Forwarder.

### **Art. III.**

#### **General Provisions**

- 1) Place of performance. The place of performance is for all the parties the place of residence of the Forwarder to whom the order was addressed,
- 2) Breach of contractual obligations. If a Contracting Party violates an obligation under the Forwarding Agreement, it shall be obliged to replace the damage arising from it.
- 3) Exemption from the liability for damages. The Forwarder shall be relieved from liability for damages if he proves that he has temporarily or permanently been prevented from complying with the contract with an unforeseeable and insurmountable barrier arising out of his will.
- 4) Scope of responsibility of the Forwarder. If the Forwarder is liable for damages from the shipment, his liability to replace the damage is limited:
  - a) in all cases, to an amount corresponding to SDR 20,000 per event or multiple events having one and the same cause of damage; or
  - b) in the event of loss, destruction or damage to the consignment in the case of transport, or consignments taken over by the Forwarder for carriage or related transport operations, to an amount equal to SDR 8.33 in the case of road transportation, or to SDR 2.5 in the case of sea transportation, or to SDR 22 in the case of air transportation, or to SDR 17 in the case of rail transportation per one kg of the gross weight of the lost, destroyed or damaged shipment.
- 5) Indirect damage or loss of profit is not compensated.
- 6) The Freight Forwarder cannot claim limited liability in the event of damage caused intentionally or by gross negligence.
- 7) Liability of the transport contract:
  - a) the Forwarder is not responsible for carrying out the arrangement of transport of the shipment, unless the transport of the consignment was done by himself.

In this case, the Forwarder is responsible as the carrier in accordance with the applicable regulations.

- b) The contractual arrangements for the fixed remuneration of the Forwarder or the charging of the Forwarder's remuneration at a fixed rate (so-called acceptance rate) do not constitute a contractual assumption of liability for the carrier.
- 8) Possible claims against carriers:
- a) the Forwarder shall, at the request of the Principal in his name and on the account of the Principal, who is obliged to provide the Forwarder with the necessary assistance, in particular to provide documents relating to the consignment, its value, etc., or
  - b) the Forwarder shall assign his rights against the carrier to the Principal for the direct exercise of his claims against the carrier and shall provide the Principal with the necessary assistance,
  - c) if the Principal does not apply claims against the Forwarder according to a) or pursuant to b), if he does not provide to the Forwarder the necessary cooperation, the consequences resulting from that shall be to the detriment of the Principal.
- 9) Responsibility for storage. If the Forwarder performs storage of items (consignments) within his activities, these activities are governed by the terms of the storage contract (§ 2415 et seq.)
- 10) Interest on overdue payments
- a) The delay in payment towards the Forwarder occurs, unless otherwise agreed, 15 days after delivery of the billing statement to the Forwarder.
  - b) The Forwarder is entitled to charge default interest at the amount agreed upon and, if not agreed, in the amount determined by the Government Order in the sense of Section 1970 NCC.
- 11) The limitation of rights in the forwarding contract
- a) The general limitation period is 3 years.
  - b) Rights arising out of the total destruction or loss of the consignment transported or damaged or delayed delivery shall be time-barred within 1 year. The limitation period begins to run from the day the consignment was delivered or when it was due to be delivered.



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## **Art. IV.**

### **Final and Transitional Provisions**

These forwarding terms are valid and effective from May 25, 2018 and form an integral part of the forwarding agreement.

We respect the principles and rules set out in Act No. 101/2000 Coll. and Regulation (EU) 2016/679 (GDPR) on the protection of individuals with regard to the processing of personal data. Your personal data that you have provided us with, we store and process solely for the purpose of fulfilling the agreed business transaction (fulfillment of the ordered service at DAVE LOG s.r.o.).

České Budějovice 28. 5. 2024

Executive Director of DAVE LOG s.r.o.  
Ing. David Pribyl