

# **GENERAL FREIGHT FORWARDING TERMS AND CONDITIONS NAVIS LOGISTICS V.O.F.**

**Version 01.06.2018**

## **Scope**

### Article 1.

1. These "General Navis Logistics V.O.F. forwarding conditions"(from here on to be known as ANLEV) apply to any service provided by the forwarding agent. Within the framework of this ANLEV, Forwarder is not exclusively understood as the forwarding agent as referred to in Book 8 of the Dutch Civil Code. The client of the forwarding agent is considered to be the person who gives the instruction to perform the activities and work to the forwarding agent, regardless of the agreed method of payment.
  
2. With regard to operations and activities, such as those of shipbrokers, stevedores, transporters, insurance brokers, storage and control companies, etc. provided by Navis Logistics V.O.F., the conditions customary in the sector concerned will also be applicable, respectively the conditions of which the applicability has been stipulated.
  
3. Navis Logistics V.O.F. will at all times be entitled to declare provisions from terms and conditions of third parties with whom he has entered into agreements for the execution of the order given, to be applicable.
  
4. Navis Logistics V.O.F. has the right to have the execution of the assignment and / or the related work be done by third parties or employees of third parties. In so far as those third parties, or their employees, are legally liable towards the client of Navis Logistics V.O.F., it has been stipulated on their behalf, that they will be considered to be solely in service of Navis Logistics V.O.F., during the activities for which Navis Logistics V.O.F is engaging them. With regard to them, all conditions relating to exclusion and limitation of liability, as well as the indemnity of Navis Logistics V.O.F., as described in these conditions, will apply.
  
5. Orders to deliver upon collection on delivery (COD), upon bank statement, etc. are deemed to be freight forwarding activities.

## **Establishment of the agreement**

### Article 2.

1. All offers made by Navis Logistics V.O.F. are without obligation.
2. All offered and agreed prices are based on the rates, wages, costs of social measures and / or laws, freight and exchange rates, which apply at the time of offering or entering into the agreement.
3. In the event of a change in one or more of these factors, the offered or agreed prices will also be changed retroactively and until the moment of change. Navis Logistics V.O.F. must be able to demonstrate such changes.
4. Upon the sending by the client of an order for export to Navis Logistics V.O.F., the ANLEV is irrevocably agreed with.

### Article 3.

1. If all-in or fixed rates are calculated by Navis Logistics V.O.F., these rates must be deemed to include all costs generally incurred during the normal settlement of the order, to be for the account of Navis Logistics V.O.F.
2. Unless the contrary is stipulated, all-in or fixed rates do not in any case include: duties, taxes and levies, consulate and legalization costs, costs for the preparation of bank guarantees and insurance premiums, loading and / or unloading hours which are outside the agreed upon hours.
3. For special performances, unusual, particularly time-consuming or effort-requiring work, an extra remuneration can always be charged, the amount of which will be determined reasonably.

### Article 4.

1. In the event of insufficient loading and / or unloading time - regardless of the cause - all resulting costs, such as demurrage etc., will be borne by the client, even if Navis Logistics V.O.F. has accepted the bill of lading and / or the charter party, from which the extra costs arise, without protest.

2. Navis Logistics V.O.F. is fully authorized to unconditionally charge for any waiting hours arising from the loading and / or unloading of a relevant container that falls outside the agreed free time that is valid for this purpose, at a rate of EUR 60 per hour.
  
3. Extraordinary expenses and higher wages, which arise when transportation companies, under any provision in the relevant transportation documents, proceed to load or unload during the evening, the night, on Saturdays or on Sundays or public holidays, are not included in the agreed prices, unless is stipulated separately. Such costs must therefore be reimbursed to Navis Logistics V.O.F.

#### Article 5.

1. Insurance of any kind is only provided for the account and risk of the client on explicit written instructions. The risks to be insured must be clearly mentioned. Specifying the value alone will not be sufficient.
  
2. If Navis Logistics V.O.F. has taken out insurance in its own name, it is only obliged - if requested - to transfer to the client its claims towards the insurer.
  
3. Navis Logistics V.O.F. is not responsible for the choice of the insurer and its solvability.
  
4. In cases when Navis Logistics V.O.F. uses load supports and similar tools, when carrying out the assignment, it is entitled to take out insurance at the expense of the client, which covers the risks for Navis Logistics V.O.F. that result from the use of these tools.

#### Article 6.

1. The provision of data required for the performance of customs formalities to Navis Logistics V.O.F. implies instruction to do so, unless otherwise agreed in writing.

### **Execution of the agreement**

#### Article 7.

1. If the client has not given any specific instructions in this regard, the manner of dispatch and the route will be at the discretion of Navis Logistics VOF, whereby it may

always adopt the documents that are customary at the companies, which it will contract for the execution of the order given to it.

#### Article 8.

1. The client is obliged to ensure that the goods are available at the agreed place and time.
2. The client is obliged to ensure that both the documents required for receipt and for dispatch, as well as instructions, are in the possession of Navis Logistics V.O.F. in a timely manner.
3. Navis Logistics V.O.F. is not required but is entitled to examine whether the statements made to him are accurate and complete.
4. In the absence of documents, Navis Logistics V.O.F. is not obliged to receive under guarantee. If Navis Logistics V.O.F. issues a guarantee, its client will be obliged to indemnify it against all consequences.

#### Article 9.

1. All manipulations such as checking, sampling, taring, counting, weighing, measuring, etc. and receiving under judicial expertise are only carried out on the explicit instructions of the client and against payment of the costs.
2. Notwithstanding the previous, Navis Logistics V.O.F. entitled, but not obliged, to take all measures which it deems necessary in the interests of the client, on its own authority, at the expense and risk of the client.
3. Navis Logistics V.O.F. will not act as an expert. No liability will arise for it, from statements regarding the state, nature or quality of the goods; nor does it assume any liability with regard to the correlation of samples to the consignment.

#### Article 10.

1. The addition "approximately" allows the client the freedom to deliver 2.5% more or less.

## **Liability**

### **Article 11.**

1. All actions and activities take place at the expense and risk of the client.
2. Navis Logistics V.O.F. is - without prejudice to the provisions in Article 16 - not liable for any damage, unless the client proves that the damage was caused by fault or negligence of Navis Logistics V.O.F. or its subordinates.
3. The liability of Navis Logistics V.O.F. will in all cases be limited to 10,000 SDR per event or series of events with one and the same cause of damage, with the proviso that in the event of damage, reduction of value or loss of the items included in the assignment, the liability shall be limited to 4 SDR per kg of damaged or lost gross weight with a maximum of 4,000 SDR per shipment.
4. The damage to be compensated by Navis Logistics V.O.F. will never amount to more than the invoice value of the goods, which is to be proven by the client. In the absence of such proof, the market value at the time the damage occurred, which is to be proven by the client, will apply. Navis Logistics V.O.F. is not liable for lost profits, consequential damages and immaterial damages.
5. If damage occurs during the execution of the order, for which Navis Logistics V.O.F. is not liable, Navis Logistics V.O.F. shall endeavour to recover the client's damage from the party who is liable for the damage. Navis Logistics V.O.F. is entitled to charge the costs incurred as a result of this endeavouring to the client. If requested, Navis Logistics V.O.F. will transfer its claims towards the third parties engaged by it to execute the assignment, to the client.
6. Vis-à-vis Navis Logistics V.O.F, the client will be liable for damage as a result of the (nature of) goods and the packaging thereof, the inaccuracy, imprecision or incompleteness of instructions and data, the non-provision or untimely provision of the goods at the agreed time and place, as well as the failure to provide documents and / or instructions or the failure to provide documents and / or instructions on time, as well as faults or negligence in general of the client and its subordinates and third parties engaged or contracted by the client.
7. The client will indemnify Navis Logistics V.O.F. against claims from third parties, including subordinates of both Navis Logistics V.O.F. as the client, related to the damage referred to in the previous paragraph.

8. Navis Logistics V.O.F., which does not execute transportation itself, will not be liable as a carrier, but only according to these conditions, even in cases where all-in or fixed rates have been agreed upon.

#### Article 12.

1. All circumstances that Navis Logistics V.O.F. could not have reasonably avoided and of which Navis Logistics V.O.F. was not reasonably able to prevent the consequences, will be considered to be force majeure.

#### Article 13.

1. In case of force majeure the agreement remains in force. The obligations of Navis Logistics V.O.F. shall, however, be suspended for the duration of the force majeure.

2. All extra costs caused by force majeure, such as transport and storage costs, warehouse or yard rental, demurrage and stallage, insurance, displacement, etc., are at the expense of the client and must be paid to Navis Logistics V.O.F. at the first request.

#### Article 14.

1. The mere mention by the client of a time of delivery will not bind Navis Logistics V.O.F.

2. Times of arrival will not be guaranteed by Navis Logistics V.O.F., unless otherwise agreed in writing.

#### Article 15.

1. If the carrier or the receiving party refuses to sign for the quantity, weight, etc., Navis Logistics V.O.F. is not responsible for the consequences.

### **Peremptory law**

#### Article 16.

1. In situations where Navis Logistics V.O.F. executes a transportation agreement itself, that it would have concluded with a third party, Navis Logistics VOF is obliged to notify the client, who has informed Navis Logistics V.O.F. of damage, immediately of such, in cases where the goods are not delivered to the destination in the state in which they were made available, without delay.

2. If Navis Logistics V.O.F. does not extend the notification referred to in the first paragraph, and as a result it is not addressed as a carrier in time, in addition to compensation for the damage that the client has suffered as a result, Navis Logistics will owe an indemnity equal to the compensation, which it would have had to pay, if it would have been addressed as a carrier in time.

3. If the goods are not delivered to their destination without delay in the state in which they were made available, Navis Logistics V.O.F. to the extent that it did not itself execute the contract of carriage, which it would conclude with another party, Navis Logistics V.O.F. shall immediately notify the client of the transport agreements which it has entered into for the performance of its obligation. Navis Logistics V.O.F. is also obliged to provide the client with all documents available to him or which he can reasonably provide, in so far as they can serve to recover the damage that has occurred.

4. The client acquires vis-à-vis those parties, with whom Navis Logistics V.O.F. has traded, from the moment the client notifies Navis Logistics V.O.F. clearly, that he wants to exercise them, the rights and powers that would have come to him, if he himself had concluded the agreement as the sender. He may take legal action in this matter when he submits a statement to be produced by Navis Logistics V.O.F. - or, in the event of its bankruptcy, by its trustee in bankruptcy, that between him and Navis Logistics V.O.F. an agreement to transportation of the goods was concluded.

5. When Navis Logistics V.O.F. does not meet an obligation as referred to in the third paragraph, then, in addition to compensation for the damage suffered by the client as a result, it will owe compensation equal to the compensation that the client could have received from him if it had executed the contract it concluded, itself, reduced by the compensation that the client possibly obtained from the carrier.

## **Payment**

### Article 17.

1. The client is obliged to pay to Navis Logistics V.O.F. the agreed fee and the other costs, loads, duties, etc. resulting from the agreement and / or these conditions upon arrival of the goods to be received or, respectively upon shipment of the goods to be shipped. The risk of exchange rate fluctuations is for the account of the client. The

agreed fee and the other costs, loads, duties, etc. resulting from the agreement and / or these conditions are also due if damage has occurred during the execution of the agreement.

2. If, by way of derogation from paragraph 1 of this Article, a credit term is applied by Navis Logistics V.O.F., Navis Logistics V.O.F. will be entitled to charge a credit limitation surcharge.
3. If the client does not pay the amount due immediately after the statement or after the credit period applied, Navis Logistics V.O.F. will be entitled to charge the statutory interest in accordance with Article 6:119 or 6:119a of the Dutch Civil Code.
4. Upon cancellation or termination of the agreement, all claims - even future ones - of Navis Logistics V.O.F. will become immediately and in their entirety due and payable. In any case, all claims will become immediately due and payable in full if: - the bankruptcy of the client is pronounced, the client applies for a suspension of payment or otherwise loses the free disposal of his assets; - the client offers an agreement to its creditors, is in default with the fulfilment of any financial obligation towards Navis Logistics V.O.F., ceases to exercise its business or - in case of a legal person or company - if it is dissolved.
5. The principal is obliged under the forwarding agreement to provide a guarantee for what the client owes to Navis Logistics V.O.F. or for that which will be owed or due, upon the first claim by Navis Logistics V.O.F. This obligation also applies if the client has already had to or already has provided security in connection with the amount due.
6. Navis Logistics V.O.F. is not obliged to provide a guarantee out of its own resources for the payment of freight, duties, levies, taxes and / or other costs, if this should be required. All consequences of not or not immediately fulfilling a guarantee obligation are at the expense of the client. If Navis Logistics V.O.F. has provided a guarantee from its own resources, it is entitled to demand immediate payment by the client of the amount for which guarantee has been provided.
7. The client is at all times obliged to compensate Navis Logistics V.O.F. for any amounts to be collected by government or to be recovered by government in connection with the order as well as any related fines imposed on Navis Logistics V.O.F. in connection with the order. The aforementioned amounts must also be paid by the client to Navis Logistics V.O.F. if Navis Logistics V.O.F. is being called upon by a third party regarding these amounts in connection with the forwarding agreement.
8. The client will compensate Navis Logistics V.O.F. in any case, for the amounts due as a result of incorrectly charged loads and costs, as well as all additional costs that are claimed or reclaimed from Navis Logistics V.O.F. in connection with the order.

9. The client is not entitled to apply debt setoff with respect to amounts that Navis Logistics V.O.F. charges to the client by virtue of an agreement existing between them.

#### Article 18.

1. On-account payments shall be deemed to have been made to cover any unsecured claims in the first place, regardless of whether any other instructions were given at the time of payment.

2. If, in the event of overdue payment, Navis Logistics V.O.F. proceeds to collection by judicial or other means, the amount of the claim will be increased by 10% in administration costs, while the judicial and extrajudicial costs will be charged to the client to the amount paid or due by Navis Logistics V.O.F.

#### Article 19.

1. Navis Logistics V.O.F. has a right of pledge and a right of retention with respect to all goods, documents and funds that Navis Logistics V.O.F. for whatever reason and with whatever destination may be holding or may receive, to cover all claims that it has or may come to have against the client and / or the owner. When forwarding the goods, Navis Logistics V.O.F. is entitled to withhold goods to the amount owed or to draw an exchange for this amount with the attached shipping documents.

2. Navis Logistics V.O.F. may also exercise the rights granted to him in paragraph 1 for all that is still owed to him by the client in connection with previous assignments.

3. Navis Logistics V.O.F. is entitled to exercise the rights granted to him in paragraph 1 with respect all that is connected with the goods by way of collection on delivery (COD), as well.

4. In the event of non-payment of the claim, the sale of the collateral will take place in the manner stipulated by law or - if there is agreement on this - on a private basis.

### **Final provisions**

#### Article 20.

1. Judicial and arbitral proceedings against third parties will not be carried out by the forwarder, unless he / she is prepared to do so at the request of the client and for the client's account and risk.

#### Article 21.

1. Without prejudice to the provisions of paragraph 5 of this Article, each claim shall expire through the mere passing of nine months.

2. Any claim against Navis Logistics V.O.F. will expire by the mere passing of 18 months.

3. The periods referred to in paragraphs 1 and 2 shall commence on the day following that on which the claim became due and payable, or the day following that on which the disadvantaged party became aware of the damage. Notwithstanding the foregoing, the aforementioned terms for claims relating to damage, depreciation or loss of the goods commence on the day following that of delivery. By day of delivery is meant; the day on which the goods were delivered from the means of transportation, or, if they have not been delivered, the day that they should have been delivered.

4. In case Navis Logistics V.O.F. is called upon by any government or third parties as referred to in Article 17 paragraph 7, the period referred to in paragraph 1 starts from the first of the following days: the day following that on which Navis Logistics V.O.F. has been addressed by any government or third party; the day following that on which Navis Logistics V.O.F. has met the claim addressed to it. If Navis Logistics V.O.F. or a third party engaged by it, as referred to in Article 17 paragraph 7 has objected and / or appealed, the period referred to in paragraph 1 commences on the day following that on which the decision in objection and / or appeal has become final.

5. Unless the situation referred to in paragraph 4 of this Article arises, if after the period of limitation one of the parties is held accountable for what is owed by it to a third party, a new period of limitation period of three months commences.

#### Article 22.

1. All agreements to which these conditions apply will be subject to Dutch law.

2. The location of liquidation and claims settlement, will be the location of establishment of Navis Logistics V.O.F.

### **Disputes**

#### Article 23.

1. All disputes, which may arise between Navis Logistics V.O.F. and its counterparty, shall be decided in the highest jurisdiction with the exclusion of the common judge. A dispute is present when one of the parties declares that this is the case. Without prejudice to the provisions in the previous paragraph, Navis Logistics V.O.F. will be free to submit claims regarding due and payable sums, the indebtedness of which is not disputed in writing by the other party within four weeks of the invoice date, to the competent Dutch court in the place of business of Navis Logistics V.O.F. In addition, Navis Logistics V.O.F. will be free to submit claims with an urgent nature, in summary proceedings before the competent Dutch judge in the place of business of Navis Logistics V.O.F.

#### Article 24.

1. These general terms and conditions can be cited as the "General freight forwarding terms and conditions Navis Logistics V.O.F.".