

General forwarding conditions of Seawings N.V.

Applicability

Article 1.

1. These general conditions shall apply to any form of service which Seawings N.V. as the forwarder shall perform. Within the framework of these general conditions the term forwarder must not be understood exclusively to mean the forwarder as contemplated in Book 8 of the Dutch Civil Code. The party ordering Seawings N.V. to carry out operations and activities shall be considered the principal of Seawings N.V., regardless of the agreed mode of payment.
2. With respect to the operations and activities, such as those of shipbrokers, stevedores, carriers, insurance agents, warehousing and superintending firms etc. which are carried out by Seawings N.V., the conditions customary in the particular trade, or conditions stipulated to be applicable, shall also be applicable.
3. Seawings N.V. may at any time declare applicable provisions from the conditions stipulated by third parties with whom he has made contracts for the purpose of carrying out the orders given to him.
4. Seawings N.V. may have his orders and/or the work connected therewith carried out by third parties or the servants of third parties. In so far as such third parties or their servants bear statutory liability towards the Seawings N.V. principal, it is stipulated on their behalf that in doing the work for which Seawings N.V. employs them they shall be regarded as solely in the employ of Seawings N.V. All the provisions (inter alia) regarding non-liability and limitation of liability and also regarding indemnification of Seawings N.V. as described here in shall apply to such persons.
5. Instructions for delivery C.O.D., against banker's draft etc., shall be deemed to be forwarding work.

Contract

Article 2.

1. All quotations made by Seawings N.V shall be without any obligation on his part.
2. All prices quoted and agreed shall be based on the rates, wages, and costs incidental to social security and/or other provisions of law, freight and exchange rates applying at the time of quotation or contract.
3. Upon any change in any or more of these factors the quoted or agreed prices shall likewise be altered in accordance therewith and retroactively to the time such change occurred.
Seawings N.V. must be able to prove the change(s).

Article 3.

1. If Seawings N.V. charges all-in or fixed rates, as the case may be, these rates shall be deemed to include all costs that in the normal procedure of handling the order are for the account of Seawings N.V.
2. Unless provided otherwise, all-in or fixed rates shall not include at any rate: duties, taxes and levies, consular and attestation fees, cost of preparing bank guarantees and insurance premiums.
3. For work of a special nature, unusual job or work requiring a special amount of time or effort, an additional reasonable amount may at all times be charged.

Article 4.

1. In the event of loading and/or unloading time being inadequate - regardless of the cause thereof - all costs resulting there from, such as demurrage, etc., shall be borne by the principal, even when Seawings N.V. has accepted the bill of lading and/or charter party from which the additional costs arise without protestation.

2. Expenses of an exceptional nature and higher wages arising whenever carriers by virtue of any provision in the shipping documents load or unload goods in the evening, at night, on Saturdays or on Sundays or public holidays, shall not be included in the agreed prices, unless specifically stipulated. Any such costs shall therefore be refunded by the principal to Seawings N.V.

Article 5.

1. Insurance of any kind shall be arranged only upon specific instructions in writing at the principal's expense and risk. The risks to be covered shall be clearly stated. A mere statement of the value is not enough.
2. If Seawings N.V. has taken out any insurance in his own name he shall be bound - if so requested - only to transfer his claims against the insurer to his principal.
3. Seawings N.V. shall not be responsible as regards the choice of the insurer and the latter's solvency.
4. When Seawings N.V. uses derricks and any other such equipment for carrying out his orders he shall be entitled to take out insurance at his principal's expense to cover the risk arising of Seawings N.V. through the use of such equipment.

Article 6.

1. Unless agreed otherwise in writing, the supplying to Seawings N.V. of data required for customs formalities shall imply an order to perform such formalities.

Performance of the contract

Article 7.

1. If the principal has not given any specific instructions with his order, the mode and route of transport shall be at the option of Seawings N.V.

and may accept at all times the documents customarily used by the firms with which he contracts for the purpose of carrying out his orders.

Article 8.

1. The principal shall ensure that the goods are tendered at the agreed place and time.
2. The principal shall ensure that the documents required for receipt and for dispatch, as well as the instructions, are in the possession of Seawings N.V. in proper time.
3. Seawings N.V. shall not be obliged but shall be entitled to investigate whether the specifications stated to him are correct and complete.
4. In the absence of documents, Seawings N.V. shall not be obliged to receive against a guarantee. Should Seawings N.V. furnish a guarantee, he shall be saved harmless by his principal from and against all the consequences thereof.

Article 9.

1. All operations such as inspecting, sampling, tarring, tallying, weighing, measuring etc., and receiving goods subject to appraisal by a court-appointed expert shall take place only on the principal's specific instructions and upon reimbursement of the costs thereof.
2. Nevertheless, Seawings N.V shall be entitled, but not obliged, on his own authority and at his principal's expense and risk to take all such action as he deems necessary in the principal's interest.
3. Seawings N.V shall not act as an expert. He shall in no way be liable for any notification of the state, nature or quality of the goods; nor shall he be under any obligation to ensure that the shipped goods correspond with the samples.

Article 10.

1. The addition of the word "approximately" shall allow the principal the freedom to supply 2.5% more or less

Liability

Article 11.

1. All operations and activities shall be at the principal's expense and risk.
2. Without prejudice to the provisions of Article 16, Seawings N.V. shall not be liable for any damage whatsoever, unless the principal shall prove that the damage has been caused by fault or negligence on the part of Seawings N.V. or the latter's servants.
3. Seawings N.V. liability shall in all cases be limited to 10,000 SDR per occurrence or series of occurrences with one and the same cause of damage, on the understanding that in the event of damaging, loss of value or loss of the goods comprised in the order, the liability shall be limited to 4 SDR per kilogram damaged or lost gross weight, the maximum being 4,000 SDR per consignment.
4. The loss to be indemnified by Seawings N.V shall never exceed the invoice value of the goods, to be proved by the principal, in default whereof the market value - to be proved by the principal - at the time when the damage has occurred shall apply. Seawings N.V. shall not be liable for lost profit, consequential loss, and pain and suffering.
5. If during the execution of the order damage occurs for which Seawings N.V. is not liable, Seawings N.V. shall make efforts to recover the principal's damage from the party that is liable for the damage.
Seawings N.V. shall be entitled to charge to the principal the costs incidental thereto. If so requested, Seawings N.V. shall waive in his principal's favour his claims against third parties engaged by him for the purpose of carrying out the order.
6. The principal shall be liable towards Seawings N.V. for any damage as a consequence of the (nature of the) goods and the packaging thereof, the incorrectness, inaccuracy or incompleteness of instructions and data, the failure to tender the goods or not doing so in time at the agreed place and time, as well as the failure to supply -- or to do so in time -- documents and/or instructions, and fault or

negligence in general on the part of the principal and the latter's servants and third parties called in or engaged by him.

7. The principal shall indemnify Seawings N.V. against third-party claims connected with the damage referred to in the foregoing paragraph, such third parties including servants of both Seawings N.V. and the principal.
8. Even where all-in or fixed rates, as the case may be, have been agreed, Seawings N.V., who is not a carrier, shall be liable under the present conditions and not as a carrier.

Article 12.

1. To be regarded as force majeure are all circumstances which Seawings N.V. could not reasonably avoid and the consequences of which Seawings N.V. could not reasonably prevent.

Article 13.

1. In the event of force majeure, the contract shall remain in force; the obligation of Seawings N.V. shall, however, be suspended for the duration of the event of force majeure.
2. All additional costs caused by force majeure, such as carriage and storage charges, warehouse or yard rentals, demurrage for vessels or trucks, insurance, removal, etc., shall be borne by the principal and shall be paid to Seawings N.V. at his initial request.

Article 14.

1. The mere statement by the principal of a time for delivery shall not be binding upon Seawings N.V.
2. Seawings N.V. does not guarantee arrival times, unless agreed otherwise in writing.

Article 15.

1. If the carriers refuse to sign for number or weight of pieces or items etc., Seawings N.V. shall not be liable for the consequences thereof.

Imperative law

Article 16.

1. If the goods are not delivered without delay at the place of destination in the state in which they were tendered, Seawings N.V., in so far as he has carried out a contract of transport himself which he was to conclude with a third party, is obliged to notify this forthwith to the principal who has notified him of the damage.
2. If Seawings N.V. fails to make notification as referred to in the first paragraph and if as a result thereof he has not been called upon as a carrier in time, he shall, in addition to being liable for payment of the further damage sustained by the principal as a result thereof, be liable to pay compensation equal to the damages he would have had to pay, if he had been called upon as a carrier in time.
3. If the goods are not delivered without delay at the place of destination in the state in which they were tendered, Seawings N.V., in so far as he has not carried out a contract of transport himself which he was to conclude with a third party, is obliged to inform the principal forthwith which contracts of transport he has entered into to fulfill his obligation. He is also obliged to put at the disposal of the principal all documents in his possession or which he can reasonably supply, at any rate in so far as they may be used to claim damages sustained.
4. As from the point of time at which he informs Seawings N.V. unequivocally that he wishes to exercise such rights and powers, the principal shall obtain as against the party with whom Seawings N.V. has conducted business the rights and powers to which he would have been entitled if as a shipper he had concluded the contract himself. He shall be free to take legal action in this matter if he submits a statement to be issued by Seawings N.V. - or in case Seawings N.V. has gone into compulsory liquidation, by the liquidator of Seawings N.V. - that between him and Seawings N.V. with respect to the goods a contract for the carriage thereof was concluded.
5. If Seawings N.V. fails to comply with an obligation as referred to in the third paragraph, he shall, in addition to being liable for payment of the further damage sustained by the principal as a result thereof, be

liable to pay compensation equal to the damages which the principal would have received from him if he himself had carried out the contract concluded by him, less the damages which the principal may have received from the carrier.

Payment

Article 17.

1. The principal shall pay to Seawings N.V. the agreed remuneration and other resulting costs, freights, duties, etc., ensuing from the contract and/or these conditions, upon arrival or dispatch of goods which are being received or forwarded respectively. The risk of exchange rate fluctuations shall be borne by the principal. The agreed remuneration and other resulting costs, freights, rights, etc., ensuing from the contract and/or these conditions, shall also be due if in the performance of the contract damage has occurred.
2. If, in contravention of paragraph 1 of this article, Seawings N.V. allows deferred payment, Seawings N.V. shall be entitled to make an additional credit limit charge.
3. If the principal does not pay the amount due immediately upon notice to that effect or, as the case may be, after lapse of the term of deferred payment, Seawings N.V. shall be entitled to charge the legal interest in conformity with Articles 6:119 or 6:119a Dutch Civil Code.
4. In the event of cancellation or dissolution of the contract, all claims of Seawings N.V., with the inclusion of future claims, shall become due and payable forthwith and in full. All claims shall be due and payable forthwith and in full in any case, if:
 - the principal is involuntarily wound up, the principal applies for suspension of payment or otherwise loses the unrestricted disposition over his assets;
 - The principal offers a settlement to his creditors, is in default of fulfilling any financial obligation owed to Seawings N.V., ceases to trade or - where the principal is a legal entity or a corporate body - if the legal entity or the corporate body is dissolved.

5. The principal shall be reason of the forwarding contract and upon demand by Seawings N.V. provide security in the form of a bond with sureties for any amount for which the principal is or may be indebted to Seawings N.V. The principal is also so obliged where he already has to provide or has provided security in the form of a bond with sureties in connection with the amount owed.
6. Seawings N.V. shall not be obliged out of his own means to provide security in the form of a bond with sureties for the payment of freight, duties, levies, taxes and/or other costs should the same be demanded. All the consequences of non-compliance or of failure to comply forthwith with a demand to provide security in the form of a bond with sureties shall be borne by the principal.
If Seawings N.V. has provided security in the form of a bond with sureties out of his own means, he may demand that the principal pay the amount for which security has been provided security in the form of a bond with sureties.
7. The principal shall at all times be obliged to indemnify the forwarder for any amounts to be levied or additionally demanded by any authority in connection with the order, as well as any related fines imposed upon Seawings N.V.
The principal shall also reimburse the said amounts to Seawings N.V. if a third party called in by Seawings N.V demands payment within the framework of the forwarding contract.
8. The principal shall at all times indemnify Seawings N.V. for any amounts as well as for all additional costs that may be claimed or additionally claimed from Seawings N.V. in connection with the order as a result of incorrectly charged freight rates and costs.
9. The principal shall not be entitled to apply any set-off in respect of sums charged by Seawings N.V. to the principal under any contract existing between them.

Article 18.

1. Cash payments shall be deemed in the first place to have been made on account of non-preferential debts, regardless of whether any other instructions were given at the time of payment.

2. If legal proceedings or other means are resorted to in the event of overdue payment, the amount of the indebtedness shall be increased by 10% for clerical expenses, while the legal and other costs shall be borne by the principal up to the amount paid by or due from Seawings N.V.

Article 19.

1. With respect to all claims he has or may at any time have against the principal and/or the owner, Seawings N.V. shall have a pledge and a lien on all goods, documents and moneys which he holds or will hold in his possession whatever the reason and the purpose thereof may be, as against any party requiring their delivery. If the goods are forwarded on, Seawings N.V. shall be entitled to collect the sum due on subsequent delivery or draw a bill therefore with the shipping documents annexed.
2. Seawings N.V. may also exercise the rights granted to him in paragraph 1 for that which the principal was owing to him with respect to previous orders.
3. Seawings N.V. is also authorized to exercise the rights granted to him by virtue of paragraph 1 for any amount(s) payable by way of delivery C.O.D. in respect of the goods.
4. Failing payment of the amount due the security shall be sold as provided by statute or - if so agreed - by private sale.

Prescribed and expire

Article 20.

1. Without prejudice to the provisions of paragraph 5 of this Article, as contemplated in article 8:1740 of the Dutch Civil Code all claims shall be barred by the mere lapse of a period of nine months.
2. All claims against Seawings N.V. shall be barred by the mere lapse of a period of eighteen months.

3. The terms mentioned in paragraphs 1 and 2 shall commence on the day following the day on which the claim has become due and payable or the day following the day on which the prejudiced party had knowledge of the loss. Without prejudice to the preceding provisions, the said terms shall commence on the day following the day of delivery with respect to claims regarding damage to, decrease in value or loss of the goods. The day of delivery shall be understood to be the day on which the goods are delivered from the means of transport or, if they have not been delivered, the day on which they should have been delivered.
4. In case any public authority or third parties as referred to in paragraph 7 of Article 17 claim payment from Seawings N.V., the term mentioned in paragraph 1 of this Article shall commence on the first of the following days:
 - The day following the day on which payment is claimed from Seawings N.V. by any public authority or third party;
 - The day following the day on which Seawings N.V. has settled the claim existing against him.

If Seawings N.V. or a third party called in by him as referred to in Article 17, par. 7 has submitted an administrative objection and/or lodged an administrative appeal, the period specified in paragraph 1 shall commence on the day following the day on which the decision on the administrative objection and/or the administrative appeal has become final.

5. If after the term of prescription a third party claims payment of the amount due and payable by either parties, a new term of prescription - of three months - commences, unless the situation referred to in paragraph 4 of this Article occurs.

Final provisions

Article 21.

1. No legal or arbitration proceedings shall be taken third parties by Seawings N.V. unless he states his readiness to take the same at the principal's request and expense.

Article 22.

1. All contracts to which the present conditions apply shall be governed by Dutch law.
2. The place for settlement and adjustment of damage shall be that where the business of Seawings N.V. is situated.
3. All disputes which hold connections with this general forwarding condition or that as a result of her execution be arise, will by exclusion become submitted at the judgment of the competent judge at Curacao

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