Digital Vehicle Handover Legal Protocol

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ECG The Association of European Vehicle Logistics

Protocol relating to Digital Vehicle Handover (DVH) data, recommended by ECG for inclusion as an appendix to new logistics / storage contracts or an addition / side letter to existing logistics / storage contracts

Introduction

This Protocol arises as a result of the increased and increasing usage of digital / electronic methods for the periodic gathering of data (including but not limited to digital photographs) regarding the condition of finished motor vehicles at various points during transportation and/or handling and/or storage, for example where such vehicles are transferred from the custody of the sender to a carrier or storage provider, transferred between different carriers or storage providers, or transferred from a carrier or storage provider to the receivers.

Traditionally, such data has been captured manually, generally recorded on paper forms and printed photographs, with any damage found recorded in writing and/or depicted in such photographs accordingly.

However, there is now an increasing tendency, driven by new technology, for some elements of such data to be captured and recorded digitally, in some cases through the use of artificial intelligence software, sometimes used in conjunction with automated electronic inspection equipment, including handheld devices and fully automated electronic inspection booths. In general terms this is referred to as Digital Vehicle Handover (DVH) Technology and DVH data.

This Protocol addresses various issues relating to any DVH data which may be gathered during the inspection of vehicles at various points during the transportation, storage and handling chain. Since DVH Technology is relatively new, and has not been adopted universally, this Protocol is intended to establish a neutral shared position as between the various parties involved in transportation, handling and storage as to how DVH Technology is to be used, and how DVH data is to be collected, processed and used.

This Protocol is also intended to reflect the shared intention of various parties involved in transportation, handling and storage to embrace the new DVH technology and co-operate to utilise DVH data to their mutual benefit, whilst recognising that this new technology and the data generated by it was not anticipated when various longstanding international conventions and other legislation / regulations governing international transportation, handling and storage were drafted, so that some of the provisions in such conventions etc. may now need to be applied and construed in a manner more sympathetic to and reflective of the new technology.

For example, the use of DVH data instead of data gathered by traditional inspection methods is likely to deprive carriers or storage providers, when handing vehicles over to another party, of the opportunity – traditionally available with the use of paper handover documents – immediately to become aware of and “double check” any damage identified at the handover point. This may also mean that in some instances there could be an unavoidable delay in claims being notified to carriers or storage providers, perhaps outside the strict time limits stipulated in such conventions etc.

It is beyond the scope of this Protocol to address possible changes to such time limits, or to seek to vary the terms of such conventions etc, but it is within the scope of this Protocol to recognise that the new DVH technology may require all parties in the transportation, storage and handling chain to adapt some of their practices, and acknowledge that because the new

technology does not always sit comfortably with longstanding conventions and practices, some new practices need to evolve.

Non-exclusivity

DVH Technology and equipment may never entirely replace traditional vehicle inspection methods, not least since some vehicle zones (for example parts of the interior) do not lend themselves readily to anything other than manual inspection, and in any event it is likely that the traditional and new methods will operate in conjunction together for some time.

This Protocol is therefore intended to apply insofar as DVH Technology is used at any stage of the transit/handling/storage supply chain, it being understood that for some movements there will be no DVH data at all, and for most movements there will be a combination of traditional data and DVH data.

Agreement reflected by this Protocol

Against the background set out above, the parties to the Contract or Agreement of which this Protocol forms part have agreed the following guidelines.

Collection and format of DVH data

For DVH data to be accepted by the parties as valid for the purposes of this Protocol, it must have been obtained in accordance with the recommendations set out in this Protocol, and must be presented in a broadly standardised form including:

a) Electronic date/time stamps;
b) Identification of the vehicle's standard 17 digit VIN number;
c) Clear identification of where the DVH was captured, and the precise equipment used to capture that data;
d) Standard parameters for digital photographs, including that they should be in colour (not black & white) and stipulating minimum image size (pixels) and lighting conditions
e) Standard parameters for the vehicle zones / parts which must be included in the inspection and covered by the DVH data
f) The minimum size of visible damage (scratches and dents / dings) which must be recorded in each inspection, as recommended in the Visual Inspection Guidelines issued by ECG, The Association of European Vehicle Logistics.

Storage and retention of DVH data

All DVH data obtained in relation to any vehicle to which this Protocol applies will be stored securely and in permanently non-editable format, ideally utilising blockchain technology, by the party capturing that data, and (always subject to continuing compliance with all relevant data protection guidelines) will be made available upon request to any other party involved in the relevant transportation / storage chain and with a legitimate interest in such data.

Such data will be retained, by the party capturing it, for such period as may be appropriate having regard to any convention or other legislation or regulation applicable to the corresponding transportation or storage, but it is recommended that in any event such DVH

data will be retained for no less than 18 months from the date on which it was originally captured. If a claim is intimated or pursued in respect of any individual vehicle, or an extension of any applicable time limit for legal action granted in respect of any such claim, then all DVH data potentially relevant to that claim should be retained until such time as that claim is finally resolved.

Use of DVH data

In the event of any claim or dispute arising in relation to which the DVH data may be relevant, provided that DVH data complies with the minimum standards identified in this Protocol the DVH data will be treated as admissible evidence for such purposes, but not conclusive evidence. The evidential weight to be given to such data will be entirely within the discretion of such Court or other tribunal as may eventually determine any such claim.

Extension of this Protocol to other parties

Insofar as any of the transportation/storage services to be provided under any agreement of which this Protocol forms part are subcontracted, the relevant transportation/handling/storage provider will ensure that the terms of this Protocol are made known to any subcontractor and that such subcontractor has agreed to the terms of this Protocol.

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