

These conditions set down the basis on which the Carrier will carry goods for the Customer (definitions of Carrier and Customer are given in Condition 1). The Carrier is not and does not contract as a common carrier. These Conditions may not be altered or varied in any way unless express agreement in writing to that effect is made by the parties to the Contract. These Conditions cannot and do not override any statutory provisions imposed by law or the application of any applicable international convention.

1. DEFINITIONS

In these conditions

- 1.1 **Carrier** means the person (corporate or otherwise) who contracts with the Customer to carry the goods.
- 1.2 **Consignee** means the person (corporate or otherwise who may or may not be the Customer) to whom the goods are despatched for delivery by the Carrier.
- 1.3 **Consignor** means the person (corporate or otherwise who may or may not be the Customer) who supplies the goods to the Carrier for carriage.
- 1.4 **Customer** means the person (corporate or otherwise) who contracts with the Carrier for the carriage of goods.
- 1.5 **Contract** means the agreement between the Customer and the Carrier for the carrying out of the transport service including all documents expressly incorporated therein.
- 1.6 **Consignment** means goods despatched at any one time from one Consignor in a single load from one address in the United Kingdom to one Consignee at any one address in the United Kingdom.
- 1.7 **Dangerous Goods** means goods falling within the definition of 'dangerous goods' given in Regulation 2(1) of the Carriage of Dangerous Goods by Road and Rail (Classification Packaging and Labelling) Regulations 1994 SI Number 669 as may be amended from time to time.
- 1.8 **Day** means any day Monday to Friday inclusive other than a bank or statutory holiday, excluding the delivery day and the day on which any claim or notification is first made.
- 1.9 **Alternative Dispute Resolution** means any procedure agreed by the parties for the resolution of disputes other than those involving formal arbitration or litigation.
- 1.10 **Loss** means the actual loss of the goods or failure by the Carrier to deliver the goods within 30 days of the agreed time limit for delivery, or, if there is no agreed time limit, within 60 days from the date on which the Carrier took over the goods.
- 1.11 **Delay** means failure by the Carrier to deliver the goods within the agreed time limit, or if there is no agreed time limit, within the time that it would be reasonable to allow a diligent Carrier to complete the delivery.
- 1.12 The expressions Carrier, Consignee, Consignor and Customer shall include those parties principals, agents and servants.

2. PRINCIPAL PARTIES AND SUB-CONTRACTORS

- 2.1 The Customer contracts as the legal owner of the goods or as the authorised agent of such legal owner in which case the Customer warrants that he has the authority to accept these Conditions on behalf of the legal owner.
- 2.2 Unless written instructions to the contrary are received from the Customer, the Carrier may sub-contract part or the whole of the carriage provided that the name of every such subcontracted Carrier shall be provided to the Customer on request. In any arrangement with a sub-contractor the Carrier shall require that the sub-contractor does not further delegate his contractual responsibilities without the prior written authority of the Carrier.
- 2.3 Notwithstanding the provisions of Condition 2.2, the Carrier may not sub-contract the carriage of Dangerous Goods without the prior written consent of the Customer.
- 2.4 Where part or the whole of the carriage has been sub-contracted as provided for in Condition 2.2 above, such sub-contractors shall have the benefit of these conditions of carriage and shall be under no greater liability to the Customer than and in addition to that of the Carrier under the Contract and the Customer agrees with the Carrier that no claim shall be made against a sub-contractor in addition to or in excess of the limitations and/or exclusions of liability as set out in these Conditions.
- 2.5 Subject to the limitations in Condition 10, the Carrier shall be responsible for the acts and omissions of his agents and servants and of any other persons of whose services he makes use for the performance of the carriage, when such agents, servants or other persons are acting within the apparent scope of their employment, as if such acts or omissions were his own.

3. LOADING AND UNLOADING

- 3.1 The Carrier shall not be required to provide service other than the service of transport of the Consignment from the designated place of collection to the designated place of delivery unless any such service has been requested by the Customer and agreed by the Carrier in writing.
 - 3.2 The Customer shall be responsible for providing and safely operating any equipment that may be required for loading the Consignment off or unloading the Consignment from the vehicle unless arrangements to the contrary are agreed between the Carrier and the Customer prior to despatch and these conditions shall apply during such loading and/or unloading.
 - 3.3 The Carrier shall not be liable for any loss or damage caused as a result of his use of defective equipment supplied by the Consignee or Consignor and the Customer shall indemnify the Carrier against any claim made against the Carrier in respect of such loss or damage including claims for personal injury.
 - 3.4 The Carrier shall not be liable for any loss or damage caused as a result of negligent acts committed by the Consignor or Consignee or their servants or agents in assisting with loading and/or unloading and the Customer shall indemnify the Carrier against any claim made against the Carrier in respect of such loss or damage including claims for personal injury.
 - 3.5 The Carrier must make the Consignment reasonably accessible on the vehicle at the place designated for delivery.
- 4. DANGEROUS GOODS**
- 4.1 The Contract for the carriage of Dangerous Goods shall be voidable by the Carrier and the Carrier shall have no liability unless, prior to loading, the Carrier receives precise and correct identification of the substances in writing and has agreed to accept the same for carriage.
 - 4.2 The Customer shall be responsible for ensuring that such substances are properly and safely packaged and labelled with the identities of the substances and all other relevant information as specified by any statutory requirements for the time being in force.
 - 4.3 The Customer shall be responsible for and indemnify the Carrier against any loss or damage and claims made upon the Carrier in respect of any injury to persons or damage to property arising from the non-compliance by the Customer or the Consignor with any of the provisions of these Conditions in as far as they relate to the carriage of Dangerous Goods, unless the Customer proves that the loss, damage or injury was due to the negligence or misconduct of the Carrier.

5. CONSIGNMENT NOTES/RECEIPTS

- 5.1 The Carrier shall, if requested, sign a document acknowledging the receipt for carriage of the quantity and description of the Consignment loaded to the vehicle, to the extent ascertainable by visual inspection.
- 5.2 The Carrier shall obtain a signed receipt of delivery of the Consignment from the consignee unless otherwise agreed with the Customer.

6. CARRIER'S RESPONSIBILITY

- 6.1 Goods are accepted by the Carrier for carriage at 'owner's risk' where the Carrier is able to show that the Customer has explicitly agreed to the carriage of the goods at 'owner's risk'. In that event, the Carrier shall not be liable for any loss, damage or delay to the goods and the Customer agrees to indemnify the Carrier against any claims made by any third party in respect of the goods carried.
- 6.2 Subject to the provisions of Condition 6.1 above, the Carrier's responsibility for the consignment shall commence when the Carrier takes physical control of the consignment at the point of collection or by receiving the same at the Carrier's premises.
- 6.3 The Carrier's responsibility for the consignment shall end when the Carrier relinquishes physical control of the consignment at the proper place of delivery or the consignment is presented at the proper place of delivery within normal business hours allowing sufficient time for unloading.
- 6.4 At any time during the term of the contract the Customer may request or the Contractor may recommend variations to the service and/or variations to any other matters covered by the Contract. The Carrier shall investigate the likely impact of any such requested or recommended variations upon the service, the charge for the service and other aspects of the Contract and shall report promptly to the Customer. Neither party shall be obliged to agree to any requested or recommended variation but neither party shall withhold its agreement unreasonably. Until such time as any variations to the Contract resulting therefrom have been mutually agreed in writing, the parties shall continue to perform their respective obligations without taking account of the requested or recommended variation.

7. CARRIER'S CHARGES

- 7.1 The Carrier's charges shall be payable by the Customer provided always that, when the goods are consigned 'carriage forward', the Consignee shall have primary responsibility for the payment of the carriage charges and the Customer shall indemnify the Carrier for payment of such charges in the event of default by the Consignee but the Carrier shall not be required to take any steps to obtain payment from the Consignee other than a written request for payment.
- 7.2 Notwithstanding any claim which the Customer may have against the Carrier, the Carrier's charges for carriage and any other services incidental to the carriage chargeable under the Contract shall be payable by the Customer within 30 days of the date of the invoice. Should the charges not be paid within such a period, then the Carrier shall be entitled to interest at the rate of three per cent above the base rate of the Bank of England prevailing at the date of the invoice.

8. DISPOSAL OF THE GOODS BY THE CARRIER

- 8.1 In the event that the Carrier is unable for any reason beyond its reasonable control to deliver the Consignment in accordance with the Contract, the Carrier shall seek further instructions from the Customer. The Carrier's reasonable additional charges for retaining the goods pending the arrival of such further instructions and for carrying out those instructions shall be chargeable to the Customer.
- 8.2 Subject to the provisos contained in Condition 8.2(a) to (c) below, where the Carrier is unable to obtain further instructions from the Customer in accordance with Condition 8.1, the Carrier may sell the goods provided that such sale is permitted by law. Payment or tender of the net proceeds to the Customer after deduction of all costs and charges for carriage, other services incidental to the carriage chargeable under the contract, storage and disposal and expenses in relation to the goods shall (without prejudice to any claim or right which the Customer may have against the Carrier otherwise arising under the Conditions) discharge the Carrier from all liability in respect of such goods, their carriage and storage.
 - (a) The goods may not be sold unless the Carrier shall have made reasonable efforts (having regard, if appropriate, to the perishable nature of the Consignment) to notify the Customer of the Carrier's intention to sell the goods. The goods may then be sold unless within a reasonable time (such time to be specified in the notice) the Customer shall have arranged to collect the goods or given instructions for their disposal and have paid, without prejudice, all outstanding charges as referred to in this Condition including any warehousing charges which may have been incurred during the time that the goods have been retained.
 - (b) Pending the expiry of such periods of notice as aforesaid and of disposal of the goods under these provisions the Carrier shall at the expense of the Customer have authority to arrange proper storage of the Consignment.

- (e) In the event of a sale under this Condition the Carrier shall do what is reasonable to obtain the market value of the Consignment (subject to any unavoidable deterioration thereof). If the goods have no market value, then the Carrier may dispose of them subject to compliance with all legal requirements in force in respect of such goods.

- 8.3 Subject to the provision of Clause 8.1 above, and in circumstances in which the Carrier is unable to obtain further written instructions, the Carrier may, in respect of dangerous Goods only, at its sole discretion dispose of the goods or return them to the Customer. Where such action is taken by the Carrier, it shall comply with all prevailing legal requirements that may be in force in respect of the goods. Any such action taken by the Carrier under this Clause shall be at the sole risk and expense of the Customer.

9. LIABILITY FOR LOSS, DAMAGE OR DELAY

- 9.1 Subject to these Conditions the Carrier shall be liable for:
 - (a) any loss of or damage to any goods in a Consignment occurring whilst the Carrier has responsibility for the Consignment in accordance with Condition 6 above,
 - (b) any delay in the carriage of any goods in a Consignment arising from the negligence of the Carrier.
- 9.2 Provided that the Carrier has used due diligence in order to minimise the loss, damage or delay, the Carrier shall be relieved of liability if such loss, damage or delay arises from the effect of:
 - (a) act of God;
 - (b) any consequence of war, act of foreign power, terrorism, requisition or destruction of or damage to property by or under the order of any government or public or local authority;
 - (c) seizure or forfeiture under legal process;
 - (d) error, act, omission, mis-statement or mis-representation by the Customer or other owner of the goods or by servants or agents of either of them;
 - (e) inherent liability due to wastage in bulk or weight, latent defect or inherent defect, vice or natural deterioration of the goods;
 - (f) any special handling requirements in respect of the goods which have not been notified to the Carrier;
 - (g) insufficient or improper packaging, unless the Carrier has contracted to provide this service;
 - (h) insufficient or improper labelling or addressing, unless the Carrier has contracted to provide this service;
 - (i) riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour from whatever cause;
 - (j) Defect of any equipment supplied by the Customer under Condition 3.2 or any negligence of the Customer's agents or servant.

10. LIMITATION OF LIABILITY OF CARRIER

- 10.1 Unless otherwise agreed in writing between the Customer and the Carrier, the liability of the Carrier in respect of loss of or damage to goods whilst they are the responsibility of the Carrier in accordance with Condition 6 hereof shall be limited as follows:
 - (a) where the whole Consignment is lost or damaged, to a maximum rate of £2,000 per tonne on the gross weight of the Consignment as stated on the consignment note referred to in Condition 5, or otherwise ascertained, or £500 for the total Consignment whichever is greater but not exceeding the actual value of the Consignment;
 - (b) where part of the Consignment is lost or damaged, to such actual proportion by weight as that part of the Consignment bears to the whole Consignment at the said maximum rate of £2,000 per tonne, or £500 for the total Consignment whichever is the greater, but not exceeding the actual value of the part of the Consignment lost or damaged;
 - (c) for the purpose of this Condition the value referred to is the valuation of the goods at the time they are accepted for carriage.
- Provided that
 - (i) no claim shall be admitted by the Carrier pending its receipt from the Customer of proof of the value of the Consignment or any part thereof;
 - (ii) the limitation of liability in this Condition shall not be available to the Carrier in respect of claims or penalties imposed by the Commissioners of Customs and Excise in respect of dutiable goods consigned in bond where such claims arise from the Carrier's negligence or misrepresentation.
- 10.2 Where the volume of the Consignment is equal to or exceeds three cubic metres per tonne (or the equivalent pro rata) then the liability of the Carrier in respect of this Condition shall be calculated on the basis that three cubic metres of consignment volume is equivalent to one tonne weight (or the equivalent pro rata).
- 10.3 The Carrier's liability for any delay or consequential loss shall not exceed the amount of the claimant's bona fide loss or the amount of the carriage charges whichever shall be the smaller unless agreement is made in writing between the Carrier and the Customer for a specific level of liability for such delay or consequential loss.

11. INSURANCE

- 11.1 The Carrier shall insure his liabilities arising under these Conditions for loss of or damage to the goods and shall provide evidence of such insurance to the Customer on request.

12. CUSTOMER'S INDEMNITY TO THE CARRIER

- The Customer shall indemnify the Carrier against:
- 12.1 losses suffered by the Carrier arising from any negligent act, negligent omission or negligent misdirection by the Consignor or Consignee, its servants or agents.
 - 12.2 third party claims for loss or damage resulting from the carriage of Dangerous Substances where the Customer's obligations in Condition 4 above have not been met.
 - 12.3 claims and demands in respect of loss of or damage to the goods made by any third party additional to or in excess of the limits of liability of the Carrier set out in Condition 10 above.
 - 12.4 any claims made or penalties imposed by the Commissioners of Customs and Excise in respect of dutiable goods consigned in bond other than those arising from the Carrier's negligence or misrepresentation.
 - 12.5 claims and demands made by a third party attributable to lack of authority on the part of the Customer to enter into the Contract upon these terms and conditions.

13. NOTIFICATION OF CLAIMS

- 13.1 The Carrier shall not be liable for:
 - (a) loss or damage of the whole of the Consignment unless a claim specifying the general nature thereof is submitted by the Customer to the Carrier in writing within 14 days from the Carrier's responsibility for the Consignment having commenced in accordance with Condition 6.2 above and unless a detailed claim giving weight and value and date of collection are submitted by the Customer to the Carrier in writing within 28 days from the Carrier's responsibility for the Consignment having commenced;
 - (b) loss or damage of any part of a Consignment unless a claim specifying the general nature thereof is submitted by the Customer to the Carrier in writing within seven days from the Carrier's responsibility for the Consignment having ended in accordance with Condition 6.3 above and a detailed claim specifying the weight, value and date of collection and date of delivery are submitted in writing within 21 days of the Carrier's responsibility having ended;
 - (c) damage of any description unless the damaged goods are made available to the Carrier's representative for inspection for a reasonable period following notification of the claim;
 - (d) delay in delivery of whole or part of the Consignment unless the Carrier is informed in writing within three days of the date by which the delivery should have been made.
- 13.2 The Carrier shall not benefit from this exclusion of liability if the Customer provides evidence that:
 - (a) in all the circumstances it was not reasonably possible so to advise the Carrier or make the damaged goods available for inspection within the specified time limits and;
 - (b) such advice was given at the first reasonable opportunity.

14. LIEN AND POWER OF SALE

- 14.1 All Consignments delivered to the Carrier for carriage are and will be received by the Carrier and held by it subject to a lien for all carriage charges due to the Carrier from the Customer for the carriage of the goods and other proper charges or expenses incurred in respect of or in connection with the carriage of the particular Consignment and all other goods which may have been carried by the Carrier for the Customer from time to time.
- 14.2 The Carrier shall be entitled to charge to the Customer the cost of loading and unloading the goods whilst a lien is being exercised together with warehouse rent and any other expenses incurred during all periods during which the lien on the Consignment or any part of the Consignment is being asserted and all these Conditions shall continue to apply whilst the lien is being exercised.
- 14.3 If such lien is not satisfied by payment within a reasonable time of the Carrier's demand for payment then the Carrier shall be entitled to invoke the power of sale set out in Condition 8 over the Customer's goods in the Carrier's possession. Such sale shall be subject to the provisions of Conditions 8.2 and 8.3 above.

15. DETENTION OF CARRIER'S PROPERTY

The Customer shall, except in the case of negligence by the Carrier, pay to the Carrier any cost or expense occasioned to it by the improper or excessive detention by the Consignor or Consignee of any vehicle, trailer, container or covering belonging to, or under the custody or control of the Carrier without prejudice to any rights of the Carrier against any third party in respect of such detention.

16. DISPUTE RESOLUTION

- 16.1 The parties will attempt, in good faith, to resolve any dispute or claim arising out of or relating to these Conditions promptly through negotiations between the respective representatives of the parties who have authority to settle the same.
- 16.2 If the matter is not resolved through negotiation the parties may attempt to resolve the dispute or claim through an Alternative Dispute Resolution (ADR) procedure as recommended to the parties by the Freight Transport Association or the Centre for Dispute Resolution.
- 16.3 If the matter is not resolved by an ADR procedure or if either party will not or ceases to participate in an ADR procedure, the dispute may be referred to the arbitration of a single arbitrator or to an arbitrator appointed at the request of the parties by the President for the time being of the Chartered Institute of Arbitrators. The apportionment of the cost of any arbitration between the parties shall be in the discretion of the arbitrator. The arbitration shall, unless otherwise agreed, be held in the town wherein the Carrier has its main administrative office.

17. GOVERNING LAW

The parties shall agree the legal regime under which these conditions shall be construed and interpreted and the courts which shall have jurisdiction. In the absence of such agreement, the contract shall be subject to and construed and interpreted in accordance with English law and shall be subject to the jurisdiction of the courts of England.