

# CONDITIONS OF CARRIAGE

(hereinafter referred to as "the Carrier") is not a common carrier and accepts goods for carriage only upon that condition and the Conditions set out below. No servant or agent of the Carrier is permitted to alter or vary these Conditions in any unless expressly authorised in writing to do so...

## 1. Definitions

In these conditions:

"Customer" means the person or company who contracts for the services of the Carrier including any other carrier who gives a Consignment to the Carrier for carriage.

"Contract" means the contract between the Customer and the Carrier.

"Consignment" means goods in bulk or contained in one parcel, package or container, as the case may be, or any number of separate parcels, packages or containers sent at one time in one load by or for the Customer from one address to one address. "Dangerous Goods" means dangerous substances listed by the Health and Safety Commission in Part 1 of the Authorised and Approved List of Dangerous Substances, explosives, radioactive substances and any other substances presenting a similar hazard.

## 2. Parties and Sub-Contracting

(1) The Carrier warrants that he is either the owner of the goods in any Consignment or is authorised by such owner to accept these Conditions on such owner's behalf.

(2) The Carrier and any other carrier employed by the Carrier may employ the services of any other carrier for the purpose of fulfilling the Contract in whole or in part and the name of every such carrier shall be provided to the Customer upon request.

(3) The Carrier contracts for itself and as agent of and trustee for its servants and agents and all other carriers referred to in (2) above and such other carrier's servants and agents and every reference in Conditions 3 - 25 inclusive hereof "the Carrier" shall be deemed to include every other such carrier, servant and agent with the intention that they shall have the benefit of the Contract and collectively and together with the Carrier be under no greater liability to the Customer or any other party than is the Carrier hereunder.

(4) Notwithstanding Condition 2 (3) the carriage of goods in any Consignment by rail, sea, inland waterway or air is arranged by the Carrier as agent of the Customer and shall be subject to the Conditions of the rail, shipping, inland waterway or air carrier contracted to carry the goods. The Carrier shall be under no liability whatever to whomsoever and however arising in respect of such carriage. Provided that where goods are carried partly by road and partly by such other means of transport any loss, damage or delay shall be deemed to have occurred while the goods were being carried by road unless the contrary is proved by the Carrier.

## 3. Livestock

The Carrier will not accept any Consignments for carriage which contain livestock. Under no circumstances will the Carrier accept liability for loss or damage to Consignments which contain livestock whether disclosed or undisclosed by the Customer

## 4. Cash, Tickets and Vouchers

The Carrier will not accept any Consignments for carriage which contain cash. Under no circumstances will the Carrier accept liability for loss of cash, tickets and vouchers whether disclosed or undisclosed by the Customer.

## 5. Excluded Goods

(1) The Customer shall not submit for carriage and the Carrier may at any time abandon the carriage of any goods of types specified in sub-section (3) hereunder.

(2) If the Carrier abandons goods in pursuance of sub-section (1) above he shall immediately notify the Customer of the circumstances but shall be under no liability in respect of the safekeeping of the abandoned goods.

(3) The following are excluded goods

(a) Explosive and inflammable article, fire arms including parts of any fire arms, ammunition and detonators.

(b) Any article the possession of which in or the importation of which into any country from through or to which carriage is to take place is illegal or prohibited.

(c) Any article prohibited as hand luggage by Air Lingus.

(d) Any written printed or pictorial matter which is obscene, blasphemous, scandalous or defamatory or prescribed or prohibited.

## 6. Packaging and Fragile Goods

Any article contained in the goods for transit should be adequately packed by the customer as a protection against damaging in the course of transit. The Carrier accepts no liability for goods damaged due to inadequate packaging. Fragile goods must be packed in a container with sufficient strength to withstand damaging and should bear the words "fragile - with care" in conspicuous print on the face of the package.

## 7. Dangerous Goods

Dangerous Goods must be disclosed by the Customer and if the Carrier agrees to accept them for carriage they must be classified, packed and labelled in accordance with the statutory regulations for the carriage by road of the substance declared. Transport.

## 8. Loading and Unloading

(1) Unless the Carrier has agreed in writing to the contrary with the Customer:

(a) The Carrier shall be under any obligation to provide any plant, power or labour, other than that carried by the vehicle, required for loading or unloading the Consignment.

(b) The Customer warrants that any special appliances required for loading or unloading the Consignment which are not carried by the vehicle will be provided by the Customer or on the Customer's behalf

(c) The Carrier shall be under no liability whatsoever to the Customer for damage whatever, however caused, if the carrier is instructed to load or unload goods requiring special appliances which, in breach of the warranty in (b) above, have not been provided by the Customer on the Customer's behalf

(d) The Carrier shall not be required to provide services beyond the usual place of collection or delivery but if any such service is given the Carrier it shall be at the sole risk of the Customer.

(2) The Customer shall indemnify the Carrier against all claims and demands whatever which could not have been made if such instruction as are referred to in (1) (c) if this condition and such service as if referred to in (1) (d) of this Condition had not been given.

## 9. Consignment Notes

The Carrier shall, if so required, sign document papered by the sender acknowledging the receipt of the Consignment but no such document shall be evidence of the condition or of the correctness of the declared nature, quantity, or weight of the Consignment at the time it is received by the Carrier.

## 10. Transit

(1) Transit shall commence when the Carrier takes possession of the Consignment whether at the point of collection or at the Carrier's premises.

(2) Transit shall (unless otherwise previously determined) end when the Consignment is tendered at the usual place of delivery at the Consignee's address within the customary carriage hours of the district.

Provided that:-

(a) If no safe and adequate access or no adequate loading facilities there exist then transit shall be deemed to end at the expiry of one clear day after notice in writing (or by telephone) of the arrival of the Consignment at the Carrier's premises has been sent to the Consignee, and

(b) when for any other reason whatever a Consignment cannot be delivered or when a Consignment is held by the Carrier to "await order" or "to be kept till called for" or upon any like instructions and such instructions are not given or the Consignment is not called for and removed, within a reasonable time, then transit shall be deemed to end.

## 11. Undelivered or Unclaimed Goods

Where the Carrier is unable for any reason to deliver a Consignment to the Consignee or as he may order, or where by virtue of the proviso to Condition 10 (2) hereof transit is deemed to be at an end, the Carrier may sell the goods and payment or tender of the proceeds after deduction of all proper charges and expenses in relation thereto and of all outstanding charges in relation to the carrier an storage of the goods shall (without prejudice to any claim or right which the Customer may have against the Carrier otherwise arising under these Conditions) discharge the Carrier from all liability in respect of such goods, their carriage and storage

Provided that:-

(1) the Carrier shall do what is reasonable to obtain the value of the Consignment and

(2) the power of sale shall not be exercised where the name and address of the sender or of the Consignee is known unless the Carrier shall have done what is reasonable in the circumstances to give notice to the sender or, if the name and address of the sender is not known, to the Consignee that the goods will be sold unless within the time specified in such notice, being a reasonable time in the circumstances from the giving of such notice, the goods are taken away or instructions for their disposal received.

## 12. Carrier's Charges

(1) The Carrier's charges shall be payable by the Customer without prejudice to the Carrier's rights against the Consignee or any other person. Provided that when the goods are consigned "carriage forward" the Customer shall not be required to pay such charges unless the Consignee fails to pay after a reasonable demand has been made by the Carrier for payment thereof.

(2) Except where a quotation states otherwise all quotations based on a tonnage rate shall apply to the gross weight unless (a) the goods exceed 2.25 cubic metres in measurement per tonne, in which case the tonnage rates shall be computed upon and apply to each measurement of 2.25 cubic metres or any part thereof, or

(b) the size or shape of a Consignment necessitates the use of a vehicle of greater carrying capacity than the weight of the Consignment would otherwise require, in which case the tonnage rate shall be computed upon and apply to the carrying capacity of such vehicle as is reasonably required.

(3) Charges shall be payable on the expiry of any time limit previously stipulated and the Carrier shall be entitled to interest at 5% above the Clearing Bank Base Rate current at this time, calculated on a daily basis on all amount overdue to the Carrier.

## 13. Liability for Loss and Damage

(1) The Customer shall be deemed to have elected to accept the terms set out in (2) of this Condition unless, before the transit commences, the Customer has agreed in writing that the Carrier shall not be liable for any loss or mis-delivery of or

damage to goods however or whenever caused and whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of the Carrier

(2) Subject to these Conditions the Carrier shall be liable for:

(a) loss or mis-delivery of or damage to bullion, securities, stamps, precious metals or precious stone only if:

(i) the Carrier has specifically agreed in writing to carry any such items and

(ii) the Customer has agreed in writing to reimburse the Carrier in respect of all additional costs which result from the carrying of the said items and

(iii) the loss, mis-delivery or damage is occasioned during transit and results from negligent act or omission by the Carrier.

(b) any loss or mis-delivery of or damage to any other goods occasioned during transit resulting from the negligent act or omission of the Carrier unless the same has arisen from and the Carrier has used reasonable care to minimise the effects of

(i) Acts of God etc.

(ii) any consequences of war, invasion, act of foreign enemy, hostilities (whether war or not), civil war, rebellion, insurrection, military or unsupervised power or confiscation, requisition, or destruction of of damage to property by or under the order of any government or public or local authority;

(iii) seizure of forfeiture under legal process;

(iv) 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;

(v) inherent liability to wastage in bulk or weight, latent defect or inherent defect, vice or natural deterioration of the goods.

(vi) insufficient or improper packing.

(vii) insufficient or improper labelling or addressing

(viii) riot, and/or civil commotion, except where such loss, mis-delivery or damage is occasioned by theft or attempted theft.

(ix) strike, lockout, general or partial stoppage or restraint of labour from whatever cause.

(x) consignee not taking or accepting delivery within a reasonable time after the consignment has been tendered.

(3) The Carrier shall not in any circumstances be liable for loss of or damage to goods after transit of such goods is deemed to have ended within the meaning of Condition 10 (2) hereof, whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of the Carrier.

(4) Where under this condition the company is not under any liability in respect of some of the factors causing the loss or mis-delivery, damage or delay. It shall only be liable to the extent that those factors for which it is liable under this condition have contributed to the said loss or mis-delivery or damage or delay.

## 14. Fraud

The Carrier shall not in any circumstances be liable in respect of a Consignment where there has been fraud on the part of the Customer or the owner of the goods or the servants or agents of either in respect of that Consignment, unless the fraud has been contributed by the complicity of the Carrier or of any servant of the Carrier acting in the course of his employment.

## 15. Limitation of Liability

(1) The liability of the Carrier (which shall in any event be subject to these Conditions) shall be limited to the sum of €1.52 per kilo or the value of the consignment whichever is the lower

(2) The customer may at this option extend the liability of the Carrier beyond the above limit by arrangement with the Carrier and by paying a supplementary charge. Notwithstanding this the liability of the Carrier will be limited to the value of the consignment

(3) In the event of a consignment being damaged or wholly or partially lost by the Carrier shall be entitled to require proof of the cost or repair and/or of the cost or replacement and the liability of the Carrier (subject to these conditions) shall be limited to the lower cost

Provided that:

(i) nothing in this Condition shall limit the liability of the Carrier to less than the sum of €25.00 or more than €6,350.00

(ii) the Carrier shall be entitled to require proof of the value of the whole of the Consignment and of any part thereof lost, mis-delivered or damaged.

(iii) the Customer shall be required to agree with the Carrier the carriage charges appropriate to the value of the consignment where the limit of liability is increased above load limits in accordance with (2) of this condition.

(4) Notwithstanding Condition 15 (1), (2) & (3), the liability of the Carrier in respect of the indirect or consequential loss or damage, however arising and including loss of market, shall not exceed the amount of the carriage charges in respect of the Consignment, unless;

(a) at the time of entering into the Contract with the Carrier the Customer declares to the Carrier a special interest in delivery in the case of loss or damage or of an agreed time limit being exceeded and agrees to pay a subcharge calculated on the amount of that interest, and

(b) prior to the commencement of transit the Customer has delivered to the Carrier written confirmation of the special interest, agreed time limit and amount of the interest.

## 16. Insurance

The Carrier shall insure his liabilities arising out of the carriage of goods under these conditions.

## 17. Indemnity to the Carrier

The Customer shall indemnify the Carrier against:

(1) all consequences suffered by the Carrier (including but not limited to claims, demands, proceedings, fines, penalties, damages costs, expenses and loss of or damage to the carrying vehicle and to other goods carried) of any error, omission, mis-statement to mis-representation by the Customer or other owner of the goods or by any servant or agent of either of them, insufficient or improper packaging, labelling or addressing of the goods or fraud as in Condition 10.

(2) all claims and demands whatever by whomsoever made in excess of the liability of the Carrier under these Conditions.

(3) all losses suffered by and claims made against the Carrier resulting from loss of or damage to property caused by or arising out of the carriage by the Carrier of Dangerous Goods or not declared by the Customer as such.

(4) all claims made upon the Carrier by the Revenue Authorities in respect of dutiable goods consigned in bond whether or not transit has ended or been suspended.

## 18. Detention of Vehicles

The Customer shall pay the Company's charges for the detention of the Carrier's vehicles containers or coverings or other equipment or for the use or occupation of other accommodation whether before or after transit or while transit is suspend unless the Customer proves that such detention or use or occupation has arisen from the default of the Carriers.

## 19. Delay in Delivery

The Customer shall be responsible and liable to pay to the Company its costs in respect of any delay encountered as a result of the Carriers being prevented from effecting delivery of the goods from causes other than the Carriers own negligence and shall pay to the Company its charges in respect of any frustrated or aborted journey, occasioned other than by the carriers negligence.

## 20. Time Limited for Claims

The Carrier shall not be liable for:

(1) loss from a parcel, package or container or from an unpacked consignment or for damage to a consignment or any part of a consignment unless he is advised thereof in writing other than upon a consignment note or delivery document within seven days, and the claim is made in writing within fourteen days, after the termination of transit.

(2) loss, mis-delivery or non-delivery of the whole of a consignment or of any separate parcel, package of container forming part of a consignment unless he is advised of the loss, mis-delivery or non-delivery in writing, otherwise than upon a consignment note or delivery document within twenty-eight days and the claim in writing is made within forty-two days, after the commencement of transit, provided that if the Customer proved that:

(a) it was not reasonably possible for the Customer to advise the Carrier or make a claim in writing within the time limit applicable and

(b) such advice or claim was given or made within a reasonable time, the Carrier shall not have the benefit of the exclusion of liability afforded by this condition.

## 21. Lien

The Carrier shall have a general lien against the Customer, where the Customer is the owner of the goods, for any monies whatever due from the Customer to the Carrier. If such a lien is not satisfied within a reasonable time, the Carrier may, at his absolute discretion sell the goods, or part thereof, as agent for the Customer and apply the proceeds towards the monies due and the expenses of the retention, insurance and sale of the goods and shall, upon accounting to the Customer for any balance remaining, be discharged from all liability whatever in respect of the goods. Where the Customer is not the owner of the goods, the carrier shall have a particular lien against said owner, allowing him to retain possession, but not dispose of the goods against monies due from the Customer in respect of the Consignment.

## 22. Unreasonable Detention

The Customer shall be liable for the cost of unreasonable detention of any vehicle, trailer, container or sheet but the rights of the Carrier against any other person in respect thereof shall remain unaffected.

## 23. Loss/Adjustment

The value of a consignment or part consignment shall be taken as its invoice value when the goods have been sold. Otherwise it shall be taken as the cost thereof to the owner.

## 24. Impossibility of Performance

The Carrier shall be relieved of its obligation to perform the Contract to the extent that the performance is prevented by failure of the Customer, fire, weather conditions, industrial dispute, labour disturbance or cause beyond the reasonable control of the Carrier.

## 25. Disputes

Any dispute, difference or question which shall at any time hereafter arise between the Customer and the Company or their respective representatives touching any claims or counterclaims put forward on the part of the Customer against the Company in connection with or arising out of this contract or any extension thereof or the interpretation of this contract shall be referred to the arbitration of a single arbitrator to be agreed by the parties or in default of agreement to be appointed by the president for the time being of the Incorporated Law Society of Ireland at the request of either party. The cost of any such arbitration shall be at the discretion of the arbitrator and the award of such arbitration shall be a condition precedent to any legal proceedings in a Court of law in respect of any matters hereby agreed to be the subject of arbitration.