

SEATRUCK FERRIES LIMITED
STANDARD CONDITIONS OF CARRIAGE OF GOODS BY SEA

Any contract of carriage and any carriage of goods (as hereinafter defined) whether by contract or otherwise, and whether preceded by any oral, telephone, written, telexed or cabled communication, shall be subject to these conditions which shall override and exclude any terms stipulated or referred to by the shipper, consignee or owner (as hereinafter defined) to whose attention is drawn the fact (i) that the same contain terms excluding and limiting the liability of the carrier (as hereinafter defined) and (ii) that appropriate insurance arrangements should be made by them.

1. Definitions

In these conditions:

- (a) "goods" means the goods described or deemed to be described in the consignment note, and/or any unit and/or any goods in or on any unit and shall include live animals and cargo carried on deck.
- (b) "dangerous goods" include goods designated as such or those the carriage of which is prohibited by (i) the International Maritime Organisation, (ii) applicable legislation and regulations or (iii) common law; and any other hazardous, noxious or polluting goods.
- (c) "unit" (except where used in the provisions set out in the Schedule to the Carriage of Goods by Sea Act 1971) means any car, caravan, vehicle, trailer, container, flat and any article or item of equipment in or on which goods are carried or stored or by which goods are loaded on to or discharged from a ship.
- (d) "shipper" includes any person named as such in the consignment note or who presents the goods and/or causes the goods to be presented for shipment (even if such person states that they act as an agent).
- (e) "consignee" includes any person named as such in the consignment note or to whom the goods are to be released or who collects or demands release of the goods (whether or not such person states that they act as agent only).
- (f) "owner" includes any person (except the carrier) having an interest, whether proprietary, possessory or otherwise in any of the goods.
- (g) "carrier" means Seatruck Ferries Limited and, where the context permits, all Seatruck Ferries Limited's servants, agents, independent contractors and sub-contractors (including other ship owners or operators) and their servants and agents.
- (h) "consignment note" means a document issued as a receipt for the goods shipped or to be shipped on a ship or ships and which by reference to these conditions evidences the contract of carriage of goods by sea.
- (i) "ship" means any vessel used for the carriage of the goods.
- (j) "carriage of goods" includes all activity by the carrier in receiving, storing, handling, loading, stowing, lashing and unlashng, carrying, discharging, keeping and caring for the goods.
- (k) "loss" or "damage" includes all pecuniary, direct, indirect and consequential loss and/or damage and is not limited to loss and/or damage which is physical and/or is connected with loss and/or damage to goods.
- (m) "Lashing(s)" shall (except where used in clause 8(f)) mean all devices used by the carrier for securing the goods to the ship or part thereof for carriage and the words "lashed" and "unlashed" shall be read accordingly.

2. Law and Jurisdiction

These conditions and all contracts to which they apply and all disputes arising out of the carriage of goods shall be subject to English law and, for the benefit of the carrier, to the exclusive jurisdiction of the English High Court of Justice in London, provided (without prejudice to the fact that this exclusive jurisdiction agreement is for the carrier's benefit) that nothing in this clause shall prevent the carrier from invoking such other law or jurisdiction as may be necessary for the enforcement of the carrier's rights of lien under clause 16 hereof or otherwise.

3. Consignment Note

No bill of lading shall be issued and no document issued in connection with the carriage of goods shall be treated as if it were a bill of lading. It is the parties' intention that a consignment note be issued by the carrier. If however, for any reason, the carrier fails to issue a consignment note, the carrier shall nevertheless have the benefit of these conditions and the shipper, consignee and owner shall be subject to the burden of these conditions as if a consignment note had been issued. Any consignment note shall be a sea waybill pursuant to the provisions of the Carriage of Goods by Sea Act 1992 and shall be deemed to incorporate any description and identity of the goods, shipper or consignee contained in any notice issued by the carrier confirming that the goods have been booked or shipped as if such information had been included in the consignment note at the time of its issue.

4. Carrier

The carrier is not and does not hold itself out to be a common carrier. The carrier may accept or refuse any cargo in its sole discretion and the sailing of any particular ship is not guaranteed.

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5. Shipper/Consignee/Owner

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The shipper accepts these conditions on its own behalf and on behalf of the consignee and owner and warrants that it has authority to do so. Save where otherwise stated or where the context otherwise requires, any reference to the liabilities, responsibilities, undertakings or promises of the shipper shall be deemed to refer also to the liabilities, responsibilities, undertakings and promises of the consignee and of the owner, which shall be joint and several with the shipper and with each other. The consignee and owner each undertake all liabilities, responsibilities, undertakings and promises of the shipper, such undertaking being additional and without prejudice to the shipper's own liability. The provisions of this clause are in addition to and without prejudice to the provisions of the Carriage of Goods by Sea Act 1992.

6. Carrier's Rights and Liabilities

The goods are received, stored, handled, loaded, stowed, lashed, unlashd, carried, discharged, kept and cared for subject to the following:-

- (a) the provisions set out in these conditions.
- (b) the provisions (commonly known as the Hague-Visby Rules) set out in the Schedule to the Carriage of Goods by Sea Act 1971 as if the same were set out in full in these conditions save that:-
 - (i) Articles I and II and Article III rules 3, 4, 7 and 8 and Article IV rules 3, 5(c) and 5(f) and Article X and the third paragraph and the proviso to the first paragraph of Article VI shall be deleted.
 - (ii) any reference to a bill of lading shall be treated as a reference to a consignment note.
 - (iii) the goods (as defined herein) shall be treated as one package or unit for the purposes of Article IV rule 5(a) and the words "Unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading" shall be deleted from Article IV, rule 5(a).
 - (iv) for the purposes of section 1(6) of the Carriage of Goods by Sea Act 1971 the Hague-Visby Rules shall not govern any contract to which these conditions apply.
 - (v) in the event of any inconsistency between the provisions of the said Schedule and the other provisions set out in these conditions, the latter shall prevail.
- (c) the provisions of all other relevant statutory limitations of and exemptions from liability from time to time in force.

7. Limitation of Liability

Neither the carrier nor the ship shall be liable for:

- (a) loss or damage (whether caused by the negligence of the carrier or otherwise) caused (i) before the goods arrive at the carrier's yard and a consignment note is issued or (ii) after collection of the goods or 3 days following discharge, whichever is sooner,
- (b) delay of any kind whatsoever in the carriage or release of the goods;
- (c) the manner in which the goods are released unless the carrier fails to comply with clause 15(a) of these conditions,
- (d) loss of use, loss of profit, loss of value, indirect, economic or consequential loss of any nature in respect of the goods (whether caused by the negligence of the carrier or otherwise),
- (e) loss, delay or mishandling of any documents sent forward with the ship or any other ship and/or issued on receipt of the goods, and
- (f) theft of the goods (whether caused by the negligence of the carrier or otherwise) unless such theft be proven to have been committed by the carrier's servants.

8. Liabilities of the Shipper/Consignee/Owner

- (a) The driver or any other person presenting the goods for shipment or accompanying the goods shall (without prejudice to clause 1(e)) be the representative of the shipper, consignee and owner and has authority to sign documents and act on their behalf.
- (b) The shipper shall indemnify the carrier against all loss, damage, costs, expenses, liabilities and other consequences of electrical or mechanical installations in, the presence of fuel in, the leakage of fuel from and defects in or breakdown of any unit.
- (c) The carrier may open or permit to be opened any unit or otherwise handle or permit to be handled the goods if so directed by customs authorities, military authorities or any other competent authority or if the carrier in its sole discretion considers it necessary to do so. Such opening and handling shall (whether performed by such authorities or otherwise) be done at the shipper's risk and expense and the carrier shall not be liable for loss, damage or delay resulting therefrom (whether caused by the carrier's negligence or otherwise).
- (d) The shipper undertakes that the goods are suitable for carriage by sea.
- (e) The carrier shall not be liable in the event of failure of points or parts of the goods to which lashings have been fixed or damage to the goods caused by lashings or by their having been lashed.

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- (f) The carrier shall not be responsible for and the shipper shall indemnify the carrier against all consequences and liabilities resulting from inaccuracy in or inadequacy of the description, weight, number, dimensions, measure, quantity, marks, value, condition, quality or contents of the goods or defects in or overloading of units or inadequacy of the securing (including the lashing of the goods to any unit), packing, sealing or stuffing of the goods.
- (g) The shipper shall be responsible for complying with all requirements of customs authorities or other competent authorities and shall indemnify the carrier for any loss, damage, liability, costs and expenses incurred by the carrier from any failure to comply with such requirements.
- (h) The shipper shall indemnify the carrier for all losses, liabilities, costs and expenses (i) arising out of claims by and for all liabilities to third parties in respect of loss, damage, release or delay of or to or in connection with the goods in excess of the carrier's liabilities (if any) under these conditions, (ii) arising out of any loss or damage to any property or interests of the carrier or of third parties or to the ship caused by the goods and (iii) arising out of any death or personal injury to the carrier's servants, agents, independent contractors and subcontractors and their servants and agents or any other third party caused by the goods.

9. Dangerous Goods

No dangerous goods shall be sent for shipment or shipped without the prior permission of the carrier. The shipper shall give the carrier all necessary information to enable the carrier properly to receive, store, handle, load, stow, lash, unlash, carry, discharge, keep and care for such dangerous goods. The shipper shall attach proper and appropriate warning notices to the dangerous goods. In any event the shipper shall indemnify the carrier for all loss, damage, liabilities, costs and expenses arising from the sending for shipment or shipment of dangerous goods. Without prejudice to the foregoing, the shipper undertakes to take control and/or custody of such goods on the carriers' first demand.

10. Carriage on Deck

The carrier may without notice to the shipper carry the goods on deck or under deck. These conditions shall apply regardless of whether the goods are stated to be or are in fact carried on or under deck.

11. Live Animals

These conditions apply to the carriage of live animals. The carrier may in its sole discretion refuse to carry and/or delay the carriage of live animals. The carrier shall not be responsible or liable for the death of or injury to animals whether caused by the carrier's negligence or otherwise.

12. Refrigeration

Upon written request from the shipper, the carrier will use reasonable endeavours to connect any units to the ship's power supply and to maintain such supply but the carrier shall not be liable for any loss or damage arising from any failure (whether caused by the negligence of the carrier or otherwise) to make or maintain such connection. The carrier shall not be responsible for maintaining the goods at any specific temperature (whether on the ship or not) and shall not be liable for any loss or damage arising from any failure (whether caused by the negligence or instruction of the carrier or otherwise) to maintain such temperature.

13. Voyage

- (a) The carrier is at liberty to alter or depart from its advertised sailing schedule and its intended or advertised route. The ship is at liberty to call at any ports on or off that route in any rotation and to stay there as long as the carrier considers desirable, to sail with or without pilots, to make sea trials, to adjust compasses and other navigational instruments, to take in fuel or stores, to embark or disembark any person, to tow vessels, to be towed, to render assistance of any nature whatsoever (whether to other vessels or otherwise) and to drydock or go to a repair yard for any purpose.
- (b) No deviation of whatsoever kind shall at any time be considered a breach of these conditions or any contract.
- (c) The carrier may forward the goods by any ship or ships, may tranship, reload or restore the goods or part thereof in its sole discretion, may land, store or otherwise deal with the goods or part thereof at any port or place as, in its sole discretion, it sees fit and may abandon or suspend any voyage.

14. Payment of Freight

Freight shall be deemed earned and payable by the shipper on receipt of the goods for shipment, ship or goods lost or not lost and shall be paid in full without any allowance, credit, discount, right of set-off or counterclaim. The carrier shall not be responsible for "shippers charges forward" at any time.

15. Release and Storage

- (a) The shipper authorises the carrier to release the goods to any person whom the carrier reasonably believes to be authorised to collect them on behalf of the shipper or consignee. The shipper, to the exclusion of any liability of the carrier (whether the carrier be negligent or not), shall, through the consignee or otherwise, identify and collect the goods within 3 days following discharge. Such release shall constitute due fulfilment of the carrier's obligations in relation to the goods.
- (b) If any property other than the goods is collected by or on behalf of the shipper, consignee or owner such property shall be returned forthwith and the shipper shall indemnify the carrier for any loss, damage, costs or expenses arising out of collection of such property and any failure or delay in returning it to the carrier.
- (c) The carrier does not undertake to store the goods at any time. Nevertheless the carrier, if it so wishes, may store and/or park goods (and/or in the case of live animals place at livery, in kennels or as appropriate) either together or separately both before the loading and after discharge at any place or in any premises whatsoever as the carrier may decide at the sole risk of the shipper and/or consignee and/or owner. The shipper shall indemnify the carrier against all expenses so incurred and in case of storage and/or parking at any places or premises occupied by the carrier shall pay the carrier's charges therefor.

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16. Lien

- (a) The carrier (in addition to and without prejudice to all its rights to exercise a lien on the goods or any part thereof apart from this clause) shall have a lien on the goods or any part thereof for all sums which the carrier bona fide believes are or have become due to it (whether in respect of goods or otherwise). The lien may be exercised when, where and in such manner as the carrier may in its sole discretion decide.
- (b) In this clause "sums" includes but is not limited to damages for breach of contract and other unliquidated claims, costs, expenses, liabilities and general average and all previously unsatisfied debts whatsoever. The lien shall extend to include interest on all sums which before or after the lien is exercised becomes due and to all costs, expenses and liabilities incurred by the carrier in storing and/or insuring the goods, in exercising and maintaining the lien and/or in exercising the right of sale set out in sub-clause (c) of this clause.
- (c) The carrier may and is authorised to sell the goods or any part thereof which are not collected within 7 days of discharge whether or not any lien has been or might be exercised over such goods. The sale shall be in such manner as the carrier in its sole discretion may decide and the carrier may apply the proceeds of sale in full or part settlement of any sums due to the carrier.
- (d) Without prejudice to the generality of clause 5 above the shipper expressly warrants that it has authority to contract as in this clause on behalf of the consignee and the owner from time to time as well as on its own behalf and the shipper expressly agrees to indemnify the carrier against all loss, damage, consequences, liabilities, costs and expenses arising out of the exercise of such lien and power of sale if the exercise proves to be unlawful or ineffective as against the consignee and/or owner and/or any other person.

17. Subcontracting

- (a) The shipper undertakes that no claim whatsoever shall be made in relation to the goods against any servant, agent, independent contractor or sub-contractor of the carrier. Without prejudice to such undertaking, each such servant, agent, independent contractor and sub-contractor shall have the benefit of all provisions herein as if such provisions were expressly for their benefit and in entering into this contract, the carrier does so to the extent of those provisions, both on its own behalf and as agent and trustee for such servants, agents, independent contractors and sub-contractors.
- (b) The shipper shall pay to the carrier an amount equal to any sum recovered by the shipper or any other person from such servant, agent, independent contractor or sub-contractor of the carrier for any claim whatsoever (including claims arising out of negligence of such servant, agent, independent contractor or sub-contractor) made in relation to the goods.

18. Drivers

The carrier shall not be liable for personal injury to or loss of life of drivers, escorts or passengers of vehicles, or other persons who are or whose presence is connected with the goods or for loss or damage or delay in connection with their luggage howsoever caused (including by the negligence of the carrier) and the shipper agrees to indemnify the carrier against all such claims in respect of any such liability and against all costs and expenses incurred in relation to such claims except insofar as the carrier may be liable in accordance with the terms of the convention relating to the carriage of passengers and their luggage by sea (referred to as The Athens Convention 1974) whether or not the carrier would but for this clause be liable for such injury, loss or damage, either in negligence or in contract or otherwise.

19. General Average

General average shall be adjusted according to the York Antwerp Rules 1994 as amended by any subsequent amendment or revision in force at the date of the relevant contract of carriage at such port as the carrier may decide by an average adjuster appointed by the carrier. In case of accident or salvage the measures and arrangements of the carrier or the master shall be collectively and individually binding on the shipper and/or consignee and/or owner. If a salving vessel is owned or operated by the carrier, salvage shall be paid for as fully as if the said salving vessel belonged to strangers.

20. Time Bars

Notice of loss or damage and the general nature of such loss or damage is to be given in writing to the carrier before collection of the goods or, if such loss or damage is not apparent on collection, within 7 days of collection. Failure to provide such notice shall raise a prima facie presumption of release by the carrier of the goods in the same order and condition in which they were received by the carrier.

In any event the carrier and ship shall be discharged from all liability in respect of the goods unless suit is brought within 11 months of the discharge of the goods or the date when the goods should have been discharged.

In the case of any actual or apprehended loss or damage the carrier and the shipper shall give all reasonable facilities to each other for inspecting and tallying the goods.

21. Miscellaneous

- (a) If so required by it, the ignition keys of any unit shall be delivered to the carrier for the duration of any voyage.
- (b) No agent or servant of the carrier has authority to alter or waive these conditions or any part thereof.
- (c) No failure or forbearance of the carrier to exercise any of its rights or remedies under these conditions or any contract shall constitute a waiver thereof or prevent the carrier from subsequently exercising any such rights or remedies in full.
- (d) If any provision of these conditions or of any contract to which they apply is by law illegal, void, unenforceable or ineffective in whole or in part, the said provision shall be ineffective only so far as is necessary for it not to be illegal, void, unenforceable or ineffective and all other provisions of these conditions or such contract shall be unaffected thereby and shall remain in full force and effect.

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