

TERMS & CONDITIONS OF BUSINESS FOR LEWIS DAY TRANSPORT PLC

1. Definitions

- "Carrier" means Lewis Day Transport plc and all subsidiary companies.
"Customer" means the person who contracts for the services of the Carrier.
"Conditions" means these conditions of carriage, which shall apply to the contract of Carriage between the Customer and the Carrier.
"Consignee" means the person to whom the Carrier delivers the consignment.
"Consignment" means goods or property, whether or not contained in separate parcels, packages, containers or envelopes to be delivered by the Carrier for the Customer from one address to another, including any papers and documents.
"Dangerous Goods" means dangerous goods as defined in the Carriage of Dangerous Goods by Road Regulations 1996 (as amended, re-enacted or extended from time to time), and any other substance likely to cause or encourage disease, vermin, pests or other hazard.

2. General

- 2.1 The Carrier is not a common carrier and accepts at its sole discretion Consignments for carriage subject only to these Conditions. These conditions shall apply to the exclusion of any other terms and conditions (including those of the Customer). Unless agreed in writing by a Director of the Carrier, no employee, agent or sub-contractor of the Carrier is authorised to alter or vary these Conditions.
2.2 The Customer acknowledges and agrees that the Conditions excluding or restricting any liability of the Carrier are reasonable having regard to the existence of alternatives and other carriers available to it.
2.3 The Customer warrants that it is either the owner of the Consignment and accepts these Conditions or is authorised by such owner to accept these Conditions on such owner's behalf.

3. Sub-Contractor

- 3.1 The Carrier may engage any agent or sub-contractor to fulfil the contract and shall provide the name of such agent or sub-contractor to the Customer upon request. Subject to paragraph 3.2, the Carrier contracts for itself and on behalf of its agents and sub-contractors.
3.2 The carriage of 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 terms and conditions of the relevant sub-contracted carrier.

4. Dangerous Goods

The Customer must disclose all Dangerous Goods in advance and unless otherwise agreed, the Carrier will not accept or carry Dangerous Goods. Where the Carrier accepts Dangerous Goods for carriage they must be classified, packed and labelled in accordance with any applicable statutory regulation for the carriage of such substance and with any specific instructions of the Carrier. The Customer shall further provide such information, document or declaration as may be necessary to enable the carriage of such substance.

5. Delivery

- 5.1 The Carrier does not provide a packing service, therefore the customer shall ensure that the Consignment is secure, properly labeled and suitably packed to manufacturer's specification for multi-handling and is fit and safe to be carried, stored and transported by road, air, rail or sea as may be appropriate.
5.2 The Carrier will use all reasonable efforts to deliver within the time specified for delivery but unless otherwise agreed these are estimates only and time is not of the essence.
5.3 Unless the Carrier has otherwise agreed in writing with the Customer:
5.3.1 The Carrier shall not be required to provide any labour or special equipment for loading or unloading the Consignment, other than that carried by the vehicle used by the Carrier; and
5.3.2 The Customer warrants that it will provide or procure any special equipment required for loading or unloading the Consignment and shall indemnify and hold harmless the Carrier for any damage, however caused, if the Carrier is instructed to load or unload any Consignment requiring special equipment where such equipment has not been provided or procured by the Customer.

6. Consignment Notes

- 6.1 If required, the Carrier shall sign a document prepared by the Customer acknowledging receipt of the Consignment but such document shall not be evidence of the condition, declared nature, quantity or weight of the Consignment at the time it is received by the Carrier.
6.2 The Carrier may require acknowledgment at the point of delivery of the Consignment and any such receipt given shall be conclusive evidence of proper delivery.

7. Transit

- 7.1 Transit commences when the Carrier takes possession of the Consignment, whether at the point of collection or at the Carrier's premises.
7.2 Subject to paragraph 7.3, transit shall (unless otherwise agreed) end when the Consignment is tendered at the usual place of delivery at the Consignee's address.
7.3 Where a Consignment cannot be delivered (for whatever reason), or is held by the Carrier to await order, or further instructions are not given, or the Consignment is not collected within 48 hours of notice being given to the Customer, or such other time as the Carrier may nominate, then transit shall be deemed to end at the expiry of such time.
7.4 The Carrier shall be entitled to recover any expenses incurred in attempting to effect delivery.

8. Carriage of Passengers

- 8.1 The following terms and conditions shall also apply where the Carrier is engaged for the carriage of passengers.
8.2 Quotations are made subject to a suitable vehicle being available. Quotations are given in accordance with details provided by the Customer. Unless otherwise stated, admission charges, meals, accommodation and parking charges for special events are not included in the price.
8.3 Where hours are agreed with the Carrier for the long distance of passengers, these must be strictly observed (except for serious emergency or diversion) to comply with the current regulations governing drivers' hours and rest periods. The Carrier reserves the right to curtail or otherwise alter any hire that does not comply with the relevant regulations.
8.4 Transit commences when the passengers board the vehicle and ends when they leave the vehicle, or upon arrival at the end destination, whichever is the earlier.
8.5 The Customer must not load any vehicle beyond the number of passengers that it is legally permitted to carry.
8.6 No animals may be carried without the prior written agreement of the Carrier.
8.7 The Carrier will not be liable for any loss incurred by a passenger who fails to join the vehicle at the agreed time.
8.8 The Carrier shall not be liable for any damage to or loss of any property left on the vehicle by a passenger. All articles of lost property recovered from a vehicle will be held at the depot at which the vehicle is based and shall be disposed of by the Carrier in accordance with clause 9.
8.9 The driver is responsible for the safety of the vehicle. Any passenger whose conduct the driver reasonably believes to be threatening, drunken and disorderly, abusive, dangerous or in breach of any statutory regulation may be removed from a vehicle or prevented from boarding. The Customer will be responsible for the conduct of any passenger and shall indemnify the Carrier for any damage or injury caused to the vehicle and driver by the Customer or any passenger.

9. Undelivered or Unclaimed Goods

- 9.1 Where the Carrier is unable to effect delivery as requested by the Customer, or where transit has come to an end, the Carrier shall use its reasonable endeavours to notify the Customer and the Consignee of any undelivered or unclaimed goods. Unless the goods are collected or instructions are given for its disposal within 48 hours (or such other time as the Carrier may nominate) of notice being given, the Carrier may destroy or sell the goods as if it were the absolute owner.
9.2 The Carrier shall use its reasonable endeavours to obtain a reasonable price for the goods and shall apply the proceeds of sale to the payment of all its proper expenses and charges incurred in relation to the carriage, storage and sale or disposal of the goods. Any proceeds left over shall be paid to the Customer upon which the Customer shall be discharged from all liability in respect of the goods.

10. Cancellation

In the event of cancellation of any contract of carriage, whether for a Consignment or of passengers by the Customer within 30 minutes prior to the start of transit, the Customer shall be liable to the Carrier for any losses incurred by the Carrier, as a result of the cancellation not exceeding the full cost of hiring.

11. Carrier's Charges

- 11.1 Payment terms are 28 days from date of invoice. Any variation to these terms are to be agreed in writing.
11.2 The Carrier's charges shall be based on its tariffs in effect at the time of performance. The Carrier will prepare invoices at least once a month. Credit facilities granted to a Customer may be withdrawn at the Carrier's discretion. At any time and the balance outstanding shall become due immediately on demand.
11.3 Charges are payable in full without any right of deduction or set off on the due date notified to the Customer or failing such notification within seven days after the date of the relevant invoice. The Carrier shall be entitled to charge interest at 2.5% above the prevailing Official Dealing Rate of the Bank of England calculated on a daily basis on all overdue amounts. Any queries in respect of an invoice must be made in writing within seven days of the date of the invoice otherwise it will be deemed to have been accepted and will be payable in full.
11.4 All quotations given based on weight charge shall apply to the gross weight of the Consignment.
11.5 In relevant circumstances, volumetric conversion will apply.
11.6 All charges quoted are exclusive of Value Added Tax (VAT), which will be charged on all consignments except for international consignments going outside the European Union.

12. Lien

- 12.1 The Carrier shall have a general lien over the Consignment, for monies due from the Customer. If a lien is not satisfied within a reasonable time and the Customer is the owner of the Consignment, the Carrier may at its absolute discretion sell the whole or part of a Consignment and apply the sale proceeds towards monies due and the expenses of the carriage, storage, sale or disposal of the Consignment. Any balance remaining shall be paid to the Customer upon which the Carrier shall be discharged from all liability in respect of the Consignment. Where the Customer is not the owner of the Consignment, the Carrier shall be entitled to retain possession, but not dispose of the Consignment, until all monies due in respect of the Consignment are paid in full.

13. Limitation of Liability

- 13.1 Save where the Customer has made specific arrangements for insurance with the Carrier prior to commencement of transit of the Consignment the Carrier shall not be liable for any loss or misdelivery or damage to bullion, money, securities, deeds, bills of exchange, promissory notes, stamps, photographs, documents of title to property, jewellery, precious stones, gold, silver, platinum and other precious metals, non-ferrous metals other than in component form, antiques, watches, furs, drugs, human remains, nuclear fuel or nuclear waste, cassettes, videos, spirits, tobacco (other than raw leaf tobacco) and cigarettes, brittle/fragile/breakable articles including but not limited to; computers, laptop computers, servers, flat screen televisions, plasma screens, digital cameras etc., livestock, all perishables and foodstuffs and the Customer shall indemnify and hold harmless the Carrier in respect of any loss or damage caused in respect thereof to any person whatsoever. In addition, the Carrier shall not carry any passengers under any circumstances (except as determined in accordance with Clause 8).
13.2 The Carrier shall not be liable in respect of any loss, misdelivery of or damage to any Consignment as a result of any: Force majeure event which shall mean any circumstance beyond the reasonable control of the Carrier, (including, without limitation, act of God, outbreak of hostilities, riot, civil disturbance, acts of terrorism, the act of any government (including refusal or revocation of any licence or consent) fire, explosion, flood, power failure, failure of telecommunication lines, fuel shortage, any strike, lock out or other form of industrial action);
13.2.2 Seizure or forfeiture under legal process;
13.2.3 Act, omission, or misrepresentation by the Customer, owner of the Consignment, Consignee or independent contractor;
13.2.4 Inherent liability to wastage in bulk or weight, defect or inherent defect, natural deterioration or fragility of the Consignment (notwithstanding that it may be marked "Fragile");
13.2.5 Insufficient or improper packing, labelling or addressing unless it is previously agreed in writing that the Carrier shall undertake such task; or
13.2.6 Marine risk
13.3 The Carrier shall not in any circumstances be liable for loss or damage to the Consignment after transit is deemed to have ended, whether or not caused or contributed to by the Carrier.
13.4 The Carrier shall not in any circumstances be liable for any loss or damage where there has been fraud on the part of the Customer, owner of the Consignment or Consignee, unless the fraud has been contributed to by the Carrier or its employees acting in the course of their employment.

14. Liability for Loss and Damage

- Unless otherwise agreed in writing, the liability of the Carrier for loss of or damage to any Consignment shall be limited to:
14.1.1 A Standard maximum of £1,000 per Consignment for sameday service within Great Britain, subject to declaration of value at point of booking, except for when the sameday service delivery is via one of our approved sub-contractors, where the principal Carrier's maximum liability is £100.
The Carrier shall not in any circumstances be liable for loss or damage to component parts of brittle/fragile/breakable articles such as computers, laptop computers, servers, flat screen televisions, plasma screens, digital cameras etc. Cover is for visible loss or damage only.
14.1.2 The maximum liability for any item carried by pedal cycle or motor cycle is £100 for loss or damage however caused.
14.1.3 The declared value of the Consignment or three times the charge payable to the Carrier for International or Overnight services, whichever sum is the lesser, subject always to a maximum liability of £100;
Whether or not such loss or damage was due to the fault or negligence of the Carrier, its employees, and agents or otherwise. If the Customer wishes to arrange a higher level of insurance in respect of any Consignment, then it should notify to the Carrier, who may be able to arrange this at an additional charge to the Customer.
14.2 Where the misdelivery, loss or damage is only in respect of part of the Consignment, the Carrier's liability shall be limited to the actual value of that part or the proportion of the sum calculated under paragraph 13.1, which that part bears to the value of the total Consignment, whichever is the lower.
14.3 The Carrier shall in no circumstances, except in respect of death or personal injury caused by the Carrier's negligence, be liable for any consequential, special or indirect loss or damage costs, expenses or other claims whatsoever (whether for loss of profit or otherwise and whether due to the negligence of the Carrier, its employees, agents or otherwise) which arise out of or in connection with the supply of the Carrier's services.
14.4 The Customer shall provide to the Carrier written proof of the value of the Consignment damaged or lost and the Carrier shall be entitled to inspect the damaged Consignment.
14.5 The Carrier shall only be liable for loss or damage occurring within Great Britain. For journeys outside Great Britain, liability shall be restricted to the amount of cover provided by the international agent or carrier chosen at the Carrier's absolute discretion. Details of such cover shall be provided to the Customer upon request.

15. Time Limits for Claims

The Carrier shall not be liable for loss of, misdelivery or damage to any Consignment unless it is notified by the Customer of such loss or damage in writing within 7 days of the end of the transit and the claim giving details of the value and the circumstances of any loss is made in writing within 14 days after the end of transit. A claim for loss or damage would not be accepted on a delivery note.

16. Indemnity to the Carrier

- 16.1 The Customer shall indemnify the Carrier against:
16.1.1 All losses 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) as a result of any breach of these Conditions, fraud, error, omission, or misrepresentation by the Customer, owner of the Consignment or Consignee;
16.1.2 All claims and demands made against the Carrier by any third party in excess of the liability of the Carrier under these Conditions;
16.1.3 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 of Dangerous Goods; and
16.1.4 All claims made upon the Carrier by H M Customs and Excise in respect of dutiable goods consigned in bond, whether or not transit has ended or been suspended.

17. Severance

If any provision of the Conditions is held by any court or competent authority to be invalid or unenforceable, in whole or in part, the validity of the remainder of these Conditions and of such provision shall continue in full force and effect.

18. Governing Law and Jurisdiction

These Conditions and all contracts with Customers shall be governed by and construed in accordance with the Laws in England and any proceedings shall be subject to the exclusive jurisdiction of the English Courts.