

TRANSMANN LIMITED ("the Carrier") is not a common carrier and accepts goods for carriage only upon that condition and the Conditions set out below. No person other than the director of the Carrier is permitted to alter or vary these Conditions and any alteration or variation must be in writing and signed by such director.

I. Definitions

In these Conditions:

"Customer" means the customer who contracts for the services of the Carrier.

"Contract" means the contract of carriage between the Customer and the Carrier and shall be subject to these Conditions which shall be deemed to have been accepted by the Customer unless, before the transit of any consignment commences, the Carrier and the Customer have agreed any variation or waiver in writing.

"Consignee" means the person or company to whom the Carrier contracts to deliver the Consignment.

"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 and by or for the Customer from one address to another.

"Dangerous Goods" means goods within the definition of dangerous goods in the Carriage of Dangerous Goods (Classification Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 1996 of the United Kingdom ("the Regulations") and any regulations amending or replacing the same. The definition of "dangerous goods" in the Regulations is:

"dangerous goods" means any:

- (a) explosives;
- (b) radioactive materials;
- (c) goods named individually in the Approved Carriage List (other than when so diluted or treated that they no longer have the hazardous properties (within the meaning of the Regulations) of those goods); or
- (d) any other goods which, have one or more of the hazardous properties for the purpose of this definition "goods" mean articles or substances. Without prejudice to the generality of the foregoing, the expression "Dangerous Goods" shall also include:
 - (a) explosive inflammable toxic corrosive and other dangerous items;
 - (b) firearms, parts of firearms (including imitation firearms and parts thereof) and ammunition maroons flares and the like items;
 - (c) living creatures of all description;
 - (d) controlled or hazardous waste;
 - (e) offensive or noisome items and items capable of contaminating others by smell or otherwise unless securely packaged in air tight containers;
 - (f) all other items the possession or carriage by road of which is prohibited by the law of the Isle of Man or that of any part of the United Kingdom;
 - (g) goods which although not included in (a) to (f) above are of a similar kind.

2. Parties' Warranties

- (1) The Customer warrants that he is either the owner of the goods in a Consignment or authorised by such owner to accept these Conditions on the owners' behalf;
- (2) The Carrier may unless otherwise instructed in writing by the Customer sub-contract all or any part of its services.
- (3) The Carrier contracts for itself and as agent and trustee for its employees and sub-contractors and their employees with the intention that they shall have the benefit of the conditions of this contract and collectively and together with the Carrier be under no greater liability to the Customer or any other party than is the Carrier.

3. Loading and Unloading

- (1) The Carrier shall not be under any obligation to provide and plant power or labour in addition to the equipment on the Carrier's vehicle and the services of the Carrier's driver for loading or unloading the Consignment.
- (2) The Carrier shall not be required to provide any service beyond collection or delivery but if any such service is given by the Carrier it shall be at the sole risk of the Customer who shall indemnify the Carrier against all claims and demands whatever which could not have been made if such service had not been given.
- (3) (a) Goods requiring special appliances for unloading from the vehicle by which they are carried are accepted for carriage only on condition that such appliances are made available by the Customer at destination and it shall be the responsibility of the Carrier to provide such and all necessary labour at his sole cost and expense.
 (b) When the Carrier is, without prior arrangement in writing with the Customer, called upon to load or unload goods requiring special appliances for loading or unloading, the Carrier shall be under no liability whatever to the Customer for any damage or whatever however caused arising out of such loading or unloading and the Customer shall indemnify the Carrier against all claims and demands whatever which could not have been made if such assistance had not been given.

4. Consignment Notes, Addressing and Labelling

- (1) The Carrier shall if so required sign a document prepared by the sender acknowledging the receipt of the Consignment but no such document shall be evidence of the condition of or the correctness of the declared nature, quality or weight of the Consignment at the time it is received by the Carrier.
- (2) Every Consignment shall be addressed and/or labelled in such manner and accompanied by such documents as the Carrier may require.

5. 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 end (unless otherwise previously determined) when the Consignment is tendered at the place of delivery at the Consignee's premises within the Carrier's usual hours of business provided that:
 - (a) If no safe and 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 if so previously agreed in writing) 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 until called for" or upon any like instruction and any such order is not given or the Consignment is not called for and removed from the Carrier's premises within a reasonable time, then transit shall be deemed to end; and
 - (c) Notwithstanding the provisions of (a) and (b) above the Customer shall be liable to pay the Carrier a storage fee in accordance with the Carrier's tariff of charges in force at the time for as long as the Consignment is in the possession of the Carrier whether or not the transit shall have deemed to come to an end in terms of paragraphs (a) or (b) above and shall indemnify the Carrier against all cost and expense incurred by the Carrier if it places the Consignment with a third party pending collection or removal of the Consignment by the Customer or the Consignee.

6. Undelivered or Unclaimed Goods

Where the Carrier is unable for any reason to deliver to the Consignee or as he may order, or where by virtue of the proviso to Condition 5(2) above 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 of all outstanding charges in relation to the carriage and 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:-

- (a) The Carrier shall do what is reasonable to obtain the value of the Consignment; and
- (b) The power of sale shall not be exercised where the name and address of the sender or Consignee is known unless the Carrier has 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 shall be sold unless within the time specified in such notice being reasonable time in the circumstances from the giving of such notice the goods are collected or instructions given for their disposal and the goods disposed of in accordance with those instructions.

7. Dangerous Goods

If the Carrier agrees to carry Dangerous Goods for carriage such goods must be accompanied by full declaration of their nature and contents and be properly and safely packed and labelled in accordance with any applicable statutory legislation or regulations, for the time being in force in the Isle of Man and/or the United Kingdom and/or any other country or state through or to which those goods are to be carried by road and the Customer shall indemnify the Carrier against all loss and damage and any injury howsoever caused arising out of the carriage of any Dangerous Goods whether declared or not.

8. Carrier's Charges and Terms of Payment

- (1) (i) The Carrier's charges for carriage shall be payable by the Customer without prejudice to the Carrier's rights against the Consignee or any other person and where a contract is made for the delivery of a specified quantity of goods and further or additional goods are carried and/or warehoused an extra charge may be made and these Conditions shall apply equally to the carriage and/or warehousing of the further or additional goods.
- (ii) A claim or counter-claim shall not be made as a reason for deferring or withholding payment of monies payable or satisfaction of liabilities incurred to the Carrier.
- (2) Unless otherwise agreed in writing the Carrier's charges shall be due and payable;
 - (a) For carriage before the Consignment is accepted by the Carrier; and
 - (b) For any Consignment warehoused prior to the removal of the same from the Carrier's premises; and
 - (c) In accordance with the Carrier's tariff of charges the current; and
 - (d) With a surcharge of 3% in case of payment by a credit card.
- (3) Interest at 7% over Barclays Bank Plc base rate from time calculated on a daily basis is payable on all amounts to the Carrier from the day they become due until the day they are fully paid and discharged.

9. Liability for Loss or Damage

- (1) The Carrier shall not be liable for:
 - (i) Loss or misdelivery or damage to livestock, spirits, glass, jewellery, precious metals, precious stones, bullion, money, securities, stamps unless;
 - (a) The Carrier has specifically agreed in writing to carry any such items; and
 - (b) The Customer has agreed in writing to reimburse the Carrier in respect of all additional costs which may result from the carrying of the said items; and
 - (c) The loss, misdelivery or damage is occasioned during transit and results from any negligent act or omission by the Carrier
 - (ii) any loss or misdelivery or damage to any other goods where the Carrier establishes on the balance of the probabilities that the same has arisen the effects of
 - a) Act of God;
 - b) Any consequences of war, invasion, act of foreign enemy, hostilities (whether war or not), civil war, rebellion, insurrection, military or usurped power of confiscation, requisition, or destruction of or damage to property by or under the order of any government or public or local authority;
 - c) Riot, civil, commotion, strike, lock-out, general or partial stoppage or restraint of labour from order of the court;
 - d) Seizure or forfeiture under legal process;
 - e) Error, act, omission, misstatement or misrepresentation by the Customer or other the owner of the goods whereby the employees or agents of either of them;
 - f) Inherent liability to wastage and bulk or weight, latent defect or inherent defect, vice or natural deterioration of the goods;
 - g) Insufficient or improper packing, labelling or addressing;
 - h) The Consignee not taking or accepting delivery within a reasonable time after the Consignment has been tendered;
- (2) The Carrier shall not in any circumstances be liable for loss or damage to a Consignment after transit of such has ended or is deemed to have ended within the meaning of condition 5(2) above.

10. 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 Consignment or the employees or agents of either in respect of that Consignment unless the fraud has been contributed to by the complicity of the Carrier or any employee of the Carrier acting in the course of his employment.

11. Limitations of Liability

- (1) Except as provided in these Conditions, the liability of the Carrier in respect of loss or misdelivery of a damage to the Consignment shall in all circumstances be limited as follows;
 - (a) Where loss, misdelivery or damage, however sustained in the course of transit, is in respect of the whole of the Consignment, to a sum calculated at the rate of £1,300 per tonne on the gross weight of the Consignment;
 - (b) Where loss, misdelivery or damage, however sustained during storage, is in respect of the whole of the Consignment, to a sum calculated at the rate of £100 per tonne on the gross weight of the Consignment;
 - (c) Where loss, misdelivery or damage, however sustained, is in respect of part of the Consignment, to the proportion of the sum of £1,300 or as the case may be the sum of £100 which the actual value of the Consignment bears to the actual value of the whole of the Consignment. Provided that;
 - (i.) Nothing in this condition shall limit the liability of the Carrier to less than the sum of £50;
 - (ii.) The Carrier shall be entitled to require proof of the value of the whole of the Consignment and any part thereof lost, mis-delivered or damaged

- (iii.) The Customer may at any time prior to commencement of transit give 7 days; written notice to the Carrier requiring that the £1,300 per tonne limit in paragraph (i) (a) or the £100 per tonne limit in paragraph (1) (b) be increased to a figure not exceeding the value of the Consignment and in the event of such notice being given the Customer shall before transit commences agree with the Carrier an increase in the carriage charges to reflect the increased limit
- (iv.) The Carrier may also upon receiving such notice as is mentioned in (iii) require the Customer to effect his own insurance at his sole cost and expense for loss, misdelivery or damage to the Consignment in excess of the limits previously mentioned in this Condition
- (2) Notwithstanding Condition 11 (1) above, the liability of the Carrier in respect of 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 or the amount of the claimant's proved loss, whichever is the smaller 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 case of loss or damage or of an agreed time limit being exceeded and agrees to pay a surcharge calculated on the amount of that interest in accordance with the Carrier's tariff charges current at the date of the Consignment Note and;
 - (b) Prior to the commencement of transit the Customer has delivered to the Carrier written confirmation of that special interest, agreed time limit and amount of the interest.

12. Indemnity to the Carrier

The Customer shall indemnify the Carrier against;

- (i) All and every claim, cost and expenses (direct or indirect) suffered by the Carrier in consequence of any non-disclosure, error, omission, misstatement, misrepresentation by the Customer or other the owner of the Consignment or by his employee or agent or either of them, insufficient or improper packing, labelling or addressing of the Consignment or fraud as mentioned in Condition 10;
- (ii) all claims and amounts whatever by whoever made in excess of the liability of the Carrier under these Conditions;
- (iii) all losses suffered by and claims made against the Carrier in consequence of the Carrier of Dangerous Goods;
- (iv) all claims made upon the Carrier by Customs and Excise or other relevant revenue authority whether in respect of dutiable goods consigned in bond or not and whether or not transit has ended or been suspended.

13. Time limit for Claims

- (1) The Carrier shall not be liable for;
 - (a) Damage to the whole or any part of the Consignment, or physical loss, or miss-delivery or non-delivery of the part of the Consignment unless advised thereof in writing within seven days, and the claim is made in writing fourteen days, after the termination of transit;
 - (b) And other loss unless advised thereof in writing within twenty-eight days, and the claim is made in writing within forty-two days, after the commencement of transit. Provided that if the Customer proves that;
 - (i) It was not reasonably possible for the Customer to advise the Carrier or make a claim in writing within the time limit applicable; and
 - (ii) 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;
- (2) The Carrier shall in any event be discharged from all liability whatsoever and howsoever arising in respect of the Consignment unless suit is brought within one year of the date when transit commenced.
- (3) In the computation of time where any period provided by these Conditions is seven days or less Saturdays, Sundays and all statutory public holidays shall be excluded.

14. General Lien

The Carrier shall have a general lien against the owner of the Consignment for any monies whatever due from the Customer or such other owner to the Carrier. If any such lien is not satisfied within a reasonable time the Carrier may at its absolute discretion sell the Consignment, or any part thereof, as agent for the owner 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 Consignment.

15. Detention

The Customer shall indemnify the Carrier against all loss and liability arising out of the detention of any vehicle, trailer, container or sheet by reason of the nature of the Consignment or the way in which it is packed and without limiting the generality of these provisions the Customer shall indemnify the Carrier against all losses and liability arising from the confiscation of the vehicle, trailer or container in which the Consignment is carried or stored but the right of the Carrier against any other person in respect of such detention or confiscation shall remain unaffected.

16. Impossibility of Performance

The Carrier shall be relieved of its obligation to perform the contract to the extent that the performance of such is prevented by failure of the Customer, fire, weather conditions, industrial disputes, labour disturbances or caused beyond the reasonable control of the Carrier.

17. Arbitration

Any dispute arising out of these Conditions shall be referred to a single arbitrator in accordance with the Arbitration Acts for the time being in force in the Isle of Man and the decision of such arbitrator shall be final and binding upon the parties.

18. Value Added Tax

All charges shown on the Carrier's tariff of charges or for which an estimate or quotation is given exclude Value Added Tax which shall be payable at the rate from time to time applicable to such charges, estimate or quotation.

19. Manx Law

This contract is made under and governed by the laws of the Isle of Man.