Same Day Courier Terms of Business

Same Day Courier (hereinafter referred to as the Carrier) accepts goods for carriage subject to conditions (hereinafter referred to as these "Conditions") set out below. The Carrier shall not be bound by any alteration of these Conditions or any agreement collateral thereto unless the same shall be in writing and signed by two authorised officers of the Carrier.

1) Definitions

In these conditions the following expressions shall have the meaning hereby respectively assigned to them, that is to say: -

"Customer" shall mean the customer who contracts for the services of the Carrier.

"Consignment" shall mean goods in bulk or contained in one parcel or package, as the case may be, or any number of separate parcels, parcels or packages sent at one time in one load by, or for, the Customer from one address to one address.

"Dangerous Goods" shall mean

(a) dangerous substances listed by the Health and Safety Commission in Part I of the Authorised and Approved List of Dangerous Substances, explosives, radioactive substances and any other substance presenting a similar hazard or

(b) goods which though not included in (a) above are of a kindred nature.

"Contract" shall mean the contract of carriage between the Customer and the Carrier.

"Sub-contracting parties" includes all persona (other than the Carrier and the Customer) referred to in Clause 3 (iii)

"Carrier" save in the expression Carrier/Contractor includes sub-contracting parties in Clauses 4 (ii), 5 (ii) and (iii) and 10 (proviso).

"Carrier/Contractor" means the carrier and any other carrier within clause 3 (ii).

2) Carrier is not a common carrier

The Carrier is not a common carrier and will accept goods for carriage only on these conditions.

3) Parties and sub-contracting

(i) Where the Customer is not the owner of some or all of the goods in any consignment he shall be deemed for all purposes to be the agent of the owner or owners.

(ii) The Carrier may employ the services of any other carrier for the purpose of fulfilling the Contract. Any such other carrier shall have the like power to sub-contract on like terms.

(iii) The Carrier enters into the Contract for and on behalf of himself and his servants, agents, and sub-contractors, and his sub-contractors' servants, agents and sub-contractors; all of whom shall be entitled to the benefit of the

Contract and shall be under no liability whatsoever to the Customer or anyone claiming through him in respect of the goods in addition to or separately from that of the Carrier under the Contract.

(iv) The Customer shall save harmless and keep the Carrier indemnified against all claims or demands whatsoever by whomsoever made in excess of the liability of the Carrier under these conditions.

4) Dangerous Goods

(i) The Carrier agrees to accept dangerous goods for carriage, such goods must be accompanied by a full declaration of their nature and contents and be properly and safely packed in accordance with any statutory regulations for the timer being in force for transport by road and air.

(ii) The Customer shall indemnify the Carrier against all loss, damage or injury however caused arising out of the carriage of any dangerous goods, whether declared as such or not.

5) Loading and unloading

(i) When collection or delivery takes place at the Customer's premises the Carrier/Contractor shall not be under any obligation to provide any plant, power or labour which, in addition to the Carrier/Contractor's couriers, is required for loading or unloading at such premises.

(ii) Any assistance given by the Carrier beyond the usual place of collection or delivery or which the Carrier is not expressly obliged to give by a written term of the Contract shall be at the sole risk of the Customer, who will save harmless and keep the Carrier indemnified against any claim or demand which could not have been made if such assistance had not been given.

(iii) Goods requiring special appliances for unloading from the vehicle are accepted for carriage only on condition that the sender has duly ascertained from the consignee that such appliances are available at destination. Where the Carrier/Contractor is without prior arrangement in writing with the Customer, called upon to load or unload such goods the Carrier shall be under no liability whatsoever to the Customer for any damage, however caused, whether or not by the negligence of the Carrier, and the Customer shall save harmless and keep the Carrier indemnified against any claim or demand which could not have been made if such assistance had not been given.

6) Consignment Notes

The Carrier/Contractor shall, if so required, sign a document prepared by the sender acknowledging the receipt of a 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/Contractor.

7) Transit

(i) Transit shall commence when the consignment is handed to the Carrier/Contractor whether at the point of collection or at the Carrier/Contractor's premises.

(ii) 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 cartage hours of the district.
Provided:

(a) that if no safe and adequate access or no adequate unloading 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/Contractor's premises has been sent to the consignee; and

(b) that when for any other reason whatsoever a consignment cannot be delivered or when a consignment held by the Carrier/Contractor "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.

8) Undelivered or unclaimed goods

Where the Carrier/Contractor is unable for whatever reason to deliver a consignment to the consignee, or as he may order or where by virtue of the proviso to clause 7 (ii) hereof transit is deemed to be at an end the Carrier/Contractor may sell the goods and payment or tender of the proceeds after deductions of all proper charges and expenses in relation hereto and 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/Contractor from all liability in respect of such goods, their carriage and storage.

9) Carrier's charges

(i) 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 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.

(ii) 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 rate 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.

(iii) Charges shall be payable on the expiry of any time limit previously stipulated and the Carrier shall be entitled to

(a) interest at the average of the overdraft interest rates being charges at Lloyds Bank Plc and HSBC current at this time, calculated on a daily basis on all amounts overdue to the Carrier and

(b) late payment charges of £20 for each month charges due to the Carrier remain unpaid.

(c) a debt recovery fee of £160.00 in the event formal recovery action against the Customer results from non-payment of the Carriers charges.

(iv) A claim or counter claim shall not be made the reason for deferring or withholding payment of monies payable, or liabilities incurred, to the Carrier.

10) Time limits for claims

The Carrier shall not be liable for

(i) 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 otherwise than upon a consignment note or delivery document within three days, and the claim is made in writing within seven days, after the termination of transit;

(ii) loss, misdelivery or non-delivery of the whole of a Consignment or of any separate parcel, package or container forming part of a Consignment unless he is advised of the loss, misdelivery or non-delivery in writing otherwise than upon a consignment note or delivery document 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

(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.

11) Liability for loss or damage

(i) The Customer shall be deemed to have elected to accept the terms set out in (ii) 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 misdelivery of or damage to goods however or whenever caused and whether or not caused or contributed to directly or indirectly by an act, omission, neglect, default or other wrongdoing on the part of the Carrier.

(ii) Subject to these conditions the Carrier shall be liable for:

1) loss or misdelivery of or damage to livestock, bullion, money, securities, stamps, precious metals or precious stones only if

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

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

(c) the loss, misdelivery or damage is occasioned during transit and results from negligent act or omission by the Carrier.

2) any loss or misdelivery of or damage to any other goods occasioned during transit unless the same has arisen from and the Carrier has used reasonable care to minimise the effect of

(a) act of God:

(b) any consequences of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, insurrection, military or usurped power or confiscation, 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:

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

(f) insufficient or improper packing:

(g) insufficient or improper labelling or addressing:

(h) riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour from whatever cause:

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

(iii) The Carrier shall not in any circumstances be liable for loss of or damage to goods after such goods is deemed to have ended within the meaning of Condition 7 (ii) hereof, whether or not caused or contributed to directly or indirectly by any act, omission, neglect or other wrongdoing on the part of the Carrier.

12) 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.

13) Insurance

No insurance of consignments will be effected by the Carrier.

14) Limitation of liability

Subject to these conditions the liability of the Carrier in respect of any one Consignment shall in any case be limited.

(i) to an ex-gratia payment not exceeding in total £50 in respect of any one Consignment and the Customer hereby agrees and acknowledges that he shall be responsible for insuring all goods comprised in any Consignment whilst the same are in transit.

(ii) where loss or damage however sustained is in respect of part of a Consignment to the proportion of the sum ascertained in accordance with (i) of this Condition which the actual value of that part of the Consignment bears to the actual value of the whole of the Consignment:

Provided that

(a) nothing in this clause shall limit the Carrier's liability below the sum of £10 in respect of any one consignment:

(b) the carrier shall not in any case be liable for indirect or consequential damages or for loss of a particular market whether held daily or at intervals or for damages in respect of the commercial utility to the Customer of the Consignment:

(c) the Carrier shall be entitled to require proof of the value of the whole of the Consignment

15) General lien

The Carrier shall have a general lien against the owner of any goods for any monies whatsoever due from such owner to the Carrier. If any lien is not satisfied within a reasonable time the Carrier may at his absolute discretion sell the goods as agents for the owner and apply the proceeds towards the monies due and the expenses of the sale, and shall upon accounting to the Customer for the balance remaining if any, be discharged from all liability whatsoever in respect of goods.

16) Unreasonable detention

The Customer shall be liable for the cost of unreasonable detention of vehicles, containers, and sheets but the Carrier/Contractor's rights against any other person shall remain unaffected.

17) Computation of time

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.

18) Impossibility of performance

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

19) Law

These Terms of Business shall be governed by English Law and English courts alone shall have jurisdiction in any dispute between the Carrier and the Customer.

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