

# Overnight UK Courier Terms & Conditions

## 1 Definitions

**1.1 'Company'** means a third party courier dealing with the Customer as principal.

**1.2 'Goods'** means any documents or items of any tangible property, including containers and packaging, consigned by the Customer from one address to another.

**1.2 'Customer'** means any individual, firm, body corporate, unincorporated association or any other body who engages the services of the Company and includes the Customer's employees, representatives, servants or agents.

## 2 General

**2.1** Employees, agents and officers of the Company have no authority to make oral or written representations, warranties or promises about the Company's business or services which are inconsistent with these conditions and the Customer waives all rights which may otherwise arise in relying upon the same save where such representations, warranties or promises are made fraudulently. Only a Divisional Director of the Company has authority to vary these conditions and then only to the extent that the variation is expressed in writing to be a variation hereof.

**2.2** The Company is not a common carrier; it may decline to provide services for such Customers and/or in relation to such Goods as the Company in its absolute discretion shall determine.

**2.3** All invitations and quotations by the Company are based on the information provided by the customer. The Company will use its best endeavours to accurately advise third party charges including Customs and Embassy charges, but will not be liable where these are varied without its knowledge. The use of its services are given on the basis of prompt instructions given by the Customer and shall only remain open for instruction by the Customer for a period of seven days unless withdrawn, revoked or varied by the Company prior to instructions. The instructions of the Customer shall constitute an offer by the Customer to the Company to enter into contractual relations with it and such instructions once accepted by the Company shall give rise to a binding contract between the parties governed by these conditions and the Customer will pay the charges of the Company for the business required whether or not the Customer thereafter wishes to withdraw, revoke or vary those instructions or otherwise makes it impossible for the Company to perform its obligations hereunder unless, in any case, the Company otherwise agrees in writing.

**2.4** All quotations are provided Exclusive of Value Added Tax or any local taxation.

**2.5** The Customer acknowledges and agrees that provisions in these conditions excluding or restricting any liability of the Company or allowing the Company to perform obligations differently or not at all are reasonable having regard to, among other things, the existence of other suppliers of similar services available to it before entering into contractual relations with the Company.

**2.6** Headings are for ease of reference only and do not affect the interpretation of these conditions.

## 3 Entire Agreement

**3.1** All and any business undertaken, including any advice representation, or information given or service provided whether gratuitously or not by the Company is transacted subject to these conditions. Any Customer who objects to these conditions must prior to giving instructions inform the Company of the objections in writing and any such objection shall take effect only upon it being accepted in writing by a Divisional Director of the Company.

**3.2** In matters of conflict between these conditions and any promotional brochures or other material of the Company these conditions shall prevail.

## 4 Company's Rights

**4.1** The Company may subcontract all or any part of its business and/or services.

**4.2** Subject to express written, receipted, instructions given by the Customer, the Company reserves to

itself absolute discretion as to the means, route and procedure to be followed in the handling, storage, and transportation of Goods. In the event that the Customer provides such instructions and if in the opinion of the Company it is at any stage necessary or desirable in the Customer's interests to depart from those instructions, the Company shall be at liberty to do so.

**4.3** The Company may effect the physical delivery of the Goods at the address shown on the Goods thereon by presenting the same to any person as may appear to the Company to be authorised or competent to accept them on behalf of the addressee or the Company may leave the Goods at any place at the address aforesaid as may appear to it to be intended or suitable for this purpose and delivery in accordance with the foregoing shall in favour of the Company as against the Customer constitute sufficient performance of the Company's delivery obligation hereunder unless otherwise specifically instructed in writing by the Customer.

**4.4** The Company may (but shall not be obliged to) require acknowledgement of delivery of Goods to be given at point of delivery and any such receipt if given by a person appearing to the Company to be authorised or competent in that regard shall in favour of the Company as against the Customer and the addressee constitute good receipt and shall be conclusive evidence of the fact of proper delivery of the Goods pursuant to these conditions.

**4.5** The Company may retain the Goods in circumstances where it reasonable considers it to be inappropriate or impossible to effect delivery of the Goods to the addressee or to obtain acknowledgement of delivery satisfactory to it and to reasonable endeavour on some other occasion or occasions as soon as is reasonably practicable thereafter to deliver the Goods and/or issue to the Customer notice of their non-delivery and (without prejudice to the Company's right to claim payment of all sums that would be payable by the Customer were the delivery to have been achieved) the Customer undertakes to reimburse the Company all expenses reasonable incurred by it in connection therewith and to pay the Company its standard additional charges form time to time payable by its customers generally in any circumstances aforesaid.

**4.6** Where the Company is unable to deliver Goods pursuant to condition 4.5 and the Goods are not claimed by the Customer within 28 days of notice of such non-delivery served on the Customer, the Company may destroy or sell the undelivered Goods as if the Company against the Customer and the purchaser were the absolute owner and to pass unencumbered title to the purchaser. The Company shall not be liable for any loss suffered or incurred by the Customer in respect of such destruction or sale and the Customer shall indemnify and hold harmless the Company in respect thereof.

**4.7** The Company shall have general lien on all Goods supplied by the Customer in respect of the Company's charges for the carriage or storage of such Goods and for any other monies due from the Customer to the Company and in default of payment of any monies due to the Company from the Customer on any account whatsoever the Company may without notice to the Customer appropriate any Goods aforesaid and sell them as if the Company as against the Customer and the purchaser were the absolute owner and to pass unencumbered title to the purchaser provided that the Company will apply the proceeds of sale towards monies due from the Customer to it after appropriating to itself any reasonable expense of sale.

**4.8** If the Customer (otherwise than through the Company) employs or engages the services directly or indirectly of any employee or independent contractor to the Company whose services at any time during 12 months before then shall have previously been supplied by the Company to the Customer the Company shall be entitled to charge a small fee to the Customer for the introduction of such employee or independent contractor equivalent to 15% together with Value Added Tax thereon of the final annual salary or earnings of such employee or independent contractor derived from the Company calculated by reference to the amount earned during the last month of employment or service and the Customer will pay the same on demand.

## Customer's Obligations

**5.1** The Customer warrants that it is either the owner or the authorised agent of the owner of the Goods and that it is authorised to accept and is accepting these conditions not only for itself but also as agent for and on behalf of all other persons who are or may thereafter become interested in the Goods.

**5.2** The Customer shall ensure that the consignment will be sufficiently securely and properly packed and labelled, will be fit and safe to be carried or stored and will comply with all statutory or other regulations for carriage by road, air, rail or sea and for mechanical handling and sorting as may be in force or use from time to time.

**5.3** The Customer warrants that the Goods do not comprise or include weapons ammunitions controlled drugs (within the meaning of the Misuse of Drugs Act 1971 or any statutory amendment of or substitution for that act) industrial chemicals unlawful noxious dangerous hazardous inflammable or explosive items

of any kind or any items which may not otherwise be collected carried stored or otherwise possessed delivered imported or exported into or from any country region or place without declaration licence or other permission from any statutory or regulatory body. The Customer shall be liable for all loss or damage whatsoever and howsoever caused by to or in any connection with Goods described by this clause and without prejudice to the Company making claims on any basis for damages the Customer will indemnify and hold harmless the Company against all fines, penalties, actions, claims, damages, losses, costs and expenses whatsoever and howsoever arising in any jurisdiction in connection therewith. Without prejudice to any of the Company's other rights contained in these conditions Goods may be destroyed, abandoned, released, surrendered or otherwise dealt with at the sole discretion of the Company or by any other person in whose custody they may be at the relevant time without liability on the part of the Company to the Customer.

**5.4** The Customer shall be responsible for arranging the Goods to be carefully checked immediately upon receipt by the consignee or other recipient of the Goods.

## 6 Settlement Terms

**6.1** Invoices shall be paid within 14 days of invoice. Where payment is not received by that date the Company reserves the right to charge interest on all outstanding balances at the rate of 2.5% per month or part month and cancel any discount given.

**6.2** Where any invoice is more than 45 days overdue, then all outstanding invoices from the Customer, whether or not due for payment, shall become payable.

**6.3** Statements of account for regular Customers are available upon request.

**6.4** Any customs duties or similar taxes, whether notified to us or not, shall be payable immediately by the Customer to the Company and shall not be subject to credit terms. The Company reserves the right to demand payment of such sums in advance of them being incurred.

## 7 Exclusions/Limitations of Liability

**7.1** Except under special arrangements previously agreed in writing the Company will not accept or deal with bullion, cash, precious stones, jewellery, valuables, glass products or other fragile items including portable computer equipment, antiques, pictures (excluding commercial artwork), livestock or plants. The Customer undertakes not to deliver any such items to the Company or cause the Company to handle or deal with any such items otherwise than after making special agreements aforesaid and save only to the extent the Company shall be under no liability whatsoever for or in connection with the Goods or any loss or damage thereto however arising. Notwithstanding any special agreement aforesaid the Customer will ensure that such Goods may be lawfully collected, carried, stored, delivered, exported and imported into or from any country region or place without hindrance or undue delay and will indemnify and hold harmless the Company from all fines penalties actions claims damages losses costs and expenses whatsoever and howsoever arising in any jurisdiction that it may suffer or incur in consequence of any breach of any law or regulation permitted or procured by the Customer through acts or omissions of the Company in performing services in relation to the Goods.

### 7.2

**(a)** Instructions given to the Company by telephone otherwise than as to the identity of the Customer, the identity of Goods, the address for collection, the address for delivery and the class of service requested shall give rise to no obligation or duty of care upon the Company whether or not those additional telephone instructions are in a whole or part performed or observed by the Company.

**(b)** In providing suggestions or opinions or advice as to means of transportation services available physical or legal circumstances of carriage or other guidance howsoever described at any time to assist the Customer to formulate instructions or otherwise the Company shall be deemed to so provide for information purposes only and without giving any representation warranty or promise and without having any duty of care to the Customer in respect thereof. The Company shall not be liable for any such information provided or any representation warranty or promise made save where provided or made fraudulently.

**7.3** The Company will use and apply all reasonable efforts and endeavours to effect delivery of Goods within a stipulated period of time as described in its marketing literature in force from time to time where in its opinion it is able to do so but in expressing any such opinion the Company undertakes no duty of care towards and shall not be liable to the Customer in respect of any failure to do so other than in accordance with these conditions.

**7.4** It shall be the responsibility of the Customer to satisfy itself that any load that he wishes to have carried

by the Company shall be suitable for conveyance in the vehicle or machine ordered by the Customer and provided by the Company and if the Customer accepts the vehicle or machine offered by the Company for the carriage of such load the Company shall have no liability whatsoever for any loss or damage to such load arising from the unsuitability of such vehicle or machine

**7.5** Subject to condition 7.6 the Company shall have no liability in any circumstances for any lawful or unlawful detention of Goods or for any direct loss, damage or deterioration arising therefrom except where (a) the Customer shall have specified to the Company the nature of the Goods and purpose of their transit and the Company through its Divisional Director shall have agreed in writing with the Customer a time schedule and specification in respect of the transit of the said Goods (b) it shall be proved that such detention, delay, loss, damage or deterioration was directly due to the negligence of the Company.

**7.6** Any claim for direct loss or damage made by the Customer resulting from any delayed delivery, misplaced delivery, non-delivery, other breach of contract negligence or for any other reason shall be notified in writing to the Company as soon as reasonably practicable and in any event within 7 days of the date when any information giving rise to a possible claim comes to the attention or ought reasonably to have come to the attention of the Customer. Subject to conditions 7.5, 7.7 and 7.8 and except in respect of death or personal injury caused by the Company's negligence where any such claim is proven to be due to the fault or negligence of the Company the Company's liability shall be limited as follows:-

**a)** Where the Customer has accepted one of the guaranteed delivery services offered by the Company from time to time other than those specified in conditions (b) and (c) below the Company shall only be required to credit the Customer's account with the difference in value between the quoted charge for guaranteed delivery service selected by the Customer and the value of the actual service provided by the Company which credit shall be applied to the Customer's account with the Company;

**b)** where the Customer has selected the Same Day or Couriers ground courier service within mainland Britain the Company's liability to the Customer in respect of any one consignment shall not exceed the value of Goods carried on such service or £13 per kg whichever is less; or

**c)** where the Customer has selected the International or Overnight courier services the Company's liability to the Customer in respect of any one consignment shall not exceed the declared value for such carriage of the Goods or three times the charge payable to the Company for such International or Overnight services whichever sum is the lesser subject always to a maximum liability of £100.

**d)** where the customer has selected Passport & Visa application, acquisition or processing services the total liability shall be the lesser of the basic replacement cost or £300.

**7.7** The Company shall not be liable to the Customer or be deemed to be in breach of any contract with the Customer as a result of delayed delivery, misplaced delivery or non-delivery of Goods or otherwise if due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing the following shall be regarded as causes beyond the Company's reasonable control:-

**i)** any act of God including adverse weather conditions;

**ii)** fuel shortages and/or power failures or breakdown in machinery;

**iii)** any war, invasion, act of foreign enemy, hostilities (whether war is declared or not), civil war, rebellion, insurrection, military usurpation of governmental power or confiscation, requisition, destruction of or damage to property;

**iv)** any riot, civil commotion, strikes, lockouts, trade disputes, general or partial stoppage or restraint of labour from whatever causes;

**v)** any import or export regulations or embargoes or seizure of Goods or Company equipment under legal process;

**vi)** any act or omission of the Customer or those for whom he contracts or the servants or agents or either;

**vii)** any inherent liability to wastage in bulk or weight patent or latent defect or natural deterioration of the Goods;

**viii)** the inadequate or improper packing of the whole or part of the Goods unless it is previously agreed in writing between the Customer and the Company that the Company shall undertake such packing;

**ix)** the insufficient or incorrect labelling or addressing of the Goods unless it is previously agreed in writing between the Customer and the Company that the Company shall undertake such labelling.

**x)** the addressee of the Goods not accepting delivery within 28 days of service on the Customer of the Company's notice of non-delivery;

**xi)** any marine risk;

**xii)** the act or omissions of any independent contractor in any manner whatsoever or where caused

by breach of the Customer of these conditions which shall be without prejudice to any claims the Company may have against the Customer therefor.

**xiii)** Processing delays at Embassies, Passport Offices or any such institution outwith the control of the Company.

## 8 Consumer's Rights

**8.1** Subject as Expressly provided in these conditions and except where a Customer is dealing with a consumer (within the meaning of the Unfair Contract Terms Act 1977) all warranties, conditions or other terms implied by stature or common law are excluded to the fullest extent permitted by law.

**8.2** Where the Goods are delivered pursuant to a transaction (as defined by the Consumer Transaction (Restriction on Statements) Order 1976) the statutory rights of the Customer are not affected by these conditions.

## 9 Governing Law

**9.1** All agreements between the Company and the Customer shall be governed and construed in accordance with English Law and the parties hereby submit to the non-exclusive jurisdiction of the English courts.

## 10 Insurance

**10.1** No insurance cover for Goods will be arranged by the Company unless a written request is received by the Company from the Customer prior to the Company accepting the Goods for conveyance.

**10.2** No insurance cover for Goods shall be deemed or assumed to have been arranged by the Company unless and until written confirmation of the insurance cover arranged by the Company for the Customer is received by the Customer and any such cover shall be effective from the date stipulated on such insurance cover and shall be subject to the terms of the insurance policy.