

Amber Express Logistics Terms and Conditions

1.0 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.

"Consignment" means goods, whether a single item or in bulk or contained in one parcel, package or container, as the case may be, or any number of separate items, parcels, packages or containers sent at one time in one load by or for the Customer from one address to one address.

2.0 Parties and Sub-Contracting

The Customer warrants that he is either the owner of the Consignment or is authorised by such owner to accept these Conditions on such owner's behalf.

The Carrier and any other carrier employed by the Carrier may employ the services of any other carrier for the purpose of fulfilling the Contract in whole or in part and the name of every other such carrier shall be provided to the Customer upon request.

The Carrier contracts for itself and as agent of and trustee for its servants, agents and sub-contractors and their employees and agents and every reference to "the Carrier" shall be deemed to include every such employee and agents and sub-contractor with the intention that they shall have the benefit of these Conditions.

3.0 Loading, Unloading and Transit

Unless the Carrier has agreed in writing to the contrary with the Customer:-

(a) The Carrier shall not be under any obligation to provide any plant, power or labour, other than that carried by the vehicle, required for loading or unloading the Consignment. The Customer warrants that any special appliances required for loading or unloading the Consignment which are not carried by the vehicle will be provided by the Customer or on the Customer's behalf.

(b) The Carrier shall be under no liability whatever to the Customer for any damage whatever, however caused, if the Carrier is instructed to load or unload any Consignment requiring special appliances which, in breach of the warranty above, have not been provided by the Customer or on the Customer's behalf.

(c) The transit shall commence when the Carrier takes possession of the Consignment whether at the point of collection or at the Carrier's premises and shall be completed when the Carrier tenders the Consignment on the carrying vehicle at the street door of the consignee in the Contract.

(d) Once the transit is complete the Consignment shall be and remain at the sole risk of the Customer.

Should the Customer or consignee ask the driver to take the Consignment into their premises, they do so at their own risk and the Customer shall indemnify the Carrier against all claims and demands whatsoever arising by reason of the Carrier's compliance with the Customer's or consignee's request.

(e) The Carrier shall not be required to provide service beyond the usual place of collection or delivery, but if any such service is given by the Carrier it shall be at the sole risk of the Customer.

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(f) The Customer shall be liable for the cost (calculated at the Carrier's hourly rate) to the Carrier of unreasonable detention of vehicles and drivers at the Customer's or consignee's premises. The Carrier's decision as to when detention becomes unreasonable shall be final.

4.0 Consignment Notes

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 or of the correctness of the declared nature, quantity, or weight of the Consignment at the time it is received by the Carrier and the burden of proving the condition of the Consignment on receipt by the Carrier and that the Consignment was of the nature, quantity or weight declared in the relevant document shall rest with the Customer.

Unless otherwise agreed by the Carrier, any Consignment handed to the Carrier without the gross weight being stated on the consignment note shall be charged at an estimated or actual weight at the Carrier's discretion;

Where a consignment note is endorsed with the words "not checked", or "unexamined", or different words to the same effect it shall not render the Carrier liable for any shortage or damage subsequently discovered.

Twelve months after delivery the Carrier may destroy the consignment note and thereafter its absence shall not be held against the Carrier.

The Customer warrants that any description of weight shall be deemed to be the gross weight of the Consignment for any purpose for which the Carrier may rely on such description, and any and all costs fines or expenses resulting from such description shall be reimbursed to the Carrier by the Customer on demand.

5.0 Carriers Charges

The Carriers charges shall be payable by the Customer without prejudice to the Carrier's rights against the Consignee or any other person.

Consignments will be charged at the rate of 6 cu metres equals 1000 kilos or the actual gross weight whichever is the greater.

Deliveries to docks, wharfs and container bases are only accepted by prior agreement and may be subject to surcharge.

Charges shall be payable when due without reduction or deferment on account of any claim, counterclaim or set-off. The Carrier shall be entitled to interest at 8 per cent above the Bank of England Base Rate prevailing at the date of the Carrier's invoice or account, calculated on a daily basis on all amounts overdue to the Carrier.

6.0 Cash on Delivery

Instructions from the Customer to the Carrier to collect Cash on Delivery (COD) from a consignee are only accepted by the Carrier subject to the following provisions:-

- a) Cheques or Bankers Drafts or Cash will be accepted unless agreed by the Carrier.
- b) The consignment note or any other written delivery instructions must be clearly marked to show the value of the COD to be collected and the name of the payee.

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c) The Carrier shall not be responsible for ensuring the validity of any cheque or bankers drafts by which payment is made by a consignee and accepts no liability arising from any such payment being invalid.

d) In any event the Carrier will only accept liability for the failure to collect a COD in accordance with the limits of liability set out in these conditions.

e) Where a COD collection is, wholly or in part, in respect of the Carrier's charges the Customer shall pay the Carrier's charges if the consignee fails to pay the Carrier after a reasonable time.

7.0 Liability for Loss and Damage

1) The Customer shall be deemed to have elected to accept the terms set out in these Conditions unless, before the transit commences, the Customer has agreed in writing that the Carrier shall not be liable for any loss or mis-delivery of or damage to or in connection with the Consignment however or whenever caused and whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of the Carrier, its servants, agents or sub-contractors.

The Carrier will not be liable for physical loss, mis-delivery of or damage to livestock, bullion, money, securities, stamps, precious metals or precious stones.

2) Subject to these Conditions the Carrier shall be liable for:-

Any loss or mis-delivery of or damage to the Consignment occasioned during transit unless the same has arisen from, and the Carrier has used reasonable care to minimize 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 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 misrepresentation by the Customer or other owner of the goods or by servants or agents of either of them:

(e) inherent liability to wastage in bulk or weight, faulty design, latent or inherent defect or 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:

3) The Carrier shall not in any circumstances be liable for loss or damage arising after transit is deemed to have ended, whether or not caused or contributed to directly or indirectly by any act,

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omission, neglect, default or other wrongdoing on the part of the Carrier, its servants, agents or sub-contractors.

8.0 Limitation of Liability

Except as otherwise provided in these Conditions, the liability of the Carrier in respect of claims for physical loss, mis-delivery of or damage to goods comprising the Consignment, or a failure to collect COD, howsoever arising, shall in all circumstances be limited to the lesser of

- a) the value of the goods actually lost, mis-delivered or damaged; or
- b) the cost of repairing any damage or of reconditioning the goods; or
- c) a sum calculated at the rate of two Special Drawing Rights (as defined by the International Monetary Fund) per kilo on the gross weight of the goods actually lost, mis-delivered or damaged, or in respect of which there has been a failure to collect COD.

The Carrier shall be entitled to require proof of the weight and value of the Consignment or any part thereof in respect of which the Carrier is alleged to be liable.

The Carrier shall not be liable for any claim less than the sum of £10.00.

The Carrier shall not be liable for any loss or damage to glass products or products of a brittle or fragile nature unless the Carrier has specifically agreed with the Customer in writing before the transit commences to accept such liability.

The Carrier shall not be liable for any indirect or consequential loss or damage howsoever arising and including loss of market in any amount exceeding the carriage charges in respect of the Consignment or the amount of the Customer's proven loss whichever is the smaller.

The Carrier will accept liability in excess of that provided for in this Condition 9 subject to a prior written agreement with the Customer which will provide for payment by the Customer of the increased charges of the Carrier applicable.

9.0 Insurance

These Conditions constitute the liability accepted by the Carrier and the Customer is advised to purchase "all risks" insurance for the full value of the Consignment.

10.0 Indemnity to the Carrier

The Customer shall indemnify the Carrier against:

(1) all liabilities and costs incurred by the Carrier (including but not limited to claims, demands, proceedings, fines, penalties, damages, expenses, and loss of or damage to the carrying vehicle and to other goods carried) by reason of any error, omission, mis-statement or misrepresentation by the Customer or other owner of the Consignment or by any servant or agent of either of them, insufficient or improper packing, labelling or addressing of the Consignment or fraud as referred to in Condition 15:

(2) all claims and demands whatsoever (including for the avoidance of doubt claims alleging negligence), by whomsoever made and howsoever arising (including but not limited to claims caused by or arising out of the carriage of Dangerous Goods and claims made upon the Carrier by H M Customs and Excise in respect of dutiable goods consigned in bond) in excess of the liability of the Carrier under these Conditions in respect of loss or damage whatsoever to, or in connection with, the

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Consignment whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrong doing on the part of the Carrier, it's servants, agents, or sub-contractors.

11.0 Time Limits for Claims

In the event of damage to a part or whole Consignment the Customer must give notice to the Carrier within three days other than on the consignment note and claim in writing within seven days of the delivery of the Consignment.

In the event of loss of the whole Consignment or part thereof the Customer must claim in writing other than on a consignment note within twenty-eight days of the commencement of the carriage.

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 of commencement of the carriage.

In the computation of time where any period provided by these Conditions is seven days or less, Saturdays, Sundays all statutory public holidays shall be excluded.

12.0 Lien

(1) The Carrier shall have a general lien against the Customer, where the Customer is the owner of the Consignment, for any monies whatever due from the Customer to the Carrier. If such a lien is not satisfied within a reasonable time, the Carrier may, at it's absolute discretion sell the Consignment, or part thereof, as agent for the Customer and apply the proceeds towards the monies due and the expenses of the retention, insurance and sale of the Consignment and shall, upon accounting to the Customer for any balance remaining, be discharged from all liability whatever in respect of the Consignment.

(2) Where the Customer is not the owner of the Consignment, the Carrier shall have a particular lien against the said owner, allowing the Carrier to retain possession, but not dispose of, the Consignment against monies due from the Customer against the Consignment.

13.0 Unreasonable Detention

The Customer shall be liable to pay demurrage for unreasonable detention of any vehicle, trailer, container or other equipment but the rights of the Carrier against any other person in respect thereof shall remain unaffected.

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

15.0 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 the default of the Customer, fire, weather conditions, industrial dispute, labour disturbance or other cause beyond the reasonable control of the Carrier.