

# Conditions for the Carriage of Goods by Road in Ireland



The Conditions set down the basis on which the Carrier will carry goods for the Customer (definitions of Carrier and Customer are given in Condition 1. The Carrier is not and does not contract as a common carrier. The Conditions may not be altered or varied in any way except by express agreement in writing signed by a director or proprietor of the Carrier. The Conditions cannot and do not override any Statutory provisions imposed by Law or the application of any applicable international Conventions.

It is expressly stated to be the Customer's responsibility to read and understand these Conditions which will form the basis of the Contract under which any claims or disputes are settled. Customers are recommended to take professional advice and to ensure they arrange adequate insurance to provide full cover when the property is in transit.

A set of explanatory notes is available from the Freight Transport Association.

Name of carrier PROTRANS LIMITED

Address LGTRIM CROSS, DRUMUSH ROAD, LONGFORD, IRELAND N39 R863

## 1. Definitions

### In the Conditions:

- 1.1 **Carrier** means the person (corporate or otherwise) who contracts with the Customer to carry the goods.
- 1.2 **Consignee** means the person (corporate or otherwise who may or may not be the Customer) to whom the Carrier contracts to deliver the consignment.
- 1.3 **Consignor** means the person (corporate or otherwise who may or may not be the Customer) who supplies the consignment to the Carrier for carriage.
- 1.4 **Customer** means the person (corporate or otherwise) who contracts with the Carrier for the carriage of goods.
- 1.5 **Contract** means the Agreement between the Customer and the Carrier for the carrying out of the transport service including all documents expressly incorporated therein.
- 1.6 **Consignment** means goods whether single or multiple units or in bulk despatched at any one time from one Consignor in a single load from one address to another in Ireland
- 1.7 **Dangerous Goods** Under the Carriage of Dangerous Goods by Road Act 1998 'the carriage of dangerous goods' is defined as any road transport operation performed by a vehicle wholly or partly on public roads, including the activity of loading or unloading, covered by the Annexes (of ADR), but does not include transport wholly performed within the perimeter of an enclosed area not open to the public. The Carriage of Dangerous Goods by Road Act 1998 (as amended) and the Carriage of Dangerous Goods by Road Regulations (S.I No. 617 and 620 of 2010) enforce ADR 2009 in Ireland, as may be amended from time to time and goods which represent a similar hazard, radioactive material and explosives of any nature.
- 1.8 **Day** means any day Monday to Friday inclusive other than a Bank or Statutory Holiday, including the delivery day and the day on which any claim or notification is first made.
- 1.9 **Alternative Dispute Resolution** means any procedure agreed by the parties for the resolution of disputes other than those involving formal arbitration or litigation.
- 1.10 **Loss** means the actual loss of the goods or failure by the Carrier to deliver the goods within 30 days of the agreed time limit for delivery or, if there is no agreed time limit, within 60 days from the date on which the Carrier took over the goods.
- 1.11 **Delay** means failure by the Carrier to deliver the goods within the agreed time limit, or if there is no agreed time limit, within the period of 60 days from the date upon which the Carrier takes possession of the goods.



- 1.12 **Owner's Risk** means that the goods are held upon terms that the Carrier shall not be liable for any loss of whatsoever nature and howsoever caused including negligence in relation to the goods or as a consequence of the goods being in the Carrier's possession. The Customer will indemnify the Carrier against all claims that may be made against the Carrier arising from the carriage, retention or storage of such goods.
- 1.13 The expressions Carrier, Consignee, Consignor and Customer shall include those parties' principals, agents and servants.

## 2 Principal parties and sub-contractors

- 2.1 The Customer contracts as the legal owner of the goods or as the authorised agent of such legal owner in which case the Customer warrants that he has the authority to accept these Conditions on behalf of the legal owner.
- 2.2 Unless written instructions to the contrary are received from the Customer, the Carrier may sub-contract part or the whole of the consignment.
- 2.3 Where carriage of any consignment or part of a consignment is sub-contracted to a sea, air or rail carrier then the liability of the carrier and of any sub-contractor shall be limited and/or excluded in accordance with the conditions of carriage of that sub-contractor or as provided for by statute or international convention.
- 2.4 Notwithstanding the provisions of the Condition 2.2, the Carrier may not sub-contract the carriage of Dangerous Goods without the prior written consent of the Customer.
- 2.5 Where part or the whole of the carriage has been subcontracted as provided for in Condition 2.2 above, such sub-contractors shall have the benefit of these Conditions of Carriage and shall be under no greater liability to the Customer than or in addition to that of the Carrier under the Contract and the Customer agrees with the Carrier that no claim shall be made against a sub-contractor in addition to or in excess of the limitations and/or exclusions of liability as set out in these Conditions.

## 3 Loading and unloading

- 3.1 The Carrier shall not be required to provide additional services other than the service for the carriage of the Consignment from the designated place of collection to the designated place of delivery unless any such service has been requested by the Customer and agreed by the Carrier in writing, prior to collection or delivery being made.
- 3.2 The Customer shall be responsible for providing and safely operating any equipment that may be required for loading the Consignment on or unloading the Consignment from the vehicle unless arrangements to the contrary are agreed in writing between the Carrier and the Customer prior to despatch and these Conditions shall apply during such loading and/or unloading.
- 3.3 The Carrier shall not be liable for any loss or damage caused as a result of its use of defective equipment supplied by the Consignee or Consignor and the Customer shall indemnify the Carrier against any claim made against the Carrier in respect of such loss or damage including claims in respect of death or personal injury.
- 3.4 The Carrier shall not be liable for any loss or damage caused as a result of negligent acts committed by the Consignor or Consignee or their servants or agents in assisting with loading
- 3.5 The Carrier will endeavour to make the Consignment reasonably accessible on the vehicle at the place designated for delivery.
- 3.6 The Customer shall make available to the Carrier upon request details of any risk assessments which may have been carried out at the collection and/or delivery addresses. The responsibility for carrying out such risk assessments shall be that of the Customer and not of the Carrier.
- 3.7 In cases where the Customer (or Consignor) operates a loading system which is exclusive of the Carrier, the Customer (or Consignor) shall be responsible for the safe and secure loading of that vehicle. The Customer (or Consignor) shall ensure that the Consignment is adequately secured and restrained, and that it is distributed in such a manner as to ensure axle limits and overall vehicle load limits are not exceeded. Unless otherwise contracted between the



- i) riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour from whatever cause;
- j) defect of any equipment supplied by the Customer under Condition 3.2 or any negligence of the Customer's agents or servant;
- k) delay in providing to the carrier safe and adequate access and/or delivering instructions in accordance with condition 6.4;
- l) fraud on the part of the Customer, Consignor, Consignee or owner or of their servants or agents in respect of all or any part of the consignment.

## 10 Limitation of liability of carrier

10.1 Unless otherwise agreed in writing between the Customer and the Carrier prior to the commencement of carriage, the liability of the Carrier in respect of loss of or damage to goods whilst they are the responsibility of the Carrier in accordance with Conditions 6 and 9 hereof shall be limited as follows:

- a) where the whole or part of a Consignment is lost or damaged to a maximum rate of €1,800.00 per tonne inclusive of all/any duties and/or taxes on the gross weight of the Consignment or that proportion by weight of lost or damaged property as stated on the consignment note referred to in Condition 5, or otherwise ascertained, or €600.00 for the total Consignment whichever is greater but not exceeding the actual value of the Consignment or part of the Consignment;
- b) for the purpose of this Condition, the value referred to is the valuation of the goods at the time they are accepted for carriage, including all duties and taxes.

Provided that no claim shall be accepted by the Carrier pending its receipt from the Customer of proof of the value of the Consignment or any part thereof.

10.2 The Carrier's liability for any delay or consequential loss shall not exceed the amount of the claimant's bona fide loss or the amount of the carriage charges whichever shall be the smaller unless agreement has been made previously in writing between the Carrier and the Customer for a specific level of liability for such delay or consequential loss.

## 11 Customer's indemnity to the carrier

*The Customer shall indemnify the Carrier against*

- 11.1 losses suffered by the Carrier arising from any negligent act, negligent omission, negligent misdirection or negligent misstatement by the Customer, Consignor or Consignee, its servants or agents;
- 11.2 claims of any nature for loss or damage resulting from the carriage of Dangerous Substances where the Customer's obligations in Condition 4 above have not been met;
- 11.3 claims and demands of any nature in respect of loss of or damage to the goods made by any Third Party additional to or in excess of the limits of liability of the Carrier set out in Condition 10 above;
- 11.4 any claims made or penalties imposed by the relevant Customs and Excise authorities in respect of dutiable goods;
- 11.5 claims and demands made by a Third Party attributable to lack of authority on the part of the Customer to enter into the Contract upon these Terms and Conditions.

## 12 Notification of claims

12.1 The Carrier shall not be liable for:

- a) loss or damage of the whole of the Consignment unless a claim specifying the general nature thereof is submitted by the Customer to the Carrier in writing within 14 days from the Carrier's responsibility for the Consignment having commenced in accordance with Condition 6.2 above and unless a detailed claim giving weight and value and date of collection are submitted by the Customer to the Carrier in



- 6.2 Subject to the provisions of Condition 6.1 above the Carrier's responsibility for the Consignment shall commence when the Carrier takes physical control of the Consignment at the point of collection or by receiving the same at the Carrier's premises.
- 6.3 The Carrier's responsibility for the Consignment shall end when the Carrier, its agents or sub-contractors relinquish physical control of the Consignment at the proper place of delivery or the Consignment is presented at the proper place of delivery within normal business hours allowing sufficient time for unloading.
- 6.4 If it has been agreed that the Consignee will collect the goods from the Carrier's premises or if the Carrier is prevented from making delivery at the Consignee's address as a consequence of the absence of a safe and/or adequate access or unloading facility, then the Carrier's responsibility for the goods shall end at the expiration of 24 hours after notice by letter, telephone, fax or e-mail or other agreed method of communication of the availability of the goods has been given to the consignee and/or the consignor.
- 6.5 At any time during the term of the Contract the Customer may request or the Contractor may recommend variations to the service and/or variations to any other matters covered by the Contract. The Carrier shall investigate the likely impact of any such requested or recommended variations upon the service, the charge for the service and other aspects of the Contract and shall report promptly to the Customer. Neither party shall be obliged to agree to any requested or recommended variation but neither party shall withhold its Agreement unreasonably. Until such time as any variation to the Contract resulting therefrom have been mutually agreed in writing, the parties shall continue to perform their respective obligations without taking account of the requested or recommended variation.

## **7 Carrier's charges**

- 7.1 The Carrier's charges shall be payable by the Customer provided always that, when the goods are consigned 'carriage forward', the Consignee shall have primary responsibility for the payment of the carriage charges but the Customer shall pay such charges in the event of default by the Consignee and the Carrier shall not be required to take any steps to obtain payment from the Consignee other than a written request for payment.
- 7.2 Notwithstanding any claim which the Customer may have against the Carrier, the Carrier's charges for carriage and any other services incidental to the carriage chargeable under the Contract shall be payable by the Customer within thirty (30) days of the date of the invoice unless otherwise agreed in writing. Should the charges not be paid within such a period, then the Carrier shall be entitled to interest at the rate of 2% above the base rate of the EURIBOR prevailing at the date of invoice, calculated on a daily basis.

## **8 Disposal of the goods by the carrier**

- 8.1 In the event that the Carrier is unable for any reason beyond its reasonable control to deliver the Consignment in accordance with the Contract, the Carrier shall seek further instructions from the Customer. The Carrier's reasonable additional charges for retaining the goods pending the arrival of such further instructions and for carrying out those instructions shall be chargeable to the Customer.
- 8.2 Subject to the provisions contained in Condition 8.2 (a) to (c) below, where the Carrier is unable to obtain further instructions from the Customer in accordance with Condition 8.1, the Carrier may sell the goods provided that such sale is permitted by law. Payment or tender of the net proceeds to the Customer after deductions of all costs of and charges for carriage, other services incidental to the carriage chargeable under the contract, storage and disposal and expenses in relation to the goods shall (without prejudice to any claim or right which the Customer may have against the Carrier otherwise arising under the Conditions) discharge the Carrier from all liability in respect of such goods, their carriage and storage.
- i. The goods may not be sold unless the Carrier shall have made reasonable efforts (having regard, if appropriate, to the perishable nature of the Consignment) to notify the Customer of the Carrier's intention to sell the goods. The goods may then be sold unless within reasonable time (such time to be specified in the notice) the Customer shall have



- arranged to collect the goods or given instructions for their disposal and have paid, without prejudice, all outstanding charges as referred to in this Condition including any warehousing charges which may have been incurred during the time that the goods have been retained.
- ii. Pending the expiry of such periods of notice as aforesaid and of disposal of the goods under these provisions the Carrier shall at the expense of the Customer have authority to arrange proper storage of the Consignment. During such period of storage the goods will be held at "owner's risk" and the carrier shall not be liable for loss or damage of the goods howsoever caused.
  - iii. In the event of a sale under this Condition the Carrier shall do what is reasonable to obtain the market value of the Consignment (subject to any unavoidable deterioration thereof). If the goods have no market value, then the Carrier may dispose of them subject to compliance with all legal requirements in force in respect of such goods.
- 8.3 Subject to the provision of Clause 8.1 above, and in circumstances in which the Carrier is unable to obtain further written instructions, the Carrier may, in respect of Dangerous Goods only, at his sole discretion dispose of the goods or return them to the Customer. Where such action is taken by the Carrier, it shall comply with all prevailing legal requirements that may be in force in respect of the goods. Any such action taken by the Carrier under this Clause shall be at the sole risk and expense of the Customer.

## 9 Liability for loss, damage or delay

- 9.1 Subject to these Conditions the Carrier shall be liable for: (a) any loss of or damage to the goods in a Consignment occurring whilst the Carrier has responsibility for the Consignment in accordance with Condition 6 above; (b) any delay in the carriage of any goods in a Consignment arising from the negligence of the Carrier.
- 9.2 The Carrier's liability is restricted to the financial limits imposed under Clause 10 of these Conditions unless otherwise agreed in writing between the contracting parties prior to the transit commencing.
- 9.3 The Carrier shall not be liable for whatsoever reason for loss of or damage to, or misdelivery or loss arising from any delay in respect of: Bullion, Precious Metals, Precious Stones, Money (whether in note or coin form), Securities, Stamps, Legal or Business Documents, Living Creatures or anything of a similar nature unless:
- i. the Carrier has agreed in writing to carry such goods at the specific request of the Customer prior to commencement of the transit;
  - ii. the Customer has agreed to reimburse the Carrier with all additional costs necessarily incurred as a direct result of the Carrier agreeing to carry such goods;
  - iii. the loss or damage or delay has been proved to have been caused by the negligence of the Carrier and/or his agents and/or his servants.
- 9.4 The Carrier shall be relieved of all liability if such loss, damage or delay arises from the effect of:
- a) act of God;
  - b) any consequence of war, act of foreign power, terrorism, 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, misstatement or misrepresentation by the Customer or other owner of the goods or by servants or agents of either of them;
  - e) inherent liability due to wastage in bulk or weight, latent defect or inherent defect, vice or natural deterioration of the goods;
  - f) any special handling requirements in respect of the goods which have not been notified to the Carrier;
  - g) insufficient or improper packaging, unless the Carrier has contracted to provide this service;
  - h) insufficient or improper labelling or addressing, unless the Carrier has contracted to provide this service;



- i) riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour from whatever cause;
- j) defect of any equipment supplied by the Customer under Condition 3.2 or any negligence of the Customer's agents or servant;
- k) delay in providing to the carrier safe and adequate access and/or delivering instructions in accordance with condition 6.4;
- l) fraud on the part of the Customer, Consignor, Consignee or owner or of their servants or agents in respect of all or any part of the consignment.

## 10 Limitation of liability of carrier

10.1 Unless otherwise agreed in writing between the Customer and the Carrier prior to the commencement of carriage, the liability of the Carrier in respect of loss of or damage to goods whilst they are the responsibility of the Carrier in accordance with Conditions 6 and 9 hereof shall be limited as follows:

- a) where the whole or part of a Consignment is lost or damaged to a maximum rate of €1,800.00 per tonne inclusive of all/any duties and/or taxes on the gross weight of the Consignment or that proportion by weight of lost or damaged property as stated on the consignment note referred to in Condition 5, or otherwise ascertained, or €600.00 for the total Consignment whichever is greater but not exceeding the actual value of the Consignment or part of the Consignment;
- b) for the purpose of this Condition, the value referred to is the valuation of the goods at the time they are accepted for carriage, including all duties and taxes.

Provided that no claim shall be accepted by the Carrier pending its receipt from the Customer of proof of the value of the Consignment or any part thereof.

10.2 The Carrier's liability for any delay or consequential loss shall not exceed the amount of the claimant's bona fide loss or the amount of the carriage charges whichever shall be the smaller unless agreement has been made previously in writing between the Carrier and the Customer for a specific level of liability for such delay or consequential loss.

## 11 Customer's indemnity to the carrier

*The Customer shall indemnify the Carrier against*

- 11.1 losses suffered by the Carrier arising from any negligent act, negligent omission, negligent misdirection or negligent misstatement by the Customer, Consignor or Consignee, its servants or agents;
- 11.2 claims of any nature for loss or damage resulting from the carriage of Dangerous Substances where the Customer's obligations in Condition 4 above have not been met;
- 11.3 claims and demands of any nature in respect of loss of or damage to the goods made by any Third Party additional to or in excess of the limits of liability of the Carrier set out in Condition 10 above;
- 11.4 any claims made or penalties imposed by the relevant Customs and Excise authorities in respect of dutiable goods;
- 11.5 claims and demands made by a Third Party attributable to lack of authority on the part of the Customer to enter into the Contract upon these Terms and Conditions.

## 12 Notification of claims

12.1 The Carrier shall not be liable for:

- a) loss or damage of the whole of the Consignment unless a claim specifying the general nature thereof is submitted by the Customer to the Carrier in writing within 14 days from the Carrier's responsibility for the Consignment having commenced in accordance with Condition 6.2 above and unless a detailed claim giving weight and value and date of collection are submitted by the Customer to the Carrier in