



Chas Mortimer Ltd
MOTORCYCLE TRANSPORTATION

Terms and conditions for Chas Mortimer Ltd.

CONDITIONS OF CARRIAGE

Chas Mortimer Ltd. (hereinafter referred to as the Carrier) is not a common carrier and accepts goods for carriage only upon that condition and the Conditions set out below. No servant or agent of the Carrier is permitted to alter or vary these Conditions in any way unless expressly authorised in writing to do so by a Director of the Company.

1. Definitions of these Conditions

"Customer" means the person or company who contracts for the services of the Carrier including any other carrier who gives a Consignment to the Carrier for carriage.

"Contract" means the contract of carriage between the Customer and the Carrier.

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

2. Parties

The Customer warrants that he is either the owner of the goods in any Consignment or is authorised by such owner to accept these Conditions on the 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 same of every other such carrier shall be provided to the Customer upon request.

3. The Carrier contracts for itself and as agent of and trustee for its servants and agents and all other carriers referred to in (2) above and such other carrier's servants and agents and every reference in Conditions 3a inclusive hereof "the Carrier" shall be deemed to include every other such carrier, servant and agent with the intention that they shall have the benefit of the Contract and collectively and together with the Carrier be under no greater liability to the Customer or any other party than is the Carrier hereunder, 3a Notwithstanding the conditions herein, the carriage of goods in any Consignment by rail, sea, inland waterway or air is arranged by the Carrier as agent of the Customer and shall be subject to the Conditions of the rail, shipping, inland waterway or air carrier contracted to carry the goods. The Carrier shall be under no liability whatever to whomsoever and however arising in respect of such carriage. Provided that where goods are carried partly by road and partly by such other means of transport any loss, damage or delay shall be deemed to have occurred while the goods were being carried by road unless the contrary is proved by the Carrier.

4. Loading and Unloading

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

4a 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. 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 motorcycles or other goods requiring special appliances which, in breach of the warranty in (4a) above, have not been provided by the Customer or on the Customer's behalf.

4b 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.

The Customer shall indemnify the Carrier against all claims and demands whatever which could not have been made if such instructions as are referred to in (4b) of this Condition and such service as referred to had not been given.

5. 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.

6. Transit

6a Transit shall commence when the Carrier takes possession of the Consignment whether at the point of collection or at the Carrier's premises.

6b Transit shall terminate (unless otherwise previously determined) 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 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's premises has been sent to the Consignee; and 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 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.

7. Undelivered or Unclaimed Goods

Where the Carrier is unable for any reason to deliver a Consignment to the Consignee or as he may order, or where by virtue of the proviso to Condition 6b hereof transit is deemed to be at 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 and 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: (1) the Carrier shall do what is reasonable to obtain the value of the Consignment and (2) the power of sale shall not be exercised where the name and address of the sender or of the Consignee is known unless the Carrier shall have 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 will be sold unless within the time specified in such notice being a reasonable time in the circumstances from the giving of such notice, the goods are taken away or instructions are given for their disposal.

8. Carrier's Charges

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.

Except where a quotation states otherwise all quotations based on a per vehicle rate shall apply to the vehicle unless: 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 rate will be revised to accommodate transportation on a vehicle suitable to the needs of the consignment in question and apply to the carrying capacity of such vehicle as is reasonably required.

9. Liability for Loss and Damage

The Customer shall be deemed to have elected to accept the terms set out in 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 any act, omission, neglect, default or other wrongdoing on the part of the Carrier unless a full vehicle condition check sheet has been completed on receipt of the vehicle by the carrier and signed by the customer.

Where the customer / owner of the vehicle is not present at the time of collection the customer will accept the condition report to be correct as completed by the collecting driver. The driver will substantiate the report with photographs of the vehicle and if deemed necessary, a video report.

Subject to these Conditions the Carrier shall not be liable for:-

Any loss or misdelivery of or damage to any other goods occasioned during transit unless the same had arisen from, and the Carrier has used reasonable care to minimise the effects of:

Act of God;

Any damage or loss that was not noted on the delivery notes at the time of delivery,

Any consequences of war, invasion act of foreign enemy, hostilities (whether war 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;

seizure or forfeiture under legal process;

error, act, omission, misstatement or misrepresentation by the Customer or other owner of the goods or by servants or agents of either of them;

inherent liability to wastage, latent defect or inherent defect, vice or natural deterioration of the goods; insufficient or improper packing on goods received packed by the carrier

insufficient or improper labelling or addressing;

riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour from whatever cause;

Consignee not taking or accepting delivery within a reasonable time after the Consignment has been tendered.

The Carrier shall not in any circumstances be liable for loss of or damage to goods after transit of such goods is deemed to have ended within the meaning of Condition thereof, 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.

The carrier may accept to carry additional accessories or effects as requested by the customer to accompany their vehicle.

The carrier will not accept any liability whatsoever for loss or damage to any items accompanying the vehicle while in transit unless otherwise explicitly agreed in writing prior to commencement of the carriage.

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 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.

11. Limitation of Liability

1. 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 motorcycles comprising the Consignment, howsoever arising, shall in all circumstances be limited to the lesser of:

- (a) the cost of repairing any damage or of reconditioning the goods; or
- (b) the value of the goods actually lost, mis-delivered or damaged; or
- (c) a sum not exceeding GBP 150,000.00 per motorcycle

and the value of the goods actually lost, mis-delivered or damaged shall be taken to be their invoice value if they have been sold and shall otherwise be taken to be the open market value taking into account the age, wear, tear and condition at the commencement of transit, and in all cases shall be taken to include any Customs and Excise duties or taxes payable in respect of those goods.

2. In respect of motorcycles presented to the Carrier (at collection) in a damaged condition and/or where the motorcycle is beyond economic repair, it is the responsibility of the Customer to declare the value of the Motorcycle to the Carrier prior to transit commencing. In such instances the liability of the Carrier in respect of claims for physical loss, mis-delivery of or damage howsoever arising, shall in all circumstances be limited to the open market value taking into account the age, wear, tear and condition of the Motorcycle at the commencement of transit but not exceeding the value declared by the Customer.

12. Insurance

The Carrier shall insure his liabilities arising out of the carriage of goods under these Conditions

13. Indemnity to the Carrier

The Customer shall indemnify the Carrier against:

all consequences suffered by the Carrier (including but not limited to claims, demands, proceedings, fines, penalties, damages, costs, expenses and loss of or damage to the carrying vehicle and to other goods carried) of any error, omission, misstatement or misrepresentation by the Customer or other owner of the goods or by any servant or agent of either of them, insufficient or improper packing, labelling or addressing of the goods or fraud as set out in these Conditions, all claims and demands whatever by whomsoever made in excess of the liability of the Carrier under these Conditions, all losses suffered by and claims made against the Carrier resulting from loss of or damage to property caused by or arising out of the carriage by the Carrier of Dangerous Goods whether or not declared by the Customer as such;

all claims made upon the Carrier by H.M. Revenue and Customs in respect of dutiable goods consigned in bond whether or not transit has ended or been suspended.

14. Time Limits for Claims

The Carrier shall not be liable for:

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; 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 it was not reasonably possible for the Customer to advise the Carrier or make a claim in writing within the time limit applicable and 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.

15. Lien

The Carrier shall have a general lien against the Customer, where the Customer is the owner of the goods, 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 his absolute discretion sell the good, 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 goods and shall, upon accounting to the Customer for any balance remaining, be discharged from all liability whatever in respect of the goods. Where the Customer is not the owner of the goods, the Carrier shall have a particular lien against said owner, allowing him to retain possession, but not dispose of, the goods against monies due from the Customer in respect of the Consignment.

16. Unreasonable Detention

The Customer shall be liable for the cost of unreasonable detention of any vehicle, trailer, container or sheet but the rights of the Carrier against any other person in respect thereof 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. Loss Adjustment

The value of a Consignment or part Consignment shall be taken as its invoice value if the goods have been sold, otherwise it shall be taken as the fair market value of the vehicle based on make, model and condition.

19. Impossibility of Performance

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

20. Sub-Contracting

The carrier reserves the right to subcontract all or part of any carriage. (See note 2 above). On doing so the carrier warrants that the sub-contractors liability will be no less than the liability stated herein unless agreed and notified in writing prior to carriage to the customer.

21. Law and Jurisdiction Clause

Notwithstanding the above, carriage and liability, each party irrevocably agrees that the courts of England and Wales shall have jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes and claims).