Model Conditions for the Carriage of Goods by Road in the United Kingdom

2018

The Conditions set down the basis on which the Carrier will carry Goods for the Customer (definitions of Conditions, Carrier, Goods 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 must arrange adequate insurance to provide full cover when the Consignment is in transit.

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

Name of carrier	Atlas Courier Express (Holdings) Ltd and/or its subsidiaries.
Address	Turnpike House, 1208-1210 London Road, Leigh-on-Sea, Essex. SS9 2UA

1 Definitions

In these Conditions:

1.1 **ADR notice** means a notice in writing in relation to the referral of a dispute to mediation.

1.2 **Alternative Dispute Resolution** means any procedure agreed by the parties for the resolution of disputes other than those involving formal arbitration or litigation.

1.3 **Approved Carriage List** means the list of approved carriage items prepared pursuant to the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 and as updated from time to time.

1.4 **Carrier** means the person (corporate or otherwise) who contracts with the Customer to carry the Goods.

1.5 **CEDR** means the Centre for Effective Dispute Resolution.

1.6 **Conditions** means these Terms and Conditions.

1.7 **Contract** means the agreement between the Customer and the Carrier for the carrying out of the transport service in relation to the Goods including all documents expressly incorporated therein.

1.8 **Consignee** means the person (corporate or otherwise and who may or may not be the Customer) to whom the Carrier contracts to deliver the Consignment.

1.9 **Consignment** means the consignment of the Goods at any one time from one Consignor in a single load from one address in the United Kingdom to one Consignee at any one other address in the United Kingdom.

1.10 **Consignor** means the person (corporate or otherwise who may or may not be the Customer) who supplies the Consignment to the Carrier for carriage.

1.11 **Customer** means the person (corporate or otherwise) who contracts with the Carrier for the carriage of goods.

1.12 **Dangerous Goods** means Goods of any nature including those listed in the Approved Carriage List which represent a hazard, or include radioactive material and explosives of any nature.

1.13 **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.

1.14 **Exempt Products** means 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.

1.15 **Goods** means the goods whether single or multiple units or in bulk which are transported in the Consignment.

1.16 **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.

1.17 **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.

1.18 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 sub-contracted as provided for in Condition 2.2 above, such sub-contractors shall have the benefit of these Conditions and shall be under no greater liability to the Customer than, the Carrier would be 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 all aspects of loading and unloading the Consignment onto and off of the vehicle, including providing and safely operating any equipment that may be required for loading and unloading the Consignment. If the Carrier's personnel assist in any part of loading or unloading then, while they provide such assistance, the Carrier's personnel shall be deemed to be under the Customer's instruction and control and the Customer accepts full liability for the acts of such personnel during that period except for any acts of gross negligence.

3.3 The Carrier shall not be liable for any loss or damage caused as a result of:

a its use of defective equipment supplied by the Consignee or Consignor;

b the Carrier acting upon the instructions or directions of the Customer, the Consignor or the Consignee, or their servants or agents, with respect to the loading and/or unloading of the Consignment; or

c negligent acts committed by the Consignor or Consignee or their servants or agents in assisting with loading and/or unloading; and

d 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 will endeavour to make the Consignment reasonably accessible on the vehicle at the place designated for delivery.

3.5 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.

4 Dangerous Goods

4.1 The Contract for the carriage of Dangerous Goods shall be voidable by the Carrier and the Carrier shall have no liability unless, prior to loading, the Carrier receives precise and correct identification of the substances in writing and has agreed to accept the same for carriage. Instructions in writing must be provided by the Customer in the form prescribed by the appropriate statutory authority giving details of each and every substance the Carrier is requested to carry. Written information must be provided in respect of Goods classified as Dangerous Goods and where an instruction in writing is not required by statute. An instruction in writing or other written notification provided by the Customer must accompany each and every Consignment.

4.2 The Customer shall be responsible for ensuring that such substances are properly and safely packaged and labelled with the identities of the substances and all other relevant information as specified by any statutory requirements for the time being in force.

4.3 The Customer shall be responsible for and indemnify the Carrier against any loss or damage and claims made upon the Carrier in respect of any injury to persons or damage to property arising from the non-compliance by the Customer or the Consignor with any of the provisions of these Conditions in as far as they relate to the carriage of Dangerous Goods, unless the Customer proves that the loss, damage or injury was due to the negligence of the Carrier.

5 Consignment notes/receipts

5.1 The Carrier shall, if requested, sign a document acknowledging receipt for the carriage of the quantity and description of the Consignment loaded on to the Carrier's vehicle, to the extent this can be determined, by visual inspection. Such receipt shall not be evidence as to accuracy of the condition, weight, quantity nor nature of the Goods said to comprise the Consignment at the time the receipt document is signed by the Carrier and/or his agents and/or his servants. The burden of proof in the event of dispute is with of the Customer.

5.2 The Carrier shall use its best endeavours to obtain a signed receipt of delivery of the Consignment from the Consignee unless otherwise agreed with the Customer. Such receipts will be returned to the Customer as proof of delivery, unless otherwise agreed in writing by the Customer and/or his agent and/or his servants.

6 Carrier's responsibility

6.1 Goods are accepted by the Carrier for carriage at the Owner's Risk where the Carrier is able to show that the Customer has explicitly agreed to the carriage of the Goods at the Owner's Risk (or in accordance with Condition 8.2b). In that event, the Carrier shall not be liable for loss damage or delay to the Goods no matter howsoever or by whomsoever caused and the Customer agrees to indemnify the Carrier against any claims made by any third party (including in relation to the carriage, retention or storage) in respect of the Goods carried.

6.2 Subject to the provisions of Condition 6.1 above the Carrier's responsibility for the Consignment shall commence when the Carrier, its agents or sub-contractors takes physical control of the Consignment at the point of collection or by receiving the same at the Carrier's premises.

6.3 Subject to Condition 6.4 the Carrier's responsibility and liability 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 email or other agreed method of communication) 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 or delay its agreement unreasonably. Until such time as any variation to the Contract has 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 the timeframe communicated by the Carrier prior to the Contract being entered into, and in the event that no timeframe is communicated, then the charges shall be payable within 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 8 per cent above the base rate of the Bank of England prevailing at the date of invoice, calculated on a daily basis from the date when the sum became due to the date of actual payment, whether before or after any judgment.

7.3 Without limiting the generality of Condition 7.2, the Carrier's charges shall be payable when due without reduction or deferment on account of any claim, counterclaim or set-off.

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 payable by the Customer.

8.2 Subject to the provisions contained in Condition 8.2a 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.

a 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.

b Pending the expiry of such periods of notice referred to in Condition 8.2a 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 the Owner's Risk and the Carrier shall not be liable for loss or damage of the Goods howsoever caused.

c In the event of a sale of the Goods under this Condition 8 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 Condition 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 Dangerous 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 Dangerous Goods. Any such action taken by the Carrier under this Condition 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 Condition 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, mis-delivery or loss arising from any delay in respect of Exempt Products, unless:

a the Carrier has agreed in writing to carry such Goods at the specific request of the Customer prior to commencement of the transit;

b 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;

c 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 an 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 an error, act, omission, mis-statement or mis-representation by the Customer or other owner of the Goods or by servants or agents of either of them;

e an 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 the acts of the Customer, Consignee or Consigor as set out in Condition 3.3;

k a 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.

9.5 For the avoidance of doubt and without affecting the generality of Condition 9.1, the Carrier shall not be liable for any loss or damage to the Goods where the Carrier's responsibility for the Consignment has ended in accordance with Conditions 6.3 and 6.4.

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 £1,300 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 £500 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 lower 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 act, omission, misdirection, mis-statement or negligence 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 Goods 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 Commissioners of Customs and Excise 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 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 writing within 14 days from the Carrier's responsibility for the Consignment having ended or been deemed to have ended;

b loss or damage of any part of a Consignment unless a claim specifying the general nature thereof is submitted by the Customer to the Carrier in writing within 7 days from the Carrier's responsibility for the Consignment having ended in accordance with Condition 6.3 above and a detailed claim specifying the weight, value and date of collection and date of delivery are submitted in writing within 14 days of the Carrier's responsibility having ended;

c damage of any description unless the damaged Goods are made available to the Carrier's representative for inspection for a reasonable period following notification of the claim;

d delay in delivery of whole or part of the Consignment unless the Carrier is informed in writing within three days of the date by which the delivery should have been made. Where no date for delivery has been agreed notification should be given within 63 days of

the Carrier's responsibility for the Consignment having commenced.

12.2 The Carrier shall not benefit from this exclusion of liability if the Customer provides evidence that:

a in all the circumstances, it was not reasonably possible so to advise the Carrier or make the damaged Goods available for inspection within the specified time limits; and

b such advice was given at the first reasonable opportunity.

12.3 The Carrier shall not be liable for any claims and shall be discharged from all liability however arising if the Customer has failed to refer the claim to arbitration in accordance with Condition 15.3 within one year of the date that delivery was scheduled to or did take place, or in the event that no delivery date was agreed and no delivery took place within one year from the date of the Carrier collected the Goods.

13 Lien and power of sale

13.1 All Consignments delivered to the Carrier for carriage are and will be received by the Carrier and held by it subject to a lien for all carriage charges due to the Carrier from the Customer for the carriage, storage rent and/or warehousing charge of the Goods and other proper charges or expenses incurred in respect of or in connection with the carriage of the particular Consignment and all other goods which may have been carried by the Carrier for the Customer from time to time.

13.2 If such a lien is not satisfied by payment within a reasonable time of the Carrier's demand for payment then the Carrier shall be entitled to invoke the power of sale set out in Condition 8 over the Goods in the Carrier's possession. Such sale shall be subject to the provisions of Conditions 8.2 and 8.3 above.

13.3 The Carrier shall be entitled to charge to the Customer the cost of loading and unloading the Goods whilst a lien is being exercised together with warehouse rent and any other expenses incurred during all periods during which the lien on the Consignment or any part of the Consignment is being asserted and all these Conditions shall continue to apply whilst the lien is being exercised.

13.4 If the Consignment is not the property of the Customer, the Customer warrants that he has the authority to grant to the Carrier a particular lien against the owner of the Goods. The Carrier may hold the Goods against the owner for any unpaid monies applicable to those Goods only, but he may not sell or dispose of the Goods in any way without the express consent of the owner.

14 Detention of Carrier's property

14.1 The Customer shall, except in the case of negligence by the Carrier, pay to the Carrier any cost or expense occasioned to it by the improper or excessive detention by the Consignor or Consignee of any vehicle, trailer, container or covering belonging to or under the custody or control of the Carrier without prejudice to any rights of the Carrier against any third party in respect of such detention.

15 Dispute resolution

15.1 The parties will attempt, in good faith, to resolve any dispute or claim arising out of or relating to these Conditions promptly through negotiations between the respective representatives of the parties who have authority to settle the same.

15.2 Subject to Condition 15.4, if the dispute is not resolved through negotiation the parties may attempt to resolve the dispute or claim through mediation to settle such a dispute and will do so in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties within 14 days of notice of the dispute, the mediator will be nominated by CEDR. To initiate the mediation a party must give an Alternative Dispute Resolution (ADR) notice to the other party referring the dispute to mediation. A copy of the referral should be sent to CEDR.

15.3 Unless otherwise agreed, the mediation will start not later than 28 days after the date of the ADR notice. Subject to Condition 15.4, no party may commence any court proceedings in relation to any dispute arising out of these Conditions until it has attempted to settle the dispute by mediation and either the mediation has terminated or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.

15.4 The provisions of Conditions 15.1 to 15.3 shall not apply to disputes relating to non-payment or late payment of any charges.

16 Confidentiality

16.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by Condition 16.2.

16.2 Each party may disclose the other party's confidential information to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with these Conditions, or as required by law, a court of competent jurisdiction

or any governmental or regulatory authority. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with Condition 16.1.

17 Governing law

17.1 The parties shall agree the legal regime under which these Conditions shall be construed and interpreted and the courts which shall have jurisdiction. In the absence of such agreement, the Contract shall be subject to and construed and interpreted in accordance with English law and shall be subject to the jurisdiction of the courts of England.

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