

HARBOUR SHIPPING LIMITED

Terms & Conditions

1 INTERPRETATION

1.1 **"We", "us" or "our"** means Harbour Shipping Limited, a company registered in England and Wales with registered number 1695398 and whose registered office is at Star Cargo House, 1 Parkway, Porters Wood, St Albans, Hertfordshire, AL3 6PA.

1.2 We reserve the right to amend these Terms and Conditions at any time. All amendments to these Terms and Conditions will be emailed to you if you have an Account. Continued use of our services will, however, be deemed to constitute acceptance of the new Terms and Conditions. No other terms or changes to these Terms and Conditions will be binding unless agreed in writing signed by us.

1.3 In these Terms and Conditions:

1.3.1 the following terms shall have the following meanings:

"Account"

an account that we allocate to our customers;

"Agreement"

means the legal and binding agreement that is in place, on the basis of these Terms and Conditions, for us to provide freight carrier services;

"Booking"

the booking that you place with us for the purchase of Carrier Services, subject to this Agreement and the relevant Carrier Terms;

"Booking Services"

the service provided by us for you to book freight carrier services with third party operators;

"Breach of Duty"

the breach of any: (i) obligation arising from the express or implied terms of a contract to take reasonable care or exercise reasonable skill in the performance of the contract; or (ii) common law duty to take reasonable care or exercise reasonable skill (but not any stricter duty);

"Carrier"

a third-party operator offering ferry services or tunnel/bridge access services;

"Carrier Services"

the services provided by Carriers;

"Carrier Terms"

the terms and conditions of Carrier Services of the relevant Carrier in respect of which you place a Booking;

"Intellectual Property Rights"

copyright and related rights, trade marks and service marks, trade names and domain names, rights under licences, rights in get-up, rights to goodwill or to sue for passing off or unfair competition, patents, rights to inventions, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or

forms of protection which subsist or will subsist now or in the future in any part of the world;

"Liability"

liability in or for breach of contract, Breach of Duty, torts (including negligence and intentional torts), deliberate breach (including deliberate personal repudiatory breach), misrepresentation, restitution or any other cause of action whatsoever relating to or arising under or in connection with this Agreement, including liability expressly provided for under this Agreement or arising by reason of the invalidity or unenforceability of any term of this Agreement (and, for the purposes of this definition, all references to **"this Agreement"** shall be deemed to include any collateral contract);

"Party"

either us or you, and **"Parties"** shall mean both of us and you;

"Users"

those of your employees and independent contractors who you authorise to access the Booking Services under this Agreement; and

"you" or "your"

our customer that submits a booking to us;

- 1.3.2 references to **"Clauses"** are to clauses of these Terms and Conditions;
- 1.3.3 the headings are inserted for convenience only and shall not affect the interpretation or construction of this Agreement;
- 1.3.4 words imparting the singular shall include the plural and vice versa. Words imparting a gender shall include the other gender and the neutral, and references to persons shall include an individual, company, corporation, firm or partnership;
- 1.3.5 reference to **"written"** or in **"writing"** includes the electronic form;
- 1.3.6 references to **"includes"** or **"including"** or like words shall mean without limitation; and
- 1.3.7 references to any statute or statutory provision shall include any subordinate legislation made under it, any provision which it has modified or re-enacted (whether with or without modification) and any provision which subsequently supersedes it or re-enacts it (whether with or without modification).

2. EFFECT

- 2.1 This Agreement shall apply to all use of an Account and the Booking Services. When you submit a Booking, this shall always constitute your unqualified acceptance of these Terms and Conditions (or, in accordance with Clause 1.3, the Terms and Conditions then in force).
- 2.2 Save as expressly provided in this Agreement, this Agreement (and any document referred to in it) shall operate to the entire exclusion of any other agreement, understanding or arrangement of any kind between the Parties and in any way relating to the subject matter of this Agreement, to the exclusion of any representations not expressly stated in this Agreement, except for any fraudulent misrepresentations or any misrepresentation as to a fundamental matter. You acknowledge that you have not accepted these Terms and Conditions based on any representation that is not expressly incorporated into these Terms and Conditions.
- 2.3 Subject to any Booking (which shall be subject to the Carrier Terms and this Agreement), this Agreement constitutes the whole agreement and understanding of the Parties as to the subject matter of this Agreement and there are no provisions, terms, conditions or obligations, whether oral or written, express or implied, other than those contained or referred to in this Agreement.
- 2.4 You acknowledge that the Carrier Terms apply to any Booking, in addition to this Agreement.
- 2.5 To the extent that we provide any products or services that fall within the scope of the British International Freight Association Standard Trading Conditions 2021, these conditions shall apply to such products and services and shall prevail in the event of any conflict with these

Terms and Conditions. The BIFA Standard Trading Conditions 2021 can be found on our website.

3. BOOKING SERVICES

- 3.1.1 we shall use our reasonable skill and care in providing the Booking Services;
 - 3.1.2 we have all necessary consents, rights and permission to enter into, and perform our obligations under, this Agreement; and
 - 3.1.3 we shall comply with all applicable laws, statutes, regulations and bye-laws in relation to the exercise of our rights and performance of our obligations under this Agreement.
- 3.2 In relation to the Booking Services:
- 3.2.1 we hereby grant to you a non-exclusive, non-transferable licence to allow Users to use the Booking Services solely for your business purposes;
 - 3.2.2 the rights provided under this Agreement are granted to you only, and shall not be considered granted to any subsidiary or holding company of you; and
 - 3.2.3 you shall not use the Booking Services to provide services to third parties.
- 3.3 We do not warrant that the Booking Services will meet your individual requirements. We are not responsible for any connections, deliverables or services that we are not expressly stipulated to provide in this Agreement.
- 3.4 We do not warrant that the Booking Services and your Account will be uninterrupted or error-free or that they will meet your individual requirements. Whilst we use our reasonable endeavours to make the Booking Services and your Account available, we shall not have any Liability if for any reason the Booking Services or your Account are unavailable for any time or for any period. We make no warranty that your access to the Booking Services or your Account will be uninterrupted, timely or error-free.
- 3.5 We reserve the right, at any time, to carry out repairs, maintenance or introduce new facilities and functions in respect of all or any part of the Booking Services.
- 3.6 Except as specifically stipulated in this Agreement, we shall not be responsible for providing or achieving any particular results or outcomes or within a particular time.
- 3.7 Except where expressly stated in this Agreement, we exclude all conditions, warranties, terms and obligations, whether express or implied by statute, common law or otherwise, to the fullest extent permitted by law in respect of the Booking Services and the Portal.

4. YOUR OBLIGATIONS

- 4.1 In order to place a Booking you must provide such information as we may require from time to time. You must ensure that all information is complete and accurate.
- 4.2 You must:
- 4.2.1 ensure that you fully co-operate with, and make yourself available at all reasonable times for discussion and meetings with, us, including in order to enable us to carry out fully, accurately and promptly our obligations under this Agreement;
 - 4.2.2 not submit to us anything which in any respect may infringe the Intellectual Property Rights or privacy or other rights of us or any third party;
 - 4.2.3 promptly provide us with such information, data and assistance that will enable us to carry out fully, accurately and promptly our obligations under this Agreement;
 - 4.2.4 have all necessary rights, permissions and consents to enter into, and perform your obligations under, this Agreement; and

- 4.2.5 comply with all applicable laws, statutes, regulations and by-laws in relation to the exercise of your rights and performance of your obligations under this Agreement.
- 4.3 You must not in any way submit to us anything which in any respect:
 - 4.3.1 is in breach of any law, statute, regulation or byelaw of any applicable jurisdiction;
 - 4.3.2 is fraudulent, criminal or unlawful;
 - 4.3.3 is inaccurate or out-of-date;
 - 4.3.4 is obscene, indecent, vulgar, discriminatory, offensive, threatening, defamatory or untrue;
 - 4.3.5 is in contravention of any applicable law, nor allow or assist any third party in doing so;
 - 4.3.6 impersonates any other person or body or misrepresents a relationship with any person or body;
 - 4.3.7 may infringe or breach the copy or Intellectual Property Rights of any third party;
 - 4.3.8 may be contrary to our interests;
 - 4.3.9 is contrary to any specific rule or requirement that we may stipulate for the Services; or
 - 4.3.10 involves your use, delivery or transmission of any viruses, unsolicited communications, Trojan horses, trap doors, cancelbots, back doors, worms, easter eggs, time bombs or computer programming routines that are intended to damage, interfere with, surreptitiously intercept or expropriate any data, personal information or system.
- 4.4 It is your responsibility to ensure that you provide us with the information required to enable us to perform our obligations under this Agreement. We shall not be responsible or have any Liability for any failure to perform our obligations under this Agreement to the extent caused by your failure to properly ensure the provision of the relevant information to us.
- 4.5 Access to the Booking Services or an Account may be suspended or withdrawn to or from you or all Users temporarily or permanently at any time without notice. If we impose restrictions on you, you must not attempt to use the Booking Services or your Account under any other name or user.

5. CARRIER SERVICES

- 5.1 When you are using the Portal to prepare a Booking to submit to us, you should check that you can comply with the relevant Carrier Terms in respect of the Carrier that will be providing Carrier Services for that Booking. In submitting any Booking to us, you warrant that you have read and accepted those Carrier Terms. We shall not have any Liability in respect of any Carrier Terms, including any failure by you or the relevant Carrier to comply with the relevant Carrier Terms or to honour the terms of any Booking.
- 5.2 You shall indemnify us against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by us arising out of or in connection with:
 - 5.2.1 any breach, negligent performance or non-performance by you or the Carrier of any Carrier Terms or the Carrier Services;
 - 5.2.2 any amendment, cancellation, or failure by you to arrive at the appropriate place and time for receipt, of the Carrier Services; and/or

- 5.2.3 any claim made against us by any third party arising out of the Carrier Services in respect of which you have submitted to us a Booking.
- 5.3 By submitting a Booking, you agree that all vehicles and cargo relevant to the Carrier Services are compliant with:
 - 5.3.1 the appropriate length and in-gauge requirements for vehicles
 - 5.3.2 the relevant lashing and tressle points for vehicles
 - 5.3.3 the cargo-stowing requirements as per The DOT Safety of Loads on Vehicles Code of Practice, and
 - 5.3.4 any requirements for hazardous cargo; you must notify the Carrier if the cargo is hazardous.

You must also comply with the Carrier Terms as appropriate to your Booking. If you fail to comply in any way with this Clause 5.4, it may result in additional charges being raised by the Carrier, delays, and/or vehicles and/or cargo not being permitted to travel upon arrival at the relevant port or station.

- 5.4 If we charge any Bunker Adjustment Factor (BAF) or MARPOL surcharges, such charge will be in accordance with the values applicable at the time of shipment,
- 5.5 You acknowledge that, in submitting a Booking, there is no guarantee of availability for the Carrier Services in question. In the event of non-availability, whether before or after you have submitted your Booking, we will offer you alternatives. If you request an alternative that is more expensive than the original Booking, you will pay to us the difference.
- 5.6 You acknowledge that we have no operational control over Carrier Services, including cancellations and schedule changes, which may occur at short notice. It is the relevant Carrier's responsibility to advise you of any such changes, and we shall have no Liability for the actions or omissions of any Carrier, or in respect of the performance, negligent performance, or failure in performance, of the Carrier Services.

6. FEES

- 6.1 If you wish to amend any Booking, you must request any such amendments in good time prior to the departure of the vessel as per the Carrier's conditions; late cancellations or changes may incur late cancellation or amendment penalties from certain Carriers.

7. TERMINATION

- 7.1 This Agreement will continue in force until we close your Account, or, if you have not registered for an Account, until you have "checked-in" for the receipt of the Carrier Services with the relevant Carrier under the relevant Booking.
- 7.2 We may terminate this Agreement with immediate effect at any time by giving notice to you, except where you are in breach of this Agreement, in which instance we may terminate this Agreement at any time without notice.
- 7.3 In the event that this Agreement terminated:
 - 7.3.1 you will cease to have access to the Booking Services and your Account; and
 - 7.3.2 the accrued rights, remedies, obligations and liabilities of us and you as at cancellation or termination shall not be affected, including the right to claim damages for any breach of this Agreement which existed at or before the date of cancellation or termination.

7.4 Termination of the Agreement shall not affect the coming into force, or continuance in force, of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.

8. LIMITATION OF LIABILITY

8.1 This Clause 8 prevails over all of this Agreement and sets forth our entire Liability, and your sole and exclusive remedies, in respect of:

8.1.1 performance, non-performance, purported performance, delay in performance or mis-performance of this Agreement or any services in connection with this Agreement; or

8.1.2 otherwise in relation to this Agreement or entering into a contract under this Agreement.

8.2 We do not accept, and we hereby exclude, any Liability for Breach of Duty.

8.3 We shall not have any Liability in respect of any:

8.3.1 indirect or consequential losses, damages, costs or expenses;

8.3.2 loss of actual or anticipated profits;

8.3.3 loss of contracts;

8.3.4 loss of use of money;

8.3.5 loss of anticipated savings;

8.3.6 loss of revenue;

8.3.7 loss of goodwill;

8.3.8 loss of reputation;

8.3.9 loss of business;

8.3.10 ex gratia payments;

8.3.11 loss of operation time;

8.3.12 loss of opportunity;

8.3.13 loss caused by the diminution in value of any asset; or

8.3.14 loss of, damage to, or corruption of, data;

whether or not such losses were reasonably foreseeable or we or our agents or contractors had been advised of the possibility of such losses being incurred. For the avoidance of doubt, Clauses 8.3.2 to 8.3.14 (inclusive) of this Clause 8.3 apply whether such losses are direct, indirect, consequential or otherwise.

8.4 We will not be responsible, nor, shall we have any Liability, directly or indirectly, for any act or omission of you, your affiliates or your or their employees, agents, contractors or customers, or any third party (including Carriers).

9. NOTICES

9.1 Any notice given to either Party under or in connection with this Agreement shall be in writing, addressed to the relevant Party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that Party may have specified to the other Party in writing, and shall be delivered personally, sent by pre-paid first class post, recorded delivery or commercial courier.

9.2 A notice shall be deemed to have been received: if delivered personally, when left at the address referred to in Clause 9.1; if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Business Day after posting; or, if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

9.3 the provisions of this Clause 9 shall not apply to the service of any proceedings or other documents in any legal action.

10. ASSIGNMENT

You must not assign, transfer, charge or otherwise encumber, create any trust over, or deal in any manner with, this Agreement or any right, benefit or interest under it, nor transfer, novate or sub-contract any of your obligations under it, without our prior written consent (such consent not to be unreasonably withheld or delayed).

11. SEVERANCE

11.1 If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected.

11.2 if any invalid, unenforceable or illegal provision of this Agreement would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

12. WAIVER

12.1 A waiver of any right or remedy under this Agreement is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a Party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

12.2 The rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

13. THIRD PARTY RIGHTS

13.1 A person who is not a Party shall not have any rights under or in connection with this Agreement.

14. NO PARTNERSHIP

14.1 Nothing in this Agreement shall constitute a partnership or employment or agency relationship between the Parties.

15. GOVERNING LAW AND JURISDICTION

15.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England.

15.2 The Parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation.

16. CUSTOMS CLEARANCE SERVICES

16.1 All Customs Clearance services are carried out in accordance with the BIFA Standard Trading Conditions 2021 which can be found on our website.

16.2 You shall be deemed to be bound by and to warrant the accuracy of all descriptions, values and other particulars given to us for Customs purposes. By making declarations to HMRC the information supplied by the customer to us is deemed fit and proper and the responsibility for accuracy of such information lies with the customer.