

## **Red Funnel Terms and Conditions of Carriage**

Please read our terms and conditions of carriage applying to ferry travel.

### **Definitions and Interpretation**

1. In these conditions the following expressions shall have the following meanings:

"Company" means Southampton Isle of Wight and South of England Royal Mail Steam Packet Company Limited (also known as Red Funnel Group, Red Funnel Ferries & Red Funnel Holidays) including where appropriate its employees agents independent contractors and sub-contractors who shall all have the benefit of the defences and limitations provided by these conditions,

"conditions" these conditions as may be varied by the Company from time to time without prior notice to customers. For the avoidance of doubt, customers acknowledge that no agent, employee, independent contractor or sub-contractor of the Company is permitted to alter or vary these conditions in any way,

"customer" includes, without limitation, all passengers and persons entering into transactions with the Company and named as consignor on the consignment note,

"goods" includes, without limitation, livestock and animals of all kinds, vehicles including passenger vehicles, passengers' unaccompanied luggage merchandise and personal property of all kinds whatsoever, together with any packaging and the container and/or vehicle in which they may be carried,

"persons" includes firms and corporations, and

"transaction" means any arrangement between a customer and the Company in connection with any of those matters undertaken by the Company as referred to in condition 6 below.

2. Reference to any statute or statutory provision includes a reference to that statute or provision as from time to time amended, extended, re-enacted or consolidated and to all statutory instruments or orders made under it.

3. The headings in these conditions are for convenience only and shall not affect their interpretation.

4. The Company is not a Common Carrier and does not contract as such.

5. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.

### **Company's Obligations**

6. The Company undertakes the carriage of passengers and the collection, carriage, loading, discharge, storage and warehousing custody and delivery of the goods solely upon and subject to these conditions.

7. Any advice or recommendation given by the Company or its employees or agents to Customers as to the storage and transport of the goods is followed or acted upon entirely at the Customer's own risk and accordingly the Company shall not be liable for any such advice or recommendation.

## **Booking and Payment**

8. All charges by the Company shall be the Company's quoted prices listed in the Company's published price list current at the date of the transaction. All charges may be altered by the Company at any time without giving notice to customers.

9. Subject to condition 10, full payment is due when the Company confirms the booking.

10. In all cases (previously agreed with the Company) where charges are not prepaid, goods will be accepted for conveyance only upon condition the customer remains liable for payment of the amounts due for the carriage of such goods and all other charges incidental to the collection, carriage, loading, discharge, storage, warehousing, custody or delivery of the goods without prejudice to the Company's rights if any, against the customers or any other persons.

## **Goods**

11. The consignment note issued by the Company shall not be taken to evidence the condition of the goods or the correctness of the declared nature, quantity or weight of the consignment at the time it is received by the Company.

12. The customer shall furnish a statement of the identity of any dangerous, hazardous and toxic goods entrusted to the Company and of the nature and danger involved by quoting the relevant UN packing group under which the goods are classified and the UN number together with the IMDG code where known and flashpoint where applicable. Tremcards must accompany those goods for which they are required. Without prejudice to the generality of the foregoing, customers must comply in all respects with the Road Traffic (Carriage of Dangerous Substances in Packages etc) Regulations 1986, The Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 1987, Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1990, Explosives Act 1875, The Dangerous Substances in Harbour Areas Regulations 1987 the Bye-Laws of the Port and Harbour from and to which goods are shipped and all other applicable laws in connection with the carriage of the goods.

13. The Company shall not be obliged to carry or otherwise handle dangerous goods.

14. Goods of a dangerous nature to the carriage whereof the Company has not consented with knowledge of their nature and character, may at any time be unloaded, abandoned, discharged, landed, jettisoned, destroyed, rendered innocuous or otherwise disposed of by the Company without compensation, and without prejudice to condition 23 the customer shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment whether or not the customer had knowledge or should have had knowledge of the nature and character of the goods at the time of the shipment. If any goods shipped with such knowledge and consent shall become a danger they may be dealt with in like manner.

15. All perishable goods refused by the person at the place to which directed, or directed to a place not known to the Company, its servants or agents, or not directed at all or not paid for or not taken away within six hours of arrival if addressed to be called for, may be forthwith sold or otherwise disposed of without notice to the customer and without liability whatsoever on the part of the Company. Payment or tender of the net proceeds of any such sale after deduction of freight charges and other expenses of the Company including, without limitation, expenses in connection with the disposal of such goods shall be released to the customer.

16. The Company will have the right to inspect the contents of any parcel or package and will not be bound to receive or forward any parcels or packages the contents of which shall not be declared at the time of being tendered. The Company reserves the right to require the unloading of the whole or any part of the load of any vehicle if in the opinion of the Company's employees or agents it is necessary so to do in the interests of safety or convenience of handling and no liability is accepted by the Company in such event.

17. All empties not taken away within thirty days after their arrival may be disposed of by sale or otherwise. The Company shall have complete discretion in determining upon the manner of the disposal, and shall not be bound to dispose of them in the manner most favourable to the customer. The Company will keep such amount of any proceeds obtained from the disposal of the empties in satisfaction of the Company's costs and expenses in connection with the storage and disposal of the empties. The Company will account to the customer for any balance.

### **Company's Lien**

18. The Company shall have a general lien against the owner of the goods for any money due from the customer to the Company and if any such lien is not satisfied within a reasonable time the Company may in its absolute discretion sell all or part of the goods as agent for the customer and apply the proceeds towards the money due and the expenses of retention insurance and sale of the goods and shall on accounting to the customer for any surplus be discharged from all liability whatever in respect of the goods.

### **Customers' Safety**

19. Customers shall at all times follow and carry out all lawful directions of the Master and/or crew members of the vessel, particularly in relation to (but not limited to) personal safety of themselves, crew or other passengers.

20. Customers are required to be seated when advised or requested to do so by the Master or any crew member, for any reason.

21. Customers are required at all times to take all reasonable precautions for their own safety and safety of any person in their care (particularly children). This includes but is not limited to using hand and guard rails at all times as provided around the vessel, appropriately restraining children and ensuring that children are accompanied by a responsible adult at all times and paying attention to the safety briefing given by crew members at the commencement of carriage.

22. Customers are advised and required to take particular care in conditions of inclement rough or heavy weather or as advised by the crew.

23. Notwithstanding the provisions of condition 26 below, neither the carrier, the vessel nor any crew member shall be held responsible for any loss or damage (including personal injury) suffered by any person, as a result of breach of that person's safety obligations (as detailed in these conditions and/or as otherwise advised by the Master and/or crew members), or their failure to utilise all safety devices and precautions as provided and/or advised on board the vessel, or caused by any passenger acting in an unreasonable, unnecessary or unsafe manner.

24. The Master/Captain/Commander or any other authorised person will refuse to take on board any vessel a person who in the Master's opinion may constitute a hazard either to the safety of the vessel or to the safety of the other persons on board that vessel or who in the Master's opinion may be a nuisance or annoyance to other passengers.

## Liability

(a) The Company shall not be liable for any indirect or consequential loss suffered by the customer whatsoever.

(b) The liability of the Company for death or personal injury resulting from negligence is not excluded or restricted hereby.

25. The Company shall not be liable for loss damage non-delivery or delay attributable to:

(a) non-delivery or misappropriation of the goods where the Company has complied with any special instructions by the customer as to delivery,

(b) act of God,

(c) war hostile military action rebellion riot or civil commotion,

(d) strike lockout or other industrial action,

(e) any other act or omission of the Company which is beyond the reasonable control of the Company,

(f) orders of any competent public authority,

(g) lack of or defective or inadequate packaging,

(h) handling loading stowage or unloading of the goods by the customer or the consignee,

(i) the nature of the goods exposing them to total or partial loss or damage through breakage rust decay desiccation leakage wastage inherent or latent defect or vice or natural deterioration,

(j) insufficiency or inadequacy of addressing labeling or other markings or information on the goods,

(k) any other act or omission of the customer or consignee or any person for whom the consignee is responsible.

26. The Company shall not be responsible for any loss damage or delay unless the customer notified the Company in writing within 3 days of actual delivery.

27. The Company draws attention to the right the Company may have in appropriate circumstances to limit liability, whether under the provisions of statute or otherwise and nothing in these terms and conditions is to be construed as a derogation of that right.

28. In respect of claims arising on or after 1 February 1978 these terms and conditions are to be construed in such a manner as to afford the Company maximum protection permissible under the Unfair Contract Terms Act 1977.

29. In accordance with The Carriage of Passengers and their Luggage by Sea (Domestic Carriage) Order 1987, the Company gives the following notice:

(a) The provisions of the Athens Convention may be applicable; and

(b) The Athens Convention in most cases limits the carrier's liability for death or personal injury or loss of or damage to luggage (including a vehicle) and makes special provision for valuables; and

(c) The Athens Convention presumes that luggage has been delivered undamaged, unless written notice is given to the carrier:

(i) In the case of apparent damage, before or at the time of disembarkation or re-delivery, or

(ii) In the case of damage which is not apparent or of loss, within 15 days from the date of disembarkation or re-delivery or from the time when such re-delivery should have taken place.

30. Customers shall be liable for any loss, damage or delay to the goods and to the property of the Company and of third parties and for personal injury or death to any persons wheresoever such damage is caused or inflicted by the goods.

31. General average (if any) to be settled in accordance with York-Antwerp Rules, 1974, or any subsequent amendment thereto.

32. No employee agent independent contractor or sub-contractor of the Company shall in any circumstances whatsoever be under any liability whatsoever to the customer for any loss, damage or delay of whatsoever kind arising or resulting directly or indirectly from any act, neglect or default on his part while acting in the course of or in connection with his employment but without prejudice to the generality of the foregoing provisions of this clause, every exemption, limitation, condition, and liberty herein contained and every right, exemption from liability, defence and immunity of whatsoever nature applicable to the Company or to which the Company is entitled hereunder shall also be available and shall extend to protect every such servant or agent of the Company acting as aforesaid and for the purpose of all the foregoing provisions of this clause the Company is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all persons who are or might be its servants or agents from time to time (including independent contractors as aforesaid).

### **Warranties and Indemnities**

33. Customers entering into transactions of any kind with the Company expressly warrant that they are either the owners or the authorised agents of the owners of any goods to which the transaction relates and further warrant that they are authorised to accept and are accepting these conditions not only for themselves, but also as agents for and on behalf of all other persons who are or may thereafter become interested in the goods.

34. The customer shall pay to the Company the amount required to indemnify the Company against any claim arising out of the custody or carriage of the goods in pursuance of or in connection with these conditions by any person or entity having an interest in the goods and any costs and expenses associated with such a claim.

### **Sub-contractors**

35. The Company shall be entitled to employ or contract with the Railways other Shipping Companies or any other carriers or persons for any purpose of or incidental to the collection, carriage, loading, discharge, storage and warehousing, custody or delivery of the goods. In so doing, the Company shall be deemed agents for the customers.

36. Where customers booking include the carriage of goods or the travel of passengers by road or rail then that part of the journey (provided it is not undertaken by the Company) shall be subject to the relevant carrier's terms and conditions and other relevant applicable laws, copies of which are available on request.

## **Delivery**

37. Where the Company undertakes to arrange collection and/or carriage of the goods prior to loading aboard the vessel or on carriage of the goods after discharge from the vessel such arrangements will always be made by the Company prior to loading aboard the vessel or after discharge from the vessel.

## **Commencement and Termination**

38.

(a) The transit in respect of which a consignment note is issued by the Company shall commence when the goods are handed to and accepted by the Company whether at the point of collection or at the Company's premises. For the avoidance of doubt, unless otherwise previously agreed with the Company, any goods abandoned on any Company's premises may be disposed of by the Company without compensation to the owner of the goods and without any responsibility on the part of the Company.

(b) The transit shall (unless otherwise previously determined) be deemed to end:

(i) In cases where the Company has not undertaken to arrange on-carriage, when the goods are discharged from the vessel, or:

(ii) In cases where the Company has undertaken to arrange on-carriage (a) when the goods are tendered at the usual place of delivery at the consignee's address, or other agreed place of delivery within the customary cartage hours of the district, (b) when upon arrival at the place of delivery, it is found that no safe and adequate access or no adequate unloading facilities there exist, (c) when for any other reason whatsoever a consignment cannot be delivered.

(iii) In cases where the Company has undertaken to arrange on-carriage but no on-carriage is available, the transit shall be deemed to terminate on arrival of the goods at the Company's wharf or depot. Any money received by the Company in respect of the intended on-carriage shall be held in trust for the customer and may be appropriated by the Company to payment, in part or in full, of any additional expenses by the Company.

(iv) In cases where a consignment is held by the Company "to await order" or "to be kept till called for" or upon any like instructions and such instructions are not given, when the consignment is not called for and removed within thirty days.

39. When the transit has come to an end by virtue of Clause 40 above the Company may sell the goods (although the Company shall not be obliged to do so) and payment or tender of the proceeds after deduction of all proper charges and expenses in relation thereto and all outstanding charges in relation to the carriage and storage of the goods shall discharge the Company from all liability in respect of such goods, their carriage and storage. Whether or not the Company elects to sell the goods the owners shall be liable for all additional expenses or charges of whatsoever nature incurred after the transit has come to an end.

40. English Law shall apply to any transactions between the Company and customers under these conditions and the parties shall submit to the exclusive jurisdiction of the English courts.