

WESTERN FERRIES (CLYDE) LIMITED

CONDITIONS OF CARRIAGE

THE CONTRACT

1. In these Conditions, unless contrary to the context: "The Company" means Western Ferries (Clyde) Limited. "The Vessel" means the carrying vessel. "Passenger" includes all persons travelling in charge of goods or livestock. "Goods" includes all cargo, motor vehicles, property and merchandise of every description whether accompanied or unaccompanied. "Livestock" includes all living animals, birds, fish, and reptiles. "Owner" includes owners, suppliers, consignees and receivers of goods and their servants or agents. In addition words importing the singular number only shall include the plural number and vice versa and words importing the masculine gender only shall include the feminine.
2. The Company is not and does not hold itself out as a common carrier. The Contract is governed by and is subject to these Conditions. No person other than a Director of the Company has authority to vary these Conditions and no such variation shall be of any effect unless it is in writing signed by such Director.
3. Any person making a booking for or on behalf of another warrants and confirms that he has the authority of each and every person concerned to accept these Conditions on their behalf and that each and every person concerned agrees to be bound by these Conditions.
4. The Vessel, its Owner, Master and Crew and any servant or agent or independent contractor of the Company, and any chartered or substitute Vessel, its Owner, Master and Crew shall have the benefit of all rights and exemptions in these Conditions and for this purpose the Company is or shall be deemed to be acting as agent of trustee of all persons who are, were or might be at any time such an Owner, Master, Member of the Crew, servant or agent or independent contractor.
5. All Passengers and Owners agree that their heirs, assignees and personal representatives shall be bound by these Conditions.
6. The Company reserves the right to carry vehicles and luggage on deck and to carry goods of any kind, including dangerous cargo.

CANCELLATION OR ALTERATION OF THE VOYAGE

7. At any time before the start of the voyage the Company may cancel the voyage without notice for any cause which the Company or the Master in their discretion shall consider to be reasonable and in such circumstances any fare or freight will be returned without any further liability on the Company.
8. Any route or port may be altered or omitted or times or dates changed for any cause which the Company or the Master in their discretion shall consider to be reasonable and the Company shall not be liable for any loss or damage which may arise from such alterations.
9. At any time after the start of the voyage, if the performance or further performance of the contract of carriage is prevented or hindered or is (in the opinion of the Company or the Master) likely to be prevented or hindered by any cause beyond the reasonable control of the Company, the Company may at any time cancel the contract and abandon the voyage, and in such event the Passenger or Owner shall have no right to the return of any part of the fare or freight or to any payment whatsoever.
10. The Company shall be entitled to charge the fare or freight in force on the date of embarkation. If such fare or freight is more than that shown on the ticket the Company shall be entitled to demand payment of the difference before embarkation notwithstanding payment in full of the fare in force at the date of booking. For the purposes of these Conditions the words "fare" and "freight" shall include any surcharge imposed by the Company up to the date of sailing.
11. The Company or the Master may refuse to allow any Passenger to embark or any goods or livestock to be shipped for any cause which the Company or Master in their discretion shall consider to be reasonable and may cancel the contract at any time before sailing and in that case the fare or freight paid to be returned and the Passenger or Owner shall have no claim whatsoever against the Company or the Master in respect of such refusal or cancellation.

SECURITY AND SAFETY

12. It may be necessary for security reasons for servants or agents or independent contractors of the Company to search a Passenger, his vehicle and/or luggage, or any other cargo. Passengers and Owners hereby agree to submit to such search upon being requested by the Master of the Vessel or other authorised servants or agents or independent contractors of the Company.
13. The Passenger shall not bring on board any articles of a dangerous nature nor any livestock whatsoever without the prior approval of the Company or the Master. In addition the Company or the Master may refuse to permit a Passenger to bring on board any article which in their discretion they may consider to be undesirable. The Passenger shall be liable for any death, personal injury, loss or damage resulting from breach of the Condition and to indemnify the Company against any claim in respect thereof.
14. Dangerous goods will be carried only by special arrangement. Owners' attention is drawn to their responsibility to correctly declare all dangerous goods. No person must send or attempt to send, or carry or attempt to carry any such goods without distinctly marking their nature on the outside of the package and giving written notice of the nature of the goods, and of the name and address of the sender or carrier to the Master or Owner of the Vessel at or before the time of sending the same to be shipped or taking the same on board. The Merchant Shipping Act 1894 strictly prohibits the sending of dangerous goods under a false description, and the giving of a false description of the sender or carrier. Contravention of the Statute involves serious penalties, and any person in breach of this Condition shall be liable to indemnify the Company in terms of Clause 19.
15. Petrol, fuel oil and cylinders of liquefied hydro carbon gas will be carried only in accordance with the Regulations printed at the foot of these Conditions.

LIABILITY TO PASSENGERS

16. The terms of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea 1974 (hereinafter referred to as the Athens Convention) shall be deemed to be incorporated into and form part of these Conditions. Copies of the said Athens Convention are available on request from the Company's offices.
17. The Company shall not be liable in respect of:
 - (a) the death, personal injury or illness of any Passenger or in respect of the loss of or damage to any vehicle or luggage accompanying the Passenger unless the same is due to the negligence of the Company, its servants or agents or independent contractors, in which event the Company's liability shall be limited to the amounts contained in Articles 7 and 8 of the Athens Convention.
 - (b) any loss suffered by the Passenger in respect of the loss of or damage to any vehicle or luggage whilst in the vicinity of the Vessel or on any premises used by the Company or in any conveyance, whether or not any such loss is caused by the negligence or fault of the Company, its servants or agents or independent contractors.
 - (c) the loss of or damage to any valuables or other articles specified in Article 5 of the Athens Convention howsoever caused unless the same have been deposited at the Pursuer's or other authorised office for the agreed purpose of safekeeping in which case the Company shall only be liable up to the limit provided in Article 8 (3) of the Athens Convention.
18. (a) Any damages payable by the Company shall be reduced in proportion to any contributory negligence by the Passenger in accordance with Article 6 of the Athens Convention.
 - (b) Any damages payable by the Company shall also be reduced by the maximum deductibles specified in Article 8 (4) of the Athens Convention.

GENERAL LIABILITY

19. The Company shall in no circumstances be liable in respect of consequential loss or damage, detention, delay or over carriage howsoever caused.
20. The Company shall in any event be entitled to the maximum protection allowed by law in respect of the liability of or any limitation on damages recoverable from shipowners.
21. The Passenger or Owner shall be liable for and shall reimburse the Company for any damage to the Vessel and its furnishings and equipment or any other property of the Company caused by any wilful or negligent act or omission by the Passenger or Owner and the Passenger or Owner shall further indemnify the Company, its servants and agents and independent contractors against all liability whatsoever which the Company or its servants or agents or independent contractors may incur towards any person in respect of any death, personal injury, illness, loss, damage, detention or delay caused directly or indirectly by any wilful or negligent act or omission on the part of the Passenger or Owner, however, such liability is determined whether by way of Court Decree or otherwise.
22. In the event that medical attention of any kind or ambulance assistance (shore, sea or air) may be necessary and is provided or ordered by the Company or the Vessel's Owner, Master or Crew, the Passenger (or the personal representative of the Passenger) for whom the service was obtained shall be liable for the full costs thereof.
23. Goods and livestock may be carried from port to port until it suits the convenience of the Vessel to discharge them at the port of discharge. The Company will not be accountable for the number of livestock entered in the Manifest (such number being taken on the representation of the Owners) nor for the correct selection of each Owner's respective stock on landing. Goods warehoused for any reason whatever, are, as during transit, entirely at the risk of the parties to whom they belong.
24. Vessels are provided for the convenience of the Owners of goods and livestock and are used entirely at their own risk, delivery of goods and livestock being held to be completed at the ship's side when they leave the Vessel's deck whether they are discharged at a pier or into any other Vessel. In the event of Owners not providing means to take delivery at the ship's side, the Company reserves the right to detain the goods or livestock on board, in store or otherwise, or land them, at its discretion and entirely at the risk and expense of the Owners of said goods or livestock. Goods and livestock are only held to be received for conveyance when they reach the Vessel's deck. Livestock of any kind must be accompanied by someone in charge provided by the sender or Owner of the livestock and, should one of the ship's crew be employed, he is held to be the servant of the sender or Owner of the livestock in the performance of such duty.
25. The Company does not undertake to send notice of the arrival of goods or livestock to Consignees, nor will it be accountable for the delivery or forwarding or custody of the same after being landed. If goods or livestock consigned to order, or otherwise, are not claimed immediately on landing, the same shall be entirely at the sole risk and cost of the Owners thereof.
26. All Passenger luggage, goods and livestock are subject to a general lien for all fares, freight or arrears of fares or freight, storage or charges due by the Passengers or Owners thereof to the Company. The Company shall have the right to sell vehicles, luggage, goods and livestock by public auction or otherwise for all liabilities whatsoever under this Contract or otherwise and for the costs and expenses of enforcing such a lien and for such sale.
27. The Company undertakes no responsibility for the safe custody or delivery of, nor will it be accountable for any loss which may happen to any bullion, bank notes, or other negotiable securities, title deeds, clocks, watches, jewellery, precious stones, paintings, prints, statuary, silk, lace, furs, gold or silver of any kind, or other articles of value, either before or at shipment, during transit, in landing or afterwards, whether conveyed in charge of Passengers or otherwise, unless carriage of such goods is expressly brought to the attention of the Master before sailing.
28. Average shall be settled in accordance with York-Antwerp Rules, 1974.

ACTIONS AND CLAIMS

29. Any action arising under the Athens Convention shall be time barred after a period of two years calculated in accordance with Article 16 thereof. Any claim which is not covered by the Athens Convention must be notified in writing to the Company within 28 days of disembarkation or of the date when the claimant first had knowledge of the material facts giving rise to the claim, whichever date is the later, and any action thereon must be commenced within two years of such date. Unless these time limits are complied with the Company shall be under no liability to the Passenger or Owner whatsoever.
30. Under Article 15 of the Athens Convention it is presumed that vehicles and luggage have been delivered undamaged unless written notice is given by the Passenger to the Company:
 - (a) in the case of apparent damage, before or at the time of disembarkation or re-delivery, or
 - (b) 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.
31. This Contract shall be governed by Scottish law and any disputes shall be determined in the United Kingdom (subject to Article 17 of the Athens Convention).

REGULATIONS FOR THE CONVEYANCE OF PETROL, FUEL OIL AND CYLINDERS OF LIQUIFIED HYDROCARBON GAS IN ACCOMPANIED MOTOR CARS, DORMOBILES, CARAVANS OR BAGGAGE TRAILERS CARRIED BY SEA

1. In these Regulations, "vehicle" shall mean any motor car, dormobile, caravan, baggage trailer, motor cycle, motor cycle combination, motor scooter or moped.
2. No vehicle shall be tendered for carriage by sea if it contains any gas of inflammable liquid (whether or not in separate containers) save that:
 - (a) on all vessels operating on the Company's routes the vehicle may contain the quantity of petrol or fuel oil remaining in the main fuel tank; and
 - (b) vehicles may carry cylinders of liquefied hydrocarbon gas (e.g. Bottogas, Calor Gas) provided that:
 - (i) The maximum number of cylinders carried in any vehicle shall be three, except in the case of small expendable cartridges, hermetically sealed and packed in an outer container, when up to twelve may be carried.
 - (ii) All cylinders shall be adequately secured in the vehicle by the owner against the movement of the ship.
 - (iii) All cylinders shall be declared before shipment. Cylinders with filling station seals intact, and unpierced expendable cartridges will not be subject to test. No pierced expendable cartridges shall be carried in any vehicle and any such cartridge must be discarded before shipment.
 - (iv) Unsealed cylinders not of British manufacture will be accepted for shipment if they are disconnected from the vehicle and carried on the open deck of the ship clear of passenger spaces. The owner's car registration number shall be chalked on each such cylinder, which must be claimed by the owner on disembarking.
 - (v) Any cylinder found to be leaking will not be accepted for shipment.
 - (vi) After inspection or testing, and before shipment, all cylinders shall be re-secured in the vehicle by the owner to the satisfaction of the Company's representative.
3. In the case of any vehicle which, in accordance with these Regulations may be tendered for carriage with petrol or fuel oil in the main fuel tank of the vehicle:
 - (a) the fuel supply shall be shut off,
 - (i) in the case of gravity feed by closing the cock; or
 - (ii) in the case of a pump feed by stopping the engine; and
 - (b) the fuel tank shall not have been overfilled before loading.
4. No vehicle shall be tendered for carriage loaded with another vehicle or motor boat which contains any gas or inflammable liquid whether in the fuel tank or elsewhere.

G Ross, Director