



## **Shetland Islands Council**

# **Ferry Terms and Conditions of Carriage 2009**

Ferries  
Infrastructure Services



# **Shetland Islands Council**

## **Ferry Terms and Conditions of Carriage 2009**

**December 2009**

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**PART I****INTERPRETATION, ETC.****1. Citation, commencement and interpretation**

(1) This document may be cited as the Shetland Islands Council Ferry Terms and Conditions of Carriage 2009 and shall come into operation on 1 December 2009. The Terms replace the Shetland Islands Council Terms and Conditions of Carriage 2004 which are revoked with effect from 30 November 2009.

(2) In this document, except where the context otherwise requires –

“Carrier” means Shetland Islands Council, and includes the shipowners, the line, charterers, manager, operators and the ship as the case may be;

“Dangerous Goods” means goods classified in the International Maritime Dangerous Goods Code (IMDG) as amended by Amendment No. 28–96 or in any other IMO publication referred to in the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1997 Regulations as dangerous for carriage by sea, and any other substance or article that the Carrier has reasonable cause to believe might meet the criteria for such classification and includes—

- (i) residues in empty receptacles, empty tanks or cargo holds which have been used previously for the carriage of dangerous goods unless such receptacles, empty tanks or cargo holds have been cleaned and dried, purged, gas freed or ventilated as appropriate or, in the case of radioactive materials, have been both cleaned and adequately closed; and
- (ii) goods labelled, marked or declared as dangerous goods.

but shall not include goods forming part of the equipment or stores of the ship in which they are carried;

“Luggage” means any articles or packages carried under the Terms and accompanying Passengers including articles worn or carried on the person;

“Ferry Service” means the Shetland Islands Council Ferry Service having its main place of business at Port Administration Building, Sella Ness, Sullom Voe, Shetland;

“Master” means the employee of the Carrier, or other person, whether appointed by the Carrier or not, having lawful control and charge of the vessel for the time being;

“Owner” means the person who has an absolute right of ownership, in whole or part, in goods, luggage, vehicles or livestock;

“Passengers” means every person travelling on a vessel operated by, or chartered to, the Carrier.

“Shetland Islands Council” means Shetland Islands Council constituted by Section 2 of the Local Government etc. (Scotland) Act 1994 and having its principal offices at the Town Hall, Lerwick, Shetland;

“Terms” means the Shetland Islands Council Ferry Terms and Conditions

of Carriage 2009;

“Vehicle” means any vehicle whatsoever (whether or not self-propelled) which is not luggage for the purpose of the Athens Convention 1974 carried on the Vessel under the Terms; and

“Vessel” means the vessel used by the Carrier for carrying passengers, goods, luggage, vehicles and livestock in its provision of the Ferry Service.

- (3) Words denoting the singular shall include the plural and vice versa.
- (4) Words denoting either gender shall include the other or both genders.
- (5) A reference to any rule, convention, statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the rule, convention, statute, enactment, order, regulation or instrument as amended by any subsequent rule, convention, statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment thereof.
- (6) The headings are for convenience and reference only and shall not be construed as forming part of the Terms or be taken into account in the interpretation thereof.
- (7) Where in the Terms the Carrier is entitled to make a decision or exercise a discretion on any matter relating to the operation of a vessel, it shall be presumed, unless the context otherwise demands or there is evidence of an instruction from Shetland Islands Council to the contrary, that the Master has full authority to act as the Carrier’s agent in these matters.
- (8) Without prejudice to paragraph (7), in any situation where the Carrier or, as the case may be, the Master has a discretion under these terms to do or refrain from doing any thing, the Carrier and the Master will at all times have regard to the safety of the Vessel, the passengers and cargo, but shall exercise their discretion as reasonably as the situation permits.
- (9) The Terms shall be governed by Scots law and all passengers and users of the service submit themselves to the exclusive jurisdiction of the Scottish Courts.

## **2. Application and extent**

- (1) The Terms extend
  - (a) to all operations by the Carrier for the carriage on the Vessels by sea or categorised waters (as defined by the Marine and Coastguard Agency) of passengers, luggage, vehicles, mails, goods and livestock, and no other terms and conditions shall have any effect except as specifically provided for herein;
  - (b) to making a booking to use the Ferry Service;
  - (c) to the purchase of a multi-journey ticket online, at a Ferry Service booking office or aboard a Vessel;
  - (d) to the obtaining of a credit account with the Carrier;
  - (e) to the obtaining of any form of season ticket for use on the Vessels;

- (f) to the charter of any vessel upon the signing of a Charter Party Agreement; and
  - (g) to the request for a Community Council or private hire of any vessel
- (2) The Terms may only be varied by the Carrier's Ferry Services Manager and any variation shall have effect only if it is in writing and signed by the Carrier's Ferry Services Manager.
  - (3) Any person being carried or intending to be carried on a vessel to which the Terms apply shall by proceeding onto the linkspan or other passenger access leading to the vessel be deemed to have accepted that the carriage or intended carriage shall be subject to these Terms, whether or not he has purchased, is by these Terms required to purchase, or intends to purchase a ticket.
  - (4) In the event that these Terms are inconsistent with the Carrier's operating procedures or the policies of Shetland Council, these Terms will apply to the extent necessary for the safe operation of the Vessel or for the safety of the crew, passengers, vehicles, livestock and cargo.

## **PART II**

### OPERATION, CONTROL AND SAFETY OF THE VESSEL

#### **3. Changes to scheduled sailings, etc.**

- (1) The Carrier will use on its routes the vessel advertised, scheduled or designated for use on that route.
- (2) Notwithstanding paragraph (1) the Carrier may with or without giving prior notice, in its sole and absolute discretion, and whether or not bookings or reservations have previously been made for a sailing and whether
  - (a) for reasons of weather,
  - (b) in the interest of the safety and well-being of the vessel, its passengers, crew or any other person whatsoever whether onboard or otherwise, or
  - (c) for any other reason outwith the company's reasonable control or where reasonably necessary,arising either before or during the advertised or scheduled sailing do any of the following:–
  - (i) operate any vessel, whether or not owned by the Carrier, on any route,
  - (ii) cancel or abandon a sailing,
  - (iii) sail before or after the advertised or scheduled time,
  - (iv) dispatch any vessel with or without any passenger, luggage or vehicle booked or reserved to travel,
  - (v) convey any passengers, luggage or vehicle on such date and at such time and in such ships as the Carrier may reasonably decide even though they may have been booked for a particular ship or for a sailing at a particular date or time or

- (vi) convey any passengers, luggage or vehicle back to the port of embarkation; or
  - (vii) convey any passengers, luggage or vehicle to a port of disembarkation other than that advertised, scheduled or chartered.
- (3) Where the vessel operated by the Carrier on any sailing is smaller than the vessel normally operated on, or designated for that route, the carrier reserves the right to reschedule reservations previously made for that sailing or, if that is not reasonably possible, to cancel such reservations.
- (4) The Carrier will not be liable for any loss or expense incurred by the Passenger resulting from or arising out of any the changes to the advertised or scheduled vessel or sailing referred in paragraphs 3(2) or (3).

#### **4. The Master**

- (1) At all times, including times when the ferry is being operated under charter or hire, the master has absolute control of the vessel and sole responsibility for the management, direction, control and safety of the vessel, its crew, passengers, vehicles and other cargo.
- (2) Passengers, drivers, carriers and persons consigning goods for carriage aboard a vessel must comply with the directions of the master and no person shall do any thing which is objectively calculated to interfere with his control of the vessel.
- (3) Without prejudice to any other powers available to the master of the vessel by statute, under common law or otherwise, the master of the vessel may in his sole discretion
- (a) refuse to allow any person, vehicle, luggage, livestock or goods onto the vessel,
  - (b) require a passenger to disembark the vessel,
  - (c) require that a vehicle, luggage, livestock or goods be removed from the vessel, and
  - (d) cause a vehicle, luggage, livestock or goods to be removed from the vessel
- and in that event, wheresoever and howsoever occurring, the Carrier shall not
- (i) be obliged to refund any fare or other money paid by the passenger, driver, carrier or person consigning goods,
  - (ii) be liable for any loss or expense incurred by the passenger, or
  - (iii) be obliged to carry the passenger at a later date or time or on another vessel.
- (4) The master has the sole and absolute discretion to vary the scheduled route or destination if for any reason he considers it necessary for the safety and welfare of the vessel, its passengers and crew or any other person whether aboard the vessel or otherwise.



### Part III

#### USERS OF THE FERRY SERVICE

##### 5. Passengers

- (1) Passengers shall comply at all times with the safety and other rules and regulations of the Carrier from time to time notified in tickets, brochures, notices at terminals or on board the vessel, by electronic or other media, or by servants or agents of the Carrier.
- (2) Passengers shall be liable to, and shall reimburse, the Carrier for all damage to the Vessel and its furnishings and equipment, or any property of the Carrier, caused by them, directly or indirectly, in whole or in part by any wilful or negligent act or omission, and Passengers shall further indemnify the Carrier and each and all of its agents and servants against all liability whatsoever which the Carrier or such agents or servants may incur towards any person or company or Government for any personal injury or death, loss or damage to property caused directly or indirectly in whole or in part by any wilful or negligent act or omission on the part of the Passenger.
- (3) Smoking is not permitted at any time within any of the carriers onshore facilities or anywhere onboard any vessel.
- (4) If for any reason whatsoever Passengers are refused permission to land at the port of disembarkation or such other port as is provided for in Clause 5(4) hereof the Carrier may land Passengers and their luggage at any port or place at which the vessel calls, or the Carrier may carry Passengers and their luggage back to the port of embarkation, or may provide Passengers with such form of transport to such destination as the Carrier may by law be obliged to arrange, and in the event that the Carrier provides such transport, the Passengers shall pay the Carrier the full fare for the journey according to the tariff in use at such time for such further carriage or transport. Passengers shall be carried in accordance with this clause upon the Terms or such other Terms as the Carrier may reasonably arrange on behalf of the Passengers. Where the refusal or inability to land is as a result of the passenger's wilful act or omission that passenger shall indemnify the Carrier against all loss and expense incurred in connection with or as result of such refusal of permission to land.
- (5) The consumption of alcohol is not permitted at any time within any of the carriers onshore facilities or anywhere onboard any vessel. This may only be varied by written permission from the Executive Director of Infrastructure to the Master.

##### 6. Passengers with Reduced Mobility or Disabilities

- (1) Certain Vessels have facilities for disabled Passengers. Passengers with reduced mobility or disabilities who have special requirements to allow their use of the ferry service should make such needs known at the time of booking and should identify themselves when arriving at the vehicle marshalling areas by speaking to a member of the crew or by using the hazard warning lights on their motor vehicles.

- (2) Any discounts which the Carrier may from time to time allow in respect of the carriage of cars conveying disabled persons will only be given on presentation of such documentation as the Carrier may reasonably require.
- (3) Without prejudice to Clause 17 guide dogs are permitted to be at any part of the vessel to which a passenger is permitted access, provided that the guide dogs are at all times kept under proper control and do not in any way interfere with the safe operation of the vessel.

## **7. Children**

- (1) If a Passenger under the age of sixteen years is an unaccompanied Passenger (“the child”) on a vessel operated by the Carrier, the carriage of the child shall not be held to imply that the Carrier has the custody, charge or care of the child.
- (2) The Carrier may refuse to carry children who, on the date of travel, are under the age of 14 years, unless they are accompanied by a parent, guardian or other adult of 18 years of age or older.
- (3) The Carrier may, at its discretion, refuse to carry children who on the date of travel are aged 14 or 15 years, unless they are carrying a letter of authority from a parent or guardian and all other documentation reasonably required by the Carrier.
- (4) Subject always to the provisions of the Athens Convention, the Company shall not be liable for any loss, damage or expense arising from its failure or refusal to carry any children not satisfying the requirements in this Clause 7.

## **Part IV**

### **VEHICLES**

## **8. General**

- (1) The Carrier will make every reasonable effort to carry vehicles which are booked to use a particular Vessel or on any particular voyage or day.
- (2) The Carrier shall be entitled in its absolute discretion and at any time to refuse to receive or carry any vehicle and loading officers, under the authority of master may delay or deny boarding to any passenger or vehicle whose driver is not obeying crew’s instruction.
- (3) The master and crew of a ferry shall be under no obligation to drive or otherwise convey any motor vehicle onto a ferry on behalf of a passenger.
- (4) All motor vehicles to be carried on a ferry must be in roadworthy condition and must in particular:
  - (i) be free of fuel and oil leaks, and
  - (ii) should not have any exposed electrical wiring or broken light fittingsAll faults to motor vehicles which may constitute a risk to other users of the ferry must be declared to a crew member prior to boarding the ferry.
- (5) Loading of booked and unbooked vehicles is scheduled to commence not less than five minutes prior to the advertised sailing time and vehicles to be

carried on a particular sailing should be present with their drivers when boarding of that sailing commences. The Carrier is unable to guarantee that booked vehicles arriving less than five minutes before the advertised or scheduled sailing time will be allowed onto the ferry, and the Company will not be liable for any loss or expense incurred by the Passenger caused by failure to board.

- (6) After vehicles have been driven or taken aboard the ferry the engine must be switched off and they should be parked with the handbrake engaged and should be left in gear.
- (7) Vehicles are not to be driven onboard, disembark or otherwise be moved on deck unless with the permission of the Master, and under the direction of a member of crew
- (8) No vehicle may be started while onboard the ferry unless with the permission of the Master, and under the direction of a member of crew, with the sole exception of the final stages of docking where the ship's car deck ramp is being lowered prior to disembarkation, or where the vehicle ahead has commenced disembarkation. In all cases, a driver must switch off an engine if instructed to do so
- (9) Vehicles which may have to keep their engines running, e.g. live fish carriers, will only be carried by prior arrangement. Any special arrangement prior to carriage does not imply any changes to any Condition contained herein.

## **9. Large Vehicles**

All commercial vehicles, buses and coaches presented for shipment must be fitted with lashing points in compliance with the Ro-Ro Ships - Storage and Securing of Vehicles - Code of Practice (a copy of which is available to the operator or owner of such vehicles upon written request from the Carrier). Vehicles not complying with such Code of Practice may be refused shipment. The carrier will not be liable for any resultant delays or costs.

## **10. Passengers in Vehicles**

- (1) Passengers are not permitted to remain on the car deck in the course of sailings that regularly exceed thirty minutes. On such crossings, Passengers must vacate their vehicles and proceed to the Passenger Saloon and may only return to their vehicle under the express permission of the vessel's Master.
- (2) On routes exceeding thirty minutes, passengers with disabilities that seriously affect their mobility may be allowed to remain in their vehicles, where special arrangements have been made prior to the journey.
- (3) Passengers may, at the Master's sole discretion, remain in their vehicles on sailings that do not regularly exceed thirty minutes.
- (4) Notwithstanding paragraphs 10(1) to (3) above, the Master may require all vehicle drivers and passengers to leave the vehicles and proceed to the Passenger Saloon or elsewhere.

## **11. Insurance**

- (1) All vehicles are carried entirely at the owners' risk without responsibility for loss or damage howsoever caused.

- (2) Users of vehicles must effect their own insurance cover to take account of the Terms. Passengers should consider arranging and obtaining their own insurance against risks arising from delay, loss or damage to personal effects, vehicles and other property as well as medical cover and vehicle breakdown insurance and personal travel cover for cancellation of journey or for reasons beyond our control.

**12. Mobile Phones**

- (1) Drivers must not use their mobile phones when boarding, disembarking, or otherwise directed by members of the crew
- (2) Mobile phones may only be used on the car deck when the vehicle is parked, with handbrake engaged and the engine switched off.
- (3) Mobile phones may only be used on the car deck when within a vehicle. Only intrinsically safe models may be used on the open car deck.
- (4) Reasonable use of mobile phones is permitted within any passenger space.

**PART V**

**GOODS, LUGGAGE AND CARGO**

**13. Receipt of goods, etc.**

Goods, vehicles luggage and livestock are held to be received for carriage only when they reach the Vessel's deck.

**14. Carriage of goods, etc.**

Goods, vehicles, luggage and livestock may be carried on deck or in the hold and may be carried from port to port until it suits the convenience of the Vessel to discharge them at the port of discharge. Goods, vehicles, luggage or livestock warehoused or detained for any reason whatsoever are, as during transit, entirely at the risk of the Owner.

**15. Delivery of Goods after Voyage**

In the event of the owner or consignee not providing means to take delivery at the Vessel's side, the Carrier reserves the right to detain any goods, vehicles, luggage or livestock on board, in store or otherwise or to land them at its discretion and that shall be entirely at the risk and expense of the Owner of such goods, vehicles, luggage or livestock.

**16. Livestock and Animals**

- (1) Livestock must be accompanied at all times by a person in charge provided by the Owner. The Carrier has no liability to identify the respective stock of Owners when mixed flocks or herds are carried. The Owner of livestock shall ensure compliance by him and all others with all statutory provisions (whether by Act of Parliament, regulations, statutory or otherwise, or by-laws) and Codes of Practice concerning the carriage of such livestock and the Owner shall indemnify the Carrier upon demand in respect of all penalties or fines imposed upon or damages awarded against the Carrier, its servants, agents or independent contractors resulting from failure so to comply.
- (2) During a voyage domestic animals and pets must be kept safely within a

vehicle or securely restrained at a place directed by a member of the crew.

- (3) If not kept within a vehicle, or on the car deck, domestic animals and pets may only be kept on car deck level passenger accommodation.
- (4) Passengers onboard vessels serving Fair Isle, Papa Stour and Skerries must inform the Booking Office/Agent that they will be travelling with domestic animals or pets, in case special arrangements have to be made.
- (5) The carrier accepts no liability for the conduct of dogs carried onboard and reserves the right to refuse carriage or insist that an animal is muzzled prior to boarding.
- (6) The carrier accepts no liability for any injury to a dog or a third party caused by a dog resulting from the animal's lack of supervision or its temperament.
- (7) The dog's owner shall be liable for any damage caused to the vessel or to the property of third parties. The owner shall be responsible and liable for the cleaning mess.

#### **17. Lien**

- (1) All goods, vehicles and livestock are subject to a general lien
  - (i) for the freight of such goods, vehicles and livestock, and
  - (ii) for all other freights or charges, arrears of freight, storage or charges due

whether the amount thereof has been ascertained in money at the time of exercising such lien or not and the Carrier may without giving prior notice to the Owner exercise such general lien by sale at such time and in such manner as the Carrier may determine.

- (2) The Carrier may deduct from the proceeds of sale of such goods, vehicles and livestock the costs and expenses incidental to such sale.

#### **18. Average**

Average shall be settled in accordance with the York-Antwerp Rules 1974 and any modification thereof.

## **PART VI**

### **CARRIAGE OF DANGEROUS, HAZARDOUS AND HARMFUL GOODS**

#### **19. Dangerous goods, firearms, etc.**

- (1) The Carrier draws the attention of all Passengers and users of the service to the provisions of the International Maritime Dangerous Goods (IMDG) Code and the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1997.
- (2) No packaged goods shall be offered for carriage or taken on board any ship unless a dangerous goods declaration or a marine pollutants declaration, or a combined dangerous goods and marine pollutants declaration, as appropriate has been provided to the master or operator.

- (3) Passengers must declare all guns, inflammables, explosives, ammunition and other hazardous substances eg distress flares, fireworks, methylated spirits etc, at time of check-in and follow the Carrier's instruction regarding loading of such goods. Firearms and other sporting weapons and ammunition must be declared at the time of booking and must not be brought on board or person, or in luggage or vehicle unless written permission has been obtained from the Company and must be carried in accordance with the Department of Transport requirements. Such items must be locked in vehicle boots and the key passed to the Loading Officer for the duration of the voyage.
- (4) No person shall send or attempt to send any dangerous goods without distinctly marking their nature on the outside of the package containing the same, and giving written notice of the nature of those goods and of the name and address of the sender or Carrier thereof 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 vessel. Any person who fails to comply with the Act is liable to an unlimited fine. In addition any person who sends dangerous goods under a false description or with a false description of the sender or carrier thereof is liable to a fine.
- (4) If a passenger or consigner of goods has any doubt as to whether goods are dangerous, advice should be sought in advance of travel, otherwise a refusal to board the vessels may result. In such instance the Carrier will not be liable for any loss resulting from any delay or refusal to board.
- (5) The carriage on the person of a passenger of knives and other offensive weapons and items containing incapacitating substances (eg gas sprays) is expressly forbidden.
- (6) In respect to the carriage of explosives, all shippers must contact the carrier with at least 48 hours notice. Special arrangements may have to be made, for which the shipper shall be liable for any costs incurred by the carrier.
- (7) Quantity limitations apply for the carriage of explosives at Ferry Terminals under the 'Dangerous Substances in Harbour Area Regulations 1987'. The shipper must contact the appropriate port authority with at least 48 hours notice. The carrier accepts no liability.

**20      Petrol and Diesel Fuel**

Passengers shall ensure that the petrol and diesel tanks of their vehicles are not so full as to create a spillage and that the ignition is switched off. Petrol and diesel cans, whether full or empty, shall not be carried except with the Carrier's prior authority.

**21      Liquefied Petroleum Gas**

Special application for the carriage of vehicles propelled by liquefied petroleum gas must be made to the Carrier before travel.

**22.     Hydrocarbon Gas**

Vehicles and caravans may carry a small number of cylinders of liquefied hydrocarbon gas provided that:

- (i) the cylinders are declared to the Loading Officer;
- (ii) 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 12 may be carried; and
- (iii) all cylinders shall be adequately secured in the vehicle against the movement of the ship, and
- (iv) the supply shall be shut off at the cylinders prior to boarding and during the entire voyage
- (v) Any cylinder found to be leaking, inadequately secured or inadequately connected to an appliance will not be accepted for shipment.

**23 Boats, Inflatables etc.**

Boats, inflatables and other craft, whether carried on vehicles or trailers, must comply with the provisions of these Terms for vehicles carrying petrol in their tanks and cylinders of gas. Distress signals, flares and other fire equipment must be declared to the ship's Loading Officer.

## **PART VII**

### **LIMITATION OF CARRIER'S LIABILITY**

**24. General Principle of Limitation of Carrier's Liability**

The Carrier shall not be liable for any loss, expense or damage whatsoever suffered by Passengers resulting from any delay or inconvenience, whether or not such delay or inconvenience or resulting loss, expense or damage arises from negligence or fault of the Carrier its servants, agents, independent contractors, or another passenger and whether on land or at sea.

**25. Events beyond the Carrier's control**

If war, hostilities, blockade, ice, labour conflicts, breakdown of the Vessel, congestion, docking difficulties, or any other cause whatsoever, hinders or prevents the performance of the proposed voyage or if the Carrier is of the opinion that any one or more of these is likely to hinder or prevent the performance of the proposed voyage, or if the Carrier considers that for any reason whatsoever, proceeding to, attempting to enter, or entering or remaining at the port of disembarkation may expose the vessel to risk of loss or damage or be likely to delay it, the Carrier or Master may in its or his discretion land Passengers and their property at the port of embarkation or at any port or place which it or he may reasonably decide, and in that event the responsibility of the Carrier shall cease and any carriage shall be deemed to have been fully performed. If Passengers have not embarked the Carrier may cancel the proposed voyage and shall, upon request, refund to any such Passenger the passage money or fares which he or she may have paid in advance.

**26. Government Orders**

The Carrier shall be free to comply with any orders, recommendations or

directions whatsoever given by the Government of the United Kingdom or by any Department thereof or by any person acting or purporting to act with authority of such Government or Department or by any Committee or person having under the terms of the War Risks Insurance on the vessel the right to give such orders, recommendations or directions, and if by reason of, and in compliance with, any such orders, recommendations or directions, anything is done or is not done, that shall not be deemed a deviation or a breach of the contract of carriage. Disembarkation of Passengers or discharge of their luggage in accordance with such orders, recommendations or directions shall constitute due and proper fulfilment of the obligations of the Carrier.

**27. Refusal to Carry Passenger**

The Carrier may, where it considers it reasonable to do so, refuse to allow Passengers to embark and may cancel any contract with such Passengers at any time before sailing. The Carrier shall in that case return the passage money, if any, paid in respect of such Passengers and such Passengers shall have no claim whatsoever against the Carrier in respect of such refusal or cancellation.

**28. Refusal to Carry goods, etc.**

The Carrier shall be entitled in its absolute discretion and at any time to refuse to receive or carry any goods, vehicle or livestock.

**29. Cancellation of Service**

The Carrier shall not be obliged to sail the Vessel according to advertisement or notice and, notwithstanding such advertisement or notice the Vessel may sail on any day or at any time and any sailing may be cancelled without notice notwithstanding any shipment or booking previously made. The Carrier shall not be liable for any loss or damage or delay by reason of such cancellation. The Vessel may sail with or without pilots, make trial trips, tow and assist other vessels and be towed, and call at ports in any order on one or more occasion and on either the outward or the return voyage whether in or out of or short or beyond the route between the named terminus for the carriage of goods, vehicles or livestock or the customary or advertised route. The vessel may also call at or off, or may stay at any convenient port on one or more occasions whether on or off the customary route, for any purpose whatsoever and whether or not such calling is notified in any advertisement sailing bill or notice. Without prejudice thereto the Carrier shall be free to comply with any orders, recommendations or directions whatsoever given by the Government of the United Kingdom or by any Department thereof or by any person acting or purporting to act with authority of such Government or Department or by any Committee or person having under the terms of the War Risks Insurance on the vessel the right to give such orders, recommendations or directions, and if by reason of, and in compliance with, any such orders, recommendations or directions, anything is done or is not done, that shall not be deemed a deviation or a breach of the contract of carriage and delivery in accordance with such orders and directions shall be a fulfilment of the carriage.



**30. Damage and Loss of Goods, etc**

Without prejudice to any other of Clause of the Terms the carrier is not in any circumstances whatsoever liable for any damage to, or loss of, goods vehicles or livestock before or at shipment or during the voyage, whether on deck or in the hold, or at or after landing, including misdelivery or non-delivery or while otherwise in its custody or in or on the Carrier's vehicles, piers, jetties, gangways or slipways and without prejudice to the above general provisions the Carrier is not liable for loss or damage howsoever, whensoever or wheresoever arising from any of the causes set out in these Terms or from any of the following causes or from any consequences of these causes, namely

- (a) delay caused by the Vessel not sailing according to timetable,
- (b) putting back,
- (c) being detained, lost or damaged or making deviations,
- (d) accidents, losses or damage arising from the act of God, the Queen's enemies, pirates, restraint or princes, rulers and people, or legal process,
- (e) strikes of, or protests of any sort by crew or other workmen on board, or any person on shore,
- (f) jettison,
- (g) barratry,
- (h) collision,
- (i) stranding,
- (j) vermin,
- (k) fire on board, or in hulk craft, shed, store, or on shore,
- (l) theft, robbery, or pilferage of whatever kind, whether on land or afloat, wheresoever occurring, whether suspected or proved, and whether by passengers, persons in the employment of the Carrier on board or ashore, or of any other person whatsoever,
- (m) perils of the sea, rivers and navigation, from machinery, boilers oil or steam,
- (n) unseaworthiness or unfitness of the Vessel or ferryboat or, its or their appurtenances at, or after the commencement of the voyage,
- (o) breaking down of the Vessel or machinery, defect or breaking down of any vehicles,
- (p) defects of ventilation,
- (q) ballasting or stowing,
- (r) breakage,
- (s) short weight,
- (t) deficiency in number,

- (u) leakage,
- (v) rust,
- (w) stains,
- (x) decay,
- (y) sweating,
- (z) smell or contact with other goods,
- (aa) insufficiency of packages,
- (ab) want of or insufficiency of accuracy in address or marks,
- (ac) accidents to, disease or mortality of livestock,
- (ac) restlessness or agitation of livestock, or
- (ad) from any act, neglect, or mistake in judgment, defaults of the Carrier, its servants, agents, the crew of the Vessel, or of any person directly concerned with the working or management of the Vessel or with the loading, discharge, stowage, storage, carriage or handling of the goods, vehicles or livestock for whom the Carrier is or may become responsible whether before or during the voyage or after.

### **31. The Athens Convention**

(1) The terms of the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea 1974 (“the Athens Convention”) as applied to domestic carriage shall, to the extent that it has the force of law in the United Kingdom by virtue of section 183 of, and Schedule 6 to, the Merchant Shipping Act 1995, be deemed to be incorporated into, and to form part of, these Terms. 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 a special provision for valuables. 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.

Passengers should also note that any action based on the Athens Convention must be taken within two years of the damage complained of.

(2) If there is any inconsistency between the Terms and the Athens Convention, the Athens Convention shall prevail, but that shall be without prejudice to those Terms which are not inconsistent with the Athens Convention.

### **32. Valuable Items**

The Carrier undertakes no responsibility for the safe custody or delivery of, nor will it be accountable for any loss which may happen to any gold, silver,

watches, jewels, bullion, precious stones, bank notes or other forms of currency, bonds or other negotiable instruments, documents of any nature (including without prejudice to that generality, fishing licences), plate or other articles of value either before or at shipment or while on board the Vessel and whether or not the same are delivered to the carrier for safe-keeping during a voyage.

**33. Damage to Property not on the Vessel**

The Carrier accepts no liability of any kind for any loss suffered by Passengers in respect of any loss of or damage to Passengers' property whilst in the vicinity of the Vessel or on any premises used by the Carrier or in any conveyance, whether or not any such loss is caused by the negligence or fault of the Carrier or its servants, agents or independent contractors. In these Terms the expression "property" includes luggage, money, valuables, vehicles, caravans, trailers, motor and pedal cycles and any other property whatsoever of Passengers.

**34. Cancellation of Contract**

In the event that the Carrier refuses to allow Passengers to embark and cancels the contract, arrangement of whatever nature or scheduled sailing in circumstances that such Passengers were to be carried at no cost to them, such Passengers shall have no claim whatsoever against the Carrier in respect of such refusal or cancellation.

**35. Consequential Loss**

The Carrier shall in no circumstances be liable for consequential loss or damage howsoever caused.

## **PART VIII**

### **MISCELLANEOUS AND GENERAL**

**36. Personal Information**

Any personal information provided by a passenger for the purpose of making a booking for a voyage, paying for a voyage or setting up an account for any purpose will not be shared by the Council with any third party, except where this is necessary, in which event the provision of the Data Protection Acts apply.

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