

## ROI CONDITIONS OF CARRIAGE

### 1. DEFINITIONS

1.1 In these Conditions:

**Authorised Person** means:

- (a) the Consignee; or
- (b) any person nominated by the Consignee or the Consignor to the Carrier as an authorised person; or
- (c) a neighbour of the Consignee; or
- (d) the operator of a Parcel Connect Outlet;

**Carrier** means the Fastway Franchisee who contracts with the Consignor to perform the Services;

**Claim Form** means the pro forma Fastway claims form required by the Consignor for purposes of condition 8.1(b) and which is available to download from the Website;

**Consignee** means the person to whom the Carrier has contracted to deliver the Consignment;

**Consignee Information** means the following information that must be provided by the Consignor to the Carrier for purposes of the performance of the Contract:

- (a) the name of the Consignee;
- (b) the Delivery Address; and
- (c) if the Delivery Address is a residential address, additionally the Consignee's mobile telephone number or in the event that the Consignee does not have a mobile telephone number, a daytime fixed line telephone number or the Consignee's e-mail address; or
- (d) if the Consignee is a registered company that operates from a residential address, the mobile telephone number of an authorised representative of the company or in the event such person does not have a mobile telephone number, a daytime fixed line telephone number or an e-mail address.

**Consignment** means the item(s), parcel(s) or goods in respect of which the Consignor requires the Services;

**Consignor** means the person who contracts with the Carrier for the performance of Services;

**Contract** means the contract for Services between the Carrier and the Consignor;

**Convention Rules** means:

- (a) the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Montreal on 28 May 1999; and/or
- (b) the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929 (the "Warsaw Protocol"); and/or
- (c) the Protocol to amend the Warsaw Protocol done at the Hague on 28 September 1955; and/or
- (d) the Convention on the Contract for the International Carriage of Goods by Road signed at Geneva on 19th May 1956,

as amended from time to time by any protocol, regulation or statute together with any other statute, rule, regulation, code or convention relating to international carriage by air, road or sea for the time being in force;

**Dangerous Goods** means any volatile spirits, explosive materials or other items which are or may become dangerous or inflammable and any goods that are defined as dangerous goods under:

- (a) the Carriage of Dangerous Goods by Road Act 1998 as amended by S.I No. 349 of 2011 and S.I No. 238 of 2013; and/or
- (b) the Carriage of Dangerous Goods by Road Regulations (Northern Ireland) 1997; and/or
- (c) the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010 (SR 160 of 2010); and/or
- (d) the European Agreement Concerning the International Carriage of Dangerous Goods by Road, the Annexes to it and the protocol of signature thereto done at Geneva on 30 September 1957, as amended, in the version applicable as from 1 January 2011 (the "ADR") where "Annexes" mean Annexes A and B to the ADR referred to in Annex 1 to Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods, as adapted by Commission Directive 2010/61/EU of 2 September 2010 adapting for the first time the Annexes to Directive 2008/68 of the European Parliament and of the Council on the inland transport of dangerous goods to technical progress;

as each of the above may be amended from time to time by any protocol, regulation or statute together with any other statute, rule, regulation, code or convention relating to international carriage by road for the time being in force;

**Delay** means failure by the Carrier to deliver a Consignment or any part thereof within five (5) days of the agreed delivery date;

**Delivery Address** means the Consignment delivery address provided by the Consignor to the Carrier;

**Fastway Franchisee** means a person who has been licensed to operate as a Fastway franchisee;

**Owner's Risk** means that the Carrier (and/or any operator of a Parcel Connect Outlet) shall not be liable for any loss of whatsoever nature and howsoever caused including negligence in relation to the performance of the Services or as a

consequence of the Consignment being in the possession of the Carrier (and/or the operator of a Parcel Connect Outlet);

**Parcel Connect Outlet** means an authorised Outlet to or from which a Consignment may be delivered or collected by a Carrier or a Consignor or a Consignee;

**Payment On Delivery** means that delivery of a Consignment is contingent on the payment by way of cheque, bank draft or postal order (but not by any other means) by the Consignee of a sum agreed in advance with the Consignor in respect of such Consignment (the "**Payment**") and which sum the Carrier is authorised to receive on behalf of the Consignor;

**Proof of Delivery** means that the Carrier must obtain a signed delivery run sheet or electronic signature from an Authorised Person and "Proof" shall be construed accordingly;

**Release Code** means the 4 digit code that is:

- (a) electronically provided by way of text or email by the Carrier to the Consignee;
- (b) unique to the Consignee;
- (c) required by the Consignee to collect a Consignment from a Parcel Connect Outlet;

**Reverse Pickup** means that a Consignment is collected by a Carrier from an address other than the Consignor's address and is delivered to the Consignor or to some other address provided by the Consignor;

**Services** means the carriage and delivery services provided by the Carrier;

**Website** means [www.fastway.ie](http://www.fastway.ie).

## 1.2 Words denoting

- (a) the singular shall include the plural and vice versa;
- (b) any gender shall include the other genders; and

references to a "person" shall include an individual, body corporate (wherever incorporated), unincorporated association or partnership.

## 1.3 The expressions Carrier, Consignor and Consignee shall include those parties' principals, agents, servants and employees.

## 2 APPLICATION OF CONDITIONS

### 2.1 These Conditions form part of the Contract which together constitute the whole agreement between the Consignor and the Carrier.

### 2.2 The Consignor and the Carrier each acknowledge that, in entering into a Contract, neither the Consignor nor the Carrier relies on any representation or warranty (whether made innocently or negligently) that is not set out in these Conditions.

### **3 NOT A COMMON CARRIER**

The Carrier is not a common carrier and accepts no liability as such and may at his own discretion:

- (a) refuse carriage of any item;
- (b) refuse to provide any of the Services (notwithstanding that provision of Services may have commenced);
- (c) open any document, envelope, package or other container in which goods are placed or packaged in order to inspect the Consignment to determine the nature or condition of the goods or to ascertain the ownership or destination of the Consignment where any consignment note or identifying document or mark is lost, damaged or destroyed.

### **4 WARRANTIES**

4.1 The Consignor warrants that:

- 4.1.1 the Consignee Information is correct;
- 4.1.2 he is authorised by the Consignee to provide the Consignee Information;
- 4.1.3 he contracts as
  - (i) the legal owner of the goods for Consignment; or
  - (ii) the authorised agent of such legal owner in which case the Consignor warrants that he has the authority to accept these Conditions on behalf of the legal owner; or
  - (iii) a carrier who has contracted with the legal owner of the goods for Consignment or his authorised agent to provide carriage services in respect of the goods for Consignment;
- 4.1.4 the goods are packed in a manner adequate to withstand the ordinary risks associated with the Services having regard to the nature of the goods;
- 4.1.5 the Consignment will be available for collection by the Carrier on the date and at the time specified by the Consignor;
- 4.1.6 that he has complied with all laws and regulations relating to the packaging and labelling of the goods and that the markings and brandings of the goods and the descriptions, value and other particulars furnished to the Carrier are accurate in all material respects;
- 4.1.7 any person who is not the Consignor and who delivers a Consignment to the Carrier (or to a Parcel Connect Outlet) is acting as his servant or agent and is duly authorised to sign any consignment note and to accept these Conditions on behalf of the Consignor;
- 4.1.8 he has not tendered for carriage or storage any Dangerous Goods other than in accordance with clause 13.1;
- 4.1.9 he has not tendered for carriage or storage any fragile goods other than in accordance with clause 13.2.

4.2 In the event of a breach by the Consignor of any warranty under condition 4.1, the Carrier may at his discretion and without prejudice to any other right or remedy he may have for breach of warranty or contract or otherwise under these Conditions:

- (a) cancel the Contract (and for the avoidance of doubt, the Consignor will not be entitled to a refund); or
- (b) accept the goods or Consignment for carriage at Owner's Risk.

## **5 CARRIER'S RESPONSIBILITY**

The Consignor hereby acknowledges and consents that:

5.1 the Carrier's responsibility for the Consignment shall commence when:

- (a) the Carrier takes physical control of the Consignment from the Consignor; or
- (b) the Carrier takes physical control of the Consignment from the Consignee (in the event that the Consignor provides a return service and the Consignment is being returned by the Consignee);
- (c) the Consignment is left by the Consignor at the premises of the Carrier or at a Parcel Connect Outlet.

5.2 the Carrier's responsibility for the Consignment shall, subject to the following provisions of this condition 5, end when:

- (a) the Carrier relinquishes physical control of the Consignment at the Delivery Address (and in the event that the Contract is made subject to Proof of Delivery, the Carrier shall obtain such Proof); or
- (b) the Carrier relinquishes physical control of the Consignment to the Consignor (in the event that the Consignor provides a return service and the Consignment is being returned by the Consignee);
- (c) the Consignment is relinquished to a Consignee in receipt of a Release Code at a Parcel Connect Outlet.

5.3 if the Delivery Address is unattended and the Contract is made subject to Proof of Delivery the Carrier may leave the Consignment with a neighbour of the Consignee subject that the Carrier shall obtain Proof of Delivery and the Carrier's responsibility for the Consignment shall thereby end. If the neighbouring address is unattended, the Carrier shall leave a calling card at the Delivery Address and do either of the things specified under clauses 5.4 (c) or 5.4(d).

5.4 if the Delivery Address is unattended and the Contract is not subject to Proof of Delivery the Carrier may at his discretion do any of the following:

- (a) leave the Consignment at a safe location at the Delivery Address. For the avoidance of doubt, a safe location is a location that in the reasonable opinion of the Carrier is:
  - (i) clean and dry;

(ii) not exposed to the elements or pets;

(iii) not in view of the general public,

and the Carrier shall notify the Consignee by calling card and/or letter, telephone, text message, fax or e-mail of the delivery and safe location of the Consignment and the Carriers responsibility for the Consignment shall thereby end; or

(b) leave the Consignment with a neighbour subject that the Carrier shall notify the Consignee by calling card and/or letter, telephone, text message, fax or e-mail of the delivery and safe location of the Consignment and the Carriers responsibility for the Consignment shall thereby end; or

(c) store the Consignment at Owner's Risk and:

(i) the Consignor shall pay on demand to the Carrier all costs and expenses incurred in relation to such storage; and

(ii) the Carrier may thereafter deliver the Consignment to the Consignor from the place of storage at the Consignor's further expense

subject only that the Carrier shall notify the Consignee and/or the Consignor by calling card, letter, telephone, text message, fax or e-mail of the availability of the Consignment. For the avoidance of doubt, the Carriers responsibility for the Consignment shall end on such notification; or

(d) provided the Carrier has contacted the Consignee and the Consignee has agreed, leave the Consignment at a Parcel Connect Outlet.

5.5 if it has been agreed that the Consignee will collect the Consignment from the Carrier's premises, the Carrier may release the Consignment to any person who presents himself to the Carrier as the Consignee or his agent or servant and the Carrier shall be deemed to have delivered the Consignment in accordance with these Conditions if the Carrier obtains from that person Proof of Delivery.

5.6 if the Carrier is prevented from making delivery at the Nominated Delivery Address as a consequence of the absence of a safe and/or adequate access (in the reasonable opinion of the Carrier), the terms of conditions 5.4 (b) or 5.4 (c) (subject that the Carrier shall obtain Proof of Delivery where the Contract is made subject to same) or condition 5.4 (d) shall apply.

5.7 at any time during the term of the Contract the Consignor may request or the Carrier may recommend variations to the Service and/or variations to any other matters covered by the Contract. The Carrier shall investigate the likely impact of any such requested or recommended variations upon the Service, the charge for the Service and other aspects of the Contract and shall report promptly to the Consignor. The Carrier shall not be obliged to agree to any requested or recommended variation and the manner of the provision of the Services shall be at the Carrier's sole discretion.

5.8 delivery times are given by the Carrier in good faith but are an estimate only and time of delivery of the Consignment is not of the essence of the Contract.

5.9 the Carrier shall not deliver any Consignment subject to Payment on Delivery unless such Payment has been received by the Carrier. The Carrier shall not be obliged to inspect or verify the Payment and shall not be liable to the Consignor or any other person for any direct, indirect or consequential loss arising or

damages suffered in connection therewith. The Payment is not covered by the Carrier's policy of insurance and shall be held by the Carrier at Owners' Risk. For the avoidance of doubt, the Payment must be available for collection by the Carrier at the time of delivery failing which the Carrier shall not be obliged to deliver the Consignment.

- 5.10 the Carrier's liability is limited in accordance with condition 7.
- 5.11 the Carrier shall not be obliged to perform any Contract in respect of which the Consignee Information or any part thereof is incorrect.

## **6 LIABILITY FOR LOSS, DAMAGE OR DELAY**

- 6.1 Subject to condition 6.2 the Carrier shall be liable (whether such liability arises in contract, tort (including negligence), breach of statutory duty or otherwise) for:
  - (a) any loss of or damage to the goods in a Consignment occurring whilst the Carrier has responsibility for the Consignment;
  - (b) delay in the carriage of any Consignment arising from the negligence of the Carrier.
- 6.2 The Carrier's liability is restricted to the financial limits imposed under condition 7 of these Conditions unless otherwise agreed in writing between the contracting parties prior to the transit commencing.
- 6.3 Subject to condition 6.4, the Carrier shall not be liable for losses that result from any failure to comply with these Conditions that fall into the following categories:
  - (a) loss of income or revenue;
  - (b) loss of business;
  - (c) loss of profits;
  - (d) loss of anticipated savings;
  - (e) loss of data; or
  - (f) waste of management or office time.
- 6.4 Nothing in these Conditions shall exclude or limit the Carrier's liability for:
  - (a) death or personal injury caused by his negligence;
  - (b) fraud or fraudulent misrepresentation;
  - (c) any other matter for which it would be illegal for the Carrier to exclude or attempt to exclude liability.

## **7 LIMITATION OF LIABILITY OF CARRIER**

- 7.1 The liability of the Carrier is limited in accordance with this condition 7.
- 7.2 The Carrier shall have no liability whatsoever to any person in respect of any Consignment which is not contracted on a Proof of Delivery basis.

- 7.3 The liability of the Carrier in respect of the matters specified under condition 6.1 shall subject to condition 7.4 be limited to a maximum amount of four hundred euros (€400) for deliveries to anywhere on the island of Ireland.
- 7.4 The liability of the Carrier in respect of the matters specified under condition 6.1 shall subject to condition 7.4 be limited to a maximum amount of one hundred and fifty pounds (£150) for deliveries to anywhere in the United Kingdom excluding Northern Ireland.
- 7.5 The liability of the Carrier in respect of any Consignment damaged or lost while stored at a Parcel Connect Outlet shall be limited to a maximum amount of fifty euros (€50).
- 7.6 As the liability of the Carrier is limited in accordance with these Conditions the Consignor is advised to seek his own additional insurance cover. No insurance will be affected by the Carrier for the benefit of the Consignor other than in accordance with this condition 7.

## **8 CLAIMS**

- 8.1 The Carrier shall not be liable for damage to any goods or of part or the whole of the Consignment unless:
- (a) notice specifying the general nature thereof is given by the Consignor to the Carrier within 24 hours from the Carrier's responsibility for the Consignment having ended in accordance with the provisions of condition 5; and
  - (b) a fully completed Claims Form is submitted to the Carrier within fourteen days of notification in accordance with condition 8.1 (a) (and is acknowledged in writing as received by the Carrier); and
  - (c) the damaged goods are made available to the Carrier's representative for inspection for a reasonable period following notification of the claim in accordance with condition 8.1 (b).
- 8.2 Subject to clause 6.1(b), the Carrier shall not be liable for Delay in delivery of whole or part of the Consignment.
- 8.3 The Carrier shall not be liable for the loss of a Consignment or any part thereof unless the Consignor has submitted a fully completed Claims Form (which is acknowledged in writing as received by the Carrier) in respect of such loss within 120 days of the date by which the delivery should have been made or if no date for delivery has been agreed within 120 days of the date that the Carrier's responsibility for the consignment commenced.
- 8.4 In the event that the Carrier is liable in accordance with condition 6.1 and pays an amount in respect thereof in accordance with conditions 7.3 or 7.4 that is at least equal in value to the replacement cost of the Consignment then the Carrier shall be entitled to retain the Consignment.



## **9 EVENTS OUTSIDE OF THE CARRIER'S CONTROL**

- 9.1 The Carrier will not be liable or responsible for any failure to perform, or Delay in performance of, any of his obligations under a Contract that is caused by events outside the Carrier's reasonable control (**Force Majeure Event**).
- 9.2 A Force Majeure Event includes any act, event, non-happening, omission or accident beyond our reasonable control and includes in particular (without limitation) the following:
- (a) strikes, lock-outs or other industrial action;
  - (b) civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;
  - (c) fire, explosion, storm, flood, snow, earthquake, subsidence, epidemic or other natural disaster;
  - (d) impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport;
  - (e) impossibility of the use of public or private telecommunications networks; and
  - (f) the acts, decrees, legislation, regulations or restrictions of any government.
- 9.3 Performance under any Contract is deemed to be suspended for the period that the Force Majeure Event continues, and the Carrier will have an extension of time for performance for the duration of that period. If the Carrier determines that the Force Majeure Event may continue indefinitely, the Carrier reserves the right to cancel a Contract and the Carrier will inform the Consignor as soon as practicable in that event.

## **10 SUB CONTRACTORS**

- 10.1 The Carrier may sub-contract part or the whole of any Contract or any of his rights or obligations arising under it.
- 10.2 Where a Contract or any part thereof is sub-contracted then:
- (a) the liability of the sub-contractor shall be limited and/or excluded in accordance with the conditions of carriage of that sub-contractor (or otherwise in accordance with his policy of insurance) or as provided for by statute or international convention; or
  - (b) such subcontractors shall otherwise have the benefit of these Conditions of Carriage and shall be under no greater liability to the Consignor than or in addition to that of the Carrier under the Contract and the Consignor agrees with the Carrier that no claim shall be made against a Sub-Contractor in addition to or in excess of the limitations and/or exclusions of liability as set out in these Conditions.

## **11 PAYMENT**

- 11.1 The Carrier's charges for carriage and any other services incidental to the carriage chargeable under the Contract shall save with the prior written agreement of the Carrier be payable by the Consignor in advance and no Contract shall be deemed to have been formed until the Carrier's charges have been paid in full.
- 11.2 The Consignor shall not be entitled to set off any payment due by the Consignor to the Carrier under the Contract against any claim made by the Consignor.

## **12 LIEN AND POWER OF SALE**

- 12.1 All Consignments are subject to a lien for all charges due to the Carrier from the Consignor under the Contract or otherwise for the Services and/or the storage of the goods and other proper charges or expenses incurred in respect of or in connection with the Services. If such a lien is not satisfied by payment within a reasonable time of the Carrier's demand for payment then the Carrier shall be entitled to sell the goods provided that such sale is permitted by law and to thereafter pay to the Consignor the net proceeds of sale after deductions of all charges payable to the Carrier under the Contract or otherwise for the Services together with all properly incurred expenses in relation to the sale of the goods and the Consignor shall (without prejudice to any claim or right which the Consignor may have against the Carrier otherwise arising under these Conditions) discharge the Carrier from all liability in respect of such goods, their carriage and storage.
- 12.2 The goods may not be sold unless the Carrier shall have made reasonable efforts (having regard, if appropriate, to the perishable nature of the goods) to notify the Consignor of the Carrier's intention to sell the goods. The goods may then be sold unless within reasonable time (such time to be specified in the notice) the Consignor shall have arranged to collect the goods or given instructions for their disposal and have paid, without prejudice, all outstanding charges as referred to in this Condition including any storage charges which may have been incurred during the time that the goods have been retained.
- 12.3 Pending the expiry of such periods of notice as aforesaid and of disposal of the goods under these provisions the Carrier shall at the expense of the Consignor have authority to arrange proper storage of the Consignment. During such period of storage the goods will be held at Owner's Risk and the carrier shall not be liable for loss or damage of the goods howsoever caused.
- 12.4 In the event of a sale under this condition the Carrier shall do what is reasonable to obtain the market value of the goods (subject to any unavoidable deterioration thereof). If the goods have no market value, then the Carrier may dispose of them subject to compliance with all legal requirements in force in respect of such goods.
- 12.5 In circumstances in which the Carrier is unable to obtain further written instructions, the Carrier may, in respect of Dangerous Goods only, at his sole discretion dispose of the goods or return them to the Consignor. Where such action is taken by the Carrier, it shall comply with all prevailing legal requirements that may be in force in respect of the goods. Any such action taken

by the Carrier under this condition shall be at the sole risk and expense of the Consignor.

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

### **13 NATURE OF GOODS (INCLUDING DANGEROUS GOODS)**

- 13.1 Subject to clause 13.2, the Consignor shall not tender for carriage or storage any Dangerous Goods.
- 13.2 The Consignor may tender and the Carrier may accept for carriage (subject that the Carrier shall not be obliged to do so) Dangerous Goods Packed in Limited Quantities in accordance with clause 3.4 of the ADR.
- 13.3 If, in the opinion of the Carrier, any items, parcels or goods forming part of a Consignment are or are liable to become Dangerous Goods (other than any items tendered and accepted by the Carrier in accordance with clause 13.2) such items, parcels or goods may at any time be destroyed, disposed of, abandoned or rendered harmless by the Carrier without compensation to, but at the cost in all things of the Consignor and without prejudice to the Carrier's right to its charges under these Conditions.
- 13.4 The Consignor shall indemnify and keep indemnified the Carrier 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 and other reasonable professional costs and expenses) suffered or incurred by the Carrier arising out of or in connection with any breach of this clause 13.
- 13.5 The Consignor shall not tender for carriage or storage any fragile goods without presenting a full written description disclosing the nature of the goods.
- 13.6 The Carrier does not accept for carriage:
- livestock;
  - cash;
  - freight exceeding a cubic weight of 100kg;
  - freight in excess of 30kg in dead weight;
  - freight in excess of 2.1 metres in length for delivery anywhere on the island of Ireland; or
  - freight in excess of 1.5 metres in length for delivery to England, Scotland or Wales.
- 13.7 The Carrier may at his discretion accept the following items for carriage **STRICTLY ON CONDITION THAT any such items ARE NOT COVERED by the Carrier's policy of insurance and are deemed to be at Owner's Risk.**
- items containing glass, ceramics, pottery;

- second hand car parts;
- perishables;
- jewellery or other such valuables;
- Freight in excess of 2.1 metres in length for delivery anywhere on the island of Ireland.

13.8 The Consignor is responsible for the packaging and labelling of any items, parcels or good accepted by the Carrier for carriage in accordance with these Conditions. Any goods tendered for carriage by the Consignor that are deemed by the Carrier to be insufficiently packaged or labelled and which are accepted for carriage by the Carrier shall be deemed to be at Owner's Risk.

13.9 Freight exceeding a cubic weight of 30kg (but not exceeding a cubic weight of 100kg) will be charged on a per 30kg cubed or part thereof basis (at the rate of one Fastway label per 30kg cubed or part thereof) and delivery may take up to three (3) days (of the estimated delivery date).

#### 13.10 **Freight to a Parcel Connect Outlet**

Freight that is deliverable to a Parcel Connect Outlet must not exceed:

- a cubic weight of 20kg;
- a dead weight of 20kg;
- box measurements of 40cm x 40cm x 60cm;
- a height of 1.5 metres.

### **14 CONSIGNORS 'S INDEMNITY TO THE CARRIER**

14.1 The Consignor shall indemnify the Carrier against:

- losses suffered by the Carrier arising from any negligent act, negligent omission, negligent misdirection or negligent misstatement by the Consignor or Consignee;
- losses suffered by the Carrier arising from any inaccuracy or omission relating to the packaging or labelling of the goods or the accuracy of any markings or branding of the goods or the description, value or other particulars furnished by the Consignor to the Carrier;
- claims of any nature for loss or damage resulting from the carriage or storage of Dangerous Goods (including indirect and consequential loss);
- claims and demands of any nature in respect of loss of or damage to the goods made by any third party additional to or in excess of the limits of liability of the Carrier set out in condition 7;
- any claims made or penalties imposed by any Commissioners of Customs and Excise in respect of dutiable goods;

- (f) claims and demands made by a third party attributable to lack of authority on the part of the Consignor to enter into the Contract upon these Conditions;
  - (g) all liabilities arising from any breach of these Conditions by the Consignor.
- 14.2 The Consignor shall not indemnify the Carrier in respect of losses occasioned to the Carrier that result from any failure to comply with these Conditions that fall into the following categories:
- (a) loss of income or revenue;
  - (b) loss of business;
  - (c) loss of profits;
  - (d) loss of anticipated savings;
  - (e) waste of management or office time.

## **15 CONSIGNEE'S REQUIREMENTS**

The Consignor shall be solely responsible for the conformity of any containers, packaging or pallets with any requirements of the Consignee and for any expense incurred by the Carrier arising from any failure to so conform.

## **16 BROKERAGE AND COMMISSION**

The Consignor agrees that the Carrier may retain allowances, brokerages and commissions paid by shipping and forwarding agents, insurance brokers, airlines and any other person in relation to the provision of the Services.

## **17 EXPORT CONTROL AND CUSTOMS**

- 17.1 The Consignor authorises the Carrier to act as the Consignor's agent for purposes of export control and to complete all documents as may be necessary or desirable in connection with the provision of the Services subject that the Carrier shall not be liable for failure to act as the Consignor's agent in this regard.
- 17.2 The Carrier may (but without obligation to do so) advance any duties, taxes, imports, outlays or charges at any port or place in respect of the Consignment and the Consignor shall pay an amount equal to the amount paid by the Carrier in this regard.

## **18 ENFORCEABILITY**

All rights, powers, authorities, immunities of liability in these Conditions shall continue to have their full force and effect in all circumstances and notwithstanding any breach of these Conditions or negligence by the Carrier or any person entitled to the benefit of these Conditions or any of their respective agents, servants or officers.

## **19 SEVERANCE**

If any of these Conditions or any provisions of a Contract are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

## **20 DATA PROTECTION**

The Carrier shall be entitled to collect, store and process personal data within the meaning of the Data Protection Acts 1988 to 2003 provided by the Consignor to the Carrier in connection with the Contract and the Consignor consents that such data may be disclosed by the Carrier to:

- (a) independent third party service providers (including other Fastway Franchisees) who may be engaged in activities that include the fulfilment of a Contract, the processing of the Consignor's payment details and the provision of support services; and
- (b) government agencies including but not limited to customs authorities to the extent required by law.

## **21 WAIVER**

- 21.1 If the Carrier fails at any time during the term of a Contract, to insist upon strict performance of any of the Consignor's obligations under the Contract, or if the Carrier fails to exercise any of the rights or remedies to which he is entitled under the Contract, this will not constitute a waiver of such rights or remedies and will not relieve the Consignor from compliance with such obligations.
- 21.2 A waiver by the Carrier of any default will not constitute a waiver of any subsequent default.
- 21.4 No waiver by the Carrier of any of these Conditions of Carriage will be effective unless it is expressly stated to be a waiver and is communicated to you in writing.

## **22 RIGHT TO VARY THESE CONDITIONS**

The Carrier reserves the right to revise and amend these Conditions of Carriage from time to time to reflect changes in market conditions affecting the Carrier's business, changes in technology, changes in relevant laws or regulatory requirements.

## **23 ACKNOWLEDGEMENT**

The Consignor acknowledges that the Carrier is independent of other third parties who are Fastway Franchisees.

## **24 APPLICABLE LAW**

- 24.1 Any dispute or claim arising out of or in connection with a Contract or its subject matter or formation (including non-contractual disputes or claims) will be governed by Irish law and subject to the exclusive jurisdiction of the courts of the Republic of Ireland.
  
- 24.2 The Consignor is responsible for compliance with all applicable laws and regulations of the country for which a Consignment is destined. The Carrier will not be liable for any breach by the Consignor of any such laws.