



## **LIBRA TRANS**

Rosowski Ltd. T/a Direct Service Couriers (hereinafter referred to as "The Carrier") accepts goods for carriage upon the Terms and subject to the Conditions set out below (herein described as "these conditions"). Unless previously agreed in writing by an officer of the Carrier who has express authority to do so.

(1) No verbal, written or other addition, amendment, variation hereto or hereof shall be effective;  
(2) These conditions supersede any other Terms and Conditions appearing elsewhere and shall prevail over and exclude any Terms or Conditions stipulated or incorporated or referred to by the trader or his agent or any third party; and (3) It shall be a precondition of the Carrier accepting goods for Carriage that the same is subject to these conditions in all respects.

**1 DEFINITION** In these conditions the following expression shall have the meaning hereby respectively assigned to them, that is to say: - Traders - shall mean a Customer who contracts with the Carrier for the services. Consignment - shall mean goods in bulk or contained in one parcel or package or in any number of separate packages, in all cases sent at one time in one load from one address to one address. Contract - shall mean the contract of carriage between the trader and the carrier. Carrier - shall, where the context so admits include the carriers officers, servants or agents and also any other carrier or sub contracting Party whom the Carrier has authorised and permitted to use and engage under these Conditions.

### **2 PARTIES AND SUB-CONTRACTING**

(i) Where the trader is not the owner of some or all the goods in any particular consignment, the trader hereby warrants that is for all purposes the lawful and duly authorised agent of the owner or owners thereof and that it hereby accepts these conditions for itself and for and on behalf of any other person having any other interest in the consignment.

(ii) The carrier may employ and engage the services of any other carrier for the purposes of fulfilling the contract.

(iii) The carrier enters into the contract for and on behalf of itself and its officers, servants, or agents and subcontractors all of whom shall be fully entitled to the benefits of the contract and shall be under no liability whatsoever to the trader or anyone claiming through it in respect of a consignment in addition to or separately from that of the carrier under the contract.

### **3 CARRIER CHARGES**

(i) The carrier shall not accept any consignment under a contract of carriage unless either the trader has opened an account with the carrier and is not in breach of any of the conditions or credit limits applicable thereto, or the consignment is a cash transaction. For cash transactions, the carrier on collection or acceptance of the consignment will require payment unless otherwise agreed in writing. If the trader has opened an account with the carrier, the carrier shall submit invoices to the trader monthly and the trader shall be obliged to settle such invoices not later than the thirtieth day of the calendar month following that in which the invoice was first issued.

(ii) The carriers charges for carriage and services incidental thereto shall be payable by the trader without prejudice to the carriers rights against the consignee or any other person. The carrier shall only accept "carriage forward" or "paid on delivery" consignments by prior written arrangement in which event the trader shall be required to pay such charges. If the consignee fails to pay after a reasonable demand has been made by the carrier for payment thereof and in any event not later than 30 days after the due date set out in paragraph 1 hereof. (iii) The trader shall not be entitled to defer or withhold payment of any money due or liabilities incurred to the carrier by reason of having any or counter claim or any alleged claim or counter claim and the trader shall not under any circumstances be entitled to any rights of set-off in relation thereto.

(iv) The absence of, or any discrepancy in, a signed Delivery Note shall not entitle the trader to defer or withhold payment of monies due or liabilities incurred to the carrier.

(v) The carrier shall have first specific lien on the consignment for all the carriers charges referred to hereunder and shall have the same rights of sale in relation thereto as set out in condition 17 below.

### **4 VALUE ADDED TAX**

All charges exclude value added tax. The trader will indemnify the carrier against any liability arising under section 16 (9) of the value added tax 1983 or any statutory modification or re-enactment thereof in respect of a failure to export zero rated goods or to comply with any condition in relation to zero rated goods intended to be exported.

## 5 VARIATIONS OF TERMS

The price at which the carrier has agreed to deliver or procure the delivery of the consignment is based upon:

(i) The warranties and indemnities given and accepted on the part of the trader herein;

### LIBRA TRANS

**Rosowski Ltd.** T/a **Direct Service Couriers** (hereinafter referred to as "The Carrier") accepts goods for carriage upon the Terms and subject to the Conditions set out below (herein described as "these conditions"). Unless previously agreed in writing by an officer of the Carrier who has express authority to do so.

(1) No verbal, written or other addition, amendment, variation hereto or hereof shall be effective;

(2) These conditions supersede any other Terms and Conditions appearing elsewhere and shall prevail over and exclude any Terms or Conditions stipulated or incorporated or referred to by the trader or his agent or any third party; and (3) It shall be a precondition of the Carrier accepting goods for Carriage that the same is subject to these conditions in all respects.

**1 DEFINITION** In these conditions the following expression shall have the meaning hereby respectively assigned to them, that is to say: - Traders - shall mean a Customer who contracts with the Carrier for the services. Consignment - shall mean goods in bulk or contained in one parcel or package or in any number of separate packages, in all cases sent at one time in one load from one address to one address. Contract - shall mean the contract of carriage between the trader and the carrier. Carrier - shall, where the context so admits include the carriers officers, servants or agents and also any other carrier or sub contracting Party whom the Carrier has authorised and permitted to use and engage under these Conditions.

## 2 PARTIES AND SUB-CONTRACTING

(i) Where the trader is not the owner of some or all the goods in any particular consignment, the trader hereby warrants that is for all purposes the lawful and duly authorised agent of the owner or owners thereof and that it hereby accepts these conditions for itself and for and on behalf of any other person having any other interest in the consignment.

(ii) The carrier may employ and engage the services of any other carrier for the purposes of fulfilling the contract.

(iii) The carrier enters into the contract for and on behalf of itself and its officers, servants, or agents and subcontractors all of whom shall be fully entitled to the benefits of the contract and shall be under no liability whatsoever to the trader or anyone claiming through it in respect of a consignment in addition to or separately from that of the carrier under the contract.

## 3 CARRIER CHARGES

(i) The carrier shall not accept any consignment under a contract of carriage unless either the trader has opened an account with the carrier and is not in breach of any of the conditions or credit limits applicable thereto, or the consignment is a cash transaction. For cash transactions, the carrier on collection or acceptance of the consignment will require payment unless otherwise agreed in writing. If the trader has opened an account with the carrier, the carrier shall submit invoices to the trader monthly and the trader shall be obliged to settle such invoices not later than the thirtieth day of the calendar month following that in which the invoice was first issued.

(ii) The carriers charges for carriage and services incidental thereto shall be payable by the trader without prejudice to the carriers rights against the consignee or any other person. The carrier shall only accept "carriage forward" or "paid on delivery" consignments by prior written arrangement in which event the trader shall be required to pay such charges. If the consignee fails to pay after a reasonable demand has been made by the carrier for payment thereof and in any event not later than 30 days after the due date set out in paragraph 1 hereof. (iii) The trader shall not be entitled to defer or withhold payment of any money due or liabilities incurred to the carrier by reason of having any or counter claim or any alleged claim or counter claim and the trader shall not under any circumstances be entitled to any rights of set-off in relation thereto. (iv) The absence of, or any discrepancy in, a signed Delivery Note shall not entitle the trader to defer or withhold payment of monies due or liabilities incurred to the carrier.

(v) The carrier shall have first specific lien on the consignment for all the carriers charges referred to hereunder and shall have the same rights of sale in relation thereto as set out in condition 17 below.

## 4 VALUE ADDED TAX

All charges exclude value added tax. The trader will indemnify the carrier against any liability arising under section 16 (9) of the value added tax 1983 or any statutory modification or re-enactment thereof in respect of a failure to export zero rated goods or to comply with any condition in relation to zero rated goods intended to be exported.

## **5 VARIATIONS OF TERMS**

The price at which the carrier has agreed to deliver or procure the delivery of the consignment is based upon:

- (i) The warranties and indemnities given and accepted on the part of the trader herein;
- (ii) The carriers cost of maintaining insurance cover against the liabilities of its part assumed hereunder; and
- (iii) The exclusions, limitations and restrictions of and on the carriers liability hereunder. The carrier is prepared to negotiate a different price if the trader requires any variation or amendment to these conditions.

## **6 PACKAGING, LABELLING AND DANGEROUS GOODS**

- (i) The trader warrants that each article comprised in the consignment has been properly described to the carrier and that the consignment itself has been properly marked, addressed, and packaged so as to ensure at all times safe storage and transportation with ordinary care and handling.
- (ii) Every consignment shall be addressed and labelled using labels in accordance with the carrier's requirements and shall be accompanied by a consignment note containing such particulars as the carrier may reasonably request.
- (iii) If the carrier agrees to accept dangerous goods for carriage, such goods must be accompanied by a full declaration of their nature and contents and be properly and safely packed in accordance with any statutory regulations for the time being in force in relation to all such goods and/or their transportation.
- (iv) The trader shall indemnify the carrier against all costs, losses, damages, expenses or other liability whatsoever arising out of the carriage of any dangerous goods (whether declared as such or not) save insofar as the same arises out of the carrier's own negligence.

## **7 RECEIPTS FOR CONSIGNMENTS**

The carrier shall, if so required, sign a document prepared by the trader acknowledging receipt of the consignment but no such document shall be evidence of the condition or of the correctness of the declared nature, quantity or weight of the consignment at the time it is received by the carrier.

## **8 LOADING AND UNLOADING DELIVERING**

The carrier will use its best endeavours to deliver a consignment not later than the next working day following the day of the collection. For the purpose of this clause, Saturday is not considered a working day. The carrier will make one attempt to deliver a consignment during normal working hours i.e. 9am to 5pm on a working day. If the consignment cannot be delivered and a receipt obtained the company will have an option either to make a further attempt to deliver or to return the consignment to the trader at the traders cost.

- (i) When collection or delivery does not take place at the carrier's own premises, the carrier shall not be under any obligation whatsoever to provide plant, power or labour which, in addition to the carrier's own drivers, is required for loading or unloading. Any such plant, power or label shall be provided at the sole risk and cost of the trader who shall indemnify and keep the carrier fully indemnified against all losses, liabilities, costs, damages, expenses, claims, or actions suffered or incurred by the carrier in respect of the provision or use of the same or any other matters relating thereto.
- (ii) Goods requiring special appliances for unloading are accepted for carriage only on condition that the trader has duly ascertained from the consignee that such appliances are available and will be used by the consignee at the specified place of delivery.

## **9 UNREASONABLE DETENTION**

The trader shall be liable to the carrier for all costs, damages or expenses suffered by the carrier in respect to unreasonable, abnormal or unusual detention of the carrier's vehicles, containers and other things which arise as a result of the nature, state, or packaging of the consignment or any part thereof. In addition, time spent at either the point of collection or point of delivery of the consignment in excess of one quarter of an hour per tonne in gross weight of the consignment shall, at the discretion of the carrier, be subject to an additional charge calculated at the carrier's hourly rate levied for the operation of the particular vehicle, container or other thing involved.

## **10 ROUTE**

Unless otherwise agreed in writing, the method and route of transit shall be absolute and sole discretion of the carrier.

## **11 TRANSIT**

- (i) Transit shall commence when the consignment is handed to the carrier whether at the point of collection or (as the case may be) at the carrier's premises.
- (ii) Transit shall (unless otherwise previously terminated) end when the consignment is tendered at the specific place of delivery within the customary delivery hours in the district concerned or at other such times as may be agreed between the carrier and the trader provided that:
  - (a) If no safe and adequate access or no adequate unloading facilities there exist, then transit shall be deemed to end at the expiry of one clear day after notice in writing (including Fax) of the arrival of the consignment of the carrier's premises in the relevant district has been sent to the consignee; and
  - (b) Where for any other reason whatsoever a consignment cannot be delivered or when a consignment is

held by the carrier to await order or "to be kept till called for" or upon any like instructions and such instructions are not given or the consignment is not called for then transit shall be deemed to end at the expiry of one clear day after notice in writing (including Fax) of such fact has been sent to the consignee.

## **12 UNDELIVERED OR UNCLAIMED ITEMS**

After termination of transit, unless otherwise agreed in writing, the carrier will hold the consignment as warehouse men subject to its normal warehousing charges and conditions prevailing at the time and subject always to the carrier's right of sale and lien provided for in condition 4 and condition 17 thereof.

## **13 COMPUTATION OF TIME**

Where any period of seven days or less provided by these conditions is computed, there shall be ignored by any Sunday or Bank, or public or other statutory holiday.

## **14 LIABILITY OF CARRIER**

The carrier shall be liable for loss or damage to goods occasioned during transit unless and to the extent that the same has been caused by, is due to, or has arisen from:

- (i) The carriage of explosives, radioactive materials, poisonous gases, oxidising materials, narcotics or firearms;
- (ii) An act of God, force majeure or any other occurrence or cause beyond the control of the carrier, including war, civil commotion, invasion, hostilities, riots and other like occurrences;
- (iii) Seizure, damage, confiscation, requisition or destruction under legal process or by or under the order of any governmental, local authority, or other public body;
- (iv) Any act or omission of the trader or (if not the trader) the owner or owners of the goods comprised in a consignment (or part thereof), including their respective servants or agents and anything done by the carrier at the express request or direction of them;
- (v) Inherent liability to wastage, either in bulk, weight or quality, any latent or inherent defects or natural deterioration of the goods;
- (vi) Insufficient or improper packaging, labelling or addressing;
- (vii) Industrial disputes, lock-outs and general or partial stoppages or restraints of labour of whatsoever nature;
- (viii) Electrical, magnetic, injury, erasure, X-Ray other similar damage to electronic or photographic images or recording in any forms. Provided that under no circumstances shall the carrier be liable in any event for consequential loss, special damages or other indirect loss, howsoever arising, whether or not the carrier knew or ought to have known that such losses or damages might be incurred including without limitation loss of income, profits, interest or loss of market.

## **15 LIMITATION OF LIABILITY**

(i) Subject to these conditions of trading the liability of the carrier for any loss or damage shall be limited to the following amounts;

(a) Where the loss or damage is in respect of the whole consignment, £12 per kilo of gross weight of the consignment up to a maximum of 250 kilos and

(b) Where the loss or damage is in respect of part only of a consignment, to the proportion of the sum ascertained in accordance with paragraph (a) hereof which the actual value of the whole of the consignment.

PROVIDED THAT:- (ii) (a) Where the carrier has covered the consignment for full transit liability the limitation shall be increased to a maximum aggregate amount of £10,000 regardless of the gross weight of the consignment; (b) Full transit liability cover up to a maximum of £10,000 per consignment will be provided by the carrier provided the trader specifies that such cover is required by informing in writing the carrier. The trader will be liable to pay a supplementary charge for such cover per consignment as detailed on the carrier's rate schedule from time to time. (c) Full transit liability cover is not available for consignments which comprise or include bullion, currency, cheque, bills of exchange, postage stamps, precious metals, gold and silver articles, precious stones, jewellery, watches, antiques, works of art, furs, alcohol, dangerous drugs, dangerous goods, livestock, plants, perishables, ceramics and glass, or for damage resulting in their carriage. (d) Nothing in these conditions shall limit the carrier's liability to less than £12 in respect of any one consignment.

## **16 THE LIMIT FOR CLAIMS**

The carrier shall not be liable for any loss, damage or other liability of whatsoever nature unless:- (a) The trader notifies the carrier of an impending claim within three working days after termination of transit; and (b) The carrier receives a complete claim form from the trader within seven working days after termination of transit. Provided that no claim shall be entertained by the carrier nor shall any liability attach to it, unless all payments due to the carrier from the trader on respect of the delivery of the consignment have been fully made.

## **17 GENERAL ALIEN**

The carrier shall have a general alien against the trader or the owner or owners of any goods comprised in any consignment for any moneys and other liabilities whatsoever due from the trader or such owner or

owners to the carrier. If any such moneys or liabilities are not paid or satisfied within a reasonable time, and in any event not later than thirty 30 days after the due date specified in paragraph 3.1 hereof. The carrier shall be at liberty in its absolute discretion to sell, any or all such goods as agent for the owner or owners thereof and to apply the proceeds towards payment or satisfaction of all such moneys or liabilities and all the expenses of any such sale and the carrier shall upon accounting to the trader for the balance remaining (if any) of such proceeds after such application, be discharged from all liability whatsoever in respect of the consignment. Failure to deliver within the specified time period due to exercise of the carrier's lien shall not entitle the trader or such owner or owners to withhold payment of any of the carrier's charges.

#### **18 SEVERANCE**

If at any time one or more of the provisions of these conditions shall become or be declared invalid, illegal or unenforceable in any respect under any law, the validity and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

#### **19 HEADINGS**

The headings of these terms and conditions are for convenience only and shall have no effect on the interpretation thereof.

#### **20 GOVERNING LAW**

These conditions and each and every contract made pursuant thereto shall be governed and construed in accordance with laws of Ireland and the trader hereby submits to the non-exclusive jurisdiction of the Irish Courts.