



a Genesee & Wyoming Company

STANDARD CONDITIONS OF CARRIAGE

Definitions	1.	<p>"Assets" means the track, sidings, terminals, equipment, infrastructure and all other similar property owned or operated by Freightliner.</p> <p>"Carrier(s)" (whether in regard to carriage or storage or otherwise) means Freightliner, its Subcontractor and their respective servants and agents and any of them.</p> <p>"Consignment" means each of a Container and/or goods whether in a Container or not (thus a loaded container comprises two consignments) when in the control of the Carriers for the purpose of carriage or storage or in respect of which Freightliner agrees to perform any services.</p> <p>"Container" means the container, flat rack, platform, insulated/refrigerated container, tank container (or other transportable tank) and any similar unit or device used to carry or consolidate goods, including any Gensets or other equipment attached to a container or similar unit or device, (whether owned, operated or provided by the Trader or by Freightliner) and whether or not any contents including goods are contained therein.</p> <p>"Contract" means the contract between Freightliner and the Sender for the carriage and/or storage of the Consignment.</p> <p>"Dangerous Consignment" means a consignment comprising in whole or in part goods subject to the (i) Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (current edition) as supplemented by the Dangerous Goods – Rail Conditions of Acceptance (GO/RT3421) issued by the Rail Safety & Standards Board and any superceding authoritative document(s).</p> <p>"Freightliner" means Freightliner Limited.</p> <p>"Private Siding" means a railway or siding under the control of the Trader.</p> <p>"Sender" means any person who directly or indirectly through his agent or as an agent contracts for the services of Freightliner.</p> <p>"Subcontractor" means any person whose services Freightliner engages or makes use of to perform the whole or any part of the services which are the subject of this Contract.</p> <p>"Trader" includes the Sender, and unless the context otherwise requires, the Owner/Receiver/Consignee of the Container and/or goods and the holder of the consignment note and their respective servants and agents.</p>
The basis for providing Containers	2.	<p>(a) When Freightliner agrees at the Sender's request to provide a Container, the same is provided on the basis that throughout the period from the initial receipt until final re-delivery after conclusion of the transit the Sender shall be responsible for the Container in all respects as if he were the owner thereof.</p> <p>(b) The Trader shall give Freightliner a receipt when taking the Container into his possession. Such receipt if unqualified shall be prima facie evidence of the good condition of the Container.</p> <p>(c) Freightliner may refuse to permit the Trader to take possession of the Container if in its opinion the vehicle on which the Container is intended to be conveyed is unsuitable for such a purpose.</p> <p>(d) The Trader shall not cause or permit the Container to be removed from any road vehicle by which it is being conveyed, whether before or after conveyance by the Carriers, without the consent of a duly authorised officer or servant of the Carriers.</p> <p>(e) The Container is not to be loaded in excess of the loading capacity marked thereon.</p> <p>(f) In the case of goods consigned to more than one Consignee, the Container is to be loaded in such a way as to facilitate delivery in the appropriate order.</p> <p>(g) The Trader shall use the Container solely in connection with the services provided by Freightliner.</p> <p>(h) The Trader shall without prejudice to Condition 16.1 redeliver the Container internally clean and in like good order and condition as upon initial receipt, fair wear and tear excepted. The Container shall be redelivered on the road vehicle of the Carriers on which it is conveyed.</p>
Warranties	3.	<p>The Sender warrants that he has and is exercising the authority of all persons owning or interested in the Consignment and each part thereof into the Contract and to bind them as well as himself by these Conditions.</p>
Parties and subcontracting	4.	<p>(a) Freightliner enters into this Contract on behalf of itself and its servants and agents, to the intent that, in addition to Freightliner, Freightliner's servants and agents concerned in the implementation of the Contract shall also be entitled to the benefit of these Conditions, and shall be under no liability greater than or in addition to that of Freightliner under the Contract.</p> <p>(b) Freightliner is hereby authorised by the Sender to engage or make use of the services of Subcontractors to perform the whole or any part of the services which are the subject of the Contract on terms that the Subcontractors and each of their servants and agents shall have the benefit of these Conditions as against the Trader and anyone claiming through him and shall be under no liability to the Trader and anyone claiming through him in respect of any Consignment or part thereof greater than or in addition to that of Freightliner under the Contract. Further, in so far as any Subcontractor has without objecting to this clause, received notice of these Conditions the authority conferred hereby shall be taken to have been exercised in relation to each and every such engagement or use of the services of any such Subcontractor.</p> <p>(c) The Sender agrees with Freightliner that neither the Trader nor anyone claiming through him in respect of the Consignment or any part thereof will seek to enforce by legal proceedings or otherwise any claim against the Carriers greater than or in addition to the liability of Freightliner under the Contract.</p> <p>(d) Freightliner holds the benefit of clause (c) above and of Condition 14 hereof on trust for the Carriers.</p> <p>(e) In the event of the Sender being a Carrier or bailee of the Consignment, he shall (without prejudice to Condition 3 hereof) hold to the benefit of Freightliner any like Conditions to those in clauses (a) to (d) above and in Condition 15 hereof which obtain in his own Contract with his own sender or bailor. Without prejudice to the foregoing in case of the Sender (being a Carrier or bailee as aforesaid) contracting on behalf of Freightliner for the benefit of like conditions for Freightliner, Freightliner hereby ratifies his act in making such Contract if Freightliner has not authorised such act.</p>
The nature of Transport and Conditions for Rail, Road and Sea Carriage	5.	<p>(a) A Consignment accepted by Freightliner for transit may be carried by such means of transport and by such route as Freightliner thinks fit and these Conditions shall apply to any such means and route.</p> <p>(b) In the case of international carriage within the meaning of the International Convention concerning the Carriage of Goods by Rail (referred to as the CIM Regulations) signed at Berne on 9th May 1980 as amended, together with provisions accepted by the UK Freightliner will issue a CIM consignment note and the Consignment referred to therein will be carried in accordance with the said Regulations, provided that such Regulations are satisfied in all respects including as to the contracting parties and as to all parts of the route as well as the lines over which the Consignment is to travel.</p> <p>(c) In the case of loss or mis-delivery or damage or delay occurring during carriage by sea, if Freightliner is not the owner or demise charterer of the vessel, the Trader shall have the same but no greater rights against Freightliner as Freightliner has in respect of the loss, mis-delivery, damage or delay under its contract of carriage pursuant to which the goods were shipped on the vessel.</p> <p>(d) In so far as Articles 1 to 40 of the Convention on the Contract for the International Carriage of Goods by Road (known as CMR) are compulsorily applicable to any carriage undertaken by the Carriers, such Articles shall apply and the provisions of these Conditions shall be treated as modified to such extent (if any) as may be necessary to give effect to such Articles in relation to such carriage, but no further.</p>
Marks and Consignment Notes	6.	<p>(a) Every Consignment shall be clearly marked and except when otherwise agreed be accompanied by a consignment note containing such particulars as Freightliner may reasonably require.</p> <p>(b) Freightliner, shall, if so required, sign a document prepared by the Sender acknowledging receipt of the Consignment but no such document shall be evidence of the condition or correctness of the declared nature, quantity or weight of the Consignment at the time it is received by Freightliner, and the burden of proving the condition of the Consignment on receipt by Freightliner and that the Consignment was of the nature, quantity or weight declared in the relevant document shall rest with the Sender.</p> <p>(c) In the case of goods consigned by Freightliner's IT operating system, the Trader shall communicate to Freightliner, before the goods are accepted by Freightliner for conveyance, a movement advice containing such particulars as Freightliner may reasonably require.</p>
Compliance with Regulations	7.	<p>(a) The Trader shall comply with all regulations and requirements of Governments, Customs, Port and other authorities.</p>

Conditions of
Consignment

8. (a) The Sender warrants the suitability of the following for transit or storage:
- (i) Container (except where provided by Freightliner);
 - (ii) contents of the Container;
 - (iii) manner of packing, stowage and securing within the Container.
- (b) The Sender warrants that the Consignment is free from infestation by vermin, and insect pest of any description and from contamination from any cause whatever.
- (c) The Carriers shall be entitled to open any Consignment and inspect any part thereof. If the Carriers are of the opinion that the Consignment or any part thereof cannot be safely or properly carried or stored the Carriers shall be empowered to take such remedial steps as they think fit provided that where practicable Freightliner will seek instructions regarding such steps from the Trader.
- (d) Freightliner shall be entitled to recover from the Sender the cost of any remedial steps taken to enable safe and proper carriage or storage (including steps to remedy infestation or contamination).
- (e) The Sender undertakes to provide Freightliner, prior to the commencement of transit, with all details, information and documents that Freightliner may require to enable it to perform the services under the Contract, including without limitation, all details, information and documents required by any Government agency or authority, ports, Carriers, shipping lines or other third parties.
- (f) The Sender warrants that the description and particulars of the Consignment or any other information (including without limitation the weight of the Consignment) furnished by or on behalf of the Sender are full and accurate.
- (g) The Sender warrants that it shall notify and provide full details to Freightliner of any Consignment that is in any way unstable or has a high centre of gravity or is stowed in an asymmetrical manner.

Dangerous
Consignments

9. (a) The conditions of acceptance of Dangerous Consignments are subject to compliance with the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (current edition) as supplemented by the Dangerous Goods - Rail Conditions of Acceptance (GO/RT3421) issued by the Rail Safety and Standards Board and any superceding authoritative document(s).
- (b) The Sender shall notify Freightliner of the type and nature of any dangerous goods contained in a Consignment and the hazard presented by such goods prior to inviting Freightliner to quote for the carriage of such goods. Prior to the date of the Contract, the Sender shall agree with Freightliner any special conditions for the carriage and/or storage of such Dangerous Consignment, such arrangements to be at the cost of the Sender.
- (c) Where Freightliner accepts a Dangerous Consignment for transit or storage it does so subject to these Conditions and to the following special provisions:
- (i) The consignment note accompanying the Dangerous Consignment shall specify the technical and (where appropriate) popular names of the dangerous goods comprised therein, and the nature of the danger presented by such goods;
 - (ii) Dangerous Consignments shall be labeled, packed and stowed in accordance with any applicable statutory regulations and, unless otherwise agreed in writing, with the regulations for packing, labelling, loading, and stowage of dangerous goods published by the competent authority;
 - (iii) Any additional conditions set out or referred to in the consignment note or otherwise agreed.
- (d) In the event of any failure by the Sender to comply with any of the provisions of clauses (a), (b) and (c) hereof, the Carriers shall be under no liability whatsoever in respect of the Dangerous Consignment, save in the case of wilful misconduct by the Carriers in which event liability shall be determined in accordance with these conditions.
- (e) Further, without prejudice to any of the foregoing, Freightliner may, if it is of the opinion that it is necessary or advisable to do so, act in any of the following ways:
- (i) Hold the Dangerous Consignment until the Sender gives adequate notice of the nature of and hazard presented by it;
 - (ii) Return at any time at the Sender's sole risk and expense the whole or any part of the Dangerous Consignment to the Trader (who shall receive it at once);
 - (iii) Destroy or otherwise dispose of the Dangerous Consignment.

Where Freightliner is satisfied that it was not possible for the Sender to give notice pursuant to clause 9(b) above the Sender shall provide details of the nature of and hazard presented by any Dangerous Consignment as soon as is reasonably possible provided that if in the opinion of Freightliner, such details are not forthcoming within a reasonable time, then Freightliner may exercise any of the options in 9(e) above.

- (g) The Sender shall notify Freightliner of the type and nature of any goods contained in a Consignment that may be classified as hazardous, dangerous or similar by any regulations or rules that may apply to any other mode of transport that may be used to carry or otherwise convey the goods prior to or following the termination of transit in accordance with clause 11 hereof. Prior to the date of the Contract, the Sender shall agree with Freightliner any special conditions for the carriage and/or storage of any such Consignment and such arrangements to be at the cost of the Sender. Sub-clauses (c) to (f) above shall apply to any such Consignment.

Loading and
Unloading

10. (a) On collection or delivery the Carriers shall be under no obligation to provide any plant, power or labour for loading or unloading.
- (b) Any assistance given or knowledge acquired by a servant or agent of the Carriers in assisting the Trader, whether in connection with loading or unloading of goods into or out of any Container or otherwise, will be given or acquired on behalf of the Trader who shall be responsible for the acts and knowledge of such servant or agent as if he were the Trader's employee.
- (c) Consignments requiring special appliances for loading onto or unloading a vehicle or Container are accepted for transit only on condition that the Sender undertakes that such appliances will be available at loading and unloading. Where special appliances are required for loading and unloading, but are not available, the Carriers shall nonetheless be at liberty (but not bound) to load or unload in such a manner as they may think fit, and in such case the Carriers shall be under no liability whatsoever to the Trader for any damage howsoever caused during the loading or unloading, whether or not by the negligence of the Carriers, and the Sender shall be responsible for and indemnify the Carriers against any loss, damage or claim which the Carriers may suffer or incur in connection with such loading or unloading.
- (d) The Sender shall be responsible for the suitability of the means of access to and egress from any premises at which the Carriers are instructed to collect or deliver a Consignment, including delivery or collection of empty Containers.

Transit

11. (a) Transit begins when the Consignment is handed to or collected by the Carriers for carriage, and ends (unless otherwise previously determined) when the Consignment is delivered, or as provided in Condition 11 (c) below.
- (b) (i) Transit shall be suspended when at any time prior to the end of transit the Consignment is held by the Carriers at some place other than the destination at the request or for the convenience of the Trader (including detention for Customs purposes) or because the Trader has refused or has shown or stated that he is unable to take delivery at the destination.
- (ii) If transit shall have ended under these Conditions, but Freightliner subsequently carries the Consignment for whatever reason, such subsequent carriage shall be treated as undertaken pursuant to a separate Contract for carriage subject to these Conditions.
- (c) Transit shall (unless otherwise previously determined) end, notwithstanding that the Consignment has not been delivered:
- (i) In the case of a Consignment to be delivered by the Carriers when it is tendered at the Consignee's premises within the customary cartage hours of the delivery district or at such other time or place as may be agreed between the Carrier and the Trader.
 - (ii) In the case of a Consignment to be collected by the Trader:- (a) at the expiration of 11 hours from the arrival of the Consignment at the rail or other terminal, depot or place to which it has been consigned; or (b) at the time at which the goods are loaded aboard a trailer, wagon, vehicle or other conveyance belonging to or operated by the Trader, his servants or agents; or (c) if the goods are already aboard a trailer or wagon, at the time the Trader, his servants or agents attach the tractor unit, engine or other mode of traction to such trailer or wagon; whichever be the earlier. Unless otherwise agreed between the Trader and Freightliner, it is the duty of the Sender to advise the Consignee of the expected time of arrival of the Consignment.
 - (iii) In the case of a Consignment consigned to a Private Siding, where such delivery is hindered or prevented by circumstances beyond the Carriers' control, the Carriers may give notice to the Sender or Consignee accordingly and transit shall end 11 hours thereafter.

Storage

12. Freightliner will store the Consignment after termination or during suspension of transit as defined in Condition 11 hereof (unless otherwise agreed) or if Freightliner accepts instructions for storage whether or not in connection with the carriage of any Consignment. With the exception of Conditions 2, 5, 16 and 18, all storage shall be subject to the Conditions herein, and in addition to the following special provisions:
- (a) The Carriers may at their option store Consignments either outside or under cover, Consignments must be adequately protected by the Trader for outside storage.
- (b) The Carriers shall not be liable for any loss or mis-delivery or damage or delay of whatever nature or howsoever arising in the case of any Consignment or part thereof:
- (i) except upon proof that such loss or mis-delivery or damage or delay has been caused by the neglect or default of the Carriers;
 - (ii) caused either wholly or partially and either directly or indirectly by fire or flood, howsoever arising;
 - (iii) in respect of which the Carriers have given notice that no suitable accommodation for storage is available;

- (iv) in respect of which the Carriers have given notice that the Consignment is or has become in their opinion unsuitable for storage;
 - (v) unless a written claim is submitted to Freightliner within 14 days of the date upon which the Trader became or ought to have become aware of any event or occurrence alleged to give rise to such liability or claim, provided that the Trader shall have the benefit of a like proviso to that set out at Clause 18(b) hereof.
 - (vi) without prejudice to sub-clause (b)(v) above, Freightliner shall in any event be discharged of all liability whatsoever and howsoever arising in respect of the Consignment unless suit be brought and written notice thereof be given to Freightliner within 1 year of the date when transit commenced within the meaning of Clause 11(a) hereof, notwithstanding any subsequent suspension or termination of transit in accordance with Clause 11(a) to (c). Provided that in the event Freightliner accepts instructions for storage otherwise than in connection with the carriage of the Consignment, suit must be brought and written notice thereof be given to Freightliner within 1 year of the date when the storage commenced.
- (c) (i) Freightliner may at any time require the Trader to remove the Consignment and pay all charges thereon by giving 48 hours notice of such requirements.
- (ii) In the event of the whole or any part of the Consignment not being removed within 48 hours, the Carriers may after giving a further 28 days notice of their intention so to do sell the whole or any part of such Consignment and the payment or tender of the proceeds of sale to the Sender after deducting the expenses of sale and all other charges due in respect of the Consignment shall (without prejudice to any outstanding claim which the Sender may have against Freightliner) discharge Freightliner from all liability whatsoever in respect of the Consignment. Provided that in the event the Consignment is liable to perish or deteriorate, Freightliner's right to sell the whole or any part of the Consignment shall arise immediately should the Consignment not be removed within the 48 hour period stated above.
- (d) Upon the Sender or any person duly authorised by him giving adequate prior notice to Freightliner, Freightliner will permit the Sender or authorised person to enter upon the premises where the Consignment is stored for the purpose of inspecting the same at any reasonable time during the normal hours of business.
- Charges 13. (a) Freightliner's charges for carriage and storage together with services incidental thereto including the provision of Containers shall be payable by the Sender without prejudice to Freightliner's rights against the consignee or any other person, provided that where Freightliner has accepted goods "carriage forward" the Sender shall only pay such charges if the consignee fails to pay on demand.
- (b) Freightliner's charges shall be paid when due without any reduction or deferment on account of any claim, counterclaim or set-off.
- (c) The Sender shall pay Freightliner's charges for:
- (i) detaining beyond the time allowed for their use wagons, vehicles, Containers, coverings and other equipment provided by the Carriers;
 - (ii) use or occupation of any siding or other accommodation; where such detention use or occupation is at the Trader's request or for his convenience.
- (d) Subject to Condition 13(a) hereof charges shall be payable when the Consignment is received by Freightliner. Without prejudice to the foregoing, the Sender may pay periodically provided each and every invoice is paid within 28 days of the date thereon. In the case of late payment and in the case of all sums which are overdue as provided for in these conditions, Freightliner shall be entitled to interest on those sums calculated on a daily basis at 8% above the Base Rate for the London Clearing Banks prevailing at the date of Freightliner's invoice. Interest shall begin to run on the day after the last due date for payment.
- (e) Where the delivery of a Freightliner invoice is contingent upon some triggering activity of the Sender and where in Freightliner's opinion a reasonable period of time has expired and that triggering activity has not taken place, Freightliner will in any event be entitled to deliver an invoice and to collect against it in accord with these conditions.
- Lien 14. (a) The Consignment and each and every part thereof is accepted by Freightliner subject to:
- (i) a lien upon such Consignment and any document relating to such Consignment for all monies, charges or expenses due to it in connection with the carriage or storage thereof;
 - (ii) a general lien upon such Consignment and any document relating to such Consignment for any other monies, charges or expenses due to it.
- Storage charges shall accrue on any Consignment detained or otherwise held under lien.
- (b) In case all such monies, charges or expenses due are not paid in full within 28 days from the date upon which Freightliner first gives notice of the exercise of its lien to the Trader, the said Consignment or any part thereof or any documents relating thereto may be sold and the proceeds of sale applied in or towards the satisfaction of such monies, charges or expenses and all costs incurred in relation to the exercise of Freightliner's lien and the sale and Freightliner shall account for any surplus.
- (c) When the Consignment is liable to perish or deteriorate, Freightliner's right to sell the Consignment (or any documents relating thereto) shall arise immediately upon Freightliner giving notice of the exercise of its lien to the Trader, subject only to Freightliner taking reasonable steps to bring the Trader's attention to its intention to sell the Consignment before doing so.
- (d) The liens provided by clause (a) hereof shall be exercisable against the Trader and all other persons interested in the Consignment or any part thereof or any documents relating to such Consignment, and are exercisable to recover monies, charges and expenses due from one or more of any such persons. Freightliner shall not incur any liability whatsoever to whomsoever arising out of or in connection with the exercise of a lien or the sale of any Consignment or documents relating thereto under sub-clauses (a), (b) and (c) hereof.
- Liability for loss, mis-delivery, damage or delay 15. (a) The Sender shall save harmless and keep Freightliner indemnified from and against all claims, demands, liabilities (whether arising in contract, tort or otherwise) damages, losses (including direct, indirect or consequential losses), costs and expenses (including legal costs and expenses on an indemnity basis) by whomsoever they are made, greater than or in addition to the liability of Freightliner under these conditions.
- (b) Without limiting the foregoing the Sender shall indemnify Freightliner against all claims, demands, liabilities (whether arising in contract, tort or otherwise) damages, losses (including direct, indirect and consequential losses), costs and expenses (including legal costs and expenses on an indemnity basis) (the "Demands") made by any Sub-contractor, or by any servant or agent of Freightliner or of any Sub-contractor, or by any other person whatsoever at any time concerned with any Consignment or Container or with the services the subject of the Contract, whether or not the Demand shall arise out of any claim made directly or indirectly by the Trader against any such Sub-contractor, servant, agent or other person.
- (c) The Sender hereby expressly undertakes to be responsible for and to indemnify Freightliner against all claims, demands, liabilities (whether arising in contract, tort or otherwise), damages, losses (including direct, indirect or consequential losses), costs and expenses (including legal costs and expenses on an indemnity basis) arising out of or in connection with any non compliance by the Trader with any of these Conditions.
- 16.1 Subject to these Conditions Freightliner shall be liable for loss or mis-delivery of or damage or delay in respect of the Consignment or any part thereof occurring or caused, otherwise than during storage as defined by Condition 12 above, unless and except in so far as such loss or mis-delivery or damage or delay has arisen or resulted from:
- (a) Act of God;
 - (b) Any consequence of war, invasion, act of foreign enemy, hostilities, civil war, rebellion, insurrection, military or usurped power or confiscation, requisition, destruction of or damage to property by or under the order of any Government or public or local authority, restraint of princes (including administrative or government action);
 - (c) Seizure, arrest or forfeiture under legal process;
 - (d) Error, act, omission, mis-statement or misrepresentation by the Trader or other owner of the Consignment or by servants or agents of either of them;
 - (e) Inherent liability to wastage in bulk or weight, latent defect or inherent defect, vice or natural deterioration of the Consignment or any part thereof;
 - (f) Insufficient or improper packing, stowage or securing;
 - (g) Insufficient or improper labelling or addressing;
 - (h) Riot, civil commotion, strikes, lockouts, or other industrial action or trade union disputes, stoppage or restraint of labour from whatever cause;
 - (i) The consignee not taking or accepting delivery within a reasonable time;
 - (j) Delay otherwise than during the course of storage except upon proof that such delay has been caused by the neglect or default of the Carriers;
 - (k) Terrorist activity;
 - (l) Explosion, fire, flood or inclement weather;
 - (m) Acts, restrictions, regulations, by-laws, refusals to grant any licences or permissions, prohibitions or measures of any kind on the part of any Governmental authority or agency;
 - (n) The description or particulars of any Consignment or other information (including without limitation the weight of any Consignment) furnished by the Trader or other owner of the Consignment or by servants or agents of either of them;
 - (o) The Trader instructing, requiring or otherwise providing Freightliner with no alternative but to subcontract its obligations under the Contract in whole or in part to a third party, provided that the third party is responsible for any such loss, mis-delivery, damage or delay;
 - (p) Any other circumstances beyond the reasonable control of Freightliner.

	16.2	(a)	Freightliner shall not incur liability of any kind in respect of a Consignment where there has been fraud on the part of the Trader;
		(b)	Where under this Condition Freightliner is not under any liability in respect of some of the factors causing the loss or mis-delivery or damage or delay, it shall only be liable to the extent that those factors for which it is liable under this Condition have contributed to the said loss or mis-delivery or damage or delay.
	16.3		Save as aforesaid Freightliner shall be under no liability whatsoever in connection with any Consignment or any instructions given to it.
Limits of Liability	17.	(a)	The liability (howsoever arising) of Freightliner to pay compensation in respect of any one Consignment shall in any case be limited in so far as the loss or mis-delivery or damage or delay howsoever sustained is in respect of: <ul style="list-style-type: none"> (i) a Container to a sum calculated at a rate of £1,500 per tonne gross weight of the Container and in so far as it is in respect of the whole contents of a Container or the whole of goods not in a Container to a sum calculated at a rate of £1,500 per tonne of such contents or goods each calculation to be made separately; (ii) part of the contents of a Container or part of goods not in a Container to the proportion of any sum ascertained separately in accordance with sub-clause (i) hereof for contents or goods which the value of the said part bears to the value of the whole of the contents or goods.
		(b)	Provided that: <ul style="list-style-type: none"> (i) nothing in these Conditions shall limit Freightliner's liability to a sum less than £10 in respect of any one Consignment; (ii) Freightliner shall be entitled to documentary proof of the weight and value of the whole Consignment, as well as of any part thereof to which the claim relates; (iii) nothing in these Conditions shall operate to limit Freightliner's liability in respect of any death or personal injury to any person resulting from Freightliner's negligence.
		(c)	Freightliner shall not in any case be liable for loss of use of or payment of hire on or demurrage on Containers and/or vehicles or for additional labour costs howsoever arising and for whatever incurred or for loss of a particular market whether held daily or at intervals or for loss of profit or increased losses or floss of business or for any indirect or consequential loss or damage of whatsoever kind.
		(d)	If the Trader is permitted to leave any tractor unit, trailer, or other property of whatever nature (other than the Consignment) it is agreed that such property is left at the Trader's own risk. Freightliner accepts no responsibility for any loss or damage of whatsoever nature and howsoever caused to such goods.
		(e)	Unless otherwise agreed, the Carrier will effect restitution of Containers to an agreed delivery point no later than 14 days after the Consignment has been delivered. Freightliner's liability arising out of or in connection with the late restitution of Containers shall not exceed: <ul style="list-style-type: none"> (i) the monetary loss suffered by the Trader as a direct result of any late restitution by the Carrier; or (ii) the market value of the Container on the date when transit commenced within the meaning of Clause 11 hereof; or (iii) A sum equivalent to £1,500 per tonne of the gross weight of the Container; <p>Whichever is the lesser amount.</p>
		(f)	Freightliner shall be entitled to documentary proof of the monetary loss, market value and gross weight, as referred to at sub-clauses (e) (i) to (iii) above.
Time Limits	18.	(a)	Freightliner shall not be liable for loss, mis-delivery, damage or delay to the whole or any part of the Consignment or for any other claim whatsoever, unless a written claim is submitted to Freightliner within 14 days of the date upon which the Trader became or ought to have become aware of any event or occurrence alleged to give rise to such liability or claim.
		(b)	Provided that if in any particular case the claimant proves that: <ul style="list-style-type: none"> (i) it was not reasonably possible to advise Freightliner or submit a claim in writing within the aforesaid times; and (ii) such claim was submitted within a reasonable time; and (iii) there has been no prejudice caused to Freightliner as a result of the delay; <p>Freightliner shall not have the benefit of sub-clause (a).</p>
		(c)	Notwithstanding the provisions set out in sub-clauses (a) and (b) above, Freightliner shall in any event be discharged of all liability whatsoever and howsoever arising in respect of the Consignment unless suit be brought and written notice thereof be given to Freightliner within 1 year of the date when transit commenced within the meaning of Clause 11 hereof.
Computation of time	19.		In the computation of time where any period provided by these Conditions is 7 days or less, Saturdays, Sundays and Public Holidays shall not be included.
Other published Regulations	20.		The Consignment is carried or stored subject to any other published bye-laws and regulations of Statutory force affecting directly or indirectly carriage or storage by Freightliner for the time being in force and in the event of conflict between such bye-laws and regulations and these Conditions the said bye-laws and regulations shall prevail.
Service of Notice	21.		Any notice to either the Sender or the Trader relating to any Consignment or part thereof or required by or referred to in any of the provisions of these Conditions shall be conclusively regarded as served on the Sender or Trader if the same has been sent by post to the Sender at the Sender's last known address. Such service shall be treated for all purposes as having been effected on the Sender or Trader at the time when such notice would in the ordinary course of post have been delivered at the Sender's last known address.
Consignments in Bond	22.		The Sender will indemnify the Carriers against any claims made upon them by the HM Revenue & Customs in respect of any dutiable Consignments delivered to the Carriers while in bond.
Application of these Conditions	23.		All carriage, storage, the provision of Containers and all other services are undertaken and performed by Freightliner on the basis of these Conditions and no servant or agent of Freightliner has any authority to vary or waive these Conditions or any part thereof.
Freightliner not a Common Carrier	24.		Freightliner is not a common carrier.
Law and Jurisdiction	25.		These Conditions and the Contract shall be governed by English law and any claim or dispute arising out of these Conditions or Contract shall be subject to the exclusive jurisdiction of the Courts of the United Kingdom.
Waiver	26.	(a)	Any failure or delay by Freightliner in exercising any right, power or remedy under these Conditions shall not in any circumstances impair such right, power or remedy nor operate as a waiver of it. The single or partial exercise by Freightliner of any right, power or remedy under these Conditions shall not in any circumstances preclude any other or further exercise of it or the exercise of any other right, power or remedy.
		(b)	Any waiver of a breach of or default under any of the terms of these Conditions shall not be deemed a waiver of any subsequent breach or default and shall in no way effect the other terms of these Conditions.
Severance	27.		If at any time any clause within these Conditions is found by any Court of competent jurisdiction to be wholly or partial illegal, invalid or unenforceable in any respect it shall not effect or impair the legality, validity or enforceability of the remaining clauses or remaining parts thereof.
Liability to Third Party Rail Operators	28.	(a)	Freightliner excludes all liability whatsoever (whether arising in contract, tort or otherwise) to whomsoever, arising out of or in connection with the use of Freightliner's Assets by any rail operator or other third party, which for the purposes of this clause excludes a Carrier.
		(b)	The rail operator or other third party, as referred to at Clause 28(a) above, shall save harmless and shall fully indemnify Freightliner against all claims, demands, liabilities (whether arising in contract, tort or otherwise), damages, losses (including direct, indirect or consequential losses), costs and expenses (including legal costs and expenses on an indemnity basis) suffered or incurred by Freightliner arising out of or in connection with the use of Freightliner's Assets by the rail operator or other third party.

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