

# PETER GREEN CHILLED

Peter Green Haulage Ltd, Leighton Lane, Evercreech, Shepton Mallet, Somerset, BA4 6LQ  
Telephone 44 (0) 1749 830824 Fax 44 (0) 1749 830825  
www.petergreenchilled.co.uk

PETER GREEN HAULAGE LTD

CONDITIONS OF CARRIAGE - EFFECTIVE 01/01/2016

PLEASE NOTE THAT THE CUSTOMER WILL NOT IN ALL CIRCUMSTANCES BE ENTITLED TO COMPENSATION, OR TO FULL COMPENSATION, FOR ANY LOSS AND MAY BE SUBJECT TO CERTAIN OBLIGATIONS AND INDEMNITIES. THE CUSTOMER SHOULD THEREFORE SEEK PROFESSIONAL ADVICE AS TO APPROPRIATE INSURANCE COVER TO BE MAINTAINED WHILE CONSIGNMENTS ARE IN TRANSIT

Peter Green Haulage Ltd (hereinafter referred to as "the Carrier") is not a common carrier and accepts goods for carriage only upon that condition and the Conditions set out below. No servant or agent of the Carrier is permitted to alter or vary these Conditions in any way unless expressly authorized in writing to do so by a Director, Principal, Partner or other authorized person. If any legislation is compulsorily applicable to the Contract and any part of these Conditions is incompatible with such legislation, such part shall, as regards the Contract, be overridden to that extent and no further.

## 1) Definitions

In these conditions:

"Customer" means the person or company who contracts for the services of the Carrier including any other carrier who gives a Consignment to the Carrier for carriage.

"Contract" means the contract of carriage between the Customer and the Carrier.

"Consignee" means the person or company to whom the Carrier contracts to deliver the Consignment.

"Consignment" means the goods, whether a single item or in bulk or contained in one parcel, package or container, as the case may be, or any number of separate items, parcels, packages or containers sent at one time in one load by or for the Customer from one address to one address.

"In Writing" includes, unless otherwise agreed, the transmission of information by electronic, optical or similar means of communication, including, but not limited to, facsimile, electronic mail or electronic data interchange (EDI), provided the information is readily accessible so as to be usable for subsequent reference.

## 2) Parties and Sub-Contracting

(1) The Customer warrants that he is either the owner of the Consignment or is authorised by such owner to accept these Conditions on such owner's behalf.

(2) The Carrier and any other carrier employed by the Carrier may employ the services of any other carrier for the purpose of fulfilling the Contract in whole or in part and the name of every other such carrier shall be provided to the Customer on request.

(3) The Carrier contracts for itself and as agent of and trustee for its servants and agents and all other carriers referred to in (2) above and such other carrier's servants and agents and every reference in these Conditions to the "Carrier" shall be deemed to include every other such carrier, servant and agent with the intention that they shall have the benefit of the Contract and collectively and together with the Carrier be under no greater liability to the Customer or any other party than is the Carrier hereunder.

(4) Notwithstanding Condition 2(3) the carriage of any Consignment by rail, sea, inland waterway or air is arranged by the Carrier as agent of the Customer and shall be subject to the Conditions of the rail, shipping, inland waterway or air carrier contracted to carry the Consignment. The Carrier shall be under no liability whatever to whomsoever and howsoever arising in respect of such carriage: Provided that where the Consignment is carried partly by road and partly by such other means of transport any loss, damage or delay shall be deemed to have occurred while the Consignment was being carried by road unless the contrary is proved by the Carrier.

## 3) Loading and Unloading –

(1) Unless the Carrier has agreed in writing to the contrary with the Customer:

(a) The Carrier shall not be under any obligation to any provide any plant, power or labour, other than that carried by the vehicle, required for loading or unloading the Consignment.



Unless otherwise agreed in writing, all goods are carried in accordance with the current PGH Ltd Conditions of Carriage and/or CMR, and all goods are stored in accordance with the current RHA Conditions of Storage.  
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- (b) The Customer warrants that any special appliance required for loading or unloading the Consignment which are not carried by the vehicle will be provided by the Customer or on the Customer's behalf.
- (c) The Carrier shall be under no liability whatsoever to the Customer for any damage whatever, however caused, if the Carrier is instructed to load or unload any Consignment requiring special appliances which, in breach of the warrant in (b) above, have not been provided by the Customer or on the Customer's behalf.
- (d) The Carrier shall not be required to provide service beyond the usual place of collection or delivery but if any such service is given by the Carrier it shall be at the sole risk of the Customer.

(2) The Customer shall indemnify the Carrier against all claims and demands whatever which could not have been made if such instructions as are referred to in (1) (c) of the Condition and such service as is referred to in (1) (d) of this Condition had not been given.

#### 4) Signed Receipts

The Carrier shall, if so required, sign a document prepared by the sender acknowledging the 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 and the burden of proving the condition of the Consignment on receipt by the Carrier and that the Consignment was of the nature, quantity or weight declared in the relevant document shall rest with the Customer.

#### 5) Transit -

- (1) Transit shall commence when the Carrier takes possession of the Consignment whether at the point of collection or at the Carrier's premises.
- (2) Transit shall (unless otherwise previously determined) end when the Consignment is tendered at the usual place of delivery at the Consignee's address within the customary cartage hours of the district: 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 (or by telephone if previously agreed in writing) of the arrival of the Consignment at the Carrier's premises has been sent to the Consignee; and
  - (b) when for any other reason whatever 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 and removed within a reasonable time, then transit shall be deemed to end.
- (3) The Carrier's services offered are 'Shared User' thus products 'In Transit' may form a diverse range from Meat to Dairy to Chilled Drinks or goods with Allergens for example. The Carrier reserves the right to decline for distribution product which is either tainted, odorous or unsuitable for Shared User. There is no segregation of products within particular temperature regimes.

#### 6) Carrier's Charges

- (1) The Carrier's charges shall be payable by the Customer without prejudice to the carrier's rights against the Consignee or any other person: Provided that when any Consignment is consigned 'carriage forward' the Customer shall not be required to pay such charges unless the consignee fails to pay after a reasonable demand has been made by the Carrier for payment thereof. Where the Consignment is consigned 'carriage forward' the Customer shall before consignment forward signed documentation from the consignee accepting any and all charges relating to the carriage of that Consignment.
- (2) Charges shall be payable when due without reduction or deferment on account of any claim, counterclaim or set-off. If the Customer becomes insolvent or any sums owed by the Customer on any invoice or account with the Carrier becomes overdue for payment, any credit terms shall be cancelled with immediate effect and all invoices or accounts issued by the Carrier shall immediately be deemed due for payment and thereupon become payable. The Late Payment of Commercial Debts (Interest) Act 1998, as amended, shall apply to all sums due from their customer.

#### 7) Liability for Loss and Damage



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(1) The Customer shall be deemed to have elected to accept the terms set out in (1) and (2) of this Condition unless, before the transit commences, the Customer has agreed in writing that the Carrier shall not be liable for any loss or mis-delivery of or damage to or in connection with the Consignment however or whenever caused and whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of the Carrier, its servants, agents or sub-contractors. The Carrier shall be under no liability whatsoever for subsequent loss or mis-delivery of part of the Consignment or for loss of Consignments fewer than 5 cases in size, where the consignee declines to sign delivery documentation at the end of transit. The Carrier shall be under no liability whatever to provide proof of delivery where the Consignee declines to sign delivery documentation at the end of transit, including 'drop & drive' deliveries, providing that the Carrier has made reasonable efforts to obtain such signed documentation.

The Carrier shall be under no liability to return damaged, out of date or rejected consignments, be they in full or part, providing that the Carrier has taken reasonable steps to obtain and return such consignments. The Carrier shall be under no liability for any consequential loss of value of a returned consignment, or fines & penalties levied by the Consignee.

The Carrier shall be liable for pallet quantities of a Consignment only, unless the Carrier has order picked the Consignment, and under no circumstances shall be liable for the Consignment weight, either displayed on the Consignment or its documentation.

The Carrier shall be under no liability whatever for indirect or consequential losses with respect to the Consignment, including loss of sales, loss of profit, or late delivery penalties.

Electronic reports are provided by The Carrier to the Customer in good faith but the Carrier shall be under no liability for the correctness of those reports or the electronic availability of them

The Carrier shall be under no liability whatever to return pallets to the Consignor, except where these are in a Carrier approved pallet control system such as CHEP.

(2) Subject to these Conditions the Carrier shall be liable for:

(a) Physical loss, mis-delivery of or damage to the Consignment unless the same has arisen from, and the Carrier has used reasonable care to minimize the effects of:

(i) Act of God.

(ii) Any consequences of war, invasion, act of foreign enemy, hostilities (whether war or not), civil war, rebellion, insurrection, terrorist act, military or usurped power or confiscation, requisition, or destruction or damage by or under the order of any government or public or local authority.

(iii) Seizure or forfeiture under legal process.

(iv) Error, act, omission, mis-statement or misrepresentation by the Customer or other owner of the Consignment or by servants or agents of either of them.

(v) Inherent liability to wastage in bulk or weight, fault design, latent defect or inherent defect, vice or natural deterioration of the Consignment.

(vi) Insufficient or improper packaging or pallet wrapping.

(vii) Insufficient or improper labeling or addressing.

(viii) Riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour from whatever cause.

(ix) Consignee not taking or accepting delivery within a reasonable time after the Consignment has been tendered.

(3) The Carrier shall not in any circumstances be liable for loss or damage arising after transit is deemed to have ended within the meaning of Condition (5)(2) hereof, whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of the Carrier, its servants, agents or sub-contractors.

## 8) Fraud

The carrier shall not in any circumstances be liable in respect of a Consignment where there has been fraud on the part of the Customer or owner, or the servants or agents of either, in respect of that Consignment, unless the fraud has been contributed to by any complicity of the Carrier or of any servant of the Carrier acting in the course of his employment.



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## 9) Limitation of Liability

1) Except as otherwise provided in these conditions, the liability of the Carrier in respect of claims for physical loss, mis-delivery of or damage to goods comprising the Consignment, howsoever arising, shall in all circumstances be limited to the lesser of

(a) The cost value of the goods actually lost, mis-delivered or damaged, not the sale value;

or

(b) The cost of repairing any damage or of reconditioning the goods;

or

(c) a sum calculated at the rate of £1300 Sterling per tonne on the gross weight of the goods actually lost, mis-delivered or damaged shall be taken to be their invoice value if they had been sold and shall otherwise be taken to be the replacement cost thereof to the owner at the commencement of transit, and in all cases shall be taken to include any Customs and Excise duties or taxes payable in respect of those goods: Provided that:

(i) in the case of loss, mis-delivery of or damage to a part of the Consignment the weight to be taken into consideration in determining the amount to which the Carrier's liability is limited shall be only the gross weight of that part regardless of whether the loss, mis-delivery or damage affects the value of other parts of the Consignment.

(ii) Nothing in this Condition shall limit the liability of the Carrier to less than the sum of £10.

(iii) the Carrier shall be entitled to proof of the weight and value of the whole of the Consignment and of any part thereof lost, mis-delivered or damaged;

(2) The liability of the Carrier in respect of claims for any other loss whatsoever (including indirect or consequential loss or damage and loss of market), and however arising in connection with the Consignment, shall not exceed the amount of the carriage charges in respect of the Consignment or the amount of the claimant's proved loss, whichever is the lesser.

(3) It is the responsibility of the Customer to insure their goods to any value higher than that laid out in £1300.00 per tonne, as laid out in 9.1c.

## 10) Indemnity to the Carrier

The customer shall indemnify the Carrier against:

(1) all liabilities and costs incurred by the Carrier (including but not limited to claims, demands, proceedings, fines, penalties, damages, expenses and loss of or damage to the carrying vehicle and to other goods carried) by reason of any error, omission, mis-statement or misrepresentation by the Customer or other owner of the Consignment or by any servant or agent of either of them, insufficient or improper packing, wrapping, labeling or addressing of the Consignment or fraud as in (8).

(2) all claims and demands whatsoever (including for the avoidance of doubt claims alleging negligence), by whomsoever made and howsoever arising (including but not limited to claims caused by or arising out of the carriage of Dangerous Goods and claims made upon the Carrier by HM Customs and Excise in respect of dutiable goods consigned in bond) in excess of the liability of the Carrier under these Conditions in respect of any loss or damage whatsoever to, or in connection with, the Consignment whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on any part of the Carrier, its servants, agents or sub-contractors.

## 11) Time Limit for Claims

(1) The Carrier shall not be liable for:

(a) damage to whole or any part of the Consignment, or physical loss, mis-delivery or non-delivery of part of the Consignment unless advised thereof in writing within seven days, and the claim is made in writing within fourteen days, after the termination of transit;

(b) Any other loss unless advised thereof in writing within twenty-eight days, and the claim is made in writing within forty-two days, after the commencement of transit.

Provided that if the Customer proves that,

(i) It was not reasonably possible for the Customer to advise the Carrier or make a claim in writing within the time limit applicable, and



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(ii) Such advice or claim was given or made within a reasonable time,

The Carrier shall not have the benefit of the exclusion of liability afforded by this Condition. Claims relating to the lack of a proof of delivery must be made within 42 days of the end of transit or the requested delivery date.

(2) The Carrier shall in any event be discharged from all liability whatsoever and howsoever arising in respect of the Consignment unless suit is brought within one year of the date when transit commenced.

(3) In the computation of time where any period provided by these Conditions is seven days or less, Saturdays, Sundays and all statutory public holidays shall be excluded.

## 12) Lien

(1) The Carrier shall have a general lien against the Customer, where the Customer is the owner of the Consignment, for any monies whatever due from the Customer to the Carrier. If such a lien is not satisfied within a reasonable time, the Carrier may, at its absolute discretion sell the Consignment, or part thereof, as agent for the Customer and apply the proceeds towards the monies due and the expenses of the retention, insurance and sale of the Consignment and shall, upon accounting to the Customer for any balance remaining, be discharged from all liability whatever in respect of the Consignment.

(2) Where the Customer is not the owner of the Consignment, the Carrier shall have a particular lien against the said Owner, allowing the Carrier to retain possession of the consignment against any monies due from the Customer for the Consignment. If such a lien is not satisfied within a reasonable time after notification to the Customer and the Owner the Carrier may at its discretion sell the Consignment and deal with the sale proceeds as specified in 12(1) above.

## 13) Unreasonable Detention -

The Customer shall be liable to pay demurrage for unreasonable detention of any vehicle, trailer, container or other equipment but the rights of the Carrier against any other person in respect thereof shall remain unaffected.

## 14) Law and Jurisdiction

The Contract shall be governed by English law and United Kingdom courts alone shall have jurisdiction in any dispute between the Carrier and the Customer.

By using the warehousing and distribution services of the Carrier, the Customer shall be deemed to have elected to accept these Terms and Conditions.



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