

# General Conditions for the carriage of freight

**IMPORTANT-** The present text is a free translation from the French version. Only the text in French is authentic and in the case of any dispute the text in French alone shall prevail.

## 1. Definitions

In these General Conditions, the terms "Sea Carrier", "Shipper", "Vehicle", "Abnormal Load", "Heavy Load", "Brussels Convention" and "Hazardous cargo" shall have the following meanings:

"Sea Carrier" means BAI SA (trading as Brittany Ferries), whose registered office is situated at Port du Blou, 29688 Roscoff, as well as any co-contractors to whom BAI SA may have recourse for the performance of the contract of carriage.

"Shipper" means the shore based carrier who owns or sub-contracts the Vehicle, the owner, shipper and receiver of the goods or live animals placed inside the Vehicle, as well as the freight forwarder, the haulage contractor and any person to whom the Shipper or his representative may have recourse for the performance of the contract of carriage.

"Vehicle" means any conveyance which rolls or is capable of being towed, accompanied or not by a driver, and all containers, pallets and other means of carriage, as well as the goods which are placed or contained therein.

"Abnormal Load" is defined as all Vehicles with a length in excess of 19 metres, and / or width in excess of 2.60 metres, and/or height in excess of 4.20 metres.

"Heavy Load" is defined as any Vehicles in excess of 50 tons.

"Brussels Convention" means the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading signed at Brussels on August 25<sup>th</sup> 1924, the Protocol signed at Brussels on February 23<sup>rd</sup> 1968 (Hague-Visby Rules) and the Protocol signed at Brussels on December 21<sup>st</sup> 1979.

"Hazardous Cargo" means the products covered by the IMDG code.

## 2. The contract of carriage – parties to the contract

The contract of carriage is deemed to exist from the moment the Sea Carrier receives, by any means, a freight booking from the Shipper. The Shipper waives any right to demand from the Sea Carrier the issuance of a bill of lading.

## 3. Applicable law

This contract is governed by the Brussels Convention. It is also governed by French law and the following terms, to the extent that these derogate from or supplement the Brussels Convention. The conveyance of a driver, or any person accompanying the cargo is subject to the passenger conditions of transport of BAI SA. These conditions of transport of passengers are in turn governed by the provisions of the Convention of Athens and of the French Code of Transport, which allows for limits of responsibility notably in case of death, injury, loss or damage to vehicles or contents. Limits of responsibility are also fixed for valuable cargo. Passenger conditions of transport are available on the website: [www.brittanyferries.com](http://www.brittanyferries.com).

## 4. Freight

Freight is payable in full at the time of booking unless a credit facility has been agreed. Freight is payable in any event including where the Shipper has not presented the Vehicle for loading (no-shows or cancellations) and where delivery of the Vehicle by the Sea Carrier at the port of discharge is delayed. Freight is non-returnable in any event.

The services provided by the Sea Carrier are reserved for the Shipper who made the booking and shall not be assigned under any circumstances to a third party without the prior written consent of the Sea Carrier. In that case, the Shipper who made the booking undertakes that the third party has known and accepted these general conditions.

In case of unauthorised transfer of the services provided by the Sea Carrier to a third party, the Sea Carrier may, at its discretion, cancel the Shipper's credit facilities and/or privileged rates and in particular may retrospectively apply the full price to the services in question. The Sea Carrier may also terminate the contract and the Shipper alone will be held liable for this termination. All amounts due by the Shipper shall then become immediately payable. The Shipper who made the booking shall remain in any case directly liable for all amounts due in relation to the services provided by the Sea Carrier, regardless of whether these services are used by the Shipper or a third party. Furthermore, the Shipper who made the booking shall remain liable for losses sustained by the Sea Carrier and resulting from the act or fault of the third party.

## 5. Shipper's duties

**a. Prior notice (Hazardous Cargoes, Abnormal Loads, Heavy loads and live animals):** the carriage of Hazardous Cargoes, Abnormal Loads, Heavy loads and live animals is subject to the receipt by the Sea Carrier of a prior notice advising of the nature of cargo. This notice shall be received by the Sea Carrier at least 24 hours before the scheduled departure date (7 days for live animals). The Sea Carrier is entitled to refuse the carriage if the notice is not received within the prescribed period or if for operational reasons the Vehicle cannot be loaded on the intended crossing. No refund shall be due in such a case.

**b. Loading:** the driver of the Vehicle should report to check-in equipped with transport documents (CMR...) and valid passport, one hour prior to the scheduled sailing time, in the case of an accompanied Vehicle; in the case of unaccompanied Vehicles, Abnormal

Loads and Heavy Loads at least two hours prior to scheduled sailing time. He should then drive the Vehicle to the area on the terminal as designated by the Sea Carrier. The driver and his vehicle shall submit themselves to all controls and/or searches performed by the authorities and/or the Sea Carrier. In case of refusal, or if the authorities do not authorise the Vehicle and/or the driver, the Sea Carrier shall be entitled to refuse the loading (without refund).

**c. Hazardous or polluting cargoes:** In the case of Hazardous or polluting cargo, the driver should report at least two hours prior to scheduled sailing time. The Shipper will send to the Sea Carrier, 24 hours beforehand all details, of which he will guarantee their content, concerning the Vehicle, stowing conditions, the IMDG class of the hazardous cargo, and all other information required by that IMDG specification. The Vehicle shall be fitted with all marks and warning notices, as required by regulation.

The carriage shall be at Shipper's sole risks and the Sea Carrier shall not be liable for losses or delays resulting from the dangerous nature of the goods. The Shipper further undertakes to indemnify the Sea Carrier for all and any liability, loss, damage and/or expense whatsoever suffered by the Sea Carrier and/or any third party in connection with the goods.

**d. Connection to electricity supply:** the Shipper should mention any requirement to connect the Vehicle to the ship's electricity supply. Refrigerated Vehicles will not be able to run their diesel compressor motors during the crossing. Providing that the Vehicle has the appropriate characteristics compliant with the electricity on board, the Shipper can request an electrical connection. This operation will be assisted by the ship's crew, but under the responsibility and control of the driver. The latter will assure by his own means the correct functioning for the whole crossing of the Vehicle connections, and of the adequate tuning of the connection, notably the appropriate temperature for the Vehicle. The driver must be escorted to the Vehicle by a member of the ship's crew. If the Vehicle is loaded on the upper deck, the electrical connection will be possible dependant on the number of available connections, and the arrival time of the Vehicle.

**e. Inspection of the Vehicle:** the driver should be at the Sea Carrier's disposition, from arrival on the terminal, during loading on board, during the crossing, and until off-loading on the terminal at the port of destination. It is the driver's obligation, in particular, to participate in the vehicle inspection, both at port of loading and off-loading. If the driver is absent, or when the Vehicle is not accompanied by a representative of the Shipper when the inspection takes place, the inspection shall be deemed to have taken place in the presence of the Shipper and the inspection report which shall be drawn up will be deemed to be irrefutable evidence of the condition of the Vehicle at the time of the inspection.

**f. Duty to take delivery:** the Shipper shall take delivery of the Vehicle as soon as it is placed at his disposal, even if this occurs outside normal office hours and notwithstanding any local custom of the port. The Sea Carrier is not under any obligation to notify the Shipper of the arrival of the vessel.

**g. Live animals:** the transport of live animals is subject to regulations in force and to commercial conditions, details of which can be obtained from the Sea Carrier's freight sales department. The freight sales department will confirm whether the Sea Carrier can accept or otherwise a reservation for a shipment of live animals. Where live animals are being transported, the Shipper warrants that it complies with all regulations applicable at the ports of loading and discharge. The Shipper is at all times responsible for the transportation of the animals and is in charge of their welfare in accordance with the EC regulation 1/2005 relating to the Protection of Animals during Transport and/or National legislations, if and as applicable.

**h. Stowaways:** the Shipper guarantees to the Sea Carrier that the Vehicle does not contain any stowaways when it is received into the Sea Carrier's charge. The Shipper further warrants that any person allowed on board the vessel with the Vehicle is in possession of documentation requested by Customs, Health, Immigration, or other authorities of the States where the vessel calls.

**i. Information regarding the Vehicle and the Shipper:** the Shipper shall be deemed to have guaranteed to the Sea Carrier the accuracy of all of the information that he provides in relation to the Vehicle. The Shipper shall provide any further information, the accuracy of which he shall also be deemed to have guaranteed, which the Sea Carrier may be required to provide to the public authorities of the port of loading or discharge.

**j. Safety and security instructions:** the Shipper warrants that the driver and any person allowed on board the vessel with the Vehicles will comply with all instructions given by the Sea Carrier.

## 6. Receipt of the Vehicle by the Sea Carrier

**a. Vehicle accompanied by a driver:** subject to article 8 (b) below, the Sea Carrier is deemed to receive the Vehicle into its charge from the moment the Vehicle passes the vessel's door.

**b. Unaccompanied Vehicle:** the Sea Carrier is deemed to receive the Vehicle into its charge from the moment that it is taken in tow by the Sea Carrier on the quayside at the port of loading.

## 7. Delivery of the Vehicle by the Sea Carrier

a. **Vehicle accompanied by a driver:** delivery of the Vehicle is deemed to take place at the latest when the Vehicle passes the vessel's door.

b. **Unaccompanied Vehicle:** delivery is deemed to take place when the Vehicle is deposited onto the quayside after being towed there by the Sea Carrier

## 8. Responsibility of the Sea Carrier

a. **Period of responsibility of the Sea Carrier:** The Sea Carrier shall only be liable from the moment that the Vehicle is received into its charge until the Vehicle is delivered, as defined in clauses 6 and 7 above. Under no circumstances shall the Sea Carrier be liable for loss or damage occurring before the Sea Carrier receives the vehicle into its charge or after the Sea Carrier delivers the Vehicle.

b. **Exceptions from liability:** the Sea Carrier shall be entitled to benefit from all of the exceptions from liability set out in the Brussels Convention. It is furthermore understood that the Sea Carrier shall not be liable to indemnify loss or damage occurring when the Vehicle is in the care of the driver and in particular whilst the Vehicle is being driven inside the vessel, all loss and damage occurring at such time being deemed to have been caused by an act or fault of the Shipper. In no circumstances shall the Sea Carrier be liable for loss or damage resulting from a failure in the electrical supply provided by the vessel irrespective of the cause and/or duration of such failure.

c. **Limitation of liability:** the Sea Carrier shall only be liable for material loss or damage to the Vehicle itself and shall not be liable in respect of any other loss or damage, direct or indirect, such as loss of earnings or penalties for delay which may result from such material loss or damage. Unless the value of the Vehicle was declared by the Shipper at the time when the contract of carriage was concluded and the declared value appears on the embarkation ticket, neither the Sea Carrier nor the vessel shall be liable for loss or damage to, or in connection with, the Vehicle in an amount exceeding the limits provided for in the Brussels Convention, namely 666,67 Special Drawing Rights (SDR) per package or unit or 2 SDR per kilo lost or damaged, it being understood and agreed that the Vehicle and the goods therein are deemed to constitute a single package.

d. **Delay:** the Sea Carrier does not undertake that the carriage will be performed within a specific period. Unless the delay is caused by inexcusable fault of the Sea Carrier, the Sea Carrier shall in no circumstances be liable for any loss or damage resulting from delay in performance of the contract of carriage, whether the delay be caused by the loading or transshipment of the Vehicle on board a vessel other than the one initially intended, by the increased duration of the sea passage or by the delivery operations at the port of discharge or any other cause.

e. **Carriage on open deck:** the Sea Carrier is expressly authorised to carry the Vehicle on deck without prior notice to the Shipper. The Sea Carrier shall not be liable for loss or damage to the Vehicle, howsoever caused, when the Vehicle is carried on deck.

f. **Live animals:** the Sea Carrier shall not be liable for loss or damage to live animals in accordance with article L5422-16 of French Code of Transports unless caused by inexcusable fault of the Sea Carrier. The Shipper expressly authorises the Sea Carrier to discharge in any place which the Sea Carrier deems fit, at the risk and expense of the Shipper, any live animals the discharge of which is refused by the authorities at the port of destination and to destroy any animals, at the risk and expense of the Shipper, which die or become sick during the maritime carriage or which represent a danger to the security of the voyage or crew. The Shipper undertakes to indemnify the Sea Carrier against all financial consequences the latter may sustain in connection with the shipment of live animals. Even though a reservation may have been confirmed for a shipment of live animals, the Sea Carrier reserves the right to cancel the reservation, especially in the event of bad weather or unfavourable sea conditions. In such a case, the Sea Carrier will refund the price of the ticket paid by the Shipper but will not be liable, under any circumstances, for any other costs.

## 9. Transfer of the Vehicle

The Sea Carrier may transfer the Vehicle to any vessel of its choice owned or otherwise by the Sea Carrier. Where such transfer is necessary by reason of loss or damage caused by one of the exceptions from liability provided for by the Brussels Convention, the entirety of the transfer costs shall be borne by the Shipper.

## 10. Shipper's responsibility

The Shipper shall be liable for all direct and indirect, material and immaterial, loss and damage suffered by the Sea Carrier, the vessel, the passengers and other Vehicles carried on board where the loss and damage is caused by an act of the Shipper, the Shipper's negligence, a fault of the Shipper or by the Vehicle, the driver and/or any person accompanying them. The Shipper expressly undertakes to indemnify the Sea Carrier for all losses suffered by the Sea Carrier by reason of the occurrence of such loss and damage and to indemnify the Sea Carrier in respect of any claims and liabilities to which the Sea Carrier may be exposed as a result of claims by third parties, passengers, or other Shippers. The Shipper shall be liable in the same circumstances mentioned in the preceding paragraph for all loss and damage suffered by the Sea Carrier and for all penalties, taxes or fines which may be imposed on the Sea Carrier by reason of a breach of any regulations or legislation, irrespective of the nature of those regulations or legislation, relating to the Vehicle, its exportation or importation in the country of destination or a breach by the Shipper of its obligations under these General Conditions.

## 11. Lien

The Sea Carrier shall have a lien on the Vehicle for the payment of freight, expenses incurred by the Sea Carrier for the account of the Shipper, transshipment and reshipment costs, penalties, taxes and fines mentioned in article 10 above and the lien shall exist irrespective of whether the sums due relate to the particular carriage in question or to a previous shipment or to an outstanding balance on a running account. The Sea Carrier may retain possession of the Vehicle unless the Sea Carrier prefers to sell it at the Shipper's expense in accordance with the applicable procedure at the port of loading or at the port of discharge.

## 12. General average

In the event of general average, the adjustment shall be drawn up at any place at the option of the Sea Carrier in accordance with the York-Antwerp Rules of 1994 as amended from time to time. In case of salvage services rendered to the vessel and the cargo, the Shipper agrees that the carrier may act as his agent to settle salvage remuneration, the amount of which he hereby agrees in advance.

## 13. Jurisdiction

All legal proceedings in relation to the performance of the contract of carriage or to the settlement of general average shall exclusively be brought before the commercial court of Brest, France, irrespective of whether the proceedings are third party indemnity proceedings or concern several co-defendants.

## 14. Personal data protection

The purpose of this clause is to set the conditions of the Sea Carrier's undertaking to comply with the regulations in force applicable to the processing of personal data and, in particular, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, applicable as from 25 May 2018.

The Sea Carrier is authorised to process the personal data necessary to provide the carriage.

The nature of the operations carried out on the data is the collection, safekeeping and transfer to third parties (authorities), in order to guarantee the execution of the present contract and the compliance with the Sea Carrier's legal duties.

The personal data processed is:

-the surname, first name, e-mail address, phone number and title of the Shipper's representatives

-the surname, first name, date of birth, nationality, passport/ ID card number, of the driver, and of persons accompanying the Vehicle. As the case may be, the Sea Carrier reserves its right to keep this data in a file of persons who are banned from access on board if their behaviour is believed to present a risk to safety.

The Shipper undertakes to advise its representatives, its drivers and the persons accompanying the Vehicle of the transfer of the data to the Sea carrier, and of the ways the latter may use it.

The Sea Carrier undertakes to:

1. process the data for the sole purpose(s) covered by this contract
2. guarantee the confidentiality of personal data processed under this contract
3. ensure that persons authorised to process personal data under this contract undertake to respect confidentiality or are subject to an appropriate legal duty of confidentiality
4. take into account data protection principles in relation to its tools, products, applications or services
5. respond to requests to exercise the rights of the persons concerned
6. implement the necessary security measures to protect the personal data transmitted to it by the Shipper
7. subject to legal retention obligations (and, if applicable, to the registration in the file of persons who are banned from access on board), destroy all personal data at the end of the provision of services relating to each data item.

## 15. Final provisions

These General Conditions are in force as from 23<sup>rd</sup> May 2018.

They apply to any action (whichever its legal basis) against the Sea Carrier.

The failure by the Sea Carrier to rely upon one or more of the provisions set out herein shall not constitute a waiver to rely upon the provisions.

If one or more provisions contained herein is/are declared invalid or unenforceable, this will have no effect upon the other provisions, which shall remain valid and binding upon the parties.

Roscoff, 23<sup>rd</sup> May 2018