

OPENING A BUSINESS ACCOUNT - TERMS AND CONDITIONS

DEFINITIONS

1. In these terms and conditions, unless the context otherwise permits or requires:

1.1 "F&KCS" means Fairway & Kenwood Car Service Ltd (company number: 05273163) whose registered office is at Suite 109

Atlas Business Centre, 1 Imex House, Oxgate Lane, London NW2 7HJ.

1.2 "The Carrier" means (whether in regard to carriage, storage or otherwise) F&KCS, including its officers, employees, agents and representatives, and its sub-contractors together with their officers, employees, agents and representatives or any of them.

1.3 "Collection Point" means the address at which any Consignment and/or passenger is to be collected or received by the Carrier.

1.4 "Consignment" means any communication, parcel, package, envelope, letter or any number of separate communications, parcels, packages, envelopes, letters and/or other similar items (together with their contents) sent at any one time, in one load, at the request of the Customer from any one Collection Point to any one Delivery Point.

1.5 "The Customer" means any person or persons requesting F&KCS to transport a Consignment or Consignments and/or passengers and includes any officer, employee, agent, representative or sub-contractor of any such person or persons.

1.6 "Dangerous Goods" means any goods which are specified in the special classification of dangerous goods issued by English Welsh and Scottish Railways, goods included in the list of dangerous goods as defined in the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and use of Transportable Pressure Receptacles Regulations 1996, the Classification and Labelling of Explosives Regulations 1983, goods which are or may, in the sole opinion of the Carrier, be noxious, dangerous, hazardous, inflammable or explosive and goods of a similar nature or which present or may present a comparable hazard.

1.7 "Delivery Point" means the address to which any Consignment and/or passenger is to be delivered by the Carrier including any alternative Delivery Point specified by the Customer under clause 8.1 below.

1.8 "Journey" means a journey undertaken by a Carrier for or on behalf of a Customer.

1.9 "Terms" means these terms and conditions and any special terms and conditions agreed in writing between the parties.

1.10 Words importing the masculine gender include the feminine and words importing the singular include the plural and, in each case, vice versa.

ACCEPTANCE OF TERMS AND CONDITIONS

2.1 Any business undertaken by F&KCS or any information, advice or service supplied by F&KCS, (whether charged for or not) is undertaken or provided subject to these Terms which shall be the terms of any contract for delivery of Consignments and/or passengers between F&KCS and the Customer.

2.2 These Terms, subject to and together with any variation agreed in writing between a director of F&KCS and the Customer, shall constitute the entire contract between F&KCS and the Customer and shall override or supersede any previous agreement or arrangement between F&KCS and the Customer and, in particular, shall operate to the exclusion of any terms and conditions at any time imposed by the Customer. On acceptance by F&KCS of any booking to carry any Consignment and/or passenger the Customer shall be deemed to have accepted these Terms.

2.3 The Customer acknowledges that it has not entered into this Agreement relying upon any representation made by or on behalf of F&KCS and without prejudice to the generality of the foregoing,

the Customer has not relied upon any correspondence, statement or sales literature issued by or on behalf of F&KCS.

3. F&KCS is not a common carrier and will only carry Consignments and/or passengers subject to these Terms. F&KCS reserves the right at its absolute discretion to refuse to accept the Consignment or part thereof and/or any passenger for delivery.

PARTIES

4.1 F&KCS may engage agents, representatives and/or sub-contractors to perform all or any part or parts of a delivery and F&KCS enters into this Agreement for itself and on behalf of such agents, representatives and/or sub-contractors, all of whom shall have the benefits of these Terms and who shall be under no liability to the Customer or anyone claiming through him greater than or in addition to that of F&KCS under this Agreement and the Customer agrees with F&KCS that no claim shall be made against such agents, representatives and/or sub-contractors in addition to or in excess of the limitation and/or exclusions of liability as set out in these Terms.

4.2 The Carrier shall be entitled to the benefits of all the provisions herein contained including but not limited to those which exclude or restrict liability of any kind or which provide F&KCS with an indemnity. F&KCS in entering into any agreement incorporating these Terms does so on its own behalf and as agent for the Carrier.

4.3 If the Consignment or any part thereof is not the Customer's own unencumbered property, he shall be deemed for the purposes of this Agreement and these Terms to be the agent of such owner or other interested party and warrants that he has the authority of all persons owning or having an interest in the Consignment or any part thereof to enter into this Agreement and bind them as well as himself by these Terms. The Customer shall indemnify F&KCS against and hold F&KCS harmless from any loss, damage or claim, cost or expense which F&KCS incurs directly or indirectly as a result of any want of authority of the Customer to enter into this Agreement on behalf of any party having an interest in the goods or any part thereof (including any packing materials).

4.4 In entering into any contract with F&KCS the Customer agrees and warrants that he does not contract or deal as a consumer notwithstanding any statutory or other definition of whatsoever nature to the contrary.

DANGEROUS GOODS

5. Without prejudice to the provisions of clause 3 above, the Customer acknowledges that F&KCS is under no obligation to accept Dangerous Goods or any Consignment containing or passenger carrying Dangerous Goods for delivery.

6.1 The Customer here by warrants that the Consignment does not constitute or contain Dangerous Goods, or any substance the possession, storage or delivery of which is a criminal offence or a breach of the provisions of any relevant statute, regulation or bye - law under the laws of any part of the United Kingdom or of any jurisdiction to or through which the Consignment is to be delivered or in which it may be stored.

6.2 The Customer here by agrees to indemnify F&KCS against and hold F&KCS harmless from any penalty, loss, damage, claim, cost or expense which F&KCS, its employees, agents, representatives or sub-contractors may incur directly or indirectly as result of any breach of the warranty given in clause 6.1 above.

DELIVERIES

7.1 A Journey shall commence at the time at which the Carrier collects the Consignment and/or passenger from the Collection Point (unless the Carrier is required to wait by the Customer, in which case a Journey shall be deemed to commence at the time at which the Customer booked F&KCS to collect the Consignment and/or passenger from the Collection Point). A Journey shall end when F&KCS delivers the Consignment and/or passenger to the Delivery Point (or to an alternative Delivery Point or returns the Consignment to the Collection Point in accordance with clause 8.1. A passenger shall be required to sign a delivery note for each journey in such form as F&KCS shall reasonably require.

7.2 Every Consignment and part consignment of goods shall be addressed and labelled clearly and accurately by the Customer and in accordance with F&KCS's requirements, if any, from time to time.

7.3 F&KCS shall use its reasonable endeavours to deliver the Consignment and/or passenger to the Delivery Point within the time specified by the Customer, if any, but time of delivery shall not be of the essence unless agreed by a director of F&KCS in writing upon or prior to the placing of the order by the Customer.

7.4 F&KCS shall take all reasonable steps to obtain a receipt from the consignee. Such receipt shall be conclusive evidence of the date, time and place of delivery but shall not be evidence as to the condition or of the correctness of the declared nature, quantity or weight of the Consignment at the time it is received by F&KCS.

7.5 Unless the consignee or his agent notifies F&KCS in writing of any loss or damage to the Consignment and the general nature thereof within 24 hours of the Consignment being delivered to the Delivery Point, F&KCS is deemed to have delivered the Consignment prima facie in the same order and condition as when received by it.

8.1 F&KCS shall make one attempt to deliver a Consignment and/or passenger to the Delivery Point. If the Consignment cannot be delivered F&KCS will have the option to either make a further attempt to deliver the Consignment and/or passenger to the Delivery Point or to deliver the Consignment to any other Delivery Point specified by the Customer or to return the Consignment to the Collection Point, in any event at the Customer's cost.

8.2 If delivery does not take place under the provisions of clause 8.1 other than by reason of any negligence or wilful default of F&KCS, its employees, agents, representatives or sub-contractors or if the Customer does not specify an alternative Delivery Point within 24 hours of being requested to do so by F&KCS, the Customer shall be liable to F&KCS for all storage charges incurred by F&KCS between the date on which delivery was first attempted and the date on which delivery is made or the Consignment is returned to the Collection Point under the provisions of clause 8.1 above or the date of sale of the Consignment under the provisions of clause 8.3 below (all dates to be inclusive).

8.3 If delivery does not take place under the provisions of clause 8.1 F&KCS shall be entitled to dispose of the Consignment or any part thereof at any time after giving the Customer 7 days written notice of its intention to do so.

8.4 F&KCS shall be under no obligation to deliver a Consignment or Consignments as a whole at any one time and shall be free in its absolute discretion to make more than one delivery or to deliver in parts.

MEANS OF TRANSPORT

9.1 Consignments and/or passengers accepted by F&KCS for carriage may be carried by such means of transport and by such route as F&KCS thinks fit and these Terms shall apply to whatever means or routes by which a Consignment and/or passenger is carried.

9.2 Consignments carried wholly or partly by water or air or rail shall, in connection with liability in respect of such carriage, be carried subject to the applicable conditions of carriage by water or air or rail of the carrier who carries such Consignments, such conditions of carriage to be read as though reference to the water or air or rail carrier were reference to F&KCS. In the absence of proof to the contrary, where Consignments are carried partly by land and partly by water or air or rail any loss, damage or delay shall be deemed, as between F&KCS and the Customer, to have occurred whilst the Consignments are carried by road.

LOADING AND UNLOADING

10. F&KCS shall not be under any obligation to provide any plant, equipment, machinery, power or labour which may be required for loading or unloading the Consignment and/or passenger at the Collection Point or the Delivery Point.

11. Any Consignment or part thereof and/or passenger requiring any special appliance or equipment for loading on to and/or unloading from any vehicle is accepted for carriage only on the condition that the

Customer has duly ascertained that such appliances or equipment are available at the Collection/Delivery Points and the Customer shall be responsible for the provision and cost of such appliances or equipment.

12. The employees, agents and representatives of F&KCS have no authority to operate or give assistance in the operation of any special appliance or equipment for loading and/or unloading any Consignment or part thereof and/or any passenger. Any assistance given by F&KCS beyond the usual act of collection and/or delivery (including without prejudice to the generality of the foregoing the provision of plant, machinery, equipment, power or labour for loading or unloading at the Collection or Delivery Points) shall be at the sole risk of the Customer who will indemnify and keep F&KCS indemnified against any damage, expense, loss, costs, claims or demands (including without limitation damage to the Consignment or to any property of the Customer, F&KCS, the consignee or any third party whether or not arising out of the negligence of F&KCS, its employees, agents or sub-contractors) arising directly or indirectly from the provision of such assistance.

LIABILITY FOR LOSS AND DAMAGE

13. F&KCS shall not be liable for any destruction or loss of, or damage to any Consignment or mis-delivery or non-delivery of any Consignment and/or passenger unless such destruction, loss, damage, mis-delivery or non-delivery has arisen from any wilful default by or grossly negligent act or omission of F&KCS, its officers employees, agents, representatives or sub-contractors.

LIMITATION OF LIABILITY

14.1 The liability of F&KCS to the Customer shall (a) in the case of liability arising from the destruction of or any loss or damage to any Consignment be limited to a sum equal to the carriage charges paid by the Customer to F&KCS together with the reasonable market or replacement value (whichever is the lower) of the Consignment and (b) in the case of liability for non-delivery or mis-delivery of any Consignment and/or passenger be limited to a sum equal to the carriage charges paid by the Customer to F&KCS; whether such destruction, loss or damage, non-delivery or mis-delivery arises by reason of breach of contract or negligence on the part of F&KCS or its employees, agents, representatives or sub-contractors or otherwise how so ever; Provided that:

14.1.1 The Customer shall be obliged to notify F&KCS in writing when or as soon as reasonably practicable after booking the delivery services of F&KCS (and, in any event, prior to collection of the Consignment and/or passenger) if the market or replacement value of the Consignment is in excess of £100 and, if the Customer fails to do so, the liability of F&KCS to the Customer (save in relation to personal injury or death) shall be limited to £100.

14.1.2 Except where the limitation in clause 14.1.1 applies, the liability of F&KCS shall in any case be limited to £250 in respect of anyone Consignment except where the Customer requests an overnight service for delivery to be made the following working day, in which case liability shall be limited to £200 per Consignment.

14.1.3 F&KCS shall not, in any case, be liable for any indirect, consequential or economic loss or damage incurred by the Customer or any third party.

14.1.4 F&KCS shall not be liable of any loss or damage to any Consignment that cannot be carried within lockable equipment provided by any vehicle requested by the Customer for delivery of such Consignments or if the Consignment is not properly packed or prepared for transit by the Customer in parcels, envelopes or packages suitable for the transit of goods, items or matters of the nature comprising the Consignment or any part thereof.

14.1.5 F&KCS shall be entitled to require the Customer to provide written evidence to its reasonable satisfaction of the value and replacement cost of the Consignment destroyed, damaged or lost.

14.1.6 F&KCS shall not be liable for the destruction or loss of or damage to or non-delivery or mis-delivery of any cash, notes, bonds, instruments, stamps, deeds, tickets, cheques, travellers cheques, jewellery, watches, precious metals, works of art, artwork, photographs, transparencies, negatives, passports or any other similar or valuable articles.

14.1.7 F&KCS shall not be liable for any loss or damage suffered by reason of:

(i) the failure of the Customer to properly address, parcel and pack the Consignment;

(ii) delivery of the Consignment in good faith at the Delivery Point to a person claiming to be the consignee or his or its

employee, agent, representative or sub-contractor;

(iii) any breach of the warranty given by the Customer in clause 6 above ;

(iv) the inability of F&KCS to perform its obligations due to any circumstance beyond the reasonable control of F&KCS

including (without prejudice to the generality of the foregoing) Act of God, climatic conditions, flood, any strike or lockout (whether partial or general), riot, civil commotion, state of hostilities, fire, seizure under legal process and any actor thing similar to any of the above .

14.1.8 F&KCS shall not be liable for any destruction or loss of or damage to any Consignment or for the non-delivery or misdelivery of any Consignment and/or passenger unless a claim is made upon F&KCS in writing identifying the nature of the claim and the amount claimed:

(i) within three days after completion of the delivery; or

(ii) in the case of destruction, loss, non-delivery or mis-delivery, within seven days of acceptance by F&KCS of the Consignment concerned.

14.1.9 F&KCS shall not be liable, in any event, for destruction or damage of any description unless the destroyed or damaged goods are made available by the Customer for inspection by F&KCS or its appointed representative when requested following the submission of a claim.

14.1.10 F&KCS shall, in any event, be discharged from all liability whatsoever in respect of the Consignment unless a claim is commenced within 1 year from the date of collection of the Consignment or any part of it by F&KCS.

14.1.11 F&KCS shall not be liable for any damage to or deterioration or perishing of goods of a perishable or fragile nature

(except where such damage, deterioration or perishing occurs by reason of any wilful default or gross neglect on the part of F&KCS, its employees, agents, representatives or subcontractors) or for reasonable wear and tear incurred during transit or storage .

14.1.12 F&KCS's liability for deliveries sub-contracted by F&KCS shall if greater than the limit referred to in clause 14.1.1 or 14.1.2 (as the case may be) be restricted to the amount recoverable by F&KCS and actually recovered (whether under any convention relating to international carriage of goods from time to time in force or otherwise) from the sub-contracted carrier chosen to deliver the Consignment.

14.2 The limits of liability referred to in clauses 14.1.1 and 14.1.2 may be increased subject to such supplementary terms as a director of F&KCS agrees in writing on payment of an additional charge, in which event an accurate description, the market value and replacement cost of the Consignment and any individual or separable parts of it must be declared by the Customer when making an order;

14.3 F&KCS and the Customer have freely and openly negotiated these Terms in the knowledge that the liability of F&KCS is to be limited in accordance with these Terms and the price charged by F&KCS has been calculated accordingly. The Customer acknowledges that a greater price would be payable but for such limitations.

14.4 A person who is not a party to this Agreement (save for any officer, employee, agent, representative or sub-contractor of F&KCS) has no right under the Contracts (Rights of Third Parties) Act 1999 ("the Act") to enforce or have the benefit of any Term but this does not affect any right or remedy of a third party which exists or is available apart from the Act.

CHARGES

15.1 F&KCS shall invoice the Customer on a weekly basis in respect of Journeys undertaken in the previous week (and, where appropriate, any previously unbilled Journeys, costs or charges). The Customer shall pay F&KCS's charges in accordance with F&KCS's current tariff of charges within thirty days from the date of F&KCS's invoice. F&KCS reserves the right to increase its charges at any time. The tariff of charges is available for inspection by the Customer, (and a copy will be provided on request), and the tariff shall be deemed to have been inspected by the Customer whether or not actually inspected.

15.2 At the time of opening an account F&KCS will set a limit on the total amount outstanding. F&KCS may refuse to accept any further business in the event of this limit being exceeded until payment is made in full. It will be the duty of the Customer to ensure that the use of the service is operated within the invoice limit. However F&KCS is not under a duty to the Customer to limit the service to the invoice limit and if, in their absolute discretion, F&KCS should continue to provide service over and above the invoice limit the full amount due to F&KCS shall be payable by the Customer notwithstanding that the invoice limit may have been exceeded.

15.3 F&KCS may at its absolute discretion with draw credit facilities at any time.

15.4 No quotation or estimate of charges given by F&KCS shall bind F&KCS unless expressed in writing to be a fixed quotation with a date to which such fixed quotation shall be valid in which case the quotation or estimate must be accepted by the Customer and delivery must take place prior to that date .

16. The Customer shall pay to F&KCS VAT on all monies due to F&KCS at the appropriate rate in force from time to time.

17. Unless paid within thirty days of the date of invoice, F&KCS shall be entitled to interest on any unpaid sum at the rate of four per cent above the base lending rate then prevailing of National Westminster Bank Plc per month computed from the date of any such unpaid invoice until the payment of such sum and computed on a daily basis both before and after judgement.

18. For the purpose of these Terms, the price stated in the current tariff of charges of F&KCS shall be deemed to be a basic price and any other expenses incurred by F&KCS on the Customer' s behalf (including gratuities) shall be added to such sum with VAT (where applicable) at the appropriate rate .

19. Any discount granted to the Customer by F&KCS in respect of its charges is granted on the basis that the Customer pays for F&KCS's services by the due date for payment. If the Customer fails to do so the discount shall not apply and F&KCS shall be entitled to invoice the Customer at F&KCS's then current tariff of charges.

20. Where the Customer requires F&KCS to collect or receive Consignments and/or passengers from more than one Collection Point or to deliver Consignments and/or passengers to more than one Delivery Point, transit between each Collection Point and each Delivery Point shall be treated as a separate Journey.

21. All monies due to F&KCS shall be payable in sterling in England.

22. F&KCS shall have a lien over any or all Consignments in respect of any unpaid invoices whether relating to a particular Consignment or otherwise and the Customer appoints the Carrier as its attorney and agent to sell or otherwise dispose of the same and to apply the net sale proceeds in reduction or extinguishment of the Customer's liability to F&KCS.

23. No payments due to F&KCS from the Customer shall be withheld by the Customer in respect of any claim or alleged claim by the Customer or the consignee against F&KCS how so ever arising and whether by way of set - off, counterclaim or otherwise.

24. The Customer agrees to indemnify F&KCS for all costs and expenses including legal fees and expenses on a Solicitor and own client basis in respect of the recovery of any outstanding amounts due under this Agreement.

CUSTOMER ACCOUNT

25. The Customer shall: 25.1 Take all reasonable measures to keep its F&KCS account number confidential and to ensure the proper use of its F&KCS account number and shall ensure that its officers, employees, agents and representatives comply with this clause and cease to use the Customer's account number promptly after the F&KCS account number ceases to be valid.

25.2 Not permit any person other than a proper and duly authorised person to use or to continue to use the F&KCS account number.

26. The Customer shall immediately notify F&KCS in writing on becoming aware that the Customer's F&KCS account number has been irregularly disclosed or any previous authorised person using such F&KCS account number has had his authority terminated.

27. The Customer shall pay to F&KCS all applicable charges not withstanding that some of the charges may relate to an unauthorised use of the F&KCS account number, how so ever arising, unless F&KCS has received notice in writing from the Customer of any of the circumstances as described in Clause 25 and the Customer proves that such charges were a direct consequence thereof.

GENERAL

28. Any waiver by F&KCS of any breach by the Customer of these Terms is limited to that particular breach. No delay by F&KCS in acting upon a breach shall be deemed a waiver.

29. F&KCS may from time to time amend these Terms and shall as soon as possible forward a copy of the same to the Customer. The Customer shall then have 21 days from the date of being sent such variations to decline the same and to Terminate the service but in the absence thereof they will be bound by such variations and shall not thereafter be entitled to dispute the same whether or not they apply to the rate of charging or otherwise.

30. Any notice to be served on either party shall be in writing delivered by hand or sent by prepaid post to the last known address of the addressee. It is the duty of each party to notify the other of the appropriate address and reference. The date of delivery of such notice shall be deemed to be the next working day after evidence of posting.

31. The terms contained in each clause or sub-clause of these Terms are separate and distinct and each may be enforced separately and the parties agree that if any clause or sub-clause shall be adjudged void or ineffective for whatever reason but would be adjudged valid and effective if part of the wording thereof were deleted, the clause or sub-clause shall apply with such modification as may be necessary to make it valid and effective and shall not invalidate any other Terms.

32. F&KCS reserves the right to record any telephone conversation with the Customer and to make use of any such recording in any proceedings.

33. These Terms shall be subject to the laws of England and the parties here by submit to the non-exclusive jurisdiction of the Courts of England and Wales.