

# GENERAL TERMS AND CONDITIONS FOR CARRIERS

UPDATED VERSION JULY 1<sup>ST</sup>, 2020

## 1 PRELIMINARY INFORMATION

### 1.1 Ontruck

**Ontruck LTD** is a limited company registered in England and Wales (Company number 10845075), whose registered office is at Leavesden Park, Suite 1, 5 Hercules Way, Watford, Hertfordshire, WD25 7GS (“**Ontruck**”, “**we**”, “**us**” or “**our**”).

### 1.2 Subject matter

These general terms and conditions (“**T&Cs**”) **constitute** a legally binding agreement between you and Ontruck governing your access to, and use of, the Service through the website [www.Ontruck.com/uk](http://www.Ontruck.com/uk) (the “**Website**”) and/or our app in iOS or Android format (the “**App**”) (the Website and App jointly being the “**Platform**”). The Ontruck Website Terms of Use (available at <https://Ontruck.com/uk/terms-and-conditions> ), Privacy Policy (available at <https://Ontruck.com/uk/privacy/>) and Cookies Policy accessible at <https://Ontruck.com/uk/cookies-policy/> also apply to your use of the Platform and Service and are incorporated by reference into these T&Cs.

We may revise these T&Cs at any time by amending this page. Please check this page from time to time to review any changes we make, **such** changes will be binding on the User from the date posted on this page, save that the version of the T&Cs available on the date a Carrier confirms its willingness to fulfil a Shipment Request and is contracted to perform a Shipment in accordance with clause 6.2 shall apply to the Shipment to which the Shipment Request relates.

## 2 DEFINITIONS

In these T&Cs, the following words **shall** have the following meanings:

### “Proof of Delivery”

Means the document, through which the parties to a Shipment record the necessary details of the Shipment are specified.

### “Carrier”

Means, in relation to any Shipment, the entity which, accepts the Shipment Request and assumes the responsibility for carrying out the Shipment.

### “Consignee”

Means, in relation to any Shipment, the entity to which the Carrier should deliver the Goods at the Destination in accordance with the relevant Shipment Request.

### “Consignor”

Means, in relation to any Shipment, the entity which, for and on behalf of the Shipper, delivers the Goods to, or makes, the Goods available for the collection by, the Carrier at the Loading Address in accordance with the relevant Shipment Request.

### “Destination”

Means, in relation to any Shipment, the address(es) at which the Carrier shall be obliged to deliver the Goods as specified in the relevant Shipment Request.

### “Expenses”

Means, in relation to any Shipment, any expenses or extras incurred by the Carrier in performing the Shipment which are reimbursable to the Carrier in accordance with these T&Cs.

**“Final Payment”**

Means the amount payable to the Carrier for a Shipment resulting from the addition of the Initial Payment to any Expenses incurred, and deducting any penalties applied in accordance with clause 11.

**“Goods”**

Means the goods, products, or merchandise which the Shipper requires to be transported in a Shipment and which the Shipper delivers to, or makes available for collection by, the Carrier at the applicable Loading Address.

**“Initial Payment”**

Means the amount payable to the Carrier for a Shipment (excluding any Expenses) which is communicated by Ontruck to the Carrier prior to the Carrier accepting the Shipment Request.

**“Shipper Order”**

Means the online form to be completed by the Shipper by virtue of which the Shipper submits a request for a Shipment.

**“Loading Address(es)”**

Means, in relation to any Shipment, the address(es) at which the Shipper (or Consignor) shall deliver the Goods to, or make the Goods available for collection by, the Carrier, as specified in the applicable Shipper Order.

**“Prohibited Goods”**

Means those items as set out at clause 9.7.

**“Service”**

Means the services provided by Ontruck to the Carrier as a freight forwarder in accordance with these T&Cs.

**“Shipment”**

Means the transportation of Goods by a Carrier as specified in a Shipment Request. The Shipment may constitute either:

- (a) Simple shipment: transportation of one or more Transport Units from the specific Loading Address to a single Destination; or
- (b) Multi-route shipment: transportation of one or more Transport Units from: (i) a specific Loading Address to multiple Destinations; (ii) multiple Loading Addresses to a single Destination; and/or (iii) multiple Loading Addresses to multiple Destinations, provided that each Transport Unit shall have a single Loading Address and a single Destination such that there shall be no obligation to split the contents of Transport Units(s).

**“Shipment Request”**

means a request for a Shipment submitted by a Shipper which is accepted by Ontruck and published on the Platform or otherwise made available for a Carrier to accept (which can also be accepted by e-mail and/or by phone).

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**“Shipper”**

Means the entity which requests the Shipment through the Platform. For the avoidance of doubt the Shipper may also be the Consignor or Consignee or both.

**“Transport Unit”**

Each differentiated loading unit or package in which the Goods are to be transported, regardless of its volume, dimensions and/or content.

**“User”**

Means each Shipper and Carrier registered and approved to use the Platform.

**“Vehicle”**

Means the vehicle to be used by the Carrier to perform the Shipment and which complies with the requirements set out in clause 7.10.

**3 INTERPRETATION**

- 3.1 Clause and paragraph headings shall not affect the interpretation of these T&Cs.
- 3.2 In these T&Cs:
- (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
  - (b) any reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established;
  - (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
  - (d) a reference to writing or written includes email and electronic messages delivered via the Platform and/or other apps and websites;
  - (e) any obligation on a party not to do something includes an obligation not to allow that thing to be done;
  - (f) any words following the terms ‘including’, ‘include’, ‘in particular’, ‘for example’ or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 3.3 These T&Cs shall be binding on, and enure to the benefit of, the parties to these T&Cs and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns

**4 SCOPE OF SERVICES & CONTRACTUAL RELATIONSHIPS**

- 4.1 The Platform provides an online freight forwarding service that enables Shippers to submit Shipment Requests and allows Carriers to view and agree to fulfil such Shipment Requests.
- 4.2 Ontruck shall:
- (a) review Shipper Orders, liaise as necessary with the Shipper to clarify any aspect of the Shipment, and if approved, publish the Shipment Request on the Platform;
  - (b) allow Carriers to view Shipment Requests on the Platform and/or otherwise offer Shipment Requests to specific Carriers;
  - (c) allow Carriers to submit their willingness to accept a Shipment Request and fulfil the Shipment Request in accordance with these T&Cs;
  - (d) contract with a willing Carrier (normally on a first come first served basis) for fulfilment of the Shipment Request by confirming to the Carrier that they have been accepted to fulfil the Shipment;
  - (e) make available to Carriers such information in connection with a Shipment Request which they have been contracted to fulfil as is reasonably necessary to enable them to fulfil the Shipment, and respond to any reasonable queries they may have;

- (f) make available the Platform to allow the Shipper to track the progress of the Shipment;
  - (g) manage, and seek to resolve, any issues that arise with the Shipment as a result of any failure by the Shipper; and
  - (h) pay the Carrier for the performance of a Shipment in accordance with clause 11.
- 4.3 Ontruck may, in its sole discretion, decide not to publish the Shipment Request on the Platform in order to take advantage of preferential rates agreed with certain Carriers, to ensure efficiencies in fulfilling the Shipment, or in order to satisfy specific Shipper needs (e.g. security requirements, etc.).
- 4.4 Ontruck contracts with Carriers to fulfil Shipments directly, as principal. The Carrier acknowledges that it does not have a direct contractual relationship with the Shipper and that, save as set out in these T&Cs, it has no right to reject a Shipment once it has submitted its willingness to accept the Shipment Request via the Platform. In its dealings with the Shipper in relation to a Shipment, the Carrier shall not seek to enter into any contractual relationship with the Shipper. If, nevertheless, any such contract is formed between the Shipper and Carrier, the Carrier agrees that, to the extent of any conflict between that contract and these T&Cs, these T&Cs will prevail and nothing in such contract shall excuse the Carrier from its obligations under these T&Cs.
- 4.5 The Carrier expressly acknowledges and agrees that, Ontruck:
- (a) does not own, sell, resell, provide, control, manage, offer, deliver, or supply any courier, shipping or storage services;
  - (b) relies solely on the information provided by the Shipper in the Shipper Order; and
  - (c) is never in physical possession of, and accepts no responsibility for, the Goods.

## 5 USERS

### Registration

- 5.1 In order to use the Platform and to be contracted to fulfil Shipments, the Carrier must be validly registered as a Carrier on the Platform. To apply for and maintain registration as a User, an applicant must:
- (a) submit a User registration form via the Platform;
  - (b) accept these T&Cs; and
  - (c) provide to Ontruck, on an ongoing basis, all necessary documentation as may be required by Ontruck from time to time to validate and maintain such registration.
- 5.2 The User warrants that as at the date of submitting a registration request and on an ongoing basis, that it enters into these T&Cs in the normal course of its business, not as a private individual, with the full capacity to meet and perform its obligations in accordance with these T&Cs.
- 5.3 Ontruck reserves the right, in its sole discretion, to reject any registration request.
- 5.4 Ontruck may revoke any User's registration and access to the Platform in its sole discretion, at any time, including (without limitation) if the User:
- (a) is in breach of these T&Cs;
  - (b) acts in a manner implying no intention or ability to comply with these T&Cs;
  - (c) acts in breach of or loses any licence or consent required to operate as a carrier under applicable laws and regulations;
  - (d) has not provided Ontruck with any documentation requested; and/or

- (e) if a User has not, within three (3) months of registration approval, submitted their willingness to accept any Shipment Requests.
- 5.5 The User warrants that all information, log in details and documents provided as part of the registration as a User are complete and accurate and the User will notify Ontruck immediately in writing of any changes to such information.

### **User name, Password and Access**

- 5.6 The Platform and Service are made available on a temporary basis and Ontruck reserves the right to withdraw the Platform and Service, or restrict access to certain parts of the Platform at any time without notice. Ontruck shall have no liability to any User or third party in connection with the unavailability (whether temporarily or permanently) of the Platform and/or Services.
- 5.7 The User shall:
- (a) ensure that all persons who may have access to the Platform on behalf of the User are aware of, and comply with, these T&Cs; and
  - (b) maintain the confidentiality and security of any User login details, usernames, identification codes, passwords and/or other credentials that may give access to the Platform.
- 5.8 The Carrier shall not:
- (a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under these T&Cs:
    - (i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Platform in any form or media or by any means;
    - (ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Platform; or
  - (b) access all or any part of the Platform in order to build a product or service which competes with the Platform or the Service; or
  - (c) use the Platform or Service to provide services to third parties; and/or
  - (d) attempt to obtain, or assist third parties in obtaining, access to the Platform and/or Service, other than as provided in these T&Cs.
- 5.9 The Carrier shall use all reasonable endeavours to prevent any unauthorised access to, or use of the Service and/or Platform and, in the event of becoming aware of or suspecting any such unauthorised access or use, promptly notify Ontruck and provide relevant details.

## **6 ONTRUCK SERVICE**

### **Overview of Procedure regarding Shipments**

- 6.1 Once registered as a User, the process for a Carrier wishing to use the Service can be summarised as follows:
- (a) Carrier searches for Shipment Requests on the Platform;
  - (b) Carrier confirms its willingness to fulfil a Shipment Request in accordance with these T&Cs and at the Initial Payment stated, by confirming its willingness to accept a Shipment Request via the Platform (or by phone or e-mail);
  - (c) Ontruck confirms that the Carrier has been awarded the contract to fulfil the Shipment;
  - (d) Carrier accepts or collects (as applicable) Goods at/from the Loading Address;
  - (e) Shipper (or Consignor) prepares and prints Proof of Delivery and they, and the Carrier, signs this to confirm Goods have been loaded for transportation at the Loading Address; and

- (f) Carrier transports the Goods to the Destination(s), and Carrier and Shipper (or Consignee) sign Proof of Delivery to confirm delivery/receipt of the Goods.

### **Contracting the Shipment**

- 6.2 When a Carrier confirms its willingness to fulfil a Shipment Request in accordance with these T&Cs and at the Initial Payment stated, this shall constitute an offer to contract with Ontruck for the Shipment. The Shipment Request shall normally be assigned to the first Carrier which confirms that it is willing to fulfil the Shipment. In any case, Ontruck may contact Carriers directly with a view to finding and engaging a Carrier to fulfil the Shipment. Prior to confirming that a Carrier has been awarded the contract to fulfil the Shipment Ontruck may in its sole discretion appoint another Carrier to perform the Shipment.
- 6.3 Upon Ontruck confirming that the Carrier has been awarded the contract to fulfil the Shipment:
- (a) the Carrier shall be bound to fulfil the Shipment in accordance with these T&Cs and the Shipper Order details;
  - (b) the Carrier may not withdraw from the contract; and

### **Availability of Shipments**

- 6.4 Ontruck does not guarantee availability of Shipments or the award of any Shipment contracts to any Carrier.
- 6.5 A Shipper or Ontruck may remove a Shipment Request published on the Platform at any time prior to Ontruck contracting with a Carrier for that Shipment.

## **7 CARRIER OBLIGATIONS**

### **Identification and loading of the Goods**

- 7.1 The Shipper shall be required to ensure that:
- (a) the Goods are delivered to the Carrier, or are available for the Goods to be collected by the Carrier, at the Loading Address at the time specified in the Shipment Request;
- 7.2 The Carrier shall be required to ensure that:
- (a) the Goods are suitably prepared and wrapped, so that they may undergo transport under normal conditions (unless specified otherwise in the Shipment Request); and
  - (b) the Transport Units that make up each Shipment shall be clearly identified and correspond to the description in the Proof of Delivery.
- 7.3 The Carrier shall make the Vehicle available for loading of the Goods at the Loading Address and at the time specified in the Shipment Request. Any failure by the Carrier to make the Vehicle available for the Goods to be loaded at the Loading Address at the time specified in the Shipper Order shall not release the Carrier from any obligation to perform the Shipment. If the Carrier is late or fails to have the Vehicle available for loading at the Loading Address at the time specified in the Shipment Request the Shipper or Ontruck may, on notice to the Carrier, cancel the Shipment and shall have no liability to the Carrier in respect of such Shipment.
- 7.4 Prior to the Goods being loaded onto the Vehicle the Carrier shall inspect the Goods to confirm that all Goods are as described in the Proof of Delivery and that all packaging, wrapping and palletisation is appropriate. If this inspection reveals that the Goods are not correctly identified or packaged, do not conform with the Proof of Delivery or otherwise do not comply with the Shipment Request the Carrier may, acting reasonably, reject the Shipment, or note any observations on the Proof of Delivery and accept the Shipment. Acceptance of a Shipment and signature of a Proof of Delivery shall be confirmation that the Shipment is correct (subject to

any observations noted on the Proof of Delivery) and the Carrier shall assume responsibility of the Goods comprising the Shipment.

- 7.5 The Carrier expressly acknowledges and agrees that the Carrier is obliged to upload copy of signed Proof of Delivery to the Platform, maximum, last day of the month where the shipment has been carried out. The Carrier is also obliged to provide physical copy of the corresponding Proof of Delivery to Ontruck, in case it is requested to do so. Lack of fulfilment of any of the above obligations may allow Ontruck to withhold payments of any due amount between both parties.

### **Delivery of the Shipment**

- 7.6 The Carrier shall deliver the Goods to the Consignee at the Destination within the time frame specified in the Shipment Request.
- 7.7 During performance of the Shipment, the Carrier shall ensure the optimum preservation of the Goods and shall take all necessary steps to prevent loss or damage to the Goods (howsoever arising) in performance of the Shipment.

### **Vehicle**

- 7.8 The Carrier acknowledges and agrees that prior to loading the Goods, the Shipper (or the Consignor on its behalf) may check the Vehicle conditions and may, acting reasonably, reject the Carrier if the transportation conditions are not satisfactory, including for example due to: poor cleanliness, odour, leaks or humidity, or other conditions that may reasonably be unacceptable to the Shipper and/or Consignor. If any Vehicle is found to be unacceptable, the Shipper may cease the loading of the Goods and notify Ontruck. On receipt of such notice, Ontruck shall (unless it believes the Shipper's rejection of the Carrier is not reasonable), engage an alternate Carrier to fulfil the Shipment Request. Neither Ontruck nor the Shipper shall be liable to the Carrier in respect of any Shipment that is cancelled by virtue of this clause 7.8 and the Carrier shall not be entitled to the Initial Payment or Final Payment.
- 7.9 The Carrier shall perform the Shipment with its own Vehicle(s) and shall pay all costs and expenses in relation to the use, functioning and maintenance of such Vehicle(s) (including in respect of any fines or penalties that may be incurred in performance of a Shipment).
- 7.10 The Vehicle(s) used by the Carrier to perform the Shipment shall:
- (a) comply with all applicable laws, regulations and codes (including without limitation, up to date MOT testing, taxation, emissions and insurances);
  - (b) be subjected to regular testing and servicing;
  - (c) hold (and the Carrier shall also hold) all necessary licences, permits, consents and authorisations from any relevant authority required to perform the services as contemplated in these T&Cs and perform the Shipment as set out in each applicable Shipment Request;
  - (d) be suitable for the type and circumstances of each Shipment, including in respect of access to the Loading Address and Destination; and
  - (e) conform to any specific requirements set out in the Shipment Request as the case may be (for example, control for temperature, air humidity or other environmental conditions).

### **Loading and unloading, stowing and stevedoring**

- 7.11 The Shipper shall be required to load, or arrange for the Consignor to load, the Carrier's Vehicle unless agreed otherwise in the Shipment Request.

### **Proof of Delivery**

- 7.12 The Carrier shall be responsible for dealing with the Proof of Delivery corresponding to the Shipment, as set out in clauses 7.5 and 8.

#### **Acceptance of Shipment at the Destination**

- 7.13 The Carrier shall be responsible for making the Goods available for acceptance by the Consignee at the Destination. If the Shipment is not properly completed due to any failure of the Carrier to deliver the Goods at the Destination at the time specified in, and in accordance with, the Shipment Request the Carrier shall be responsible for any direct or indirect expenses and/or damages incurred or suffered by the Shipper and/or Ontruck in connection therewith.

#### **Customer Service**

- 7.14 The Carrier shall direct any questions related to the Shipment to Ontruck's Customer Service Team via the Platform, telephone +44 (0) 208 068 3261 or email: uk@Ontruck.com.

### **8 PROOF OF DELIVERY**

- 8.1 Using the relevant form on the Platform, the Shipper shall be required to complete in full and generate, at least, three (3) original copies of the Proof of Delivery for each Shipment.
- 8.2 Upon loading the Goods at the Loading Address the Shipper shall arrange for each copy of the Proof of Delivery to be signed by the Shipper (or Consignor) and the Carrier, to confirm Goods have been loaded. Signature of the Proof of Delivery by or on behalf of the Carrier upon the Goods having been loaded shall be understood to be acceptance by the Carrier of the Goods for Shipment in accordance with the relevant Shipment Request. Upon loading of the Goods two copies of the signed Proof of Delivery shall be retained by the Carrier and one copy shall be retained by the Shipper.
- 8.3 Upon receipt by the Consignee of the Goods at the Destination, both the Carrier and the Consignee shall immediately sign the two copies of the Proof of Delivery which were retained by the Carrier. The Carrier and Consignee shall each retain one duly signed copy of the Proof of Delivery and each shall upload their copy via the Platform prior to the end of the month, as per clause 7.5 above. Signature of the Proof of Delivery by the Consignee acts as confirmation of correct completion of the Shipment by the Carrier, and correct receipt of the Goods by the Consignee.
- 8.4 The Carrier shall retain its signed originals of the Proof of Delivery and make them available to Ontruck promptly on request. .

### **9 CARRIER AND SHIPMENT**

#### **Representations and Warranties**

- 9.1 The Carrier represents, warrants and undertakes on an ongoing basis:
- (a) that where agreed under a Shipment Request it shall be responsible for loading and the unloading of the Shipment, and shall be liable for any damage, harm or liability that may result or could potentially result;
  - (b) its performance of the Shipment shall be in conformance with any requirements expressly or implicitly made known to the Carrier by Ontruck;
  - (c) it shall perform the Shipment with the highest level of care, skill and diligence in accordance with best practice in the road haulage industry;

- (d) the Vehicle and all other goods, materials, standards and techniques used in performing the Shipment are of the best quality and free from defects in workmanship, installation and design;
- (e) its signature of the Proof of Delivery is confirmation of the accuracy of the information contained in the Proof of Delivery;

9.2 In performing the Shipment, the Carrier shall:

- (a) co-operate with Ontruck in all matters relating to the Shipment, the Service and these T&Cs and comply with Ontruck's instructions;
- (b) observe all health and safety rules and regulations and any other reasonable security requirements that apply from time to time;
- (c) not do or omit to do anything which may cause Ontruck to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business; and
- (d) notify Ontruck immediately upon the occurrence of any change of circumstances of the Carrier (including in respect of a change of control).

9.3 The Carrier consents to the tracking of the location of the Shipment and the Carrier's Vehicle via the Platform. Tracking will cease following completion of the Shipment and the Proof of Delivery has been uploaded to the Platform in accordance with clause 8.3.

#### **Storage**

9.4 The Carrier acknowledges and agrees that Ontruck does not offer storage and/or deposit services for the Goods.

9.5 The Carrier acknowledges and agrees that Ontruck may require the Carrier to provide storage for Goods. In such circumstances Ontruck shall pay the Carrier, as an Expense, an overnight storage fee calculated in accordance with Annex 1.

9.6 In the event of a force majeure event or other circumstances outside of the reasonable control of the Carrier, the Carrier may take any reasonable decision so as to ensure the proper completion of the Shipment and/or protection of the Goods, including the return of the Goods to the Loading Address, or their deposit in a safe warehouse or transport to the Destination under conditions distinct from those specified in the Shipment Request.

#### **Prohibited Goods**

9.7 The Carrier represents, warrants and undertakes that it shall not transport:

- (a) contraband or illegal, dangerous, radioactive, hazardous or offensive products;
- (b) articles that are regulated by the European Agreement concerning the International Carriage of Dangerous Goods by Road ("ADR");
- (c) living animals;
- (d) aggregates, including stones, minerals, land and any material derived from quarries;
- (e) special transports and containers, cisterns or cranes, as well as vehicles (caravans, trailers, pleasure craft and jet skis, motorcycles and mopeds);
- (f) cash, bank notes, commercial or banking or exchange effects, bank cards, credit cards, telephone cards, securities and coupons for securities, lottery, pools and the like;
- (g) jewellery, items sold in jewellery stores and / or watches, works of art, fine metals, precious stones; or

- (h) any other good that may be qualified as dangerous based on their nature or based on the precautions that should be taken for their transport, or, which may be prohibited under any applicable law or regulation.

9.8 If the Carrier reasonably suspects that any Shipment contains any Prohibited Goods, the Carrier shall notify Ontruck and may (acting reasonably and in good faith) refuse accept the Shipment and Ontruck shall take any further action in its reasonable discretion.

### **Employees**

9.9 The Carrier shall perform the Shipment with its own employees and shall notify Ontruck of the relevant individuals who shall be performing the Shipment.

9.10 The Carrier warrants that all individuals engaged to perform a Shipment shall be employees of the Carrier and suitably trained to perform the Shipment in accordance with these T&Cs and the applicable Shipment Request.

9.11 The Carrier shall be liable for all payments relating to its employees, including insurances and shall be solely liable for any acts or omissions of its employees.

## **10 LIABILITY AND INDEMNITY**

10.1 Nothing in this Agreement shall exclude or restrict either party's liability which cannot be excluded by law.

10.2 Subject to clause 10.1, in no event will Ontruck be liable under or in connection with this Agreement for:

- (a) loss of actual or anticipated income or profits;
- (b) loss of goodwill or reputation;
- (c) loss of anticipated savings;
- (d) loss of data; or
- (e) any indirect or consequential loss or damage of any kind howsoever arising and whether cause by tort (including negligence), breach of contract or otherwise, whether or not such loss or damage is foreseeable, foreseen or known.

10.3 Subject to clause 10.1, the liability of Ontruck in respect of all claims, howsoever arising, in connection with the Platform, any Shipment or Service shall not exceed the Initial Payment paid (or payable, as the case may be) in respect of the Shipment.

10.4 The Carrier hereby indemnifies Ontruck on an ongoing basis against all liabilities and costs incurred by Ontruck (including but not limited to claims, demands, proceedings, fines, penalties, damages, expenses and loss of or damage to the Goods) arising in connection with any breach of these T&Cs by the Carrier, or in connection with any error, act, omission, mis-statement or misrepresentation by the Carrier, its employees, contractors or its agents. For the avoidance of doubt, the Carrier expressly agrees that it is obliged to indemnify Ontruck for the full value of the damage.

10.5 Ontruck shall in all instances be released from all and any liability under or in connection with these T&Cs and any Shipment unless the Carrier submits a formal claim in writing within six (6) months of the date of collection of the Goods as set out in the Proof of Delivery.

## **11 PRICE & PAYMENT**

### **Payment**

- 11.1 Ontruck shall pay the Final Payment (being the Initial Payment and, where applicable, any Expenses) for the Shipment to the Carrier, as set out in these T&Cs. Under no circumstances, shall the Carrier invoice the Shipper directly.

### **Initial Payment**

- 11.2 The Initial Payment for each Shipment to be paid by Ontruck to the Carrier for completion of a Shipment shall be detailed in the Shipment Request. The Initial Payment shall only be accurate to the extent that the details set out in the Shipper Order are complete and accurate and the Carrier complies with its obligations under these T&Cs. The Carrier acknowledges and accepts that, in the event that any information provided to Ontruck in the Shipper Order is insufficient or inaccurate, Ontruck may vary the Initial Payment.
- 11.3 The Carrier acknowledges and agrees that the Initial Payment is calculated in accordance with Ontruck's rates in force on the date of contracting the Shipment, subject to, but not limited to, the nature, size and quantity of the Goods, distance from the Loading Address to the Destination and specific means necessary to perform the Shipment. Ontruck may change, at any time, the rates applicable or means of calculating the Initial Payment.

### **Expenses**

- 11.4 Notwithstanding that the Initial Payment is agreed by the Carrier upon acceptance of a Shipment Request, Ontruck may agree to reimburse the Carrier in respect of costs and expenses incurred by the Carrier in the course of performing the Shipment as a result of any fault of the Shipper, and shall pay any fees or charges it is entitled to in accordance with Annex 1. The Carrier will notify Ontruck of any such Expenses it believes should be reimbursed to it in accordance with these T&C promptly on becoming aware of the relevant facts and no later than 48 hours following completion of a Shipment.

### **Greater volume of Goods or weight comprising the Shipment than detailed in the Shipment Request**

- 11.5 If the actual Shipment is larger in volume and/or of greater weight than set out in the Shipment Request the Carrier shall, prior to accepting the Goods for Loading and signing the Proof of Delivery
- inform Ontruck and, the case may be, the Initial Payment shall be adjusted by agreement of both parties.).

### **Cancellation**

- 11.6 In the event of cancellation of the Shipment by the Shipper or Ontruck, subject to the Carrier having complied with these T&Cs, Ontruck shall pay to the Carrier a percentage of the Initial Payment depending on the status of the Shipment at the time of the cancellation, calculated in accordance with Annex 1.

### **Invoicing**

- 11.7 The Carrier shall enter into a self-billing agreement with Ontruck in respect of all invoices payable by the Carrier under these T&Cs.
- 11.8 The invoice will be issued by Ontruck at the end of the month corresponding to the completion of each Shipment and Ontruck shall pay each invoice within six (6) business days from the date of issuing of the invoice.

### **Payment Methods**

- 11.9 Ontruck shall pay invoices by bank transfer to the bank account specified by the Carrier in the relevant invoice or otherwise detailed in writing to Ontruck or by confirming.

## **12 CLAIMS AND RESPONSIBILITY**

- 12.1 In the event that the Shipper, Consignee or Consignor causes any damage to the Vehicle or other property of the Carrier in the course of loading or unloading the Shipment, the Carrier shall promptly notify Ontruck and may submit a claim within sixty (60) days] of the date the damage occurred.

## **13 INSURANCES**

- 13.1 The Carrier shall underwrite and keep sufficient public liability insurance as well as a good in transit insurance throughout performance of the Shipment. These policies are to be held with a recognized insurance company and shall be sufficient to cover the potential liabilities derived from the Shipment and its obligations under these T&Cs (and with a minimum limit as agreed, when relevant, between Ontruck and the Carrier).
- 13.2 At all times, the Carrier shall contract and retain those insurance policies that are mandatory in accordance with all applicable laws and regulations. These policies should be sufficient in order to cover any claims that may arise as a result of damage or loss caused to Ontruck, the Goods and/or third parties, resulting from the Shipment.
- 13.3 If requested by Ontruck, the Carrier shall obtain a specific damages insurance policy for the Goods under a specified Shipment.
- 13.4 The breach of the insurance obligations set out in this clause 13 shall be considered a material breach meaning Ontruck may terminate the Carrier's User account and any Shipments accepted by the Carrier with no liability to the Carrier.
- 13.5 The Carrier shall maintain all insurance policies under this clause 13 throughout its engagement and whilst it has a User account on the Platform and shall, on request by Ontruck, present satisfactory evidence of all insurance policies to Ontruck.

## **14 DATA PRIVACY & CONFIDENTIALITY**

- 14.1 In providing the Service, the Carrier provides certain personal data to Ontruck for the purpose of performing the Shipment.
- 14.2 The details of Ontruck's data processing activities in relation to the Service are set out in our privacy policy which is accessible here <https://ontruck.com/uk/privacy/>.
- 14.3 The Carrier, its employees, agents and subcontractors shall keep confidential, during and after the expiry of any services to be provided under these T&Cs, any information of Ontruck or any Shipper which is expressed to be or by its nature is confidential (whether commercial, technical, organizational and any other kind of information) it may have obtained during the execution of the Shipments.
- 14.4 In the event that the Carrier accesses the personal data of any personnel of Ontruck or any Shippers, it shall:
- (a) comply with all laws and regulations (including all applicable data protection laws);
  - (b) use such personal data exclusively in connection with the Shipment and its obligations to Ontruck;
  - (c) observe and adopt whatever security measures are necessary to ensure the confidentiality and security of the personal data, as well as to adopt any security measures required by all applicable laws and regulations; and
  - (d) not disclose to third parties any third party personal data to which the Carrier has access in connection with these T&Cs .
- 14.5 The Carrier shall hold Ontruck harmless against any claim or penalty arising in connection with the breach or alleged breach by the Carrier of the obligations set out in this clause 14.

## **15 MISCELLANEOUS**

### **Intellectual Property**

- 15.1 All intellectual property rights in the Platform are owned by Ontruck or its licensors and any data, images, texts or any other material or content that is transmitted, stored or published through the Platform, is and shall continue to be the property of Ontruck.
- 15.2 Ontruck recognises ownership of the Carrier name and any trade marks of the Carrier under or with which its products or services may be distinguished which shall remain the property of the Carrier.

### **Modifications**

- 15.3 Ontruck reserves the right, at any time, to modify, suspend or interrupt the service provided through the Platform, or any part of it, with or without any prior notice, as well as to modify these Terms and Conditions. The Carrier acknowledges that Ontruck shall not be responsible or liable to the Carrier or any third party for the modification, suspension or interruption of the Service provided through the Platform.
- 15.4 The Carrier shall not, during the course of its use of the Platform or the Service, distribute or transmit any virus (including any malicious software, code, file or programme such as worms, trojan horses, or other similar things) which may prevent, impair or otherwise adversely affect the operation of the Platform or the Service.

### **Notices**

- 15.5 Any notice required to be given under these T&Cs shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its registered office address (or such other address as notified to the other party in writing, for such purposes, from time to time) or sent to [privacy@ontruck.com](mailto:privacy@ontruck.com).

### **Enforceability**

- 15.6 If any term or provision of these T&Cs shall be held to be illegal or unenforceable, in whole or in part, under any enactment or rule of law, such term or provision or part shall to that extent be deemed not to form part of these T&Cs but the validity and enforceability of the remainder of these T&Cs shall not be affected.

### **Assignment**

- 15.7 The Carrier may not assign, transfer, or subcontract, any or all of its rights and obligations under these T&Cs without the prior written consent of Ontruck.

### **Third party rights**

- 15.8 Any third party who is not a party to the Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its provisions.

### **Law and Jurisdiction**

- 15.9 The parties agree that these T&Cs shall be governed by the laws of England and Wales and the courts of England and Wales shall have exclusive jurisdiction to deal with any claim (whether arising in tort, negligence, breach of contract or otherwise) arising under or in connection with these T&Cs.

**ANNEX NO. 1****ONTRUCK – EXPENSES, AND CHARGES/PENALTIES**

The following supplementary charges (where applicable) may be added to the Initial Payment to calculate the Final Payment:

**1 STANDSTILL**

Supplementary standstill charges for time spent loading/unloading of vehicle by the Shipper. Supplementary standstill charges are determined as a function of the size of the load and calculated on a pro rata basis on any standstill time in excess of the maximum time limits set out below:

<b>N° of pallets</b>	<b>£</b>
1 – 4 pallets or up to 1200 kg	£15/hour after the first 30 minutes
5 – 10 pallets or up to 2500 kg	£20/hour after the first 45 minutes
11 – 14 pallets or up to 12000 kg	£25/hour after the first 60 min
15 – 26 pallets or up to 24000 kg	£35/hour after the first 120 min

Standstill time is calculated from the point at which the driver arrives during the collection window, specified in the Shipper Order (for example, if the driver arrives at the collection point at 8:30 am, but the collection time is specified between 9:00 am and 10:00 am, standstill time commences from 9:00 am).

Standstill charges DO NOT apply for waiting in queue at airline collection sheds.

**2 OVERNIGHT STORAGE**

If an overnight storage is necessary, Ontruck will pay the Carrier an additional rate of £3.00 per standard pallet per night.

**3 CANCELLATIONS**

If a Shipment is cancelled in accordance with these Terms & Conditions, Ontruck will pay the Carrier a percentage of the Initial Payment, depending on the status of the Shipment at the time of cancellation as follows:

- 40% of the Initial Payment if the driver is in route to pick-up.
- 70% of the Initial Payment If the driver has arrived at pick-up location and has not yet loaded.
- 100% of the Initial Payment After the Goods have been loaded

**4. RETURN COST**

If (i) a Shipment is refused at destination due to incorrect information from the Shipper (such as bad references) or (ii) the Shipper, at the delivery point, requests the Shipment to be returned to the pick-up point, Ontruck will pay the Carrier, as a return fee, the 70% of the Initial Payment, provided that the Carrier agrees to re-deliver the Goods at the proposed time and date by Ontruck. This is the maximum amount to be paid by Ontruck (not holding any additional obligation of payment lost shipments by the Carrier outside our Platform).

In case the Shipment is a multi-route Shipment, the 70% fee will be calculated on the basis of the drop which is rejected.

In any case, for clarifications purposes, refusals due to late arrivals or Carrier's negligence will not accrue this extra return-cost for the Carrier. The Carrier will comply with its obligation to deliver the Goods at Ontruck's earliest convenience.

## 5. EXTRA MILES

If after the acceptance of the Shipper Order and if the Carrier is in route to either the collection or delivery points, the Shipper modifies the collection or delivery points and it implies a redirection of > 5 miles, the Initial Payment will be increased in the below cost per mile (based on vehicle type):

Vehicle type	Price per mile (GBP)
Van	0.90
Luton Van	1.20
7.5t	1.50
Ridgid	1.70
18t	2
Artic	2.25