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Eagle Xpress (UK) Ltd. Conditions of Trading

1. Definitions

“Carrier” means EagleXpress UK Ltd, and EagleXpress Medical Couriers Ltd, which expression shall, unless the context requires otherwise, include any sub-contractor appointed by the Carrier pursuant to clause 3 below.

“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, which shall be made subject to these Terms and Conditions.

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

“Consignment” means goods in bulk or contained in one parcel, package, container or envelope, as the case may be, or any separate number of parcels, packages, containers, envelopes or other items sent at one time in one load by or for the Customer from one address to one address. For the avoidance of doubt, the expression “goods” shall include papers and documents other than those expressly excluded in these Terms and Conditions.

“Dangerous Goods” means dangerous substances as defined in the Road Traffic (Carriage of Dangerous Substances in Packages etc) Regulations 1992 (and any amendment or replacement thereof), explosives, radioactive substances and any other substance presenting a similar hazard.

2. General

The Carrier is not a common carrier and accepts at its sole discretion Consignments for carriage only upon that condition and the Terms and Conditions contained herein. Save as may be agreed in writing by a Director of the Carrier, no servant or agent of the Carrier is permitted to alter or vary these Terms and Conditions in any way.

3. Authority and Sub-Contracting

3.1 The Customer warrants that he is either the owner of the goods in any Consignment or is authorised by such owner to accept these Terms and Conditions on such owner's behalf.

3.2 The Carrier and any other carrier employed by the Carrier may employ the services of any other carrier for the purposes of fulfilling the contract in whole or in part and the name of every such other carrier shall be provided to the Customer upon request

3.3 The Carrier contracts for itself and (subject to paragraph **3.4**) as agent of and trustee for its servant and agents and all other carriers referred to in paragraph **3.2** above and such other carrier's servants and agents.

3.4 Notwithstanding paragraph **3.3**, the carriage of goods in 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 terms and conditions of the rail, shipping, inland waterway or air carrier contracted to carry the Consignment.

3.5 If the Carrier (otherwise than through the Carrier) employs or engages the services directly or indirectly of any employee or independent contractor to the Carrier whose services at any time during 12 months before then shall have previously been supplied by the Carrier to the Customer the Carrier shall be entitled to charge a fee to the Customer for the introduction of such employee or independent contractor equivalent to 15% together with Value Added Tax thereon



of the final annual salary or earnings of such employee or independent contractor derived from the Carrier calculated by reference to the amount earned during the last month of employment or service and the Customer will pay the same on demand.

4. Dangerous Goods

Dangerous Goods must be disclosed by the Customer in advance and if the Carrier agrees to accept them for Carriage they must be classified, packed and labelled in accordance with the statutory regulations for the carriage by road of the substance(s) declared. Transport Emergency Cards (“Tremcards”) or information in writing in the manner required by the relevant statutory provisions or by the relevant body authorised by statute to make regulations must be provided by the Customer in respect of each substance and must accompany the Consignment.

5. Delivery

5.1 Unless the Carrier has agreed in writing to the contrary with the Customer:

5.1.1 The Carrier shall not be under any obligation to provide any plant, power or labour required for loading or unloading the Consignment, other than that carried by the vehicle used by the Carrier;

5.1.2 The Customer warrants that any special equipment required for loading or unloading the Consignment which is not carried by the Carrier’s vehicle will be provided or procured by the Customer;

5.1.3 The Carrier shall be under no liability whatsoever to the Customer and the Customer shall indemnify and hold harmless the Carrier for any damage, however caused, if the Carrier is instructed to load or unload any goods requiring special equipment if such equipment has not been provided or procured by the Customer.

6. Consignment Notes

The Carrier shall, if so required, sign a document prepared by the Customer acknowledging 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.

7. Transit

7.1 Transit shall commence when the Carrier takes possession of the Consignment, whether at the point of collection or at the Carrier’s premises.

7.2 Transit shall (unless otherwise previously determined) end when the Consignment is tendered at the usual place of delivery at the Consignee’s address PROVIDED THAT:

7.2.1 If no safe and adequate access or, if applicable, no adequate unloading facilities there exist, then transit shall be deemed to end at the expiry of one hour after notice by telephone of the arrival of the Consignment at the Carrier’s premises has been given to the Customer; or

7.2.2 When for any other reason whatever a Consignment cannot be delivered or when a Consignment is held by the Carrier to “await order” upon any like instructions and such instructions are not given or the Consignment is not called for and removed within a reasonable time determined by the Carrier, then Transit shall be deemed to end at the expiry of such reasonable time.

8. Undelivered or Unclaimed Goods

8.1 Where the Carrier is unable for any reason to deliver a Consignment to the Consignee or as he may order, or when by paragraph **7.2** above transit is deemed to be at an end, the Carrier may sell the goods comprising the Consignment



Payment or tender of the proceeds after deductions of all proper charges and expenses in relation thereto and of all outstanding charges in relation to the carriage and storage of the Consignment shall (without prejudice to any claim or right which the Customer may have against the Carrier otherwise arising under these conditions) discharge the Carrier from all liability in respect of the Consignment.

8.2 Notwithstanding the generality of paragraph **8.1** above, the Carrier shall use his reasonable endeavours to obtain a reasonable price for the Consignment and the Carrier's power of sale shall not be exercised where the name and address of the Customer or of the Consignee is known unless the Carrier shall use its reasonable endeavours to give notice to the Customer and to the Consignee that the goods will be sold unless within the time specified in such notice, being a reasonable time in the circumstances from the giving of such notice, the goods are taken away or instructions are given for their disposal.

9. Carrier's Charges

9.1 The Carrier's charges shall be made in accordance with its tariff current at the time of performance of the Contract. Invoices will be prepared by the Carrier at least once a week. Credit facilities may be withdrawn by the Carrier at its absolute discretion at any time and the balance outstanding shall become due immediately on demand.

9.2 The Carrier's charges shall be payable by the Customer without prejudice to the Carrier's rights against the Consignee or any other person. Without prejudice to the generality of the foregoing, when goods are consigned "carriage forward", the Customer shall not be required to pay such charges unless the Consignee fails to pay after demand has been made by the Carrier for the payment thereof and such demand has not been paid within the time stipulated by the Carrier to the Consignee.

9.3 Charges shall be payable on the expiry of any time limit notified to the Customer (whether on any invoice or otherwise) or failing such notification 30 days after the relevant invoice date and the Carrier shall be entitled to interest at 3% above the base rate of Lloyds Bank plc for the time being calculated on a daily basis on all amounts overdue to the Carrier. In addition, all discounts and special prices offered are subject to the payment of invoices within 30 days of invoice date. If the invoices are not paid within 30 days of the invoice date then any discounts or price reductions offered will be billed to the Customer to adjust the prices to the standard full tariff price and the Carrier will be entitled to make a notional charge of up to £50.00 in respect of debt collection costs. Any queries as to the correctness of the invoice must be made in writing within ten days of receipt of the invoice otherwise it will be payable in full.

9.4 Unless stated otherwise, all charges quoted are exclusive of Value Added Tax.

9.5 All sums due to the Carrier shall be paid without deductions, set-off or abatement and the Customer shall not withhold or defer any payment on account of any claim or counterclaim and acknowledge that any such claim or counterclaim whatsoever by the Customer against the Carrier must be subject to separate proceedings.

10. Liability for Loss and Damage

10.1 The Customer shall be deemed to have elected to accept the terms set out in paragraphs 10.2 and 10.3 below unless, the Customer has agreed in writing before the transit begins, the Carrier shall not be liable for any loss or miss-delivery or damage to 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.

10.2 Save where the Customer has made specific arrangements for insurance with the Carrier prior to the commencement of the transit of the Consignment (as determined in accordance with clause 7.1), the Carrier shall not be liable for any loss or miss-delivery or damage, to bullion, money, drugs, securities, bills of exchange, stamps, deeds, photographs, promissory notes, precious stones, precious metals and minerals, jewellery, watches and other timepieces, antiques, paintings and other works of art, glass items, furs, human remains, firearms, tobacco products, alcohol products, and electronic equipment. The Carrier shall not carry passengers, livestock, human remains or radioactive goods under any circumstances.



10.3 The Carrier shall not be liable in respect of any loss or miss-delivery of or damage to any Consignment if the same has arisen from and the Carrier has used reasonable care to minimize the affects of:

10.3.1 Acts of God;

10.3.2 Any consequences of war, invasion, act of foreign enemy, terrorism, hostilities, civil war, rebellion, civil disturbances, insurrection, or any other damage or loss relating to public order offenses

10.3.3 Seizure or forfeiture under legal process;

10.3.4 Act, omission or misstatement or misrepresentation by the Customer or other owner of the consignment or by servants or agents of either of them;

10.3.5 Inherent liability to wastage in bulk or weight, defect or inherent defect, natural deterioration or fragility of the Consignment (notwithstanding that it may be marked "Fragile");

10.3.6 Improper or insufficient packaging

10.3.7 Insufficient or unclear addressing

10.3.8 Riot, civil commotion, strike, lockout, or a labour restraint from whatever cause

10.3.9 The Consignee not accepting delivery within a reasonable time after the Consignment has been tendered

10.3.10 Failure or delay in delivery for any reason whatsoever beyond the control of the Carrier

10.4 The Carrier shall not in any circumstances be liable for loss or damage to the Consignment after transit of such goods is deemed to have ended within clause 7 above, whether or not caused or contributed to. Directly or indirectly by any, act neglect, omission or other wrongdoing on the part of the Carrier.

11. 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 the owner of the owner of the Consignment or any part thereof or the servants or agents of either of them in respect of that Consignment, unless the fraud has been contributed to by the complicity of the Carrier or any servant of the Carrier acting in the course of his employment.

12. Limitation of liability

12.1 The liability of the Carrier for loss or damage to any Consignment shall be limited to a maximum of £100 whether such loss or damage was due to the fault or negligence of the Carrier or its servants, agents, employees or otherwise. If the Customer wishes to arrange a higher level of liability in respect of any Consignment, then it should apply to the Carrier who may be able to arrange this at an additional charge to the Customer.

12.2 Where the miss-delivery, loss or damage howsoever sustained is in respect of a part only of the consignment, the Carrier's liability shall be limited to the actual value of that part of the Consignment or where such cannot be clearly defined a sum representing the proportion which the part of the consignment misdelivered, lost or damaged represents of the total Consignment based on the total market value of the Consignment subject to the £100 maximum listed in 12.1.

12.3 The Carrier shall not be liable to the Customer or any other party under or in connection with this Agreement for any indirect or consequential loss or damage or any loss or damage to profit, margin, revenue, savings, use, contract, goodwill or business, in each case howsoever caused, including without limitation by reason of misrepresentation (whether made prior to or in this Agreement), negligence, other tort, breach of contract or breach of statutory duty.



12.4 The Carrier shall be entitled to receive written proof of the value of the Consignment damaged or lost and shall be afforded by the Customer a reasonable opportunity to inspect the Consignment when delivery has been effected to the Consignee.

13. Time limit for claims

13.1 The Carrier shall not be liable for:

13.1.1 Loss of a parcel, package or container from an unpacked Consignment or for damage to a Consignment or any part of a Consignment unless it is advised thereof in writing otherwise than upon a consignment note or delivery document within 24 hours of the termination of transit and the claim giving details of quantum and the circumstances of any loss is made in writing within 7 days after the termination of transit as determined above;

13.1.2 Loss or miss-delivery or non-delivery of the whole of the Consignment or any separate parcel, package or container forming part of a Consignment unless the Carrier is advised of the loss, misdelivery or non-delivery in writing, otherwise than upon a consignment note or other delivery document within 24 hours and the claim giving details of quantum and the circumstances of any loss is made in writing within 7 days after the termination of transit as determined above.

14. Indemnity to the Carrier

14.1 The Customer shall indemnify the Carrier against:

14.1.1 All consequences suffered by the Carrier (including but not limited to claims, demands, proceedings, fines, penalties, damages, costs, expenses, and loss of or damage to the carrying vehicle and to other goods carried) of any error, omission, miss-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 packaging, labelling or addressing of the Consignment or fraud;

14.1.2 All claims and demands whatsoever by whomsoever made in excess of the liability of the Carrier under these Terms and Conditions;

14.1.3 All losses suffered by and claims made against the Carrier resulting from loss of or damage to property caused by or arising out of the carriage by the Carrier of Dangerous Goods whether or not declared by the Customer as such;

14.1.4 All claims made upon the Carrier by HM Customs and Excise in respect of dutiable goods consigned in bond whether or not transit has ended or been suspended;

15. Impossibility of performance

The Carrier shall be relieved of its obligation to perform a Contract to the extent that performance is prevented by the failure of the Customer, fire, weather conditions, force majeure, industrial disturbances and unrest, or any other cause beyond the reasonable control of the Carrier

16. Computation of Time

In the computation of time, where any period of days is 7 days or less Saturdays, Sundays and all Bank and public holidays shall be excluded.

17. Insurance

17.1 No insurance cover for Goods will be arranged by the Company unless a written request is received by the Company from the Customer prior to the Company accepting the Goods for conveyance.



17.2 No insurance cover for Goods shall be deemed or assumed to have been arranged by the Company unless and until written confirmation of the insurance cover arranged by the Company for the Customer is received by the Customer and any such cover shall be effective from the date stipulated on such insurance cover and shall be subject to the terms of the insurance policy.

18. Governing Law and Jurisdiction

These Terms and Conditions and all Contracts shall be governed by and construed in accordance with the Laws of England and any proceedings in relation thereto shall be subject to the exclusive jurisdiction of the English courts.