



Conditions of Carriage DX Freight 1-Man - September 2021

1. PARTIES AND INTERPRETATION

These Conditions set out the basis on which DX Network Services Limited (company number 05026914) trading as "DX Freight", "DX 1-Man" or "DXF" whose registered office is at Ditton Park, Riding Court Road, Datchet, SL3 9GL ("DX") transports goods collected by DX from a single address under a single reference number for delivery to a single address ("Consignment") to be delivered to a recipient or any other person at the delivery address ("Consignee"). The Customer as defined in the Service Agreement ("Customer") should note the limitations and exclusions of DX's liability and arrange insurance as necessary. In these Conditions the words "including", "in particular" and similar shall be construed as illustrative and not exhaustive.

2. FORMATION OF CONTRACT

The contract between the Customer and DX comprises the service agreement setting out the commercial terms ("Service Agreement"), the relevant service guide made available to the Customer in the download area on DX's website from time to time ("DM6") ("Service Guide"), these Conditions, the Annexures and any other documents referred to in any of them ("the Contract"). The Contract is formed when the Service Agreement is signed by both parties and shall come into force on the start date identified in the Service Agreement. Any conflicts shall be resolved in the order of the Service Agreement, the Service Guide, the Annexures, any other document referred to and finally these Conditions. DX accepts Consignments only on the terms of the Contract to the exclusion of any terms issued by the Customer or any trade body or association.

3. CUSTOMER'S OBLIGATIONS

The Customer must ensure that: (i) the Consignments comply with the requirements and account profile set out in the Service Agreement and the Service Guide; (ii) no Consignment contains excluded goods as defined in the Service Guide ("Excluded Goods") from time to time except as expressly agreed in writing by DX; (iii) all Consignments are packaged and labelled in accordance with DX's packaging requirements set out in its Service Guide; (iv) each Consignment has a complete, accurate address and postcode; (v) accurate weights are provided with each Consignment; (vi) the Customer's obligations in respect of any minimum age requirements under applicable laws are met; (vii) the Customer is responsible for ensuring the proper loading of each Consignment at the collection address immediately upon the arrival of the collection vehicle, using its own plant and equipment and in accordance with applicable law; and (viii) it owns each Consignment or is authorised by its owner to send it in accordance with the Contract.

4. THE SERVICES

4.1 DX shall use reasonable endeavours to provide the services as set out in the Service Agreement ("Services") in accordance with the Contract, including in relation to delivery timescales. DX shall use reasonable endeavours to make the DX Despatch system available to the Customer but shall have no liability should the DX Despatch system not be available for any reason.

4.2 DX may in its discretion refuse to accept any Consignment, including any Consignment that is not securely or adequately packaged. DX may open, inspect, and/or refuse to carry any Consignment that it believes may comprise non-approved Excluded Goods. DX shall not be responsible for any delay arising as a result of the provisions set out in this clause.

4.3 Risk in each Consignment shall rest with DX from the point described in the Service Guide until completion of delivery pursuant to clause 4.5.

4.4 The Customer must ensure that DX has access to any agreed delivery point immediately on arrival of the DX delivery vehicle at the delivery address (or at its return address). DX may provide assistance in making delivery to another point at the delivery address at the Customer's sole risk. Delivery to an agreed address does not include delivery to a specific person.

4.5 Subject to clause 5.1, delivery of the Consignment shall be deemed complete upon passing of control of the Consignment to the Consignee at the delivery address. Where agreed with the Customer, deliveries to a residential address shall also be deemed complete if delivered to neighbouring premises.

4.6 Time shall not be of the essence of any aspect of DX's performance. Unless otherwise specified in the Contract delivery days refer to working days and excludes weekends, public and local holidays.

4.7 If required by law, DX may pass the Consignment to the relevant authorities without notice.

4.8 DX may provide property to the Customer for use in connection with the Services. Title to any such property shall unless otherwise agreed remain with DX at all times. The Customer shall keep it in good condition and return it to DX on request.

5. UNDELIVERED CONSIGNMENTS

5.1 If DX has attempted but failed to deliver a Consignment due to any act or omission of the Customer or Consignee or due to any Force Majeure Event, then DX shall be deemed to have completed delivery for the purposes of reporting delivery metrics.

5.2 Subject to clause 5.1, if DX fails to complete delivery in the timescale specified in the Service Guide for any particular service offered, then provided the Customer notifies DX of any such failure and requests a remedy within seven (7) days of the date of the invoice relating to that failure, DX shall, at its option either reduce the relevant charges to DX's standard charges for the timescale achieved, or apply a 10% reduction, and this shall be the Customer's exclusive remedy for any such failure.

5.3 DX shall attempt redelivery of any undelivered Consignments in accordance with the Service Guide.

6. CHARGES & PAYMENT

6.1 The charges payable by the Customer for the Services are set out in the Service Agreement and applied to each collected Consignment. The tariff is based on the account profile including projected use set out in the Service Agreement. All charges and supplements are subject to VAT where applicable.

6.2 DX may vary the tariff by written notice at any time for any reason with retrospective and prospective effect, including if the Customer's use of the Services differs from the account profile or projected use, and/or if DX's costs of providing the Services have increased.

6.3 DX will charge additional supplements as described in the Service Guide or Service Agreement including a fuel supplement in accordance with the fuel index published on DM6 from time to time.

6.4 DX may charge at the volumetric weight rather than the actual weight based on a capacity rating as set out in the Service Guide.

6.5 DX may recover from the Customer any sums or costs paid out or incurred by DX including but not limited to customs charges, duty or tax relating to any Consignment. The DXF 1-Man Brexit Annex available on DX's website shall apply to this Contract.

6.6 Unless otherwise provided in the Service Agreement, DX will invoice the Customer weekly in arrears and will charge a minimum: (i) invoice value of £50 per account number; and (ii) fuel supplement of £10 per account number.

6.7 The Customer shall make all payments due to DX in pounds sterling by Direct Debit to the nominated DX bank account within fourteen (14) days after the date of invoice or if different then the number of days as set out in the Service Agreement.

6.8 Any query relating to any invoice must be notified to the local DX customer service team within seven (7) calendar days of the date of invoice.

6.9 The Customer may not withhold payment of any amount due to DX by way of set-off or counterclaim. DX may set-off any amount owing to it from the Customer against any amount owed by DX to the Customer.

6.10 If the Customer fails to pay any amount due to DX by the due date, then without limiting DX's other rights and remedies: (i) DX may claim interest and costs under the Late Payment of Commercial Debts (Interest) Act 1998; (ii) DX may suspend performance of the Services until it is paid; and (iii) DX may exercise a general right of lien and hold any Consignments until all outstanding sums are paid. If any sums are not paid within fourteen (14) days after their due date then DX may without further notice to the Customer sell any Consignments under its control and apply the proceeds in full or partial satisfaction of the sums due. Any surplus remaining after satisfaction of all sums and DX's reasonable costs shall be repayable to the Customer on demand.

6.11 DX may at any time by written notice withdraw or alter any credit allowed to the Customer without providing a reason.

7. CLAIMS AND CLAIMS PROCEDURE

DX shall not be liable for any loss of or damage to any Consignment unless the Customer follows the claims procedure referred to in the Service Guide.

8. LIMITATIONS OF LIABILITY

8.1 DX will not be liable for damage to any Consignment which is delivered to a residential address or using DX's Rapid Return and Rapid Transfer services (alternatively referred to as Carriage Forward and Carriage Transfer).

8.2 DX will not be liable for the first £50 of any claim for loss of or damage to any Consignment.

8.3 Subject to clause 8.1 and 8.4, DX's liability in connection with any damage to or loss of any Consignment or part thereof shall not exceed the lower of: (i) the costs of repair; (ii) the manufacturing cost; or (iii) a sum based on the lower of actual or declared unpacked weight of the Consignment or pro rata for partial loss or damage as follows:

Service	Liability
Before 9.30am	£15 per kilo
Before Noon	£15 per kilo
Saturday Services	£15 per kilo
Next Day	£15 per kilo
48/72 Hour & Offshore Delivery	£5 per kilo
Carriage Forward (Rapid Return) / Carriage Transfer (Rapid Transfer) (across all services)	£5 per kilo (for loss only)
Residential Addresses (across all services)	£5 per kilo (for loss only)

DX's liability is subject in each case to a maximum limit per Consignment of £10,000. The Customer shall provide proof of costs at DX's request. In the absence of proof, DX may determine costs by deducting forty per cent (40%) from the sales value.

8.4 DX's liability in relation to any DocPak or NightPak Consignment shall not exceed £150 per satchel.

8.5 DX shall not be liable for any non-performance, or for loss or damage to a Consignment, if: (i) arising wholly or partly from any breach of the Contract, act or omission of the Customer or Consignee; (ii) caused by inherent wastage or defects, or natural deterioration in the Consignment; (iii) the Consignment contains non-approved Excluded Goods; (iv) a handheld device or paper manifest shows that a delivery note has been completed by the Consignee; (v) the Consignee fails to accept delivery; (vi) the Consignment is correctly delivered to the delivery address and a person misrepresents their authority to receive it; or (vii) the Consignment is lost but is subsequently found and returned.

8.6 DX shall not be liable to the Customer if DX is prevented or delayed from performing the Services by a circumstance beyond DX's control (a "Force Majeure Event"), including adverse weather conditions, crisis, pandemic, epidemic, acts of Government, changes in the law or changes to regulations, industrial disputes, accidents, obstruction of highways, mechanical breakdown or traffic congestion. If a Force Majeure Event occurs DX may: (i) suspend performance of the Services for its duration; and/or (ii) return to the Customer any Consignment in the possession of DX without limiting the Customer's obligation to make payment of any charges. The Customer acknowledges that at times of emergency or Force Majeure DX may be prevented from operating normal practices such as requiring signatures. DX shall not be liable for any delay, loss or damage caused by any change in process required to operate safely in such circumstances.

8.7 DX shall not be liable to the Customer for any: (i) loss, damage, costs or expenses incurred by the Customer as a result of third party claims; (ii) loss of or corruption to data; (iii) loss of profits, income or business opportunity; (iv) loss of anticipated savings; (v) injury to reputation or loss of goodwill; (vi) loss of production; or (vii) indirect or consequential loss, damage, costs or expenses.

8.8 DX's total aggregate liability during any period of twelve (12) months beginning on the start date or an anniversary of the Contract shall be limited to the lesser of £30,000 or the total Charges (excluding VAT) paid by the Customer in respect of that Contract year.

8.9 Nothing in the Contract shall operate to limit or exclude DX's liability any matter for which liability cannot lawfully be limited or excluded.

8.10 References to DX's liability in this clause means liability under or in connection with the Contract, whether in contract, tort (including negligence or breach of statutory duty) or otherwise.

9. INDEMNITIES

The Customer shall indemnify DX against any and all loss, damages, costs, and expenses which DX incurs arising from: (i) the breach, negligence or wrongful acts or omissions of any Consignee; and (ii) claims made against DX in relation to any Consignment by any third party; (iii) in relation to any breach of applicable laws or (iv) any acts or omissions of the Customer.

10. TERMINATION

10.1 Either party may terminate the Contract and/or suspend performance of the whole or any part of the Services if the other party: (i) is in material breach of any obligation under the Contract such breach shall have continued for thirty (30) days after receiving written notice from the other party of the breach, such written notice to be sent within fourteen (14) days of the date of such breach; or (ii) becomes insolvent, resolves to wind up, makes an arrangement with its creditors, goes into administration or receivership or suffers or takes any similar occurrence or action, or is subject to any petition, application or order for any such occurrence or action. DX may terminate the Contract for any reason on seven (7) days written notice.

10.2 After termination, DX may within twelve (12) months invoice any charges and supplements not previously invoiced and any sums invoiced by DX shall become immediately due.

11. DATA PROTECTION

The Data Protection Annex (DXF) available on DX's website from time to time shall apply to this Contract. DX shall be a Data Processor and the Customer shall be a Data Controller. The parties agree to enter into any further data protection agreement(s) required as a result of any change in law or regulation.

12. GENERAL

12.1 DX may sub-contract the whole or part of the performance of the Services. The Customer may not assign any part of the Contract without DX's prior written consent.

12.2 A notice under the Contract shall be in writing. A notice shall be deemed given (i) if sent to DX by email upon receipt at legalandregulatory@thedx.co.uk; or (ii) if sent to DX by post when delivered to DX's registered office; or (iii) if given by DX to the Customer, at the postal and/or email address set out in the Service Agreement, or any substitute email or postal address notified in writing in advance to DX in accordance with these Conditions.

12.3 If any provision or part-provision of the Contract is invalid, illegal or unenforceable, it shall be severed, and the other provisions and part-provisions shall remain in effect.

12.4 Each member of the DX Group and its contractors shall have the benefit of and may enforce the limitations and exclusions of liability in these Conditions. Otherwise, no third party may enforce any term of the Contract.

12.5 The Contract is the entire agreement between the parties and supersedes all previous agreements. In entering into the Contract, the Customer does not rely on any representations not set out in the Contract.

12.6 A waiver of any right or remedy under the Contract is only effective if in writing and shall not affect any other right or remedy.

12.7 Except as otherwise provided in the Contract, DX may vary the Contract from time to time in writing (including by email) and the revised Conditions shall take effect from the next calendar month following notification to the Customer.

12.8 The parties shall treat as strictly confidential and not disclose nor use any information received or obtained in connection with the Contract. Notwithstanding the foregoing, disclosure or use of information is permitted if and to the extent: (i) it is required by law, provided the other party is given notice prior to any disclosure (to the extent practicable); (ii) the information becomes publicly available other than as a result of a breach of this Contract; (iii) the information is already in the possession of, or is independently developed by, the recipient; or (iv) the recipient has given prior written approval.

12.9 If, contrary to the intention of the parties, it is found or alleged at any time that any individual has become an employee of or has rights against DX by virtue of the Regulations or otherwise, the Customer shall indemnify DX for any liabilities arising from or in connection with: (i) the employment or termination of employment of such an individual; or (ii) any actual or alleged breach of any employment laws by either party; should in either case any individual transfer to DX as a result of the Transfer of Employment (Protection of Employment) Regulations 2006 (Regulations), as amended from time to time, or claim that they have so transferred.

12.10 Whilst on a party's premises, the other party's personnel shall use reasonable endeavours to comply with the first party's health, safety, and security policies in force from time to time, which the first party shall make available in advance.

12.11 Each party shall continue to own its pre-existing intellectual property ("IP"). All IP developed pursuant to the Contract shall be owned by the party creating the same. At either party's request, the other party shall do any act or execute any document required to ensure such ownership. Neither party shall gain any right, title or interest in the other party's IP. The Customer hereby, without cost to DX, grants to DX a licence to use any IP in order for Customer to receive and DX to provide the Services. Neither party may use the name or trademark of the other party without that party's prior written consent.

12.12 Any rights of audit agreed between the Customer and DX shall be exercised not more than annually, upon not less than 14 days written notice, at the requesting party's cost and subject to all information security and confidentiality obligations in relation to the relevant data.

12.13 The parties represent and warrant to each other that they shall throughout the term of the Contract comply with all applicable laws, rules, and regulations. The parties shall comply with all applicable anti-bribery and corruption and anti-money laundering laws, rules, regulations or equivalent and acknowledge that they have a zero tolerance policy towards bribery and corruption including towards facilitation payments.

12.14 The Contract and any dispute arising in connection with it shall be governed by and construed in accordance with the law of England and Wales and subject to the exclusive jurisdiction of the courts of England and Wales.