
**CONDITIONS OF CARRIAGE OF
PASSENGERS AND THEIR LUGGAGE**



1st June 2004

Afloat in France

European Cruising Ltd

CONDITIONS OF CARRIAGE OF PASSENGERS AND THEIR LUGGAGE

1. DEFINITIONS

In these conditions the following words shall have the following meanings respectively assigned to them except where the context otherwise requires:

“Carriage” (a) Transportation of Passengers and their Luggage on-board the Carrier’s Vessels; and

(b) Transportation by rail, by sea and/or air or by any other method of Carriage substituted by the Carrier for transport of the Passenger and/or his Luggage under the contract of Carriage.

“the Carrier” Means a person by or on behalf of whom a contract of Carriage has been concluded, whether the Carriage is actually performed by him or by a performing Carrier, and any owner or Charterer of the Vessel on which the contract of Carriage is being performed.

“Carrier’s Brochure” The brochure of the Carrier or related company authorised by the Carrier to market or sell journeys or holidays involving Carriage from which Carriage is booked.

“Contract of Carriage” Means a contract made by or on behalf of a Carrier for the Carriage of a Passenger or of a Passenger and his Luggage, as the case may be.

“Luggage” The personal effects and property of the Passenger and any case or receptacle in which they are contained which the Passenger is permitted to take with him under the contract of Carriage. Luggage includes handbags, briefcases, purses, jewellery, money, clothing and other articles being carried or worn by the Passenger.

“Passenger”	Means any person carried: (a) Under a Contract of Carriage; or (b) Any person carried with the consent of the Carrier but does not include the Carrier’s servants and agents who are being carried for the proper performance of their duties.
“Performing Carrier”	Means a person other than the Carrier, being the owner, charterer or operator who actually performs the whole or a part of the Carriage.
“Ticket”	The travel document issued to the Passenger by or on behalf of the Carrier and includes all pages and coupons contained therein and the notices and conditions printed thereon.
“The Vessel”	Means any one of the Carrier’s Vessels, operating from time to time on the waterways of France or any other vessel or vehicle upon which Carriage under the Contract is performed and, where the context permits includes vessels, aircraft and other methods of transport by sea and air.
“Manager”	Means the person or group of persons to whom the Carrier has given authority for the day to day running and operation of the Vessel. Words denoting the singular include the plural and vice versa. Words denoting the masculine include the feminine and vice versa. Reference to clauses and sub-clauses are to the clauses and sub-clauses of these Conditions. The use of clause headings is not to effect the construction of these Conditions.

2. APPLICABILITY

- (A) Tickets are issued, and Carriage is performed, subject to:
- (a) The Booking and Carriage Conditions and Limitations set out in the Carrier’s Brochure;

(b) These Conditions; and

(c) The Ticket.

(B) Overriding Law

In so far as any provision herein may be contrary to any law or government regulation or convention which cannot be waived or modified by agreement of the parties, it shall continue to apply and be part of the Contract of Carriage except to the extent that it is contrary to such law, regulation or convention and each provision herein shall be deemed to be a separate independent provision and the invalidity of any one or any part of any one provision shall not have the effect of invalidating any other or any part of any other.

(C) Change

These Conditions may be changed by the Carrier without notice save that no change so made shall apply after Carriage hereunder has commenced.

(D) Gratuitous Carriage

These conditions apply to gratuitous Carriage except to the extent that the Carrier has provided otherwise by Contract or Regulation.

3. TICKETS

(A) Requirement for a Ticket

A passenger shall not be entitled to be carried unless before departure he presents to the Carrier a valid Ticket. A Ticket is valid only for Carriage between the points of embarkation and disembarkation and on the dates referred to in the Ticket. Any Ticket which has been altered without authority shall be deemed invalid and a Passenger who uses such a Ticket for Carriage shall be liable to pay the full fare as though he had no Ticket.

(B) Period of Validity

A Ticket is only valid for Carriage on the dates shown on the Ticket. Tickets not used on the dates specified on the Ticket cease to be valid.

(C) Change and Cancellation by Passengers

Arrangements for changing or cancelling bookings and the Carrier's charges relating thereto shall apply as provided in the Carrier's Booking Conditions as set out in the Carrier's Brochure. Refunds of the fare will only be made by the Carrier before the expiry of the validity of a Ticket and is subject to any change or cancellation charge payable.

4. METHOD OF CARRIAGE AND CANCELLATION AND DELAY BY CARRIER

(A) The Vessel

Carriage between the places referred to on the Ticket or as substituted by the Carrier will, so far as possible, be performed on the Vessel. The Carrier may without notice substitute another vessel(s) before or after Carriage has commenced or may engage any other person or body to perform Carriage or any part of it on its behalf. The Carrier may in addition and without notice substitute for Carriage by vessel any other method of transport including but without limitation to bus, coach, car, sea or aircraft for the whole or any part of the Carriage.

(B) Subject to paragraph (D) of this clause, if before the commencement of Carriage the Carrier cancels the Carriage service or is unable to perform or to have performed Carriage, the Carrier may:-

- (a) offer Carriage to the Passenger on another date without extra charge; or
- (b) make a refund of the fare.

(C) Subject to paragraph (D) of this clause, if, after the commencement of Carriage, the Carrier cancels or is unable to perform or to have performed onward Carriage to the destination, the Carrier may:-

- (a) offer onward Carriage to the Passenger on another date; or
- (b) make a refund of the fare paid subject to the deduction from such refund of the fare applicable to the completed part of Carriage and any other charges payable by the Passenger.

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- (D) Except as provided by paragraphs (B) and (C) above, the Carrier shall not be liable for any loss or damage caused by cancellation of Carriage, delay to the Passenger or his Luggage, the non-arrival or the lateness of the Vessel or of any other service or for any loss or damage consequential upon such cancellation, non-arrival, lateness or delay.

5. REFUSAL OF CARRIAGE

(A) Right to Refuse Carriage

The Carrier may without prior notice refuse access, Carriage or onward Carriage to any Passenger or may cancel the reservation of any Passenger if, in its absolute discretion, it believes such action is necessary for the protection of the Carrier or of other Passengers. Without prejudice to the generality of the foregoing the Carrier may take such action if in its absolute discretion it believes that:

- (a) such action is necessary to prevent a violation of any applicable law or regulation of any country in which Carriage would take place or for reasons of safety; or
- (b) the Passenger is likely to act in a riotous, disorderly or offensive manner; or
- (c) the Passenger's conduct, age or mental or physical condition is likely to cause discomfort, annoyance or inconvenience to, or interfere with the enjoyment of Carriage by other Passengers or involves any undue risk of safety to the Carrier, to himself, to others or to property; or
- (d) the Passenger is likely to require special treatment or assistance from the Carrier, to himself, to others or to property; or
- (e) such action is necessary owing to the failure of the Passenger to observe the instructions of the Carrier.

(B) Effect of Refusal or Cancellation

- (a) Where a reservation is cancelled for any reason specified in paragraph (A) of this clause, the cancellation provisions of clause 4 above shall apply as though the cancellation had been made by the Passenger and the time of cancellation shall be the time when the Carrier notifies the Passenger of the cancellation.

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- (b) Where access of Carriage is refused for a reason specified in paragraph (A) above, the Passenger shall not be entitled to a refund of the fare or any part of the fare paid by the Passenger.
 - (c) Where onward Carriage is refused for a reason specified in paragraph (A) above, the Passenger shall not be entitled to a refund of the fare or of any part of the fare and shall be liable to pay to the Carrier such amount as in the Carrier's absolute discretion is attributable to any services performed for the Passenger other than those which the Carrier was obliged to perform under the Contract of Carriage and to reimburse the Carrier for any charges incurred by the Carrier on the Passenger's behalf.

6. FARES

(A) Changes

The Carrier may without notice change the fare payable for Carriage for any part of Carriage governed by these Conditions.

(B) Fare

The fare at which a Ticket is issued shall be that which is in effect at the time of issue of the Ticket by or on behalf of the Carrier for Carriage on the date(s) shown on the Ticket (subject to any applicable currency surcharge) save that in the case of a changed booking or of a re-issue of a Ticket which is permitted by the Carrier the fare shall be that which is in effect at the date of confirmation by the Carrier of the revised booking or of re-issue of the Ticket for Carriage on the revised date of Carriage.

(C) Non Payment of Fare

The Carrier shall not be obliged to carry and may refuse onward Carriage to a Passenger or his Luggage if the fare or any charges payable by the Passenger have not been paid or if any credit arrangements agreed between the Carrier and the Passenger or the person paying for the Ticket or any other charges have not been complied with. In the case of a refusal of Carriage or onward Carriage for any reason specified in this paragraph, the Passenger shall not be entitled to a refund of any of the fare paid and shall be liable to the Carrier for the whole fare or for such amount of the whole fare as has not been paid, for any other charges outstanding in respect of services provided by or on behalf of the Carrier and for any charges incurred by the Carrier in relation to the Contract.

7. DAMAGE BY PASSENGER

The Passenger shall be responsible for any loss or damage caused to the Carrier's property, servants, agents or representatives by anything done by the Passenger or by any articles brought by him onto the Vessel and he shall indemnify the Carrier against any liability to other persons for any death, injury, damage or loss caused thereby.

8. SERVICES BY SERVANTS OR AGENTS

If, at the request of the Passenger, a servant or agent of the Carrier renders services which the Carrier is under no obligation to render under the Contract of Carriage or which are outside the services for which such servant or agent of the Carrier is employed by the Carrier, they shall be deemed to do so on behalf of the Passenger for whom the services are rendered and the Carrier shall not be liable for any loss or damage whether or not caused by the neglect or default of such servant, agent or representative and the Passenger shall indemnify the Carrier against any liability to other persons for any death, injury, damage or loss caused thereby.

9. SERVICES PROVIDED BY THIRD PARTIES

- (A) All services booked by the Carrier with third parties (including but not limited to rail airline, hotel, transfer and porter services not provided by the Carrier,) are booked as agent for the Passenger and the Carrier hereby excludes all liability to the fullest extent permissible by law for any loss or damage caused to the Passenger or his Luggage in connection with services provided by such third parties.
- (B) The Carrier shall not be liable for loss or damage arising out of arrangements made between Passengers and third parties or independent contractors in connection with services that have been booked by the Carrier. Such arrangements may include but are not limited to:-
 - (a) services, products or transportation provided in connection with inclusive holidays which are not under the operation and control of the Carrier; and
 - (b) services or products made available on board the Vessel which are administered by any doctor, dentist or other medical attendant.

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- (C) Porters at airports, railway stations and ports are not employees or agents of the Carrier and the Passenger employs their services at his own risk and expense. Trolleys and other equipment available for use at railway stations, airports and ports are not the property of the Carrier and the Passenger uses such trolleys and equipment at his own risk. The Carrier shall not be liable for any loss or damage to the Passenger or his Luggage or personal effects caused by porters or by trolleys or equipment at railway stations, airports or ports.

10. LUGGAGE

(A) General

Passengers may take on board the Vessel such amount of Luggage as the Carrier's Regulations may from time to time prescribe.

(B) Prohibited Articles

Passengers shall not include in their Luggage:-

- (a) articles which do not constitute Luggage as defined in clause 1 of these Conditions;
- (b) substances and articles the Carriage of which is prohibited in any one of the territories through which the Luggage is carried;
- (c) articles liable to annoy or inconvenience other Passengers or to cause damage or which are dangerous including (but without limitation) loaded firearms, explosives or inflammable substances or articles, oxidising, toxic, radioactive, corrosive or repugnant substances or substances liable to cause infection;
- (d) live animals, birds, insects or fish;
- (e) articles which in the opinion of the Carrier are unsuitable for Carriage because of their weight, size or character;
- (f) illegal narcotic substances other than prescribed drugs;
- (g) motorcycles and similar vehicles, bicycles or perambulators.

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- (C) Servants or agents of the Carrier shall have the right to satisfy themselves in the presence of the Passenger as to the nature of any Luggage and to carry out such examinations as they deem fit if the Carrier is of the opinion that there may have been a contravention of the provisions of paragraph (B) above. If it is not possible to determine the person who has taken with him the Luggage to be examined or if the Passenger fails or refuses to attend or cannot be found, the Carrier shall carry out this examination in the Passenger's absence and any expenses arising out of that examination shall be paid for by the Passenger.
 - (D) If the Passenger's Luggage includes or he is in possession of any articles which are not acceptable as Luggage, the Carriage thereof shall nevertheless be subject to the limitations of liability and other provisions of these Conditions which are applicable.
 - (E) The Carrier may refuse to carry any Luggage which is not acceptable as Luggage within the provisions of this clause and on discovering that it consists of or includes any such articles it may refuse further Carriage and the Passenger shall not be entitled to a refund of any charges made by the Carrier or if, in connection with such refusal, the Passenger fails to complete Carriage, of any of the fare.

11. UNCOLLECTED LUGGAGE

- (A) The Carrier takes no responsibility either as Carrier or as warehouseman in respect of Luggage after the Passenger has reached his destination and has had reasonable opportunity of removing his Luggage;
- (B) A charge shall be made for any Luggage not claimed on completion of Carriage or left on the Vessel and unless claimed within 28 days it shall be deemed abandoned and may be sold or disposed of by the Carrier and the proceeds of sale retained by the Carrier. Perishables may be sold or disposed of immediately they are found. The Carrier shall have a particular and a general lien on Luggage which is stored by it in respect of its expenses and charges and all monies owed to it and may, before the expiry of 28 days, if it seems to it that the proceeds of the sale of the Luggage might not be sufficient to cover 28 days' storage charges, debts or expenses, sell such Luggage and apply the proceeds of sale in payment of such debts, charges and expenses.

12. PERFORMING CARRIER

- (A) If the performance of the Carriage or part thereof has been entrusted to a Performing Carrier, the Carrier shall nevertheless remain liable for the entire Carriage according to the provisions of these Conditions. In addition, the Performing Carrier shall be subject and entitled to the provisions of these Conditions for the part of the Carriage performed by him.
- (B) The Carrier shall, in relation to the Carriage performed by the Performing Carrier, be liable for the acts and omissions of the Performing Carrier and of his servants and agents acting within the scope of their employment.
- (C) Where and to the extent that both the Carrier and the Performing Carrier are liable, their liability shall be joint and several.
- (D) Nothing in this clause shall prejudice any right of recourse as between the Carrier and the Performing Carrier.

13. CARRIER'S LIABILITY FOR LOSS AND DAMAGE TO LUGGAGE

(A) Carriage

All Luggage is carried at the Passenger's own risk and the Carrier shall not be liable for any loss of or from or for damage to such Luggage, howsoever caused, unless through the wrongful act or wilful neglect of the Carrier.

(B) Limitation of Liability

In the event of the Carrier being liable for loss of or from or for damage to Luggage, such liability shall in any case be limited to €4,000 (or such other amount may be notified by the Carrier) or the currency equivalent per Passenger.

(C) Exclusions

The Carrier shall not in any event be liable for:-

- (a) Loss of or from or for damage to Luggage caused by:-
 - (i) its being improperly or insufficiently packed or labelled; or
 - (ii) its comprising or containing any fragile or brittle article liable to be broken or to damage any other article;

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- (iii) its comprising or containing articles not acceptable for Carriage or which otherwise cause loss or damage;
 - (b) loss of or from or for damage to any Luggage caused by the act, neglect or default of the Passenger;
 - (c) loss of or from or for damage to Luggage caused by the failure of the Passenger to comply with these Conditions or the Carrier's Regulations;
 - (d) indirect or consequential loss or damage;

and on the Carrier showing that the loss or damage could be attributable to one or more of the matters referred to in this paragraph, it shall be presumed to have been so caused unless the Passenger proved that it was not in fact attributable to one or more of these matters.

- (D) In the event that the Carrier is liable pursuant to this clause for loss of or from or for damage to Luggage, any contributory negligence by the Passenger shall be subject to the applicable English law relating to contributory negligence

14. CARRIER'S LIABILITY FOR DEATH, INJURY AND DAMAGE TO THE PASSENGER

- (A) The Carrier shall not be liable for death or personal injuries to the Passenger except upon proof that such death or personal injuries were caused by the wrongful act or wilful neglect of the Carrier (and to the extent that such liability can not by law be excluded).
- (B) The Carrier shall not in any event be liable for mental distress or suffering whether or not caused by the neglect or default of the Carrier.
- (C) If the Passenger's age or mental or physical condition is such as to involve any risk or hazard to himself, the Carrier shall not be liable for any injury, disability or illness, including death, attributable to such condition or for the aggravation of such a condition.
- (D) The Carrier shall not be liable for indirect or consequential loss.
- (E) In the event that the Carrier is liable for death or personal injuries or damage to the Passenger, any contributory negligence by the Passenger shall be subject to the applicable English law relating to contributory negligence.

15. EXCLUSIONS AND LIMITATIONS

- (A) Nothing herein shall waive any exclusion or limitation of liability of the Carrier under any applicable law.
- (B) The Carrier shall not be liable for any loss or damage or delay caused by an accident, incident or event outside the control of the Carrier including (but without limitation) nuclear accident, act of God, strikes or labour disputes, civil unrest or strife, war, acts of terrorists, robbers or thieves or adverse weather conditions.
- (C) Any exclusion or limitation of liability of the Carrier shall be for the benefit of and apply to the Carrier's servants, agents and representatives and so far as permitted by law to any other person whose vessels are used by the Carrier for Carriage and his/its servants, agents and representatives.

16. MODIFICATION AND WAIVER

No agent, servant or representative of the Carrier has authority to vary, modify or waive any of the terms of the Contract of Carriage

17. CLAIMS AND ACTIONS

(A) General

Except as provided in paragraph (B) below, departure from the Vessel at point of destination by the Passenger shall extinguish all rights of action against the Carrier arising from the Contract of Carriage for any loss or damage whatsoever unless:

- (a) the Passenger complained to the Carrier immediately on discovery of the loss or damage in any case before the Passenger's departure from the Vessel or, if the event or occurrence giving rise to the claim took place or the loss or damage is discovered at the point of destination, not later than the departure of the person from the immediate environs of the Vessel; or
- (b) the event or occurrence giving rise to the claim was so grave and of such magnitude and the resulting loss or damage was so obvious at the time the event or occurrence took place that the Carrier could not reasonably have failed to know that it took place and that it would be the subject of a claim; or

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- (c) the loss or damage is not apparent and is not and could not have reasonably have been discovered until some time after departure of the Vessel, provided that:
 - (i) immediately after discovery of the loss or damage and in any case within three days of departure from the Vessel at the point of destination after the event or occurrence giving rise to the loss or damage took place, the Passenger complains to the Carrier and provides full details of the event or occurrence and of the loss or damage suffered; and
 - (ii) the Passenger proves that the loss or damage occurred during Carriage;
 - (d) a complaint shall not be validly made under subparagraph (a) above unless it is made to the Vessel Manager.

(B) Damage and Partial Loss of Luggage

The removal of Luggage from the Vessel by or on behalf of the person entitled to make a claim or claim or bring an action shall extinguish all rights of action against the Carrier arising from the Contract of Carriage for damage or for partial loss unless:-

- (a) the person complained to the Carrier immediately on discovery of the loss or damage and in any case before removal; or
- (b) the loss or damage is not apparent and is not and could not reasonably have been discovered until after removal of the Luggage, provided that:
 - (i) immediately after discovery of the loss or damage and in any case within three days of removal of the Luggage, the person complains to the Carrier and provides full details of the loss or damage to the Carrier; and
 - (ii) the person proves that the loss or damage occurred while the Luggage was on the Vessel;

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- (c) in the case of a complaint made under subparagraph (a) above, the Carrier may make a written report as soon as possible thereafter of the condition of the Luggage and so far as possible of the extent of the loss or damage, its cause and the place where it occurred which report shall be conclusive evidence of the condition of the Luggage and of all other facts within the Carrier's knowledge.

(C) Claims

All claims must be made in writing to the Carrier at its head office within 28 days of the date of completion of the journey. A claim may only be made by a person who produces the Ticket or furnishes other proof of his right to bring an action against the Carrier and the Carrier may, on settlement of the claim, retain all documents submitted in support of the claim.

(D) Actions

(a) Luggage

Any right to damages for loss of or from or for damage to Luggage shall be extinguished if the action is not brought within one year from the date of the loss or damage or the date of discovery of the loss or damage, calculated from the date of discovery of the loss or damage or the date of discovery of the loss or damage or the date when Carriage was completed, which ever is the earlier.

(b) Death or Injury to a Passenger

Any right to damages for death or injury to a Passenger shall be extinguished if the action is not brought within three years of the date of the accident which gave rise to the claim.

- (E) Nothing herein shall waive or exclude any shorter periods of limitation for the making of claims or the bringing of actions against the Carrier under any applicable law or convention.

18. JURISDICTION AND APPLICABLE LAW

Any action arising under these Conditions shall be governed by English law and the English courts shall have the sole jurisdiction in respect of any claim relating to any Carriage by the Carrier or a performing Carrier.
