

Freight Operator Agreement Terms and Conditions

These are the terms and conditions of the Freight Operator Agreement between the company which issued the Covering Letter ("Eurotunnel") and the Freight Operator. They, in addition to Eurotunnel's Conditions of Carriage and the Covering Letter, shall apply until they are amended from time to time by Eurotunnel.

1 DEFINITIONS

The definitions in Eurotunnel's Conditions of Carriage apply equally to these terms and conditions.

Capacity Allowance	the amount of Commercial Vehicles per Day anticipated for travel under the Freight Operator Agreement, based on the recent historical volume of the Freight Operator with Eurotunnel or on agreed forecast, and as available to the Freight Operator on www.eurotunnelfreight.com
Conditions of Carriage	Eurotunnel's Conditions of Carriage available on the Eurotunnel website (www.eurotunnelfreight.com) or upon request from Eurotunnel.
Covering Letter	the letter from Eurotunnel to the Freight Operator enclosing or incorporating these Terms and Conditions.
Day	for the purposes of calculating the Capacity Allowance and the Freight Rate for a specified day, a day runs from midnight to 11.59 pm (local time).
Freight Operator	any person, firm or company who operates an account with Eurotunnel for the transport of Commercial Vehicles through the Fixed Link.
Freight Operator Agreement	means the agreement between Eurotunnel and the Freight Operator set out in the Covering Letter and incorporating these Terms and Conditions and the Conditions of Carriage.
Freight Rate	the price payable by the Freight Operator for the transport of Commercial Vehicles (and its Passengers) through the Fixed Link set out in the Covering Letter (as varied on reasonable notice). As set out in the Covering Letter, the Freight Rate will be different according to the dimensions of the Commercial Vehicle and whether or not the day of travel is a day when Eurotunnel expects significantly high volumes of traffic. In addition to the Freight Rate, we may invoice additional costs in the cases mentioned on the page https://www.eurotunnelfreight.com/fee

2 CAPACITY ALLOWANCE

- 2.1 Eurotunnel will, so far as reasonably practicable, permit the Freight Operator's Commercial Vehicles to travel through the Fixed Link to the extent that is within the Capacity Allowance for each Day. Eurotunnel may at its absolute discretion (but is not obliged) refuse carriage to the Freight Operator's Commercial Vehicles which are in excess of the Capacity Allowance for the applicable Day.
- 2.2 The Freight Operator may, at any time, request that Eurotunnel amend the Capacity Allowance. Eurotunnel may, provided it can reasonably accommodate the new Capacity Allowance, approve the amended Capacity Allowance and make any necessary adjustments to the Freight Rate. Any such amendments shall become effective upon Eurotunnel's written confirmation being sent to the Freight Operator.
- 2.3 Eurotunnel will periodically review the Freight Operator's actual figures for travel through the Fixed Link and reserves the right to adjust on this basis the Capacity Allowance and consequently the Freight Rate.

3 REQUIREMENTS FOR TRAVEL

- 3.1 To travel the Freight Operator must comply with (and ensure the driver, Passengers and the Commercial Vehicles complies with) Eurotunnel's published requirements.
- 3.2 LPG or equivalent flammable gas tank or dual powered vehicles (i.e. vehicles fitted with an LPG or equivalent tank as an alternative fuel) cannot be accepted for transport by Eurotunnel Le Shuttle, whether or not the LPG or equivalent tank is empty or the LPG or equivalent mode of the vehicle is not selected.
- 3.3 For the Commercial Vehicle to be entitled to the benefit of the Freight Operator Agreement the driver will be required to provide certain documentation and fulfill certain requirements as notified by Eurotunnel to the Freight Operator from time to time. If the driver cannot produce such documentation then the Freight Operator Agreement shall not apply to that Commercial Vehicle.
- 3.4 For the avoidance of doubt, where Commercial Vehicle travels on behalf of more than one Freight Operator, it is the responsibility of the Commercial Vehicle driver to ensure travel is made on the correct account failing which Eurotunnel will determine the relevant account at its absolute discretion. Unless otherwise agreed by Eurotunnel, journeys will not be re-invoiced to different accounts.
- 3.5 The Freight Operator shall ensure that no person under the age of 12 shall travel in or with a Commercial Vehicle through the Fixed Link.
- 3.6 The Freight Operator shall ensure its employees, servants and agents, drivers and subcontractors and all Passengers are aware of, are subject to, and comply with the Freight Operator Agreement (including these terms and conditions and the Conditions of Carriage). The Freight Operator will ensure that Eurotunnel can enforce the provisions of the Freight Operator Agreement directly against such people.

- 3.7 The Freight Operator shall (and shall ensure its servants, agents, subcontractors, Commercial Vehicles, drivers and Passengers shall) in their use of and access to the Fixed Link act with reasonable skill and care.

4 INVOICING AND PAYMENT

- 4.1 The Freight Operator shall pay for use of the Fixed Link pursuant to the Freight Operator Agreement at the Freight Rate (plus any applicable VAT/TVA), in the currency stipulated in the Covering Letter. Eurotunnel will invoice the Freight Operator weekly or at such other intervals as are agreed between the parties in writing. The invoices will cover the travel made on the Freight Operator's account pursuant to the Freight Operator Agreement for the period noted on the invoice. When the Freight Operator pays by SEPA Direct Debit, the invoice sent shall also be considered as the advance notice. Each SEPA Direct Debit will be made as from the Due Date indicated in the invoice.
- 4.2 The Freight Operator shall pay the amount of each invoice within fifteen days (15) net of the date of the invoice. Payment shall be made by direct debit or by electronic transfer of funds to the Eurotunnel account notified by Eurotunnel to the Freight Operator (unless agreed otherwise in writing).
- 4.3 In case of late payment, the Freight Operator shall be required to pay interest on the amount due at the statutory rate increased by 7 points after the expiry of the aforementioned term, and without the need for formal notice. It shall also pay a statutory fixed charge to cover debt collection costs of either 40 € or compensation from £40 to £1,000 depending on the outstanding amount, as well as an amount equal to 15% of the amounts due in principal. Eurotunnel shall retain the right to claim damages, call for the immediate payment of all amounts owed by the Freight Operator in the case of deferred and not yet due payment or cancel the current bookings.
- 4.4 The Freight Operator must raise any queries on the invoice with Eurotunnel within fourteen days (14) of the date of the invoice, failing which the Freight Operator will be deemed to have accepted the amounts on the invoice.
- 4.5 Eurotunnel may at any time (acting reasonably, but in its sole discretion) suspend the account facilities of a Freight Operator. If the account is suspended, the Freight Operator Agreement will not apply.
- 4.6 Eurotunnel will have a lien on any Commercial Vehicle and any Commercial Goods carried by it for all sums which are or become due to Eurotunnel in respect of the carriage of Commercial Vehicles, or otherwise arising under this agreement, whether in respect of carriage previously provided or otherwise. In this clause, sums shall include, but are not limited to, damages for breach of contract and other unliquidated claims and any previously unsatisfied debts howsoever arising. The lien will extend to include interest on all sums which are or become due before or after the lien is exercised.

5 TERMINATION

- 5.1 Either party may terminate forthwith the Freight Operator Agreement if:
 - 5.1.1 the other party enters into liquidation, has a receiver or administrative receiver or similar official appointed over all or any of its assets or is subject to any proceedings in any relevant jurisdiction having a similar effect;
 - 5.1.2 the other party is declared insolvent or, being an individual, is declared bankrupt;
 - 5.1.3 the other party ceases or threatens to cease to carry on the whole or any material part of its business.
- 5.2 The Freight Operator Agreement may be terminated at any time and for any reason by either party giving the other party not less than thirty (30) days' written notice.

6 GENERAL

- 6.1 The Conditions of Carriage are incorporated into and form part of the Freight Operator Agreement. If there is any conflict or ambiguity between these terms and conditions and the Conditions of Carriage, the Conditions of Carriage shall prevail.
- 6.2 Each of the parties confirms that the Freight Operator Agreement sets out the entire agreement between the parties, that it has not entered into this agreement in reliance upon any representation, warranty or undertaking of the other party which is not set out or referred to in the Freight Operator Agreement and that this agreement supersedes all previous proposals, agreements and other communications, whether written, oral or otherwise relating to the subject matter of this agreement.
- 6.3 Eurotunnel may at any time and for any reason vary all or any part of this agreement by giving the Freight Operator not less than thirty (30) days' notice.
- 6.4 Failure by Eurotunnel at any time to enforce the provisions of this agreement shall not be construed as a waiver of any of its rights nor affect the validity of the agreement nor prejudice any subsequent action taken by Eurotunnel.
- 6.5 The rights and obligations of the Freight Operator under this agreement may not be assigned without the prior written consent of Eurotunnel.
- 6.6 A person who is not a party to the Freight Operator Agreement shall not be entitled to enforce any right under these terms and conditions.

7 GOVERNING LAW AND JURISDICTION

- 7.1 Provisions of the Conditions of Carriage relating to the governing law and jurisdiction apply.
- 7.2 Specific provisions: Claims relating to the Freight Rate shall be governed and construed by the law in force and courts in the country where the company which issued the Covering Letter is registered.

