

THE HEAVY TRANSPORT
ASSOCIATION TERMS
AND CONDITIONS OF
CARRIAGE
(2004 EDITION)

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1 Terms and Conditions

These terms and conditions govern every contract between the Contractor and its Customer for the carriage of any Consignment by the use of vehicles operated by the Contractor or its Sub-Contractor(s).

2 Definitions

For the purpose of interpretation of these conditions.

“AIL”	means any Consignment which is an Abnormal Indivisible Load as defined by paragraph 2 of Schedule 1 Part 1 of the Special Types General Order.
“Customer”	means the party who contracts for the Contractor’s services, including the Customer’s employees, agents and servants, any Consignee and all those working under the Customer’s supervision or control.
“Consignee”	means any person firm partnership or company to whom the Consignment is to be delivered
“Consignment”	means all goods (including any packaging or container) supplied by the Customer and (without limiting the generality of the foregoing) any object equipment plant or machinery whatsoever accepted by the Contractor for carriage or any part thereof.
“Contractor”	means any person firm partnership or company performing the carriage by road of the Consignment.
“Special Types General Order”	means the Road Vehicles (Authorisation of Special Types) (General) Order 2003 (No:1998) as amended or substituted.
“Relevant Dimensions & Weights”	means all dimensions and weights of any Consignment which constitutes an AIL which are relevant to the classification of the AIL for the purposes of notification and escort pursuant to the Special Types General Order.
“Hazardous or Dangerous Goods”	means any substance contained in any approved list of dangerous substances published by the Health and Safety Executive from time to time and any other substance which, by reason of its characteristic properties or presence creates a risk to the health and safety of any person who might or does come into contact with it, whether as a result of spillage accident or otherwise howsoever, in the course of conveyance by

road.

“Sub-Contractor(s)” means any person firm partnership or company (including a ‘Subcontracted Carrier’) that carries out work for the Contractor or provides any service in connection with the carriage of the Consignment by road.

“Subcontracted Carrier” means any road haulier or other carrier sub-contracted or engaged by the Contractor to perform any contract or part of any contract for the carriage of the Consignment for the whole or any part of the journey for or on behalf of the Customer.

3 Customer Warranties

The Customer warrants that: -

- (a) It is either the owner of the Consignment or has the authority of the owner or owners of the Consignment, or any part thereof, to accept these conditions on the owner’s behalf.
- (b) Where the Customer is not the owner, a copy of these conditions has been provided to every owner and has been accepted by them.
- (c) Where in accordance with paragraph 11 (b) hereof the Contractor is required to insure the Consignment to its full value the valuation given by the Customer to the Contractor in writing is an accurate valuation.
- (d) Neither the Consignment as a whole nor any part thereof comprises Hazardous or Dangerous Goods.
- (e) The goods contained in the Consignment are fit and proper for carriage.
- (f) Where the Consignment constitutes an AIL, subject to any variation of these conditions made in writing: -
 - (i) The AIL is an AIL as defined by paragraph 2 of Schedule 1 part 1 of the Special Types General Order.
 - (ii) All relevant dimensions, centre of gravity and weights of the Consignment will be provided to the Contractor in writing in advance of movement of the AIL and in sufficient time to enable the Contractor to comply with any provisions or requirements contained in the Special Types General Order.
 - (iii) All relevant dimensions, centre of gravity and weights provided to the Contractor are accurate and are intended to be relied upon by the Contractor and its Sub-Contractors.

- (iv) The Customer will procure safe and adequate facilities for access by the Contractor's vehicle(s) and any plant or equipment to the point(s) of collection and off loading of the AIL.
- (v) The Customer will provide safe and adequate means, equipment and personnel to load unload and securely stow the AIL and in providing these and all other services and facilities at all times the Customer will act with all proper care and attention.

4 Contractor's Warranties

The Contractor warrants that: -

- (a) It shall take reasonable skill and care to ensure that the vehicles used to carry the Consignment are suitable to satisfy the Customer's requirements in so far as those requirements have been adequately notified to the Contractor in writing.
- (b) It shall use its reasonable endeavours to notify all relevant authorities and to obtain an escort for vehicles in accordance with the requirements of the Special Types General Order or any applicable Code of Practice published by the Highways Agency where necessary.

5 Sub-Contracting

- (a) The Contractor may engage the services of a Subcontracted Carrier and for the purposes of engaging a Subcontracted Carrier the Contractor shall be and is hereby authorised by the Customer to be the Customer's agent.
- (b) Where the Contractor employs a Subcontracted Carrier, these conditions shall govern the respective obligations and remedies of the Customer and the Subcontracted Carrier to and against each other in respect of all parts of the Contract that the Subcontracted Carrier is engaged to perform as agent or servant of the Customer.
- (c) The Contractor and Subcontracted Carrier shall whether jointly and/or severally or otherwise howsoever be under no greater liability to the Customer or any other party than the Contractor is under the terms of this contract.

6 Exclusion of liability

The Contractor shall not be deemed to be in breach of contract or these conditions or otherwise liable for any loss or damage if and to the extent that such loss or damage was caused by: -

- (a) act of God,
- (b) any error, act or omission of the Customer, any person other than the Contractor acting on behalf of the Customer, the owner of the Consignment, or of the person from whom the Contractor received the Consignment.,
- (c) inadequacy or errors in, or the misleading nature of, the details provided of weights, centre of gravity or dimensions of the Consignment or any packaging marks or labels,

- (d) handling, loading, stowage or unloading of the Consignment, or any part thereof, by the Customer, or by any person acting on behalf of the Customer,
- (e) faulty design, defect, or inherent vice of the Consignment,
- (f) Hazardous or Dangerous Goods,
- (g) defective packing or packaging of the Consignment,
- (h) misleading addressing by the Customer or other owner or consignor,
- (i) the Consignee not taking or accepting delivery of the Consignment within a reasonable time,
- (j) war, invasion, act of foreign enemy, hostilities, civil war, revolution, rebellion, insurrection, act of terrorism, riot, civil commotion, strike, lockout, stoppage or restraint of labour, the consequences of which the Contractor was unable to avoid by the exercise of reasonable diligence,
- (k) intervention, confiscation, requisition destruction, impounding act or omission of the Police or other authorities, or by any legal process, road works, enforced route diversions, delays or hold ups the consequences of which the Contractor was unable to avoid by the exercise of reasonable diligence, or
- (l) fraud on the part of the Customer or any person acting on behalf of the Customer or any other owner of the Consignment or any part thereof.

7 Goods at Customer's risk

Unless otherwise agreed in writing the Customer will be responsible for loading and unloading and the secure stowage of the Consignment and the Contractor shall not be liable in any event for any loss or damage to the Consignment or any part of the Consignment which occurs prior to or during the Consignment being loaded onto the Contractor's vehicle or at any time during or after the unloading of the Consignment from the Contractor's vehicle or for any loss or damage to the Consignment arising due to the inadequate loading or secure stowage of the Consignment.

8 Limit of liability

Any liability of the Contractor for loss, misdelivery or damage to the Consignment or any part thereof shall in respect of any one Consignment be limited to the lesser of: -

- (a) the actual value of the Consignment or if only part of the Consignment is damaged to the value of that part as a proportion of the whole Consignment, or
- (b) to the cost of repairing the damage

PROVIDED THAT

- (i) the Contractor's liability in respect of any Consignment shall not exceed in the aggregate the total sum of £250,000.00 (unless it shall be otherwise notified in writing by the Contractor to the Customer in which case the sum of £250,000.00 shall be substituted by such other amount as shall be so notified), and
- (ii) in the case of any Consignment not being an AIL the Contractor's liability shall not exceed £1,000 per tonne of the gross weight of such Consignment

9 Indirect or consequential loss or damage

Notwithstanding condition 8 the liability of the Contractor in respect of any indirect or consequential loss or damage however arising (including loss of market or loss arising out of delay) shall not exceed the amount of the Contractor's charges in respect of the Consignment or the amount of the claimant's proved loss, whichever is the lesser, unless: -

(a) at the time of entering into the Contract with the Contractor, the Customer declares to the Contractor a special interest in delivery in the case of loss or damage or of an agreed time limit being exceeded and agrees to pay a surcharge calculated on the amount of that interest, and

(b) prior to the commencement of movement of the Consignment the Customer has delivered to the Contractor written confirmation of the special interest or agreed time limit and the amount of the interest, and

(c) the Contractor agrees in writing that it will accept the Consignment on the basis of such special interest.

10 Indemnity

The Customer shall indemnify the Contractor against: -

(a) all consequences suffered by the Contractor (including but not limited to claims, demands proceedings, fines, penalties, damages, costs, expenses, loss of profits and loss of or damage to the carrying vehicle and to any other goods carried) by virtue of or any error, omission, misstatements or misrepresentation or breach of any of the warranties given herein by the Customer or any of its servants or agents,

(b) any loss damage injury or death, and/or any claims relating to the same, occurring or arising whilst the loading or unloading of the Consignment is taking place or attributable to the inadequate securing of the Consignment,

(c) all claims and demands made in connection with the carriage of the Consignment of any kind whatsoever made by whosoever in excess of the liability of the Contractor under these conditions,

(d) (unless the Contractor negligently fails to comply with any instructions issued by the Customer) any damage to privately owned road ways or fittings thereon bridges or floors or anything within or beneath any of them,

(e) all costs levies tolls and charges imposed by any United Kingdom or non-United Kingdom police force local authority or other agency contractor or organisation whether incorporated or

unincorporated whatsoever and howsoever arising in connection with the movement of the Consignment.

11 Insurance

(a) The Contractor shall maintain policies of insurance, which will indemnify it in respect of liability to the Customer as defined in these conditions. A copy of such policy will be provided upon request.

(b) If expressly instructed so to do in writing by the Customer, the Contractor will use its reasonable endeavours at the sole cost of the Customer to procure insurance (where available) to indemnify the Customer in respect of any loss which he may suffer in excess of the amounts recoverable in accordance with these conditions.

12 Time Limits for Claims

The Contractor shall not be liable for any loss or damage whether direct, indirect or consequential unless the claim is notified to the Contractor in writing within 7 days from the date on which the Contractor tenders the Consignment or any part thereof to the Customer or consignee for delivery unless the Customer provides evidence that it was not reasonably possible for the Customer to notify the claim in writing within 7 days and that such written claim was notified within a reasonable time.

13 General Lien

(a) As well as having a particular lien on any goods held by the Contractor for the Customer the Contractor shall have a general lien against the Customer and/or any other owner of the Consignment, or part of the Consignment, on any goods held by the Contractor for the Customer, for the payment of any monies whatever due from the Customer or other owner of the Consignment or that part retained by the Contractor, whether the liability for those monies arises from the carriage of that Consignment or otherwise howsoever.

(b) The Contractor shall be entitled to sell or dispose of any goods retained by virtue of this lien as agent for and at the expense of the Customer and to apply the proceeds in or towards the payment of such sums as are due to the Contractor upon giving 14 days notice in writing to the Customer. Upon accounting to the Customer for any balance remaining after payment of the sums due to the Contractor and the costs of sale or disposal, the Contractor shall be discharged of any liability whatsoever in respect of the goods.

14 Payment of Invoices

All invoices rendered by the Contractor are due for payment immediately upon delivery of invoice. The Contractor shall be entitled to charge interest at 4% per annum above the base lending rate of the Bank of Scotland plc on all invoices unpaid for more than 30 days from date of issue of invoice, such interest to accrue from the date payment of each invoice became due to the date payment is received by the Contractor.

15 Force Majeure

The Contractor shall be relieved of its obligations to perform its contract with the Customer to the extent that performance thereof is prevented by the Customer or by virtue of any of the reasons specified in condition 6 (a)-(l) inclusive or any other cause beyond the reasonable control of the Contractor.

16 Authority

Any amendment to these conditions can only be made in writing by the express authority of a director, partner or sole proprietor of the Contractor.

17 Agency

If for the purposes of facilitating the transport of the Consignment it shall be necessary for the Contractor to enter into any contracts or arrangements for the provision of services including but without limitation to the generality of the foregoing contracts or arrangements for the removal and reinstatement of railings, barriers, kerbs and other 'street furniture' as well as contracts or arrangements for the provision of escort vehicles, escort personnel or lifting of cables or wires or any services of a similar purpose or nature then in such circumstances the Contractor shall be entitled to enter into any such contracts or arrangements in the name of the Customer and the Customer hereby grants the Contractor irrevocable authority to enter into such contracts and arrangements at the Customer's sole cost and risk and agrees to indemnify the Contractor in respect of all costs and liabilities arising thereunder.

18 Jurisdiction

These conditions shall be interpreted by reference to the laws of England whose Courts shall have exclusive jurisdiction to deal with any dispute arising hereunder.