

# **RULES OF THE HEAVY TRANSPORT ASSOCIATION**

## **1. NAME**

The name of the Association shall be 'The Heavy Transport Association; ('the Association').

## **2. ADMINISTRATION ADDRESS**

The administration address for the Association shall be c/o Aaron and Partners, Grosvenor Court, Foregate Street, Chester. CH1 1HG.

## **3. STATUS**

3.1 The Association shall be a Trade Association and shall consist of those classes of Member specified in Rule 5 hereof.

3.2 All monies received on account of the Association from any source shall be applied towards carrying out the Objects (as hereinafter stated) of the Association.

## **4. OBJECTS**

4.1 The Objects of the Association shall be to represent and promote the professional and trade interest of its Members and improve the standard of the Heavy Transport Industry by: -

4.1.1 Ensuring that the views of the Heavy Haulage Industry are correctly represented at National and International level.

4.1.2 Bringing together within the Association both Operations of Heavy Haulage Equipment and Manufacturers of Heavy Haulage Equipment and related Companies.

4.1.3 Liaising regularly with the Ministry of Transport and other national bodies to ensure that the requirements of the Heavy Haulage Industry are known at National and International level.

4.1.4 Generally representing and promoting the Heavy Haulage Industry in such a manner as the Committee shall think fit.

## **5. MEMEBERSHIP**

5.1 Ordinary Membership of the Association shall be open to: -

5.1.1 Ordinary Members. Professional Operators (corporate or un-corporate) of Special Type Vehicles elected to ordinary membership in accordance with sub section 5.1.5 hereof. Such persons shall be entitled, in common with the other Ordinary Members and with the Honorary Members, to vote at all general meetings of the Association.

5.1.2 Honorary Members. Ordinary and Associate Members who have performed valuable service to the Association for a period of 5 years or more and who have been elected to Honorary Membership in accordance with sub section 5.1.5 hereof. Such persons shall be entitled to all the privileges of Ordinary Membership.

5.1.3 Associate Members. Persons elected to Associated Membership in accordance with sub section 5.1.5 hereof who are not qualified for Ordinary Membership by reason of sub section 5.1.1 hereof but who are involved in the manufacture of Heavy Haulage Equipment.

5.1.4 Affiliate Members. Persons elected to Affiliate Membership in accordance with sub section 5.1.5 hereof who are not qualified for Ordinary or Associate Membership shall be invited to Affiliate Membership in recognition of their involvement and participation in activities of the Association and its Members. Such persons shall be entitled to all the privileges of Ordinary Membership (subject to limitations imposed on their voting rights as hereinafter mentioned).

5.1.5 Advisory Members. Person elected to Advisory Membership in accordance with 5.1.5 hereof who are not qualified for Ordinary Associate or Affiliate Membership shall be invited to Advisory Membership in recognition of their involvement and participation in the activities of the Association and its Members. Such persons shall be entitled to all privileges of Ordinary Membership (subject to limitations imposed on their voting rights as hereinafter mentioned).

5.1.6 The procedure for election to Membership shall be as follows: -

i. Every candidate for Membership, of whatever class, shall be proposed by one Ordinary, Honorary or Associate Member of the Association, and seconded by another Ordinary, Honorary or Associate Member of the Association. The said proposal shall be submitted in writing to the Secretary, and shall state the name and address of the candidate and such other details as are described in the Second Schedule, The Secretary shall cause the proposal to be notified to all Members of the Association within 7 days of the proposal having been submitted, and objections to the proposal from other Members of the Association must be delivered to the secretary in writing within 14 days thereafter.

## **5. MEMEBERSHIP (continued)**

- ii. Election to Membership shall be by the Committee, whose decision as to category of Membership or rejection shall be final. No reason shall be given to any candidate in the event of rejections.
- iii. No person shall be admitted to any class of Membership without an interval of at least 21 days between his nomination for Membership and his admission. New Members (other than Advisory Members) shall pay the current entrance fee and current years' membership subscription to the Treasurer before admission shall be deemed complete.
- iv. If any objection to the proposal from other Members of the Association shall have been delivered to the Secretary in writing then election to Membership shall be by the Members in general meeting and a proposal shall be carried by majority vote.
- v. In the case of a corporate or un-corporate Member such shall be represented by one duly authorised person acceptable to the Committee ("Representative") provided that such Member may be represented by more than one Representative on payment of one-fifth of the current years' membership subscription to the Treasurer for each additional Representative.

## **6. MANAGEMENT**

- 6.1 The affairs of the Association, except in those matters reserved under the Rules for the Association in general meeting, shall be managed by the Committee of the Association.
- 6.2 The Committee shall exercise the powers given to it under these Rules, and shall consist of a Chairman, Secretary and a Treasurer and not less than two or more than six other Members. All Committee Members, including Office Bearers shall be elected by the Members at the Annual General Meeting of the Association, They shall go out of office in every year, but shall be eligible for re-election. All candidates for election to the Committee shall be proposed by one Ordinary, Honorary or Associate Member and seconded by another Ordinary, Honorary or Associate Member, the said proposals to be in writing and submitted to the Secretary not later than 14 days before the date fixed for the Annual General Meeting. Subject as hereinafter provided only Ordinary, Honorary and Associate Members of the Association shall be eligible for election to the Committee provided always that an Advisory Member shall be eligible for election to the Office of Secretary.
- 6.3 Voting for the election of the Committee Members shall be by ballot.

- 6.4 If a casual vacancy occurs in the Committee by virtue of the death, resignation or expulsion of one of its Members, the Committee shall appoint another Member of the Club to fill the vacancy, such person to hold Office during the remainder of the period of tenure of the Member he replaced.

## **6. MANAGEMENT (continued)**

- 6.5 The Committee of the Association shall meet at least once every calendar month to conduct such business as shall be necessary, and a quorum at such meetings shall consist of four members. The resolution of a simple majority of those Committee Members present and voting at any Meeting of the Committee shall be binding upon both the Committee and the Association, insofar as that resolution shall relate to any matter competently within the sole jurisdiction of the Committee. The Chairman shall preside at all meetings of the Committee at which he is present; in his absence, the Committee shall elect a Chairman for that meeting only. The secretary shall take minutes of all Meetings of the Committee; in his absence, the Meeting shall appoint one of its Members to take the Minutes.
- 6.6 The Committee may, by the issuing of bye-laws, manage the Association's affairs to any extent and degree which is not inconsistent with these Rules.
- 6.7 The Committee may appoint one or more sub-committees to conduct such of the Committee's business as Committee shall deem appropriate. Any such sub-Committee shall consist of not less than three members, two of whom shall form a quorum. All resolutions passed in sub-Committee shall be subject to ratification by the Committee.

## **7. TRUSTEES**

- 7.1 Trustees, who shall be at least two and no more than four in numbers shall be appointed from time to time as necessary by the Members of the Association in general meeting. Candidates for Trusteeship shall be proposed and seconded in the like manner as laid down in Rule (6.2) hereof for Committee elections. A Trustee shall hold Office during his life, or until his resignation in writing to the Secretary, or until a resolution removing him from Office shall have been passed by a two thirds majority of those present and voting at a general meeting called for the purpose under Rule 10 hereof.
- 7.2 All the property of the Association of whatsoever nature shall be vested in the Trustees for the time being, to be held in trust in their names for the use and benefit of the Association as a whole, On the death, resignation or removal from Office of a Trustee; the Committee shall take steps to secure the appointment by the Association of a new Trustee in his place, and shall as soon as possible thereafter take all lawful and practicable steps to procure the vesting of all Association property into the names of the Trustees as constituted after the said appointment.
- 7.3 The Trustees shall at all times, and in all respects, act in regard to the property of the Association held by them in accordance with directions of the Committee; and shall have power to sell, pledge, lease, mortgage or

otherwise alienate any Association property in compliance with the directions of the Committee but no purchaser, lessee or mortgagee, or other successor in Title, shall be concerned to enquire whether any such direction has been given.

## **7. TRUSTEES (continued)**

- 7.4 The Trustees shall, on the direction of the Committee, represent the Association in any litigation.
- 7.5 The Trustees shall be entitled to an indemnity out of the property of the Association in respect of any action taken by them on the direction of the Committee.

## **8. SUBSCRIPTIONS**

- 8.1 The annual subscription for Members other than Advisory Members shall be as fixed by the Committee from time to time under the bye-laws.
- 8.2 The said annual subscription shall be due and payable on election under Rule 5 hereof and thereafter without demand on 1 April of each year. The Committee may terminate the membership of any Member whose annual subscription remains unpaid on 1 June of any year.

## **9. CAPITALS ACCOUNTS**

- 9.1 The Treasurer shall cause to be kept such accurate and proper books of accounts as will enable him at every Annual General Meeting, or at such other time as may be required by the Committee upon reasonable notice, to present to the Association a full and accurate report and statement concerning the finances of the Association, and shall present such report and statement accordingly.
- 9.2 Those accounts presented to the Annual General Meeting of the Association shall be certified by Auditors appointed from time to time by the Members in general meeting as being a fair and accurate summary of the income and expenditure of the Association for the period covered by their certificate which shall be the same period as cover by the said accounts.

## **10. MEETINGS OF THE ASSOCIATIONS**

- 10.1 A general meeting of the Association (to be known as the Annual General Meeting) shall be held in March of each year. Notice of the date and time of the Annual General Meeting shall be notified to the Members at least 21 days before the said meeting.

- 10.2 The business to be transacted at the Annual General Meeting shall consist of the election of Committee Members, the presentation of the audited accounts, the Chairman's Report on the previous year, the Treasurer's Report on the previous year, and any other business, notice of which has been given to the Secretary in writing at least 14 days before the Annual General Meeting.

#### **10. MEETINGS OF THE ASSOCIATIONS (continued)**

- 10.3 Additional general meetings of the Association may be summoned at any time by the Committee following the expiry of 28 days written notice by the Secretary to the Members.
- 10.4 The Secretary shall summon a general meeting if required to do so by written request signed by not fewer than 15 Ordinary, Honorary or Associate Members. Upon receipt of such a request, the Secretary shall call such a meeting to be summoned by 21 days notice in writing to the Members within 7 days of receipt by him of such request. The Meeting to be held as soon as practical after the expiry of the 21 days notice.
- 10.5 At all general meetings of the Association voting shall be confined to Ordinary, Honorary and Associate Members of the Association, and every such Member shall be entitled to be present and cast one vote upon every question put to the vote. In the case of inequality of voting, the Chairman of the Meeting (who shall be the Chairman of the Association, if present, whom failing a Member elected for the occasion by the Meeting before the business of the Meeting is open) shall have a second or casting vote. All voting (except as expressed otherwise as elsewhere these Rules) shall be by simple majority taken by ballot.
- 10.6 At all general meetings of the Association Affiliate and Advisory Members shall be entitled to vote provided that a three-quarters majority of those Ordinary, Honorary and Associate Members present shall vote in favour of such entitlement.
- 10.7 The Secretary, if present, whom failing some other Member nominated by the Meeting, shall take Minutes of the proceedings at all general meetings of the Association.
- 10.8 In calling any General Meeting, the Secretary shall by notice in writing to the Members specify the business to be conducted thereat.
- 10.9 The Quorum at such General Meetings shall be fifteen.
- 10.10 The conduct of General Meetings shall follow (as closely as reasonably possible) the rules set out within the First Schedule.

#### **11. GUESTS OF MEMBERS**

- a. Members may introduce guests to the general meetings of the Association, and there shall be kept for such purpose a guest book which both the Member and the guest shall sign at the time of the introduction of the guest.

## **11. GUESTS OF MEMBERS (continued)**

- 11.2 No Member may introduce more than two guests to any one meeting and no person may be allowed to any such meeting as a guest on more than 3 occasions in the current year. No person whose membership of the Association has terminated under Rule 12 hereof or is for the time being suspended under Rule 12 hereof, or whose application for Membership has at any time been rejected shall be admitted as a guest. The Committee may suspend any Member who takes undue advantage of this rule to the detriment of the Association.
- 11.3 Any Member introducing a guest under this Rule must accompany him to the general meetings, and shall be responsible for his guest's behaviour throughout his attendance.

## **12. CONDUCT OF MEMBERS**

- 12.1 The Committee may suspend the Membership of any Member whose conduct, whether at Meetings or elsewhere, is considered by the Committee to be detrimental to the best interest of the Association or its reputation, whose decision shall be final. No reason shall be given to any Member in the event of his suspension, except upon written application by the Member.
- 12.2 Within 14 days of such suspension, the Committee shall cause the Secretary to give notice to all Members that a named Member has been suspended, specifying the alleged grounds. A date shall be fixed for a meeting of the Committee for the purposes of considering further action, such Meeting to be not earlier than 14 days and not later than 28 days from the issue of the Suspension Notice. Members wishing to make representations to the Committee concerning the suspension must do so in writing to the Secretary not later than 7 days from the issue of the Suspension Notice.
- 12.3 The Secretary shall, not later than 14 days before the Committee Meeting summoned to consider further action, cause written notice of the Meeting to be served upon the suspended Member at his last address as notified to the Secretary, informing of him his right to be present and legally represented at the said meeting if he so desires.
- 12.4 As the said Meeting of the Committee, any allegations against the suspended Member shall be narrated (in his presence) if he elects to attend and in the presence of his legal representative (if he elects to appoint one), and the suspended Member and/or legal representative shall be afforded the opportunity of being heard in answer thereto the suspended Member may

produce such witnesses as he wishes, and the Committee shall not unreasonably refuse any request by the suspended Member for an adjournment of the proceedings to enable him to prepare his answer.

- 12.5 After hearing all evidence, the Committee shall (if they so wish) retire to consider further action, and shall thereafter vote thereon. It shall be in the sole power of the Committee to reinstate the suspended Member, or to terminate his membership; the decision of the Committee shall be final.

## **12. CONDUCT OF MEMBERS (continued)**

- 12.6 The decision of the Committee shall be communicated to the suspended Member in writing within 7 days thereof.
- 12.7 Any person whose Membership is terminated under this Rule or under Rule 8 hereof shall immediately be excluded from the Association and shall have no right of claim against the Association; Committee or any Member thereof except that any unexpired portion of his membership subscription shall be refunded.

## **13. ALTERATIONS OF RULES**

- 13.1 These rules or any of them may be added to, amended or replaced by a resolution of a two-thirds majority of those present and voting at a general meeting of the Association called for the purpose under Rule 10 hereof.

## **14. CAPITAL DISSOLUTION**

- 14.1 The Association shall be dissolved upon a resolution to that effect passed by a three-quarters majority of those present and voting at a general meeting of the Association called for the purpose under Rule 10 hereof.
- 14.2 Following upon such resolution, the Trustees shall take immediate steps to convert into money all property of the Association whatsoever, with power however to postpone or delay the conversion of any particular property as so directed by the general meeting.
- 14.3 Out of the proceeds of such conversion the Trustees shall discharge all debts and liabilities of the Association, including all expenses incidental to the said conversion.
- 14.4 All money remaining from the said conversion, following upon the discharge of all debts and liabilities as aforesaid, shall be divided in equal shares between all those who at the date of the general meeting held in accordance with Rule 10 hereof were fully paid-up Ordinary, Honorary or Associate Members of the Association.



## **15. DISPUTES**

Any dispute arising out of, or not cover by these Rules, shall be referred to the Committee, whose decision shall be final.

## **16. TERMS & CONDITIONS**

The Terms and Conditions set out in the Third Schedule are hereby adopted as the Association's Terms and Conditions and shall be known as "The Heavy Transport Association Terms and Conditions of Carriage (1990 Edition)".

IN WITNESS WHEREOF WE THE UNDERISGned BEING MEMBERS OF THE COMMITTEE HAVE SIGNED OUR CONSENT PURSUANT TO OUR MUTUAL AGREEMENT THE

16<sup>th</sup> DAY 1991

SIGNED BY B Rawcliffe

in the presence of: -

SIGNED BY H. Wilson

in the presence of: -

SIGNED BY G Johnson

in the presence of: -

SIGNED BY J Macaulaey

in the presence of: -

SIGNED BY A. Hill

in the presence of: -

SIGNED BY C. Bennett

in the presence of: -

SIGNED BY S. Keen

in the presence of: -

**THE FIRST SCHEDULE**  
**(THE CONDUCT OF MEETINGS AND RULES FOR DEBATE)**

**1. NOTICES**

No business conducted at any meeting shall be either competent or valid unless the meeting itself has been validly convened by the giving of the requisite notice to all those who are entitled to attend.

To constitute a valid notice such notice shall be notified to every Member personally by post to his last-known address together with notice of the date of the meeting, the precise hour and location of such Meeting and the nature of the business to be conducted at that Meeting.

When opening the Meeting the Chairman shall ask the Members present to confirm, by show of hands, that the Meeting has been validly convened; any suggestion that it has not shall be dealt with there and then, and thereafter no further dispute will be permitted.

**2. THE AGENDA**

The Committee shall fix and cause the Secretary to give notice of the agenda for any Meeting, incorporating all those items which it is desired to deal with at the Meeting. No business may competently be discussed at any Meeting unless it has been intimated as part of the agenda, The Secretary shall arrange the order in which the business will be taken and the order business shall not be departed from without good reason.

**3. THE CONTROL OF THE BUSINESS**

The Meeting shall deal with matters in hand in the order in which they are laid down in the agenda (unless a resolution is passed to alter the order in which business is to be taken).

No fresh item shall be taken until the previous item has been satisfactorily dealt with, and a resolution either carried or defeated so as to ensure the dignity and decorum of the proceedings.

If the Chairman of the Association is not present then a Chairman for the evening shall be nominated. If necessary, the nomination shall be resolved by ballot.

**4. THE CONTROL OF THE DEBATE**

Each Member shall be entitled to one speech per motion.

Each Member shall be entitled to only one speech per motion (unless a resolution is passed to allow a further speech or speeches).

#### **4. THE CONTROL OF THE DEBATE (continued)**

If the conduct of the Meetings becomes unruly or impossible then the Chairman shall be entitled to declare the Meeting adjourned or abandoned. The decisions of the Chairman shall be final. Any attempt to continue the Meeting will be invalid, the only valid method of reviving the Meeting being to convene a fresh Meeting.

It, at anytime, the Meeting falls below the required quorum, no further business may be validly transacted.

#### **5. THE MINUTES**

At the opening of each Meeting the Secretary at the direction of the Chairman shall read the Minutes of the previous Meeting, being the Secretary's record of the business conducted thereat. If the Secretary has already circulated copies of those Minutes to the assembled Members, the Chairman may ask the Meeting if these Minutes may be taken as read, if not, then the Secretary shall be called upon to read them.

When the Minutes have been read or taken as read (as the case may be) then the proposal shall be made (and seconded) that the Minutes be accepted as an accurate record of what took place. Debate may then proceed on the accuracy or otherwise of the Minutes, but no attempt may be made by anyone to use the occasion to seek an amendment or reversal of any decision taken at that earlier Meeting. Any vote pursuant to such debate is purely one as to the accuracy of the Minutes as a record; adjustments may be made to the Record as the result of a debate, but that is all. The final motion should be put to the Meeting for the acceptance of the Minutes (adjusted or otherwise). No one who was absent from the earlier Meeting may vote on the motion.

Once the Minutes have been accepted, matters arising shall be dealt with. Matters arising shall simply be a report of any action taken in pursuance of a decision recorded in the Minutes of the previous Meeting plus any necessary discussion to explain the current position. No one may use the occasion to challenge the earlier decision, or rescind it.

#### **6. MOTIONS, AMENDMENTS AND RESOLUTIONS**

##### **MOTION**

Every item of business shall proceed upon a motion, duly proposed and seconded which should be in clear and precise terms, and should relate to an item of business on the agenda. The Member moving the motion shall have the right to speak first, in support of the motion and again at the end, restricting himself to points raised by the other speakers. Following the proposer's reply, the matter shall be put to the vote

immediately, without further discussion. The person seconding the motion may only speak once, either when seconding the motion, or at the end.

## **6. MOTIONS, AMENDMENTS AND RESOLUTIONS (continued)**

### **AMENDMENT**

An amendment to the original motion shall be confined to the subject matter of the original motion and must take the form of a suggested alteration, (not merely an expression of disagreement with it).

An amendment shall be proposed and seconded as in the case of the original motion, and must be debated fully. The mover of the amendment may only speak once, at the start of the debate, and the same rule applies to the seconder. The proposer of the original motion may be heard against the amendment, but if he chooses to speak at this point, he loses his right to speak at the end of the debate on the original motion, unless the amendment is carried, in which case he may be heard once more when the amended motion is put to the debate.

At any stage in the debate of either a motion or an amendment, Members may put questions to the speakers by way of clarification of the points being made, and this does not count as their one permitted speech.

Where there is more than one amendment in the course of a debate, no one who has spoken in debates upon earlier amendments may be heard in debate on any subsequent amendments, or for that matter, in further debate on the original motion, amended or otherwise.

### **RESOLUTION**

A motion or amendment shall be decided by a simple majority (unless otherwise provided under the Rules). A resolution shall be recorded in the Minutes of the meeting as a resolution of the meeting.

### **THE POINTS OF ORDER**

Challenges to the procedure which is being followed at the meeting may be made to the Chair on the point by raising a point of order.

No debate shall be permitted on a point of order. The Chairman shall deal with the point of order and his ruling shall be final. All points of order shall be fully dealt with before business proceeds.

### **PROCEDURAL MOTIONS**

A procedural motion shall be proposed and seconded and put to debate and a final resolution.

## **CLOSURE MOTION**

A 'closure motion' shall not be required to be seconded but shall only be put by a person who has not spoken in the debate. The Chairman shall immediately put the motion to the meeting and if the motion is carried, the Chairman shall immediately call upon the proposer to make his final speech (unless the proposer has forfeited that right) after which the vote should be put on the substantive motion. The closure motion shall not be used to close debate on an amendment.

## **6. MOTIONS, AMENDMENTS AND RESOLUTIONS (continued)**

### **MOTION TO PROCEED TO NEXT BUSINESS**

A motion 'to proceed to the next businesses' may only be put by a member who has not already spoken in the debate. The mover of the motion may make a speech in support of his motion and the matter shall then be put to the vote immediately, without any other speeches. If carried, the meeting shall pass to the next item of business without any vote on the substantive motion.

### **MOTION THAT THE DEBATE BE ADJURED**

A motion 'that the debate be adjourned' shall both be proposed and seconded and a full debate shall be permissible on the question. Amendments may be proposed, but only as to the length of the adjournment and the mover shall have no right to reply. If the motion shall be carried then such resolution shall have the effect of adjourning the business to the date stated. At the adjourned meeting the same person shall take the chair and the debate shall proceed as if there had been no adjournment. If the motion for adjournment is defeated it may be made again at a later stage at the discretion of the Chairman, whose decision shall be final.

## **VOTING**

Save as otherwise stated in the Rules a simple majority of those present will suffice to carry a motion. In the event of a tie, the motion shall be regarded as lost, unless the Chairman shall use his casting vote.

**THE SECOND SCHEDULE**  
**(DETAILS TO ACCOMPANY A PROSPOSAL FOR NEW MEMBERSHIP)**

1. Name of Proposed:

2. Representative(s):

3. Address(es):

4. Telephone & Fax Number(s)

5. Registered Office or Principal Office:

## THE THIRD SCHEDULE

### THE HEAVY TRANSPORT ASSOCIATION TERMS AND CONDITIONS OF CARRIAGE (1990 EDITION)

1. There terms and conditions govern every contract between (“the Contractor”) and their Customer for the carriage of any Consignment by the use of vehicles operated by the Contractor or their Sub-Contractors.

#### 2. Definitions

For the purpose of interpretation of these conditions: -

<b>“The Customer”</b>	means the party who Contracts for the Contractor’s services, their employees, agents and servants and all those working under their supervision or control.
<b>“Consignment”</b>	means any goods whatsoever, either in bulk, contained in one package or container, or in a number of packages or containers to be carried by the Contractor together on one vehicle but excludes all hazardous or dangerous goods.
<b>“Special Types General Order”</b>	means the Motor Vehicles (Authorisation of Special Types) General Order 1979 (No. 1198) as amended or substituted.
<b>“Heavy Load”</b>	means any Consignment which comprises an Abnormal Indivisible Load as defined by Article 3 of the Special Types General Order.
<b>“Relevant Dimensions &amp; Weight”</b>	means all dimensions and weights of any consignment which constitutes a Heavy Load relevant to classification of the Heavy Load for the purposes of notification and escort pursuant to The Special Types General Order.
<b>“Hazardous or Dangerous Goods”</b>	means any substance either contained in any approved list of dangerous substances published by the Health and Safety Executive from time to time or any other substance which, by reason of its characteristic properties, creates a risk to the health and safety of any person in the course of conveyance by



road.

### **3. Customer Warranties**

The Customer warrants that: -

- (a) They are either the owner of the Consignment or have the authority of the owner of the Consignment or any part thereof to accept these conditions on the owners' 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 10 (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) Where the Consignment constitutes a Heavy Load, subject to any variation of these conditions made in writing: -
  - i. The Heavy Load is indivisible as defined by Article 3 of the Special Types General Order.
  - ii. All relevant dimensions and weights of the Consignment will be provided to the Contractor in writing in advance of movement of the Heavy Load in sufficient time to enable the Contractor to comply with any provisions contained in the Special Types General Order.
  - iii. All relevant weights and dimensions are accurate and are intended to be relied upon by the Contractor.
  - iv. The Customer will procure safe and adequate facilities of access for the Contractor's vehicle to the points of collection and offloading of the Heavy Load.
  - v. The Customer will provide safe and adequate means, equipment and personnel to load and off load the Heavy Load and all proper care and attention shall be exercised by the Customer at all times.

### **4. Contractor's Warranties**

The Contractor warrants that: -

- (a) The vehicles used to carry the Consignment shall be suitable to satisfy the Customer's requirements so far as those requirements have been adequately notified to the Contractor in writing.

- (b) The Contractor's shall use their best endeavours to notify all relevant authorities and to obtain an escort for vehicles in accordance with the requirements of the Special Types General Order where necessary.

## **5. Sub-Contracting**

- (a) The Contractor reserves the right to employ the services of any other carrier for the purpose of performing any contract on behalf of the Customer.
- (b) Where the Contractor employs a Sub-Contractor, these conditions shall govern the respective obligations and remedies of the Customer and the Sub-Contractor to and against each other in respect of all parts of the Contract which the Sub-Contractor is engaged to perform as agent or servant of the Contractor.
- (c) The Contractor and Sub-Contractor employed by the Contractor shall jointly and/or severally be under no greater liability to the Customer or any other party than is the Contractor hereunder.

## **6. Limitation of Liability**

The Contractor shall be relieved of liability for any loss or damage if and to the extent that such loss or damage was caused by: -

- (a) The act or omission of the Customer or person other than the Contractor acting on behalf of the Customer or of the person from whom the Customer took the Consignment in charge.
  - (b) Inadequacy or errors in the weights or dimensions of the Consignment, any packing, marks or labels.
  - (c) Handling, Loading, stowage or unloading of the Consignment or any part thereof by the Customer or any person acting on behalf of the Customer.
  - (d) Inherent vice of the goods.
  - (e) Strike, lockout, stoppage or restraint of labour, the consequences of which the Contractor was unable to avoid by the exercise of reasonable diligence.
  - (f) Intervention, act or omission of the Police or other authorities' roadworks or other enforced route diversions, the consequences of which the Contractor was unable to avoid by the exercise of reasonable diligence.
  - (g) 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. For the avoidance of doubt, the Contractor shall not be liable in any event for any loss or damage to any part of the Consignment which occurs prior to conclusion of the Consignment being loaded onto the Contractors vehicle or at any time after the load has been tendered at the destination point specified by the Customer.
8. 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 actual value thereof, or if only part of the Consignment is damaged, to the value of that part

as a proportion of the whole, or to the cost of repairing the damage which ever be less provided that the Contractors liability in respect of: -

- i. any Heavy Load shall not exceed the total sum of £1,000,000.00.
- or**
- ii. any other consignment shall not exceed £1,000.00 per tonne.

9. Notwithstanding condition 8, the liability of the Contractor in respect of any indirect or consequential loss or damage, however arising and including loss of profit, 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 smaller, 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, agreed time limit and amount of the interest.

#### **10. Indemnity**

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) or any error, omission, misstatements or misrepresentation or breach of any of the warranties given herein by the Customer or any other owner of the Consignment or any part thereof or by any servant or agent of either of them.
- (b) All claims and demands whatever by whoever made in excess of the liability of the Contractor under these conditions.
- (c) Unless the Contractor negligently fails to comply with any instructions issued by the Customer, any damage to privately owned roadways or fittings thereon, bridges or floors or anything within or beneath any of them.

#### **11. Insurance**

- (a) The Contractor shall maintain policies of insurance which will indemnify them in respect of liability to the Customer as defined in these Conditions. A copy of that Policy will be provided upon request.
- (b) If expressly instructed so to do in writing by the Customer, the Contractor will use its best 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 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 provided that if it is not reasonably possible for the Customer to make such a claim in writing within that period and the claim has been notified in writing in a reasonable period, the Contractor shall not have the benefit of the exclusion of liability created by this Condition.

### **13. General Lien**

- (a) The Contractor shall have a general lien against the Customer or any other owner of the Consignment or part thereof or any other goods held by the Contractor for the Customer for any monies whatever due from the Customer or other owner of the Consignment or that part retained to the Contractor.
- (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 30 days from the date of issue. 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 overdue invoices, 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, fire, weather conditions, industrial dispute, lock out, stoppage or restraint of trade, or any other cause beyond the reasonable control of the Contractor.

### **16. Authority**

Any amendment to these Conditions can only be made in writing with the express authority of one of the Directors of the Contractor.

### **17. Jurisdiction**

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

