



# Road Haulage Association Limited

## SPECIAL CONDITIONS FOR THE CARRIAGE OF BULK LIQUIDS, POWDERS AND GASES Effective from 1 April 2023

PLEASE NOTE THAT THE CUSTOMER WILL NOT IN ALL CIRCUMSTANCES BE ENTITLED TO COMPENSATION, OR TO FULL COMPENSATION, FOR ANY LOSS AND MAY BE SUBJECT TO CERTAIN OBLIGATIONS AND INDEMNITIES. THE CUSTOMER SHOULD THEREFORE SEEK PROFESSIONAL ADVICE AS TO APPROPRIATE INSURANCE COVER TO BE MAINTAINED WHILE CONSIGNMENTS ARE IN TRANSIT.

Company stamp or details and RHA membership

Schenk UK Ltd  
Gorse Lane  
WIDNES  
Cheshire  
WA8 0GG

0 0 3 7 0 8 - 0 0 0 RHA membership number

(hereinafter referred to as "the Carrier") is not a common carrier and accepts bulk liquids, powders and gases for carriage only upon that condition and on the conditions set out below ("the Conditions"). No servant or agent of the Carrier is permitted to alter or vary these Conditions in any way unless expressly authorised to do so in writing by a Director of, Principal of, or Partner in the Carrier, or by another person separately authorised by such a person in writing. If any provision or part-provision of these Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of these Conditions. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose, have agreed or incorporate, and to the exclusion of any terms which might be implied by trade, custom, practice or course of dealing. It is expressly stated to be the Customer's responsibility to read and understand these Conditions which will form the basis of the Contract under which any claims or disputes are settled. Customers are recommended to take professional advice and must arrange adequate insurance to provide full cover for the Consignment, and any liabilities they may be under in respect of it, when the Consignment is in transit.

### 1. Definitions

In these Conditions:

"Customer" means the person or company who contracts for the services of the Carrier including any other carrier who gives a Consignment to the Carrier for carriage.

"Contract" means the contract of carriage between the Customer and the Carrier.

"Consignee" means the person or company to whom the Carrier contracts with the Customer to deliver the Consignment.

"Consignment" means goods comprising bulk liquids, powders or gases whether sent as a single item or in bulk or contained in one parcel, package or container, or as the case may be, or any number of separate items, parcels, packages or containers, sent at one time in one load by or for the Customer from one address to one address.

"Dangerous Goods" means those substances and articles the carriage of which are prohibited by the provisions of the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR) as applied in the United Kingdom, or permitted to be carried only under the conditions prescribed therein, as well as all other substances and articles of a nature or having characteristics which represent a hazard or danger to persons or property, or which include any radioactive or explosive material.

"Demurrage" means any cost or expense the Carrier suffers as a result of the improper, excessive or unreasonable detention of any vehicle, trailer, container or other equipment belonging to or under the control of the Carrier.

"Force Majeure Event" shall have the meaning set out in Condition 10(2)(c).

"In writing" includes, unless otherwise agreed, the transmission of information by electronic, optical or similar means of communication, including, but not limited to, facsimile, electronic mail or electronic data interchange (EDI), provided that the information is readily accessible and durable so as to be usable for subsequent reference.

### 2. Parties and Sub-Contracting

- (1) The Customer warrants that he is either the owner of the Consignment or is authorised by the owner to accept these Conditions on his behalf and that he is similarly authorised by all those having a proprietary or possessory interest in the Consignment, to accept these Conditions on their behalf.

- (2) The Carrier and any other carrier employed by the Carrier may employ the services of any other carrier for the purpose of fulfilling the Contract in whole or in part and the name of every other such carrier shall be provided to the Customer upon request. The Carrier may at any time assign, mortgage, charge, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract, to the extent permitted by law.

- (3) The Carrier contracts both for itself and as agent of and trustee for its servants and agents and all other carriers referred to in (2) above and also as agent and of trustee for such other carriers' servants and agents; and every reference in these Conditions to "the Carrier" shall be deemed to include every other such carrier, servant and agent with the intention that they shall have the full benefit of the terms of this Contract and collectively and together with the Carrier shall be under no greater liability to the Customer or any other party than is the Carrier hereunder.

- (4) Notwithstanding Condition 2(3) the carriage of any Consignment by rail, sea, inland waterway or air has been or will be arranged by the Carrier solely as agent of the Customer and any such carriage shall be subject to the conditions of the rail, shipping, inland waterway or air carrier contracted to carry the Consignment. The Carrier shall be under no liability whatsoever, howsoever caused, to any person for such carriage: Provided always that where the Consignment is carried partly by road and partly by such other means of transport any loss, damage or delay shall be deemed to have occurred while the Consignment was being carried by road unless the contrary is proved by the Carrier.

### 3. Dangerous Goods

If the Customer does not disclose in writing and in advance that a Consignment contains Dangerous Goods, the Carrier shall be entitled to rescind the Contract. If the Carrier agrees to accept for carriage any Dangerous Goods so disclosed then the Customer must arrange for and ensure that the Dangerous Goods are classified, packed, marked, labelled and documented in accordance with all applicable statutory regulations for the carriage by road of the substance declared.

### 4. Equipment, Cleanliness, Loading and Unloading

- (1) Unless otherwise agreed in writing the Customer will be responsible for the loading of goods onto the vehicle and will also be responsible for the Consignee unloading the goods off the vehicle. The Carrier will not be responsible for any loss or damage to the goods arising from loading the goods onto or unloading them off the vehicle, or from the overloading of the vehicle or from the unsafe loading of the vehicle. The Carrier may, at its sole discretion, through its servants and agents provide assistance in loading or unloading the goods if requested to do so by the Customer or the Consignee or the agents of either. The Customer shall indemnify the Carrier from and against all and any loss, damage, death or injury that may arise whilst the loading or unloading operations is taking place whether or not such loss, damage, death or injury is attributable to the negligence of the Carrier, its agents or servants.

- (2) The Customer shall ensure that any cranes, fork lift trucks, slings, chains or other equipment used in loading or unloading the vehicle are suitable for that purpose and will indemnify the Carrier against any and all consequences of failure of or unsuitability of such equipment.

- (3) The Customer shall ensure that there is adequate access to the loading and the unloading points and that the roadways to and from the public highway are of suitable material and that unloading will take place on good sound hardstanding, where there will be sufficient space to load or unload the vehicle in safety.

- (4) The Carrier shall not be liable for any loss or damage whatsoever, howsoever caused, if the Carrier's personnel are instructed by the Customer or the Consignee or their servants or agents to provide service to an area which does not comply with Condition 4(3) above, whether or not against the recommendations of the Carrier or the Carrier's personnel.

- (5) The Customer shall indemnify the Carrier against all liability or loss or damage suffered or incurred (including but not limited to damage to the Carrier's vehicle) as a result of the Carrier's personnel complying with the instructions of the Customer or the Consignee or their servants or agents.

- (6) The Customer shall make available to the Carrier upon request details of any risk assessments which may have been carried out at the collection and/or delivery addresses. The responsibility for carrying out such risk assessments shall be that of the Customer and not of the Carrier.

- (7) Except in the case of the carriage of liquid milk in bulk and unless otherwise specifically agreed in writing, the Carrier shall provide forty feet of delivery hose for liquids and fifteen feet for powders.

- (8) When the tank and/or its equipment is provided by the Carrier, the Carrier shall use reasonable endeavours to ensure that it is properly cleaned before sending the vehicle for loading and will afford the Customer facilities for inspection.
- (9) The Customer warrants that any tank, hose or other equipment provided by or on behalf of the Customer shall be clean and fit for purpose.
- (10) Unless the Carrier has agreed in writing to the contrary with the Customer:
  - (a) The Carrier shall not be under any obligation to provide any plant, power or labour, other than that carried by the vehicle, required for loading or unloading the Consignment.
  - (b) The Customer warrants that any plant, power or labour required for loading or unloading the Consignment which is not carried by the vehicle will be provided by the Customer.
  - (c) The Carrier shall be under no liability whatsoever to the Customer for any damage whatsoever, howsoever caused, if the Carrier is instructed to load or unload any Consignment requiring plant, power or labour which, in breach of the warranty in (b) above, has not been provided by the Customer.
  - (d) The Carrier shall not be required to provide service beyond the usual place of collection or delivery but if any such service is given by the Carrier it shall be at the sole risk of the Customer.
- (11) The Customer shall indemnify the Carrier against all claims and demands whatsoever which could not have been made but for a breach of the warranty in (9) or (10)(b) of this condition, or if such instructions as are referred to in (10)(c) of this Condition and such service as is referred to in (10)(d) of this Condition had not been given.

#### 5. Obligations of the Customer

The Customer warrants that:

- (1) The Consignment does not and will not: cause pollution of the environment or harm to human health; require any official consent or licence to handle, possess, deal with or carry; at any time whilst in the care or control of the Carrier constitute waste (unless the Carrier has been previously advised otherwise); and that the Consignment is of a nature that can be legally transported in the United Kingdom;
- (2) It will comply, and will procure that all of its agents, employees and subcontractors also comply, with any reasonable regulations of the Carrier relating to handling, health and safety, and security, of which they are notified or have been notified; and
- (3) It will provide the Carrier with such information and materials as the Carrier may reasonably require in order to comply with its obligations under the Contract, and will ensure that such information is complete and accurate in all material respects.
- (4) If the Carrier's performance of any of its obligations under the Contract is prevented, hindered or delayed by any act or omission of the Customer or by any failure by the Customer to perform any relevant obligation ("**Customer Default**"), then:
  - (a) without limiting or affecting any other right or remedy available to it, the Carrier shall have the right to suspend performance of its obligations until the Customer remedies the Customer Default, and may rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents, hinders or delays the Supplier's performance of any of its obligations;
  - (b) the Carrier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Carrier's failure to perform or delay in performing any of its obligations as set out in this Condition 5(4); and
  - (c) the Customer shall on written demand reimburse the Carrier for any costs or losses sustained or incurred by the Carrier arising directly or indirectly from the Customer Default.

#### 6. Signed Receipts

The Carrier shall, if so required, sign a document or electronic record prepared by the sender acknowledging the receipt of the Consignment but the burden of proving the condition of the Consignment and its nature, quantity or weight at the time of collection shall rest with the Customer.

#### 7. Transit

- (1) Transit shall commence when the Carrier takes possession of the Consignment whether at the point of collection or at the Carrier's premises. The Carrier shall be deemed to take possession of the Consignment when goods enter the Carrier's equipment.

- (2) Transit shall (unless otherwise previously determined) end when the Consignment is tendered at the usual place of delivery at the Consignee's address within the customary cartage hours of the district. The Consignment shall be deemed to be tendered when goods leave the Carrier's equipment at the Consignee's premises:  
Provided that:

- (a) if no safe and adequate access or no adequate unloading facilities exist then transit shall be deemed to end at the expiry of one clear day after notice in writing (or by telephone if so previously agreed in writing) of the arrival of the Consignment at the Carrier's premises has been sent to the Consignee;
- (b) when for any other reason whatsoever a Consignment cannot be delivered or when a Consignment is held by the Carrier 'to await order' or 'to be kept till called for' or upon any like instructions and such instructions are not given or the Consignment is not called for and removed within a reasonable time, then transit shall also be deemed to end.

#### 8. Undelivered or Unclaimed Consignments

Where the Carrier is unable for any reason to deliver a Consignment to the Consignee or as he may order, or where by virtue of the proviso to Condition 7(2) hereof transit is deemed to be at an end, the Carrier may sell the Consignment and payment or tender of the proceeds after deduction of all proper charges and expenses in relation thereto and of all outstanding charges in relation to the carriage and storage of the Consignment shall (without prejudice to any claim or right which the Customer may have against the Carrier otherwise arising under these Conditions) discharge the Carrier from all liability in respect of such Consignment, its carriage and storage:  
Provided that:

- (1) the Carrier shall do what is reasonable to obtain the value of the Consignment; and
- (2) the power of sale shall not be exercised where the name and address of the sender or of the Consignee is known unless the Carrier shall have done what is reasonable in the circumstances to give notice to the sender or, if the name and address of the sender is not known, to the Consignee that the Consignment will be sold unless within the time specified in such notice, being a reasonable time in the circumstances from the giving of such notice, the Consignment is taken away or instructions are given for its disposal.

#### 9. Carrier's Charges

- (1) The Carrier's charges shall be payable by the Customer without prejudice to the Carrier's rights against the Consignee or any other person: Provided that when any Consignment is consigned 'carriage forward' the Customer shall not be required to pay such charges unless the Consignee fails to pay after a reasonable demand has been made by the Carrier for payment thereof.
- (2) Charges shall be payable when due without reduction or deferment on account of any claim, counterclaim or set-off. If the Customer becomes insolvent or any sums owed by the Customer on any invoice or account with the Carrier become overdue for payment, any credit terms shall be cancelled with immediate effect and all invoices or accounts issued by the Carrier shall immediately be deemed due for payment and thereupon become payable. The Late Payment of Commercial Debts (Interest) Act 1998, as amended, shall apply to all sums due from the Customer.
- (3) The Customer shall pay to the Carrier the cost of any heating necessitated by any inability to deliver a Consignment where that inability is attributable to the Customer or Trader.
- (4) The Carrier shall take all reasonable precautions to maintain the liquidity of Consignments (excluding powders) during transit but if the Consignment or any part thereof is solid or too viscous to discharge on arrival, the Carrier shall not be responsible for the cost of, or arrangement for, liquefying or reducing the viscosity of the Consignment or any part thereof, unless the solidification or increase in viscosity is proved to be due to the negligence of the Carrier its servants, agents or sub-contractors.
- (5) If the Contract is cancelled at any time the Customer shall pay the Carrier all costs and expenses which the Carrier has incurred prior to such cancellation.

#### 10. Liability for Loss and Damage

- (1) The Customer shall be deemed to have elected to accept the terms set out in (2) of this Condition unless, before the transit commences, the Customer has agreed in writing that the Carrier shall not be liable for any loss or mis-delivery of or damage to or in connection with the Consignment howsoever or whensoever caused and whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of the Carrier, its servants, agents or sub-contractors.
- (2) Subject to these Conditions the Carrier shall be liable for:
  - (a) physical loss or damage to goods comprising the Consignment caused by

or arising from contamination, solidification or excessive viscosity only if occasioned during transit and proved to be due to the negligence of the Carrier, its servants, agents or sub-contractors;

- (b) other physical loss or damage to or mis-delivery of goods comprising the Consignment unless the same has arisen from, and the Carrier has used reasonable care to minimise the effects of a Force Majeure Event.
- (c) a **“Force Majeure Event”** shall mean any act(s), event(s), circumstance(s) or cause(s), the occurrence of which is beyond the reasonable control of the Carrier, including but not limited to:
- (i) Act of God;
  - (ii) any consequences of war, invasion, act of foreign enemy, hostilities (whether war or not), civil war, rebellion, insurrection, terrorist act, military or usurped power or confiscation, requisition, or destruction or damage by or under the order of any government or public or local authority;
  - (iii) seizure or forfeiture under legal process;
  - (iv) error, act, omission, mis-statement or misrepresentation by the Customer or other owner of the Consignment or by servants or agents of either of them;
  - (v) inherent liability to wastage in bulk or weight, faulty design, latent defect or inherent defect, vice or natural deterioration of the Consignment;
  - (vi) insufficient or improper preparation of the Consignment for transit;
  - (vii) insufficient or improper labelling or addressing;
  - (viii) riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour howsoever caused;
  - (ix) Consignee not taking or accepting delivery within a reasonable time after the Consignment has been tendered;
- (3) The Carrier shall not in any circumstances be liable for loss or damage arising after transit is deemed to have ended within the meaning of Condition 7(2) hereof, whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of the Carrier, its servants, agents or sub-contractors.

#### 11. Fraud

The Carrier shall not in any circumstances be liable in respect of a Consignment where there has been fraud on the part of the Customer or the owner, or the servants or agents of either, in respect of that Consignment, unless the fraud has been contributed to by the complicity of the Carrier or of any servant of the Carrier acting in the course of his employment.

#### 12. Limitation of Liability

- (1) Except as otherwise provided in these Conditions, the liability of the Carrier in respect of claims for physical loss, mis-delivery of or damage to goods comprising the Consignment, howsoever arising, shall in all circumstances be limited to the lesser of:
- (a) the value of the goods actually lost, mis-delivered or damaged; or
  - (b) the cost of reconditioning the goods; or
  - (c) a sum calculated at the rate of £1,300 Sterling per tonne on the gross weight of the goods actually lost, mis-delivered or damaged;

and the value of the goods actually lost, mis-delivered or damaged shall be taken to be their invoice value if they have been sold and shall otherwise be taken to be the replacement cost thereof to the owner at the commencement of transit, and in all cases shall be taken to include any Customs and Excise duties or taxes payable in respect of those goods: Provided that:

- (i) in the case of loss, mis-delivery of or damage to a part of the Consignment the weight to be taken into consideration in determining the amount to which the Carrier's liability is limited shall be only the gross weight of that part regardless of whether the loss, mis-delivery or damage affects the value of other parts of the Consignment;
- (ii) nothing in this Condition shall limit the liability of the Carrier to less than the sum of £10;
- (iii) the Carrier shall be entitled to proof of the weight and value of the whole of the Consignment and of any part thereof lost, mis-delivered or damaged;
- (iv) the Customer shall be entitled to give to the Carrier written notice to be delivered at least seven days prior to commencement of

transit requiring that the £1,300 per tonne limit in 12(1)(c) above be increased, but not so as to exceed the value of the Consignment, and in the event of such notice being given the Customer shall be required to agree with the Carrier an increase in the carriage charges in consideration of the increased limit, but if no such agreement can be reached the aforementioned £1,300 per tonne limit shall continue to apply.

- (2) The liability of the Carrier in respect of claims for any other loss whatsoever (including indirect or consequential loss or damage and loss of market), and howsoever arising in connection with the Consignment, shall not exceed the amount of the carriage 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 Carrier the Customer declares to the Carrier a special interest in delivery in the event of physical loss, mis-delivery 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) at least seven days prior to the commencement of transit the Customer has delivered to the Carrier confirmation in writing of the special interest, agreed time limit and amount of the interest.
- (3) The Carrier shall not be in breach of the Contract nor liable for any delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure results from a Force Majeure Event.
- (4) The following types of loss or damage are wholly excluded, and will not under any circumstances be the subject of compensation by the Carrier:
- (a) loss of profits;
  - (b) loss of sales or business;
  - (c) loss of agreements or contracts;
  - (d) loss of anticipated savings;
  - (e) loss of use of, or corruption of, software, data or information;
  - (f) loss of or damage to goodwill;
  - (g) indirect or consequential loss;
  - (h) any fine imposed on the Customer by the Consignee or its customer.

#### 13. Indemnity to the Carrier

The Customer shall indemnify the Carrier against:

- (1) all liabilities and costs incurred by the Carrier (including but not limited to claims, demands, proceedings, fines, penalties, damages, expenses and loss of or damage to the carrying vehicle and to other goods carried) by reason of any error, omission, mis-statement or misrepresentation by the Customer or other owner of the Consignment or by any servant or agent of either of them, insufficient or improper preparation, labelling or addressing of the Consignment or fraud as in Condition 11;
- (2) all claims and demands whatsoever (including for the avoidance of doubt claims alleging negligence), by whomsoever made and howsoever arising (including but not limited to claims caused by or arising out of the carriage of Dangerous Goods and claims made upon the Carrier by H.M. Revenue and Customs in respect of dutiable goods consigned in bond) in excess of the liability of the Carrier under these Conditions in respect of any loss or damage whatsoever to, or in connection with, the Consignment whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of the Carrier, its servants, agents or sub-contractors.

#### 14. Time Limits for Claims

- (1) The Carrier shall not be liable for:
- (a) damage to the whole or any part of the Consignment, or physical loss, mis-delivery or non-delivery of part of the Consignment unless advised thereof in writing within seven days, and the claim is made in writing within fourteen days, after the termination of transit;
  - (b) any other loss unless advised thereof in writing within twenty-eight days, and the claim is made in writing within forty-two days, after the commencement of transit.

Provided that if the Customer proves that,

- (i) it was not reasonably possible for the Customer to advise the Carrier or make a claim in writing within the time limit applicable, and
- (ii) such advice or claim was given or made within a reasonable time,

the Carrier shall not have the benefit of the exclusion of liability afforded by this Condition.

- (2) The Carrier shall in any event be discharged from all liability whatsoever and howsoever arising in respect of the Consignment unless suit is brought and written notice thereof given to the Carrier within one year of the date when transit commenced.
- (3) In the computation of time where any period provided by these Conditions is seven days or less, Saturdays, Sundays and all statutory public holidays shall be excluded.

#### **15. Lien**

- (1) The Carrier shall have:
  - (a) a particular lien on the Consignment, and
  - (b) a general lien against the Trader for sums unpaid on any invoice, account or Contract whatsoever.

If such lien, whether particular or general, is not satisfied within a reasonable time, the Carrier may sell the Consignment, or part thereof, as agent for the owner and apply the proceeds towards any sums unpaid and the expenses of the retention, insurance and sale of the Consignment and shall, upon accounting to the Customer for any balance remaining, be discharged from all liability whatsoever in respect of the Consignment.

- (2) The Carrier may exercise its lien on its own behalf or as agent for any assignee of its invoices at any time and at any place at its sole discretion whether or not sums have become payable in accordance with Condition 9(2) hereof and whether or not the contractual carriage has been completed and these conditions shall continue to apply during the period of exercise of such lien.

#### **16. Unreasonable Detention**

The Customer shall be liable to pay demurrage for unreasonable detention of any vehicle, trailer, container or other equipment at the Carrier's current rates of demurrage but the rights of the Carrier against any other person in respect thereof shall remain unaffected.

#### **17. Law and Jurisdiction**

Unless otherwise agreed in writing, the Contract and any dispute arising thereunder shall be governed by English law and shall be subject to the jurisdiction of the English courts alone.

**THESE CONDITIONS MAY ONLY BE USED BY  
MEMBERS OF THE ROAD HAULAGE ASSOCIATION**

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