



Road Haulage Association Limited

CONDITIONS OF CARRIAGE 1998

Effective 1 September 1998

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

Company stamp or details

Sureway
Unit 12, The IO Centre
Cabot Park
Moorend Farm Avenue
Avonmouth
Bristol
BS11 0QL

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RHA membership number

(hereinafter referred to as "the Carrier") is not a common carrier and accepts goods for carriage only upon that condition and the Conditions set out below. No servant or agent of the Carrier is permitted to alter or vary these Conditions in any way unless expressly authorised in writing to do so by a Director, Principal, Partner or other authorised person. If any legislation is compulsorily applicable to the Contract and any part of these Conditions is incompatible with such legislation, such part shall, as regards the Contract, be overridden to that extent and no further.

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 to deliver the Consignment.

"Consignment" means goods, whether a single item or in bulk or contained in one parcel, package or container, 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 goods named individually in the Approved Carriage List issued from time to time by the Health and Safety Commission, explosives, radioactive material, and any other goods presenting a similar hazard.

2. Parties and Sub-Contracting

- (1) The Customer warrants that he is either the owner of the Consignment or is authorised by such owner to accept these Conditions on such owner's 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.
- (3) The Carrier contracts for itself and as agent of and trustee for its servants and agents and all other carriers referred to in (2) above and 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 benefit of the Contract and collectively and together with the Carrier 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 is arranged by the Carrier as agent of the Customer and 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 whatever to whomsoever and howsoever arising in respect of such carriage: Provided 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

Dangerous Goods must be disclosed by the Customer and if the Carrier agrees to accept them for carriage they must be classified, packed and labelled in accordance with the statutory regulations for the carriage by road of the substance declared. Transport Emergency Cards (Tremcards) or information in writing in the manner required by the relevant statutory provisions must be provided by the Customer in respect of each substance and must accompany the Consignment.

4. Loading and Unloading

- (1) 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 special appliances required for loading or unloading the Consignment which are not carried by the vehicle will be provided by the Customer or on the Customer's behalf.
 - (c) The Carrier shall be under no liability whatever to the Customer for any damage whatever, however caused, if the Carrier is instructed to load or unload any Consignment requiring special appliances which, in breach of the warranty in (b) above, have not been provided by the Customer or on the Customer's behalf.
 - (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.
- (2) The Customer shall indemnify the Carrier against all claims and demands whatever which could not have been made if such instructions as are referred to in (1)(c) of this Condition and such service as is referred to in (1)(d) of this Condition had not been given.

5. Signed Receipts

The Carrier shall, if so required, sign a document prepared by the sender acknowledging the receipt of the Consignment but no such document shall be evidence of the condition or of the correctness of the declared nature, quantity, or weight of the Consignment at the time it is received by the Carrier and the burden of proving the condition of the Consignment on receipt by the Carrier and that the Consignment was of the nature, quantity or weight declared in the relevant document shall rest with the Customer.

6. 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.
- (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: Provided that:
 - (a) if no safe and adequate access or no adequate unloading facilities there 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; and
 - (b) when for any other reason whatever 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 be deemed to end.

7. 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 6(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.

8. 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. The Carrier shall be entitled to interest at 8 per cent above the Bank of England Base Rate prevailing at the date of the Carrier's invoice or account, calculated on a daily basis on all amounts overdue to the Carrier.

9. 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 however or whenever 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, mis-delivery of or damage to living creatures, bullion, money, securities, stamps, precious metals or precious stones comprising the Consignment only if:
 - (i) the Carrier has specifically agreed in writing to carry any such items; and
 - (ii) the Customer has agreed in writing to reimburse the Carrier in respect of all additional costs which result from the carriage of the said items; and
 - (iii) the loss, mis-delivery or damage is occasioned during transit and is proved to be due to the negligence of the Carrier, its servants, agents or sub-contractors;
 - (b) physical loss, mis-delivery of or damage to any other goods comprising the Consignment unless the same has arisen from, and the Carrier has used reasonable care to minimise the effects of:
 - (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 packing;
 - (vii) insufficient or improper labelling or addressing;
 - (viii) riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour from whatever cause;
 - (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 6(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.

10. 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.

11. 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 repairing any damage or 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 7 days prior to commencement of transit requiring that the £1,300 per tonne limit in 11 (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 7 days prior to the commencement of transit the Customer has delivered to the Carrier written confirmation of the special interest, agreed time limit and amount of the interest.

12. 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 packing, labelling or addressing of the Consignment or fraud as in Condition 10;
- (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 HM Customs and Excise 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.

13. 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 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.

14. Lien

- (1) The Carrier shall have a general lien against the Customer, where the Customer is the owner of the Consignment, for any monies whatever due from the Customer to the Carrier. If such a lien is not satisfied within a reasonable time, the Carrier may, at its absolute discretion sell the Consignment, or part thereof, as agent for the Customer and apply the proceeds towards the monies due 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 whatever in respect of the Consignment.
- (2) Where the Customer is not the owner of the Consignment, the Carrier shall have a particular lien against the said owner, allowing the Carrier to retain possession, but not to dispose of, the Consignment against monies due from the Customer in respect of the Consignment.

15. Unreasonable Detention

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

16. Law and Jurisdiction

The Contract shall be governed by English law and United Kingdom courts alone shall have jurisdiction in any dispute between the Carrier and the Customer.

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Revised July 2007

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



Road Haulage Association Limited

CONDITIONS OF CARRIAGE 1998

EXPLANATORY NOTES

STATUS OF THE CONDITIONS

The RHA Conditions of Carriage 1998 result from a review of the RHA Conditions of Carriage 1991. They take effect from 1st September 1998 and include amendments reflecting changes in Law and Members' use of the RHA Conditions of Carriage 1991. The opportunity has also been taken to bring other Specialist Group Conditions into line with the new RHA Conditions of Carriage and these will be introduced as self-standing Conditions of Carriage for Specialist Trades.

The 1998 Conditions have been registered with the Office of Fair Trading as an update of the 1991 Conditions. The use of the Conditions by Members is not compulsory but Members are recommended to use them as they are designed to enable a contractual balance to be struck between the interests of Members as carriers and those of their customers. It is recommended that Members seek professional advice before making or agreeing any variation in the Conditions to meet special circumstances.

The Conditions are the copyright of the RHA and may not be used by non-members. It is most important that Members should arrange to have the printed forms stamped with their details in the box provided at the top and with their Membership number in the space provided as this will deter the use of the form by non-members.

TO USE THE CONDITIONS

A Member who intends to trade under these Conditions, or any of the Specialist Group Conditions, should take the following action:

1. Refer the Conditions to his insurers or brokers and secure any necessary adjustments to existing insurance covers.
2. Inform existing customers in writing, by Recorded Delivery, of the intention to trade subject to the new Conditions saying for example: 'Please note that as from the ... day of ... 1998 goods will be accepted for Carriage only subject to the RHA Conditions of Carriage 1998 a copy of which is attached'. If it is intended to use the Specialist Group Conditions reference should instead be made to the relevant specialist conditions.
3. Inform existing sub-contractors in writing, by Recorded Delivery, that as from the ... day of ... 1998 goods will be accepted for Carriage and sub-contracted only subject to the RHA Conditions of Carriage 1998. If it is intended to use the Specialist Group Conditions reference should instead be made to the relevant Specialist Conditions. You should confirm that any previously agreed amendment in the financial limit per tonne continues to apply.
4. Retain Recorded Delivery receipts or, if the above letters are not sent by Recorded Delivery, maintain a permanent record of customers and sub-contractors and the dates on which letters were dispatched.
5. Print (or overprint) at the foot of all letter heads, quotation forms, fax forms, confirmation forms and notes, Consignment Notes and invoices etc: 'Goods are accepted for Carriage (and sub-contracted) only subject to the RHA Conditions of Carriage 1998 a copy of which is available on request'. If it is intended to use the Specialist Group Conditions, reference should instead be made to the relevant Specialist Conditions. If present letter heads etc refer to the 'current RHA Conditions of Carriage' this will probably suffice provided that all existing customers and sub-contractors have been informed in accordance with 2-4 above that you are now operating under the 1998 Conditions.
6. Maintain a stock of the printed Conditions for issue to customers or sub-contractors as and when requested.
7. Specifically mention that the Conditions will apply during any telephone call in which the terms of the Contract are first agreed verbally, and confirm this immediately afterwards to the customer by fax, e-mail, letter, note or memo. Clear, simple, contemporary, dated and timed documents provide better proof than later conflicting oral evidence of recollections of conversations.

EFFECT OF THE CONDITIONS

The intention in revising the RHA Conditions is to retain their distinctive style and layout. The order of Clauses found in the 1998 Conditions will also be used in Specialist Group Conditions which will make them more user friendly. The principal amendments are set out below:

PREAMBLE: It now includes a notice to the customer making it clear that the carrier does not 'insure' the goods. This should help prevent later allegations by customers that they did not know that the liability of the carrier was limited under the Conditions and that the carrier insured its liabilities under the Conditions but did not cover the goods themselves on an 'All Risks' basis. The preamble also clarifies who can agree variations to the Conditions and that the Conditions will not override Statute such as CMR, where applicable.

CONDITION 1: The Definitions have been up-dated taking account of changes in Law since 1991 but are not substantively altered.

CONDITION 2: There are no substantive changes.

CONDITION 3: There are no substantive changes.

CONDITION 4: There are no substantive changes.

CONDITION 5: The wording has been amended in order better to protect the carrier against 'hollow pallet syndrome' type claims where the 'missing' goods were never loaded in the first place.

CONDITION 6: There are no substantive changes.

CONDITION 7: There are no substantive changes.

CONDITION 8: The 'volumetric' or 'size' based method of calculation of charges has been dropped. This was originally introduced with containerisation in the 1967 Conditions to enable carriers to charge other than on a tonnage basis. Charging techniques have become considerably more sophisticated since then and carriers now maintain a variety of different charging methods with individual customers. This aspect of charging is more appropriately left to individual negotiation than dealt with in the Conditions. Also, as the result of a recent Court decision the existence of the 'volumetric' Clause opened up the possibility of some substantially larger claims by customers, whether or not charges had been calculated or quoted on a volumetric basis. The opportunity has been taken to remove this distortion in the interpretation of the Conditions by deleting all reference to the basis of charging in Condition 8.

CONDITION 9: This is little altered but additional exceptions from liability in the case of a terrorist act or faulty design are introduced to deal with some commonly occurring problems which are outside the control of the carrier and for which the carrier should not be liable. Reference is now made to 'living creatures' rather than 'livestock' in Condition 9(2)(a) to include non-commercial consignments such as pigeons.

CONDITION 10: There are no substantive changes.

CONDITION 11: Clause 11(1) has been up-dated stylistically to reflect the fact that most goods are carried under the standard limit and not under specially uplifted compensation limits. 11(1)(b) also now refers specifically to repair costs. A modified version of the previous Clause 18 from the 1991 Conditions has been incorporated into the main text of Condition 11(1) to bring those details concerning calculation of compensation into a more appropriate place in the Conditions. All other relevant elements for calculating compensation have been brought together as a set of provisos to Clause 11(1) with clarification of the way in which compensation is calculated in the event of partial losses being given in proviso (i).

In the light of the Court case mentioned in relation to Clause 8, the volumetric calculation is also deleted for the purposes of defining compensation payable under Clause 11. Carriers can continue to charge on whatever basis they agree with their customers, but liability will be calculated solely on the basis of gross weight, as is done under CMR and all other commonly encountered Trading Conditions. Some existing customers may wish to discuss revised arrangements for the carriage of particularly light bulky goods. It will be open to customer and carrier, after discussion with respective insurers, to agree an uplift in the tonnage financial limitation under Clause 11(1)(c). In this way an agreed and appropriate level of compensation will apply, rather than the arbitrary formula which applied with the 'volumetric' calculation. The opportunity has also been taken to abandon the obscure proviso for 'proportional loss', which could in practice create quite arbitrary limits of liability quite different from those for loss of the whole consignment.

Note that, under general Law, a contract of carriage need only be completed within a reasonable time unless the contract makes time of the essence of the contract by, for example, stipulating a specific delivery time or date, in which case failure to deliver on time could result in a claim. As in previous RHA Conditions, the 1998 Conditions provide for this situation in Clause 11(2) and limit the amount of compensation recoverable where a carrier is in breach of contract to a maximum of the haulage charges paid by the customer, unless special uplifts in liability have been agreed in writing, in advance of the transit commencing.

CONDITION 12: The former Clause 13 becomes Clause 12, as it used to be in the 1982 Conditions. The indemnities to which the carrier is entitled from the customer remain broadly the same but the former 1982 and 1991 sub-clauses (2), (3) and (4) have now been combined in one sub-clause.

CONDITION 13: The provisions on time limits have been simplified to make them clearer and the notice provision for damage or partial loss brought in line with some other commonly encountered Trading Conditions, with 7 and not 3 days being available for notification of loss by the customer. A time period of one year is introduced within which legal proceedings must be brought against the carrier. This should prevent Writs appearing unexpectedly several years after events and when the carrier no longer has any recollection of those events.

CONDITION 14: There are no substantive changes.

CONDITION 15: This now refers specifically to the right to demurrage and the right extends to any equipment of the carrier which is detained. Carriers must establish their own scales for demurrage based on operating costs as Restrictive Trade Practices Law prevents the RHA from making specific recommendations.

CONDITION 16: A new Clause states that English Law applies to the contract and proceedings should be brought only in the United Kingdom. Carriers and their customers can of course vary the Clause to apply whatever Law and Jurisdiction they wish, for example, Scots Law.