# FTA Conditions for the Carriage of Goods by Road in the United Kingdom 2018

## Definitions

**In these Conditions:**

* 1. **ADR notice** means a notice in writing in relation to the referral of a dispute to mediation.
  2. **Alternative Dispute Resolution** means any procedure agreed by the parties for the resolution of disputes other than those involving formal arbitration or litigation.
  3. **Approved Carriage List** means the list of approved carriage items prepared pursuant to the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 and as updated from time to time.
  4. **Carrier** means the person (corporate or otherwise) who contracts with the Customer to carry the Goods.
  5. **CEDR** means the Centre for Effective Dispute Resolution.
  6. **Conditions** means these Terms and Conditions.
  7. **Contract** means the agreement between the Customer and the Carrier for the carrying out of the transport service in relation to the Goods including all documents expressly incorporated therein.
  8. **Consignee** means the person (corporate or otherwise and who may or may not be the Customer) to whom the Carrier contracts to deliver the Consignment.
  9. **Consignment** means the consignment of the Goods at any one time from one Consignor in a single load from one address in the United Kingdom to one Consignee at any one other address in the United Kingdom.
  10. **Consignor** means the person (corporate or otherwise who may or may not be the Customer) who supplies the Consignment to the Carrier for carriage.
  11. **Customer** means the person (corporate or otherwise) who contracts with the Carrier for the carriage of goods.
  12. **Dangerous Goods** means Goods of any nature including those listed in the Approved Carriage List which represent a hazard, or include radioactive material and explosives of any nature.
  13. **Delay** means failure by the Carrier to deliver the Goods within the agreed time limit, or if there is no agreed time limit, within the period of 60 days from the date upon which the Carrier takes possession of the Goods.
  14. **Exempt Products** means bullion, precious metals, precious stones, money (whether in note or coin form), securities, stamps, legal or business documents, living creatures or anything of a similar nature.
  15. **Goods** means the goods whether single or multiple units or in bulk which are transported in the Consignment.
  16. **Loss** means the actual loss of the Goods or failure by the Carrier to deliver the Goods within 30 days of the agreed time limit for delivery or, if there is no agreed time limit within 60 days from the date on which the Carrier took over the Goods.
  17. **Owner’s Risk** means that the Goods are held upon terms that the Carrier shall not be liable for any loss of whatsoever nature and howsoever caused including negligence in relation to the Goods or as a consequence of the Goods being in the Carrier’s possession.
  18. The expressions Carrier, Consignee, Consignor and Customer shall include those parties’ principals, agents and servants.

## Principal parties and sub-contractors

* 1. The Customer contracts as the legal owner of the Goods or as the authorised agent of such legal owner in which case the Customer warrants that he has the authority to accept these Conditions on behalf of the legal owner.
  2. Unless written instructions to the contrary are received from the Customer, the Carrier may sub-contract part or the whole of the Consignment.
  3. Where carriage of any Consignment or part of a Consignment is sub-contracted to a sea, air or rail carrier then the liability of the Carrier and of any sub-contractor shall be limited and/or excluded in accordance with

the conditions of carriage of that sub-contractor or as provided for by statute or international convention.

* 1. Notwithstanding the provisions of the Condition 2.2, the Carrier may not sub-contract the carriage of Dangerous Goods without the prior written consent of the Customer.
  2. Where part or the whole of the carriage has been sub- contracted as provided for in Condition 2.2 above, such sub-contractors shall have the benefit of these Conditions and shall be under no greater liability to the Customer than, the Carrier would be under the Contract and the Customer agrees with the Carrier that no claim shall be made against a sub-contractor in addition to or in excess of the limitations and/or exclusions of liability as set out in these Conditions.

## Loading and unloading

* 1. The Carrier shall not be required to provide additional services other than the service for the carriage of the Consignment from the designated place of collection to the designated place of delivery unless any such service has been requested by the Customer and agreed by the Carrier in writing, prior to collection or delivery being made.
  2. The Customer shall be responsible for all aspects of loading and unloading the Consignment onto and off of the vehicle, including providing and safely operating any equipment that may be required for loading and unloading the Consignment. If the Carrier’s personnel assist in any part of loading or unloading then, while they provide such assistance, the Carrier’s personnel shall be deemed to be under the Customer’s instruction and control and the Customer accepts full liability for the acts of such personnel during that period except for any acts of gross negligence.
  3. The Carrier shall not be liable for any loss or damage caused as a result of:

1. its use of defective equipment supplied by the Consignee or Consignor;
2. the Carrier acting upon the instructions or directions of the Customer, the Consignor or the Consignee, or their servants or agents, with respect to the loading and/or unloading of the Consignment; or
3. negligent acts committed by the Consignor or Consignee or their servants or agents in assisting with loading and/or unloading; and
4. the Customer shall indemnify the Carrier against any claim made against the Carrier in respect of such loss or damage including claims in respect of death or personal injury.
   1. The Carrier will endeavour to make the Consignment reasonably accessible on the vehicle at the place designated for delivery.
   2. 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.

## Dangerous Goods

* 1. The Contract for the carriage of Dangerous Goods shall be voidable by the Carrier and the Carrier shall have no liability unless, prior to loading, the Carrier receives precise and correct identification of the substances in writing and has agreed to accept the same for carriage. Instructions in writing must be provided by the Customer in the form prescribed by the appropriate statutory authority giving details of each and every substance the Carrier is requested to carry. Written information must be provided in respect of Goods classified as Dangerous Goods and where an instruction in writing is not required by statute. An instruction in writing or other written notification provided by the Customer must accompany each and every Consignment.
  2. The Customer shall be responsible for ensuring that such substances are properly and safely packaged and labelled with the identities of the substances and all other relevant information as specified by any statutory requirements for the time being in force.
  3. The Customer shall be responsible for and indemnify the Carrier against any loss or damage and claims made upon the Carrier in respect of any injury to persons or damage to property arising from the non-compliance by the Customer or the Consignor with any of the provisions of these Conditions in as far as they relate to the carriage of Dangerous Goods, unless the Customer proves that the loss, damage or injury was due to the negligence of the Carrier.

## Consignment notes/receipts

* 1. The Carrier shall, if requested, sign a document acknowledging receipt for the carriage of the quantity and description of the Consignment loaded on to the Carrier’s vehicle, to the extent this can be determined, by visual inspection. Such receipt shall not be evidence as to accuracy of the condition, weight, quantity nor nature of the Goods said to comprise the Consignment at the

time the receipt document is signed by the Carrier and/or his agents and/or his servants. The burden of proof in the event of dispute is with of the Customer.

* 1. The Carrier shall use its best endeavours to obtain a signed receipt of delivery of the Consignment from the Consignee unless otherwise agreed with the Customer. Such receipts will be returned to the Customer as proof of delivery, unless otherwise agreed in writing by the Customer and/or his agent and/or his servants.

## Carrier’s responsibility

* 1. Goods are accepted by the Carrier for carriage at the Owner’s Risk where the Carrier is able to show that the Customer has explicitly agreed to the carriage of the Goods at the Owner’s Risk (or in accordance with Condition 8.2b). In that event, the Carrier shall not be liable for loss damage or delay to the Goods no matter howsoever or by whomsoever caused and the Customer agrees to indemnify the Carrier against any claims made by any third party (including in relation to the carriage, retention or storage) in respect of the Goods carried.
  2. Subject to the provisions of Condition 6.1 above the Carrier’s responsibility for the Consignment shall commence when the Carrier, its agents or sub-contractors takes physical control of the Consignment at the point of collection or by receiving the same at the Carrier’s premises.
  3. Subject to Condition 6.4 the Carrier’s responsibility and liability for the Consignment shall end when the Carrier, its agents or sub-contractors relinquish physical control of the Consignment at the proper place of delivery or the Consignment is presented at the proper place of delivery within normal business hours allowing sufficient time for unloading.
  4. If it has been agreed that the Consignee will collect the Goods from the Carrier’s premises or if the Carrier is prevented from making delivery at the Consignee’s address as a consequence of the absence of a safe and/ or adequate access or unloading facility, then the Carrier’s responsibility for the Goods shall end at the expiration of 24 hours after notice (by letter, telephone, fax or email or other agreed method of communication) has been given to the Consignee and/or the Consignor.
  5. At any time during the term of the Contract the Customer may request or the Contractor may recommend variations to the service and/or variations to any other matters covered by the Contract. The Carrier shall investigate the likely impact of any such requested or recommended variations upon the service, the charge for the service and other aspects of the Contract and shall report promptly to the Customer. Neither party shall be obliged to agree to any requested or recommended variation but neither party shall withhold or delay its agreement unreasonably. Until such time as any variation to the Contract has been mutually agreed in writing, the parties shall continue to perform their respective obligations without taking account of the requested or recommended variation.

## Carrier’s charges

* 1. The Carrier’s charges shall be payable by the Customer provided always that, when the Goods are consigned carriage forward, the Consignee shall have primary responsibility for the payment of the carriage charges but the Customer shall pay such charges in the event of default by the Consignee and the Carrier shall not be required to take any steps to obtain payment from the Consignee other than a written request for payment.
  2. Notwithstanding any claim which the Customer may have against the Carrier, the Carrier’s charges for carriage and any other services incidental to the carriage chargeable under the Contract shall be payable by the Customer within the timeframe communicated by the Carrier prior to the Contract being entered into, and in the event that no timeframe is communicated, then the charges shall be payable within 30 days of the date of the invoice unless otherwise agreed in writing. Should the charges not be paid within such a period, then the Carrier shall be entitled to interest at the rate of 8 per cent above the base rate of the Bank of England prevailing at the date of invoice, calculated on a daily basis from the date when the sum became due to the date of actual payment, whether before or after any judgment.
  3. Without limiting the generality of Condition 7.2, the Carrier’s charges shall be payable when due without reduction or deferment on account of any claim, counterclaim or set-off.

## Disposal of the Goods by the Carrier

* 1. In the event that the Carrier is unable for any reason beyond its reasonable control to deliver the Consignment in accordance with the Contract, the Carrier shall seek further instructions from the Customer. The Carrier’s reasonable additional charges for retaining the Goods pending the arrival of such further instructions and for carrying out those instructions shall be payable by the Customer.
  2. Subject to the provisions contained in Condition 8.2a to c below, where the Carrier is unable to obtain further instructions from the Customer in accordance with Condition 8.1, the Carrier may sell the Goods provided that such sale is permitted by law. Payment or tender of the net proceeds to the Customer after deductions of all costs of and charges for carriage, other services incidental to the carriage chargeable under the Contract, storage and disposal and expenses in relation to the Goods shall (without prejudice to any claim or right which the Customer may have against the Carrier otherwise arising under the Conditions) discharge the Carrier from all liability in respect of such Goods, their carriage and storage.

1. The Goods may not be sold unless the Carrier shall have made reasonable efforts (having regard, if appropriate, to the perishable nature of the Consignment) to notify the Customer of the Carrier’s intention to sell the Goods. The Goods may then be sold unless, within reasonable time (such time to be specified in the notice) the Customer shall have arranged to collect the Goods or given instructions for their disposal and have paid, without prejudice, all outstanding charges as referred to in this Condition including any warehousing charges which may have been incurred during the time that the Goods have been retained.
2. Pending the expiry of such periods of notice referred to in Condition 8.2a and of disposal of the Goods under these provisions the Carrier shall at the expense of the Customer have authority to arrange proper storage of the Consignment. During such period of storage, the Goods will be held at the Owner’s Risk and the Carrier shall not be liable for loss or damage of the Goods howsoever caused.
3. In the event of a sale of the Goods under this Condition 8 the Carrier shall do what is reasonable to obtain the market value of the Consignment (subject to any unavoidable deterioration thereof). If the Goods have no market value, then the Carrier may dispose of them subject to compliance with all legal requirements in force in respect of such Goods.
   1. Subject to the provision of Condition 8.1 above, and in circumstances in which the Carrier is unable to obtain further written instructions, the Carrier may, in respect of Dangerous Goods only, at his sole discretion dispose of the Dangerous Goods or return them to the Customer. Where such action is taken by the Carrier, it shall comply with all prevailing legal requirements that may be in force in respect of the Dangerous Goods. Any such action taken by the Carrier under this Condition shall be at the sole risk and expense of the Customer.

## Liability for loss, damage or delay

* 1. Subject to these Conditions, the Carrier shall be liable for:

1. any loss of or damage to the Goods in a Consignment occurring whilst the Carrier has responsibility for the Consignment in accordance with Condition 6 above;
2. any delay in the carriage of any Goods in a Consignment arising from the negligence of the Carrier.
   1. The Carrier’s liability is restricted to the financial limits imposed under Condition 10 of these Conditions unless otherwise agreed in writing between the contracting parties prior to the transit commencing.
   2. The Carrier shall not be liable for whatsoever reason for loss of or damage to, mis-delivery or loss arising from any delay in respect of Exempt Products, unless:
3. the Carrier has agreed in writing to carry such Goods at the specific request of the Customer prior to commencement of the transit;
4. the Customer has agreed to reimburse the Carrier with all additional costs necessarily incurred as a direct result of the Carrier agreeing to carry such Goods;
5. the loss or damage or delay has been proved to have been caused by the negligence of the Carrier and/or his agents and/or his servants.
   1. The Carrier shall be relieved of all liability if such loss, damage or delay arises from the effect of:
6. an act of God;
7. any consequence of war, act of foreign power, terrorism, requisition or destruction of or damage to property by or under the order of any government or public or local authority;
8. seizure or forfeiture under legal process;
9. an error, act, omission, mis-statement or mis- representation by the Customer or other owner of the Goods or by servants or agents of either of them;
10. an inherent liability due to wastage in bulk or weight, latent defect or inherent defect, vice or natural deterioration of the Goods;
11. any special handling requirements in respect of the Goods which have not been notified to the Carrier;
12. insufficient or improper packaging, unless the Carrier has contracted to provide this service;
13. insufficient or improper labelling or addressing, unless the Carrier has contracted to provide this service;
14. riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour from whatever cause;
15. the acts of the Customer, Consignee or Consigor as set out in Condition 3.3;
16. a delay in providing to the Carrier safe and adequate access and/or delivering instructions in accordance with Condition 6.4;
17. fraud on the part of the Customer, Consignor, Consignee or owner or of their servants or agents in respect of all or any part of the Consignment.
    1. For the avoidance of doubt and without affecting the generality of Condition 9.1, the Carrier shall not be liable for any loss or damage to the Goods where the Carrier’s responsibility for the Consignment has ended in accordance with Conditions 6.3 and 6.4.

## Limitation of liability of Carrier

* 1. Unless otherwise agreed in writing between the Customer and the Carrier prior to the commencement of carriage, the liability of the Carrier in respect of loss of or damage to Goods whilst they are the responsibility of the Carrier in accordance with Conditions 6 and 9 hereof shall be limited as follows:

1. where the whole or part of a Consignment is lost or damaged, to a maximum rate of £1,300 per tonne inclusive of all/any duties and/or taxes on the gross weight of the Consignment or that proportion by weight of lost or damaged property as stated on the Consignment note referred to in Condition 5, or otherwise ascertained, or £500 for the total Consignment whichever is greater but not exceeding the actual value of the Consignment or part of the Consignment;
2. for the purpose of this Condition the value referred to is the valuation of the Goods at the time they are accepted for carriage including all duties and taxes. Provided that no claim shall be accepted by the Carrier pending its receipt from the Customer of proof of the value of the Consignment or any part thereof.
   1. The Carrier’s liability for any delay or consequential loss shall not exceed the amount of the claimant’s bona fide loss or the amount of the carriage charges whichever shall be the lower unless agreement has been made previously in writing between the Carrier and the Customer for a specific level of liability for such delay or consequential loss.

## Customer’s indemnity to the Carrier

The Customer shall indemnify the Carrier against:

* 1. Losses suffered by the Carrier arising from any act, omission, misdirection, mis-statement or negligence by the Customer, Consignor or Consignee, its servants or agents.
  2. Claims of any nature for loss or damage resulting from the carriage of Dangerous Goods where the Customer’s obligations in Condition 4 above have not been met.
  3. Claims and demands of any nature in respect of loss of or damage to the Goods made by any third party additional to or in excess of the limits of liability of the Carrier set out in Condition 10 above.
  4. Any claims made or penalties imposed by the Commissioners of Customs and Excise in respect of dutiable goods.
  5. Claims and demands made by a third party attributable to lack of authority on the part of the Customer to enter into the Contract upon these Conditions.

## Notification of claims

* 1. The Carrier shall not be liable for:

1. loss or damage of the whole of the Consignment unless a claim specifying the general nature thereof is submitted by the Customer to the Carrier in writing within 14 days from the Carrier’s responsibility for the Consignment having commenced in accordance with Condition 6.2 above and unless a detailed claim giving weight and value and date of collection are submitted by the Customer to the Carrier in writing within 14 days from the Carrier’s responsibility for the Consignment having ended or been deemed to have ended;
2. loss or damage of any part of a Consignment unless a claim specifying the general nature thereof is submitted by the Customer to the Carrier in writing within 7 days from the Carrier’s responsibility for the Consignment having ended in accordance with Condition 6.3 above and a detailed claim specifying the weight, value and date of collection and date of delivery are submitted in writing within 14 days of the Carrier’s responsibility having ended;
3. damage of any description unless the damaged Goods are made available to the Carrier’s representative for inspection for a reasonable period following notification of the claim;
4. delay in delivery of whole or part of the Consignment unless the Carrier is informed in writing within three days of the date by which the delivery should have been made. Where no date for delivery has been agreed notification should be given within 63 days of the Carrier’s responsibility for the Consignment having commenced.
   1. The Carrier shall not benefit from this exclusion of liability if the Customer provides evidence that:
5. in all the circumstances, it was not reasonably possible so to advise the Carrier or make the damaged Goods available for inspection within the specified time limits; and
6. such advice was given at the first reasonable opportunity.
   1. The Carrier shall not be liable for any claims and shall be discharged from all liability however arising if the Customer has failed to refer the claim to arbitration in accordance with Condition 15.3 within one year of the

date that delivery was scheduled to or did take place, or in the event that no delivery date was agreed and no delivery took place within one year from the date of the Carrier collected the Goods.

## Lien and power of sale

* 1. All Consignments delivered to the Carrier for carriage are and will be received by the Carrier and held by it subject to a lien for all carriage charges due to the Carrier from the Customer for the carriage, storage rent and/or warehousing charge of the Goods and other proper charges or expenses incurred in respect of or in connection with the carriage of the particular

Consignment and all other goods which may have been carried by the Carrier for the Customer from time to time.

* 1. If such a lien is not satisfied by payment within a reasonable time of the Carrier’s demand for payment then the Carrier shall be entitled to invoke the power of sale set out in Condition 8 over the Goods in the Carrier’s possession. Such sale shall be subject to the provisions of Conditions 8.2 and 8.3 above.
  2. The Carrier shall be entitled to charge to the Customer the cost of loading and unloading the Goods whilst a lien is being exercised together with warehouse rent and any other expenses incurred during all periods during which the lien on the Consignment or any part of the Consignment is being asserted and all these Conditions shall continue to apply whilst the lien is being exercised.
  3. If the Consignment is not the property of the Customer, the Customer warrants that he has the authority to grant to the Carrier a particular lien against the owner of the Goods. The Carrier may hold the Goods against the owner for any unpaid monies applicable to those Goods only, but he may not sell or dispose of the Goods in any way without the express consent of the owner.

## Detention of Carrier’s property

* 1. The Customer shall, except in the case of negligence by the Carrier, pay to the Carrier any cost or expense occasioned to it by the improper or excessive detention by the Consignor or Consignee of any vehicle, trailer, container or covering belonging to or under the custody or control of the Carrier without prejudice to any rights of the Carrier against any third party in respect of such detention.

## Dispute resolution

* 1. The parties will attempt, in good faith, to resolve any dispute or claim arising out of or relating to these Conditions promptly through negotiations between the respective representatives of the parties who have authority to settle the same.
  2. Subject to Condition 15.4, if the dispute is not resolved through negotiation the parties may attempt to resolve the dispute or claim through mediation to settle such a dispute and will do so in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties within 14 days of notice of the dispute, the mediator will be nominated by CEDR. To initiate the mediation a party must give an Alternative Dispute Resolution (ADR) notice to the other party referring the dispute to mediation. A copy of the referral should be sent to CEDR.
  3. Unless otherwise agreed, the mediation will start not later than 28 days after the date of the ADR notice. Subject

to Condition 15.4, no party may commence any court proceedings in relation to any dispute arising out of these Conditions until it has attempted to settle the dispute by mediation and either the mediation has terminated or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.

* 1. The provisions of Conditions 15.1 to 15.3 shall not apply to disputes relating to non-payment or late payment of any charges.

## Confidentiality

* 1. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by Condition 16.2.
  2. Each party may disclose the other party’s confidential information to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party’s rights or carrying out its obligations under or in connection with these Conditions, or as required by law, a court of competent jurisdiction or any governmental or regulatory authority. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party’s confidential information comply with Condition 16.1.

## Governing law

* 1. The parties shall agree the legal regime under which these Conditions shall be construed and interpreted and the courts which shall have jurisdiction. In the absence of such agreement, the Contract shall be subject to and construed and interpreted in accordance with English law and shall be subject to the jurisdiction of the courts of England.

# Notes on the FTA Conditions for the Carriage of Goods by Road in the United Kingdom 2018

These notes do not form part of the Model Conditions of Carriage 2018. They merely seek to provide guidance to contracting parties.

A contract is a legal binding agreement between the parties who enter into it. Where that contract incorporates by specific reference or notice a set of conditions of carriage, it is essential that:

1. each party understands fully its obligations under the contract;
2. each party is able to fulfil its obligations contained in the contract;
3. the contract fully meets the requirements and expectations of the parties; and
4. that the parties understand and accept the Conditions of Carriage incorporated into the contract.

The Freight Transport Association Limited (“**FTA**”) has therefore prepared a Model set of Conditions (“**Conditions of Carriage**”) which it is hoped will form the basis for all general road haulage work within the United Kingdom and thus bring about a better understanding of the basic obligations attached to the parties who contract for the carriage of goods.

The FTA recognises the need for a set of Model Conditions of Carriage which are fair to all contracting parties and which take account of underlying responsibilities which are either prescribed by statute, reflect current practices or are agreed by the contracting parties and the Conditions of Carriage seek to achieve this.

The Conditions of Carriage do not seek to define ‘haulage charges’ which remain a matter for commercial agreement between the parties.

To be enforceable the Conditions of Carriage must be brought to the attention of, and agreed by, both parties before the contract is entered into.

Normally they will be introduced on the initiative of the Carrier and it will be the Carrier’s responsibility to bring them to the attention of the Customer, preferably at the time of quoting for the work and certainly before any final agreement is reached between the parties.

This can conveniently be done by including on the front of the Carrier’s stationery a statement that “all contracts are subject to the Model Conditions of Carriage 2018 issued by the Freight Transport Association Limited. These Conditions of Carriage are either printed upon the reverse of this document or are available upon request. Customers should satisfy themselves that the terms of these Conditions of Carriage are acceptable to them”. Acceptance of any quotation by the Customer will then imply acceptance of the Conditions of Carriage. It is important to note that courts take the view that it is for a party who seeks to rely upon exclusion and limitation clauses to demonstrate that the relevant Conditions were bought to the attention of the Customer and that the exclusion and limitation clauses are valid and relevant.

The Conditions of Carriage are a template and those using them should modify them to meet their particular requirements.

In the event you seek to modify the Conditions of Carriage we recommend that you take legal advice in relation to the changes you make. If a Carrier chooses to modify these Conditions of Carriage in any way then any reference to the Conditions of Carriage should clearly state that they are “as amended” and this should be incorporated in any statement making reference to the Conditions of Carriage.

Since the Conditions of Carriage are Model Conditions it is open to the parties to amend them in any way that is appropriate to the contractual relationship. It should be borne in mind, however, that such amendments should be legally sound, must be agreed by the parties to the contract and it is recommended that the changes should be communicated to and accepted by any insurer involved in covering the risks arising from the use of the Conditions of Carriage. Care should also be taken to ensure that any amendment is compatible with the remaining Conditions in the Conditions of Carriage.

In 1995 FTA and the Road Haulage Association (“**RHA**”) agreed a consignor-carrier-consignee accord (“**Accord**”). This sets out good practice in relationships between carriers and their customers and is compatible with FTA’s 2018 Conditions of Carriage.

The terms of the Accord are reproduced as an appendix to these notes and further copies of the Accord are available from either organisation.

Defined terms in these guidance notes shall have the meaning set out in the Conditions of Carriage, unless expressly defined in these guidance notes.

## Definitions – Condition 1

In drafting the Conditions of Carriage, the FTA has borne in mind that either the Consignor or the Consignee could be one of the parties to the contract in addition to the Carrier. For this reason both Consignor and Consignee have been defined in a way which allows either to be the Customer of the Carrier. This has been done with a view to addressing a difficulty experienced in certain Conditions in current use which have been drafted on the assumption that the Consignor is always the Customer although because ownership of the goods may have changed the common law position might normally assume the Consignee to be the Customer.

## Principal parties and sub-contractors – Condition 2

A Carrier is permitted to sub-contract unless the Customer specifically states in writing that sub-contracting is not permitted, the Carrier may sub-contract part or the whole of the carriage except in the case of Dangerous Goods.

The Carrier has the freedom to choose the sub-contractor, however he should be prudent in making that choice.

If a Customer insists before the contract is entered into that the carriage should not be sub-contracted then it is advisable that special arrangements should be made to cover emergency situations. For example if a vehicle carrying the Goods breaks down or is involved in an accident, as a Carrier may not always be able to provide its own replacement vehicle.

In the case of the carriage of Dangerous Goods the carriage cannot be sub-contracted unless the Customer has agreed in writing before the sub-contracting takes place. Therefore, the Carrier should never sub-contract the carriage of Dangerous Goods without the written consent of the Customer. Consent by the Customer may be given after the contract has been entered into but care should be taken to ensure that the agreement of the Customer has been obtained in writing.

Generally the Carrier will be liable (up to the limits of liability) set out in Conditions 9 and 10 for any loss, damage or delay caused by a sub-contractor but where carriage has been sub- contracted to an air, sea or rail Carrier often the Carrier’s liability is defined by statute or convention. The Conditions make it clear that the Carrier’s liability for Goods which are lost, damaged or delayed whilst in the hands of such a sub-contractor will not be greater than that provided for in the statute or convention or the Conditions of Carriage of that sub-contractor.

It sometimes occurs that a sub-contractor’s limits of liability may be greater than the Carrier’s limits, however the Conditions make it clear that the sub-contractor’s liability to the Customer. Should the Customer seek to claim against the sub-contractor directly, the sub-contractor’s liability will not be greater than the liability of the Carrier by virtue of Condition 2.5. This clause is believed to be effective by virtue of the indemnity given by the Customer in Condition 11.3.

There would, however, need to be a similar indemnity given by the main contractor (the Carrier) to the sub-contractor in the contract entered into between them. The effect of Condition 2.5, and the indemnity in Condition 11.3 and in the agreement between the main contractor and the sub-contractor is that the sub-contractor is relieved of all claims made against him as bailee of the Goods which are beyond the limits set out in Conditions 9 and 10.

It is suggested that the Carrier should make it clear in any sub-contract that the sub-contractor is not in turn entitled to further sub-contract the carriage as there is a risk that protection given by the limits and exclusions of liability contained in these Conditions will be lost to the Carrier.

## Loading and unloading – Condition 3

The purpose of this Condition is to define the responsibilities as between the Carrier and the Customer relating to the provision of plant, facilities and labour for loading and unloading. Not only is this a common area of misunderstanding but the health and safety executives are known to be concerned as to whether proper risk assessments have been carried out at collection and delivery addresses and unless the responsibilities are clearly defined it may be held that such responsibilities rest upon the Carrier. As such Condition 3.5 makes it clear that the responsibility for carrying out risk assessments shall lie with the Customer.

As the Customer may be either the Consignor or Consignee Condition 3.2 places a responsibility upon the Customer to make sure that proper arrangements have been made for loading and unloading at the respective addresses.

When loss, damage or injury is caused during loading or unloading as a result of defective equipment other than the Carrier’s equipment or by the Carrier acting on the instructions or actions of the Customer or where loss or damage is caused by negligent acts of the Customer or its servants or agents, then the Customer is bound to indemnify the Carrier against any claim made.

## Dangerous Goods – Condition 4

The potential risks and liabilities associated with the carriage of Dangerous Goods is great and this Condition imposes upon the Customer the duty to provide full information and comply with all appropriate regulations.

Carriers should ensure that they have received from Customers all of the information set out in Condition 4.1 and any other information which they consider necessary before they agree to carry the Dangerous Goods, particularly with reference to labelling and packaging. This is vital if the Carrier and the Customer are to comply with all statutory requirements applying to the Dangerous Goods being carried and to afford the Carrier protection should, due to incorrect or inadequate labelling, inappropriate goods be mixed upon the vehicle.

The Customer shall also indemnify the Carrier for any losses it suffers as a result of non-compliance by the Customer with the obligations set out in Conditions 4.1 and 4.2.

## Consignment notes/receipts – Condition 5

As a matter of good practice Condition 5 requires that a receipt or Consignment note acknowledging acceptance of the Goods being carried should be signed by the Carrier as requested and if requested he should obtain a signed receipt for delivery of the consignment from the Consignee. The absence of such documents can complicate the resolution of any disputes. However, the absence of any such document would not negate the application of the Conditions of Carriage generally.

Modern computerised systems and techniques installed by Consignees or Consignors have in many cases made the traditional signature on the document provided by the Carrier inappropriate. Many companies issue computer printed receipt notes representing quantity and description of Goods received and require these to be submitted by the company with its invoice for the goods. Failing to produce such a document can often result in disputes arising between the Customer and the Carrier regarding payment for the Goods delivered. However, unless expressly agreed to be part of the system the absence of such a document does not prevent the Carrier from claiming payment for the carriage. Frequently the attention of delivery drivers is not drawn to the importance of obtaining such documents before leaving a consignee’s premises. Carriers would be well advised to ensure that their drivers are properly instructed in the documentary requirements.

Due to human error, mistakes can occur in the preparation of such documentation and for this reason the Condition makes it clear that such documents are not conclusive proof of either the description of the Goods or of their Condition.

## Carrier’s responsibility – Condition 6

Except where it has been agreed before the Contract is entered into that the Goods will be carried at the Owner’s Risk, the Conditions of Carriage have been drafted on the basis that the Carrier will, subject to Conditions 9 and 10 and to the specific responsibilities placed upon the Customer as set out in Conditions 11 and 12 be responsible for loss, damage or delay to the Goods whilst they are in its care. The period during which the Carrier has responsibility for the Goods has been clearly defined in Conditions 6.2, 6.3 and 6.4.

Where it has been agreed that the carriage of Goods is at the Owner’s Risk. The Customer will indemnify the Carrier for any claims made by a third party which arise whilst the Goods are at the Owner’s Risk.

With the advent of 24 hour, 7 days a week carriage, Carriers should agree with the Customer the hours which they both consider constitute normal business hours at the delivery address. Condition 6.5 addresses variations to the Contract and that mutual agreement (which shall not unreasonably be withheld or delayed) is required before a variation can be made.

## Carrier’s charges – Condition 7

Condition 7.1 makes it clear that although a Carrier may agree to try and recover its carried forward charges, this will not relieve the Customer from responsibility for payment should the Consignee fail to do so.

In relation to payment terms these are to be agreed between the parties. Where the parties do not agree payment terms the default position is 30 days from the date of the invoice.

Where payment of any invoice is not received within the payment period, the Carrier shall be entitled to charge interest up to 8 per cent above the base rate of the Bank of England.

This Condition makes it clear that in the event of any claim or dispute relating to the carriage arising between the Carrier and the Customer, the Customer remains responsible for paying the charges and the charges cannot be withheld on the basis of a set off, either as a result of a claim or against any charges which may be due from the Carrier to the Customer. This seeks to prevent the Customer from prejudging the issue in dispute and unreasonably penalising the Carrier.

## Disposal of the Goods by the Carrier – Condition 8

This Condition explains how the Carrier can dispose of Goods in certain circumstances, however the Carrier must act fairly towards the Customer and the Condition sets out the steps which are required to ensure that reasonable efforts are made to notify the Customer of any difficulties and of the eventual intention to sell the Goods.

The Condition makes it clear that the Carrier is under no duty to obtain any price for the Goods beyond market value at the time and enables the Carrier to dispose of the goods if he can establish that they have no market value.

The Condition also deals with the difficult situation which may arise where the Carrier is unable to effect delivery of Dangerous Goods which cannot be readily disposed of by sale.

## Liability for loss, damage or delay – Condition 9

As explained under Condition 6 the Conditions have been drafted upon the basis that the Carrier will be liable for loss, damage or delay or unless liability is excluded by any of the specific examples as set out in the Conditions. Under the following Condition 10, however, that liability is limited and the limitation of liability is set out in that Condition.

## Limitation of liability of Carrier – Condition 10

In the absence of any agreement in writing to the contrary at the time that the Contract is entered into, the Carrier’s liability s limited to £1,300 per tonne inclusive of all duties and taxes calculated by reference to the gross weight of the Consignment or £500 for the entire Consignment, whichever is the greater, not exceeding the actual value of the Consignment.

The value of the Goods includes all duties and taxes which may be attracted by the Goods.

It is anticipated that in most cases where there is a ready market for the Goods then the evidence of the valuation of the Goods will be provided by the commercial invoice. Where there is no such sale it is anticipated that the valuation will be determined by reference to the market value of the Goods.

In the event of delay and any losses other than the loss in value of the Goods, the Carrier’s liability shall not be greater than the carriage charges unless any greater liability has been agreed in writing between the parties before the Contract is entered into.

The Carrier’s responsibility can be insured under a special policy drawn up for the purpose by their insurer.

The Customer can himself insure the Goods for sums greater than the Carrier’s liability but that is a matter for the Customer to decide. Should, however, the Carrier agree with the Customer that he will accept a liability greater than those set out in the Conditions, the Carrier should ensure that his insurance company is aware of the levels of risk which he has accepted and this is particularly important if he agrees an increase in liability in respect of delay or consequential loss, for these items are frequently excluded from many goods-in-transit insurance policies.

These Conditions no longer make it a term of the Contract that the Carrier should insure his liabilities under the Contract, however carriers are strongly recommended to insure their liability and keep the insurance company aware of any change in the contracts that they enter into.

## Customer’s indemnity to the Carrier – Condition 11

Just as a Carrier accepts responsibilities under the Contract so the Customer must accept responsibility for its own action and this Condition provides that the Customer will indemnify the Carrier against any losses which the Carrier suffers as a result of the Customer’s actions or where the Carrier receives claims from third parties which although primarily the responsibility of the Carrier should be the subject of an indemnity or contribution from the Customer.

Condition 11.5 is particularly important for frequently the Customer will not be the owner of the Goods and the warranties made by the company that he has the authority of the owner of the goods to enter into the Contract is very important.

## Notification of claims – Condition 12

These Conditions set out the requirement and the time limit for notification of claims and these should be considered carefully when deciding whether the claim should be dealt with as a claim for delay in delivery or whether the Goods should be deemed to have been lost. Please also be aware of the time limits set out in Condition 12.3.

## Lien and power of sale – Condition 13

This Condition gives to the Carrier a lien, that is a right to withhold the Customer’s property, against the Goods for all monies due from the Customer to the Carrier not only in respect of the charges for the carriage of the actual Goods in question but also any other charges which may be due and outstanding to the Carrier or which may arise during the course of the carriage. This lien is wider than the common law lien, which permits Goods only to be held in respect of the carriage charges due in respect of those particular Goods. In practice the common law lien is of limited value to the Carrier and hence a contractual lien is granted under these Conditions. A lien can only be exercised, however, against the actual owner of the Goods and this is why it is important that the Customer gives the warranty that he has the authority of the owner of the Goods to enter into the contract.

## Detention of Carrier’s property – Condition 14

This Condition enables the Carrier to claim against the Customer for any delay in release of the Carrier’s equipment whether it is a vehicle, trailer, pallet or storage of equipment generally described as “demurrage”. It is recommended that the Carrier should agree with the Customer in advance what they consider to be excessive periods of delay and the rates that will be charged for the individual items of equipment should that delay occur.

## Dispute resolution – Condition 15

Dispute taken through the courts can prove costly to both parties and this is recognised by the encouragement given to use Alternative Dispute Resolution proceedings when disputes arise. This Condition sets out steps, which should be taken, rather than embarking upon costly court proceedings.

## Confidentiality – Condition 16

This Condition sets out the confidentiality obligations on each party and the restriction that each party shall not disclose confidential information of the other party unless an exception applies.

## Governing law – Condition 17

It is for the Carrier and the Customer to agree on the legal regime, which shall be used for construing and interpreting the Contract and these Conditions and also the country that has jurisdiction for hearing any legal proceedings. Thus a Carrier based in Scotland using the Conditions may chose to modify them so that the law of Scotland applies and the courts in Scotland can deal with any dispute.

Where no specific agreement has been reached, this Condition provides that English law shall apply and the English courts will have jurisdiction. Carriers should be aware that the law may be different in Scotland and in Northern Ireland, although it is believed that there are no significant differences of interpretation affecting these Conditions of Carriage.

## Additional schedules

These Conditions do permit the parties to vary the Conditions. However, it is important that where the Conditions are varied, the variations should be evidenced in writing and signed by the parties. It is suggested that those variations should be attached to the Contract as a separate schedule. Matters that might be covered are:

1. Specific agreement relating to sub-contracting.
2. Specific agreement relating to the provision of plant, facilities, labour and services at collection or delivery addresses (Condition 3).
3. Specific agreement relating to carriage of Dangerous Goods (Condition 4).
4. Specific agreement relating to the exclusions and/or limitations of liability of the Carrier (Conditions 9 and 10).
5. Specific agreement relating to time limits for notification of claims (Condition 12).
6. Specific agreement relating to the charges to be raised where equipment is retained by the Customer (Condition 14).

## Availability and use of FTA Conditions of Carriage 2018

The Conditions and this guidance note are the copyright of FTA. However, the FTA grants a licence to both members and non-members of the FTA to use and copy these Conditions of Carriage and guidance notes provided that acknowledgement of FTA’s copyright is noted upon the Conditions used and any guidance notes used.

# Appendix

**The FTA/RHA Consignor/Carrier/ Consignee Accord**

## The contractual relationship

One of the characteristics of the transport industry is the vast amount of legislative controls placed upon it. Whilst such issues are legally the responsibility of the Carrier, both Consignor and Consignees also have a responsibility to ensure that all of the legal requirements placed upon the parties to the Contract (and any sub-contractors that are hired) are met to ensure a successful conclusion. The Accord gives guidance on areas where conflict with the law is possible, and where all parties to the Contract can help to ensure that the Carrier meets all of its legal requirements.

After a Contract has been concluded, it is in the best interests of all parties to that Contract to ensure that it is completed successfully. However, whilst companies will often devote substantial resources to developing the original Contract, they often fail to spend equivalent amounts of time considering the likely problems that may be encountered in physically executing it, causing problems to develop later. Such problems are often particularly acute in the distribution sector due to the widespread use of third parties by the Consignor who are not privy to the original Contract and who have little opportunity to discuss their needs with the Consignee. As such, representatives from the UK’s leading trade associations representing all parts of the distribution chain (the Freight Transport Association and the Road Haulage Association) have developed this Accord which outlines both parties’ responsibilities to each other.

## Legal aspects

The overriding business imperative is compliance with the law; in this respect the Carrier is required to:

1. hold a valid operator’s licence;
2. operate a correctly taxed vehicle;
3. avoid overloading;
4. comply with drivers’ hours regulations;
5. comply with all relevant health and safety regulations and, in particular, ensure the driver is trained and competent to carry out all the tasks required of him.

Whilst such issues are legally the responsibility of the Carrier, it is clearly in the best interests of both Carrier and Consignor to work together to ensure that all legal requirements are met.

## The business partnership

It is in the interests of all parties to ensure that a Contract is successfully concluded. Discussions between the parties regarding their responsibilities to each other are essential if difficulties which could raise costs and, at worse, break the law are to be avoided.

**A good working partnership requires that:**

### The Consignor should:

1. provide the Carrier with an accurate description of the Consignment and any special handling requirements;
2. provide a declaration of the weight of the Consignment;
3. provide appropriate facilities for drivers;
4. ensure, in co-operation with the driver, the proper loading of the vehicle and load safety;
5. make the Consignment available for despatch at the stated time;
6. ensure that Consignments are properly packaged and labelled;
7. advise the Carrier of all driver’s tasks;
8. expect the Carrier to meet its legal requirements and hold an operator’s licence.

### The Carrier should:

1. provide a vehicle suitable for the Consignment and journey, along with a driver who has been trained for all the tasks he/she has to perform;
2. ensure that all legal requirements are met;
3. conform to all Consignor and Consignee routeing requirements;
4. not sub-contract the journey or include the Consignment in a groupage service without the Consignor’s approval.

### The consignee should:

1. provide appropriate facilities for drivers;
2. ensure, in co-operation with the driver, the proper unloading of the vehicle and load safety;
3. advise the Carrier of all driver’s tasks;
4. consider, in conjunction with the Consignor/Carrier, the establishment of dedicated ‘hotlines’ for the development of delay contingency plans;
5. provide, where possible, a ‘fast track’ acceptance procedure for small deliveries; consider establishing a local forum for trouble-shooting discussions involving the Consignors/Carriers.

However, there are also a number of commercial and practical considerations that parties to a Contract must discuss with each other to again ensure a successful and profitable outcome. All too often, once the Contract has been agreed, the parties to it end their dialogue with each other until problems occur, by which time it may be too late to avoid losses. Other companies may also be brought into the operation yet have little opportunity to discuss their own operating circumstances and needs with their partners in the Contract. This lack of dialogue sees inefficiencies developing in the chain that could be easily overcome, were all the parties to recognise their responsibilities to each other and each others’ problems. The Accord identifies areas where problems could develop, so that all parties concerned can make themselves aware of potential problem areas for their business partners.

The Accord has been developed to address these problems. Incorporation of the Accord’s ideals will help to ensure that problems and difficulties do not occur. Only by working together and taking a partnership approach can all of those involved realise the full potential of the Contract. Both FTA and RHA commend the Accord to all sectors of industry, believing that its incorporation will bring about numerous benefits to all who have an interest in developing more efficient distribution networks.

## The Accord

This Accord was reached following discussion between FTA and RHA members and was subsequently approved by all the key policy bodies of both organisations. As such it is commended as a framework for creating more efficient, legally compliant and environmentally beneficial arrangements between Consignors, Carriers and Consignees of freight whether or not they are members of these association

# FTA Conditions for the Storage of Goods in the United Kingdom 2018

# Definitions

**In the Conditions:**

* 1. **Company** means the person (corporate or otherwise) who enters into a contract with the Customer to store Goods and includes unless the meaning otherwise requires, its agents, servants and Sub-contractors.
  2. **Customer** means the person (corporate or otherwise) who enters into a contract of warehousing or storage with the Company for the warehousing or storage of Goods at the premises controlled by the Company.
  3. **Contract** means the Agreement between the Customer and the Company for the warehousing and/or storage of Goods.
  4. **Sub-contractor** means any person (corporate or otherwise) engaged by the Company to carry out warehousing and/or storage of Goods on its behalf.
  5. **Dangerous Goods** means Goods of any nature as may be included in the Approved Carriage List prepared pursuant to the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations 1996 and International Carriage of Dangerous Goods as may be amended from time to time and Goods which represent a similar hazard, radioactive material and explosives of any nature.
  6. **Day** means any day Monday to Friday inclusive other than a Bank or Statutory Holiday, including the day upon the

Goods are delivered for storage and the day on which any claim or notice is first made.

* 1. **Alternative Dispute Resolution** means any procedure agreed by the parties for the resolution of disputes other than those involving formal arbitration or litigation.
  2. **Loss** includes (without limitation) theft, destruction, damage, unavailability, contamination, deterioration, non/miss/unauthorised delivery, noncompliance with instructions/obligations or incorrect advice or information.
  3. **Goods** mean any article or articles or merchandise whatsoever deposited with the Company for storage including the packaging of such articles and/or merchandise and any equipment in which or upon which the Goods are stored or carried.
  4. **Owner’s Risk** means that the Goods are held upon terms that the Company shall not be liable for any loss of whatsoever nature and howsoever caused including negligence in relation to the Goods or as a consequence of the Goods being in the Company’s possession. The Customer will indemnify the Company against all claims that may be made against the Company arising from the storage or warehousing of such Goods.

# Principal parties

* 1. The Customer contracts as the legal owner of the Goods or as the authorised agent of such legal owner in which case the Customer warrants that he has the authority to accept these Conditions on behalf of the legal owner.
  2. Unless written instructions to the contrary are received from the Customer, the Company may sub-contract part or the whole of the warehousing/storage of Goods provided that the name of every such Sub-contractor shall be provided to the Customer upon request. In any arrangement with a Sub-contractor the Company shall require that the Sub-contractor does not further delegate his contractual responsibilities without the prior written authority of the Company.
  3. Notwithstanding the provisions in 2.2 the Company may not sub-contract the storage of Dangerous Goods without the prior written consent of the Customer.
  4. Subject to the limitations in Condition 8, the Company shall be responsible for the acts and omissions of his agents and servants and of any other persons whose services he makes use of for the performance of the storage, when such agents, servants or other persons are acting within the scope of their employment, as if such acts or omissions were his own.
  5. Where part or the whole of the storage has been sub- contracted as provided for in Condition 2.2 above, such Sub-contractors shall have the benefit of these Conditions of Storage and shall be under no greater liability to the Customer than or in addition to that of the Company under the Contract and the Customer agrees with the Company that no claim shall be made against a Sub- contractor in addition to or excess of the limitation and/or exclusions of liability as set out in these Conditions.

# Loading and unloading

* 1. The Customer shall be responsible for providing and safely operating any equipment that may be required for loading the Goods on or unloading the Goods from the vehicle unless arrangements to the contrary are agreed in writing between the Company and the Customer prior to despatch and these Conditions shall apply during such loading and/or unloading.
  2. The carriage of any Goods from the premises of the Customer or from the premises of any third party to the Company’s warehouse shall not be subject to these conditions but will be subject to the Company’s Conditions of Carriage.
  3. The Customer must make the Goods readily accessible on its vehicle for the purpose of unloading the Goods into the Company’s warehouse. The Company will not be liable for any Goods on the vehicles other than the Goods to be warehoused by the Company.
  4. The Customer will endeavour to make the Goods reasonably accessible on the vehicle at the place designated for delivery the Company shall make available to the Customer upon request details of any risk assessments which may have been carried out at the Company’s premises.
  5. It shall be the Customer’s responsibility to inform the Company of any special equipment that may be required for the loading/unloading of Goods into the warehouse and should that special equipment be provided by the Customer the Customer will indemnify the Company against any loss, claims or damages sustained by the Company, its servants, agents or third party as a result of any defect in such special equipment.
  6. Where specialist equipment is required, such equipment must be ‘fit for purpose’ and any statutory test certificates must be made available for inspection upon request.

# Dangerous Goods

* 1. The Customer agrees that he will not submit to the Company for warehousing or storage any Dangerous Goods, verminous, infested contaminated or condemned Goods unless they first give to the Company, in writing, full details of the Goods and obtains the written agreement of the Company to the storage of such Goods.
  2. The Customer will retain responsibility for and will indemnify the Company against all loss, damage and claims which may be sustained by the Company, made upon the Company or for which the Company may become liable as a result of injuries to third parties or loss of or damage to property attributable to the Dangerous Goods, verminous, infected, contaminated or condemned Goods including any claims which may be made upon the Company by its own servants, agents or Sub-contractors.
  3. The Customer agrees that when submitting such Goods for warehousing or storage, the Customer will:
     1. In addition to the notice provided in sub clause 4.1 hereof provide to the Company at the time of submitting the Goods for storage a written declaration stating the nature of the Goods and the nature of any danger, infestation, contamination or any reason for condemnation of the Goods and
     2. Ensure that the Goods have been packaged safely for warehousing or storage in accordance with any statutory regulations in force at the time when the Goods are submitted for warehousing or storage and any special packaging requirements stipulated by the Company or if no such regulations are in force or stipulations made, with the general regulations for packaging, labelling and loading of Dangerous Goods as defined in section 1.5 or any amendment or modification of such agreement
     3. Ensure that at any time whilst the Goods are warehoused or stored the Goods shall not be deemed as waste
  4. Failure by the Customer to comply with the above provisions shall entitle the Company at its sole discretion to decline liability in the respect of all damage of whatsoever nature sustained to the Goods, however that damage may have been caused notwithstanding any other provision within these Conditions under which the Company might otherwise be liable.
  5. The Customer shall be liable to the Company and indemnify the Company for and against any claims made against the Company by third parties and against any expenses which may be incurred by the Company in complying with any statutory or any other regulations, directions or notices made by a competent authority requiring the movement, treatment, removal or destruction of dangerous, verminous, infested, contaminated or condemned Goods or the packaging in which they are contained and of the cost of any treatment of the Company’s premises occasioned as a result of the presence of such Goods which expenses shall be paid by the Customer to the Company forthwith upon demand.
  6. Should at any time the Company form the opinion that any Dangerous Goods, verminous, infested, contaminated or condemned Goods become unsuitable for warehousing the Customer agrees that the Company shall be entitled to require that the Customer removes the Goods immediately and in the event of the Goods not being removed to dispose of the Goods in such a manner as the Company shall at its sole discretion decide.

# Consignment notes/receipts

* 1. The Company shall, if requested, sign a document acknowledging receipt for the Goods to be warehoused or stored, noting the quantity and description of the consignment, to the extent this can be determined, by visual inspection. Such receipt shall not be evidence as to accuracy of the condition, weight, quantity nor nature of the Goods said to comprise the consignment at the time the receipt document is signed by the Company and/or his agents and/or his servants. The burden of proof in the event of dispute is the responsibility of the Customer.
  2. Should the Company agree to collect or deliver the Goods from or to the Customer’s premises or from and to any other premises which shall have been agreed between to Company and the Customer then such collection and/

or delivery shall be carried out by the Company only under its Conditions of Carriage and not subject to these conditions.

* 1. The Customer shall on upon delivery of Goods from the Company’s warehouse or store, sign a receipt for all Goods in respect of which delivery is taken.

# Company’s responsibility

* 1. The Company’s responsibility for the Goods under these conditions shall commence when the Company takes physical control of the Goods either at the point when the Goods are handed to the Company by the Customer, his servant or agent or at the point when the Company commences the unloading of the Goods where the Company has agreed to undertake such unloading.
  2. The Company’s responsibility for the Goods under these conditions shall end when the Customer or his servant or agent takes physical control of the Goods or when the Goods are loaded onto any vehicle for delivery to the Customer or any third party nominated by the Customer where the Company agrees to undertake such loading.

Where the Company has agreed to deliver the Goods such delivery shall be undertaken subject to the Company’s Conditions of Carriage.

* 1. At any time during the term of the Contract the Customer may request or the Company may recommend variations to the service and/or variations to any other matters covered by the Contract. The Company shall investigate the likely impact of any such requested or recommended variations upon the service, the charge for the service and other aspects of the Contract and shall report promptly to the Customer. Neither party shall be obliged to agree to any requested or recommended variation but neither party shall withhold its agreement unreasonably. Until such time as any variation to the Contract resulting there from has been mutually agreed in writing, the parties shall continue to perform their respective obligations without taking account of the requested or recommended variation.

# Company’s charges

* 1. The Company’s charges with regard to the storage of Goods shall be payable by the Customer provided always that such charges are agreed in writing between both parties and failing such agreement at the rate set out in any tariff of warehousing charges published by the Company at the time when the Goods are received for storage.
  2. Notwithstanding any claim which the Customer may have against the Company, the Company’s charges for storage and any other services incidental to the storage chargeable under the Contract shall be payable by the Customer within 28 days of the date of the invoice unless otherwise agreed in writing. Should the charges not be paid within such a period, then the Company shall be entitled to interest at the rate of 8 per cent above the base rate of the Bank of England prevailing at the date of invoice, calculated on a daily basis.

# Liability for loss, damage or delay

* 1. The Company shall not be liable under any circumstances including negligence for:
     1. Indirect or consequential loss or damage including loss of a particular market being of whatever nature and howsoever caused including negligence
     2. Any loss or damage occasioned to the Goods of suffered by the Customer arising from the following:
        1. Storm, tempest, lightening, flood or any other acts of God
        2. Fire or explosion
        3. Any consequence of war, acts of foreign power or terrorism, requisition or destruction of or damage to property by or under the Order of any government, public or local authority
        4. Theft or any act done with malicious intent
        5. Seizure or forfeiture of the Goods under legal process
        6. Any error, act, omission, misstatement or mis- presentation by the Customer, its servants or agents or principals
        7. Latent or inherent defect vice or natural deterioration of the Goods or any loss due to wastage in bulk or weight
        8. Insufficient or improper packaging, unless the Company is contracted to carry out such service
        9. Insufficient or improper labelling or addressing unless the Company is contracted to carry out such service
        10. Any strike, lockout generally or partial stoppage or restraint of labour from whatsoever cause and whether or not the same shall have received official recognition from a trade union
        11. Defect of any equipment supplied by the Customer either for the unloading, loading of the Goods or for containing such Goods
        12. Any loss, damage or deterioration suffered by Goods kept in refrigerated facilities of whatsoever nature where such loss, damage or deterioration has resulted from the failure of refrigeration equipment or from the interruption of the flow of electricity currents of refrigeration equipment, howsoever such interruption shall have occurred
  2. The Company has no knowledge of the value of any Goods stored and shall only be liable to make any settlement or payment or proportionate payment upon the Customer providing satisfactory proof of the value of the complete Goods or of any part claimed to have been lost or damaged.
  3. Where Goods are submitted for warehousing or storage as damaged Goods, not properly protected by packaging, the Company shall not be liable at all for loss or damage to the Goods under these conditions except upon proof by the Customer that such loss was caused by the wilful misconduct by the Company.
  4. The liability, if any, of the Company in respect of loss, damage or total destruction of any Goods stored shall be limited to:
     1. Where all of the Goods are lost or damaged, to the maximum rate of £100.00 per tonne of the gross weight of the Goods as stated on the note as referred to in condition 5 but not exceeding the actual value of the Goods
     2. Where some or part of the Goods stored are lost or damaged to such actual proportion by weight that the lost or damaged Goods bear to the whole at the said maximum value of £100.00 per tonne but not exceeding the actual value of the Goods or part of the Goods lost or damaged
     3. For the purpose of this Condition the value referred to is the valuation of the Goods at the time they are accepted for storage
     4. When calculating the value of the Goods in determining the liability of the Company, there shall be disregarded any special value attributed to the Goods by virtue of their being part of a larger consignment or part of a set or collection.

# Insurance

* 1. The Company will not insure the Goods and the Customer shall self insure or make arrangements to provide sufficient cover (including all duties and taxes) for the Goods against all insurable risks with any right of the insurer to bring a subrogated claim being excluded.
  2. The Company may provide insurance cover providing the Customer:
     1. Specifies the amount per tonne weight in writing, stating the limit and maximum value of the Goods including all taxes and duties. This limit shall apply in respect of any claim arising from the date of receipt of the Goods
     2. The Customer agrees to pay within 7 days upon receipt of the Company’s invoice in respect of the insurance cover

# Notification of claims

* 1. The Company shall not be liable under any circumstances for:
     1. Loss or damage of the whole or part of the Goods unless a claim specifying the general nature thereof is submitted by the Customer to the Company in writing within 14 days from the Company’s responsibility for the Goods having ended in accordance with Condition 6.2 above or from the date upon which it comes to the Customer’s attention that loss or damage has occurred and unless a detailed claim giving weight and value and date of receipt are submitted by the Customer to the Company in writing within 14 days from the Company’s responsibility for the Goods having ended or been deemed to have ended
     2. Loss, partial loss or damage of any part of the Goods unless a claim specifying the general nature thereof is submitted by the Customer to the Company in writing within 7 days from the Company’s responsibility for the Goods having ended in accordance with Condition 6.2 above and a detailed claim specifying the weight, value and date of collection and date of delivery are submitted in writing within 14 days of the Company’s responsibility having ended
     3. Damage of any description unless the damaged Goods are made available to the Company representative for inspection for a reasonable period following notification of the claim
     4. The Company shall not benefit from this exclusion of liability if the Customer provides evidence that:

1. In all the circumstances it was not reasonably possible so to advise the Company or make the damaged Goods available for inspection within the specified time limits and
2. Such advice was given at the first reasonable opportunity

# Responsibilities and indemnities of the Customer

* 1. The Customer agrees to pay the Company’s charges for warehousing or storage of the Goods within 28 days of the date of the Company’s invoice without prejudice to any rights which the Company may have against a third party. Should the Customer fail to pay such charges within such period, then the Customer agrees to pay the Company interest at 8% per annum above the prevailing Bank of England base lending rate from the date of such invoices. Notwithstanding that the Customer may have appointed the Company and its agents for certain purposes and that the Company may have agreed to seek payment for all or some of its charges from any third party, the Customer shall remain liable to the Company for payment of such charges and the agreement of the Company to make application for payment to a third part shall not relieve the Customer of such liability in the event of non-payment by such third parties. The Company shall not be required to take any steps to obtain payment from a third party other than a written application for payment.
  2. Any charges relating to the storage or warehousing of Goods shall if so required by the Company be paid prior to the removal of the Goods from the warehouse.
  3. Upon giving not less than 3 days’ prior notice in writing to the Company, the Customer or any such persons authorised in writing by the Customer shall be permitted to enter the Company’s premises solely for the purpose of inspecting the Customer’s Goods. Such inspection will only take place during normal working hours.
  4. The Company’s responsibilities and liabilities are set out in these Conditions and the Customer agrees to indemnify the Company against all claims, costs and demands of whatsoever nature and by whoever made and however arising in excess of the liabilities set out in these Conditions.
  5. In the absence of any written notice to the contrary given to the Company before the Goods are submitted for storage or warehousing, the Customer warrants that all Goods are fit and suitably packaged for storage or warehousing.
  6. The Customer warrants that he has made no under declaration as to the weight of the Goods or any incorrect description of all or any part of the Goods and agrees to indemnify the Company against all claims, demands, costs or expenses of whatsoever nature and by whoever made which may arise as a result of any breach of such warranty and agrees to pay all charges for the warehousing of the additional Goods which are subject of the under- declaration.
  7. Should the Customer obtain the authority of the Company to inspect his Goods in the warehouse pursuant to the Condition 11.4, the Customer agrees that he will indemnify the Company against any loss or damage occasioned to the Goods and/or the Company and/or any third party or the Goods of any third party as a result of any action or inaction of the Customer or anyone authorised by him as a consequence or in the course of such inspection.
  8. The Customer shall indemnify the Company in respect of any loss, damage or injury sustained by the Company, its servants, agents or any third party arising directly or indirectly from the presence on the Company’s premises of any vehicle/trailer/specialist equipment operated or directed by the Customer on the Company’s premises.

# Lien – power of sale and termination

* 1. If the Goods are not the property of the Customer the Customer expressly warrants that he has the authority to grant to the Company this Right of Lien and Power of Sale in respect of the Goods and authorised the Company to exercise the Lien against the owner of the Goods in respect of any unpaid monies applicable to such Goods in respect of which the Customer is not the owner.
  2. All Goods delivered to the Company for storage and/or warehousing are and will be received by the Company and held by it subject to a Lien for all charges due to the Company from the Customer for the carriage, storage, rent and/or warehousing charge in relation to the Goods and other proper charges or expenses incurred in respect of or in connection with the carriage of the particular consignment and all other Goods which may have been carried and/or stored and/or warehoused by the Company for the Customer from time to time. If such a Lien is not satisfied by payment within 7 days of the Company’s demand for payment and notification of the exercise of its Lien, then the Company shall be entitled to sell the Goods in accordance with its power of sale as set out below. The storage or warehousing charges and any other expenses incurred during all periods during which the Lien on the Goods or any part of the Goods is being asserted, shall continue to be payable and all these conditions shall continue to apply whilst the Lien is being exercised.
  3. The Company shall be entitled to charge to the Customer the cost of loading and unloading and transporting the Goods whilst a lien is being exercised.
  4. The Company shall without any further notice have full power to open and examine the Goods or any part of the Goods and at the Company’s sole discretion to sell the Goods or part of the Goods and the Company may apply the proceeds of sale after deducting all expenses in payment of all or towards all sums due to or liabilities incurred by the Customer to the Company.
  5. Any surplus will be paid over to the Customer without interest upon application. Upon expiration of the periods of notice, the Company shall be released from all liability of whatever nature and however caused in relation to the Goods or any part of them. If the Company sells part only of the Goods, it shall be entitled to raise a warehousing charge in accordance with the rates agreed with the Customer or, failing agreement at the prevailing tariff, for the continuing storage or warehousing for the remaining Goods and without further notice shall be entitled from time to time to sell the remainder of the Goods in part or whole and apply the proceeds of sale in reduction of the charges and all these conditions shall continue to apply.