



CONDITIONS OF CONTRACT

1. PARTIES

1.1 The parties to this contract are the Customer and the Company.

1.2 The Customer agrees that the Company may fulfil all or any part of any work accepted by it by engaging or entrusting the Goods to any subcontractor of the Company on terms agreed between the subcontractor and the Company, and that such terms will bind the Customer.

1.3 The Customer warrants that it is either the owner or authorised agent of the owner of the goods; and is authorised to accept and does accept these conditions of contract on behalf of all persons who are or may become interested in any Goods in relation to which it requests any services from the Company.

2. APPLICATION OF CONDITIONS

2.1 These conditions govern all dealings between the Company and the Customer including, without limitation, the provision of any advice or information.

2.2 Subject to paragraph 10.4 these conditions shall prevail over any terms and conditions in any document used by the Customer, the owner or any other person having an interest in the goods and purporting to have contractual effect.

2.3 Where the Consumers Guarantees Act 1993 governs the dealings between the Company and the Customer, these conditions shall apply only so far as permitted by that Act. Where the Customer carries on a "business" as defined in that act it agrees that it is acquiring the services of the Company for the purposes of that business and nothing in the Consumer Guarantees Act 1993 shall apply.

3. APPLICATION OF THE ACT

3.1 Where these conditions conflict with the provisions of the Act then, to the extent permitted by law, the terms of this contract shall prevail and the parties shall be deemed to have contracted out of the provisions of the Act.

3.2 Without limiting the generality of paragraph 3.1, sections 18, 19, 20, 21 and 23 of the Act shall not apply to this contract.

3.3 For the purpose of the Act each container shall be deemed to be one unit

4. PACKING

4.1 The Customer warrants that:

4.1.1 A full description of the Goods has been provided to the Company;

4.1.2 The Goods, having regard to their nature, are sufficiently packed and labelled for the purpose for which the company is to receive them;

4.1.3 The Goods are packed and labelled in compliance with any applicable laws and regulations.

5. PROHIBITED AND DANGEROUS GOODS

5.1 Without prior notification and agreement in writing, the Company will not accept or deal with:

5.1.1 Goods which it is unlawful to carry or otherwise handle, or can only be carried or handled with a permit;

5.1.2 Any noxious, dangerous or inflammable goods or goods likely to cause damage;

5.1.3 Any perishable goods or goods which require special handling or packaging;

5.1.4 Bullion, cash, coins, negotiable instruments, securities of any kind, precious stones, jewellery, antiques, works of art or other valuables; or

5.1.5 Thoroughbred horses.

5.2 Where the Company agrees to accept or deal with any of the Goods referred to in paragraph 5.1, the Customer shall provide all documents and information relating to the Goods (including any relevant permits) necessary to enable the Company to:

5.2.1 Comply with the law; and

5.2.2 Handle the goods safely and in a manner which is likely to minimise loss.

5.3 The Customer shall further ensure in the case of Goods described in paragraph 5.1.3 that the container

or other covering in which the Goods are to be packed, as well as the Goods themselves, are distinctly marked on the outside so as to indicate the character of any such goods and so as to comply with any applicable laws, regulations or requirements.

5.4 If the Customer delivers any Goods referred to in paragraph 5.1 to or causes them to be handled or dealt with by, the Company without prior notification and written agreement:

5.4.1 The Company shall not be liable for any loss or damage whatsoever arising out of its dealings with the Goods;

5.4.2 The Customer shall be liable for all loss or damage whatsoever caused by, to or in connection with the Goods howsoever caused or arising;

5.4.3 The Customer shall indemnify the Company against all penalties, claims, damages, costs and expenses whatsoever arising as a result; and

5.4.4 In the case of goods referred to in paragraph 5.1.1, 5.1.2 and 5.1.3 above, the Goods may be destroyed or otherwise dealt with at the sole discretion of the Company or any other person in whose custody they may be at the expense of the Customer without the Company, or such other person being responsible or accountable in any way.

6. DELIVERY The Goods shall be deemed to have been delivered when they are delivered to the address given to the Company by the Customer or Consignee for that purpose.

7. PAYMENT OF FREIGHT AND CHARGES

7.1 The Customer agrees to pay all freight and charges levied by the company in terms of any separate agreement relating to the services provided or, if there is no such agreement, the Company's standard charges, and any other costs reasonably incurred by the Company in connection with the Goods or the services provided by the Company.

7.2 Freight and charges will be considered fully earned upon receipt of the Goods by the Company and all freight and charges shall be paid, without any deduction whether by way of set-off or counterclaim or otherwise, by the seventh day following receipt of invoice. If not so paid, the Customer agrees to pay to the Company interest at 0.25% per week on the unpaid balance until payment is made.

7.3 If at any time, payment from the Customer to the Company is in arrears, any subsisting obligations of the Company to the Customer shall be suspended and the company may without limiting any other rights available to it:

7.3.1 demand payment of all outstanding amounts;

7.3.2 require security, for such obligations to its satisfaction before any further services are rendered; or

7.3.3 withhold deliveries or services ordered by the Customer without notice.

8. LIEN

8.1 Immediately they come into the possession of the Company or any subcontractor, all Goods and documents relating to Goods shall be subject to a particular and general lien securing payment of all moneys due to the Company by the Customer or the consignee, consignor or owner, whether in respect of such Goods or otherwise.

8.2 If any moneys due to the Company are not paid within 14 days after notice to the debtor that the lien is being exercised, the Goods may be sold by auction or otherwise at the debtor's expense and the net proceeds applied in reduction of the indebtedness. No such sale shall prejudice or effect the Company's rights to recover any balance owing to the Company for its services or the costs of the retention and sale.

9. INSURANCE Insurance of the Goods is the sole responsibility of the Customer.

10. LIMITATION OF LIABILITY

10.1 All carriage subject to the Act is undertaken at "limited Carriers risk".

10.2 Any other service (including carriage which is not subject to the Act or any other compulsorily applicable carriage regime) is provided on the basis that the liability of the Company is limited in amount to the sum specified in s15(1) of the Act for each unit of goods lost or damaged.

10.3 Subject to provisions of paras 10.1 and 10.2:

10.3.1 The Company shall not be under any liability, howsoever caused or arising and (without limiting the generality of the foregoing) whether resulting from the negligence of the Company or otherwise, for any damage to, loss, deterioration, misdelivery, delay in delivery or non delivery of, or failure to consolidate the Goods (whether the Goods are, or have been in the possession of the Company or not) nor for any instructions, advice, information or service provided to anyone, whether in respect of any loss or other thing or matter, nor for any consequential or indirect loss; and

10.3.2 The Customer shall indemnify the Company against any claims of any kind whatsoever, howsoever caused or arising and (without limiting the generality of the foregoing) whether caused or arising as a result of the negligence of the Company or otherwise, brought by any person in connection with any matter or thing done, said or permitted by the Company in connection with its dealings with the Customer or the Goods.

10.4 Where the service provided by the Company is international carriage for which a bill of lading, sea waybill, air waybill, consignment note, or other document of carriage having contractual effect has been issued, notwithstanding any other provision in these conditions, the Company shall be entitled to the benefit of any restrictions on its liability contained in such documents.

11. ACTIONS AGAINST THE COMPANY

The Company shall be under no liability unless:

11.1 Written notice of any claim, giving full particulars of any alleged loss or damage, is received by the Company within seven days after delivery of the Goods or, in the case of loss or destruction of the Goods, within 28 days of the date of despatch and

11.2 An action shall have been commenced by the Customer in a court of competent jurisdiction within six months from the date of despatch of the goods.

12. ENTIRE AGREEMENT AND WAIVER

The provisions herein constitute the entire agreement between the parties in relation to the Goods. The Company shall not be bound by any waiver or variation of these conditions of contract unless such waiver or variation is in writing and signed by a duly authorised person on behalf of the Company. The referral of business to the Company and the acceptance of services provided by the Company will be deemed to be acceptance of these Conditions of Contract. All Parties are alerted to the existence of these conditions by a reminder printed on Company stationery and dockets including letterhead, Releases of freight, Proofs of Delivery and on the account application form

13. RIGHT TO REFUSE CARRIAGE The Company may in its sole discretion refuse carriage or storage for any person or for any class of goods.

14. DEFINITIONS

Terms and expressions not defined below shall have the meanings set out in the Act. In these conditions: "Act" means the Carriage of Goods Act 1979 as amended;

"Company" means Cubic Transport Services Ltd including, its employees, agents, subcontractors and any actual carrier as the case may be;

"Customer" includes any contracting party as that term is defined in the Act;

"Goods" means the Goods delivered to the Company for carriage, storage or handling in accordance with the provisions of this contract.

15. SPECIAL NOTICE

All Customers are encouraged to read, sign and return these conditions which are enclosed with the Account Application form and sent prior to the commencement of services.

Signed.....Date.....