

# Minute of Agreement in Relation to the Provision of Services Involving the Facilitation of Transportation of Abnormal Loads on Roads

## Minute of Agreement

between

**The Scottish Police Authority**, a body corporate established in terms of Section 1 of the Police and Fire Reform (Scotland) Act 2012 ('the 2012 **Act**'), having its principal office at 1 Pacific Quay, G51 1DZ ('the **Authority**').

and

[Name of Haulier], a company registered under the Companies Acts [insert Reg. No.] and having its registered offices at [insert Address]

or

(2) [Partnership Name] having its place of business at [insert Address]

or

(3) [Individual's Name] residing at [insert Address] and having a place of business at [insert Address]

('the **Haulier**');

and

**The Chief Constable of the Police Service of Scotland**, appointed in terms of Section 7 of the 2012 Act and having his headquarters at Tulliallan Castle, Kincardine, Fife, FK10 4BE ('the **Chief Constable**').

## Definitions

**"Abnormal Load"** means loads of particular types (for example width, weight, length) as are referred to in the 1986 Regulations and the Special Types Order.

**"Haulier"** means the user of a vehicle who has submitted a Notification to Police Scotland.

**"Notification"** means advance notice to Police before using a vehicle or vehicles as required by paragraph 1 of Schedule 12 to the 1986 Regulations or before using a vehicle or vehicle-combination as required by paragraph 2 of Schedule 5 to the Special Types Order.

**"Police Scotland"** means the Police Service of Scotland established by Section 6 of the 2012 Act.

**"the 1986 Regulations"** means The Road Vehicle (Construction and Use) Regulations 1986.

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**“the Special Types Order”** means The Road Vehicles (Authorisation of Special Types)(General) Order 2003.

**“the Services”** means the services as defined at paragraph (E) of the preamble hereof.

## **WHEREAS**

- (A) In terms of Section 87(3)(b) of the 2012 Act the Authority may, with the consent of the Chief Constable, make arrangements for Police Scotland to provide goods and services (other than police services as defined by Section 86(9) of the 2012 Act) of such type as the Scottish Ministers may by order specify to such persons, or types of person, as may be so specified;
- (B) The Scottish Ministers have, by the Scottish Police Authority (Provision of Goods and Services) Order 2013, specified that services involving the facilitation of transportation of abnormal loads on roads are a type of service for the purposes of Section 87(3)(b) of the 2012 Act; and persons engaged in transportation services are a type of person for the purposes of Section 87(3)(b) of the 2012 Act;
- (C) The Haulier is engaged in the transportation of abnormal loads on roads in Scotland;
- (D) In terms of Regulation 82 of the 1986 Regulations and Regulations 12, 13, 15, 17, 23 and 24 of the Special Types Order the Haulier must notify Police Scotland prior to the carrying of an abnormal load, and, where required, police directions must be followed by the Haulier
- (E) Police Scotland may, on occasion, provide the Haulier with police resources, including police escorts, to facilitate the transportation of such loads (the provision of such police resources being referred to as ‘the **Services**’).
- (F) In recognition of the provision of the Services, the parties have agreed to enter into this Agreement setting out the terms and conditions under which the Services will be provided.

**NOW THEREFORE** it is agreed as follows:-

### **1. Commencement**

- 1.1. Notwithstanding the date or dates hereof, this Agreement shall commence on the last day of signing hereof and shall continue unless varied or terminated by one of the parties to it.

### **2. The Services**

- 2.1. Police Scotland will, subject to
  - the exigencies of duty prevailing at the relevant time and
  - a satisfactory Financial Vetting Check on the Haulier as provided for at Clause 3 hereof and
  - the terms of this Agreement,provide the Haulier with the Services.
- 2.2. The Services will include

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- 2.2.1. the planning of police escorts;
  - 2.2.2. the delivery of police escorts;
  - 2.2.3. the regulation of traffic within legal powers.
- 2.3. The police resources required in respect of the Services will be determined by a duly authorised officer of Police Scotland.

### 3. The Financial Vetting Check

All Hauliers require to submit a Service User Credit Request Form. The Haulier will submit a Service User Credit Request Form. "Credit" for the purposes of this Agreement means payment for the Service within 28 days of the date of the Police Scotland Invoice. Police Scotland will carry out a Financial Vetting Check comprising a Credit History Check and a Financial Health Check in respect of the Haulier using their current third party credit check provider. The Financial Vetting Check will be instructed by Police Scotland as soon as reasonably practicable after receipt by Police Scotland of the Notification and no later than 5 working days after receipt of the Notification.

The estimated timescale for the completion of the Financial Vetting Check is within 5 working days of Police Scotland instructing it but the Haulier accepts that this is a matter which is outwith the control of Police Scotland. Police Scotland will intimate the outcome of the Financial Vetting Check to the Haulier in writing within 7 days of receipt thereof from their credit check provider.

The financial matters which shall be checked in the Credit History Check are: published accounts, previous payment history, payment defaults, registered court judgements for payment, sequestration (bankruptcy) awards, notices of administration, liquidation and winding up and average debt settlement times.

The financial matters which shall be checked in the Financial Health Check are financial performance, debt to earnings ratio and levels of high value long term debt.

In the event that the outcome of the Haulier's Financial Vetting Check is not satisfactory the Authority and the Chief Constable shall be entitled to suspend this agreement forthwith.

The Haulier, by his execution hereof, consents to the carrying out of the Financial Vetting Check and to providing any relevant information required in order for the check to be carried out. The Haulier hereby consents to Police Scotland repeating the Financial Vetting Check at such regular intervals as it may reasonably require.

### 4. The Charges

- 4.1. In consideration of the provision of the Services by Police Scotland to the Haulier, the Haulier will make payment to the Authority of the costs incurred through the provision of the Services ('the **Charges**').
- 4.2. Police Scotland reserves the right to require an advance payment to account of the cost of the Services and future Services prior to providing the Services in such circumstances as Police Scotland deems it reasonable to so require, including, without prejudice to the foregoing generality - receipt by Police Scotland of an unsatisfactory Financial Vetting Check in respect of a Haulier or repeated failure by the Haulier to pay the Charges timeously. Where an advance payment is requested by Police Scotland it shall be calculated by Police Scotland on an estimated basis taking account of the proposed

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number of police officers and police staff and proposed number of hours requested and when the delivery of the Services has been completed a Final Accounting shall be carried out by Police Scotland. In the event that the result of the Final Accounting is that the Advance Payment is less than the cost of the hours incurred by Police Scotland an invoice shall be issued to the Haulier for the balance of the cost of the Services, payable within 28 days. In the event that the result of the Final Accounting is that the Advance payment is more than the cost of the hours incurred by Police Scotland, a credit note and refund in respect of any overpayment shall be issued to the Haulier within 28 days.

- 4.3. The costs in respect of police officers and in respect of police staff (both of which form part of the Charges) will, until further notice, be at the rate per hour per rank of police officers or police staff supplying the Services, as determined by the Authority, hereinafter referred to as “the relevant hourly rate”. The current year rates are as specified on Police Scotland’s website. The Charges shall be calculated in accordance with the number of officers and police staff utilised in the provision of the Services, hereinafter referred to as “the Direct Costs”.
- 4.4. The hourly rates for police officers and police staff will be reviewed by the Authority annually in line with approved National Rates for the Services of Police. On each occasion that the Haulier makes a request for Services it will be the Haulier’s responsibility to obtain details of the hourly rates applicable at the time of the provision of those Services.
- 4.5. A minimum of 5.5 hours will be charged per officer assigned to deliver the police escort at the relevant hourly rate. For the avoidance of doubt this is a minimum charge which will be payable by the Haulier per officer where the officer has been engaged in carrying out the Services for less than 5.5 hours. Where an officer is engaged in carrying out the Services for a period exceeding 5.5 hours the sum to be charged in respect of that officer will be the number of hours which he has been engaged in carrying out the Services.
- 4.6. The planning of police escorts will be charged at the relevant hourly rate, rounded up to the nearest whole hour per officer or member of Police Scotland staff involved. For the avoidance of doubt where planning is undertaken, a minimum of 1 hour will be charged or the number of hours spent will be charged where the planning time exceeds 1 hour.
- 4.7. For the purposes of calculating the Charges, the Authority shall include officers’ travelling time to and from the stipulated pick up point(s).
- 4.8. Additional reasonable costs may be charged with the prior agreement and confirmation of the Haulier.
- 4.9. VAT will be applied to the Charges, where applicable.
- 4.10. The Authority will waive the Charges in instances where the estimated time taken for the provision of the Services, including the officers’ travelling time to and from the stipulated pick up point, does both not exceed one hour and where a specific pick up time is not required by the Haulier. If a specific pick up time is required by the Haulier the Charges will be paid in full, regardless of the time taken for the provision of the Services.

## **5. Payment Responsibilities of Haulier**

- 5.1. The Haulier will pay the Charges to the Authority within 28 days following the date of issue of an invoice, hereinafter referred to as the Due Payment Date. Notwithstanding any arrangements made by the Haulier with a third party undertaking for the payment of

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the Charges on its behalf, the Haulier shall remain liable to the Authority for payment of the Charges.

- 5.2. The Authority reserves the right to insist on payment of the Charges in advance of the provision of the Services by Police Scotland in the event of (a) repeated failure by the Haulier to pay the Charges timeously i.e. within the said 28 day period. "Repeated failure" shall be held to have occurred in the event of a minimum of 3 late payments by the Haulier in any 12 month period or (b) a delay in payment of more than thirty days after the Due Payment date.
- 5.3. The Authority reserves the right to commence court proceedings for recovery of any debt outstanding after the end of the 28 day period for payment.

## **6. Operational Command**

- 6.1. During the provision of the Services, the Haulier, and any private escorts utilised by the Haulier, will comply with any directions issued by Police Scotland officers and members of Police Scotland staff. This is a material obligation of this agreement.
- 6.2. Police Scotland officers and members of Police Scotland staff will at all times remain under the direction and control of the Chief Constable.
- 6.3. While all reasonable steps will be taken to provide the Services on the dates and at the times agreed with the Haulier, in instances of operational emergency, the Chief Constable may direct officers to other duties without explanation and without incurring liability for any postponement of the provision of the Services. In the event of officers being deployed to other duties the Charges may be reduced to take account of the unavailability of any officers deployed to other duties.

## **7. Responsibilities of Haulier**

- 7.1. The Haulier has primary responsibility for the safe transportation of all the abnormal loads in respect of which the Services are provided and for payment of the charges as provided for at Clause 5 hereof.
- 7.2. The Haulier shall not, and shall ensure that any Haulier employees, private escorts or other contractors shall not do (or omit to do):
  - anything that results in a conviction or a prosecution of the nature referred to at Clause 10.1.1. hereof or
  - any act of grave misconduct of the nature referred to at Clause 10.1.2. hereof.
- 7.3. A breach by the Haulier of its obligations under this Clause 7 shall entitle the Authority or the Chief Constable at their discretion:
  - 7.3.1. to require the Haulier to stop using the services of any private escorts or other contractors that have caused the Haulier to be in breach of its obligations; or
  - 7.3.2. to suspend this Agreement.

## **8. Responsibilities of Police Scotland**

- 8.1. Police Scotland officers and members of Police Scotland staff will be properly trained, briefed and equipped to perform their agreed functions.

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### **9. Notice of Requirement for Services or for Cancellation**

- 9.1. Notifications of abnormal load movements under the 1986 Regulations and the Special Types Order deemed by Police Scotland to require a police escort in order to move safely will be treated as a request for Services.
- 9.2. All Notifications must include the full name and address and contact details of the Haulier requesting the Services.
- 9.3. Except in exceptional circumstances, being circumstances beyond the control of the Haulier, Police Scotland will require a minimum of 48 hours' notice of an abnormal load movement in order to make arrangements for the provision of the Services. For the purposes of compliance with the said notice requirement the date of the notification is not counted, the date of the movement is not counted and Sundays and Public Holidays are not counted.
- 9.4. The Haulier will provide Police Scotland with a minimum of eight days' notice of its intention to amend or cancel an abnormal load movement (not including the date of notification and the date of the planned movement). For the purposes of compliance with the said notice requirement the date of the notification is not counted and the date of the movement is not counted.
- 9.5. If less than eight days' notice is provided by the Haulier, the minimum Charges detailed at Clause 4.5 will be levied in full.

### **10. Suspension of Services**

- 10.1. The Authority and the Chief Constable reserve the right to suspend the provision of the Services to the Haulier immediately in the event that it appears to the Authority and / or the Chief Constable that any of the following material breaches of this Agreement has occurred :-

- 10.1.1. The Haulier is convicted or has been convicted of a criminal offence relating to the conduct of the Haulier's business or profession providing always that minor convictions shall be excluded, the Chief Constable always being the judge of what is considered to be a minor conviction; or

The Haulier is to be prosecuted for a criminal offence relating to the conduct of the Haulier's business or profession, providing always that minor offences shall be excluded, the Chief Constable always being the judge of what is considered to be a minor offence; or

Police Scotland has adverse police information related to the Haulier's business or profession of a volume and type such that it is reasonable and proportionate to suspend the provision of the Services to the Haulier.

- 10.1.2. The Haulier commits or is found to have committed an act of grave misconduct in the course of its business or profession; or
- 10.1.3. Failure by the Haulier to settle timeously invoices rendered by the Authority as provided for at Clause 5 hereof; or
- 10.1.4. Failure by the Haulier to abide by the terms of this Agreement; or

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10.1.5. Failure by the Haulier to comply with reasonable advice or instructions given by Police Scotland officers or members of Police Scotland staff in relation to the movement of the load all as provided for in Clause 6 hereof.

10.1.6. Failure of the Financial Vetting Check referred to at Clause 3 hereof.

The Authority and the Chief Constable will issue written notice of the suspension ("the Suspension Notice") with a note of the reason therefor to the Haulier as soon as reasonably practicable and no later than 7 days from the relevant matter coming to their attention.

The event(s) leading to the suspension will be investigated by a senior member of Police Scotland and his / her decision as to whether a material breach has been established or not shall be intimated to the Haulier within 28 days of the Suspension Notice.

If the decision is that a material breach of this Agreement has been established the Service shall be terminated summarily upon issue of the Decision Notice. If the decision is that a material breach of this Agreement has not been established the service shall be reinstated upon issue of the Decision Notice.

## **11. Termination**

- 11.1. In addition to the Chief Constable and SPA's right to terminate this Agreement in terms of Clause 10 each of the parties hereto shall be entitled to terminate this Agreement by giving to any of the other parties not less than 30 days' written notice to that effect with a note of the reason therefor.
- 11.2. In addition to the Chief Constable and SPA's right to terminate this Agreement in terms of Clause 10 hereof each of the parties shall be entitled to terminate this Agreement in the event that one of the other parties is in breach of any other material provision of this Agreement and fails to remedy such breach (if capable of remedy) within 30 days of having received written notice from the terminating party specifying such breach.
- 11.3. Where the Haulier terminates the Agreement pursuant to 11.2 above, the Authority shall be entitled to recover from the Haulier costs reasonably and actually incurred and arising directly from termination of this Agreement.
- 11.4. Termination for breach shall not alter or affect the rights of any of the parties that may have accrued up to the date of termination (including the payment of any sums due in terms of Clauses 4 and 5 hereof) or affect the right of any of the parties to exercise any other remedies for breach.
- 11.5. Any appeal against this decision must be submitted in writing to the Authority and the Chief Constable.

## **12. Contact Details for Notices etc.**

- 12.1. Police Scotland shall liaise with the Haulier through the Haulier's Nominated Officer for all matters, including performance of the Services, invoicing and payment.

Notifications shall be submitted by the Haulier using the Abnormal Load Notification form on the Police Scotland website or an electronically generated form containing this information to:

OSD Abnormal Loads Scotland

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Police Scotland  
Detroit Road  
Glenrothes  
KY6 2RJ

Telephone: 01592 418859

Email: OSDAbnormalLoadsScotland@scotland.pnn.police.uk

Any other notices regarding the service not related to the Charges shall be sufficiently served if sent by first class recorded delivery post, sent electronically or hand delivered in exchange for a receipt and addressed to OSD Abnormal Loads Scotland at the aforesaid address

Any other notices related to Payment shall be sufficiently served if sent by first class recorded delivery post, sent electronically or hand delivered in exchange for a receipt and addressed to:

Police Scotland Finance Department  
2 French Street  
Dalmarnock  
Glasgow  
G40 4EH

Telephone Number: 01786 895640

Email: FinanceSalesInvoiceRequests@scotland.pnn.police.uk

in the case of the Haulier to:

[insert Haulier's Name and Address]

Haulier's Point of Contact: [insert name]

Telephone Number / email address: [insert Details]

The Haulier shall notify Police Scotland in writing of any change to the Haulier's Point of Contact within 48 hours of such change.

### **13. Indemnity**

- 13.1. The Haulier will indemnify and keep indemnified the Authority, the Chief Constable and their officers and employees against any liability, loss, damage, claims, and proceedings whatsoever and howsoever suffered by them including, but not limited to, any personal injury or death or damage to property whether arising directly or indirectly as a result of any negligent act or omission by the Haulier, its employees or any private escort utilised by the Haulier, except to the extent that any such liability, loss, damage, claims, and proceedings arise as a consequence (in whole or in part) of the negligence of the Authority, the Chief Constable or their officers or employees.

### **14. Insurance**

- 14.1. The Haulier shall insure with a reputable insurance company against the injury to or death of any persons or loss of or damage to any property that may arise from the negligence of the Haulier, its employees or any private escort utilised by the Haulier.

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- 14.2. The liability of the Haulier under Clause 14.1. shall be unlimited in respect of death or personal injury and in all other respects for each event or series of connected events shall not exceed **Ten Million Pounds (£10,000,000) Sterling**.

## **15. Anti-Bribery and Corruption**

- 15.1. The parties acknowledge that the Authority, the Chief Constable and the Haulier shall, and shall procure that persons associated with each of them shall, in connection with this Agreement:
- 15.1.1. comply with Relevant Requirements and Relevant Policies (as defined in the Bribery Act 2010);
  - 15.1.2. not engage in any activity, practice or conduct that would constitute an offence under Sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
  - 15.1.3. not do, or omit to do, any act that would cause or lead either of the other parties to be in breach of any of the Relevant Requirements or Relevant Policies;
  - 15.1.4. have and shall maintain in place throughout the term of this agreement their own policies, procedures or processes including, but not limited to, adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and this Clause 15 and will enforce them where appropriate;
  - 15.1.5. promptly report to the other parties any request or demand for any undue financial or other advantage of any kind received by any of them in connection with the performance of this Agreement.

## **16. Freedom of Information (Scotland) Act and Environmental Information (Scotland) Regulations**

- 16.1. The parties acknowledge that the Authority and the Chief Constable are subject to the requirements of the Freedom of Information (Scotland) Act 2002 (FOI(S)A) and the Environmental Information (Scotland) Regulations 2004 (EI(S)R) and all information submitted by them may need to be disclosed and / or published by the Authority and / or the Chief Constable.
- 16.2. Without prejudice to the foregoing generality, the Authority and the Chief Constable may disclose information relative to this agreement in compliance with FOI(S)A (the decisions of the Authority and the Chief Constable in the interpretation of their obligations thereof shall be final and conclusive in any dispute, difference or question arising in respect of disclosure under its terms), or any other law, or, as a consequence of judicial order, or order by any court, tribunal or body with the authority to order disclosure (including the Information Commissioner).

## **17. Dispute Resolution**

- 17.1. Subject always to the Authority's rights and the Chief Constable's rights under Clauses 10 and 11 hereof, if any dispute should arise between the Authority and / or Police Scotland and the Haulier in respect of the terms of this Agreement or the parties' rights or obligations under this Agreement, the parties and their officers shall use all reasonable

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endeavours to reach an amicable and working resolution of the matter in dispute as quickly as possible.

17.2. Without prejudice to the provisions of Clause 5.3, if any dispute is unable to be resolved then the dispute shall be referred to a single independent arbitrator mutually agreed by the parties within 14 days of one party's written request to appoint an arbitrator. The findings and awards of such arbitrator shall be final and binding upon the parties.

17.3. Subject always to the Authority's rights and the Chief Constable's rights under Clauses 10 and 11 hereof in the event that any matter arising out of this Agreement is subject to dispute or referred to arbitration, the parties shall discuss whether Police Scotland shall continue to provide the Services. The parties shall discuss whether the payments should continue in the context of the dispute. If after such discussion the Haulier removes funding, Police Scotland shall not be required to continue the provision of the Services.

## **18. Assignment**

18.1. The Haulier will not be entitled to assign or sub-contract either the whole or any part of its rights and obligations hereunder.

## **19. Variation**

19.1. The terms of this Agreement shall not be varied or amended unless such variations or amendments are agreed in writing by duly authorised representatives of each of the parties.

## **20. No Partnership or Agency**

20.1. Nothing in this Agreement shall be construed as constituting a partnership between the parties or as constituting any of the parties as the agent of any of the other parties for any purpose whatsoever except as specified by the terms of this Agreement.

## **21. Severability**

21.1. If any provision of this Agreement is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of them will not be prejudiced.

## **22. Entire Agreement**

22.1. This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes all prior agreements, arrangements and understandings between the parties relating to that subject matter.

## **23. Governing Law and Jurisdiction**

23.1. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the law of Scotland.

23.2. The parties irrevocably agree that the courts of Scotland shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement or its subject matter.

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**IN WITNESS WHEREOF** these presents consisting of this and the ten preceding pages, are executed as follows:

**Subscribed for and on behalf of [the Haulier]**

.....  
Authorised Signatory

**at** ..... **on** .....

**before the witness hereto subscribing.**

.....  
Witness Full Name

.....  
Address

**Subscribed for and on behalf of the Chief Constable of the Police Service of Scotland**

.....  
Authorised Signatory

**at** ..... **on** .....

**before the witness hereto subscribing.**

.....  
Witness Full Name

.....  
Address

**Subscribed for and on behalf of the Scottish Police Authority**

.....  
Authorised Signatory

**at** ..... **on** .....

**before the witness hereto subscribing.**

.....  
Witness Full Name

.....  
Address

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