

**WAREHOUSING CONDITIONS**  
**AMSTERDAM-ROTTERDAM**

ISSUED BY:

Ondernemersvereniging Regio Amsterdam

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## WAREHOUSING CONDITIONS AMSTERDAM-ROTTERDAM

### GENERAL PROVISIONS

#### Section 1 Terms of reference of the general conditions

- 1.1 These conditions shall apply to all legal relations between Warehousing Companies and their Principals and Warrant Holders, even after the termination of the agreement to the extent that the provisions of Chapter I hereof are concerned. The provisions of Chapter II hereof shall apply only to the legal relation between the Warehousing Companies and the Warrant Holders.
- 1.2 The agreement between the Principal and the Warehousing Companies shall explicitly exclude any general conditions to which the Principal might wish to refer or may deem to be applicable.
- 1.3 Neither the Principal nor the Warrant Holder may appeal to regulations and provisions where they are contrary to these conditions.
- 1.4 For services and acts performed by the Warehousing Company, which do not fall within the scope of the original activities of the Warehousing Company as specified hereafter in Section 2, such as but not limited to, forwarding, stevedoring, carriage or super intendancy services performed by the Warehousing Company, the following general conditions will also apply to those services, all according to the most recent edition: Expeditievoorwaarden (FENEX) (forwarding activities), the Algemene Nederlandse Cargadoorsvoorwaarden (ship brokerage), the Voorwaarden Stukgoed (ORAM) (stevedoring), the Voorwaarden Massagoed (ORAM) (stevedoring activities), the Algemene Vervoerscondities (national road carriage) or the Algemene Controle and Inspectievoorwaarden (VEROCOG) (survey and super intendancy). In case of a conflict between such general conditions and these general conditions, the Warehousing Company may decide which conditions or which provisions of such conditions to invoke. Prior to performing the services mentioned in this article, the Warehousing Company will notify the Principal which conditions will apply.

#### Section 2 Definitions

In these conditions it is understood by:

**Last warrant holder known to the**

**Warehousing Company:** the party to whom a Warrant has been issued and subsequently the Warrant Holder whose written request to the Warehousing Company to be considered as such bears the most recent date, provided, however, that the Warehousing Company shall have the right but not be obliged to regard someone else as such, if they have reason to assume that the latter is the last Warrant Holder.

**Principal:** the party who instructs the Warehousing Company to store or deliver goods, or the party for whom the Warehousing Company stores goods for which no Warrant is in circulation.

**Warehousing Company:** the party which - apart from the possibility of wider terms of reference as physical distributor - accepts instructions for the storage or custody or delivery of goods (Chapter I) or the party who has goods in custody against which a warrant issued by him is in circulation (Chapter II).

**Warrant:** a by the Warehousing Company numbered and legally signed or stamped receipt entitled "Warrant", stating that the bearer has the right to receive the goods mentioned therein, including Partial Warrants as defined in Article 32.1 of these conditions.

**Warrant Holder:** the party who identifies themselves to the Warehousing Company as the holder of a warrant by producing the warrant or who establishes ownership in any other manner acceptable to the Warehousing Company.

### **Section 3 Applicable law**

All agreements between the Warehousing Company, the Warrant Holder and the Principal shall be subject to the laws of the Netherlands and if not otherwise specified in these conditions the provisions of civil law concerning the custody of goods, shall apply in general and according to circumstances.

### **Section 4 Disputes**

- 4.1 All disputes between the Warehousing Company, the Principal and/or the Warrant Holder will be subjected to arbitration in Amsterdam in accordance with sub paragraphs 2 and 3 of this Section. For claiming amounts due the Warehousing Company is entitled to waive the above, in which case the competent Court in Amsterdam has the exclusive jurisdiction to decide over such claim(s).
- 4.2 Disputes subjected to arbitration will be decided by three arbitrators. One of these arbitrators will be nominated by the Warehousing Company and one by the Principal and/or Warrant Holder. These two arbitrators jointly nominate a third arbitrator, which arbitrator in all circumstances, depending on the nature of the dispute, should be a lawyer specialized in Dutch trade-, storage- and/or transport law. This third arbitrator presides over the arbitral tribunal and stipulates and defends in cooperation with the other arbitrators the procedural order, with the proviso that parties should at least be allowed to clarify their positions in writing and verbally. In case the two arbitrators do not appoint the third (presiding) arbitrator within reasonable time, either party may request the Dean of the Bar Association in the district within which the Warehousing Company is established to appoint the third arbitrator in compliance with the above conditions.
- 4.3 The arbitration procedure is deemed to be pending from the day on which one party notifies the other party of the written nomination of an arbitrator. The instruction of the arbitrator continues until the final decision which should be rendered in accordance with the laws of the Netherlands, including provisions of international treaties on carriage. They will file their judgment with the registrar of the Court within which district the place of arbitration is situated, while a copy of the judgment will be sent to the parties involved. Prior to starting their work the arbitrators may request the claimant or all parties involved to pay a deposit for the arbitration costs; during the proceedings they may demand for an increase of this deposit. In their judgment arbitrators will decide who of the parties involved and for which part should bear the arbitration costs. This includes fees and costs of the

arbitrators, and costs made by the parties as far as reasonably deemed necessary by the arbitrators. The amounts destined for the arbitrators will as far as possible be recovered from the deposit.

### **Section 5 Filed conditions**

- 5.1 These conditions have been filed with the Registrars of the District Courts of Amsterdam and Rotterdam. They will be sent on request.
- 5.2 In case of difference between the Dutch text and the text in any other language of these Warehousing Conditions, the Dutch text shall be decisive.

## **CHAPTER 1**

### **PROVISIONS RELATING TO STORAGE, CUSTODY AND DELIVERY**

#### **Section 6 Written procedures**

- 6.1 All agreements, tenders, instructions regarding storage, custody, handling and delivery of goods, shall be recorded in writing.
- 6.2 Verbal or telephone communications or arrangements shall only be binding on the Warehousing Company if immediately confirmed in writing by the Warehousing Company, unless otherwise agreed.

#### **Section 7 Description of goods and supply of information**

- 7.1 Tendering of goods and instructions on storage, custody and handling shall be effected or supplied providing the exact and full written description of the goods, such as inter alia their value, the number of packages, the gross weight and furthermore all particulars of such nature that the agreement would not have been made or not on the same conditions if the Warehousing Company had been acquainted with the true state of affairs, together with delivery to the Warehousing Company of any and all documents prescribed by law.
- 7.2 If goods are subject to customs and excise provisions or to tax regulations, the Principal shall timely supply all information and documents required in this connection, in order to enable the Warehousing Company to comply with such provisions or regulations.

#### **Section 8 Rates/payments/taxes**

- 8.1 Current rates and payments for work done and agreements between the Warehousing Company and the Principal regarding rates and payments for work done shall be based on the cost of labour prevailing at the time the instructions were given or the agreement was made. In the event of an increase in the cost of labour, the current rates or the agreed rates and payments may be adjusted accordingly. The Warehousing Company shall also have the right to adjust the rates in cases where the Authorities introduce or increase charges imposed on the services rendered by the Warehousing Company.
- 8.2 Current and agreed rates for storage shall be based on the customary method of stacking or dumping the relevant goods unless otherwise agreed. If at the Principal's request or due to the condition of the goods the customary method of

stacking or dumping is not followed, an increase in the rates shall be applied proportional to the additional floor space occupied compared to normal stacking.

### **Section 9 Duties, costs and taxes**

- 9.1 All freight, disbursements, taxes, duties, contributions, levies, fines and/or other charges or costs of whatever nature, incurred by or relating to the goods and payable on arrival or charged forward, shall be for the account of the Principal and shall be paid or reimbursed by the Principal whether or not in advance, at the Warehousing Company's first demand, irrespective of whether the goods are still on the premises or have since been removed.
- 9.2 When the Warehousing Company deems it necessary to conduct law suits or take other legal steps with regard to taxes, duties, contributions, levies, fines and/or other charges or costs of whatever nature, imposed by the Authorities; or if the Principal requests the Warehousing Company to conduct such law suits or implement such legal steps and the Warehousing Company complies with such a request, the resulting work and costs, including the costs of legal and/or fiscal and/or other advice or assistance deemed necessary by the Warehousing Company shall be for the account and risk of the Principal.
- 9.3 In the event of the Warehousing Company acting or having acted as fiscal agent, all taxes, duties, contributions and other levies as well as fines, interest, costs of whatever nature, or indemnifications shall be for the account of the Principal, without prejudice to the provisions of Section 9.1. The Principal shall pay such amounts at the Warehousing Company's first demand, or shall, at the option of the Warehousing Company, arrange for sufficient security for these amounts by means of a guarantee by a first class Dutch bank in favour of the Warehousing Company or, at the option of the Warehousing Company, in favour of such authority, organisation, corporation or person claiming these amounts.

### **Section 10 The Principal's liability**

- 10.1 The Principal shall be liable to the Warehousing Company and/or third parties for any loss or damage resulting from incorrect and/or misleading and/or incomplete descriptions or indications or information, as well as for the loss and/or damage resulting from defects of the goods and/or the packaging, even when such loss or damage was caused through no fault of his. If the weight has been omitted or stated incorrectly, the Principal shall be liable for all resulting loss and/or damage.
- 10.2 Notwithstanding the above provisions the Principal shall indemnify the Warehousing Company against claims from third parties as well as indemnify the Warehousing Company for damages paid or due to third parties, including employees of both the Warehousing Company and the Principal, resulting from the nature or condition of the goods stored, unless the damage has resulted directly from personal wilful misconduct or gross negligence by the Warehousing Company themselves.
- 10.3 The Principal is obliged to pay the amounts mentioned in Section 10.2 upon first demand of the Warehousing Company to the warehousing Company or, at the option of the Warehousing Company, the Principal shall issue sufficient security

for these amounts in the form of a bank guarantee issued by a first class Dutch bank in favour of the Warehousing Company or, at the option of the Warehousing Company, in favour of the third party claiming these amounts.

- 10.4 In case the Warehousing Company has to defend itself legally against claims of third parties as mentioned in Section 10.2, or in case the Warehousing Company deems it necessary to lodge proceedings or any other legal measures regarding such claims, or in case the Principal requests the Warehousing Company to lodge such proceedings or take legal measures and the Warehousing Company agrees to such request, the work and costs, including costs regarding legal and/or tax and/or other forms of advice or assistance deemed necessary by the Warehousing Company, will be for the risk and account of the Principal. However the Principal is allowed to take over such legal measures or proceedings after approval of the Warehousing Company and after payment of the costs incurred by the Warehousing Company up to that moment regarding legal and/or tax and/or other advice and assistance deemed necessary by the Warehousing Company.

### **Section 11 Refusing an order**

The Warehousing Company shall have the right to refuse an instruction for storage and/or custody without having to give any reasons therefore. In the event of the Warehousing Company having accepted the instructions, the agreement may only be broken by mutual consent of the parties concerned, subject to the provisions below.

### **Section 12 Inspection of goods**

- 12.1 When the goods are stored the Warehousing Company shall not be obliged to weigh and/or measure the goods without having received specific instructions to this effect, in respect of the manner of packing or storage or storing, neither shall the Warehousing Company be obliged to perform any other research regarding the nature and condition of the goods, including research into the moistness.
- 12.2 At its own discretion the Warehousing Company may weigh and/or measure the goods in order to check and verify the specifications received, or may perform any other research. If in such an event the Warehousing Company ascertains that the weight or measure vary from the specification, the cost of weighing and/or measuring shall be for the account of the Principal. However, the Warehousing Company shall only be responsible for ascertaining the weights and/or measurements, if the goods have been weighed and/or measured by the Warehousing Company on the Principal's instructions and without prejudice to the provisions of Section 20 of the Warehousing Company's liability.
- 12.3 Packages, including containers, may only be opened for inspection of the contents at the Principal's request, however the Warehousing Company shall at all times have the right, but not be obliged, to open the packages in order to verify the contents, should they have reason to suspect that the contents have been incorrectly declared.
- 12.4 If on inspection it appears that the contents differ from the specification, given by the Principal or any party acting for and/or on behalf of the Principal, the costs of the inspection shall be for the Principal's account. The Warehousing Company, however, shall never be liable for differences between the description and/or



designation of the goods taken into custody and their actual nature, condition, weight and/or volume of the goods.

### **Section 13 Delivery and receipt**

Delivery to and receipt by the Warehousing Company shall be made by the Principal's delivery of the goods and their acceptance by the Warehousing Company at the place of storage.

### **Section 14 Condition of the goods on arrival and period of responsibility**

- 14.1 Save for transfer of the goods in the meaning of Section 18, in which case the liability of the Warehousing Company is governed by the conditions and limitations of liability as specified in that Section, the Warehousing Company is not liable for damage to goods caused by or resulting from an event or process that took place or commenced prior to arrival and readiness for discharge of the goods at the location agreed with or chosen by the Warehousing Company, at which location they will be stored by or on behalf of the Warehousing Company pursuant to the conditions of an agreement entered into with the Warehousing Company, or after removal of these goods from the place of storage agreed with or chosen by the Warehousing Company. In case of goods carried in containers, "ready for discharge" means the moment at which the container(s), in all aspects and in full compliance with the safety regulations and laws in force, can safely be entered. "Removal" means the moment of commencement of loading of the goods on or in a specific means of transport, including containers.
- 14.2 Unless notification to the contrary goods will have to be delivered to the Warehousing Company in good condition and, in case packed, with good package, including the conditions of containers used therefore.
- 14.3 If the goods sent to the Warehousing Company arrive in outwardly visible damaged or defective condition, the Warehousing Company shall have the right, but not be obliged, to take any steps to protect the Principal's interests against the carrier or others, at all times for the Principal's account and risk, and shall provide evidence of such condition, without the Principal however being able to make any claim against the Warehousing Company for the manner in which the Warehousing Company have performed such tasks. The Warehousing Company shall notify the Principal without delay in case the goods are upon arrival in an outwardly visible damaged or defective condition, without the latter however having any right to claim against the Warehousing Company because of failure to notify or because of the contents of such notification.
- 14.4 Goods received for storage may at any time be removed, or destroyed or rendered harmless in any other manner by the Warehousing Company at the risk and expense of the Principal, when as a diligent warehouse-keeper, had he known that they could be dangerous after receipt, would not have accepted the goods for storage.
- 14.5 With regard to the storage of goods of which the Warehousing Company was aware of their danger, the same shall apply, but only when such goods present an immediately imminent danger.
- 14.6 The Warehousing Company shall not be liable for any claim for damages in such events and the Principal shall be liable to cover all costs and damages to the Warehousing Company resulting from the delivery for storage, from the storage

itself or from the measures taken, unless such costs and damages or the need for taking such action are exclusively due to personal gross negligence or wilful misconduct of the Warehousing Company themselves.

- 14.7 As a result of the measures taken the agreement for the storage of goods stated therein shall cease to apply at the moment of ending these measures, but in the event that the goods are still delivered, the agreement shall only be terminated after their delivery. The provisions relating to dangerous goods shall not prejudice Section 22.

### **Section 15 Speed of execution of order**

The Warehousing Company shall determine the speed at which an order for storage or delivery of goods is executed. The Principal's wishes shall be taken into consideration as far as possible in this connection, but the Warehousing Company shall not be liable for costs incurred or damage suffered by the Principal when the speed at which the instructions are carried out is slower than desired by the Principal.

### **Section 16 Late or irregular delivery or removal**

If the Principal has advised the Warehousing Company that goods are to be delivered for storage in a certain quantity and/or at a specified time, or that goods to be removed, are to be collected in a certain quantity and/or at a specified time; and if the said Principal or any third party then fails to deliver and/or collect in the agreed manner and/or at the agreed times, then the Principal shall be obliged to pay the Warehousing Company any costs incurred for labour and/or equipment not utilised, or not fully utilised, which had been engaged and/or assigned to carry out the relevant instructions by the Warehousing Company.

### **Section 17 Working hours**

Delivery of goods to and removal of goods from the place of storage shall be carried out during the official working hours of the warehousing staff. Should the Principal require work to be carried out outside the official working hours, the warehouse may at its own discretion comply or not comply with this request. Extra costs incurred for working outside of official working hours shall be borne by the Principal.

### **Section 18 Place of storage, moving of goods**

- 18.1 Unless otherwise agreed, the Warehousing Company shall have sole discretion of where the goods are to be stored.
- 18.2 The Warehousing Company shall at all times have the right to remove the goods to another place of storage.
- 18.3 The costs of such transfer and insurance or normal transport risk, shall be for account of the Warehousing Company, unless such a transfer is made:
- in the interests of the Principal or the order, or
  - due to circumstances for which the Warehousing Company is not liable, or

- due to circumstances which reasonably cannot be for risk and account of the Warehousing Company, or
- due to law or instructions by authorities.

The carriage in connection with a transfer that comes for the account of the Warehousing Company is, in case of national carriage, subject to the Algemene Vervoerscondities ("AVC"), most recent edition, and, in case of international carriage, subject to the CMR, in which case the maximum damages to be paid for national carriage is always limited to 2 SDR per kilogram damaged or lost gross weight, under the condition that the liability of the Warehousing Company is in all circumstances limited to SDR 100.000 per event or number of events following from one and the same cause. Transfers performed for the account of the Principal will be handled by the Warehousing Company acting as forwarder and subject to the Nederlandse Expeditievoorwaarden of the FENEX, most recent edition, and is performed for the risk of the Principal.

- 18.4 When the goods are moved to another place of storage, the Warehousing Company shall notify the Principal, however without the latter being able to lodge any claim against the Warehousing Company because of failure to notify.

### **Section 19 Damage/loss of goods**

- 19.1 By accepting these warehousing conditions, the Principal and/or Warrant Holder renounces any right to lodge claims or recover damages from third parties in the case of loss or damage of the goods. The Principal will only be able to hold the Warehousing Company liable, even when the Warehousing Company has employed the services of these third parties in the course of their business. The following limitations shall apply to the Warehousing Company's liability.
- 19.2 In the case of damage and/or loss because of theft by burglary, the Warehousing Company shall be considered to have applied adequate care, if they have provided a proper closure for the storage place.
- 19.3 In the case of goods stored on open ground or which can only be stored on open ground or for which it is customary for the Warehousing Company to store them on open ground, any liability of the Warehousing Company for damage or shortage, possibly in connection with such storage, shall be excluded.
- 19.4 In the case of damage and/or loss caused by rats or mice or insects or other vermin, the Warehousing Company shall be considered to have applied adequate care if they have provided the normal pest control in the place of storage.
- 19.5 The Warehousing Company shall not be liable for any damage and/or loss arising from the following causes, regardless of their origin:
- a. the natural quality of the goods, change in quality, inner rot, dehydration, settling, pulverization, leaking, heating, seeping, sweating, condensation, fermenting, freezing, rusting, breakage, insufficient and/or defective packaging;
  - b. force majeure, government measures, requisitioning, seizure, strike, lockout, sabotage, riot, looting, interruption of power supplies;
  - c. fire, smoke, explosion, radiation, water damage, break of water pipes, floods, settling, storm, cloudburst and/or extreme precipitation and generally every external calamity;

- d. heat, cold, changes of temperature or humidity of the air, but only in case it was not agreed that the storage would take place in a location fitted to protect the goods from such influences;
  - e. incompleteness or incorrectness of the numbers, letters or marks of the collo.
- 19.6 The compensation payable by the Warehousing Company for the loss of the goods shall be limited to the value of the goods applicable on the day of storage.
- 19.7 In the case of damage the highest indemnification shall be the difference between the actual value and the value the goods would have had after the damage on the day of storage.
- 19.8 The Warehousing Company indemnity is only liable for damage to the goods and never for damage due to loss of profit or any other indirect or consequential loss.
- 19.9 When damage is caused to only part of the goods, which can be classified as having a value of its own (e.g. machine parts) or where damage is caused to one or more items of several goods belonging together (e.g. furniture), any depreciation of the remaining part or of the undamaged goods shall be excluded and not be considered.
- 19.10 In no event shall more than the actual cost of the damage be paid, and then only to a maximum amount of 2 SDR per kilogram damaged or lost gross weight, provided that in all cases the warehouse's liability is limited to SDR 100,000 per event or series of events resulting from one and the same cause.
- 19.11 Any right to damages shall cease if no complaint is filed on receipt by or on behalf of the Principal or the Warrant Holder receiving the goods.
- 19.12 The Principal and/or the Warrant Holder shall be liable for any loss or damage caused by the non/late/improper execution of any obligation under these conditions, or under the separate agreement made between the Warehousing Company and the Principal or Warrant Holder, if these conditions do not already contain an arrangement.

## **Section 20 Admittance to the premises**

- 20.1 The Warehousing Company shall be obliged to admit the Principal and/or the persons designated by him to the place where his goods are stored, subject to the requirement to comply with customs and/or other formalities/restrictions imposed by the Authorities.
- 20.2 The following conditions shall apply to all persons whom the Warehousing Company has granted admission:
- a. all persons visiting the place of storage, including the personnel of vessels and vehicles arriving at the warehouse, shall observe the Warehousing Company's regulations;
  - b. admittance shall be granted only during normal working hours and always under escort;

- c. the cost of escorting visitors shall be paid to the Warehousing Company by the Principal;
- d. the Principal shall be liable for any damage caused directly or indirectly by the visitors;

### **Section 21 Execution of proceedings**

- 21.1 The execution of the work required by the Principal, such as sampling, handling, servicing, repacking, restacking, lotting, weighing, etc., as well as delivery, shall be entrusted to the Warehousing Company having the goods in custody at the appropriate fees and on the appropriate conditions.
- 21.2 Any work the Warehousing Company does not wish to undertake may, with the Warehousing Company's consent, be carried out by or on behalf of the Principal, subject to the conditions laid down by the Warehousing Company, under the supervision of the Warehousing Company and against payment of the costs involved, however without any liability to the Warehousing Company.

### **Section 22 Special method of handling goods**

- 22.1 The Warehousing Company shall not be obliged to take any measures in respect of the goods or their packing received into custody, including containers, other than such which are considered normal for the storage of the goods concerned.
- 22.2 The Warehousing Company shall only be obliged to take special measures if such measures have been agreed.
- 22.3 However, the Warehousing Company shall have the right but is not obliged to take immediate action at the Principal's cost and risk, including the clearance or removal, or destruction, or rendering harmless in any other way, if it is feared that failure to take such action may cause loss and/or damage to the goods themselves or to other goods, or to the warehouse or to equipment, or cause harm to persons, or when such a measure is required or indicated for some other reason, such in the discretion of the Warehousing Company. The Warehousing Company shall immediately inform the Principal of the measures taken, without the latter having any right to claim against the Warehousing Company for failure to meet this obligation.
- 22.4 Without prejudice to the provisions of the preceding subsection, the Principal shall indemnify the Warehousing Company from any claims by third parties on account of damage caused by the Principal's goods to goods belonging to third parties.

### **Section 23 Insurance of goods**

- 23.1 Unless expressly agreed in writing with the Principal, the Warehousing Company shall not be obliged to effect any insurance on the goods.

If it has been agreed between the Warehousing Company and the Principal that the Warehousing Company is to effect insurance of the goods for account of the Principal, then the Warehousing Company shall have the right in their discretion to effect the agreed insurance in the name of the Principal, or to include such insurance in a warehousing policy.

The value to be insured shall be the amount stated by the Principal. The Warehousing Company shall in all cases exclusively be regarded as intermediary without any liability. The Warehousing Company shall not be held responsible for the condition(s) negotiated with the insurers or be responsible for their reliability or their solvency.

- 23.2 In all cases where the goods have been insured through the intervention of the Warehousing Company, the Warehousing Company shall have the right to collect the sums claimed for and on behalf of the parties interested in the goods and shall furthermore have the right to deduct all money owed to them for whatever reason by the Principal from the insurance settlement.

The balance remaining shall be paid to the Principal.

- 23.3 If in case of damage to or loss of goods by fire or any other cause and the assistance of the Warehousing Company for assessing the damage or loss is desirable or necessary, such assistance shall be rendered by the Warehousing Company against payment of the costs involved plus additionally a fee for their efforts. The Warehousing Company may make such assistance conditional on the cash payment of, or the provision of security for all sums owing for whatever reason and all costs referred to in this Section by the Principal to the Warehousing Company.

- 23.4 When partial delivery of the goods has been made by the warehouse, the Principal must inform the warehouse of the value for which he wishes the remainder of the goods to be insured.

In the absence of such a declaration the Warehousing Company shall have the right to reduce the insurance value at their own discretion, in proportion to the decrease in number, weight, measure or contents of the goods.

#### **Section 24 Charging warehouse rent in case of destruction of goods**

Should the goods stored in the warehouse be destroyed by fire or otherwise, the day of destruction shall count as the date of delivery, and the full warehouse rent plus the insurance premium (if the goods were insured through the Warehousing Company) and all costs, calculated in full monthly periods, shall be due and payable up to and including such date.

#### **Section 25 Removal of goods**

- 25.1 The Principal may, upon payment of all that is due to the Warehousing Company (taken in the broadest context) and subject to the provisions of these General Conditions, at any time remove the goods placed in custody.
- 25.2 The warehouse rent - and if the goods have been insured through the Warehousing Company, the insurance premiums and costs - shall always be charged in full months, part of a month counting as a full month.
- 25.3 If a fixed period of storage has been agreed and save for any clauses to the contrary in these conditions, the Warehousing Company cannot require the Principal to remove the goods prior to the expiration of the agreed period of time.

- 25.4 Where no fixed period of storage has been agreed or where the agreed period of storage has expired, the Warehousing Company has the right to require the goods to be removed at one month's notice, however not within three months of the commencement of storage.

### **Section 26 Premature removal of goods for urgent reasons**

- 26.1 The Warehousing Company shall, however, at all times have the right to require the goods received for storage to be removed prior to the expiration of the storage period, without observing any period of notice, where there is a compelling reason to do so.
- 26.2 Compelling reasons shall be understood to be circumstances of such nature that applying sensible standards of fair judgment, the Principal could not reasonably expect continuity of storage.
- 26.3 A compelling reason for removal shall be deemed to exist inter alia, 'if the Principal fails to comply with one or more of the provisions of these conditions. If for instance it appears that owing to the presence of the goods, the hazard of loss and/or damage to other goods, or to the storage place or to equipment; or danger or harm to personnel is to be suspected or feared; and further more if the goods are of a perishable nature and/or liable to inherent changes, which in the opinion of the Warehousing Company justifies the assumption of deterioration, and the Principal has neglected to give instructions for preventing or controlling same.
- 26.4 The Principal shall remain liable to pay the warehouse rent in full up to and including the day of the removal of the goods.

### **Section 27 Payment**

- 27.1 All amounts owing/due to the Warehousing Company by the Principal however incurred, such as: warehouse rent, insurance premiums and costs, rent, disbursements, fees for storage and delivery, outlays and charges for work done or to be done, costs of cleaning work and such like during or after a fire or otherwise, extraordinary expenses, additional wages, taxes, duties, levies, fines, interest, etc. shall be immediately due and payable on demand.
- 27.2 Without prejudice to the provisions of the preceding subsection, the Principal shall always pay the warehouse rent due promptly within the term agreed between the parties, but at least once per 12 months.
- 27.3 Should the Principal not immediately pay the amount due to the Warehousing Company, the Warehousing Company shall have the right to charge interest at the official rates prevailing at the time.
- 27.4 Payments received on account shall in the first instance be allocated towards the reduction of ordinary debts, regardless of whether these monies were intended for other purposes when the payments were made.
- 27.5 When in the case of late payment the amount due is collected by judicial or other means, this amount shall be increased by 10% to cover administrative costs, while the judicial and extra-judicial costs paid by the Warehousing Company shall be for account of the Principal and shall amount at least 15% of the amount due by the Principal.

### **Section 28 Lien and pledge**

- 28.1 The Warehousing Company has against any party demanding delivery of goods, documents or moneys held by the Warehousing Company, irrespective of the legal nature of such holdership a right of pledge and right of retention on/over such goods, documents or monies as security for all claims it may have against the Principal. The Warehousing Company can exercise these rights also for amounts due by the Principal for prior orders.
- 28.2 Such right of lien shall be extended to also include sums from insurance claims the Warehousing Company has collected or will collect on behalf of the Principal.
- 28.3 The Warehousing Company shall regard anyone who, on behalf of the Principal, entrusts goods to the warehouse for performing work, authorized by the Principal to create a pledge on such goods in favour of the Warehousing Company.

### **Section 29 Public sale**

- 29.1 Should the Principal fail to remove the goods entrusted to the Warehousing Company for storage, on expiry of the rental period covered in the agreement; or fail to remove the goods after the agreed or specified time for storage or at any other point of time in the case of a compelling reason as mentioned under Section 26 above, the Warehousing Company shall have the right, without prejudice to the provisions of Section 28 above, to sell the goods entrusted to them, or to have them sold, without observance of any formalities, in the place and in the manner and on the conditions the Warehousing Company may see fit, publicly or in any other manner the law may permit, at the expense of the Principal, and furthermore shall have the right to recover from such proceeds all amounts the Principal owes the Warehousing Company.
- 29.2 If it is probable that the cost of selling the goods will be higher than the benefits or if no buyer is found, despite a reasonable attempt to do so, the Warehousing Company shall have the right to remove the goods, to have them removed or to have them destroyed. The Principals shall remain liable for all amounts due, increased by the cost of removal and/or destruction.
- 29.3 In the event of sale, the Warehousing Company shall hold the balance of the proceeds after having deducted all costs and all the Principal's debts, at the Principal's disposal for five years, after which period the balance if not claimed, accrues to the Warehousing Company. The Warehousing Company is not liable to pay interest over the mentioned balance held at the Principal's disposal.

### **Section 30 Expiration of claims**

- 30.1 Claims against the Warehousing Company for loss, damage or decrease of stored goods or general claims against the Warehousing Company for failure to meet their obligations, shall expire after 12 months.
- 30.2 In cases of damage to or decrease in the goods, where the Warehousing Company have not informed the Principal of such damage or decrease, the period of expiry shall commence at the end of the day the goods are delivered. In cases of total loss and where notice of damage or decrease has been given, the expiry date shall commence at the end of the day the Warehousing Company have notified the Principal.



### **Section 31 Transfer or transition of goods**

- 31.1 Transfer or transition of ownership of warehoused goods, or the transfer or transition of the right to take delivery of the goods, by a Principal to a third party, shall not be accepted by the Warehousing Company and be without legal effect as far as the Warehousing Company is concerned neither shall the Warehousing Company recognise such transfer or transition of title, unless all claims the Warehousing Company may have, for whatever reason, against the original and/or transferring Principal have been paid in full.
- 31.2 The Principal shall be obliged to inform the Warehousing Company instantly in writing of any transfer or transition of ownership of goods, or transition or transfer of the right to release the goods.
- 31.3 Without prejudice to the provisions above the transfer or transition has no legal implications for the Warehousing Company nor shall the Warehousing Company recognize them, unless the new owner(s) has explicitly accepted in writing all provisions of the agreement between the Warehousing Company and the original and/or transferring Principal as well as the present Conditions.
- 31.4 The Warehousing Company is not required to recognize the transfer or transition of ownership or the right to release the goods and shall even have the right to revoke a previous recognition made, and may furthermore refuse to release the goods, if in the Warehousing Company's opinion there are flaws in the legal title regarding any transfer or transition of ownership of goods, or any transfer or transition of the right to release; and if the new owner(s) claim(s) not to have accepted these present conditions or not to be bound by them.
- 31.5 The original and/or transferring Principal shall remain liable to the Warehousing Company for all the warehouse's claims for or in connection with the storage, and/or work done in connection with such goods, even though they were performed after the transfer or transition of ownership, or after transfer or transition of the right to delivery.

After transfer or transition of ownership, or the right to delivery of the goods, the new owner shall be regarded as the Principal and shall, in addition to his legal predecessor, be severally liable for all the above claims, even though they may have arisen prior to the transfer or transition.

### **Section 32 Issue of Warrants**

- 32.1 The Warehousing Company may issue a warrant to the Principal at his request, describing the goods given into custody to the Warehousing Company by the Principal, or the Warehousing Company may issue a number of Warrants, each specifying the amount stated by the Principal of the goods given by him in custody to the Warehousing Company of the same sort and quality, in which case the total of these amounts may not exceed the total amount of the goods of same sort and quality given in custody by the Principal to the Warehousing Company ("Partial Warrants").
- 32.2 The Warehousing Company shall have the right to refuse to issue a Warrant, if the Principal has not paid all claims the Warehousing Company may have on him for whatever reason.

The Warehousing Company may furthermore refuse to issue a Warrant if they believe they have grounds to do so.

- 32.3 Once a Warrant has been issued, all the Warehousing Company's obligations towards the Principal shall cease, and shall be replaced by the Warehousing Company's obligations towards the Warrant Holder, these regulations being detailed in Chapter II of these Conditions. The Principal shall, even after the issue of the Warrant remain liable towards the Warehousing Company for the effects of any discrepancies between the goods for which the Warrant was issued and their description on the Warrant.
- 32.4 The Principal indemnifies and will hold the Warehousing Company harmless from claims of Warrant Holders in case the Warehousing Company accidentally delivers the goods given in custody by the Principal for which a Warrant was issued in exchange for a forged Warrant, unless such forgery should reasonably have been detected by the Warehousing Company at the moment of presentation of that document.
- 32.5 The Principal indemnifies and will hold the Warehousing Company harmless for claims of holders of Partial Warrants or any other party involved therein, in case a negative difference occurs between the weight, volume and/or quality of the goods described in these Partial Warrant(s) and the actual weight, volume and/or quality at the moment of delivery of these goods to the Holder or third party involved in the Partial Warrant(s), irrespective of the cause of such difference.

## CHAPTER II

### PROVISIONS REGARDING THE WARRANT

#### Section 33 Applicable provisions

The legal relations between Warehousing Companies and (former) Warrant Holders shall be governed by the provisions of Chapter I, except when the provisions of Chapter II determine that a provision of Chapter I may not be applied. The duties resting upon the Principal in accordance with Chapter I also rest upon the Warrant Holder and the rights and defences to which the Warehousing Company is entitled pursuant to Chapter I can

also be invoked against the Warrant Holder, unless otherwise described in the wording of these conditions.

#### **Section 34 Right to delivery of goods**

34.1 The Warrant awards the right of delivery by the Warehousing Company of the goods they have received for storage and against which the Warrant has been issued. The Warehousing Company shall be liable towards the Warrant Holder for any discrepancy between the goods stored by the Warehousing Company and their description on the Warrants, unless it concerns goods which identification or weighing requires expert knowledge and/or a thorough examination or analysis, as for example, but not limited to, goods discharged in bulk.

34.2 If the Warrant contains the clause:

"Content, quality, number, weight and measure unknown"

or a similar clause, the Warehousing Company shall not be bound by any statement in the Warrant regarding contents, quality and the number, the weight or the dimensions of the goods.

34.3 The right to delivery shall not exist as long as the Warehousing Company have a claim on the goods resulting from these present conditions and/or until all customs and other formalities prescribed by the Authorities, required for the delivery, have been fulfilled.

#### **Section 35 Expiry of the Warrant**

35.1 The Warrant shall be valid for three years from the date of issue, unless a shorter period of validity is indicated on the Warrant.

35.2 Until its expiry the Warrant may be replaced at the Warrant Holder's request by a new Warrant or by several Partial Warrants, against payment of all the costs involved. The Warehousing Company shall have the right to refuse the replacement of the Warrant and may require the goods to be removed on the expiry date of the contract.

35.3 If on its expiry date the Warrant has not been presented for replacement, or if after refusal to replace the Warrant the goods have not been removed from the warehouse on the expiry date, the Holder of the expired Warrant shall be deemed to agree to the warehouse rent, and if the goods have been insured through the Warehousing Company, the insurance premium and costs shall be determined by the Warehousing Company as from such date.

35.4 If on its expiry date, the Warrant has not been presented for replacement, or if after refusal to replace the Warrant the goods have not been removed from the warehouse on the expiry date, against payment of the amount the Warehousing Company are entitled to under Section 36 above, the Warehousing Company shall have the right to dispose of the goods to which the expired Warrant refers, subject to applying the provisions relating thereto.

35.5 For a period of five years after the expiry date of the Warrant, the Warehousing Company shall be obliged to deliver the goods described on the expired Warrant - or should the Warehousing Company have exercised their right to dispose of the goods, the net proceeds of the goods, without payment of interest, shall be paid to

the Holder of the expired Warrant, after having deducted all the amounts due to the Warehousing Company.

After these five years have expired, the rights of the Holder of the expired Warrant shall cease and the Warehousing Company shall no longer be required to delivery the goods, or to account for their proceeds, neither to the Holder of the expired Warrant nor to others.

### **Section 36 Delivery of goods after payment**

- 36.1 The Warehousing Company shall prior to effecting full or partial delivery of the goods to which the Warrant gives title, have the right to demand payment of:
- a. the warehouse rent due since the date when the last payment was made, as shown on the Warrant and not having been otherwise paid prior to delivery, at the monthly rent noted on the Warrant, parts of months to count as full months;
  - b. insurance premiums due since the date when the last payment was made, as shown on the Warrant and not having been recorded as otherwise having been paid prior to delivery, at the monthly insurance premium rate stated on the Warrant, parts of months to count as full months;
  - c. the charges for delivery of the goods at the current rate applicable;
  - d. disbursements and other outlays made by the Warehousing Company on behalf of the Warrant Holder requesting delivery, in connection with customs and/or other formalities as required by the appropriate authorities, for the goods described on the Warrant;
  - e. all costs incurred by the Warehousing Company after the date of issue mentioned on the Warrant:
    - e. 1for preserving/retaining the goods mentioned on the Warrant,
    - e. 2for eliminating any dangers caused by the goods mentioned on the Warrant to the warehouse and/or to other goods stored therein,
    - e. 3for measures taken in respect of the goods mentioned on the Warrant as a result of circumstances for which the Warehousing Company cannot be held responsible.
  - f. all other amounts due to the Warehousing Company apparent from the Warrant.
- 36.2 Notwithstanding the provisions of the preceding paragraphs the Warrant Holder shall be obliged to pay the warehouse rent due - and if the goods have been insured through the Warehousing Company, also the insurance premiums and costs - at the end of each 12 months of storage or such earlier period as has been agreed and is recorded on the Warrant, plus the costs incurred by the Warehousing Company referred to in e.4 and e.5 above, as soon as the Warehousing Company have given notification of this to the Warrant Holder.
- 36.3 If the Warrant Holder fails to meet his obligation to pay the rent after each 12 monthly period or an earlier period as has been agreed and shown on the Warrant - and if the goods have been insured through the Warehousing Company, additionally the insurance premiums and costs -the monies due to the Warehousing Company accrued in this manner shall be increased as from the day the 12 months storage has elapsed by a penalty of 1% of the amount due for each month in excess of the 12 month period.

### **Section 37 Indemnification**

- 37.1 Contrary to the provisions of Section 19 above the compensation to be paid by the Warehousing Company for loss of goods shall be limited to the applicable value of the goods on the day of issue of the Warrant, the Warehousing Company is not liable for any consequential loss or costs.
- 37.2 In the case of damage no greater sum shall be paid than the difference between the value referred to in the previous paragraph and the value after the damage which the goods would have had on the day of issue of the Warrant.
- 37.3 In any case compensation shall only be paid on the actual damage incurred with a maximum of 2 SDR per kilogram damaged or gross weight lost, always on the understanding that the Warehousing Company's liability shall in all cases be limited to 100,000 SDR per event, or series of events arising from the one and the same cause.

### **Section 38 Access to and information about goods**

Access to and information about goods for which Warrants have been issued shall only be given on production of the said Warrant.

### **Section 39 Work in connection with the goods**

- 39.1 Tasks to be carried out on the goods described on the Warrant as desired by the Warrant Holder, such as sampling, handling, servicing, packing, repacking, restacking, lotting, weighing, splitting into smaller consignments, etc., as well as delivery, shall be carried out by the Warehousing Company having the goods in custody, at the appropriate fees and on the appropriate conditions applicable at that time.
- 39.2 Such tasks as required by the Warrant Holder, shall only be carried out after surrender of the Warrant.
- 39.3 Tasks the Warehousing Company does not wish to undertake may, with the Warehousing Company's consent and after surrender of the Warrant, be performed by or on behalf of the Warrant Holder, under the supervision of the Warehousing Company and against payment of all costs involved, however without any liability on the part of the Warehousing Company.
- 39.4 Partial deliveries, sampling and handling of the goods, causing a change, decrease or change in the number, weight or volume of the goods shall be inserted on the Warrant in the space allocated for these remarks. When there is no space left on the Warrant for further statements regarding deliveries, changes, decreases, etc., the Warrant shall be replaced at the expense of the Warrant Holder.
- 39.5 Payments due to the Warehousing Company for work performed in connection with the goods mentioned on the Warrant or for supervising such work, shall be paid immediately. The Warehousing Company shall have the right to refuse to return the Warrant until settlement has been made.

### **Section 40 Notification of special method of handling**

Should the Warehousing Company carry out any work in connection with the goods stored covered under Section 22, the Warehousing Company shall as soon as possible after this event notify the Last known Warrant Holder, without the Warrant Holder having any right to claim against the Warehousing Company for failing to give such notification.

#### **Section 41 The Warehousing Company's responsibility to insure the goods**

- 41.1 When it is shown on the Warrant that the goods are insured, the Warehousing Company shall thereby have carried out their responsibility to effect insurance for the Warrant Holder's account in accordance with the provisions under Section 23.
- 41.2 The insured value shall be the value indicated on the Warrant.
- 41.3 When the Warrant states that the insured value is the current market value, it shall be the Warehousing Company's responsibility to keep the goods adequately insured.

#### **Section 42 Changes in, effect and termination of insurance**

- 42.1 It will only be possible to change the insured value and/or terminate the insurance when the Warrant is surrendered to be endorsed accordingly.
- 42.2 Only the insurance as stated on the Warrant shall be applicable.
- 42.3 Insurance cover shall be terminated on delivery of the goods.
- 42.4 On delivery of part of the goods, the insured value of the part consignment to be delivered shall be quoted separately and entered on the Warrant where the Warrant does not indicate the insured value per unit and where it is not possible to deduce a proportionate decrease from the value indicated on the Warrant.

#### **Section 43 Amounts of claim**

Compensation amounts for claims collected by the Warehousing Company shall be paid by the Warehousing Company against receipt of the Warrant, after having deducted all amounts owed by the Warrant Holder to the Warehousing Company.

#### **Section 44 Notification of destruction**

In the case of destruction of the goods described on the Warrant, by fire or otherwise, the Warehousing Company shall immediately notify the Last known Warrant Holder, without the Warrant Holder having any right of claim against the Warehousing Company for failure to notify.

#### **Section 45 Mutilation of the Warrant**

- 45.1 Any erasures and mutilations shall render the Warrant void; alterations shall not be valid unless initialled by the Warehousing Company.
- 45.2 The Holder of a mutilated Warrant may request the issue of a duplicate, on surrender of the original Warrant and on payment of the charges involved. The details regarding the nature and quantity of the goods to be shown on the duplicate Warrant shall be exclusively determined from the relevant details as shown in the Warehousing Company's records.

#### **Section 46 Loss or destruction of Warrants**

- 46.1 If a Warrant has been lost or destroyed, the person so entitled may apply to the Warehousing Company for nullification of the Warrant and request delivery of the goods, or request the issue of a duplicate Warrant. Such applications shall, where possible, state the cause for the loss of the Warrant and detail the grounds on which the applicant bases his claim to title.
- 46.2 If the investigation made by the Warehousing Company afford no reason to doubt the truth of the reasons for the application, the Warehousing Company shall publish the application made, by inserting two announcements at intervals of at least 14 days each in at least two daily newspapers selected by the Warehousing Company, inviting those who believe they have title to the goods described on the missing Warrant to oppose the delivery of the goods and/or the issue of a duplicate Warrant by serving a writ/summons to that effect.
- 46.3 If within 14 days of the last announcement, no one has opposed the delivery of the goods or the issue of a duplicate Warrant by service of a writ, the Warehousing Company may nullify the Warrant and effect delivery of the goods or issue a duplicate Warrant to the applicant. For determining the nature and quantity of the goods to be delivered or to be stated in the duplicate Warrant, the Warehousing Company's relevant records shall exclusively be regarded as the only true record. The nullification of the Warrant shall immediately after the event be published in the above mentioned newspapers. As a result of such nullification the original Warrant shall lose its validity and all the Warehousing Company's obligations under the original Warrant shall cease.
- 46.4 In case of opposition by a third party the application shall not be complied with, until it has been determined from a Court Order or through other final and conclusive ruling or award that the applicant is the person entitled to the goods.
- 46.5 The person who has obtained delivery of the goods shown on a duplicate Warrant, shall remain liable for all claims that may result for risk of the Warehousing Company from this delivery and shall indemnify and hold harmless the Warehousing Company for claims of third parties, including Warrant Holders, for damage and costs resulting from the delivery against a duplicate Warrant. The Warehousing Company may request security for such claims.
- 46.6 Any costs in the widest sense, incurred by the Warehousing Company as a result of the application, shall be borne by the applicant. The Warehousing Company shall have the right to require an advance of money to be made before executing the application.

#### **Section 47 Termination of the validity of the Warrant**

- 47.1 If after the termination of the validity of the Warrant, the Warehousing Company no longer wishes to keep the goods in storage, they shall summons the Last known Warrant Holder to remove the goods.
- 47.2 If the Warrant Holder fails to comply with the summons within 14 days, or if he is no longer the owner of the expired Warrant, and does not within 14 days inform the Warehousing Company who the current Holder of the expired Warrant is; and if the Holder of the expired Warrant does not present himself within such period, the Warehousing Company shall have the right to sell the goods described on the expired Warrant.

- 47.3 Prior to taking such action, the Warehousing Company shall publish their intention to sell the goods for which an expired Warrant is in circulation, by inserting two announcements at intervals of at least 14 days in at least two daily newspapers each, one of which at least is to appear in the place where the Warehousing Company have their registered office, requesting the Holder of the expired Warrant to as yet meet his obligations or to notify any persons having acquired the expired Warrant.
- 47.4 If after 14 days after the last announcement the Warrant Holder has not presented himself, or if he has presented himself but no agreement has been reached on the removal of the goods, the Warehousing Company shall be at liberty to sell the goods immediately.

The sale shall take place in accordance with the provisions of Section 29.

#### **Section 48 Commencement of the period of expiry of a Warrant**

The period of expiry as referred to in Section 30, shall in case of total loss commence at the end of the day on which the Warehousing Company informs the Last known Warrant Holder of such loss, or if he is no longer the owner of the Warrant and no subsequent Warrant Holder has presented himself to the Warehousing Company, a week after the announcement of such loss in two daily newspapers, at least one of which appearing in the place where the Warehousing Company have their registered office.

#### **Section 49 Advised quotation and copyright**

- 49.1 These conditions should be quoted as "Veemcondities 2006" and were filed with the registrars of the Court of Amsterdam (file number 133/2006) and Rotterdam (file number 85/2006) on October the 3<sup>rd</sup>, 2006 by the Ondernemersvereniging Regio Amsterdam ("ORAM").
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