

CONDITIONS OF STORAGE 1988

**R COLLETT & SONS LTD
VICTORIA TERMINAL
ALBERT ROAD
HALIFAX
WEST YORKSHIRE
Hx2 0DF**

(hereinafter referred to as "the Contractor") accepts Goods for Storage only upon the Conditions set out below:

1. Definitions

'Trader'— means the customer who contracts for the services of the Contractor.

'Contract' means the contract between the Trader and the Contractor for the Storage of the goods.

'Goods' means goods in bulk or contained in one parcel, package or container as the case may be or any number of separate parcels, packages or containers.

'Storage' means the storage and handling of Goods including unloading and loading of goods (and such other ancillary services as the Contractor may agree to [in writing,] and the words "Store" and "Stored" shall be construed accordingly.

'Dangerous' (i) means any Goods specified in the current **Goods'** approved list issued by the Health and Safety Commission, any dangerous weapon, drug, poison, damaging or explosive article or substance or any article or substance likely to encourage vermin or other pests or likely to cause infection; or

(ii) any Goods which, although not included in (i) above, are in the sole opinion of the Contractor, of a similar kind or nature.

2. Computation of time

In the computation of time where any period provided by these Conditions is seven days or less, Saturdays, Sundays and all statutory public holidays shall be excluded.

3. Parties and Sub-Contracting

(1) The Trader warrants that he is either the owner of the Goods or is authorised by such owner to accept these Conditions on such owner's behalf.

(2) The Trader also warrants that the Goods are as described to the Contractor with regard to their nature, weight, quantity, condition and dimensions.

(3) The Trader also warrants that Dangerous Goods accepted for Storage comply with all relevant statutory regulations for the time being in force concerning the storage, carriage, packaging and labelling of such articles or substances.

(4) The Contractor and any other contractor employed by the Contractor may employ the services of any other contractor for the purpose of fulfilling the Contract in whole or in part and the name of every such other contractor shall be provided to the Trader on request.

(5) The Contractor's servants and agents and all other contractors referred to in (4) above and such other Contractor's servants and agents shall collectively and together with the Contractor be under no greater liability to the Trader or any other party than is the Contractor hereunder, and for the purposes of this Condition 3 (5) the Contractor contracts for himself and as agent of and trustee for its servants and agents, and such other contractors and other contractors servants and agents, and every reference in these Conditions to the "Contractor" shall be deemed to include such other contractor, servant and agent.

4. Dangerous Goods

If the Contractor agrees to accept Dangerous Goods for Storage such Goods must be accompanied by a full declaration of their nature and contents and be properly and safely packed and labelled in accordance with any statutory regulations for the time being in force for the storage and carriage of such articles or substances and the trader shall, whilst the Dangerous Goods are being stored by the Contractor, keep the Contractor informed of any statutory modification or re-enactment thereof or any rules or regulations made thereunder or rules or recommendations made by any relevant authority, concerning the storage or handling of Dangerous Goods. The Trader shall, whilst the Dangerous Goods are being stored by the Contractor, keep the Contractor informed as to its recommendations on the handling and storage of such Goods, including all health and safety recommendations and prior to arranging despatch of the Dangerous Goods, the Trader shall provide the Contractor with such information in writing in relation to the Dangerous Goods as will enable the Contractor to know the identity of the substances comprised within the Dangerous Goods, the nature of the hazards created by such substances, and the action to be taken in an emergency.

The Contractor shall be entitled to disclose the information supplied by the Trader to its employees, agents and other contractors referred to in condition 3 (5), and any relevant Government department.

5. Revision of Storage Charges and Conditions of Storage

The Contractor's charges and these Conditions may be revised by the Contractor from time to time. Any such revision shall not become effective until the expiry of twenty-one (21) days from the date notice of proposed revision is given to the Trader in accordance with Condition 15 below.

6. Postponement or Cancellation

Should the delivery of Goods be postponed or cancelled by the Trader, the Contractor shall be entitled to recover from the Trader all expenses incurred by him, and all rental charges in respect of space reserved for such Goods.

7. Receipt of Goods

Following acceptance of the Goods for Storage the Contractor shall if required provide the Trader with a receipt but no such document shall be evidence of the condition or the correctness of the declared nature, condition, property, chemical composition, quantity, quality, or weight of the Goods at the time they are received by the Contractor. The Contractor shall notify the Trader of any damage to and/or deficiency in the Goods to be stored, within a reasonable time of the Contractor becoming aware of such damage or deficiency. Such Goods will, in the absence of any express agreement to the contrary between the Trader and the Contractor, be returned to the Trader at the Trader's expense.

8. Payment

(1) Goods accepted for storage during any calendar week (Monday to Sunday both inclusive) shall be charged for as though they were received on the first day of such week.

(2) Charges shall be paid to the Contractor when due and the Trader shall not be entitled to make any deductions or withhold or defer payment of the Contractor's charges on account of any dispute, claim, counter-claim or set-off.

(3) Interest shall be charged on all overdue accounts calculated at the rate of 4% per annum above the Base Lending Rate for the time being of the Contractor's Bank from the due date of payment until the date of actual payment.

9. Lien

The Contractor shall have a general lien against the owner of the Goods and all other property of the Trader or owner within the Contractor's possession for any monies whatever due from the Trader or such other owner to the Contractor. If any such lien is not satisfied within a reasonable time the Contractor may at his absolute discretion sell the Goods, or such other property, or part thereof, as agent for the owner and apply the proceeds towards the monies due and the expenses of the retention, insurance and sale of the Goods and other property, and shall, upon accounting to the Trader for any balance remaining, be discharged from all liability whatsoever in respect of the Goods and other property.

10. Notice of Delivery or Collection

The Trader shall give the Contractor not less than 24 hours notice of his intention to deliver or remove Goods at the premises of the Contractor.

11. Termination

(1) Either the Contractor or Trader may at any time give not less than 21 clear days notice in writing to the other of his intention to terminate the Contract and notwithstanding that the Contractor may have released the Goods before the expiry of such notice, all charges shall be payable to the date when the notice would have expired.

(2) The Contractor may require the removal of the Goods or any part thereof, forthwith, if in the Contractor's opinion:

(i) the Trader's financial position becomes unsatisfactory, or if the Trader ceases to pay his debts in the ordinary course of business or cannot pay his debts as they become due, or (being a company) is deemed to be unable to pay its debts or has a winding up petition issued against it or a receiver appointed of all or any part of its assets, or if a proposal is made for a composition with creditors or scheme of arrangement or for an administrator to be appointed in respect of all or any part of the business or assets of the Trader, or (being an individual) commits an act of bankruptcy or has a bankruptcy petition issued against him or the Trader is in breach of any of its obligations arising under the Contract;

(ii) the Storage of Goods poses a risk to the health and safety of the Contractor, his servants or any third party or to the Contractor's property or any third party property;

(iii) the continued Storage of the Goods will result in the Goods perishing or otherwise deteriorating and/or will cause damage to other goods or property.

(3) If the Goods or any part thereof are not removed after notice is given by the Contractor to the Trader in accordance with paragraphs (1) and (2) above, then the Contractor may, at his absolute discretion, sell the Goods after the lapse of a reasonable period of time after notice is given by the Contractor of his intention to sell the Goods or part thereof.

12. Liability for Loss and Damage

(1) The Trader shall be deemed to have elected to accept the terms set out in (2) of this Condition 12 unless, before the Goods are Stored, the Trader has agreed in writing that the Contractor shall not be liable for any loss of or damage to Goods however or whenever caused and whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrong doing on the part of the Contractor.

(2) Subject to these conditions the Contractor shall be liable for:

(i) loss of or damage to livestock, bullion, money, securities, stamps, precious metals or precious stones only if

(a) the Contractor has specifically agreed in writing to Store any such items; and

(b) the Trader has agreed in writing to reimburse the Contractor in respect of all additional costs which result from the Storage of the said items; and

(c) the loss, misdelivery or damage is occasioned during Storage and results from negligent act or omission by the Contractor.

(ii) any loss of or damage to any other Goods occasioned during Storage unless the same has arisen from, and the Contractor has used reasonable care to minimise the effects of,

(a) act of God;

(b) any consequence of war, invasion, act of foreign enemy, hostilities (whether war or not), civil war, rebellion, insurrection, or destruction of or damage to property by or under the order of any government or public or local authority;

(c) seizure or forfeiture under legal process;

(d) error, act, omission, mis-statement or mis-representation by the Trader or other owner of the Goods or by servants or agents of either of them;

(e) inherent liability to wastage in bulk or weight, latent defect or inherent defect, vice or natural deterioration of the Goods;

(f) leakage or deficiency of Goods of a perishable or leaky nature moth vermin insects atmospheric or climatic causes;

(g) insufficient or improper packing;

(h) insufficient or improper labelling or addressing;

(i) riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour from whatever cause;

(j) any other cause beyond the reasonable control of the Contractor.

(3) The Contractor shall not in any circumstances be liable for loss of or damage to Goods (whether direct or indirect) after Storage of such Goods is deemed to have ended within the meaning of Condition 11 hereof, whether or not caused or contributed to directly or indirectly by any act, omission, neglect, fault or other wrong doing on the part of the Contractor.

13. Limitation of Liability

(1) Except as otherwise provided in these conditions the liability of the Contractor in respect of loss of or damage to Goods shall in all circumstances be limited as follows:

(i) where loss, misdelivery or damage, however sustained, is in respect of the whole of the Goods stored to a sum calculated at the rate of £100 per tonne on the gross weight of the Goods;

(ii) where loss, misdelivery or damage, however sustained, is in respect of part of the Goods stored such liability shall be calculated to the proportion of the sum ascertained in accordance with (1) (i) of this condition which the actual value of that part of the Goods lost or damaged bears to the actual value of the whole of the Goods Stored.

Provided that:

(a) the Contractor shall be entitled to require proof of the value of the whole of the Goods and of any part thereof lost or damaged;

(b) the Trader may at any time prior to commencement of the Contract give seven days' written notice to the Contractor requesting that the aforementioned £100 per tonne limit be increased but not so as to exceed the value of the Goods and in the event of such notice being given, the Trader shall endeavour to negotiate with the Contractor an increase in the storage charges in consideration of the said increased limit, but if no agreement can be reached the aforementioned £100 per tonne limit shall apply.

(2) Notwithstanding Condition 13(1), the liability of the Contractor in respect of the indirect or consequential loss or damage however arising and including loss of market, shall not exceed the amount of the Storage charges in respect of the Goods lost or damaged or the amount of the claimant's proved loss

whichever is the smaller, unless:

(i) at the time of entering into the Contract with the Contractor the Trader declares to the Contractor a special interest in Storage in the case of loss or damage and agrees to pay a surcharge calculated on the amount of that interest, and

(ii) prior to the commencement of Storage the Trader has delivered to the Contractor written confirmation of the special interest and amount of the interest.

14. Insurance

THE TRADER IS RECOMMENDED TO INSURE THE GOODS AGAINST ALL INSURABLE RISKS OF PHYSICAL LOSS AND/OR DAMAGE THROUGHOUT THE PERIOD OF THE CONTRACT TO THE EXTENT OF THEIR FULL REPLACEMENT VALUE.

15. Time Limits for Claims Relating to Goods

All claims for damage to or loss of or failure to produce any Goods shall be made in writing by the Trader within seven days after delivery of the Goods alleged to be damaged or in the case of Goods alleged to be lost or which the Contractor fails to produce, within seven days after the time when the Goods should in the ordinary course of events have been delivered and the Contractor shall be under no liability unless such claim is made within the time stipulated.

Provided that if the Trader proves that:

(a) it was not reasonably possible for the Trader to advise the Contractor or make a claim in writing within the time limit applicable and

(b) such advice or claim was given or made within a reasonable time, the Contractor shall not have the benefit of the exclusion of liability afforded by this Condition 15.

16. Indemnity

The Trader shall indemnify the Contractor against:

(i) All consequences suffered or incurred by the Contractor (including but not limited to claims, demands, proceedings, fines, penalties, damages, costs, expenses, and loss of or damage to the place of Storage and to other goods stored) of any error, omission, mis-statement or mis-representation by the Trader or other owner of the Goods or by any servant or agent of either of them, insufficient or improper packing, labelling or addressing of Goods or fraud as in Condition 18;

(ii) All claims and demands whatever by whoever made in excess of the liability of the Contractor under these conditions;

(iii) All claims, demands, proceedings, fines, penalties, damages, costs, and expenses whatsoever suffered or incurred by the Contractor in consequence of injury to persons and/or loss of or damage to property caused by or arising out of the Storage by the Contractor of Dangerous Goods whether or not declared by the Trader as such.

17. Impossibility of Performance

The Contractor shall be relieved of his obligations to perform the Contract to the extent that the performance thereof is prevented by failure of the Trader, fire, weather conditions, industrial dispute, labour disturbance or cause beyond the reasonable control of the Contractor.

18. Fraud

The Contractor shall not in any circumstances be liable in respect of Goods where there has been fraud on the part of the Trader or the owner of the Goods or the servants or agents of either in respect of those Goods, unless the fraud has been contributed to by the complicity of the Contractor or of any servant of the Contractor acting in the course of his employment.

19. Notice

All written communications from the Contractor to the Trader shall be deemed to have been served if delivered or posted to the last known address of the Trader.

20. Variation of Contract

These Conditions may only be varied if such variation has first been agreed in writing by a director or principal of the Contractor.

21. Arbitration

Any dispute shall be referred to a single arbitrator to be agreed upon by the parties or in default of such agreement being reached within 14 days the arbitrator to be nominated by the President for the time being of the Institute of Arbitrators in accordance with the provisions of the Arbitration Acts 1950-1979.

22. Law

This Contract shall be interpreted in accordance with English Law and be subject solely to the jurisdiction of the English Courts except that in the case of Goods stored solely in Scotland it shall be interpreted in accordance with Scottish Law and be subject solely to the jurisdiction of Scottish Courts.