

General Storage Conditions



sVa

*Stichting
Vervoeradres*



sVa / Stichting Vervoeradres, an alliance between:

EVO, Ondernemersorganisatie voor logistiek en transport

KNV, Koninklijk Nederlands Vervoer

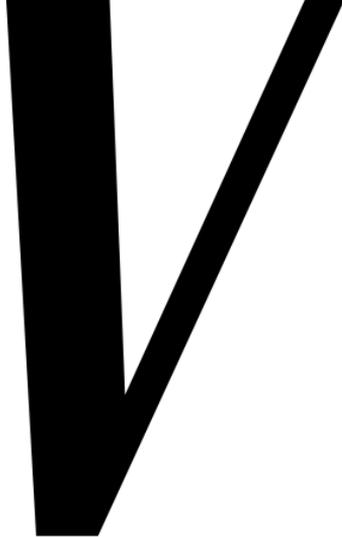
NBB, Nederlandsch Binnenvaartbureau

TLN, Transport en Logistiek Nederland, de

ondernemersorganisatie voor het goederenvervoer

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General Storage Conditions

Article 1 Definitions

In these conditions:

1. **AVC** means the General Transport Conditions 2002; AVC 2002, latest version established by sVa / Stichting Vervoeradres and deposited at the registry (griffie) of the district court of justice (arrondissementsrechtbank) at Amsterdam and at Rotterdam.
2. **BW** means Burgerlijk Wetboek (Dutch Civil Code).
3. **CMR** means Convention on the Contract for the International Carriage of Goods by Road (CMR, Geneva, 19 May 1956) as supplemented by the 1978 Protocol.
4. **Storage contract** means the contract by which the depositary commits himself opposite the principal to store the goods entrusted to him.
5. **Storage** means storing-in, keeping and storing-out the goods entrusted to the depositary.
6. **Certificate of storage** means a waybill or any other document on which must be mentioned the date of receipt, number of packages as well as their contents, dimensions, weights and special instructions which the principal has brought to the knowledge of the depositary when concluding the storage contract and further all that the principal and the depositary think fit. The absence, irregularity or loss of the certificate of storage shall not affect the existence or the applicability of these conditions.
7. **Principal** means the person who gives the order for goods to be stored.

8. **Depositary** means the person who accepts and implements the order to store goods.
9. **Receipt** means the moment when the depositary has accepted the goods.
10. **Delivery** means the moment when the depositary hands the goods over to the principal at the place where the storage was performed.
11. **Storing-in** means the work performed by the depositary after receipt for the purpose of the goods to be stored in the space designated for it.
12. **Storing-out** means the work performed by the depositary for the purpose of the goods to be delivered to the principal.
13. **Force major** means circumstances which a diligent depositary was unable to avoid and in so far as such depositary was unable to prevent their consequences.
14. **Working days** mean all calendar days, except for Saturdays, Sundays as well as commonly recognised Christian and national holidays.

Article 2
Scope of application

1. The General Storage Conditions apply to the storage contract in so far as they are not in conflict with mandatory law.
2. In so far as these General Storage Conditions do not contain the provisions of Book 8 title 13 BW and the AVC, these provisions apply by analogy to storage.

Article 3

Obligations of the depositary

The obligations of the depositary are as following:

1. To receive, store-in, store and store-out the contract goods at the agreed place, time and in the agreed manner, accompanied by the necessary documents to be supplied by the principal and to deliver the goods in the same order and condition as in which they were received or in the agreed order and condition.
2. a. To hand a signed copy of the certificate of storage back to the principal when receiving the goods and the certificate of storage.
- b. To check, when receiving the goods, the correctness of the number of goods and the apparrant good order and condition of the goods and their packing, and in case of discrepancies, to mention these on the certificate of storage. This obligation does not apply if in the judgement of the depositary this would delay receipt considerably.
- c. To ask instructions from the principal prior to receiving goods which are visibly damaged. If no such instructions can be obtained in time, the depositary is entitled to refuse receiving the goods. The depositary is likewise entitled to refuse receiving the goods if, when applicable, they are presented in inadequate or damaged packing.
- d. The certificate of storage constitutes evidence, except for proof to the contrary, of the conditions of the storage contract and the parties to the contract, of the receipt of the goods and their packing in apparrant good order and condition, of the weight and of the number of goods.
 If the depositary has no reasonable means to check the correctness of the mentionings as meant in para 2b of this article, the certificate of storage does not constitute evidence of these mentionings.

3. To designate one or more contact persons and to mention the(ir) name(s) in writing to the principal.
4. To perform storage in the agreed spaces. If no space has been agreed, the depositary will store the goods in a space fit for the purpose.
5. To inform the principal of possible displacement of goods. The depositary is entitled to move the goods to some other fit space as and if required within the framework of his business operations.
6. To take, with regard to the goods, all necessary measures for account of the principal, including those which do not follow directly from the storage contract, and before doing so if possible, to consult with the principal.
7. To take out insurance of his third party liability as well as his liability as following from the General Storage Conditions with a reliable insurer and furnish on request a photocopy of the insurance policy to the principal.
8. On written request of the principal and indication of the cover desired for his account and to his benefit, to take out insurance of the goods with a reliable insurer and to furnish on his request to the principal a photocopy of the insurance policy.
9. To allow admission to the spaces where the goods are stored for the principal and persons designated by him at his and their risk, but only
 - in the presence of the depositary;
 - if a request has been made in time;
 - if the visit is effected in accordance with the home rules of the depositary.
10. To guarantee the fitness of the material which the depositary uses in executing the contract of storage.

11. To observe secrecy opposite third parties concerning facts and data known to him through the contract of storage.
12. To deliver the goods only after having been so ordered in writing by the principal. The depositary may deliver the goods exclusively to the person who has been designated as receiver by the principal's written order.

Article 4

Liability of the depositary

1. If the goods in their possible packing as received by the depositary are not delivered in the same or in the agreed order and condition, the depositary is liable for the damage to the goods as arisen, except in case of force major and in case of what has been further stipulated in these conditions. The burden of proof of damage to the goods rests on the principal.
2. The depositary is not liable for damage to the goods in so far as this damage arises from the special risks connected with storage outside in the open air, by order of the principal.
3. The depositary who has not fulfilled his obligations as in art. 3 para 1, is not liable for the damage resulting from such non-fulfilment, in so far as this non-fulfilment is the consequence of the special risks connected with one of more of the following circumstances:
 - a. handling, loading, stowing, unloading goods by the principal or persons acting for account of the principal;
 - b. the nature of certain goods themselves, which by causes connected with this nature, are exposed to total or partial loss or damage, in particular through spontaneous inflammation, explosion, melting, breakage, corrosion, decay, dessication, leakage, normal reduction of quality or the action of moth or vermin;
 - c. heat, cold, temperature variations or humidity of the air, but only if it has not been agreed that the storage would be undertaken in a space especially equipped to protect the goods from the effects of such conditions;
 - d. insufficiency or inadequacy of numbers, letters or marks of the packages.

4. a. If the depositary proves that, considering the circumstances of the case, the non-fulfilment of the obligations could have been a consequence of one or more of the special risks as mentioned in para 3 of this article, the non-fulfilment is presumed to result from it. However, the person who opposite the depositary has right to the goods may prove that this non-fulfilment has not been caused, totally or partially, by one of those risks.
 - b. If in accordance with what the parties had agreed storage is performed in a space specially equipped to protect the goods from the effects of heat, cold, temperature variations or humidity of the air, the depositary has the right, in order to exonerate himself, to invoke para 3 sub c of this article, if he proves that he has taken all measures which, taking account of the circumstances, he was obliged to take concerning the selection, the maintenance and the use of the equipment.
5. The liability of the depositary for damage to the goods as meant in para 1 of this article is limited to € 3.40 per kilogram lost or damaged goods with an absolute maximum amount to be agreed between parties when concluding the storage contract. If such an amount has not been agreed, a maximum amount applies of € 453,780.– per event or series of events subject to the same cause of damage. The compensation, however, shall not exceed the invoice value of the goods at the moment of receipt by the depositary.
 6. An act or an omission by whomever, except the depositary himself, done either with the intention to cause damage, or recklessly and in awareness that this damage was likely to follow from it, does not deprive the depositary of his right of appealing to any exoneration or limitation of his liability.
 7. If the depositary does not perform the storage at the agreed point in time or within the agreed delay, or in the manner and at the place agreed, he is, notwithstanding para 1 of this article, obliged to still carry out the activities as soon as possible in the agreed manner and without additional costs for the principal.

If the principal has incurred additional costs in consequence of the fact that the depositary has not performed storage in the agreed manner, and at the point in time and place as agreed, the depositary is liable for these costs up to a maximum amount to be agreed when concluding the storage contract. If such an amount has not been agreed, the liability of the depositary is restricted to a maximum of € 681.– per event.

8. If the depositary fails to designate one or more contact persons as meant in art. 3 para 3, the person signatory to the storage contract on behalf of the depositary is considered to be contact person.
9. The depositary is not liable for damage resulting from information and orders given by or to persons other than those meant in art. 3 para 3 or art. 4 para 8 of these conditions.
10. The depositary is not liable for damage which the principal suffers because the latter has not fulfilled his obligation to furnish information as meant in art. 5 para 7.
11. If the depositary fails repeatedly to fulfill his obligations, the principal may, notwithstanding his right to compensation of damage as described in para's 1, 2, 3 and 4 of this article, terminate the storage contract after he has put the depositary under a deadline in writing and the latter is still failing to fulfill his obligations by the expiry of this deadline.

Article 5

Obligations of the principal

The principal is obliged:

1. Concerning the goods and the treatment of same, timely to supply to the depositary all data and information as he is able to or ought to be able to, and of which he knows or ought to know that such data and information are important for the depositary to know, unless he may assume that the depositary knows or ought to know them. The principal guarantees the correctness of the information he has supplied.
2. To make the contract goods available to the depositary at the agreed place and time and in the agreed manner, accompanied by the documents required on the part of the principal by or by force of law and by any further necessary documents among which the certificate.
3. To designate one or more contact persons and to furnish the(ir) name(s) in writing to the depositary.
4. In addition to paying the agreed price of storage, to pay within the set credit period the expenses of the depositary as meant in art. 3 para 6.
5. To safeguard the depositary against claims of third parties concerning damage caused by an act or an omission of the principal, his staff as well as any other person whose services the principal makes use of.
6. To guarantee the material which he makes available to the depositary.
7. To inform the depositary as soon as possible of address changes. The depositary may direct all communications for the principal, which he is obliged to make on the basis of the storage contract, to the latest known address.

8. Upon termination of the storage contract, to take receipt of all goods still under the depositary at the latest on the last working day of the contract, and to do so after payment of all that is due or will become due. In view of what will become due after termination of the storage contract, the principal may just put up sufficient security.
9. To give the depositary orders in writing for delivery of goods, explicitly indicating to whom the goods are to be delivered.
10.
 - a. When taking receipt of the goods, to hand back to the depositary a signed waybill or any other document showing the delivery of the goods.
 - b. If the depositary delivers the goods affected by apparent damage or loss and the principal, when taking receipt of the goods or immediately thereafter, does not insert a reservation in writing indicating the general nature of the damage or loss on the waybill or any other receipt, the depositary is presumed to have delivered the goods in the same order and condition as in which he had accepted them.
 - c. If the damage or loss are not apparent and the principal has not brought, within one week after acceptance of the goods, a reservation in writing indicating the general nature of the damage or loss, to the knowledge of the depositary, then the latter will likewise be presumed to have delivered the goods in the same order and condition as in which he had received them.
11. To observe secrecy opposite third parties concerning facts and data known to him through the storage contract.

Article 6

Liability of the principal

1. The principal is liable for all damages resulting from incorrect or incomplete information relating to the goods as well as the treatment of same.
2. The principal is liable for all damage caused by persons or goods on the part of the principal which the depositary, in accordance with art. 3 para 9 of these conditions, had to allow admission to his premises.
3. If the principal fails to designate one or more contact persons as meant in art. 5 para 3 of these conditions, the person who signed the storage contract on behalf of the principal is considered to be contact person.
4. The principal is not liable for damage resulting from information and orders furnished by or to other persons than those meant in art. 5 para 3 or art. 6 para 3.
5. If the principal fails to timely furnish information relating to the goods and the treatment of same as meant in art. 5 para 1 of these conditions or to make the contract goods available at the agreed point in time and place or within the agreed delay and in the agreed manner, accompanied by the documents required as meant in art. 5 para 2, he is obliged to still perform these activities as soon as possible, free of charge and in the agreed manner for the depositary.
If the depositary has incurred costs as a result of the failure of the principal to comply with his obligations as meant in art. 5 para's 1 and 2, the principal is liable for these costs up to a maximum amount to be agreed when concluding the storage contract. If such an amount has not been agreed, the liability of the principal shall be limited to the maximum of € 681.- per event.

6. If the principal fails repeatedly to fulfill his obligations, the depositary may give written notice of termination of the storage contract, notwithstanding his right to compensation of damage, after he has put the depositary under a deadline in writing and at the expiry of which the principal is still failing to fulfill his obligations.

As compensation of the damage resulting from this termination the principal is due a maximum amount to be agreed when concluding the storage contract. If no such amount has been agreed, the compensation will be as per the law, respectively as per custom, respectively in fairness.

7. If the depositary fails to comply with his obligations as mentioned in art. 5 para 8, art. 21 AVC applies accordingly.

Article 7

Returns of goods

1. The principal may at any time demand delivery of goods against payment of the agreed remuneration and further costs as meant in art. 5, para 4 of these conditions.
2. If the principal desires (anticipated) delivery, the depositary will allow the principal a reasonable delay within which the goods must be delivered.
3.
 - a. In addition to the stipulation in art. 6, para 6 of these conditions, the depositary may demand that the goods are taken back if continuation of the storage cannot reasonably be required. The depositary will allow the principal a reasonable delay within which the goods are to be taken back.
 - b. If the principal fails to take the goods back within the set delay, the depositary is entitled to give notice of termination of the contract relating to these goods. The stipulations in the art's 5 para 8, 6 para 6 and 7 of these conditions apply accordingly with regard to these goods.
4. In so far as the depositary, by virtue of para 3 of this article, demands that the principal takes the goods back prior to the expiry of the storage period, the depositary will invoice the amounts due proportionately if the depositary is accountable for the cause of the termination of the storage. However, if the principal is accountable for the cause of the termination of the storage, he owes the agreed remuneration and the other costs as meant in art. 5, para 4 of these conditions.

Article 8

Limitation period

The period of limitation for all actions arising from the storage contract shall be twelve months from termination of the storage contract.

Article 9

Conditions of payment

1. All amounts due by the depositary and the principal, whatever their ground, are payable taking account of the agreed delay for settlement, or failing such delay within fourteen days from the invoice date.
2. If the depositary or the principal fails to settle any amount due within the agreed delay, or failing such delay, within fourteen days from the invoice date, he is bound to pay legal interest based on art. 6:119 BW as from the day when payments should have been effected up to and including the day of actual settlement.
3. The depositary or the principal is entitled to invoice respectively the principal or the depositary all extra-judicial and judicial costs necessarily spent to collect the amounts as mentioned in para 1 of this article. The extra-judicial costs for collection are due from the moment when the depositary or the principal is in arrear and the claim has been transferred to a collection agent.
4. An appeal to set off claims to pay remuneration arising from the storage contract, of other costs relative to the storage due on different grounds, or of further costs which burden the goods, against claims based on other grounds is not permitted.

5. In any event, all amounts as meant in para 1 of this article may be claimed or may be set off in deviation of para 4 of this article, if:
 - a. the depositary or the principal is in state of bankruptcy or the depositary or the principal has been allowed suspension of payment;
 - b. the depositary or the principal:
 1. proposes a final settlement agreement to his creditors;
 2. is in factual arrear in complying with his obligations;
 3. gives notice of termination of the storage contract on the basis of art. 4, para 11 or art. 6, para 6 of these conditions;
 4. ceases the operation of his business, or in case of a legal person or private limited company being liquidated or dissolved.

Article 10 Securities

1. The depositary has a right of lien on goods and documents in his possession in connection with the storage against any person who demands delivery of same. This right does not fall to him if, at the moment of receipt of the goods for storage, he had reason to doubt the right of the principal to make the goods available for storage to him.
2. The depositary may exercise his right of lien in regard of the principal only in view of what is or will become due to him on the ground of the storage.
3. The depositary can exercise the right of lien assigned to him by para 2 of this article likewise on the ground of what the principal still owes him in connection with previous storage contracts.
4. If, when settling the invoice, a dispute arises over the amount due or if there is need for a calculation to be made for the determination of what is due that cannot be made quickly, then the person who demands delivery is obliged to pay forthwith the portion which the parties agree is due and to put up security for the portion in dispute or the amount which has not yet been fixed.
5. All the goods, documents and currency values in possession of the depositary in connection with the storage contract serve him as pawn for all claims which he has against the principal.
6. Except for the cases in which the principal is in a state of bankruptcy or in which he has been granted suspension of payment, or in the case of termination of the storage contract as meant in art. 6 para 6 and art. 6 para 7 of these conditions, the depositary has never the right to sell the objects in pawn without permission by the court of justice in accordance with art. 3:248 para 2 BW.

7. a. If the principal fails to pay the amounts which he is due to the depositary and in regard to which the depositary has a right of lien or pawn in accordance with the preceding paragraphs, the depositary, after permission is obtained from the court of justice, has the right to sell for account of the principal the goods stored with him and to retain for himself from the revenues all amounts due to him and relating to the goods, all according to art. 3:249 BW e.s.
 - b. The costs of applying for permission to sell according to art. 3:248 BW as well the costs of public or private sale are for account of the principal. If these costs, added to the outstanding claim of the depositary exceed the estimated value of the goods, the depositary can sell the goods in accordance with art. 21 para 3 e.s. AVC.
8. The depositary may on request replace the pawned goods by a security which in his exclusive judgement is of equal value.

Article 11
Competent court of justice

1. All contracts to which the General Storage Conditions apply, will be governed by Dutch law.
2. All disputes arising between the parties in connection with the present contract or in connection with further contracts following from the present one shall be submitted for solution to arbitration in accordance with the Rules of the Stichting Arbitrage voor Logistiek (foundation arbitration in logistics), domiciling at The Hague, the Netherlands.

Clarification

On the initiative of the entrepreneurial organisations which co-operate within sVa / Stichting Vervoeradres, namely EVO, Koninklijk Nederlands Vervoer, Nederlandsch Binnenvaart-bureau and Transport en Logistiek Nederland, a court of arbitration has been created named Stchting Arbitrage voor Logistiek, P.O.Box 82118, 2508 EC, The Hague, The Netherlands, tel 070-30 66 767; fax 070-35 120 25, e-mail sal@tmsbv.nl, Internet www.arbitrage-logistiek.nl

**Annex
Model Storage Contract**

The undersigned

.....
domiciling and holding office at
for the purpose of this contract legally represented by
further to be referred to as 'principal'
and

.....
domiciling and holding office at
for the purpose of this contract legally represented by
further to be referred to as 'depository'
agree as under.

**Article 1
General**

The principal gives the depository the mandate which, likewise, the depository accepts from the principal to perform storage of the goods hereafter:

.....
.....
.....
.....

**Article 2
Description**

The goods are described as follows

• Commodities:

- Weight:
- Value:
- Dimensions:
- Packing:
- Special properties:

Article 3 **Volume**

The principal offers pallets/cubic meter/.....* for storage at the depositary's.

Article 4 **Instructions concerning the goods**

As far as the principal is concerned, the following instructions apply to the goods:

.....

Article 5 **Storage period**

1. The goods are stored during a period of weeks/ months/years *
2. The goods enumerated in art.1 of this contract will be delivered in one lot/in portions*
3. If the preceding paragraph stipulates delivery of the goods in portions, the following will apply to them:
 - Partial delivery nr.1: date; quantity; Special instructions
 - Partial delivery nr.2: date; quantity; Special instructions

Article 6

Validity period of the contract

1. Taking account of the stipulation in art. 5 para 1 of this contract, the validity period of this contract is weeks/months/years* and starts on - - 20....
2. Upon the expiry of the period as in para 1 of this article, the contract is each time tacitly prolonged by weeks/months/years*, unless either party gives notice of termination of the contract by registered mail not later then

Article 7

Prices

1. As remuneration of the storage as described in art. 1 para 5 of the General Storage Conditions, each month/every three months/.....*, an amount is invoiced of € per pallet/cubic meter/.....*.
2. If according to the stipulation in art. 5 para 2 of this contract the goods are to be delivered in portions, the price will be € per partial delivery / € for partial delivery 1; € for partial delivery 2; etc.

Article 8

Price changes

1. During the validity period of the contract prices may/may not* be changed.
2. In the event of the preceding paragraph saying that prices may be changed, adjustments will be effected no more often than once every
Price adjustments will be based on information regarding cost developments obtained from NEA Transportonderzoek en

-opleiding (NEA transport investigations and formation/training), EVO Ondernemersorganisatie voor Logistiek en Transport (Dutch Organisation for Logistics and Transport), Transport en Logistiek Nederland (Transport and Logistics Organisation in The Netherlands) and the depositary.

Article 9 **Delay for settlement**

The delay for settlement as meant in art. 9 of the General Storage Conditions, is days after the invoice date.

Article 10 **Contact persons**

Contact persons in the sense of art. 3 para 5 and art. 5 para 3 of the General Storage Conditions, are:

- On the side of the depositary:
- On the side of the principal:

Article 11 **Loading and unloading**

1. The depositary is/is not* obliged to unload.
2. The depositary is/is not* obliged to load.

Article 12 **Checking the goods**

In addition to his obligation to check in accordance with the stipulation in art. 3 para 2 of the General Storage Conditions, the depositary is/is not* obliged to weigh and to measure the goods.

Article 13

Space for storage

In accordance with the stipulation in art. 3 para 4 of the General Storage Conditions, the depositary will store the goods in the space(s) as under

Article 14

Insurance

1. In accordance with art. 3 para 7 of the General Storage Conditions, the depositary will take out a third party liability insurance as well as a liability insurance based on the General Storage Conditions.
2. The principal requests/does not request* to take out an insurance of the goods in accordance with the stipulation in art. 3 para 8 of the General Storage Conditions.

Article 15

Liability system

1. In view of implementing the liability system as established in art. 4 para's 5, 7 and 11, as well as art. 6 para's 5 and 6 of the General Storage Conditions, the parties agree to set the maxima as under
 - a. as maximum in the sense of art. 4 para 5 an amount of € applies.
 - b. as maximum in the sense of art. 4 para 7 an amount of € applies.
 - c. as maximum in the sense of art. 4 para 11 an amount of € applies.
 - d. as maximum in the sense of art. 6 para 5 an amount of € applies.
 - e. as maximum in the sense of art. 6 para 6 an amount of € applies.

2. In deviation of the stipulation in art. 4 para 5 of the General Storage Conditions, parties agree/do not agree* that, [storage taking place before or after border crossing road transport], the liability of the depositary for material damage as meant in art. 4 para 1 of the General Storage Conditions, is limited to 8 1/3 per kilogram missing or damaged with an absolute maximum of € This maximum replaces the limit as meant in art. 15 para 1a of this contract.

Article 16 Dissolution

This contract is also dissolved during the validity period of it in case

- a. either party applies for suspension of payments or is declared in state of bankruptcy;
- b. either party sells its enterprise to a third party or loses direct control of its enterprise;
- c. either party is repeatedly failing to comply with his obligations and the opposite party has put the former in writing under a deadline, at the expiry of which the former party is still failing to comply with his obligations, this all in accordance with the stipulations in art. 4 para 11 and art. 6 para 6 of the General Storage Conditions.

Article 17 Arbitration

- a. On the basis of the stipulation in art. 11 of the General Storage Conditions, disputes are submitted for solution to arbitration following the Rules of the Stichting Arbitrage voor Logistiek (foundation arbitration in logistics), domiciling at The Hague, the Netherlands.
Parties accept/reject* this stipulation.

- b. In the case of the parties rejecting arbitration following art. 11 of the General Storage Conditions,, they agree as follows: All disputes arising in connection with the storage contract are to be judged by the competent court of justice in the place where the depositary is statutorily established, safe the disputes falling under the competency of the magistrates'court (kantongerecht) and safe for appeal proceedings. If the statutory place where the depositary is established is outside The Netherlands, the court of justice of Rotterdam is competent.

Article 18 Conditions

To this contract apply the General Storage Conditions, of the sVa / Stichting Vervoeradres, in so far as this contract does not explicitly depart from them. A copy of these conditions is annexed hereto and is considered part of this contract.

So agreed, written in duplo and signed at

.....

Date

Principal

Depositary

** delete the non-applicable*