Road Haulage Association Limited
CONDITIONS OF STORAGE
Effective 1 April 2021

PLEASE NOTE THAT THE CUSTOMER WILL NOT IN ALL CIRCUMSTANCES BE ENTITLED TO COMPENSATION, OR TO FULL COMPENSATION, FOR ANY LOSS AND MAY BE SUBJECT TO CERTAIN OBLIGATIONS AND INDEMNITIES. THE CUSTOMER SHOULD THEREFORE SEEK PROFESSIONAL ADVICE AS TO APPROPRIATE INSURANCE COVER TO BE MAINTAINED WHILE GOODS ARE IN STORAGE.

Company Stamp or details

Maxi Haulage Limited
Elliott House
Redburn Industrial Estate
Kilwinning Road
Irvine
North Ayrshire
KA12 8TG

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RHA membership number

(hereinafter referred to as *"the Contractor"*) accepts Goods for Storage only upon the Conditions set out below. No servant or agent of the Contractor is permitted to alter or vary these Conditions in any way unless expressly authorised in writing to do so by a Director, Principal, Partner or other authorised person. If any provision or part-provision of these Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of these Conditions. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose, have agreed or incorporate, and to the exclusion of any terms which might be implied by trade, custom, practice or course of dealing. It is expressly stated to be the Customer's responsibility to read and understand these Conditions which will form the basis of the Contract under which any claims or disputes are settled. Customers are recommended to take professional advice and must arrange adequate insurance to provide full cover for the Goods, and any liabilities they may be under in respect of it, when the Goods are in storage.

(1) Definitions

In these Conditions:

"*Customer*" means the person or company who contracts for the services of the Contractor including any other contractor who gives Goods to the Contractor for Storage.

"*Contract*" means the contract between the Customer and the Contractor for the Storage of the Goods.

"*Goods*" means goods whether a single item or in bulk or contained in one parcel, package or container as the case may be or any number of separate items, parcels, packages or containers Stored under the Contract.

"*Storage*" means the storage and handling of Goods including unloading and loading of Goods and movement of Goods between stores and such other ancillary services as the Contractor may agree to in writing, and the words "*Store*" and *"Stored"* shall be construed accordingly.

"*Dangerous Goods*"means:

a. those substances and articles the carriage of which is prohibited by the provisions of the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR) as applied in the United Kingdom, or authorised only under the conditions prescribed in accordance therewith;
b. any weapon, drug, poison, damaging article or substance or any article or substance likely to encourage vermin or other pests or likely to cause infection; and
c. any Goods which, although, not included in (i) or (ii) above, in the sole opinion of the Contractor, present a similar hazard.

"*In writing*" includes, unless otherwise agreed, the transmission of information by electronic, optical or similar means of communication, including, but not limited to, facsimile, electronic mail or electronic data interchange (EDI), provided the information is readily accessible so as to be usable for subsequent reference.

"*Trader*" means the owner of the Goods, any other person having an interest therein and anyone acting on behalf of such owner or other person, including, as the case may be, the Customer.

(2) Parties and Sub-Contracting

(2) The Customer 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, and that he is similarly authorised by all those having a proprietary or possessory interest in the Goods, to accept these Conditions on their behalf.

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

(4) The Customer also warrants that Dangerous Goods accepted for Storage comply with all relevant statutory regulations for the time being in force concerning the Storage, carriage, packing, marking, documentation and labelling of such articles or substances.

(4) The Contractor and any other contractors 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 Customer on request.

(5) The Contractor contracts for itself and as agent of and trustee for its servants and agents and all other contractors referred to in (4) above and such other contractors' servants and agents and every reference in these Conditions to the "Contractor" shall be deemed to include every other such contractor, servant and agent with the intention that they shall have the benefit of the contract and collectively and together with the Contractor be under no greater liability to the Customer or any other party than is the Contractor hereunder.

3. Dangerous Goods

(1) Dangerous Goods must be disclosed by the Customer and if the Contractor agrees to accept them for Storage such Goods must be properly and safely packed, marked, labelled and documented in accordance with any legislation for the time being in force for the Storage and carriage of such articles or substances and the Customer shall, whilst the Dangerous Goods remain in Storage, keep the Contractor informed of any statutory modification or re-enactment thereof or any rules or regulations made there under or rules or recommendations made by any relevant authority, concerning the Storage or handling of the Dangerous Goods.

(2) Prior to receipt of the Dangerous Goods, the Customer shall provide the Contractor with such information in writing as will enable the Contractor to know the identity of the Dangerous Goods, the nature of the hazards created thereby, and any action to be taken in an emergency. While the Dangerous Goods remain in Storage, the Customer shall keep the Contractor informed of its recommendations on the handling and Storage of such Goods including all health and safety recommendations. The Contractor shall be entitled to disclose the information supplied by the Customer to its servants, agents and other contractors referred to in condition 2(5), and any relevant Government department.

(3) If the Customer does not disclose in writing and in advance that the Goods accepted for Storage include Dangerous Goods, the Contractor shall be entitled to rescind the Contract.

4. Procedure on Delivery or Collection

(1) The Customer shall give the Contractor not less than twenty-four hours notice of its intention to deliver or remove Goods at the premises of the Contractor.

(2) Unless otherwise agreed in writing the Customer will be responsible for any loading of goods onto a vehicle, and will also be responsible for any unloading of the goods off a vehicle during the Storage period. The Contractor will not be responsible for any loss or damage to the Goods arising from loading the Goods onto or unloading them off a vehicle, or from the overloading of a vehicle or from the unsafe loading of a vehicle. The Contractor may, at its sole discretion, through its servants and agents provide assistance in loading or unloading the goods if requested to do so by the Customer or its agents. The Customer shall indemnify the Contractor from and against all and any loss, damage, death or injury that may arise whilst the loading or unloading operations is taking place whether or not such loss, damage, death or injury is attributable to the negligence of the Contractor, its agents or servants.

5. Receipt of Goods

(1) Following acceptance of the Goods for Storage the Contractor shall if so required provide the Customer with a receipt in writing but the burden of proving the condition of the Goods on receipt by the Contractor and that the Goods were of the nature, property, chemical composition, quantity, quality or weight declared in the relevant document shall rest with the Customer.

(2) The Contractor shall notify the Customer of any pre-existing 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 shall, in the absence of any express agreement to the contrary between the Customer and the Contractor, be returned to the Customer at the Customer's expense.

6. Obligations of the Customer

The Customer warrants that:

(1) The Goods do not and will not: cause pollution of the environment or harm to human health; require any official consent or licence to handle, possess, deal with, store or carry; at any time whilst in the care or control of the Contractor constitute waste (unless the Contractor has been previously advised otherwise); and that the Goods are of a nature that can be legally stored in the United Kingdom;

(2) It will comply, and will procure that all of its agents, employees and subcontractors also comply, with any reasonable regulations of the Contractor relating to handling, health and safety, and security, of which they are notified or have been notified; and

(3) It will provide the Contractor with such information and materials as the Contractor may reasonably require in order to comply with its obligations under the Contract, and will ensure that such information is complete and accurate in all material respects.

(4) If the Contractor's performance of any of its obligations under the Contract is prevented, hindered or delayed by any act or omission of the Customer or by any failure by the Customer to perform any relevant obligation (**Customer Default**), then:

(a) without limiting or affecting any other right or remedy available to it, the Contractor shall have the right to suspend performance of its obligations until the Customer remedies the Customer Default, and may rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents, hinders or delays the Contractor's performance of any of its obligations;

(b) the Contractor shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Contractor's failure to perform or delay in performing any of its obligations as set out in this Condition 6(4); and

(c) the Customer shall on written demand reimburse the Contractor for any costs or losses sustained or incurred by the Contractor arising directly or indirectly from the Customer Default.

7. Termination of Storage

(1) Either the Contractor or Customer may at any time give not less than twenty-one clear days' notice in writing to the other of its 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:

(a) the Customer's financial position becomes unsatisfactory or if the Customer ceases to pay its debts in the ordinary course of business or cannot pay its 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 Customer or (being an individual) commits an act of bankruptcy or has a bankruptcy petition issued against him, or the Customer is in breach of any of its obligations arising under the Contract;

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

(c) 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 Customer in accordance with paragraphs (1) and (2) above, then the Contractor may, at its absolute discretion, sell the Goods after the lapse of a reasonable period of time after notice is given by the Contractor to the Customer of its intention to sell the Goods or part thereof.

8. 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 days from the date notice of proposed revision is given to the Customer.

9. Contractor's Charges

(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) The Contractor's charges shall be payable by the Customer, without prejudice to any rights the Contractor may have against any other person, to secure or obtain payment.

(3) Charges shall be payable when due without reduction or deferment on account of any claim, counterclaim or set-off. If the Customer becomes insolvent or any sums owed by the Customer on any invoice or account with the Contractor become overdue for payment, any credit terms shall be cancelled with immediate effect and all invoices or accounts issued by the Contractor shall immediately be deemed due for payment and thereupon become payable. The Late Payment of Commercial Debts (Interest) Act 1998, as amended, shall apply to all sums due from the Customer.

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

(5) The Customer shall pay to the Contractor any additional storage charges incurred as a result of it exercising its lien in accordance with clause 15 below.

10. Liability for Loss and Damage

(1) The Customer shall be deemed to have elected to accept the terms set out in (2) of this Condition unless, before the Goods are Stored, the Customer has agreed in writing that the Contractor shall not be liable for any loss or mis-delivery of or damage to or in connection with the Goods howsoever or whensoever 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, its servants, agents or sub-contractors.

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

(a) physical loss, mis-delivery of or damage to living creatures, bullion, money, securities, stamps, precious metals or precious stones only if:

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

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

(iii) the loss, mis-delivery or damage is occasioned during Storage and is proved to be due to the negligence of the Contractor, its servants, agents or sub-contractors.

(b) physical loss, mis-delivery of or damage to any other Goods not covered by sub-clause (a) above comprised occasioned during Storage unless the same has arisen from a Force Majeure Event.

(c) A **"Force Majeure Event"** shall mean any act(s), event(s), circumstance(s) or cause(s)the occurrence of which is beyond the reasonable control of the Contractor, including but not limited to:

(i) act of God, riot, civil commotion, strike, lockout, general or partial stoppage or restraint of labour from whatever cause, war, act of terrorism, seizure or forfeiture under legal process, restraint of government;

(ii) error, act, omission, mis-statement or misrepresentation by the Customer or the owner of the Goods or by any servant or agent of either of them;

(iii) inherent wastage in bulk or weight, faulty design, latent defect or inherent vice or natural deterioration of the Goods;

(iv) any special handling requirements in respect of the Goods which have not been notified to the Contractor;

(v) insufficient or improper packaging, labelling or addressing, unless the Contractor has contracted to provide this service;

(vi) fire, flood, storm, earthquake, pandemic, or epidemic;

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

(viii) 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 arising after Storage of such Goods has ended, whether or not caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of the Contractor, its servants, agents or sub-contractors.

11. Fraud

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

12. Limitation of Liability

(1) Except as otherwise provided in these Conditions, the liability of the Contractor in respect of claims for physical loss, mis-delivery of or damage to Goods, howsoever arising, shall in all circumstances be limited to the lesser of

(a) the value of the Goods actually lost, mis-delivered or damaged, at the place they should have been stored; or the amount by which damaged Goods have been depreciated in value by reason of that damage; or

(b) the cost of repairing any damage or of reconditioning the Goods; or

(c) a sum calculated at the rate of £100 Sterling per tonne on the gross weight of the Goods actually lost, mis-delivered or damaged;

and the value of the Goods actually lost, mis-delivered or damaged shall be taken to be their invoice value if they have been sold and shall otherwise be taken to be the replacement cost thereof to the owner at the commencement of Storage, and in all cases shall be taken to include any Customs and Excise duties or taxes paid or payable in respect of those Goods when lost, misdelivered or damaged:

Provided that:

(i) in the case of loss, mis-delivery of or damage to a part of the Goods the weight to be taken into consideration in determining the amount to which the Contractor's liability is limited shall be only the gross weight of that part regardless of whether the loss, mis-delivery or damage affects the value of other parts of the Goods;

(ii) nothing in this Condition shall limit the liability of the Contractor to less than the sum of £10:

(iii) the Contractor shall be entitled to proof of the weight and value of the whole of the Goods and of any part thereof lost, mis-delivered or damaged;

(iv) the Customer shall be entitled to give to the Contractor notice in writing to be delivered at least seven days prior to commencement of Storage requiring that the £100 per tonne limit in 12(1)(c) above be increased, but not so as to exceed the value of the Goods, and in the event of such notice being given the Customer shall be required to agree with the Contractor an increase in the Storage charges in consideration of the increased limit, but if no such agreement can be reached the aforementioned £100 per tonne limit shall continue to apply.

(2) The liability of the Contractor in respect of claims for any other type of loss, liability or damage whatsoever and howsoever arising in connection with the Goods, shall not exceed the amount of the Storage charges in respect of the Goods or the amount of the claimant's proved loss, whichever is less, unless:

(a) at the time of entering into the Contract with the Contractor the Customer declares to the Contractor a special interest in Storage in the event of physical loss mis-delivery or damage and agrees to pay a surcharge calculated on the amount of that interest, and

(b) at least seven days prior to the commencement of Storage the Customer has delivered to the Contractor confirmation in writing of the declared value of any special interest, and of its agreement to pay the specified surcharge which it has agreed with the Contractor.

(3) The Contractor shall not be in breach of the Contract nor liable for any delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure results from a Force Majeure Event.

(4) The following types of loss or damage are wholly excluded, and will not under any circumstances be the subject of compensation by the Contractor:
(a) loss of profits;
(b) loss of sales or business;
(c) loss of agreements or contracts;
(d) loss of anticipated savings;
(e) loss of use of, or corruption of, software, data or information;
(f) loss of or damage to goodwill;
(g) indirect or consequential loss;
(h) any fine imposed on the Customer by the Consignee or its customer.

13. Indemnity to the Contractor

The Customer shall indemnify the Contractor against:

(1) all losses, liabilities and costs incurred by the Contractor (including but not limited to those incurred in connection with loss of or damage to the place of storage and to other goods Stored) as a result of any breach of these Conditions by the Customer or any party on whose behalf it has contracted, or by reason of any error, omission, mis-statement or misrepresentation by the Customer or owner of the Goods or by any servant or agent of either of them, or by reason of insufficient or improper packing, labelling or addressing of Goods or fraud on the part of the Customer, or the owner of the Goods, or their servants or agents (as referred to in Condition 11);

(2) all losses, liabilities and costs arising from claims and demands by whomsoever made and howsoever arising (including for the avoidance of doubt claims alleging negligence), or conversion, or by HM Revenue and Customs in respect of dutiable goods or arising out of the Storage of Dangerous Goods in respect of any loss of or damage to, or in connection with, the Storage in an amount exceeding the liability of the Contractor under these Conditions in respect of that loss or damage whether or not that loss or damage was caused or contributed to directly or indirectly by any act, omission, neglect, default or other wrongdoing on the part of the Contractor, its servants, agents or sub-contractors.

14. Time Limits for Claims

(1) The Contractor shall not be liable for:

(a) physical loss of, mis-delivery or non-delivery of or physical damage to Goods being Stored, or failure to release any Goods unless advised thereof by the Customer within seven days after release of the Goods alleged to be damaged or, in the case of Goods alleged to be lost or mis-delivered or which the Contractor fails to release, within seven days after the time when the Goods should in the ordinary course of events have been released and the Contractor shall be under no liability unless such claim is made within the time stipulated; or

(b) any other type of loss unless advised thereof in writing within twenty-eight days after the termination of Storage or the date on which the Storage should have terminated,

provided that if the Customer proves that:

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

(ii) such advice or claim was given or made within a reasonable time, after the time at which it did become reasonably possible for the Customer to advise the Contractor or make a claim in writing, the Contractor shall not have the benefit of the exclusion of liability afforded by this Condition.

(2) The Contractor shall in any event be discharged from all liability whatsoever and howsoever arising in respect of the Goods unless legal proceedings are issued and notice in writing thereof given to the Contractor within one year of the date when the Goods were released or should, in the ordinary course of events, have been released.

(3) 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.

15. Lien

(1) The Contractor shall have:
(a) a particular lien on the Goods for all charges due to the Contractor for the Storage of the Goods, and
(b) a general lien on the Goods for any sums overdue and unpaid by the Customer, by the owner of the Goods or by any other person or agent having any proprietary or possessory interest in the Goods, on any invoice, account or contract whatsoever.

If the Contractor exercises a lien, but appropriate payment is not made within 14 days after notice that the payment is due has been given to the Customer, the Contractor may sell the Goods, or any part thereof, as agent for its owner and for those having a proprietary or possessory interest in it, and shall apply the proceeds towards any sums unpaid and towards the expenses of the retention, storage, insurance and sale of the Goods and shall, upon accounting to the Customer for any balance remaining, be discharged from all liability whatsoever in respect of the Goods.

(2) The Contractor may exercise its lien on its own behalf or as agent for any assignee of its invoices at any time and at any place in its sole discretion, whether or not the contractual storage has been completed, and these Conditions shall continue to apply during the period of exercise of such lien.

(3) If the Consignment is not solely the property of the Customer, the Customer warrants that it has the authority of all those having a proprietary or possessory interest in the Consignment to grant to the Contractor liens as set out in Condition 15(1) above, and the Customer shall indemnify the Contractor for all claims and demands the Contractor may receive asserting that the Customer did not have that authority.

16. Impossibility of Performance

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

17. Notice

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

18. Confidentiality.

(1) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by these Conditions.

(2) Each party may disclose the other party's confidential information:
(a) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's legal obligations; and
(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

19. Law and Jurisdiction

Unless otherwise agreed in writing, the Contract and any dispute arising thereunder shall be governed by English law and shall be subject to the jurisdiction of the English courts alone.

THESE CONDITIONS MAY ONLY BE USED BY MEMBERS OF THE ROAD HAULAGE ASSOCIATION

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