

## **Terms and Conditions in respect of Removal items placed into Storage (AVBV 2006)**

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These Terms and Conditions in respect of Removal Items placed in Storage of the Association of Recognised Removers have been drawn up following consultation with the Dutch Consumers' Union and the Internal Regulation Monitoring Group (CZ) of the Social Economic Council and shall take effect as from 1 April 2006.

### **ARTICLE 1 - Definitions**

The following definitions shall apply to these conditions:

- a. *client*: the person or body remitting the removal items for storage
- b. *storage contractor*: the contractor recognised by the Dutch Organisation of Recognised Removers, whose official Dutch language name is *Organisatie voor Erkende Verhuizers*, whose profession it is to take into storage removal items.
- c. *storage agreement*: the agreement in which the storage contractor undertakes towards the client to take removal items into storage, and to return them;
- d. *removal items*: items located in a covered or uncovered space and that are designed for decorating, furnishing or lay-out of that space and as such are already in use;
- e. *storage location*: a clean and dry space suitable for the storage of removal items;
- f. *inventory listing*: a list signed by the client and the storage contractor in which removal items remitted for storage and their visible defects are specified.

### **ARTICLE 2 - Applicability**

These Terms and Conditions shall apply to an agreement for the storage of removal items.

Parties may agree that these conditions shall cover items linked to the removal items, such as motor vehicles, motor bicycles, boats and caravans.

If in connection with storage, even if temporary, of the removal items, a removal takes place, then the Terms and Conditions in respect of Removals 2006 shall apply to the removal.

### **ARTICLE 3 - Prior notification of information by parties**

1. The storage contractor shall advise the client that the client must draw attention to items amongst the removal items to be remitted for storage that might form a clear danger to the goods stored in the storage facility, of items requiring special attention and of the presence of objects of exceptional value (papers representing monetary value, objects of precious metal or monetary instruments) as specified in article 15, section 3i of these conditions.
2. The storage contractor shall be entitled to refuse to accept goods unsuited to the latter's storage facility. In all cases the following items shall not be taken into storage: goods subject to decay, food items, fuel, explosive materials, weapons, narcotics and other forbidden substances.
3. The storage contractor shall ensure that an inventory listing shall be drawn up for all storage arrangements as of the conclusion of the storage agreement, which

shall be appended to the storage agreement as part thereof. The inventory listing shall feature where possible the value declared by the client of one or more of the items remitted for storage.

4. The storage contractor may require the client to produce valid personal identification (passport or identity card).

#### **ARTICLE 4 - Quotation**

1. An offer to take removal items into storage shall be tendered in written or electronic form.
2. The offer shall in all cases specify:
  - a. the date of commencement and where possible the termination date of the storage or, where such shall not be possible, a reference to indeterminate duration;
  - b. the storage fee, the method of payment, and the payment term;
  - c. the charges linked to taking receipt of the removal items and for returning them (reception and uplift costs);
  - d. an identification of the precautions the storage contractor shall take and the costs thereof;
  - e. that the Terms and Conditions in respect of Removal Items placed in Storage shall apply to the operations to be performed. A copy of these Terms and Conditions (AVBV 2006) shall be despatched together with the offer or shall be furnished to the client no later than as of the conclusion of the storage agreement.
3. The offer shall bear the date of offer and shall retain irrevocable validity for a period of thirty days subsequent to the date of the offer.

#### **ARTICLE 5 - Storage fee**

1. The storage fee, being the price paid for storage services, shall be determined on the basis of volume, weight or occupancy of space taken up by the removal items to taken into storage, the attention that shall be given to such goods pursuant to the storage agreement and the storage period concerned.
2. Unless otherwise agreed in written or electronic form, the following costs shall not be part of the storage fee and shall be charged separately to the client:
  - a. fees that were not foreseeable as of the conclusion of the contract but that the storage contractor shall nevertheless be obliged to incur in connection with the agreed arrangements of care for the goods remitted for storage or to which the storage contractor shall be obliged so as to comply with that party's duty of care; such only to the extent that the reason shall lie in the client's removal items. Where possible, the storage contractor shall advise the client in advance of the measures to be taken and of the costs;
  - b. the charges linked to the taking into storage of the removal items and for returning them (reception and uplift costs);
  - c. the insurance-related premiums and payments as referred to under article 13.
3. In such case as where the storage fee shall not have been agreed the Recognised Remover shall be entitled to set a storage fee price in line with general rules in relation to equity and fairness.

4. The storage fee shall be adjusted every year in cases of prolonged storage. The first adjustment may be effected one year after the storage shall have started, unless the agreement shall have specified otherwise.

#### **ARTICLE 6 - Agreement**

The agreement shall come into effect:

- as soon as the client shall have advised in written or electronic form of the latter's acceptance of the Recognised Remover's offer;
- where no offer shall have been tendered, as of that moment when the agreement shall be signed by both parties;
- as soon as the client shall have physically placed the removal items at the Recognised Remover's disposal for storage purposes.

#### **ARTICLE 7 - Change of address**

1. The client shall advise the storage contractor as rapidly as possible in written or electronic form of changes to the former's address.
2. The storage contractor shall be at liberty to discharge his duty of notification by despatching all communications to which that party shall be obliged pursuant to the storage agreement to the most recent address known to that party.
3. In the case of a period of absence exceeding two months, the client shall notify the storage contractor in written or electronic form and shall designate a contact person.
4. The storage contractor shall not be liable for damage the client shall suffer by virtue of the client not having observed the obligations incorporated in this article.

#### **ARTICLE 8 - Cancellation**

The client shall be entitled to cancel the agreement. The client shall owe the storage contractor a compensation payment not exceeding the storage fee for one month, unless the storage contractor shall have demonstrated that the damage arising from the cancellation shall have amounted to substantially more than the storage fee for one month.

#### **ARTICLE 9 - Termination of an agreement by the client**

1. The client shall be entitled to terminate a storage agreement in the interim subject to the observance of a one month notice period.
2. The storage contractor shall be obliged to return the removal items remitted for storage prior to the expiry of the notice period against payment of the storage fee not yet paid, and for the payment of costs that may fall upon the client. Return of the goods shall be effected to the greatest extent possible at the time desired by the client.
3. After the expiry of the notice period the removal items remitted for storage shall remain with the storage contractor at the client's expense and risk subject to the condition that the obligation to pay the storage fee shall persist until that moment at which the removal items shall have been returned to the client, or until such time as these shall have been sold or destroyed by the storage contractor.

#### **ARTICLE 10 - Termination of the agreement by the storage contractor**

1. The storage contractor may terminate a storage agreement in the interim where the enterprise is discontinued and in such case as where pursuance of the

agreement cannot reasonably be required of that party. The storage contractor shall notify the client in written or electronic form and shall provide a two month notice period.

2. The client shall take back the removal items remitted for storage prior to the expiry of the notice period against payment of the storage fee not yet paid, and for the payment of costs that may fall upon the client. Return of the goods shall be effected to the greatest extent possible at the time desired by the client.
3. After the expiry of the notice period the removal items remitted for storage shall remain with the storage contractor at the client's expense and risk subject to the condition that the obligation to pay the storage fee shall persist over the duration of the (supplementary) storage until that moment at which the removal items shall have been returned to the client or until such time as these shall have been sold or destroyed by the storage contractor.
4. In the case of discontinuance of the enterprise the storage contractor shall arrange for alternative storage if the client shall not reasonably be in a position to enter in on an agreement with another storage contractor. This obligation shall not apply in cases of client negligence.

#### **ARTICLE 11 - Return**

1. The removal items stored shall be returned at the address of the storage location, unless otherwise agreed.
2. The removal items stored shall be returned to the client pursuant to article 14, section 2. If such shall not be possible they shall be handed over to such person or entity as shall have been authorised in written or electronic form. If no person or entity shall have been authorised they shall be returned to that person or entity who for reasons other than being derived from the storage agreement shall have title to their return, unless they shall have been subject to legal attachment and as a consequence of such attachment there shall flow an obligation to remit them to that person or entity levying the attachment.
3. In cases where a portion of the removal items taken into storage are to be returned, a list detailing the goods returned shall be drawn up for signature by the storage contractor and by the client. The storage contractor may demand the client present collateral for the payment of the storage fee, whenever the value of the goods not returned would so justify, or, alternatively, if ever the former should have substantial grounds for doubting the timely payment of the storage fee in the future.
4. The storage agreement shall expire with the death of the client, or if the client is placed under curatorship, or when the client is given protection from creditors or when the client moves into bankruptcy. The storage fee shall then be payable up to and including the month subsequent to the month in which the event in question took place. The inheritors or, where relevant, the trustee in bankruptcy or the liquidator shall be obliged to take back the removal items prior to the expiry of the period for which the storage fee shall be payable. Articles 9 and 14 shall apply with the necessary changes.

#### **ARTICLE 12 - Obligations of the storage contractor**

1. The storage contractor shall store and return the removal items, being also obliged to return the removal items in the state in which that party took receipt of them. The storage contractor shall observe the proper care and attention of a careful storage contractor in the latter's storage activities.

2. The storage contractor shall, over the duration of the storage period, permit the client access to the removal items taken into storage against payment for the costs thereby incurred by the storage contractor and provided that a prior arrangement shall have been agreed upon with the storage contractor.

#### **ARTICLE 13 - Insurance**

1. The storage contractor shall enjoy insurance coverage for such liability risks as are prescribed by law and these conditions.
2. The storage contractor shall draw the client's attention that, so as to be insured against risks for which the storage contractor shall bear no liability:
  - a. the client shall conclude provisional storage insurance coverage for the removal items for the duration of storage, or
  - b. the client shall transfer his or her own household insurance for the duration of storage to the address of the storage facility.

#### **ARTICLE 14 - Payment and collateral**

1. The storage fee and possible other charges flowing from the agreement shall at all times be paid according to the frequency agreed between the client and the storage contractor.
2. All fees that the client shall be liable for to the storage contractor must have been paid prior to the return of the removal items. The storage contractor shall be entitled to retain the removal items taken into storage until the client shall have complied with all his obligations to pay in respect of the storage agreement concluded or in respect of a removal agreement concluded between the same parties.
3. The client shall be in default as of the expiry of the payment term. After that date shall have expired, the storage contractor shall despatch a reminder to pay and shall provide the client with the opportunity of making the payment within seven days following receipt of this reminder to pay. If no payment shall have been made after the deadline for the reminder to pay shall have expired the storage contractor shall be authorised to charge legal interest as of the expiry of the payment term and all payment collection charges reasonably incurred by that party outside of legal process. The storage contractor shall despatch the reminder to pay by registered mail to the client at the address the storage contractor was last advised of.
4. If the outstanding payment shall exceed three months, calculated as from the original payment term, or as soon as the amount of the payment outstanding shall exceed the current value of the removal items taken into storage including the costs of sale and preparation thereof, the storage contractor shall enjoy the right to terminate the agreement and to proceed to public sale (right of pledge) of the removal items:
  - a. if the latter shall have despatched an order to pay by registered mail to the client and
  - b. if the latter shall once again have served notice to the client by bailiff service to pay the charges due. The notification by bailiff service shall further specify that the storage contractor shall proceed to public sale if the term specified is exceeded.

Private treaty may take the place of public sale, if the anticipated costs of public sale shall exceed those of the revenues the removal items are estimated to raise.

5. The storage contractor shall place at the client's disposal the revenues from the removal items sold, after deduction of the costs payable on the basis of the agreement, the charges arising from late payment and collection costs reasonably incurred outside of legal process.

**ARTICLE 15 - Liability of the storage contractor**

1. Failure to comply with the obligations falling upon storage contractor shall render the latter liable for damages thereby incurred unless the said failure to comply shall have been caused by a circumstance that a prudent storage contractor would not have been able to avoid and to the extent that a storage contractor would not have been able to impede the consequences thereof.
2. The storage contractor shall not be permitted to claim exemption from liability by reference to:
  - a. the defective condition of the storage location;
  - b. the defective condition of the materials the latter uses.
  - c. for damage to the removal items caused howsoever by a third party, whose acts shall not fall to the client's risk,
3. Provided the storage contractor shall have observed the duty of care and in the absence of proof to the contrary, the storage contractor shall not be liable for damage that shall be the consequence of exceptional risks linked to one or more of the following circumstances:
  - a. damage or loss to removal items taken into storage in such case as where the damage or loss shall have arisen from inherent defect or decay of these removal items;
  - b. damage to items that shall not have been packed, unpacked or placed in protective packaging by the storage contractor or the latter's staff and which shall not be attributable to acts of the storage contractor or the latter's staff;
  - c. damage caused by the leakage of fluids from lamps, bottles, barrels and suchlike;
  - d. damage to electrical, electronic and mechanical equipment, timepieces, barometers to the extent that the damage is exclusively related to the nature and state of the item concerned;
  - e. degradation to the reflective backs of mirrors or damage thereto;
  - f. damage to the removal items as might have been effected by moths, woodwork or rust provided that the protective measures shall have been performed;
  - g. damage flowing from the nature of the items themselves taken into storage, such as, for example, freshly polished or painted furniture, plaster losses from painted or gilded frames of mirrors or paintings, loss of glue from pieces of furniture, atmospheric effects on pastel drawings, pianos becoming out of tune and the quality degradation of data carriers such as audio and video tapes and such like, provided that the agreed precautions shall have been taken;
  - h. damage as a consequence of keys for furniture having been mislaid, unless these shall have been handed over to the storage contractor or to the latter's staff, such having been documented on the inventory listing;
  - i. damage as a consequence of mislaying items such as bank papers, monetary instruments of value, precious metals, coins and medals, monetary instruments, precious metals, precious stones, documents or

collections, if it should fail to be evident from the inventory listing or from another document signed by the client and the storage contractor that these items had in fact been remitted for storage.

4. In such case as where the storage contractor shall have demonstrated that, in the light of the circumstances of the case, that party's failure to comply with the obligation specified in article 12 incumbent upon that party might have been a consequence of one or more of the exceptional risks specified as above in section 3, it shall be assumed that the failure to comply was so caused, without prejudice to the client's authority to provide evidence to the contrary.

#### **ARTICLE 16 - Liability of the client**

1. The client shall reimburse the damage suffered by the storage contractor as a consequence of the removal items remitted by the client for storage, as well as all necessarily incurred charges for possible clean-up, sale, commission of bailiff service and suchlike.
2. In such case as the client shall not observe the obligation as referred under article 7, possible costs that might so be caused shall fall to the client's expense.

#### **ARTICLE 17 - Reporting damage**

1. Immediately noticeable damage shall be notified to the storage contractor immediately in the course of return or directly thereafter in the absence of which the storage contractor shall be deemed to have returned the removal items without immediately noticeable damage.
2. Not immediately noticeable damage shall be notified to the storage contractor as soon as possible and no later than fourteen days after the return, in the absence of which the storage contractor shall be deemed to have returned the removal items without not-immediately noticeable damage.
3. Directly subsequent to the return the client may, on the latter's request, be granted a term longer than those referred to in sections 1 and 2. Possible damage must then be notified prior to the expiry of the delayed term.
4. Notice of damage shall be made in written or electronic form.

#### **ARTICLE 18 - Compensation payment in case of liability**

1. In so far as the storage contractor shall be liable for having failed to comply with the latter's obligations as referred to article 12 the client shall have the right to compensation the make-up of which shall be as follows:
  - a. in the case of total loss or disappearance: compensation equal to the value that the removal item concerned would have enjoyed as of the time when and the place where it was to have been delivered to which shall be added possible charges directly linked to the damage;
  - b. in the case of partial loss or damage: compensation that at the client's discretion shall consist of:
    - a reasonable amount to repair the removal item damaged;
    - an amount equal to the value that the removal item would have enjoyed as of the time when and the place where it was to have been delivered from which shall be deducted the residual value of the removal item as of its return, and possible savings on the client's side.
2. The compensation payment due by the storage contractor on the basis of the agreement for storing the removal items consequent on the latter's having

failed to comply with the obligations falling upon him pursuant to this agreement shall be limited to the amount as set forth in the Royal Decree of 11 March 1991, such giving expression to article 8:1182 of the Netherlands Civil Code (EUR 23,000 for each set of household effects). Parties may also agree that the maximum contractual liability flowing from this agreement shall, against payment, be increased to an amount to be specified subsequently.

3. The client's option to file a claim shall expire one year after the return of the removal items, or after the termination of the agreement on the basis of articles 9 and 10 of these conditions.

#### **ARTICLE 19 - Complaints**

Complaints about the performance of the agreement must be completely and clearly described and submitted to the storage contractor in good time after the client shall have discovered the breaches. Failure to submit the complaint in time may result in the client losing his or her rights in the matter.

#### **ARTICLE 20 - Disputes procedure**

1. Disputes between the client and the storage contractor about the coming into effect or the performance of the storage agreement as referred to under article 1 letter (c) may be submitted by either the client or by the storage contractor to the Removal Disputes Committee whose official Dutch name and address are *Geschillencommissie Verhuizen*, Bordewijklaan 46, P. O. Box 90600, 2509 LP The Hague ([www.sgc.nl](http://www.sgc.nl)).
2. The Disputes Committee shall only examine such disputes in such case as where the client shall first have submitted his or her complaint to the storage contractor.
3. After the complaint shall have been submitted to the storage contractor, the dispute shall be submitted to the Disputes Committee no later than three months after it shall first have arisen.
4. In such case as where the client shall submit a dispute to the Disputes Committee the storage contractor shall be obligated to that choice. In such case as where the storage contractor wishes to submit a dispute to the Disputes Committee, the storage contractor shall ask the client to signify consent or otherwise within five weeks. The storage contractor shall further specify in that communication that after the expiry of the above-mentioned term storage contractor shall consider itself at liberty to bring proceedings before the Courts.
5. The Disputes Committee shall pronounce its judgment having regard to the provisions of the regulations applicable to that body. The decisions of the Disputes Committee shall be effected pursuant to those regulations by means of a binding recommendation. A copy of the regulations will be despatched upon request. Examination of a dispute shall require payment.
6. Only the Courts shall determine whether the above mentioned Disputes Committee is authorised to take cognisance of disputes.

#### **ARTICLE 21 - Compliance guarantee**

1. The Organisation of Recognised Removers shall assume upon itself the obligations of a Recognised Remover toward the client, such having been placed upon the Recognised Remover by the Disputes Committee by means of a binding recommendation in such case as where the Recognised Remover shall have failed to comply with the obligation within the term specified in the

binding recommendation; such matters not to prevail if the Recognised Remover shall have filed proceedings with a Court contesting that binding recommendation within two months of its date of issuance. The application of this guarantee shall require the client to submit an application in written or electronic form to the Organisation of Recognised Removers and for the decision of the Disputes Committee to have concerned the application of these conditions.

2. The conditions specified in the agreement between the Organisation of Recognised Removers and the Consumer Disputes Committee Foundation, whose legal Dutch name is *Stichting Geschillencommissies voor Consumentenzaken*, shall apply to this compliance guarantee. Compliance shall in no way result in a distribution exceeding EUR 100,000 per incident. For any sum in excess the client shall be offered the opportunity of ceding his claim to the Organisation of Recognised Removers, following which the Organisation of Recognised Removers shall, where required, take legal steps to secure payment.

#### **ARTICLE 22 - Applicable law**

The Law of the Netherlands shall apply to agreements concluded, modified or complemented on the basis of the AVBV 2006 unless paramount rules should dictate other Law.

#### **ARTICLE 23 - Amendments**

Amendments to these conditions may only arise in consultations with the Dutch Consumers' Union, whose legal Dutch name is *Consumentenbond*. In case of such amendments these will take effect one month after having been published by the Organisation of Recognised Removers, which shall assume the obligation to make known such amendments as soon as they shall have been decided.

#### **ARTICLE 24 - Short title**

The Terms and Conditions in respect of Removal Items placed in Storage 2006 whose official Dutch language title is *Algemene Voorwaarden Bewaarneming Verhuisgoederen 2006*, may be referred to as AVBV 2006.