

GENERAL CONDITIONS OF THE PROFESSIONAL ASSOCIATION OF THE BELGIAN
COLD-STORAGE AND FREEZING INDUSTRY
BELGISCHE BEROEPSVERENIGING DER BELGISCHE VRIES – EN KOELNIJVERHEID
UNION PROFESSIONNELLE BELGE DES INDUSTRIES DU FROID

(B.V.B.V.K. – U.P.B.I.F.)
Hereafter 'the ABCFI Conditions'

Definitions

In the ABCFI conditions is understood under:

- a. Depositee: the depositee recognised by the ABCFI which accepts goods for storage on a professional basis, as referred to under f of this article.
- b. Cold-storage warehouse: each space that the depositee uses and in which acclimatization methods facilitate cold storage and/or processing of goods. The temperature will generally be above 0°C or, depending on the goods to be cooled, just below 0°C.
- c. Freezing warehouse: to this the same definition applies as to the 'Cold-storage warehouse', on the understanding, however, that the temperature in this room is always below 0°C.
- d. Cold-storage agreement: the agreement in which a party, the depositee, commits itself to the other party, the depositor, to store, process and to return what the depositee entrusts or will entrust to him.
- e. Storing: one or more of the following acts:
 - the depositing of goods in a Cold-storage/Freezing warehouse, if and for as far as the depositing is carried out by the depositee;
 - the storing of goods in a Cold-storage/Freezing warehouse;
 - the refrigeration or freezing of goods in a Cold-storage/Freezing warehouse;
 - the otherwise handling and/or processing of goods in a Cold-storage/Freezing warehouse or similar room if and for as far as such is carried out by the depositee;
 - the removal of goods from a Cold-storage/Freezing warehouse, if and for as far as this removal is carried out by the depositee.
- Depositor: he who has entered into a cold-storage agreement with the depositee as referred to under e of this article;
- the warrant holder as referred to under i of this article;
- a. he who took over the rights of one of the above-mentioned;
- g. Warrant: a document bearing the heading 'Ceel' respectively 'Delivery Order', provided with a legally valid signature by or on behalf of the depositee, in which it is stated that the holder thereof is entitled to receive goods of a quantity mentioned therein of a kind mentioned therein of the depositee.
- h. Warrant holder: person that makes himself known as a holder of a warrant to the depositee by producing said warrant.
- i. Warrant holder last known to the depositee: the person to whom the warrant has been issued or the warrant holder whose written request to the depositee to be treated as such bears the most recent date. The depositee is entitled to regard a different person as such if he has the justified reasons to presume that this latter person is the last warrant holder.
- j. Goods: this denotes all the goods that are the subject of the cold-storage agreement
- k. Ambient temperature: the ambient temperature as recorded par the Koninklijk Meteorologisch Instituut van België (KMI) on any day and at any time at that day in any region of Belgium.

- i. Storage Temperature: the temperature wished for by the deposittee, expressed in °C, under which the goods are to be stored or processed in a Cold-storage/Freezing warehouse. This temperature will be recorded by the depositor.
- m. Product Temperature: The temperature, as constant as possible, expressed in °C as required by the depositor, measured in the core of a product or in the core of a packing unit. The product temperature required is reached after the goods have been stored in the Cold-storage/Freezing warehouse for at least two weeks. The product temperature is only recorder and measured by the deposittee if this was expressly agreed upon at the time that the storage agreement was entered into.

Article 1

Applicability/scope of these ABCFI conditions

1.1 Every storing by a deposittee and every order thereto as well as every offer submitted in connection thereupon will be governed by these ABCFI conditions.

1.2 These ABCFI conditions are applied to all orders of storage, services or deliveries to the client subject to changes, to which both parties agreed upon expressly in writing. Possible changes are only valid for the specific agreement that they cover and cannot be invoked during potential later orders.

1.3 These ABCFI conditions have by right priority over the general conditions of the deposittee.

1.4 The eventual annulment of one or more dispositions of these general cold-storage conditions, do not affect the applicability of all other clauses. In this case, the parties will negotiate in best effort and in good faith to replace this disposition par a legal, valid, non-annulled and executable disposition with a similar effect.

1.5 These ABCFI conditions annul and replace all previous agreements, propositions, discussions of negotiations, written or oral.

Article 2

Nature of the cold-storage agreement

The cold-storage agreement will, in so far as it applies to storage of goods and making available space in a Cold-storage/Freezing warehouse, always be an agreement of cold-storage unless agreed differently by the parties.

Article 3

Storage charge – costs

3.1 The volume, weight of the goods and the duration of the order, as mentioned in the agreement of cold-storage, are used as bases for the storage charge.

3.2 The prices/rates agreed upon will only concern the operations as stated in the cold-storage agreement. In case the operations have not been specified, only the following are meant: the depositing, the storage and the removal of the goods. The storage charge and extra costs are owed to the deposittee for the full period during which the space has been made available to the depositor for the goods concerned.

3.3 All other operations and the related costs, like for example relocation, handling and/or processing will be charged at the rates and on the conditions which, under identical circumstances, are charged by the deposittee. If this is not possible, those prices/rates as are customary in the industry will be applied.

These operations also fall under the light of these ABCFI conditions.

Operations that the depositee doesn't wish to take upon himself, can be executed with his permission by or in the name of the depositor under the supervision of the depositee, this against payment for the supervision.

3.4 If, as a result of an inspection of a governmental institution, for example the Customs, the depositee has to do extra and unforeseen operations, the depositee has the right to charge the resulting costs to the depositor.

3.5 Under no circumstances, the depositor cannot use losses, damage or possible delays to stop or to offset completely or partially the payments that he owes to the depositee.

Article 4

Modifications of prices/rates

The depositor has to accept every modification to the rates concerning the making of expenses and/or carrying of costs (new taxes included) that were unknown at the time that the storage agreement was entered into, and that the depositee would also have if the depositee would execute the operations mentioned in this agreement for his own account.

Such modifications of prices/rates will as soon as possible be brought to the attention of the depositor or in case a warrant is outstanding to the warrant holder last known to the depositee. These modifications of rates can be immediately taken into account.

Article 5

Special additional conditions

5.1 If the depositee acts as commissioner shipper, this will happen with the General Belgian expedition conditions (ABEV 2005) as base and the depositee will communicate this by writing during the acceptance of the order to the depositor. Copies of the conditions are delivered in advance to the instructing party. The order of a commissioner-shipper consists of among other things sending goods in his own name or in the name of his instructing party, or in his own account and therefore executing all essential services for this, the organisation of customs clearance, accomplishing all required formalities and entering into the necessary agreements.

5.2 On all national and international transport that the depositee takes upon himself as commissioner carrier or as carrier the CMR dispositions are applicable.

5.3 The dispositions of the CMR are also applicable on cabotage orders and this without prejudice to the applicable mandatory legal regulations.

Article 6

Proof of depositing of the goods

The depositee provides at arrival of the goods on his domain to the depositor a proof of receipt. Unless there are other convincing proofs is this proof of receipt the proof of the number of goods (pallets and/or packages – if perceptible -), their weight, and also their way of packaging that is offered for storage and/or processing by the depositor to the depositee.

Article 7

State of the space in the Cold-storage/Freezing warehouse

7.1 The depositee is obliged to provide an adequate and clean space to the depositor.

The depositor has the right to inspect the cleanliness and suitability of the provided space in the Cold-storage/Freezing warehouse before the delivery of his goods and to note eventual remarks about the state of the findings.

7.2 If the depositor doesn't use the possibility to perform such an inspection and/or has made no objections to the cleanliness, suitability or condition of the provided space to be put at his disposal, the depositee is deemed to have complied with the obligation under **article 7 paragraph 1**.

Article 8

Reception and description of the goods

8.1 The depositor is obliged to provide at the time that the storage agreement was entered into, but the latest at the deposition of the goods a complete list with enough details concerning ALL goods to be stored to the depositee.

This list contains at least:

- the exact and precise description of the goods, among others the kind, number, weight, state and danger-class.
- all instructions and limits concerning the protection, the processing or the stay of the goods and the execution of the order in general.
- all instructions concerning the protection of the appointees.

The goods have to have all necessary brands concerning their characteristics.

8.2 The depositor is obliged to deliver the goods in good state and – if packed – , in sound and fit transport worthy packaging material.

8.3 The depositor is obliged to deliver the goods – if applicable – clearly marked.

8.4 The depositor is obliged, if an EAN code has been applied, to apply this code at an accessible position, in such a manner that the reading of said code by means of a scanner is possible.

8.5 The depositor is obliged to care for all legal obligations concerning documentation, way of packaging and coding of the goods offered for storing. The enumeration isn't limited.

8.6 At the disposition of the goods, the depositee will go through the inventory-list and determine the number of packages. If because of the composition of the goods, it is not possible or reasonably not possible to ask to the depositee to determine the number of packages, the depositee will determine the weight of the party or other external features.

8.7 The depositee can refuse to accept the goods. If the depositee agrees to store or process the goods, then all necessary extra operations to prepare, clean or change the space provided for this, will be executed by or under the supervision of the depositee, and this will be done at the costs and risk of the depositor.

8.8 The depositee is never responsible for the consequences of incorrect, deceiving and/or incomplete orders, nor of the packing material of containers provide by or because of the depositor to him, nor for the consequences of flaws to the goods, the packing material and/or the containers.
The depositor expressly indemnifies the depositee against all (financial) consequences, which are caused by non-compliance with the higher mentioned obligation.

8.9 The depositee is never responsible if the depositor doesn't comply with the

obligations mentioned in **paragraph 2**. The depositor indemnifies the depositee against all financial and material consequences, which may be caused by non-compliance with the obligations mentioned **in paragraph 2** of this article.

8.10 The depositor is obliged at the time that the storage agreement was entered into, but at the latest at the arrival of the goods to provide ALL instructions concerning the treatment of the goods to the depositee.

If, during the delivery of the goods to be stored and/or processed no written instructions are procured by the depositor to the depositee, the depositee will store and/or process the goods as he sees fit and in a way that is normal in this industry. If, in the opinion of the depositor, a particular way of storage of the goods is required, the depositor will always notify the depositee of this in written to give him the chance to take the preparatory measures, in absence of such a notification, the depositee will not be responsible for losses and/or damages, created in any way possible, during the storage of the goods that are concerned.

If, in the opinion of the depositor, a particular way of storage of the goods is desired of the depositee or by the nature of the goods becomes essential, all related extra costs will be charged to the depositor.

Article 9

Beginning and ending of the storage of the goods

9.1 The cold-storage agreement begins at the physical reception of the foods by the depositee in the place and the way agreed upon by both parties.

9.2 The cold-storage agreement ends:

- as soon as the depositee has placed the goods by the transport vehicle or in a different place indicated by the depositor;
- as soon as the depositor manipulates the goods;

Article 10

Sequence in which vehicles, wagons, containers and ships are handled

10.1 Vehicles, wagons, containers and ships will be handled by the depositee in the sequence of their arrival in the loading/unloading site or at the quay of the loading/unloading site.

10.2 The depositee reserves the right to alter this sequence, if he reasonably considers it necessary to change it in order to comply with the regulations and/or directions of the Customs, 'Federaal Agentschap voor de Veiligheid van de Voedselketen' (FAVV) or other authorities, or if special arrangements must be made to promote a smooth traffic of goods, or if other legitimate reasons require this.

Article 11

Responsibility of delay

11.1 The depositee is never liable for damage caused by the delay and the consequence places of loading and unloading being not accessible or not usable or already taken.

11.2 The depositee isn't liable for damage suffered by delay or interruptions in his operations unless blamable actions or serious culpability can be imputed on the depositee.

11.3 Under 'delay' as meant in **article 11.2** is understood: an arrival where a delay of at least twenty-four (24) hours has occurred, in comparison to the agreed time of arrival.

11.4 When the liability of the depositee is certain because of late arrival, his liability can never exceed € 250. With a delay, compensation is only due, if the depositor proves that because of this damage was created and that this was notified by a registered letter before two weeks after the determination of the delay.

11.5 The depositor is obliged to present to the depositee the goods at the appointed place, time and in the agreed way, accompanied by a transport document and the remaining required documents by or under the law. If ships, vehicles, containers and/or wagons do not arrive or cannot be handled at the appointed time because of other parties the depositee is to be entitled to a compensation of all damages suffered by him.

The depositor is obliged to indemnify the depositee of all possible actions that third parties can start against the depositee.

Article 12

Operating hours

12.1 Unless agreed on otherwise all operations to be carried out by the depositee to or in connection with the goods will be usually carried out on working days during the hours at which the Cold-storage/Freezing warehouse is open.

12.2 If, due to regulations or measures of the authorities, unforeseen circumstances, either in the interest of the goods or the depositor, any operations are to be carried out at other times than those mentioned there, the depositee will be authorized, if necessary without prior consultation with the depositor, to carry out said operations out of normal working hours.

12.3 If the depositor demands that work be carried out outside regular working hours it will be the discretion of the depositee to comply with a request to that effect or not. The depositor will, however, not refuse but on reasonable grounds.

12.4 Any extra expenses incurred by the carrying out of operations outside regular working hours will be borne by the depositor.

Article 13

Directions on loading and unloading.

13.1 If parties have agreed that the loading and/or unloading of vehicles, wagons, containers or ships will be carried out by employees of the depositee, the depositor will be required to see to it that the depositee will receive clear and prompt directions concerning the manner of loading and unloading and if a load consists of several parcels on delivery which goods belong to which of the individual parcels.

13.2 If the depositor has failed to provide adequate directions and if parcels have been mixed up or loaded or unloaded incorrectly as a result of that, the depositee will not be liable for this. The depositor has to extra compensate the depositee for a potential sorting.

13.3 If loading or unloading should take place by or in the name of the depositor following the instruction of the depositee, the appointment of the moment of loading and/or unloading will be at the depositor's risk. The depositee will never be liable for any damage caused by an incorrect moment of loading and/or unloading.

Article 14

Visible condition of the goods on arrival.

14.1 The goods will be delivered in a good condition and – if packed – packed with properly and transport worthy packaging material.
The goods have to – if applicable – be clearly marked when delivered.

14.2 If a so-called EAN code has been applied, these codes have to be applied at an accessible position, in such careful manner that the reading of said code by means of a scanner is possible.

14.3 The deposittee doesn't have to control the correctness of the applied EAN codes. The deposittee is never liable for the consequences of wrongly applied EAN codes. The depositor is obliged to indemnify the deposittee of all possible actions that third parties can start against the deposittee and also to compensate the deposittee for the damage suffered.

Article 15

Refusal to store goods

15.1 The deposittee has the right to refuse goods of which the nature, kind, quality, weight, value, number, packaging, product temperature deviates from the initial description or do not comply with the requirements that reasonably can be asked.

15.2 The deposittee has the right to refuse goods that are visibly damaged, in faulty condition, badly packaged or with no markings when delivered. The deposittee will in this case make a clearly motivated reservation and ask the depositor for further instructions. The deposittee is not liable for all damages caused by a bad or inadequate packaging.

15.3 The goods can also be refused if:

- a) the goods, in the opinion of the deposittee, may cause danger for and/or damage to other goods stored in the Cold-storage/Freezing facility;
- b) the goods, in the opinion of the deposittee, may cause danger for and/or damage to people;
- c) the goods, in the opinion of the deposittee, may cause danger for and/or damage to the Cold-storage/Freezing warehouse and/or the Cold-storage/Freezing facility;
- d) the goods are perceived as being not in order;
- e) the goods are not delivered at the temperature as prescribed and/or agreed on;
- f) the origins of the goods cannot be stated and/or proven at a request to that effect.

Article 16

Method of stacking the goods

16.1 The method of stacking the goods will be determined by the deposittee in accordance with proper professional practice.

16.2 If in the interest of the goods, on account of their nature or packing or any other reason, it should be necessary to stack the goods by a different method than might reasonably have been expected by the deposittee, any additional storage charges and extra expenses resulting from that will be charged to the depositor.

16.3 In case the goods are delivered on pallets stacked by the depositor, but safety requirements demand a different way of stacking or extra precautions, the goods will

be restacked at the expense of the depositor, and/or those precautions will be taken.

Article 17

Temperature and humidity

17.1 If the depositor didn't give any clear instruction concerning the storage temperature to the depositee at which the goods are to be stored and/or processed, the depositee will determine the storage temperature to the best of his knowledge and data gathered by experience. The depositee will not be liable for any damage caused by the storage temperature chosen in this way.

17.2 The depositee will inspect the storage temperature at least twice every twenty-four (24) hours except on days on which the Cold-storage/Freezing warehouse is normally closed and see to it that this temperature is maintained for as much as possible.

Minor fluctuations, as they may occur during depositing and delivering goods, opening doors, defrosting air coolers, freeing refrigerator spirals from snow and ice etc... will not be considered deviations.

17.3 If the depositor has objections to deviations of the storage temperature agreed upon, the depositor must submit them to the management of the Cold-storage/Freezing warehouse in writing immediately after their detection.

17.4 A specific air humidity cannot be guaranteed by the depositee.

17.5 If the depositor offers the depositee goods for storage which may be damaged by carbon dioxide (CO₂ damage), or that require a critical storage temperature or other special attention, the depositor will expressly notify the depositee of this in advance in writing. Failing such notification the depositee will in this never be liable for damage caused by the referred conditions.

Article 18

Place of storage and relocation of the goods

18.1 The depositee pre-eminently determines the space that will be assigned to the goods.

The starting-point for that is that the space must be suitable for the storage of the goods concerned.

18.2 The depositee will be free to transport the goods offered to him for storage to a different Cold-storage/Freezing warehouse, provided it is suitable for the storage of the type of goods concerned. In that case the original depositee will remain the depositee and the original depositor will remain the depositor. The depositee will notify the depositor of the storage space, whether or not outside his facility. The depositor maintains right to inspect the designated space, **article 7** will apply in full.

18.3 If the relocation is to take place in the interest of the goods, the costs and transport risks of the relocation are borne of the depositor.

Article 19

Means of transport, packing material and containers

19.1 The depositor will see to it that the means of transport, packing material and/or containers that are put available by him or on his behalf for the transport of the goods, are at all times complete, including all accessories, and in a clean, odourless, closed and sound condition.

19.2 If the above mentioned means of transport, packing materials or containers should not meet the requirements of **article 8 and article 19**, the depositee will record this and make a motivated reservation at the reception.

19.3 If the means of transport, packing materials or containers should not meet these requirements, the depositee will not be liable for damage or loss of any kind caused by that, and the depositor will indemnify him against any consequences resulting from that.

19.4 If, due to any regulations by the authorities, packing materials supplied by or on behalf of the depositor (including disposable pallets) should be removed and/or destroyed in a prescribed manner, any cost in connection with that will be borne by the depositor.

Article 20

Goods for which charges are to be paid

20.1 The depositee will under no circumstances be obliged to accept goods for which freight, taxes, duties, fines and/or other charges or expenses of whatever kind must be paid, unless adequate security is provided by the depositor at depositor's cost.

20.2 The depositor will be liable for and indemnify the depositee against any freight, taxes, duties, fines and/or other charges or expenses of whatever kind that are to be paid in connection with the goods.

20.3 Any freight, taxes, duties, fines and/or other charges or expenses however named, which are to be paid on arrival or afterwards must be paid in advance by the depositor. Since this advance is a short-term advance because of its nature, no interest on said advances would be refunded.

20.4 The depositee will never be liable for, nor obliged to reclaim freight, taxes, duties, fines and/or other charges or expenses however named that have been overpaid by him, unless the depositee, such in accordance with the principles of justice and equity, has not observed the required care.

Article 21

Duties, taxes, levies and legal obligations in connection therewith Customs warehouse

21.1 If goods are subject to customs and excise duty regulations or to other tax regulations and/or regulations by the authorities (e.g. agriculture levies) in connection therewith, the depositor will at all times be obliged to supply any information required by the depositee in order to enable him to submit the statements concerned.

21.2 The depositor will be liable for any incorrect and incomplete information that may have been provided by him or on his behalf in connection with the cold-storage agreement concerned.

The depositee will never be liable for inspecting, accepting, keeping, completing or delivering of any document whatsoever, nor for the contents of such documents, unless under a legal obligation or if such has been expressly agreed upon in writing as an operation to be carried out by the depositee.

21.3 The depositee will never be responsible to check weights, the number of packages and descriptions of the goods, the latter only if this is outwardly perceptible to him. The depositor expressly indemnifies the depositee against any damage that could result from consignment notes that are not correctly or completely completed on the basis of a statement of the depositor.

21.4 If goods are to be stored in a bonded or non-bonded Customs warehouse at the depositor's request, these goods must always be correctly and sufficiently individually marked, especially if their packages are (practically) identical, and if their contents cannot be easily verified.

Damage due to confusion and/or mix-up of goods, which do not meet these conditions, will not be borne by the deposittee.

Article 22

Admittance

22.1 The deposittee is obliged to admit the presence of the depositor or of people appointed by him during normal opening hours only in the spaces or terrains where the goods are located, but exclusively at the risk of the latter and exclusively during the normal opening hours, on condition however that this:

- happens in the presence of the deposittee;
- had been communicated and approved in advance;
- happens according to the house rules of the deposittee

22.2 The depositor will be liable for any loss and/or damage of any kind caused to the deposittee of whatever nature, caused by acts or omissions of any person whether in the employment of the depositor or not who is present on the loading/unloading sites of the deposittee in connection with the depositor's instructions or consent.

22.3 The depositor will indemnify the deposittee against any claims of whatever nature that may be filed against the deposittee by third parties and that result from non-observance of the directions and instructions described herein on the part of the depositor or any person appointed by him.

Article 23

Duration of the cold-storage agreement

23.1 A cold-storage agreement that has been entered into for a limited period of time ends by expiration of that limited period unless parties agree otherwise.

23.2 If a cold-storage agreement has been entered into for an unlimited period of time, the parties will have the right to terminate the agreement by registered letter at the end of the calendar month with due observance of a one (1) months' notice.

23.3 If warrants have been issued these will be sent to the deposittee within twenty-four (24) hours after the termination to the deposittee, so that the termination can be noted on them.

Lack of such a note cannot, however, be held against the deposittee.

Article 24

Taking back of the goods after the termination of the cold-storage agreement

24.1 Without prejudice to the provisions of **article 33** the depositor is, at the termination of the cold-storage agreement, obliged to take back his goods no later than the last working day of that agreement, and after payment of all that which he may owe, under whatever title, to the deposittee, and after returning the warrant or delivery order, if it has been issued for that purpose.

24.2 If the depositor should fail to fulfil one of these obligations, the deposittee will be entitled to take any such measures as necessary for the clearing of the Cold-storage/Freezing space made available, including transfer of the goods to a different Cold-storage/Freezing space, all this at the expense and risk of the depositor. In addition to that the deposittee will then be entitled to compensation from that act of

negligence.

Article 25

Urgent reasons for a premature termination of the cold-storage agreement by the deposittee

25.1 The deposittee will at all times have the right to terminate the cold-storage agreement prior to the expiration date or the completion of the operations without serving notice upon the depositor, if there should be an urgent reason therefore.

25.2 The following situations are to be considered as urgent:

1. if the depositor has not fulfilled the dispositions of **article 15** or one of the conditions of the cold-storage agreement or has acted contrary to it;
2. if the presence of the goods cause fear of loss of or damage to other goods or to the Cold-storage/Freezing warehouse or fear of death or physical injury of people or animals;
3. if the goods are perishable or if changes occur therein that lead to the assumption that they are deteriorating, and the depositor omits to give clear instructions to prevent or neutralize this;
4. if the Cold-storage/Freezing warehouse, used for the execution of the cold-storage agreement, is wholly or partially destroyed as a result of fire or has become unfit in any other way for Cold-storage/Freezing storage, respectively Cold-storage/Freezing operations;
5. if the goods are goods that have been rejected by a competent government authority, or if said competent government authority has ordered that the presence of said goods in Belgium is not allowed;
6. if the circumstances of the collaboration are made so difficult by the actions of the depositor that a continuation of the collaboration reasonably no longer can be demanded of the deposittee;

25.3 If the deposittee in the cases mentioned in the previous paragraphs determines that the type, quality, quantity, weight, value, specific features, temperature, size or nature of the goods is (or are) given in an incorrect manner, the deposittee has the right to terminate the cold-storage agreement with immediate effect.

Article 26

Special measures

26.1 Without prejudice to what has been provided in the previous article the deposittee will have the right at the expense and risk of the depositor to take any immediate measures which the deposittee may consider necessary, including the destruction of the goods, if, in accordance with the principles of justice and equity, omission of such measures may cause danger of loss or damage to the goods themselves, or to other goods, or to the Cold-storage/Freezing warehouse, or danger of death or physical injury of people or animals. Any cost resulting from the measures will be borne by the depositor.

26.2 The deposittee will notify the depositor or if a warrant is outstanding the warrant holder last known to him of the measures that have been taken.

26.3 In case of destruction of the goods such a notice to the warrant holder will be given in the manner as specified in **article 36** of these ABCFI conditions.

26.4 The deposittee will at all times be authorized to have the goods that have been removed from the Cold-storage/Freezing warehouse under this article sold in a public sale at the expense of the depositor.

If great urgency should be necessary due to the condition of the goods, a private sale will be considered the same as a public sale in order to limit damage. The price of said private sale will at least be the average of the value as assessed by two independent assessors at a forced private sale.

26.5 The deposittee will not proceed to a public sale until after the depositor, if possible, has been summoned by a registered letter, or in a case as referred to in **article 36** of these ABCFI conditions has been demanded by means of an advertisement in a national newspaper, to collect the goods against payment of any amounts owed to the deposittee.

If the depositor has failed to comply with this within one week after the above-mentioned registered letter was sent, respectively the advertisement appeared, the sale may take place.

26.6 The deposittee will be obliged to transfer to the depositor the proceeds of the goods after deduction of any costs caused in connection with said goods and any claims against the depositor, if possible within one week after receipt. If the latter is not possible, the amount will be kept in deposit.

26.7 If preservation of the goods stored requires additional operations or incurring extra costs, the depositor will be obliged to pay to the deposittee any cost in connection therewith, even if these additional operations/cost should ultimately not have achieved the desired result.

Article 27

Prohibition of placing space at the disposal of third parties

Without the prior written approval of the deposittee the depositor will not place at the disposal of third parties the Cold-storage/Freezing space placed at his disposal.

Article 28

Delegation by the deposittee

The deposittee will have the right to delegate his rights and obligations under a cold-storage agreement to a third party, provided that the continuity of the existing cold-storage agreement is guaranteed.

Article 29

Repairs to the Cold-storage/Freezing facility

29.1 Without prejudice to the provisions in the **articles 43 and 44** of these ABCFI conditions the deposittee will at all times properly maintain the Cold-storage/Freezing facility and keep it in good working order.

29.2 The deposittee will at all times have the right to carry out without delay any such repair, rebuilding and/or alteration work on the Cold-storage/Freezing warehouse as is reasonably necessary to be able to comply to the obligations mentioned in **article 29 paragraph 1**.

29.3 The depositor agrees to it that his goods will be relocated to a different Cold-storage/Freezing facility for the purpose of repair, rebuilding and/or alteration work.

29.4 Without prejudice to the provisions in **article 43** of these ABCFI conditions the depositor will waive the right to claim any compensation for damage caused directly or indirectly by such repair, rebuilding, and/or alteration work, and for the temporary loss of the Cold-storage/Freezing space put available to him. Only if the operations last more than forty (40) days and the depositor can show that the operations bother him,

the depositor can claim compensation.

Article 30

Cleaning of cold-storage/freezing space

30.1 Unless expressly agreed otherwise in writing, at the end of the cold-storage agreement the depositor will be obliged to pay to the depositee any cost in connection with the cleaning and/or repairs of Cold-storage/Freezing space used for his goods.

30.2 If special measures have been taken by the depositor to the space put at his disposal, the situation as it was at the time at which the cold-storage agreement was entered into, must be restored by or on behalf of the depositor, the cost of this to be borne by the depositor, unless parties have agreed otherwise.

Article 31

No obligation to provide replacing Cold-storage/Freezing space in case of a calamity

If Cold-storage/Freezing space that has been placed at the disposal of a depositor is completely or partially damaged or becomes unsuitable for Cold-storage/Freezing or Cold-storage/Freezing operations due to fire or any other unforeseen circumstance, the depositee will not be obliged to make available any other Cold-storage/Freezing space. Under those circumstances, however, the depositee will do all that which is reasonably necessary in order to find replacing Cold-storage/Freezing space.

Article 32

Operations to be carried out by the depositor

32.1 If the depositor wishes to have operations carried out to his goods, which should be beyond the storage already agreed upon, these will be executed at the prices/rates of the cold-storage agreement or, if this agreement does not refer to said prices/rates, at such prices/rates as are charged in the industry for those operations at that point in time.

These operations are among others: freezing, cooling, repacking, packing, defrosting, tempering, inspecting, weighing, cutting, portioning, collecting, marking, applying stickers, pricing and filling or emptying of barrels, tanks and containers.

32.2 For as far as a 'new' product in the sense of the product liability law may be created by the carrying out of the operations by the depositee, not the depositor, but the depositor will at all times be considered the producer. The depositor will be obliged to mark or have marked the 'processed' goods with his own brand or identification mark. Should the depositor fail to do so, the depositee will have the right to apply a designation to the goods stating the name, address and place of the depositor. Any cost caused in connection with this will be borne by the depositor.

If, however, authorities also require the application of a mark, the depositee has the right to rescind the agreement on the refusal of the depositor to comply with that obligation.

32.3 The depositor will indemnify the depositee against any claims of third parties, however named, under any product liability regulations.

Article 33

Terms of payment

33.1 All amounts, which are to be paid for whatever reason, are to be paid without the application of any set-off one month after the date of the invoice, unless it has been agreed upon otherwise.

33.2 All protestations against the invoicing or against the invoiced services and invoiced amounts have to be received in written eight (8) days after the date of the invoice. If the depositor didn't protest during this period, then it is assumed that he accepted the invoice in full.

33.3 In case of an overdue payment, an interest of 8% points more than the reference interest rate (interest rate of the European Central Bank) and rounded up to the next half percent will be due from the next day as a matter of law and without any notice of default.

In addition to the overdue interest, the depositee, as a matter of law and without any notice of default, has the right to a flat compensation of € 40 for his own collecting costs.

In addition to this flat compensation, the depositee has the right to a reasonable compensation for all other collecting costs that exceed the fixed amount of € 40 and that were created by the overdue payment.

33.4 The storage charges and – if the goods have been insured through the intermediary of the Cold-storage/Freezing warehouse – the premiums and cost of insurance will be charged on the basis of the period agreed upon; a part of this period will be considered a full period.

33.5 In the event of any change of the depositor's financial situation, change of owner(s), reasonable doubt about the depositor's solvency, both prior to and during the duration of the cold-storage agreement, the depositee will have the right to demand that a security be provided.

In case of non-compliance with the above the depositee will have the right to rescind the agreement until this request has been fulfilled.

If the depositor indicates that he won't be able to fulfil such a request, the depositee has the right to rescind the agreement without being obliged to compensate any damage, without prejudice to the depositor's obligation to compensate any damage caused to the depositee due to the rescission.

33.6 Any claims of the depositee against the depositor will be payable on demand if the depositor is declared bankrupt, files a petition for an official moratorium, if the goods of the depositors are attached, or if he loses the free disposal of his capital in any other way, if he offers a settlement to his creditors, if he is in default in the fulfilment of any obligation towards the depositee, or if he stops operating his business or in case of a legal person or partnership if this is liquidated.

Article 34

Right of retention and right of pledge

34.1 Without prejudice to the rights granted to the depositee under the Act of 5 May 1872 revising the arrangements concerning Pledges and the Commission, the depositor grants depositee (1) a contractually stipulated possessory lien on all goods it presents to the depositee under orders for storage and transport, and (2) all rights provided for in the Belgian Act of 11 July 2013 amending the Civil Code as regards collateral security on movables and repealing various provisions in this respect ('the Pledge Act').

34.2 The depositee may exercise its possessory lien and right of pledge on all goods and documents as security for all claims it has, and will have, against the depositor, even if those claims are based on something other than the order placed with the depositee.

34.3 All goods entrusted for custody are considered to form part of the same contract and are not divisible, even if they performed by means of successive service orders.

34.4 In case of damage to the goods of other parties, for which the depositee - either or not through the agency of the depositor - has taken out an insurance, the depositor shall be obliged, within two (2) days after a request to that effect by the depositee, to pledge the claim under the insurance agreement to the depositee, and/or to cede or transfer it, unless the depositor proceeds to the immediate payment of what the depositee has to claim and/or - to the satisfaction of the depositee - provides sufficient security for the obligations related to the deposit which are not yet due.

34.5 The depositee shall have the right to let orders given by the depositor for activities other than custody or processing operations (e.g. transport operations) be performed by an enterprise affiliated with the enterprise of the depositee (an enterprise belonging to the group of companies of which the enterprise of the depositee is also a part). Notwithstanding the fact that on practical grounds it may be decided to invoice the depositor directly by affiliated companies, this claim shall remain a claim of the depositee against the depositor in respect of these activities, so that the right of pledge and retention contained in this article shall also apply to these claims. If necessary the parties shall transfer their claims to the depositor.

Article 35

Issue of warrants

35.1 After a parcel or a quantity of goods has been stored and the quantity and/or weight and its identity have been determined by the depositee, a warrant or delivery order can be issued at the request of the depositor, on the understanding, however, that:

- a) the depositee need not comply with the request for the issue of a warrant or delivery order before the depositor has met all of his obligations towards the depositee;
- b) the depositee will be entitled to refuse the issue of a warrant if he holds that there are grounds for that;

35.2 Notwithstanding the provisions in **article 43** of these ABCFI conditions the depositee will have no responsibility for the correctness of the particulars stated on warrants and delivery orders or whatever other documents issued by the depositee and concerning the nature and quality of the goods, if special technical knowledge or a more than superficial examination should be necessary for the determination of that.

Article 36

Notices to warrant holders

If the depositee wishes to give notice to the holder of a warrant whose name or address has not been made known to him, said notice will be given by means of an announcement in a national daily newspaper to be chosen by the depositee; the cost hereof will be borne by the holder of the warrant.

Article 37

Transfer of ownership of goods entrusted to the depositee

37.1 If the depositor transfers the ownership of the goods given for storage to a third party, all claims that the depositee has on the depositor will be immediately claimable and the goods will serve him as a guarantee until all claims are completed.

37.2 If the ownership of the goods that are entrusted to the depositee is a matter of dispute between two or more parties, or if such goods are attached by third parties,

the depositee will have the right to protect his interests in the goods in connection with such a dispute or attachment by such means as calling in legal measures. The costs of these measures will be borne by the original depositor.

37.3 The original depositor will continue to be liable towards the depositee for any claims of the depositee in respect of or in connection with the storage, also if these have been created after the transfer of the goods, unless the depositee has discharged the depositor from this liability in writing.

37.4 The right of lien as described in **article 36** will at all times apply to the goods until that point in time at which any claims of the depositee against the original depositor have been paid.

37.5 After transfer of the goods, the new owner will be considered the depositor, and together with his predecessor he will be severally liable for any claims referred to in **paragraph 3 of this article**, also if these existed before the transfer.

Article 38

Delivery of the goods by the depositee

38.1 If a warrant is outstanding, the goods that have been entrusted to the depositee will exclusively be delivered against surrender of that warrant.

38.2 If no warrant has been issued the depositee will have the right to demand that, before the goods are delivered, a receipt (ticket of deposition) or written order, provided with a legally valid signature by the depositor or his representative be handed in to the depositee.

Article 39

Loss or destruction of documents

39.1 If a warrant has been lost or destroyed or cannot be shown because of any other reason, and the depositee has been taken notice of that by registered letter in which the contents of that warrant are described, the depositee, if demanded and provided he has no reason for doubt as to the correctness of the grounds for such a request, will twice with an interval of at least fourteen (14) days insert announcements in a national daily newspaper, in which parties interested in the relevant document are called up to apply at the office of the depositee without delay.

The cost of these announcements must be settled beforehand by the person who asserts a claim to the goods.

39.2 The depositee will be entitled to issue to the applicant a 'duplicate warrant' or 'duplicate delivery order' bearing the word 'duplicate', provided that nobody has applied to the depositee as the rightful claimant to the destroyed or lost warrant or delivery-order within fourteen (14) days after the date of the second announcement. By the issue of such a 'duplicate warrant' or 'duplicate delivery order' the old warrant or delivery order loses its validity against the depositee.

39.3 The person to whom the depositee has issued a 'duplicate warrant' or 'duplicate delivery order' indemnifies the depositee against any loss or damage which may be caused by such an issue and will pay any expenses that have been caused for the depositee in connection with the issue.

Article 40

Risks and insurance by depositor

40.1 All storage of goods in a Cold-storage/Freezing warehouse will be done for the

account and risk of the depositor. The depositor always has to insure himself adequately at least against FLEXA risks. In these cases, with the other risks that are covered by the fire policy, the depositor and his insurer will renounce the right of recourse against the depositee and all third parties. At first request of the depositee, the depositor gives proof of this insurance.

Insurance by the depositee

40.2 The depositee will only after a written and explicit request of the depositor with explicit mention of the desired coverage, insure the goods with a renouncement of recourse against the depositee for the benefit of and at the expenses of the depositor, with a certified insurance company. The depositor will communicate the exact location of the goods to the insurer.

If the insurer doesn't wish/can't give coverage for the goods of the depositor, the depositor will communicate this forthwith to the depositee.

The depositee is in such a case never responsible for such a refusal.

40.3 In all cases in which the goods that are entrusted to the depositee have been insured, and damage is caused by the kind of the goods that are offered by the depositor, the depositor is obliged to pledge the claim against the insurer to the depositee at the depositee's first request, such as an additional security for all that which the depositor owes the depositee.

40.4 If, in case of damage to or loss of the goods that have been entrusted to the depositee, due to fire or any other cause, his co-operation is called in for assessing such a loss or such a damage, the depositee will be entitled to claim that the amount of the expense involved.

40.5 Unless agreed otherwise, an insurance entered into by the depositee at the request of the depositor will be continued from month to month. Insurance will terminate at the end of the month in which the depositor has given the depositee notice to terminate them or in which the goods have ceased to be in storage with the depositee.

At delivery of a part of the goods the depositor will inform the depositee of the value, for which amount the depositor wishes to have the remaining goods insured.

Failing such a statement the depositee will be entitled to decrease the insured amount in the same proportion as the goods have been decreased in number, weight or size.

40.6 If the amounts communicated by the depositor to the depositee are not the same as the value of the goods and the coverage of the insurance is incorrect, the depositee will never be liable for this.

Article 41

Damage to Cold-storage/Freezing warehouse and/or its installations

The depositor will be liable for all damage of any kind caused to the Cold-storage/Freezing warehouse, Cold-storage/Freezing installations and/or other possessions of the depositee, caused by the goods delivered by him for storage.

Article 42

Claims of third parties

42.1 If claims are made against the depositee by third parties on account of death, physical injury or damage in connection with the storage respectively the handling of the goods of the depositor, or their presence in the Cold-storage/Freezing warehouses, the depositor will indemnify the depositee against any such claims as should be made against him.

42.2 Similarly, the depositor will indemnify the depositee if the depositee is called upon in indemnity by third parties on account of a recovery claim however named, and resulting from any claim brought by or on behalf of the depositor or any party that has effected subrogation of depositor's rights or that has taken over the rights of the said claim against the depositor to compensation of damage to the goods of the depositor.

Article 43

Liability of the depositee

43.1 The depositee will execute his orders with reasonable care, diligence and insight and will see to it that the care of a good keeper will be observed for the goods entrusted to him.

43.2 If an error or a negligence can be blamed to the depositee during the execution of the order that was given to him, the depositee has the right to limit his liability. This liability is limited to the direct material and/or financial damage that is the direct consequence of his concretely proven error or negligence. The compensation of this material damage and/or loss that is a direct consequence of a concretely proven error, will never amount to more than the real damage. The liability of the depositee is limited to 8,33 SDR. The amount is calculated in euro on the base of the value of that currency on the date of the damage claim or on the date that was accepted in concert by the parties by gross kilogram of weight of the damaged and/or lost goods and until € 25.000 per damage claim or series of damage claims with one and the same cause.

For damage caused to the ship or transport vehicle with which the goods are delivered or removed, the maximum liability amounts to € 25.000,00.

In case of a concurrence of different claims concerning the damage to the ship or means of transportation, damage to or loss of goods or material, provided by the instructing party or by third parties, the maximum liability is notwithstanding limited to € 50.000,00, whatever the amount of affected.

43.3 The depositee will never be liable for lost profit, consequential damage and immaterial damage.

43.4 The depositor can ask the depositee to do once a year a stock counting. The stock list of the depositor will after this stock counting be compared to the one of the depositee.

43.4 If, after comparison, a positive stock difference is established, the stock list of the depositor will be adapted to the stock list of the depositee, and this without any negative consequence for the depositee. This new list will be signed and serves between the parties as proof of stock for the newly started stock year/stock period.

43.5 If a negative stock difference is established, with a difference that is of more than 0,2% of the annual volume, or another percentage agreed upon in advance by the parties, the depositee will pay a compensation to the depositor. Of this negative stock difference, the goods for which a compensation already has been paid by the depositee have to be deducted. After the payment of the compensation, the stock list of the depositor will be adapted to the stock list of the depositee. This new list will be signed and serves between the parties as proof of stock for the newly started stock year/stock period.

43.6 Under annual volume is understood the total of incoming, outgoing and processed quantities of goods.

43.7 The compensation is the proven value at arrival by the depositor of the concerned stock differences above the agreed upon percentage. The liability for stock differences is limited as determined in **article 43.2**.

43.8 With 'value at arrival' is meant the price of the goods, plus the transport costs until the reception by the deposittee.

Article 44

Force majeure

44.1 In the sense of these ABCFI conditions, and apart from that which is regarded as such by Law, jurisdiction and legal doctrine, force majeure is considered to include all causes, either direct or indirect, as a result of which the deposittee cannot reasonably fulfil his obligations under the cold-storage agreement, strikes in the own company and failure of the Cold-storage/Freezing installations included.

44.2 The deposittee will never be liable for an inherent vice of the goods, like:

- natural quality of the goods;
- changes in quality in the course of time;
- mold and intrinsic deterioration;
- fermentation, rust, mildew, freezing, melting, coagulation;
- gasification, drying in, loss of weight, leakage and decay;
- damage by rats, mice, insects, worms and other vermin;
- damage caused by other goods;
- hidden defects of Cold-storage/Freezing warehouse premises and/or Cold-storage/Freezing installations;

44.3 The deposittee will not be bound to fulfil his obligations during and after the period in which force majeure or the consequences thereof hamper or prevent the fulfilment of his obligations.

Article 45

Scope of protective provisions

Any subcontractors, agents, representatives, employees or others who have received an order from or who have been appointed or engaged by the deposittee, will each separately enjoy the same protection and be entitled to the same exclusions, exemptions and limitations of liability as apply to the deposittee himself under these ABCFI conditions or under the cold-storage agreement between parties.

Article 46

Forfeiture of claims against the deposittee

46.1 All claims against the deposittee will be forfeited if the damage, the loss, claims of third parties, fines respectively expenses have not been brought to his knowledge within twenty-four (24) hours after the goods have been accepted by the depositor, unless the depositor should prove that the damage, the loss, the claims of third parties, the fines respectively the expenses could not have been reported sooner, in which case the notification is to take place within twenty-four (24) hours after the above-mentioned facts have become known to the depositor.

46.2 Any right of the depositor to make claims against the deposittee is forfeited six (6) months after the day on which any damage to or loss of the goods has been brought to the attention of the depositor, or the depositor has brought any damage to the attention of the deposittee, such in accordance with the provisions of **paragraph 1** of

this article, unless the claim has been referred to a court within the period mentioned above.

Article 47

Processing of personal data

47.1 The depositee and the depositor each undertake to comply with the applicable legislation on data protection, in particular the General Data Protection Regulation (GDPR) 2016/679, and ensure that their personnel, consultants and subcontractors also observe this legislation.

47.2 As the 'controller', the depositee processes the identification- and contact data of the depositor and/or its employees and the carrier appointed by the depositor, for the purpose of keeping customer records and managing any disputes.

47.3 The depositor guarantees it has adequate legal grounds on which to transfer the personal data to the depositee and to provide the data subjects, including the carrier and its employees, with that information on the processing, including a reference to the Privacy Statement.

47.4 The depositee has implemented appropriate measures to guarantee the privacy and security of the personal data. The depositee will give access to the personal data to a few employees only (based on the 'need to know' Principle). The depositee informs the depositor about how his privacy and rights are guaranteed

Article 48

Translations

These ABCFI conditions are available in the Dutch, French and English language. The ABCFI conditions will be transmitted to the depositor in the language of the linguistic region where the company of the depositee is situated. Following a demand of the depositor, a translation can be added. In case of a contradiction between the Dutch and English text, only the Dutch text will be binding. In case of a contradiction between the French and English text, only the French text will be binding. In case of a contradiction between the Dutch and French text, only the text in the language of the agreement, or in absence of this, of the quotation or of the proposition, will be binding.

Article 49

Competent judge and applicable law

49.1 All agreements to which these ABCFI conditions are applicable will exclusively be subject to Belgian law.

49.2 All disputes that could arise from agreements on which these ABCFI conditions are applicable will be submitted to the arbitration by one or three arbitrators. If the parties opt for one arbitrator, said arbitrator will be appointed by mutual consultation. If the parties opt for three arbitrators, each of the parties will appoint one arbitrator. Both appointed arbitrators will jointly appoint the third arbitrator. The arbitrator's decision will be binding and in accordance with the principles of justice and equity. Initially, either party will pay their own arbitrators, and the cost of the third arbitrator will be borne by both parties, each for 50%. The party that was found to be at fault, however, will be obliged to cover all cost, including all costs of legal assistance of the other party. If the parties cannot reach an agreement on the number or the person of the arbitrators, the decision will be made by the President of the Court of Commerce in the territory in which the depositee is located, acting at the request of either party.

Article 50

Filed ABCFI conditions

These ABCFI conditions have been filed by means of an i-registration in the registry of the 'Benelux Bureau voor Modellen en Tekeningen' of Brussels, which guarantees their authenticity and date of registration. The applicable version will at all times be the latest version that has been filed, or the version that was valid at the time at which the cold-storage agreement was entered into.

Article 51

Copyright

51.1 These ABCFI conditions (the B.V.B.V.K.-U.P.B.I.F. Conditions) are issued by the 'Beroepsvereniging der Belgische Vries – en Koelnijverheid'. The copyright herein is owned by said association.

Full or partial reproduction and/or publication hereof by means of print, photocopy, microfilm or in any other way without the prior written permission from the association is strictly prohibited.

51.2 Only the members of the 'Beroepsvereniging der Belgische Vries – en Koelnijverheid' ('Union Professionnelle Belge des Industries du Froid') are allowed to use these conditions. This permission is automatically cancelled on the termination of the membership.

51.3 If these conditions are used without prior permission, a compensation of € 5.000 will be due for each infringement.