

TERMS AND CONDITIONS OF WAREHOUSE RECEIPT

Application

1. These Terms and Conditions shall apply to any arrangement/contract entered into between the Company and the Customer in connection with warehouse services performed or undertaken by the Company at the Customer's request or additional services as and when the Customer considers essential at its sole discretion. If there is any conflict between "These Terms and Conditions" and "any terms and conditions in any quotation, advice, information, service, arrangement, "these Terms and Conditions" herein shall prevail. In addition to these Terms and Conditions, the General Terms and Conditions of the Company that are neither stipulated nor stipulated in detail herein shall apply to the warehouse services as long as they are not contrary to the Terms and Conditions herein set out.

Definitions

2. In these Terms and Conditions, the following words have the meanings or shall be interpreted as stated below:

- (a) **Company:** Resources Group Logistics Company Limited, registered in the Republic of the Union of Myanmar.
- (b) **Contract:** The agreement or this contract for the provision of warehouse and its associated services by the Company to the Customer of which these Terms and Conditions form part.
- (c) **Customer:** The person or party as storage customer, the depositor, who contracts for the storage and/or services from the Company in accordance with these Terms and Conditions. Only the person(s) or organization whose name appears on this Contract will be considered as the Customer. However, a third party can be designated in writing to act on behalf of the Customer.
- (d) **Force majeure:** Any circumstances which could not be reasonably controlled by the Party, resulting non-performance of the Party's obligations because of "externality" and which could not be timely anticipated because of "unpredictability" and thus the negative consequences of the event could not be avoided by the Company because of "irresistibility". Such circumstances include any of the following but not limited to: (i) human interventions, war, hostility, public disturbance or acts of public enemy; official action, quarantine, epidemic, civil disturbance, sabotage, labour disruptions such as strike, protest and uprising, embargos, boycott, lockout or other form of industrial action or work stoppages or individual actions; restraints or prohibitions by or acts of governments or public agencies/ organisations; and failure or interruption of public or private transportation or other utilities, interference with communications, lack of transportation, labour and/or storage accommodation and/or any other similar causes; (ii) acts of God and natural disasters as specified by the National Natural Disaster Management Committee of the Republic of the Union of Myanmar, storm, typhoon, cyclone, hurricane, tornado, sand storm, unexpected adverse weather, marine disaster, a tsunami, fog, frost, freezing, ice, heat, lightning, flood, high and low tide, earthquake, eruption of a volcano, pandemic and/or any other similar acts of nature; (iii) fire, explosions, nuclear incident, water used against fires, smoke, burglary, theft, loss, subsidence, collapse, water, seepage, damp odour, stench, worms and rodents, damage through rats, mice, insects and other creatures; (iv) natural properties of the Goods, changes in quality, spontaneous deterioration, self-generated heat, combustion, drying, mould, yeasts, leaks, rot and mildew, rust and sweating, breakage of glass, whickered bottles and flasks, cast-iron and other brittle articles, inadequate packing and/or any other similar grounds.

Particulars of the Goods, Required Information and Instructions

- 3. (a) In order to achieve efficient and effective performance of the Company, the Customer shall provide the Company with the following information, as applicable in writing and in a timely manner, but not limited to: (i) weight, volume, quantity, quality, type, nature, composition, temperature, source, origin, and chemical or hazardous properties of the Goods; (ii) any special requirements for the storage because of the nature of the Goods; (iii) any special instructions for the lifting appliances, methods or means of loading or discharging; (iv) any legal matters such as ownership of the Goods, required formalities by any authorities; and (v) any other particulars of the Goods deemed essential for the Company.
- (b) The Customer guarantees that the particulars of the Goods and the required information and instructions provided to the Company are true, complete, and accurate until completion of Warehousing Services performed by the Company.

Condition of the Goods

- 4. (a) The Customer shall deliver the Goods to the Company in good condition and adequately packed with appropriate and secured packaging.
- (b) If the Goods delivered to the Company are found to be defective, or deteriorated at the time of arrival at the warehouse or during the custody of the Company, the Company has the right to reject or is entitled, but not obliged, to take reasonable steps to safeguard the Goods by all available means so as protect the Customer's interest against the Carrier or others at the Customer's risk and expense. The Company will notify the Customer of the action taken at its earliest opportunity, but failure to do so shall not grant the Customer any right of claim against the Company.

Delivery of the Goods

- 5. (a) The Customer shall deliver the Goods to the designated place of storage, decided and advised by the Company.
- (b) The Company may take delivery of the Goods from the Customer's place at the Customer's request and expense. In such a case, the Customer undertakes to pay additional charges an hourly basis for any labour, equipment, and transportation utilised by the Company if there is any delay arising out from the Customer's failure.

Weight and Measurement of the Goods

- 6. (a) The Customer shall declare the weight and measurement of the Goods in an accurate manner. The Company has no obligation to weigh or measure the Goods upon receiving the Goods but may do so at its sole discretion. If the weighing or measuring of the Goods by the Company reveals any difference, the cost of such work shall be borne by the Customer.
- (b) The Company has no liability for additional charges, fines, or penalties which may be imposed by the third party or any authority who discovers excess weight or measurement of the Goods unless it was initially ascertained by the Company at the Customer's request and expense.

Inspection of the Suspected Goods

- 7. In case the Company suspects that any Goods which are or include any illegal, dangerous, explosive, corrosive or other substance harmful to either people or the property of the Company or of others during the custody of the Company, the Company may at any time request the Customer to open such Goods for inspection. If such a request is denied by the Customer, the Company has the right to break or force to be open and handle the Goods whereby all the costs incurred by the consequences of such a breakage shall be absolutely on the Customer's account.

Ownership of the Goods

- 8. The Customer is obliged to immediately notify the Company in writing of the transfer or passing of ownership of Goods or the transfer or passing of the right to take delivery of the Goods, as the case may be.

Receipt and Release of the Goods

- 9. (a) Upon receiving the Goods in partial or total by the Company, the Company will issue the Goods Receipt Note(s) describing their apparent condition. When the shipping instruction for the Goods to be exported, or the delivery instruction for the Goods to be delivered locally is received from the Customer, a Warehouse Receipt will be issued by the Company based on the Goods Receipt Note(s).
- (b) The description, specification, particulars, contents, and condition of the Goods thereof as stated on the Goods Receipt Note, Warehouse Receipt, Delivery Order, Goods Delivery Note, and/or Proof of Delivery issued by the Company shall be based on the information provided in writing by the Customer to the Company. Issuance of any aforesaid document shall not construe as the Company's confirmation on the correct description, specification, particulars, contents, and condition of the Goods described therein.
- (c) The expression of "said to contain", in relation to the description, specification, and/or particulars of the Goods thereof as stated on any one of such documents issued by the Company, shall mean that such description, specification, and/or particulars of such Goods are as represented and provided by the Customer and thereby the Customer accepts that the Company does not represent or warrant the truth or accuracy of such description, specification and/or particulars of such Goods.
- (d) The Company is entitled to deny the release of any Goods stored with the Company unless it has received the original Warehouse Receipt from the named party on the Warehouse Receipt.
- (e) The Company's obligation and liability shall cease when the Goods are: (i) passed through the loading bay of the warehouse and delivered to the Customer, who shall sign the Goods Delivery Note; or (ii) delivered at the designated location to the Customer, who shall sign the Proof of Delivery, unless there may have any Notice of Claim in accordance with Condition 18 herein.
- (f) If a negotiable Warehouse Receipt is lost or destroyed, delivery of Goods may be made only upon order by a court of competent jurisdiction, and the posting of security approved by the court as provided by law.
- (g) When the Goods are ordered out, a reasonable time shall be given to the Company to carry out instructions, and if the Company is unable to do so because of force majeure or any reason beyond the Company's control, or because of the loss or destruction of Goods for which Company is not liable, or because of any other excuse or justification provided by law, the Company shall not be liable for failure to carry out such instructions, and the Goods remaining in storage will continue to be subject to regular storage charges.

Lien

- 10. (a) The Customer acknowledges and agrees that the Company shall, on its own behalf and as agent for any assignee of its invoices, have a general and particular lien on the Goods and any documentation or records relating thereto that are in the possession or come into the possession of the Company as security for payment of all sums (whether due or not) claimed by the Company from (or actually or prospectively payable to the Company by), the Customer or another Interested Party on any account (relating to the Goods or not), or otherwise claimed in respect of the Goods or other property of an Interested Party.
- (b) Where a lien secures all sums payable to or claimed by the Company, it shall continue to cover those sums notwithstanding any transfer of ownership of the Goods, or change of the Customer. Storage and all other costs, if any, shall be charged for any Goods detained under a lien where the Company is required by any competent authority to retain them.
- (c) The Company may enforce such a lien in any manner which the Company may consider fit. The Company has the right to detain and sell all or any of the Goods by public auction or private treaty at the price determined solely by the Company without notice to the Customer and to apply such part of the proceeds of the sale as is necessary to satisfy the unpaid Company Charges, accounts and sums owing to the Company including all costs of detaining and selling the Goods.

Exemptions from Liability

- 11. The Company shall be exempted from any liability for loss or damage to the Goods or the Customer or any third party because of "force majeure", "any incorrect or incomplete, or ambiguous information in connection with the Goods provided by the Customer to the Company", "negligence or failure of the Customer to arrange proper packing, marking, handling, loading, stowage, or unloading of the Goods" and "latent defects or normal wear and tear of the Goods" in addition to the exemptions, granted to the Company under any other Conditions herein.

Exclusion of liability

- 12. (a) The Company shall in no event be liable to the Customer or any party claiming through the Customer whether in contract, tort (including negligence or breach of statutory duty), or otherwise, for any loss, damages, cost, expenses, injury, death, delay in delivery, non-delivery or misdelivery, deviation in transportation or misdirection of the Goods whatsoever and howsoever caused except as may be caused by a deliberate act, gross negligence or willful default on the part of the Company, its employees or agents.
- (b) In addition to the paragraph (a) of this Condition, the Company shall in no event be liable to the Customer or any party claiming through the Customer whether in contract, tort (including negligence or breach of statutory duty) or otherwise for any loss of damage arising from: (i) the theft or burglary; (ii) the non-compliance or inaccurate compliance with the Customer's instructions or otherwise unless it is proven that such loss or damage caused by the deliberate act, gross negligence or willful default on the part of the Company, its employees or agents whilst the Goods were in the custody and under the full control of the Company; (iii) the errors in particulars of freight charges, duties and expenses notified to the Company by third persons including the errors in any warrants, receipts, delivery orders, confirmations or any other similar documents; (iv) the refusal of the carrier to sign or acknowledge the details of Goods; (v) the Customer's failure to arrange proper packing of the Goods or sufficient protection to the Goods for the handling and carriage; (vi) the following causes in alphabetical order regardless of their origin: adherence or coverings; bending; breakage; chaffing; changes in quality, weight or character; climate effects; contact with other Goods or fuel; dampness; decay; discoloration; distortion; drainage; drying out; dust; errors in or insufficiency or absence of marks, numbers, address or description; evaporation; fermentation; explosion of the Goods whether received with or without disclosure of its hazardous nature; foul-smelling; freezing; heat or tainting; hoek holes; insects; rats and other vermin; leakage; melting; mice; mould; obliteration; powdering; pressing or bursting of packages; rusting; shrinkage; soiling; splitting; staining; sweating; tainting; and wastage; and (vii) any situation which could not have been avoided by the reasonable care taken by the Company.

(c) In no case shall the Company be liable for any lost profit, income or savings, wasted expenditure, liquidated damages payable by or on behalf of the Customer, or indirect or consequential loss.

Limitation of Liability

- 13. (a) Subject to Condition 12 above, the Company's liability to the Customer whether in contract, tort (including negligence or breach of statutory duty), or otherwise, for any and all loss, cost, expenses, claims, damages, injury, or death whatsoever and howsoever caused arising from any breach, failure or default of the Company in performing its obligations or duties to the Customer shall be as follows: Where in performing Warehousing Work and in relation to the warrants, loss or damage sustained is in respect of the consignment, whether in whole or in part, the aggregate amount of total damages recoverable shall be limited to MMK 5,000,000 per event or series of events resulting from one and the same cause or the net value of the consignment at the time the Company took possession of the same, whichever is lesser.
- (b) Notwithstanding anything contained in the above paragraph (a) of this Condition, the Company's liability to the Customer whether in contract, tort (including negligence or breach of statutory duty) or otherwise, for any and all loss, cost, expenses, claims, damages, injury or death arising from any breach, failure or default of the Company in performing its obligations or duties to the Customer hereunder shall in any event not exceed a maximum amount of MMK 5,000,000 for each occurrence or series of occurrences with the same cause.

Customer's Warranties

- 14. The Customer, who enters into any transactions or business with the Company, warrants that: (a) The Customer acknowledges and agrees to provide the Company with all required and/or relevant information within a reasonable time stipulated by the Company enabling the Company to plan and perform the Services in a timely, effective, and efficient manner. If such information is not provided within the agreed and stipulated time, the Company is entitled to any additional charges due to the delay and its consequences;
- (b) The Customer declares and agrees to provide the Company with all relevant information that is required under any applicable law for the purpose of complying with their obligation in relation to the VGM and to indemnify the Company and/or its employees, agents, or subcontractors for any claims, losses, expenses, damages, liabilities, delays or costs arising as the result of any inaccurate, incomplete or incorrect provision of information relating to the VGM no matter whether the Customer has taken reasonable care or not in providing the same to the Company.
- (c) The information provided by the Customer to the Company is true and accurate and shall continue to be true and accurate until such time the Company no longer requires such information for the performance of any Services;
- (d) The Customer shall not deliver to the Company any consignment containing dangerous, germinous, infested, contaminated, or condemned Goods unless he has given to the Company in writing full details of any particular risk relating to the Goods including their possible deterioration or damage or their dangerous or special nature or likelihood to contaminate or otherwise affect other Goods, property, persons and/or the environment and has obtained the written agreement of the Company to the delivery of such consignment at the Customer's own risk. The Customer shall be liable for the loss, damage, contamination, soiling, detention, or demurrage during the term of the provision of Services of property of the Company or any Person or conveyance caused by the Customer or any Person acting on behalf of Customer or for which the Customer is otherwise responsible;
- (e) except where the Company is instructed in writing to pack the Goods, all Goods to be delivered by the Customer to the Company shall have been securely, properly, and sufficiently packed, labeled, and/or prepared with the appropriate Package or Cargo Unit by the Customer. If there is any failure of the Customer to do so, the Company has no liability for any loss of or damage to the Goods, no matter when, or where, or how such loss or damage is caused;
- (f) if the Goods delivered by or on behalf of the Customer are already stored in or on a transport unit such as a container, flat rack, trailer, tilt, railway, wagon, tank, or any other similar unit, the Customer ensures that the transportation unit is in good condition suitable and ready for the intended carriage or storage or handling for the purpose of the Services and the Goods have been properly, safely and competently packed or lashed or loaded in or on transport unit;
- (g) in the absence of a written notice to the contrary given to the Company at the time of delivery of the Goods, all Goods shall be fit and suitable for the carriage, storage, packing, unpacking, and other handling in accordance with, pursuant or related to the Services; and
- (h) the consignee or other designated person for taking delivery of the Goods shall pay all necessary fees, charges, taxes, and duties and shall take delivery of the Goods upon their arrival at the Delivery Address within a stipulated or reasonable time without any delay by complying with the required formalities and procedures.

Company's Rights

15. (a) Changes to Terms and Conditions

The Company reserves the right to delete or amend any of the Terms and Conditions herein and/or append any other terms and conditions as an integral part of these Terms and Conditions, from time to time wherein such changes shall be binding on the Customer.

(b) Engagement of Subcontractors and Agents

- (i) The Company reserves the rights and is authorised by the Customer to engage any subcontractors or agents in the performance of its any Services in relation to the Goods, partly or entirely at any time, and to agree with any fees payable to them by the Company that may be lower than the Fees payable by the Customer to the Company for the same Services.
- (ii) Such subcontractors and/or agents engaged by the Company shall be entitled to enforce the rights and benefits of the Company under these Conditions.

(c) Additional Measures

The Company and its subcontractors or agents shall be entitled at their sole discretion, but not obliged, to take any immediate additional measures including, but not limited to, packing, unpacking, repacking, unstuffing, inspection, shifting, destruction or disposal in relation to the Goods at any time that may make a departure from the instructions of the Customer if they are of the opinion that failing to take any such additional measures may lead to:

- loss and/or damage to the Goods or any other Goods, storage place, equipment, carrier, environment or cause harm or injury to persons; or
- affect the protection of the Customer's interests.

All costs and risks resulting from or in connection with any additional measures taken by them pursuant to this Condition shall be borne solely by the Customer.

- (ii) The Company will keep the Customer notified of any additional measures taken in accordance with this Condition at its earliest opportunity, but the Company's failure to do so shall not grant the Customer any rights to claim against the Company.
- (d) **Compliance with Authorities' Recommendations, Instructions, or Orders**

The Company and its subcontractors or agents shall be entitled to comply with any recommendations, instructions, or orders in relation to the Goods as imposed by any relevant Authorities at any time that may be in conflict with the requirements of the Customer or of a restriction to the Company to continue its Services. In such case, the Company has the right to terminate its Services and the Customer shall bear all costs in addition to the Fees payable to the Company. Notwithstanding the above, the Customer shall deal directly with the Authorities forthwith.

Dangerous Goods

16. Notwithstanding that the Company may have accepted the Dangerous Goods under an arrangement previously agreed between the Company and the Customer in writing, the Customer agrees that the Dangerous Goods may be abandoned, destroyed, or rendered innocuous or otherwise disposed of at any time or place by the Company without notice as well as without compensation to the Customer and without prejudice to the Company's right to Fees and at the Customer's risk and expense on account of the risk to other Goods, property, life, health or environment or such Goods are found to be contraband or prohibited by law at any place during the transportation, without any liability to the Company or any other person in whose custody or control they may be at the relevant time.

Insurance

- 17. (a) The Customer shall maintain a valid insurance cover for all the Goods from the original point of a pick-up to the final point of delivery at the Customer's costs, including without limitation the insurance against any damage to the Goods while in transit or while in any Storage Facility and/or during the provision of any Services performed by the Company for the Customer under this Condition, howsoever caused.
- (b) Insofar as the Company agrees with the Customer to arrange insurance for the Customer's benefit, the Company may act as the agent and on behalf of the Customer to make all arrangements with the insurer.

(c) The Company has the right to make an additional charge arranging such insurance and/or receive any referral fee (if any) from the insurer or underwriter.

Notice of Claim and Time Bar

18. (a) Notice

(i) Unless notice of loss of or damage to the Goods, specifying the general nature of such loss or damage, is given in writing to the Company by the Customer or the person entitled to receive the Goods when they are handed over to him, such handing over prima facie evidence of the delivery of the Goods in good order and condition. Where such loss or damage is not apparent, the same prima facie effect shall apply if notice in writing is not given within three (3) consecutive days after the day when the Goods were handed over to the Customer or the person entitled to receive them. (ii) With respect to all other loss or damage, any claim by the Customer against the Company arising in respect of any service provided for the Customer or which the Company has undertaken to provide shall be made in writing and notified to the Company within seven (7) consecutive days of the date upon which the Customer became or should have become aware of any event or occurrence alleged to give rise to such claim. (iii) Any claim not made and notified as stipulated in the above sub-paragraphs (i) and (ii) shall be waived and absolutely barred and thus the Company shall be discharged from all liability.

(b) Time Bar

(i) The Company shall, unless otherwise expressly agreed between the Customer and the Company in writing, be discharged from all liability under this Condition unless suit is brought within 9 months after the delivery of the Goods or the date when the Goods should have been delivered, or the date when failure to deliver the Goods would give the Customer the right to treat the Goods as lost. (ii) With respect to other loss than loss of or damage to the Goods the 9-month period should be counted from the time when the failure of the Company giving right to the claim occurred.

Severability

19. In any event, if any part of these Conditions or any application thereof is construed or held to be invalid, illegal, or unenforceable under any enactment or rule of law or by order, decree, or judgment of a competent court or tribunal in any competent jurisdiction, such part or any application thereof shall only be severable and it shall not affect the validity, legality, or enforceability of the remaining parts of these Conditions which shall remain in full force and effect.

Law and Jurisdiction

- 20. (a) The agreement or contract, these Terms and Conditions and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with the law of the Republic of the Union of Myanmar.
- (b) The parties hereto irrevocably agree that the courts of the Republic of the Union of Myanmar shall have exclusive jurisdiction to settle or arbitrate any claim that arises out of or in connection with the agreement or contract or its subject matter.
- (c) If there is any arbitration, it shall be conducted at the Myanmar Arbitration Centre of the Republic of the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) in accordance with the provisions of the Arbitration Law of 2016.