

WITHOUT PREJUDICE

(IN CASE OF ANY DISCREPENCY THE SWEDISH VERSION SHALL ALWAYS TAKE PRECEDENCE)

DJUPFRYSNINGSBYRÅNS [THE SWEDISH FROZEN FOOD INSTITUTE'S] LIABILITY PROVISIONS FOR COLD STORE AND FREEZER STORAGE 2010 VERSION

The handling of food and food ingredients is regulated by the provisions in the applicable legislation regarding food and by the Swedish Frozen Food Institute's "Industry guidelines for temperature discipline in the handling of chilled and frozen foods".

Chilled and frozen goods may be the subject to different provisions. These liability provisions therefore, apply only as between the parties.

APPLICABILITY

§ 1

These provisions apply if so stated in the agreements, proofs of receipt, price lists or other documents exchanged between the parties or otherwise are referred to by a party.

PARTIES

§ 2

The parties involved in a storage relationship are normally:

- **The storage provider** – the party which receives goods for storage on behalf of another party.
- **The goods owner** – the party in whose name the goods has been stored, irrespective of who the owner of the goods may be.
- **Delivering party** – the party which, either itself or through an independent carrier, delivers the goods for storage.
- **Carrier** – the party which transports the goods to or from the storage provider.

THE GOODS

§3

General properties

Goods deposited for storage must be in a hygienically satisfactory condition and of such a nature and packaged in such a way that they can be stored alongside other goods without having a detrimental effect on or being affected by them. The storage provider has the right to refuse goods or demand the collection of goods which he does not regard as unobjectionable. The goods owner must always be informed if a fault is discovered on receipt, or as soon as possible after a fault is discovered. The goods owner is liable for any cost or damage suffered by the storage provider as a result of faults in goods deposited for storage.

§4

Labelling

On arrival at the storage facility, the goods must be clearly marked with the data by which the goods owner wants the goods identified in the storage provider's records. The labelling must also ensure traceability in accordance with current legislation. The storage provider must check the labelling when goods is received, and cannot be held liable for subsequent administrative errors caused by incomplete labelling. The storage provider may, on request and on payment of a fee, undertake to label the goods with the date of receipt or freezing.

§5

Packaging

It is incumbent upon the goods owner to ensure that the goods are packaged correctly to facilitate handling and prevent damage. The storage provider has the right, but not the obligation, to carry out repairs to the packaging of the goods at the owner's expense and without first informing the goods owner. In the event of more extensive repairs, the goods owner must, however, be informed before the repairs are carried out.

RECEPTION AND RELEASE

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§6

Authorised goods owner

Unless otherwise specified, the delivering party will be regarded as the goods owner. Where the delivering party, either himself or through the carrier, identifies another party as the goods owner, the storage provider will immediately inform the specified goods owner of this, as well as of the 2010 liability provisions issued by the Swedish Frozen Food Institute. If that party does not accept the role of goods owner, the delivering party will be regarded as the goods owner.

§7.1

Reception

On reception, the storage provider shall check the consignment in accordance with the Industry Guidelines for temperature discipline for chilled and frozen food.

§7.2

Release

Goods will be released only to the goods owner or in accordance with the goods owner's written instructions. If the goods owner has informed the storage provider that the goods have been pledged as security, the storage provider will, however, not release the goods to the goods owner or a party indicated by the goods owner without the lienholder's approval.

§8

Changes to goods owner details

Where goods have been deposited by a delivering party along with details of a different goods owner, the storage provider may, without the consent of the goods owner, change the details if the delivering party requests him to do so, and it is obvious that the details previously provided are incorrect. The change is made at the delivering party's risk, and the delivering party is liable for all costs and damages which the storage provider may incur or be ordered to pay as a result of the change.

§9

Communications

Communications or instructions between the parties must be in writing when sent to the storage provider by the goods owner or delivering party, and sent via data transfer, fax or some other form of communication agreed by the parties.

THE STORAGE PROVIDER'S LIABILITY

§ 10

Period

The storage provider's period of liability starts at the time when the goods has been received for storage by the storage provider's staff, and lasts until the goods are handed over on collection, but not longer than the period of the storage agreement.

§ 11

Counting/weighing

On receipt, the storage provider checks the number of units that make up the goods, expressed in the units the goods owner wishes to be reported (carton, box, animal carcass, pallet etc.). The number of units must be specified on the consignment note or delivery note.

The weight of the goods must be specified on the goods received note, using the figures entered on the delivery note or consignment note or the information on the packaging. The storage provider is not responsible for the accuracy of the weights stated. Weight checks may be carried out as a separate service at the goods owner's request. The weight check determines only the gross weight of the goods.

§ 12

Scope

The storage provider is responsible for ensuring that goods are stored at the agreed temperature and atmospheric humidity, and that goods received are treated and handled in a professional manner and in accordance with the

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instructions provided, as well as the current Industry Guidelines for temperature discipline during storage of chilled or frozen food.

The storage provider shall ensure that, on receipt and release, the goods are not exposed to any unpermitted rise in temperature or other damaging influence. If damage or loss arises due to discrepancies in the specified conditions which can be demonstrated are due to negligence on the part of the storage provider, the goods owner is entitled to compensation equivalent to the loss which the goods owner can demonstrate that he has suffered, up to a maximum of the value of the goods calculated as specified in § 13.

§ 13

Calculating the value of goods and compensation levels

When calculating compensation for loss or damage, the goods value will be estimated on the basis of the purchase value/production value plus accrued storage and transport costs. The storage provider's liability is, however, limited to SEK 400 per gross kilogram of damaged or lost goods.

§ 14

Limitation of storage provider liability

The storage provider is not liable to pay compensation for damage or loss in excess of that which has been specified above, and cannot, therefore, be ordered to pay any compensation for delays or consequential loss, such as lost profit, goodwill, excise duties and taxes or other consequential loss, nor for losses relating to product liability in respect of the goods. It is incumbent upon the goods owner to indemnify the storage provider should a third party demand compensation as a result of product liability, as mentioned above.

§ 15

The goods owner's liability

The goods owner shall indemnify the storage provider for any damage, loss or other injury suffered by the goods owner and caused by the storage provider as a result of:

- information relating to the goods being incorrect, unclear or incomplete,
- the goods being insufficiently packaged or labelled,
- the goods having harmful properties which the storage provider could not have anticipated.

LIEN ON STORED GOODS

§ 16

Lien

The storage provider holds lien on stored goods as security for claims arising from the services provided by the storage provider. This does not only include storage, but also other services such as handling, transport, preparation of accounts, freezing etc. Lien on stored stock also acts as security for fees charged for services relating to goods already released by the storage provider, as well as fees owed by previous goods owners if the stored goods has been transferred to a new goods owner. In the latter case, lien only acts as security for fees relating to the actual goods.

§ 17

Sale of goods

If payment is not received in accordance with the terms of payment stated, the storage owner has the right, no earlier than eight days after notification thereof has been sent to the goods owner and, where applicable, to lienholders in accordance with § 7, to sell the goods in whatever way he sees fit and to deduct payment from the price received.

CARE AND INFORMATION OBLIGATION

§ 18

If the goods have been stored at the wrong temperature or have been damaged or lost in any other way, the storage provider is obliged to inform the goods owner of this without delay. Until the goods owner himself has taken charge of the goods, the storage provider is obliged, to the best of his abilities, to take action on site to limit the damage.

CLAIMS AND LIMITATION OF ACTIONS

§ 19

Claims for damages must be made in writing and without unreasonable delay, and must include details of when the complaint was made, the nature and scope of the damage or failure, as well as an estimate of the compensation

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payable. Claims relating to damage or failure must be made by informing the storage provider immediately after the goods owner or the party acting on behalf of the goods owner has received the goods previously stored. If the goods owner fails to inform the storage provider of any damage or failure which has been noted or should have been noted on receipt of the goods, he will not have the right to take action against the storage provider for the purpose of claiming compensation, unless the storage provider has acted fraudulently or has been guilty of gross negligence.

If the goods owner has not brought an action for compensation in accordance with § 22 within a year after receiving the goods, he will lose his right to bring such action. Once the right to bring an action has been lost, no claim may be made by way of set-off either.

FORCE MAJEURE AND INSURANCE

§ 20

The parties shall be freed from their obligations under these provisions or in connection with any agreements signed on the basis of these provisions if the following circumstances arise after the signing of the agreement and if these circumstances prevent or render difficult the fulfilment thereof. Industrial disputes and every other circumstance over which the parties have no control, including fire, war, mobilisation or unexpected military call-up, requisition, seizure, currency restrictions, restrictions on energy supplies or other limitations relating to power, as well as interruptions affecting subcontractors which stem from the circumstances listed in this section.

The storage provider must take out a specific "Refrigeration and liability insurance" which covers the storage provider's liability under these provisions. It is incumbent upon the goods owner to purchase other goods insurance, e.g. fire insurance, burglary insurance.

VALIDITY OF THE STORAGE AGREEMENT

§ 21

Unless otherwise expressly agreed, the storage agreement for goods received applies until further notice. The storage provider is entitled to terminate the agreement with 30 days' notice after written notification of this has been delivered to the goods owner. Notwithstanding this, the storage provider has the right to terminate the agreement with immediate effect if the goods owner fails to fulfil his obligations under these provisions or an agreement signed on the basis of these provisions, or if the goods owner is declared bankrupt or suspends payment. The termination may be partial or cover all goods stored in the goods owner's name. If the goods are not collected after the end of the storage agreement period, the storage provider has the right, no earlier than 8 days after notification of this has been sent to the goods owner or, where appropriate, to another lienholder, to sell the goods in accordance with §16 above. The storage provider may, as the circumstances dictate and without notification, sell on behalf of the goods owner, render harmless or destroy any goods vulnerable to spoiling or a substantial reduction in value, or which pose an immediate hazard.

DISPUTES

§ 22

Disputes between the storage provider and the goods owner may not, with the exceptions specified below, be referred to a court of law. They are to be settled through arbitration under Swedish law in accordance with the rules of the Arbitration Institute of the Stockholm Chamber of Commerce. The Rules for Expedited Arbitration shall apply, unless the Institute, taking account of the complexity of the case, the value under dispute and other circumstances, decides that the Institute's Arbitration Rules shall apply to the proceedings. In the last-mentioned case, the Institute shall also determine whether the arbitral tribunal shall consist of two or three arbitrators.

Taking legal action for the collection of uncontested claims does not imply waiving the right to arbitration proceedings on matters of disputed counterclaims, which, consequently, may not be asserted through counterclaims or set-off other than as part of arbitration proceedings.

Disputes in respect of amounts which do not exceed SEK 300,000, or which concern relationships with goods owners who have entered into the agreement primarily on their own account, may not be referred to an arbitral tribunal unless the parties decide otherwise.

OTHER PROVISIONS

§ 23

Over and above these general provisions, any provisions issued by the storage provider regarding fees and terms of payment apply, as do any local general regulations which may be posted at the various work places.