

Malca-Amit® - Storage Terms and Conditions

1. **“MA-Contract”** refers to the agreement entered into between Customer and Malca-Amit with respect to the Services, which comprises of the particulars and terms set out in the Storage Agreement and Non-Negotiable Receipt and these terms and conditions (**“T&Cs”**). **“Storage Agreement and Non-Negotiable Receipt”** refers to the storage instructions given by Customer to Malca-Amit for each storage request on a pre-printed Malca-Amit form and accepted by Malca-Amit. The MA-Contract shall constitute the entire agreement between the parties with respect to the Services and supersedes all prior offers (whether written or oral), agreements and arrangements between the parties with respect to the provision of the Services in connection with the Property, and any terms and conditions included in any documents issued by Customer shall not apply. Any modification of the MA-Contract cannot be made orally and must be agreed in writing. Definitions used in the Storage Agreement and Non-Negotiable Receipt shall have the same meaning in these T&Cs.
2. **“Malca-Amit”** refers to the entity specified as in the Storage Agreement and Non-Negotiable Receipt. **“Parcel”** means any distinctively and securely sealed parcel, container or box, said to contain the property described in the Storage Agreement and Non-Negotiable Receipt (**“Property”**), tendered for Services under the MA-Contract. **“Excluded Property”** refers to: (i) fine art (including antiques of every description, clocks, decorative items, photographs, paintings, pictures, etchings, drawings, lithographs, rare books and manuscripts, rare stamps, collectible autographs, collectible coins, medals, fabrics, rugs, tapestries, sculpture, ceramics, pottery, statuary, bronzes, porcelains, marble, glassware, bric-a-brac, antique furniture, video artwork and all other works of art or rarity, historic value or artistic merit of whatsoever nature); (ii) banknotes, bonds, bearer bonds, non-negotiable securities documents; and (iii) perishable goods of any and all kinds.
3. **“Services”** refers to accepting and keeping safe Parcels at a storage facility operated by Malca-Amit.
4. The **“Period of Responsibility”** commences when Malca-Amit takes physical possession of the Parcel(s) for Services at the storage facility and a written or electronic receipt acknowledging receipt of the Parcel(s) has been issued by Malca-Amit. The Period of Responsibility will terminate upon Release to the physical possession of the Receiving Party (as defined below).
5. **“Release”** of a Parcel shall be evidenced by a signed written or electronic receipt being given by Customer or their authorised designee (collectively referred to as **“Receiving Party”**). If at the time of Release, the Receiving Party does not make a notation on the receipt of loss, damage or tampering to the Parcel(s), then lack of such notation shall be **conclusive proof** that the Parcel(s) were released intact, with seals intact, in good order and condition, and without shortage, damage or loss.
6. **“Liability”**: Malca-Amit shall be liable for physical loss, destruction, or erroneous release of or damage to the Property (**“Loss”**), occurring during the Period of Responsibility, subject to (i) the Liability Option selected by Customer in the Storage Agreement and Non-Negotiable Receipt and (ii) the exclusions and limitations stated in the MA-Contract. The Liability Options are:
 - a. **Limited Liability Option**: Malca-Amit shall only be liable for Loss resulting from the **Gross Negligence or wilful misconduct** of Malca-Amit occurring during the Period of Responsibility. **“Gross Negligence”** under this MA-Contract shall not refer to minor negligence but instead to a standard requiring a party to act in a manner more fundamental than mere failure to exercise proper skill and/or care, and hence shall require conduct undertaken with actual appreciation of the risks involved and a reckless disregard of or indifference to an obvious risk. By selecting the Limited Liability Option, Customer undertakes to procure and maintain insurance covering physical loss or damage to the Property and agrees, upon request, to provide Malca-Amit with an evidence of insurance demonstrating its compliance with this undertaking.
 - b. **Full Liability Option**: Malca-Amit shall be liable for Loss resulting **from any cause whatsoever**, during the Period of Responsibility. All Services in India, Thailand, and Belgium shall be carried out pursuant to the Full Liability Option, which is the only available Liability Option.

Save as set out in this clause 6, Malca-Amit shall not be liable for any Loss, howsoever arising. Having regard to: (i) the nature of the Services; (ii) Customer’s ability to procure its own suitable insurance to cover the Property; and (iii) Customer’s ability to select a suitable Liability Option to complement to its own insurance coverage and/or risk appetite, the parties have agreed that the risks respectively borne by them in relation to Loss are reasonable.
7. **Exclusions from Liability**: Irrespective of the Liability Option selected, Malca-Amit shall **not be liable under any circumstances whatsoever** for any of the following:
 - a. force majeure (meaning any circumstance not within Malca-Amit’s reasonable control, including but not limited to compliance with any law, order, rule or regulation of any government or public authority, national emergency, riots, civil commotion, imposition of sanctions, piracy, explosion, epidemic, pandemic, lock-outs, strikes and other industrial disputes); or
 - b. loss of profit, loss of sales, loss of business, loss of goodwill or reputation, product recall, product liability, third party claims (in each case whether direct or indirect) or for any indirect, exemplary, special, incidental, punitive or speculative or consequential loss of any nature, whether or not foreseeable and whether or not Malca-Amit has been advised of the possibility of such damages; or
 - c. Loss caused by or resulting from: (i) shortage or mysterious disappearance of Property said to be included in a Parcel, with seals intact and when the Parcel bears no evidence of having been opened or tampered with; (ii) damage to Property said to be included in a Parcel, when the Parcel bears no visible signs of damage or tampering; (iii) Malca-Amit acting in accordance with Customer’s instructions; (iv) negligence, wilful misconduct, breach or failure of Customer, its employees and/or agents to comply with or fulfil any obligations, undertakings and/or warranties under the MA-Contract; (v) fraud on the part of Customer and/or Receiving Party or any of their employees and/or agents, including but not limited to credit card fraud and cheque fraud; (vi) ordinary leakage, ordinary loss in weight or volume, shrinkage, or ordinary wear and tear; (vii) pre-existing condition, inherent vice, defect or nature of the Property; (viii) incorrect or insufficient description or valuation of the Property; or (ix) illegal items or contraband; or

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- d. Loss caused by or resulting from: (i) ionising radiation from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; or (ii) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof; or (iii) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter; or (iv) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter (the exclusion in this sub-clause (iv) does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes); or (v) any chemical, biological, bio-chemical or electromagnetic weapon; or
- e. Loss caused by or resulting from a **Cyber Attack**, meaning use or operation, as a means of inflicting harm, of any computer, computer system, computer software program, malicious code, computer virus or process or any other electronic system; or
- f. Loss caused by or resulting from: (i) **War**, meaning war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, derelict mines, torpedoes, bombs or other derelict weapons of war; or (ii) **Terrorism**, meaning any act of terrorism being an act of any person acting on behalf of, or in connection with, any organisation which carries out activities directed towards the overthrowing or influencing, by force or violence, of any government whether or not legally constituted, or any person acting from a political, ideological or religious motive; or (iii) **Confiscation**, meaning nationalisation, confiscation, seizure, appropriation, expropriation, requisition for title of use or wilful destruction of the Property, or portion thereof by, or under the order of, any government (whether civil, military or de facto) and/or public authority; or
- g. Loss to items that are not defined as Property (including any packing materials and documents). Notwithstanding the foregoing, watch boxes that accompany watches and certificates that accompany diamonds are deemed to form part of the Property.
- 8. Provided the Parcel(s) are subject to the Full Liability Option**, Malca-Amit agrees to extend its liability for (a) shortage, damage or disappearance of Property directly caused by or resulting from the Parcel being opened and Property inspected by or on the instruction of customs authorities, diamond office or other authority, or by Malca-Amit in order to comply with relevant laws and regulations; and (b) Loss of Property directly caused by Cyber Attack targeted at Malca-Amit where the motive is to inflict harm solely on (or upon) Malca-Amit or property in Malca-Amit's possession.
- 9. Limitations of Liability:** To the extent Malca-Amit is liable for Loss pursuant to the terms of the MA-Contract, Malca-Amit's maximum liability shall not in any event exceed the lesser of (a) the actual Loss sustained to the Property; and (b) the declared value for the Property stated in the Storage Agreement and Non-Negotiable Receipt ("**Declared Value**").
- 10. No or Inaccurate Declared Value:** In accordance with clause 13(b), Customer undertakes to correctly declare the value of the Property said to be included in a Parcel. Customer therefore expressly agrees to be estopped and/or barred from asserting for any purpose whatsoever, including in any legal proceedings, that the value of the Property is greater than the Declared Value. In the event Customer has failed to declare or mis-declared the value of the Property said to be included in a Parcel (including without fault of Customer), Malca-Amit's liability for the affected Property shall never exceed the lesser of (a) the actual Loss sustained; (b) the Declared Value; (c) USD 10,000 (ten thousand) if no Declared Value has been provided; and (d) the average Declared Value per Parcel calculated by dividing the "Total Declared Value Stored" stated in the Storage Agreement and Non-Negotiable Receipt with the total number of Parcel(s) in the event no separate Declared Value was declared for each Parcel. Customer waives any claim it may have that the value of the Property is greater than the Declared Value and Customer shall hold harmless and promptly indemnify Malca-Amit for any and all liabilities and costs incurred as a result of the incorrect or lack of Declared Value, including but not limited to any administrative, litigation, legal or investigatory costs.
- 11. Acknowledgments:** Customer acknowledges that: (a) Malca-Amit may freely, and at its sole discretion, move the Property within the storage facility and transfer the Property to any other storage facility controlled by Malca-Amit without notice to Customer; (b) every employee or agent performing Services is entitled to benefit from the terms and conditions of the MA-Contract, including every limitation and defence to which Malca-Amit is entitled to; (c) Malca-Amit shall be under no obligation whatsoever to ascertain or check the contents of any Parcel; (d) any bag, box, container or other receptacle provided by Malca-Amit is for storage only and is not designed to protect the Property included in a Parcel, which is understood to be adequately provided by Customer's own packaging; (e) the Parcels may be the subject of controls and checks, including security controls, by any governmental authority or other agency with legal jurisdiction over the relevant matter, which may involve such governmental authority or other agency opening and inspecting the Parcels or otherwise requesting Malca-Amit to open and inspect the Parcels in accordance with applicable regulations, to which Malca-Amit will submit; (f) Malca-Amit is required to maintain copies of documents issued in relation to the MA-Contract in accordance with applicable laws; (g) civil and criminal penalties, including forfeiture and sale, may be imposed for making false or fraudulent statements relating to the Property or any person who has or may have an interest in the Property or for the violation of certain applicable laws; (h) Malca-Amit is granted a general lien on the Parcel(s) for all sums due at any time from Customer to Malca-Amit, and Malca-Amit shall be entitled to retain possession of the Parcel(s) and suspend Services without incurring any liability until all sums owing to Malca-Amit have been paid; (i) Customer retains ultimate responsibility and liability for all taxes, duties, charges and other expenses, as well as any penalties, relating to the Property (collectively referred to as "**Duties**") and agrees that in the event Malca-Amit pays any Duties, Customer shall promptly reimburse, indemnify and hold Malca-Amit harmless from all Duties and incurred liabilities together with reasonable expenses (including administration, attorney and legal fees) and interest (if applicable); (j) the Declared Value of the Property has an effect on (1) the service fees charged by Malca-Amit for its Services and (2) the security measures Malca-Amit adopts in performance of its obligations under the MA-Contract; (k) Malca-Amit may, without notice to Customer, provide any governmental authority or other agency having jurisdiction over the matter with any information about the Property, the Services, Customer or any

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owner or person having or claiming to have an interest in the Property, should such disclosure become necessary for Malca-Amit to comply with any requirements imposed by such authority, including but not limited to sanctions, anti-money laundering and counter-terrorism financing legislation, subpoenas, summons, commands and other similar orders; and (l) Malca-Amit assumes no obligations of any kind other than expressly set forth in the MA-Contract, and if a court or other body having jurisdiction determines that a bailment relationship exists between the parties, then such bailment relationship shall be governed in accordance with the MA-Contract.

- 12. Warranties and Representations:** Customer warrants and represents that: (a) Customer is either the owner or the authorised agent of the owner of the Property; (b) Customer is authorised to accept the MA-Contract not only for itself, but also as agent for and on behalf of all other persons or entities who are or become interested in the Property, and to bind each of said interested persons or entities to the MA-Contract; (c) the Property does not constitute Excluded Property, illegal items or contraband and their storage and handling is not prohibited by any applicable laws (including federal, state, provincial, municipal and local) or treaties, nor is the Property dangerous, corrosive or otherwise capable of causing damage of any type; (d) none of the activities or operations requested by Customer under the MA-Contract are in any way linked to money laundering or terrorist activities and in the event Customer is not the sole owner of the Property, Customer is in compliance with applicable anti-money laundering and counter-terrorism financing legislation and has performed adequate due diligence on the owner(s) of the Property and any persons or entities who are or become interested in the Property; and (e) neither the receipt, nor the handling, nor the Release of the Property exposes Malca-Amit, its employees, or agents to any sanction, prohibition or penalty (or risk thereof) imposed by any governmental organisation or relevant authority and if it appears, in the reasonable judgment of Malca-Amit, that there may have been a breach of this warranty then (1) Malca-Amit may, when obliged to do so, report and/or surrender the Property to a governmental agency or authority, which action shall be deemed to constitute due performance by Malca-Amit of all of its obligations in respect of that Property; and (2) Malca-Amit may, at its sole discretion, elect to terminate the MA-Contract, with immediate effect and without incurring any liability to Customer.
- 13. Undertakings:** Customer undertakes to: (a) accurately and honestly describe the Property and never conceal or misrepresent any fact concerning the Property; (b) declare the full actual value of the Property as the Declared Value; (c) maintain a complete written record of all Property included in any Parcel; (d) properly pack the Property in accordance with the custom of the trade so as not to be susceptible to damage, tampering or other interference during the performance of the Services; (e) distinctively and securely seal each Parcel; and (f) provide whatever further information may reasonably be required by Malca-Amit at any such time with respect to the Property.
- 14. Indemnification:** Customer shall hold harmless and promptly indemnify Malca-Amit against any and all damages, losses, expenses (including attorney fees), penalties, fines, liabilities and/or claims howsoever assumed, incurred or suffered by Malca-Amit (a) as a result of or in connection with a breach of any terms of the MA-Contract by Customer, including the aforementioned representations, warranties and undertakings, (b) with respect to any third party claims made against Malca-Amit in connection with the Services provided by Malca-Amit or (c) to the extent they exceed the liabilities expressly assumed by Malca-Amit in the MA-Contract.
- 15. Insurance:** Malca-Amit is neither an insurer nor an insurance intermediary nor an insurance broker and does not provide insurance cover for the Property. At all times during the performance of the MA-Contract, Malca-Amit agrees to maintain insurance in such amounts and against such risks as shall adequately cover (a) Malca-Amit's liability for Loss under the MA-Contract; and (b) any legal liability.
- 16. Claims:** Customer agrees to inspect the Goods as soon as possible after Release and notify Malca-Amit immediately upon discovering any Loss. Any claim for Loss must be submitted by Customer in writing no later than 14 (fourteen) days after Release ("**Claim Period**") and all claims received by Malca-Amit after the Claim Period shall be deemed waived by Customer. Customer agrees that any claim against Malca-Amit for Loss shall expire and be forever barred unless Customer has (a) submitted a claim within the Claim Period, and (b) commenced legal proceedings in relation to its claim within six (6) months of Release. For all other claims not relating to Loss and arising out of this MA-Contract, Malca-Amit shall be discharged from all liability whatsoever and howsoever arising, unless Customer has brought legal proceedings against Malca-Amit within twelve (12) months of the date that the alleged event or occurrence giving rise to such claim was discovered. Nothing in this clause is intended to or shall limit any time bar, which may not be limited in accordance with applicable laws. In the event of settlement of any claim for Loss, all of Customer's rights of recovery with respect to such Loss shall be subrogated to Malca-Amit or its insurers. Customer undertakes to execute and deliver all documents required by Malca-Amit or its insurers, and to cooperate and assist them fully in connection with exercising their rights, including maintaining any legal proceedings in Customer's name. Customer further undertakes that neither it nor its agents shall do anything to prejudice these rights.
- 17. Data Protection:** The parties agree that the protection of personal data is very important. If Customer discloses personal data to Malca-Amit, Malca-Amit shall comply with applicable data protection laws and regulations, including but not limited to the General Data Protection Regulation (EU) 2016/679. As an integral part of providing Services under the MA-Contract, Malca-Amit, acting as a data controller, collects, uses, discloses, transfers and otherwise processes personal data about Customer. Unless otherwise specifically agreed in writing, Malca-Amit shall only process personal data for the purposes of and to the extent necessary for providing the Services under the MA-Contract. Customer can read more about for what purposes and how its personal data is collected and processed in Malca-Amit's privacy policy ("**Privacy Policy**"), which is available at <https://www.malca-amit.com/legal/privacy-policy>. The Privacy Policy does not form part of the MA-Contract and may be amended at any time. For the avoidance of doubt, when Malca-Amit collects an individual's personal data from Customer under any separate forms, such personal data shall be processed exclusively in line with the separate information provided therein. Confidentiality obligations shall apply to personal data. Malca-Amit shall (a) limit access to personal data to those employees and other persons who need access for the provision of the Services, and (b) ensure that all employees and other persons authorised to process the personal data have committed themselves to confidentiality. Malca-Amit undertakes to

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implement appropriate technical and organisational measures to prevent that personal data is accidentally or unlawfully destroyed, lost or altered, disclosed or made available without authorisation, or otherwise processed in violation of the applicable data protection laws. Customer warrants that it has provided the necessary notifications (including this clause 17 and the Privacy Policy) to and obtained the necessary consents from any individuals whose personal data is provided to Malca-Amit, in accordance with applicable data protection and privacy laws, such that Malca-Amit is not in breach of relevant laws in using such information as described in this clause 17 and the Privacy Policy.

- 18. Governing Law and Dispute Resolution:** This MA-Contract and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) are to be exclusively governed by and construed in accordance with the laws of the place of incorporation of Malca-Amit. The parties irrevocably agree that the courts of the country of incorporation of Malca-Amit (in the case of the United States, federal courts) shall have exclusive jurisdiction to determine any dispute or claim that arises out of or in connection with this MA-Contract or its subject matter or formation (including non-contractual disputes or claims). For the avoidance of doubt, any and all disputes, suits, actions, and claims related to or arising out of this MA-Contract shall be resolved exclusively pursuant to this clause 18 and shall NOT be filed to any other arbitration / mediation / court / institute.
- 19. Service fees and payment:** Invoices in respect of service fees must be paid by Customer within 30 (thirty) days of the invoice date, in full without any set-off or withholding and without any deduction in respect of bank charges. Overdue sums will attract interest, calculated daily, at the lesser of: (a) a rate of 10% per year; and (b) the highest rate permissible under applicable law. All service fees and payments are exclusive of value added tax, goods and services tax and any other tax, duty or fee imposed from time to time by any government or other authority and are subject to the addition of value added tax, goods and services tax and such other tax, duty, fee or charges at the appropriate rate. Malca-Amit may modify storage or other service fees upon giving 30 (thirty) days' notice to Customer.
- 20. Termination:** Without affecting any other right or remedy available to it, Malca-Amit may on two (2) months written notice to Customer terminate this MA-Contract and require Customer to pay all service fees and charges, and collect their Property no later than the date of termination. In the event Customer fails to collect the Property by the date of termination, Customer acknowledges and agrees that Malca-Amit shall not be liable for any Loss to the Property after such date, meaning the Period of Responsibility in respect of such Property shall be deemed to have ended and the Property is stored at Customer's sole risk and expense.
- 21. Miscellaneous:** If any provision contained or referred to herein is declared by a court or other body having jurisdiction to be contrary to applicable law or otherwise invalid or unenforceable, the validity and enforceability of the remaining provisions contained or referred to herein shall not be affected thereby and shall remain in full force and effect. The word "including" shall be read as "including, but not limited to." The word "or" shall be read as "and/or." References to "whatsoever" shall be read as "whatsoever, including negligence". These T&Cs have originally been drafted in the English language. In the event the T&Cs are provided in a language other than English, the English language version of the T&Cs shall prevail in the event of any conflict of terms. This MA-Contract may not be assigned by Customer and Customer acknowledges and agrees that the Storage Agreement and Non-Negotiable Receipt issued pursuant to this MA-Contract is non-negotiable. Malca-Amit's failure to require strict compliance with any provision of this MA-Contract shall not constitute a waiver or estoppel to later demand strict compliance with that or any other provision(s) of this MA-Contract.