



**TANKCON**  
International Tank Container Supplier

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The Netherlands

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## TERMS AND CONDITIONS TANKCON B.V. – LOGISTICS

### 1. DEFINITIONS

In these terms and conditions:

- a. "Tankcon" means Tankcon B.V., a private company with the limited liability registered and located in the Netherlands. Registered with the Chamber of Commerce under number 63617781;
- b. "the Customer" means the party contracting with Tankcon, or wishing to do so;
- c. "Agreement" means the specific agreement between Tankcon and the Customer concerning logistic services and/or other related services (to be) provided by or on behalf of Tankcon, with any and all annexes and/or amendments and/or additions thereto;
- d. "Logistics Terms" means the present terms and conditions regarding logistic services.

### 2. APPLICABILITY

- 2.1. These Logistics Terms apply to each and every Agreement between Tankcon and the Customer, and to all further agreements resulting there from or connected therewith, and to all quotations, offers, letters of intent, orders, confirmations and other documents and acts made and/or done in preparation of and/or prior to and/or in connection with an Agreement, unless expressly agreed otherwise in writing.
- 2.2. No terms and conditions of whatever kind and of whatever name of the Customer and/or referred to by the Customer are applicable and any such terms and conditions are hereby explicitly rejected by Tankcon.
- 2.3. These Logistics Terms form an integral part of each Agreement. In case of conflict between these Logistics Terms and the provisions of the Agreement, the provisions in the Agreement will prevail.

### 3. OFFERS AND ACCEPTANCE

- 3.1. All quotations and offers from Tankcon, including any brochures, pricelists and/or any other documents presented by Tankcon in preparation of and/or prior to the conclusion of an Agreement, are without engagement.
- 3.2. An Agreement will only be concluded when and as from the date the Customer accepts an offer from Tankcon, when Tankcon accepts - by written confirmation - an assignment of the Customer or when Tankcon actually starts to execute the Agreement. Verbal undertakings or agreements by or with the staff, agents or representatives of Tankcon will only bind Tankcon after and insofar as Tankcon has confirmed the Agreement in writing.
- 3.3. Tankcon reserves the right to refrain from accepting assignments for reasons of her own.
- 3.4. No amendment and/or addition to the Agreement or to these Logistics Terms will be valid, unless agreed in writing by Tankcon.
- 3.5. Tankcon is entitled to hire subcontractors without the consent and/or knowledge of the Customer. In case of subcontracting, these Logistics Terms remain in full force and effect.

### 4. PRICES

- 4.1. The price for the services shall be as stated in the relevant offer or Agreement
- 4.2. Unless explicitly otherwise agreed in writing, all prices are in Euros and shall be exclusive of all applicable taxes. The prices are based on the rates, wages, prices etc. which apply on the date of the offer or of the conclusion of the Agreement, as the occasion may be, or of the actual performances, as the occasion may be. In the event of changes in one or more of these factors the prices shall automatically change accordingly and shall also be binding with regard to agreements which are still running, on the understanding that - if the prices change within three months after the conclusion of the Agreement - the Customer shall be entitled to dissolve the Agreement. All this unless express agreement to the contrary is made between parties. In the event of dissolution the Customer shall be obliged to pay for what has already been performed.
- 4.3. The prices shall only include the costs of transport from place(s) of loading to place(s) of unloading, unless agreement to the contrary is made.
- 4.4. In any event the prices shall not include:
  - costs for customs clearance (inwards and outwards);
  - levies;
  - import duties;
  - commission on advances;

- ferry costs;
- costs connected with drawing up customs' or other documents;
- diesel oil surcharges;
- currency surcharges;
- surcharges for extra loading and unloading addresses;
- insurances.

If these costs are incurred separately they shall be charged to the Customer. If and insofar as such charges, fines and/or penalties have been charged to and/or paid by Tankcon, the Customer will reimburse Tankcon in full therefor.

4.5 The prices are calculated on the basis of places which can be reached or driven on well. If, during the execution of the services, it turns out that the accessibility is not good, then Tankcon shall be entitled to increase the prices by all extra costs which have arisen as a result thereof.

4.6 Invoices shall be deemed to have been accepted and approved by the Customer if a written objection has not reached Tankcon within 8 (eight) days after the invoice date.

### 5. PAYMENT

- 5.1. Payment must be made by the Customer effectively in the currency indicated on the invoice and within the payment period set out in the invoice or, if no payment date is mentioned, within 30 (thirty) days from the invoice date.
- 5.2. Payment must be made without any deduction or setting off or withholding of any nature into a bank account designated by Tankcon.
- 5.3. In the event that the Customer has not made payment ultimately on the due date, the Customer will be in default, without any notice of default being required, all claims and invoices of Tankcon will become immediately due and payable and the Customer will be obliged to pay Tankcon a default interest of 1,5% per month on the amounts due as from the respective due date until the day of full payment.
- 5.4. When the Customer is in default of its payment obligations, all costs and expenses (including full legal expenses, both in and out of court) incurred by Tankcon in respect of the collection of the amount due, are for the account of the Customer and are regarded to be at least 15% of the amount due with the minimum of Euro 250,-.
- 5.5. Tankcon is at all times entitled to request the Customer to pay (wholly or partially) in advance or to supply adequate security for its present and future payment obligations to Tankcon. If the Customer, upon request of Tankcon, fails to pay in advance or to supply such adequate security, Tankcon will be entitled to wholly or partially terminate or suspend the Agreement with immediate effect.

### 6. TRANSPORT

- 6.1. Tankcon shall provide the transport to or per request of the Customer as specified in the Agreement.
- 6.2. Loading and unloading work shall not be included in the transport, unless agreed on otherwise in writing. Tankcon will not be liable for any loading and/or unloading. The Customer will indemnify Tankcon against claims of third parties, under whatever name and/or regardless of the manner in which they have arisen.
- 6.3. If parties have agreed that the loading and unloading work is included in the transport, the liability of Tankcon with regard to this work shall be equal to her transporter's liability on the basis of the General Transport Conditions 2002.
- 6.4. Tankcon shall not be liable for damages which have arisen as a result of the manner of loading, when the Customer offers container(s) with contents to be transported and these container(s) have not been loaded by Tankcon.
- 6.5. If the Customer offers goods to be transported which have been palletized and/or packed in such a manner that a check of the number of pieces and/or the contents is not possible, Tankcon shall not be bound by the number of pieces and/or the contents thereof as have been stated by the principal and/or as have been stated in the bill of lading.
- 6.6. If Tankcon is not able to check upon loading and/or the transport will be delayed considerably as a result of a check - all this according to the assessment - Tankcon shall not be bound by the number of pieces and/or the condition of the cargo and/or contents, as stated by the Customer and/or as have been stated on the bill of lading.
- 6.7. The Customer shall at all times load no more than the statutory permitted maximum payload of the vehicle concerned, or have this loaded. The Customer shall indemnify Tankcon in respect of the consequences and/or damages which have arisen as a result of overloading, if this fact has been caused by or due to the manner of action of the Customer.



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## 7. PERMITS

7.1. The provisions in this article shall be applicable to all transports for which special permission or exemption from one or more government bodies is required, besides the provisions mentioned elsewhere in these Logistics Terms.

7.2. The Customer is responsible for arranging the permits and other documents required for the transport, including but not limited to custom papers.

7.3. Upon the request of the Customer, permits or exemptions which are necessary in order to carry out special transport shall be applied for by Tankcon. Costs connected with such an application or permit, or exemption, shall be for the account of the Customer.

7.4. Tankcon shall not be liable in any manner whatsoever for the fact that a permit is not issued or is not issued timeously or in an accurate manner, except in the case of purposeful action or a crass fault of Tankcon.

7.5. The transport will not be carried out by Tankcon if a permit or an exemption which is necessary for a transport is not issued. In that case the Customer shall compensate Tankcon with costs that already have incurred or will incur.

7.6. Tankcon shall comply with the statutory rules and regulations and with instructions which have been given by government bodies or government officers. Extra costs which arise as a result of this shall be for the account of the Customer.

## 8. CUSTOMS

8.1. Tankcon shall carry out formalities for the completion of customs' formalities for the account and risk of the Customer. Tankcon shall not be liable for any costs and damages resulting from an incorrect completion of customs' formalities, except when the Customer can prove that the costs and damages are a result of a crass fault on the part of Tankcon.

8.2. The Customer shall indemnify Tankcon at all times against claims made by or on behalf of the government with regard to customs' dues, taxes, duties etc. on goods with regard to which Tankcon have completed the customs' formalities under instructions from the Customer, unless the Customer proves that there is a crass fault on the part of Tankcon.

8.3. The FENEX conditions shall always be applicable.

## 9. INSURANCE

9.2. The Customer shall take out and maintain during the existence of the Agreement a construction all risks insurance or an equivalent insurance, adequately covering at least physical loss, property damage and personal injury caused during by or under the responsibility of (personnel of) the Customer and/or subcontractors of the Customer.

9.3. The Customer is responsible to insure all the items stored within the container. Tankcon accepts no liability for the loss or damage to goods stored within any container.

9.4. The insurance policy, taken out in accordance with clause 9.1.2 hereof, shall be effective at least from the start of the Agreement and shall expire not earlier than completion thereof.

9.5. The Customer shall, upon request, Tankcon a copy of the insurance policy and/or other sufficient proof of the existence of insurance (policy) in accordance with the provisions of this paragraph 9.

9.6. Tankcon shall notify the Customer if and when Tankcon receives a claim from a third party, which Tankcon assumes to be covered by the insurance taken out by the Customer in accordance with this paragraph. The Customer will present the claim to its insurance company as soon as reasonably possible. Parties will cooperate whenever necessary in respect of the presentation and handling of an insurance claim.

## 10. OBLIGATIONS OF CUSTOMER

10.1. The Customer is responsible for providing and shall provide all permits, licenses and other permissions necessary for the transport, including but not limited to any custom papers where needed, unless agreed on otherwise in writing.

10.2. The Customer will ensure that the working conditions at the location, especially in respect of safety and health, are good and fully in accordance with the required standards and fully meet the (local) regulatory requirements.

10.3. The Customer shall comply with all laws, regulations, ordinances and/or other regulatory requirements and instructions of governments and/or other authorities.

10.4. The Customer shall, at no charge, provide Tankcon with all assistance Tankcon reasonably requires for its performance.

10.5. The Customer is fully responsible for any and all personnel and/or equipment and/or means it may supply in supporting Tankcon's Services.

10.6. The Customer shall, at no charge, provide Tankcon with any information reasonably required in connection with the performance by Tankcon, such as – but not limited to – relevant documentation.

10.7. The Customer shall supply Tankcon in good time with all such particulars on the nature and quality of the goods as well as their treatment and packing, and furthermore to give all such information and furnish such data as he knows or should know could be important to the Tankcon. The principal shall be responsible for the accuracy of the data supplied.

10.8. If goods and/or activities are subject to government regulations, including inter alia customs and excise regulations or to tax regulations, the Customer shall in good time provide all information and documents required therefor, in order to enable Tankcon to comply with such rules or regulations. Supplying the Tankcon with information required for performing formalities in relation to the above government regulations, shall imply an order thereto. Tankcon shall have the right, but not be obliged to perform such formalities.

10.9. The Customer shall make the agreed goods available to Tankcon in sound packing in the agreed place, time and manner, together with the agreed documents and/or documentation and other documents required by or under the government rules and regulations. Tankcon shall have the right to refuse goods which do not meet the above provisions, or goods that are in apparent damaged condition.

10.10. The Customer shall indemnify Tankcon against third party claims for damage caused by the customer's acts or negligence, his instructions or the data supplied, his employees as well as all third parties engaged by him, by persons who under the order or with the Customer's consent or on his behalf are present in the logistic center, or by the customer's goods or goods of third parties engaged by the customer. The Customer shall indemnify Tankcon against third party claims for damage caused by the nature of the goods and their packing.

10.11. The Customer shall guarantee the goods and material made available to Tankcon.

10.12. The Customer shall pay, in addition to the agreed price, any other costs resulting from the Agreement and/or the Logistics Terms.

10.13. The Customer shall pay the cost of clearance of the goods and to compensate the damage caused by the goods.

10.14. The Customer shall on the termination of the Agreement, take delivery of goods still held by Tankcon and/or have them removed not later than the last working day of such Agreement, after paying all he owes or will owe. For the amounts he will owe after termination of the Agreement, the Customer needs to issue a guarantee that is adequate in Tankcon's opinion.

## 11. DOCUMENTATION AND INFORMATION

11.1. All documentation is and shall remain the property of Tankcon and all intellectual property rights therein are and shall remain vested in Tankcon.

11.2. The Customer guarantees that none of this documentation provided by Tankcon will be copied, shown to or used by third parties or made available to them without Tankcon's explicit prior written consent.

11.3. The Customer shall keep the documentation and any information received from Tankcon strictly confidential, and shall use the documentation and information solely in respect of the execution of its obligations under the Agreement.

## 12. PERFORMANCE

12.1. Unless a specific result has been agreed upon in writing, the sole obligation of Tankcon will be to perform to its best ability and best endeavor.

12.2. All times, time schedules or periods for the performance by Tankcon, contained in the Agreement, or otherwise agreed between parties, shall be an estimate only and shall not be binding upon Tankcon. If, however, a time or period has been agreed upon explicitly as binding, then (a) such time or period will not commence until the Customer has fulfilled all its obligations, including payment of all amounts due and supplying of such advance payment and/or security as requested by Tankcon, and will not commence until any and all other preconditions have been fulfilled, and (b) such time or period will be suspended during any period that the Customer has ceased to fulfill its obligations.



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12.3. In the event that the transport is delayed due to circumstances for which the Customer is responsible or due to Force Majeure (as defined in article 12), the price will be increased proportionately.

12.4. In the event that the start or continuation of a project is delayed, due to circumstances for which Tankcon is responsible, the Customer will have no other remedy than termination of the Agreement in accordance with these Logistics Terms, unless a specific delay compensation has been agreed upon in writing.

### 13. REPORTING AND COMPLAINTS

13.1. Complaints in respect of services rendered by Tankcon and/or performance by Tankcon must be lodged in writing by the Customer to Tankcon immediately upon the occurrence of the respective service or performance or at least within 14 (fourteen) days after termination of the services and/or performance, failing which it will be deemed that no grievance in respect of Services and/or performance by Tankcon exists.

### 14. FORCE MAJEURE

14.1. Force Majeure shall be understood to refer to circumstances, conditions and/or events, which are beyond control of either party, occurring in the absence of any fault of negligence of any party and which cannot be avoided or prevented through the adoption of reasonable measures, which temporarily or permanently prevent the performance of any obligation (with the exception of payment obligations) under the Agreement, such as strikes and labor disturbances, mutinies, quarantines, epidemics, wars (whether declared or undeclared), acts of terrorism, blockades, embargo's, riots, civil disturbances, civil wars, fires, storms and/or other weather conditions and/or other acts of nature, provided that no cause has been given and no contribution has been made to said events.

14.2. In the event that the performance of obligations under the Agreement is temporarily prevented due to a Force Majeure occurrence, the Force Majeure occurrence will only have the effect of delaying the performance of those obligations (excluding payment obligations), and shall not serve as an excuse for breaching the Agreement.

14.3. In the event that the performance of any of the Customer's obligations under the Agreement is temporarily prevented due to a Force Majeure occurrence, Tankcon may temporarily suspend its own performance or part thereof.

14.4. In the event that the performance of obligations under the Agreement is permanently prevented due to a Force Majeure occurrence, or is temporarily prevented due to a Force Majeure occurrence for a period anticipated to be at least 60 (sixty) days, then either party is entitled to terminate the Agreement, with a notice period of 10 (ten) days.

### 15. LIABILITY AND INDEMNIFICATION

15.1. For property damage and personal injury caused by Tankcon, Tankcon shall take out and maintain during the existence of the Agreement a liability insurance with a limit of 1.500.000 Euro per occurrence for property damage and personal injury caused by Tankcon.

15.2 Subject to the limitations set out below, Tankcon is responsible for any direct damage caused to the Customer due to attributable shortcomings in the fulfillment of an Agreement and/or due to negligence.

15.3 The liability of Tankcon for direct damages is limited to the amount paid out by Tankcon's liability insurance. In case the insurance does not pay out (for whatever reason) Tankcon's liability shall never exceed the invoice value, exclusive of VAT, of the part of the service in question, which part has already been invoiced and/or supplied or rendered. In any event Tankcon's liability shall never exceed EUR 10.000,- per event or per sequence of related events.

15.4 Tankcon is never liable for indirect damage such as but not limited to consequential damage, lost profits, missed savings, loss of use, loss of contracts reduced goodwill, damage resulting from operational stagnation, damage resulting from claims by Customer's clients, and/or any other consequential and/or economic and/or indirect loss and/or damages and/or for multiple damages and/or for punitive damages.

15.5 The exclusions and limitations set out in articles 15.1, 15.2, 15.3 and 15.4 do not apply in case and to the extent that the damage is resulting from an intentional act or omission, willful misconduct or gross negligence.

15.6 In no event will Tankcon be liable for any loss, costs or damages due to delay in the performance by Tankcon, unless explicitly set out otherwise in writing.

15.6. In any event Tankcon is not liable for any occurrence, loss, costs or damages, which is/are or should be covered by the Customer's insurance or which is the result of the Customer's negligence.

15.7. The provisions of this paragraph 15 are also stipulated on behalf of the employees, officers, subcontractors and agents of Tankcon.

15.8 Any and all rights of the Customer shall expire if the Customer has not brought an action against Tankcon within 12 (twelve) months after the Agreement has ended.

15.9. The Customer shall indemnify, defend and hold harmless Tankcon, and all other parties referred to in clause 15.7 hereof, from and against all claims, demands, actions and proceedings asserted and/or instituted against Tankcon and/or such other parties for any occurrence, loss, costs, penalties or damages, for which the Customer is liable.

### 16. SUSPENSION AND TERMINATION

16.1. Tankcon may temporarily suspend its performance, or part thereof, if the Customer has not fulfilled any of its obligations, or has ceased to fulfill any of its obligations, including payment of any amount due and supplying of such advance payment and/or security as requested by Tankcon, and/or otherwise in the event of default or anticipated default by the Customer, without any prior notification being necessary.

16.2. Tankcon will be entitled to cancel and/or terminate the Agreement with immediate effect, without having to take the matter to court or arbitration, and without being obliged to pay any compensation to the Customer, in the event of any of the following occurrences:

- in the events and circumstances referred to in clause 16.1 hereof, after having put the Customer on notice with a notice period of 10 (ten) days, if the Customer has failed to perform in accordance with the notice and within the time set;
- if the Customer goes into bankruptcy or liquidation, whether compulsory or voluntary, or requests or is granted (temporary) suspension of payment or otherwise has a receiver appointed over its business or assets, without any prior notification being necessary.

16.3. The Customer will not be entitled to terminate the Agreement unless the commencement or continuation of the performance by Tankcon is delayed, due to circumstances for which Tankcon is responsible, for a period of at least 60 (sixty) days.

16.4. In the event that the Customer cancels or terminates the Agreement – other than as provided for in clauses 16.2 and 16.3 hereof – it will be fully liable to Tankcon for all damages sustained and/or to be sustained by Tankcon as a result thereof, especially including, but not limited to, loss of profit, loss of use, loss of contracts and/or any other consequential and/or economic and/or indirect loss and/or damages.

### 17. APPLICABLE LAW AND DISPUTES

17.1. The Agreement, and any further agreements resulting therefrom, including any question regarding the existence, validity or termination thereof, shall exclusively be governed by Dutch law.

17.2. All disputes arising out of or in connection with the Agreement, or any further agreements resulting therefrom, including any question regarding the existence, validity or termination thereof, shall be submitted to the exclusive jurisdiction of the District Court (Rechtbank) of Rotterdam, Netherlands, or at Tankcon's absolute discretion – only in case of submission of a dispute by Tankcon against the Customer – to the court having jurisdiction in the country of the place of domiciliation and/or business of the Customer.

### 18. MISCELLANEOUS

18.1 If Tankcon does not exercise any right it may have under the Agreement, this shall not be construed as any waiver of such a right.

18.2. No waiver of any term of Agreement or of these Logistics Terms by Tankcon shall be deemed to be a further or continuing waiver of any other term thereof.

18.3. Tankcon will be entitled to shorten periods of notification – for itself and/or for the Customer – provided for in these Terms and Conditions, in case of urgency and/or emergency.

18.4. The headings of these Logistics Terms are for convenience only and shall not affect the interpretation thereof.



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18.5. If any provision or part of the Agreement or of these Logistics Terms is rendered void or unenforceable, for whatever reason, then it shall be void and unenforceable to that extent only and no further. Any such void or unenforceable part of the Agreement or of these Logistics Terms will be (deemed to be) replaced by provisions, which are neither void nor unenforceable and which differ as little as possible – in view of the aims of the Agreement and the relevant provisions – from the void and/or unenforceable provisions.