

## TERMS AND CONDITIONS TANKCON B.V. – CONTAINER RENTAL Version 2024

### 1. Definitions and interpretation

**1.1** In these Tankcon Rental Terms (**Rental Terms**), capitalized terms have the meanings specified below or in the Lease Agreement.

**a. Affiliate** means, in relation to Tankcon or Lessee, another legal entity which directly or indirectly controls it, which is directly or indirectly controlled by it, or which is directly or indirectly under common control with it; where “control” means the right to exercise 50% or more of the voting rights, or the right to appoint a majority of directors, or the power to direct or control the management, of a legal entity.

**b. Applicable Laws** means (in all cases as amended, supplemented and/or revoked from time to time):

i. the International Convention for Safe Containers (CSC) and all other international and national codes, conventions, rules, regulations, notices and orders by governmental authorities or regulatory bodies applicable to the Equipment and its use for transport and storage;

ii. all other international, national, regional and/or local laws, legislation and regulations applicable to any Party, the Equipment or the performance of an Agreement;

iii. judgments and orders of any competent courts; and

iv. regulatory approvals, permits, licenses and authorizations.

**c. Applicable Standards** means, in this order of priority:

i. ISO 1496/3 and any other International Organization for Standardization standards relevant to the Equipment;

ii. (except in relation to Flexible Lease Agreements) Acceptable Container Condition guidelines and standards of the International Tank Container Organization;

iii. the Equipment manufacturers’ recommendations;

iv. Class requirements;

v. requirements of the Institute of International Container Lessors to the extent relevant to the Equipment; and

vi. generally accepted, safe, sound and up-to-date standards and practices used by prudent first class operators in the international tank container industry;

vii. in all cases as applicable from time to time to the Equipment.

**d. Class** means Tankcon’s nominated classification society.

**e. Consequential Loss** means (i) indirect, special or consequential loss; and (ii) any loss, anticipated loss and/or deferral of profit, production, product, revenue, contract, use, reputation or business, and business interruption, in each case direct or indirect; and in the case of (i) and (ii) whether or not such losses were foreseeable at the Agreement date.

**f. Container** means each unit of Equipment from time to time comprised in an Agreement, and includes its frame, shell, lining, insulation, all appliances, parts, spare parts, components, instruments, valves, accessories and other equipment installed in, fixed in or belonging to a Container.

**g. Daily Rate** means rental days, offered rates are per calendar day unless otherwise specified.

**h. Delivery** means delivery of the Equipment by Tankcon to Lessee and occurs at the earlier of

i. 0000 hours local time at the Delivery Place on the date(s) on which Tankcon has made the Equipment available for collection by Lessee ex works (Incoterms 2010) (the Delivery Date(s)) and Lessee has collected the Equipment; and

ii. (if Lessee does not collect the Equipment within 10 Workdays after the applicable Delivery Date) 0000 hours local time at the Delivery Place on the 11th Workday after the Delivery Date for each Container;

and Deliver has a corresponding meaning.

**l. Delivery Place** means Tankcon’s authorized depot at the place for Delivery of Equipment specified in the Agreement.

**j. DRV** means the Depreciated Replacement Value of a Container as defined in article 18.

**k. EIR** means an equipment interchange report for the Equipment (where practicable, with photographs) issued by Tankcon’s authorized depot at Delivery (EIR out) and Redelivery (EIR in).

**l. Encumbrance** means any mortgage, charge, pledge, lien, attachment, claim, debt or other security interest in favor of any person.

**m. Equipment** means the Containers for use in transporting liquids, gases and other materials comprised in an Agreement.

**n. Flexible Lease Agreement** means a Lease Agreement intended primarily for flexible short-term use and repositioning of Equipment which is identified as a “Flexible Lease Agreement” in the Lease Agreement.

**o. Force Majeure** means any act or event which is beyond the reasonable control of a Party, which could not have been reasonably foreseen and overcome or provided against by the use of reasonable diligence, and which is not caused by the act, neglect or default of either Party. Subject to those requirements, Force Majeure includes, but is not limited to: acts of god; earthquakes, hurricanes, tsunamis, typhoons, explosions, fires, lightning and floods; epidemics; wars (whether declared or not); terrorism; expropriation or intervention by civil or military authorities or other government agencies; riots, insurrections, strikes and industrial action (other than

those of the personnel of a Party or its Group); sabotage; blockades, embargoes, trade sanctions, export and transshipment controls.

**p. Group** in relation to either Party means the Party, its subcontractors, their Affiliates and their respective agents, representatives, officers, employees and personnel.

**q. IP Rights** means patents, utility models, inventions, copyrights and related rights, trade and service marks, trade names, domain names, design rights, rights in goodwill, moral rights, database rights, rights in confidential and proprietary information, trade secrets, know how, and other intellectual and industrial property rights, in each case registered or unregistered and including applications for, rights to apply for, registrations and renewals of such rights, and similar rights now or in the future subsisting anywhere.

**r. Party** means Tankcon or Lessee. Parties means both of them.

**s. Public Official** means a person working officially for a government or its agency or department; a government-owned or -controlled entity; a public international organization; a political party and its official(s); or candidate for public office.

**t. Redelivery** means redelivery of Equipment by Lessee to Tankcon at the Redelivery Place in compliance with the Agreement; and Redelivery has a corresponding meaning.

**u. Redelivery Place** means Tankcon’s authorized depot at any place for Redelivery of Equipment specified in the Agreement.

**v. Sanctioned Entity** means any individual(s) or entity/(ies) designated pursuant to any national, international or supranational law or regulation imposing trade and economic sanctions, prohibitions or restrictions or export or transshipment controls.

**w. Sanctioned Transaction** means any transaction which is (i) prohibited or restricted by, and/or will expose Tankcon to sanctions, prohibitions or restrictions under any national, international or supranational law or regulation imposing trade or economic sanctions, prohibitions or restrictions or export or transshipment controls; and/or (ii) involves or facilitates processing, storage, loading, offloading or transport of cargo to or from, or destined to or originating from, any country prohibited or restricted by any national, international or supranational law or regulation imposing trade or economic sanctions, prohibitions or restrictions or export or transshipment controls.

**y. Total Loss** has the meaning given in article 18.

**z. Workday** means a day throughout which banks are open for business in Tankcon’s country of incorporation.

**1.2** References to articles are to articles in these Rental Terms. Article headings do not govern their meaning.

**1.3** Tankcon is entitled to revise these Rental Terms from time to time. The amended Rental Terms enter into effect on the date mentioned in the message in which Tankcon announces the amendments. The amended Rental Terms will apply to the Lease Agreements that are concluded after the amendments and also to current Lease Agreements, unless Lessee, within 14 days after the announcement of the proposed amendments to the Rental Terms, has informed Tankcon in writing it wishes to terminate the relevant Lease Agreement(s) with due observance of a 1 month notice period, which possibility of termination only exists if the amendments are substantially or unreasonably onerous. If the absence of a timely and lawful termination, Lessee is deemed to have accepted the amended Rental Terms.

### 2. Lease Period

**2.1.** Subject to earlier termination in accordance with the Agreement, the Lease Period starts at 0000 hours local time at the Delivery Place on the date of Delivery and (except in the case of Flexible Lease Agreements) comprises the Initial Lease Period plus any extension or renewal in accordance with article 3. If no Initial Lease Period is agreed upon in the Lease Agreement, the Initial Lease Period is 1 (one) year.

**2.2.** In Flexible Lease Agreements, the Lease Period ends in relation to each Container at 2400 hours local time at the Redelivery Place on the earlier of:

i. the date of Redelivery in compliance with the Agreement; and

ii. the date on which the Container is a Total Loss under article 18 (Total Loss) or is treated as a Total Loss under article 25.4 (Default, suspension and termination);

**2.3.** In Lease Agreements which are not Flexible Lease Agreements, the Lease Period ends on the earlier of:

i. the date of Redelivery, in compliance with the Agreement, but not before the expiry (or earlier termination in accordance with an Agreement) of the Initial Lease Period plus any extension or renewal indicated in article 2.1; and

ii. the date on which the Container is a Total Loss under article 18 (Total Loss) or is treated as a Total Loss under article 25.4 (Default, suspension and termination).

**2.4.** Some of the Equipment may be owned by a third party and leased to Tankcon for subleasing. All such subleases including the Lease are subject to and subordinate to any such lease and if the third party lease terminates, the third party may be entitled to possession of the Equipment.

KvK/CoC: 63617781

Bank Relation: Rabobank Account Number: 172 0966 77

Bank Relation: ABN Amro Account Number: 124 3510 34

BTW/VAT Nr.: NL855316536B01

IBAN nr.: NL54 RABO 0172 0966 77

IBAN nr.: NL48 ABNA 0124 3510 34

BIC Code: RABONL2U

BIC Code: ABNANL2A



### 3. Renewal and extension of the Agreement

In relation to all Lease Agreements except Flexible Lease Agreements, the following applies:

**3.1.** The Agreement will automatically be renewed each time for consecutive periods equal to the Initial Lease Period, unless one of the Parties informs the other Party in writing, at least 3 (three) months before the expiry of the Initial Lease Period or extended period, that it wants to terminate the Lease Agreement. When the Agreement is terminated, the Lessee Redelivers the Equipment in accordance with article 5 below.

**3.2.** The Agreement terminates by operation of law on the 10th anniversary of the expiry of the Initial Lease Period.

### 4. Delivery and on-hire procedure

**4.1.** Tankcon shall use reasonable efforts to Deliver the Equipment at the Delivery Place on the scheduled Delivery Date(s) (subject to Lessee providing any security required under the Agreement as a precondition to Delivery). If Tankcon fails to make any Equipment available for Delivery at the Delivery Place when due at the scheduled Delivery Date(s)

i. the Agreement shall remain in force, but (except where article 19 Force Majeure applies) Lessee as its sole and exclusive remedy may terminate the Agreement by written notice to Tankcon in relation to any Container which Tankcon fails to Deliver by a specified date (at least 10 Workdays after the scheduled Delivery Date(s)) notified by Lessee to Tankcon in writing; and Tankcon shall have no other liability to Lessee;

ii. if for any reason not due to the negligence of Tankcon the Equipment cannot be made available for Delivery at the Delivery Place, Tankcon may Deliver Equipment at an alternative Delivery Place as notified by Tankcon to Lessee at least 10 Workdays prior to such Delivery.

**4.2.** Lessee shall at its own cost and risk collect and remove all the Equipment from the Delivery Place at the Delivery Date(s) (informing Tankcon of its nominated representative to whom the Equipment is to be Delivered). If it fails to do so:

i. Lessee shall reimburse Tankcon on demand its documented storage and logistics costs for the Equipment from the Delivery Date(s) until the date(s) of its removal from the Delivery Place;

ii. if Lessee does not collect and remove all or part of the Equipment from the Delivery Place within 10 Workdays after the Delivery Date(s), Tankcon shall be entitled, in its discretion, to

- provide under the Agreement substitute Container(s) of comparable capacity and type to the uncollected Containers; and/or to

- terminate the Agreement in relation to the uncollected Container(s) in accordance with article 25.1, without liability on the part of Tankcon.

**4.3.** At Delivery, Tankcon shall

i. arrange (at Lessee's cost unless stated otherwise in the Compensation Schedule in the Lease Agreement) an on-hire survey of the Equipment and provide to Lessee a full inspection report including pictures; or

ii. (at Tankcon's option in the case of Flexible Lease Agreements) arrange at Tankcon's cost and provide to Lessee an EIR out issued by Tankcon's authorized depot and a standard cleanliness certificate indicating the condition of the Equipment at Delivery.

**4.4.** Lessee shall arrange at its own cost and risk any additional or specialized cleanliness certification that it may require at Delivery (beyond the standard cleanliness certificate issued at Delivery).

### 5. Redelivery and off-hire procedure

For Flexible Lease Agreements, articles 5.1 up to and including 5.3 below apply:

**5.1.** Lessee shall Redeliver the Equipment in compliance with article 15 at its cost and risk either

i. at the Redelivery Place specified in the Lease Agreement, on any date after Delivery chosen by Lessee; or

ii. immediately on written demand by Tankcon to Redeliver under article 25.2(iii) (Default, suspension and termination), at any Redelivery Place required by Tankcon; or

iii. within 30 days after written notice by Tankcon to Redeliver given at any time 12 or more months after Delivery, at any Redelivery Place required by Tankcon; or

iv. immediately on the expiry of 10 years after Delivery, at any Redelivery Place required by Tankcon whichever of (i), (ii), (iii) or (iv) above happens first;

**5.2.** On the date of Redelivery, Lessee shall

i. give Tankcon immediate written notice of each item of Equipment it has Redelivered, specifying

- the unit number;  
- the last product carried;  
- the Redelivery Place;  
- the date of Redelivery;

ii. arrange inspection and internal cleaning of the Equipment at Tankcon's authorized depot;

iii. provide to Tankcon an EIR in issued by Tankcon's authorized depot and a standard cleanliness certificate showing that the Equipment is in a clean condition no worse than that shown in the EIR out or on-hire survey report issued at Delivery.

**5.3.** If the EIR in issued at Redelivery shows that the Equipment is damaged beyond its condition at Delivery and beyond normal wear and tear (as further described in article 10.1(i)), Lessee shall be liable – to the extent indicated in the Compensation Schedule in the Lease Agreement – for the cost of repair of such damage. The repair costs will be as shown in an off-hire repair estimate by Tankcon's depot and an off-hire survey report by an independent surveyor, both to be prepared in accordance with Applicable Standards, arranged by Tankcon at its cost and provided to Lessee.

For all types of Lease Agreements except Flexible Lease Contracts, articles 5.4 up to and including 5.8 below apply:

**5.4.** Lessee shall redeliver the Equipment in compliance with article 15 at its cost and risk at the Redelivery Place immediately on expiry or termination of the Lease Period.

**5.5.** Lessee shall give Tankcon at least 3 Workdays' prior written notice of any Equipment it intends to Redeliver, specifying, in relation to each Container to be Redelivered:

i. the unit number;  
ii. the last product carried;  
iii. the proposed Redelivery Place;  
iv. the estimated date/period of Redelivery.

**5.6.** Provided that the intended Redelivery date is after expiry of the Initial Lease Period (as extended for up to 12 months under articles 3.2 and 3.3 if applicable), Tankcon shall notify Lessee

i. which Redelivery Place to use; and  
ii. the off-hire reference number.

No Equipment may be Redelivered at any Redelivery Place without Tankcon's approval and an off-hire reference number.

**5.7.** Within 10 Workdays after Redelivery, Tankcon shall request the depot to prepare an off-hire repair estimate in accordance with Applicable Standards.

**5.8.** Within 15 Workdays after the date of Redelivery, Tankcon will arrange for an off-hire survey to be made by an independent surveyor in accordance with Applicable Standards; and will send Lessee the depot's repair estimate and the off-hire survey report.

For all Lease Agreements (including Flexible Lease Agreements and other types of Lease Agreements), articles 5.9 up to and including 5.13 below apply:

**5.9.** Any off-hire survey under articles 5.3 or 5.8 will classify the estimated repair costs as either damage (for which Lessee is liable) or wear and tear (for which Tankcon is liable) as further described in article 15.

**5.10.** Within 5 Workdays after receipt of the repair estimate and any off-hire survey, Lessee shall either:

i. approve the repair estimate and off-hire survey (in which case they will be binding on the Parties); or

ii. request a joint off-hire survey at the Redelivery Place, in which case - the joint off-hire survey will be carried out by representatives of both Parties in accordance with Applicable Standards within 10 Workdays after Lessee's receipt of the repair estimate and off-hire survey; and will be binding on the Parties; and

- (except in the case of Flexible Leases) although the Lease Period will end at Redelivery, an amount equal to the daily hire for the Equipment shall be payable by Lessee from 0000 hours local time at the Redelivery Place on the 6th Workday after Lessee's receipt of the repair estimate and off-hire survey until 2400 hours local time on the date of issuance of the joint off-hire survey report.

**5.11.** If Lessee does not respond within 5 Workdays after receipt of the repair estimate and off-hire survey, it will be deemed to have accepted them and will be bound by them.

**5.12.** If, after joint survey under article 5.10 (ii), the Parties cannot agree on allocation of the repair cost, either Party may refer the matter for binding determination by Class, who shall survey the Equipment in accordance with Applicable Standards to determine the appropriate allocation of repair costs. The Class surveyor's costs shall be borne by the Parties in the proportions in which they are found liable for the repair costs; but Lessee shall in any event be liable for the costs of any repair allocated to it by such survey.

**5.13.** If latent damage emerges after Redelivery which is attributable to the use of the Equipment during the Lease Period, Lessee will be responsible for the cost of repair to the extent indicated in the Compensation Schedule in the Lease Agreement. Tankcon will submit an additional repair estimate to Lessee and the provisions of articles 5.3 and 5.7 up to and including 5.12 shall apply.

### 6. Non-Redelivery

**6.1.** If the Equipment is not redelivered to Tankcon after termination of the Lease Agreement, Tankcon will provide Lessee with a 30 days' notice to redeliver the Equipment. If after this 30 days' notice' the Equipment is still not redelivered to Tankcon, Tankcon may treat such Equipment as lost and Lessee shall immediately pay the DRV Lessee shall continue to pay the compensation as set out in the Lease Agreement, until the DRV is paid in full.

**KvK/CoC:** 63617781

**Bank Relation:** Rabobank Account Number: 172 0966 77

**Bank Relation:** ABN Amro Account Number: 124 3510 34

**BTW/VAT Nr.:** NL855316536B01

**IBAN nr.:** NL54 RABO 0172 0966 77

**IBAN nr.:** NL45 ABNA 0124 3510 34

**BIC Code:** RABONL2U

**BIC Code:** ABNANL2A



## 7. Invoicing and payment

**7.1.** Unless the Lease Agreement specifies otherwise, Tankcon shall invoice Compensations at calendar monthly intervals in arrear, starting at the end of the month in which Delivery occurs.

**7.2.** Compensation shall be payable during the Lease Period and during any further periods specified in the Agreement.

**7.3.** Lessee shall pay Tankcon's invoices in full, without deduction, set-off or counterclaim, in the currency specified in the Lease Agreement, to the bank account designated in each invoice, within 30 days after each invoice date, and regardless of the availability of, or ability of Lessee to use, the Equipment.

**7.4.** Compensation is stated exclusive of goods and services tax, value added tax and other indirect taxes which, if applicable, shall be paid by Lessee in addition to the compensation against a proper tax invoice issued by Tankcon.

**7.5.** If Lessee disputes any part of an invoice, it shall:

i. within 15 days after the invoice date notify Tankcon in writing of its grounds for disputing the invoice (failing which it shall be deemed to have approved the invoice);  
ii. within 30 days after the invoice date pay the undisputed portion and make provisional payment on account of the disputed portion.

If any part of the disputed portion is later determined to be due to Lessee, Tankcon shall either repay that part within 30 days after resolution of the dispute or give Lessee credit for that part against its future invoices.

**7.6.** If Lessee fails to pay any amounts when due in accordance with articles 7.2 up to and including 7.5, then without prejudice to Tankcon's rights and remedies under general law:

i. interest shall be payable on all unpaid amounts from the date payment falls due until the date of actual payment at the rate of 1.5% per calendar month;

ii. all other sums invoiced by Tankcon to Lessee shall immediately become due and payable;

iii. Lessee shall be liable for and shall pay, indemnify and hold Tankcon harmless on demand for all costs incurred by Tankcon in recovering sums due to it;

iv. if such payment default continues for 30 days or more, Tankcon shall be entitled to exercise its rights and remedies under article 25.

## 8. Condition of Equipment at Delivery

**8.1.** Unless sublet to Tankcon, the Equipment shall have serial numbers and other identifying marks affixed thereto, which shall not be obliterated, altered, concealed or otherwise changed or hidden from view by Lessor so as to prevent or block access to such numbers or marks without prior written agreement from Tankcon. Lessee has the option to have its own company logo applied to the Equipment provided that the same is to be removed and Tankcon's livery restored for Lessee's account prior to Redelivery.

**8.2.** Tankcon makes no representation and gives no warranty as to the design, quality, condition, description, performance, technical documentation, IP Rights in, suitability for use or fitness for purpose of the Equipment. All and any such representations, warranties and conditions (express or implied, statutory or otherwise) are excluded.

**8.3.** Lessee's collection and removal of the Equipment at Delivery constitutes Lessee's acknowledgment of receipt of the Equipment free from damage and in satisfactory condition (except for any damage reported in the on-hire survey report or in the EIR out at Delivery). Delivery constitutes complete discharge of Tankcon's obligations in relation to the Equipment except as provided in article 8.3.

**8.4.** Tankcon shall, at Lessee's request, assign to or enforce for Lessee's benefit any manufacturer's warranties relating to the Equipment that are subsisting, enforceable and capable of assignment to Lessee.

## 9. USE AND OPERATION OF EQUIPMENT

**9.1.** During the Lease Period, Lessee shall use and operate the Equipment properly, safely, in compliance with article 23, with reasonable care, and in compliance with Applicable Standards and Applicable Laws, for the storage and transportation of material for which it is certified.

**9.2.** Lessee shall not use the Equipment:

i. for storage or transportation of material that is radioactive, likely to damage the Equipment or for which the Equipment is not certified;

ii. for any cargo, operated under any conditions, contaminated by any substance, cleaned, repaired or maintained by any procedure which may result in damages to the Equipment including corrosion, corrosion pitting, scratching or etching

iii. in any illegal business activity or in the transport or storage of illegal or prohibited material;

iv. in any area, or to transport or store material, which is excluded from cover or may invalidate insurance.

**9.3.** Unless any other use is specified in the special conditions to the Lease Agreement, the Equipment is leased for use by Lessee in the international transportation of goods.

**9.4.** Lessee shall ensure that the Equipment remains personal and moveable property; and, at Tankcon's request, use reasonable efforts to obtain from the owner of any land or buildings to which the Equipment may be fixed a waiver of any right to claim the Equipment as a fixture to its property.

**9.5.** Lessee shall, upon request, provide to Tankcon within seven calendar days from such request, a detailed listing of Tankcon's Equipment by location.

## 10. Maintenance and repair of Equipment

**10.1.** Throughout the Lease Period, Lessee shall at its own cost and risk maintain, service, overhaul and repair the Equipment so as to keep it in good working order, cargo-worthy for the products for which it is certified, and in safe operating condition in compliance with Applicable Standards and Applicable Laws, including but not limited to

a. repairing all damage to the Equipment except for

- damage existing at Delivery and recorded in the on-hire survey report or in the EIR out at Delivery;

- normal wear and tear that may reasonably be expected from the ordinary and proper use of the Equipment (being light oxidation or light rust, and minor indentation and scratches that do not affect Container integrity and are caused by normal handling in accordance with Applicable Standards);

b. replacing any lost or damaged parts (including but not limited to paint, coatings and insulation) to be replaced like for like;

c. cleaning the Equipment (including removal, decontamination, isolation and disposal of any hazardous, toxic, dangerous or damaging material);

d. preventing corrosion and damage to the Equipment.

**10.2.** Lessee shall at its cost comply with, and perform the responsibilities of the owner of the Equipment under, the CSC and all Applicable Laws, including but not limited to:

a. arranging maintenance, periodic inspection and certification of each Container when due, without extension or deferral (provided that Tankcon shall be responsible for the documented depot and Class survey costs for conduct and witnessing of mandatory tests during periodic inspection);

b. providing to Tankcon on demand evidence that each Container has been maintained, inspected and certified in compliance with Applicable Laws during the Lease Period;

c. affixing and maintaining on each Container safety approval plates and logos provided by Tankcon in accordance with Tankcon's instructions;

d. ensuring that permanent identifying marks, serial numbers and safety information as required by Applicable Laws remain affixed to each Container during the Lease Period, and are not obliterated, hidden from view, altered, removed or otherwise changed (except for updated information on inspection and certification, if applicable);

e. ensuring that temporary marking identifying the product transported is affixed to each Container as required by Applicable Laws throughout the Lease Period.

**10.3.** Lessee shall throughout the Lease Period:

a. keep all technical records and certificates for the Equipment required to be maintained by Applicable Laws;

b. keep accurate, complete and up to date records of the locations of each Container and of all maintenance, repair, alterations, additions and modifications to it.

## 11. Modifications to Equipment

**11.1.** Lessee shall not (except as provided in article 11.2 make any modification, addition or alteration to, or remove any part of, any Container except with the prior written consent of Tankcon; and shall ensure that any modification, addition, alteration or removal does not reduce the value of the Equipment.

**11.2.** During the Lease Period, Lessee shall carry out at its cost and risk and in compliance with Applicable Standards any mandatory alterations to a Container that are required to comply with Applicable Laws, provided that Lessee shall before carrying out such work

a. inform Tankcon of the alteration(s) to be made; and

b. comply with any requirements of Tankcon in relation to the performance of the work.

## 12. Permits and licenses

**12.1.** Lessee shall at its own cost obtain, maintain and comply with all import, export, transshipment and other permits, licenses, clearances and approvals required by Applicable Laws for its export, import, transshipment, domestic and other use of the Equipment during the Lease Period and in connection with its purchase of Equipment (if applicable).

**12.2.** Lessee shall prevent, protect against and secure the release of the Equipment (in accordance with article 17) from any detention, seizure, confiscation, impounding, destruction or other action by governmental authorities arising from its use of the Equipment.

## 13. Taxes, duties and operational costs

**13.1.** Lessee shall be solely liable for, and shall pay, account to relevant authorities, provide evidence of payment and indemnify Tankcon on demand in respect of, all taxes, duties, levies, charges, fines, penalties, costs, liabilities



and expenses (including but not limited to port, depot, storage, transportation and logistics costs) arising out of Lessee's operation of the Equipment during the Lease Period and in connection with its purchase of Equipment (if applicable).

**13.2.** In addition to its obligations under article 7.3, if Lessee is required by Applicable Laws to withhold or deduct taxes or duties from compensation payable to Tankcon, the compensation payable shall be increased by an amount which ensures that Tankcon receives the amount it would have received had no withholding or deduction been made.

#### 14. Access, inspection and information

**14.1.** Lessee shall permit and enable Tankcon and/or its representative(s) (including surveyor(s)) at Tankcon's request at all reasonable times to inspect the Equipment, and to examine and take copies of the technical records to be maintained by Lessee.

**14.2.** Lessee shall, immediately on demand, inform Tankcon of the location, use and status of each Container and provide information on all maintenance, repair, alterations, additions and modifications carried out to it by Lessee.

**14.3.** Lessee shall notify Tankcon in writing within 7 days after:

- a. the Total Loss of any Container;
- b. damage reducing a Container's value by 25% or more;
- c. any incident, event or circumstance which may give rise to a claim under the indemnity in article 20 and/or insurance under article 21 and/or breach of article 23; and shall provide information relating to such loss, damage, incident, event or circumstance as Tankcon may require.

#### 15. Condition of Equipment at Redelivery

**15.1.** Lessee shall Redeliver the Equipment at the end of the Lease Period (or at any other time that Tankcon is entitled to Redelivery under the Agreement or general law) free of cargo; dry and odorless; in clean condition; in the condition and state of maintenance and repair required by articles 10 and 11; and with a standard cleanliness certificate in accordance with Applicable Standards stating, as a minimum, for each Container:

- a. the last cargo carried;
- b. the cleaning product and process used;
- c. that it is gas-free, clean, dry, odor-free and chemical- neutral;
- d. the internal oxygen concentration;
- e. that the Equipment is safe for man entry.

**15.2.** The condition of the Equipment at Redelivery shall be determined by off-hire survey or (for Flexible Lease Agreements) by EIR in issued at Redelivery, as applicable in accordance with article 5. Tankcon shall undertake any repair required, and the cost of repair shall be allocated as follows:-

- a. Tankcon shall be responsible for the cost of repair to:
    - damage existing at Delivery and recorded in the on-hire survey report or EIR out at Delivery;
    - normal wear and tear as described in article 10.1 (i).
  - b. Lessee shall be responsible for the cost related to all other repair, including but not limited to
    - replacement of missing parts;
    - repair and/or renewal of all damage except that specified in article 15.2 (i), including but not limited to corrosion, pitting, discoloration, stubborn stains, carbon stains, rust stains and transferable stains except as specified otherwise in the Compensation Schedule of the Lease Agreement.
- 15.3.** If internal repair work is required at Redelivery, Lessee shall be responsible for the cost per Container of a new cleanliness certificate after repair.

#### 16. Title and risk

**16.1.** Lessee shall not at any time acquire any legal or beneficial ownership rights in or title to the Equipment (unless and until Lessee validly exercises any purchase option or obligation specifically granted to it under the Agreement).

**16.2.** Lessee shall throughout the Lease Period identify the Equipment to third parties as property of Tankcon.

**16.3.** Risk of damage to and loss of the Equipment, and responsibility for and liability arising from the use and operation of the Equipment, shall be borne by Lessee from Delivery until Redelivery.

#### 17. Encumbrance and detention

**17.1.** Lessee shall not create, claim or permit to exist any Encumbrance over, nor dispose of any interest in, the Equipment or any part of it, and shall not purport to do so.

**17.2.** Lessee shall promptly discharge when due all liabilities to third parties, and all taxes, duties and other charges, which might give rise to maritime or possessory liens or other Encumbrances over or claims against any Equipment.

**17.3.** Lessee shall

- i. prevent and protect the Equipment from;
- ii. within 7 days notify Tankcon of the existence of;
- iii. within 14 days at its own cost and risk secure the release of the Equipment from; and
- iv. indemnify and hold Tankcon harmless on demand in respect of any:
  - arrest, attachment, execution, claim or enforcement of any Encumbrance over the

Equipment; and/or any

- detention, capture, seizure, confiscation, impounding, requisition, destruction or other action by governmental authorities in relation to the Equipment which is not due to the intentional act or default of Tankcon.

#### 18. Total Loss

**18.1.** Total Loss, in relation to any Container, means:

- a. an actual, arranged, constructive, compromised or agreed total loss;
- b. theft, destruction, damage beyond economic repair or damage which renders it permanently unfit for normal commercial use due to any cause whatsoever;
- c. abandonment of the Container by Lessee;
- d. condemnation, confiscation, compulsory acquisition, seizure, requisition or other action by governmental authority or de facto government which results in permanent loss of use.

**18.2.** With effect from the date of any Total Loss:

- a. an Agreement shall automatically terminate in relation to the Container(s) subject to Total Loss;
- b. Lessee shall be liable to pay to Tankcon or its designee, within 30 days after receipt of Tankcon's invoice, the Depreciated Replacement Value (DRV) of the Container(s) subject to Total Loss, calculated in each case as:
  - the Replacement Value specified in the Annex to the Lease Agreement depreciated by
  - the annual Depreciation Rate shown in that Annex from the date of manufacture (as confirmed by Tankcon) to the date of Total Loss but in any event not less than
  - the Replacement Value multiplied by the Salvage Value percentage shown in that Annex.

**18.3.** Subject to receipt of the DRV by Tankcon or its designee in accordance with article 18.2, Tankcon may at its discretion and at Lessee's request execute any documents required to enable Lessee to abandon the Container(s) to Lessee's insurers (if applicable) in settlement of any Total Loss insurance claim by Lessee.

**18.4.** Lessee shall in any event be liable for the cost of wreck removal and (if the Equipment is incapable of Redelivery as a result of Total Loss) disposal of the Equipment in compliance with Applicable Laws, including all related storage and logistic costs, taxes and duties.

#### 19. Force Majeure

Tankcon shall be relieved of the obligation to perform, and shall not be liable for any failure to fulfil, its obligations under the Agreement if and to the extent that performance is delayed, prevented or hindered by Force Majeure, provided that:

- a. Tankcon shall notify Lessee within 7 days after the Force Majeure event starts, indicating the expected impact on the schedule for performance of its obligations;
- b. the time for Delivery of the Equipment (and performance of any other affected obligations of Tankcon) shall be extended for the duration of the Force Majeure event; but
- c. either Party shall be entitled, as a sole and exclusive remedy, to terminate the Agreement by written notice to the other in relation to any Container which, as a result of Force Majeure, Tankcon is unable to Deliver within 60 days after the scheduled Delivery Date(s).

#### 20. Indemnity

**20.1.** Lessee shall release, defend, indemnify and hold Tankcon harmless on demand from and against all actions, proceedings, claims, expenses, costs (including legal costs), charges, fines, penalties, loss and other liability whatsoever arising directly or indirectly in connection with the use and operation of the Equipment during the Lease Period and/or in connection with any material, services, and/or data provided by Tankcon under an Agreement, including but not limited to

- a. liability for injury, death or disease of any person;
- b. liability for loss or damage to or destruction of any property, including claims arising from the transport, storage and handling of cargo;
- c. claims for pollution, contamination and other environmental liability;
- d. wreck removal, salvage and general average liability.

**20.2.** Without limiting the generality of this indemnity:

- a. Lessee shall be responsible for all salvage and general average contributions in respect of the Equipment, and Lessee or its insurers shall provide promptly at no cost to Tankcon all salvage, general average and other security required to preserve, salvage and protect the Equipment during the Lease Period;
- b. Lessee shall provide on request any information and documents that Tankcon may reasonably require in order to respond to any loss or liability Tankcon incurs arising from Lessee's use or operation of the Equipment.

**20.3.** This indemnity shall apply irrespective of any negligence, breach of contract or statutory or other duty by Tankcon.

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## 21. Insurance

**21.1.** Lessee shall at its own cost throughout the Lease Period obtain and maintain the following insurance with reputable and substantial insurers on policy terms acceptable to Tankcon:

**a.** (unless the Lease Agreement requires Tankcon to provide this insurance) property damage (damage protection plan) insurance covering the Equipment against all risks of loss or damage anywhere in the world, whether on land, in air or afloat (including but not limited to war risks, particular damage and total loss, general average, salvage, wreck and debris removal) for the full replacement value of the Equipment from time to time (and in any event not less than the Replacement Value shown in the Annex to the Lease Agreement);

**b.** third party liability insurance (including but not limited to coverage for third party property damage and personal injury, contractual and statutory liability and liability under general law, public liability, and pollution and environmental liability, in all cases anywhere in the world) for not less than five million euro (€ 5,000,000) per occurrence;

**c.** any additional insurance required by Applicable Laws in any country where Lessee operates its business, or the Equipment is used.

**21.2.** On signing an Agreement and from time to time as requested by Tankcon, Lessee shall provide to Tankcon current certificate(s) of insurance signed by the insurers evidencing the insurance required by this article; and shall ensure that:

**a.** the interest of Tankcon and (if Tankcon so requires) a loss payable article in favor of Tankcon's financiers as loss payee, are endorsed on the policy/ies;

**b.** the policy/ies provide for prior written notice to be given to Tankcon of cancellation or material alteration to cover.

**21.3.** All deductibles under the above insurance shall be for the account of Lessee.

**21.4.** If Lessee fails to maintain the insurance required by this article, or if any such insurance is invalidated or cancelled during the Lease Period

**a.** Lessee shall release, defend, indemnify and hold harmless Tankcon on demand from and against all actions, proceedings, claims, expenses, costs (including legal costs), charges, fines, penalties, loss and other liability whatsoever that would otherwise have been covered by such insurance;

**b.** Tankcon shall be entitled, but not obliged, to effect insurance on behalf of Lessee at Lessee's cost, recoverable immediately on demand.

**21.5.** Maintenance of insurance required by this article shall not affect or limit the liability of Lessee under an Agreement.

## 22. IP Rights

**22.1.** Except as specified in article 22.2, Tankcon shall solely and exclusively retain all rights, ownership and interest in IP Rights in and relating to the Equipment, any markings and logos on the Equipment, and technical data relating to the Equipment.

**22.2.** Lessee is hereby granted an irrevocable, non-exclusive, non-transferable, royalty-free right to use and reproduce technical data relating to the Equipment during the Lease Period to the extent required for the use, maintenance and repair of the Equipment.

## 23. Trade and economic sanctions

**23.1.** Lessee, for itself and its Affiliates, warrants, represents and undertakes to Tankcon on a continuing basis throughout the Lease Period, and it is a condition of an Agreement, that:

**a.** neither Lessee nor its Group, nor any person, entity or body on whose behalf or under whose direction Lessee acts, or who it assists, or who directly or indirectly owns or controls Lessee, nor any person to whom Lessee may provide the use or for whom it may operate the Equipment, is a Sanctioned Entity;

**b.** entry into and performance of an Agreement is not and will not be a Sanctioned Transaction.

**23.2.** It is a condition of an Agreement that Lessee shall not provide, supply, sub-lease, export, re-export or (if Lessee purchases the Equipment under a purchase option contained in an Agreement) transfer or sell the Equipment or any part of it to any Sanctioned Entity, nor use, operate, permit or provide the use of the Equipment or any part of it in any activity, trade, operation or service or for any purpose which is, or could be or result in, a Sanctioned Transaction.

**23.3.** Lessee shall communicate the conditions in articles 23.1 and 23.2 in writing to all entities to whom it provides, supplies, sub-leases, exports, re-exports or (if Lessee purchases the Equipment) transfers or sells the Equipment in accordance with an Agreement.

**23.4.** Lessee shall indemnify Tankcon on demand against any and all sanctions, prohibitions, restrictions, claims, loss or liability whatsoever and howsoever arising directly or indirectly as a result of breach of the warranties, representations, undertakings, conditions and obligations contained in this article 23 and in article 24.

**23.5.** No act or omission of Tankcon shall constitute a waiver of this article 23.

## 24. Compliance with law

**24.1.** Lessee shall comply with all Applicable Laws in the implementation of an Agreement, including but not limited to the Bribery Act 2010 (UK), the Foreign Corrupt Practices Act 1977 (US) and all other applicable anti-bribery and corruption legislation.

**24.2.** Lessee warrants, represents and undertakes to Tankcon that in connection with its use of the Equipment and activities contemplated by an Agreement, it

**a.** has not made, promised or authorized any person on its behalf to make, and **b.** will not make or promise, or authorize any person to make or promise

**24.3.** any payment or transfer of anything of value, directly or indirectly, to a Public Official or an intermediary on behalf of a Public Official, or to any officer, director, employee or representative of the other Party or its Affiliates or client(s) or to any other person or entity, with a view to inducing such person or entity to perform its functions improperly or in violation of Applicable Laws; but this article does not prohibit normal and customary business hospitality in compliance with Applicable Laws.

## 25. Default, suspension and termination

**25.1.** If:

**a.** Lessee does not collect and remove any Equipment from the Delivery Place within 10 Workdays after the Delivery Date(s), as provided in article 4.2 (ii);

**b.** Lessee does not pay any amounts due under an Agreement within 30 days after the due date for payment in accordance with article 7;

**c.** (except where due to intentional act or default of Tankcon) any Equipment is subject to seizure, detention, capture, impounding, impairment of title, arrest, attachment, execution, claim or enforcement of any Encumbrance, which (in all cases) results in Lessee being deprived of the use of the Equipment, and from which the Equipment is not released by Lessee (as required by article 17) within 30 days;

**d.** Lessee is in breach of articles 23 or 24 of these Rental Terms;

**e.** Lessee is in breach of any of its other obligations under an Agreement and fails to rectify such breach within 30 days after Tankcon requires it to do so in writing;

**f.** Lessee is unable to pay its debts as they fall due; ceases business, enters into a general arrangement with its creditors, liquidation, winding-up, administration, receivership or other insolvency proceedings in any country, or an encumbrancer takes possession of all or a substantial part of its assets; Lessee shall be in default and (where capable of remedy) shall take immediate steps to rectify such default.

**25.2.** Without prejudice to Tankcon's other rights and remedies under an Agreement and under general law, in any of the events specified in article 25.1:

**a.** all sums invoiced by Tankcon to Lessee shall immediately become due and payable;

**b.** Tankcon shall be entitled (but not obliged) at its option

- to suspend performance of any of its obligations until the default (if capable of remedy) is rectified and/or all outstanding amounts are paid; and/or

- (as a condition to continued performance of the Agreement) to require advance payment and/or security for payment of compensation that is or will become payable by Lessee under the Agreement and performance of Lessee's other obligations; and/or

- to terminate the Agreement in whole or in part by immediate written notice to Lessee;

**c.** (whether or not the Agreement is terminated) Tankcon shall be entitled on demand to immediate Redelivery of the Equipment and for this purpose Lessee shall, at its cost:

- immediately on demand identify the exact location(s) of the Equipment;

- Redeliver the Equipment to Tankcon, in compliance with article 15, at its existing location(s) or at any other location(s) Tankcon may require in writing;

- at Tankcon's request, permit and enable Tankcon and/or its representative(s) to enter any place(s) where Equipment is located to take Redelivery of it;

- take all action necessary to enable Tankcon to enforce its rights.

**25.3.** Until Redelivery in accordance with article 25.2 (iii):

**a.** risk in and responsibility for the Equipment remains with Lessee as provided in article 16;

**b.** compensation at the rate(s) specified in the Lease Agreement remains payable for the Equipment;

**c.** Lessee remains liable to perform all its obligations in relation to the Equipment (including but not limited to maintenance, repair and insurance.)

**25.4.** If in relation to any Container(s)

i. an event of default occurs under article 25.1 (iii) (detention of Equipment for 30 days or more) or

ii. Lessee fails to Redeliver the Equipment within 30 days after demand under article 25.2 (iii)

Tankcon may at its option by written notice to Lessee treat such Container(s) as a Total Loss, in which case:

- Lessee shall pay Tankcon the DRV of the Container(s) in accordance with article 18.2 (ii);

- articles 18.3 and 18.4 shall apply;

- subject to receipt of the DRV by Tankcon or its designee, Tankcon shall at Lessee's request abandon the Container(s) to Lessee on an as is where is basis.

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**25.5.** Lessee shall be liable for and shall pay, indemnify and hold Tankcon harmless on demand in respect of all costs (including legal costs), expenses, loss, damage and liability arising from Lessee's default, including but not limited to

**a.** costs incurred in enforcing an Agreement and exercising rights and remedies available to Tankcon; and

**b.** (in case of early termination of any Lease Agreement other than a Flexible Lease Agreement) all compensation that would have been payable by Lessee to Tankcon under the Agreement from the date of termination until expiry of the Initial Lease Period (as extended, if applicable at the date of termination, under article 3.2 and 3.3).

#### **26. Service of process and notices**

Service of any originating process or notice may be effected by courier, post or e-mail to the other Party's address described in in the Lease Agreement or usual address or as designated in writing to the other party.

#### **27. Assignment and subcontracting**

Lessee shall not assign or novate its rights and/or obligations under an Agreement, nor sub-lease the Equipment, nor subcontract the whole or part of its rights and/or obligations under an Agreement to any person without Tankcon's prior written consent.

#### **28. Purchase option/obligation**

If, under the Lease Agreement, Lessee is granted and validly exercises an option to purchase, or is obliged to purchase, any Equipment:

**28.1.** The Equipment is sold on an as is where is basis on the terms provided in article 8.1; shall be collected and removed by Lessee at its own cost and risk; and such collection and removal constitutes complete discharge of Tankcon's obligations in relation to delivery of the Equipment pursuant to such purchase option or obligation.

**28.2.** With effect from such delivery, Tankcon shall have no liability to Lessee and Lessee shall release, defend, indemnify and hold Tankcon harmless on demand from and against all claims and liability whatsoever arising in connection with the sale of the Equipment.

**28.3.** Upon receipt in full in Tankcon's nominated bank account, without set-off, deduction or counterclaim and in the currency specified in the Lease Agreement, of the purchase option price and of all other sums outstanding from Lessee to Tankcon under the Agreement:

**a.** the Equipment shall be released for collection and removal by Lessee;

**b.** title to the Equipment shall transfer to Lessee;

**c.** risk of damage and loss to, and full responsibility for, the Equipment shall remain with Lessee; and

**d.** the Lease Period shall terminate.

**28.4.** Subject to article 27.2, legal and beneficial title to the Equipment shall transfer to Lessee free from Encumbrances created by Tankcon; but no other warranty (express or implied, statutory or otherwise) is given as to freedom from Encumbrance.

**28.5.** Upon delivery, Lessee shall remove from the Equipment and its data plate all marking and logos identifying the Equipment as property of Tankcon.

**28.6.** Article 23 shall continue to apply at and with effect from delivery pursuant to the purchase option.

#### **29. Amendment and waiver**

**29.1.** No modification to an Agreement shall be valid unless made in writing signed (or sent in electronic form) by or on behalf of duly authorized representatives of the Parties.

**29.2.** No failure to exercise a right or remedy under an Agreement constitutes a waiver of it or precludes future exercise of it.

**29.3.** Any waiver of a right or remedy under an Agreement shall be in writing signed by the waiving Party and shall not apply to any continuing or later breach of such provision.

#### **30. Contract formation and entire agreement**

**30.1.** An Agreement is effective from the date of the Lease Agreement provided that either the Lease Agreement has been signed by representatives of both Parties or the Equipment has been Delivered.

**30.2.** An Agreement sets out the entire agreement between the Parties in relation to the lease of the Equipment by Tankcon to Lessee; supersedes any and all prior representations, understandings and agreements between the Parties in relation to its subject matter; and overrides any terms or conditions proposed by Lessee at any time.

**30.3.** Unless and until a formal revised version of the Annex to a Lease Agreement is signed by both Parties, any written communications (including those in electronic form) between the Parties agreeing to the date of Delivery or Redelivery, and/or changes, additions, deletions or other details, of any Containers shall constitute a valid amendment to the Annex to the Lease Agreement.

**30.4.** Except where stated otherwise, rights and remedies conferred under an Agreement are in addition to, and not exclusive of, rights and remedies under general law.

**30.5.** If any of the provisions of the Lease Agreement and/or these Rental Terms shall be declared invalid or unenforceable all other provisions shall remain in full force and effect.

#### **31. Limitation of liability**

**31.1.** 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.

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

**31.3.** 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 lease rate invoiced to Lessee in the 6 (six) previous months prior to the damage. In any event Tankcon's liability shall never exceed EUR 10.000,- per event or per sequence of related events.

**31.4.** 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.

**31.5.** The exclusions and limitations set out in articles 30.1 up to and including 30.4 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.

**31.6.** 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.

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

**31.8.** The provisions of this article 30 are also stipulated on behalf of the employees, officers, subcontractors and agents of Tankcon.

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

**31.10.** Lessee shall indemnify, defend and hold harmless Tankcon, and all other parties referred to in article 31.8 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 Lessee is liable.

#### **32. Governing law, dispute resolution**

**32.1.** Agreements and any further agreements resulting therefrom, including any question regarding the existence, validity or termination thereof, shall exclusively be governed by and interpreted in accordance with Dutch law.

**32.2.** Subject to article 32.2, all disputes arising out of or in connection with an Agreement (including any issues relating to its existence, validity or termination) shall be referred to and finally resolved by arbitration in Rotterdam in accordance with the TAMARA Arbitration Rules from time to time in force, which rules are deemed to be incorporated by reference in this article; provided that

**a.** the seat of the arbitration shall be Rotterdam;

**b.** the tribunal shall consist of one arbitrator;

**c.** if a Party fails within 14 days to object to an arbitrator proposed in writing by the other Party, it shall be deemed to have approved that arbitrator and shall join in the appointment of that arbitrator;

**d.** the language of the arbitration shall be English;

**e.** the costs of the arbitration shall be borne by the unsuccessful Party or Parties;

**f.** the arbitrator's decision shall be final and binding on the Parties.

**32.3.** Notwithstanding article 32.1, Lessee acknowledges that Tankcon shall be entitled to issue proceedings for injunctive, declaratory or protective relief, security, repossession, recovery, enforcement or execution in any other jurisdiction, and Lessee hereby submits to any such jurisdiction.

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