

TERMS AND CONDITIONS TANKCON B.V. – CONTAINER SALES *Version 2024*

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 the sale of containers and/or related services (to be) provided by or on behalf of Tankcon, with any and all annexes and/or amendments and/or additions thereto;
- d. **"Sales Terms"** means the present terms and conditions regarding container sales;
- e. **"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.
- f. **"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.
- g. **"Specification"** means any information relating to the container(s) including but not limited to quantity, technical and functional specifications, quality and description.

2. APPLICABILITY

- 2.1. These Sales 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 Sales Terms form an integral part of each Agreement. In case of conflict between these Sales 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 Sales 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 Sales Terms remain in full force and effect.

4. PRICES

- 4.1. The price of the container(s) shall be as stated in the relevant offer or Agreement.
- 4.2. Tankcon is entitled to charge the Customer costs if the container(s) is/are not collected by the Customer within 14 (fourteen) days after conclusion of the Agreement or the agreed delivery date, whichever is later.
- 4.3. Unless explicitly otherwise agreed in writing, all prices are in Euros. The price shall be net of delivery charges to the named location(s). The price shall be exclusive of all applicable taxes.
- 4.4. 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. CONTAINERS

- 6.1. Any technical data provided by Tankcon to the Customer in relation to the containers, in any specification or otherwise, shall be considered to be approximations only.
- 6.2. Save as expressly agreed between Tankcon and the Customer in writing and/or in any applicable specification supplied by Tankcon or agreed in writing by the Customer, containers are sold, transferred and assigned in their "as is, where is" condition and Tankcon makes no warranties, guarantees or representations of any kind, either express or implied, statutory or otherwise, that survive delivery of the containers to the Customer.
- 6.3. The Customer waives, releases and renounces all warranties, obligations and liabilities of Tankcon, express or implied, arising by law or otherwise, with respect to any nonconformance or defect in the containers, the condition thereof, damage thereto, the location of the containers, any implied warranty of fitness or merchantability, any liability arising from strict liability in tort, product liability, implied warranty arising from course of performance, course of dealing or usage of trade, or loss of use, profit or other consequential damages.

7. DELIVERY

- 7.1. Unless expressly agreed otherwise, Tankcon shall only deliver the container(s) once the invoiced amount has been received by Tankcon.
- 7.2. The delivery of the container(s) will take place at the place where the container(s) is/are located at the time of conclusion of the Agreement.
- 7.3. On request of the Customer Tankcon shall deliver the container(s) at another location designated by or on behalf of the Customer. The costs of delivery will be charged separately. The delivery will take place 'Incoterms, ex works'.
- 7.4. In all cases the containers are being transported at the risk of the Customer, unless explicitly otherwise agreed in writing.
- 7.5. Any transport obligation agreed with Tankcon will be limited to the location, which is reasonable accessible for the transport, chosen by Tankcon.
- 7.6. The Customer is obliged to take care of the location indicated by or on behalf of the Customer, complying with the regulations, work conditions, and/or other requirements laid down by or on behalf of Tankcon and/or (semi-)governmental institutions. Tankcon should be able to deliver the containers freely. The Customer is liable for all (in)direct, consequential or special damages incurred by Tankcon as a result of the non-compliance with the obligations set above. Tankcon will never be liable for any damage caused by the delivery to a faulty location. The Customer will safeguard Tankcon against all claims from third parties in respect of this obligation.
- 7.7. Tankcon is entitled to take all measures it regards necessary at the expense and for the account of the Customer, when - if she would refrain from this - damage to or loss of object or persons to the Customer, a third party or Tankcon is to be feared. If possible Tankcon will inform the Customer of the measures taken, failing which the Customer will not be entitled to any claim on Tankcon.

8. TANKCON'S OWNERSHIP AND RETENTION OF TITLE

- 8.1. Any container sold and delivered by Tankcon shall remain the property of Tankcon until the Customer has fulfilled all its obligations arising from the Agreement and - insofar legally permitted - other agreements with and/or claims from Tankcon.
- 8.2. If the Customer fails to comply with its obligations, the Customer is not entitled to make the sold containers available to third parties, to sell or to encumber them for whatever reason without Tankcon's prior written consent. In case of breach of this provision the latest value of the container(s) when new will become immediately due and payable and the Customer will be obliged to assign his claims on third parties on this matter immediately to the Customer.
- 8.3. If the Customer fails to comply with its obligations or if there is reasonable fear that the Customer will fail to do so, Tankcon shall have the right to repossess the sold and delivered container(s) subject to the retention of title from the Customer or from third parties holding the sold container(s) on the Customers' behalf.

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8.4. If third parties wish to establish or exercise any right on the container(s) sold and delivered subject to the retention of title clause, the Customer is obliged to notify Tankcon as soon as this can be expected in all reasonableness.

8.5. The Customer is under an obligation:

- to take out and maintain insurance for the container(s) delivered subject to the retention of title clause in respect of fire, explosion and water damage, and theft, and to submit the policy of this insurance to Tankcon for inspection;
- to pledge to Tankcon, at Tankcon's first request, all claims against the Customer or insurers in respect of all containers delivered subject to the retention of title clause;
- to pledge to Tankcon, at Tankcon's first request, the claims obtained by the Customer vis-à-vis its buyers in reselling or further processing the containers sold and delivered by Tankcon subject to the retention of title clause;
- to label the containers sold and delivered by Tankcon subject to the retention of title clause as the property of Tankcon;
- to cooperate in any other way on any and all reasonable measures that Tankcon wishes to take to protect its retention of title in the containers and that do not obstruct the Customer in any unreasonable manner in the normal course of its business in this respect on pain of a penalty of Euro 2.500,- a day.

9. INSURANCE

9.1. 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.

9.2. The insurance policy, taken out in accordance with clause 9.1 hereof, shall be effective at least from the start of the Agreement.

9.3. Tankcon will notify the Customer if and when she 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 sale, unless agreed on otherwise in writing.

10.2. The Customer shall immediately, and, in any event, within 7 (seven) days after acquisition of the ownership, at Customer's expense, remove from the container(s) the reporting marks of Tankcon and any other plate, label or other evidence of pre-ownership.

10.3. Pending receipt by Tankcon of the full purchase price, the Customer shall not pledge or otherwise encumber the container(s) in favor of any third party.

10.4. The Customer warrants, represents and undertakes to Tankcon on a continuing basis throughout the Agreement, and it is a condition to an Agreement, that: (a) neither the Customer nor any period, entity or body on whose behalf or under whose direction the Customer acts, or who it assists, or who directly or indirectly owns or controls the Customer, nor any person to whom the Customer may provide the use or for whom it may operate the containers is a Sanctioned Entity; and (b) entry into and performance of an Agreement is not and will not be a Sanctioned Transaction. It is a condition of an Agreement that the Customer shall not provide, supply, export, re-export or under a purchase option contained in an Agreement transfer or sell the container(s) or any part of it to any Sanctioned Entity, nor use, operate, permit or provide the use of the container(s) 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. The Customer shall communicate the conditions in this article 10.4 in writing to all entities to whom it provides, supplies, exports, re-exports or (if the Customer purchases the container(s)) transfers or sells the container(s) in accordance with an Agreement. The Customer 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 10.4. No act or omission of Tankcon shall constitute a waiver of this article 10.4.

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

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 indemnify Tankcon against third party claims for damage caused by the Customer's acts or negligence.

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

11. DOCUMENTATION AND INFORMATION

11.1. All documentation provided by Tankcon 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 the documentation provided by Tankcon will be copied, shown to or used by third parties or made available to them without Tankcon's express 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 and any period that any preconditions are not being fulfilled.

12.3. In the event that the provision of the container is delayed due to circumstances for which the Customer is responsible or due to Force Majeure (as defined in article 14), the price will be increased proportionately.

12.4. In the event that the start or continuation of the Agreement 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 Sales 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 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); sabotage; blockades, embargoes, trade sanctions, export and transshipment controls.

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 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 the Customer 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 container(s) (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).

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.

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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 product or 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.

15.7. 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.

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

15.9. 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.

15.10. The Customer shall indemnify, defend and hold harmless Tankcon, and all other parties referred to in clause 15.8 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 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. The minimum amount to be paid by the Customer in case of termination – other than as provided for in clauses 16.2 and 16.3 hereof - will be 10% (ten percent) of the price agreed for the container(s) in the Agreement.

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 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 UNUM 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.

17.3. Notwithstanding article 17.2, the Customer 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 the Customer hereby submits to any such jurisdiction.

18. MISCELLANEOUS

18.1. An Agreement sets out the entire agreement between the parties in relation to the sale of the container(s) by Tankcon to the Customer; 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 the Customer at any time.

18.2. Unless and until a formal revised version of the annex to an 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 Agreement.

18.3. 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.

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

18.5. 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.

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

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

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

18.9. If any provision or part of the Agreement or of these Sales 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 Sales 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.

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