

# General Terms and Conditions of Den Ouden Tanktransport B.V.

## A. GENERAL PROVISIONS

These General Terms and Conditions consist of the present General Provisions module and the following separate specific modules:

- B. Transport agreements in general;
- C. Tank storage;
- D. Tank cleaning and heating.

The specific modules apply in addition to Articles 1 through 3 of these Terms and Conditions. If and in so far as the specific modules differ from Articles 1 through 3, the specific modules shall take precedence.

These General Terms and Conditions have been drawn up in Dutch and English. In the event of any dispute regarding the contents or the purport of these General Terms and Conditions, the Dutch text shall prevail.

### Article 1 – GENERAL

1. These General Terms and Conditions apply to all offers, agreements concluded, and activities, whereby Den Ouden Tanktransport B.V., hereinafter referred to as “OTT”, undertakes to transport cargo (liquid or otherwise), and to store, clean and heat cargo (liquid or otherwise) and tank containers, or to perform any other types of activities, unless explicitly agreed otherwise in writing in advance.
2. In these Terms and Conditions, the term ‘Principal’ is understood to mean any natural person or legal entity that has either concluded an agreement with OTT or wishes to do so.
3. The applicability of purchasing or other terms and conditions of the Principal is expressly rejected.
4. OTT may have all or part of the contract and the related activities performed by third parties, without this entailing that OTT can no longer rely on these Terms and Conditions.
5. If third-party approval or permission or a government permit is required to perform the work, the Principal will ensure that the required permit and/or permission is obtained in good time. This does not apply to those permits which OTT needs to have in order to operate its business.
6. The Principal shall at all times not load, or cause to be loaded, more than the legally permitted maximum load weight of the respective vehicle. The Principal indemnifies OTT with respect to the consequences of and/or damage caused by overloading, if this is caused by or because of the Principal’s actions.
7. In so far as work is not explicitly described in these Terms and Conditions (with work with regard to transport, storage, cleaning and heating being explicitly described in modules B., C. and D. and to which the specific General Terms and Conditions indicated there apply with corresponding limitations of liability), OTT shall only be liable for direct damage as a result of wilful intent or deliberate recklessness on the part of OTT and/or its board or company management employees, which wilful intent or deliberate recklessness is to be demonstrated by the Principal. At such time, OTT’s liability shall be limited per event, with a series of related events being regarded as a single event, to the amount paid out by OTT’s corporate liability insurer. If, for whatever reason, the insurer does not pay out, OTT’s liability per event, with a series of related events being regarded as a single event, shall be limited to the net price of that part of the work to which the liability relates, with an absolute maximum of € 50,000. In the case of an agreement with a term of more than one (1) year, the net price can never exceed the net price stipulated for one (1) year.
8. OTT shall never be liable for:
  - indirect loss of any kind, including consequential loss and/or
  - intangible loss

suffered by the Principal or a third party due to OTT or a person for whom it is liable under the law failing to comply with the agreement.

### Article 2 — PRICES, OFFERS AND PAYMENTS

1. All offers made by OTT are without obligation.
2. OTT’s prices are based on locations that are easy to reach or can be readily traversed. If, during the performance of the contract, it turns out that the location is not easily accessible, OTT may increase the prices with all the resulting extra costs.
3. Prices and rates are in euros, excluding landfill and toll charges, any levies and duties, VAT, clearance costs and, in the case of transport, a diesel fuel surcharge as set out in Article 4(5).
4. Without prejudice to the provisions of paragraph 3 of this article, OTT is at all times entitled to change the prices charged, on the understanding that prices already agreed can only be changed if the cost-determining factors have changed since the conclusion of the agreement and before the performance of the work.
5. The payment term is 30 days after the invoice date. Reliance on setting off claims for payment of freight, any amounts due for other reasons relating to an agreement or further costs related to the goods against claims for other reasons is not permitted.

### Article 3 — RIGHT OF RETENTION, LIMITATION/EXPIRY PERIOD AND COMPETENT COURT

1. OTT is entitled to refuse to surrender monies, goods and/or documents which OTT has in its possession in connection with the agreement and/or the activities to anyone who is entitled to delivery thereof. OTT is entitled to exercise the right of retention referred to above for that which is owed and/or will be owed to OTT in respect of the agreement concluded with OTT and/or work performed by it. All monies, goods and/or documents which OTT holds or will hold are deemed to be subject to a right of pledge as referred to in Article 3:236 of the Dutch Civil Code, as security for what the Principal owes or will owe OTT. OTT is entitled to sell the pledged monies, goods and/or documents in the manner stipulated by law or, if there is consensus in this regard, privately.
2. In so far as the applicable terms and conditions or standard terms and conditions do not provide for other limitation/expiry periods, any claim or right of action against OTT will become time-barred and expire by the mere passing of twelve months after the inception of the claim.
3. All offers, agreements concluded, and activities, as referred to in Article 1.1, are exclusively governed by Dutch law, unless mandatory legal provisions dictate otherwise. Any disputes arising from or in connection with offers, agreements concluded, and activities, as referred to in Article 1.1, shall be settled exclusively by the District Court of Rotterdam, unless otherwise prescribed by mandatory law.

## B. TRANSPORT AGREEMENTS

### Article 4 — AVC, LOADING AND UNLOADING ACTIVITIES

1. In addition to the provisions of Book 8 of the Dutch Civil Code (DCC), the General Transport Conditions 2002 (AVC), most recently amended version, as filed with the District Courts of Rotterdam and Amsterdam, apply to activities carried out in connection with a transport agreement. These conditions will be forwarded

free of charge on request. In the case of cross-border transport, the AVC supplement the CMR Convention.

2. In so far as loading and unloading activities are carried out by OTT’s subordinates or agents or by a carrier engaged by OTT, these activities take place within the framework of ‘transport’, to which the provisions of Book 8 of the DCC and the AVC 2002 are applicable at such time. This does not affect the applicability of Article 4(1)(e) of the AVC 2002.
3. The prices and rates include one (1) hour for loading and unloading together in the case of a partial load and two (2) hours in the case of a full load, unless otherwise agreed.
4. The “loading” or “unloading” starting time shall be the time at which the driver reports to the loading or unloading address as stated on the consignment note.

## C. STORAGE

### Article 5 — VOTOB TERMS AND CONDITIONS

1. The General Conditions for Tank Storage in the Netherlands (VOTOB), most recently amended version, filed with the registry of the District Courts of Rotterdam and Amsterdam, apply to tank storage activities. These conditions will be forwarded free of charge on request.

## D. TANK CLEANING AND HEATING

### Article 6 – ATCN CONDITIONS

1. The General Conditions for Tank Cleaning (ATCN), most recently amended version, filed with the registry of the District Court of The Hague, apply to activities related to the cleaning of containers, including tank containers, tanks, tanker lorries and other equipment. These conditions will be forwarded free of charge on request. At variance with the provisions of the ATCN, any disputes arising from or in connection with agreements as referred to in paragraph 1 shall be settled exclusively by the District Court of Rotterdam, unless otherwise prescribed by mandatory law.



## GENERAL TANK CLEANING TERMS AND CONDITIONS OF ATCN

### Clause 1 – applicability of general terms and conditions

1. These general terms and conditions apply to all legal relationships between the cleaning company and the customer.
2. Once a contract has been concluded subject to these general terms and conditions, these will continue to apply to all future contracts to be concluded between the customer and the cleaning company.

### Clause 2 – definitions

In these general terms and conditions, the following terms have the following meanings:

1. **General terms and conditions:** the ATCN General Tank Cleaning Terms and Conditions.
2. **Cleaning company:** the company affiliated with ATCN that has undertaken towards its customer to perform work.
3. **Customer:** the contractual counterparty of the cleaning company.
4. **Object:** any equipment, including but not limited to tank/bulk containers, tank/bulk trailers, Intermediate Bulk Containers, Mini Tank Containers, tank wagons and associated equipment, offered by the customer for the performance of work.
5. **Work:** any type of service provided by the cleaning company, including but not limited to the cleaning of one or more objects and the performance of related work, such as carrying out inspections (or having them carried out), performing repair work, heating up and/or maintaining the temperature of the product contained in the object and providing (temporary) storage.
6. **ATCN:** the association with full legal capacity Association of Tankcleaning Cy's Netherlands.
7. **Clean:** an object shall be described as clean when there are no visible traces or odour of the last product or cleaning agent following a visual inspection

carried out without tools and all steps of the agreed cleaning process have been carried out correctly. For objects with manholes, the aforementioned visual inspection will take place from the manholes.

8. **Residual load:** product contained in the object offered to the cleaning company for cleaning.

### **Clause 3 - quotations and contract**

1. All quotations issued by the cleaning company are non-binding until a contract is concluded with the cleaning company.
2. A contract with the cleaning company is concluded by means of a written confirmation from the cleaning company or, after a request to perform work has been recorded by the cleaning company, the cleaning company has commenced the performance of the work.
3. The customer confirms that its employees and auxiliaries are authorised to conclude contracts with the cleaning company on its behalf and are authorised to inspect and approve the work.

### **Clause 4 – obligations of the customer**

1. Upon granting the assignment, the customer will provide the cleaning company in writing with all information that the customer is or should be able to provide and which the customer is or should be aware that it is or could be of importance to the cleaning company. The customer will in any event inform the cleaning company in writing of the following:
  - a. what the last cargo carried consisted of, submitting a copy of the corresponding current Material Safety Data Sheet (MSDS),
  - b. whether residual load is present in the object, and if so, what residual load and how much, in regard to which the amount of residual load will be determined in consultation with the cleaning staff, unless the customer and the cleaning company have agreed otherwise in writing,
  - c. the cleaning method desired by the customer, insofar as it extends beyond the cleaning company's usual method,
  - d. any other instructions with regard to the cleaning.
2. At the request of the cleaning company, electronically or otherwise, the customer will be obliged to complete and sign a form containing all data relating to the cleaning.
3. The cleaning company may rely on the data and statements provided without being obliged to examine the accuracy and completeness of such data and is

entitled but not obliged to check such data and statements for accuracy and completeness.

4. The customer guarantees the accuracy and completeness of the data and statements provided and is liable to the cleaning company for any loss and costs arising from the fact that the data provided by it was incorrect and/or incomplete.
5. The customer guarantees that the object is suitable in all respects for the work to be performed in that regard. The customer also provides this guarantee with regard to the product contained in the object, insofar as the work relates to the product.
6. The cleaning company may refuse the work if the customer fails to fulfil its obligations under this Clause 4. Any costs related to this will be borne by the customer.

#### **Clause 5 – performance of the contract**

1. Unless agreed otherwise in writing, the cleaning company will make every effort to deliver the object to the customer in a clean condition.
2. The cleaning company will perform the work with due observance of the precautionary measures specified by the customer and will exercise all due care in this regard.
3. The customer is obliged to follow instructions given to it in connection with the work, and to do so without delay. The customer is liable to the cleaning company for any loss and costs arising from the fact that the aforementioned instructions were not followed correctly and/or fully.
4. When the work is completed, the customer will be given the opportunity to inspect the work performed. The customer may also have the inspection carried out by a third party. After inspection, the customer, or the third party on its behalf, signs for receipt of the cleaned object and for any other work carried out. In the absence of specific reservations regarding the condition of the cleaning, the customer will be deemed to have accepted the cleaned object as being clean and in good condition.
5. Any inspection carried out by or on behalf of the customer will take place on the premises of the cleaning company. As soon as the object leaves the premises without the customer or a third party on its behalf having expressed a reservation and having immediately given the cleaning company the opportunity to redo the work, the customer will forfeit any right to claim damages and/or performance from the cleaning company and will furthermore forfeit the right to dissolve the contract.

## **Clause 6 – liability of the cleaning company**

1. The cleaning company runs significant risks for a relatively small fee. Partly for this reason, the cleaning company and the customer agree to limit the cleaning company's liability.
2. The cleaning company is not liable for any loss, unless the customer proves that the loss was caused due to the fault or negligence of the cleaning company or its employees or auxiliaries. If, due to such fault or negligence, the work has not been carried out in accordance with the assignment, the liability of the cleaning company is limited to performing the agreed work again. If it is not possible to perform the work again, the cleaning company's liability will be limited to EUR 5,000 per event or series of events with the same cause of damage.
3. The cleaning company is never liable for lost profit, indirect loss, consequential loss and intangible loss, however caused.
4. Should any claims be instituted against the employees or auxiliaries of the cleaning company in connection with the work, such persons are entitled to invoke in respect of the customer any limitation and/or exemption with regard to liability and any indemnity that the cleaning company may invoke under these general terms and conditions or any other statutory or contractual provision.
5. Any claim against the cleaning company lapses on the mere expiry of nine months. This time limit commences on the day when the claim has become due and payable.

## **Clause 7 – force majeure**

Should the cleaning company be entitled to invoke *force majeure*, it will be entitled to dissolve the contract without being obliged to pay any damages.

## **Clause 8 – Indemnification**

1. The customer who fails to fulfil any obligation imposed on it by the law, the contract or these general terms and conditions indemnifies the cleaning company in respect of any loss that the cleaning company may incur as a result of such failure if the cleaning company is sued by a third party, including employees of both the cleaning company and the customer, in connection with the work.
2. The customer indemnifies the cleaning company in respect of any claims by third parties, including employees of both the cleaning company and the

customer, relating to the work, insofar as such claims exceed the amount that the cleaning company would be obliged to pay to the customer on the basis of these general terms and conditions if the claims had been instituted by the customer.

#### **Clause 9 – urgent maintenance and residual load**

1. The customer shall bear all costs to be incurred by the cleaning company for urgent maintenance of the object required to carry out the work. The cleaning company is not liable to the customer for the proper performance of such urgent maintenance.
2. Unless agreed otherwise in writing, the cleaning company is entitled to dispose of and/or destroy the residual load at the customer's expense and risk. The customer will reimburse the cleaning company for the costs involved. The customer will indemnify the cleaning company in respect of all costs and claims by third parties in connection with the disposal and/or destruction of the residual load.
3. Should the cleaning company be unable and/or unwilling to dispose of and/or destroy the residual load, the customer will, upon first request of the cleaning company, dispose of the residual load or have it disposed of at its own expense and risk.

#### **Clause 10 – Fee and payment**

1. All amounts that the customer owes to the cleaning company will be paid with due observance of the time limit agreed in this regard or, in the absence of an agreed time limit, within fourteen days after the invoice date.
2. The customer is not entitled to offset any claims by the cleaning company against any claims it has against the cleaning company, nor is it entitled to suspend payments to the cleaning company.
3. Should the cleaning company have to collect its claim in the event of late payment, the customer will reimburse the cleaning company for any judicial and extrajudicial costs incurred. The extrajudicial collection costs are due from the moment the customer is in default and amount to 15% of the claim, with a minimum of EUR 100.
4. The cleaning company has a right of retention and a right of pledge on all objects, funds and documents which it has in its possession or will acquire, for all claims – irrespective of whether they relate to previous orders – which the cleaning company has or may acquire against the customer.

**Clause 11 – disputes**

1. All disputes between the cleaning company and the customer will be submitted exclusively to the competent court in Rotterdam. The legal relationship between the customer and the cleaning company is governed by Dutch law.
2. In case of divergences with translated terms and conditions, the Dutch version of the general terms and conditions shall prevail.

Filed by ATCN with the Registry of the District Court of Rotterdam on August 1, 2023.