

**APPENDIX \*\* to Storage Agreement No. \*\***

**GENERAL CONDITIONS  
FOR  
TANK STORAGE  
IN THE NETHERLANDS**



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## TABLE OF CONTENTS

### Article Heading

<a href="#">1</a>	<a href="#">Definitions</a>
<a href="#">2</a>	<a href="#">Applicability of these General Conditions</a>
<a href="#">3</a>	<a href="#">Forwarding agent's operations, carriage of goods and other operations</a>
<a href="#">4</a>	<a href="#">Governmental regulations</a>
<a href="#">5</a>	<a href="#">Carrying out of additional actions</a>
<a href="#">6</a>	<a href="#">Duration of the agreement</a>
<a href="#">7</a>	<a href="#">Intermediate termination of the agreement/intermediate termination or cessation of operations/ intermediate withdrawal of goods for urgent reasons</a>
<a href="#">8</a>	<a href="#">Removal of goods after the termination of the agreement</a>
<a href="#">9</a>	<a href="#">Failure of taking goods back</a>
<a href="#">10</a>	<a href="#">Special measures</a>
<a href="#">11</a>	<a href="#">Intermediate withdrawal of goods</a>
<a href="#">12</a>	<a href="#">Contents of landtanks</a>
<a href="#">13</a>	<a href="#">Inspection of the storage space</a>
<a href="#">14</a>	<a href="#">Maintenance of and repairs and alterations to the storage space</a>
<a href="#">15</a>	<a href="#">Cleaning of storage space and restoring it in its old condition</a>
<a href="#">16</a>	<a href="#">Replacement of storage space</a>
<a href="#">17</a>	<a href="#">Issuing of instructions</a>
<a href="#">18</a>	<a href="#">Refusal of goods and/or operations</a>
<a href="#">19</a>	<a href="#">Description of goods</a>
<a href="#">20</a>	<a href="#">Special methods of terminalling of goods</a>
<a href="#">21</a>	<a href="#">Place of delivery of goods</a>
<a href="#">22</a>	<a href="#">Condition of goods on arrival</a>
<a href="#">23</a>	<a href="#">Means of transport and packing materials</a>
<a href="#">24</a>	<a href="#">Goods that are burdened with charges</a>
<a href="#">25</a>	<a href="#">Duties and taxes</a>
<a href="#">26</a>	<a href="#">Period during which goods are at the premises</a>
<a href="#">27</a>	<a href="#">Arrival of vessels and vehicles</a>
<a href="#">28</a>	<a href="#">Order of sequence in which vessels and vehicles are dealt with</a>
<a href="#">29</a>	<a href="#">Late or irregular delivery or dispatch</a>
<a href="#">30</a>	<a href="#">Consequences of delay</a>
<a href="#">31</a>	<a href="#">Shifting and removal of vessels or vehicles</a>
<a href="#">32</a>	<a href="#">Directions regarding loading and unloading</a>
<a href="#">33</a>	<a href="#">Temperature and/or pressure of the cargo</a>
<a href="#">34</a>	<a href="#">Rate of tonnage to be pumped when loading and unloading ships</a>
<a href="#">35</a>	<a href="#">Working hours</a>
<a href="#">36</a>	<a href="#">Inspection of goods</a>
<a href="#">37</a>	<a href="#">The counting, weighing or measuring of goods</a>
<a href="#">38</a>	<a href="#">Place of storage, operations and transfer of goods</a>
<a href="#">39</a>	<a href="#">Storage, treatment and/or processing in a common storage space</a>
<a href="#">40</a>	<a href="#">Apportionment of losses, remnants and costs in case of use of a common storage space</a>
<a href="#">41</a>	<a href="#">Use of storage space for various kinds of goods</a>
<a href="#">42</a>	<a href="#">Information on goods</a>
<a href="#">43</a>	<a href="#">Delivery of goods by the Storage Company</a>
<a href="#">44</a>	<a href="#">Making storage space available to third parties</a>
<a href="#">45</a>	<a href="#">Issue of store warrants/delivery-orders</a>
<a href="#">46</a>	<a href="#">Notifications to unknown Holders of store warrants/delivery-orders</a>
<a href="#">47</a>	<a href="#">Loss or perishing of store warrants/delivery-orders</a>
<a href="#">48</a>	<a href="#">Transfer or passing of ownership of goods</a>
<a href="#">49</a>	<a href="#">Disputes as to ownership and attachment</a>
<a href="#">50</a>	<a href="#">Insurance of goods</a>
<a href="#">51</a>	<a href="#">Access to the premises</a>
<a href="#">52</a>	<a href="#">Rates/charges</a>
<a href="#">53</a>	<a href="#">Conditions of payment</a>
<a href="#">54</a>	<a href="#">Right of pledge and right of retention</a>
<a href="#">55</a>	<a href="#">Public sale</a>
<a href="#">56</a>	<a href="#">Liability and risk of the Principal</a>
<a href="#">57</a>	<a href="#">Liability of the Storage Company</a>
<a href="#">58</a>	<a href="#">Limitation of liability</a>
<a href="#">59</a>	<a href="#">Claims of third parties</a>
<a href="#">60</a>	<a href="#">Force majeure</a>
<a href="#">61</a>	<a href="#">Temporary force majeure Principal</a>
<a href="#">62</a>	<a href="#">Lapsing of claims</a>
<a href="#">63</a>	<a href="#">Scope of safeguarding provisions</a>
<a href="#">64</a>	<a href="#">Assignment of the agreement</a>
<a href="#">65</a>	<a href="#">Decisive text</a>
<a href="#">66</a>	<a href="#">Law applicable and Court of Law having jurisdiction</a>
<a href="#">67</a>	<a href="#">Citation</a>
<a href="#">68</a>	<a href="#">Conditions filed of record</a>

## Article 1

### **Definitions**

In these conditions the following meaning shall be given to the following words unless it is clear from the context in which they are used, that a different meaning should be attributed thereto:

#### **1. Storage Company:**

Anyone who conducts the business of and undertakes to carry out one or more of the operations hereinafter defined and/or to cause these to be carried out.

#### **2. Principal:**

Anyone who, whether directly or via an intermediary, has entered into an agreement with the Storage Company for the carrying out by or on account of this Company of one or more of the operations, hereinafter defined, the Holder of a store warrant or delivery-order, hereinafter defined, and anyone who acts or conducts himself as being entitled to the goods hereinafter defined.

#### **3. Operations:**

Any operations carried out or to be carried out by or on behalf of the Storage Company, inclusive of but not restricted to: to make storage space available, as hereinafter defined, to take delivery of, to store, to manipulate - which shall be deemed to include the trans-shipment and the through-pumping of the goods hereinafter defined, on or outside or via the premises, hereinafter defined -, the movement, treatment, processing, blending, delivery and/or administrative handling of the goods hereinafter defined and the drawing up of documents.

#### **4. Premises:**

Any premises, office(s), building(s), storage facility(ies), tank terminal(s), berth(s), jetty(ies), quay(s), pier(s), loading- and unloading berth(s), pipeline(s), at which or in which operations are carried out by or on account of the Storage Company, irrespective of whether these operations are carried out at the Storage Company's own premises or elsewhere.

#### **5. Storage space:**

Any space(s) to be made available to or to be used by the Storage Company for the purpose of carrying out operations, inclusive of tanks, tanker vessels, tank trucks, rail tank cars, sheds, warehouses and all other premises, whether or not covered, with the pipelines, pumps and component parts belonging thereto, together with the equipment and appliances belonging thereto.

#### **6. Pipeline:**

The conduit pipe(s) intended for pumping the goods, hereinafter defined, to, from and via the premises, inclusive of hoses and pipeline-through-connections.

#### **7. Goods:**

Any goods, howsoever named, whether solid, liquid or gas, that have been or are entrusted to the Storage Company for the purpose of carrying out one or more operations or that are intended for that purpose.

#### **8. Agreement:**

Any agreement entered into verbally, tacitly or in writing for the carrying out of one or more operations by the Storage Company.

#### **9. Store warrant/delivery-order:**

Any document validly signed by or on behalf of the Storage Company, bearing a serial number and the superscription or heading: 'ceel', 'cedul', 'Lagerschein', 'récépisse-warrant' or 'warrant', respectively 'delivery-order', in which it is stated that the Holder thereof is entitled, subject to due observance of these General Conditions, to receive a quantity of goods mentioned therein of a kind mentioned therein.

#### **10. Holder of a store warrant/delivery-order:**

Anyone who, as Holder of a store warrant/delivery-order makes himself known to the Storage Company by presenting the store warrant/delivery-order.

**11. The latest Holder of a store warrant/delivery-order known to the Storage Company:**

Anyone to whom a store warrant/delivery-order has been issued and subsequently the Holder of a store warrant/delivery-order whose request in writing to the Storage Company to be treated as the Holder bears the latest date, provided however, that the Storage Company shall have the right but not the obligation to regard anyone else as the Holder, if the Storage Company has reason to assume that the latter is the latest Holder of a store warrant/delivery-order.

**12. Governmental regulations:**

Any, at any time, applicable law as well as any regulation, instruction, measure or direction that at any time have been given or will be given by or on behalf of the government or other authorities, institutions and/or persons having authority to do so.

**13. Affiliated business enterprise:**

Group company(ies), enterprise(s) over which the Storage Company has direct or indirect control, subsidiary(ies) as well as enterprise(s) with which the Storage Company in any other way has a lasting joint venture.

Article 2

**Applicability of these General Conditions**

1. The Storage Company shall carry out all its operations exclusively on these General Conditions, unless otherwise explicitly agreed in writing.
2. These General Conditions shall be applicable to all legal relationships between the Principal and the Storage Company, also after the termination of the agreement.
3. General Conditions, if any, that are in any way referred to by the Principal or that might be declared applicable by the latter shall explicitly not be applicable to the agreement between the Principal and the Storage Company.

Article 3

**Forwarding agent's operations, carriage of goods and other operations**

1. Whenever the Storage Company undertakes to carry out forwarding agent's operations - not being customs clearance forwarding agent's operations - or carriage of goods and/or orders these to be carried out, the following conditions with respect to these operations shall be applicable to the legal relationships with the Storage Company:
  - a) in connection with forwarding agent's operations: the Conditions for Dutch Forwarding Agents, as filed of record at the Registry of the Arrondissements Courts in Amsterdam, Arnhem, Breda and Rotterdam;
  - b) in connection with the carriage of goods: the conditions of the carrier which undertakes to carry out the carriage in question or, as the case may be, the conditions which are usual for the carriage in question.
2. Whenever the Storage Company undertakes ship's agent's or shipbroker's operations, these operations shall be subject to the General Conditions and Rules for Dutch Shipbrokers and Agents, as filed of record at the Registry of the Arrondissements Courts in Amsterdam, Dordrecht, Groningen, Leeuwarden, Middelburg and Rotterdam.
3. Unless otherwise agreed, the latest text of the Conditions to which reference is made in this article shall be applicable. These Conditions are open to inspection at the Storage Company and will be forwarded to the Principal at his first request.
4. The provisions contained in the Conditions mentioned in paragraphs 1 and 2 of this article shall not be applicable in so far as arbitration clauses are concerned or conditions relating to the Courts of Law that shall have jurisdiction as laid down in those Conditions. The said provisions shall be replaced by what is defined in article 66 of these General Conditions.

5. In the event of the applicability of the Conditions to which reference is made in paragraphs 1 and 2 of this article, the Storage Company shall, in so far as no provision has been made with relation thereto in the Conditions in question, be entitled, if any agreed period of payment should be exceeded or - in the absence thereof - if the statement of account, rendered by the Storage Company, has not been settled within 15 days after the date of that statement of account, without any demand or placing in default being required, with effect from the due date, to charge the legal interest.

Article 4

### **Governmental regulations**

The operations carried out or to be carried out by the Storage Company shall be subject to governmental regulations.

Article 5

### **Carrying out of additional actions**

1. If the Principal wants to have actions carried out with relation to goods, that are not already included in the operations to be carried out by virtue of the agreement, then these shall be entrusted to the Storage Company at the rates/charges and on the conditions of the agreement or, if not specified in the agreement, then at the usual rates/charges of the Storage Company and furthermore in accordance with these General Conditions.
2. Actions that the Storage Company does not want to carry out itself, however, shall, after the consent of the Storage Company has been obtained, be carried out by or on behalf of the Principal under the supervision of the Storage Company and against payment for that supervision.
3. Whenever it has been agreed that actions shall be carried out by or on behalf of the Principal, these actions shall have to be carried out in accordance with the instructions of the Storage Company.

Article 6

### **Duration of the agreement**

If the agreement has been entered into for a fixed period, then it shall end by the expiration of the length of time agreed, unless the parties should agree otherwise. If the agreement has been entered into for an indefinite period, then each of the parties concerned shall have the right, after this agreement has continued for three months, to terminate the agreement subject to a written notice of termination of one month being given.

Article 7

### **Intermediate termination of the agreement/intermediate termination or cessation of operations/intermediate withdrawal of goods for urgent reasons**

1. If urgent reasons exist to do so, the Storage Company shall at all times have the right, at its choice:
  - a) intermediately, by a mere notification to the Principal, to terminate the agreement without any placing in default, without any intervention of a Court of Law and without observance of any period of notice;
  - b) to terminate or cease the operations agreed upon, in part or totally, or alternatively to have these terminated or to have these to cease;
  - c) prior to the expiration of the agreement to require that the goods be taken back. The Storage Company shall also have this right with respect to the remnants of goods as well as with respect to damaged goods.

2. Urgent reasons shall amongst other things but not exclusively be deemed to exist if:
- a) it is to be feared that loss of or damage to other goods or to the premises, or alternatively detriment to persons will arise from the carrying out of the operations agreed upon and/or from the presence of the goods;
  - b) the goods are subject to deterioration or if changes occur therein that, in the opinion of the Storage Company, justify the suspicion that their quality is deteriorating and the Principal is negligent in giving instructions for the prevention or the suppression thereof;
  - c) the storage space used for the Principal is, in part or in all, destroyed by fire or any other cause, or alternatively becomes unfit in any other way for the fulfilment of the agreement;
  - d) the Principal does not comply with or infringes any one or more of the provisions of the agreement and/or of these General Conditions or if the Storage Company has good reason to fear that the Principal will not meet his obligations;
  - e) the carrying out of the operations agreed upon and/or the goods cause(s) or threaten(s) to cause a serious environmental nuisance.

#### Article 8

### **Removal of goods after the termination of the agreement**

The Principal shall be obliged to remove his goods ultimately on the last day of the period for which the agreement runs, or, if the agreement is intermediately terminated, immediately after such termination, i.e. after payment of all that is owed to the Storage Company and against the return of the store warrant/delivery-order issued, all of this without prejudice to what has been defined elsewhere in these General Conditions. The Principal shall also have this obligation with respect to the remnants of the goods as well as with respect to damaged goods.

#### Article 9

### **Failure of taking goods back**

If the obligation mentioned in article 7, paragraph 1 under item c) and/or in article 8 of these General Conditions is not complied with, the Storage Company shall at all times have the right to take all such measures as may be necessary for vacating the storage space in question, inclusive of removal of the goods to another storage space, for the account and risk of the Principal, and to apply article 55 of these General Conditions, all of this without prejudice to the right of the Storage Company to claim compensation for all direct and indirect damage and costs.

#### Article 10

### **Special measures**

1. Without prejudice to what has been defined in article 7 of these General Conditions, the Storage Company shall have the right but not be obliged immediately and for the account and risk of the Principal to take every measure deemed necessary by the Storage Company, inclusive of the terminating or ceasing or alternatively causing to terminate or causing to cease all or a part of the operations agreed upon, and/or the destruction or removal of goods, if in the event of a failure to do so loss or damage to the goods themselves, or other goods on the premises or alternatively detriment to persons, in the opinion of the Storage Company is to be feared, or if the taking of such a measure is necessary as a result of force majeure, as defined in article 60, paragraph 1 of these General Conditions.

2. The Storage Company shall, if possible, immediately notify the Principal or - if a store warrant/delivery-order is in circulation - the latest Holder of that store warrant/delivery-order, known to the Storage Company, of the measures taken, but the absence of such a notification cannot be raised against the Storage Company.

Article 11

### **Intermediate withdrawal of goods**

Subject to what has been defined elsewhere in these General Conditions, the Principal shall be entitled against payment of all that is due by him to the Storage Company and subject to due observance of the provisions of these General Conditions, at all times to withdraw the goods stored.

Article 12

### **Contents of landtanks**

Unless explicitly otherwise stated in writing by the Storage Company, the maximum allowable weight in a landtank shall be equivalent to the weight of the volume of water at a temperature of 40 C, with which the capacity of the tank in question can be filled.

Article 13

### **Inspection of the storage space**

The Principal shall be entitled to inspect the cleanliness, suitability and condition of the storage space intended to be used for his goods, prior to the arrival of the goods. Should the Principal omit to make such an inspection or not have made any objection on account of a lack of cleanliness or on account of the suitability or the condition of the storage space, then the storage space shall be deemed to have been in a clean, suitable and good condition upon the arrival of the goods.

Article 14

### **Maintenance of and repairs and alterations to the storage space**

1. The Storage Company shall at all times have the right to carry out checking-, maintenance- and repair operations to the storage space or to have these carried out, and furthermore to effect alterations or to have these effected or alternatively to fit additional or special equipment to the storage space or to have these fitted, whenever the Storage Company deems it necessary or advisable to do so or if the Storage Company is obliged to do so pursuant to governmental regulations.

2. The Storage Company shall have the right, if it should deem this necessary, in connection with the operations mentioned in paragraph 1 of this article, to remove the goods of the Principal to another storage space, even if it should have been agreed that the goods in question would be stored or treated in a particular storage space. The Storage Company shall as much as possible beforehand notify the Principal or - if a store warrant/delivery-order is in circulation - the latest Holder of such store warrant/delivery-order, known to the Storage Company, of such a removal.

3. The Storage Company shall be entitled to require payment from the Principal for the full storage charges even during the period that the latter is deprived of a portion of or of the entire storage space so as to enable one or more of the operations mentioned in paragraph 1 of this article to be carried out.

4. If operations as described in paragraph 1 of this article are the consequence of amendments of governmental regulations and if such amendments relate to the nature of the goods contained in the storage space in question, these operations and the removal, if any, of the goods as referred to in paragraph 2 of this article are for the account and risk of the Principal.

## Article 15

### **Cleaning of storage space and restoring it in its old condition**

1. The Principal shall make good all costs that are incurred in connection with the cleaning of the storage space in use/used for his goods and - upon the termination of the agreement - also those incurred in connection with restoring the storage space that has been used for his goods in the condition in which it was as at the commencement of the operations, if the Storage Company requires that it be so restored.
2. Moreover the Principal shall, if this is required by the Storage Company in connection with the cleaning and restoring in its old condition of the storage space, make all the know-how and/or experience needed for that purpose and deemed necessary by the Storage Company available without charge.
3. The removal from the premises of all waste material that has emerged after the cleaning of the storage space and after having restored it in its old condition, such as e.g. remnants, residues and cleaning water shall be carried out by or on behalf of the Storage Company for the account and risk of the Principal, or alternatively, if the Storage Company so requires, by the Principal or on behalf of the latter by third parties. If the removal of the waste matter takes place by the Principal or on behalf of the latter by third parties, this shall have to be done to the satisfaction of the Storage Company and in accordance with governmental regulations.

## Article 16

### **Replacement of storage space**

If storage space that has been made available to a Principal is, in part or totally, damaged or becomes unfit for the operations agreed upon as a result of force majeure, as defined in article 60, paragraph 1 of these General Conditions, the Storage Company shall not be obliged to make other storage space available.

## Article 17

### **Issuing of instructions**

All applications, orders, instructions, notices, requests, notifications and other communications addressed to the Storage Company must be made or given in writing to the office of the Storage Company. However, the absence of such a document cannot be raised against the Storage Company.

## Article 18

### **Refusal of goods and/or operations**

1. Without prejudice to what has been defined in article 19, paragraph 3 and article 22, paragraph 1 of these General Conditions, the Storage Company shall be entitled to refuse to accept goods or to carry out operations that could cause danger or damage to persons, goods, premises or storage space or alternatively serious environment hindrance, or be in conflict with governmental regulations, even if any agreement had already been entered into between the Principal and the Storage Company with relation to those goods or operations.
2. The Storage Company is entitled to require payment from the Principal for operations that, prior to the moment that the goods are refused, are being carried out or have been carried out or for which the Storage Company has entered into commitments.

## Article 19

### **Description of goods**

1. The Principal shall upon entering into an agreement furnish a correct and full written description of the goods to the Storage Company relating to nature, type, quality, composition, temperature, weight, volume, value, source, origin, hazard classification - and regarding gases also pressure - and in addition thereto all physical/chemical properties inclusive of but not restricted to: boiling point, flashpoint, vapour pressure, toxicity, melting point, coagulation point, viscosity, degradableness in water, stability, corrosiveness, acidity, static loading, smell level, MAC value and moreover all particulars, knowledge of which is of importance to the Storage Company or alternatively which are of such a nature that the agreement would not have been entered into or not on the same conditions, if the Storage Company had had knowledge of those particulars.
2. The Principal shall immediately notify the Storage Company in writing of new data with regard to the goods falling under the agreement that become known during the duration of the agreement.
3. The Storage Company shall have the right, by reason of the description furnished or by reason of the fact that the goods depart, in the opinion of the Storage Company, from the description referred to in paragraphs 1 and 2 of this article, to refuse the goods or alternatively to impose further conditions, without prejudice to what has been defined in article 7 of these General Conditions.
4. Whenever the Storage Company consents, for any purpose whatsoever, to admit the goods to the premises, the Storage Company shall not be deemed to be cognizant of the nature of the goods, if the description referred to in paragraphs 1 and 2 of this article is or turns out to be incomplete.
5. If the Storage Company gives its consent to admit goods that depart from the description referred to in paragraphs 1 and 2 of this article to the premises, all the necessary extra operations, of any nature whatsoever, that are carried out in relation to those goods and all further consequences shall be for the account of the Principal.

## Article 20

### **Special methods of terminalling of goods**

1. If a special method of storage or treatment of the goods is required, the Principal shall notify the Storage Company in good time.
2. The extra costs arising from a special method of storage or treatment of the goods required by the Principal or necessary due to the nature of the goods shall be for the account of the Principal.

## Article 21

### **Place of delivery of goods**

1. The Principal shall ensure that the goods will be delivered by him or on his behalf at the premises.
2. If it has been agreed that the goods will be delivered at a place other than at the premises and that they are transported by or on behalf of the Storage Company to the premises, the rates/charges that are usually charged in this respect by the Storage Company shall be charged to the Principal.

## Article 22

### **Condition of goods on arrival**

1. If goods arrive in a damaged or defective condition that is externally visible, the Storage Company shall have the right to refuse those goods.
2. If the goods arrive in a damaged or defective condition that is externally visible, the Storage Company shall have the right but not be obliged, on behalf of and for the account of the Principal, to the best of its knowledge, to look after the Principal's interests and moreover to take all expedient and necessary measures for the evidence of that condition. The Principal shall not be entitled to base any right of claim against the Storage Company on the manner in which the Storage Company has given effect thereto.
3. The mere admittance of goods to the premises by the Storage Company shall not constitute proof that these goods are in an externally good or undamaged condition.
4. In the cases referred to in paragraphs 1 and 2 of this article, the Storage Company shall as soon as possible notify the Principal, but the absence of such a notification cannot be raised against the Storage Company.

## Article 23

### **Means of transport and packing materials**

1. The Principal shall ensure and be answerable that the means of transport, packing materials and containers, made available for the delivery or dispatch, as the case may be, of goods shall, complete with all their accessories, be in a sound, clean, tight and staunch condition and be fit for the goods in question, subject to due observance of the requirements set by the competent authorities.
2. If the means of transport, packing materials or containers are, in the opinion of the Storage Company, not in a sound, clean, tight or staunch condition or are not fit for the goods in question as defined in paragraph 1 of this article, the Storage Company - not being obliged, however, to make a close inspection thereof - shall be entitled but not obliged to refuse to handle these or to admit these to the premises. If the means of transport, packing materials or containers which do not satisfy any one or more of the aforesaid requirements, are already at the premises, then these shall have to be removed therefrom at the first request of the Storage Company.
3. The mere admittance of means of transport, packing materials and containers by the Storage Company to the premises shall not constitute any admission that the aforesaid requirements have been met.

## Article 24

### **Goods that are burdened with charges**

1. The Principal shall ensure and be answerable that the goods are delivered free of charges.
2. All freight, amounts to be collected on delivery, taxes, duties, contributions, levies, fines and/or other charges or costs, howsoever named, with respect to the goods or related to the goods, that must be paid on arrival or in arrear, shall be for the account of the Principal and have to be paid or reimbursed, whatever appropriate, by the Principal at the first request of the Storage Company, whether or not in advance, irrespective of whether these goods are still at the premises or have in the meantime left those premises.
3. The Storage Company shall not be obliged to admit any goods to the premises that are burdened with freight, amounts that have to be collected on delivery, taxes, duties, contributions, levies, fines and/or other charges or costs, howsoever named.

4. If the Storage Company deems it necessary to conduct legal proceedings or to take other legal measures with relation to taxes, duties, contributions, levies, fines and/or other charges or costs, howsoever named, or alternatively if the Principal requests to conduct or take such legal proceedings or legal measures and the Storage Company accedes to such a request, then the operations and costs ensuing therefrom including the costs relating to legal and/or fiscal and/or other advice or assistance that is deemed necessary by the Storage Company, shall be for the account and risk of the Principal.

5. If the Storage Company acts or has acted as customs clearance forwarding agent, all taxes, duties, contributions and other levies, as well as fines, interest, costs, howsoever named, or damages shall be for the account of the Principal, without prejudice to what has been defined in paragraph 4 of this article. The Principal shall be obliged to pay these amounts at the first request of the Storage Company.

Article 25

### **Duties and taxes**

If goods are subject to Customs and Excise Regulations or to provisions relating to taxation, the Principal shall in good time supply all information and documents, required in this connection, in order to enable the Storage Company to make the appropriate declarations.

Article 26

### **Period during which goods are at the premises**

1. The goods shall be deemed to be at the premises:

- a) if they are pumped from tankers or from the tanks of other ships: immediately upon having passed the connecting flange of the pipeline of the Storage Company connected to the ship's manifold;
- b) if they are delivered through a pipeline of companies other than the Storage Company: immediately upon having passed the valve placed in between that pipeline and the pipeline of the Storage Company;
- c) if they are delivered by ship and are unloaded otherwise than in the manner described under item a) of this paragraph: after the goods have been unhooked at the premises;
- d) if they are delivered by rail or road: immediately upon having passed the connection to the means of transport at the premises in the event of unloading by means of pumps or alternatively in the event of any other manner of unloading, immediately after having been unloaded from the means of transport.

2. The goods shall be deemed to have left the premises:

- a) if they are dispatched in tankers or in tanks of other ships: after they have passed the connecting flange of the pipeline of the Storage Company connected to the ship's manifold;
- b) if they are dispatched through a pipeline of companies other than the Storage Company: after they have passed the valve placed between the pipeline of the Storage Company and the first mentioned pipeline;
- c) if they are dispatched by ship and are loaded in any manner other than as described under item a) of this paragraph: after they have been hooked at the premises;
- d) if they are dispatched by rail or road: in the event of their being loaded by means of pumps, after they have passed the connection at the premises to the means of transport, or alternatively in the event of any other manner of loading, have been loaded onto or into the means of conveyance.

Article 27

### **Arrival of vessels and vehicles**

The Storage Company shall only be obliged to allow the mooring of vessels alongside the premises and the admittance of vehicles to the premises if an arrangement has been made beforehand with relation thereto and with relation to the delivery

or dispatch, as the case may be, of the goods with the Storage Company and if governmental regulations allow that they are moored and do not prohibit the delivery and dispatch.

## Article 28

### **Order of sequence in which vessels and vehicles are dealt with**

1. In principle vessels and vehicles shall be dealt with in the order of their arrival at or alongside the premises.
2. The Storage Company reserves the right, however, to depart from the order of sequence referred to in paragraph 1 of this article if the Storage Company should deem this necessary in order to comply with governmental regulations, or alternatively with a view to promoting a smooth operation of work, or if, in the Storage Company's discretion, there exist other reasons for doing so.

## Article 29

### **Late or irregular delivery or dispatch**

1. If the Principal has notified the Storage Company or alternatively if it has been agreed between them that goods shall be delivered or dispatched at a specified time and/or with a specified regularity, and if in that event the goods are delivered or dispatched not in good time and/or irregularly, then the Principal shall be liable for all damage and costs caused thereby and he shall hold the Storage Company indemnified against all claims that third parties might make against the Storage Company in connection therewith. Furthermore the Storage Company shall in such event not be required any longer to reserve the space(s) intended for the storage of those goods.
2. If goods are not dispatched at the time agreed upon or notified to the Storage Company, the Principal shall be in default by the mere expiry of the period, no demand or placing in default being required, and the Storage Company shall at all times have the right to take all measures that may be necessary for vacating the storage space in question, including the right to dispatch these goods or to cause these to be dispatched, for the account and risk of the Principal, and to avail itself of article 55 of these General Conditions, all of this without prejudice to what has been defined in paragraph 1 of this article.

## Article 30

### **Consequences of delay**

1. The fact that for any reason whatsoever - whether or not within the power or the sphere of the Principal - goods are not or not in good time available at or near the premises, shall wholly be for the account and risk of the Principal and shall not be a reason for the Principal to dissolve the agreement.
3. In the event of vessels and/or vehicles not arriving or not being able to be dealt with at the time for which they have been scheduled, or to reach the premises in good time, the Storage Company shall - irrespective of whether this is due to a fault or negligence of the Principal, his personnel, third parties called in by the Principal, or alternatively to force majeure - have the right to damages, demurrage and/or compensation for loss of time and/or other costs whatsoever, that have arisen as a consequence thereof.

## Article 31

### **Shifting and removal of vessels or vehicles**

The Principal must ensure and shall be answerable that vessels or vehicles are removed from the premises if and as soon as these have finished loading or unloading, or alternatively if the Storage Company deems it necessary to do so in connection with safety, with the complying with governmental regulations, with the promotion of a smooth operation of work or alternatively if - in the discretion of the Storage Company - there exist other reasons therefor. If a vessel or vehicle is not removed at the first request of the Storage Company, addressed to the Principal or to the Master of the vessel in question or to the driver of the vehicle in question, then the Principal shall - irrespective of whether this is due to a fault or negligence of the Principal, his personnel, third parties called in by the Principal, or alternatively to force majeure - be liable to the Storage Company for all costs and

consequences ensuing therefrom, and the Storage Company shall have the right to shift the vessels or vehicles in question or to cause these to be shifted or alternatively to remove these or cause these to be removed for the account and risk of the Principal.

Article 32

### **Directions regarding loading and unloading**

If the loading or unloading of vessels or vehicles shall be carried out by the Storage Company, the Principal shall have to ensure that the Storage Company receives adequate directions in writing in good time regarding the manner of loading and unloading, and - if upon delivery a cargo consists of various consignments - regarding the products that form part of each of the separate consignments.

Article 33

### **Temperature and/or pressure of the cargo**

The Principal shall be responsible and answerable that goods that have to be pumped, have at the time of unloading such a temperature - and in the case of gases such a pressure - and are in such a condition that they are able to be pumped immediately and unimpeded.

Article 34

### **Rate of tonnage to be pumped when loading and unloading ships**

1. With regard to the loading or unloading, as the case may be, of ships the Principal shall ensure and be answerable that, as soon as the ship has moored alongside a berth designated by the Storage Company and the Storage Company has declared itself to be ready to deliver or receive the cargo, as the case may be, the loading or unloading of the ship - including the connecting and disconnecting of hoses, the taking of samples and the analysis thereof - shall immediately be started and shall continuously, without interruption and/or delay, be proceeded with, night and day, including Sundays and Public Holidays (provided that permission has been granted to do so by the authorities) until the cargo in question has been loaded or unloaded, as the case may be. The Principal shall with relation thereto ensure and be answerable during the unloading that the ship shall during that time regularly operate at such a maximum pumping capacity of the ship as is usual in the case of a ship of similar size and tonnage, taking into account the receiving capacity and the pipeline capacity of the Storage Company and governmental regulations that are in force in connection with the goods and/or the premises.
2. If the pumping speed should be less than ensues from what has been defined in paragraph 1 of this article, then the Storage Company shall, without prejudice to what has been defined in article 30 of these General Conditions, have the right to make a charge to the Principal for the extra time that is necessary for loading and unloading or - in order to obviate a congestion of operations or for other reasons - to suspend the loading or unloading operations until a later time to be determined by the Storage Company.

Article 35

### **Working hours**

1. All operations to be carried out by the Storage Company shall usually take place during the normal working hours, in force at the Storage Company. When the Principal requires operations to be carried out outside these working hours, it shall be at the discretion of the Storage Company whether or not to comply therewith.
2. If on account of governmental regulations, on account of unforeseen circumstances, or in the interest of the goods or of the Principal operations must, in the opinion of the Storage Company, be carried out during hours other than the normal working hours in force at the Storage Company, then the Storage Company shall be entitled to carry out these operations outside those normal working hours.

3. Any extra costs arising from the execution of operations outside the normal working hours in force at the Storage Company shall be for the account of the Principal.

Article 36

### **Inspection of goods**

1. The Storage Company shall not be obliged to survey, count, weigh or measure goods that are delivered to its premises or to examine these as to their nature.
2. The Storage Company shall, however, have the right, for the purpose of verifying the particulars received, to count, weigh or measure the goods or to examine these as to their nature.
3. The Storage Company shall at all times have the right but not be obliged to open parcels or containers and/or to draw samples therefrom and to analyse these or to cause these to be analysed, if any doubt exists as to whether the contents thereof have been correctly stated.
4. Should the Storage Company, in any one of the cases mentioned in paragraphs 2 and 3 of this article, have ascertained that the number, weight, measurement or nature of goods have all or in part been wrongly stated, then the costs connected with the examination shall be for the account of the Principal.

Article 37

### **The counting, weighing or measuring of goods**

1. Only the results of counts, weighings or measurements that have been carried out by the Storage Company shall, save for counter evidence to be furnished in law, be binding on the parties. With regard to liquids and/or gases that are delivered to or dispatched from the premises other than for trans-shipment, only such results of those tank measurements as have been carried out in the tanks in question of the Storage Company by means of tank gaugings after the liquids and/or gases in those tanks have completely settled shall be binding on the parties.
2. The particulars obtained by counting, weighing or measuring with regard to the number, the gross weight or the volume of the goods can be used by the Storage Company as a basis for the calculation of the remuneration due to the Storage Company.
3. The Principal shall have the right to be present at countings, weighings or measurements, either in person or represented by a person appointed by him thereto.

Article 38

### **Place of storage, operations and transfer of goods**

1. The Storage Company shall be free to choose the place where the goods are stored and operations are carried out by the Storage Company.
2. The Storage Company shall be entitled to transfer and remove goods to another storage space, provided that the storage space is in the opinion of the Storage Company suitable for the type of goods concerned.
3. The Storage Company shall as soon as possible notify the Principal or - if a store warrant/delivery-order is in circulation - the latest Holder of that store warrant/delivery-order known to the Storage Company, of the transfer, but the absence of such a notification cannot be raised against the Storage Company.

#### Article 39

### **Storage, treatment and/or processing in a common storage space**

1. Unless a previous written agreement has been made with the Principal that his goods shall be separately stored, treated or processed, the Storage Company reserves the right to pump the goods in question or portions thereof into a common storage space and there to store, treat and/or process these together with goods of others, provided that all those goods are in the opinion of an expert, to be appointed by the Storage Company, of the same average quality and of the same kind.
2. The Storage Company shall have the right to make deliveries from or out of the quantity thus jointly stored, treated or processed, and the Principals shall not be entitled to claim that they have not received the goods that had originally been received for them.

#### Article 40

### **Apportionment of losses, remnants and costs in case of use of a common storage space**

If goods of various Principals have been or are stored or treated in a common storage space, then the handling-, evaporation- and drying-up losses and losses in weight, as well as sweepings, sediments, gas-remnants, condensation water, settlings and similar items, as the case may be, as well as the costs of the removal and destruction thereof, as well as of the remnants of these goods, shall be borne by these various Principals or be divided among them, as the case may be, in a proportion to be determined by the Storage Company, and in doing so the quantities of their goods and the duration of the operations shall as much as possible be taken into account. The costs connected with such a division shall be apportioned among the various Principals in accordance with the same standards. The decision of the Storage Company with regard to the division and apportionment that has been applied by the Storage Company shall be binding on the Principals.

#### Article 41

### **Use of storage space for various kinds of goods**

The Principal shall not be entitled to use storage space or to cause storage space to be used for goods of any kind other than those agreed with the Storage Company, unless this should be done with the previous consent in writing of the Storage Company and subject to due observance of the conditions to be imposed by the Storage Company.

#### Article 42

### **Information on goods**

Information on goods need only be furnished by the Storage Company to the Principal or to a person authorized by the latter. The Storage Company shall be entitled to require that the person who presents himself as entitled to the goods or as having a right to the goods or as having been authorized, as the case may be, proves that he is so entitled or has such right or authorization, as the case may be.

#### Article 43

### **Delivery of goods by the Storage Company**

1. Delivery of the goods shall be made by the Storage Company after the Storage Company has received an instruction in writing from the Principal or the latter's authorized agent and/or - at the Storage Company's choice - against presentation of a receipt validly signed by or on behalf of the Principal.

2. If a store warrant/delivery-order has, however, been issued by the Storage Company for goods, delivery of the goods in question shall only be made against return of that store warrant/delivery-order.
3. The Storage Company shall be entitled but not obliged to require the person who wants to take delivery of the goods, to prove his right to receive these goods and establish his identity.
4. The Storage Company shall be entitled but not obliged to examine the signatures appearing on store warrants/delivery-orders, instructions and receipts as to their correctness and validity.
5. Pending the proof or pending the examination as referred to in paragraphs 3 and 4 of this article, delivery of the goods can be suspended.
6. Without prejudice to what has been defined in paragraphs 1 and 2 of this article and without prejudice to what has been defined in article 54 of these General Conditions the Storage Company shall have the right to obtain payment of all that is due to the Storage Company by the Principal, for any reason whatsoever, before proceeding to make delivery, in part or in full.
7. In the event of an instruction to deliver a portion of the goods the remaining portion shall continue to constitute security for all that is due or will become due to the Storage Company.
8. In the event of the delivery of a portion of the goods, that delivery shall be entered on the store warrant/delivery-order that has been returned and that store warrant/delivery-order shall thereupon again be handed to the Holder of that store warrant/delivery-order. The Storage Company shall, however, be entitled but not obliged in lieu thereof to issue a new store warrant/delivery-order to the Holder of the store warrant/delivery-order for the remaining portion of the goods.
9. If the Storage Company has issued a store warrant to bearer or a delivery-order to bearer, the Storage Company shall have the right to deliver the goods to the Holder of that store warrant/delivery-order. If the Storage Company has issued a store warrant to order or a delivery-order to order, then the Storage Company shall have the right to deliver the goods to the regular Holder of that store warrant/delivery-order and the Storage Company shall not be obliged to ascertain whether the Holder is also the rightful Holder.

#### Article 44

### **Making storage space available to third parties**

1. The Principal shall not make the storage space available to or allow the storage space to be used in any other manner by third parties, neither in part nor in full, on any ground whatsoever, without the previous consent in writing of the Storage Company.
2. If the Storage Company grants the consent referred to in paragraph 1 of this article, it shall be entitled to impose further conditions, including the alteration of rates and the charging of extra costs.
3. The consent referred to in paragraph 1 of this article shall in any event not be granted until the Storage Company is in possession of a statement in writing by the third party concerned that the latter submits to the conditions of the agreement entered into by the Storage Company with the Principal in question and the further conditions referred to in paragraph 2 of this article, and also that the third party is agreeable that the Storage Company shall be entitled, in connection with anything that the Principal may owe or will be owing to the Storage Company - on any ground whatsoever - to exercise the rights mentioned in article 54 of these General Conditions over all goods, monies, documents and/or valuables, of that third party that are held by or that are in the custody of the Storage Company.

## Article 45

### **Issue of store warrants/delivery-orders**

1. After the goods have been stored and the volume and/or the weight of the goods in question has been ascertained by the Storage Company, and after the external nature of these goods has been compared to the nature stated by the Principal, a store warrant or a delivery-order can be issued by the Storage Company at the request and at the choice of the Principal.
2. The Storage Company shall, however, not be obliged to comply with a request for the issue of a store warrant/delivery-order until the Principal has complied with all his obligations, on any ground whatsoever, to the Storage Company. The Storage Company shall furthermore be entitled to refuse the issue of a store warrant/delivery-order if exclusively at its discretion the Storage Company deems that there are grounds for such refusal.
3. Store warrants/delivery-orders can be made out in name of the beneficiary, to order or to bearer. A store warrant/delivery-order made out in the name of the beneficiary can, provided that the Storage Company agrees to do so, be exchanged for a store warrant/delivery-order to order or to bearer and vice versa.
4. Store warrants/delivery-orders shall in every instance contain a clause in which these General Conditions are declared applicable thereto. Furthermore store warrants/delivery-orders can contain additional and/or deviating conditions. Store warrants/delivery-orders shall contain a statement as to the goods stored as well as the weight and, in so far as parcels are concerned, the number and marks.
5. If store warrants/delivery-orders have been issued, these shall be dispatched to the Storage Company within 24 hours after notice of termination as referred to in article 6 of these General Conditions, in order that the fact of the termination may be endorsed thereon. The absence of such an endorsement on the store warrants/delivery-orders shall, however, not be raised against the Storage Company.

## Article 46

### **Notifications to unknown Holders of store warrants/delivery-orders**

If the Storage Company wants to give any notification to a Holder of a store warrant/delivery-order whose name or address is not known to the Storage Company, then the Storage Company shall be entitled to give that notification and it shall be deemed to have given such a notification, by the publication of that notification in a newspaper to be designated by the Storage Company.

## Article 47

### **Loss or perishing of store warrants/delivery-orders**

1. If a store warrant/delivery-order has been lost or has perished and the Storage Company has been notified thereof by registered letter - in which the contents of the store warrant/delivery-order are given - the Storage Company shall, if a request is made to that effect and if the Storage Company has no reason to doubt the correctness of the grounds for that request, for the account of the person who has made that request, place two announcements with an interval of 14 days in a newspaper to be designated by the Storage Company, to the effect that those who have an interest in the store warrant/delivery-order and/or interest in the goods to which the document in question relates, are called without delay to report to the office of the Storage Company.
2. If no one as an interested party as referred to in paragraph 1 of this article, has reported to the office of the Storage Company within 14 days after the date of the second announcement, then the Storage Company shall be entitled to issue a duplicate store warrant/delivery-order, marked with the word 'Duplicate', to the person who has made the request referred to in paragraph 1 of this article.
3. As a result of the issue of the said duplicate store warrant/delivery-order, the original store warrant/delivery-order shall lose its validity vis à vis the Storage Company.

4. The person to whom a duplicate store warrant/delivery-order has been issued by the Storage Company, shall hold the Storage Company indemnified against and at the latter's request furnish security for the value of the goods covered by the store warrant/delivery-order and moreover for all losses, damage, costs and/or other consequences that might arise from or be connected with the issue of the duplicate store warrant/delivery-order in any way whatsoever, and shall refund to the Storage Company all costs that may have arisen in connection with the issue thereof.

#### Article 48

### **Transfer or passing of ownership of goods**

1. A transfer or passing of ownership of goods stored with the Storage Company or a transfer or passing of the right to take delivery thereof, as the case may be, by a Principal to a third party shall be null and void vis à vis the Storage Company and shall have no legal consequences for the Storage Company nor shall it be recognized by the Storage Company, unless all claims that the Storage Company may have against the original and/or transferring Principal on any ground whatsoever, have been discharged.

2. The Principal is bound to immediately notify the Storage Company in writing of any transfer or passing of ownership of goods, or transfer or passing of the right to take delivery of goods, as the case may be.

3. Without prejudice to what has been defined herein before a transfer or passing shall have no legal consequences for the Storage Company nor will it be recognized by the Storage Company, until the new person(s) entitled to the goods have explicitly accepted in writing all the provisions of the agreement between the Storage Company and the original and/or transferring Principal as well as these General Conditions.

4. The Storage Company shall not be obliged to recognize the transfer or passing of ownership or the right to take delivery, as the case may be, - and shall even be entitled to revoke a transfer or passing already recognized - and the Storage Company shall be entitled to refuse to deliver the goods, if in the opinion of the Storage Company the legal title with relation to any transfer or passing of ownership of the goods or any transfer or passing of the right to take delivery, as the case may be, is defective and/or if the new person(s) entitled to the goods make(s) an appeal not to have accepted the subject General Conditions or not to be bound thereto.

5. The original and/or transferring Principal shall continue to be liable to the Storage Company for all claims of the Storage Company with relation to or in connection with the storage and/or the operations carried out in relation to those goods, even if these have been carried out after the transfer or passing of ownership or after the transfer or passing of the right to take delivery, as the case may be. After the transfer or passing of the ownership or of the right to take delivery, as the case may be, of the goods the new person entitled to the goods shall be deemed to be the Principal, and he shall in addition to his predecessor in title be jointly and severally liable for all the claims referred to above, including those that have arisen prior to the transfer or passing.

6. If such a transfer or passing takes place, however, by means of a handing over of a store warrant/delivery-order, the Holder of that store warrant/delivery-order, who proves to be in good faith, shall only be liable for claims, the existence and/or the extent of which appear from the store warrant/delivery-order, as well as for the costs of measures that have been taken by the Storage Company in accordance with article 10 of these General Conditions.

#### Article 49

### **Disputes as to ownership and attachment**

1. If the ownership of or the right to take delivery of the goods, as the case may be, is in dispute, or if a third party alleges to be entitled to the goods, or alternatively if goods have been attached or a distress is levied upon his assets under the Storage Company, the Storage Company shall have the right to retain the goods/assets in question in its possession until it has been decided by irrevocable Order of Court between all the parties concerned, or alternatively if it has sufficiently been established between all the parties concerned and this has been confirmed in writing by these parties to the Storage Company, who is entitled to take delivery of the goods/assets. If a store warrant/delivery-order has been issued the Storage Company shall at all times continue to

be entitled to retain the goods in its possession until the store warrant/delivery-order has been handed in to the Storage Company.

2. The Storage Company shall have the right to protect its interest in connection with a dispute or attachment/distress, as referred to in this article, by seeking legal assistance and/or by taking legal measures or alternatively by instituting legal proceedings or conducting a defense in legal proceedings, in which case the costs thereof shall be for the account of the Principal.

#### Article 50

### **Insurance of goods**

1. Unless it has explicitly been agreed in writing with the Principal, the Storage Company shall not be obliged to take out any insurance on the goods. If it has been agreed between the Storage Company and the Principal that the Storage Company will insure the goods, then the Storage Company shall have the right, at its' own choice, to take out the agreed insurance in the name of the Principal or to cover it under an already existing policy of the Storage Company. The figure that has been furnished by the Principal shall be taken as the value to be insured. The Storage Company shall in regard to any insurance always exclusively be regarded as an intermediary without any liability of its own, i.e. also without liability for conditions contracted with the insurer(s) or for the solidity or for the solvency of the insurer(s).

2. In all cases in which the goods have been insured through the intermediary of the Storage Company, the Storage Company shall have the right for and on behalf of the party interested in the goods to collect the monies awarded on

account of insurance claims and to recoup therefrom any amounts due to it by the Principal, on any ground whatsoever. The remaining balance shall be paid out to the Principal.

3. If, in the event of damage to or loss of goods by fire or by any other cause, the assistance of the Storage Company for ascertaining that damage or that loss is advisable or necessary, then such assistance shall be rendered by the Storage Company against payment of the costs connected therewith and of a fee for its attendances. The Storage Company shall be entitled to make the rendering of its assistance dependent on payment in cash of or the furnishing of security for all that the

Storage Company is entitled to claim from the Principal on any ground whatsoever together with the costs and fees referred to in this paragraph.

4. Unless otherwise agreed the insurances taken out through the intermediary of the Storage Company shall continue from month to month and these insurances shall terminate at the end of the insurance month in which notice of their termination has been given by the Principal to the Storage Company, or in which the goods have been dispatched. In the event of the dispatch of a portion of the goods, the Principal shall be obliged to notify the Storage Company for which amount he wants to insure the remaining goods. Failing such a notification the Storage Company shall be entitled to reduce the amount insured at its own discretion in the same proportion as that by which the goods have been reduced in number, weight, measurement or contents.

#### Article 51

### **Access to the premises**

1. The Storage Company shall during the working hours in force at the Storage Company allow access by the Principal and by the persons authorized thereto by the latter to the place where the operations are carried out, provided however, that all persons who are at the premises including the personnel of the vessels and vehicles that have arrived alongside or at the premises, must strictly observe and adhere to the rules, regulations, measures and directions given by or on behalf of the Storage Company as well as governmental regulations.

2. All persons who enter the premises and/or go on board the vessels moored alongside the premises do so entirely at their own risk, even if this takes place with the permission of the Storage Company or under escort by the Storage Company. What has been defined in this paragraph shall equally be applicable to vehicles with which persons enter the premises.

3. The Storage Company shall at all times be entitled to deny admittance to the premises to persons, who are deemed undesirable by the Storage Company, and to remove such persons from the premises or to have them removed.

## Article 52

### **Rates/charges**

1. The Principal shall pay the rates and/or charges for operations carried out or to be carried out by the Storage Company, that are usually charged or applied by the Storage Company. If rates and/or charges have explicitly been agreed upon for specific operations, those rates and/or charges shall apply to those operations.

2. The agreed rates and/or charges shall refer only to the operations expressed in the agreement and, if nothing has so been expressed, only to those operations that by reason of the nature of the agreement in the opinion of the Storage Company at the least have to be carried out.

3. All costs - whether or not they have been mentioned in the agreement or these General Conditions - that are incurred in relation to the operations carried out or to be carried out, to the goods or in relation to vessels berthed and/or vehicles admitted (such as port dues and quay dues) shall be borne by the Principal and shall be charged at the rates and/or charges and on the usual conditions of the Storage Company.

4. In so far as the delivery or dispatch in bulk of goods are concerned, unloaded from or loaded into ships, as the case may be, the rates and/or charges of the Storage Company have been fixed on the basis that the Principal undertakes that the goods are delivered into respectively received from the flange of the pipeline of the Storage Company that is connected to the ship's manifold, as referred to in article 26, paragraph 1a) or paragraph 2a), as the case may be, of these General Conditions.

5. Unless otherwise agreed in writing, rentals, storage charges and ancillary costs shall be paid to the Storage Company over the full capacity of the storage space that has been made available and over the full period for which the storage space in question is made available by the Storage Company to the Principal, whether or not the Principal makes use of that space.

6. Rentals, storage charges, heating costs and refrigeration costs, premiums and costs of insurance, as well as charges for a failure to attain a guaranteed throughput shall be charged by full months, part of a month counting as a full month.

7. The Storage Company shall at no time be obliged to the Principal to collect amounts from third parties that are, on any ground whatsoever, due by third parties to the Principal.

8. If the costprice of the Storage Company is affected by changes in the costs of labour or in the value of money, by governmental regulations or amendments thereof or by any other factor that is beyond the control of the Storage Company, inclusive of measures in the interest of safety or environment, or if the Storage Company has to alter its rates/charges in connection with local usage or local circumstances, then the Storage Company shall be entitled correspondingly to alter the rates/charges agreed with the Principal, provided that a period of three months has elapsed after the date of the agreement. Such alterations in rates/charges shall then take effect immediately and shall be deemed to form part of the agreement entered into. The Storage Company shall notify the Principal in question or - if a store warrant/delivery-order is in circulation - the latest Holder or the store warrant/delivery-order known to the Storage Company, of the alterations in rates/charges.

9. All rates and charges in relation to the operations carried out or to be carried out are exclusive of taxes which, if due, shall be for the account of the Principal and shall be paid to the Storage Company at the first request.

## Article 53

### **Conditions of payment**

1. All amounts due by the Principal to the Storage Company on any ground whatsoever shall be payable forthwith and shall be recoverable against all the Principal's assets, the Principal not being entitled to enforce any right of set-off.
2. The statements of account submitted by the Storage Company shall be paid without applying any rebate or set-off within 15 days after the date of the statements of account, or alternatively if any other period has been agreed upon, within that period. In the event the due date is exceeded, the Principal shall be in default and, in accordance with the law, the legal interest shall be due, without summons.
3. The Storage Company shall be entitled to charge all extra-judicial and judicial costs of collection to the Principal. The extra-judicial costs of collection shall amount to at least 15% of the amount to be collected and they shall be due as soon as the Storage Company has handed over the claim for collection.
4. If the Principal is declared insolvent, makes application to a Court of Law for an order granting leave temporarily to suspend the payment of his debts or in any other way loses the free use of his assets, offers a composition to his creditors, is in default to comply with any obligation to the Storage Company, or if an attachment is made of his goods or a distress is levied upon his assets in the custody of the Storage Company, or alternatively if he ceases to carry on his business, or - in the case of a legal entity or company - if it is liquidated, all amounts that the Principal has to pay or will have to pay to the Storage Company shall be due and payable forthwith.
5. The Storage Company shall at all times be entitled to settle amounts, which at any time he may be entitled to claim from the Principal, with amounts which at any time the Storage Company or any affiliated business enterprise of the Storage Company will owe the Principal. Moreover the Storage Company shall be entitled to pay amounts, which at any time it may owe the Principal, in settlement of its debt to the Principal, instead of to the Principal to an affiliated business enterprise of the Storage Company, provided that the affiliated business enterprise shall deduct the amounts received from the amounts due to it by the Principal.
6. The Storage Company shall at all times - even before operations are commenced - be entitled to require payment in advance and/or security for anything that the Principal owes or can owe or will owe, as well as for anything that is due or can become due to the Storage Company in accordance with article 24, article 52 paragraph 9 and/or article 59 of these General Conditions.

## Article 54

### **Right of pledge and right of retention**

1. In order to secure the payment of anything that is due or will become due by the Principal and/or his assigns to the Storage Company, on any ground whatsoever, the Storage Company shall have a right of retention and a right of pledge over all goods, monies, documents and/or valuables that the Storage Company holds or will hold of or on behalf of the Principal, or that the Storage Company is due or will become due to the Principal.
2. This right of retention and this right of pledge shall include the monies that the Storage Company has collected or may collect on behalf of the Principal on account of any insurance claim.
3. Anyone who in behalf of a Principal entrusts goods to the Storage Company for carrying out of operations shall be considered by the Storage Company as being authorized by the Principal to establish a right of pledge on these goods.
3. The Storage Company shall only exercise its right of retention and its right of pledge against the Holder of a store warrant/delivery-order who proves to be in good faith, in so far as claims are concerned the existence and/or extent of which are evidenced by the store warrant/delivery-order, as well as for the costs of measures that have been taken by the Storage Company in accordance with article 10 of these General

Conditions. The Storage Company does, however, retain the right of retention and the right of pledge against such a Holder of a store warrant/delivery-order by way of security for claims against that Holder of a store warrant/delivery-order, that arise from any other obligation, on any ground whatsoever, of that Holder of a store warrant/delivery-order vis à vis the Storage Company.

## Article 55

### **Public sale**

1. Without prejudice to what has been defined in article 54 of these General Conditions, the Storage Company shall be entitled to sell or to cause the sale of the goods entrusted to it without the observing of any formality where, in the manner and on the conditions that the Storage Company deems fit, by public sale or alternatively in another way permitted by law at the expense of the Principal, and out of the proceeds thereof to recover all amounts due to it by the Principal, if:

- a) either the Principal fails to withdraw the goods entrusted by him to the Storage Company after the expiration of the agreement or at the time agreed upon or at the time notified to the Storage Company as referred to in article 29 of these General Conditions, or at an earlier time in the event of any one of the urgent reasons arising, mentioned in article 7 of these General Conditions;
- b) or the Principal is in default to settle the claims for which the Storage Company has a right of retention and a right of pledge in accordance with article 54 of these General Conditions.

2. If it is to be expected that, in the event of a sale, the costs will be in excess of the proceeds, or if notwithstanding a reasonable effort to do so, no purchaser is to be found, then the Storage Company shall be entitled to remove the goods or to have them removed or to destroy them. The Principal shall in that event continue to be liable for what is due and in addition thereto for the costs of removal or destruction.

3. In the event of a sale the Storage Company shall, after the deduction of all costs and all claims against the Principal, hold the remainder of the proceeds available for the Principal for five years and thereafter the remainder of the proceeds shall, if not claimed, be forfeited to the Storage Company.

## Article 56

### **Liability and risk of the Principal**

1. All operations shall be carried out for the account and risk of the Principal.

2. The Principal shall be liable for all damage, costs and losses that have been caused to the disadvantage of the Storage Company, its personnel, an affiliated business enterprise of the Storage Company or its personnel by the Principal, by third parties called in by the Principal, by persons who - whether or not in the employment of the Principal or of third parties called in by the Principal - by order of or with the permission of or in behalf of the Principal are at the premises or on board vessels moored alongside the premises, or by goods of the Principal or of third parties called in by the Principal.

3. Without prejudice to his liability and without constituting a limitative list of circumstances, all damage, costs, losses and/or other consequences arising from or in relation to the circumstances specified hereinafter, shall be for the account of the Principal:

- a) the nature, type, quality and properties of the goods;
- b) incorrect, deceptive and/or incomplete statements, indications, information, notifications and/or directions as well as defects of the goods, the packing materials or the containers;
- c) the non-compliance of vessels or other means of transport, packing materials or containers with the requirements as laid down in these General Conditions.

## Article 57

### **Liability of the Storage Company**

1. The Storage Company shall at no time be liable for any damage to or loss of goods before those goods are at the premises or after those goods have left the premises, as defined in article 26 of these General Conditions.
2. The Storage Company shall at no time be liable for:
  - a) delay, loss of time, demurrage, stallage or other damage or costs arising in connection with a departure from the order of sequence in which vessels or vehicles are dealt with or caused by the premises being unable to be reached, or incapable of being used or already being occupied, by any cause whatsoever, even if reservations have been made beforehand, or if vessels and vehicles or other means of transport have been notified beforehand;
  - b) the manner of division and apportionment of losses, remnants and costs in case of use of a common storage space;
  - c) the correctness and completeness of the designations or statements relating to the nature and the quality of the goods as stated on the store warrants/delivery-orders or any other documents whatsoever issued by the Storage Company, and in general the correctness and completeness of and/or the consequences arising from the description and/or designation of the goods;
  - d) losses, damage, costs and/or other consequences which in any way may arise from or relate to the issue of a duplicate store warrant or a duplicate delivery-order;
  - e) damage, loss, claims of third parties, fines and/or costs, arisen in any way whatsoever, that are the result of force majeure, as defined in article 60, paragraph 1 of these General Conditions.
3. Without prejudice to what has been defined elsewhere in these General Conditions, the Storage Company shall not be liable for damage, loss, claims of third parties, fines and/or costs, arisen in any way whatsoever, unless the Principal proves that such damage, such loss, such claims of third parties, such fines and/or costs have been caused by wilful intent or gross negligence of the Storage Company itself or of personnel of the Storage Company charged with the control of the execution of the agreement or of the operations.

## Article 58

### **Limitation of liability**

1. In the event of the Storage Company being liable, its liability shall be limited to a maximum amount equal to the current value of what has been damaged, lost or destroyed as at the date of damage, loss or destruction, but limited to a maximum of Euro 454,- per 1.000 kilogrammes of the damaged, lost or destroyed goods, and furthermore limited to a maximum of Euro. 454.000,- per any one event or sequence of events arising from one and the same cause.
2. In the event of the Storage Company being liable the Storage Company shall only make good physical damage to or loss of the goods themselves that have been entrusted to the Storage Company. The Storage Company shall at no time be liable for any other damage or other loss, such as for instance loss of profits, consequential loss, costs, indirect damage or indirect loss.
3. If more than one party with respect to the goods falling under the agreement entitled to damages should make a claim, then the amount of the damages, calculated in accordance with paragraph 1 of this article, shall be divided among such parties in proportion to the amount of the damage suffered by every one of them.

## Article 59

### **Claims of third parties**

1. Without prejudice to article 57, paragraph 3 of these General Conditions with respect to the liability of the Storage Company as defined therein, the Principal shall hold the Storage Company harmless from all claims by third parties against the Storage Company or indemnify the Storage Company for damage paid to or owed to third parties:

- a) in connection with the goods entrusted by the Principal to the Storage Company or in connection with damage, costs and/or losses caused by the Principal, by third parties called in by him, by persons who – whether or not in the employment of the Principal or of third parties called in by him - by order of or with the permission of the Principal or in behalf of him are at the premises or on board vessels moored alongside the premises, or in connection with the storage or the execution of operations in relation to goods of the Principal;
- b) on account of damage, losses, costs and other consequences for those third parties, arising in any way whatsoever, in connection with article 56, paragraph 3 and article 57 of these General Conditions.

Article 60

### **Force majeure**

1. The following facts shall, irrespective of their origin, amongst others constitute force majeure for the Storage Company:

- a) any defect, inherent vice or natural properties of the goods, changes in quality of goods through expiry of time, isomerization, polymerization or other (chemical) reactions, formation of sediments, of dregs and of lees, shrinkage, evaporation, condensation, mould or mildew, fermentation, rust, gasification, drying-up, weighing losses, efflorescence, coagulation, freezing, melting, leakage, loss of weight, deterioration, damage by micro-organisms, by rats, by mice, by insects, by worms or other vermin, damage caused by other goods, as well as defects, whether or not latent, of the premises and/or the storage space, pipeline, pumps, jetties, foundations etc.;
- b) governmental regulations, mobilization, war, requisitioning, quarantine measures, epidemics, obstructions to access to Dutch ports or to ports of shipment, import-, export- and transit-prohibitions or restrictions, injunctions whereby assets are attached, strikes, actions to work to rule, occupation, blockade, lock-outs, sabotage, riots, insurrection, looting, stagnation in the supply of power and any other similar circumstances;
- c) fire, smoke, explosion, water used to extinguish fires, atomic nuclear reactions, burst pipes, floods, breached dykes, storms, perils of the sea, damage by aircraft, snow, ice, imminent danger of ice, obstructions to shipping or to the transport roads or transport ways by land or by water that are connected with the premises, defects of packing materials, of containers or of the means of transport, delays in the delivery of goods held by the Storage Company, failure in or delayed arrival of packing materials, of containers or of means of transport, interference with any operations, whatever their nature, whether inside or outside the premises;
- d) any other circumstances that the Storage Company could not reasonably have avoided, prevented or forestalled.

2. The Storage Company shall not be required to fulfil its obligations during and after the period in which force majeure or the consequences thereof impede or prevent it from fulfilling its obligations.

Article 61

### **Temporary force majeure Principal**

If the Principal is not in a position, on account of temporary force majeure, to meet his obligations, ensuing from the agreement, the Storage Company shall, after the force majeure has ceased to exist, have the right to require fulfilment by the Principal, irrespective of whether such fulfilment would as a result thereof take place prior to the expiry of the period for which the agreement has been entered into or alternatively thereafter. Temporary force majeure shall not be a reason for the Principal to dissolve the agreement.

Article 62

### **Lapsing of claims**

1. All claims against the Storage Company and against those who are referred to in article 63 of these General Conditions for compensation of damage, loss, claims of third parties, fines or costs or otherwise shall lapse if they have not been notified in writing to the Storage Company at or prior to the time that the goods have left the premises in the sense of article 26, paragraph 2 of these General Conditions.

2. If damage to or alternatively a partial or total loss of goods has been notified by the Storage Company to the Principal, the Principal shall have to lodge claims, if any, with relation to that damage or that partial or total loss, in writing with the Storage Company within one week after the Storage Company has notified the Principal of that damage or that partial or total loss, but - if the goods have left the premises within the week as referred to - by not later than at the time that the goods have left the premises in the sense of article 26, paragraph 2 of these General Conditions, i.e. on fine of a lapsing of the claim.

3. A claim against the Storage Company and against those referred to in article 63 of these General Conditions shall in any event lapse if no legal proceedings have been instituted within 12 months. That period of 12 months shall commence to run after the expiration of the date of the notification or the lodging of any claims, as referred to in paragraph 1 or paragraph 2, as the case may be, of this article.

Article 63

### **Scope of safeguarding provisions**

All personnel, affiliated business enterprises of the Storage Company and their personnel, all (sub)contractors and their

personnel, agents and representatives of the Storage Company, or others who are in the employment of, have received a commission from or have been appointed by the Storage Company, shall each of them for themselves be entitled to invoke all legal and contractual means of defence which the Storage Company is entitled to invoke for the defence or limitation of its own liability towards the Principal.

Article 64

### **Assignment of the agreement**

The Storage Company shall be entitled to assign its rights and obligations under the agreement to an affiliated business enterprise of the Storage Company.

Article 65

### **Decisive text**

1. In the event of the Dutch text of these General Conditions or of any other conditions to which reference is made therein being at variance with any translation made thereof or in the event of the Dutch text or any translation made thereof being capable of interpretation in a different way, then the Dutch text and/or the interpretation to be given to the Dutch text shall be decisive.

2. Should any one of the articles of these General Conditions be or become invalid and/or be declared null and void, then the validity of the other articles shall not be affected thereby. Instead of the invalid article and/or article which has been declared null and void a provision shall in that event be deemed to have been agreed upon that forms the nearest approach, within the framework of what is legally feasible, to the intention and the spirit of the invalid article and/or article which has been declared null and void.

Article 66

### **Law applicable and Court of Law having jurisdiction**

1. All agreements between the Storage Company and the Principal shall be governed by Dutch Law.

2. All differences that might arise between the Storage Company and the Principal and/or that are subject to these General Conditions shall have to be submitted by the Principal and can be submitted by the Storage Company for adjudication to the Court of Law having jurisdiction at the place where the storage space of the

Storage Company is situated in the Netherlands. The Storage Company shall, however, be entitled to institute claims against the Principal or anyone else in another Court of Law having jurisdiction, in particular the Court of Law having jurisdiction at the place of establishment of the party against whom the Storage Company wishes to institute the claim in question.

Article 67

### **Citation**

These General Conditions may be cited as the General Conditions for Tank Storage in the Netherlands ('Algemene Voorwaarden voor Tankopslag in Nederland').

Article 68

### **Conditions filed of record**

These General Conditions have been filed of record in the Dutch, English and German languages at the Registry of the Arrondissements Courts in Amsterdam, Dordrecht and Rotterdam on 21st December 1992. A copy of these General Conditions will be sent on request.

