

## Hiring Conditions

### 1. Delivery

- (a) The failure of the Lessor to supply promptly shall not constitute a violation of the Container Lease Agreement ("Lease Agreement") if caused by force majeure, strikes, labour trouble, failure or delay by manufacturers of such containers to deliver, transportation difficulties or any other cause whatsoever beyond control of the Lessor.
- (b) Lessee shall accept delivery of the containers at the agreed UNIT45 location unless otherwise agreed in writing. At such time, both parties shall effectively and simultaneously execute an Equipment Interchange Receipt (hereinafter referred to as "EIR") on the prescribed UNIT45 EIR form and upon the completion of said form the containers shall then become subject to the terms and conditions of the Container Lease Agreement together with these hiring conditions. All containers leased to Lessee by UNIT45 shall be deemed accepted in good condition.
- (c) The failure by the Lessee to note any damage, defect, or deterioration to the container shall not relieve the Lessee of liability for any repairs upon the return of the containers as provided in paragraph 6 hereof.
- (d) All positioning and handling expenses shall be for the account of the Lessee.

### 2. Payment of rent

- (a) The rental period for each container shall commence at 12:01am on the date that the leasing rate begins for each container and shall end at 11:59pm on the date redelivered in compliance with sections 3, 7 and 8 herein.
- (b) Lessee shall, on the due date, without the necessity of prior demand pay UNIT45 as rent the leasing rate and any other charge as detailed in the Lease Agreement together with any other charge or charges which may be applicable for each container from time to time.
- (c) If any rental payments shall not have been received by the Lessor after 10 (ten) days from the dates that payments are due the Lessor shall have the right to charge the Lessee interest in the amount of 2.5 percent per month or part thereof on (i) any such rental payments outstanding; (ii) an amount equal to any accrued taxes, with respect to such containers, and (iii) all costs, expenses, losses and damages sustained by Lessor by reason of default.

### 3. Default

The following events shall constitute such items of default.

- (a) (i) Lessee fails to make a rental payment when due, (ii) Lessee fails to comply with any other condition of the Lessee Agreement; (iii) Lessee operates any container in violation of the terms of any applicable insurance policy or after any insurance policy has lapsed, retired or been cancelled; (iv) if any carrier of insurance provided hereunder cancels or reduces coverage under any policy of such insurance or determines that Lessee is an uninsurable risk at standard rates; (v) Lessee attempts to remove, sell, transfer, sublet, encumber or part with possession of the Equipment, in breach of this Agreement; or (vi) at any time during the term of the lease the Lessee shall be the subject of any proceeding under the bankruptcy act, insolvency law, or similar law for the relief of debtors or become insolvent (that is unable to pay the Lessee's debts as they fall due) or make assignment for the benefit of creditors; (vii) circumstances arise which may constitute a considerable increase of Lessors' risk and/or may prevent the normal performance of this Lease-agreement. Upon the occurrence of an event of default, the Lessor shall have the option upon written notice to the Lessee, taking immediate effect, (A) to declare the entire unpaid balance of the rent to be due and payable immediately together with any amounts determined in accordance with Section 2(c) hereof, and/or (B) to terminate the lease as to any or all of the containers and after the lease has been so terminated, the Lessee shall forthwith at its own expense return the containers to the Lessor in the place specified in the Lease Agreement or make the containers available for collection by the Lessor in which event the cost of transporting the containers to the place specified by the Lessor shall be paid by the Lessee.
- (b) If the Lessee shall not forthwith return the containers, the Lessor shall have the right without further written notice to repossess the containers at the expense of the Lessee. The Lessor shall have the right to repossess the containers, whether loaded or empty, to detain the Lessee's transport until the containers are returned to the Lessor and to enter upon any premises in which the containers may be kept. In addition the Lessee shall forthwith upon any such termination pay unpaid rent at the prescribed rate to the date of the actual return of the containers and any other reasonable charges (including attorneys fees) paid or incurred by the Lessor in taking possession of the containers and enforcing its remedies hereunder, together with interest at the rate of 2.5% per month on the unpaid balance of the above referenced charges from the date each such charge accrues. Notice to the effect that the entire unpaid balance of rent is due and payable immediately shall not preclude the Lessor from giving subsequent notice of termination and enforcing its remedies hereunder. No remedy herein provided to the Lessor is intended to be exclusive of any other remedy herein or by law provided, but shall be cumulative and in addition to any other remedy available to the Lessor.
- (c) Should UNIT45 obtain the right to immediate possession of all containers units under paragraph (a) above the Lessee must upon written notice from UNIT45 immediately notify UNIT45 of the exact location of all containers leased to it under this and any other leasing arrangement with UNIT45 then in effect and redeliver all such containers to UNIT45's authorised depots.
- (d) Commencing five (5) days after Lessee received the request referred to in paragraph (c) above. Lessee shall be liable to UNIT45 for liquidated damages of sixty U.S Dollars (USD60) per container leased under this lease for each day the Lessee has failed to redeliver such container.
- (e) Said liquidated damages referred to in paragraph (d) above shall be in lieu of compensatory damages for Lessee's failure to redeliver under paragraph (c) above and shall include such costs as those of ascertaining the whereabouts of each container, obtaining possession of each container and transporting each container to an UNIT45 authorised depot. Said liquidated damages shall not include such costs as rent attorneys fees, repair charges and all other costs and charges expressly provided for in this lease. Said liquidated damages are not a penalty, but because of the difficulty of determining compensatory damages to UNIT45 for Lessee's failure to redeliver under paragraph (c) above, are agreed to be a reasonable estimate at the time of the execution of this lease of such damages.

#### 4. Warranties

Any container leased by UNIT45 to Lessee is leased "as is" and UNIT45 make no warranties or representations express or implied as to the condition, design or operation of the container, or that it complies with the requirements or regulations of any country or political subdivision where the container may be used or operated, makes no warranties either expressed or implied of quality, merchantability, fitness for a particular purpose. Lessee's right to quiet enjoyment thereof (if Lessee is in default) or otherwise with respect to any container and shall not be bound by any statement, agreement or representation not specifically set forth in writing and signed by UNIT45. Lessor hereby instructs and authorises Lessee to enforce all claims in connection with the Equipment, such as, but not limited to claims in connection with warranties, maintenance or non-compliance, in its own name and directly against the supplier. Every claim of Lessee against Lessor in connection with these claims is therefore excluded.

#### 5. No sale or charge of goods and rights of substitution

- a) The containers shall at all times, remain the property of UNIT45 or its assigns. Lessee shall not sublet any container or assign the lease or any rights hereunder without UNIT45 approval in writing.
- b) Some of the containers leased hereunder may be owned by a third party and leased by it to UNIT45. The right of Lessee to quiet possession of any such container shall be subject and subordinate to all terms of any agreement between such third party and UNIT45 including without limitation the right of such third party, should UNIT45 be in breach of such agreement either to take possession of the containers or to assign UNIT45's interest in this Lease Agreement to itself, acting under a power of attorney granted by UNIT45 for that purpose, if the third party elects to take possession of the containers, then Lessor reserves the right to substitute similar containers for the remainder of the lease term. If the third party assigns UNIT45's interest in the Lease Agreement to itself, Lessee shall attorn to the third party as Lessor under this agreement.
- c) The Lessee shall during the lease period, promptly notify any mortgages or charges of all or any of the assets of the Lessee, whether under a fixed or floating charge or otherwise, of the interest of UNIT45 in the assets. (d) Some of the containers leased by UNIT45 to respective Lessees may be owned by a third party and managed by UNIT45 under a separate management or lease agreement that limits the term for which the containers can be leased in the event that such third party becomes entitled to possession of such containers, Lessee will return such containers to the third party upon written request. Should Lessee return any such containers to the third party, UNIT45, at Lessee's request, will replace said containers with comparable containers. At any time, UNIT45 can substitute comparable containers for some or all of the containers leased to Lessee providing that the substitute is in as good condition as the containers originally leased.

#### 6. Insurance

- (a) Lessee shall maintain at its own expense, the following minimum amounts of insurance, with insurers reasonably acceptable to Lessor, and shall, upon request, furnish UNIT45 with certificates of such insurance: (i) All risks physical damage insurance, in an amount equal to the insurance value as provided in the Lease Agreement, of all containers leased pursuant to the Lease Agreement, whether possessed by Lessee while on land, afloat, in transit or at rest anywhere in the world, including particular average and general average. Such insurance shall be endorsed with a loss payable clause in favour of UNIT45 with respect to UNIT45 property or property owned by a third party and managed by or leased to UNIT45, or in favour of such third party as UNIT45 may specify in the Lease Agreement or such third party (whose name shall be provided at the request of Lessee or Lessee's insurer) as Lessor may designate upon its notification that insurance proceeds are payable by such insurer; (ii) Public liability including contractual liability and property, damage for limits of not less than: Bodily injury U.S.D 500,000 per person, U.S.D 1,000,000 per occurrence, property damage U.S.D 1,000,000 per occurrence, and such insurance shall name Lessee as the primary insured and shall provide that Lessor and such third parties (whose names shall be provided at the request of Lessee or Lessee's insurer) who own the containers and on whose behalf Lessor is leasing or managing such containers are additional insured; (iii) Automobile liability and property damage for limits of not less than: Bodily injury U.S.D 1,000,000 per person, U.S.D 1,000,000 per occurrence, property damage USD1,000.00 per occurrence and such insurance shall name Lessee as the primary insured and shall provide that Lessor and such third parties (whose names shall be provided at the request of Lessee or Lessee's insurer) who own the containers and on whose behalf Lessor is leasing or managing such containers, are additional insured. The certificate and policies providing the insurance required above shall each contain a clause providing that the policy shall not be cancelled without thirty (30) days prior written notice by Lessee's insurer to UNIT45. Lessee hereby irrevocably appoints UNIT45 as Lessee's attorney in fact to make claims, receive payments and execute and endorse all documents, checks and drafts for payment for loss or damage under any insurance policy.

#### 7. Maintenance, Damage, Loss and Destruction of container

- a) Except as hereinafter otherwise provided, the Lessee at its own expense shall maintain the containers in good condition and repair and make all necessary replacements in good condition and repair and make all necessary replacements of components and parts during the term of the lease using parts and workmanship equal to the original condition of the containers, The Lessee shall make no changes or alternations to the containers, except with the prior written consent of the Lessee signed by an officer thereof.
- b) Re colour of identification marks and the Lessor's service mark on any of the containers may not be changed or supplemented in any way without the prior written approval of the Lessor. The Lessee shall keep such marks and colour in good condition and repair throughout the term of the lease.
- c) The lease shall terminate as to any of the containers which are damaged beyond repair, lost or destroyed, as of the date on which the Lessee furnishes proof of such fact to the Lessor reasonably satisfactory to the Lessor (including without any limitation physical inspection if the Lessor so desires), together with payment of the insurance value thereof, together with any other costs and expenses incurred as a result of such damage or destruction. Lessee's obligation to pay rental shall continue until the date UNIT45 receives payment of the replacement value thereof. 'Me

Lessee shall thereupon have title to such container. The Lessor has the right but not the obligation to substitute a similar container for any of the containers as to which the lease has terminated due to such loss, damage, or destruction. Delivery of such replacement containers shall be accomplished in the same manner as provided in section 1 for the container it replaces, and such these replacement container(s) shall thereafter become containers subject to all the terms and conditions of the original Lease Agreement, provided however that the termination date of the lease for such replacement container shall be the same as it would have been for the container which it replaces.

- d) Lessee shall maintain each container in good condition and have all repairs made as soon as possible after the occurrence of any damage.
- e) Lessee shall use all units properly and carefully protect them from overloading and comply with all maintenance repair and operating instructions of UNIT45 and of the manufacturer. All use, maintenance and repairs shall be in accordance with UNIT45 and Institute of International Container Lessor's publications, as revised from time to time containing the operating, maintenance and repair obligations of the Lessees, and shall be performed only at facilities and by persons duly qualified to perform such work.

#### **8. Return of containers**

- a) Upon expiration of the term of the Lease Agreement, the Lessee agrees to return each container as to which the Lease Agreement shall have expired to the Lessor at an address specified by the Lessor in the Lease Agreement or at such other place as Lessor and Lessee may agree in writing, at Lessee's expense including costs of lifting off delivering vehicles.
- b) The Lessee shall continue to pay rent until each container has been returned to the Lessor in the same condition as when received by the Lessee normal wear and tear excepted and each container shall in any event be fully serviceable. Each container will be inspected upon return and in the event the container is damaged, the UNIT45 depot shall notify the Lessee or its authorised agent of such damage which damage shall be substantiated by a copy of the EIR indicating damage(s). Lessee shall have the option to authorise repairs to be carried out by UNIT45 's depot or any other designated repair facility capable of, and qualified to perform, such repairs according to the Institute of International Container Lessors publications. In the event said container must be transferred at the request of Lessee to a repair facility other than UNIT45 's for repair, or shifted for survey all such handling/shifting charges. If any, incurred in connection with such services, shall be for the account of Lessee. In the event that the Lessee elects such repairs to be carried out by UNIT45 's depot, all such repairs shall be made at the cost and expense of Lessee, in any event, all repairs shall be made at the expense of Lessee, if within five (5) day period no authorisation is given for repair by Lessee of Lessee's authorised agent, UNIT45 may direct the authorisation for repair on behalf of Lessee and for Lessee's account. Upon completion of repair(s) satisfactory to Institute of International Container Lessors publications, said container will then, and not until then, be considered off-hire and the container will be taken off-hire and all rental per diem will cease as of that date. Excessive rusting shall not be deemed fair wear and tear.
- c) In the event that the Lessee does not return the containers on termination date of the Lease Agreement, the Lessee shall continue to pay rent for each container at the daily rate in effect then or the Lessor's then current market rate for a 90 day lease, whichever is the higher, until each of such containers is returned to the Lessor. The higher rate shall apply from the scheduled termination date of the Lease Agreement. Nothing in this paragraph shall be construed as giving the Lessee the right to retain a container beyond the term of this lease.

#### **9. Competent court**

Any controversy, dispute or claim arising out of or relating to this lease shall be settled by the District Court of Amsterdam (Arrondissementsrechtbank te Amsterdam) unless coercive law stipulates the exclusive competence of another Court.

#### **10. General conditions**

- a) Title to the containers shall remain at all times with the Lessor or Lessor as agent for the owners. Lessee, at its expense, will protect and defend Lessors' title to the Equipment from and against any and all claims encumbrances, liens and legal processes. If the Lessee observes all the terms and conditions of the lease, it shall, subject to Section 5(b) hereof have quiet possession of the containers but the Lessor shall have no other responsibility whatsoever for, or in connection with, any and all of the containers after the delivery of any of the containers by the Lessor to the Lessee until the actual return thereof by the Lessee to the Lessor. Without limitation of the generality of the foregoing, the Lessor shall not be responsible for loss of, or damage to, property (including cargo) of the Lessee or others, or for personal injuries to any person, arising out of or incident to the possession or use of the containers during said period of time. The Lessee shall indemnify and hold the Lessor (however caused and irrespective of whether caused in whole or in part by the negligence of UNIT45 ), harmless from all claims made upon the Lessor in connection with any of the foregoing, including reimbursement for reasonable attorneys fees. The Less shall indemnify and hold the Lessor harmless from all loss or damage arising out of, or resulting from any levy or attachment on any of the containers except with respect to any levy or attachment based on claims against the Lessor. The Lessee shall pay any and all taxes arising out of, or connected with, the use of the container by it, including without limitation any property or use taxes, or other charges of whatever nature and by whomever payable, now or hereafter imposed by any government entity.
- b) If Lessee is an ocean carrier, then UNIT45 and Lessee agree that the primary and paramount purpose hereunder is to enable Lessee to offer international ocean carriage or containerised cargo aboard vessels owned, chartered, or operated by Lessee and that such leased equipment is essential and necessary for the service. The parties further agree that this lease is a maritime contract. Containers are furnished by UNIT45 to vessels owned or operated by Lessee and UNIT45 expressly relying upon credit of the vessels, even if final delivery to the vessels is effected by Lessee. UNIT45 reserves and Lessee recognises and grants to UNIT45 an express maritime lien against said vessels and their pending freight, to serve all obligations running from Lessee to UNIT45 under this lease. In addition and not in limitation of all other remedies enumerated in this lease, UNIT45 may execute its maritime lien on vessels owned or operated by Lessee by appropriate process in any court granting admiralty and maritime jurisdiction.

**11. Notices**

Every notice required or permitted to be given by either party shall be in writing and shall be airmailed to the other party, at its respective address as specified in the lease agreement, or to such other addresses as a party may hereafter from time to time designate in writing.

**12. Miscellaneous**

- a) The container Lease Agreement shall be governed by the laws of the Netherlands (Nederlands recht) as to all matters including the validity, construction and performance thereof. It constitutes the entire lease between the parties and cannot be modified, changed or terminated orally.
- b) The captions of the paragraphs of the Container Lease Agreement are for reference and the convenience of the parties only and do not define limit or enlarge the meaning or scope of any of the said paragraphs.
- c) The captions of the paragraphs of the Hiring Conditions are for reference and convenience of the parties only and do not define, limit or enlarge the meaning or scope of any of the said paragraphs.
- d) This Lease Agreement shall be binding upon the parties and their respective heirs, legal representatives, successors and assigns, but the Lessee shall not assign or encumber this Lease Agreement in whole or part without the prior written consent of the Lessor and in accordance with the terms of Section 5 hereof.
- e) The Lessee hereby waives any and all existing future set-offs, or other claims against any rent or other payments due under the Lease Agreement and agrees to pay the rent and other amounts due under the Lease Agreement regardless of any such claim.
- f) No waiver of any of the provisions of the Lease Agreement shall be binding upon the Lessor unless it is in writing signed by an officer thereof. A waiver in one instance shall not be deemed to be a continuing waiver for the future.
- g) UNIT45 shall have the right to inspect all containers upon written notice.
- h) Lessee shall, at its own expense, comply with all pertinent laws and regulations, and UNIT45 shall not be responsible for such compliance. Lessee shall pay all fines and penalties arising out of the use of any container, including limitation for failure to comply with this paragraph.
- i) Lessee shall exercise such responsibilities as would otherwise be UNIT45 's under the International Convention for Safe Containers (CSC) and shall comply also with the Customs Conventions on Containers, 1956 and 1972, including without limitation all obligations of the operator relating to temporary admission, transport under customs seal, maintenance of records and reporting to governmental or other authorities.
- j) Except as UNIT45 shall otherwise consent in writing, Lessee warrants and represents that all containers leased hereunder shall be used exclusively in international trade for the transportation of property to and from the United States so as not to incur any liability for customs duties, custom penalties, interest and other charges, or to render such property ineligible for the investment tax credit under the United States Internal Revenue Code of 1954, as amended and agrees to pay any such duties penalties, interest or other charges imposed by any government or governmental agency entitled to impose same and any recaptured investment tax credit with respect to the containers plus an increased tax liability resultant from such reimbursement and to hold UNIT45 harmless of and from any claim therefore.
- k) With respect to the hiring conditions set forth herein, time is of the essence unless expressly waived in writing.
- l) Under no circumstances shall UNIT45 be liable hereunder for any lost profits or for special, consequential, or exemplary damages, even if UNIT45 has been advised of the possibility of such damages. Under no circumstances shall UNIT45 incur any liability for losses or damages of any kind whatsoever occurring to or with respect to property shipped in the containers supplied hereunder.