

## Terms & Conditions

### Contract Details

Supplier's VAT number:	<u>47-6843215</u>
Supplier's representative:	<b>Title:</b> Mr <b>Name:</b> Stephen Collins <b>Email:</b> enquiries@transcontainersolutions.com <b>Postal Address:</b> 5523 Integrity Way, Appleton, WI 54913, USA

#### 1. Interpretation

##### 1.1. Definitions:

- "As Is Container(s)" are container(s) which have previously been used for the carriage of cargo, are unsuitable for shipping and may not be Weather Tight;
- "Business Day" a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business;
- "Cargo-Worthy Container(s)" are container(s) which have previously been used for the carriage of cargo and are subject to the warranty given in Condition 6.4;
- "Conditions" the terms and conditions set out in this document;
- "Container(s)" the container(s) to be purchased by the Customer and as more particularly described in Condition 0;
- "Contract" the contract between the Supplier and the Customer for the sale and purchase of the Container(s) in accordance with these Conditions (including the contract details as set out in Condition 0);
- "Customer" the person or firm who purchases the Container(s) from the Supplier as set out in Condition 0;
- "Delivery Location" the Delivery Location as set out in Condition 0;
- "Demurrage Charge" a charge payable by the Customer at the Demurrage Rate for failure to unload the Container(s) within the timescale set out in Condition 4.3.6;
- "Demurrage Rate" the rate levied by the haulier delivering the Container(s) to the Customer;
- "Force Majeure Event" an event or circumstance beyond a party's reasonable control including, without limitation: acts of God, flood, drought, earthquake or other natural disaster; epidemic or pandemic; terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- "IICL" means the standard for shipping containers as defined from time to time by the International Institute of Container Lessors;
- "Low Grade Container(s)" are container(s) which are well used, unsuitable for shipping and may not be Weather Tight or structurally sound;
- "New One-trip Container(s)" are container(s) which have been manufactured overseas and may have carried cargo on a single trip to the UK or such other country where the container(s) are available for sale and delivery to the Customer;
- "New Storage Container(s)" are new storage container(s) that are not intended for use as shipping containers;
- "Price" the price for the Container(s) as set out in Condition 0;
- "Supplier" Trans Containers Limited (registered in USA and England with company number 04112119) whose registered office is at The Manor House, 5523 Integrity Way, Appleton,

WI 54913, USA "Termination Date" Upon delivery of the Container(s), or in accordance with Condition 9 of these Conditions, whichever is sooner;

"Weather Tight" means having lockable working doors and being free from water ingress;

"Wind and Watertight Container(s)" means container(s) which are intended for storage use only and are subject to the warranty in Condition 6.6; and

"Working Hours" means 7:00am to 6:00pm during a Business Day.

## **1.2. Interpretation:**

1.2.1. a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.2.2. any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.2.3. a reference to writing or written includes emails.

1.2.4. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

## **2. Basis of contract**

- 2.1. The Supplier ("We", "Us" or "Our") shall sell and to you, the Customer, ("You" or "Your") (together the "Parties") shall buy the Container(s) in accordance with these Conditions.
- 2.2. These Conditions apply to the Contract to the exclusion of any other terms that You seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.3. You are responsible for ensuring that the contract details as set out in Condition 0 are complete and accurate.
- 2.4. Your order for the Container(s) shall only be deemed to be accepted when We issue these Conditions to You.
- 2.5. You waive any right that You might otherwise have to rely on any term endorsed upon, delivered with or contained in any of Your documents that is inconsistent with these Conditions.
- 2.6. Any samples, drawings, descriptive matter or advertising produced by Us and any descriptions or illustrations contained in Our catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Container(s) referred to in them. They shall not form part of the Contract nor have any contractual force.
- 2.7. A quotation for the Container(s) given by Us shall not constitute an offer. A quotation shall only be valid for a period of 20 Business Days' from its date of issue.

## **3. Container(s)**

We reserve the right to amend any order and the specification of the Container(s) set out or referred to therein if required by any applicable statutory or regulatory requirement or if the amendment will not materially affect the nature or quality of the Container(s), and We shall notify You in any such event.

## **4. Delivery**

- 4.1. We shall deliver the Container(s) to the Delivery Location as set out in Condition 0 or such other location during Working Hours as the Parties may agree in writing.
- 4.2. Delivery is completed on the completion of unloading of the Container(s) at the Delivery Location on such date notified in writing to You. If no date is specified for delivery of the Container(s) delivery shall be within a reasonable time.
- 4.3. You shall be responsible for and shall ensure that:
  - 4.3.1. You provide adequate and accurate delivery instructions or such other guidance and assistance that is requested for the delivery of the Container(s);
  - 4.3.2. We, Our employees, agents, consultants and subcontractors are provided with access to the Delivery Location to deliver the Container(s);
  - 4.3.3. access to and inside the Delivery Location is suitable for the delivery vehicle to deliver and unload the Container(s) and is free from obstacles;
  - 4.3.4. You provide a place at the Delivery Location which is suitable for the Container(s) to be unloaded;
  - 4.3.5. the ground on which the Container(s) are to be unloaded is suitable to hold the Container(s);
  - 4.3.6. You facilitate the unloading of the Container(s) by the haulier and ensure that the Container(s) is unloaded within 30 minutes of the haulier's arrival at the Delivery Location;
  - 4.3.7. You obtain and maintain all necessary licences, permissions, consents and insurances which may be required for the unloading and storage of the Container(s) at the Delivery Location; and

- 4.3.8. You comply with all applicable laws, including health and safety laws in respect of the unloading, storage and use of the Container(s).
- 4.4. Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. We shall not be liable for any delay or failure in delivery of the Container(s) that is caused by:
- 4.4.1. a Force Majeure Event;
- 4.4.2. your failure to comply with Condition 4.3;
- 4.4.3. adverse weather conditions in which the haulier deems delivery or the unloading of the Container(s) to be unsafe or impractical; or
- 4.4.4. any other reason which is beyond Our control.
- 4.5. If You fail to take delivery of the Container(s), then, except where such failure or delay is caused by a Force Majeure Event or Our failure to comply with the obligations under the Contract, You shall be liable for:
- 4.5.1. all costs relating to the abortive delivery, including any haulage and Demurrage Charge; and
- 4.5.2. all costs relating to the subsequent storage of the Container(s) (including insurance) until the Container(s) are collected or redelivered to You.
- 4.6. If you fail to unload the container within the timescale provided in Condition 4.3.6, We shall reserve the right to apply the Demurrage Charge.
- 4.7. If We fail to deliver the Container(s) for reasons other than as provided for in Condition 4.4, Our liability shall be limited to the costs and expenses incurred by You in obtaining replacement Container(s) of similar description and quality in the cheapest market available, less the Price.
- 4.8. You shall provide notice in writing of any defects with the Container(s) within 5 Business Days of delivery. Failure to provide such notice within the required timescale shall result in deemed acceptance of the Container(s) by You.
5. Cancellation
- You shall provide 48 hours' notice (which does not include any day or part of a day that is not a Business Day) in writing to Us to cancel a delivery. We reserve the right to charge You for any costs incurred in the event of insufficient notice of cancellation in accordance with this Condition 5.
6. Quality
- 6.1. We warrant that New One-trip Container(s) will:
- 6.1.1. at the time of delivery comply with standard IICL; and
- 6.1.2. at the time of delivery and for a period of 24 months thereafter (New One-trip Container Warranty Period) be free from defects in design, material and workmanship.
- 6.2. We warrant that New Storage Container(s) will at the time of delivery and for a period of 24 months thereafter (New Storage Container Warranty Period) be free from defects in design, material and workmanship.
- 6.3. You acknowledge and agree that:
- 6.3.1. New Storage Container(s) will be subject to wear and tear consistent with transportation of the Container to the Delivery Location, including transportation by sea. This might include some dents and scratches.
- 6.3.2. New One-trip Container(s) will be subject to wear and tear consistent with a single use of the Container to transport goods, including transportation by sea. This might include tyre marks inside the Container, and some dents and scratches.
- 6.4. Subject to Condition 6.5, We warrant that the Cargo-worthy Container(s) will:
- 6.4.1. at the time of delivery be of a standard that would pass an inspection to be certified as compliant with IICL; and
- 6.4.2. at the time of delivery and for a period of 12 months thereafter (Cargo-worthy Container(s) Warranty Period) be Weather Tight and be free from defects in design, material and workmanship.
- 6.5. The Cargo-worthy Container(s) shall only be certified as being suitable for transporting cargo by sea provided You:
- 6.5.1. notify Us in writing, at the time of placing your order, that You intend to use the Cargo-worthy Container(s) for transporting cargo by sea; and
- 6.5.2. pay any additional charges in respect of any additional costs which may be incurred as a result of Our arranging of the certification of the Cargo-worthy Container(s).
- 6.6. We warrant that Wind and Watertight Container(s) will at the time of delivery and for a period of 12 months thereafter (Wind and Watertight Container(s) Warranty Period):
- 6.6.1. be Weather Tight; and
- 6.6.2. be free from defects in design, material and workmanship.

- 6.7. You acknowledge and agree that Cargo-worthy Container(s) and Wind and Watertight Container(s) will be subject to wear and tear consistent with multiple uses of the Container(s) to transport and store goods, including transportation by sea. This might include significant levels of dents, scratches and corrosion.
- 6.8. No warranty is given in respect of As Is Container(s) and Low Grade Container(s) as to their quality or condition, compliance with IICL, or that they are free from defect.
- 6.9. Subject to Condition 6.10 and Condition 6.11, if:
- 6.9.1. You give notice in writing to Us within the New Storage Container, One-trip Container, Cargo-worthy or Wind and Watertight Container(s) Warranty Periods' (as applicable) of discovery that the Container(s) do not comply with the warranty set out in Conditions 6.1.2, 6.2, 6.4.2 or 6.6, (as applicable);
- 6.9.2. You give notice in writing to Us, within the time period set out in Condition 4.8, of discovery that the Container(s) do not comply with the warranty set out in Conditions 6.1.1 and 6.4.1, (as applicable);
- 6.9.3. We are given a reasonable opportunity of examining such Container(s); and
- 6.9.4. You (if asked to do so by Us) return such Container(s) to Us at Your cost including the cost of any redelivery,
- We shall, at Our discretion, repair or replace the defective Container(s), or refund the price of the defective Container(s) in full.
- 6.10. We shall not be liable for the Container(s)' failure to comply with the warranty set out in Conditions 6.1, 6.2, 6.4 and 6.6 in any of the following events:
- 6.10.1. You make any further use of such Container(s) after giving notice in accordance with Conditions 6.9.1 and 6.9.2;
- 6.10.2. the defect arises because You failed to follow Our oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Container(s) or (if there are none) good trade practice regarding the same;
- 6.10.3. You alter or repair such Container(s) without Our express written consent;
- 6.10.4. the defect arises as a result of fair wear and tear, accidental or wilful damage, negligence, or abnormal storage or working conditions; or
- 6.10.5. the Container(s) differ from their description as a result of changes made to ensure that they comply with applicable statutory or regulatory requirements.
- 6.11. In the case of Cargo-worthy Container(s) or Wind and Watertight Container(s), we shall not repair any corrosion or damage unless such corrosion or damage results in the Cargo-worthy Container(s) or Wind and Watertight Container(s) no longer complying with the warranty given in Condition 6.4 or Condition 6.6 as the case may be.
- 6.12. Except as expressly provided in this Condition 6, We shall have no liability to You in respect of the Container(s)' failure to comply with the warranty set out in Conditions 6.1, 6.2, 6.4 and 6.6 (as applicable).
- 6.13. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 6.14. These Conditions shall apply to any repaired or replacement Container(s) supplied by Us. 7. Title and risk
- 7.1. The risk in the Container(s) shall pass to You on completion of delivery.
- 7.2. Title to the Container(s) shall not pass to You until We receive payment in full (in cash or cleared funds) for the Container(s).
- 7.3. Until title to the Container(s) has passed to You, You shall:
- 7.3.1. store the Container(s) so that they remain readily identifiable as Our property;
- 7.3.2. not remove, deface or obscure any identifying mark on or relating to the Container(s);
- 7.3.3. maintain the Container(s) in satisfactory condition and keep them insured against all risks for their full Price from that date the Container(s) is delivered;
- 7.3.4. notify Us immediately if You become subject to any of the events listed in Condition 9; and
- 7.3.5. give Us such information relating to the Container(s) as We may require from time to time.
- 7.4. If before title to the Container(s) passes to You, You become subject to any of the events listed in Condition 9.1, then, without limiting any other right or remedy, We may enter Your premises or the premises of any third party where the Container(s) are stored in order to recover them.
8. Price and payment
- 8.1. The Container(s) shall be sold for the Price.
- 8.2. We reserve the right, by giving notice to You at any time before delivery, to increase the price of the Container(s) to reflect any increase in the cost of the Container(s) that is due to:

- 8.2.1. any factor beyond Our control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
  - 8.2.2. any request by You to change the delivery date(s), quantities, type or intended use of Container(s); or
  - 8.2.3. any delay caused by Your instructions or Your failure to give Us adequate or accurate information or instructions.
- 8.3. The Price:**
- 8.3.1. excludes amounts in respect of value added tax (VAT), which You shall additionally be liable to pay to Us at the prevailing rate, subject to the receipt of a valid VAT invoice;
  - 8.3.2. excludes the Demurrage Charge, which may be applicable, which You shall additionally be liable to pay to Us; and
  - 8.3.3. includes the costs and charges of packaging, insurance and transport of the Container(s) to the Delivery Location.
- 8.4. We may invoice You for the Container(s) as agreed at the time of the Order.**
- 8.5. You shall pay the invoice in full and cleared funds as agreed at the time of Order. Payment shall be made to the bank account nominated in writing by Us. Time for payment is of the essence.**
- 8.6. If You fail to make any payment due to Us under the Contract by the due date for payment, then You shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. You shall pay the interest together with the overdue amount.**
- 8.7. You shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). We may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by You against any amount payable by Us to You.**
- 9. Termination**
- 9.1. Without limiting its other rights or remedies, We may terminate this Contract with immediate effect by giving written notice to You if:**
- 9.1.1. You commit a material breach of any term of the Contract and (if such a breach is remediable) fail to remedy that breach within five days of that party being notified in writing to do so;
  - 9.1.2. You take any step or action in connection with Your entering administration, provisional liquidation or any composition or arrangement with Your creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of Your assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
  - 9.1.3. You suspend, threaten to suspend, cease or threaten to cease to carry on all or a substantial part of Your business; or
  - 9.1.4. Your financial position deteriorates to such an extent that in Our opinion Your capability to adequately fulfil Your obligations under the Contract has been placed in jeopardy.
- 9.2. Without limiting its other rights or remedies, We may suspend provision of the Container(s) under the Contract or any other contract between You and Us if You become subject to any of the events listed in Condition 9.1.1 to Condition 9.1.4, or We reasonably believe that You are about to become subject to any of them, or if You fail to pay any amount due under this Contract on the due date for payment.**
- 9.3. Without limiting its other rights or remedies, We may terminate the Contract with immediate effect by giving written notice to You if You fail to pay any amount due under the Contract on the due date for payment.**
- 9.4. On termination of the Contract for any reason, You shall immediately pay to Us all of Our outstanding unpaid costs incurred, invoices and interest due.**
- 9.5. Termination of the Contract shall not affect the Parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.**
- 9.6. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.**
- 10. Limitation of liability**
- 10.1. Nothing in these Conditions shall limit or exclude Our liability for:**
- 10.1.1. death or personal injury caused by our negligence, or the negligence of Our employees, agents or subcontractors (as applicable);
  - 10.1.2. fraud or fraudulent misrepresentation; or
  - 10.1.3. breach of the terms implied by section 12 of the Sale of Goods Act 1979; or

**10.2. Subject to Condition 10.1:**

- 10.2.1. We shall under no circumstances whatsoever be liable to You, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract (and for the avoidance of doubt, any loss, cost or damage arising from the loss of, or damage to, any item from time to time stored in the Container(s) following delivery shall be considered as an indirect or consequential loss); and
- 10.2.2. Our total liability to You in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the Price of the Container(s) to which the claim relates.

**11. Force majeure**

Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for three months, the party not affected may terminate this Contract by giving five Business Days' written notice to the affected party.

**12. General**

**12.1. Assignment and other dealings.**

- 12.1.1. We may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 12.1.2. You may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without Our prior written consent.

**12.2. Confidentiality.**

- 12.2.1. Each party undertakes that it shall not at any time during this agreement, and for a period of two years after termination of this agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by Condition 12.2.2.
- 12.2.2. Each party may disclose the other party's confidential information:
- 12.2.2.1. to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this Condition 12.2; and
  - 12.2.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 12.2.3. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

**12.3. Entire agreement.**

- 12.3.1. This Contract constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 12.3.2. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

**12.4. Variation.** No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

**12.5. Waiver.** No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

**12.6. Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Condition 12.6 shall not affect the validity and enforceability of the rest of the Contract.

**12.7. Notices.**

- 12.7.1. Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this Condition 12.7, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or email.

- 12.7.2. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in Condition 12.7.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one Business Day after transmission.
- 12.7.3. The provisions of this Condition 12.7 shall not apply to the service of any proceedings or other documents in any legal action.
- 12.8. **Third party rights.** No one other than a party to this Contract and their permitted assignees shall have any right to enforce any of its terms.
- 12.9. **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
- 12.10. **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.