



LEASE AGREEMENT TERMS AND CONDITIONS

- ◆ "The Company" means Container Sales & Leasing Ltd (CSL), as well as "The Lessor".
 - ◆ "The Lessee" means the company or individual leasing or hiring the equipment from CSL.
 - ◆ "The Equipment" means containers and includes the machinery, cables, plugs, locks & keys and other equipment supplied with the container, or other such things that CSL may lease from time to time.
 - ◆ "On Hire Date" means the date that the Company and the Lessee agree that the daily rate of billing starts. This date may not be the same as the "Gate Out Date".
 - ◆ "Off Hire Date" means the date that the company stops billing the lessee the daily rate.
 - ◆ "Gate Out Date" means the date that the equipment physically leaves the on hire location.
 - ◆ "Gate In Date" means the date that the equipment physically enters the off hire location.
1. **Acceptances:** No order will be accepted except on these conditions of trading, and any terms proffered by the lessee are hereby excluded. An order placed by a lessee whether in writing, fax or e-mail shall be deemed to constitute an offer by the lessee to enter into a contract on these conditions and may be accepted by the Company by fax, e-mail or in writing or, in the case of a verbal order, verbally. All verbal orders must be confirmed in writing to the Company within three working days whether or not such order has been accepted by the company.
 2. **Price and Hiring Charges:** Quoted prices are based on the costs of labour materials, freight and materials at the date of the quotation. The quoted price may be increased by the Company at any time (including by issue of an invoice) to the extent that the cost of the goods to the Company increases as a result of an increase in any of the above costs after the date of the quotation. Additionally if any errors are made by the Company in computing the quoted price, the quoted price may be adjusted to correct such errors. Such increased or corrected price will be the contract price.
 3. **Quoted Prices:** Unless otherwise stated all quoted prices exclude GST. GST will be charged at the statutory rate (currently 12.5%).
 4. **Cancellation:** When the order is in respect of the lease of "purpose-made" equipment to be manufactured by the Company, the lessee shall not be entitled to cancel any order which is accepted by the Company once work has begun on it (unless the Company in its' sole discretion agrees to accept such cancellation). If the Company agrees to cancellation, the Company may charge the lessee for all costs and expenses incurred by the Company (whether directly or indirectly) in respect of the contract including the Company's loss of profit.
 5. **Illustrations:** Any illustrations shown fairly represent the articles listed but owing to frequent alterations or improvements in design, illustrations and specifications cannot be taken as exact in detail at any time.
 6. **Lease Term:** The term of the lease shall commence on the gate out date (or other date as agreed by both parties) specified on the lease agreement and shall continue for the minimum period specified on the lease agreement or satisfactory re-delivery of the containers as defined in the "Returns" clause below whichever occurs latest.
 7. **Minimum Lease Term:** The Company has based its lease rate on the indicative lease period as advised by the lessee. Should the period of lease be extended or reduced, the Company may at its discretion recharge the lessee the correct lease rate for the applicable period of lease.
 8. **Early Termination of Lease for "Purpose-Made" Containers:** In the event that the lessee does not require "purpose-made" equipment for the full agreed minimum lease term, the lessee shall pay the Company a premium in addition to the lease rate to cover any special modifications to the equipment requested by the lessee. Additionally, the Company may require such modifications to be removed at lease termination at the lessee's expense and the lessee indemnifies the Company in full for all such costs to the Company.
 9. **Availability:** All containers are offered subject to availability at date of receipt of order.
 10. **Delivery Time:** Delivery times quoted are subject to, and date from:-
 - (i) Receipt of an order pursuant to a quotation, and
 - (ii) Provision of all necessary information by the lessee to enable the Company to proceed with the lease or fabrication of "purpose-made" equipment.

The Company will use all reasonable endeavours to make delivery at the time requested, but if for any reason whatsoever the delivery shall be delayed, the Company shall not be responsible for any loss or damage whatsoever sustained by the lessee or any person, firm or corporation by reason of such delay and the lessee shall still be obliged to accept the delivery.

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- 11. Delivery Arrangements:** The Company shall deliver to the lessee the equipment specified on the lease agreement.
- 12. Transportation Charges:** Transport charges in respect of the delivery of the equipment are payable by the lessee both from and back to the Company's premises. Transport outside of the regional zone may be payable in advance.
- 13. Force Majeure:** The Company shall not be liable for any delay, alteration or failure in delivery if occasioned by any event beyond the Company's control.
- 14. Daily Lease Rates:** The lessee shall pay rent at a daily rate as specified on the lease agreement for the equipment ordered, also specified on the lease agreement. Rent payments shall be made to the account of the Company.
- 15. Payments:** Unless otherwise stated all payments shall be due by the 20th of the month following the issue of the invoice. If any payment is not made thirty (30) days from the date of the invoice, the Company shall have the right to charge default interest on those monies outstanding at 3% above the bank overdraft rate, calculated daily from the due date to the receipt of payment by the Company. The overdue account will also be sent to the Company's credit agency for collection. All debt collection fees and legal costs are payable by the lessee and will be added to amount owing.
- 15a. Invoicing In Advance:** The initial invoice will be for the lease of the equipment and/or transport to and from the depot. If the transport is to be arranged by the lessee and the delivery location is outside of the regional zone, then a bond may be payable to the company. This initial invoice is due for payment before the equipment is delivered. Unless otherwise stated, all subsequent invoices shall be due by the 20th of the month following the date of the invoice, as stated in the previous paragraph # 15.
- 15b. Disputed Accounts:** If any account is in dispute, the undisputed portion of the account shall be payable in accordance with the normal terms of payment as provided in the previous paragraph # 15. Payment of the disputed portion may be withheld provided the matter is brought to the company's attention immediately it is discovered and a letter of explanation setting out the particulars of the dispute is sent to this company within seven days of the dispute arising. This company undertakes to address the dispute immediately upon receipt of such advice.
- 16. Third Party Costs:** The customer shall pay or reimburse the company all costs and/or expenses incurred by the company in instructing a Solicitor and/or Debt Collection Agency to recover any amount overdue for payment. Such costs and expenses may bear interest plus GST as provided in paragraph # 15 from the date upon which they are paid or incurred by the company up to and including the date upon which the customer shall pay or reimburse the company.
- 17. Ownership:** All articles of equipment supplied on lease are and remain at all times the Company's property and in default of lease payments being promptly made, the Company shall have the option to terminate the lease and take immediate possession of the equipment without effect to its right to damages for breach of contract. All recovery costs incurred by the company will be paid by the lessee in addition to any unpaid rent and other charges payable hereunder. All equipment received by the lessee remain its responsibility until the equipment is returned to the Company's premises. The lessee will not sell, mortgage, pledge or sublet the equipment during the continuance of the lease.
- 18. Risk:** The lessee shall accept full responsibility for the safekeeping of the equipment and indemnify the Company for all loss, theft or damage to the equipment, however caused. Such indemnity shall include for negligence or misuse by the lessee. The risk of the equipment shall pass to the lessee upon delivery.
- 19. Insurance:** The lessee will insure the equipment with such reputable insurer in the joint names of the Company and the lessee. Such insurer and the terms of the policy or policies to be issued shall be subject to the approval of the Company and all costs associated therewith, including stamp duty thereon, shall be paid by the lessee.
- 20. Liability for Loss and Damage:** The lessee will fully and completely indemnify the Company in respect of all claims by any person whatsoever for injury to person or property caused by or in connection with or arising out of the use of the equipment, and in respect of all costs and charges in connection therewith, whether arising under statute or common law.
- Furthermore, the lessee acknowledges that the Company has made no warranties, express or implied of any kind or nature whatsoever, relating to or effecting the use and/or operation of the container. The lessee agrees that in no event shall the Company be liable to it for any loss of profits or consequential damages arising out of the use of any unit of the container during the term of this agreement, or any extension thereof, or by any other person(s) permitted or authorised to use or operate the equipment.
- 21. Operating Instructions:** The Company will ensure that instructions for the operation and maintenance of the equipment are contained in manuals or other documents which will be supplied to the lessee with the lease agreement. Instructions supplied are to be strictly observed by the lessee.

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- 22. Maintenance of Equipment:** The lessee shall at its own expense at all times maintain the equipment in good and efficient working order and keep it fully and properly repaired. The lessee shall ensure that all maintenance and repair work is carried out by suitably skilled labour under competent supervision and (where applicable) using components or parts or materials of type and standard equivalent to the original.
- 23. Use of Equipment:** The equipment shall be used by the lessee for storage of non-hazardous, non-corrosive, non-obnoxious, non-explosive or non-toxic substances only. In particular, the lessee shall comply with the manufacturers loading limitations and prevent excessive impact and concentrated loads. Also, it shall not use any equipment for storage or transportation of unprotected corrosive substances, high density, poorly secured materials, or bulk commodities which may corrode, oxidise, explode, seriously dent, puncture, contaminate, strain or damage the container or make any other use of the container which may result in damage hereto.
- 24. Site Access:** Acceptance of any lease gives the Company any necessary licence with a right of access to any site to which its equipment has been delivered at all times, or to any other site at which the Company's property is located, and for any purposes connected with the lease transaction. The lessee indemnifies the Company against all costs (including legal costs) and claims associated with any action brought against the Company on the basis it does not have a right of access to a site for the purposes of this provision.
- 25. Removal of Leased Equipment from Site:** The lessee is required to advise the Company in writing whenever a equipment which is on lease is moved to another site.
- 26. Returns and Pick-Up:** The lessee is required to give the Company in writing, three days notice of its intention to terminate the lease. All equipment must be returned in a clean and tidy condition, fair wear and tear excepted. The equipment shall be returned to the Company at the location(s) specified on the lease agreement, at the cost of the lessee.
- 27. Damage to Returned Equipment:** Upon return, the Company will inspect the equipment and if damaged or excessively dirty, will prepare repair estimates for repairs and/or cleaning to be paid by the lessee. The lessee shall authorise these estimates within seven (7) working days from receipt. On default the Company may authorise repair estimates on the lessees behalf and charge accordingly.
- 28. Right to Terminate Agreement and Retake Equipment:** In the event that the lessee fails to perform any of its obligations, or has a trustee or receiver appointed for it, or has an arrangement in bankruptcy or reorganisation or other modification or alteration to the rights of its creditors accomplished, or if the lessee files any petition for or consent to any such modifications or alteration, or seeks to make any arrangements for the benefit of creditors, the lessee shall thereupon be in default under this agreement. In these circumstances the Company will then have the right to immediately terminate the agreement by written notice to the lessee, and enter and retake the equipment from the lessees premises. The lessee agrees that retaking the equipment under these circumstances, would be without any further liability of obligations to the lessee, and would not release the lessee from its obligations for the payment of all outstanding debts.
- 29. Personal Property Securities Act 1999:** On the Company's request the lessee must promptly execute any documents and do anything else necessary to ensure that the security interest created under this document constitutes a perfected security interest (as that term is defined in the Personal Property Securities Act 1999) over your assets and undertaking, including:
- i) executing any amendments to the documents that are reasonably requested;
 - ii) executing any replacement or additional security documents; and
 - iii) providing any information that the Company requires to complete a financing statement or financing charge statement.
- 30. Variation:** The Company is entitled to vary these terms and conditions at any time without giving notice.
- 31. Waiver:** Even if the Company does not insist on strict performance of these terms and conditions, the Company is not taken to have waived its right to later require strict performance.
- 32. Severability:** If any of these terms and conditions are invalid or unenforceable in any jurisdiction they are, if possible, to be read down so as to be valid and enforceable. The read down provision will only apply in the relevant jurisdiction. If the provision cannot be read down, and it can be severed to the extent of the invalidity or unenforceability, it is to be severed. The rest of the provisions, and the validity or enforceability of the affected provision in any other jurisdiction, will not be affected.
- 33. Governing law and jurisdiction:** These terms and conditions are governed by New Zealand law.

