



Container sale terms and conditions of LOTUS Containers Limited, hereinafter referred to as „Seller“

1 Offer and conclusion of an agreement

Any offer made by Seller to Purchaser are non-binding and may be revoked at any time until Seller confirms in Writing („Order Confirmation“) acceptance of a purchase order made by Purchaser („Order“), unless the relevant offer is marked as binding or contains a specified deadline for acceptance by Purchaser. For the avoidance of doubt, details given on Seller's website (www.lotus-containers.com) concerning services offered do not constitute binding offers by Seller. If Purchaser enters information into a form on the said website, the information entered does not constitute a binding offer made by Seller or an Order Confirmation.

2 Condition, Disclaimer

Any technical data provided by Seller to Purchaser in relation to the Containers, in any Specification or otherwise, shall be deemed to be approximations only. Save as expressly agreed between Purchaser and Seller in Writing and/or in any applicable Specification supplied by Seller or agreed in Writing by the Seller, and save for the warranty contained in clause 5 hereof, the Containers are sold, transferred and assigned in their „as is, where is“ condition and Seller makes no warranties, guarantees or representations of any kind, either express or implied, statutory or otherwise, that survive Delivery of the Containers to Purchaser. Purchaser waives, releases and renounces all warranties, obligations and liabilities of Seller, express or implied, arising by law or otherwise, with respect to any nonconformance or defect in the Containers, the condition thereof, damage thereto, the location of the Containers, any implied warranty of fitness or merchantability, any liability arising from strict liability in tort, product liability, implied warranty arising from course of performance, course of dealing or usage of trade, or loss of use, profit or other consequential damages.

3 Price and Terms of Payment

The price of the Containers shall be as stated in the relevant Order. The price shall be net of delivery charges to the named premises. The price shall be inclusive of all applicable Taxes, payment of which shall be the responsibility of Purchaser.

Purchaser shall pay all amounts invoiced to it by Seller in cash or by way of bank transfer to Seller, in which case, payment of any related bank charges are the responsibility of Purchaser. Payment shall have been made once the relevant funds are received by Seller or the amount is credited to its bank account.

Unless otherwise expressly agreed, Seller shall only deliver the Containers once the amount invoiced has been received by Seller from Purchaser.

Seller's performance under an agreement entered into with Purchaser may be subject to advance payment or security to be provided by Purchaser in circumstances where Seller is justifiably concerned as to Purchaser's creditworthiness, such as where attachments are made or other enforcement measures are brought against Purchaser or the institution of such proceedings has been declined due to lack of assets. Should Purchaser not be able or willing to make advance payments or provide security, as the case may be, Seller shall be entitled to withdraw from the agreement with Purchaser.

4 Removal of Evidence of Ownership

Immediately, and, in any event, within seven (7) days following acceptance, Purchaser, at Purchaser's sole expense, shall remove from the Containers the reporting marks of Seller and any other plate, decal, or other evidence of a pre-ownership.

5 Delivery and Title

In these Terms and Conditions, the terms „Deliver“ and „Delivery“ include the use of any agreed-upon method of the transfer of possession and risk of loss from Seller to Purchaser, including, but not limited to, making the Containers available to Purchaser at a designated location. Seller hereby warrants that, at Delivery, Purchaser shall receive title to the Containers free and clear of Encumbrances, except those arising through or under Purchaser; provided, however, that title to the Containers, including risk of casualty loss and the right to possession of the Containers, shall remain with Seller until Seller has received the full Purchase Price and Purchaser has accepted the Containers.

Pending receipt by Seller of the full Purchase Price from Purchaser, Purchaser may not pledge or otherwise Encumber the Containers in favour of any third party.

Pending receipt by Seller of the full Purchase Price from Purchaser, if Purchaser has not adhered to Seller's request for those Containers to be returned to Seller within a reasonable time, Purchaser hereby authorizes Seller to enter into any of Purchaser's business premises and warehouses unhindered, and to collect those Containers.

As security, Purchaser hereby undertakes to assign to Seller any claims it may have against third parties which arise from the

resale of any Containers in which Seller retains title under this clause. Any claim assigned under this clause shall be made in in whole or in part to the extent of any co-ownership share that Seller may have in the Containers concerned.

6 Transfer of Risk

The risk of accidental loss or accidental impairment to the Containers shall pass to Purchaser upon Delivery.

7 Collection of Containers

Once the Containers are made available by Seller at the designated location for collection by Purchaser (i.e. once the Containers are delivered), Seller will grant Purchaser seven (7) days free storage pending Purchaser's collection of the Containers. Thereafter, storage charges shall apply in the amount of one euro (EUR 1.00) per day and per TEU. Purchaser is requested to check in advance with the respective depot whether the Containers are ready for collection. In case the units are not ready for collection, Seller cannot be held responsible for any consequential costs such as wasted haulage etc..

8 Indemnity

Purchaser agrees to indemnify, reimburse, and hold Seller harmless from and against all claims, damages, losses, liabilities, demands, suits, judgments, causes of action, civil and criminal legal proceedings, penalties, fines, and other sanctions, and any attorney fees and other reasonable costs and expenses, relating to any occurrence after delivery or arising in any manner out of Purchaser's purchase, acceptance, ownership, possession, use, maintenance, or operation of the Containers, or from Purchaser's failure to timely remove Seller's reporting marks or other evidence of a pre-ownership from the Containers.

9 Remedies and Limitation of Liability

Seller shall not be liable for any negligent act caused by its officers, employees or other vicarious agents, unless a fundamental contractual obligation has been thereby breached. Fundamental contractual obligations include the obligation to deliver the Containers in good time; and ensuring the personal safety of the staff of Purchaser or protecting the latter's property from significant damage.

Insofar as Seller is liable for damages as aforesaid, such liability shall be limited to foreseeable damage only. Any further claims for damages, including but not limi-

ted to claims for indirect losses or for lost profits, shall be excluded.

Any contractual and non-contractual claims by Purchaser against Seller are subject to a limitation period of one (1) year. Any contractual and non-contractual claims by Seller against Purchaser are subject to the Limitation Ordinance (Chapter 37, Laws of Hong Kong).

In the event Seller fails or refuses to perform its obligations hereunder and Deliver the Containers to Purchaser, then, provided Purchaser is not then in default hereunder, Purchaser shall be entitled to cancel the purchase. Any claim by Purchaser against Seller shall be limited to the refund of any sums previously paid by Purchaser on account of the Purchase Price, if any, and liquidated damages in the amount of twenty euros (EUR 20.00) per Container, but, in no event shall Seller be responsible for any claimed incidental or consequential damages. The parties agree that said sum is a reasonable estimate of the damages Purchaser would suffer for breach or non-performance by Seller hereunder. In the event Seller tenders the Containers for delivery in accordance with the terms of these Terms and Conditions and Purchaser fails or refuses to perform its obligations hereunder and pay the purchase price for the Containers, at Seller's option, in addition any other remedy available to Seller, Seller shall be entitled to cancel the sale.

10 Late Payment Fees

If Purchaser delays payment of Purchase Price and other charges beyond agreed due dates then an additional late payment fee equal to one point five per cent (1.5%) per month of the outstanding payment shall be rendered. Payment of late payment fees will be due on presentation of the invoice. Seller acknowledges that the method of calculation of the additional late payment is a genuine pre-estimate of damages for consequential loss and damage.

11 Taxes

Purchaser agrees to pay and hold Seller harmless from all registration fees, sales taxes, ad valorem taxes, value added taxes, stamp duties, goods and services taxes and other taxes, levies, impositions, duties (including domestication expense), charges, contributions or withholdings of any nature arising from the purchase, sale, delivery and transfer of the Containers, in each case whether in Hong Kong or elsewhere, whenever imposed and all penalties, charges, costs and interest relating thereto.

12 Customs Clearance and Compliance

At the time of sale, the Containers shall not be cleared for customs purposes in the country where the Containers are located and therefore continue to be subject to the temporary import relief regime, as specifically provided for international Container traffic. The Containers are sold on the condition that the Purchaser agrees to use the Containers solely for international freight transport. If the Purchaser subsequently decides to import the Containers for local use into the country of sale, then, the Purchaser agrees that it will act as importer of record and will be responsible for all fees and taxes as identified in clause 7 above. Purchaser shall be responsible for and shall pay any import value-added tax, custom duty or other taxes identified in clause 7 above, assessed as a result of the importation of the Containers.

Should Purchaser require permits or authorizations under any law for the purpose for which it intends to use the Containers, Purchaser shall be solely responsible for applying for any requisite permits or authorizations at its sole expense.

13 Intellectual Property

Seller reserves the right of ownership and copyright in respect of all illustrations, drawings, calculations, brochures and any other documentation provided to Purchaser. Purchaser must not make such documents or their content available to third parties, nor shall Purchaser publish or duplicate such documents with Seller's prior express consent.

14 Governing Law

These Terms and Conditions shall be governed by and construed in accordance with the substantive laws of Hong Kong. The United Nations Convention on Contracts for the International Sale of Goods (the Vienna Convention) shall not apply to the transactions contemplated by these Terms and Conditions.

The prevailing party in any proceedings brought to enforce these Terms and Conditions shall be entitled to recover its reasonable fees and expenses incurred, including legal fees and expenses.

15 Miscellaneous

Neither these Terms and Conditions, nor any part of Purchaser's rights hereunder, shall be assigned, transferred or otherwise conveyed by Purchaser to any person without the prior written consent of Seller, which shall not be unreasonably withheld.

The agreements, indemnifications, representations and warranties made herein shall survive the sale and delivery of the Containers. The rights and obligations of the parties hereto shall inure to the benefit of, and be binding and enforceable upon the respective successors and permitted assigns of the parties.

The invalidity, illegality or unenforceability of any provisions of these Terms and Conditions will not affect the validity of the remainder of these Terms and Conditions.

16 Definitions

In these Terms and Conditions, unless the context otherwise requires, the definitions below apply:

„**Business Day**“ means a day other than a Saturday, Sunday or a public holiday in Hong Kong;

„**Containers**“ means such container(s) being sold by the Seller to the Purchaser under a sale and purchase agreement;

„**Encumbrance**“ means any claim, charge, mortgage, security, lien, option, equity, power of sale, hypothecation or other third party rights, retention of title or security interest of any kind;

„**Hong Kong**“ means the Hong Kong Special Administrative Region of China;

„**Party**“ means each of Seller and Purchaser, and „parties“ means Seller and Purchaser together;

„**Purchase Price**“ means the purchase price for the Containers as may be agreed in an agreement for the sale and purchase of Containers entered into between Seller and Purchaser;

„**Specification**“ includes any information relating to the Containers including but not limited to quantity, technical and functional specifications, quality and description;

„**Terms and Conditions**“ means the terms and conditions of sale and purchase set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in Writing between Purchaser and Seller; and

„**Writing**“ includes facsimile transmission, e-mail and other comparable means of communication.