



## 1. Interpretation

### 1.1 Definitions:

**Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**Commencement Date:** is the date of delivery by the Company to the Customer of the Goods.

**Company:** Sussex Transport Limited (t/a ST Containers) (Co. No. 04399088) whose Registered Office is at Downsvie House, Marlborough Road, Lancing Business Park, Lancing, West Sussex BN15 8SU

**Conditions:** the terms and conditions set out in this document as amended from time to time in accordance with clause 11.3.

**Contract:** the contract between the Company and the Customer for the hire of the Goods in accordance with these Conditions.

**Customer:** the person or firm who hires the Goods from the Company.

**Goods:** the goods (or any part of them) set out in the Order for the hire of the Goods by the Customer from the Company including any substitute Goods which may be provided from time to time.

**Hire Agreement:** means the accompanying agreement, which incorporates these terms, and which sets out the basis upon which the Goods are provided to the Customer, on hire, from the Company.

**Hire Period:** means the period that the Goods are hired for as set out in clause 3 below.

**Order:** the Customer's order for the hire of the Goods, as set out in the Customer's purchase order form, the Customer's written acceptance of the Company's quotation, or overleaf, as the case may be.

**Total Loss:** means where the Goods are damaged beyond economic repair, lost, stolen, or where the Customer has otherwise lost control of the Goods and such Goods are untraceable.

### 1.2 Interpretation:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its successors and permitted assigns.
- (c) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.



- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (e) A reference to **writing** or **written** includes fax and email.

### 2. Basis of contract

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing. In the event of any conflict between these Conditions and any other terms sought to be imposed or incorporated, these Conditions shall prevail.

### 3. Hire Period

- 3.1 The Goods are as agreed between the Company and the Customer and as described in the Hire Agreement.
- 3.2 The Company shall hire the Goods to the Customer subject to the Hire Agreement and following such hire, the Company shall not interfere with the Customers use and quiet enjoyment of the Goods save to the extent permitted under the Hire Agreement, these terms or any applicable laws.
- 3.3 The Hire Period shall commence on the date of delivery of the Goods by the Company to the premises specified by the Customer, and shall continue until such time as the Goods are returned to the Company, or the Company arranges collection from the premises of the Goods.

### 4. Delivery & Collection

- 4.1 The Company shall agree with the Customer on the date an Order is placed by a Customer a date for the delivery of the Goods. At the end of the Hire Period (howsoever determined), the parties shall agree a date for the collection of the Goods by the Company which may be up to five working days following the end of any hire period.
- 4.2 The Company reserves the right to delay or defer any date for delivery agreed under Clause 4.1 until payment is received from the Customer by the Company in accordance with Clause 7.3 of this Agreement.
- 4.3 The location of delivery shall be agreed in writing between the parties. The Customer shall provide appropriate personnel to supervise the delivery and subsequent collection and the Company staff attending the site to undertake the same. The Customer shall be responsible for ensuring access to the location of delivery/collection is granted and procuring any required consents, authorities or permissions required from a third party to



enable such delivery or collection. It is the Customers responsibility to ensure access to the delivery/collection site is suitable, appropriate and accessible for a heavy goods vehicle as well as the health and safety of all personnel supplied by the Company to affect the delivery or collection. In the event of an abortive delivery or collection caused by the Customer not complying with this Clause 4.2, then the Customer shall be charged the reasonable costs arising from such abortive delivery or collection attempt.

- 4.4 The Company, or any haulier employed by the Company for transportation, reserve the right to reasonably refuse to complete the delivery or collection due to issues arising from, but not limited to, weather conditions, ground conditions, accessibility and obstacles unless specifically agreed in advance with the Company.
- 4.5 It shall be the Customers responsibility to ensure that the Goods are emptied of any contents and/ or accessible prior to the date of collection.
- 4.6 Should the Customer fail to arrange collection of the Goods at the end of the Hire Period, the Hire Period shall be deemed to continue until such time as the Goods are collected or returned to the Companies control. The Company shall be entitled to charge the Customer a reasonable daily rate for the time between the end of the Hire Period (as originally agreed in the Hire Agreement) and the date of collection.

### 5. Responsibility of the Hirer

- 5.1 For the duration of the Hire Period the Customer shall:
- (a) Ensure that the goods are only used for the purposes they were designed or intended and in a suitable environment for such use;
  - (b) be used in a way which is safe and which complies with relevant health and safety laws;
  - (c) be responsible for maintaining the Goods including replacement of worn out or damaged components with equivalent components approved by the Company (such approval not to be unreasonably withheld or delayed) at their own expense and including but not limited to the repair of any damage caused or arising to the Goods;
  - (d) Subject to the obligations of clause 5.1 (c) above, not make any alterations to the Goods without the prior written consent of the Company, such consent not to be unreasonably delayed. In the event consent is granted, the Customer shall ensure that the ownership of any components or parts creating the alteration shall immediately vest in the Company;
  - (e) at all times retain control of the Goods, not allow the Goods to be sold or, without the Company's prior written consent, sub-let or used as security by any third party and notify the Company of any change in location of the Goods;



- (f) keep the Company informed of any material matters effecting the Goods and allow the Company to inspect the Goods on reasonable prior written notice, save in the case of an emergency where no such notice shall be required;
- (g) not to permanently affix the Goods to any land or buildings without the prior written consent of the Company, which shall not be delayed. If such consent is granted, to indemnify the Company against any costs arising from the removal of the Goods, including without limitation making good any damage to land or buildings which the Goods were previously affixed to;
- (h) not to use the Goods for any illegal or unmoral purpose;
- (i) not to allow the Companies title to the Goods to be jeopardised;
- (j) not to make any alterations to the Goods with the intention of passing the Goods off as their own, including but not limited to removing, obscuring or modifying any of the Company's branding which may be displayed on or fixed to the Goods and
- (k) not to do anything, or allow anything to happen, which may invalidate any insurance covering the Goods.

**6. Title and risk**

6.1 Title to the Goods shall at all times remain with the Company.

6.2 Risk shall pass to the Customer on the commencement of the Hire Period.

6.3 At all times, the Customer shall insure the Goods are fully insured including but not limited to:

- (a) insurance against damage by such risks and for such amounts as the Company may specify in the Hire Agreement or as it would be reasonably expected for the Goods to be insured against;
- (b) insurance for such replacement value as the Company may from time to time specify; and
- (c) any insurance which may be specified by law.

6.4 The Customer shall, if requested by the Company, ensure that any insurance procured by the Customer in accordance with this Clause 6 includes provisions allowing the Company at least 20 days written notice of cancellation or amendment and the noting of the Company as an interested party on any insurance policy.

6.5 The Customer shall immediately notify the Company of any loss, damage or incident effecting the Goods;



- 6.6 The Customer shall be responsible for, and shall indemnify the Company against, any payments due to insurers under this Clause 6 including, but not limited to, the costs of any premiums, charges and excesses demanded by insurers.
- 6.7 Should the Customer fail to insure the Goods in accordance with this Clause 6, the Company may insure such Goods themselves and shall be entitled to recover the costs of such insurance from the Customer.
- 6.8 The Customer shall on demand provide to the Company copies of any insurance policies and if applicable, correspondence, relating to the insurance of the Goods.

### **7. Price and payment**

- 7.1 The price of the Goods shall be the price set out in the Hire Agreement, or, if no price is quoted, the price set out in the Company's published price list in force as at the date of delivery.
- 7.2 The price of the Goods:
- (a) excludes amounts in respect of value added tax (**VAT**), which the Customer shall additionally be liable to pay to the Company at the prevailing rate, subject to the receipt of a valid VAT invoice; and
  - (b) includes the costs and charges of packaging, insurance and transport of the Goods.
- 7.3 The Company will invoice the Customer for the Goods prior to delivery. The invoice will require settlement in full, unless otherwise agreed in writing, prior to delivery of the Goods.
- 7.4 Payment shall be made to the bank account nominated in writing by the Company. Time for payment is of the essence.
- 7.5 If the Customer fails to make any payment due to the Company by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England 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. The Customer shall pay the interest together with the overdue amount.
- 7.6 The Customer 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). The Company may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Company to the Customer.



### 8. Termination

- 8.1 Without limiting its other rights or remedies, the Company may terminate this Contract with immediate effect by giving written notice to the Customer if:
- (a) the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within three working days of that party being notified in writing to do so;
  - (b) the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its 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 its assets or ceasing to carry on business or if the Customer is an individual, has a bankruptcy petition made against them. This Clause shall apply to any step or action taken in another jurisdiction which is an analogous to the circumstances set out above; or
  - (c) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business.
- 8.2 Without limiting its other rights or remedies, the Company may suspend provision of the Goods under the Contract or any other contract between the Customer and the Company if the Customer becomes subject to any of the events listed in clause 8.1(a), or the Company reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 8.3 Without limiting its other rights or remedies, the Company may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment or in the event of a Total Loss occurring.
- 8.4 Unless terminated in accordance with the provisions of Clauses 8.1 to 8.3 above, the Hire Agreement will otherwise end at the end of the Hire Period.
- 8.5 On termination of the Contract for any reason the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest. If the Contract is terminated for any reason under Clauses 8.1 to 8.3 above, then the Company shall be entitled to demand payment from the Customer for all payments which would otherwise have been due to be paid to the Company during the remaining part of the Hire Period.
- 8.6 On termination of the Contract for any reason, the Customer shall be responsible for any reasonable costs incurred by the Company in arranging and undertaking the collection of the Goods from the Customer's premises.



8.7 Termination of the Contract shall not affect any of 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.

8.8 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.

**9. Limitation of liability**

9.1 Nothing in these Conditions shall limit or exclude the Company's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
- (d) defective products under the Consumer Protection Act 1987; or
- (e) any matter in respect of which it would be unlawful for the Company to exclude or restrict liability.

9.2 Subject to clause 9.1:

- (a) the Company shall under no circumstances whatsoever be liable to the Customer, 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
- (b) the Company's total liability to the Customer 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 of the price of the Goods.

9.3 The restrictions contained in these conditions are accepted by both parties as being fair and reasonable.

**10. 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 six months, the party not affected may terminate this Contract by giving 5 working days written notice to the affected party.



## 11. General

### 11.1 Assignment and other dealings.

- (a) The Company 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.
- (b) The Customer 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 the prior written consent of the Company which shall not be unreasonably delayed.

### 11.2 Entire agreement.

- (a) 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.
- (b) 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.

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

**11.4 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.

**11.5 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 clause shall not affect the validity and enforceability of the rest of the Contract.

### 11.6 Notices.

- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:





- (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
  - (ii) sent by email to the address usually used by the parties for e-mail correspondence.
- (b) Any notice or communication shall be deemed to have been received:
- (i) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
  - (ii) 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; and
  - (iii) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 11.6(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

**11.7 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.

**11.8 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.

**11.9 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.