

# CONDITIONS OF AGREEMENT

## 1. GENERAL

1.1 Unless otherwise agreed in writing these conditions ("Conditions") apply exclusively to each transaction ("Contract") for the hire or sale or any work done by Jennings Containers & Storage Limited ("JCS") to you the Purchaser or Hirer ("You") of containers and ancillary equipment ("Equipment").

## 2. HIRE PRICE

2.1 The Hire Period shall commence from the time the Equipment leaves JCS's depot or place where last employed and continue until the Equipment is received back at JCS's named depot or other agreed location ("the Hire Period"). Legal title to the Equipment shall not pass at any time to You.

2.2 You shall pay to JCS the Hire Price for the Equipment payable within 30 days of the relevant invoice date. The time for payment of the Hire Price shall be of the essence. 2.3 Unless otherwise agreed in writing JCS may from time to time during the Hire Period under each Contract increase the Hire Price by giving written notice to You ("the Price Notice") and You shall be bound to pay such increased Hire Price from the date specified in the Price Notice unless You exercise your right to terminate the Contract by giving written notice to JCS within 30 days of receipt of the Price Notice.

2.4 You shall pay to JCS interest at a rate of four per cent per annum above the base rate of HSBC Bank plc on all sums which from time to time may become due from You to JCS and for the time being unpaid, such interest to be calculated from the due date until payment.

2.5 The price quoted by JCS for the Equipment excludes delivery (unless otherwise stated). At any time before delivery JCS may adjust the price to reflect any increase in our costs of supplying the Equipment.

2.6 Rates of tax and duties on the Equipment will be those applying at the time of delivery.

## 3. DELIVERY & ADDITIONS / INSTALLATIONS

3.1 Although JCS will make all reasonable efforts to effect delivery of Equipment in accordance with prearranged dates, such dates are estimates only and time shall not be of the essence.

3.2 If You accept delivery of the Equipment after the estimated delivery time, it will be on the basis that You have no claim against JCS for delay (including indirect or consequential loss).

3.3 If for any reason You fail to accept delivery of any Equipment when it is ready for delivery, or JCS are unable to deliver the Equipment because You have not provided adequate instructions, or if You do not collect the Equipment by the date we give for collection, we may;

3.3.1 Treat the Equipment as having been delivered on that day (for the purposes of risk, inspection and payment); and

3.3.2 Charge you for the storage or redelivery of the Equipment

3.4 We may decline to deliver if;

3.4.1 We believe that it would be unsafe, unlawful or unreasonably difficult to do so; or

3.4.2 the premises (or the access to them) are unsuitable for our vehicle.

3.5 If you are collecting Equipment from us You are responsible for the size, weight and positioning of any load on your vehicle and must ensure that your vehicle is sufficiently equipped to enable safe loading.

3.6 You must provide appropriate equipment and manual labour for unloading the Equipment at the delivery point. If our delivery vehicle is kept waiting for an unreasonable amount of time or, is obliged to return without completing delivery or, if we provide additional staff to unload Equipment an additional charge will be made. The Equipment is to be stored by You in an accessible place at all times.

3.7 If You wish for us to make any alterations or additions to Equipment You must ensure that your specifications or instructions will not result in the infringement of any intellectual property rights of a third party, or in the breach of any applicable law or regulation.

3.8 If you wish for us to make any alterations or additions to Equipment not supplied by JCS then we reserve the right to change any specification or instructions that are necessary to ensure they conform to any applicable safety or statutory requirements.

## 4. RISK

4.1 Any Equipment which has not been supplied by JCS on which You require JCS to make any alterations or additions will be worked upon solely at your risk.

4.2 You must inspect the Equipment following the alterations and additions to it. If any Equipment is damaged or there are issues with the alterations or additions You must write to tell us immediately. You must not use the Equipment and give us a fair chance to inspect it before using it. If You fail to notify us in accordance with these requirements You will not be entitled to reject the alterations and additions to the Equipment and You will be deemed to have accepted the alterations and additions in accordance with the Contract.

## 5. WARRANTY

5.1 JCS's Equipment shall be of satisfactory quality at the time it is delivered to You however this does not release You from your obligations under clause 5.2 to examine the Equipment.

5.2 Your acceptance of delivery of the Equipment shall be conclusive evidence that You have examined the Equipment and found it to be complete in good order and condition, fit for any purpose for which it may be required and in every way satisfactory save only in respect of those items which are agreed between the parties not to be in such satisfactory condition (if any) as listed under the heading Condition Report

5.3 We warrant that the Equipment

5.3.1 Complies with its description on our sales order confirmation form; and

5.3.2 Is free from material defect at the time of delivery (as long as you comply with clause 5.5).

5.4 JCS give no other warranty (and exclude any warrant, term or condition that would otherwise be implied) as to the quality of the Equipment or its fitness for any purpose.

5.5 If You believe that JCS have delivered the Equipment that is defective in materials or workmanship, You must: 5.5.1 Inform us (in writing), with full details, as soon as possible; and 5.5.2 Allows us to investigate (we may need access to your premises and product samples).

5.6 If the Equipment is found to be in breach of our warranty (following our investigations), and you have complied with the condition (in clause 5.5) in full, we will (at our option):

5.6.1 Repair or replace the Equipment; or

5.6.2 where the equipment does not comply with its description, for example, are of a lower grade, account to you for the difference in price between the Equipment ordered and Equipment delivered; or

5.6.3 refund the price.

5.7 We are not liable for any other loss or damage (including direct or consequential loss, financial loss, loss of profits or loss of use) arising from the contract or the supply of Equipment or their use, even if we are negligent.

5.8 For all other liabilities not referred to elsewhere in these terms our liability is limited in damages to the price of the Equipment.

5.9 Nothing in these terms restricts or limits our liability for death or personal injury resulting from negligence.

## 6. LIMITATION OF LIABILITY

6.1 Any loss or damage suffered by You due to the breakdown or stoppage of the Equipment:

6.2 Any delay in delivery of the Equipment.

6.3 JCS will repair or replace at its sole discretion any Equipment found to be defective at the time it is delivered to You and subject to clause 6.5 this shall be your exclusive remedy and JCS sole liability under the Contract. Your representatives shall notify JCS immediately by fax or telephone of any breakdown or the unsatisfactory working of any part or parts of the Equipment

6.4 Except as provided in clause 6.5, JCS is not liable for any representation (unless fraudulent), or any warranty (express or implied), condition or other term, or any duty at common law, or under the express terms of the Contract, for;  
6.4.1 any loss of profit, business, contracts, opportunity, goodwill, revenues, anticipated savings, expenses, costs or similar loss; and/or 6.4.2 any indirect, special or consequential loss or damage (for loss of profit or otherwise); whether caused by negligence, breach of contract, tort, breach of statutory duty of JCS, its employees or agents or otherwise arising out of or in connection with the Contract.

6.5 Except as provided in clause 6.7, JCS total liability for any claim that You may have against JCS for any loss, expense, damage to property, injury or death, arising directly or indirectly from any defect in the Equipment while on hire or otherwise in Your possession shall not exceed such amount as is equal to the aggregate sums received from You during the period of twelve months prior to the date of the breach under the Contract.

6.6 Despite the Conditions set out above, no Condition will exclude or restrict the liability of JCS for breach of the statutory warranty as to quiet possession in respect of any Equipment supplied during the Hire Period. Nothing in these Conditions will operate or be construed to operate so as to exclude or restrict the liability of JCS for the death or personal injury caused by the negligence of JCS.

6.7 JCS has no liability under the warranty given in clause 5.1 unless the Hire Price for the Equipment has been received by JCS in full.

## 7. INDEMNITY

7.1 You shall indemnify JCS on demand for all losses, damages, costs, charges and expenses suffered by JCS:

7.1.1 to the extent that any manufacturer warranties in respect of the Equipment are unenforceable by JCS as a result of your acts or omissions;

7.1.2 in respect of damage to the Equipment not recoverable under any claim under the policy of insurance referred to in clause 10;

7.1.3 in respect of any third party claims for property damage or personal injury (including death) occurring as a result of your negligence or as a result of any act or omission by You;

7.1.4 by reason of any breach of the Contract by You;

7.1.5 in preparing or attempting to exercise any of JCS's rights under these Conditions and in ascertaining the whereabouts of the Equipment and/or You.

7.2 You shall be solely responsible for and shall indemnify JCS in respect of all loss and damage however caused to the Equipment whether or not such loss or damage caused to the Equipment resulted from the negligence of or the breach of these Conditions by You or Your agents or representatives. You will indemnify JCS against all actions, costs, claims, demands and proceedings in respect of all injury, loss, damage or expenses sustained or incurred by the use or storage of the Equipment (whether or not You have been negligent in such use or storage and notwithstanding that the damage occurs due to site conditions including, without limitation uneven ground, regardless of whether JCS or their agent may have installed the Equipment) including all claims for taxes, fines customs duties or levies incurred by You during the Hire Period or until repossession of the Equipment by JCS.

7.3 You shall reimburse JCS all costs and expenses including any legal actions against You, incurred in repossessing or recovering the Equipment and restoring it to JCS premises.

7.4 In the event of the Equipment being damaged beyond repair, lost, stolen, seized or confiscated, You will notify JCS immediately and shall continue to pay the Hire Price until: 7.4.1 the equipment is returned to JCS's premises in a useable

condition; 7.4.2 JCS recover all monies in respect of loss or damage to include the Hire Price until full settlement is received. The settlement value shall be based on the full replacement value of the Equipment as specified or as may be specified from time to time by JCS to you.

## 8. RETURN OF EQUIPMENT

8.1 JCS will accept the return of Equipment from You only:

8.1.1 by prior arrangement (confirmed in writing);

8.1.2 on payment of an agreed handling charge (unless the Equipment was defective when delivered); and

8.1.3 where the Equipment is as fit for sale on their return as they were on delivery.

## 9. EQUIPMENT

9.1 If You hire the Equipment You shall not during the Hire Period:

9.1.1 without the written authority of JCS permit the Equipment to be taken from the United Kingdom;

9.1.2 sell, assign mortgage, pledge underlet, let on hire or dispose of or part with possession of the Equipment or any part thereof or assign or charge the benefit of any Contract or attempt to do any of these things or submit to the creation of a lien over the Equipment or permit such circumstances to arise as a result in the seizing of the Equipment or its being taken out of your control or possession under any distress execution or other legal process. In such event(s) You shall indemnify JCS against all those losses, actions, costs, charges, damages and expenses incurred by reason or in respect thereof;

9.1.3 make any modification to the manufacturer's design and specification of the Equipment without the previous written authority of JCS;

9.1.4 use or permit the Equipment to be used in contravention of any applicable law.

9.2 You shall during the Hire Period:

9.2.1 store the Equipment in an accessible place and be fully responsible for maintaining the Equipment in good condition and for any loss of the Equipment or damage howsoever occasioned (fair wear and tear accepted) and shall give immediate notice to JCS in writing of any such loss or damage to the Equipment;

9.2.2 take all necessary steps to ensure that the Equipment does not become contaminated or rendered unusable for any reason including, but not limited to, by toxic, radioactive or any other dangerous substance, pest or chemical. If any Equipment becomes contaminated or is rendered unusable, You shall notify JCS immediately;

9.2.3 permit JCS or its authorised representatives at all reasonable times to inspect and test the condition of the Equipment or carry out any repairs or adjustments thereto;

9.2.4 punctually pay or cause to be paid all taxes, licence duties, fees and registration charges and all other charges due to third parties payable in respect of the Equipment and if any such liability shall be discharged by JCS You shall repay the same to JCS on demand.

9.3 If relevant documents are not returned to JCS with the Equipment the Equipment will be deemed to remain on hire until they are returned or replacements obtained.

## 10. INSURANCE

10.1 If You hire Equipment from us You shall:

10.1.1 keep the Equipment insured to its full replacement value throughout the Hire Period with a reputable British Insurer such insurance cover being in respect of all risks of loss or damage howsoever caused (including marine cover on all ferry services and all liabilities to third parties). You shall be liable for any excess or other charges payable under such insurance cover.

10.1.2 notify the Insurers of JCS interest in the Equipment and ensure that the Insurers endorse a note of such interest in the policy of insurance and shall irrevocably appoint JCS as its agent for the purpose of receiving monies in the event of claims for loss or damage, and shall as a precondition of the hiring of the Equipment and thereafter on demand show to JCS the policy of insurance, the premium receipts and Insurance Certificate;

10.1.3 not use or allow the Equipment to be used for any purpose not permitted nor covered by the terms and conditions of the policy of insurance or do or allow to be done any act or thing whereby the insurance may be invalidated; duly pay all premiums in respect of the insurance policy and indemnify JCS in respect of any premiums paid by JCS or their agents in the event that You default in regard to payment of any such premiums.

11. TERMINATION

11.1 If You shall fail to pay on the due date any instalment or sum due by way of hire or, fail to observe or perform any of the other terms and conditions or, if You shall abandon the Equipment or if any distress execution or other legal process shall be levied or threatened on the Equipment or any part thereof or if You shall permit any judgement against You to remain unsatisfied for seven days or do or allow to be done anything or act which may jeopardise JCS rights in the Equipment or any part thereof, or being an individual, You shall die or have a receiving order made against You or commit any act of bankruptcy or compound with or negotiate for any composition with your creditors or, being a company, You shall have an administrator appointed or call any meeting of your creditors or enter into any liquidation or have a receiver of all or any of its assets appointed, then in each and every such case JCS may (but without prejudice to any other rights hereunder) forthwith by notice in writing sent to You immediately terminate the hire under this Agreement, whereupon You shall no longer be in possession of the Equipment with JCS consent.

11.2 You may terminate the hire of the Equipment under each Contract by giving to JCS the period of written notice specified as being 7 days, unless otherwise agreed in writing. Without prejudice to clause 11.1 JCS may terminate this Agreement by giving you 4 weeks notice in writing or by giving of such other period of notice as may be agreed between the parties hereto and You will then be required to return the Equipment to JCS's premises.

11.3 In the event that JCS does terminate this Agreement as provided in clause 11.1 above or if the hiring under these Conditions is terminated by You (otherwise than as a result of a notification under clause 2.3 hereof an increase in rent) before the end of the Minimum Hire Period specified You shall pay to JCS within 30 days after the termination of the Agreement all arrears of sums due under clause 2 above and all interest thereon payable under clause 2.4 above.

11.4 In the event that JCS does not terminate the Agreement as provided by clause 11.1 and 11.2 above in circumstances which would allow them so to terminate this Agreement all sums thereafter payable under clause 2.2 above shall continue to be payable pursuant to this Agreement save that no relaxation forbearance delay or indulgence by JCS in enforcing any of the terms of this Agreement nor the granting of time to You to rectify a breach of clause 11.1 shall prejudice affect or restrict the rights and powers of JCS hereunder nor shall any waiver of any breach hereof operate as a waiver of any subsequent or continuing breach hereof. Without prejudice to JCS's right to terminate in clause 11.1 above, JCS reserve the right in exceptional circumstances to leave the Equipment on hire until payment has been received.

11.5 On the termination of any Contract howsoever occasioned You shall forthwith return at Your expense and risk the Equipment and all documents appertaining thereto to JCS at such address as JCS may direct.

11.6 If You fail to return the Equipment within seven days after the termination of the Contract the Equipment shall be deemed to remain on hire at the current Hire Price until it is delivered to JCS by You or JCS have collected it from you and returned it to their depot. In addition You shall become liable to pay the termination charges specified in clause 11.3 above and the carriage costs of collecting the Equipment from you (if any). If we are required to collect the Equipment from you please ensure that it is easily accessible to JCS and that any items owned by You are removed. JCS are not liable for any damage/loss arising from the removal of your items from their Equipment or steps taken to ensure accessibility to the Equipment at the time of collection from you.

11.7 The Equipment shall be in the same good working condition (fair wear and tear excepted) at its return as it was at the Commencement Date. If on termination the Equipment is found to be damaged or has not been maintained in accordance with these Conditions then the Equipment shall be deemed to be retained on hire notwithstanding clause 11.6 until such time as JCS has been able to restore the Equipment to its condition immediately prior to the Hire Period.

11.8 You shall be responsible for and reimburse JCS with the full costs of all repairs required to render the Equipment in the same good working condition (fair wear and tear excepted) as it was at the Commencement Date save that where such repairs are not completed within a period of 3 months from the date of termination the cost hereunder shall be deemed to be the cost as estimated by a dealer or valuer appointed for the purpose by JCS.

11.9 Without prejudice to the foregoing or to JCS's claim for any arrears of the Hire Price or damages for any breach of the Contract or the rights hereunder JCS may at any time after termination of the renting under this Agreement without notice retake possession of the Equipment and such documents as aforesaid and for such purpose enter upon any premises belonging to or in the occupation or control of You and You shall be responsible for all costs, charges and expenses incurred by JCS in retaking possession of the Equipment and such documents as aforesaid.

12. AUTHORITY

12.1 Any supplier, dealer or other person not in the actual employ of JCS by or through whom this transaction may have been introduced negotiated or conducted is not the agent of JCS and has no authority to act as agent of JCS who shall under no circumstances whatsoever be held liable for any statement warranty or representation made by such supplier dealer or other person.

13. NOTICES

13.1 Any notice to be given by either Party to the other may be sent by first class post to the address of the other Party appearing herein or such address as such party may from time to time have communicated to the other in accordance with this contract and if so sent shall be deemed to be served on the day following the date of posting. Such communication shall be posted within 48 hours after the event to which it relates. In proving service it shall be sufficient to show that the letter containing the notice was properly addressed stamped and posted by first class mail.

14. DEFINITIONS AND INTERPRETATION

14.1 The defined term "Equipment" shall include fittings and all additions and renewals made to the Equipment (during the Hire Period under any Contract).

14.2 All words in the singular shall where the context so admits be deemed to have also the plural meaning and vice versa.

14.3 Where there are two or more persons party to the Agreement their liabilities hereunder shall be joint and several.

15. ENTIRE AGREEMENT

15.1 These conditions contains the entire agreement between the parties pertaining to the hire of the Equipment specified and no agreements, representation, understandings or undertakings not contained in the Conditions shall be binding upon either JCS or You unless reduced to writing and signed by them. The terms and conditions setout in these Conditions may hereafter be modified varied or supplemented only by an instrument in writing signed by the parties hereto.

16. FORCE MAJEURE

16.1 JCS is not liable to You for any failure or delay in performance of it obligations under any Contract due to the occurrence of any event beyond the reasonable control of JCS (including, without limitation, strikes or lockouts of JCS's employees), which directly causes JCS to be unable to comply with all or a material part of its obligations under these Conditions where that event does not arise from the act, omission or negligence of JCS.

17. ASSIGNMENT 17.1 JCS shall at its own discretion be at liberty without giving prior notice to You to assign the hire under this Agreement to any third party.

18. LAW AND JURISDICTION

18.1 This Agreement shall be governed by and construed in accordance with the laws of England. The English Courts shall have exclusive jurisdiction in respect of any dispute arising under these conditions.

**Customer Signature .....**

**Date .....**