



**BIMCO
STANDARD CONTAINER INTERCHANGE
AGREEMENT
CODE NAME: BOXCHANGE**

PART I

1. Day and year of commencement of Agreement (Cl. 2(a))		3. Cosignatory (Supplier/User) (Full name, postal address, e-mail, fax and phone number)		
2. Signatory (Supplier/User) (Full name, postal address, e-mail, fax and phone number)		3. Cosignatory (Supplier/User) (Full name, postal address, e-mail, fax and phone number)		
4. Equipment				Currency:
Type	Replacement Value Cl. 4(b)(iv)	Depreciation Rate Cl. 4(b)(iv)	Residual Value Cl. 4(b)(iv)	Daily Rate (Cl. 6(a) and Cl. 9)
5. State repair criteria (if other than UCIRC/RCIRC) (Cl. 3(a)(v), Cl. 4(a) and (e))				
6. Number of working days notice for repairs (Cl. 4(b), (c), (d) and Cl. 6(d))		7. Lumpsum for repairs per piece of equipment (Cl. 4(b)(iii))		
8. Franchise amount for repairs per piece of equipment (Cl. 4(b)(i))		9. State if depot and handling charges shall be for User's account (Cl. 5(a) and Cl. 6(a))		
10. No. of days for payment (Cl. 6(c) and (d))		11. Build down period (Cl. 9)		
12. Minimum limit of general liability insurance (Cl. 14)		13. Dispute resolution (state 15(a), 15(b) or 15(c); if 15(c) agreed Place of Arbitration must be stated) (Cl. 15)		
14. Additional clauses agreed, if any				

It is mutually agreed between the party stated in Box 2 and the party stated in Box 3 that this Agreement consisting of PART I and PART II as well as Annexes A (Supplier's depots) and B (Supplier's Redelivery Schedule) attached hereto, shall be performed subject to the conditions contained herein. In the event of a conflict of conditions, the provisions of PART I, Annexes A and B shall prevail over those of PART II to the extent of such conflict but no further.

Signatory (Signature)	Cosignatory (Signature)
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PART II
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1. Definitions	1	(b) Unless otherwise agreed by the Parties, the	68
<i>Depreciated Value</i> means the amount agreed to be paid	2	Equipment is to be used on a trip basis to counter-	69
by the User to the Supplier as replacement for	3	balance the mutual Equipment demand and surplus	70
Equipment lost or damaged beyond repair. Depreciation	4	situation.	71
shall commence from the date that the Equipment was	5		
manufactured as stated on the International Convention	6	3. Condition of Equipment on Delivery	72
for Safe Containers (CSC) Safety Approval Plate.	7	(a) The Supplier warrants that at the time of delivery	73
<i>Direct Interchange</i> means the transfer of Leased	8	the Equipment shall be in a good and serviceable	74
Equipment between the Supplier and User both having	9	condition and shall have been designed, manufactured,	75
a lease agreement with the same Lessor whereby at	10	tested and maintained in compliance with the	76
the time of transfer the User assumes the responsibility	11	regulations and standards detailed hereinafter:	77
for such Equipment under its own lease agreement with	12	(i) International Organization for Standardization	78
the Lessor.	13	(ISO) - Specifications and Classification Series 1	79
<i>Equipment</i> means freight containers as defined by the	14	Freight Containers;	80
International Organization for Standardization (ISO)	15	(ii) International Convention for Safe Containers	81
and/or related equipment, such as clip-ons.	16	(CSC) of 1972 or any amendment thereof;	82
<i>Latent Defect</i> means any defect that is not, or was not,	17	(iii) Customs Convention on Containers of 1956 and	83
apparent at the time of interchange of the Equipment,	18	1972 or any amendment thereof;	84
arising from any event occurring before interchange,	19	(iv) Australian Quarantine Regulations in respect of	85
including but not limited to a defect in the design,	20	Timber Component Treatment;	86
material, manufacture, workmanship, modification or	21	(v) Unified Container Inspection and Repair Criteria/	87
maintenance.	22	Refrigerated Container Inspection and Repair	88
<i>Leased Equipment</i> means Equipment on lease to the	23	Criteria (UCIRC/RCIRC) or any amendments	89
Supplier or the User from a third party Lessor.	24	thereto or as may otherwise be agreed in Box 5.	90
<i>Lessor</i> means a third party who has entered into a lease	25	(b) The Supplier warrants that the Equipment is	91
agreement with the Supplier and/or User in respect of	26	delivered free from all liens and encumbrances.	92
Equipment.	27	(c) The Supplier warrants that all Equipment delivered	93
<i>Owned Equipment</i> means Equipment owned by the	28	is operated under CSC Approved Continuous	94
Supplier and/or User or by any of their affiliated	29	Examination Programme (ACEP).	95
companies.	30	(d) The User may appoint a surveyor to inspect the	96
<i>Replacement Value</i> means the purchase value of new	31	Equipment prior to the interchange. The Supplier shall	97
Equipment of the same type on the date of replacement.	32	make the Equipment available for this inspection. The	98
<i>Supplier</i> means the party supplying the Equipment to	33	surveyor shall apply the standards set out in the latest	99
the other party.	34	edition of UCIRC/RCIRC or as may otherwise be agreed	100
<i>User</i> means the party utilizing the Equipment supplied	35	in Box 5. The surveyor's report of the condition of the	101
by the Supplier.	36	Equipment prior to the interchange shall be <i>prima facie</i>	102
<i>Wear and Tear</i> means the unavoidable loss or	37	evidence of the condition of the Equipment at the time	103
deterioration in value or damage sustained to	38	of the interchange.	104
Equipment in the course of continued normal use and	39	(e) In the event of mis-picks or interchange of loaded	105
which may affect the cosmetic appearance of	40	Equipment, this Equipment shall be interchanged on	106
Equipment and by accumulation or degree may	41	"as is" basis and sub-clause 3(a)(v) shall not apply.	107
eventually affect the integrity of Equipment. Wear and	42		
Tear shall include, but not be limited to	43	4. Condition of Equipment on Redelivery	108
(i) Corrosion of metal components not due to contact	44	(a) The Equipment shall be redelivered in UCIRC/	109
with foreign substances;	45	RCIRC condition or as may be otherwise agreed in	110
(ii) Delamination or rot of wooden components, such	46	accordance with in Box 5, Wear and Tear excepted,	111
as general deterioration of floor, including	47	and unless advised by the Supplier to the contrary in	112
expansion, shrinkage or warping;	48	accordance with sub-clause 4(b), the Equipment shall	113
(iii) Colour fading or adhesion failure of decals;	49	be deemed to have been redelivered in undamaged	114
(iv) Loose or missing parts or marking, except those	50	condition.	115
that are normally removable, in the absence of	51	Except for Equipment interchanged loaded with cargo,	116
evidence or accompanying damage;	52	the User shall be responsible for cleaning Equipment	117
(v) General paint failure or fading not due to	53	prior to redelivery or for the costs of cleaning. The User	118
contamination;	54	shall not be responsible for internal damage to	119
(vi) General wear and deterioration at corner fittings;	55	Equipment interchanged loaded with cargo.	120
(vii) General deterioration at door gasket and fitting,	56	(b) In the event Equipment is redelivered in a damaged	121
including loose and corroded fittings or loose	57	condition, the Supplier shall within the number of	122
fittings arising from normal deterioration of doors;	58	working days stated in Box 6 give notice to the User by	123
(viii) Scratches to metal.	59	providing a detailed estimate of repairs.	124
		(i) In the event the repairs are covered by franchise	125
2. Duration of the Agreement	60	the amount of which shall be stated in Box 8, the	126
(a) All terms and conditions of this Agreement shall	61	repair costs exceeding the franchise shall be paid	127
take effect from the date stated in Box 1 and shall remain	62	by the User or	128
in force until all Equipment has been redelivered or has	63	(ii) When there is no franchise the repair costs shall	129
been found damaged beyond economical repair	64	be based on a repair estimate of each piece of	130
(estimate exceeding the Depreciated Value) or has been	65	Equipment or	131
declared physically lost and the Depreciated Value has	66	(iii) If the repairs are covered by a lumpsum per piece	132
been paid by the User.	67	of Equipment the amount for each piece of	133

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Equipment shall be stated in Box 7 or	134	6. Payment of Rent and other Charges	201
(iv) In the event that repair costs exceed the Depreciated Value the User shall pay to the Supplier the Depreciated Value. Using the appropriate values stated in Box 4, the Depreciated Value for Owned Equipment shall be the amount determined by depreciating the Replacement Value by the Depreciation Rate per annum. The Depreciated Value shall be no less than the Residual Value. For Leased Equipment the User or Supplier shall reimburse the Depreciated Value as calculated by the third party, unless otherwise agreed.	135 136 137 138 139 140 141 142 143 144 145 146	(a) In consideration for interchange of the Equipment from the Supplier, the User shall, as from the pick-up date, pay to the Supplier, as rent, the daily rate specified in Box 4, as well as any other charges which may be agreed upon and enumerated in Box 9. The User's obligations to pay rent will cease on the day after redelivery into any of the Supplier's designated depots.	202 203 204 205 206 207 208
(c) If the User does not respond to the Supplier within the number of working days stated in Box 6 of receiving the detailed estimate of repairs, the User shall pay for the said repairs, at the amount specified in the estimate, which shall not exceed the Depreciated Value as calculated in accordance with Sub-clause 4(b).	147 148 149 150 151 152	(b) An invoice shall be sent monthly to the User's address.	209 210
(d) If the User disagrees with the estimate of repair costs or disagrees that any item therein should be for the User's account, the User shall detail his objections by notice to the Supplier within the period stated in Box 6. In the event of a continuing dispute the parties shall within 10 working days of the date of that notice appoint a joint surveyor who will survey the Equipment and review the estimate of repairs. The Supplier and User agree to be bound by the decision of the joint surveyor as to the extent of the repairs payable by the User and the reasonable cost thereof and to share the cost of the survey.	153 154 155 156 157 158 159 160 161 162 163 164	(c) Payment shall be made by the User within the number of running days stated in Box 10.	211 212
(e) All damages shall be defined in accordance with the latest Inspection and Repair Criteria as per UCIRC/RCIRC or as may otherwise be agreed in accordance with Box 5 and all repairs shall be performed in accordance with the Institute of International Container Lessors (IICL) Repair Manual.	165 166 167 168 169 170	(d) The User shall, within the number of days stated in Box 6, give written notice to the Supplier of any disputed items on the Supplier's invoice. The Supplier will reconcile disputed items within 30 running days of the date of the invoice providing supporting documents for such items or by issuing an appropriate adjustment of the invoice. Notification of disputed items shall not prejudice the obligation of the User to pay the invoices in full within the number of days stated in Box 10 after receipt.	213 214 215 216 217 218 219 220 221 222
5. Delivery and Redelivery Procedures	171	7. Taxes, Dues and Charges	223
(a) The User shall pick up Equipment from any of the agreed Supplier's depots. All depot and handling charges shall be for the Supplier's account, unless otherwise agreed in Box 9.	172 173 174 175	The User shall pay all taxes, dues and charges levied on or against the Equipment arising out of or in connection with the use of the Equipment.	224 225 226
Any transport cost or charges for transport from or to the Supplier's depot are for the User's account. At the request of the Supplier or the User, an Equipment Interchange Receipt (EIR) shall be signed evidencing the delivery or redelivery of the Equipment. Pre-trip inspection on the delivery of Reefer Equipment shall be conducted by a surveyor appointed and paid for by the User. Post-trip inspections on the redelivery of Reefer Equipment shall be conducted by a surveyor appointed and paid for by the Supplier.	176 177 178 179 180 181 182 183 184 185	The Supplier shall pay all taxes, dues and charges levied on or against the Equipment arising out of or in connection with the ownership of the Equipment.	227 228 229
(b) The Supplier shall inform the depot of the intended delivery to the User.	186 187	8. Termination of Agreement	230
(c) Subject to the terms of this Agreement, the User may redeliver any Equipment to any of the Supplier's depots designated in Annex A which may contain permissible redelivery quota and drop-off charges, or as may from time to time be mutually agreed. Redelivery will terminate this Interchange Agreement insofar as it relates to the redelivered Equipment.	188 189 190 191 192 193 194	(a) Either party may terminate this Agreement at any time in writing.	231 232
(d) The User shall endeavour to give advance notice to the Supplier of the intended redelivery of the Equipment.	195 196 197	(b) The User may terminate this Agreement in writing with immediate effect insofar as it relates to any Equipment	233 234 235
(e) The Supplier shall nominate the depot in the place where the User shall redeliver the Equipment as per the Supplier's Redelivery Schedule in Annex B.	198 199 200	(i) the use of which shall have been curtailed or obstructed by any legislation or regulation of any Government or statutory body of any country where the User wishes to use said Equipment, or;	236 237 238 239
		(ii) which is shown to have Latent Defects such that it is unsafe or unsuitable for continued use.	240 241
		Such Equipment shall be returned to the Supplier as soon as is practicable in accordance with Clause 5(b).	242 243
		9. Build-down Period	244
		On the first day of the month following termination of the Agreement as per Clause 8(a) the build-down period as per Box 11 shall commence, during which time all the Equipment shall be redelivered to the Supplier.	245 246 247 248
		For Equipment still being used after the build-down period, the Supplier may at his discretion either increase the daily rate as per Box 4 or he may invoice the User for the Depreciated Value of the Equipment	249 250 251 252
		10. Insolvency	253
		(a) Both the User and the Supplier shall be entitled to terminate this Agreement in the event of an order being made or resolution passed for the winding up, dissolution, liquidation or bankruptcy of the other party (otherwise than for the purpose of reconstruction or amalgamation) or if a receiver is appointed, or if the other party suspends payment, ceases to carry on business or makes any special arrangement with their creditors.	254 255 256 257 258 259 260 261 262
		(b) If the Supplier terminates this Agreement according to sub-clause 10(a), the Supplier shall have the right to	263 264

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take immediate possession of all empty Equipment supplied to the User under this Agreement.	265 266	out of or incident to the ownership, manufacture, design or supply of the Equipment.	331 332
(c) Should the Supplier obtain the right to immediate possession of any empty Equipment covered by this Agreement, then the User must, upon written notice from the Supplier, notify the Supplier of the exact location of all Equipment leased to him under this Agreement and promptly redeliver all such empty Equipment to the nearest Supplier's depot unless otherwise agreed.	267 268 269 270 271 272 273 274	(c) Each party undertakes to give to the other party immediate notice of claims or actions arising under this Clause, and to assist in the handling of any and all such claims or actions.	333 334 335 336
11. Lien	275	13. Direct Interchange	337
The Equipment is supplied for the purpose of intermodal operations in international trade and may be used for the carriage of lawful goods by sea as well as in inland transport including the handling at terminals and inland depots and freight stations. The Equipment is not designated for use on any particular vessel and consequently no lien, maritime, statutory, possessory or otherwise, securing the obligations under this Agreement may be attached to any vessel connected in any way with the User.	276 277 278 279 280 281 282 283 284 285	The User shall take over all Equipment owned by commercial third party Lessors after 365 days from the date of interchange by Direct Interchange in accordance with the User's Master-Lease contracts.	338 339 340 341
The Supplier is relying solely upon the credit of the User in supplying Equipment under this Agreement.	286 287	14. Insurance	342
12. Liabilities and Indemnity	288	The User and Supplier agrees to procure and maintain in full force and effect during the term of this Agreement, at their sole cost, general liability insurance to a minimum limit as stipulated in Box 12 for any one occurrence, to cover third party bodily injury and property damage. Any and all deductibles under the terms of the foregoing insurances shall be for the Supplier and/or Users' own account. On request, the Supplier and/or Users shall provide evidence of the insurances.	343 344 345 346 347 348 349 350 351 352
(a) The User shall be liable to the Supplier for the actual or constructive total loss of, or damage to any Equipment occurring during the period of this Agreement.	289 290 291 292	Should a party fail to procure or maintain any of the required insurances, or by act or omission vitiate or invalidate any of such insurances, that party shall indemnify the other party to the extent the other party suffers or incurs loss, damage, liability or expense as a consequence of such failure, act or omission.	353 354 355 356 357 358
The User shall immediately notify the Supplier in writing of any actual or constructive total loss of any Equipment and upon such notice the User's obligations to pay rent shall cease. In the event that such actual or constructive total loss occurs, the User shall be promptly invoiced therefor and pay to the Supplier the Depreciated Value of such Equipment which constitutes the transfer of ownership of said Equipment.	293 294 295 296 297 298 299 300	15. BIMCO Dispute Resolution Clause	359
Should the User later determine that Equipment previously declared lost has been recovered, the Supplier will, at the request of the User, reimburse any previously paid Replacement Value/ Depreciated Value less any rent accrued from the date the Equipment was declared lost if the recovery date is within twelve months of the total loss declaration.	301 302 303 304 305 306 307	(a) This Agreement shall be governed by and construed in accordance with English law and any dispute arising out of or in connection with this Agreement shall be referred to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof save to the extent necessary to give effect to the provisions of this Clause. The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association (LMAA) Terms current at the time when the arbitration proceedings are commenced.	360 361 362 363 364 365 366 367 368 369 370
(b) The Supplier and/or User shall defend, indemnify and hold the other Party harmless for any and all claims, losses, expenses, costs or damages (including without limitation all reasonable expenses in defending any claim or suit or enforcing this indemnity, such as court costs, attorney's fees, and other expenses) arising or alleged to arise directly or indirectly or incidentally out of:	308 309 310 311 312 313 314 315	The reference shall be to three arbitrators. A party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other party requiring the other party to appoint its own arbitrator within 14 calendar days of that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other party appoints its own arbitrator and gives notice that it has done so within the 14 days specified. If the other party does not appoint its own arbitrator and give notice that it has done so within the 14 days specified, the party referring a dispute to arbitration may, without the requirement of any further prior notice to the other party, appoint its arbitrator as sole arbitrator and shall advise the other party accordingly. The award of a sole arbitrator shall be binding on both parties as if he had been appointed by agreement.	371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386
(i) any failure of the User and/or Supplier to comply with its obligations under this Agreement;	316 317	Nothing herein shall prevent the parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.	387 388 389
(ii) <i>The User shall indemnify the Supplier for any claim, whether private or governmental, for injury or death to persons (including employees of the Supplier) and for loss of or damage to property, cargo and/or vessels and/or means of transport, arising out of or incident to the possession, leasing, operation, control or use of the Equipment by the User.</i>	318 319 320 321 322 323 324 325	In cases where neither the claim nor any counterclaim exceeds the sum of US\$50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced.	390 391 392 393 394 395
(iii) <i>The Supplier shall indemnify the User for any claim, whether private or governmental, for injury or death to persons (including employees of the User) and for loss of or damage to property, cargo and/or vessels and/or means of transport, arising</i>	326 327 328 329 330		

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*	(b) This Agreement shall be governed by and construed in accordance with Title 9 of the United States Code and the Maritime Law of the United States and any dispute arising out of or in connection with this Agreement shall be referred to three persons at New York, one to be appointed by each of the parties hereto, and the third by the two so chosen; their decision or that of any two of them shall be final, and for the purposes of enforcing any award, judgement may be entered on an award by any court of competent jurisdiction. The proceedings shall be conducted in accordance with the rules of the Society of Maritime Arbitrators, Inc. In cases where neither the claim nor any counterclaim exceeds the sum of US\$50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the Shortened Arbitration Procedure of the Society of Maritime Arbitrators, Inc. current at the time when the arbitration proceedings are commenced.	396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415
*	(c) This Agreement shall be governed by and construed in accordance with the laws of the place mutually agreed by the parties and any dispute arising out of or in connection with this Agreement shall be referred to arbitration at a mutually agreed place, subject to the procedures applicable there.	416 417 418 419 420 421
	(d) Notwithstanding (a), (b) or (c) above, the parties may agree at any time to refer to mediation any difference and/or dispute arising out of or in connection with this Agreement. In the case of a dispute in respect of which arbitration has been commenced under (a), (b) or (c) above, the following shall apply:-	422 423 424 425 426 427 428
	(i) Either party may at any time and from time to time elect to refer the dispute or part of the dispute to mediation by service on the other party of a written notice (the "Mediation Notice") calling on the other party to agree to mediation.	429 430 431 432 433
	(ii) The other party shall thereupon within 14 calendar days of receipt of the Mediation Notice confirm that they agree to mediation, in which case the parties shall thereafter agree a mediator within a further 14 calendar days, failing which on the application of either party a mediator will be appointed promptly by the Arbitration Tribunal ("the Tribunal") or such person as the Tribunal may designate for that purpose. The mediation	434 435 436 437 438 439 440 441 442
	shall be conducted in such place and in accordance with such procedure and on such terms as the parties may agree or, in the event of disagreement, as may be set by the mediator.	443 444 445 446
	(iii) If the other party does not agree to mediate, that fact may be brought to the attention of the Tribunal and may be taken into account by the Tribunal when allocating the costs of the arbitration as between the parties.	447 448 449 450 451
	(iv) The mediation shall not affect the right of either party to seek such relief or take such steps as it considers necessary to protect its interest.	452 453 454
	(v) Either party may advise the Tribunal that they have agreed to mediation. The arbitration procedure shall continue during the conduct of the mediation but the Tribunal may take the mediation timetable into account when setting the timetable for steps in the arbitration.	455 456 457 458 459 460
	(vi) Unless otherwise agreed or specified in the mediation terms, each party shall bear its own costs incurred in the mediation and the parties shall share equally the mediator's costs and expenses.	461 462 463 464 465
	(vii) The mediation process shall be without prejudice and confidential and no information or documents disclosed during it shall be revealed to the Tribunal except to the extent that they are disclosable under the law and procedure governing the arbitration.	466 467 468 469 470 471
	<i>(Note: The parties should be aware that the mediation process may not necessarily interrupt time limits.)</i>	472 473
	(e) If Box 13 in PART I is not appropriately filled in, sub-clause (a) of this Clause shall apply. Sub-clause 15(d) shall apply in all cases.	474 475 476
	*) Sub-clauses 15(a), 15(b) and 15(c) are alternatives; indicate alternative agreed in Box 13.	477 478
	16. Notices	479
	(a) All notices given by either party or their agents to the other party or their agents in accordance with the provisions of this Agreement shall be in writing.	480 481 482
	(b) For the purposes of this Agreement, "in writing" shall mean any method of legible communication. A notice may be given by any effective means including, but not limited to, cable, telex, fax, e-mail, registered or recorded mail, or by personal service.	483 484 485 486 487

**ANNEX A (SUPPLIER'S DEPOTS)
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**ANNEX B (SUPPLIER'S REDELIVERY SCHEDULE)
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Redelivery Schedule											
City	20' Equipment						40' Equipment				
	In	rf	dc	ot	fr	_____	rf/rh	dc	ot	fr	hc _____

X = unlimited redelivery - = return subject to approval C = closed for redelivery

Other types/redelivery locations are subject to approval

SOURCE: BIMCO Bulletin February 2005