

**Multiparty interchange agreement for BCG xChange platform**  
**Based on BIMCO's BOXCHANGE 2016 Standard Container Interchange Agreement**  
**PART II (General Conditions)**

1   **1. Definitions**

2       **"Depreciated Value"** means the amount agreed to be paid by the User to the Supplier as  
3 replacement for Equipment lost or damaged beyond repair. Depreciation shall commence from the  
4 date that the Equipment was manufactured as stated on the International Convention for Safe  
5 Containers (CSC) Safety Approval plate.

6       **"Direct Interchange"** means the transfer of Leased Equipment between the Supplier and User both  
7 having a lease agreement with the same Lessor whereby at the time of transfer the User assumes the  
8 responsibility for such Equipment under its own lease agreement with the Lessor.

9       **"Equipment"** means freight containers as defined by the International Organization for  
10 Standardization (ISO) and/or related equipment, such as clip-ons.

11       **"Latent Defect"** means any defect that is not, or was not, apparent at the time of interchange of the  
12 Equipment, arising from any event occurring before interchange, including but not limited to a defect in  
13 the design, material, manufacture, workmanship, modification or maintenance.

14       **"Leased Equipment"** means Equipment on lease to the Supplier or the User from a third party Lessor.

15       **"Lessor"** means a third party who has entered into a lease agreement with the Supplier and/or User  
16 in respect of Equipment.

17       **"Owned Equipment"** means Equipment owned by the Supplier and/or User or by any of their  
18 affiliated companies.

19       **"Replacement Value"** means the purchase value of new Equipment of the same type on the date of  
20 replacement.

21       **"Supplier"** means the party supplying the Equipment to the other party.

22       **"User"** means the party utilizing the Equipment supplied by the Supplier.

23       **"Interchange Terms"** means the terms specific to an individual interchange transaction on xChange.  
24 These can (a) be specified by the Supplier in the appropriate boxes in Part I or (b) be mutually agreed  
25 by User and Supplier for each individual transaction. In a case where terms are specified both in (a)  
26 and (b), the individual agreement will prevail.

27       **"xChange request form"** means the online form provided by xChange to negotiate and record each  
28 individual transaction on xChange.

29       **"Box [#]"** means the text field with the respective number within the (supplier-specific) Part I of this  
30 interchange agreement.

31       **"Redelivery Schedule"** means a list of permissible return locations for the Supplier's equipment as  
32 published on xChange.

33       **"Wear and Tear"** means the unavoidable loss or deterioration in value or damage sustained to  
34 Equipment in the course of continued normal use and which may affect the cosmetic appearance of  
35 Equipment and by accumulation or degree may eventually affect the integrity of Equipment. Wear and  
36 Tear shall include, but not be limited to:

- 37       • Corrosion of metal components not due to contact with foreign substances;
- 38       • Delamination or rot of wooden components, such as general deterioration of floor, including  
39 expansion, shrinkage or warping;

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- 40 • Colour fading or adhesion failure of decals;
  - 41 • Loose or missing parts or marking, except those that are normally removable, in the absence of  
42 evidence or accompanying damage;
  - 43 • General paint failure or fading not due to contamination;
  - 44 • General wear and deterioration at corner fittings;
  - 45 • General deterioration at door gasket and fitting, including loose and corroded fittings or loose  
46 fittings arising from normal deterioration of doors;
  - 47 • Scratches to metal.
- 48 In addition to the above, Wear and Tear for reefer Equipment shall include but not be limited to:
- 49 • General deterioration of kazoos, to include age hardening;
  - 50 • General electrolytic corrosion from dissimilar metals in contact with each other in an electrolyte  
51 such as salt water;
  - 52 • Flooring de-laminations resulting from routine cargo loading and unloading cycles;
  - 53 • Failures and/or malfunctions of machinery components although machinery has been maintained  
54 according to manufacturer's recommendations;
  - 55 • De-lamination to panels not attributable to any ascertainable impact.

56 **2. Duration of the Agreement**

- 57 **(a)** For each signatory, all terms and conditions of this Agreement shall take effect from the date stated in  
58 Box 1 and shall remain in force until all Equipment has been redelivered or has been found damaged  
59 beyond economical repair (estimate exceeding the Depreciated Value) or has been declared  
60 physically lost and the Depreciated Value has been paid by the User.
- 61 **(b)** Unless otherwise agreed by the parties, the Equipment is to be used on a trip basis to counter-balance  
62 the mutual Equipment demand and surplus situation.

63 **3. Condition of Equipment on Delivery**

- 64 **(a)** The Supplier warrants that at the time of delivery the Equipment shall be in a good and serviceable  
65 condition and shall have been designed, manufactured, tested and maintained in compliance with the  
66 regulations and standards detailed hereinafter:
  - 67 **(i)** International Organization for Standardization (ISO) - Specifications and Classification Series 1  
68 Freight Containers;
  - 69 **(ii)** International Convention for Safe Containers (CSC) of 1972 or any amendment thereof;
  - 70 **(iii)** Customs Convention on Containers of 1956 and 1972 or any amendment thereof;
  - 71 **(iv)** Australian Quarantine Regulations in respect of Timber Component Treatment; and
  - 72 **(v)** Unified Container Inspection and Repair Criteria/Refrigerated Container Inspection and Repair  
73 Criteria (UCIRC/RCIRC) or any amendments thereto or as may otherwise be specified in the  
74 Interchange Terms (Box 6/xChange request form).

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- 75   **(b)**   The Supplier warrants that the Equipment is delivered free from all liens and encumbrances.
- 76   **(c)**   The Supplier warrants that all Equipment delivered is operated under CSC Approved Continuous  
77   Examination Programme (ACEP).
- 78   **(d)**   The User may appoint a surveyor to inspect the Equipment prior to the interchange. The costs of such  
79   surveyor shall be for the User's account. The Supplier shall make the Equipment available for this  
80   inspection. The surveyor shall apply the standards set out in Sub-clause 3(a)(v) above. The surveyor's  
81   report of the condition of the Equipment prior to the interchange shall be prima facie evidence of the  
82   condition of the Equipment at the time of the interchange.
- 83   **(e)**   In the event of mis-picks or interchange of loaded Equipment, this Equipment shall be interchanged on  
84   "as is" basis and Sub-clause 3(a)(v) shall not apply.
- 85   **4.    Condition of Equipment on Redelivery**
- 86   **(a)**   The Equipment shall be redelivered in the standard set out in Sub-clause 3(a)(v), Wear and Tear  
87   excepted, and unless advised by the Supplier to the contrary in accordance with Sub-clause 4(b), the  
88   Equipment shall be deemed to have been redelivered in undamaged condition.
- 89   Except for Equipment interchanged loaded with cargo, the User shall be responsible for cleaning  
90   Equipment prior to redelivery or for the costs of cleaning. The User shall not be responsible for internal  
91   damage to Equipment interchanged loaded with cargo.
- 92   **(b)**   In the event Equipment is redelivered in a damaged condition, the Supplier shall within 5 working days  
93   give notice to the User by providing a detailed estimate of repairs.
- 94   **(i)**   In the event the repairs are covered by franchise/DPP the amount of which shall be specified in the  
95   Interchange Terms (Box 7/xChange request form) the repair costs exceeding the franchise/DPP shall  
96   be paid by the User, or
- 97   **(ii)**   When there is no franchise/DPP the repair costs shall be based on a repair estimate of each piece  
98   of Equipment, or
- 99   **(iii)**   In the event that repair costs exceed the Depreciated Value the User shall pay to the Supplier the  
100   Depreciated Value. Using the appropriate values stated in the Interchange Terms (Box 5/xChange  
101   request form), the Depreciated Value for Owned Equipment shall be the amount determined by  
102   depreciating the Replacement Value by the Depreciation Rate per annum. The Depreciated Value  
103   shall be no less than the Residual Value. For Leased Equipment the User or Supplier shall reimburse  
104   the Depreciated Value as calculated by the third party, unless otherwise agreed.
- 105   **(c)**   If the User does not respond to the Supplier within the number of working days stated in Sub-clause  
106   4(b) of receiving the detailed estimate of repairs, the User shall pay for the said repairs, at the amount  
107   specified in the estimate, which shall not exceed the Depreciated Value as calculated in accordance  
108   with Sub-clause 4(b).
- 109   **(d)**   If the User disagrees with the estimate of repair costs or disagrees that any item therein should be for  
110   the User's account, the User shall detail its objections by notice to the Supplier within the period stated  
111   in Sub-clause 4(b). In the event of a continuing dispute the parties shall within 10 working days of the  
112   date of that notice appoint a joint surveyor who will survey the Equipment and review the estimate of  
113   repairs. The Supplier and User agree to be bound by the decision of the joint surveyor as to the extent  
114   of the repairs payable by the User and the reasonable cost thereof and to share the cost of the survey.
- 115   **(e)**   All damages shall be defined in accordance with the standards set out in Sub-clause 3(a)(v) and all  
116   repairs shall be performed in accordance with the Institute of International Container Lessors (IICL)  
117   Repair Manual unless otherwise agreed between User and Supplier on a case-by-case basis.

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118 **5. Delivery Procedures**

- 119 (a) The User shall pick up Equipment from any of the agreed Supplier's depots.
- 120 (b) The Supplier shall:
- 121 (i) inform the depot of the intended delivery to the User and the expected pick-up date and time frame;  
122 and
- 123 (ii) provide the User with a release reference which details Equipment number of units, condition and  
124 type (in case of reefer Equipment also machinery type and series).
- 125 (c) The User shall endeavour to give advance notice to the Supplier of the intended pick-up date and time  
126 latest 24 hours prior to the pick-up of the Equipment.
- 127 (d) If requested by the Supplier, an Equipment Interchange Receipt (EIR) shall be signed by the User  
128 evidencing the delivery of the Equipment.
- 129 (e) Pre-trip inspections on the delivery of reefer Equipment shall be conducted by a surveyor appointed by  
130 the User.
- 131 (f) The Supplier shall within 24 hours after pick-up of the Equipment provide the User as well as xChange  
132 with a gate-out report of the Equipment stating location, depot or terminal, container number and type,  
133 date and time of gate-out move, release reference, and other information required by local authorities.

134 **6. Redelivery Procedures**

- 135 (a) Subject to the terms of this Agreement, the User may redeliver any Equipment to any of the Supplier's  
136 depots specified in the Interchange Terms (xChange request form) which may contain permissible  
137 redelivery quota, or as may from time to time be mutually agreed. Redelivery will terminate this  
138 Agreement insofar as it relates to the redelivered Equipment.
- 139 (b) The Supplier shall:
- 140 (i) nominate the depot or terminal in the location where the User shall redeliver the Equipment as per  
141 the Interchange Terms (xChange request form);
- 142 (ii) inform the depot about the intended redelivery of the Equipment by the User; and
- 143 (iii) provide the User as well as xChange with respective turn-in references.
- 144 (c) The User shall endeavour to give advance notice to the Supplier of the intended redelivery date and  
145 time latest 24 hours prior to the redelivery of the Equipment.
- 146 (d) If requested by the User, an Equipment Interchange Receipt (EIR) shall be signed by the Supplier  
147 evidencing the redelivery of the Equipment.
- 148 (e) Post-trip inspections on the redelivery of reefer Equipment shall be conducted by a surveyor appointed  
149 by the Supplier.
- 150 (f) The Supplier shall within 24 hours after redelivery of the Equipment provide the User as well as  
151 xChange with a gate-in report of the Equipment stating location, depot or terminal, container number  
152 and type, date and time of gate-in move, turn-in references, and other information required by local  
153 authorities.

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154 **7. Delivery and Redelivery Costs and Charges**

- 155 (a) All depot and handling charges shall be for the Supplier's account.
- 156 (b) Any transport cost or charges for transport to or from the Supplier's depot shall be for the User's  
157 account.
- 158 (c) Costs or charges for issuance of Equipment Interchange Receipts (EIR) shall be paid by the party  
159 requesting such receipt.
- 160 (d) Pre-trip inspections on the delivery of reefer Equipment shall be for the User's account.
- 161 (e) Post-trip inspections on the redelivery of reefer Equipment shall be for the Supplier's account.

162 **8. Payment of Rent and other Charges**

- 163 (a) In consideration for interchange of the Equipment from the Supplier, the User shall pay rent and any  
164 other charges as specified in the Interchange Terms (Box 5/xChange request form) as from the pick-  
165 up date less any free days as defined in the Interchange Terms (xChange request form). The User's  
166 obligations to pay rent will cease on the day after redelivery into any of the Supplier's designated  
167 depots.
- 168 (b) An invoice shall be sent monthly to the User's address.
- 169 (c) Payment shall be made by the User within 30 running days of the date of the invoice.
- 170 (d) The User shall, within the number of days stated in Sub-clause 4(b), give written notice to the Supplier  
171 of any disputed items on the Supplier's invoice. The Supplier will reconcile disputed items within 30  
172 running days of the date of the invoice providing supporting documents for such items or by issuing an  
173 appropriate adjustment of the invoice. Notification of disputed items shall not prejudice the obligation  
174 of the User to pay the invoices in full within the number of days stated in Sub-clause 8(c).

175 **9. Taxes, Dues and Charges**

- 176 The User shall pay all taxes, dues and charges levied on or against the Equipment arising out of or in  
177 connection with the use of the Equipment.
- 178 The Supplier shall pay all taxes, dues and charges levied on or against the Equipment arising out of or  
179 in connection with the ownership of the Equipment.

180 **10. Withdrawal from this Agreement and Termination of specific Interchange Transactions**

- 181 (a) Any signatory to this multiparty agreement may withdraw from the Agreement at any time in writing.  
182 From the time of such withdrawal, the signatory will no longer submit or accept requests for  
183 transactions under this Agreement.
- 184 (b) The User may terminate any specific interchange transaction in writing with immediate effect insofar  
185 as it relates to any Equipment
- 186 (i) the use of which shall have been curtailed or obstructed by any legislation or regulation of any  
187 government or statutory body of any country where the User wishes to use said Equipment, or
- 188 (ii) which is shown to have Latent Defects such that it is unsafe or unsuitable for continued use.
- 189 Such Equipment shall be returned to the Supplier as soon as is practicable in accordance with Clause  
190 6(a).

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191 **11. Build-down Period**

192 On the first day of the month following withdrawal from the Agreement by any signatory as per Sub-  
193 clause 10(a), a build-down period of 12 months shall commence, during which time all the Equipment  
194 interchanged under this Agreement shall be redelivered to the respective Supplier.

195 For Equipment still being used after the build-down period, the Supplier may at its discretion either  
196 increase the daily rate as per the Interchange Terms (Box 5/xChange request form) or invoice the  
197 User for the Depreciated Value of the Equipment.

198 **12. Insolvency**

199 **(a)** Both the User and the Supplier shall be entitled to terminate each specific interchange transaction in  
200 the event of an order being made or resolution passed for the winding up, dissolution, liquidation or  
201 bankruptcy of the other party (otherwise than for the purpose of reconstruction or amalgamation) or if  
202 a receiver is appointed, or if the other party suspends payment, ceases to carry on business or makes  
203 any special arrangement with their creditors.

204 **(b)** If the Supplier terminates a specific interchange transaction according to Sub-clause 12(a), the  
205 Supplier shall have the right to take immediate possession of all empty Equipment supplied to the  
206 User under this Agreement.

207 **(c)** Should the Supplier obtain the right to immediate possession of any empty Equipment covered by this  
208 Agreement, then the User must notify the Supplier of the exact location of all Equipment leased to the  
209 User under this Agreement and promptly redeliver all such empty Equipment to the nearest Supplier's  
210 depot unless otherwise agreed.

211 **13. Lien**

212 The Equipment is supplied for the purpose of intermodal operations in international trade and may be  
213 used for the carriage of lawful goods by sea as well as in inland transport including the handling at  
214 terminals and inland depots and freight stations. The Equipment is not designated for use on any  
215 particular vessel and consequently no lien, maritime, statutory, possessory or otherwise, securing the  
216 obligations under this Agreement may be attached to any vessel connected in any way with the User.

217 The Supplier is relying solely upon the credit of the User in supplying Equipment under this Agreement.

218 **14. Liabilities and Indemnity**

219 **(a)** The User shall be liable to the Supplier for the actual or constructive total loss of, or damage to any  
220 Equipment occurring during the period of this Agreement.

221 The User shall immediately notify the Supplier in writing of any actual or constructive total loss of any  
222 Equipment and upon such notice the User's obligations to pay rent shall cease. In the event that such  
223 actual or constructive total loss occurs, the User shall be promptly invoiced therefor and pay to the  
224 Supplier the Depreciated Value of such Equipment which constitutes the transfer of ownership of said  
225 Equipment.

226 Should the User later determine that Equipment previously declared lost has been recovered, the  
227 Supplier will, at the request of the User, reimburse any previously paid Replacement Value/  
228 Depreciated Value less any rent accrued from the date the Equipment was declared lost if the  
229 recovery date is within twelve months of the total loss declaration.

230 **(b)** The Supplier and/or User shall defend, indemnify and hold the other party harmless for any and all  
231 claims, losses, expenses, costs or damages (including without limitation all reasonable expenses in  
232 defending any claim or suit or enforcing this indemnity, such as court costs, attorney's fees, and other

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233 expenses) arising or alleged to arise directly or indirectly or incidentally out of any failure of the User  
234 and/or Supplier to comply with its obligations under this Agreement;

235 *The User shall indemnify the Supplier* for any claim which is legally confirmed without any disputes  
236 from either party, whether private or governmental, for injury or death to persons (including employees  
237 of the Supplier) and for loss of or damage to property, cargo and/or vessels and/or means of transport,  
238 arising out of or incident to the possession, leasing, operation, control or use of the Equipment by the  
239 User.

240 *The Supplier shall indemnify the User* for any claim which is legally confirmed without any disputes  
241 from either party, whether private or governmental, for injury or death to persons (including employees  
242 of the User) and for loss of or damage to property, cargo and/or vessels and/or means of transport,  
243 arising out of or incident to the ownership, manufacture, design or supply of the Equipment.

244 (c) Each party undertakes to give to the other party immediate notice of claims or actions arising under  
245 this Clause, and to assist in the handling of any and all such claims or actions.

246 **15. Direct Interchange**

247 (a) The User shall take over all Equipment owned by commercial third party Lessors after 365 days from  
248 the date of interchange by Direct Interchange in accordance with the User's Lease contracts.

249 (b) If Equipment is still interchanged 365 days from the day of interchange and cannot be taken into the  
250 User's custody by Direct Interchange, the Supplier may at its discretion:

251 (i) increase the daily rate as per the Interchange Terms (Box 5/xChange request form);

252 (ii) invoice the User for the Depreciated Value of the Equipment; or

253 (iii) in case of Leased Equipment invoice the User for the Depreciated Value of the Equipment as  
254 advised by the leasing company.

255 **16. Track and Tracing and Remote Control**

256 If the container is fitted with a transponder or other electronic device used to track its geographical  
257 position; and/or with devices that monitor or remotely control reefer temperatures and machinery;  
258 and/or CA components fitted to the container, the User may utilize such devices but shall not be  
259 entitled to permanently modify any technical features of such devices or to read or download any data  
260 originating from any period prior to the date of interchange.

261 **17. Insurance**

262 The User and Supplier agree to procure and maintain in full force and effect during the term of this  
263 Agreement, at their sole cost, general liability insurance to cover any third party bodily injury and  
264 property damage occurred during the period of User's or Supplier's custody under either party's P&I  
265 rules. Any and all deductibles under the terms of the foregoing insurances shall be for the Supplier  
266 and/or Users' own account. On request, if opined necessary and agreed by whom be requested, the  
267 Supplier and/or Users shall provide evidence of the insurances.

268 Should a party fail to procure or maintain any of the required insurances, or by act or omission vitiate  
269 or invalidate any of such insurances, that party shall indemnify the other party to the extent the other  
270 party suffers or incurs loss, damage, liability or expense as a consequence of such failure, act or  
271 omission.

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272 **18. Dispute Resolution Clause**

273 (a) This Agreement shall be governed by and construed in accordance with English law. Any dispute  
274 arising out of or in connection with this Agreement shall be referred to arbitration at a mutually agreed  
275 place, subject to the procedures applicable there. If the parties cannot mutually agree to a place of  
276 arbitration once a dispute has arisen, the place chosen by the Supplier when signing this multiparty  
277 agreement takes precedence.

278 When signing this multiparty agreement, the supplier has the choice of the alternatives stated in Sub-  
279 clauses 18(b)—(d). This choice will be recorded in the Interchange Terms (Box 8).

280 (b) \* Any dispute arising out of or in connection with this Agreement shall be referred to arbitration in  
281 London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment  
282 thereof save to the extent necessary to give effect to the provisions of this Clause.

283 The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association  
284 (LMAA) Terms current at the time when the arbitration proceedings are commenced.

285 (c) \* Any dispute arising out of or in connection with this Agreement shall be referred to three (3) persons  
286 at New York, one to be appointed by each of the parties hereto, and the third by the two so chosen.  
287 The decision of the arbitrators or any two of them shall be final, and for the purposes of enforcing any  
288 award, judgment may be entered on an award by any court of competent jurisdiction. The proceedings  
289 shall be conducted in accordance with the rules of the Society of Maritime Arbitrators, Inc. current as  
290 of the date of the agreement.

291 (d) \*Any dispute arising out of or in connection with this Agreement, including any question regarding its  
292 existence, validity or termination, shall be referred to and finally resolved by arbitration in Singapore in  
293 accordance with the Singapore International Arbitration Act (Chapter 143A) and any statutory  
294 modification or re-enactment thereof save to the extent necessary to give effect to the provisions of  
295 this Clause.

296 The arbitration shall be conducted in accordance with the Arbitration Rules of the Singapore Chamber  
297 of Maritime Arbitration (SCMA) current at the time when the arbitration proceedings are commenced.

298 (e) \*Any dispute arising out of or in connection with this Agreement shall be referred to arbitration in Hong  
299 Kong in accordance with the rules of the Hong Kong International Arbitration Centre (HKIAC) or any  
300 statutory modification or re-enactment thereof save to the extent necessary to give effect to the  
301 provisions of this Clause. The arbitration shall be conducted in accordance with the HKIAC  
302 Administered Arbitration Rules current at the time when the arbitration proceedings are commenced.

303 **19. Notices**

304 (a) All notices given by either party or their agents to the other party or their agents in accordance with the  
305 provisions of this Agreement shall be in writing.

306 (b) For the purposes of this Agreement, "in writing" shall mean any method of legible communication. A  
307 notice may be given by any effective means including, but not limited to, cable, telex, fax, e-mail,  
308 registered or recorded mail, or by personal service.