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## IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE

IN RE:	) CHAPTER 11
SEA CONTAINERS LTD., <i>ET AL.</i> , <sup>1</sup>	) ) CASE NO. 06-11156 (KJC) ) (JOINTLY ADMINISTERED)
DEBTORS.	) ) REF. DOCKET NO. []
	)

#### NOTICE OF LISTING OF EXECUTORY CONTRACT(S) OR UNEXPIRED NON-RESIDENTIAL LEASE(S) TO BE REJECTED

**PLEASE TAKE NOTICE** that on October 24, 2008, the debtors in the above-captioned, jointly administered cases (the "Debtors") filed with the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") a plan supplement (as amended from time to time and including all exhibits and supplements, the "Plan Supplement") in support of the Debtors' Second Amended Joint Plan Pursuant to Chapter 11 of the United States Bankruptcy Code (the "Plan").<sup>2</sup> The Plan Supplement includes a provisional list of executory contracts and unexpired non-residential real property leases (as amended from time to time, at the discretion of the Debtors at any time prior to the Effective Date, the "Rejection List"— *see below* regarding provisional nature of the Rejection List) to be rejected pursuant to Article VII of the Plan. Please take notice that included on the Rejection List are the following (the "Included Items"):

#### • SEE EXHIBIT 1 ATTACHED HERETO.

**PLEASE TAKE FURTHER NOTICE** that *the above-listed Included Item(s)* have been included in the Rejection List on a provisional basis, and the Debtors: (i) *expressly reserve the right* to remove the above-listed Included Item(s) from the Rejection List at any time prior to the Effective Date and assume such Included Item(s); and (ii) *make no admission or conclusion* as to whether the above-listed Included Item(s) is/are executory contracts or unexpired non-residential real property leases.

**PLEASE TAKE FURTHER NOTICE** that the Bankruptcy Court has set a hearing for November 24, 2008, to determine whether to confirm the Plan. If the Bankruptcy Court confirms the Plan, the Plan provides that:

Except as otherwise provided herein, each Executory Contract and Unexpired Lease shall be deemed automatically rejected pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date, unless any such Executory Contract or Unexpired Lease: (a) is listed on the schedule of "Assumed Executory Contracts and Unexpired Leases" in the Plan Supplement; (b) has been previously assumed by the Debtors by Final Order of the Bankruptcy Court or has been assumed by the Debtors by order of the Bankruptcy Court or has been assumed by the Debtors by order of the Bankruptcy Court or has been assumed by the Debtors by order of the Bankruptcy Court as of the Effective Date, which order becomes a Final Order after the Effective Date; (c) is the subject of a motion to assume or reject pending as of the Effective Date; (d) is an Executory Contract related to any Intercompany Claim; or (e) is otherwise assumed pursuant to the terms herein; provided, however, that the Services Agreement will continue in effect through the Effective Date without being assumed or rejected; provided further that the Pension Schemes Settlement Agreement shall govern with respect to all obligations between and among the Debtors and the Pension Schemes or the Pension Schemes Trustees, as the case may be.

PLEASE TAKE FURTHER NOTICE that the Plan also provides, in pertinent part:

The Confirmation Order will constitute an order of the Bankruptcy Court approving such rejections pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date. Non-Debtor parties to Executory

<sup>&</sup>lt;sup>1</sup> The Debtors in these chapter 11 cases are Sea Containers Caribbean Inc., Sea Containers Ltd., and Sea Containers Services Ltd.

<sup>&</sup>lt;sup>2</sup> Capitalized terms not defined herein shall have the meanings ascribed to them in the Plan.

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Contracts or Unexpired Leases that are deemed rejected as of the Effective Date shall have the right to assert any Claim on account of the rejection of such Executory Contracts or Unexpired Leases, including under section 502(g) of the Bankruptcy Code; <u>provided</u> that the Non-Debtor parties must comply with ARTICLE VII.B [of the Plan].

Further, the Plan Supplement will contain a schedule of "Rejected Executory Contracts and Unexpired Leases;" <u>provided</u>, <u>however</u>, that any Executory Contract and Unexpired Lease not previously assumed, assumed and assigned, or rejected by an order of the bankruptcy Court, and not listed in the schedule of "Rejected Executory Contracts and Unexpired Leases" will be rejected on the Effective Date, notwithstanding its exclusion from such schedule. Each contract and lease listed on the schedule of "Rejected Executory Contracts and Unexpired Leases" will be rejected on the schedule of "Rejected Executory Contracts and Unexpired Leases" will be rejected on the schedule of "Rejected Executory Contracts and Unexpired Leases" will be rejected only to the extent that any such contract or lease constitutes an Executory Contract or Unexpired Lease.

#### PLEASE TAKE FURTHER NOTICE that the Plan also provides, in pertinent part:

Notwithstanding anything in the Bar Date Order or the Employee Bar Date Order to the contrary, if the rejection of an Executory Contract or Unexpired Lease, including pursuant hereto, gives rise to a Claim by the non-Debtor party or parties to such contract or lease, such Claim will be forever barred and will not be enforceable against the Debtors, Newco, their respective successors or their respective properties unless a Proof of Claim is Filed and served on the Plan Administrator no later than 30 days after the Effective Date. All Allowed Claims arising from the rejection or repudiation of the Debtors' Executory Contracts and Unexpired Leases shall be classified as Other Unsecured Claims against the applicable Debtor and shall be treated in accordance with ARTCILE III.B.3 and ARTICLE III.B.5.

**PLEASE TAKE FURTHER NOTICE** that on October 10, 2008, the Debtors served you with a *Notice (A) Objection and Voting Deadlines, (B) Solicitation and Voting Procedures, (C) Hearing to Confirm the Joint Plan of Reorganization and (D) Certain Other Information,* which included the objection deadline for the Plan and notified you of other important dates in the confirmation process.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to the Plan, *any proof of claim* with regard to the rejection of the Included Item(s) must be filed with the Bankruptcy Court so as to be actually received by the Debtors' Claims Agent on or before thirty (30) days after the Effective Date.

**PLEASE TAKE FURTHER NOTICE** that the failure to file a proof of claim with regard to the rejection of the Included Item(s) by the above-listed date shall *forever bar, estop and enjoin any counterparty listed above from asserting a claim in regard to the rejection of the Included Item(s).* 

**PLEASE TAKE FURTHER NOTICE** that the Debtors' Plan, Plan Supplement, and other solicitation package materials are available for viewing by accessing the website of the Debtors' Claims Agent at http://www.bmcgroup.com or by contacting the Debtors' Claims Agent in writing at BMC Group, Attn: Sea Containers Claims Agent, P.O. Box 949, El Segundo, California 90245-0949, or by calling 888-909-0100.

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Counsel for the Debtors and the Debtors in Possession

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# <u>Exhibit 1</u>

## **Executory Contracts and Unexpired Leases to Be Rejected**

(Attached.)

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Contract Party	Debtor Entity	Contract Description	Sch Contract Type
KEN GASKELL	Sea Containers Ltd.	Indemnification Agreement	Contract
MARK R. WILSON	Sea Containers Ltd.	Indemnification Agreement	Contract
WILLIAM W GALVIN III	Sea Containers Ltd.	Indemnification Agreement	Contract
HSBC VEHICLE FINANCE (UK) LIMITED	Sea Containers Services Ltd.	Vehicle Contract Hire Master Agreement	Contract