

UNIFORM INTERMODAL INTERCHANGE AGREEMENT

DISPUTE RESOLUTION PANEL

In the Dispute Between)	
)	Case 20090106-1-XXXT-PD
UIIA Motor Carrier)	
Appellant, and)	DECISION
)	January 29, 2009
UIIA Equipment Provider)	
Respondent.)	

FACTS: Motor Carrier (MC) interchanged a sealed import container belonging to Equipment Provider (EP) from East Coast C.E.S. Inc./MC in Elizabeth, NJ at 16:34 on September 10, 2008.

MC returned the container empty to APL Kearny, NJ at 19:46 on September 10, 2008.

EP issued an Invoice for Per Diem charges for \$00.00 for the period from July 31, 2008 through September 10, 2008 to MC.

BASIS OF CLAIM: MC asserts that it was only in possession of the equipment for less than one day MC moved the equipment from PNCT to the Central Examining Station (CES). Interchange from EP was issued by the CES.

DISCUSSION: Both MC and EP provided a copy of the same interchange document from East Coast CES indicating the interchange to MC did not take place until September 10, 2008. Interchange is defined in the UIIA as "The transfer of physical possession of Equipment under the Agreement. MC is only responsible to EP for the period of time equipment is Interchanged to MC. EP cannot bill MC for per diem charges which accumulated prior to EP Interchange to MC.

DECISION: Based on the Interchange date of the equipment, MC is not responsible for Per Diem Invoice from EP.

The panel unanimously finds in favor of the MC. EP shall not be entitled to recover the per diem charges from MC. EP shall bear the cost of appeal.

DAVID MANNING
Motor Carrier Member

PATRICK VALENTINE
Water Carrier Member

UNIFORM INTERMODAL INTERCHANGE AGREEMENT

DISPUTE RESOLUTION PANEL

In the Dispute Between)	
)	Case 20090327-1-XXXM-PD
UIIA Motor Carrier)	
Appellant, and)	DECISION
)	April 17, 2009
UIIA Equipment Provider)	
Respondent.)	

FACTS: Motor Carrier (MC) interchanged an empty container FSCU 3508756 belonging to Equipment Provider (EP) from Integrated Marine Services La Porte, TX at 15:48 on 5-29-08.

The outbound TIR shows the EP-Hapag Lloyd and the correct Hapag Lloyd booking number for loading at Hapag Lloyd customer. The CY released an EP box against a Hapag Lloyd booking.

MC dropped the empty container for a Hapag Lloyd at customer in La Porte, TX.

Hapag Lloyd discovered the error in the release of the equipment and contacted EP. On 6-05-08 EP agreed to accept FSCU 3508756 at the customer. MC was left out of this communication.

On 7-03-09 customer released the load to MC as a Hapag Lloyd load. On 7-08-08 MC tried to return the export container to Barbours Cut as a Hapag export. Notation on inbound inspection is "HLC cannot use equipment owned by ALI"

On 8-11-08 export load on FSCU 3508756 was transloaded onto HLXU 3257890 so Hapag Lloyd export from customer could resume transit. On 8-19-08 at 9:50 HLXU 3257890 was ingated at Barbours Cut for export with Hapag Lloyd. The chassis was terminated at Integrated Marine Services on 8-19-08 at 10:33.

MC returned FSCU 3508756 with an export load to BNSF Pearland, TX at 13:47 on 1-07-09.

EP issued a Per Diem for 193 days of per diem totaling \$00.00.

BASIS OF CLAIM: MC asserts that EP released the wrong container to MC which caused a substantial amount of per diem. EP admits the wrong container was released from their facility and that it was incorrectly identified as a Hapag Lloyd container. The EP asserts that MC was aware of the mistake on 7-03-08 and was still responsible for the timely return of their equipment.

DISCUSSION: MC is not responsible for the period of time from 5-29-08 until 8-11-08 when the container was once again empty and MC was aware that it belonged to EP.

MC reloaded the container with an export load for EP from the customer but the container was not dropped for loading until 1-05-09.

For the period of time from 8-11-08 until 1-05-09, MC admits that container dropped off of their computer generated lists so they failed to notify EP equipment was available for loading.

EP did not check with MC on status of equipment during this time.

DECISION: Based upon the timeline described in the Discussion, we find the charges should be allocated as follows. For the period from 5-29-08 to 8-11-08, there should be no charges to the MC. Additionally the 30 day free time should apply from 8-12-08 to 9-11-08. MC is responsible for per diem charges from 9-12-08 through 1-07-09 or a total of 118 days and \$00.00. MC shall pay \$00.00 and EP shall credit \$00.00.

DAVID MANNING
Motor Carrier Member

PATRICK VALENTINE
Water Carrier Member

UNIFORM INTERMODAL INTERCHANGE AGREEMENT

DISPUTE RESOLUTION PANEL

In the Dispute Between)	
)	Case 20090924-1-XXXX-PD
UIIA Motor Carrier)	
Appellant, and)	DECISION
)	Nov. 12, 2009
UIIA Equipment Provider)	
Respondent.)	

FACTS: Equipment Provider (EP) invoiced Motor Carrier (MC) for per diem amounts accrued while certain equipment (chassis and container) were reported missing. The equipment was stolen on June 2, 2009. MC verbally reported loss to EP on 6-02 and provided the police report number to EP on June 10. On June 11, the EP contacts MC and advises that an invoice for the lost equipment will be produced in the amount of \$00.00 for the container and \$00.00 for the chassis. These amounts were not disputed, and documentation was presented demonstrating that they were paid in July and August 2009.

MC avers that they notified the EP of the loss, and advised that they had filed for a police report, and that they would attempt to secure the report and pass it along to EP. EP's addendum, sec, 4a, specifies that a loss must be noticed to the EP within two days followed up by a copy of the police report. Per diem would continue to be assessed until a written notice and police report were in the EP's possession. An Invoice was produced, # 09242300 dated 7-14-09 indicating 41 days of billable per diem totaling \$00.00.

From the documentation available from the MC claims that they provided a written notice of loss (in the form of an email) on June 10, which the EP states was not received on that date in their office. Further, it was not until August 12 that MC provided a copy of the police report. From what we can see, EP had received a number for the police report on June 30 and subsequently issued Invoices for the lost equipment on July 2.

Two weeks later the per diem invoice was issued which included time from July 2 through 13, time after the issuance of the lost equipment invoices.

BASIS OF CLAIM: MC asserts that they should not be invoiced for the per diem. It appears that they are basing their case on claims that they acted in good faith to get the necessary documents to the EP, and that once they were billed for the lost/stolen equipment that they should not be assessed the per diem.

DISCUSSION: This case lacks clarity with regard the proffered documentation and accompanying statements of the MC. We see an extended period of time between the report of the loss and the delivery of the written report and ultimately, the police report to the EP.

Regarding the invoice of the perdiem, the fact remains that the invoice for the stolen equipment is dated July 2, which seems to indicate that the EP was confident that the equipment was lost and should therefore be declared lost and invoiced as such. Prior to that date, in conformance with the EP's addendum section 4.a. perdiem continued to accrue, from the date free time ceased on 6/2 until the invoice was issued on 7/2. We calculate that based on the language in the Addendum, that the days assessed for perdiem should be reduced by 11, and the invoice adjusted \$00.00 to reflect that reduction.

DECISION: We find that the MC is responsible for perdiem in the amount of \$00.00, based on the requirements found in Section 4.a. of the EP addendum and the billing from June 3 through July 1. We also find that the MC is not responsible for that perdiem invoiced after the issuance of the lost/stolen invoice on July 2, 2009, that was assessed for July 2 through 13.

Appellant (MC) shall pay Respondent (EP) \$00.00 in per diem charges.

Further, the cost of this appeal shall be borne jointly by the Appellant and Respondant.

DAVID MANNING
Motor Carrier Member

PATRICK VALENTINE
Water Carrier Member

UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

DISPUTE RESOLUTION PANEL REVIEW AND DECISION

In the Dispute Between

UIIA Motor Carrier
Appellant, and

UIIA Equipment Provider
Respondent

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Case Number: **20100330-1-XXXN-PD**

Date of Decision: July 2, 2010

FACTS: Motor Carrier (MC) received a per diem invoice dated 03/22/2010 from the Equipment Provider (EP) in the amount of 85.00 for one day per diem. The invoice stated that the MC out-gated the unit on 02/11/2010, that the free time expired on 02/24/2010, and that the MC in-gated on Thursday, 02/25/2010.

ISSUE: The MC asserts that the EP is in violation of the California State Law – SB 45, which states that the MC cannot be billed for per diem on weekends. EP asserts that the MC was moving a container for an account that had a Service Agreement that stipulates the per diem free time of 14 calendar days at destination. The EP notes that its standard addendum provides per diem free time of 4 days, but that it was honoring its obligation under its Service Contract to allow for the longer 14 days of free time.

DISCUSSION: The panel reviewed all documents and materials submitted by the parties. The evidence shows that the EP billed for per diem for Thursday, February 25, 2010, a weekday, not a weekend day. Therefore, there is no apparent violation of California law. The EP's invoice conformed to its contractual obligations to provide 14 free days per diem and the MC's obligation to pay per diem beyond the free time.

DECISION: The panel unanimously finds in favor of the EP.

CASE REVIEWED AND DECIDED BY:

DAVE MANNING
Motor Carrier Member

MIKE WILSON
Water Carrier Member

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Motor Carrier. The Ocean Carrier panel member noted that normally, the Equipment Provider addendum allows for equipment used to move import and export shipments by HMM to be granted four (4) working days free. The entire time between release and return was 4 working days total. Of interest would be the specific language in the Equipment Provider's addendum related to the termination of any free time relative to equipment associated with canceled bookings, which reads at Section 1. H. "For intermodal equipment, which is released empty and later redelivered empty (i.e. empty to empty) without an intervening shipment, Motor Carrier shall be entitled to no Free Time and the Motor Carrier shall be responsible for the payment of Detention Charges as per this Addendum." The important part of this clause is actually stated twice for clarity: 1) equipment, which is released empty and later redelivered empty; and 2) (i.e. empty to empty). This clause was clearly designed to protect the Equipment Provider from the loss of a benefit (equipment usage) for which no economic compensation (the intervening shipment) was derived. As this unit was actually part of an intervening shipment (the import move) this clause would not apply. While the Motor Carrier should have contacted the Equipment Provider to report the street turn cancellation at the time, they admitted this mistake and this should not be supportive of the Equipment Provider's misapplication of their addendum language. The appropriate action for the Equipment Provider would have been to accept the miscommunication, cancel the street turn and recalculate the per diem owed based on the import movement alone. As the equipment was actually returned empty within the Equipment Provider's stated free time afforded to the import move, no per diem would be owed.

The Motor Carrier panel member agreed stating the language in Section 1. H. of the Equipment Provider's addendum was intended to protect it from the use of its equipment without any compensation. This unit was used for an import move that clearly involved compensation to the Equipment Provider. Additionally, despite the cancellation of the street turn the equipment was still returned within the free time allowed for that initial import move. No per diem would have been charged had the street interchange never occurred.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (May 1, 2017) to make its decision:

EP's ADDENDUM TO THE UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT

Section 1. Free Time and Use Charges

In the absence of any other written agreement with Motor Carrier and in accordance with Section E.6 of the UIIA, the following free time shall be allowed and the following use charges assessed to Motor Carrier.

- I. Equipment Free Time and Use/Rental Charges
 - A. For Equipment used to move import and export shipments by HMM, the following free time shall be allowed: (see notes)
 - 1. Regular Equipment: Four (4) working days.
 - 2. Refrigerated/Tank Equipment: Three (3) working days.
 - 3. Open Top/Flat Rack Equipment: Three (3) working days
 - 4. Chassis: Four or three working days based on the type of corresponding containers.

- H. For intermodal equipment, which is released empty and later redelivered empty (i.e. empty to empty) without an intervening shipment, Motor Carrier shall be entitled to no Free Time and the Motor Carrier shall be responsible for the payment of Detention Charges as per this Addendum.

E. Equipment Use

1. Equipment Return

- a. Absent a separate bilateral equipment interchange agreement in written or electronic form between the Parties, the Motor Carrier shall use the Equipment for only the purposes for which it was interchanged, not authorize use by others, and promptly return the Equipment after its interchange purpose is complete. An Addendum to this Agreement does not constitute a separate bilateral equipment interchange agreement. **[Revised 02/08/16]**
- b. Motor Carrier shall return the Equipment to the physical location at which the Equipment was received unless the Provider directs the Equipment to be returned to a satellite location(s): 1) as governed by a written bilateral equipment interchange agreement between the Parties or 2) as specified in a notification from the Provider to Motor Carrier via internet posting or e-mail to return the Equipment to a Provider-designated satellite location, listed in IANA's Equipment Return Location Directory (ERLD). Satellite location(s) are facilities which are within the same local commercial territory and support operations of the Provider for the location from which the Equipment was originally received. Whenever a return location is changed, Provider must notify the Motor Carrier by e-mail by 16:00 p.m. local time the business day prior to the change becoming effective. Motor Carrier must furnish the Provider with e-mail addresses to be used for Motor Carrier notification when return locations are changed. **[Revised 02/08/16]**
- c. Provider may add or delete satellite locations to its listing by giving fourteen (14) days written notice to IANA. **[Added 02/08/16]** d. Should the notification required under subsection 1.b. above not be made one (1) business day prior to the effective date of the change, and the late notification delayed the Interchange of Equipment, then the Motor Carrier would be entitled to one (1) additional business day to return the Equipment. **[Added 02/08/16]**
- e. Nothing in Section E. shall be interpreted to preclude Motor Carrier from receiving compensation when Provider directs Equipment to be returned to a satellite location. Compensation for services rendered in these circumstances is outside the scope of this Agreement. **[Added 02/08/16]**

DECISION: The panel unanimously finds in favor of the Motor Carrier.

CASE REVIEWED AND DECIDED BY:

ROBERT CANNIZZARO
Ocean Carrier Member

FRED HUENNEKENS
Motor Carrier Member

CASE – 20170406-13-XXXL-PD Moving Party: /Responding Party:

Below is a summary of the invoices being disputed under this arbitration claim:

Invoice	Invoice #	Inv. Date	Facility	Outgated	Ingated	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	SPEE001565	12/20/16	Los Angeles/Los Angeles	12/02/16	12/12/16	12/27/16	01/20/17	No response from EP	04/06/2017
2	SPEE001650	01/03/17	Phoenix/Los Angeles	12/12/16	12/27/16	01/03/17	01/20/17	No response from EP	
			Los Angeles/San Pedro	12/8/16	12/19/16				
			Los Angeles/San Pedro	12/12/16	12/20/16				
3	SPEE001785	01/12/17	Los Angeles/San Pedro	12/13/16	01/04/17	01/12/17	02/09/17	No response from EP	

MOTOR CARRIER'S DISPUTE

The Motor Carrier is basing its dispute on Sections H.1, H.4 of the UIIA & Section II of the Equipment Providers addendum to the UIIA. The Motor Carrier's basis of dispute is that the EP did not respond to their dispute within the required 60days timeframe. Therefore, the Motor Carrier feels that the Equipment Provider should lose its rights to collect such charges and its ability to pursue binding arbitration under this agreement and under the terms of the Provider's Addendum.

EQUIPMENT PROVIDER'S RESPONSE

The Equipment Provider provided no response to the claim or the Motor Carrier's initial dispute.

DISCUSSION

IANA Staff reviewed all documents and evidence submitted by the Moving Party and it has been determined that this issue has already been addressed and resolved in a prior arbitration decision that was rendered by the arbitration panel on case 20150910-4-XXXD-PD. Therefore, in accordance with Exhibit D, Item 8 of the UIIA, if it is determined that the submitted claim has already been addressed and resolved in a prior arbitration decision, then both the Moving and Responding Parties will be provided with the precedent set forth in the former decision and advised that this decision will apply to the submitted claim. Therefore, both the Moving and Responding Parties were provided with the prior case decision and were advised that the decision applied to the current claim submitted by the Moving Party. The Responding Party agreed with Staff's determination that the prior case decision was the same. However, the Moving Party provided no comment. Therefore, this decision was based on the prior case decision, case 20150910-4-XXXD-PD & its applicability to this current claim. Section H.4. provides that the Invoicing Party will lose its right to collect charges if it fails to respond to disputed invoices "... within the established timeframes in the Provider's Addendum, or in the absence of a dispute resolution process in the Provider's Addendum, the default dispute resolution process is Section H.1".

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

H. Default Dispute Resolution and Binding Arbitration Processes

1. In absence of a dispute resolution process contained in the Provider's Addendum that establishes timeframes for signatories to the Agreement to dispute invoices and respond to the dispute with respect to Per Diem or maintenance and repair invoices, the following default dispute resolution process will apply:

Invoiced Party shall advise Invoicing Party in writing of any disputed items on invoices within 30 days of the receipt of such invoice(s). Invoicing Party will respond in writing to such disputed items within 30 days of receipt of Invoiced Party's notice. The Invoiced Party will have 15 days from the date of the Invoicing Party's response to either pay the claim(s) or seek arbitration. Such disputes do not constitute valid grounds for withholding or delaying payments of undisputed charges as required by the Terms of this Agreement. **[Revised 04/14/11]**

4. Should the Invoicing Party fail to respond to the Invoiced Party's dispute of an invoice relating to Per Diem or maintenance and repair charges within the established timeframes in the Provider's Addendum, or in absence of a dispute resolution process in the Provider's Addendum, the default dispute resolution process in Section H.1., the Invoicing Party will lose its right to collect such charges and its ability to pursue binding arbitration under Exhibit D of the Agreement. **[Revised [4/14/11]**

APL Co. Pte Ltd – Addendum to the Uniform Intermodal Interchange and Facilities Access Agreement [Revised: November 24, 2016]

II. Method of Dispute Resolution

Motor Carrier shall advise Provider in writing of any disputed items on Provider's invoices within 30 days of the receipt of such invoice(s). Provider will undertake to reconcile such disputed items within sixty (60) days of receipt of Motor Carrier's notice and will either provide verification for the charges as invoiced or will issue a credit to Motor Carrier's account for any amount not properly invoiced.

Such disputes do not constitute valid grounds for withholding or delaying payments of undisputed charges as required by the Terms of this Agreement. In the event that charges which have been verified by the Provider are again rejected and disputed by Motor Carrier for whatever reasons, Provider reserves its rights and remedies under the law to compel payment of such charges. In the event any disputed items involve Eagle Credits (I.E. above) it will not be the Provider's obligation to supply reports detailing all such Eagle Credits as earned to the Motor Carrier by invoice.

DECISION: Found in favor of the Motor Carrier.

Based on H.1. previous case decision 20150910-4-XXD-PD

EQUIPMENT PROVIDER'S RESPONSE TO MOTOR CARRIER'S DISPUTE:

The Equipment Provider responded to the Motor Carrier's initial dispute of the charges stating that the Motor Carrier contests that the container APHU7326910 should have been billed detention at \$0.00/day, however, based on Equipment Provider's filed addendum and tariff, the correct daily rate based on the possession date of the cargo was \$0.00/day. The Equipment Provider also stated as explained in their response to the dispute, per Equipment Provider's filed tariff, the detention increase took effect on 8/1/18. All rates are applied to Provider shipments based on the possession date. Possession date is defined in Equipment Provider's tariff as the date the last container is received by the Provider. For the shipment in question, the container was received on 8/2/18 and therefore rates, including D&D, are applied based on that possession date. Therefore, the Equipment Provider feels that the revised invoice should stand.

DECISION:

The panel carefully reviewed all documents and evidence submitted by the parties. Based upon the supporting documents and evidence submitted, the Ocean Carrier panel member noted the following:

- The free time expired when the old rate was still in effect and the unit was returned on the effective date of the new rate. As such the billing for the date of August 1, 2018 should be at the old rate of \$0.00 and the billing for the return date of August 2, 2018 should be at the new rate of \$185. The new total in this case is \$360 for the two days in question.
- Proper notification of cancellation of the original per diem invoice was not communicated and the notification sent out by the Equipment Provider of the change to its tariff showed the effective date of August 1, 2018, which was not consistent with the effective date of the official notice from the UIIA of the amendment to the Equipment Provider's addendum, which was August 2, 2018. The effective date of the revision to the Equipment Provider's UIIA addendum is the first day that the new rate can be billed to a UIIA Motor Carrier.

The Motor Carrier panel member agreed stating the new per diem rate starts on August 2, 2018, as the UIIA issued official notification of Equipment Provider's Addendum with the effective date of August 2, 2018. This meets the 30 day date of notification to the Motor Carrier per Section G.14. a. Notices as defined in the UIIA. Thus, the old per diem rate of \$175 should apply to the calendar date of August 1, 2018, and increased rate of \$0.00 should apply to the date of August 2, 2018.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions:

Equipment Providers Addendum to the Uniform Intermodal Interchange and Facilities Access Agreement:

B. CHARGES

The Motor Carrier will be assessed a daily normal use charge and a daily excess use charge as described below **(Table 1)** from the Provider until said equipment is returned to the Provider. In the event that Equipment Provider provides a chassis for moves that are not carrier arranged shipments, a Chassis Provision Charge (CPC) of \$00 per day shall be assessed to the Motor Carrier. No Free Time shall apply to the CPC charge. Upon expiration of Free Time, the following charge will be applicable until the equipment is returned empty.

Equipment Provider's Addendum to the Uniform Intermodal Interchange and Facilities Access Agreement [Effective 8.2.18]:

B. CHARGES

The Motor Carrier will be assessed a daily normal use charge and a daily excess use charge as described below **(Table 1)** from the Provider until said equipment is returned to the Provider. In the event that Equipment Provider provides a chassis for moves that are not carrier arranged shipments, a Chassis Provision Charge (CPC) of **\$30** per day shall be assessed to the Motor Carrier. No Free Time shall apply to the CPC charge. Upon expiration of Free Time, the following charge will be applicable until the equipment is returned empty.

DECISION: The panel unanimously finds a split decision in this case in that the Motor Carrier owed one day at the old per diem rate of \$175 and one day at the new per diem rate of \$185. Total amount owed by the Motor Carrier is \$360.00 for the reasons set forth above.

CASE REVIEWED AND DECIDED BY:

LEONARD IMPERIAL
Ocean Carrier Member

DAVE HENSAL
Motor Carrier Member

In the Dispute Between

Case Number: **20190122-11-XXXN-PD**

Date of Decision: 05/24/19

Invoice	Invoice #	Container #	Inv. Date	Facility	Outgated	Ingated	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	DOEF1710019650	Same	1/7/19	Same	Same	Same	1/7/19	1/15/19	1/16/19	1/22/19

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Provider stated that the Motor Carrier did not comply with their addendum, and the first chance they had to correct the invoice was when it was disputed. Therefore, the Equipment Provider feels that the invoice is valid and should stand.

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Equipment Provider. Both the Motor Carrier panel member and the Ocean Carrier panel member noted:

- The Motor Carrier disputed the original invoice issued in the amount of \$00.00 within the timeframe requirements as outlined in the Agreement.
- The Equipment Provider corrected the invoice upon receipt of the Motor Carrier's communication confirming the actual return date of the equipment. Consequently, the Motor Carrier is responsible for the corrected invoice in the amount of \$00.00.

The Motor Carrier panel member noted that his decision was based solely on the terms of the Section E.6. of the UIIA in that the corrected per diem billed to the Motor Carrier was monies due to the Equipment Provider and not on the Equipment Provider's claim of failure of the Motor Carrier to comply with the terms of its addendum. The Ocean Carrier panel member indicated that based on the evidence and facts presented in the case, he concurred that the Motor Carrier was responsible for the corrected per diem invoice.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (October 1, 2018) to make its decision:

E. Equipment Use

6. Free Days, Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage Charges

- b. Motor Carrier shall be responsible for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges set forth in the Addenda.
- c. Provider shall invoice Motor Carrier for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges within sixty (60) days from the date on which Equipment was returned to Provider by Motor Carrier. If Motor Carrier is not invoiced within the established timeframe, the right of the Provider to recover such charges will be lost. **[Revised 01/17/12]**

Should Provider invoice the incorrect party, Provider may invoice the interchanging Motor Carrier within thirty (30) days from the date the incorrect party disputes the charges with Provider or within the original sixty (60) day deadline, whichever is later. The preceding sentence only applies as long as the Provider issues such invoice to the interchanging Motor Carrier within ninety (90) days from the date on which Equipment was returned. **[Added 01/01/17]**

Equipment Providers Addendum: Services Co. LLC - Addendum to the Uniform Intermodal Interchange and Facilities Access Agreement

**7. USE CHARGES AND FREE TIME:
TABLE OF CHARGES**

Type of Equipment	Charges Per Calendar Day after Expiration of Free Time
Dry van Container with or without chassis	Day 1- Day 5 - \$00.00 Day 6 and above - \$00.00
High Cube Container with or without chassis	Day 1- Day 5 - \$00.00 Day 6 and above - \$00.00
Special Equipment (viz)	
Hanger Containers with or without chassis	\$00.00
Tank Containers with or without chassis	\$00.00
Open Top Containers with or without chassis	\$00.00
Flat Rack with or without chassis	\$00.00
Reefer Container with or without chassis	\$00.00
Bare Chassis (See Note 2 Below)	\$00.00

Note 2: If container or chassis is not returned with the free time provided herein, Motor Carrier must give immediate written notification, via e-mail to **e-mail** or by fax (000)000.0000.

DECISION: The panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

KEVIN LHOTAK
Motor Carrier Member

JIM MICHALSKI
Ocean Carrier Member

In the Dispute Between

Case Number: **20190212-4-XXXC-PD**

Date of Decision: 05/09/2019

Invoice	Invoice #	Container #	Inv. Date	Facility	Outgated	Ingated	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	190000177367P	TCLU5663869	1/23/19	Garden City Terminal	11/20/18	12/6/18	1/23/19	1/24/19	2/5/19	2/12/19
2	190000177369P	MEDUSA025684	1/23/19	Garden City Terminal	11/19/18	12/3/18	1/23/19	1/24/19	2/5/19	

The Motor Carrier's basis of dispute is Exhibit B of the UIIA. The Motor Carrier stated that the two containers involved were import containers that were street turned within its contracted free time with the Equipment Provider to be loaded for an export booking. However, the Motor Carrier states that when the containers were being loaded, the floor broke due to faulty equipment. The inspections were complete on the container before loading and the Motor Carrier indicates that it could not have foreseen the floor breaking. Therefore, because of the faulty equipment the Motor Carrier feels that the containers should be treated as any other empty faulty container and no charges should be applicable once the empty is returned to the terminal.

The Equipment Provider responded to the claim by referring to their addendum to the UIIA, Section 2: Lost, Stolen or Destroyed Equipment. The Equipment Provider uses Section 2 of their addendum as part of their process on stopping the per diem clock on damaged equipment. The Equipment Provider stated that as soon as they are notified in writing of any damage to a container they stop the per diem clock that same day. Therefore, the Equipment Provider feels that the invoices are valid and should stand.

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Motor Carrier. The Motor Carrier panel member noted the Motor Carrier's argument that the Equipment Provider is responsible for the flooring damage pursuant to Exhibit B of the UIIA is accurate. The Equipment Provider cited Section 2: Lost, Stolen Or Destroyed Equipment to their Addendum as a basis for their claim. Since this was a flooring repair, this section would not apply. Therefore, it is reasonable to assume that the Motor Carrier should not be penalized due to damage that is the responsibility of the Equipment Provider.

The Ocean Carrier panel member agreed with the finding stating that floor damage caused from a forklift or other internal force would not fall under the Motor Carrier's responsibility.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (October 1, 2018) to make its decision:

Exhibit B to UIIA, Provider Responsibility, (added to UIIA on 07/25/07, Last Revised 10/01/18)

Axles
Batteries, broken
Battery box covers
Brake adjustments on trailers or chassis (1)
Brake and brake component repairs (2)
Container or Closed Trailer, roof bows
Container or Trailer, caulking/sealing of existing patches & seams
Container or Trailer, interior lining and interior posts
Container securement device handles
Conspicuity treatment
Dolly axle, wheels and sand shoes
Dolly crank handle, replacement
Door locking bar handles and tie-backs
Electrical connector socket, cleaning, adjustment and replacement
Fasteners, component, bolts, rivets, welds
Floor or decking (3)
Gladhands, replacement or repair
Hub assembly due to insufficient lubrication
Inspections, FMCSA and BIT
Landing gear, interior components and operating cross shaft
Lift pads
Lights
Manifest box

Markings, initial and number
Mud flaps and brackets
Refrigeration/Heating unit repairs including cabinet doors
Registration papers, application
Roll-up doors
Safety latches
Side doors
Sign boards
Sliding Tandem removable locking bars
Tank container components
Tires and Tubes, renewals, repairs or replacement
Trailer/Chassis locking assemblies
Trailer crossmembers, Damage (4)
Vehicle license plates, application

- (1) Not equipped with automatic slack adjusters
- (2) Except servicing due to accumulation of ice and snow
- (3) Damage caused during cargo loading/unloading operations excluded from Motor Carrier responsibility.
- (4) Damage to the first three crossmembers located behind the grid section of trailers not originally equipped with grid extension plate.

A repair made to any item listed in Exhibit B is the responsibility of the Provider unless the repair made is a result of damage that occurred during the Interchange Period.

Equipment Providers Addendum to the Uniform Intermodal Interchange and Facilities Access Agreement

2. LOST, STOLEN OR DESTROYED EQUIPMENT

Settlement for lost or stolen or destroyed equipment shall be depreciated replacement value as stated in settlement for lost, Section E.2.a. and E.2.b. of the UIIA Uniform Intermodal Interchange and Facilities Access Agreement.

Motor Carrier will immediately notify Provider of any Loss, Stolen or Destroyed Equipment. Until such notice is received in writing, along with the appropriate documents (i.e. police reports), use charges shall continue to accrue. Once Equipment Provider invoices Motor Carrier for such equipment, settlement will be made within thirty days. After thirty days, if settlement has not been accomplished, use charges will resume retroactive to date of notification by the Motor Carrier of the loss.

DECISION: The panel unanimously finds in favor of the Motor Carrier.

CASE REVIEWED AND DECIDED BY:

CHRIS GILTZ
Motor Carrier Member

TIM AMES
Ocean Carrier Member

**UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT
DISPUTE RESOLUTION PANEL REVIEW AND DECISION**

In the Dispute Between

UIIA MC,

Appellant, and

UIIA EP,

Respondent

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Case Number: **20200217-6-XXXG-PD**

Date of Decision: 05/19/2020

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICE:

Invoice	Invoice #	Container #	Inv. Date	Facility	Outgated	Ingated	Date MC rec'd inv.	Date MC disputed the inv.	Date EP responded to MC's dispute	Notice of Intent Rec'd
1	2118143444	HLXU8006732	2/10/20	Ports Amer. New Orleans /Ports Amer. New Orleans	11/25/19	1/17/20	2/10/20	2/10/20	2/11/20	2/17/20

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier's basis of dispute is Section E.6 of the UIIA. The Motor Carrier disputed the invoice stating that the unit was out for an extended period of time due to issues with the TRAC chassis that the unit was pulled out on. The chassis had significant maintenance issues that were unable to be repaired on the roadside. The Motor Carrier stated that the customer had to unload this unit so that it could be towed to a facility for all of the repairs to be made. Once the repairs were made, TRAC advised the Motor Carrier that the unit could not be used to pull a loaded container until it was brought back to the port for the repairs to be inspected. The Motor Carrier feels that it is for this reason that the unit was out for such a long period of time and was returned empty. The Motor Carrier believes that they should not be held responsible for the per diem invoice due to the TRAC chassis issues.

EQUIPMENT PROVIDER'S RESPONSE TO MOTOR CARRIER'S DISPUTE:

The Equipment Provider responded to the claim stating that the per diem could not be waived as it was not due to the Equipment Provider's error. The Equipment Provider indicated that the shipment was a merchant haulage move, and as such, the Motor Carrier would have to contact the chassis provider if the detention was incurred due to a damaged chassis. Therefore, the Equipment Provider feels that the invoice is valid and should stand.

DECISION:

After careful review of all documents and the evidence submitted by the parties, the panel unanimously finds in favor of the Equipment Provider. The Ocean Carrier panel member noted that pursuant to Section D.3.b of the UIIA Motor Carriers will conduct a pretrip inspection prior to departing with the interchanged equipment that will include those items set forth in Exhibit A to the Agreement. The following list sets forth those items contained in Exhibit A to the UIIA, which the Motor Carrier has responsibility for visually or audibly checking prior to use of the Equipment:

8. Tires (Check that the following conditions are not present.)
 - a. Tire is flat, underinflated or has noticeable (e.g., can be heard or felt) leak.
 - b. Any tire with excessive wear (2/32nds or less thread depth), visually observable bump, or knot apparently related to tread or sidewall separation.
 - c. Tire is mounted or inflated so that it comes in contact with any part of the vehicle. (This includes any tire contacting its mate in a dual set.)
 - d. Seventy-five percent or more of the tread width is loose or missing in excess of 12 inches (30cm) in circumference.

The evidence presented in the case confirmed that four (4) tires needed to be replaced. It is the Motor Carriers responsibility to visually check the condition of the equipment prior to delivery. The delay in returning the container was of no fault of the Equipment Provider.

Based on the evidence presented in the case, the Motor Carrier panel member agreed with the finding in favor of the Equipment Provider. The Motor Carrier panel member noted that it did not believe this was a case of misuse of the chassis by the Motor Carrier, but rather the repair vendor taking an extended amount of time to repair the chassis. However, the Motor Carrier had the ability on Merchant Haulage to select or utilize their own chassis for the movement and was not required to use a specific chassis provider's equipment. Unfortunately, the chassis provider selected was not a signatory to the UIIA, but the Equipment Provider of the container is a UIIA participant and their per diem charges are spelled out within their UIIA addendum. Consequently, the billing was done in accordance with the terms set forth in the Equipment Provider's UIIA addendum so therefore the Motor Carrier would be responsible for the charges billed.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (July 1, 2019) to make its decision:

D. Equipment Interchange

3. Equipment Condition
 - b. Motor Carriers will conduct a pre-trip inspection prior to departing with interchanged Equipment that will include those items set forth in Exhibit A to this Agreement. **[Item Re-numbered 10/01/18]**

E. Equipment Use

6. Free Days, Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage Charges

- a. Interchange of Equipment is on a compensation basis. Provider may permit some period of uncompensated use and thereafter impose Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges, as set forth in its Addendum. **[Revised 01/17/12]**
- b. Motor Carrier shall be responsible for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges set forth in the Addenda. **[Revised 01/17/12]**
- c. Provider shall invoice Motor Carrier for Per Diem, Container Use, Chassis Use/Rental and/or Storage/Ocean Demurrage charges within sixty (60) days from the date on which Equipment was returned to Provider by Motor Carrier. If Motor Carrier is not invoiced within the established timeframe, the right of the Provider to recover such charges will be lost. **[Revised 01/17/12]**

Should Provider invoice the incorrect party, Provider may invoice the interchanging Motor Carrier within thirty (30) days from the date the incorrect party disputes the charges with Provider or within the original sixty (60) day deadline, whichever is later. The preceding sentence only applies as long as the Provider issues such invoice to the interchanging Motor Carrier within ninety (90) days from the date on which Equipment was returned. **[Added 01/01/17]**

Exhibit A to UIIA Motor Carrier Pre-Trip Inspection As referenced in Sections D.3.b. and F.4.b. **(Added to UIIA 1/17/08, Last Revised 05/22/19)**

8. Tires (Check that the following conditions are not present.)
- a. Tire is flat, underinflated or has noticeable (e.g., can be heard or felt) leak.
 - b. Any tire with excessive wear (2/32nds or less thread depth), visually observable bump, or knot apparently related to tread or sidewall separation.
 - c. Tire is mounted or inflated so that it comes in contact with any part of the vehicle. (This includes any tire contacting its mate in a dual set.)
 - d. Seventy-five percent or more of the tread width is loose or missing in excess of 12 inches (30cm) in circumference.

Equipment Providers Addendum to the Uniform Intermodal Interchange and Facilities Access Agreement

4. USE CHARGES; SPECIAL APPLICATIONS

- 4.1** Motor Carrier shall pay Provider Use Charges on the Equipment as set forth in Schedule "A", which is annexed hereto and made a part hereof, for each day elapsed from the date of Interchange of each unit of Equipment until the date of return of each unit of Equipment unless otherwise expressly agreed to by Provider in writing.

4.2 When Equipment is damaged and reported to the Provider pursuant to paragraph 2 of this Agreement, Use Charges will cease from the date of notification requesting authorization to repair damages exceeding \$00.00 until repairs are authorized or instructions given as to disposition by Provider.

DECISION: The panel unanimously finds in favor of the Equipment Provider.

CASE REVIEWED AND DECIDED BY:

JAMES MICHALSKI
Ocean Carrier Member

KEVIN LHOTAK
Motor Carrier Member

**UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT
DISPUTE RESOLUTION PANEL REVIEW AND DECISION**

In the Dispute Between

UIIA MC,

Appellant, and

UIIA EP,

Respondent.

Case Number: **20220413-24-XXXI-PD**

Date of Decision: 11/21/2022

THE MOTOR CARRIER DISPUTES THE FOLLOWING INVOICES:

	Invoice Number	Unit #	Invoice Date	Facility	Outgated	Ingated	Date MC Rec'd Invoice	Date MC Disputed Invoice	Date EP Responded only confirmed receipt of dispute	Date Notice of Intent Received
1	DT0300418	BEAU2418131	03/06/2022	Wando/Wando	01/31/2022	02/14/2022	2/21/22	2/23/22	4/11/22	4/13/22
		CXDU2284170			01/25/2022	02/14/2022				
Cancelled by EP	DT0301250	BMOU6335847	03/06/2022	Wando/Wando	01/20/2022	02/14/2022	3/7/22	3/12/22	3/16/22	
		YMLU9012984			01/21/2022	02/14/2022				
Cancelled by EP	DT0301251	OCGU8019489	03/06/2022	Wando/Wando	01/19/2022	02/16/2022	3/6/22	3/12/22	3/16/22	
Cancelled by EP	DT0301252	TGBU6572122	02/20/2022	Wando/Wando	01/13/2022	01/25/2022	3/7/22	3/12/22	3/16/22	

***Note:** Notice was received from the Equipment Provider that it canceled 3 out of the 4 invoices under this claim. Therefore, please review only invoice No. DT0300418.

MOTOR CARRIER'S BASIS OF DISPUTE:

The Motor Carrier is basing its dispute on Sections E.1.b., H.1., and H.4. of the UIIA. The Motor Carrier disputes all 4 invoices based on the fact that there were no available locations/appointments available to return the empty containers to the Equipment Provider as required under Section E.1.b. of the UIIA. The Motor Carrier disputed the charges, but the Equipment Provider did not respond to the Motor Carrier's dispute indicating that they agreed or declined the dispute in accordance with Section H.1. of the UIIA. Therefore, the Motor Carrier believes the Equipment Provider has lost its right to collect the charges.

EQUIPMENT PROVIDER'S RESPONSE TO MOTOR CARRIER'S DISPUTE:

The Equipment Provider did not provide any comments during the 15-day comment period in the Notice of Intent to Seek Binding Arbitration, but it did respond to the Motor Carrier's initial dispute asking the Motor Carrier if it checked the terminal announcements. The Equipment Provider never responded to the Motor Carrier's initial dispute agreeing or declining the dispute.

DISCUSSION:

The panel carefully reviewed all documents and information provided by the parties. The Motor Carrier filed its dispute based on Sections E.1.b., H.1., and H.4. of the UIIA. The panel addressed its decision as it relates to these sections as follows:

As the Motor Carrier claims, it was disputing invoices based off of ERD shifts of the vessel providing dates of the changes. The Motor Carrier also states that the Equipment Provider responded that they were checking into the issue. However, under Section E.1.b. of the UIIA, the Equipment Provider failed to provide a return location.

Based on the evidence submitted, invoice No. DT0300418 was issued by the Equipment Provider on February 20, 2022, and disputed by the Motor Carrier on February 23, 2022. The dispute was never definitively responded to by the Equipment Provider pursuant to the terms established in Section H.4. of the UIIA and within the established timeframes in Section IV, Paragraph 3d, of the Equipment Provider's Addendum to the UIIA. As such, the Equipment Provider has lost its right to collect such charges pursuant to Section H.4. of the UIIA.

The Ocean Carrier panel member points out that the Equipment Provider responded in writing to the disputed items within 30 days of receipt of the Motor Carrier's notice under Section H.1. of the UIIA that it was waiting on clarification from the department involved in the case, but no decision was provided by the Equipment Provider to accept or deny the Motor Carrier's dispute. The Equipment Provider failed to follow up on the original dispute, and it did not respond within the timeframes set forth in the terms of the UIIA. Therefore, based on the above, the panel finds in favor of the Motor Carrier and agrees that invoice No. DT0300418 should be cancelled for the full amount of \$0.00.

UIIA PROVISIONS RELIED UPON BY BINDING ARBITRATION PANEL:

The panel relied upon the following provisions from the UIIA (April 23, 2021) to make its decision:

E. Equipment Use, Item E.1.b.

Motor Carrier shall return the Equipment to the physical location at which the Equipment was received unless the Provider directs the Equipment to be returned to a satellite location(s): 1) as governed by a written bilateral equipment interchange agreement between the Parties or 2) as specified in a notification from the Provider to Motor Carrier via internet posting or e-mail to return the Equipment to a Provider-designated satellite location, listed in IANA's Equipment Return Location Directory (ERLD). Satellite location(s) are facilities which are within the same local commercial territory and support operations of the Provider for the location from which the Equipment was originally received. Whenever a return location is changed, Provider must notify the Motor Carrier by e-mail by 16:00 p.m. local time the business day prior to the change becoming effective. Motor Carrier must furnish the Provider with e-mail addresses to be used for Motor Carrier notification when return locations are changed. **[Revised 02/08/16]**

H. Default Dispute Resolution and Binding Arbitration Processes, Item H.1.

In absence of a dispute resolution process contained in the Provider's Addendum that establishes timeframes for signatories to the Agreement to dispute invoices and respond to the dispute with respect to Per Diem, maintenance and repair or Equipment use/rental charges, the following default dispute resolution process will apply. **[Revised 05/01/17]**

Invoiced Party shall advise Invoicing Party in writing of any disputed items on invoices within 30 days of the receipt of such invoice(s), documenting with appropriate evidence, its disagreement with any of Invoicing Party's bills it believes to be incorrect. Invoicing Party will respond in writing to such disputed items within 30 days of receipt of Invoiced Party's notice with its decision to accept or deny the Invoice Party's dispute. The Invoiced Party will have 15 days from the date of the Invoicing Party's response to either pay the claim(s) or seek arbitration. Such disputes do not constitute valid grounds for withholding or delaying payments of undisputed charges as required by the Terms of this Agreement. **[Revised 06/13/16]**

H. Default Dispute Resolution and Binding Arbitration Processes, Item H.4.

Should the Invoicing Party fail to respond to the Invoiced Party's dispute of an invoice relating to Per Diem, maintenance and repair or Equipment use/rental charges within the established timeframes in the Provider's Addendum, or in absence of a dispute resolution process in the Provider's Addendum, the default dispute resolution process in Section H.1., the Invoicing Party will lose its right to collect such charges and its ability to pursue binding arbitration under Exhibit D of the Agreement. **[Revised 05/01/17]**

Section IV.3.d. – Free Time and Charges of the Provider's Addendum

On receipt of Motor Carrier's notice, Provider will undertake to reconcile such disputed items will respond in writing to Motor Carrier within (30) days of receipt of Motor Carrier's notice. In no event shall any dispute constitute valid grounds for Motor Carrier to withhold or delay payment for any non-disputed charges.

DECISION:

The panel unanimously finds in favor of the Motor Carrier based on Sections E.1.b., H.1., and H.4. of the UIIA and Section IV.3.d. of the Provider's Addendum. Invoice No. DT0300418 should be cancelled for the full amount of \$0.00.

CASE REVIEWED AND DECIDED BY:

MATTHEW SCIASCIA
Motor Carrier Panel Member

JIM MICHALSKI
Ocean Carrier Panel Member