



**STANDARD TERMS AND CONDITIONS
FOR STORAGE UNITS**

2500 W. State Blvd. • Suite A • Fort Wayne, IN 46808
(260) 402-1429

TLA # _____ Rec'd by: _____

1. **TERM.** The Vehicle Lease Term shall commence on the Commencement Date, or if the Vehicle is not then available, the earlier of the Date Out or 3 days after notice of availability. The Vehicle Lease Term shall include the Minimum Term and any extensions thereto permitted by Lessor or required hereunder.

2. **DELIVERY.** Lessee shall accept delivery of the Vehicle at the Delivery Branch. Upon delivery, the Vehicle shall comply with all applicable federal safety standards in effect at the manufacture date of the Vehicle. Vehicle delivery may be subject to delay and Lessor shall have no liability therefor. The cost listed on cover page may require additional fees; depending on area of delivery, space available at delivery or any obstacles or irregular situations at delivery.

3. **MAINTENANCE.**

A. At its expense, Lessee shall

(1) provide safety inspections of the Vehicle, and maintain proper axle lubricant levels, tire inflation and repair, brake operation, and lighting, including bulbs and lens replacements.

(2) maintain the Vehicle in the same condition as when delivered, excepting normal wear and tear, making all necessary repairs and replacements in compliance with all manufacturers' standards relating hereto, using only new parts.

(3) reimburse Lessor for tires damaged by improper inflation, impact breaks or running flat, and

(4) pay Lessor the fair market value as of the Date in of tires supplied or paid by Lessor that are not returned with the Vehicle. Lessee shall not purchase replacement tires for Lessor's account or charge Lessor for any expense absent Lessor's written consent.

B. If this Agreement includes a Mileage Charge (Standard Maintenance), Lessee shall deliver the Vehicle to Lessor, or a repair facility determined by Lessor; for Tire and Brake replacement in accordance with Department of Transportation; State Vehicle Safety regulations; Federal Motor Carrier Safety Regulations (D.O.T. Regulations, and/or CSA 2010 Regulations).

4. **USE AND OPERATION.** Lessee warrants that:

(a) the Vehicle shall be used only in the Continental United States and Canada;

(b) the Vehicle shall not be operated by any person other than agents or employees of Lessee, each warranted to be a careful, dependable operator not operating under the influence of alcohol or drugs, with a valid license to operate such Vehicle;

(c) Lessee shall use any Vehicle designated as a storage Vehicle for storage purposes only;

(d) Lessee shall comply with all current and future statutes, regulations, rules, ordinances and orders, including without limitation environmental statutes, regulations, rules, ordinances and orders, of any governmental or quasi-governmental entity affecting the use, operation or maintenance of the Vehicle (collectively "Applicable Laws");

(e) Lessee shall comply with the Vehicle manufacturer's loading limitations and avoid abusive handling and concentrated or excessive loads, and

(f) Lessee shall provide Lessor with any Vehicle operation data as may be required by any governmental authority and such data shall be true and accurate.

(g) Lessee is fully responsible for any fines, penalties, tickets or other costs associated with operating the Vehicle which is not in compliance with all Federal, State and Local laws and regulations. To include, but not limited to; parking fines and fees, improper licensing and operation, illegal use on roads and highways, etc.

5. **HAZARDOUS MATERIALS.**

A. Lessee shall not transport, load or store in or on the Vehicle any ultrahazardous materials, medical wastes, hazardous wastes, radioactive materials, or explosives (collectively "Ultrahazardous Materials"). If Lessor determines that Lessee has used the Vehicle for such purposes, Lessor, in its sole discretion, may require Lessee to purchase the Vehicle at 115% of the Vehicle's fair market value on the Date Out, as determined by Lessor and based on the value that would be obtained in an arm's-length transaction between an informed and willing buyer (other than a lessee in possession or a dealer of used vehicles) and an informed and willing seller under no compulsion to sell ("FMV").

B. If the Vehicle is damaged, contaminated, stained, soiled or tainted as a result of transporting, loading or storing Ultrahazardous Materials or any other substances, Lessee shall, at Lessee's sole expense, promptly restore the Vehicle to its condition on the Date Out and, if decontaminated, provide proof of such decontamination including, without limitation, methodology and pre and post decontamination sampling results. Lessor, in its sole discretion and at Lessee's sole cost, may have the Vehicle inspected and tested for any hazardous substance or material by any inspector of Lessor's choosing. If Lessee fails to restore a damaged, contaminated, stained, soiled or tainted Vehicle within 7 business days of Lessor's demand therefor, Lessor may at its sole discretion

(a) require Lessee to purchase the Vehicle at 115% of such Vehicle's FMV on the Date Out, or

(b) restore the Vehicle and invoice Lessee for costs incurred.

6. **HOLD HARMLESS.** Lessee shall indemnify and hold Lessor harmless from;

(a) any loss or damage Lessor may sustain as a result of any damage to or loss of the Vehicle due to any cause, including without limitation collision, fire, lightning, theft, explosion, flood, windstorm or Act of God;

(b) any loss or damage Lessor may sustain as a result of the death or injury to, or damage to the property, including cargo, of any third person as a result, in whole or in part, of the use or condition of the Vehicle;

(c) any loss, claim, liability, damages, expense or disbursement, penalty or fine, disposal, remediation or

corrective action cost, or forfeiture or seizure that may arise in whole or part from the use or condition, actual or alleged, of the Vehicle or the failure, actual or alleged, of Lessee to use and maintain the Vehicle as provided under this Agreement and in compliance with Applicable Laws, unless such loss or damage arises from Lessor's gross negligence; and

(d) any claim, lien or liability arising from work performed or for materials supplied in connection with the operation or maintenance of the Vehicle.

7. **Non-Liability for Contents.** Lessor shall not be liable for damages, direct or consequential, to any product left, stored, loaded or transported in or upon and Vehicle; and Lessee hereby agrees to indemnify and hold Lessor harmless from and against all claims arising out of any such loss or damage. Including loss of profits or other alleged consequential damages. No right of Lessor under this Section (number of section here) may be waived unless in writing and signed by an officer of Lessor.

8. **INSURANCE.** Lessee at its sole cost and expense procure, and keep in full force and effect from the Vehicle delivery date until the return thereof, valid and pre-paid business auto or trucker's insurance policies satisfactory to Lessor including coverage for:

(a) hired autos (trailers) for bodily injury and property damage liability, with a minimum combined single limit of one million dollars (\$1,000,000) per occurrence;

(b) hired autos (trailers) for physical damage providing collision and comprehensive coverage with a limit equal to the fair market value of the Vehicle; and

(c) a comprehensive general liability policy providing for contractual liability coverage for hold harmless agreements, with a minimum combined single limit of one million dollars (\$1,000,000) per occurrence or, if the Vehicle is used to store or haul acceptable hazardous materials, a combined single limit of five million dollars (\$5,000,000) per occurrence/twenty-five million dollars (\$25,000,000) aggregate per year, and an environmental impairment liability endorsement equal to the combined single limit per occurrence. Prior to delivery of the Vehicle to Lessee, Lessee shall provide to Lessor a valid certificate of insurance (Schedule C/I) naming Lessor as an "Additional Insured" and "Loss Payee" evidencing insurance coverage as set forth hereinabove and requiring 30 days notice to Lessor of cancellation or material change. If Lessor determines that Lessee is not maintaining the proper insurance policies as required, Lessee shall be in default and Lessor shall be entitled to exercise the remedies set forth in this Agreement. Lessee shall provide Lessor with prompt written notification of any accident or other event involving the Vehicle that may give rise to claims against Lessor.

Lessee must send updated insurance certificates upon any and all renewals, changes to policy or insurance carriers. It is Lessee's responsibility to keep all insurances current, and proper certificates on file with Lessor.

9. **SAFETY INSPECTION.** Lessee shall be solely responsible for ensuring that the Vehicle is in compliance with all required safety regulations. Lessee shall perform and pay for all required safety inspections and shall maintain proper documentation evidencing such inspections. Lessee shall indemnify and hold Lessor harmless from and against any fines, forfeitures, or penalties which may arise from Lessee's noncompliance with the provision of this Section.

10. **LICENSES.** This Vehicle is for Storage Purposes Only. Vehicle may not have proper licensing to operate on any public or private roads. Lessee, at its sole expense, shall procure licenses and registrations required for the lawful operation of the Vehicle. Should Lessee operate Vehicle without procuring proper licensing, Lessee assumes all liabilities and responsibilities per sections 4, 5, 6, 7, 8, 11, 18 and 19 of this agreement.

11. **TAXES.** In addition to Rent, Lessee shall pay, or reimburse Lessor for payment of, any and all fees, fines, penalties and sales and use taxes including, but not limited to, value added taxes and personal property taxes or other direct taxes levied against or based upon the price or value of the Vehicle or its use or operation. The term "direct taxes" as used herein shall include all taxes (except income taxes of Lessor), charges, and fees levied, assessed, or charged by any taxing authority.

12. **BILLING.**

A. If upon the return of the Vehicle or upon replacement of any tire by Lessor tread wear exceeds 1/32nd inch per tire for each 6,000 miles traveled for a Vehicle with bias ply tires or 12,000 miles for a Vehicle with radial tires, Lessee shall pay Lessor a charge based upon the then current tire price, for each 1/32nd inch of tread wear in excess of such allowances. If upon return of the Vehicle or replacement of brakes by Lessor brake wear is in excess of 1/8th inch for 12,500 miles traveled, Lessee shall pay Lessor a charge, based upon the then current for a brake reline service, for each 1/8th inch of lining wear in excess of such allowance. Lessee shall be responsible for the replacement cost for cracked or scored brake drums.

B. Lessee shall immediately notify Lessor if any hub odometer or refrigerated van clock has been removed or fails to function properly. In such event, mileage and/or refrigeration hours shall be deemed to be the greater of the mileage and/or hours recorded during prior transactions with Lessee or 80 miles per day and 10 refrigeration hours per day. Lessor shall have the right at any time during the Lease Term to adjust billing upon Lessor's determination that actual mileage, tread wear, brake wear or refrigerated hours exceed the amount billed for.

C. If the Vehicle is a refrigerated trailer, Lessee shall pay Lessor for fuel at the rate set forth on the facing page of this Agreement if the Vehicle is returned with less fuel than present upon delivery.

D. Lessee shall pay all invoices within 10 days of the invoice date without set-off or deduction. A late charge of the lesser of per month (18% per annum compounded monthly) or the maximum legal rate shall be assessed on any amount not paid when due. Payments received by Lessor after the due date shall be applied first to the most recent invoices issued to Lessee without regard to Lessee's instructions. Invoices shall be sent to the Lessee's address set forth herein or to such other address as Lessee may instruct Lessor in writing. Lessor reserves the right to offset any amount owed Lessee by any amount due Lessor hereunder.

13. **EVENTS OF DEFAULT.** The occurrence of one or more of the following shall constitute an Event of Default:

(a) Lessee fails to pay when due any Rent or any other payment under this Agreement;

(b) Lessee fails to perform any other term or condition of this Agreement and such failure remains unremedied for more than 10 days after Lessor has requested Lessee to

perform, except if such default arises due to noncompliance with Section 7, which default shall become effective immediately:

- (c) Lessee or any guarantor of Lessee
- (i) becomes insolvent,
 - (ii) commits an act of bankruptcy,
 - (iii) becomes subject to any voluntary or involuntary bankruptcy proceedings,
 - (iv) makes an assignment for the benefit of creditors,
 - (v) appoints or submits to the appointment of a receiver for all or any of its assets,
 - (vi) admits in writing its inability to pay its debt as they become due, or
 - (vii) enters into any type of voluntary or involuntary liquidation;
- (d) Lessee defaults under any other agreement with Lessor or any affiliate of Lessor; or
- (e) any letter of credit, guaranty or other security given to secure the performance of this Agreement shall expire, terminate or become worthless in the opinion of Lessor.

14. **REMEDIES UPON DEFAULT.** Upon any Event of Default, Lessor may, at its option and without demand or notice to Lessee, do any one or more of the following;

- (a) pay all amounts required to be paid or perform or cause to be performed all obligations required to be performed by Lessee hereunder and charge Lessee as additional Rent the amount paid or the reasonable value of all services performed hereunder;
- (b) take immediate possession of the Vehicle in accordance with the provisions of Section 15;
- (c) declare the entire balance of Rent for the remainder of the Lease Term immediately due and payable by acceleration and recover such amount as liquidated damages, the reasonableness of such damages being acknowledged by Lessee; or
- (d) terminate this Agreement and Lessee's rights hereunder and require Lessee at its sole cost to promptly return the Vehicle to Lessor at such location as Lessor may designate. If Lessee is in default of this Agreement or any other agreement with Lessor, Lessee shall be declared in default of all existing agreements between Lessee and Lessor. No termination, repossession or other act by Lessor after default by Lessee shall relieve Lessee from any of its obligations hereunder. In addition; Lessee shall pay to Lessor on demand the unamortized portion of any expense associated with the Vehicle and all fees, costs and expenses incurred by Lessor in enforcing its rights hereunder including, without limitation, reasonable attorney's fees. The remedies provided in favor of Lessor shall be cumulative and in addition to all other remedies provided in this Agreement or existing at law or in equity;
- (e) Liquidate any abandoned goods or product left on the Vehicle at sole cost of Lessee. Including but not limited to cost of removal and destruction of any goods, cost for any Hazmat expense for removal, etc.

15. **REPOSSESSION.** If Lessee fails or refuses to promptly return the Vehicle to Lessor after demand therefor, or if an Event of Default has occurred and is continuing, Lessor shall be deemed Lessee's agent have the right to enter upon any premises where the Vehicle is located and take immediate possession of and remove the Vehicle. If Lessor takes possession of the Vehicle with other property contained in, upon or attached thereto, Lessor may take possession of such property and hold it in Lessor's possession or in public storage

for the account and at the expense of Lessee or dispose of such property with no further liability.

16. **LESSEE OWNERSHIP; FINANCIAL CONDITION.** If the ownership of Lessee changes or there is a disposition of a substantial portion of Lessee's assets or a substantial change in Lessee's financial condition at any time during the Agreement term, Lessee shall notify Lessor thereof and Lessor may terminate this Agreement and demand the prompt return of the Vehicle or require from Lessee additional financial security or assurances including, but not limited to, cash deposits, letters of credit, escrow accounts and guarantees as a condition to maintaining this Agreement in full force and effect.

17. **WARRANTY.** Lessee acknowledges receipt of the Vehicle in good and satisfactory condition. LESSOR HAS MADE NO REPRESENTATIONS OR WARRANTIES AS TO ANY MATTER WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PURPOSE WITH RESPECT TO THE VEHICLE, MAINTENANCE OR REPAIR WORK. Lessor shall make available to Lessee with warranty provided by the Vehicle's manufacturer.

18. **LIMITATION OF LIABILITY.** Lessor shall not be liable in connection with this Agreement for incidental, special, indirect, consequential or exemplary damages of any kind, including without limitation lost profits and business interruption damages, suffered by Lessor or any other party. Lessee shall indemnify and hold Lessor harmless from and against all claims arising out of any such losses, damages or fines. No right of Lessor under this Section may be waived unless in writing and signed by a corporate officer of Lessor.

19. **VEHICLE RETURN.** Lessee shall return the Vehicle to Lessor in good condition, normal wear and tear excepted, with tires and brakes in accordance with Section 3 or any maintenance addendum executed in connection herewith. Upon termination of this Agreement in any manner permitted hereunder Lessee shall deliver the Vehicle to Lessor at the Return Location. In the event Lessee returns the Vehicle to any other location, Lessee shall pay all costs incurred by Lessor in returning the Vehicle to the Return Location, provided, however, that upon Lessor's prior written consent Lessee may return the Vehicle to an alternative location, subject to a minimum charge of \$200. Any Vehicle not returned in good operating condition and otherwise as set forth herein shall remain leased hereunder and Lessee shall continue to pay Rent until the required repairs are completed by Lessee in a manner acceptable to Lessor or Lessee pays Lessor the actual or estimated cost of repair or purchases the Vehicle in accordance herewith. Upon 3 days prior notice at any time after the expiration of the Minimum Term, Lessor may change any rate, term or condition hereof and/or require Lessee to immediately return the Vehicle to the Return Location.

20. **LESSEE'S PAYMENT OBLIGATION.** Upon the termination of this Agreement for any reason whatsoever, including normal expiration, Lessee's payment obligations under this Agreement shall not cease until the Vehicle has been returned to Lessor or paid for as provided herein and all payments and charges due hereunder have been paid in full. If the Vehicle is lost, stolen, or determined by Lessor to be damaged beyond the reasonable cost of repair, Lessee shall pay to Lessor 115% of the FMV of the Vehicle prior to such event plus any additional payments representing the unamortized portion of expenses associated

herewith. There shall be no abatement of Rent until the Vehicle has been returned to Lessor properly repaired, replaced, or Lessor is compensated as provided herein.

21. **ASSIGNMENT.** Lessee shall not sublet the Vehicle nor assign or transfer this Agreement without Lessor's prior written permission, in which event Lessee's obligations under this Agreement shall continue in full force and effect.

22. **TITLE/FINANCING STATEMENTS.** This Agreement is a lease and not a sale and Lessee shall not by payment of rent hereunder acquire any right, title or equitable interest in the Vehicle or its title. Lessee hereby grants to Lessor a security interest in the Vehicle to secure the payment and performance of Lessee's obligations under this Agreement. Lessee acknowledges that this Agreement grants to Lessor a security interest in the Vehicle and the proceeds received therefrom as set forth and enforceable under the Uniform Commercial Code ("UCC"). Lessee hereby authorizes Lessor or its agents or assigns to sign and execute on its behalf any and all UCC forms, amendments and statements required to perfect the security interest granted herein.

23. **LESSOR IDENTIFICATION.** Lessor reserves to itself, its successors and assigns, at all times during the Lease Term, the right to place and maintain in one or more locations upon the Vehicle Lessor's or its designee's name, logo, or similar designation.

24. **LIENS AND ALTERATION.** Lessee shall keep the Vehicle free from any liens, claims or encumbrances and Lessee shall not, without Lessor's prior written consent, make or suffer any changes, alterations, or improvements in or to the Vehicle or remove therefrom any parts, accessories, attachments or other equipment. All alterations and improvements shall become the property of Lessor upon termination of this Agreement.

25. **RATE ADJUSTMENTS.** Rent and other charges shall be increased or decreased by 100% of the actual percentage change in the United States All Items Index of the Consumer Price Index for all Urban Consumers (CPI-U-base year 1982 = 100) published by the US Department of Labor ("CPI"). Adjustments hereunder shall be made on an annual basis beginning one year following the Commencement Date based upon the then current CPI.

26. **PENDING AGREEMENTS.** If on the face of this Agreement there is a written reference to a Master Lease Agreement, Vehicle Lease Agreement, National Trailer Rental Agreement or any other agreement which has not been executed by both Lessor and Lessee, this Agreement shall terminate upon the execution of such other agreement. If this Agreement is executed without specific rates and/or other charges, the rental rates contemplated under such other proposed agreement shall apply during the term hereof.

27. **OPTIONAL EQUIPMENT.** The term "Vehicle" shall include all Optional Equipment rented hereunder. Lessee assumes all risk of use and loss in connection with Optional Equipment. At its sole cost, Lessee shall at all times during the Lease Term maintain and keep Optional Equipment in the same condition as when delivered to Lessee (normal wear and tear alone excepted). All repairs to Optional Equipment shall conform to the manufacturer's standards and shall be made with new parts. Notwithstanding anything herein to the contrary, Lessor shall have no obligation to inspect or maintain Optional Equipment.

28. **NOTICES.** Any notice, request or demand given under this Agreement, whether or not required, shall be valid only if in writing and shall be deemed effective 3 days following deposit in a United States Post Office if mailed by certified mail, return receipt requested, postage prepaid, or upon receipt if given in any other manner, addressed to Lessor to the attention of Tower Trailer Leasing, LLC, 2500 West State Blvd. Suite A. Fcrt Wayne, Indiana 46808, and to Lessee at the address set forth herein, or at such other address as either party may designate in writing.

29. **ENTIRE AGREEMENT.** This Agreement, together with all amendments, schedules and addenda, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings of the parties with respect to the Vehicle, but without prejudice to Lessor's rights with respect to any breach or default by Lessee under any such prior agreements, and shall be binding upon each party and their respective representatives, successors, and assigns. This Agreement may not be amended or altered in any manner except by a writing signed by duly authorized representatives of Lessee and Lessor.

30. **WAIVER.** The failure of Lessor to insist at any time upon the strict performance of any of the terms, covenants or conditions of this Agreement or to exercise any right or remedy herein, or the waiver by Lessor of any breach of any of the terms, covenants or conditions of this Agreement shall not be construed as thereafter waiving any such terms, covenants, conditions, rights or remedies.

31. **MISCELLANEOUS.** The form of this Agreement is intended for general use in the continental United States and, in the event that any of the terms and provisions hereof are in violation of or prohibited by any law, regulation, rule, ordinance or order, such terms and provisions shall be deemed amended to conform thereto without invalidating any other terms or provisions of this Agreement. Lessee's indemnification obligations under this Agreement include attorney's fees and costs and shall survive the termination of this Agreement. This Agreement and the parties' rights and obligations hereunder shall be governed by the laws of the State of Indiana. Lessee hereby submits to jurisdiction and venue of courts having situs in the Northern District of Indiana and/or the County of Allen, Indiana. Lessee hereby waives any and all rights to a trial by jury of any claim hereunder. Section headings are for convenience only and shall not affect the construction or interpretation of this Agreement.

32. **Governing Law.** The laws of the State of Indiana shall govern this Lease. Venue for any action under this Lease shall be in the State of Indiana, County of Allen.