

TERMS AND CONDITIONS

The following Terms and Conditions ("TC's") will apply, and are hereby incorporated by reference, to all transactions with 66Trailers, LLC (hereinafter "Lessor")

- 1) **AUTHORITY & ACCEPTANCE.** By entering into an Agreement with Lessor, taking possession of Lessor's Equipment or completing any transaction with Lessor, Lessee and Lessee's Agents represent and warrant that they are authorized on behalf of Lessee to enter into such agreements and transactions with Lessor and expressly acknowledge receipt and acceptance of the TC's. Lessee or Lessee's Agent will supply a valid commercial driver's license and sign Lessor's Agreement, binding Lessee to these TC's, prior to taking possession of the Equipment. Lessee acknowledges that it has authorized Lessee's Agent to pick up and/or return the Equipment to Lessor's address and that the signature of Lessee's Agent on the Agreement will bind Lessee to the terms thereof and these TC's.
- 2) **WARRANTY.** THE EQUIPMENT IS RENTED OR LEASED "AS IS WHERE IS." THERE ARE NO EXPRESS OR IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. THERE IS NO WARRANTY THAT THE EQUIPMENT WILL BE FIT FOR A PARTICULAR USE. In no event shall Lessor be liable for special, incidental or consequential damages of any kind. Lessor does not guarantee that Equipment is watertight and as such, shall not be liable for losses or damages to Lessee's cargo for any reason whatsoever.
- 3) **INSPECTION, RECEIPT & DROPOFF.** By taking possession of the Equipment, Lessee shall be deemed to have agreed to the terms of the Agreement, including these TC's, and acknowledges and agrees that the Equipment is in good repair and working order as outlined in the Inspection Report provided to Lessee. Equipment shall be returned to Lessor in the same condition as reported in the Inspection Report at the time possession is delivered to Lessee, with the exception of normal wear and tear.
- 4) **DURATION.** Unless otherwise specified in the Order Form, the Agreement shall continue for consecutive **billing periods of 28 days** beginning on the day Equipment is received by Lessee and will remain in place until the Equipment is returned to Lessor's address during regular business hours and Lessee has fulfilled all its obligations under the Agreement. Upon an Event of Loss, Use Charges shall continue until Lessee pays the Equipment's Loss Value.
- 5) **PAYMENT TERMS & LATE FEES; USE CHARGES.** Unless otherwise agreed in writing, Lessee shall maintain a valid payment method on file with Lessor at all times. Lessee authorizes and consents to Lessor automatically charging such payment method for all amounts due under this Agreement, including, without limitation, rental payments, applicable taxes, fees, late charges, damages, and any other amounts owed. Unless otherwise agreed in writing, recurring rental charges shall be processed on the final day of each billing period. Lessee agrees to pay Lessor a late fee at the rate of 1.5% per month (18% per annum). All payments due hereunder shall be paid in U.S. currency and without necessity of demand or notice, and shall not be subject to counterclaim, setoff, deduction for any reason whatsoever. Any amounts that are not paid in immediately available funds will be subject to a 3% surcharge (i.e. credit card). Any amounts automatically charged or paid that are returned due to insufficient funds, or otherwise rejected or declined, will be subject to an additional fee of \$30 for each occurrence. Lessee agrees to pay Lessor all Use Charges in accordance with the payment terms in the Agreement. These Use Charges may include, but are not limited to, the following:
 - (a) **Rental Charges.** Lessee shall pay rental charges, including any applicable taxes, which are based on a 28-day billing cycle unless otherwise agreed. Except for rental charges for the initial billing period, which are due prior to taking possession of Equipment, Equipment that is returned prior to the expiration of the billing period shall be adjusted to the appropriate weekly and daily rate, as applicable.
 - (b) **Tire & Brake Wear.** Lessee shall pay Lessor \$30 per one thirty-second inch (1/32") of tire tread wear and/or damage per tire. Tire depth will be measured by Lessor at the time of pickup by Lessee at the lowest point of remaining tire depth. A similar measurement will be made upon return of Equipment. Lessee shall pay Lessor \$20 per one thirty-second inch (1/32") of wear and/or damage per set of brake shoes associated with each of the 4 brake drums. Measurements will be taken and recorded in the same manner as the tire tread measurements described above. Measurements of the foregoing will be recorded in the Inspection Report to be approved by Lessee.
- 6) **OWNERSHIP.** Lessee acknowledges that title to the Equipment shall remain with Lessor at all times; Lessee shall not acquire or accrue any right, title or interest in the Equipment except as expressly stated in the Agreement. Lessee agrees not to sell, assign, sublet or otherwise encumber any interest in the Agreement or the Equipment and agrees to keep the same free from any liens, encumbrances, or other claim that may be asserted by a third party.
- 7) **MAINTENANCE & USE OF EQUIPMENT.**
 - (a) Lessee (i) is solely responsible for determining whether the Equipment it rents or leases from Lessor is fit and sufficient for Lessor's designated purpose, (ii) is responsible for the condition, operation, inspection and maintenance of the Equipment, including the replacement of any worn or damaged parts, (iii) shall operate the Equipment in conformance with Applicable Law, (iv) shall maintain the Equipment, at Lessee's own expense, in accordance with Applicable Law and Repair Standards, in good condition and free from defects, (v) shall promptly notify Lessor regarding any mechanical failure or problem, and (vi) is responsible for any and all damage to the Equipment. **Lessee shall return all Equipment to Lessor in the same condition as received, normal wear excepted. All repairs and replacement parts shall become part of the Equipment and be owned by Lessor.**
 - (b) Lessee shall not (i) permit any Equipment to be transported outside of the continental United States or Canada, (ii) use the Equipment for transportation or storage of any goods or materials that may cause damage, contamination, excessive wear, corrosion, or that violate any Applicable Law, including, but not limited to, Hazardous Materials, refuse-related materials, loose or bulk materials not properly contained or secured, fertilizers of any kind, live animals or animal byproducts, and perishable or temperature controlled goods (unless Equipment is specifically designed for such use), (iii) remove, obscure or alter any identification marks or decals on the Equipment, or (iv) install any decals, accessories or make any alterations without the prior written consent of Lessor, which may be withheld for any reason.
 - (c) Lessee shall be solely responsible for any Additional Charges related to Lessee's use or operation of the Equipment. Lessor shall notify Lessee of any invoices for Additional Charges received by Lessor, and Lessee shall directly pay such amounts promptly upon notice. Lessor may, in its sole discretion and upon notice to Lessee, pay any Additional Charges to avoid delinquency, penalties, or other adverse consequences with third parties. In such event, Lessee shall immediately reimburse Lessor an amount equal to 120% of the amount paid, subject to a minimum charge of \$100.
- 8) **LOSS, DAMAGE & REPAIRS TO EQUIPMENT.** Upon an Event of Loss, notwithstanding any amounts which may be paid or disputed by Lessee's insurance company, Lessee is responsible for and shall promptly pay Lessor the Equipment's Loss Value. Lessee must notify Lessor within 72 hours of an Event of Loss. In the case of partial loss or damage to Equipment, Lessee shall make all repairs and/or replacements at Lessee's expense in accordance with the Repair Standards and promptly provide Lessor notice and documentation of all such repairs and/or replacements. Lessee shall be liable to Lessor for the total estimated or actual cost, as determined by Lessor in its sole discretion, to repair any Equipment returned to Lessor with

damage not noted on the Inspection Report or repaired in a manner that is not in compliance with the Repair Standards. Lessee shall not be entitled to any refund of any paid estimated repair costs should the actual cost of repair be less.

9) INSURANCE.

(a) Lessee agrees that it will bear all risk of loss, damage to, or destruction of Equipment. Lessee agrees to maintain, at its own expense and with an insurance carrier rated B+ or better by AM Best, the minimum levels of insurance, as set forth below, with deductible limits not to exceed \$2,500 per occurrence. Lessor reserves the right to determine, in its sole discretion, if an insurance policy complies with the requirements of this section. (i) Comprehensive Automobile Liability coverage with a minimum limit of \$1 million per occurrence with Lessor named as additional insured and the Equipment listed as "leased auto(s)" or other equivalent; and (ii) Insurance covering physical loss of or damage to the Equipment from any cause in an amount not less than the full value of Equipment as determined by Lessor in its sole discretion. Lessor must be named loss payee.

(b) Lessee can fulfill its obligation to provide the insurance required in Section 9(a)(ii) by purchasing Lessor's **Loss Damage Waiver ("LDW")**. **Lessee understands and agrees that the LDW is not insurance and is only a waiver of Equipment damage or loss arising from a Covered Event.** As requirements to participate in the LDW plan, Lessee must (i) expressly elect to participate in the LDW, (ii) pay all LDW charges, (iii) be in compliance with the terms of the Agreement, (iv) report the occurrence of a Covered Event to Lessor in writing within 72 hours of such occurrence along with a copy of the police report and any other documentation reasonably requested, and (v) pay the applicable \$2,000 or \$5,000 deductible, based upon the specific Equipment involved (the "Deductible"). **The LDW does not cover lost or missing Equipment, cargo, towing and storage charges, tire theft or damage, damage from tire blowouts, vandalism, contamination, or damages and/or loss arising from natural disasters and weather events.**

(c) If Lessor determines that Lessee has fully complied with all of the obligations of this section and is not otherwise in Default of the Agreement, Lessor will relieve Lessee of all liability exceeding the Deductible for a Covered Event. Lessor reserves the right to revise the rates for or cancel the LDW coverage upon 10 days' prior written notice to Lessee. Use Charges will be stopped upon Lessee's payment of the Deductible unless Lessor allows Lessee to continue renting or leasing the Equipment.

(d) Policies described in this section shall be valid and in full force and effect until the Equipment is returned to Lessor. Lessee shall provide Lessor with certificate(s) of insurance evidencing the required coverages prior to taking possession of any Equipment and prior to any renewal or change without notice from Lessor. Lessee shall provide Lessor with 30 days prior notice of any cancellation or material change to Lessee's insurance. If requested by Lessor, Lessee shall file a claim with its insurance carrier for any lost, stolen or damaged Equipment. Nothing contained in these insurance requirements shall be construed as limiting the extent of Lessee's liability under the Agreement.

10) SECURITY DEPOSIT. As security for full performance by Lessee of its obligations, a security deposit, in an amount determined by Lessor, may be required and shall be delivered to Lessor prior to Lessee taking possession of any Equipment (the "Deposit"). The Deposit may be used to offset any amounts due and owing by Lessee to Lessor. The Deposit, or any remaining balance thereof, shall be returned to Lessee within a reasonable time after Lessee has fully performed all obligations under this Agreement, including payment of all amounts due herein.

11) INDEMNIFICATION & HOLD HARMLESS. Lessee assumes all liability for, and agrees to indemnify, protect and hold harmless, Lessor, its agents, successors and assigns from and against any and all liabilities, claims, obligations, losses, damages, injuries, demands, penalties, actions, expenses, including reasonable attorneys' fees, of whatever kind or nature ("Claims"), arising out of the use, condition (including but not limited to latent and other defects and whether or not discoverable by Lessee or Lessor), operation, maintenance, ownership, selection, rental or return of any items of Equipment, regardless of where, how and by whom operated, or any failure on part of Lessee to perform or comply with any conditions of the Agreement, even if such Claims were alleged to be caused on whole or in part by the negligence of Lessor. Lessee shall not settle or compromise any Claims against Lessor without Lessor's prior written consent. The indemnities and assumptions of liabilities and obligations in the Agreement shall continue in full force and effect notwithstanding the termination of the Agreement.

12) GPS. Lessor may install a tracking device in or on the Equipment for the purpose of locating the Equipment. Lessee waives any rights of privacy that may exist arising out of or in connection with the Equipment or tracking devices. Removal of or tampering with the tracking device shall be deemed a Default under the Agreement.

13) TAXES. All taxes and assessments, sales and/or use taxes, and all penalties or other charges arising out of the use, possession or control of Equipment during the Agreement, shall be the responsibility of Lessee. In order to avoid the obligations under this section, Lessee must provide Lessor with a duly authorized exemption certificate issued by or acceptable to the relevant taxing authority.

14) DEFAULT. LESSEE SHALL BE IN IMMEDIATE DEFAULT HEREUNDER UPON THE OCCURRENCE OF ANY OF THE FOLLOWING (INDIVIDUALLY OR COLLECTIVELY, A "DEFAULT"): (i) if Lessee fails to comply with or is in breach of any of the terms or conditions of the Agreement, including the timely payment of all invoices; (ii) if Lessee is in default of any of the terms or conditions of any other agreement with Lessor; (iii) if Lessee fails to maintain or provide Lessor with proper evidence of the insurance required by these TC's, or Lessee's insurance is cancelled, reduced or lapses, or (iv) if Lessee becomes insolvent or subject to any voluntary or involuntary bankruptcy or insolvency proceedings.

15) LESSOR'S REMEDIES. In addition to any rights or remedies available at law or in equity, upon a Default by Lessee, Lessor may, at its option and without notice, do any one or more of the following: (i) amend the Use Charges upon ten (10) days' prior written notice to Lessee; (ii) charge Lessee's payment method on file for any amount due under the Agreement; (iii) pay all amounts required to perform any obligations required to be performed by Lessee under the Agreement and charge Lessee as additional rent the amount equal to 120% of the amount paid by Lessor; (iv) terminate Lessee's right to possession of and take immediate possession of all outstanding Equipment; (v) terminate the Agreement and demand the immediate return of all Equipment (whereupon these TC's shall continue to apply to Equipment until its return); (vi) revoke Lessee's option to purchase the Equipment, if applicable, (vii) calculate and require Lessee to pay all expenses, including any attorneys' fees and collection costs incurred in recovery of any sums due or repossession of any Equipment; and (viii) set-off and apply any amounts owing by Lessor to Lessee against any amounts owing by Lessee to Lessor, including without limitation, any deposits, accruals, prepayments, overpayments, credits or otherwise. Lessor's failure to exercise any right or remedy shall not constitute a waiver.

16) REPOSSESSION. In the event of Lessee's Default, and upon demand of Lessor, Lessee shall immediately return all Equipment to Lessor. If Lessee fails or refuses to immediately return all Equipment, Lessor shall have the right to enter upon any premises where the Equipment is located and take immediate possession of the Equipment without incurring any liability or further obligation to Lessee. If Equipment contains personal property, Lessor may hold such property in storage at Lessee's sole cost and expense. If Lessee fails to retrieve such property within 30 days following

repossession of the Equipment, Lessor may, in its sole discretion, dispose of such property in any manner it deems appropriate, without notice or liability to Lessee. During such 30-day period, Lessor agrees to reasonably cooperate with Lessee to facilitate the return of such property, provided that Lessee has paid all amounts then due and owing under the Agreement. Lessee acknowledges Lessor has no obligation to determine whether any such property is owned by Lessee or any third party and accordingly agrees to defend, indemnify and hold Lessor harmless from and against any and all Claims arising from or relating to Lessor's possession, storage, sale, or disposal of such property.

17) BUSINESS CONDUCTED ELECTRONICALLY. Lessee agrees and consents to conduct business with Lessor electronically, including receiving and accepting any notices via electronic mail (e-mail) or other electronic delivery, and that an electronic signature on any agreement, transaction, notice or other communication shall have the same force and effect as the use of a manual signature. Lessee need not open or view an electronic record for it to be considered received.

18) NOTICES. All notices or other communication required under the Agreement shall be in writing and shall be deemed given and made **(i)** if by electronic mail or personal delivery, on the date of delivery, **(ii)** if by nationally recognized overnight courier, on the next day following deposit, and **(iii)** if by mail, on the third business day following deposit. Any notice or communication sent to Lessor shall be sent to 2420 Cherahala Boulevard, Suite 125, Knoxville, TN 37932. Any change of address by either party shall be communicated to the other in writing.

19) SEVERABILITY. The Agreement shall be severable as to its provisions, and should any provision be declared unenforceable for any reason, the remainder shall remain in full force and effect.

20) LAW; VENUE; JURY TRIAL WAIVER. The Agreement shall be governed by the laws of the State of Tennessee, without regard to conflicts of law's provisions. The parties agree that venue for any suit or claim filed in connection with the Agreement will be in Knox County, Tennessee and hereby waive their right to a trial by jury in any legal proceeding for any claim, dispute or controversy arising from or related to the Agreement.

21) SURVIVAL. The provisions of the Agreement and these TC's by their nature extend beyond the termination of the Agreement, including indemnity, limitations of liability, payment and billing, damage and repairs to Equipment, choice of law, venue, and jury trial waiver, shall survive the termination of the Agreement.

22) DEFINITIONS.

(a) "Additional Charges" means any costs, fees, expenses, fines, or charges incurred in connection with the operation, use, or possession of the Equipment that are billed to or otherwise imposed upon Lessor, including but not limited to any third-party invoices, tolls, traffic or parking violations, citations and any related costs arising from Lessor's status as owner of the Equipment.

(b) "Agreement" means the Order Form together with these Terms and Conditions, including any addenda, schedules, or exhibits ("attachments") attached hereto or incorporated herein by reference, as the same may be amended from time to time.

(c) "Applicable Law" means any federal, state, local or foreign law, statute, rule, regulation, order, judgment, opinion or ordinance applicable to the lease, use, possession, operation, maintenance or control of the Equipment.

(d) "Claims" has the meaning set forth in Section 11.

(e) "Covered Event" means damage or loss of Equipment that is reported to Lessee within 72 hours and arises from collision caused by a vehicular accident (police report required) EXCEPT when such Covered Event arises from Lessee's breach of the Agreement or Lessee's negligence, willful misconduct, intentional acts, or operation of the Equipment in violation of Applicable Law.

(f) "Default" has the meaning set forth in Section 14.

(g) "Equipment" means the rented or leased semi-trailer(s) or other over-the-road or storage equipment specified in the Order Form.

(h) "Event of Loss" means the Equipment is lost, destroyed, stolen, damaged beyond repair, condemned, or seized, as determined by Lessor in its sole discretion, whether due to accident, fire, lightning, theft, flood, vandalism, windstorm or otherwise.

(i) "Hazardous Materials" means any substances that could have a detrimental effect on human health, the environment, or the Equipment (including its components) or cargo placed in the Equipment, including, hazardous substances regulated under Applicable Law, medical, biological or other solid or liquid waste, acids, fertilizers, corrosives, caustics, brighteners, and chlorides.

(j) "Inspection Report" means the report regarding the condition of the Equipment that is produced by Lessor or its agent at the time of pick-up by Lessee and finalized at the time Equipment is returned. Inspection Reports are signed by both Lessor and Lessee and are hereby incorporated into the Agreement by reference.

(k) "Lessee" means the business entity or individual listed on the Order Form that enters into an Agreement with Lessor. The term Lessee shall be deemed to include the term Lessee's Agent(s).

(l) "Lessee's Agent" means a person acting on behalf of Lessee who picks up, inspects, takes possession of, or returns Equipment, and/or who executes an Agreement or other document on behalf of Lessee.

(m) "Lessor" means 66Trailers, LLC, a Tennessee limited liability company.

(n) "Loss Value" shall equal the current value of Equipment, as determined by Lessor in its sole discretion, on the first day of the month which the loss or destruction occurs.

(o) "Order Form" means the written agreement whereby Lessee, the Equipment, Use Charges, payment and other terms are specified, which is governed by and incorporates by reference the Terms and Conditions.

(p) "Repair Standards" means repairs performed in a good and workmanlike manner in accordance with applicable OEM repair procedures and specifications (where available), applicable federal, state, and local laws and regulations, and generally accepted commercial trailer industry practices, using OEM or equivalent-quality parts and materials, as reasonably determined by Lessor, to restore the Equipment to substantially the same structural integrity, safety, functionality, appearance, and value existing immediately prior to the damage.

(q) "TC's" means the Terms and Conditions contained in this document, as amended from time to time.

(r) "Use Charges" means the required payments to be made by Lessee to Lessor for each day, week or month Equipment is on rent or lease to Lessee. Use Charges include the rental charges, including applicable taxes and late fees described herein, plus any and all Additional Charges, fees, repairs and any other amounts required to be paid by Lessee pursuant to the Agreement.