

TERMS AND CONDITIONS OF EQUIPMENT LEASE

These TERMS AND CONDITIONS OF EQUIPMENT LEASE (these “**Terms**”) apply to all purchase orders, invoices documents or other agreements (“**Orders**”) which relate to your (“**Lessee**”) rental of various trailers and/or containers (collectively, “**Equipment**”) from American Trailer Rental Group, LLC dba WOW Trailer Rental, on behalf of itself and its subsidiaries (collectively, “**Lessor**”). These Terms and any invoice issued by Lessor in respect of the Equipment (collectively, the “**Agreement**”) represent the entire agreement and understanding between the parties relating to the subject matter hereof and supersede all prior and contemporaneous representations, discussions, negotiations and agreements, whether written or oral. No additional or conflicting terms or conditions contained in any purchase order, order confirmation or other document from Lessee shall alter, add to, or otherwise affect the terms and conditions contained herein. These Terms prevail over any of Lessee’s general terms and conditions of purchase.

TERMS AND CONDITIONS

1. **DELIVERY AND ACCEPTANCE OF EQUIPMENT**. Upon the Lessee’s acceptance of the Equipment, Lessor hereby surrenders control, possession, management, use and operation of the Equipment set forth on the applicable Order to Lessee for purpose of leasing such Equipment to Lessee and Lessee agrees to immediately take control, possession, management, use and operation of the Equipment for the duration set forth on the applicable Order. Lessee shall be deemed to have control, possession, management, use and operation of the Equipment at all times after the execution of the applicable Order and prior to the return of the Equipment to Lessor regardless of whether the Equipment may be in the possession of any other party. Additionally, Lessee shall assume complete responsibility at all times for the Equipment under all applicable laws, and shall further keep the Equipment free of all liens or encumbrances and other security interests of any kind. Lessee shall not acquire any right, title or interest in or to the Equipment, except for the right to possess and use the Equipment as provided herein, subject to the earlier termination of such right as provided herein. Lessee shall return the Equipment to the point at which the initial delivery occurred or such other place as may be agreed to by Lessor.

2. **FEES, TAXES AND LATE CHARGES**. If any payment due hereunder is not paid on the due date, Lessee agrees to pay Lessor interest on such paid amount equal to the lesser of 1.5% per month for the period such amount remains unpaid or the maximum amount allowed by law. Lessee shall pay or, if requested by Lessor, reimburse Lessor for any and all sales, use, personal property taxes, or other taxes, fees or assessments levied against or imposed upon the Equipment, its value, use or operation, or levied against or based upon the rentals paid or to be paid hereunder. Payments shall be effective upon receipt. Lessor may apply any payment received from Lessee at any time against any obligation due and owing by Lessee under this Agreement, regardless of any statement appearing on or referred to in any remittance from Lessee or any prior application of payment. The receipt by Lessor of a partial payment of any amount due to Lessor endorsed as payment in full will be deemed to be a part payment only, and any endorsements or statements on the check or any letter accompanying the check shall not be deemed an accord and/or satisfaction, and notwithstanding said endorsements, Lessor may accept and deposit said check without prejudice to its right to recover the balance. Lessee’s obligation (without prior notice or demand) to pay undisputed rent and all other undisputed amounts due hereunder shall be absolute and unconditional, and not subject to any abatement, set off, defense, recoupment, or reduction. Lessor will invoice Lessee for all recurring rental charges and other amounts due under this Agreement on a monthly basis in advance. All payment obligations of Lessee accrue on the first day of each calendar month during the term and are billed on a full-month basis; charges will not be prorated for any partial month, including the final month of the term; provided, however, that the first billing period will be prorated from the Commencement Date through the last day of that calendar month.

3. **AS-IS CONDITION**. LESSEE ACKNOWLEDGES THAT (I) NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, HAVE BEEN OR ARE BEING MADE BY OR ON BEHALF OF LESSOR OR ANY OTHER PERSON, INCLUDING WITH RESPECT TO THE CONDITION OF THE EQUIPMENT RENTED HEREUNDER, AND LESSOR HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES RELATING TO THE EQUIPMENT, EITHER EXPRESS OR IMPLIED, INCLUDING MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND SUITABILITY FOR ITS INTENDED USE, (II) IN ENTERING INTO THIS AGREEMENT, LESSEE HAS NOT RELIED ON AND DOES NOT RELY ON ANY SUCH REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, BY OR ON BEHALF OF LESSOR OR ANY OTHER PERSON, AND (III) LESSEE TAKES THE EQUIPMENT FOR LEASE IN “AS IS, WHERE IS, AND WITH ALL FAULTS” CONDITION. NOTWITHSTANDING ANYTHING ELSE CONTAINED IN THIS AGREEMENT, LESSEE’S SOLE REMEDY FOR ANY BREACH OF THIS AGREEMENT BY LESSOR SHALL BE THE RETURN OF SUCH EQUIPMENT TO LESSOR.

4. **LAWFUL USE; RECORDS; HAZARDOUS MATERIALS**. Lessee shall not make, suffer or permit any unlawful use or handling of the Equipment. Lessee shall have complete control and supervision of the Equipment from the time it receives the Equipment until it returns the Equipment to Lessor and agrees that the Equipment will not be operated by any person other than Lessee or agents or employees of Lessee. Lessee represents and warrants that any agents or employees of Lessee who operate the Equipment will exercise due care when operating the Equipment and will have a valid license to operate the Equipment and any other equipment used in connection with the Equipment, as required by applicable law. Lessee shall operate the Equipment in accordance with federal and state law applicable to common carriers, including in accordance with any legal obligations Lessee may have to the public, Lessor and the public authority while the Equipment is in Lessee’s

possession. Lessee shall retain commercially reasonable records documenting each trip of the Equipment as used in service. These documents shall contain the name and address of the operator of the Equipment, the point of origin, the time and date of departure and the point of final destination. Also, Lessee shall carry papers with the Equipment during its operation containing this information and identifying lading and clearly indicating that the transportation is under Lessee's responsibility. These documents shall be preserved by Lessee as part of its transportation records. Lessee shall keep all records in the Equipment as required by 49 C.F.R. Part 376. Lessee shall not utilize any Equipment to transport commodities or products which are or may be noxious, injurious, damaging or dangerous. Lessee represents and warrants that the use of the Equipment shall be in compliance with all state and federal regulations as applicable to transportation.

5. **LICENSING AND PERMITTING.** Lessee assumes all responsibility for any and all licenses, titles, permits and other certificates as may be required by law or otherwise for Lessee's lawful operation of the Equipment in any state except the state in which the Equipment are already licensed. Lessee agrees that all certificates of title or registration applicable to the Equipment shall reflect Lessor's ownership thereof.

6. **ALTERATIONS.** Lessee agrees not to remove existing nameplates or decals affixed to the Equipment. Lessee shall not make or suffer any changes, alterations or improvements to the Equipment and shall not permit the Equipment to go or remain out of Lessee's possession without the written approval of Lessor and then only to the extent of such approval. Lessee shall be liable for and shall pay Lessor for any loss or damage resulting from changes, alterations or improvements to the Equipment made without Lessor's approval. During the term of this Agreement, Lessee shall keep the Equipment in good repair and operating condition and free of any and all liens and encumbrances. Lessee shall be responsible for the safe return of the Equipment to Lessor in the same condition as when received, ordinary wear excepted. Lessee, at its own cost and expense, shall make all necessary repairs to maintain the Equipment in serviceable condition.

7. **SERVICE AND MAINTENANCE.** Lessee shall service the Equipment at reasonable intervals as necessary and proper in accordance with industry standards and, in connection therewith, maintain the Equipment in good working order, condition and appearance and furnish all appropriate oil and fuel for the Equipment, and return the Equipment with fuel and oil tanks filled to same level as when the Equipment was delivered to Lessee.

8. **DAMAGE.** Lessee assumes the risk of all loss and damage to the Equipment from all causes. In the event the Equipment is damaged, lost or stolen while in the possession of Lessee or its authorized agent, Lessee shall: (1) immediately notify Lessor of the damage, loss or theft, providing a copy of the police report; and (2) be responsible for and reimburse Lessor for all costs as specified below. Lessee shall be responsible for the cost of all damages and repairs, which also includes tire and brakes. Notwithstanding anything contained herein to the contrary, if the Equipment is reported damaged, Lessee shall, at Lessee's expense, return the damaged Equipment within five (5) days of such damage. If Lessee fails to return the damaged Equipment within five (5) days, Lessee shall be liable to Lessor for a daily damage and deterioration charge equal to 5% of the monthly amount, in addition to the monthly amount, payable under this Lease. In the event the damaged Equipment is, in Lessor's sole determination, economically repairable, Lessee agrees to reimburse Lessor for the costs of such repairs, and all related expenses including costs of investigation, transportation and cleaning. Such reimbursement by Lessee under this clause shall be paid within fifteen (15) days of receipt of invoice from Lessor. In the event the Equipment is lost, stolen, or, in Lessor's sole determination, totally destroyed, or destroyed and considered to be a constructive total loss, Lessee agrees to reimburse Lessor on the basis of the fair market value or insured value as maintained on file by Lessor, plus the cost of special equipment and accessories, as of the date of notification that the Equipment is lost, stolen or totally destroyed or declared a constructive total loss. Lessee shall accrue no salvage rights in any Equipment or related equipment as a result of any payments made by the Lessee or its insurance company to Lessor for payment of damages which arise under the terms of this Agreement.

9. **INITIAL INSPECTION; INSPECTIONS.** Prior to taking possession of the Equipment from Lessor, Lessee shall gauge all tires and brakes for thickness. Upon return, the Equipment shall have tire and brake thickness that is reasonably similar to the thickness as gauged prior to delivery. If tire or brake thickness is unreasonably lower than the thickness as gauged prior to delivery, as determined in the sole discretion of Lessor, Lessee shall pay a reasonable fee for such tire or brake usage, as applicable. In the event replacement tires are required to be provided by Lessee at its cost and expense, such replacement tires shall be new and of the same quality and type as the tires that were on the Equipment prior to delivery to Lessee. Prior to delivery of the Equipment to Lessee and again prior to return by Lessee to Lessor, Lessee shall carefully inspect the Equipment and such inspection shall be documented by the inspection report on the applicable Order. The inspection report is to be signed by the driver or agent of Lessee at the time Lessee takes possession of or returns the Equipment, and such inspection report shall identify the unit number and date of pick up from or return to Lessor. Lessee acknowledges that such inspection reports may be amended by Lessor from time to time, and shall constitute the receipt required by 49 C.F.R.

376.11(b). Also, such inspection reports shall be prima facie evidence of the good order of the Equipment at time of delivery to Lessee and that the Equipment is satisfactory and acceptable to Lessee, except as may be otherwise indicated on the inspection report. Any inspection reports submitted to Lessor upon return of the Equipment shall constitute a certification by Lessee to Lessor that the Equipment is in good running order and condition, unless otherwise indicated on the inspection report. Lessee shall be responsible for conducting preventive maintenance inspections on the Equipment. Lessee shall promptly provide a report of such inspections to Lessor. Furthermore, Lessee shall be responsible for all inspections required by federal, state or local authorities with respect to any Equipment that is in Lessee's possession at the time any such inspection is required to be conducted. Lessee shall promptly provide a report of such inspections to Lessor. Lessee acknowledges that it is solely responsible for the inspections of the Equipment in Lessee's control and possession.

10. **DEFAULTS AND REMEDIES.** Lessee shall be deemed to be in default hereunder upon the occurrence of any of the following events ("**Events of Default**"): (1) Lessee shall fail to make any payment due hereunder within 30 after its due date; (2) Lessee shall fail to perform or observe any other term, covenant, or condition of this Agreement; (3) Lessee shall have abandoned the Equipment; or (4) Lessee shall have defaulted under any other agreement with Lessor beyond all applicable cure periods. Upon the occurrence of an Event of Default, Lessor may declare this Agreement to be in default, and thereafter may exercise any one or more of the following remedies: (1) declare all amounts owed by Lessee to Lessor, including any amounts relating to partial lease periods currently in process, and all other unpaid rent, fees, taxes and charges, for any or all Orders under this Agreement immediately due and payable; (2) repossess, retake and/or retain any or all of the Equipment free of all rights and claims of Lessee without notice, legal process, or judicial intervention, and without releasing Lessee of any term, covenant or condition provided herein; (3) terminate this Agreement with respect to one or more Orders or the entire Agreement, at Lessor's sole option. and/or (4) exercise any other right or remedy available to Lessor at law or in equity. Lessor's waiver of any Event of Default shall not constitute a waiver of any other Event of Default or a waiver of any term or condition of this Agreement. Lessee shall pay all Lessor's legal fees and all other costs and expenses incurred by reason of any Event of Default. No right or remedy referred to herein is intended to be exclusive, and each may be exercised concurrently or separately and from time to time. In the event Lessor shall repossess or retake the Equipment, and there shall be in or attached to such Equipment any property owned by, or in the custody or control of Lessee, then Lessor is hereby authorized to take possession of such property for a period of 10 days. Thereafter, any such property not claimed and taken by Lessee will be deemed abandoned, and Lessor shall have the right to dispose of it. Unless otherwise provided elsewhere in this Agreement, a termination hereunder shall occur only upon written notice by Lessor to Lessee and only with respect to such items of Equipment as Lessor specifically elects to terminate in such notice. Except as to such items of Equipment with respect to which there is a termination, this Agreement shall remain in full force and effect and Lessee shall be and remain liable for the full performance of all of its obligations hereunder;

11. **TERM.** Subject to Section 10, this Agreement shall remain in effect until terminated by either party upon thirty (30) days' prior written notice. Upon termination or expiration of this Agreement, for any reason, Lessee shall return the Equipment to Lessor within three (3) business days of such termination.

12. **ASSIGNMENT; SUB-LEASING.** Lessee shall not have the right to assign this Agreement or sublet, rent or otherwise hire out the Equipment to any person, firm, partnership, association or corporation other than Lessor, without the prior written consent of Lessor. Lessor shall have the right to assign this Agreement, and in the event of such an assignment, the assignee shall acquire all rights and remedies possessed by or available to Lessor.

13. **INDEMNIFICATION.** Lessee agrees to indemnify, defend and keep harmless Lessor, its agents and employees, from and against any and all losses, claims, attorneys' fees and expenses, **including but not limited to those arising out of or caused by the negligence of Lessor or its agents or employees**, arising out of or related to: (i) any loss or damage to the Equipment or any part or component thereof; (ii) the death of, injury to, or damage to the property of, any person or party related to or arising out of the delivery, installation, use, possession, condition, return, repossession or relocation (by other than Lessor) of the Equipment and any part or component thereof, (iii) the failure of Lessee to maintain the Equipment as agreed to herein; and/or (iv) any breach of this Agreement by Lessee. Lessee shall give Lessor immediate notice of any claim or liability hereby indemnified against.

14. **LIMITATION OF LIABILITY.** **NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES ARISING FROM OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF ANY NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THE FOREGOING, NOTHING IN THIS PARAGRAPH IS INTENDED TO LIMIT OR RESTRICT THE INDEMNIFICATION RIGHTS OR OBLIGATIONS OF ANY PARTY UNDER SECTION 13.**

15. **INSURANCE.** Lessee agrees to procure and deliver to Lessor prior to delivery to Lessee of the Equipment, and to keep in full force and effect during the entire term of this Agreement, a policy or policies of insurance satisfactory to Lessor that provide insurance coverage for (1) physical damage to the Equipment, (2) auto liability, and (3) general liability. The policy(ies) will protect the Lessor against all loss and damages it may sustain or suffer because of (a) the loss of or damage to the Equipment because of fire, theft, collision, lightning, flood, windstorm, explosion or other casualty and (b) the death of, injury to, or damage to third persons or the property of any third person as the alleged or actual result of, in whole or in part, the use or condition of the Equipment while under the control, possession, management, use and/or operations of Lessee. The policy(ies) shall provide physical damage limits equal to the value of the Equipment, auto liability limits of no less than \$1,000,000 combined single limit, or such greater amount as required by applicable law, and minimum general liability limits of \$1,000,000 each occurrence and \$2,000,000 general aggregate. The Lessor shall be named as a loss payee on the physical damage policy and as an additional insured on the auto liability and general liability policies. Any and all deductibles for these policies should be reflected on the certificate of insurance. The obligations of Lessee to obtain insurance are separate and apart from all other obligations of Lessee hereunder and Lessee's failure to obtain such insurance shall have no effect on the enforceability of the remainder of this Agreement and Lessee's other obligations hereunder.

16. **ATTORNEYS' FEES.** If any legal action or proceeding shall be commenced at any time by Lessor in connection with the enforcement of its right under this Agreement and Lessor is the prevailing party in such action or proceeding, Lessor shall be entitled to reimbursement of its reasonable attorneys' fees and costs in connection therewith, in addition to all other relief to which it may be entitled. If Lessor refers this account to a third party for collections due to Lessee's late payment or non-payment, Lessor shall be reimbursed for all collection costs, including court costs and reasonable attorneys' fees related thereto.

17. **MAXIMUM WEIGHT.** Lessee acknowledges and agrees that the maximum weight capacity of the Equipment is 45,000 pounds equally distributed throughout the Equipment. Lessee shall not allow the weight in the Equipment to exceed the maximum weight capacity at any time.

18. **CHOICE OF LAW; VENUE; WAIVER OF JURY TRIAL.** This Agreement and all of the terms, provisions, covenants and indemnities provided herein shall be deemed to be entered into in Boone County, Kentucky. The parties consent to the exclusive jurisdiction of the courts located in Boone County, Kentucky, in connection with any dispute arising out of or based upon this Agreement. The parties agree that the laws of the Commonwealth of Kentucky shall be exclusively applied to any dispute arising out of this Agreement (without regard to any conflict of law principles that would require the application of any other law). **LESSEE AND LESSOR WAIVE ALL RIGHT TO TRIAL BY JURY OF ALL CLAIMS, DEFENSES, COUNTERCLAIMS AND SUITS OF ANY KIND ARISING FROM OR RELATING TO THIS AGREEMENT.**

19. **PRECEDENCE.** In the event of any conflict or inconsistency between the terms and provisions of these Terms and the terms and provisions of any Order, these Terms shall control.

20. **MISCELLANEOUS.** Time is of the essence with respect to this Agreement. Neither party shall be responsible for delays beyond its control. This Agreement represents the entire Agreement between the parties with respect to the subject matter hereof and supersedes all previous agreements between the parties covering the same subject matter. This Agreement cannot be amended or altered except by a written instrument signed by both parties. The failure of Lessor to insist upon the punctual or strict performance of any covenant of Lessee hereunder or Lessor's failure to exercise any right or remedy available under this Agreement shall not constitute a waiver of any subsequent default hereunder or of any subsequent right or remedy of Lessor. All notices, demands, communications or requests required or permitted to be given under this Agreement shall be sufficiently given if delivered personally, mailed by registered mail, postage prepaid, return receipt requested, or by Federal Express or similar overnight delivery service, at the address specified above. The obligations of the parties under this Agreement which by their nature are intended to survive termination or expiration (including, without limitation Sections 13 and 14) shall survive the termination or expiration of this Agreement for a period of three (3) years. If any provision of this Agreement is deemed unenforceable for any reason, then such provision shall be deemed stricken and shall not affect the enforceability of any of its other provisions. Notwithstanding anything contained herein to the contrary, if it should be determined by a court of competent jurisdiction that any indemnification or other protection afforded to a party under Section 13 would be in violation of or otherwise prohibited by any applicable law, then Section 13 shall automatically be deemed to be amended in a manner which provides the maximum indemnification and other protections to such party consistent with such applicable law.