

**XTRA LEASE LLC
STANDARD TERMS AND CONDITIONS**

The following Standard Terms and Conditions apply to all transactions and dealings with XTRA Lease, including, but not limited to, all leases or rentals of XTRA Lease Equipment, whether pursuant to a long-term Equipment Lease Agreement, National Account Agreement, Short-term Rental Agreement, Equipment Rental Agreement or any other agreement.

1. DEFINITIONS.

(a) **“Applicable Law”** means any federal, state, local or foreign law, statute, rule, regulation, order, judgment, opinion or ordinance applicable to the use, possession, operation or control of the Equipment, including, without limitation, the HDV Regulations and the TRU Regulations (both as defined in Section 17).

(b) **“Casualty Loss Value”** shall be equal to either the fair market value, as determined by XTRA Lease, or XTRA Lease’s book value of a unit of Equipment, **whichever is greater**, and shall be determined on the first day of the month during which the loss or destruction of such unit of Equipment occurs.

(c) **“Communication Services”** means the two-way wireless tracking and mobile information management services provided to Lessee by or through XTRA Lease that utilize the communications network provided by third-party licensors of XTRA Lease.

(d) **“Default”** has the meaning as set out in Section 21.

(e) **“DOT”** means the United States Department of Transportation.

(f) **“Equipment”** means the XTRA Lease semi-trailer, chassis, refrigerated trailer, or other over-the-road or storage equipment together with the attached Trailer Tracking Unit and related sensors, if applicable.

(g) **“Equipment Damage Notification”** means the document provided to Lessee by XTRA Lease, in electronic or other format, that specifies damages noted whenever Lessee returns a unit of Equipment to an XTRA Lease location.

(h) **“Equipment Lease Agreement”** means a true lease agreement between Lessee and XTRA Lease for the leasing of XTRA Lease Equipment by the Lessee for a specified Lease Term and at specified Use Charges.

(i) **“Equipment Rental Agreement”** means the agreement provided to Lessee by XTRA Lease, in electronic or other format, whenever a unit of Equipment is picked up from or returned to an XTRA Lease location by Lessee or Lessee’s Agent.

(j) **“Estimated Charges”** mean amounts payable by Lessee as estimated payments of Use Charges which would otherwise be payable at the end of the Lease.

(k) **“Intellectual Property”** has the meaning as set out in Section 23.

(l) **“Lease”** means any and all arrangements or agreements whereby Lessee leases or rents Equipment from XTRA Lease, including, but not limited to, long-term Equipment Lease Agreements, National Account Agreements, Short-term Rental Agreements and Equipment Rental Agreements. All Leases are subject to and are deemed to incorporate these Standard Terms and Conditions, as amended from time to time.

(m) **“Lease Term”** means the agreed upon term of the Lease contained in an Equipment

Lease Agreement or the agreed upon minimum rental term of a Short-term Rental Agreement as listed on the Equipment Rental Agreement.

(n) **“Lessee”** means the individual or entity that enters into a Lease with **XTRA Lease**. Where appropriate the term **Lessee** shall be deemed to include the term **Lessee’s Agent**.

(o) **“Lessee’s Agent”** means the driver or other representative who picks up, inspects, takes possession of, or returns a unit of Equipment on behalf of the **Lessee** to an **XTRA Lease** location or to **XTRA Lease’s** designated cartage vendor, and/or who executes a Lease document on behalf of **Lessee**.

(p) **“National Account Agreement”** means a rate agreement between **Lessee** and **XTRA Lease** for the renting of Equipment by the **Lessee** at specified Use Charges.

(q) **“Repair Standards”** means **XTRA Lease’s** current repair standards which list the minimum condition in which the **Lessee** shall maintain the Equipment and the minimum condition in which the Equipment must be when returned by **Lessee** to **XTRA Lease**, a copy of which can be obtained at <http://www.xtralease.com>.

(r) **“Short-term Rental Agreement”** means an agreement between **Lessee** and **XTRA Lease** for the renting of Equipment by **Lessee** at a specified rate for Use Charges, for a specified Lease Term, but whereby **XTRA Lease** does not commit to guarantee the current specified rate for Use Charges.

(s) **“Software”** means (i) the software code that is embedded within the Trailer Tracking Unit, (ii) any other software provided to **Lessee** relating to the Trailer Tracking Unit directly or through Internet access, (iii) any user documentation provided to **Lessee**, and (iv) any subsequent versions or upgrades of software which **XTRA Lease** elects to provide to **Lessee**.

(t) **“Standard Terms and Conditions”** means the **XTRA Lease** Standard Terms and Conditions contained in this document and as may be amended by **XTRA Lease** from time to time.

(u) **“Trailer Tracking Unit”** means the product created by **XTRA Lease’s** third-party licensor, which provides mobile communication, tracking, and other Equipment management services.

(v) **“Use Charges”** means the required payments to be made by **Lessee** to **XTRA Lease** for every day (including Saturdays, Sundays, and Holidays) Equipment is on lease or rent to **Lessee** whether or not such Equipment is in the use, possession, control or operation of **Lessee**. Use Charges shall include the rental rate set forth in the Lease plus any and all other charges required to be paid by **Lessee** therein, including, but not limited to, fees for use of **the Software and Communication Services** and RoadWatch[®] assistance calls.

(w) **“written”** or **“in writing”** shall mean in print copy format or in electronic format.

(x) **“XTRA XPRESS”** means the process whereby **XTRA Lease** will electronically format and deliver to **Lessee**, by e-mail or other automated process, Leases, Equipment Rental Agreements, Equipment Damage Notifications, invoices and other notices.

(y) **“XTRA Lease”** as used herein shall mean XTRA LLC, a Maine limited liability company, (formerly known as XTRA, Inc.), XTRA Lease LLC, a Delaware limited liability company, (formerly known as XTRA Lease, Inc. which was formerly known as Strick Lease, Inc.), GTR Rental LLC, a Delaware limited liability company, (formerly known as CitiCapital Trailer Rental, Inc. and Associates Rental Systems, Inc., among others), AJF Warehouse Distributors, Inc., an Illinois corporation, Rentco Trailer Corporation, a Delaware corporation, XTRA Intermodal, Inc., a Delaware corporation, and XLI, Inc., a Delaware corporation (formerly known as XTRA Leasing, Inc.), as applicable, depending upon which entity holds title to, or is the finance lessee of, the Equipment leased hereunder.

(z) “**XTRA Web Site**” has the meaning as set out in Section 24.

2. EQUIPMENT COVERED, TERM AND OWNERSHIP.

The specific Equipment covered by the Lease, as well as the delivery/pick-up date and the termination date of the Lease for such Equipment, shall be as set forth in the Lease and may be included on **XTRA Lease's** invoices, which invoices are incorporated herein by reference. Upon the termination date the Lease shall terminate except with respect to provisions contained herein intended to survive the termination date, such as those providing for, without limitation, limitations of liability, indemnity, confidentiality, payment and billing, which shall survive the termination date. Notwithstanding the termination of the Lease, if **Lessee** maintains possession of the Equipment, **XTRA Lease**, in its sole discretion, may (a) upon 10 days written notice to the **Lessee** change the Use Charges as specified in such notice, or (b) demand the **Lessee's** immediate return of the Equipment. In the event that **XTRA Lease** does not elect either (a) or (b) above, the **Lessee's** responsibilities under the Lease, including the payment of Use Charges, shall continue until all of the Equipment is returned to **XTRA Lease**. Notwithstanding any other language contained herein or therein, neither the Lease nor any agreement that results therefrom conveys any ownership rights to the **Lessee** and all right, title and ownership of the Equipment, Software, Communication Services, or XTRA Web Sites, including any and all Intellectual Property in connection therewith, is and shall remain with **XTRA Lease**.

3. AUTHORIZATION TO ENTER INTO LEASE & ACCEPTANCE OF STANDARD TERMS AND CONDITIONS.

By submitting or completing an **XTRA Lease** customer application, entering into a Lease with **XTRA Lease**, taking possession of Equipment from **XTRA Lease**, executing an Equipment Rental Agreement, completing payment of any invoices to **XTRA Lease** or completing any other transaction with **XTRA Lease**, **Lessee** and **Lessee's Agents** represent and warrant that they are authorized on behalf of **Lessee** and, if applicable, on behalf of those companies identified in a National Account Agreement as “Companies Authorized to Rent Equipment”, to enter such agreements and transactions with **XTRA Lease** and expressly acknowledge receipt and on-going acceptance of **XTRA Lease's** Standard Terms and Conditions as such Standard Terms and Conditions may be amended from time-to-time and posted on the XTRA Web Site.

4. DELIVERY, RECEIPT & DROPOFF OF XTRA LEASE EQUIPMENT.

(a) As a condition precedent to **Lessee's** pick-up or return of Equipment at any **XTRA Lease** location, **Lessee's Agent** must (i) provide proof of identification to **XTRA Lease** in the form of a valid commercial driver's license, and (ii) sign **XTRA Lease's** hard copy or electronic Equipment Rental Agreement. **Lessee** acknowledges that **Lessee's Agent** has been authorized to pick-up from, return Equipment to, and/or accept delivery of Equipment from, **XTRA Lease**, and that the signature of **Lessee's Agent** on **XTRA Lease's** hard copy or electronic Equipment Rental Agreement shall bind **Lessee** to the terms of such Equipment Rental Agreement and these Standard Terms and Conditions, as amended from time to time.

(b) By taking possession of the Equipment, **Lessee** accepts the Equipment in the condition noted in the Equipment Rental Agreement and acknowledges receipt of the Equipment in good repair and working condition.

(c) **Lessee** shall return the Equipment to **XTRA Lease** in the same condition noted in the Equipment Rental Agreement, normal wear excepted. **Lessee** shall redeliver the Equipment at **Lessee's** expense and subject to applicable restrictions and dropoff charges, if any, to the **XTRA Lease** location from which **Lessee** picked-up the Equipment, unless otherwise provided in the Lease.

(d) If **Lessee** has requested **XTRA Lease** to arrange for a unit of Equipment to be delivered to or picked up from a location designated by **Lessee**, as a condition precedent to such delivery or pick-up, **Lessee's Agent** must sign **XTRA Lease's** hard copy Equipment Rental Agreement and/or other

documentation provided by **XTRA Lease's** designated cartage vendor. In the event of delivery of a unit of Equipment to **Lessee**, **XTRA Lease's** inspection of the Equipment at **XTRA Lease's** branch location prior to delivery of the Equipment to **Lessee** shall be deemed to state the condition of the Equipment at the time of commencement of the Lease, and in the event of pick-up of Equipment from **Lessee**, **XTRA Lease's** inspection of the Equipment following delivery of the Equipment to **XTRA Lease's** branch location shall be deemed to state the condition of the Equipment upon redelivery.

5. SUBLICENSE OF SOFTWARE AND COMMUNICATION SERVICES.

(a) If a Trailer Tracking Unit is installed on a unit of Equipment rented or leased by **Lessee** from **XTRA Lease**, **XTRA Lease** hereby grants to **Lessee** a non-exclusive, non-transferable and limited sub-license to use the Software subject to the conditions and restrictions of the Lease and these Standard Terms and Conditions solely for the purpose of utilizing the Trailer Tracking Unit and related Communication Services to monitor Equipment leased from **XTRA Lease**. **Lessee** shall make no other use of the Software or Communications Services and shall not copy the Software or provide the Software or access to the Software to any third-party. The Software will be in object code form only, and will not include any source code or the right to use any source code. **Lessee** agrees that it will not reverse engineer, decompile, or disassemble the Trailer Tracking Unit or Software. **Lessee** agrees to use the Software only in connection with **Lessee's** use of the Communication Services.

(b) If a Trailer Tracking Unit is installed on a unit of Equipment rented or leased by **Lessee** from **XTRA Lease**, **XTRA Lease** hereby grants to **Lessee** a non-exclusive, non-transferable, limited sub-license to access the Communication Services for use with the Trailer Tracking Unit in the United States, Mexico, and Canada. **Lessee** acknowledges and understands that (1) it shall use all information provided via the Communication Services at **Lessee's** own risk, and (2) **Lessee** shall acquire no proprietary interest in any telephone number that may be assigned to **Lessee** for use with the Communication Services. **Lessee** acknowledges that disruption of Communication Services may occur from time to time for routine and emergency maintenance and other reasons beyond the control of **XTRA Lease**. **Lessee** shall have no remedy against **XTRA Lease**, any third-party licensor of **XTRA Lease**, or the underlying wireless services carrier, and **Lessee** hereby releases **XTRA Lease** and all of its licensors, and the underlying wireless services carrier from all liability relating to such disruption. If, and only if, Use Charges relating to the Communication Services are billed separately to **Lessee** as part of the total Use Charges for the Equipment, **Lessee's** sole remedy for any disruption or failure of the Communication Services shall be that portion of the Use Charges paid by **Lessee** for Communication Services relating to the period of service during which such failure or disruption occurred, provided that such disruption or failure is not corrected by **XTRA Lease** within thirty (30) days after receiving written notice from **Lessee** of such failure or disruption. **Lessee waives the provisions of any state law limiting or prohibiting a general release.**

6. ROADWATCH® SERVICE.

Unless otherwise specified in the Lease, **XTRA Lease** will provide its RoadWatch® service to **Lessee** to coordinate emergency repairs for the units of Equipment subject to the Lease. This service entitles **Lessee** or **Lessee's** Agents to call **XTRA Lease's** RoadWatch® 800 number to report an emergency break down with any of the units of Equipment. Upon receipt of **Lessee's** call, **XTRA Lease** will promptly coordinate with a third-party repair vendor to provide repair services to **Lessee**. **XTRA Lease**, on behalf of **Lessee**, will coordinate payment of the cost of any services provided to any repair vendor dispatched as part of an incident reported to RoadWatch®. **XTRA Lease** will invoice **Lessee** for expenses for any repair services relating to replacement tires, brakes, lights, lubricants and any other parts which are broken, inoperable or worn for reasons other than normal wear, including but not limited to the action or inaction of the **Lessee**, as determined by **XTRA Lease**. **Lessee** shall pay any invoice for repair services in accordance with the payment terms of the Lease. **XTRA Lease's** obligation with respect to the RoadWatch® service is limited to contacting a third-party repair vendor upon **Lessee's** request in the event a unit of Equipment is in need of emergency repair. No warranty, express or implied, is made by **XTRA Lease** with respect to any services provided by a repair vendor coordinated through **XTRA**

Lessee's RoadWatch[®] service, and **Lessee** waives any and all claims against **XTRA Lease** for any loss or liability resulting from any defects or failures in any repairs provided by any repair vendor coordinated through **XTRA Lease's** RoadWatch[®] service.

7. PAYMENT.

(a) **Lessee** agrees to pay all Use Charges for Equipment **Lessee** rents or leases from **XTRA Lease**. These Use Charges may include, but are not limited to:

- (i) **Rental Charges.** **Lessee** shall pay **XTRA Lease** the rental charges for the rent or lease of a unit of Equipment, as specified in the Lease.
- (ii) **Mileage Charges.** **Lessee** shall pay **XTRA Lease** any mileage charges for actual miles traveled by a unit of Equipment as specified in the Lease. Miles traveled will be measured by a hubodometer attached to each unit of Equipment. A reading of the hubodometer will be taken by **XTRA Lease** at the time of delivery to or pick-up of a unit of Equipment by **Lessee**, and a similar reading will be taken by **XTRA Lease** upon redelivery of the unit of Equipment to **XTRA Lease**. In the event the hubodometer on a unit of Equipment is missing or fails to function properly, **Lessee** shall pay **XTRA Lease** a mileage charge based on the average miles historically traveled by similar units of Equipment leased or rented from **XTRA Lease**, as determined by **XTRA Lease**.
- (iii) **Refrigeration Unit Charges.** **Lessee** shall pay **XTRA Lease** a refrigeration charge for engine hours used on any refrigerated unit of Equipment as specified in the Lease. Engine hours will be measured by an hour meter attached to each refrigerated unit of Equipment. A reading of the hour meter will be taken by **XTRA Lease** at the time of delivery to or pick-up of a unit of Equipment by **Lessee**, and a similar reading will be taken by **XTRA Lease** upon redelivery of the unit of Equipment to **XTRA Lease**. In the event the hour meter for a unit of Equipment is missing or fails to function properly, **Lessee** shall pay **XTRA Lease** a refrigeration charge for engine hours based on the average engine hours historically used on similar units of Equipment leased or rented from **XTRA Lease**, as determined by **XTRA Lease**.
- (iv) **Tire Wear.** **Lessee** shall pay **XTRA Lease** a charge for tire wear as specified in the Lease. The tire depth of each tire will be measured by **XTRA Lease** in thirty-two seconds (1/32nds) of an inch increments at the time of delivery to or pick-up by **Lessee**. A similar measurement will be made by **XTRA Lease** upon redelivery of the unit of Equipment to **XTRA Lease**. Tire depth shall be measured at the lowest point of remaining tire tread.
- (v) **Brake Wear.** **Lessee** shall pay **XTRA Lease** a charge for brake lining wear as specified in the Lease. The brake lining for each wheel end will be measured by **XTRA Lease** in one-eighth (1/8th) of an inch increments at the time of delivery to or pick-up by **Lessee**. A similar measurement will be made by **XTRA Lease** upon redelivery of the unit of Equipment to **XTRA Lease**.

(b) **Lessee** shall pay Estimated Charges to **XTRA Lease** as specified in the Lease. **XTRA Lease** shall have the right at any time to commence charging **Lessee** Estimated Charges payable under any Lease that does not specify an obligation of **Lessee** to pay Estimated Charges, or from time to time to increase Estimated Charges payable under a Lease, if **XTRA Lease** deems it necessary, in its sole discretion, in order to ensure **Lessee's** full performance of its obligation to pay any Use Charges pursuant to the terms of the Lease. **XTRA Lease** shall provide **Lessee** with written notice of its intent to initiate charging or increase Estimated Charges, and **Lessee** shall be required to pay the Estimated Charges as specified in such notice from the start of the then current billing cycle in which said notice was provided. **Lessee** shall pay **XTRA Lease** the amount of any shortfall, or **XTRA Lease** shall pay **Lessee** the amount

of any overpayment, between the total Estimated Charges for Use Charges paid by **Lessee** during the Lease and the final amount of the Use Charges as determined upon redelivery of the unit of Equipment.

(c) Use Charges shall commence on the date the Equipment is available for delivery to or pick-up by **Lessee**. Notwithstanding any other language contained in these Standard Terms and Conditions, Use Charges shall continue until such Equipment is returned to **XTRA Lease** at the **XTRA Lease** location set forth in the Lease, in the same condition as when received, normal wear excepted, or until payment is made of the Casualty Loss Value as provided herein. **Lessee** shall pay all invoices within ten (10) days from date of invoice.

(d) Use Charges are based on a twenty-eight (28) day billing period unless otherwise specified. Unless otherwise stated in the Lease, in the event of return of the Equipment to **XTRA Lease** prior to the expiration of the billing period in effect at the time of return, Use Charges for the final partial billing period shall be adjusted to the appropriate weekly and daily rate, as applicable.

(e) **Lessee** shall make all payments in U.S. currency to the lockbox address provided by **XTRA Lease** and **Lessee** shall not deliver payments directly to any **XTRA Lease** location. Overdue payments may be assessed interest equal to the lesser of 18% per annum or the maximum rate permitted by law. If **Lessee** provides **XTRA Lease** with a check, or authorizes **XTRA Lease** to collect payments through a pre-authorized payment, electronic payment, or any other form of payment that is returned due to insufficient funds, or payment is otherwise declined, the **Lessee** shall be subject to and agrees to pay **XTRA Lease** an additional processing fee of One Hundred Dollars (\$100.00) for each such occurrence.

8. MAINTENANCE AND USE OF EQUIPMENT.

(a) **Lessee** is responsible for determining whether the Equipment it rents or leases from **XTRA Lease** is fit and sufficient for the designated purpose for which **Lessee** intends to utilize such Equipment.

(b) **Lessee** shall maintain, at **Lessee's** own expense and in accordance with the Repair Standards, the Equipment in good condition, free from defects and fit for its designated purpose and **Lessee** shall return all Equipment to **XTRA Lease** in the same condition as when received, normal wear excepted. **Lessee** or **Lessee's Agent** is responsible for performing all daily pre-trip inspections and safety inspections required by the DOT or any other Applicable Law.

(c) **Lessee** shall not use the Equipment for the transportation or storage of unprotected corrosive substances, trash, medical and/or solid waste and/or hazardous materials ("Hazardous Materials"). **Lessee's** use of the Equipment for such purposes or the violation of **any** federal, state or local laws, rules or regulations regarding the transportation of Hazardous Materials shall be considered a Default of the Lease. **Lessee** shall promptly notify **XTRA Lease** of any such Default. If **Lessee** notifies **XTRA Lease** or **XTRA Lease** determines that Hazardous Materials were placed in the Equipment, **XTRA Lease** may, in its sole discretion, (i) require the **Lessee** to immediately pay **XTRA Lease** the Casualty Loss Value of the Equipment; or (ii) require **Lessee**, at **Lessee's** sole expense to restore and decontaminate the Equipment and provide proof of such decontamination, including without limitation, methodology and pre and post decontamination sampling results and any other inspection or testing **XTRA Lease** deems necessary to perform.

(d) **Lessee** shall not remove, obscure, obliterate or otherwise alter any marks of identification on the Equipment. Prior to **Lessee's** return of the Equipment to **XTRA Lease**, all marks of identification or logos applied to the Equipment by or for **Lessee** shall be removed and the surface restored at **Lessee's** expense. Subject only to the provisions of Section 17(c) of these Standard Terms and Conditions, **Lessee** shall not make any structural alterations to the Equipment.

(e) Unless the terms of the Lease state otherwise, and except as provided below, upon **Lessee** making the Equipment available at an **XTRA Lease** location at six (6) month intervals or twenty

five thousand (25,000) miles, whichever comes first, **XTRA Lease** agrees to conduct inspections of the Equipment including any DOT inspections and provide, at its expense, replacement tires, brakes, lights, lubricants and any other parts worn due to normal wear as needed; provided however, **Lessee** shall be responsible for all expenses relating to replacement tires, brakes, lights, lubricants and any other parts which are broken, inoperable or worn for reasons other than normal wear, including but not limited to the action or inaction of the **Lessee**. The foregoing shall not apply, and **XTRA Lease** shall have no obligation to inspect, provide any replacement parts, or otherwise perform preventative maintenance on any units of Equipment designated as storage trailers, units of Equipment which **Lessee** has not made available at an **XTRA Lease** location, and units of Equipment for which **Lessee** has assumed responsibility for performing preventative maintenance.

(f) Any tires replaced at locations other than **XTRA Lease** facilities must be returned to **XTRA Lease** within thirty (30) days of such replacement. Upon failure to do so, **XTRA Lease** will invoice **Lessee** for the full cost of such tires, including all labor costs and any drayage and road service charges, and **Lessee** shall be responsible therefore. If Equipment is equipped with radial tires, **Lessee** shall return the Equipment with radial tires of equal quality, as determined by **XTRA Lease**, in its sole discretion. Upon failure to do so, **XTRA Lease** will install new radial tires on such Equipment, and **Lessee** shall be responsible for the full cost of such replacement, including all labor costs and road service charges, if any.

(g) **Lessee** is responsible for all damage to the Equipment and must notify **XTRA Lease** promptly of any potential mechanical failure or problem.

(h) If the Equipment provided to **Lessee** is designated to be utilized as a storage trailer, such Equipment is intended for storage use only and should not be used to transport merchandise and/or freight over-the-road. If **Lessee**, following initial delivery of such storage trailer, operates Equipment over-the-road in violation of the preceding sentence, **Lessee** shall be responsible for all drayage and road service charges and **Lessee** shall pay **XTRA Lease** a mileage charge of \$.10 per mile traveled by such storage trailer following initial delivery to **Lessee**.

(i) Upon **XTRA Lease's** request, **Lessee** shall promptly provide **XTRA Lease** with the current location of each unit of Equipment **Lessee** rents or leases from **XTRA Lease**, and shall update such location information as requested by **XTRA Lease**. Upon reasonable notice from **XTRA Lease**, **Lessee** shall make the units of Equipment **Lessee** rents or leases from **XTRA Lease** available for inspection by **XTRA Lease** at a mutually acceptable location during **Lessee's** normal business hours.

9. DAMAGE AND REPAIRS TO EQUIPMENT.

(a) In the case of total loss of a unit of Equipment beyond economic repair for any reason, including theft, collision, confiscation, fire, destruction, natural disaster or any other total casualty, regardless of where it may have occurred and notwithstanding any amounts which may be paid or disputed by **Lessee's** insurance company, **Lessee** is responsible for and shall promptly pay **XTRA Lease** the Casualty Loss Value of such unit of Equipment. **XTRA Lease** reserves the right to determine whether a unit of Equipment has in fact suffered an event of total loss or damage beyond economic repair. **Lessee's** requests for Casualty Loss Value quotes shall in no way constitute notice to **XTRA Lease** that **Lessee** has suffered a total loss of a unit of Equipment.

(b) In case of partial loss or damage to any unit of Equipment regardless of where it may have occurred (except the Trailer Tracking Unit), **Lessee** shall make all repairs and/or replacements at **Lessee's** expense in accordance with the Repair Standards. **Lessee** shall not attempt to repair and shall return to **XTRA Lease** for repair all non-functioning or damaged Trailer Tracking Units. With respect to any Equipment (including the Trailer Tracking Unit) returned to **XTRA Lease** in a non-functioning or damaged condition or not repaired in compliance with the Repair Standards, **Lessee** shall be liable to **XTRA Lease** for the total estimated or actual cost of any such damage, as determined by **XTRA Lease**, including, without limitation, necessary drayage charges, whether or not the damaged Equipment is

actually repaired.

(c) **Lessee** shall maintain and upon written request, provide **XTRA Lease** with written descriptions of all maintenance work or repairs made to the Equipment. In accordance with the Repair Standards, **Lessee** shall use first class materials and parts in the repair and service of the Equipment. In addition to any other applicable warranty, **Lessee** agrees that it will, at its own expense, rectify, repair and replace any and all known defects or other conditions to the Equipment not in compliance with the Repair Standards, arising from defective or improper materials or workmanship furnished by it, its subcontractors or its or their employees and agents.

10. LIMITED WARRANTIES.

BY TAKING POSSESSION OF THE EQUIPMENT, LESSEE ACKNOWLEDGES RECEIPT OF THE EQUIPMENT IN GOOD REPAIR AND WORKING CONDITION, AND THAT THE EQUIPMENT IS FIT AND SUFFICIENT FOR LESSEE'S INTENDED USE. LESSEE WAIVES THE PROVISIONS OF ANY STATE LAW LIMITING OR PROHIBITING A GENERAL RELEASE. XTRA LEASE IS NOT A SUPPLIER OR MANUFACTURER (AS SUCH TERMS ARE DEFINED OR USED IN THE UNIFORM COMMERCIAL CODE). NO WARRANTY, EXPRESS OR IMPLIED, IS MADE BY XTRA LEASE OF THE QUALITY OF DESIGN, MANUFACTURE, CONDITION OR FITNESS FOR ANY PARTICULAR USE OF THE EQUIPMENT, SOFTWARE, COMMUNICATIONS SERVICES, OR XTRA WEB SITES. LESSEE WAIVES ANY AND ALL CLAIMS AGAINST XTRA LEASE FOR ANY AND ALL LOSS OR LIABILITY (INCLUDING CARGO LOSS) RESULTING FROM ANY DEFECTS OR FAILURES OF DESIGN, MATERIALS, CONDITION OR FITNESS FOR ANY PARTICULAR USE OF THE EQUIPMENT, TRAILER TRACKING UNIT, SOFTWARE, COMMUNICATIONS SERVICES, OR XTRA WEB SITES, EITHER LATENT OR PATENT. XTRA LEASE AGREES TO EXTEND TO LESSEE ALL WARRANTIES, IF ANY, OFFERED BY THE MANUFACTURERS OF THE EQUIPMENT, TRAILER TRACKING UNIT, AND SOFTWARE AND BY THE WIRELESS SERVICE CARRIERS UNDERLYING THE COMMUNICATION SERVICES.

XTRA LEASE EXPRESSLY DISCLAIMS, AND LESSEE EXPRESSLY WAIVES, ALL OTHER WARRANTIES WITH RESPECT TO THE EQUIPMENT, TRAILER TRACKING UNIT, SOFTWARE, COMMUNICATION SERVICES, AND XTRA WEB SITES, WHETHER WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. EXCEPT FOR THE LIMITED WARRANTIES SET FORTH ABOVE IN THIS SECTION 10, THE EQUIPMENT, TRAILER TRACKING UNIT, SOFTWARE, COMMUNICATION SERVICES AND XTRA WEB SITES ARE PROVIDED ON AN "AS IS" BASIS WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND.

11. LESSEE'S INDEMNIFICATION OBLIGATIONS.

(A) LESSEE HEREBY AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE INDEMNIFIED PARTIES (AS DEFINED BELOW) FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, LIABILITIES, OBLIGATIONS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) (COLLECTIVELY "CLAIMS"), IN ANY WAY ARISING OUT OF OR INCIDENT TO THE LEASE, OR THE USE, POSSESSION, MAINTENANCE, CONTROL OR CONDITION OF THE EQUIPMENT DURING THE LEASE, REGARDLESS OF WHETHER SUCH CLAIMS WERE CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF ANY OF THE INDEMNIFIED PARTIES, AND INCLUDING, WITHOUT LIMITATION, ANY AND ALL CLAIMS ARISING FROM OR INCIDENT TO: (I) THE ACTS OR OMISSIONS OF LESSEE, LESSEE'S AGENTS OR LESSEE'S ASSIGNEES; (II) THE PERFORMANCE, BREACH, OR DEFAULT OF THE LEASE BY LESSEE, OR THE ENFORCEMENT OF ANY OF THE TERMS OF THE LEASE BY XTRA LEASE; (III) THE DEATH OR INJURY TO ANY PERSON; (IV) DAMAGE TO ANY PROPERTY; (V) DAMAGE TO, OR ANY DAMAGE OR INJURY RESULTING FROM, ANY CARGO PLACED ON OR CONTAINED IN THE EQUIPMENT; (VI) THE VIOLATION OR ALLEGED VIOLATION OF ANY APPLICABLE LAW, INCLUDING, WITHOUT LIMITATION, ANY FAILURE OR ALLEGED FAILURE TO USE, OPERATE, MAINTAIN OR CONTROL

THE EQUIPMENT IN COMPLIANCE WITH APPLICABLE LAW; (VII) ANY TAXES AND ASSESSMENTS, INCLUDING WITHOUT LIMITATION ALL IMPORT AND CUSTOMS DUTIES AND ALL WITHHOLDING, PROPERTY, SALES AND/OR USE TAXES, AND ALL PENALTIES; (VIII) ANY FINES, TOLLS, USER FEES, TRAFFIC AND PARKING VIOLATIONS, TOWING AND STORAGE EXPENSES, AND ANY OTHER SIMILAR FINES, FEES OR CHARGES; (IX) THE USE OF THE SOFTWARE, COMMUNICATION SERVICES OR XTRA WEB SITES; AND (X) THE USE, FAILURE TO USE OR INABILITY TO USE THE TRAILER TRACKING UNIT, INCLUDING, THE INABILITY TO USE THE ACCESS TELEPHONE NUMBER FOR THE TRAILER TRACKING UNIT.

(B) FOR PURPOSES OF THESE STANDARD TERMS AND CONDITIONS, THE TERM "INDEMNIFIED PARTIES" SHALL REFER TO (I) XTRA LEASE, ITS AFFILIATES AND ITS AND THEIR SUCCESSORS, ASSIGNS, EMPLOYEES, OFFICERS, DIRECTORS, LICENSORS AND AGENTS, AND (II) XTRA LEASE'S THIRD-PARTY LICENSOR OF THE TRAILER TRACKING UNIT AND SOFTWARE AND THE UNDERLYING WIRELESS SERVICE CARRIER SUPPLYING SERVICES TO XTRA LEASE'S THIRD-PARTY LICENSOR OF THE TRAILER TRACKING SOFTWARE, AND THEIR AFFILIATES, SUCCESSORS, ASSIGNS, EMPLOYEES, OFFICERS, DIRECTORS, AND AGENTS.

(C) LESSEE SHALL NOT SETTLE OR COMPROMISE ANY CLAIM AGAINST THE INDEMNIFIED PARTIES, INCLUDING, WITHOUT LIMITATION, ANY CLAIM FOR WHICH LESSEE HAS ASSUMED THE DEFENSE OF THE INDEMNIFIED PARTIES, WITHOUT THE PRIOR WRITTEN CONSENT OF XTRA LEASE. LESSEE SHALL REIMBURSE THE INDEMNIFIED PARTIES FOR ANY EXPENSE INCURRED, INCLUDING ATTORNEYS' FEES, TO DEFEND ANY ACTION WHICH LESSEE IS REQUIRED TO DEFEND PURSUANT TO THESE STANDARD TERMS AND CONDITIONS. THE PROVISIONS OF THIS SECTION 11 SHALL SURVIVE THE TERMINATION OF THE LEASE.

12. LIMITATION OF LIABILITY.

(a) Under no circumstances shall **XTRA Lease** or its licensors be liable for any incidental, indirect, special, consequential, exemplary or punitive damages of any kind, whether or not resulting from the negligence of **XTRA Lease** or its licensors, and including, without limitation, any lost profits, business failure or interruption damages, or any damages associated with lost or damaged cargo. In no event shall **XTRA Lease's** total liability to **Lessee** exceed the amount of Use Charges paid by **Lessee** during the three (3) months preceding the event that gave rise to the claim or action.

(b) **Lessee** expressly understands and agrees that it has no contractual relationship whatsoever with the underlying wireless service carrier and that **Lessee** is not a third-party beneficiary of any agreement with **XTRA Lease's** third-party Trailer Tracking licensor and/or the underlying wireless service carrier. In addition, **Lessee** expressly understands and agrees that the underlying wireless service carrier shall have no legal, equitable or other liability of any kind to **Lessee**. In any event, regardless of the form of the action, whether for breach of contract, warranty, negligence, strict liability in tort or otherwise, **Lessee** hereby waives any and all claims against the underlying wireless service carrier from all such liability, provided, however, that if and only if, Use Charges relating to the Communication Services are billed separately to **Lessee** as part of the total Use Charges for the Equipment, then **Lessee's** exclusive remedy and the total liability of the underlying wireless service carrier arising in any way in connection with the Lease for any cause whatsoever including, without limitation, any failure or disruption of service provided hereunder, is limited to payment of damages in an amount equal to the portion of the Use Charges to **Lessee** for the services relating to the period of service during which said damages occur. **Lessee** acknowledges and understands that it uses all information provided via the Communication Services at **Lessee's** own risk.

13. INSURANCE & CDW.

(a) Minimum levels of insurance covering the Equipment shall be maintained by **Lessee**, at **Lessee's** expense, with a licensed insurance carrier with an A.M. Best rating of not less than B+ and shall include:

(i) All risk insurance covering physical loss of or damage to the Equipment from any cause whatsoever. **XTRA Lease** shall be named a loss payee;

(ii) Comprehensive Automobile Liability coverage protecting **XTRA Lease** from and against all loss and damage it may sustain or suffer because of death of or injury to any person, as a result of the use, possession, maintenance or control of the Equipment by **Lessee**. Coverage must include minimum limits of \$1 million combined single limit or \$1 million bodily injury and \$250,000 property damage. **XTRA Lease** must be shown as an additional insured; and

(iii) Comprehensive General Liability coverage protecting **XTRA Lease** from and against all loss and damage it may sustain or suffer because of death of or injury to any person, or damage to the property of any person, as a result of the use, possession, maintenance or control of the Equipment by **Lessee**. Coverage must include minimum limits of \$1 million general aggregate or \$1 million each occurrence and include contractual liability coverage and/or endorsement. **XTRA Lease** must be shown as an additional insured.

(b) Policies of insurance shall be valid and in force until the Equipment is returned to **XTRA Lease**. **Lessee** shall provide **XTRA Lease** with certificate(s) of insurance evidencing the required coverage prior to delivery or acceptance of any Equipment, and thereafter with certified copies of the insurance policies as may be requested by **XTRA Lease**. Such certificates shall contain a requirement that **XTRA Lease** receive thirty (30) days prior written notice of cancellation or material change to **Lessee's** insurance policies. All policies of insurance must carry deductible limits acceptable to **XTRA Lease**. **Lessee** shall fully cooperate with **XTRA Lease** in order to assist **XTRA Lease** in obtaining the full benefit of **XTRA Lease's** status as an additional insured under **Lessee's** policies of insurance, which cooperation shall include, but not be limited to, **Lessee**, upon **XTRA Lease's** request, filing a claim with **Lessee's** insurance carrier for any lost or stolen units of Equipment. **Insolvency or failure by Lessee's insurance carrier to provide coverage for any and all loss, claim, liability or damage arising out of the Lease shall not relieve Lessee of any of its obligations set forth in the Lease. Nothing contained in these insurance requirements is to be construed as limiting the extent of Lessee's liability under the Lease. Lessee is responsible for ensuring that it maintains the minimum levels of financial responsibility required by Applicable Law.**

(c) If **Lessee** fails to maintain liability insurance, or fails to furnish **XTRA Lease** the required evidence of insurance, **XTRA Lease**, without prejudice to any other remedy it may have, is authorized, but not obligated, to procure the insurance required by this Section 13 upon reasonable terms and conditions, and **Lessee** shall pay **XTRA Lease**, as additional payment, the amount of all premiums paid by **XTRA Lease**.

(d) The insurance requirements of this Section 13 may be satisfied in whole or in part by a self-insurance program maintained by **Lessee** which is acceptable to **XTRA Lease**, provided however **XTRA Lease** shall be named as an additional loss payee and/or additional insured under such program including umbrella policies, if any, which may be a part thereof. **Lessee** shall provide to **XTRA Lease** evidence of such self-insurance program upon **XTRA Lease's** request together with a copy of **Lessee's** most recent financial statements, which shall be satisfactory to **XTRA Lease**.

(e) **Lessee** can fulfill its obligation to provide the all risk insurance required in Section 13(a)(i) hereof, by purchasing the Collision Damage, Fire and Theft Waiver Options ("CDW") offered by **XTRA Lease**. In the event **Lessee** has elected the CDW option, **Lessee** hereby acknowledges that CDW (i) is a damage waiver program, (ii) is not an all risk insurance program covering physical loss of or damage to the Equipment for the benefit of **Lessee**, and (iii) is intended solely (A) to reimburse **XTRA Lease** for any repairs required for any unit of Equipment returned to **XTRA Lease** in a damaged condition, subject to applicable deductible or (B) to pay **XTRA Lease** the Casualty Loss Value of any unit of Equipment which was to be returned to **XTRA Lease** upon termination of the Lease and such unit of Equipment is a total loss by theft, confiscation, fire, destruction, damage beyond economic repair or any other total casualty;

and in addition to the terms set forth therein, the benefits of such coverage will not be available to **Lessee** unless each of the following conditions have been met: (v) **Lessee** is in compliance with all terms and conditions of the Lease, including current on all payments; (w) all casualty loss or damage to the unit of Equipment must have occurred in the United States or Canada; (x) such damage or loss was not the result of **Lessee's** negligence and/or failure to maintain proper care and control of such unit of Equipment; (y) **Lessee** shall have promptly notified **XTRA Lease** in writing and obtained a police report of any loss or damage to any unit of Equipment as soon as practicable, and in any case, not later than 72 hours after the occurrence of such casualty loss or damage, and shall have delivered promptly to **XTRA Lease** a copy of the applicable police report; and (z) **Lessee** shall have provided to **XTRA Lease** any additional documentation it may request relating to the casualty loss or damage and comply with any other requirements of **XTRA Lease**. Oral requests for quotes on casualty loss or damaged Equipment shall not constitute the required notice under this Section 13(e)(iii). **Lessee** shall be liable for the first \$1,500 for each occurrence of damage to or loss of any unit (or the first \$5,000 in the case of refrigerated or specialty Equipment). In addition, **Lessee** hereby agrees that Use Charges will continue to accrue with regard to such Equipment until **Lessee** has paid the required deductible. CDW shall terminate immediately upon any Default by **Lessee** under the Lease. **XTRA Lease**, in its sole discretion, may discontinue providing CDW to **Lessee** on ten (10) days prior written notice.

14. SECURITY DEPOSIT.

As a condition precedent to **XTRA Lease** entering into the Lease and to **XTRA Lease** making the Equipment available to **Lessee**, and as security for the full performance by **Lessee** of its obligations hereunder, a security deposit in amount determined by **XTRA Lease**, may be required and, if required, shall be delivered to **XTRA Lease** by **Lessee** prior to **Lessee** taking possession of any Equipment. Such security deposit may be used to offset any amounts due and owing by **Lessee** to **XTRA Lease** pursuant to the Lease. The security deposit, or any balance thereof, if any, shall be returned to **Lessee** after all of the Equipment leased hereunder has been returned to **XTRA Lease** and after deduction of any amounts due and owing by **Lessee** to **XTRA Lease**, including but not limited to, all unpaid Use Charges and any repair or replacement expenses.

15. LETTER OF CREDIT.

As a condition precedent to **XTRA Lease** entering into the Lease and to **XTRA Lease** making the Equipment available to **Lessee**, and as security for the full performance by **Lessee** of its obligations hereunder, **Lessee** may be required to obtain from a financial institution acceptable to **XTRA Lease** an irrevocable letter of credit for the benefit of **XTRA Lease** in an amount determined by **XTRA Lease**. If required, **Lessee** agrees to maintain such letter of credit in place until all of the Equipment leased hereunder shall have been returned to **XTRA Lease** and **Lessee** shall have fully complied with all of its obligations hereunder, including the payment of all Use Charges, repair or replacement expenses and any other amount due and owing to **XTRA Lease** hereunder. In addition, the failure by **Lessee** to extend the letter of credit or to provide a substitute letter of credit acceptable to **XTRA Lease** at least thirty (30) days prior to the expiration date of the letter of credit shall constitute an event of Default under the Lease and shall entitle **XTRA Lease** to immediately draw down the full amount available under the letter of credit. The letter of credit shall be issued in the form approved by **XTRA Lease**.

16. ADEQUATE ASSURANCES.

During the term of any Lease, **XTRA Lease**, in its sole discretion, may require that **Lessee** immediately enter into reasonable security arrangements with **XTRA Lease**. Such security arrangements may include, but are not limited to, providing a security deposit, letter of credit, or the payment of Estimated Charges sufficient to protect **XTRA Lease** from all risk of loss. Failure by **Lessee** to comply with any of the terms of this provision shall constitute a Default of the Lease and **XTRA Lease** shall be entitled to all rights and remedies provided by Section 21(b) herein.

17. LAWS, RULES AND REGULATIONS.

(a) **XTRA Lease** will provide for each unit of Equipment, at its expense, a motor vehicle registration and license plate for registration in a jurisdiction of **XTRA Lease's** choosing, together with any required renewals. **Lessee** shall be solely responsible for all other registrations, licenses, license plates, and operating permits that may be required for **Lessee** to use, possess, operate or control the Equipment during the Lease.

(b) **Lessee** shall be solely responsible for (i) complying with, at **Lessee's** expense, all Applicable Law, including, without limitation, all federal and state transportation compliance requirements, safety requirements, anti-pollution and environmental requirements, daily pre-trip inspections and safety inspections; (ii) the cost of any modification required to be made to the Equipment to comply with Applicable Law; and (iii) any fines, tolls, user fees, traffic and parking violations, towing and storage expenses and other similar fines, fees or charges relating to the Equipment during the Lease. **Lessee** shall be liable for any and all costs, penalties, and fees, including all legal fees on a full indemnity basis, incurred by **XTRA Lease** as a result of the operation of the Equipment in violation of Applicable Law during the Lease.

(c) Sections 95300-95311 of Title 17 of the California Code of Regulations governs the operation of 53-foot or longer box-type trailers in the State of California (the "HDV Regulations"). **Lessee** is solely responsible for complying with the HDV Regulations, as they may be amended from time to time, in conducting operations in the State of California, including, without limitation, (i) the cost of any modification required to be made to the Equipment to comply with the HDV Regulations; (ii) complying with any reporting obligations under the HDV Regulations associated with the operation of the Equipment in the State of California; and (iii) verifying that any Equipment that **Lessee** has rented or leased from **XTRA Lease** complies with the HDV Regulations prior to the operation of that unit of Equipment in the State of California. **Lessee** shall not permit Equipment that does not comply with the HDV Regulations to be operated in the State of California. If **Lessee** leases or rents a unit of Equipment from an **XTRA Lease** branch located outside of the State of California, **Lessee** shall not permit that unit of Equipment to be transported into the State of California unless and until **Lessee** has confirmed that such unit of Equipment complies with the HDV Regulations. **Lessee** shall have the right to make modifications to the Equipment to comply with the requirements of the HDV Regulations; provided, however, that (i) any modifications made to install aerodynamic devices on Equipment are made in accordance with the recommendations and standards set by the manufacturer of the aerodynamic device, and (ii) unless otherwise agreed to by **XTRA Lease**, **Lessee** shall be responsible for removing any modifications **Lessee** makes to the Equipment prior to **Lessee's** return of the Equipment to **XTRA Lease**. **Lessee** shall be solely responsible for, and shall indemnify, defend and hold **XTRA Lease** harmless from and against, any and all Claims resulting from the breach of this Section 17(c) or the operation of any Equipment by **Lessee** in the State of California in violation of the HDV Regulations, as they may be amended from time to time.

THE LESSEE OF THIS BOX-TYPE TRAILER UNDERSTANDS THAT WHEN USING A HEAVY-DUTY TRACTOR TO PULL A 53-FOOT OR LONGER BOX-TYPE TRAILER ON A HIGHWAY WITHIN CALIFORNIA, THE BOX-TYPE TRAILER MUST BE COMPLIANT WITH SECTIONS 95300-95311, TITLE 17, CALIFORNIA CODE OF REGULATIONS, AND THAT IT IS THE RESPONSIBILITY OF THE LESSEE TO ENSURE THIS BOX-TYPE TRAILER IS COMPLIANT. THE REGULATIONS MAY REQUIRE THIS TRAILER TO HAVE LOW ROLLING RESISTANCE TIRES AND AERODYNAMIC TECHNOLOGIES THAT ARE U.S. ENVIRONMENTAL PROTECTION AGENCY VERIFIED SMARTWAY TECHNOLOGIES PRIOR TO CURRENT OR FUTURE USE IN CALIFORNIA.

(d) Section 2477 of Title 13 of the California Code of Regulations governs the operation of refrigerated units of Equipment in the State of California (the "TRU Regulations"). It is a violation of the TRU Regulations to operate any refrigerated unit of Equipment in the State of California that does not comply with the TRU Regulations, as they may be amended from time to time. **Lessee** shall be solely responsible for complying with the TRU Regulations in conducting operations in the State of California,

including, without limitation, (i) the cost of any modification required to be made to the Equipment to comply with the TRU Regulations; provided, that **Lessee** shall obtain **XTRA Lease's** approval prior to modifying any Equipment to comply with the TRU Regulations; (ii) complying with any reporting obligations under the TRU Regulations associated with the operation of refrigerated units of Equipment in the State of California; and (iii) verifying that any refrigerated unit of Equipment that **Lessee** has rented or leased from **XTRA Lease** complies with the TRU Regulations prior to the operation of that unit of Equipment in the State of California. **Lessee** shall not permit a refrigerated unit of Equipment that does not comply with the TRU Regulations to be operated in the State of California. If **Lessee** leases or rents a refrigerated unit of Equipment from an **XTRA Lease** branch located outside of the State of California, **Lessee** shall not permit that unit of Equipment to be transported into the State of California unless and until **Lessee** has confirmed that such unit of Equipment complies with the TRU Regulations. **Lessee** shall be solely responsible for, and shall indemnify, defend and hold **XTRA Lease** harmless from and against, any and all Claims resulting from the breach of this Section 17(d) or the operation of any refrigerated unit of Equipment by **Lessee** in the State of California in violation of the TRU Regulations, as they may be amended from time to time.

18. TAXES.

All taxes and assessments, including without limitation all import and customs duties and all withholding, property, sales and/or use taxes, and all penalties or other charges or fees arising out of or incident to the use, possession or control of the Equipment by **Lessee** prior to its return to **XTRA Lease**, shall be the responsibility of **Lessee**. In order to avoid the obligation to remit any applicable withholding, property, sales and/or use tax to **XTRA Lease**, **Lessee** must provide a duly authorized exemption certificate issued by or acceptable to the relevant taxing authority.

19. ASSIGNMENT & SUCCESSORS.

Lessee shall not assign or sublease any right or interest in the Equipment, any Lease or any agreement that results therefrom, without the prior written consent of **XTRA Lease**. **XTRA Lease** shall have the right to assign any of its rights or interests in the Equipment, any Lease or any agreement that results therefrom, without obtaining **Lessee's** consent. For purposes of this Section 19, an assignment shall be deemed to have occurred if there has been a change in the control of **Lessee** or **Lessee's** business, whether by merger, consolidation or reorganization, the sale of a majority of the ownership of **Lessee** or **Lessee's** ultimate parent, or a sale, assignment or other transfer of all or substantially all of **Lessee's** assets. **Lessee** may not sublicense, assign, rent, disclose or provide the Software or access to the Communications Services to any third-party. Notwithstanding anything to the contrary contained herein, the Lease and these Standard Terms and Conditions shall inure to the benefit and be binding upon the parties, their heirs, successors, administrators, executors and assigns.

20. LIENS.

(a) **Lessee** shall keep the Equipment free from any liens, including, but not limited to mechanics' liens, storage, warehouse or other possessory liens, claims or encumbrances, attachments, rights of others and legal processes ("Liens") of creditors of **Lessee** or any other persons. **Lessee** shall promptly notify **XTRA Lease** upon receipt of notice of any such Liens affecting the Equipment and **Lessee** shall promptly defend at its own expense **XTRA Lease's** title to the Equipment from such Liens.

(b) Notwithstanding the parties' intention and express agreement that the Lease constitutes a valid lease of the Equipment, and solely to protect the rights of **XTRA Lease** in the Equipment in the event the Lease is determined by a court of competent jurisdiction to be a conditional sale of and/or financing arrangement as to the Equipment, **Lessee** hereby pledges, assigns and grants to **XTRA Lease** a continuing first priority security interest in and lien upon the Equipment and all proceeds (including proceeds of all insurance policies), which interest and lien shall be cross-collateralized with each and every separate item of Equipment subject to the Lease and related schedules, in order to secure the prompt payment and performance, as and when due, of all of **Lessee's** obligations, both now existing and hereinafter arising under this Lease. **Lessee** hereby agrees that **XTRA Lease** shall have all

rights and remedies of a "secured party" under the Uniform Commercial Code and authorizes **XTRA Lease** to cause this Lease and/or any statements or other instruments in respect of this Lease showing the interest of **XTRA Lease** in the Equipment (including certificates of title or Uniform Commercial Code financing statements) to be filed or recorded, and grants **XTRA Lease** and its agents the right to execute **Lessee's** name thereto. **Lessee** also agrees to execute or cause the execution of such additional documents and do such other acts and things, including execution of applications and certificates of title naming **XTRA Lease** as a secured party and delivery of same to **XTRA Lease**, as **XTRA Lease** from time to time requests or deems necessary to establish and maintain a valid and perfected security interest in and lien upon the Equipment. To further secure payment to **XTRA Lease** of the obligations owed by **Lessee**, **Lessee** agrees that the Equipment subject to the Lease shall be cross-collateralized with the Equipment subject to any other Lease in which **Lessee** is a lessee.

21. DEFAULT.

(a) **Lessee SHALL BE IN DEFAULT** of the Lease: (i) if **Lessee** fails to comply with any of the terms or conditions of the Lease, including, but not limited to, the retention of the Equipment for the Lease Term or the timely payment of all invoices; (ii) if any third-party credit support, including any guarantor or issuer of letter of credit, attempts to or does cancel the support or guaranty (or is otherwise in default under such support or guaranty); (iii) if **Lessee** is in default of any of the terms or conditions of any other agreement with **XTRA Lease**; (iv) if insurance as required under this Lease will be canceled or be reduced or if such insurance lapses; (v) if **Lessee** fails to provide the adequate assurances under Section 16 herein; or (vi) if **Lessee** becomes insolvent, or subject to any voluntary or involuntary bankruptcy proceeding (including acquiescence in the appointment of a trustee or receiver, or commencement of any dissolution or liquidation proceeding; hereafter individually or collectively referred to as a "Default").

(b) In addition to any rights or remedies available at law or in equity, upon a Default by **Lessee**, **XTRA Lease** shall have the right, at its option and without demand or notice to **Lessee**, to do any one or more of the following: (i) pay all amounts required to be paid or perform or cause to be performed all obligations required to be performed by **Lessee** under the Lease and charge **Lessee** as additional rent the amount paid or the reasonable value of the services performed therefore together with interest thereon at the rate described in Section 7 hereof; (ii) declare the entire balance of the remaining payments due under the Lease immediately due and payable by acceleration and recover such amount as liquidated damages, the reasonableness of such damages being acknowledged and agreed to by **Lessee**; (iii) take immediate possession of all outstanding Equipment and Software, all of which is to be returned at **Lessee's** expense; (iv) immediately terminate **Lessee's** access to the Communication Services; (v) terminate the Lease (whereupon the terms and conditions shall continue to apply to the Equipment then in the possession or control of **Lessee** until its return); (vi) calculate and require **Lessee** to pay any collection costs incurred in recovery of any sums due or repossession of any Equipment including, without limitation, reasonable attorneys fees; (vii) calculate and recover from **Lessee** any lost profits and damages as a "Lost Volume Seller" and/or "Lost Volume Lessor (as those terms are defined and used in the Uniform Commercial Code) that **XTRA Lease** would have generated had the Lease not been prematurely cancelled; and (viii) calculate and recover from **Lessee** any costs to transport and store the Equipment throughout the remainder of the Lease Term. **Lessee** acknowledges and agrees that **XTRA Lease** is under no duty to mitigate damages resulting from **Lessee's** Default.

(c) Upon a Default by **Lessee**, **XTRA Lease** shall have the right, without demand or notice, to set-off and apply any amounts owing by **XTRA Lease** to or for the account of **Lessee** against any amounts owing by **Lessee** to or for the account of **XTRA Lease**, including, without limitation, (i) any amount previously paid by **Lessee** to **XTRA Lease** as deposits, accruals, prepayments, overpayments, Estimated Charges, fees or otherwise, and (ii) any amount otherwise owed by **XTRA Lease** to **Lessee**. The rights of **XTRA Lease** under this subsection are in addition to other rights and/or remedies (including, without limitation, other rights of set-off, recoupment, counterclaim or similar rights) which **XTRA Lease** may have pursuant to these Standard Terms and Conditions, or at law or in equity.

22. REPOSSESSION.

(a) In the event of **Lessee's** Default, and upon demand of **XTRA Lease**, **Lessee** shall immediately return all Equipment to **XTRA Lease**. If **Lessee** fails or refuses to immediately return all Equipment after demand by **XTRA Lease**, **XTRA Lease** shall have the right to enter upon any premises where the Equipment is located and take immediate possession of, and at **Lessee's** expense remove, the Equipment, and **XTRA Lease** shall be deemed to be **Lessee's** agent for such purposes. If **XTRA Lease** takes possession of the Equipment with property contained in, upon or attached to the Equipment, **XTRA Lease** may take possession of such property and hold it in its own or public storage for the account and at the expense of **Lessee** or upon thirty (30) days advance written notice to **Lessee**, dispose of such property in a commercially reasonable manner with no further liability. **Lessee** expressly waives the benefits of any Applicable Law, now or hereafter enacted, exempting any leased property from replevin, distraint, levy or sale in any legal proceeding taken by **XTRA Lease** to enforce any right under the Lease.

(b) In the event of **Lessee's** Default, (i) **XTRA Lease** will be in danger of losing its Equipment unless immediate possession of the Equipment is obtained because **XTRA Lease's** Equipment is movable and readily marketable; and (ii) **XTRA Lease** will not have an adequate remedy at law to protect its rights in its unreturned Equipment. Therefore, **Lessee** agrees that in the event of **Lessee's** Default, **XTRA Lease** shall have the right, without prejudice to any other rights and remedies otherwise available to **XTRA Lease** at law or in equity, to obtain injunctive relief in order to prevent the continued use of the Equipment by **Lessee** and to require **Lessee** to immediately deliver possession of the Equipment to **XTRA Lease**.

23. INTELLECTUAL PROPERTY.

XTRA Lease and/or its licensors reserve ownership of all Intellectual Property (as defined below) in and to the Equipment, Trailer Tracking Unit, Software, Communication Services and the XTRA Web Sites, and the Lease does not create any right of ownership in or to such materials in **Lessee**. For the purposes of this Section 23, "Intellectual Property" shall mean all proprietary interests of any kind or nature, including, without limitation interests pertaining to patent rights, copyrights, trade secrets, mask work rights, circuit layout rights, design rights, prototypes, models, source code, documentation, trade and service marks, and other similar rights throughout the world, however denominated and any amendments, additions or improvements made thereto.

24. XTRA WEB SITES.

Lessee agrees that in the event **Lessee** uses any web site of **XTRA Lease**, including, but not limited to, xtracorp.com, xtralease.com, xtratrack.com, xtrainstall.com, xtra.com, and/or xtraintermodal.com (collectively, "XTRA Web Sites"), as a condition of such use, **Lessee** stipulates that:

(a) While on XTRA Web Sites and where applicable terms and conditions on XTRA Web Sites so indicate, when **Lessee** clicks a button labeled "I Agree" or "I Accept", or when **Lessee** types "I Agree" or "I Accept" in a space marked for such an input by **Lessee**, **Lessee** will be manifesting and authenticating **Lessee's** assent to a binding contractual agreement incorporating the terms and provisions for which the button or input area is provided;

(b) The above-mentioned electronic methods of manifesting and authenticating assent are commercially reasonable and acceptable to **Lessee**, notwithstanding Section 212 of the Uniform Computer Information Transactions Act as approved for implementation by the various states in 1998 ("UCITA"), or any other provision of UCITA to the contrary; and

(c) In any dispute related to **Lessee's** use of XTRA Web Sites, **Lessee** stipulates that it will have the burden of proving that, notwithstanding Section 213 of UCITA or any other provision of UCITA to the contrary, (i) any electronic manifestation of assent received by **XTRA Lease** is not attributable to

Lessee; and (ii) **Lessee** did not have an opportunity to review any electronic terms and conditions posted on the XTRA Web Sites.

25. WAIVER.

No waiver by **XTRA Lease** of any breach or Default hereunder, or omission or delay by **XTRA Lease** in exercising any of its rights hereunder, or course of dealing between **XTRA Lease** and **Lessee** shall operate as a waiver by **XTRA Lease** to subsequently require full compliance with the Lease or these Standard Terms and Conditions or as a waiver of any of **XTRA Lease's** rights or remedies hereunder.

26. ILLEGAL PAYMENTS.

No bribes, illegal commissions, or other similar payments, whether direct or indirect, to the best of **Lessee's** knowledge, have been or will be made to any employee or agent of **XTRA Lease** or **Lessee**, or of their respective subsidiaries, in connection with this transaction.

27. ENTIRE AGREEMENT; CONFLICTS BETWEEN LEASE DOCUMENTS.

The Lease, including these Standard Terms and Conditions, any long-term Equipment Lease Agreement and Schedules thereto, National Account Agreement, Short-term Rental Agreement and Equipment Rental Agreement, supersedes all prior agreements, whether written or oral, between **XTRA Lease** and **Lessee** with respect to the rental or lease of the Equipment described therein, and constitutes a complete and exclusive statement of the terms of the agreement between **XTRA Lease** and **Lessee** with respect to the lease of the Equipment described therein. All Lease documents shall be read in a complementary manner. Except as may be provided in the Lease, these Standard Terms and Conditions shall take precedence over all other Lease documents.

28. AMENDMENTS.

XTRA Lease reserves the right to change, upon thirty (30) days prior written notice (or such shorter period of time as specified in the Lease or elsewhere in these Standard Terms and Conditions), any term or provision of the Lease, including, without limitation, the Use Charges to be paid under the Lease and these Standard Terms and Conditions. No change to the Lease shall be effective unless in writing, executed by **XTRA Lease's** Risk Services Manager or his designee who is located in **XTRA Lease's** home office in St. Louis, Missouri and delivered to **Lessee** pursuant to the notice provision hereto.

29. NOTICES.

All notices and other communications required or permitted to be given hereunder, including those required for billing purposes, shall be in writing and shall be deemed given and made (i) if by personal delivery, on the date of delivery, (ii) if by delivery by facsimile, on the date sent (as evidenced by confirmation by the transmitting equipment), (iii) if by a nationally recognized overnight courier, on the next day following deposit, and (iv) if by mail, on the third business day following deposit in the mail. Any notice or communication to **Lessee** shall be sent to the address or facsimile number set forth in the Lease, or such other address as may be designated by **Lessee** by written notice to **XTRA Lease**. In the case of **XTRA Lease**, any notice or communication shall be sent to XTRA Lease, 1801 Park 270 Drive, Suite 400, St. Louis, MO 63146, facsimile no. (314) 579-9138, Attention: Risk Services Manager. Any change of address by either party shall be communicated to the other by written notice given as provided herein. Notwithstanding the above, **XTRA Lease** may provide the Lease, these Standard Terms and Conditions, invoices, notices and other communications to **Lessee** in an electronic format through XTRA XPRESS or other means.

30. CONFIDENTIALITY.

The confidentiality of the Lease, including without limitation the Use Charges applicable thereunder, shall be strictly maintained by **Lessee** and shall not be released or revealed to any third-party by **Lessee**.

Lessee shall be responsible for any violation of this provision by **Lessee**, its employees, officers, directors, assigns, agents or **Lessee's Agents**.

31. CHOICE OF LAW.

This Agreement shall be governed by the internal substantive laws of the State of Missouri, without regard to conflicts of laws provisions. The parties hereby agree to submit to the jurisdiction of the Circuit Court of St. Louis County, Missouri for purposes of adjudicating any action arising out of the Lease, and hereby waive, to the fullest extent permitted by law, any objection to the laying of venue of any action arising out of the Lease therein. Any action arising out of the Lease may be properly filed in the Circuit Court of St. Louis County, Missouri; however, **XTRA Lease** reserves its right to bring suit in any other appropriate jurisdiction.

32. SEVERABILITY.

If any term or provision hereof is declared to be illegal, invalid or unenforceable for any reason by a court of competent jurisdiction, such illegality, invalidity or unenforceability shall not affect the remaining terms and provisions hereof, which shall remain binding and enforceable.