



CONTAINER LEASE AGREEMENT

This Container Lease Agreement (“Lease”) is entered into this ___ day of _____, 20__, by and between ATP CONTAINERS, LLC d/b/a TUFF BOX (the “Lessor”), and _____ (the “Lessee”) wherein Lessee agrees to lease from Lessor the following equipment:

For and in consideration of the mutual covenants and promises hereinafter set forth, the parties hereto agree as follows:

TERMS AND CONDITIONS

1. **Lease of Container.** Subject to the terms and conditions of this Lease, Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the container(s) (hereinafter collectively the “Container” or “Containers”) described below:

See Section “d”, below.

2. **Term of Lease.** The term of this Lease commences upon the date of execution of this Lease and shall continue on a 28-day cycle to cycle basis thereafter and shall remain in full force and effect until terminated by either party by written notice sent via USPS or by email or telephone

3. **Rent Payments.**

(a) **Rent.** “Rent” shall be the total of the “Base Rent” (defined below) for each leased Container, including all applicable taxes, plus any applicable “Additional Rent” (defined below). Lessor shall invoice Lessee for Rent on a twenty-eight (28) day invoicing cycle and Rent shall be due and payable upon Lessee’s receipt of Lessor’s invoice. Notwithstanding the foregoing, prior to delivery of the Containers to Lessee’s location, Lessee shall pay Lessor the first pro-rated lease installment charge(s) for the Containers, and fee(s) for delivery, pick up, and cleaning. A summary of Rent payments and additional fees is set forth in Section 29 below. Lessee assumes full responsibility for lost or damaged mailed Rent payments. All Rent payments shall be mailed to the following: Tuff Box, P.O. Box 9791, Tulsa, OK 74157.

(b) **Base Rent.** “Base Rent” shall be determined in accordance with the lease rate and fee schedule set forth in Section 3(d) of this Lease.

(c) **Additional Rent.** “Additional Rent” shall be any additional sum charged by Lessor to Lessee including, but not limited to, delivery fee, pickup fee, cleaning fee, late fee. Fees for delivery, pickup and cleaning shall be determined in accordance with the lease rate and fee schedule set forth in Section 3(d) of this Lease. If any Rent payment is not received within 28 days of the invoice date, then Lessee shall pay Lessor a late fee of \$50 per month for each delinquent invoice.

(d) **Lease Rate and Fee Schedule.** Base Rent and Additional Rent shall be determined by Lessor in accordance with the following schedule:

<u>Container Description</u>	<u>Container #</u>	<u>Base Rent</u>	<u>Delivery Fee</u>	<u>Pickup Fee</u>	<u>Cleaning Fee</u>

[Note: In Lessor’s sole discretion, Lessor may deviate from the foregoing schedule.]

(e) **Waiver by Lessor.** Lessor reserves the right to waive any fee and extend any payment terms as Lessor determines appropriate. However, Lessor’s waiver of any fee or extension of any payment terms shall not be construed as a waiver by Lessor of the enforcement in the future of any of Lessor’s rights under this Lease.

4. **Location of Container.** Each leased Container shall be located at _____ and shall not be moved from that location except by authorized representatives of Lessor. Lessee shall own such location and or have express legal



authorization to locate each leased Container upon that location. If Lessee does not own such location, Lessee agrees to keep the Container(s) free and clear of all liens and other encumbrances. Lessee warrants and represents that it has exercised due diligence and care in the selection of the location upon which a Container is to be located. If the placement of a Container at the location requires any special directions or supervision, Lessee agrees that it shall provide Lessor with such special directions or supervision. If Lessee fails to provide Lessor with such special directions or supervision or fails to provide an appropriate location for a Container, then Lessee shall pay Lessor for any reasonable additional delivery requirements or efforts, site preparation, and returned charges required to set up or return the Container.

5. Delivery of Goods. The Goods shall be delivered to the Buyer upon Seller's receipt of the Purchase Price. Buyer understands the Buyer is responsible for all costs incurred during the delivery of the Goods, including any winch out services and/or damage to trailer or any vehicles. In an effort to mitigate possible damages, Seller agrees to inform Buyer of all adverse conditions of delivery. However, except for the intentional failure of Seller to advise Buyer of adverse conditions of delivery, Seller shall incur no liability for the failure to advise Buyer of adverse conditions of delivery. Buyer understands that should the delivery driver be detained or unable to deliver due to Buyer being unprepared for the delivery of the Goods, then Buyer shall begin to incur a charge of \$125.00/hour, with a minimum one-hour charge, thirty (30) minutes after such delay. Buyer agrees to pay said charge.

6. Lessee's Use of the Container. Lessee shall use the Container(s) in a careful and proper manner and shall comply with and conform to all laws, ordinances and regulations which relate in any manner to the possession, use or maintenance of the Container. Upon Lessor's demand, Lessee shall prominently affix to all leased Containers, or allow Lessor to do so, such labels, plates or other markings supplied by Lessor, stating that the Container is owned by Lessor. Further, Lessee shall not bury, paint, or permanently or temporarily reside in the Container. Lessee shall not cause or permit any "Hazardous Material" (hereinafter defined) to be brought upon, kept, stored, manufactured or used in or about the Container by Lessee or its agents, employees, contractors or invitees without the prior written consent of Landlord. As used herein, the term "Hazardous Material" means any flammable items, explosives, radioactive materials, hazardous or toxic substance, material or waste or related materials, including any substances defined as or included in the definition of "hazardous substances", "hazardous wastes", or "toxic substances" now or subsequently regulated under any applicable federal, state or local laws or regulations.

7. Delivery and Lessee's Inspection of Container. Upon delivery by Lessor, Lessee shall inspect all leased Containers within twenty-four (24) hours from the time of delivery. Unless Lessee gives written notice to the Lessor within this time, specifying any defect or other objection to any Container, Lessee agrees that it shall be conclusively presumed, as between the Lessee and lessor, that the Lessee has fully inspected and acknowledges that the Container is in good condition and repair, and the Lessee is satisfied therewith and has accepted the Container in such good condition and repair. Further, by using the Container, Lessee accepts the Container "AS IS", free of defects, in good repair and working condition. Lessee, by signing this Lease acknowledges that Lessor has informed Lessee of the importance of weekly inspections of the Container, and that an inspection of the Container was conducted prior to execution of this Lease for any water leakage and that no evidence of water leakage was detected. Lessee bears all responsibility for any and all damage or loss caused by water leakage that could have been detected by visual inspections of the Container.

8. Lessor's Right to Inspect the Container. Lessor shall have the right during normal business hours to enter into and upon the premises where the Container is located for the purpose of inspecting the same or observing its use.

9. Alterations Prohibited. Lessee shall not make any alterations, additions or improvements to the Container, without the prior written consent of the Lessor, including but not limited to welding to or painting the Container. All additions and improvements made to the Container shall belong to and become the property of the Lessor upon the expiration of the Lease.

10. Lessee's Obligation to Repair. Lessee, at its own cost and expense, shall keep the Container in good repair, condition and working order and shall furnish any and all parts, mechanisms and devices required to keep the equipment in good mechanical and working order.

11. No Warranty. Lessor makes NO WARRANTIES, either express or implied, other than that the Container is as described at the beginning of this Lease, as to any matter whatsoever, including, without limitation, the condition of the Container, its freedom from claims to or interest in it which might interfere with quiet enjoyment, its merchantability or its fitness for any particular purpose.

12. Surrender of Container. Upon the expiration of the Lease, Lessee shall permit Lessor to enter upon the premises where the Container is located and permit the Lessor to remove the Container, utilizing all reasonably necessary measures, from the



location. A pickup fee for each leased Container is charged to Lessee with the initial Rent payment. The Container shall be surrendered by Lessee to Lessor in good repair, condition and working order, ordinary wear and tear excepted. Lessee agrees to pay Lessor a cleaning fee on all returned Containers. The cleaning fee for each Leased Container shall be \$25 for storage Containers and \$50 for office Containers. Should Lessee violate the terms of this Lease with respect to the prohibition on the storage of Hazardous Materials, upon surrender or repossession of the Container, Lessee shall be responsible for, and agrees to pay Lessor, the reasonable cost of cleaning the Container. In the event that the contamination of the Container is beyond cleaning, Lessee shall be liable for the replacement value of the Container. Upon surrender or repossession, Lessor may dispose of any contents in the Container in a commercially reasonable manner. Application of proceeds shall first go to the payment to Lessor of any sums owed to it by Lessee under this Lease and to any of Lessor’s costs associated disposing of the contents and second any excess shall be refunded to Lessee.

13. **Risk of Loss.** Except to the extent limited by Section 15 of this Lease, Lessee hereby assumes and agrees to bear the entire risk of loss and damage to the Container or its contents from any cause whatsoever. No loss or damage to the Container or any part thereof shall impair or lessen any of Lessee’s obligations under this Lease, which shall continue in full force and effect. Lessee assumes and agrees to bear the entire risk of loss and damage to any personal property or items stored in the Container.

14. **Insurance.** If Lessee declines Lessors Physical Damage Waiver Program, set forth below, then Lessee shall procure and maintain throughout the term of this Lease, a policy or policies of commercial general liability insurance, at its sole cost and expense, insuring the Container and the Lessee’s contents of the Container to be insured against all liability resulting from the use or operation occupancy, maintenance, possession or control of the Container and property insurance in an amount equal to 100% of the value of the Container. Lessor shall be named as an additional insured and loss payee on all such policies of insurance. The limits of such commercial general liability policy or policies shall be in an amount not less than \$100,000,000 per occurrence and shall be written by insurance companies satisfactory to Lessor. Lessee shall obtain a written obligation on the part of each insurance company to notify Lessor at least thirty (30) days prior to cancellation of such insurance. Such policies or duly executed certificates of insurance shall be promptly delivered to Lessor prior to delivery of the Container to the location identified by Lessee.

15. **Physical Damage Waiver Program.** Lessee may choose to participate in Lessor’s Physical Damage Waiver program by denoting such participation below. Further, Lessee understands and agrees that should Lessee fail to procure and maintain the requisite policy or policies of commercial general liability insurance as required by Section 14, above, Lessor will require Lessee to pay for the Physical Damage Waiver, subject to the Physical Damage Waiver Program, offered by Lessor. Should Lessee choose to participate in Lessor’s Physical Damage Waiver or is force placed into Lessor’s Physical Damage Waiver program as a consequence of failing to procure and maintain the requisite policy or policies of commercial general liability insurance as provided herein, a copy of the Physical Damage Waiver Program terms and conditions will be provided to Lessee prior to delivery of the Container. Lessee shall be invoiced by Lessor for the cost of the Physical Damage Waiver, as an additional fee, with each Rent invoice and shall remit payment with the next due Rent payment. Applicable Rents and additional fee are listed below. If Lessee fails to provide Lessor with a proper Certificate of Insurance prior to delivery of the Container and Physical Damage Waiver is purchased on Lessee’s behalf and invoiced to Lessee, the Lessee will not receive a refund or credit for the charges that are incurred.

Physical Damage Waiver Program Option: (Initial the appropriate box)

Lessee opts to participate in Lessor’s Physical Damage Waiver Program and will be invoiced accordingly.

Lessee opts NOT to participate in Lessor’s Physical Damage Waiver Program, subject to Section 14 of this Lease.

16. **Default.** If Lessee fails to pay any Rent or other amount herein provided within the time period set forth in Section 3 of this Lease, or if Lessee with regard to the Container fails to observe, keep or perform any other provision of this Lease required to be observed, or performed by Lessee, lessor shall have the right to exercise any one or more of the following remedies:

- (a) To declare all due Rent here under immediately due and payable, without notice or demand to Lessee.
- (b) To sue for and recover the present value of all Rents, and other payments, then accrued or thereafter accruing, with respect to the Container.
- (c) To take possession of the Container, wherever same may be located, without any court order or other process of law. Lessee hereby waives any and all damages occasioned by such taking of possession. Any said taking of possession shall not constitute a termination of this Lease as to the Container unless Lessor expressly so notifies Lessee in writing.
- (d) To terminate this Lease.



- (e) To pursue any other remedy at law or in equity, including those set forth in the Uniform Commercial Code.

Notwithstanding any said repossession, or any other action which Lessor may take, Lessee shall be and remain liable for the full performance of all obligations on the part of Lessee to be performed under this Lease. All such remedies are cumulative and may be exercised concurrently or separately.

17. Prohibition on Assignment. Without the prior written consent of Lessor, Lessee shall not (a) assign, transfer, pledge or hypothecate this Lease, the Container or any part thereof, or any interest therein, or (b) sublet or lend the Container, or permit the Container to be used by anyone other than Lessee or Lessee's employees. Consent to any of the foregoing prohibited acts applies only in the given instance; and is not a consent to any subsequent like act by Lessee or any other person.

18. Lessor's Assignment. It is understood that Lessor may assign this Lease. All rights of Lessor hereunder may be assigned, pledged, mortgaged, transferred, or otherwise disposed of, either in whole or in part, without notice to Lessee. If Lessor assigns this Lease or the rentals due or to become due hereunder or any other interest herein, whether as security for in any of its indebtedness or otherwise, no breach or default by Lessor hereunder or pursuant to any other agreement between Lessor or Lessee, should there be one, shall excuse performance by Lessee of any provision hereof. No such assignee shall be obligated to perform any duty, covenant or condition required to be performed by Lessor under the terms of this Lease.

19. Ownership. The Container is, and shall at all times be and remain, the sole and exclusive property of Lessor; and the Lessee shall have no right, title or interest therein in or thereto except as expressly set forth in this Lease.

20. Indemnification. Lessor shall not be liable to Lessee or to Lessee's employees, agents, or visitors, for any injury to person or damage to property on or about the Container caused by the negligence or misconduct of Lessee, its employees, subtenants, licensees or concessionaires, or of any other person using of the Container under express or implied invitation of Lessee, or arising out of the use of the Container by Tenant and the conduct of its business therein, or arising out of any breach or default by Lessee in the performance of its obligations under this Lease; and Lessee hereby agrees to indemnify Lessor and hold Lessor harmless from any loss, expense or claims arising out of such damage or injury. Lessee agrees to indemnify, defend and save harmless Lessor from any claims, judgments, damages, penalties, fines, costs, liabilities or losses by reason of any accident or damage to any person or property in the Container. Further, Lessee shall indemnify, defend and hold Lessor harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses which arise during or after, or out of, the term of this Lease as a result of the contamination of the Container by Hazardous Material. The foregoing shall include, but not be limited to, diminution in value of the Container, sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees. Further, the indemnification of Lessor by Lessee for contamination includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean up, remedial, removal or restoration work required by any federal, state or local government agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Container.

21. Choice of Law, Jurisdiction & Venue. This Lease shall be deemed to have been made in and shall be construed in accordance with the Laws of the State of Oklahoma. The exclusive venue for any dispute or action arising out of this Lease shall be in the state or federal courts sitting in Tulsa County, Oklahoma. The parties hereby submit to the exclusive jurisdiction of the state and federal courts sitting in Tulsa, Oklahoma.

22. Attorneys' Fees. If either party brings a lawsuit to enforce or declare rights under this Lease, or for any claim or action arising out of this Lease, the prevailing party in such lawsuit, including any appeal thereof, shall be entitled to their reasonable attorneys' fees, including such fees incurred prior to filing the lawsuit, and litigation costs to be paid by the losing party, with said award being fixed by the court in the same or separate proceeding, and whether or not such action is pursued to decision or judgment.

23. Binding Effect. The terms, provisions and covenants contained in this Lease shall apply to, inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors in interest and legal representatives except as otherwise herein expressly provided.

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24. Entire Agreement. This Lease contains the entire agreement between the parties, and no agreement shall be effective to change, modify or terminate this Lease in whole or in part unless such is in writing and duly signed by the party against whom enforcement of such change, modification or termination is sought. Buyer hereby acknowledges that it is not relying on any representation or promise of Seller, except as may be expressly set forth in this Lease.

25. Savings Clause. If any provision of this Lease is or becomes illegal or unenforceable because of current or future Laws effective during the Term, the intention of the parties hereto is that the remaining parts of this Lease shall not be affected thereby.

26. Headings. The headings and captions used herein are for convenience only and do not limit or amplify the provisions hereof.

27. Multiple Counterparts. The Parties may execute this Lease in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the Parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile or by email in pdf format is as effective as executing and delivering this Lease in the presence of the other Parties to this Lease. This Lease is effective upon delivery of one executed counterpart from each Party to the other Party. In proving this Lease, a Party must produce or account only for the executed counterpart of the Party to be charged.

28. Waiver. Lessor retains the right to waive any terms of this Lease or deviate from any terms of this Lease. However, Lessor's waiver of, or deviation from, any term of this Lease shall not be construed as a waiver by Lessor of the enforcement in the future of any of Lessor's rights under this Lease or any other Lease.

29. Summary of Rent Installment Payments by Lessee.

INITIAL PAYMENT DUE (prior to delivery):

First Base Rent Installment (prorated):	\$ _____
Tax @ ____ %:	\$ _____
Additional Rent	\$ _____
Physical Damage Waiver Program (optional)	\$ _____

TOTAL INITIAL AMOUNT DUE: \$ _____

PROJECTED INSTALLMENT PAYMENTS DUE:

Base Rent	
Tax @ ____ %:	\$ _____
Physical Damage Waiver Program (optional)	\$ _____

TOTAL RENT INSTALLMENT DUE*: \$ _____

*Note: The Total Rent Due does not include any Late Fees.

THE PARTIES UNDERSTAND AND ACKNOWLEDGE THAT THIS IS A BINDING CONTRACT. THE FOREGOING TERMS AND CONDITIONS HAVE BEEN REVIEWED BY THE PARTIES AND EACH PARTY HAS BEEN AFFORDED THE OPPORTUNITY TO CONSULT WITH ITS LEGAL COUNSEL OF CHOICE. LESSEE HAS BEEN PROVIDED THE OPPORTUNITY TO PARTICIPATE IN LESSOR'S PHYSICAL DAMAGE WAIVER PROGRAM SET FORTH IN SECTION 15. IF LESSEE HAS OPTED TO PARTICIPATE IN THE PHYSICAL DAMAGE WAIVER PROGRAM AS DENOTED IN SECTION 15 BY LESSEE'S INITIALS, LESSEE HAS BEEN



PROVIDED A COPY OF LESSOR’S PHYSICAL DAMAGE WAIVER PROGRAM, LESSEE UNDERSTANDS THE TERMS AND CONDITIONS SET FORTH THEREIN AND LESSEE AGREES TO BE BOUND BY SUCH TERMS AND CONDITIONS.

IN WITNESS WHEREOF, the parties have duly executed this Container Lease Agreement as of the date first above written.

LESSEE:

Lessee: _____

By: _____

Print Name: _____

Title: _____

Date: _____

Billing Address: _____

Location Contact: _____

Location Address: _____

Phone Number: _____

Email: _____

Lessee PO #: _____

LESSOR:

Lessor: ATP CONTAINERS, LLC d/b/a TUFFBOX

By: _____

Title: _____

Date: _____

P.O. Box 9791

1-855-861-2872

www.tuffboxcontainers.com