

## Heil Sales Order Terms and Conditions

### 1. ACCEPTANCE

1.1 The terms and conditions set forth herein constitute the full and final expression of the contract between Heil Trailer International and/or Kalyn Siebert subsidiary of Heil Trailer International (hereinafter referred to as Seller) and Buyer and supersede all prior quotations, purchase orders, correspondence and other communications, whether written or oral, between Seller and Buyer. NO QUOTATION, ORDER OR ACKNOWLEDGEMENT AND NO PROVISION OF THE SELLER'S TERMS AND CONDITIONS OF SAME SHALL BE SUBJECT TO CHANGE IN ANY RESPECT EXCEPT AS AGREED TO IN WRITING BY AN OFFICER OR OTHER AUTHORIZED REPRESENTATIVE OF SELLER.

1.2 No statement, representation or warranty not contained herein shall be binding on Seller unless made in writing by an officer or other authorized representative of Seller. Prior dealings, usage of the trade or a course of performance shall not be relevant to determine the meaning of this Agreement even though the accepting or acquiescing party had knowledge of the nature of the performance and opportunity for objection.

### 2. ORDERS

2.1 All orders are received subject to acceptance by an authorized representative of Seller and may be accepted on Seller's acknowledgement forms. All orders must be firm commitments giving either complete item description and/or functional description (configurator trailer part number), including prices, quantity, and shipping requirements. Typographical and clerical errors in quotations, orders and acknowledgements are subject to correction.

2.2 Orders for products not regularly carried in stock or requiring special engineering or manufacturing services are in every case subject to approval by Seller's authorized representative. Work performed by Heil/Kalyn Siebert Engineering, at the request of the customer, shall be charged out at current rates.

### 3. PRICES

3.1 ALL PRICES AND DISCOUNTS ARE SUBJECT TO CHANGE WITHOUT NOTICE. All written quotations are valid for 30 calendar days from the date of quotation unless withdrawn sooner or unless stated otherwise in a written quotation. Verbal quotations expire 24 hours after they are made. Seller reserves the right to revise prices of work in process, the production of which is delayed for a period in excess of 30 days due to any act of Buyer.

3.2 Unless otherwise specified, all quotations are EXW point of shipment per INCOTERMS 2000 for international sales and/or FOB point of manufacture, country of manufacture. All prices are quoted exclusive of all taxes and delivery charges which may be added to the invoice net catalog or quoted prices. Seller assumes no liability for import duties or other taxes imposed by any country other than the country of manufacture. Prices are subject to adjustment by Seller for currency exchange fluctuations.

### 4. PRICE PROTECTION

Prices will be those in effect at time of shipment. Any long term agreements or extended period firm prices must be negotiated.

### 5. PRODUCT IMPROVEMENT

Seller reserves the right to change manufacturing specifications and procedures in accordance with its product improvement policy.

### 6. TERMS OF PAYMENT

6.1 Seller may open accounts for firms or individuals with pre-approved credit. Seller reserves the right of declining to make deliveries whenever Seller for any reason has doubts regarding Buyer's financial responsibility. In such event, Seller shall not be liable for nonperformance of the contract and shall not make further delivery until it has received adequate assurance that Buyer's performance will be duly forthcoming. The failure of Buyer to provide such assurances within a reasonable time will be regarded by Seller as a repudiation of the contract by Buyer.

6.2 If the order is for shipment outside the country of manufacture, terms unless otherwise arranged for, are Letter of Credit written in English, irrevocable and confirmed by a bank acceptable to the Seller, in a recognized tradable currency, freely negotiable at Seller's bank of choice and subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision) International Chamber of Commerce Publication No. 500. All letters of credit must allow T.T. reimbursement on Seller's bank of choice and expire at the counter of the selected bank. All letters of credit must be available with the advising/confirming bank by negotiation/payment/acceptance. (If the reimbursing bank is other than the advising/confirming bank, the reimbursing bank must be located in the Seller's country of choice). All letters of credit should allow 21 days for document presentation and have an expiration date at least 60 days from scheduled shipment date. All banking charges are to be for the opener's account. All amendments caused by applicant's non-conformance of the terms outlined in this format will be for the applicant's account. Letter of Credit are to be confirmed by Seller's selected bank within fifteen (15) days after acceptance of any order and provide payments upon presentation of Seller's invoices and Seller's certificates of delivery EXW point of shipment, per INCOTERMS 2000 for international sales or FOB Origin country of manufacture, or of delivery into storage with certification of cause therefore, and for the payment of any termination charges.

6.3 If outstanding payments due in the current or previous months are not received when due, interest will be billed at the rate of one and one half percent of the unpaid balance each month until paid.

6.4 Seller reserves the right to deliver and to invoice for partial shipment of completed goods.

## 7. SHIPMENT

In ordering, Buyer shall state explicitly the method of shipping preferred. In absence of shipping instructions from Buyer before date of shipment, Seller shall ship the goods by whatever shipping method Seller deems appropriate. Goods are at the risk of Buyer from and after delivery to carrier and Buyer assumes all responsibility for shortage, loss, delay or damage in transit. All claims for loss, breakage and damage (obvious and concealed) should be made to carriers. Seller will render Buyer reasonable assistance in securing satisfactory adjustments of such claims.

## 8. TRANSPORTATION ALLOWANCES

8.1 Buyer will assume and pay freight charges from the Seller's point of shipment. Seller will prepay and invoice Buyer for shipments (e.g., UPS and Parcel Post shipments); all other types of shipments will be freight collect, EXW point of shipment, per INCOTERMS 2000 for international sales or FOB country of manufacture or point of sale .

8.2 Claims for shortages or other errors must be made in writing to Seller within thirty (30) days after receipt of shipment. Failure to give such notice shall constitute unqualified acceptance and a waiver of all such claims by Buyer.

## 9. TITLE TRANSFER

The legal and beneficial title and all property rights to goods specified in the purchase order shall transfer at the point of shipment.

## 10. SHIPPING DATES

10.1 Shipment/Completion dates are estimates only. No contract will be made to ship/complete within a specified time unless in writing signed by an officer or authorized representative of Seller. Absent such contract, Seller shall not be liable for damages of any kind, occasioned by Seller's failure to meet shipping/completion dates.

10.2 All shipments will be made after completion of manufacture unless otherwise agreed to in writing. Should shipment be held beyond scheduled date for the convenience of Buyer, Seller reserves the right to bill for goods and charges for warehousing, insurance, trucking and other expenses incident to such delay. In the event that agreement is reached for Heil Trailer International to store completed items, the customer will be invoiced immediately upon completion of manufacture, and such invoice shall be due and payable according to the terms of this order. Storage shall be at the risk of the customer and Heil Trailer International shall be liable only for the ordinary care of the property.

## 11. CUSTOMERS PROPERTY

Seller shall charge the customer at current rates for handling and storing customer's property (e.g. truck chassis) held for more than 30 days. All customers property or third party's property that is stored by Seller is at customer's or other party's risk. Seller shall be liable only for ordinary care of the property and will not be liable for any loss or damage thereto caused by fire, corrosion, theft, negligence, or any cause beyond it's reasonable control.

## 12. CHANGES

Buyer will be billed for any expense due to changes requested by Buyer after order is placed and processed.

## 13. MOUNTING PRICES

Mounting prices assume normal factory installation on a truck chassis suitable for the unit purchased. Relocation of batteries, gas tanks, mufflers, air tanks etc. will be an additional charge, billed at the standard factory rate.

## 14. CANCELLATION AND ALTERATION

14.1 Cancellation charges will apply if cancellation occurs within 90 days of the scheduled fit up date. Cancellation requests will be reviewed on a case-by-case basis.

Pending Heil's analysis of the cancellation request the dealer may be subject to cancellation charges, which include material, labor, and overhead costs associated with purchased parts and/or materials. Cancellation charges on completed trailers will be 100% of the selling price. Reduction in order quantity may result in selling price adjustments.

In some cases, parts or materials brought in for a trailer may often be used for another trailer in the production schedule. However, if the parts or material for an order in question exceed Heil's (3) months supply needs or are unique and cannot be used on another trailer, the dealer who cancelled the trailer will be held accountable for these aforementioned costs.

Should Heil send these materials back to the vendor and be required to pay a restocking fee; these costs will be assessed against and borne by the dealer who cancelled the order. If the material is not returnable, all the costs incurred for the material will be charged to the dealer.

The cancellation charge will be communicated to the dealer, and in Heil's discretion, a debit applied against the dealer account for this charge or other invoicing means may be used by Heil. In an event dealer must promptly pay such charges without delay.

14.2 Buyer may, by timely written notice, request alteration of an order in any one or more of the following which will be accepted by Seller where feasible: (1) drawings, designs, or specifications where the order calls for items to be specially manufactured for Buyer; (2) method of shipment or packing; and (3) place of delivery. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance of any part of the work under this contract, whether altered or not altered by Buyer's notice, an equitable adjustment shall be made in the contract price or delivery schedule, or both, and the contract shall be modified in writing accordingly.

All changes will be handled on a case by case basis and all imposed Processing Fees are at the respective RSM's discretion/approval.

Note: The below fees are in addition to the cost of the change order.

<b>Change Order Characteristics</b>	<b>Processing fee</b>
<i>Change order type A</i> <i>&gt; 60 days before ship</i>	N/C
<i>Change order type B</i> <i>30-60 days before ship</i>	\$10000 Subject to additional charges for expedited/returned materials
<i>Change order type C</i> <i>&lt; 30 days before ship</i>	\$20000 Subject to additional charges for expedited/returned material and schedule impact

14.3 Seller reserves the right to manufacture ahead of its estimated shipping schedule whenever it deems necessary and such advance manufacturing shall not void Buyer's responsibility for termination or alteration as herein provided.

## 15. SEPARABILITY

Any quotation by Seller shall be deemed separable and divisible as to all goods offered for sale and Buyer may not refuse to receive any lot or portion of the goods shipped hereunder for failure of any other lot or portion to be delivered in compliance with the quotation unless the right so to refuse is expressly provided for on the face of the quotation.

## 16. INTELLECTUAL PROPERTY

Sketches, engineering drawings, prototype models, and all preparatory work created or furnished by Heil Trailer International shall remain its exclusive property; and no use of same shall be made, nor may ideas obtained therefrom be used or disclosed to any one except with the written consent of and on terms acceptable to Heil Trailer International.

## 17. WARRANTY

Seller warrants its tank trailer equipment to be free from defects in material and workmanship under normal use, when proper service and maintenance as described in its Service Bulletins and Operations Manuals are performed, for a period of twelve (12) months from the date when these products are delivered to the first purchaser. This warranty is expressly limited to the repair or replacement of any component or part thereof, of any such unit manufactured by Heil Trailer International, is proven to Heil's satisfaction to have been defective in material or workmanship. Such components or parts thereof shall be repaired or replaced without cost to the first purchaser for parts and labor provided such unit is returned for such repair or replacement to an authorized Heil Distributor, or such other place as may be designated by Heil, within twelve (12) months from the date on which the unit was delivered to such first purchaser. Heil Trailer International neither warrants, nor does it accept liability for products manufactured by others and installed by Heil. Purchaser and/or end user must pursue all claims of any nature whatsoever, including warranties with the manufacturer of said product. WE MAKE NO OTHER WARRANTY, EXPRESSED OR IMPLIED, AND MAKE NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. Heil Trailer International does not assume any other liability of any nature whatsoever, including but not limited to, any direct or indirect or consequential loss, transportation charges, loss of profits, damages, or delays. Any improper use, operation beyond rated capacity, substitution of parts not approved by us, or any alteration or repair by others in such manner as in our judgment affects the product materially and adversely, shall void this warranty. Other than extension of the warranty period under Heil's Extended Warranty Program, NO EMPLOYEE OR REPRESENTATIVE IS AUTHORIZED TO CHANGE THIS WARRANTY IN ANY WAY OR GRANT ANY OTHER WARRANTY. Heil Trailer International warrants that this trailer is manufactured in accordance with the specifications of the order. Heil Trailer International does not warrant this piece of equipment for use in hauling any specific product. Heil Trailer International accepts no responsibility for damage to the equipment, or for cargo losses, due to an adverse effect on the equipment, caused by the incompatibility of the product being hauled in the trailer. Where Tanks are prepared for lining, all agreements, billing included, that concern the tank barrel lining will be the responsibility of the customer and the lining company. In this connection, Heil Trailer International makes no warranty of products, including lining manufactured and / or installed by others, the same being subject to warranties, if any, of their respective manufacturers or installers. The customer shall bear the risk for damage or loss to the tank or injury to property or persons while the tank is either at or in transit to or from the lining company. In those instances where the lining application is performed by a Heil Trailer International facility, no warranty will be provided to the installation or application of those lining materials. Heil Trailer International does not assume any liability for interior cleanliness and finish requirements of trailers due to different operations and circumstances. As such, Heil Trailer International does not certify that trailers are ready to be placed in service for product upon delivery. The trailer must be inspected, cleaned, washed and otherwise prepared for its intended service by the user to the requirements of the customer prior to placing into service. The above warranty supersedes and is in lieu of all other warranties expressed or implied.

PLEASE NOTE: this warranty provision excludes those goods produced by Kalyn Siebert. A separate Warranty Statement has been issued for these products that include a five (5) year prorated warranty on main beams and three (3) years on paint.

## 18. BUYER'S REMEDIES

Seller's obligations and liabilities under the foregoing warranty are limited exclusively to repair or replacement of the goods without charge EXW point of shipment. A charge is made for repairs after the expiration of the warranty. In no event shall Seller be liable for claims based on breach of express or implied warranty or negligence or any other damages whether direct, immediate, foreseeable, consequential or special or for any expenses incurred by reason of the use or misuse, sale or fabrication of goods which do not conform to the terms and conditions of this contract. In no event, under any legal theory

shall Seller be liable to Buyer, or its Customers, or any third party for liability in excess of the price paid for the product which is subject to a warranty claim.

#### 19. FORCE MAJEURE

Seller will not be responsible for any losses or damages to Buyer (or any third person), whether occasioned by deviations in performance or the nonperformance of any of Seller's obligations under this contract, or loss of or damage to goods when caused directly or indirectly by or in any manner arising from any casualty, revolution, act of God, act (including delay or failure to act) of any Government authority (de jure or de facto), war (declared or undeclared), riot, act of Buyer, strikes or other labor difficulties, shortage of labor, supplies and transportation facilities or any other cause or causes beyond its control or the control of its supplier.

#### 20. PATENT INDEMNITY

Seller shall defend any suit or proceeding brought against Buyer, (or Buyer's Customers) so far as based upon a claim that any goods delivered hereunder constitutes an infringement of any patent, trademark or trade name protected in the United States, or in the case of contracts performed outside of the United States, those patents, trademarks or trade names protected in the respective country of origin, provided the Seller is notified in reasonable time and given authority, information and assistance (at Seller's expense) for defense of the same. Seller shall pay all court costs and expenses and court assessed damages that may be awarded against Buyer. If at any time Seller determines there is a substantial question of infringement or in case such goods are judicially held to constitute infringement and the use of such goods is enjoined, Seller may, at its option and own expense, either procure the right to continue using and selling the goods or replace it with a non-infringing product, or refund the purchase price. Seller shall have no liability as to any infringement by reason of Buyer's modification of goods furnished by Seller, Buyer's use thereof in combination with other products or materials or in any operation of any process, or as to special goods made to Buyer's design or specifications. As to such special goods Buyer shall hold Seller harmless and indemnify it as if Seller in the preceding paragraph. Except as expressly set forth herein, Seller shall not be liable with respect to claims that any of its goods sold or used outside the United States infringe upon any patent issued by a country or state other than the United States.

#### 21. INDEMNIFICATION

Buyer agrees to hold Seller harmless from, defend, and indemnify Seller against all damages, claims and expenses arising out of subsequent sales of Seller's goods or products containing components manufactured by Seller and based upon personal injuries, deaths, property damage, lost profits and other matters for which Buyer, its employees or subcontractors are or may be to any extent liable, including without limitation penalties imposed by the United States Consumer Product Safety Act (P.L. 92-573) and liability imposed upon any person pursuant to the United States Magnuson-Moss Warranty Act (P.L. 93-637), or any laws which are applicable in the country of manufacture or point of sale which explicatory refers to indemnification, as now in effect or as amended hereafter.

#### 22. TAXES

Unless specifically stated, prices listed do not include Federal, State, City or other excise, occupation, sales, use or similar taxes which are extra and are to be added at rates in effect at time of shipment. If Federal Excise Taxes are included, they are stated at the rates and regulations in effect at the time this order is written, and are subject to revisions in accordance with rates and regulations in effect at time of shipment.

#### 23. DEFAULT

Where the Seller discovers Buyer to be insolvent, or where Buyer commits any act of bankruptcy, or makes an assignment for the benefit of creditors, or if Buyer is a foreign company, and arrangement or events occur under the law of the country or domicile which shall have a similar effect to those hereinbefore described, or where Buyer wrongfully rejects or revokes acceptance of goods or fails to make the payment due on or before delivery or repudiates with respect to a part or the whole, Seller's remedies for contracts performed in the United States shall be as set forth in Sections 2-702 through 2-710, both inclusive of the Uniform Commercial Code. With respect to contracts performed in the United Kingdom, Seller may: (1) determine all contracts on hand at the time by notice in writing without obligation to the Seller; (2) claim all monies due to it under this contract to supply the goods and carry out work and all compensation due to it for breach of the purchase contract or quote and such monies will become payable immediately upon demand; (3) recover any goods from the Buyer's premises for which payment has not been made in full; (4) without prejudice to the preceding remedies, demand security prior to any future deliveries either by payment in cash or by bank guarantee notwithstanding any terms of payment previously agreed, and in the event that Buyer is unable to provide such security, Seller shall be entitled to rescind the contract without liability.

#### 24. CONFIDENTIALITY

Drawings, specifications and other information marked as proprietary and submitted with either a quotation, proposal or provided with a product are confidential to Seller and must not be disclosed to any other party. Such items remain the property of Seller and must be returned to Seller if its quotation is not accepted by Buyer. Such drawings, specifications and other information are for evaluation purposes only and shall not be deemed to form part of the purchase contract or quote.

#### 25. ASSIGNMENT

25.1 Neither this order nor any interest herein may be assigned, in whole or in part, by either party without the prior written consent of the other party except that without securing such prior consent, either party shall have the right to assign this order to any successor of such party by way of merger or consolidation or the acquisition of substantially all of the business and assets of the assigning party relating to the subject of this order. This right shall be retained provided that such successor shall expressly assume all of the obligations and liabilities of the assigning party under this order.

25.2 Notwithstanding the foregoing, any amounts due hereunder or to become due hereunder may be assigned by the Seller, provided that such assignment shall not be binding upon the Buyer unless and until the assignment agreement is received by Buyer.

#### 26. PUBLIC RELEASES

Except as required by law or regulation, each party will obtain the other party's written consent prior to issuing a news release, public announcement or advertising material concerned with this order.

#### 27. WAIVER

The failure of any party to insist on the performance of any provision of this order, shall not be construed as a waiver of that provision in any later instance.

#### 28. COMPLIANCE WITH OSHA

Seller offers no warranty and makes no representation that its goods comply with the provisions or standards of the United States Occupational Safety and Health Act of 1970, or any regulations issued thereunder. In no event shall Seller be liable for any loss, damage, fines, penalty or expense arising under said Act.

#### 29. WEIGHTS AND DIMENSIONS

Published weights are careful estimates but are not guaranteed. The dimensions in catalogs are normally accurate but are not to be used for manufacturing of product.

#### 30. FAIR LABOR STANDARDS ACT

Seller certifies that goods covered by the Agreement which are manufactured in the United States are produced in compliance with all applicable requirements of Sections 6, 7 and 12 of the United States Fair Labor Standards Act of 1938 as amended in 1950, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof. Those products which are manufactured outside of the United States comply with all regulations and orders of the country of manufacture or point of sale if not a jurisdiction of the United States.

#### 31. CHOICE OF LAW

This agreement shall be construed according to the laws of the State of Tennessee or in the case of agreements executed outside of the United States, Seller's location of choice. Our failure at anytime to exercise any right we may have under this agreement shall not constitute a waiver thereof nor prejudice our right to enforce same thereafter.

#### 32. COMPLIANCE WITH THE LAW OF THE UNITED STATES OF AMERICA

Buyer certifies that it will not knowingly do anything which by reason of this Agreement would cause Seller to be in violation of the laws of the United States of America or any other jurisdiction in which the goods covered by this Agreement are or will be shipped.

### 33. INTERNATIONAL COMPLIANCE

In each case where the laws of the United States have been referred to by this document, the overriding law will be in the country of manufacture or point of sale if not a jurisdiction of the United States. These terms and conditions do not limit the buyer from their legal statutory rights as written, but sets forth the due terms and conditions of sale.