

Kentucky Trailer Parts & Service

TERMS AND CONDITIONS OF SALE

1. **ENTIRETY.** These Terms and Conditions of Sale and all documents referenced herein (collectively, the “Terms”) are the only terms and conditions which govern the sale of goods (“Goods”) and/or services (“Services” and together with Goods, the “Deliverables”) by R.C. Tway Company, LLC d/b/a Kentucky Trailer (“Seller”) to the buyer (“Buyer”) and supersede all other terms and conditions, oral or written, and all other communications between the parties suggesting additional or different terms. These Terms represent the final and complete understanding of the parties and may be amended or cancelled only by mutual written agreement. Acceptance is expressly limited to these Terms. Any proposal for additional or different terms or any attempt by Buyer to vary these Terms is hereby deemed material and is objected to and rejected. No terms of any document or form submitted by Buyer shall be effective to alter or add to these Terms. The earlier of Seller’s commencement of performance or Buyer’s receipt of any of the Deliverables shall constitute acceptance of these Terms.
2. **PRICES.** Prices quoted or displayed are in U.S. Dollars and based on the price at the time of quotation or display, and are subject to change without notice. Unless otherwise specified, all quotations are binding only for acceptance within twenty-four (24) hours of quotation receipt. Clerical errors (pricing or otherwise) are subject to correction without liability.
3. **TAXES.** Prices do not include any sales, use, excise, privilege, ad valorem, or other taxes, duties, tariffs or assessments now or hereafter imposed or levied (“Taxes”) by or under the authority of any foreign, federal, state, provincial, or local law, rule, or regulation (collectively, “Law”) concerning the Deliverables or the manufacture or sale thereof. If Seller pays any such Taxes, Buyer shall, upon demand, immediately reimburse Seller for such amounts. Seller may, at its sole discretion, increase the price to Buyer of the Deliverables by the amount of any direct or indirect increase in any tariffs or duties on the Deliverables or components of the Deliverables.
4. **PAYMENT – NO CREDIT TERMS.** Seller accepts payment through various payment processing methods. Buyer shall abide by relevant terms and conditions that apply to Buyer’s use of a payment processing method. Buyer represents that Buyer is authorized to use the form of payment provided to Seller and that any payment information that Buyer provides is complete and accurate. When Buyer places an order, Buyer authorizes Seller to charge the form of payment indicated in the total amount of Buyer’s order (including applicable taxes and delivery). Deliverables will not be shipped until the payment transaction is complete.
5. **PAYMENT – CREDIT TERMS.** For Buyers that have received credit terms from Seller, all payments are due within thirty (30) days from date of invoice. Orders (other than online orders) are subject to acceptance in writing by Seller. All payments shall be made without abatement, deduction, discount or setoff. Late payments are subject to a service charge of the lesser of 1.5% per month or the highest rate permitted under applicable Law. Buyer shall be liable for all costs and expenses related to collection of past due amounts, including, without limitation, attorneys’ fees and costs. As collateral security for the payment of the Goods, Buyer hereby grants to Seller a lien on and security interest in and to all right, title and interest of Buyer in the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds). This security interest constitutes a purchase money security interest under the UCC. Upon demand, Buyer shall pay all costs and expenses with respect to the administration and enforcement of the foregoing security interest. If, in Seller’s judgment, the financial condition of Buyer does not justify continuance on the terms of payment, Seller may require full or partial payment in advance or otherwise adjust the terms including ceasing to supply Buyer.
6. **DELIVERY.** Delivery shall be made FOB Seller’s facility (Incoterms 2020) and title and risk of loss passes to Buyer at such time. Delivery/performance dates are estimates only. Seller shall not be liable for any claim, loss, expense, or damage of any kind whatsoever for delays, or loss or damage in transit. Claims for loss or damage shall be made solely against the carrier. Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units

shipped whether such shipment is in whole or partial fulfillment of Buyer's purchase order.

7. SHIPPING. The following describes shipping terms based on order type if the item is in stock at Seller's facility:

- UPS Next Day or 2nd day orders will ship the same day if order is placed prior to 11:00 AM Eastern Time
- UPS Ground orders will ship within 3 to 5 days of order placement
- LTL orders will ship within 5 to 7 days of order placement
- Orders placed on weekends, holidays, or after 11:00 AM Eastern Time will be processed on the next normal business day and will ship in accordance with the above timelines.

Please contact Customer Service toll free at (800) 463-6126 (Opt #1) should Buyer have any specific shipping questions or special shipping requirements.

8. INSPECTION. Buyer shall inspect the Goods upon receipt and Services upon performance, and Buyer shall immediately notify Seller in writing of any claims that the Deliverables are different than identified in Buyer's purchase order whereupon Seller shall determine the remedy pursuant to Section 12. Failure to give such written notice upon receipt will constitute irrevocable acceptance by Buyer of all Deliverables.

9. CHANGES OR CANCELLATION. Except as described in Returns section below, changes in specifications or designs to any Deliverables, changes in delivery or performance schedules or reschedules or cancellations of orders are not permitted unless Seller has accepted same in writing, has determined the additional charge to be made, if any, and the same has been paid by the Buyer. Once ordered, Deliverables that are made to order, discontinued or custom products may not be cancelled by Buyer. Seller reserves the right to cancel any purchase orders or releases thereunder or terminate any agreement relating to purchase of Seller's Deliverables, upon 10 days' notice to Buyer.

10. RETURNS. All returns must be handled by Seller's customer service representative. Buyer can reach Seller's customer service representative by emailing KTSparts@kytrailer.com or by calling (800) 463-6126. In order to return any product, Buyer must email ktsparts@kytrailer.com or call (800) 463-6126 in order to receive an RGA number. The RGA number must be included/listed on the return packaging and a copy of the Seller email with the

RGA number must be included inside the return package. It is Buyer's responsibility to ship the product back to KTS at Buyer's expense (unless Seller shipped Buyer the incorrect product). A 20% restock fee will be applied to all returns and Seller will issue a credit (minus the applicable 20% restocking fee) to Buyer within ten (10) business days of receiving the returned product. Seller will notify Buyer of the credit via email, so Buyer must provide Seller with a valid email address. Seller is not responsible for (i) damage incurred after the Goods leave its facility (i.e. damage sustained during shipping), (ii) imperfections in paint, and (iii) manufacturer defects (other than parts manufactured by Seller). If Buyer's package is damaged during shipping, Buyer must file a claim with the carrier directly (this may require that the person receiving the shipment be present at the time of delivery). Buyer is responsible for inspecting all parts upon delivery and filing all claims with carriers for damages incurred during shipping. If Buyer receives the order with any damaged (not due to damage incurred during shipping) or missing parts, Buyer has up to five (5) days from the time order is received to report the problem to Seller by emailing KTSparts@kytrailer.com or by calling (800) 463-6126. If Seller shipped the incorrect product, Seller will be responsible for reasonable costs associated with the return of the product as well as reshipping the correct product (at no cost to Buyer). Certain parts are considered **non-returnable** and include (without limitation) the following parts: (1) electrical parts & electronic components, (2) replaced, or obsolete part numbers as identified by the manufacturer, (3) parts cut to length (such as aluminum extrusion, hose, tubing and door seal), (4) parts that are made to order (special parts), (5) any parts that have been installed and then removed with the intent to return, (6) orders older than 30 days.

11. STORAGE. In the absence of agreed shipping dates, Seller may invoice Buyer and ship the Deliverables once they are ready for shipment. If, because of Buyer's inability to take delivery on a designated delivery date, the Deliverables are not shipped, stopped in transit or returned, Seller may store them for Buyer at Buyer's expense and risk and risk of loss shall pass to Buyer when the Deliverables are placed in storage and such date shall constitute the date of shipment for purposes of beginning the warranty and payment periods.

12. SERVICE TERMS. (a) Services will be provided at Seller's then current service rates; (b) If the site is not

prepared for the Services upon Seller's arrival, Seller may charge a service fee and for any delay and/or travel time; (c) Buyer shall provide Seller with advance notice of any rules, requirements and Laws; (d) Seller may refuse, without any liability, to provide Services and to allow Seller service personnel to suspend Services or vacate any site where, in Seller's opinion, provision of Services would pose a risk to the safety of any person. In such event, Buyer is responsible for payment of any delay and/or travel time at Seller's regular service rates; and (e) Buyer is solely liable for all damages or injuries caused or contributed to by Buyer that may occur. Buyer is not permitted to cancel an order without Seller's approval, and is responsible for any costs incurred by Seller caused by any cancellation.

- 13. INSURANCE.** Buyer shall obtain and, at all times in which the Purchase Documents are in effect and for no less than two (2) years thereafter, maintain at its cost insurance as designated by Seller from time to time, but no less than insurance with insurers having a current A.M. Best rating and financial category of "A- VIII" or better, respectively: (1) primary comprehensive or commercial general liability insurance worldwide with limits of at least \$1 million per occurrence combined single limit for bodily injury and property damage with a \$2 million products-completed operations aggregate and a \$2 million general aggregate, including coverage for: (i) Products and Completed Operations liability; (ii) Blanket Contractual liability; (iii) Premises Liability; and (iv) Cross Liability endorsement or Severability of Interest clause; (2) Auto Liability insurance with limit of \$1,000,000 per occurrence combined single limit for owned (if applicable), hired and non-owned vehicle coverage; (3) umbrella insurance with limits of \$4,000,000 per occurrence and \$4,000,000 aggregate covering underlying general liability, employer's liability (if applicable) and auto liability. Insurance required shall: (a) be endorsed to insure Seller, its officers, directors, employees, representatives and agents as additional named insureds; (b) be endorsed to waive any rights of subrogation against Seller's insurers and Seller; (c) provide contractual liability coverage to Buyer for its indemnity obligations; and (d) be endorsed to provide that such insurance is primary to and non-contributory with any other insurance obtained by, for or on behalf of Seller notwithstanding any "other insurance" provision contained within such policies, with such insurance being excess, secondary, and non-contributing. Buyer shall provide written notice

to Seller no less than 30 days prior to the effective date of cancellation or material reduction of any required insurance coverage. Prior hereto and at any time upon reasonable request, Buyer shall provide certificates of insurance to Seller along with other documentation as may be reasonably required by Seller to evidence the insurance coverages required herein.

- 14. LIMITED WARRANTIES.** The only express warranties made by Seller are those contained in the written warranty(ies) in effect for the Deliverables at the time of sale and provided to Buyer upon delivery of Goods or completion of Services. If no written warranty is provided to Buyer as described in the preceding sentence, then Seller warrants that (i) Goods designed and manufactured by Seller will be free from defects in material and workmanship for a period of ninety (90) days after delivery or shipment, whichever is sooner; and (ii) Services will be performed in a workmanlike manner in accordance with industry standards for a period of ninety (90) days after completion of the Services. **THESE ARE SELLER'S ONLY WARRANTIES. SELLER DISCLAIMS ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. SELLER ALSO DISCLAIMS ANY AND ALL WARRANTIES FOR OR CONCERNING CUSTOMER'S SPECIFICATIONS, MODIFICATIONS, SPECIAL REQUESTS, ALTERATIONS OR OTHER DEVIATIONS FROM SELLER'S STANDARD DESIGN.** If during the warranty period, Buyer notifies Seller in writing that the Deliverables are not in conformity with the warranty and Seller agrees, after Seller's inspection (at Seller's option), then: (a) for Goods, Seller will repair, replace or refund the total amount received by Seller therefor, at its sole option, provided Buyer returns such Goods to Seller's plant for inspection; and (b) for Services, Buyer's sole remedy is for Seller, at its sole option, to re-perform the Services or credit Buyer's account therefor. These shall be Buyer's exclusive remedies for Seller's liability. **Any claims not made during the warranty period are deemed waived. Upon the occurrence of any event described in Section 16(e)(i)-(vi) without the prior written consent of Seller, Seller's warranty shall be void. Seller's warranty does not attach to Deliverables not manufactured by Seller. Seller will, as an accommodation to Buyer, pass on**

to Buyer whatever warranty, if any, it receives from the manufacturer of such third-party Deliverables or part thereof, but only to the extent allowed by such manufacturer. All such Deliverables covered by a third-party manufacturer's warranty must be sent directly to the manufacturer for replacement or repair.

15. LIMITATION OF LIABILITY. SELLER SHALL NOT BE LIABLE TO BUYER OR ANY OTHER PERSON OR ENTITY FOR ANY INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES OR ANY OTHER LOSSES, DAMAGES OR EXPENSES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY AMOUNT IN EXCESS OF THE PRICE RECEIVED BY SELLER FOR THE DELIVERABLES WITH RESPECT TO WHICH SUCH LIABILITY IS CLAIMED.

16. INDEMNIFICATION. Buyer shall defend, indemnify and hold Seller, its affiliates and their respective officers, directors, members, managers, representatives, agents and employees harmless from and against all claims, suits, demands, losses, liabilities, damages (including injury and death) and expenses (including reasonable attorneys' fees) (collectively, "Losses"), arising out of or relating to: (a) Buyer's or its agents provided specifications, design, structure, operation, material or method of making Deliverables ("Buyer's Specifications"), including without limitation, any resulting violation of intellectual property or proprietary rights; (b) Buyer's use, misuse or disposal of Deliverables or materials; (c) Buyer's non-compliance with any Law; (d) breach of these Terms by Buyer; and (e) Deliverables subjected to: (i) improper installation or storage; (ii) accident, damage, abuse or misuse; (iii) abnormal operating conditions or applications; (iv) operating conditions or applications above the rated capacity of the Deliverables; (v) repairs or modifications made to all or part of the Deliverables without the prior written consent of Seller; or (vi) a use or application other than or varying in any degree from the specifications and Seller's instructions.

17. TOOLING. In no event shall Buyer have any interest in any tools, jigs, dies, patterns, etc. (collectively, "Tooling") which is made or obtained for the production of the Deliverables. Such Tooling shall remain the property of Seller.

18. CONFIDENTIALITY. All non-public or proprietary information of Seller, including all IP, quotations and pricing information, is confidential, solely for the use in performing hereunder and may not be disclosed, used or copied unless authorized by Seller in writing.

19. INTELLECTUAL PROPERTY. All drawings, know-how, designs, specifications, inventions, devices, developments, processes, copyrights, trademarks, patents and applications therefor, and other information or intellectual property disclosed or otherwise provided to Buyer by Seller and all rights therein (collectively, "IP") are and will remain the property of Seller. Buyer shall have no claim to, nor ownership interest in, any IP and such information, in whatever form and any copies thereof, shall be promptly returned to Seller upon written request from Seller. Buyer acknowledges that no license or rights of any sort are granted to Buyer hereunder in respect of any IP, other than the limited right to use the Deliverables purchased from Seller.

20. EXPORT COMPLIANCE. Buyer will not engage in any activities or transactions that would violate or cause the Seller to violate applicable export controls and sanctions laws. It shall be the Buyer's responsibility to provide any required applications, documentation, or other similar action which may be necessary on the part of the Buyer to obtain any required license(s) to export from the United States or import into the another country.

21. FORCE MAJEURE. Seller shall not be liable for any delay in or failure to perform due to any event or contingency beyond its reasonable control (an event of "Force Majeure"), including acts of God, epidemics, acts of war whether declared or undeclared, blockades, labor disputes (whether of Seller's employees or the employees of others), raw material shortages and material increases in costs of raw materials, including those material increases in costs resulting from the imposition of tariffs. In the event of Force Majeure, the time for performance will extend for such time as reasonably necessary to enable Seller to perform. Seller may, during any period of shortage due to any of the above circumstances, allocate its available supply of Deliverables among itself and its purchasers in such manner as Seller, in its sole judgement, deems fair and equitable.

22. TERMINATION. Seller shall have the right to cease work or terminate these Terms or any purchase order, in whole or in part, at any time, without liability, if: (i) Buyer breaches or defaults under these Terms or any other agreement it has with Seller; (ii) a petition under any applicable law relating to bankruptcy, insolvency, or reorganization is filed by or against Buyer; (iii) Buyer executes an assignment for benefit or creditors; (iv) a receiver is appointed for Buyer or any substantial part of its assets; or (v) Seller shall have any reasonable ground for insecurity with respect to Buyer's ability to perform and Buyer is unable to provide Seller with adequate assurance within 10 days after written request therefor by Seller. In all cases, Seller's rights are cumulative, are not exclusive and in addition to all other rights and remedies it may have at law or in equity. No termination shall affect any accrued rights or obligations of either party as of the effective date of such termination.

23. WAIVER. All waivers by Seller shall be in writing. Failure of Seller at any time to require Buyer's performance of any obligation hereunder shall not affect Seller's right to require performance of that obligation. No delay or omission in the exercise of any right, power, or remedy hereunder shall impair such right, power, or remedy or be considered to be a waiver of any default or acquiescence therein.

24. GOVERNING LAW. Any dispute arising out of or related to these Terms will be governed by and construed in accordance with the laws of the State of Kentucky without regard to any rules on conflicts of laws and exclusively litigated in either (i) a state or federal court located in Cook County, Illinois, or (ii) a state or federal court located in the state of Seller's principal place of business, at Seller's sole discretion.

25. SEVERABILITY. The unenforceability or invalidity of any clause in these Terms shall not have an impact on the enforceability or validity any other clause in these Terms. Any unenforceable or invalid clause shall be regarded as removed from these Terms to the extent of its unenforceability and invalidity.

26. RELATIONSHIP OF THE PARTIES. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

27. MISCELLANEOUS. Buyer shall not assign any of its rights or obligations under these Terms or any

purchase order without Seller's prior written consent. Buyer shall comply with all applicable laws. There are no third-party beneficiaries. Any contract created between Seller and Buyer is subject to the specific conditions that (a) Seller is not obligated to provide insurance or indemnify Buyer, and (b) there are no flow-downs from any person or entity including the federal government that become part of the contract. Provisions which by their nature should survive will remain in force after any termination or expiration of any sale of Deliverables. The section headings are included solely for the convenience of the parties.