

## TERMS AND CONDITIONS OF GRAIN HOPPER SALE QUOTATION - SALES ORDER

[Revised May 17, 2018]

1. **OFFER/PRIORITY OF SELLER'S TERMS.** This writing is an offer by Stoughton Trailers, LLC ("Seller") to sell the grain hopper trailers ("Goods") described herein to the party to which this form is addressed ("Buyer"), subject to these terms and conditions and those set forth on the face of this offer. These terms and conditions shall be deemed included as part of any order or orders placed with Seller in accordance with or as a result of this offer. All orders by Buyer require a written purchase order and are subject to acknowledgment by Seller. The terms of this offer supersede the terms of Buyer's purchase order. Acceptance is limited to these terms and conditions; and any additional or different terms on Buyer's purchase order form are deemed material alterations to any contract between Buyer and Seller, and Seller hereby gives notice of its objection to them. The terms and conditions set forth by this offer are limited to orders placed with Seller or resulting from this offer. Any subsequent orders placed by Buyer not resulting from this offer may be subject to terms and conditions differing from the terms and conditions of this offer. This offer expires thirty (30) days from its date unless otherwise stated on the reverse side or upon prior written notice thereof to Buyer unless the Goods are subsequently tendered by Seller and accepted by Buyer.
2. **INSPECTION AND ACCEPTANCE.** Buyer shall have the right to reasonable inspection of the Goods. Within ten (10) days after notice to Buyer of completion of the Goods, Buyer may have its authorized representative inspect such Goods at the place of manufacture and accept or reject. Goods so inspected and accepted, and any Goods which Buyer does not cause to be inspected within said time, shall be conclusively deemed to meet all requirements of this contract and accepted by Buyer; and differences or discrepancies from specified condition, construction, type or otherwise are hereby waived by Buyer without further action on its part.
3. **PRICE.** All prices are F.O.B., the plant of Seller, unless otherwise stated. Prices also do not include any federal, state, or local taxes or other governmental charges upon or with respect to the sale, purchase, manufacture, delivery, storage, processing, use or consumption of any of the Goods provided hereby. All prices are subject to increase or surcharge, at Seller's option, based on the following: (a) Material Cost Increases – cost increases, tariffs, duties, taxes, and government surcharges relating to raw materials and components, including without limitation aluminum, steel, copper, rubber/tires, specialty metals, plastics, and composite materials, and/or (b) Energy Cost Increases – cost increases for fuel, electric energy, and manufacturing gases used in the manufacturing process and/or delivery process
4. **TERMS OF PAYMENT.** Unless the Goods are to be leased or other payment is specifically stated in this Contract, payment is due net thirty (30) days from the date of Seller's invoice. Interest will be charged at the rate of 18% per year to the extent allowed by applicable law and otherwise at the highest contract rate allowed by law. Buyer's failure to pay any amount when due shall also entitle Seller to suspend performance of any other purchase orders from Buyer.
5. **CANCELLATIONS OR CHANGES.** An accepted order is not subject to cancellation, change or delay except on terms acceptable and satisfactory to Seller, including reasonable cancellation charges in the event of cancellation or an equitable price adjustment in the event of changes in an accepted order. Direction from Buyer to cancel may be treated as repudiation, making Buyer immediately liable for loss, expense and other damages sustained.
6. **TAXES.** The price specified in this Contract does not provide for the payment of any sales, use, manufacturing, excise, occupation, value added, duty, custom, inspection or any other tax, fee or charge of any nature whatsoever. In addition to the price of the Goods, Buyer shall pay to Seller, in cash on demand, any local, state or federal taxes, (other than net income, excess profits and similar taxes) or license fees, including penalties, interest and expenses in connection therewith, levied or imposed by any taxing authority upon and paid by Seller with respect to, or measured by, the sale, use, payment, delivery or transfer of title to the Goods or any part thereof.
7. **ASSIGNMENT.** Any assignment by Buyer of any rights or obligations hereunder shall be of no force and effect without the prior written consent of Seller.
8. **CHANGE IN LAW.** In the event Seller is required to make changes or additions to any or all of the Goods pursuant to any law, rule or regulation prior to delivery of such Goods, including without limitation any changes to the Goods required by the Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles – Phase 2, 81 Fed. Reg. 73,478 (Oct. 25, 2016), as amended, any replacement rules, or any other State or Federal rule, legislation, or executive order requiring a change to the Goods, the price of the Goods shall be increased to include all costs incurred by Seller for such changes or additions.
9. **LEASE PROVISIONS.** If a monthly lease rate and a lease term are specified, it is understood that Seller and Buyer will enter into an Equipment Lease Contract containing the applicable provisions hereof and providing that Seller or its assignee will retain full title to the Goods including any investment tax credits or other tax benefits with respect to the Goods. Seller shall not be obligated to deliver Goods to be leased hereunder in the event the respective parties fail to execute an Equipment Lease Contract. The terms of the Equipment Lease Contract shall supersede the terms contained herein.
10. **ENTIRE CONTRACT.** It is understood and agreed that the terms contained herein, when accepted by the Buyer, explicitly or by acceptance of the Goods or otherwise shall constitute the entire contract between the parties with respect to the subject matter hereof and the provisions hereof supersede all other prior oral or written communications, negotiations, orders, confirmations and memoranda of every kind and nature between the parties with respect to the Goods. The terms and conditions hereof may not be revised or modified in any way except by written instrument signed by the party against whom enforcement of such revision or modification is sought.
11. **SELLER'S APPROVAL.** If any penalty provision is made a part of this transaction where any of the above terms are modified or eliminated, then Seller shall have no obligations hereunder unless and until this contract is approved by an executive officer of Seller.

12. **FAILURE TO DELIVER.** Seller shall not be responsible for delays in delivery, or failure to deliver due to causes beyond its reasonable control, including without limitation, acts of God, acts of purchaser, fires, strikes, or other labor difficulties, or hostilities, embargoes, Goods breakdown, inability to obtain necessary labor, material or manufacturing facilities due to causes beyond its reasonable control or any like dissimilar cause beyond its reasonable control. In the event of such delay, the date of delivery shall be extended for a period equal to the time lost by reason of the delay.
13. **DELIVERY DATES.** Delivery dates are from receipt of order, prints, models or materials, whichever is later, which are to be furnished by Buyer. Delivery dates are estimates and not guarantees, and Buyer understands and agrees to reasonable delays in delivery. Overtime and other direct costs incurred to hasten delivery at Buyer's request shall be added to the stated prices and paid by Buyer. Shipment of Goods ready for delivery can be deferred beyond date for delivery only with Seller's consent and upon full payment of Seller's invoice for same plus storage costs. There shall be no penalties for late shipments unless arranged prior to production and confirmed by Seller in writing.
14. **RISK OF LOSS.** Seller assumes no responsibility for delays, breakage or damage after having made delivery to a common carrier, at which time, all risk of loss for any cause passes to Buyer.
15. **CLAIMS.** No rejections can be made and no claims for variances from Buyer's specifications detectable upon inspection or shortages in orders will be considered by Seller unless presented to it in writing within thirty (30) days after acceptance of Goods.
16. **PAYMENT.** In the event of bankruptcy or insolvency of Buyer or in the event any proceeding is brought against Buyer, voluntary or involuntary, under the bankruptcy or any insolvency laws, Seller shall be entitled to cancel any order then outstanding, and shall receive reimbursement for its reasonable cancellation charges. Title to tools and fixtures shall remain in Seller until all terms of payment have been satisfied.
17. **SECURITY FOR PRICE.** Until Buyer pays Seller in full for the Goods, title to the Goods shall remain in Seller's name and Seller shall have a purchase money security interest in the Goods. If Buyer shall default in such payments, Seller shall have all the rights as holder of such title or as such secured party under the Uniform Commercial Code and/or any other law; and Seller may, in addition, retain as rental any payments received by Seller on account of the purchase price of the Goods, whether Buyer's default shall have occurred before or after delivery. If Seller repossesses the Goods, Seller may resell the Goods after 10 days' prior written notice to Buyer. Seller may file one or more financing statements to perfect such security interests. If necessary, Buyer shall execute such financing statements upon the request of Seller.
18. **DEFAULT.** In the event of any default by Buyer, Seller, without prejudice to any other remedy provided herein or by law, may treat such default as breach of the entire contract or may defer further deliveries until such default is cured, in which latter event, if Seller so elects, the dates of all subsequent deliveries shall be extended for a period equal to the length of time of such deferral. Default by Buyer occurs when Seller has not received payment within ten (10) business days after the date specified for any payment. If, despite any default by Buyer, Seller elects to continue to make deliveries, its actions shall not constitute a waiver of any default by Buyer.
19. **LIMITED WARRANTY.** Stoughton Trailers, LLC (Seller) warrants to the original purchaser (Buyer) of the trailers for a period of three (3) years from the in-service date (as determined by Stoughton Trailers, LLC) the trailers, (Goods) will be free of defects in material and workmanship, when used for the purpose for which the Goods were designed and when the Goods have been properly maintained. USED AS DESIGNED means the proper loading and carriage of agricultural grain products. At no time shall the Goods be loaded so as to exceed the gross vehicle weight rating (GVWR) or gross axle weight rating (GAWR) stamped on the vehicle registration plate affixed to the Goods by Seller, such overloading shall void this warranty. This warranty shall be void if the Goods are not USED AS DESIGNED.

Seller makes no warranty as to parts, accessories, or other products manufactured by others, or specified by the Buyer, or utilized as the result of Buyer's requirements. The Seller will pass on to Buyer, warranties given to Seller by its suppliers of such items, but the Seller does not ratify or adopt said warranties.

The Seller makes no warranty on parts which may wear out, including, but without limitation to, brake linings, brake drums, oil seals, wheel ends, bearings, paint, lights and lamp bulbs, tarps, tires, accessories, damage caused by corrosion, alignments and adjustments which are normal maintenance items not caused by defective parts, parts or Goods that have been damaged by accident or repaired or altered by anyone other than the Seller or Seller's authorized service representative.

Buyer and Seller further agree that Seller's sole remedy for any defects in Goods purchased hereunder, whether Buyer's claim arises under the warranty, tort or otherwise, shall be limited to the repair or replacement at Seller's option within the warranty period provided however such Goods are returned by Buyer to Seller immediately, and in no event more than twenty (20) days after the defective condition complained of is, or should have been discovered. Any warranty claim must be submitted in accordance with the Seller's Warranty Guidelines. All warranty repairs must be approved in writing by the Seller before any warranty work is authorized. Unauthorized warranty charges or failure to comply with Seller's Warranty Guidelines will result in the denial of the warranty claim.

Any description of the Goods, whether in writing or made by Seller or Seller's agents, specifications, samples, models, bulletins, drawings, diagrams, engineering sheets or similar materials used in connection with Buyer's order are for the sole purpose of identifying the goods and/or services and shall not be construed as an express warranty. Any suggestions by Seller or Seller's agents regarding use, application or suitability of the Goods shall not be construed as an express warranty unless confirmed to be such in writing by Seller's authorized representative.

The warranty set forth above is inapplicable to and excludes any defect, damage, or malfunction resulting from (i) sidewall bulge by cargo pressure, (ii) normal wear and tear, erosion, corrosion, (iii) misuse, negligence, or modification of the Products or any component by Buyer or any third party or its agents, (iv) repair service provided by third parties, (v) failure by Buyer to follow applicable manuals or instructions, (vi) failure of parts or components or services not provided by Seller, (vii) failure by the Buyer to properly maintain the Products, (viii) loading of the Products in excess of the gross vehicle weight rating (GVWR) or gross axle

weight rating (GAWR) stamped on the vehicle registration plate affixed to the Products, or (ix) any other cause outside Seller's reasonable control. This warranty will be voided by installation of unauthorized components into Sellers Products.

THIS WARRANTY, IS NOT TRANSFERABLE AND APPLIES TO THE FIRST PURCHASER OF THE GOODS FROM THE SELLER (OR ITS DULY AUTHORIZED DEALERS), THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, OR OTHERWISE. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY CLAIM, WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE, FOR ANY INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, CARGO LOSS, LOSS OR INTERRUPTION OF BUSINESS ON ACCOUNT OF OR ARISING FROM THE USE OF THE GOODS.

20. **LIMITATION OF LIABILITY/EXCLUSION OF CONSEQUENTIAL DAMAGES AND DISCLAIMER OF OTHER LIABILITIES.** Seller's liability with respect to the Goods sold hereunder shall be limited to the Limited Warranty provided in Section 19 above, and, with respect to other performance of the contract arising out of this offer, shall be limited to the contract sale price of the Goods.

**SELLER SHALL NOT BE SUBJECT TO AND DISCLAIMS:**

- (a) ANY OTHER OBLIGATION OR LIABILITIES ARISING OUT OF BREACH OF CONTRACT OR BREACH OF WARRANTY,
- (b) ANY OBLIGATIONS WHATSOEVER ARISING FROM TORT CLAIMS (INCLUDING NEGLIGENCE, PRODUCT LIABILITY AND STRICT LIABILITY) OR ARISING UNDER OTHER THEORIES OF LAW WITH RESPECT TO GOODS SOLD OR ANY UNDERTAKINGS, ACTS OR OMISSIONS RELATING THERETO, AND
- (c) ALL CONSEQUENTIAL, INCIDENTAL, SPECIAL AND/OR CONTINGENT DAMAGES WHATSOEVER.

Without limiting the generality of the foregoing, Seller specifically disclaims any liability for property or personal injury damages, penalties, special or punitive damages, damages for lost profits or revenues, loss of use of Goods or any associated equipment, cost of capital, cost of substitute Goods, facilities or services, down-time, shut-down costs, or for any other types of economic loss, and for claims of Buyer's customers or any third party for any such damage.

21. **COLLECTION COSTS.** In the event it is necessary to place any contract based on this offer in the hands of an attorney for collection, purchaser shall pay Seller's reasonable costs of collection of money due and unpaid, including reasonable attorneys' fees and costs.
22. **DESIGN MODIFICATIONS.** Buyer will allow extra charges for authorized or requested changes to Buyer's design or specifications. Seller reserves the right to modify Buyer's design or specifications so long as those modifications do not alter form, fit, or function. Seller is not responsible for dimensional or other errors on Buyer's drawings, and Buyer shall reimburse Seller for additional costs resulting from such errors.
23. **INTELLECTUAL PROPERTY RIGHTS.** Seller shall retain all rights in all intellectual property, including any rights under any patents as well as any unpatented information, such as trade secrets, confidential information, trademarks, trade dress, or copyrights possessed by Seller which may be protected by state, federal and/or common law, and nothing in this offer shall be deemed or construed to be a transfer or license of any of Seller's intellectual property. Buyer shall obtain rights to such intellectual property only to the extent that Seller may grant such rights (whether by license or otherwise) in a separate writing.
24. **INTELLECTUAL PROPERTY INDEMNITY.** Buyer agrees to defend, indemnify and hold harmless Seller against all claims for damages and demands for actual or alleged infringement of any patent, copyright or trademark by reason of Seller's execution of the designs, prints, drawings, requirements, or specifications of Buyer.
25. **BUYER'S PROPERTY.** Seller shall have the right to scrap, without liability, prints submitted for quotation, as well as models, patterns, tools, fixtures or other property belonging to Buyer unless written directions for shipment of such property are given to Seller within ten (10) days of notification by Seller. Modifications made to the tooling in order to manufacture an acceptable part will be at the discretion of Seller.
26. **GOVERNING LAW/CHOICE OF FORUM.** The rights and obligations of Buyer and Seller hereunder shall be governed by the laws of the State of Wisconsin without regard to the principles of conflicts of law. Any lawsuit between Buyer and Seller shall be filed exclusively in a court either located in or having jurisdiction over Dane County, Wisconsin or such other venue as Seller shall elect.
27. **STORAGE.** If the Buyer does not remove the Goods from Seller's facility within fifteen (15) days after notification to the Buyer that the Goods are ready for shipment, Seller may store such Goods at Buyer's risk in Seller's yard or upon Seller's premises, and Buyer shall pay all handling, transportation and storage charges at the prevailing commercial rates upon submission of invoices by Seller. Such invoices shall be paid net thirty (30) days.

ALL SALES ARE SUBJECT TO THESE TERMS AND CONDITIONS OF SALE. THE UNDERSIGNED BUYER ACCEPTS THIS OFFER, SUBJECT TO SELLER'S TERMS AND CONDITIONS OF SALE APPEARING ON THE FACE AND REVERSE SIDES OF THIS PAGE, ANY OTHER PAGE AND ON ANY ATTACHMENTS THERETO.

F:\WINWORD\STI Proformas\Terms & Conditions\Grain Hopper T&C of Sale Quote & Order.doc