

# HEC WORLDWIDE

## TERMS AND CONDITIONS OF SALE / ORDER CONFIRMATION

1. **ACCEPTANCE:** (HEC Worldwide will hereto be referred to as "HEC" in this document). HEC ACCEPTS AND CONFIRMS YOUR ORDER FOR THE ITEMS, GOODS AND PRODUCTS AS DETAILED ON YOUR QUOTE AND/OR INVOICE. YOU AGREE TO THE TERMS AND CONDITIONS OF SALE SET FORTH ON YOUR QUOTE AND/OR INVOICE AS SET FORTH HEREIN BELOW. NO DIFFERENT OR ADDITIONAL TERMS ARE ACCEPTABLE BY HEC UNLESS AGREED UPON IN WRITING AND SIGNED BY HEC. THESE TERMS AND CONDITIONS ARE EXCLUSIVE AND IN LIEU OF ALL QUOTATIONS MADE AND ORDERS ACCEPTED BY HEC UNLESS SPECIFICALLY STATED TO THE CONTRARY ON THE FACE OF SAID QUOTATION AND OR INVOICE. HEC IS NOT RESPONSIBLE FOR TYPOGRAPHICAL OR CLERICAL ERRORS MADE IN ANY QUOTATIONS, INVOICES, ORDERS OR PUBLICATIONS EITHER ELECTRONIC OR IN PRINT.
2. **PAYMENT:** PAYMENT SHALL BE MADE AS FOLLOWS: BUYER MUST MAKE A 50% DEPOSIT ON THE PRICE OF EACH CUSTOM MADE ITEM OR EACH ITEM NOT CURRENTLY IN STOCK AT THE TIME OF BUYER'S RETURN OF CONFIRMATION OF ORDER. THE BALANCE IS DUE PRIOR TO THE DATE OF SHIPPING THE ITEM, WHICH DATE WILL BE PROVIDED TO BUYER BY HEC AS AVAILABLE. FOR ORDERS OF ITEMS IN STOCK, PAYMENT SHALL BE IN U.S. DOLLARS IN THE FORM OF CASHIER'S CHECK, MONEY ORDER, WIRE TRANSFER OR CREDIT CARD. DEPOSITS ONLY MAY BE MADE IN THE FORM OF BUYER'S CHECK, PAYABLE TO HEC. ORDERS WILL NOT BE SHIPPED C.O.D. HEC RESERVES THE RIGHT TO ALTER THE ABOVE PAYMENT TERMS AT ITS SOLE DISCRETION.
3. **SHIPMENT:** ALL GOODS ARE TO BE SHIPPED F.O.B. CARRIER FROM ANY AND ALL HEC AUTHORIZED FACILITIES BASED ON ITEM AVAILABILITY. ALL RISK OF LOSS PASSES TO THE BUYER WHEN HEC DELIVERS THE ORDER, OR ANY PART THEREOF, TO THE CARRIER. IF THE BUYER DOES NOT SPECIFY A PREFERRED METHOD OF SHIPMENT OR MAKE ARRANGEMENTS WITH ITS OWN CARRIER, HEC SHALL EXERCISE SOLE DISCRETION IN SELECTING A METHOD OF SHIPMENT. ALL COSTS AND EXPENSES RELATED TO SHIPMENT OF CUSTOMERS ORDER, OR ANY PART THEREOF, WILL BE THE SOLE RESPONSIBILITY OF THE BUYER. THESE INCLUDE BUT ARE NOT LIMITED TO, INSURANCE, BROKERAGE FEES, TAXES, CUSTOMS, INSPECTION FEES, DUTIES, ETC. SHIPMENTS WILL BE INSURED AT BUYER'S EXPENSE UNLESS OTHERWISE SPECIFIED. HEC ASSUMES NO RESPONSIBILITY FOR PLACING A VALUATION UPON A SHIPMENT UNLESS REQUESTED TO DO SO BY BUYER. PARTIAL SHIPMENTS OF ANY ORDER FROM BUYER MAY BE MADE BY HEC IN ORDER TO FACILITATE THE EARLIEST POSSIBLE DELIVERY OF THE ITEM ORDERED PROVIDED THAT BUYER HAS PAID HEC IN FULL FOR THE ORDER IN ITS ENTIRETY.
4. **DELIVERY:** ALL PROJECTED DELIVERY DATES ARE HEC'S REASONABLE ESTIMATION ONLY BASED ON CURRENT PRODUCTION SCHEDULES OF WHEN THE ORDER WILL BE AVAILABLE FOR SHIPPING. HEC WILL NOT BE HELD LIABLE FOR DAMAGES OR DELAY IN DELIVERY ARISING FROM CAUSES BEYOND ITS CONTROL, INCLUDING, BUT NOT LIMITED TO, ACTS OF GOD, ACTS OF GOVERNMENT, FIRES, FLOODS, EPIDEMICS, QUARANTINE RESTRICTIONS, STRIKES, FREIGHT EMBARGOES OR DELAYS OR SEVERE WEATHER. IF THE DELAY IS CAUSED BY THE DELAY OR DEFAULT OF A SUBCONTRACTOR OR HEC AND IF SUCH DELAY RISES FROM CAUSES BEYOND THE CONTROL OF EITHER HEC OR THE SUBCONTRACTOR, HEC SHALL NOT BE LIABLE TO THE BUYER IN DAMAGES.
5. **LIMITED WARRANTY:** HEC PROVIDES BUYER A LIMITED REPAIR AND REPLACEMENT WARRANTY AND AGREES AND WARRANTS ONLY THAT THE PRODUCTS, IDENTIFIED BY CATEGORY BELOW, WILL BE FIT FOR THEIR INTENDED PURPOSE, MERCHANTABILITY, AND WITHOUT MATERIAL DEFECT IN WORKMANSHIP AND MATERIALS FOR THE PERIOD AND TYPES OF PRODUCT SPECIFIED AS FOLLOWS:
  - (a) INFLATABLES CREATED BY HEC: TWO (2) YEARS FROM THE DATE OF SHIPMENT TO BUYER, EXCLUDING WEAR PANELS, ZIPPERS, COVER SHEETS, AND GAME ACCESSORIES. (b) PIECES AND PARTS ORDERED FROM HEC: THIRTY (30) DAYS FROM DATE OF SHIPMENT TO BUYER. (c) OTHER EQUIPMENT (NOT CREATED BY HEC): NO WARRANTY OF ANY KIND IS EXTENDED BY HEC, AT BUYER'S REQUEST, HEC WILL ASSIGN TO BUYER, TO THE EXTENT IT CAN LEGALLY AND CONTRACTUALLY DO SO, ALL WARRANTIES ON SUCH OTHER EQUIPMENT, IF ANY, OFFERED BY THE MANUFACTURER OR SUPPLIER OF SUCH OTHER EQUIPMENT.
  - (a) INFLATABLES CREATED BY HEC USED IN PERMANENT OR SEMI PERMANENT INSTALLATIONS WHEREIN THE PRODUCT IS IN OPERATION MORE THAN THREE (3) CONSECUTIVE DAYS, RE: FAMILY ENTERTAINMENT CENTERS, THEME PARKS, BEACH RESORTS, SUMMER CAMPS, ETC: ONE (1) YEAR FROM THE DATE OF SHIPMENT TO BUYER, EXCLUDING WEAR PANELS, ZIPPERS, COVER SHEETS, AND GAME ACCESSORIES. (b) PIECES AND PARTS ORDERED FROM HEC: THIRTY (30) DAYS FROM DATE OF SHIPMENT TO BUYER. (c) OTHER EQUIPMENT (NOT CREATED BY HEC): NO WARRANTY OF ANY KIND IS EXTENDED BY HEC, AT BUYER'S REQUEST, HEC WILL ASSIGN TO BUYER, TO THE EXTENT IT CAN LEGALLY AND CONTRACTUALLY DO SO, ALL WARRANTIES ON SUCH OTHER EQUIPMENT, IF ANY, OFFERED BY THE MANUFACTURER OR SUPPLIER OF SUCH OTHER EQUIPMENT.
  - A PRODUCT SHALL NOT BE CONSIDERED DEFECTIVE IF IT IS A DIFFERENT COLOR THAN SHOWN IN HEC'S MARKETING MATERIALS, BE IT IN PRINT OR ELECTRONIC AND NO WARRANTY IS MADE RELATING TO COLOR. ALL DIMENSIONS AND WEIGHTS ARE NOMINAL AND NO WARRANTY IS MADE RELATING TO DIMENSIONS OR WEIGHTS. ALL REQUESTS OF BUYER FOR WARRANTY WORK AND/OR REPLACEMENT ARE SUBJECT TO PRODUCT INSPECTION AT HEC'S FACILITY IN ORLANDO, FLORIDA. BUYER MUST SHIP THE PRODUCT TO HEC AT BUYER'S EXPENSE FOR EVALUATION. FOR APPROVED WARRANTY CLAIMS MADE WITHIN THIRTY (30) DAYS OF SHIPMENT TO THE BUYER, HEC WILL SHIP THE REPAIRED UNIT BACK TO THE BUYER AT OUR EXPENSE AND THE BUYER WILL BE REIMBURSED FOR THEIR SHIPPING COSTS. APPROVED WARRANTY CLAIMS MADE MORE THAN THIRTY (30) DAYS, BUT LESS THAN NINETY (90) DAYS, HEC WILL SHIP THE REPAIRED UNIT BACK TO THE BUYER AT OUR EXPENSE. FOR APPROVED WARRANTY CLAIMS MADE IN EXCESS OF NINETY (90) DAYS, BUYER IS RESPONSIBLE FOR ALL SHIPPING EXPENSES. ORDINARY WEAR AND TEAR WILL NOT INVALIDATE HEC'S LIMITED WARRANTY, BUT MISUSE, IMPROPER HANDLING OR STORAGE, IMPROPER REPAIRS OR ALTERATIONS, IMPROPER MAINTENANCE AND CARE, OR ACCIDENTAL, ABUSIVE OR NEGLIGENT TREATMENT OF THE PRODUCT WILL INVALIDATE HEC'S WARRANTY. BUYER MUST USE ANCHORS, TIE-DOWNS AND GROUND COVERS AT ALL TIMES TO ENSURE THE SAFETY OF USERS AND THE EQUIPMENT. THIS WARRANTY IS NOT A GUARANTEE THAT THE PRODUCT WILL NOT THROUGH USE, HANDLING OR STORAGE DEVELOP TEARS OR PUNCTURES FROM TIME TO TIME, THE REPAIR OF WHICH IS THE RESPONSIBILITY OF BUYER. ALL SHIPPING COSTS WILL BE BORNE SOLELY BY THE BUYER. NO STATEMENT, REMARK OR REPRESENTATION OF ANY EMPLOYEE OR AGENT OF HEC MAY VARY THIS LIMITED WARRANTY UNLESS IN WRITING AND SIGNED BY THE PRESIDENT OF HEC.
6. **INSPECTION:** BUYER SHALL INSPECT THE ALL PRODUCTS IN THEIR ENTIRETY PROMPTLY AFTER RECEIPT AND SHALL NOTIFY HEC IN WRITING OF ANY CLAIMS, INCLUDING CLAIMS OF BREACH OF WARRANTY, WITHIN FIFTEEN (15) DAYS AFTER BUYER DISCOVERS OR SHOULD HAVE DISCOVERED THE FACTS UPON WHICH THE CLAIM IS BASED. FAILURE OF BUYER TO GIVE WRITTEN NOTICE OF CLAIM WITHIN THE INSPECTION TIME PERIOD SHALL BE DEEMED TO BE A WAIVER OF A CLAIM FOR DEFECTIVE PRODUCTS, A WAIVER OF THE RIGHT TO REJECT THE GOODS, AND CONCLUSIVE PROOF THAT ALL PRODUCTS WERE RECEIVED BY BUYER WITHOUT DEFECT.
7. **DISCLAIMER:** THE PROVISIONS OF PARAGRAPH 5 ARE HEC'S SOLE OBLIGATION AND HEC EXCLUDES ALL OTHER REMEDIES OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ALL WARRANTIES ARISING FROM THE COURSE OF DEALING OR USAGE AND CUSTOM OF THE TRADE, WHETHER OR NOT SAID PURPOSES OR SPECIFICATIONS ARE DESIRED HEREIN. HEC FURTHER DISCLAIMS ANY RESPONSIBILITY WHATSOEVER TO BUYER OR TO ANY OTHER PERSON FOR INJURY TO PERSON OR DAMAGE TO OR LOSS OF PROPERTY OR VALUE CAUSED BY ANY PRODUCT WHICH HAS BEEN SUBJECT TO MISUSE, NEGLIGENCE, ACCIDENT, MISAPPLICATION, MODIFICATION, REPAIR BY UNAUTHORIZED PERSONS, IMPROPER INSTALLATION OR IMPROPERLY MAINTAINED.
8. **LIMITATION OF LIABILITY:** UNDER NO CIRCUMSTANCES SHALL HEC BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE, DELAY OR SPECIAL DAMAGES, LOSSES OR EXPENSES ARISING FROM THIS CONFIRMATION OR ORDER OR HEC'S OR BUYER'S PERFORMANCE OR NONPERFORMANCE, OR ANY ACTS OR OMISSIONS OF HEC, OR IN CONNECTION WITH THE USE OF OR INABILITY TO USE THE GOODS FOR ANY PURPOSE WHATSOEVER. IN ANY AND ALL EVENTS, IF HEC IS FOUND LIABLE FOR DAMAGES, NOTWITHSTANDING THE LIMITATIONS AND EXCLUSIONS OF PARAGRAPH 7 AND 8, HEC SHALL NOT BE RESPONSIBLE FOR DAMAGES TO ANY PERSON OR ENTITY, INCLUDING BUT NOT LIMITED TO BUYER AND

BUYER'S CUSTOMERS, FOR AN AMOUNT EXCEEDING THE AMOUNT PAID BY BUYER FOR THE PRODUCTS ORDERED AND CONFIRMED BY THIS CONFIRMATION OF ORDER.

9. **TOLERANCES:** ALL DIMENSIONS STATED IN HEC'S CATALOGUE, WEBSITE OR ELSEWHERE PERTAINING TO PRODUCTS SOLD BY HEC ARE APPROXIMATE AND WITHIN INDUSTRY TOLERANCES.
10. **PATENTS:** HEC MAKES NO WARRANTY THAT THE GOODS WILL BE DELIVERED FREE OF THE RIGHTFUL CLAIM OF ANY THIRD PARTY BY WAY OF INFRINGEMENT OR THE LIKE. IF HEC DETERMINES, IN ITS SOLE DISCRETION, THAT MAKING, USING, OR SELLING THE GOODS WOULD RESULT IN THE INFRINGEMENT OF ANY PATENT, HEC RESERVES THE RIGHT TO CEASE DISTRIBUTING AND/OR SHIPPING THE PRODUCT, WITHOUT LIABILITY TO BUYER.
11. **MODIFICATIONS:** PRICES ARE SUBJECT TO ADJUSTMENT IF BUYER REQUESTS CHANGES IN SPECIFICATIONS, QUANTITIES, OR DELIVERY REQUIREMENTS. ALL PARAGRAPHS OF THIS CONFIRMATION SHALL APPLY TO THE GOODS TO WHICH SUCH CHANGES APPLY AND NO MODIFICATION OF THE TERMS AND CONDITIONS HEREOF SHALL BE BINDING ON HEC UNLESS CONTAINED IN WRITING SIGNED BY HEC AND EXPRESSLY STATING BOTH THAT SUCH TERMS ARE BEING MODIFIED AND THE NATURE OF SUCH MODIFICATION. THIS ORDER CANNOT BE CHANGED WITHIN THE TWO (2) WEEK PERIOD PRIOR TO THE PROJECTED SHIPMENT DATE UNLESS HEC AND BUYER MUTUALLY AGREE TO AN APPROPRIATE CHANGE ORDER FEE AND AN APPROPRIATE NEW SHIPMENT DATE, IF APPLICABLE.
12. **CANCELLATION:** BUYER MAY CANCEL THIS ORDER, IN WHOLE OR IN PART, UPON WRITTEN NOTICE TO HEC ON OR BEFORE THE FOURTEENTH (14) DAY PRIOR TO THE PROJECTED SHIP DATE. UNLESS CANCELLED ON OR BEFORE THE FOURTEENTH (14) DAY PRIOR TO PROJECTED SHIPMENT DATE, BUYER SHALL BE LIABLE FOR THE PAYMENT OF CANCELLATION CHARGES, WHICH CHARGES SHALL BE THE SUM OF (1) THE PRICE OF ALL GOODS THAT HAVE BEEN DELIVERED AND NOT PREVIOUSLY PAID FOR, PLUS (2) THE ACTUAL COST INCURRED BY HEC THAT IS PROPERLY ALLOTTED TO THE GOODS NOT DELIVERED AT THE TIME OF THE DECREASE OR CANCELLATION, INCLUDING, WITHOUT LIMITATION, THE COST OF COMPONENTS AND MATERIALS PURCHASED FOR USE IN PRODUCING SUCH GOODS, PLUS (3) THE PROFIT AND REASONABLE OVERHEAD THAT HEC WOULD HAVE MADE FROM FULL PERFORMANCE BY HEC, PLUS (4) THE COSTS OF ENGINEERING, PROTOTYPES, TESTING, TOOLING, AND SIMILAR ITEMS PRODUCED FOR BUYER, PLUS (5) THE REASONABLE COSTS INCURRED BY HEC IN MAKING SETTLEMENT AND EFFECTING COLLECTION HEREUNDER. IN NO EVENT WILL THE FEE FOR BUYER'S UNTIMELY CANCELLATION OF AN ORDER BE LESS THAN TEN PERCENT (10%) OF THE TOTAL ORDER, BUT NO SUCH CANCELLATION FEE WILL BE IMPOSED IF BUYER COMPLIES WITH THE FIRST SENTENCE OF THIS PARAGRAPH 12.
13. **RETURNS POLICY:** FOR ANY ITEM PURCHASED FROM HEC AND RETURNED AT THE BUYER'S EXPENSE FOR REASONS UNRELATED TO A WARRANTY CLAIM WITHIN THIRTY (30) DAYS OF THE DATE PRODUCT WAS SHIPPED FROM OUR FACILITY OR PICKED UP BY BUYER FROM OUR FACILITY, A RESTOCKING FEE OF TWENTY-FIVE PERCENT (25%) OF THE PRICE OF THE ITEM(S) RETURNED WILL BE DEDUCTED FROM THE INVOICED PRICE.
14. **TAXES:** ALL CHARGES ARE SUBJECT TO THE FEDERAL, STATE AND LOCAL TAXES, IF ANY, PERTINENT AT THE POINT OF DELIVERY. BUYER SHALL PAY SUCH TAXES IMPOSED ON THIS ORDER, AND ALL PENALTIES AND INTEREST, IF ANY, ACCRUED WITHIN.
15. **INTERPRETATION:** EXCEPT AS NOTED BELOW, THE RIGHTS AND LIABILITIES ARISING OUT OF THIS CONTRACT WITH HEC SHALL BE DETERMINED UNDER THE UNIFORM COMMERCIAL CODE AS ENACTED IN FLORIDA, WITHOUT APPLICATION OF CHOICE OF LAW RULES OR THE UNITED NATIONS CONVENTIONS ON CONTRACTS FOR THE SALE OF GOODS (AS TO FOREIGN SHIPMENTS).
16. **EFFECT OF BREACH ON RISK OF LOSS:** BREACH OF THE CONTRACT BY HEC SHALL HAVE NO EFFECT OF THE PROVISIONS CONTROLLING THE RISK OF LOSS OF THE GOODS, AND SECTIONS 2-510(1) AND 2-510(2) OF THE UNIFORM CODE SHALL HAVE NO EFFECT ON THIS CONFIRMATION OF ORDER.
17. **USE AND INDEMNIFICATION:** BUYER IS SOLELY RESPONSIBLE FOR THE MANNER OF USE OF THE PRODUCTS AND OTHER EQUIPMENT. BUYER IS SOLELY RESPONSIBLE FOR ALL SIGNAGE, LABELS AND WARNINGS TO CONSUMER OR OTHER USERS OF THE PRODUCTS AND EQUIPMENT, AND FOR ANY AND ALL OTHER ACTS NECESSARY, INCLUDING USER WARNINGS AND LIMITATIONS (e.g., SAFE USE, WEIGHT, HEIGHT, AGE, MEDICAL CONDITION LIMITATIONS), TO ENSURE THE SAFETY OF THE USERS. BUYER SHALL USE STAKES, TIE-DOWNS, AND OTHER APPLICABLE DEVICES NECESSARY TO ENSURE THE SAFETY OF USERS. BUYER AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND HEC FROM ACTIONS AND CLAIMS OF THIRD PARTIES, INCLUDING CUSTOMERS OF BUYER AND USERS OF THE GOODS AND PRODUCTS SOLD TO BUYER, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THE GOOD AND PRODUCTS HEREIN DESCRIBED OR RESULTING FROM THE BREACH OF THE PROVISIONS IN THIS CONFIRMATION OF ORDER BY BUYER. IN THE EVENT HEC IS REQUIRED TO COMMENCE AN ACTION TO ENFORCE THIS PROVISION, BUYER SHALL PAY ALL OF HEC'S LEGAL COSTS AND EXPENSES.
18. **INTEGRATION:** THERE ARE NO REPRESENTATIONS, WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE EXCEPT THESE HERE IN CONTAINED, AND NO AGREEMENTS OR WAIVERS COLLATERAL HERETO SHALL BE BINDING ON EITHER PARTY UNLESS IN WRITING AND SIGNED BY BUYER AND BY HEC. THIS CONFIRMATION OF ORDER CONTAINS ALL OF THE PROMISES, WARRANTIES, TERMS AND CONDITIONS OF THE AGREEMENT BETWEEN THE PARTIES AND SUPERSEDES ANY AND ALL ORAL OR IMPLIED PROMISES, UNDERTAKINGS AND PRIOR AGREEMENTS.
19. **GOVERNING LAW, JURISDICTION AND VENUE:** IN THE EVENT OF LITIGATION BETWEEN THE PARTIES CONCERNING THE ORDER OR ANY PRODUCT SHIPPED TO BUYER HEREUNDER, SUCH ACTION SHALL BE GOVERNED BY THE LAWS OF FLORIDA, U.S.A. VENUE SHALL BE IN ORANGE COUNTY, FLORIDA, AND THE ACTION SHALL BE BROUGHT IN THE FLORIDA COURT OF APPROPRIATE JURISDICTION OR THE US FEDERAL COURT FOR THE MIDDLE DISTRICT OF FLORIDA

COMPANY NAME: \_\_\_\_\_

AUTHORIZED REP.: \_\_\_\_\_ PRINT

AUTHORIZED REP.: \_\_\_\_\_ SIGNATURE

DATE: \_\_\_\_\_ ORDER #: \_\_\_\_\_

Fax: 407-563-5493