

APPENDIX A

KOA SPEER ELECTRONICS TERMS AND CONDITIONS OF SALE

1. Terms and Conditions. This sale is subject to, and Seller's acceptance is conditioned upon, Buyer's assent to the terms and conditions stated herein and on Seller's sales confirmation, which is in lieu of and replaces any and all terms and conditions set forth in any documents issued by Buyer, including, without limitation, purchase orders and specifications. ANY ADDITIONAL, DIFFERENT, OR CONFLICTING TERMS AND CONDITIONS ON ANY SUCH DOCUMENT ISSUED BY BUYER AT ANY TIME ARE HEREBY OBJECTED TO BY SELLER, AND ANY SUCH DOCUMENT SHALL BE WHOLLY INAPPLICABLE TO ANY SALE MADE HEREUNDER AND SHALL NOT BE BINDING IN ANY WAY ON SELLER. No waiver or amendment to these terms and conditions shall be binding on Seller unless made in writing expressly stating that it is such a waiver or amendment and signed by Seller. In case of conflict between the terms and conditions stated here and those on the face of the Quotation, those on the face of the Quotation shall control.

2. Price. Except as otherwise specified by Seller in writing, all billings for products and services will be at the price indicated on the face of Seller's Quotation. Seller shall have the right to increase the prices set forth in the Quotation by an amount equal to any additional duty tariff, tax, or other charge imposed as a result of any action by the U.S. Government, any state or local government, or any agent or agency thereof. The prices set forth on the face of the Quotation shall be valid for a period of sixty (60) days from the date of the Quotation.

3. Payment. ALL PAYMENTS SHALL BE MADE IN UNITED STATES DOLLARS WITHIN THIRTY (30) DAYS OF THE DATE OF THE INVOICE. Seller may accept partial payment in an amount less than the full amount of any invoice but such acceptance shall not constitute a waiver of Seller's right to collect the balance or accord and satisfaction notwithstanding Seller's endorsement of a check or other instrument. If Buyer is adjudicated bankrupt or a petition for winding up or judicial management is made against Buyer or corporate reorganization under any bankruptcy or similar laws is filed by or against Buyer or Buyer makes a general assignment for the benefit of creditors or a receiver and/or manager for Buyer is appointed, Seller may, to the extent allowed by applicable law, cancel any unfilled order. Each individual shipment shall be invoiced and paid as a separate and independent transaction.

Seller reserves a purchase money security interest in the products sold to Buyer and in the proceeds thereof until payment is made in full by Buyer. In the event that the Buyer sells or otherwise disposes of the products sold to Buyer without the prior written consent of Seller prior to full payment for these products being made to Seller, Seller shall be entitled to the entire proceeds of sale, which amount will be held by Buyer in a separate bank account on trust for Seller. Buyer agrees to execute financing statements and other instruments at Seller's request.

4. Taxes. Unless otherwise stated on the face of the Quotation, stated prices do not include any customs duties, sales, use, value added, excise, goods and services, federal, state local or other similar taxes. All such duties or taxes shall be paid by Buyer, or, in lieu thereof, Buyer shall provide Seller with an appropriate exemption certificate.

5. F.C.A. and Risk of Loss. Unless otherwise stated on the face of the Quotation, all shipments are F.C.A. Seller's facility in Bradford, Pennsylvania. Seller's liability for delivery shall cease and title and all risk of loss or damage shall pass to Buyer upon delivery to carrier, regardless of any provision for payment of freight or insurance or the form of shipping documents. Products held by Seller for Buyer shall be at Buyer's risk and expense. Unless otherwise specified in writing. Seller shall ship by the method which it deems most advantageous.

6. Returns and Adjustments. No product may be returned by Buyer for any reason without the prior written approval of Seller. No product returns will be accepted unless such return has been authorized by Seller and Seller has provided Buyer with a Return Material Authorization ("R.M.A.") number. All returns shall be in the original packaging or equivalent. Any product returned to Seller without prior authorization for its return, without the issuance of an RMA number, or with improper packaging, may be refused.

7. Warranty. SELLER MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OTHER WARRANTIES THAT MIGHT ARISE FROM COURSE OF DEALING OR CUSTOM OF TRADE OTHER THAN THAT SELLER WARRANTS ONLY THAT THE PRODUCT COMPLIES WITH SELLER'S SPECIFICATION SHEET FOR THE PRODUCT AT THE TIME OF DELIVERY.

Any claim against Seller must be made within ninety (90) days from the date of shipment by Seller. Seller's liability is limited to repair or replacement of the defective product or credit or refund of the purchase price of the defective product, provided that Seller may elect refund in lieu of credit, replacement or repair. Allegedly nonconforming products shall be returned as provided herein to Seller, transportation charges prepaid. All warranties cover only defects arising under normal use in compliance with Seller's specifications and do not insure malfunctions or failures resulting from misuse, abuse, neglect, alteration, modification, or improper installation, or repairs by anyone other than Seller. No agent, employee or representative of Seller has any authority to bind Seller to any affirmation, representation or warranty relating the products other than as specifically provided herein.

The warranty provided for herein is subject to the following conditions: (a) if product becomes defective during the warranty period, Buyer shall notify Seller promptly in writing of any claims; (b) if Seller advises Buyer to return product for repair or replacement, Buyer will follow Seller's instructions with respect to the return of such product; (c) if product alleged by Buyer to be defective or returned to Seller for repair as provided in this section is either (i) not under warranty, or (ii) determined not to be defective, or (iii) defective due to any cause or conditions not covered under the warranty provided herein, Buyer agrees to reimburse Seller for all reasonable expenses incurred in traveling and/or the shipping, handling, and inspection of such product; (d) products will be accepted by Seller for warranty claim verification only when returned by Buyer in a condition which allows for suitable testing by Seller; (e) when more than one type of product is returned, the products must be segregated by product type; (f) Seller shall reimburse Buyer for shipping charges to the extent of the percent of the total returns that are found by Seller to be defective as specified herein; and (g) any returned products electrically or mechanically destroyed by Buyer or third parties will not be covered by this warranty, and will not be returned to Buyer, but will be scrapped by Seller.

8. Limitation of Liability. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM SELLER'S PERFORMANCE OR FAILURE TO PERFORM UNDER THIS SALE, OR THE FURNISHING, PERFORMANCE OR USE OF ANY GOODS OR SERVICES SOLD PURSUANT HERETO, WHETHER DUE TO A BREACH OF CONTRACT, BREACH OF WARRANTY, STRICT LIABILITY, THE NEGLIGENCE OF SELLER OR OTHERWISE.

9. No Warranty Against Patent Infringement. BUYER EXPRESSLY UNDERSTANDS AND AGREES THAT SELLER DOES NOT WARRANT THAT THE PRODUCT IS FREE OF CLAIMS OF PATENT INFRINGEMENT BY ANY THIRD PARTY. SELLER HEREBY DISCLAIMS ANY SUCH WARRANTY OR INDEMNIFICATION AGAINST PATENT INFRINGEMENT.

10. Critical Components. SELLER'S PRODUCTS ARE NOT AUTHORIZED FOR USE AS CRITICAL COMPONENTS IN LIFE SUPPORT DEVICES OR SYSTEMS WITHOUT THE EXPRESS WRITTEN APPROVAL OF A CORPORATE OFFICER OF SELLER. Life support devices or systems are those which are intended to support or sustain life and whose failure to perform can be reasonably expected to result in a significant injury to the user. Critical components are those whose failure to perform can be reasonably expected to cause failure of a life support device or system or affect its safety or effectiveness.

11. Product Resale. Buyer shall not resell Seller's products, except upon Seller's prior written authorization. Notwithstanding the foregoing, Seller understands and agrees that Buyer may incorporate Seller's products into a device or other product which is then sold by Buyer to its customers.

12. Acceptable Quality Levels. Quotations are based on Acceptable Quality Levels commensurate with normal processing. If particular AQL values are requested, you should state them along with the original request.

13. Order Cancellation. Cancellation of an order, or any part thereof, shall be subject to the following terms: You shall pay the contract price of all goods that have been completed. In addition to such payment, as to any part of the order that shall be in process, you shall pay a sum equal to the same proportion of the contract price as the degree of completion of the goods in process on the date cancellation is received bears to full completion. Termination charges on governmental contracts and subcontracts will be determined in compliance with applicable laws and regulations.

14. Prohibition on Discrimination. In accordance with Executive Order 11246, we agree not to discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. We will take affirmative action to ensure that Equal Employment Opportunity is implemented in employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. All other applicable provisions of the Rules and Regulations of the Office of Federal Contract Compliance are herein incorporated by reference.

15. Force Majeure. Seller shall not be liable for any delay in performance or non-delivery caused directly or indirectly, by or resulting from acts of God, fire, flood, accident, riot, war, government intervention, embargoes, strikes, labor difficulties, equipment failure, late delivery by suppliers or other difficulties which are beyond the reasonable control of Seller. Under such circumstances, quantities will be subject to availability. In the event of production difficulties or product shortages, Seller may allocate sales and deliveries at its sole discretion.

16. Product Discontinuance. Seller reserves the right to discontinue production of any product at any time without notice except for that quantity of product for which Seller has received and acknowledged a purchase order from Buyer and has scheduled such product for shipment within six (6) months of the date of such acknowledgement. In addition, Seller reserves the right to make changes in its manufacturing processes, provided, however, that Seller agrees that it will provide Buyer with ninety (90) days prior written notice of any such material change.

17. Assignment. Buyer may not assign its rights or obligations hereunder without the express prior written consent of Seller, and any assignment without such consent shall be a breach hereof by Buyer. Seller shall be entitled at any time to assign its rights or obligations hereunder to any third party without Buyer's prior written consent.

18. Governing Law. This agreement is governed by the laws of the Commonwealth of Pennsylvania. Buyer acknowledges and agrees that Pennsylvania courts have jurisdiction over this agreement and Buyer, that Pennsylvania is an appropriate place for venue of any litigation, and that all litigation, to the extent possible, shall be in Pennsylvania. Buyer consents and agrees that the Commonwealth of Pennsylvania shall be the sole forum for resolution of disputes regarding this Agreement or transactions hereunder. The parties hereby acknowledge and agree that the provisions of the Sale of Goods (United Nations Conventions) Act, Chapter 283A, as amended or replaced are expressly excluded and shall not apply to the terms and conditions of this Order.

19. Confidential Information. Seller shall have no obligation to hold any information received from Buyer hereunder in confidence unless such information is covered by a separately negotiated non-disclosure agreement which is reduced to writing and signed by both parties.

20. Export Restrictions. Buyer shall not, without prior authorization from the appropriate governing authority, export, re-export, or transship, directly or indirectly, the products or any technical data disclosed to Buyer, or the direct product of such data, into any country as to which the United States government has placed an embargo against the shipment of products. Buyer warrants that the products will not be used, directly or indirectly, in the research, design, development, production, testing, maintenance, use or stockpiling of weapons of mass destruction, including without limitation, nuclear weapons, chemical weapons and biological weapons. Buyer warrants that products will not be used in other controlled nuclear activities including, but not limited to, maritime nuclear propulsion projects or in missile projects. These restrictions apply to subsequent sales by Buyer to third parties whether they involve the re-export of product or domestic sale.

21. Entire Agreement; Severability. These terms and conditions, including those on the face of the Quotation (but expressly not including any terms and conditions of Buyer's documents, including any purchase order), constitute the entire agreement with regard to this sale and expressly supersede and replace any prior or contemporaneous agreements, written or oral, relating to said sale. This agreement shall be binding upon the heirs, successors, and assigns of the parties hereto. If any provision of this agreement is adjudged to be unenforceable in whole or in part, such adjudication shall not affect the validity of the remainder of this agreement. Each provision of this agreement is severable from every other provision and constitutes a separate distinct and binding covenant.

22. Headings. Headings are inserted solely for convenience of reference, shall not constitute a part of this agreement and shall not otherwise affect the interpretation hereof.