



## KOA DENKO (S) PTE. LTD.

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# GENERAL SALES AGREEMENT

(Version 1 dated 02 Jan 2012)

BUYER desires to purchase from SELLER and SELLER is willing to sell to BUYER, certain products which are manufactured by KOA Corporation and its affiliates. The Parties intend to set out the general terms governing the sale and purchase of such products in this Agreement.

In consideration of premises and of the mutual obligations hereunder set forth the Parties hereto agree as follows.

## Article 1. Definition

For the purpose of this Agreement, each of the following terms shall have the following meaning respectively:

- 1.1 "Products" means all types of the products manufactured and sold by SELLER to BUYER pursuant to this Agreement.
- 1.2 "Specification" means the mechanical, electrical and other requirements of the Products as determined by SELLER and any subsequent modification or revision thereto.

## Article 2. Terms of Agreement

- 2.1 The terms and conditions of this Agreement shall apply to all Products purchased by BUYER from SELLER.
- 2.2 During the term of this Agreement, BUYER may place orders with SELLER by way of Purchase Orders for such Products as in its discretion it may require from time to time. A Purchase Order shall state:
  - 2.2.1 the type of Products;
  - 2.2.2 Manufacturer Part Number and Customer Part Number;
  - 2.2.3 the quantity of the Products;
  - 2.2.4 the desirable delivery date; and agreed contract price
  - 2.2.5 Delivery Incoterms
- 2.3 A Purchase Order shall be delivered to SELLER by way of EDI, facsimile or e-mail at the

addresses in Article 17.

- 2.4 No sales contract shall be binding unless and until confirmed and accepted by SELLER at its discretion by way of EDI, return facsimile or e-mail. A confirmed and accepted Purchase Order shall be known as Accepted Order.
- 2.5 If the terms of this Agreement and the terms of any Purchase Order or order acknowledgement conflict, the terms of this Agreement will take precedence.
- 2.6 The Products are sold as per INCOTERMS.
- 2.7 SELLER shall not be liable for any delay in shipment or for non-delivery of the Products by any causes beyond the reasonable control of SELLER.

### Article 3. Price, Payment and Other Terms

- 3.1 The prices, payment and other terms of conditions (i.e. cancellation window, rescheduling window, Forecast Liability etc.) between SELLER and BUYER shall be determined upon deliberation and shall be separately confirmed in each sales contract.
- 3.2 In case of any changes in the terms and conditions including prices and payment terms, the two parties shall agree in writing in advance.

### Article 4. Warranty

- 4.1 SELLER warrants that the Products shall conform to the specifications and/or catalogue agreed upon between the parties. There shall be no warranties, which extend beyond the description of such specifications and/or catalogue. The Seller does not make and hereby disclaims any warranty in respect of the Products other than as provided above in this article, whether expressed or implied, including without limitation implied warranty of merchantability or fitness for any purpose.
- 4.2 If BUYER intends to claim that any of the Products is defective and/or does not meet the Specifications, BUYER shall submit such claims in writing identifying the Products and describing the particulars of the complaint to SELLER within ninety (90) days from the date of delivery, failing which it shall be deemed that the Products are in order and BUYER shall waive all such claims.
- 4.3 In case any of those claims is found justifiable due to faulty materials or workmanship or any other reason caused by SELLER, SELLER shall replace the defective Products with other Products, upon request of BUYER.
- 4.4 SELLER shall not be liable for:
  - 4.4.1 consequential or indirect damages under any circumstances;
  - 4.4.2 any defects of Products or any part thereof caused by any failure of BUYER or any of

Its' purchaser to follow normal handling procedures specified in the specifications and/or catalogues;

- 4.4.3 defects resulting from improper use, storage or maintenance of Products;
- 4.4.4 normal deterioration or normal wear and tear; and
- 4.4.5 defects resulting from the processing of the Product and its integration or assembly with other components and/or part.

4.5 BUYER shall give appropriate instructions to its purchasers of the Products to have the Products used strictly in accordance with the purposes of the specifications.

4.6 BUYER shall not revise, modify or alter the specifications of the Products or the purposes for which the Products are used, without prior approval of SELLER.

4.7 BUYER shall indemnify and keep SELLER indemnified against all losses, damages claims and expenses caused by or resulting from:

- (i) BUYER and/or its purchasers integrating the Products with other components and/or parts; or
- (ii) BUYER's breach of the terms of this Agreement, or any Purchase Order or an Agreed Order

4.8 SELLER has the right to change of Specifications at its own discretion. Such changes shall be in writing notified to BUYER in advance.

4.9 In order to identify the defects in any defective Products, SELLER shall implement a system which traces the materials supplied for the Products and BUYER shall implement a system which traces its production process, which would identify the Products by lot numbers or any other tracking information.

## Article 5. Validity

5.1 This Agreement shall become effective on Effective Date for initial period of one (1) year period and renewed automatically by consecutive twelve (12) months period unless terminated by either party by giving three (3) months' prior written notice to the other Party.

5.2 Either party shall have the right to terminate this Agreement if the other party should at any time commit any breach of this Agreement or fail to perform any of its obligations hereunder in the event that either of following shall occur:

- the other party defaults in any of its obligations hereunder and fails to cure such default within thirty (30) days after receipt of written notice thereof from the non-defaulting party;
- there shall be filed by or against the other party application for bankruptcy, dissolution, liquidation, composition or company reorganization;
- procedures of compulsory execution, official auction, preservative measures or dispositions of assets for recovery of taxes in arrears have been taken against the other party;

- a receiver of trustee is appointed with respect to any of the assets of the other party;
- the other party makes a general assignment for the benefit of creditors;
- the other party becomes insolvent, including, but not limited to, the condition of 1) default in payment of any invoice or 2) failure to satisfy any judgment of payment entered against the other party;
- the whole or substantial part of the business of the other party is transferred to a third party by order of court or otherwise;
- the other party takes voluntary or involuntary advantage of any other debtor relief proceedings;
- the other party discontinues its business for any reason; or
- either government or any governmental entity expropriates or condemns all or substantially all of the assets or the capital stock of the other party or of any lessor portion of such assets or capital stock.

## Article 6. Force Majeure

- 6.1 Neither party of this Agreement shall be liable in any manner for failure or delay upon fulfillment of all or part of this Agreement, directly or indirectly owing to any causes of circumstances beyond its control, including Acts of God, Governmental orders or restriction, war, warlike conditions, revolutions, strike, fire and flood.

## Article 7. Confidentiality

- 7.1 "Confidential Information" shall mean any information disclosed by a party to the other in connection with this Agreement or any Purchase Order or Agreed Order, which is – when disclosed in tangible form or via electronic communication, including internet based provision of information – marked as "confidential", "proprietary" or similarly by the disclosing party or which is – when disclosed orally or visually – identified as confidential prior to disclosure and – within [(20) twenty] Working Days from disclosure - conveyed to the receiving party in form of a written summary marked "confidential", "proprietary" or similarly. Confidential Information shall include any copies or abstracts made thereof as well as any apparatus, modules, samples, prototypes or parts thereof.
- 7.1.1 Neither Party shall use the other Party's Confidential Information for any purpose other than for the implementation and performance of this Agreement or any Purchase Order and Agreed Order ("Purpose").
- 7.1.2 Copies of Confidential Information shall only be made if reasonably required for the Purpose and shall be marked as "confidential", "proprietary" or similarly.
- 7.2 The confidentiality obligations contained in this Article 7.1 shall not apply to any information which:
- 7.2.1 was in the possession of the receiving Party without an obligation to confidentiality prior to receipt from the disclosing Party;

7.2.2 is at the time of disclosure already in the public domain or subsequently becomes available to the public through no breach of this Agreement by the receiving Party or the breach of the corresponding obligations by any of its employees is lawfully obtained by the receiving Party from a third party without an obligation to confidentiality.

7.2.3 is developed by the receiving Party or its Subsidiaries independently of any Confidential Information or under the exceptions as set out in this Article 7.2.;

7.2.4 is required to be disclosed by any ruling of a competent governmental or regulatory authority or court or by mandatory law.

7.2.5 is approved for release by written agreement of the disclosing Party.

7.3 Each Party shall be liable for acts or omissions by any Party's employees resulting in unauthorized distribution, use and/or disclosure of Confidential Information as if such acts or omissions had been its own acts or omissions.

7.4 Upon any termination or expiration of this Agreement the receiving Party shall cease using any Confidential Information of the disclosing Party. Within ninety (90) days after termination of this Agreement, the disclosing Party may request in writing from the receiving Party that the receiving Party at its discretion, either return or destroy all Confidential Information received from the disclosing Party and stored electronically and/or on record-bearing media as well as any copies thereof. The receiving Party shall, confirm in writing such destruction or return of the Confidential Information as well as any copies thereof to the disclosing Party within thirty (30) working Days after receipt of the disclosing Party's request.

7.5 The rights and obligations under this Article 7 shall survive the termination of this Agreement for a period of 5 (five) years.

#### Article 8. Export Control Regulations

For all Products to be delivered to be provided according to this Agreement, Seller shall comply with all applicable export control, customs and foreign trade regulations ("Foreign Trade Regulations") applicable under the laws of the port of export and shall obtain all necessary export licenses, unless Buyer or any party other than Seller is required to apply for the export licenses pursuant to the applicable Foreign Trade Regulations.

#### Article 9. Dispute

In the event of any dispute, controversy or difference which may arise between the parties hereto out of or in relation to or in connection with this Agreement, the same shall be resolved by way of arbitration in the Republic of Singapore under the rules of arbitration of the Singapore International Arbitration Centre.

#### Article 10. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of Singapore.

#### Article 11. Entire Agreement

This Agreement constitutes the entire agreement between the parties and supersedes any prior written or oral agreements between the parties concerning the subject matter. No modifications of this Agreement shall be binding unless executed in writing by both parties.

#### Article 12. Assignment

BUYER shall not assign or transfer any rights under this Agreement and/or any Purchase Order and/or any Accepted Order without the prior written consent of SELLER. Any assignment or transfer without such consent shall be null and void.

#### Article 13. No Waiver

No failure or delay of one party to require performance by the other of any provision of this Agreement shall in any way adversely affect such party's right to require full performance of such provision after that, unless expressly made by that party in writing. No waiver by one party of a breach of any provision of this Agreement shall be taken to be a waiver by such party of any succeeding breach of such provision.

#### Article 14. Severability

If any provision of this Agreement is found invalid or unenforceable, the validity or enforceability of the remaining provision or portion or portion hereof shall not be affected, unless the invalid or unenforceable provision was material or essential to either one of the parties.

#### Article 15. Liability

SELLER shall not be liable for any loss of profit, loss of production or interruption of business or for any consequential or indirect damages in connection with breach of this Agreement or under any circumstances.

#### Article 16. Third Party Rights

No Person or entity other than the Parties (and their permitted successors and assigns) is or shall be entitled to bring any action to enforce any provision of this Agreement or assume any rights under the Contracts (Rights of Third Parties) Act, Chapter 53B and/or any other laws. The covenants, undertakings and agreements set forth in this Agreement are and shall be solely for the benefit of, and shall be enforceable solely by, the Parties (and their permitted successors and assigns).

Article 17. Notice

Any notice required or permitted by this Agreement shall be in writing and delivered by registered mail or by confirmed e-mail and addressed as follows and/or may be designated by notice from one party to the other, all such notices being effective on the date received

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