

1. AGREEMENT:

1.1. kVA Strategies, LLC (hereinafter called 'Company'), representing various manufacturers, engages in the manufacturer's representation, importation, distribution and product resale business for Goods destined for the North American electrical market. Any and all business undertaken, including any advice, information or services provided by the Company, its employees, agents, officers, directors and/or subcontractors, whether gratuitously or not, by any means (including E-mail) is transacted subject to the latest revision of these Sales Terms and Conditions (hereinafter called the 'Agreement'). Each term and/or condition in this Agreement shall be deemed to be incorporated in and be a binding condition of any agreement (verbal or written) between the Company and any Customer, except as otherwise specifically stated herein. No employee, agent or subcontractor of the Company has the Company's authority to alter, negate or vary any of the terms or conditions of the Agreement. By requesting a quotation and/or issuing an Order for purchase, the Customer confirms and agrees this Agreement is the sole legal agreement governing the purchase and that no modified or additional terms or conditions apply, except as specifically provided in valid Alliance Partner Distribution Agreements authorized by the Company. These Sales Terms and Conditions, as herein described, shall be a legal and binding contract document between the Company and the Customer and shall supersede any and all existing agreements between the Company and Customers, except for specific language touching and concerning its subject matter as otherwise agreed between the Company and their Alliance Partner Distributor(s) in a currently authorized Alliance Partner Distribution Sales Agreement.

2. PARAGRAPH HEADINGS:

2.1. Paragraph headings are informational for convenient organizational reference, and are not a binding part of the Agreement.

3. INTERPRETATIONS:

- 3.1. The 'Agreement' shall mean the latest revision of the kVA Strategies, LLC Standard Sales Terms and Conditions.
- 3.2. The 'Company' shall mean kVA Strategies, LLC.
- 3.3. The 'Customer' shall include all companies and persons with whom the Company transacts or proposes to transact business.
- 3.4. An Alliance Partner Distributor shall mean a Customer with whom the Company has a currently authorized Alliance Partner Distribution Sales Agreement.
- 3.5. The 'Goods' shall mean any products or services represented by, estimated and/or quoted on, and/or sold by the Company, its agents, subcontractors and/or authorized resellers.
- 3.6. The 'Manufacturer' shall mean the manufacturer of the Goods.
- 3.7. The 'Order' shall mean the order for purchase placed by the Customer for the Goods.
- 3.8. The Goods shall be 'Delivered' when they are available for customer collection according to the applicable Incoterms.
- 3.9. The 'Specification' shall mean the description of the Goods contained or referred to in the estimate, quotation and/or Order. The Company may at its sole discretion transmit an Order Confirmation to the customer. Unless corrected by the customer according to the terms specified in the Order Confirmation, the Specification shall be as stated in the Order Confirmation. If no Order Confirmation is received by the Customer, the Specification shall be as stated in the last quotation issued by the Company. The Customer shall bear full responsibility for accepting the Specification once the Order has been accepted by the Company.
- 3.10. 'Standard' products shall mean those Goods, in the sole discretion of the Company, that are listed in manufacturers' catalogs as standard products with a defined catalog number.
- 3.11. 'Product Specials' shall mean any other than Standard products, and shall include, but not be limited to special or customized products, and standard products that have been modified for a Customer's application.
- 3.12. The word 'shall' constitutes an obligatory term and/or condition.
- 3.13. The word 'will' constitutes a non-obligatory term of intention and/or condition by the Company or others.
- 3.14. A 'paid' invoice shall mean the funds have been received in full by the Company.
- 3.15. Transmittal 'date' shall mean the US Postal Service postmark date or express mail or courier service postmark date or sales receipt date transmitting the respective document.
- 3.16. The word 'authorized' (e.g. authorized by the Company) shall mean the respective document shall be signed by an officer of the Company.

4. PRICES, TAXES and MISCELLANEOUS CHARGES:

4.1. The Customer agrees to pay the prices, taxes, shipping and handling charges, insurance, duties and other applicable miscellaneous charges (e.g. random US Customs inspection fees) applicable on the Goods sold by the Company. The Customer shall pay all applicable taxes, which may be invoiced by the Company, unless they have previously furnished the Company with a sales tax exemption certificate covering the taxes on the Goods.

5. APPLICABLE REVISION:

5.1. The Company may, in its sole discretion, update the Agreement from time to time as required. The Customer shall be bound by the latest revision of the Agreement that has been either transmitted directly to the Customer or posted to the Company web site or other public viewing site.

6. PAYMENT:

- 6.1. The Customer agrees to immediately pay the prices, taxes and miscellaneous charges applicable on the Goods quoted by the Company at the time the Order is Delivered (see Clause 3.8). If any of the applicable miscellaneous charges (including, but not limited to taxes, shipping and handling, demurrage, insurance, duties, customs tariffs and random US Customs inspection fees) are not known at the time of purchase, the Customer agrees to pay those charges immediately as they become known by the Company and invoiced to the Customer.
- 6.2. If the Company extends credit to the Customer for the Goods associated with the respective Order, the Customer agrees to pay invoices upon such other terms as have been authorized by the Company in writing (e.g. Net30) from the date listed on the Company invoice.
- 6.3. If the Customer requests a delivery delay for the Goods associated with an Order after the Goods are initially available for delivery, the Customer shall agree to an invoice date as of the date the Goods were initially available.
- 6.4. By placing an Order with the Company, the Customer represents they are solvent and financially able to satisfy all the obligations as specified in the Agreement.
- 6.5. If the Company cannot confirm the Customer's financial condition, or if the Company believes the Customer's financial condition mandates, the Company reserves the right to require full or partial payment prior to manufacture or shipment, even if other sales terms might have been previously offered.
- 6.6. If the Customer fails to make a payment when due, the Company:
 - 6.6.1. will have the right to suspend performance on or cancel any outstanding contracts with the Customer summarily by notice in writing without compensation to the Customer but with the right to be paid in respect of work or Goods supplied to the Customer and to be reimbursed the amount of all monies paid out on account of the Customer, and
 - 6.6.2. The Customer agrees to pay an interest charge on the amount past due at the rate of 1-1/2% per month (18% per year) or the maximum lawful rate, whichever is less, from the date that payment is due to the date of actual payment whether before or after judgment, irrespective of any other rights which the Company is entitled to hereunder, and
 - 6.6.3. In the event of non-payment, the Customer agrees to pay the Company reasonable attorney's fees (as deemed by the sole discretion of the Company) and applicable court costs incurred by the Company to collect payment and interest charges, and
 - 6.6.4. The Company will be entitled to the full and unrestricted right to use for itself and any other third party authorized by the Company and to sell and apply the proceeds of sale in satisfaction of all sums due to the Company from the Customer
- 6.7. In addition to any right of lien to which the Company may by law be entitled, the Company will be entitled to a general and particular lien on all Goods of the Customer in the Company's possession or control (even though the Goods may have been paid for) for any monies owed by the Customer to the Company under the same or any other contract.
- 6.8. Where payment is made by means of a Bill of Exchange, check or other negotiable instrument (including, but not limited to electronic funds transfers and wire transfers) the Company will be deemed to have received full payment only when the Bill of Exchange, check or instrument has been honored on presentation for payment, notwithstanding that the Company may have negotiated it and received value therefor.
- 6.9. Until full payment has been received by the Company for all Goods whatsoever or howsoever supplied and all services rendered at any time by the Company to the Customer:
 - 6.9.1. Property in the Goods shall remain with the Company.
 - 6.9.2. Should the Customer convert the Goods (or any of them) into new product(s), whether or not such conversion involves the admixture of any other Goods or thing whatsoever and in whatever proportion the conversion shall be effected by the Customer solely as agent for the Company, which shall have the full legal and beneficial ownership of the new product(s) as surety for the full payment of all sums owed by the Customer to the Company.
 - 6.9.3. The Customer shall keep a record of sales and shall store the Goods separately from any other property and in such a way that they can be readily identified as being the property of the Company.
 - 6.9.4. Subject to the herein described terms, the Customer shall be at liberty to sell the Goods and the new product(s) referred to in (6.9.2) above in the ordinary course of business on the basis that the proceeds of sale shall belong to the Company to whom the Customer shall account on demand provided that the Customer shall have no authority to enter into any contract of sale on behalf of the Company and any contract of sale shall accordingly be concluded in the name of the Customer.
 - 6.9.5. The Company may at any time revoke the Customer's power of sale by notice to the Customer if the Customer is in default in the payment of any sum whatsoever due to the Company (whether in respect of the Goods or any other Goods supplied or services rendered at any time by the Company to the Customer or for any other reason whatsoever) or if any Bill of Exchange, check or other negotiable instrument drawn or accepted by the Customer in favor of the Company is dishonored on presentation for payment or if the Company has bona fide doubts as to the solvency of the Customer.
 - 6.9.6. The Customer's power of sale shall automatically cease if a Receiver is appointed over any of the assets or the undertaking of the Customer or a winding up order is made against the Customer or the Customer goes into voluntary liquidation (otherwise than for the purposes of reconstruction or amalgamation) or causes a meeting of or makes any arrangement or composition with creditors or commits any act of bankruptcy.
 - 6.9.7. Upon determination of the Customer's power of sale under the herein described terms, the Customer shall place the Goods and the new product(s) at the disposal of the Company, which shall be entitled to enter upon any premises of the Customer or of any third party for the purpose of removing such Goods and new product(s) from such premises (including severance from the realty where necessary).

7. PURCHASE CANCELLATIONS:

- 7.1. Once an Order has been accepted by the Company, any cancellation shall be subject to a restocking fee. The amount of the restocking fee will be based on raw materials commitments, product tooling impact, product fabrication status, scheduling disruption, administrative commitment, other financial commitments (i.e. sales visits to the Customer), etc, and will be established at the sole discretion of the Company. If it is determined there is no financial impact to the Company, the Company, in its sole discretion, may waive the restocking fee.
- 7.2. Purchases of Product Specials may not be cancelled or returned without the Customer being subject to the complete original sales terms, as if the Order were not cancelled (less freight, insurance and duty if not already committed by the Company).

8. LEGAL COMPLIANCE:

- 8.1. If any legislation is compulsorily applicable to any business undertaken between the parties to the Agreement, these Terms and Conditions shall, as regards such business, be read as subject to such legislation and nothing in these Terms and Conditions shall be construed as a surrender by the Company of any of its rights or immunities or as an increase of any of its responsibilities or liabilities under such legislation and if any part of these Terms and Conditions be repugnant to such legislation to any extent then such part shall, as regards such business, be void to that extent but no further.

9. CUSTOMER REPRESENTATION:

9.1. Where the Customer is acting as a principal and/or authorized agent of a third party, the Customer accepts the Terms and Conditions of the Agreement for himself and his company, and is duly authorized and does accept them for such third party (as applicable). The Customer has full capacity and has taken or will take all necessary steps, including the obtaining of all necessary licenses and permissions, to enable him to deal in the Goods. Where acting for a third party and not as a principal, the Customer accepts personal responsibility to the Company just as if he were acting as a principal and not as an agent for a third party. Any instruction or Order given by the Customer shall not cause the Company to infringe the law of any jurisdictions involved in the transaction.

10. ESTIMATES and QUOTATIONS:

- 10.1. Estimates and/or quotations from the Company, whether relating to price, delivery, materials or otherwise howsoever, are given on the basis of immediate acceptance (or as otherwise stated on the estimate and/or quotation). If a validity period is not specifically stated on the estimate and/or quotation, the estimate and/or quotation shall be valid for a maximum of five (5) calendar days.
- 10.2. All estimates and/or quotations are subject to withdrawal and/or revision by the Company (including those with stated validity periods). From the date of the initial estimate and/or quotation until after the Customer has placed an Order, the Company will be at liberty to revise estimates and/or quotations of charges in the event of changes occurring in the costs of materials, rates of freight, international currency exchange rates or any charges of whatsoever nature applicable to the Goods and incurred by the Company.
- 10.3. The Company reserves the right to charge a set-up fee for short runs, prototypes, Product Specials and custom Goods.

11. PRIVACY and ADVERTISING RIGHTS:

- 11.1. All business transacted by the Company will be subject to the latest revision of the kVA Strategies Privacy Policy.
- 11.2. By purchasing Goods from the Company, the Customer agrees to fully allow the Company to publish non-private Customer details (e.g. company affiliation, project name, project manager and/or contact name) on the Company's project reference form for the purpose of soliciting future business from new and existing customers.

12. SALES TERMS:

- 12.1. Sale of the Goods shall be made DDP (Incoterms 2000) at the Customer's location unless otherwise authorized by the Company.
- 12.2. At the Company's sole discretion, alternate Incoterms other than DDP – Customer location may be offered (e.g. CPT to a mutually acceptable destination). If alternate Incoterms are offered on an estimate and/or quotation, they may be depicted as a separate line item, along with the corresponding estimated cost. Any alternate Incoterms estimate and/or quotation will be based on the prevailing currency exchange rate(s), freight quotation(s) and customs tariffs and duties (as applicable) and is subject to change. The Customer's invoice price for the alternate Incoterms will be based on the actual currency exchange rate(s), freight cost(s) and customs duties (as applicable), and may be greater or less than the original estimate.
- 12.3. If the Company offers to sell the Goods using CPT Incoterms based on the Company's corresponding estimated cost, the Customer's Order shall bear the words "freight prepaid and added".
- 12.4. If the Company offers to sell the Goods using DDP Incoterms based on the Company's corresponding estimated cost, the Customer's Order shall bear the words "freight, insurance and duty prepaid and added".
- 12.5. If the Customer purchases Goods using CPT or DDP Incoterms, the Customer shall bear all costs associated with exportation and importation, including, but not limited to import clearance fees, documentation fees, freight, insurance, customs duty, taxes (including VAT and/or GST where applicable) and other applicable miscellaneous charges.
- 12.6. By placing an Order with the Company, the Customer authorizes the Company to act on behalf of the Customer for the purposes of paying taxes, shipping and handling charges, insurance, duties and other applicable miscellaneous charges.
- 12.7. Alternate Incoterms may be invoiced as a separate line item and at a later date than that for the Goods (e.g. after the Company has realized the actual shipping and handling charges, insurance, duties and other applicable miscellaneous charges).

13. DELIVERY of GOODS:

- 13.1. The cost of delivery by the Company to the Customer, at the place of business specified by the Customer in the Order, shall be at the expense of the Customer from the time of dispatch of the Goods from the manufacturer's premises and until delivery. Unless alternate arrangements have been specifically authorized by the Company, during the period after the Goods have departed the manufacturers' premises, the risk of any loss or damage to or deterioration in the Goods from whatever cause arising shall be borne by the Customer.
- 13.2. The Customer shall inspect the Goods supplied immediately on receipt and shall within seven (7) calendar days of receipt of the Goods, give notice in writing to the Company of any allegation of deficiency. Claims for any deficiency will not be entertained unless a clearly legible and dated signature has been given by the Customer acknowledging receipt of the Goods concerned. The Company will not be held liable for Goods received without signature or received and signed for as 'Not Examined', or other similar status indicating an insufficient Customer inspection of the Goods. If the Customer fails to give such timely notice, the Goods shall be deemed to be in all respects in accordance with the Customer's Order and the Customer shall be bound to accept and pay for them accordingly.
- 13.3. The Company will be discharged from all liability with respect to improper delivery of the Goods as follows:
 - 13.3.1. In respect of a partial improper delivery, unless written notice is received by the Company within seven (7) calendar days after the later date of delivery or dispatch by from the manufacturer's premises.
 - 13.3.2. In respect of total non-delivery of the whole of a consignment or any separate package forming part of the consignment of the Goods (however caused), unless written notice is received by the Company within seven (7) calendar days of the date when the Goods should have been received by the Customer.
- 13.4. If the sale of the Goods is made CPT, DDP, etc (Incoterms 2000) to an airport freight terminal, rail terminal, or other terminal, warehouse or facility, the cost of any demurrage charged to the Company, if any, will be to the Customer's account. While the Company will make an effort to inform the Customer and/or their freight forwarder, the last free day of warehousing shall be as stated on the shipping release delivery order that is forwarded to the Customer and/or their freight forwarder.

14. WARRANTY and INDEMNIFICATION:

- 14.1. Unless the Company provides a written warranty or description of condition to the contrary, the Customer relies on his own skill and judgment as to the stated quality and fitness of the Goods and their suitability for any purpose, as well as to their compliance with the requirements of any competent authority. All express or implied warranties and conditions, statutory or otherwise, as to quality or fitness for any purpose of the Goods are hereby expressly excluded.
- 14.2. In no case whatsoever shall any liability of the Company however arising and notwithstanding any lack of explanation exceed the value of the relevant Goods (as shown on the Company's invoice to the Customer) with a maximum of \$5,000 USD per claim. For this purpose, one claim shall be defined as all or any claims arising under one Order, irrespective of the number of Goods supplied under that Order or the number of individual shipments comprising that Order.
- 14.3. The Company will in no case be liable for direct, indirect, special, incidental or consequential loss or damages including but not limited to loss of profits whether as a result of negligence or breach of contract, or for any other reason.
- 14.4. The Customer shall fully defend and indemnify the Company against any action, claim, demand, costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of any letters patent, registered design, copyright, trade mark, trade name or other proprietary right, by the representation, importation, distribution, sale or manufacture of the Goods and against all costs and damages which the Company may incur in any action for such infringement.

15. FORCE MAJEURE:

- 15.1. The Company will not be in breach of its obligations hereunder to the extent that performance is prevented, delayed or (in the sole but reasonable discretion of the Company) made substantially more expensive as a result of any one or more of the following contingencies:
 - 15.1.1. any cause beyond the reasonable control of the Company, or
 - 15.1.2. actual or threats of natural disasters, or
 - 15.1.3. acts or threats of civil disobedience, or
 - 15.1.4. acts or threats of war or military action, or
 - 15.1.5. labor disturbance, whether involving the employees of the Company or otherwise, and regardless whether the disturbance could be settled by acceding to the demands of a labor group, or
 - 15.1.6. compliance with a request or order of any governmental authority or person purporting to act therefore, or
 - 15.1.7. changes in freight forwarder or courier fuel charges from those rates originally estimated, or
 - 15.1.8. changes in currency exchange rates from those rates originally estimated, or
 - 15.1.9. shortage in raw material, transportation, manufacturing capacity, etc., from the Company's then contemplated source of supply thereof
- 15.2. Whenever performance is prevented or delayed by such a contingency the Company may reduce deliveries in such manner as it may, in its sole discretion, determine.
- 15.3. Whenever performance is made substantially more expensive by such a contingency, the Company will have the option either to reduce or stop deliveries from one or more facilities, and reduce deliveries as provided above, or to continue deliveries and increase prices in a manner that fairly apportions the associated increased cost of operation.
- 15.4. The Company will not be liable for demurrage or delay resulting from such a contingency.
- 15.5. Performance shall be excused as provided herein even though the occurrence of the contingency in question may have been foreseen or be foreseeable at the time of contracting or subsequently become foreseeable.
- 15.6. Quantities of Goods due that are caused to be reduced by such a contingency shall not be required to be made up later by the Company.
- 15.7. Nothing in these aforementioned contingencies shall excuse the Customer from its obligations to make payments when due as provided herein.

16. LEGAL PRIORITY:

- 16.1. These conditions shall take priority over the Customer's own standard terms of business.

17. LEGAL JURISDICTION:

- 17.1. All contracts and/or disputes between the Company and the Customer shall be governed by Louisiana law and be within the exclusive jurisdiction of the Louisiana courts.

18. DISPUTE RESOLUTION:

- 18.1. The Company may (in the sole but reasonable discretion of the Company) opt to settle any disputes that may arise by mediation, arbitration or other alternative dispute resolution techniques. If such alternate dispute resolution is employed, the choice of mediator, arbitrator or other non-court appointed officers will be at the sole discretion of the Company, with any initial fees equally divided between Company and Customer. Upon resolution of the dispute, the initial fees and consequential charges resulting from the settlement will be apportioned as concluded by the mediator, arbitrator or other non-court appointed officer(s).

19. ASSIGNMENT OF CONTRACT:

- 19.1. The Customer shall not assign or otherwise deal with the benefit or burden of the whole or any part of any contract with the Company.
- 19.2. The rights of the Company under these conditions shall not be affected by any waiver or prior course of dealing.
- 19.3. These conditions shall have effect to the entire exclusion of any other memorandum, agreement or understanding of any kind between the Company and the Customer touching and concerning its subject matter, except as specifically provided in any authorized currently applicable Alliance Partner Distribution Sales Agreement between the Company and Alliance Partner Distributor(s).