



Terms and Conditions of Sale

I. GENERAL

- A. Buyer purchase orders are binding only after written acceptance by Seller. Verbal orders are not accepted.
- B. Prices are effective from date of publication and are subject to change without notice.
- C. Seller reserves the right, without prior notice, to:
 - 1. Change and/or revoke any price.
 - 2. Change and/or revoke any provisions contained herein.
 - 3. Discontinue shipments to Buyer.
 - 4. Resolve any inconsistencies, conflicts, or ambiguities.
- D. Special production runs or product orders are subject to Seller requirements such as, but not limited to, minimum quantities and extended delivery times. On special production run products Seller reserves the right to over ship 10% or under ship 5% of the purchase order quantity and invoice accordingly. Special orders are subject to reasonable cancellation charges.

II. PAYMENT TERMS

- A. If Buyer has previously established credit terms: Net 30 days from shipment date.
- B. If credit is not established, payment plus estimated (by Seller) freight charges shall accompany purchase order.
- C. Cash or anticipation discounts are not allowed.
- D. Seller reserves the right to revoke any credit extended to Buyer if Buyer fails to pay for any shipments when due. If, in Buyer's opinion, there is a material adverse change in Buyer's financial condition, Seller shall have the right to suspend further shipments until receipt of adequate assurance of customer's ability to pay, therefore.
- E. Payment terms are specified on the invoice. Any invoice not paid when due is subject to a late payment charge of 1.5% per month, or if such rate is greater than the maximum rate permitted by applicable law, then at the highest rate allowed by applicable law. In the event the Buyer fails to make full payment when due and Seller employs an attorney or collection agency to assist in collection of the account, Buyer agrees to pay all of Seller's reasonable cost of collection including collection agency fees and court costs.

III. TRANSPORTATION

- A. All shipments are F.O.B. Seller's loading dock, Tyrone, Georgia, except as expressly provided below.
- B. The shipment is deemed accepted in good condition by the common carrier and title and all risk of loss or damage pass to Buyer, upon that acceptance by the carrier. Buyer is responsible for inspecting the merchandise upon receipt. Buyer shall insist that visible damage be noted on its copy of the freight bill. If the product has been lost or damaged in



transit Buyer must file the claim with the carrier, as Seller bears no responsibility for any such loss or damage.

- C. Freight, handling, and insurance charges:
 - 1. Prepaid Shipments: All freight, handling and insurance charges shall be invoiced to Buyer.
 - 2. Collect Shipments via UPS or FedEx: All freight and handling charges shall be billed to the collect account number provided. All collect shipments are NOT insured. Buyer must request coverage if required and the insurance cost will be added to the freight charge. All uninsured shipments are the responsibility of Buyer. Seller assumes no responsibility for any such loss or damage.
 - 3. Truck Shipments: All freight, handling and insurance charges shall be billed to the account number provided. All truck shipments are NOT insured. Buyer must request insurance coverage, if required, and the insurance cost will be added to the freight charge. All uninsured shipments are the responsibility of the customer. WIKA assumes no responsibility for any such loss or damage.
- D. All shipments are made by carriers of Seller's choice. Any special arrangements requested by Buyer shall be at Buyer's additional expense.
- E. Buyer shall report any quantity shortages, incorrect items, or billing errors in writing to Seller within 15 days of delivery. Sales order and invoice numbers are to be furnished on all claims.
- F. Seller reserves the right to make delivery in installments. All such installments shall be separately invoiced and paid for when due, without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve Buyer of Buyer's obligation to accept remaining deliveries.
- G. Seller shall not be liable for failure to deliver or delay in delivery occasioned by causes beyond Seller's control, including without limitation, strikes, lockouts, fires, embargoes, terrorist attacks, war or other breakouts of hostilities, acts of God, inability to obtain shipping, space, machinery breakdowns, delays of carriers or suppliers, and domestic or foreign governmental acts or regulations. In the event of any delay in delivery due to such causes, unless otherwise agreed, the time for delivery shall be deemed extended for a period of sixty (60) days, and Buyer shall extend the letter of credit if payment is to be made by letter of credit. If delivery is not made within such extended sixty-day period, the contract shall be deemed cancelled without liability to either party.

IV. RETURNS

- A. No return shall be accepted without a Seller-furnished Return Material Authorization number (RMA #). See section VI for instructions.

V. LIMITED WARRANTIES

- A. Seller warrants mechanical products against defects in workmanship or materials under normal use for one (1) year after date of purchase from Seller unless otherwise stated (Proof of purchase is required). Any product which is determined by Seller to be defective in



material or workmanship and returned to Seller freight collect at Seller's expense and shall be, as the sole remedy, repaired, replaced, or credited at Seller's option.

- B. THE FOREGOING LIMITED WARRANTIES ARE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF TITLE, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF SELLER, AND SELLER NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT, ANY OTHER LIABILITY IN CONNECTION WITH THE SALE HEREUNDER. SELLER DISCLAIMS ANY LIABILITY FOR PRODUCT DEFECTS THAT ARE DUE TO PRODUCT MISUSE, IMPROPER MISUSE, IMPROPER PRODUCT SELECTION OR MISAPPLICATION. RECOMMENDATIONS FOR USING SELLER'S PRODUCTS ARE BELIEVED TO BE RELIABLE; HOWEVER, SINCE THE APPLICATION OF THESE ITEMS IS BEYOND SELLER'S CONTROL, NO GUARANTEE, EXPRESS OR IMPLIED, IS MADE ON THEIR USE, HANDLING, POSSESSION OR RESULTS.

VI. RMA REQUEST

- A. No material may be returned to seller without seller's prior permission in the form of a Return Material Authorization (RMA) number. Correction of non-conformities, in the manner and for the stated warrantee period, shall constitute fulfillment of all liabilities of Joe Solberg Inc, dba JSI or Spare Parts Specialist Inc, dba SPS to Buyer with respect for the goods, whether based on contract, negligence, strict tort, or otherwise. Returns Warranty and non-warranty returns are initiated through the issuance of a Return Material Authorization (RMA) number by contacting seller at 770-632-8575.
- B. The RMA number should be clear and evident on the shipping label and/or packing slip, and the package should be shipped freight prepaid. If the RMA number is not evident the return will not be accepted.

VII. RESTOCKING FEE

- A. Product returns must be initiated by requesting an RMA number by contacting the seller at 770-632-8575. Credits or refunds are dependent on the received condition of the product. All product returns requests for credit or refund will be subject to a 30% restocking fee.

VIII. LIMITATION OF LIABILITY

- A. UNLESS APPLICABLE LAW OTHERWISE REQUIRES, SELLER'S AND ANY VENDOR'S TOTAL LIABILITY TO BUYER, BUYER'S CUSTOMERS OR TO ANY OTHER PERSON, RELATING TO ANY PURCHASES GOVERNED BY THESE TERMS & CONDITIONS, FROM THE USE OF THE PRODUCTS FURNISHED OR FROM ANY ADVICE, INFORMATION OR ASSISTANCE PROVIDED BY SELLER (BY ANY METHOD, INCLUDING A WEBSITE), IS LIMITED TO THE PRICE OF THE PRODUCTS GIVING RISE TO THE CLAIM, WHICH AMOUNT SHALL BE FIXED AS LIQUIDATED



DAMAGES AND NOT AS A PENALTY, AND SHALL BE THE COMPLETE AND EXCLUSIVE REMEDY AGAINST THE SELLER. NEITHER SELLER NOR ITS VENDORS SHALL BE LIABLE FOR ANY SPECIAL, INCIDENTAL, DIRECT, CONSEQUENTIAL OR PENAL DAMAGES (INCLUDING, BUT NOT LIMITED TO BACK-CHARGES, LABOR COSTS, COSTS OF REMOVAL, REPLACEMENT, TESTING OR INSTALLATION, LOSS OF EFFICIENCY, LOSS OF PROFITS OR REVENUES, LOSS OF USE OF THE PRODUCTS OR ANY ASSOCIATED PRODUCTS, DAMAGE TO ASSOCIATED PRODUCTS, LATENESS OR DELAYS IN DELIVERY, UNAVAILABILITY OF PRODUCTS, COST OF CAPITAL, COST OF SUBSTITUTE PRODUCTS, FACILITIES OR SERVICES, DOWNTIME, OR CLAIMS FROM BUYER'S CUSTOMERS OR OTHER PARTIES). IF SELLER FURNISHES BUYER WITH ADVICE OR OTHER ASSISTANCE WHICH CONCERNS ANY PRODUCTS SUPPLIED HEREUNDER, OR ANY SYSTEM OR EQUIPMENT IN WHICH ANY SUCH PRODUCTS MAY BE INSTALLED, AND WHICH IS NOT REQUIRED PURSUANT TO THESE TERMS & CONDITIONS, THE FURNISHING OF SUCH ADVICE OR ASSISTANCE WILL NOT SUBJECT SELLER TO ANY LIABILITY, WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHER GROUNDS.

IX. ARBITRATION; CONTROLLING LAW; JURISDICTION AND VENUE

- A. Except for actions to protect intellectual property rights and to enforce an arbitrator's decision hereunder, all disputes, controversies, or claims arising out of or relating to this Agreement or a breach thereof shall be submitted to and finally resolved by arbitration under the rules of the American Arbitration Association ("AAA") then in effect. There shall be one arbitrator, and such arbitrator shall be chosen by mutual agreement of the parties in accordance with AAA rules. The arbitration shall take place in Atlanta, Georgia, USA. The arbitrator shall apply the laws of the State of Georgia, to all issues in dispute. The controversy or claim shall be arbitrated on an individual basis and shall not be consolidated in any arbitration with any claim or controversy of any other party. The findings of the arbitrator shall be final and binding on the parties and may be entered in any court of competent jurisdiction for enforcement. Enforcements of any award or judgment shall be governed by the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards.
- B. This Agreement shall be governed, controlled, interpreted, and defined by and under the laws of the State of Georgia without regard to the conflicts of laws provisions thereof.
- C. The parties agree that the courts of Harris County in the State of Georgia, and the U.S. District Court for the Northern District of Georgia, Atlanta Division shall be the exclusive jurisdiction and venue for all legal proceedings that are not arbitrated under these Terms and Conditions and RMA Policy.

X. ASSIGNMENT

- A. An order shall not be assigned by either party without the express written consent of the other. Consent will not be required, however, for internal transfers and assignments as between either party and its affiliates, and nothing herein shall limit either party's right to factor or sell receivables.



XI. TERMINATION

- A. Either party may terminate the whole or any part of the other party's performance under a purchase order if there is a material breach of these Terms & Conditions and RMA Policy. In the event of any such breach, the non-breaching party will provide the breaching party with written notice of the nature of the breach and the non-breaching party's intention to terminate for default. In the event the breaching party does not cure such failure within ten (10) days of such notice, the non-breaching party may, by written notice, terminate the order; provided, that the breaching party shall continue its performance to the extent not terminated.

XII. MISCELLANEOUS

- A. These Terms and Conditions constitute the entire understanding of the parties with respect to the subject matter of this agreement and merges all prior communications, understandings, and agreements. These Terms and Conditions may be modified only by a written agreement signed by the parties. The failure of either party to enforce at any time any of the provisions hereof shall not be a waiver of such provision, or any other provision, or of the right of such party thereafter to enforce any provision hereof. If any provision of These Terms and Conditions are declared invalid or unenforceable, such provision shall be deemed modified to the extent necessary and possible to render it valid and enforceable. In any event, the unenforceability or invalidity of any provision shall not affect any other provision of These Terms and Conditions, and these terms shall continue in full force and effect, and be construed and enforced, as if such provision had not been included, or had been modified as above provided, as the case may be.
- B. It is the policy of Seller to afford equal opportunity for employment to all individuals regardless of race, color, religious creed, sex, age, national origin, disability, or veteran status. We are committed to this policy. We will take affirmative action to assure that all employment decisions are based only on valid job requirements, and that equal opportunity for employment is provided regarding all personnel actions.