



AUTHORIZED DEALER MINIMUM RESALE PRICE (MRP) POLICY

EXPLANATION

1. *Why has KC implemented a Minimum Resale Price (MRP) Policy?*

The products sold by KC are of high quality with a premium image earned through extensive product and market development activities and superior customer service provided by KC and its dealers ("Dealers" or individually, a "Dealer"). Some Dealers have taken or may take advantage of this fact by using such products as loss leaders or by unfairly discounting them. In an effort to ensure the long-term viability of its brands and help protect the investment of those Dealers that provide valuable services to their customers, KC, effective as of March 1, 2015 (the "Policy Effective Date"), has established by unilateral policy (the "Policy") a minimum resale price ("MRP" or "Minimum Resale Price" and, referring to either singular or plural or both, "MRP(s)") for each of certain products—a price below which Dealers located in either or both of the United States of America ("USA") and Canada may not offer or sell such product.

2. *What products are covered by the Policy?*

The Policy applies to each product for which a MRP is specified in the then-current price list(s) or product list(s) provided or otherwise made available to a Dealer by KC or otherwise communicated in writing or electronically by KC to such Dealer (individually, a "Covered Product" and collectively, the "Covered Products"). At any time, KC may vary the MRP for a Covered Product or add to or delete any or all of the Covered Products, which may, among other things, be based on whether such product(s) is or are offered or sold under or subject to one or more select KC program(s) or under any other KC policy or in any other situation announced by KC from time to time. KC will endeavor to provide prior notice of each new MRP or such change in the Covered Products, generally not less than five (5) days in advance. While KC will communicate each MRP and such change through the price list(s) or product list(s) provided or otherwise made available to each Dealer electronically or otherwise, such Dealer is responsible for making sure that it is aware of the appropriate MRP(s) and the Covered Products in each circumstance.

As indicated in the Policy, parts of the Policy may also apply to other or all KC products, but only each of those for which KC has specified a MRP is a "Covered Product."

3. *Is KC setting the price charged by Dealers?*

No. Each Dealer may offer or charge any price it wishes, provided that such Dealer's net adjusted price for a Covered Product is at or above the corresponding MRP established by KC from time to time and communicated to such Dealer.

The "net adjusted price" means the lower of the price at which a Covered Product is offered by or for the benefit of a Dealer to a customer (potential or actual) or that actually paid to or for the benefit of a Dealer for a Covered Product by such customer after (a) applying all discounts and similar price reductions, (b) excluding certain taxes and shipment charges and (c) giving effect to the value of free or reduced-price bundles. Specifically, net adjusted price will be calculated by:

- taking into account all discounts, deductions, rebates and allowances offered or given to such customer (regardless of source, whether given or taken at the time of sale or otherwise and considered by KC to be part of such offer or sale), except that an offer or sale using or applying a rebate, coupon or the equivalent (as determined by KC) will not be considered part of net adjusted price if such rebate, coupon or the equivalent is provided by KC or its designee(s) (i) directly to such customer or (ii) to such Dealer for provision to and use by such customer);
- excluding, if to be paid or paid by such customer, all applicable taxes and all shipping, delivery and insurance charges (However, if such Dealer offers to pay or pays any or all of such taxes and such charges that otherwise would be paid by such customer, the amount so offered or paid by such Dealer will be considered a discount, except as otherwise provided in the Policy.);
- subtracting, in the case of free goods, services and similar benefits for such customer offered or provided by such Dealer, the fair market value (as determined by KC) of all such goods, services and benefits (regardless of source, whether given or taken at the time of sale or otherwise and considered by KC to be part of such offer or sale); and
- subtracting, in the case of reduced-price goods and services and similar benefits for such customer offered or provided by such Dealer, the difference between: (i) the fair market value (as determined by KC) of all such goods, services and benefits (regardless of source, whether given or taken at the time of sale or otherwise and considered by KC to be part of such offer or sale) and (ii) the amount to be paid or actually paid for such goods, services and benefits.

What this means is that the Dealer's "bottom-line" price to its customers for each of the KC products covered by the Policy must be at or above the applicable price described in the Policy. The bottom-line price is after all discounts, deductions, rebates and allowances and excludes taxes, shipping, delivery and insurance (if paid by the customer). In addition, the fair market value of

free goods and services is treated as a discount against the price of the Covered Product, as is the excess of the fair market value of reduced-price goods and services over the amount to be paid or actually paid. (The fair market value for each Covered Product provided for free or at a reduced price with the purchase of another Covered Product will be its Minimum Resale Price.)

In other words, the value of free goods and services and the extent by which the value exceeds the amount to be paid or paid for reduced-price goods and services (regardless of whether they come from KC, another supplier, the Dealer or anyone else) will be considered as discounts against the price to be paid or actually paid by the customer if KC considers such goods or services to be included in the offer or sale of a product covered by the Policy.

The fair market value for each Covered Product provided for free or at a reduced price with the purchase of another Covered Product will be its Minimum Resale Price. From time to time, KC may communicate to a Dealer in writing or electronically what it considers to be the fair market value for particular goods or services.

4. Are certain free or reduced-price services not treated as discounts?

Yes. Free or reduced-price shipping may be offered or provided by a Dealer without it being considered to be a discount when offered or provided in connection with a purchase that includes at least one of the Covered Products, provided that, as determined by KC: (a) such offer or provision applies to all other products in the category in which such Covered Product or such Covered Products reside(s) and (b) the value thereof is reasonable.

5. Are there any exemptions from the Policy?

Yes. As long as a Dealer does not otherwise violate the Policy, such Dealer offering or selling to a potential or actual customer one or more of the Covered Products after the Policy Effective Date (*i.e.*, *March 1, 2015*) below its or their respective MRP(s) is exempt from the Policy and will not violate it, if such offering or selling is consistent with at least one exemption described below (collectively, the "Exemptions"):

- bona fide advertising and promotional materials (including without limitation printed catalogs) that cannot reasonably be modified prior to the Policy Effective Date or the effective date of a change in the MRP(s), the Covered Products or the Policy until such time that it is reasonable to revise such materials (as determined by KC) to be consistent with the Policy);
- each bona fide written contract between such Dealer and a customer that became effective (a) prior to January 31, 2015 (the "Policy Announcement Date") or (b) after the Policy Announcement Date, if performance by such Dealer under such contract is completed prior to the Policy Effective Date;
- in the case of a change in the MRP(s), the Covered Products or the Policy, each bona fide written contract between such Dealer and a customer that became effective the day before such change is announced by KC;
- the offer or sale of one or more of the Covered Products based on a bona fide proposal or quotation given prior to (a) the Policy Announcement Date or (b) the effective date of a change in the MRP(s), the Covered Products or the Policy which makes such proposal, quotation or sale non-compliant with the Policy (as long as, if the Policy was in place at the time such proposal, quotation or sale was given or made, it complied with the Policy); provided that, in either case, (i) such proposal or quotation is effective for no longer than thirty (30) days after the Policy Effective Date or ten (10) days after the effective date of such change and (ii) each of the Covered Products subject to such accepted proposal or quotation will be delivered to such customer no later than thirty (30) days after such acceptance;
- the offer or sale under one or more special programs (if any) designated by KC;
- (a) a card benefit consisting of a discount, credit or rebate associated with the use of a specified credit or debit card or (b) a coupon or other discount that, in either case, would, after its application, result in offer or sale price(s) for any or all of the Covered Products below its or their respective MRP(s), as long as: (i) such discount, credit, rebate, coupon or other discount may be applied to all or most of the products offered by such Dealer or, in the case of a category-wide sale (such as automotive lighting), all or most of the other products in the category and (ii) none of the statements or materials promoting such discount, credit, rebate, coupon or other discount mentions, uses, depicts or otherwise refers to any or all of the Covered Products, unless two (2) or more competitive products of other suppliers (as determined by KC) are mentioned, used, depicted or otherwise referred to in such statements or materials with the same prominence as that for the each such KC product;
- the accrual of "points" or other things of value ("Loyalty Points") in connection with the purchase of any or all KC products and the application of Loyalty Points, even if such application results in price(s) for any or all of the Covered Products below its or their respective MRP(s), as long as: (a) Loyalty Points may be accrued and applied to all or almost all of the products offered by such Dealer and (b) the accumulation rate for Loyalty Points applicable to the purchase of any or all KC products is no more than that applicable to all or almost all other brands of products offered by such Dealer (as determined by KC regardless of category); and (c) none of the statements or materials promoting Loyalty Points mentions, uses, depicts or otherwise refers to any or all KC products, unless two (2) or more competitive products of other suppliers (as determined by KC) are mentioned, used, depicted or otherwise referred to in such statements or materials with the same prominence as that for the each such KC product;
- the offer or sale of one or more units of any or all of the Covered Products that are used, rather than new, such as demonstration or display units; and

- the offer or sale of one or more items of the Covered Products to an employee of such Dealer for his or her personal use (and not for resale), provided that such offer is reasonable (as determined by KC).

If such Dealer otherwise violates the Policy or KC determines that such Dealer does not qualify for or abused any or all of the Exemptions, such exemption(s) will be deemed withdrawn by KC retroactive to the Policy Effective Date or such other date specified by KC.

6. Will KC consider requests for additional exemptions?

Only in extraordinary circumstances will KC consider any requests for additional exemptions.

7. Apart from offering or selling a Covered Product at a price below its MRP, do certain other practices violate the Policy?

Yes. A Dealer (directly or through another party on behalf or for the benefit of such Dealer) using or engaging in any or all of the following terms, descriptions, conditions, offers or activities (or the substantive equivalent of any or all of them as determined by KC) in connection (directly or indirectly) with the offering or sale of any or all of the Covered Products (or, if so noted below, any or all KC products, regardless whether it or they is or are one or more of the Covered Products) will be deemed to be a violation of the Policy with the same effect as a Covered Product at less than its Minimum Resale Price:

- using the terms “lowest price, the “lowest prices” or “prices too low to show,” any form of low-price guarantee or the substantive equivalent (as determined by KC) of any or all of these terms or concepts;
- offering to match a lower price offered by another seller;
- in connection with the advertising, promotion or sale of any or all of the Covered Products: (a) a strike-through of any MRP(s) regardless whether one or more other prices is or are shown or (b) the failure to show a price for each of the Covered Products depicted, described or to which a reference is otherwise made;
- other than as expressly authorized by KC, with respect to any or all items of KC products (or, if so designated by KC, just one or more particular items of KC products), knowingly or negligently directly or indirectly (a) advertising, promoting or selling in either or both of the following ways: (i) outside the USA and Canada and (ii) online in any fashion (unless and only to the extent each website used for such purpose by such Dealer is expressly approved by KC for such use and which approval has not been rescinded by KC in whole or part) and (b) selling in any or all of the following ways: (i) to anyone for resale other than to any or all of the Authorized Dealers and KC (such Dealer may drop ship to one or more end users (but not resellers) on behalf of any or all the Authorized Dealers, so long as such Dealer has not received KC notice to the contrary which rescinds the approval of KC therefor), (ii) to each individual and entity appearing on the then-current Do-Not-Sell List (including without limitation drop shipping on behalf thereof), except to the extent as may be permitted therein and (iii) except as otherwise permitted by the Policy, to anyone other than the Authorized Customers, including without limitation to the Special Accounts;

[Some Definitions Relevant to the Previous Bullet Point. For purposes of the Policy: (a) the “Authorized Dealers” means, collectively, each reseller designated as such by notice from KC, but only to the extent that such reseller is not on the then-current Do-Not-Sell List (individually, an “Authorized Dealer”); (b) “Do-Not-Sell List” means notice from KC which indicates that (i) one or more individuals or entities is or are not authorized by KC to promote or resell KC products or (ii) the designation of a reseller as an Authorized Dealer has been revoked in whole or part with respect to all KC products or revoked only with respect to certain of such products; (c) the “Authorized Customers” means actual and prospective end user purchasers (but not resellers) of any or all item(s) of the KC products permitted by KC; and (d) the “Special Accounts” means, collectively, each individual or entity so designated by notice from KC).]

- if a price for a Covered Product is shown in Internet advertising or promotion or as part of an Internet sale permitted by the Policy and (a) the price for such product does not appear on the initial webpage mentioning, depicting or describing such product or (b) such price varies with respect to such product (exclusive of applicable taxes and all shipping, delivery and insurance charges) across any or all of (i) such initial webpage, (ii) the in-the-cart (or other container) price, (iii) the checkout price and (iv) the substantive equivalent of any or all of them as determined by KC;
- an invitation to click, rollover, call, e-mail, visit a location (such as a website, store or showroom) or otherwise communicate to obtain a price;
- the promotion or sale to group purchasers, except at price(s) no less than each applicable MRP;
- advertising or promoting a trade-in offer for any or all KC product(s) or any other product(s) in connection with or applicable to any or all of the Covered Products, regardless whether a specific trade-in price or value is advertised or promoted;
- except as otherwise directed by the Policy, on any or all proposals, quotations, contracts, invoices and receipts provided to or prepared for the benefit of any or all of such Dealer’s potential and actual customers in connection with the offer or sale of any or all of the Covered Products (individually and collectively, “Customer Communications”), the failure of such Dealer to itemize the price charged for each of the products and services shown or referred to on such

Customer Communications, regardless whether such Customer Communications contain(s) any reference to any or all of the Covered Products; and

- one or more tactics which KC determines is or are intended to circumvent application of the Policy.

8. What happens if a Dealer violates the Minimum Resale Price (MRP) Policy?

During the period beginning on the Policy Effective Date (*i.e.*, March 1, 2015) and continuing until the Policy no longer is in effect as described in a future written or electronic notice to such Dealer from KC (the "Policy Period"), immediately after KC verifies to its satisfaction that a Dealer has violated the Policy (a) by (i) making available in any way (whether through advertising, promotion, proposal, quotation or otherwise and regardless of place or medium used) (individually and collectively, "offering" and its variants), (ii) selling (whether face-to-face, on-premise, online, through a catalog or otherwise) or (iii) otherwise providing (except in exchange for bona fide returns) one or more of the Covered Products during the Policy Period at a net adjusted price less than the corresponding MRP(s) established by KC from time to time and communicated to such Dealer or (b) by being deemed to have so offered, sold or provided, the following will occur:

For the first violation during the Policy Period: If such violation is due to:

(A) **an offer**, such Dealer, after receiving notice of such violation from KC, will remove or stop or cause to be removed or stopped the offending reference(s), text or conduct (if KC determines that it or they can be) within the Allotted Period (for purposes of the Policy, the "Allotted Period" means the time period specified in the notice of violation provided by KC to such Dealer, which typically will be one of the following: [1] no later than one (1) business day (usually for a violation involving the Internet); [2] no later than three (3) business days (generally for all other cases); or [3] by the conclusion of the period otherwise specified by KC) or

(B) **an offending reference or references, text or conduct that KC determines cannot be removed or stopped, a sale or otherwise providing one or more of the Covered Products**, KC will provide notice of such violation to such Dealer.

For the second violation during the Policy Period: In the event that (A) the offending reference(s), text or conduct that caused the first violation is or are not removed or stopped (if KC determines that it or they can be) within the Allotted Period or (B) such Dealer otherwise violates the Policy a second time, effective as of the date specified in notice from KC to such Dealer and continuing for the next (30) days, the authorization of such Dealer to purchase each stock-keeping unit ("SKU") in the product family involved in the second violation (as determined by KC) will be immediately revoked by KC, so that all pending orders (even if accepted) from such Dealer will be cancelled and no new orders will be accepted from such Dealer for each such SKU.

For the third violation during the Policy Period: In the event that (A) the offending reference(s), text or conduct that caused the second violation is or are not removed or stopped (if KC determines that it or they can be) within the Allotted Period after receiving notice of the second violation from KC or (B) such Dealer otherwise violates the Policy a third time, effective as of the date specified in notice from KC to such Dealer and continuing until KC provides notice to such Dealer otherwise, if ever, the authorization of such Dealer to purchase any or all of the KC products designated by KC (the "Designated Products") will be immediately revoked by KC, so that all pending orders (even if accepted) from such Dealer will be cancelled and no new orders will be accepted from such Dealer for any or all of the Designated Products.

For each additional violation during the Policy Period: In the event that, after the third violation of the Policy by such Dealer, either or both of the following is or are relevant: (A) the Designated Products do not include all KC products or (B) KC provides notice to such Dealer that KC has re-authorized such Dealer to purchase any or all of the Designated Products, then each act or failure to act of such Dealer that constitutes a violation of the Policy (or is deemed by KC to be such a violation) will receive the same treatment as if a new third violation had then occurred.

Each violation of the Policy is cumulative through the Policy Period. Beginning with the third violation, the consequences of each violation take effect regardless whether the consequences for the preceding violation(s) are still running. The same act(s) or failure(s) to act may result in multiple violations. For each Dealer purchasing any or all KC products from anyone else (such as a distributor), the Policy will be enforced through a Do-Not-Sell List.

9. Will a Dealer violating the Policy be warned first?

No. KC cannot provide any advance warning.

10. Is the Policy legal?

Yes. At least four U.S. Supreme Court cases taken together—*U.S. v. Colgate* (1919), *Monsanto v. Spray-Rite* (1984), *Business Electronics v. Sharp* (1988) and *Leegin v. PSKS* (2007)—have recognized that a supplier may establish the terms and conditions under which it will sell its products, including the terms and conditions affecting resale price. Particularly in the resale pricing area,

such terms and conditions must be determined by the supplier unilaterally, *i.e.*, without agreeing with any of its customers. For this reason, KC cannot and will not discuss the conditions of acceptance of the Policy nor solicit or accept any assurances of compliance.

Under a 2009 amendment to the Competition Act, the Policy is treated as lawful in Canada until it can be proven on balance to be unreasonably anticompetitive.

11. Do the concerns in the U.S. about discussing the Policy mean that KC cannot explain the Policy?

No. KC will answer questions about the Policy, but it will not do anything that may change the nature of the Policy into something other than a unilateral one. As a result, KC cannot give any warning to any Dealer violating the Policy, nor can it ask for or accept pledges of compliance from Dealers.

All questions or requests for additional information regarding the Policy or information regarding potential violations of the Policy must be in writing and are to be addressed to the person at KC responsible for the Policy ("Policy Administrator"):

Policy Administrator
KC HiLITES, Inc.
2843 West Avenida de Luces (*Physical*)
PO Box 155 (*Mailing*)
Williams, AZ 86046 USA (*Both*)

Fax: (928) 635-2486
e-mail: mrp@kchilites.com

Only the Policy Administrator or the Policy Administrator's designated representative(s) is or are authorized by KC to answer questions regarding the Policy, to comment on the Policy or to accept information regarding potential violations.

12. Will Dealers that follow the Policy violate the antitrust laws?

No. But, particularly in the U.S., they should avoid communicating to KC their acceptance of the Policy or their compliance with it. Honoring the Policy by offering or selling any or all of the Covered Products at or above the relevant MRP or avoiding certain conduct or the use of certain terms is not communicating acceptance or compliance.

13. If a Dealer notifies KC that another Dealer has violated the Policy, may KC act on this information?

Yes. Such notification must be in writing addressed to the Policy Administrator and document the apparent violation. KC may investigate and, if warranted, take action against the Dealer violating the Policy, as long as the Dealer that contacted KC does not agree with the company on a specific resale price. (Following the Policy is not an agreement.) In addition, KC will not disclose to the Dealer that contacts it the outcome of its investigation, as, although KC enforces its policies uniformly, all of the dealings between the company and its Dealers are confidential. KC also may use the services of one or more outside firms to monitor compliance with the Policy.

14. Why are the rules so strict?

In order to comply with the standards established by the law, KC must carefully stay within their boundaries.

15. How long will the Policy be in effect?

The Policy will remain in effect with respect to a Dealer until KC notifies it otherwise, but KC may modify or suspend the Policy at any time, including, among other things, by changing its terms and conditions in any way. It also may grant variances as it deems appropriate for limited-time promotional offers and the like.

16. Can KC add other products or services to the Policy and establish minimum prices for them, remove certain products or services from coverage under the Policy or change the MRP for a Covered Product?

Yes. KC may do so at any time.

17. Are other companies doing this?

Yes. A number of manufacturers in the automotive aftermarket and other industries have adopted similar resale price policies to address the same or similar concerns as those faced by KC.

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