

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Kennametal Inc.  
1600 Technology Way  
P.O. Box 231  
Latrobe, Pennsylvania 15650-0231

Attention: Markos I. Tambakeras  
President

Dear Mr. Tambakeras:

The Bureau of Industry and Security, United States Department of Commerce ("BIS"), has reason to believe that Kennametal Inc. ("Kennametal") of Latrobe, Pennsylvania, has committed 75 violations of the Export Administration Regulations (the "Regulations"),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979 (the "Act").<sup>2</sup> Specifically, BIS charges that Kennametal committed the following violations:

**Charges 1-9                    15 C.F.R. § 764.2(a) - Exports of Nickel Powder to Israel Without the Required Licenses**

On nine occasions, from on or about August 13, 1998, through on or about April 4, 2002, Kennametal exported nickel powder, an item subject to the Regulations and covered under Export Control Classification Number (ECCN) 1C240, from the United States to Israel without obtaining licenses from the Department of Commerce as required by Section 742.3 of the Regulations. In doing so, Kennametal committed nine violations of Section 764.2(a) of the

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2003). The charged violations occurred from 1998 to 2003. The Regulations governing the violations at issue are found in the 1998 to 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1998-2003)). The Regulations define the violations that BIS has charged and establish the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. app. §§ 2401- 2420 (2000). From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp., p. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) ("IEEPA"). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 (114 Stat. 2360 (2000)) and it remained in effect through August 20, 2001. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2003 (68 *Fed. Reg.* 47833, August 11, 2003), continues the Regulations in effect under IEEPA.

Regulations. Each transaction is described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference.

**Charges 10-13            15 C.F.R. § 764.2(g) - False or Misleading Representations as to Authority to Export on Shipper's Export Declarations**

On four occasions, from on or about August 13, 1998, through on or about September 15, 2000, in connection with the exports referenced in Charges 1 through 9 above, Kennametal submitted to the U.S. Government Shipper's Export Declarations, export control documents as defined in Part 772 of the Regulations, representing that the exports were eligible for export as NLR (no license required) when, in fact, the exports required licenses from the Department of Commerce. In doing so, Kennametal committed four violations of Section 764.2(g) of the Regulations. See Schedule A.

**Charges 14-25            15 C.F.R. § 764.2(a) - Exports of Nickel Powder to Chile Without the Required Licenses**

On 12 occasions, from on or about August 27, 1998, through on or about February 14, 2003, Kennametal exported nickel powder, an item subject to the Regulations and covered under ECCN 1C240, from the United States to Chile without obtaining licenses from the Department of Commerce as required by Section 742.3 of the Regulations. In doing so, Kennametal committed 12 violations of Section 764.2(a) of the Regulations. See Schedule A.

**Charges 26-34            15 C.F.R. § 764.2(g) - False or Misleading Representations as to Authority to Export on Shipper's Export Declarations**

On 9 occasions, from on or about August 27, 1998, through on or about February 14, 2003, in connection with the exports referenced in Charges 14 through 25 above, Kennametal submitted to the U.S. Government Shipper's Export Declarations, export control documents as defined in Part 772 of the Regulations, representing that the exports were eligible for export as NLR (no license required) when, in fact, the exports required licenses from the Department of Commerce. In doing so, Kennametal committed 9 violations of Section 764.2(g) of the Regulations. See Schedule A.

**Charges 35-47            15 C.F.R. § 764.2(a) - Exports of Nickel Powder to Mexico Without the Required Licenses**

On 13 occasions, from on or about August 27, 1998, through on or about April 22, 2003, Kennametal exported nickel powder, an item subject to the Regulations and covered under ECCN 1C240, from the United States to Mexico without obtaining licenses from the Department

of Commerce as required by Section 742.3 of the Regulations. In doing so, Kennametal committed 13 violations of Section 764.2(a) of the Regulations. See Schedule A.

**Charges 48-53      15 C.F.R. § 764.2(g) - False or Misleading Representations as to Authority to Export on Shipper's Export Declarations**

On six occasions, from on or about November 30, 1999, through on or about April 22, 2003, in connection with the exports referenced in Charges 35 through 47 above, Kennametal submitted to the U.S. Government Shipper's Export Declarations, export control documents as defined in Part 772 of the Regulations, representing that the exports were eligible for export as NLR (no license required) when, in fact, the exports required licenses from the Department of Commerce. In doing so, Kennametal committed six violations of Section 764.2(g) of the Regulations. See Schedule A.

**Charges 54-59      15 C.F.R. § 764.2(a) - Exports of Nickel Powder to Peru Without the Required Licenses**

On six occasions, from on or about December 29, 1999, through on or about June 10, 2002, Kennametal exported nickel powder, an item subject to the Regulations and covered under ECCN 1C240, from the United States to Peru without obtaining licenses from the Department of Commerce as required by Section 742.3 of the Regulations. In doing so, Kennametal committed six violations of Section 764.2(a) of the Regulations. See Schedule A.

**Charges 60-63      15 C.F.R. § 764.2(g) - False or Misleading Representations as to Authority to Export on Shipper's Export Declarations**

On four occasions, from on or about September 27, 2000, through on or about June 10, 2002, in connection with the exports referenced in Charges 54 through 59 above, Kennametal submitted to the U.S. Government Shipper's Export Declarations, export control documents as defined in Part 772 of the Regulations, representing that the exports were eligible for export as NLR (no license required) when, in fact, the exports required licenses from the Department of Commerce. In doing so, Kennametal committed four violations of Section 764.2(g) of the Regulations. See Schedule A.

**Charges 64-67      15 C.F.R. § 764.2(a) - Exports of Nickel Powder to Taiwan Without the Required Licenses**

On four occasions, from on or about September 15, 1998, through on or about December 9, 2002, Kennametal exported nickel powder, an item subject to the Regulations and covered under ECCN 1C240, from the United States to Taiwan without obtaining licenses from the Department of Commerce as required by Section 742.3 of the Regulations. In doing so, Kennametal committed four violations of Section 764.2(a) of the Regulations. See Schedule A.

**Charges 68-70            15 C.F.R. § 764.2(g) - False or Misleading Representations as to Authority to Export on Shipper's Export Declarations**

On three occasions, from on or about September 15, 1998, through on or about December 9, 2002, in connection with the exports referenced in Charges 64 through 67 above, Kennametal submitted to the U.S. Government Shipper's Export Declarations, export control documents as defined in Part 772 of the Regulations, representing that the exports were eligible for export as NLR (no license required) when, in fact, the exports required licenses from the Department of Commerce. In doing so, Kennametal committed three violations of Section 764.2(g) of the Regulations. See Schedule A.

**Charge 71                15 C.F.R. § 764.2(a) - Export of Nickel Powder to India Without the Required License**

On or about December 12, 2000, Kennametal exported nickel powder, an item subject to the Regulations and covered under ECCN 1C240, from the United States to India without obtaining a license from the Department of Commerce as required by Section 742.3 and 742.16 of the Regulations. In doing so, Kennametal committed one violation of Section 764.2(a) of the Regulations. See Schedule A.

**Charge 72                15 C.F.R. § 764.2(g) - False or Misleading Representation as to Authority to Export on Shipper's Export Declaration**

On or about December 12, 2000, in connection with the export referenced in Charge 71 above, Kennametal submitted to the U.S. Government a Shipper's Export Declaration, an export control document as defined in Part 772 of the Regulations, representing that the export was eligible for export as NLR (no license required) when, in fact, the export required a license from the Department of Commerce. In doing so, Kennametal committed one violation of Section 764.2(g) of the Regulations. See Schedule A.

**Charges 73-75            15 C.F.R. § 764.2(i) - Failure to Comply with Reporting, Recordkeeping Requirements**

On three occasions, Kennametal failed to comply with the recordkeeping provisions of Section 762.2 of the Regulations by failing to retain export control documents, including bills of lading, required to be maintained under the Regulations. In doing so, Kennametal committed three violations of Section 764.2(i) of the Regulations. See Schedule A.

Accordingly, Kennametal is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of up to \$11,000 per violation;<sup>3</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Kennametal fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. (Regulations, Sections 766.6 and 766.7). If Kennametal defaults, the Administrative Law Judge may find the charges alleged in this letter are true without hearing or further notice to Kennametal. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each of the charges in this letter.

Kennametal is further notified that it is entitled to an agency hearing on the record if Kennametal files a written demand for one with its answer. (Regulations, Section 766.6). Kennametal is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. (Regulations, Sections 766.3(a) and 766.4).

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should Kennametal have a proposal to settle this case, Kennametal or its representative should transmit it to me through the attorney representing BIS named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Kennametal's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center  
40 S. Gay Street  
Baltimore, Maryland 21202-4022

In addition, a copy of Kennametal's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security  
Attention: Glenn Kaminsky  
Room H-3839  
United States Department of Commerce  
14th Street and Constitution Avenue, N.W.  
Washington, D.C. 20230

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<sup>3</sup> See 15 C.F.R. § 6.4(a)(2) (2003).

Kennametal Inc.  
Proposed Charging Letter  
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Glenn Kaminsky is the attorney representing BIS in this case; any communications that Kennametal may wish to have concerning this matter should occur through him. Mr. Kaminsky may be contacted by telephone at (202) 482-5301 or by e-mail: [gkaminsk@bis.doc.gov](mailto:gkaminsk@bis.doc.gov).

Sincerely,

Mark D. Menefee  
Director  
Office of Export Enforcement

Enclosure

**SCHEDULE A**  
**EXPORTS BY KENNAMETAL INC.**

<b>Charge No.</b>	<b>Export Date (on or about)</b>	<b>Commodity</b>	<b>Air Waybill No./ Bill of Lading No.</b>	<b>Invoice No.*</b>	<b>Destination</b>
1, 10	8/13/98	Nickel Powder	Not Available	5865	Israel
2, 11	6/16/99	Nickel Powder	20015844	FA4472982	Israel
3	6/21/99	Nickel Powder	10002381	FA4495050	Israel
4, 73	3/17/00	Nickel Powder	CF653863615	FA5752125	Israel
5, 12	8/29/00	Nickel Powder	8004996014	FA6489888	Israel
6, 13	9/15/00	Nickel Powder	8005112247	FA6565964	Israel
7	3/28/01	Nickel Powder	10005186	FA7619926	Israel
8	7/17/01	Nickel Powder	10005518	FA0110511	Israel
9	4/04/02	Nickel Powder	10006568	FA1896760	Israel
14, 26	8/27/98	Nickel Powder	896601838O	2529/98	Chile
15, 27	12/17/98	Nickel Powder	896601947T	2555/98	Chile
16	3/03/99	Nickel Powder	896602002T	072914	Chile
17, 28	11/30/99	Nickel Powder	5457074744	FA5259433	Chile
18	3/17/00	Nickel Powder	4003916565	9004312440	Chile

Charge No.	Export Date (on or about)	Commodity	Air Waybill No./ Bill of Lading No.	Invoice No.*	Destination
19, 29	8/09/00	Nickel Powder	545276280T	FA6417957	Chile
20, 30	10/30/00	Nickel Powder	4003917258	FA6761495	Chile
21, 31	7/16/01	Nickel Powder	5457581712	FA0097488	Chile
22, 32	10/18/01	Nickel Powder	528361657	FA0205725	Chile
23, 33	1/11/02	Nickel Powder	5408452233	FA1271862	Chile
24	6/28/02	Nickel Powder	5408483960	FA2494548	Chile
25, 34	2/14/03	Nickel Powder	1884074654	FA4001734	Chile
35	8/27/98	Nickel Powder	891601837T	495	Mexico
36, 74	6/30/99	Nickel Powder	002292857	FA4540818	Mexico
37, 48	11/30/99	Nickel Powder	7498630694	FA5259030	Mexico
38	3/07/00	Nickel Powder	5457091409	FA5699026	Mexico
39	9/07/00	Nickel Powder	184967213-2	FA6528565	Mexico
40	5/31/01	Nickel Powder	5457581888	FA8091827	Mexico
41	7/26/01	Nickel Powder	472680242484	FA0182579	Mexico
42, 49	6/05/02	Nickel Powder	8008879894	FA2327088	Mexico
43	7/24/02	Nickel Powder	472681543452	FA2651501	Mexico



Charge No.	Export Date (on or about)	Commodity	Air Waybill No./ Bill of Lading No.	Invoice No.*	Destination
44, 50	8/30/02	Nickel Powder	973898494	FA2885185	Mexico
45, 51	12/04/02	Nickel Powder	453580046	FA3546514	Mexico
46, 52	12/31/02	Nickel Powder	8010001421	FA3690584	Mexico
47, 53	4/22/03	Nickel Powder	453659636	FA4498699	Mexico
54	12/29/99	Nickel Powder	472679932011	FA5375901	Peru
55, 60	9/27/00	Nickel Powder	8005187874	9005577337	Peru
56, 61	3/20/01	Nickel Powder	8006297550	9006760499	Peru
57	7/31/01	Nickel Powder	HRD-CA10-0316	FA0205725	Peru
58, 62	4/30/02	Nickel Powder	5408483938	FA2076153	Peru
59, 63	6/10/02	Nickel Powder	1881961939	FA2356225	Peru
64, 68	9/15/98	Nickel Powder	Not Available	D-9840	Taiwan
65, 69	11/30/99	Nickel Powder	528277022	FA5260242	Taiwan
66, 75	12/13/99	Nickel Powder	472679900818	FA5320561	Taiwan
67, 70	12/09/02	Nickel Powder	8010001421	FA3575712	Taiwan
71, 72	12/12/00	Nickel Powder	8005680182	900610999	India

\* Where Invoice Number is not available, Customer's Order Number from Shipping Notice is provided.

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY  
WASHINGTON, D.C. 20230

In the Matter of: )  
)  
Kennametal Inc. )  
1600 Technology Way )  
P.O. Box 231 )  
Latrobe, Pennsylvania 15650-0231 )  
)  
Respondent. )  
)

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Respondent, Kennametal Inc. ("Kennametal"), and the Bureau of Industry and Security, United States Department of Commerce ("BIS") (collectively referred to as "Parties"), pursuant to Section 766.18(a) of the Export Administration Regulations ("Regulations")<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) ("Act"),<sup>2</sup>

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2004). The charged violations occurred from 1998 to 2003. The Regulations governing the violations at issue are found in the 1998 to 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1998-2003)). The 2004 Regulations establish the procedures that apply to this matter.

<sup>2</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) ("IEEPA"). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 7, 2003 (3 C.F.R., 2003 Comp. 328 (2004)), has continued the Regulations in effect under the IEEPA.

WHEREAS, Kennametal filed a voluntary self-disclosure with BIS's Office of Export Enforcement in accordance with Section 764.5 of the Regulations concerning the transactions at issue herein;

WHEREAS, BIS has notified Kennametal of its intention to initiate an administrative proceeding against Kennametal, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a proposed charging letter to Kennametal that alleged that Kennametal committed 75 violations of the Regulations, specifically:

1. *Nine Violations of 15 C.F.R. § 764.2(a) - Exports of Nickel Powder to Israel Without the Required Licenses:* On nine occasions, from on or about August 13, 1998, through on or about April 4, 2002, Kennametal exported nickel powder, an item subject to the Regulations and covered under Export Control Classification Number (ECCN) 1C240, from the United States to Israel without obtaining licenses from the Department of Commerce as required by Section 742.3 of the Regulations.
2. *Four Violations of 15 C.F.R. § 764.2(g) - False or Misleading Representations as to Authority to Export on Shipper's Export Declarations:* On four occasions, from on or about August 13, 1998, through on or about September 15, 2000, in connection with the exports referenced in Charges 1 through 9 above, Kennametal submitted to the U.S. Government Shipper's Export Declarations, export control documents as defined in Part 772 of the Regulations, representing that the exports

were eligible for export as NLR (no license required) when, in fact, the exports required licenses from the Department of Commerce.

3. *12 Violations of 15 C.F.R. §764.2(a) - Exports of Nickel Powder to Chile Without the Required Licenses:* On 12 occasions, from on or about August 27, 1998, through on or about February 14, 2003, Kennametal exported nickel powder, an item subject to the Regulations and covered under ECCN 1C240, from the United States to Chile without obtaining licenses from the Department of Commerce as required by Section 742.3 of the Regulations.
4. *Nine Violations of 15 C.F.R. § 764.2(g) - False or Misleading Representations as to Authority to Export on Shipper's Export Declarations:* On 9 occasions, from on or about August 27, 1998, through on or about February 14, 2003, in connection with the exports referenced in Charges 14 through 25 above, Kennametal submitted to the U.S. Government Shipper's Export Declarations, export control documents as defined in Part 772 of the Regulations, representing that the exports were eligible for export as NLR (no license required) when, in fact, the exports required licenses from the Department of Commerce.
5. *13 Violations of 15 C.F.R. § 764.2(a) - Exports of Nickel Powder to Mexico Without the Required Licenses:* On 13 occasions, from on or about August 27, 1998, through on or about April 22, 2003, Kennametal exported nickel powder, an item subject to the Regulations and covered under ECCN 1C240, from the United

States to Mexico without obtaining licenses from the Department of Commerce as required by Section 742.3 of the Regulations.

6. *Six Violations of 15 C.F.R. § 764.2(g) - False or Misleading Representations as to Authority to Export on Shipper's Export Declarations:* On six occasions, from on or about November 30, 1999, through on or about April 22, 2003, in connection with the exports referenced in Charges 35 through 47 above, Kennametal submitted to the U.S. Government Shipper's Export Declarations, export control documents as defined in Part 772 of the Regulations, representing that the exports were eligible for export as NLR (no license required) when, in fact, the exports required licenses from the Department of Commerce.
7. *Six Violations of 15 C.F.R. § 764.2(a) - Exports of Nickel Powder to Peru Without the Required Licenses:* On six occasions, from on or about December 29, 1999, through on or about June 10, 2002, Kennametal exported nickel powder, an item subject to the Regulations and covered under ECCN 1C240, from the United States to Peru without obtaining licenses from the Department of Commerce as required by Section 742.3 of the Regulations.
8. *Four Violations of 15 C.F.R. § 764.2(g) - False or Misleading Representations as to Authority to Export on Shipper's Export Declarations:* On four occasions, from on or about September 27, 2000, through on or about June 10, 2002, in connection with the exports referenced in Charges 54 through 59 above, Kennametal

submitted to the U.S. Government Shipper's Export Declarations, export control documents as defined in Part 772 of the Regulations, representing that the exports were eligible for export as NLR (no license required) when, in fact, the exports required licenses from the Department of Commerce.

9. *Four Violations of 15 C.F.R. § 764.2(a) - Exports of Nickel Powder to Taiwan Without the Required Licenses:* On four occasions, from on or about September 15, 1998, through on or about December 9, 2002, Kennametal exported nickel powder, an item subject to the Regulations and covered under ECCN 1C240, from the United States to Taiwan without obtaining licenses from the Department of Commerce as required by Section 742.3 of the Regulations.
10. *Three Violations of 15 C.F.R. § 764.2(g) - False or Misleading Representations as to Authority to Export on Shipper's Export Declarations:* On three occasions, from on or about September 15, 1998, through on or about December 9, 2002, in connection with the exports referenced in Charges 64 through 67 above, Kennametal submitted to the U.S. Government Shipper's Export Declarations, export control documents as defined in Part 772 of the Regulations, representing that the exports were eligible for export as NLR (no license required) when, in fact, the exports required licenses from the Department of Commerce.
11. *One Violation of 15 C.F.R. § 764.2(a) - Export of Nickel Powder to India Without the Required License:* On or about December 12, 2000, Kennametal exported nickel powder, an item subject to the Regulations and covered under ECCN

1C240, from the United States to India without obtaining a license from the Department of Commerce as required by Section 742.3 and 742.16 of the Regulations.

12. *One Violation of C.F.R. § 764.2(g) - False or Misleading Representation as to Authority to Export on Shipper's Export Declaration:* On or about December 12, 2000, in connection with the export referenced in Charge 71 above, Kennametal submitted to the U.S. Government a Shipper's Export Declaration, an export control document as defined in Part 772 of the Regulations, representing that the export was eligible for export as NLR (no license required) when, in fact, the export required a license from the Department of Commerce.
13. *Three Violations of 15 C.F.R. § 764.2(i) - Failure to Comply with Reporting, Recordkeeping Requirements:* On three occasions, Kennametal failed to comply with the recordkeeping provisions of Section 762.2 of the Regulations by failing to retain export control documents, including bills of lading, required to be maintained under the Regulations.

WHEREAS, Kennametal has reviewed the proposed charging letter and is aware of the allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true;

WHEREAS, Kennametal fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if she approves this Agreement as the final resolution of this matter;

WHEREAS, Kennametal enters into this Agreement voluntarily and with full knowledge of its rights;

WHEREAS, Kennametal states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, Kennametal neither admits nor denies the allegations contained in the proposed charging letter;

WHEREAS, Kennametal wishes to settle and dispose of all matters alleged in the proposed charging letter by entering into this Agreement; and

WHEREAS, Kennametal agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Kennametal, under the Regulations, in connection with the matters alleged in the proposed charging letter.

2. The following sanction shall be imposed against Kennametal in complete settlement of the violations of the Regulations relating to the transactions specifically detailed in the voluntary self-disclosure and proposed charging letter:

- a. Kennametal shall be assessed a civil penalty in the amount of \$262,500 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.
- b. The timely payment of the civil penalty agreed to in paragraph 2.a. is hereby made a condition to the granting, restoration, or continuing validity of any export license, License Exception, permission, or privilege granted, or to be granted, to



Kennametal. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of Kennametal's export privileges for a period of one year from the date of imposition of the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Kennametal hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in the proposed charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; (c) request any relief from the Order, if entered, including without limitation relief from the terms of a denial order under 15 C.F.R. § 764.3(a)(2); and (d) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$262,500 civil penalty, BIS will not initiate any further administrative proceeding against Kennametal in connection with violations of the Act or the Regulations relating to the transactions specifically detailed in the voluntary self-disclosure and proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement

in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

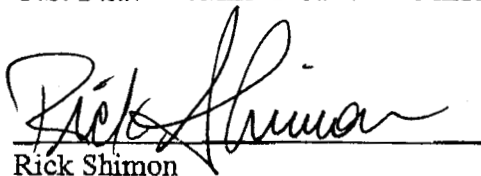
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on BIS only if the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

9. Each signatory affirms his authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

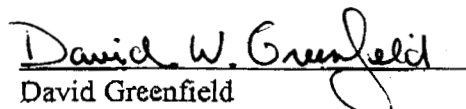
BUREAU OF INDUSTRY AND SECURITY  
U.S. DEPARTMENT OF COMMERCE

KENAMETAL INC.



Rick Shimon  
Acting Director  
Office of Export Enforcement

Date: 6/15/04



David Greenfield  
Vice President, Secretary, & General Counsel

Date: June 10, 2004

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY  
WASHINGTON, D.C. 20230

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In the Matter of: )  
)  
Kennametal Inc. )  
1600 Technology Way )  
P.O. Box 231 )  
Latrobe, Pennsylvania 15650-0231 )  
)  
Respondent. )  
)

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ORDER

The Bureau of Industry and Security, United States Department of Commerce (“BIS”) has notified Kennametal Inc. (“Kennametal”) of its intention to initiate an administrative proceeding against Kennametal pursuant to Section 766.3 of the Export Administration Regulations<sup>1</sup> (“Regulations”) and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>2</sup> based on the proposed charging letter issued to

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2004). The charged violations occurred from 1998 to 2003. The Regulations governing the violations at issue are found in the 1998 to 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1998-2003)). The 2004 Regulations establish the procedures that apply to this matter.

<sup>2</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 7, 2003 (3 C.F.R., 2003 Comp. 328 (2004)), has continued the Regulations in effect under the IEEPA.

Kennametal that alleged that Kennametal committed 75 violations of the Regulations.

Specifically, the charges are:

1. *Nine Violations of 15 C.F.R. § 764.2(a) - Exports of Nickel Powder to Israel Without the Required Licenses:* On nine occasions, from on or about August 13, 1998, through on or about April 4, 2002, Kennametal exported nickel powder, an item subject to the Regulations and covered under Export Control Classification Number (ECCN) 1C240, from the United States to Israel without obtaining licenses from the Department of Commerce as required by Section 742.3 of the Regulations.
2. *Four Violations of 15 C.F.R. §764.2(g) - False or Misleading Representations as to Authority to Export on Shipper's Export Declarations:* On four occasions, from on or about August 13, 1998, through on or about September 15, 2000, in connection with the exports referenced in Charges 1 through 9 above, Kennametal submitted to the U.S. Government Shipper's Export Declarations, export control documents as defined in Part 772 of the Regulations, representing that the exports were eligible for export as NLR (no license required) when, in fact, the exports required licenses from the Department of Commerce.
3. *12 Violations of 15 C.F.R. §764.2(a) - Exports of Nickel Powder to Chile Without the Required Licenses:* On 12 occasions, from on or about August 27, 1998, through on or about February 14, 2003, Kennametal exported nickel powder, an item subject to the Regulations and covered under ECCN 1C240, from the United States to Chile without obtaining licenses from the Department of Commerce as required by Section 742.3 of the Regulations.

4. *Nine Violations of 15 C.F.R. § 764.2(g) - False or Misleading Representations as to Authority to Export on Shipper's Export Declarations:* On 9 occasions, from on or about August 27, 1998, through on or about February 14, 2003, in connection with the exports referenced in Charges 14 through 25 above, Kennametal submitted to the U.S. Government Shipper's Export Declarations, export control documents as defined in Part 772 of the Regulations, representing that the exports were eligible for export as NLR (no license required) when, in fact, the exports required licenses from the Department of Commerce.
5. *13 Violations of 15 C.F.R. § 764.2(a) - Exports of Nickel Powder to Mexico Without the Required Licenses:* On 13 occasions, from on or about August 27, 1998, through on or about April 22, 2003, Kennametal exported nickel powder, an item subject to the Regulations and covered under ECCN 1C240, from the United States to Mexico without obtaining licenses from the Department of Commerce as required by Section 742.3 of the Regulations.
6. *Six Violations of 15 C.F.R. § 764.2(g) - False or Misleading Representations as to Authority to Export on Shipper's Export Declarations:* On six occasions, from on or about November 30, 1999, through on or about April 22, 2003, in connection with the exports referenced in Charges 35 through 47 above, Kennametal submitted to the U.S. Government Shipper's Export Declarations, export control documents as defined in Part 772 of the Regulations, representing that the exports were eligible for export as NLR (no license required) when, in fact, the exports required licenses from the Department of Commerce.

7. *Six Violations of 15 C.F.R. § 764.2(a) - Exports of Nickel Powder to Peru Without the Required Licenses:* On six occasions, from on or about December 29, 1999, through on or about June 10, 2002, Kennametal exported nickel powder, an item subject to the Regulations and covered under ECCN 1C240, from the United States to Peru without obtaining licenses from the Department of Commerce as required by Section 742.3 of the Regulations.
8. *Four Violations of 15 C.F.R. § 764.2(g) - False or Misleading Representations as to Authority to Export on Shipper's Export Declarations:* On four occasions, from on or about September 27, 2000, through on or about June 10, 2002, in connection with the exports referenced in Charges 54 through 59 above, Kennametal submitted to the U.S. Government Shipper's Export Declarations, export control documents as defined in Part 772 of the Regulations, representing that the exports were eligible for export as NLR (no license required) when, in fact, the exports required licenses from the Department of Commerce.
9. *Four Violations of 15 C.F.R. § 764.2(a) - Exports of Nickel Powder to Taiwan Without the Required Licenses:* On four occasions, from on or about September 15, 1998, through on or about December 9, 2002, Kennametal exported nickel powder, an item subject to the Regulations and covered under ECCN 1C240, from the United States to Taiwan without obtaining licenses from the Department of Commerce as required by Section 742.3 of the Regulations.
10. *Three Violations of 15 C.F.R. § 764.2(g) - False or Misleading Representations as to Authority to Export on Shipper's Export Declarations:* On three occasions, from on or about September 15, 1998, through on or about December 9, 2002, in

connection with the exports referenced in Charges 64 through 67 above, Kennametal submitted to the U.S. Government Shipper's Export Declarations, export control documents as defined in Part 772 of the Regulations, representing that the exports were eligible for export as NLR (no license required) when, in fact, the exports required licenses from the Department of Commerce.

11. *One Violation of 15 C.F.R. § 764.2(a) - Export of Nickel Powder to India Without the Required License:* On or about December 12, 2000, Kennametal exported nickel powder, an item subject to the Regulations and covered under ECCN 1C240, from the United States to India without obtaining a license from the Department of Commerce as required by Section 742.3 and 742.16 of the Regulations.
12. *One Violation of C.F.R. § 764.2(g) - False or Misleading Representation as to Authority to Export on Shipper's Export Declaration:* On or about December 12, 2000, in connection with the export referenced in Charge 71 above, Kennametal submitted to the U.S. Government a Shipper's Export Declaration, an export control document as defined in Part 772 of the Regulations, representing that the export was eligible for export as NLR (no license required) when, in fact, the export required a license from the Department of Commerce.
13. *Three Violations of 15 C.F.R. § 764.2(i) - Failure to Comply with Reporting, Recordkeeping Requirements:* On three occasions, Kennametal failed to comply with the recordkeeping provisions of Section 762.2 of the Regulations by failing to retain export control documents, including bills of lading, required to be maintained under the Regulations.

BIS and Kennametal having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$262,500 is assessed against Kennametal, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Kennametal will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, License Exception, permission, or privilege granted, or to be granted, to Kennametal. Accordingly, if Kennametal should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Kennametal's export privileges for a period of one year from the date of entry of this Order.

FOURTH, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.



This Order, which constitutes the final agency action in this matter, is effective immediately.

  
Julie L. Myers  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 24<sup>th</sup> day of June 2004.