

## STANDARD TERMS AND CONDITIONS OF SALE

- 1) The following definitions shall apply:
  - a) "the Company" means Thorlux Lighting Australasia Pty Ltd (ACN 139 400 507),
  - b) "the Purchaser" shall mean the person, persons, firm, trust, company or other entity stated on the quotation and/or order form their administrators, successors, and assigns, and where the name of the Purchaser is found to be an entity not recognised at law, the duly authorised officer to whose attention the document is marked.
  - c) "the Goods" means the Goods and/or services supplied by the Company pursuant to these terms and conditions of sale.
- 2) By signing the quotation, or by submitting an order to the Company the Purchaser accepts these terms and conditions. These terms and conditions constitute the entire agreement between the parties.
- 3) The Company is not bound by any condition, warranty, or representation, which is not expressly set out herein or agreed to in writing by the Company.
- 4) Any terms and conditions of the Purchaser's order deviating from or inconsistent with these terms and conditions (including any statement by the Purchaser that the Purchaser's terms and conditions will prevail) are expressly excluded.
- 5) Quotations and designs may be revised or withdrawn by the Company at any time prior to the Purchaser signing the quotation.
- 6) The Company is not bound by clerical errors or omissions in computation or otherwise and any of the Company's documents shall be subject to correction by the Company.
- 7) Where a deposit is specified on the quotation, the deposit must be paid when the order is submitted for acceptance. The Company shall not be obliged to fill any order until the deposit has been received in cleared funds.
- 8) Orders cannot be cancelled except by arrangement on terms that will *in the Company's sole opinion compensate* against loss incurred by the Company.
- 9) Delivery times quoted are from acceptance of a written order and of all necessary information to enable work to commence. Such times are estimates not involving any contractual obligation. The Company shall not be liable to the Purchaser for any loss or damage whatsoever arising from the late delivery of the Goods.
- 10) Prices quoted will be valid for thirty days unless otherwise stated in writing. After that time the quotation is not capable of acceptance by the Purchaser.
- 11) All price lists and quotations are subject to alteration without notice and orders are accepted on the basis that they will be invoiced at prices ruling on the day of dispatch unless a specific price has been specifically quoted.
- 12) All prices are strictly nett unless otherwise specified.
- 13) All prices are exclusive of GST unless otherwise stated. The Purchaser agrees to pay the GST on any taxable supply made by the Company to the Purchaser.
- 14) Any discounts against trade list prices become null and void if the account is not paid within the agreed time or if the quantity purchased differs from the quantity of Goods agreed to.
- 15) A discount given against a specific order does not bind the Company to give a similar discount on any future order.
- 16) Unless a specific exemption is claimed and proved Goods and Services Tax will be charged at the rate applicable at date of invoicing.
- 17) The prices are Free into Store (FIS) for orders when the minimum order value is greater than \$1,000.00. In these circumstances the freight carrier used will be at the discretion of the Company. Orders under \$1,000.00 but greater than \$150.00 will still

be accepted but freight will be payable by the Purchaser. All above amounts are exclusive of GST.

- 18) The prices quoted in the price list include the cost of basic packing. If any other method of packing is required, the Company will invoice the Customer for the additional packing costs.
- 19) The following clauses shall apply in regards to payment:
- a) Unless otherwise specified by the Company in writing payment is to be made in thirty (30) days following that in which the Goods are invoiced. In default of payment the Company may charge 18% interest per annum, daily until payment, suspend deliveries or cancel undelivered portions of orders and take proceedings for the collection of outstanding amounts, without prejudice to any subsequent claims the Company may enter for non-fulfilment of the contract.
  - b) Purchasers who have not been approved for credit by the Company are to pay for Goods upon the later of the following:
    - i) placing the order for the Goods; or
    - ii) collecting the Goods; or
    - iii) delivery of the Goods.
  - c) Non-payment for any or all Goods by the due date specified in Clause 19(a) will be considered by the Company to be a breach of the contract.
  - d) The Company may add to any outstanding amount any debt collector's expenses incurred and/or legal expenses calculated on an indemnity basis, or to be incurred, as a consequence of the actions taken by the Company to recover non-payment by the Purchaser.
  - e) In the event of non-payment of invoices by the due date, the Purchaser agrees, at the Company's request, to charge in the Company's request, to charge in the Company's favour its interest in any land in which the Purchaser has a legal or beneficial interest (or in which the Purchaser later acquires such interest) to secure the payment of all monies owed to the Company by the Purchaser. The Purchaser further agrees to execute, upon the request of the Company, a registrable instrument transferring to the Company its said interest by way of security.
  - f) Monies owed by the Purchaser to the Company will become due immediately upon the commencement of any act or proceedings in which the Purchaser's solvency is placed in issue.
  - g) The Purchaser undertakes to pay all bank charges incurred by the Company in respect of any cheques not met upon first presentation to the Company's bank.
  - h) The Purchaser's liability to the Company in respect of any non-payment for the Goods will not be extinguished by any purported termination of the agreement by the Purchaser.
- 20) All credit terms quoted are subject to satisfactory references being furnished as required by the Company.
- 21) Where Goods are supplied overseas all monies due by the Purchaser shall be paid in Australian currency at the rate of exchange ruling at the time of payment.
- 22) Goods must not be returned unless agreement in writing is given by the Company. The amount of credit will be 30% less than the original selling price. An Application will need to be made to the Company for permission to return the Goods. When permission is granted, a Goods Return Authority (GRA) number will be provided which needs to be quoted on all paperwork. All Goods returned will be at the clients cost and risk. Return of the Goods is to be organised by the client. A restocking fee will be assessed and applied on all items returned.
- 23) All standard samples will be charged, and if returned in good order, will be credited.
- 24) The Company, may, submit prototypes or specially manufactured items, but reserves the right to charge at the rate of 2.5 times the quoted price, in the event the quotation

is unsuccessful or the sample rejected.

- 25) The Company may modify any product or product application design without notice.
- 26) Any performance figures given by the Company are based upon its experience. No warranties are given as to the accuracy of the figures. No liability will be accepted if these figures are not obtained, unless the specification to which the Company is working lays down such figures and unless the Company has made a specific guarantee in writing. All orders are accepted on the basis that the customer assumes responsibility for ensuring that the Goods are suitable for his purpose.
- 27) Title in the Goods shall be as follows:
- a) Property in the Goods will not pass from the Company to the Purchaser until the Purchaser has paid for the Goods (including any interest) in full and all cheques and other negotiable instruments have been cleared.
  - b) The risk of loss or damage to the Goods will be entirely at the risk of the Purchaser once the Goods leave the Company's premises or upon collection of the Goods to the Purchaser or its agents. The Purchaser acknowledges that unless advised in writing to the contrary the products will be forwarded by the mode of transport that the Company considers most suitable and, will be at the risk of the Purchaser during transit and any loss or damage will be to the Customer's account.
  - c) The Purchaser acknowledges that the Purchaser receives possession of and holds the Goods delivered by the Company solely as bailee until such time as the property in the Goods has passed to the Purchaser.
  - d) The Purchaser agrees that until such time as the property in the Goods passes to the Purchaser, the Purchaser:
    - i) will not allow any person to have or acquire a security interest in the Goods;
    - ii) will secure the Goods from risk, damage and theft; and
    - iii) will insure the Goods for their full insurable or replacement value (whichever is the higher).
  - e) Notwithstanding Clause 27(c), if the Purchaser supplies any of the Goods to any person before all monies due and payable by the Purchaser have been paid to the Company, the Purchaser agrees that:
    - i) It holds the proceeds of re-supply of the Goods on trust for and as agent for the Company immediately when they are received or are receivable; and
    - ii) It must pay the amount of the proceeds of re-supply to the Company immediately when they are received.
  - f) The Company reserves the right to enter the Purchaser's premises and to re-take physical possession of the Goods and permanently retain the Goods if:
    - i) Payment for the Goods is overdue; or
    - ii) The Purchaser pays the Company by cheque (in full or part) and such cheque is not met on presentation by the Company's bank.
  - g) The Purchaser agrees to indemnify the Company against all expenses, losses and damages incurred or sustained by the Company as a result or in relation to the exercise of the Company's rights under this clause.
- 28) Whilst the Company will use its endeavours to carry out the instructions of the Purchaser, all Goods are accepted, treated, processed and stored entirely at the risk of the Purchasers, and liability of the Company, is limited to replacement of the raw materials.
- 29) The products sold are manufactured by skilled workers from materials, of a quality and to appropriate specifications which the manufacturer believes to be the most suitable available at the time of manufacture. Unless otherwise laid down by the specifications or contract, if any defect in the Goods supplied is apparent under proper use within such period after dispatch as the Company considers reasonable and the Goods are returned free to the Company to an arranged address, the Company will either supply fresh Goods in replacement or at its option, arrange repair

of the original Goods free of charge, if the Company and the manufacturer are satisfied the defect is due solely to bad workmanship or faulty materials.

- 30) No liability is accepted for loss, damage or delay caused by Government order, war, civil commotion, force majeure, accidents, fires, strikes lockouts, or delay in obtaining raw materials through shortage or disadvantage in price or any other cause beyond the Company's reasonable control.
- 31) The Company reserves the right to supply Goods to the Purchaser obtained from other entities, and any warranty in respect of these such Goods is strictly limited to the warranty provided by the manufacturer of those Goods.
- 32) The provisions herein are in lieu of and exclude all other warranties, conditions and liabilities, expressed or implied, whether under common law statute or otherwise, in relation to Goods supplied by the Company.
- 33) The Purchaser cannot assign the benefit of this Agreement.
- 34) Notwithstanding anything contained herein the Company may not accept liability for faulty Goods, or errors in dispatch, unless written notice is given to the carriers and the Company within three days from receipt of the consignment. Neither can it accept claims for loss of Goods consigned but not delivered unless such notices are given within twenty one days of the date of the consignment, or if exported Goods, within reasonable time of shipment.
- 35) In the event, of any dispute arising which cannot be settled by direct negotiation, the same may be referred to the Arbitration in Australia by a person mutually agreed upon and failing agreement of a person nominated by the Australian Chamber of Commerce.
- 36) Unless required by law, no responsibility is accepted by the Company for any loss or damage, direct or consequential, arising from any defect or failure in Goods supplied.
- 37) The following Defects and Implied Terms shall apply:
- a) Where the Goods supplied by the Company are not of a kind ordinarily acquired for personal, domestic or household consumption, the Company's liability for a breach of a condition or warranty implied by Division 2 of Part V of the *Trade Practices Act 1974 (Cth)* (other than s69) is limited to any one or more of the following:
    - i) The replacement of the Goods or the supply of equivalent Goods, or the repair of the product, whichever is the lowest;
    - ii) The payment of the cost of replacing the Goods or of acquiring equivalent Goods;
    - iii) The payment of the cost of having the Goods repaired.
  - b) Except as required by statute (including the *Trade Practices Act (Cth)* and the *Fair Trading Act (Qld)*), all implied conditions and warranties under statute and general law, including those relating to merchantability, description, quality, suitability, or fitness for any purpose are expressly excluded and the liability of the Company will be limited to the sole discretion of the Company to the replacement or repair of the Goods or payment of the cost of repairing or replacing the Goods.
  - c) Except as required by statute, the Company does not accept any liability for any direct, indirect or consequential loss or damage (including loss of profits or goodwill) caused to the Purchaser or any other person arising from the following:
    - i) Delays in providing or delivering the Goods; or
    - ii) The negligence or carelessness of the Company in supplying the Goods.
- 38) The Company shall not be responsible for ensuring that the Goods comply with the requirement of any law relating to the marketing and/or the labelling and/or packaging of the Goods.
- 39) Where the Company has granted a credit facility to the Purchaser, the Purchaser is to notify the Company, in writing within seven (7) days, of any proposed or actual change in:

- a) the trading name of the Purchaser;
- b) the person(s), the Directors, the Trustees, the company, the trust or the partnership conducting the business operated by the Purchaser;
- c) the proprietorship of the Purchaser in the event that the Purchaser is converted into a trust or company.

The Purchaser agrees to indemnify the Company against any damage or loss incurred by it as a result of the Purchaser's failure to notify the Company of such changes.

- 40) These terms and conditions of sale are to be read as including but prevailing over any terms and conditions of sale specified by the Company's suppliers.
- 41) The Company shall not be deemed to have waived or varied any of these terms and conditions or any remedy which it may have.
- 42) The Purchaser will indemnify and keep indemnified the Company from and against all losses, claims, proceedings, damages, costs and expenses in respect of or arising directly or indirectly from the Goods or their use.
- 43) The Company reserves the right to impose a minimum invoice value which can vary from time to time at the discretion of the Company.
- 44) The Company reserves the right to at any time, without notice to the Purchaser, refuse to supply further Goods to the Purchaser.
- 45) Should any terms or conditions herein be found to be void, voidable, illegal or unenforceable at Law, then these terms and conditions shall not be affected thereby, and the said term or condition shall simply have no effect.
- 46) These terms and conditions and the relationship between the parties shall be governed by the laws of Queensland (whose courts shall have exclusive jurisdiction)