

## §1. Area of application

(1) These terms and Conditions of Sale apply only to companies, legal entities under public law or public law entities with special funds as well as for all future business with the purchaser in so far as legal transactions of a related nature are involved.

(2) The purchaser's General Terms and Conditions of Business do not become the subject matter of the contract unless we expressly agree to their application in writing.

## §2. Prices, offsetting and right of retention.

(1) Unless agreed to the contrary in writing, our prices are exclusively ex works excluding packing and delivery; VAT is to be added at the rate in force at the time of invoicing. Packing and delivery charges as well as any disposal surcharges for the manufacturer/supplier of the lighting materials and any disposal charges we incur will be invoiced separately.

(2) If the value of the goods ordered is less than EUR 100.00 (excluding VAT), we will add an additional handling fee of EUR 10.00 plus VAT.

(3) The purchaser is only entitled to the right of offsetting if his counter-claims have been judged to be absolute or are not contested. The purchaser may only assert a right of retention in so far as his counter-claim is based on the same contract.

(4) If the purchaser should cancel an order which has been confirmed, we may demand 10% of the sales price for the costs arising from handling the order and for loss of profit. However, the purchaser may demonstrate that a smaller loss or no loss at all has arisen.

(5) Goods which are returned for reasons other than a right of withdrawal by the purchaser forming part of the warranty rights will only be credited if we have so agreed in advance. The credit for undamaged goods in their original packaging will be for 85% of the invoiced price. Any costs for refurbishment which are necessary as well as packaging and freight charges we incur will also be deducted without separate notification. Goods which are specially manufactured and special electrical fittings will not be taken back.

## §3. Delivery time, transfer of risk

(1) The commencement of the delivery time we have indicated or agreed assumes that the purchaser will comply with his obligations at the correct time and in a proper manner. We reserve the right to the objection of non-performance of contract.

(2) If the purchaser fails to accept the goods without a reason in law or if he should be culpably in breach of other obligations to cooperate, the risk of acciden-

tal destruction or accidental deterioration of the goods passes to the purchaser at the point in time at which the latter is in breach of his obligations to accept the goods or is in default of payment. This applies independently of whether the goods are despatched from the place of performance or of whoever pays the delivery charges.

## §4. Retention of title

(1) We retain title to the goods we have delivered until all debts arising from the supply contract have been paid in full. This also applies to all future deliveries even if we have not always expressly referred to this condition. We are entitled to take the goods back if the purchaser acts in breach of contract.

(2) So long as title has not passed to the purchaser, the latter must take good care of the goods and inform us immediately in writing if the object of the sale has been attached or is subject to other third party interference. However, the purchaser is only liable for any intervention costs we incur in the event of an action pursuant to § 771 of the Code of Civil Procedure in so far as the third party is unable to reimburse the costs.

(3) The purchaser is entitled to sell the goods to which title is retained in the normal course of business. The purchaser hereby assigns to us the receivables arising from the sale of the goods in the amount of the agreed invoice total (including VAT). This assignment applies independently of whether the goods were re-sold before or after processing.

The purchaser remains authorised to collect the debt even after the assignment. Our authority to collect the debt ourselves remains unaffected thereby. However, we will not collect the debt so long as the purchaser complies with his payment obligations arising from the proceeds he has collected, is not in default with payments and, in particular, no application for the opening of insolvency proceedings has been filed or payments have not been suspended.

(4) Processing and conversion of the goods by the purchaser is always in the name of and on behalf of ourselves. In this case the purchaser's expectant right attached to the goods continues in existence with respect to the goods after transformation. In so far as the goods are processed with other objects which do not belong to us, we acquire joint ownership of the new item pro rata to the objective value at the time of processing of our goods to the other objects which were processed. The same applies in the event of amalgamation. In so far as the amalgamation occurred in such a way that the goods belonging to the purchaser can be regarded as the main item, it is deemed to be agreed that the purchaser hereby transfers joint ownership to us pro rata and that the sole or joint ownership which thereby arises is held for us. In order to secure our receive-

bles from the purchaser, the latter also assigns such receivables to us as accrue to the purchaser from a third party through the combination of the goods to which title is retained with a building; we hereby accept such an assignment.

(5) If so requested by the purchaser, we undertake to release the securities to which we are entitled in so far as their value exceeds the value of the receivables for which security is required by more than 20%.

## § 5. Warranty, limitation of actions, recourse

(1) The purchaser's warranty rights assume that he has properly complied with his obligations of investigation and notification of complaints pursuant to §377 of the Commercial Code.

(2) Claims for defects are time barred after 12 months from hand-over of the goods we supplied to the purchaser. This does not apply in so far as the law in § 438, Paragraph 1, Number 2 of the Civil Code (Buildings and Items for Buildings), § 479, Paragraph 1 of the Civil Code (Claims for Recourse) and § 634a, Paragraph 1 of the Civil Code (Defect or Deficiencies in Construction) stipulate that the time period must be longer.

(3) Our agreement must be obtained before goods are returned.

(4) If, in spite of all the care which is exercised, the goods which were supplied should contain a defect which was already present at the time of the transfer of risk, we will, at our option and subject to the defect being notified within the time allowed, either rectify the defect in the goods or supply a replacement. We must always be given the opportunity of subsequent performance within a reasonable time. Claims for recourse remain unaffected without limitation by the above provision.

(5) If subsequent performance should fail, the purchaser may withdraw from the contract or reduce the payment without prejudice to any claims for compensation.

(6) No claims will be accepted if there is/are only insubstantial deviations from the agreed quality, non-material prejudice to serviceability, natural wear and tear or damage which followed transfer of risk and originates in deficient or careless treatment, unsuitable operating or electrical equipment, defective installation or in the event of claims arising from unusual external circumstances which were not assumed to exist after the contract. Claims will also not be accepted if the purchaser or third parties should carry out commissioning work, maintenance work or modifications in an improper manner; claims will not be accepted for the consequences of such work.

(7) Claims by the purchaser for expenses incurred necessarily for the purpose of subsequent performance, particularly

freight, travelling and labour costs or costs of materials are excluded in so far as the expenditure arises because the goods we supplied were subsequently moved to a location other than the purchaser's premises unless the goods were moved as part of the use for which they were intended.

(8) Claims for recourse against us by the purchaser are only valid in so far as the purchaser has not made any agreement with his customer in respect of claims for defective goods which go above and beyond those which are compulsory by law. Paragraph 6 applies correspondingly in respect of the extent of such claims for recourse.

(9) In the event that a defect should be fraudulently concealed or if a warranty should be provided for the quality of the goods at the time of the transfer of risk within the meaning of § 444 of the Civil Code (declaration by the seller that the purchased goods have a specific property at the transfer of risk and that the seller is willing to be answerable for all consequences of its deficiencies independently of fault), the purchaser's rights are determined solely by the provisions of law.

## § 6. Use for the purpose intended

Lights are technical working appliances under the Equipment and Product Safety Act (Geräte- und Produktsicherheitsgesetz) and may only be used for the purpose intended. The use of lights and accessories for purposes other than those intended as well as arbitrary modifications to our lights without our express written consent release us from all obligations in the event of damage.

## § 7. Disposal

The purchaser undertakes to ensure that the disposal of the goods supplied will be in accordance with the provisions of the Electrical and Electronic Equipment Act (Elektro- und Elektronikgerätegesetz). If the goods should be resold, the purchaser will transfer this obligation to his contractual partner. We are registered with the Old Electrical Equipment Register (Elektro-Altgeräteregister) under WEEE number DE 64392354. We are affiliated to the INTERSEROH return system. Official disposal depots are published on the web-site [www.INTERSEROH-WEEE.de](http://www.INTERSEROH-WEEE.de).

## § 8. Choice of law, place of performance and place of jurisdiction

(1) German law applies exclusively. Application of the United Nations Convention on Contracts for the International Sale of Goods is excluded.

(2) The place of performance for all obligations arising from this contract or contractual negotiations and the exclusive place of jurisdiction for all disputes relating to this contract and contractual negotiations is our Head Office.