

TERMS AND CONDITIONS OF SALE

1. HOW THESE CONDITIONS APPLY

- 1.1. These Terms and Conditions of Sale (**Conditions**) apply to the sale of **Goods** and associated services by Innovation Lighting Distributors Pty Ltd. (ABN 64 108 836 513) (**Company**) to the **Customer** named in the Credit account application, Quotation form or other document provided by the Company that sets out the description and prices of the Goods. These documents together constitute a binding **Contract**, without requirement of signature unless so indicated on a document.
- 1.2. The Contract is binding on the parties from the time that the Company accepts an order, credit application or other offer by the Customer to purchase goods. The Company will provide a copy of these Conditions on its website, and where practical during the course of the ordering process. By submitting an order, credit application or other offer to purchase, the Customer agrees to these Conditions.
- 1.3. The Contract shall prevail over all inconsistent terms in any document provided by the Customer such as a purchase order, request for quote or approval form, except to the extent the Company expressly agrees in writing.
- 1.4. The Company may vary, add to or substitute these Conditions from time to time. The updated Conditions apply to any orders submitted or purchases otherwise made after the updated Conditions are provided to the Customer or published on the Company's website.
- 1.5. Other than as set out in this Contract, no promise, description, representation or undertaking by the Company forms part of the Contract.

2. SPECIFICATIONS, DRAWINGS ETC

- 2.1. All specifications, drawings, data and particulars regarding the Goods stated by the Company are approximate only and any deviation shall not form grounds for any claim against the Company. The descriptions, illustrations and performances contained in catalogues, price lists and other advertising matter are for general guidance only, are not binding on the Company and do not form part of the Contract.
- 2.2. Where specifications, drawing or other particulars are supplied by the Customer, the Company's price is based on estimated quantities required. Should there be any adjustments in quantities above or below the quantities ordered by the Customer and set out in a quotation, then any such increase or decrease shall be adjusted on a unit rate basis according to unit price for the Goods.
- 2.3. Any performance figures given by the Company in relation to the Goods are estimates only. The Company shall be under no liability to the Customer for failure to attain such figures unless the performance of the Goods is specially guaranteed in writing and any such written guarantee shall be subject to recognised manufacturing variations and tolerances applicable to the Goods.

3. DELIVERY OF GOODS

- 3.1. The Customer is required to pay for Goods that are delivered in accordance with the Customer's order.
- 3.2. Any delivery times advised by the Company to the Customer are estimates only and the Company shall not be liable to the Customer or any other person for late delivery or non-delivery.
- 3.3. No delay in delivery or dispatch of the Goods shall relieve the Customer of its obligations to accept or pay for the Goods. The Company's obligation to deliver Goods to the Customer is suspended to the extent that it is unable to fulfil that obligation due to events beyond its reasonable control, including the failure of a third party to supply the Goods, transportation problems, industrial disputes and the acts of any government or authority.
- 3.4. The Company reserves the right to deliver by portion and delivery by portion shall not entitle the Customer to repudiate the Contract. If a portion of the Goods is delivered but the delivery is not completed for any reason, the Customer must pay for the portion delivered.
- 3.5. Delivery will be taken to have occurred when the Goods are off-loaded at the Customer's premises or the place where the Customer has requested delivery to be made or (where Goods are collected from the Company) upon collection by the Customer or its agent. All Goods shall be at risk of the Customer after delivery or collection.

4. WARRANTY AND LIABILITY

- 4.1. The Company may provide a warranty for certain Goods, which will apply on the terms provided. If the warranty is offered by the manufacturer directly to the Customer, the Company will endeavour to assist the Customer in dealing with the manufacturer. Nothing in a warranty or in these Conditions over-rides the Company's statutory obligations, which apply in full.
- 4.2. Other than as set out in a warranty provided by the Company or by a statutory obligation, the Company offers no warranties as to merchantability, description, quality, suitability or fitness of the Goods for any purpose or as to design, assembly, installation, materials or workmanship or otherwise.
- 4.3. The Company shall not be liable for physical or financial injury, loss or damage or for consequential loss arising out of the supply, layout, assembly, installation or operation of the Goods or arising out of the Company's negligence or in any other way whatsoever.
- 4.4. In the event of breach of warranty, the Company's liability is limited: for a warranty provided by the Company, to the remedy offered in the warranty; and for a statutory warranty (where the statute so allows), to the replacement or repair of the Goods, or the cost of doing so, at the Company's election.
- 4.5. If the Customer wishes to replace Goods itself and be reimbursed by the Company for the cost of the replacement Goods, and/or any part of the cost of works to undertake the replacement, it must obtain prior approval in writing from the Company. The Company is not obliged to give approval, and always has the right to undertake the work itself. The Company will not pay amounts claimed by the Customer where prior approval has not been obtained.
- 4.6. Any claim against the Company for damage, shortage, or incorrectly supplied Goods must be made in writing addressed to the Company and received within five working days of the delivery. The relevant Goods must be safely stored and made available for inspection by the

Company. The claim notice must include the advice note number, date consignment received, carrier's name, condition of package, extent of damage, shortage or incorrectly supplied items. The Customer will be deemed to have waived any claim for damage, short delivery or incorrectly supplied Goods not complying with the foregoing procedure.

5. PRICES AND PAYMENT

- 5.1. The price of Goods in a quotation issued by the Company is current as at the date of quotation and is valid for the period of 30 days from that date. Unless otherwise stated all prices quoted by the Company are exclusive of GST.
- 5.2. Invoiced orders in excess of \$500 (ex GST) will be delivered - FIS (Free in Store) within the state CBD. Deliveries to other destinations, and orders of \$500 (ex GST) or less, will additionally incur freight charges.
- 5.3. The purchase price of Goods must be paid in full before delivery unless the Company has previously agreed to supply those Goods on credit account payment terms.
- 5.4. Goods purchased, which are not subject to credit account payment terms, may require a minimum deposit of 30% of order value upon placement of the order, with the balance being payable prior to delivery.
- 5.5. The purchase price of the Goods on credit account shall be payable on or before the thirtieth (30th) day of the calendar month following delivery of the Goods unless other terms of payment are expressly stated on the invoice for the Goods. If payment is made on or before the due date, the agreed settlement discount (if any) may be deducted from the payment.
- 5.6. The Company is under no obligation to continue to supply goods to the Customer on credit account payment terms and may discontinue or vary credit account arrangements at any time.
- 5.7. The Company reserves the right to charge a late payment fee at the rate of four percent (4%) per month on overdue accounts.
- 5.8. Any charges incurred by the Company in collecting or attempting to collect any overdue account (including the charges of a collection agency) shall be paid by the Customer on demand.

6. TITLE TO GOODS

- 6.1. The legal and equitable title to and property in the Goods will not pass until the Customer has paid all monies owed to the Company on any account whatsoever.
- 6.2. The Company has the right to enter upon any premises where the Goods are held for the purpose of repossessing the Goods and without prejudice to any other rights of recovery available, and the Customer must assist the Company in exercising that right.
- 6.3. Until the Customer has paid all monies owed to the Company for the Goods, the relationship of the Customer to the Company shall be as a fiduciary in respect of the Goods and accordingly:
 - 6.3.1. the Customer shall store the Goods in such a way that they can be recognised as the property of the Company;
 - 6.3.2. The Customer shall not create or allow to be created any other security or interest in the Goods, other than by way of re-sale in the ordinary course of the Customer's business;
 - 6.3.3. upon re-sale of the Goods by the Customer, the Customer holds the proceeds of sale on trust for the Company and the Company shall have the right to trace the full proceeds; and
 - 6.3.4. the Customer shall account forthwith to the Company for such proceeds of sale and the Company may recover from such proceeds of sale any monies then owing to the Company on any account whatsoever.

7. RETURN OF GOODS SOLD

- 7.1. The Company shall not be bound to accept Goods returned by the Customer.
- 7.2. Stock items may be accepted for credit when returned unused, in prime condition in their original packaging and within seven days from the date of delivery. Goods will only be issued credit upon inspection by the Company.
- 7.3. Any Goods returned must be accompanied by a Goods Return Authorization Request form authorized by the Company otherwise the Goods will not be accepted.
- 7.4. Goods specifically manufactured or modified to the Customers order (Specials) will not be accepted for credit.
- 7.5. A restocking fee of 30% of the charges for the Goods will be charged to the Customer for any Goods which are accepted for credit.
- 7.6. Credit will only be allowed for goods sourced from a third party supplier if that supplier agrees to the return of the goods.

8. CANCELLATION OF ORDERS

- 8.1. If the Customer makes default in any payment, commits any act of bankruptcy or enters into liquidation whether voluntary or involuntary, the Company may at its discretion suspend deliveries or cancel any order so far as it remains unperformed without prejudice to its rights thereunder. The occurrence of any such default shall in no way prejudice the rights of the Company to recover any amounts due for Goods previously supplied.
- 8.2. No order may be cancelled by the Customer except with the consent in writing of the Company. The Customer must compensate the Company against all losses resulting from such cancellation.