

TERMS AND CONDITIONS OF SALE

The buyer's attention is in particular drawn to the provisions of condition 4.1.

1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in this condition apply in these conditions. Additional Warranty: the warranty provided by the Company in respect of a Warranty Product for the Warranty Period in accordance with conditions 9.8 and 9.12. Buyer: the person, firm or company who purchases the Goods from the Company. Company: Tradeway Import and Export Limited (Company No. 6772359) whose registered office is at 27 Chiltern Close, West Derby, Liverpool, L12 0NT. Conditions: means the terms and conditions set out in this document. Contract: any contract between the Company and the Buyer for the sale and purchase of Goods, incorporating these Conditions. Delivery Point: the place where delivery of the Goods is to take place under condition 4.1. Goods: subject to condition 11 any goods agreed in the Contract to be supplied to the Buyer by the Company (including any part or parts of them). Warranty Period: the period that the Additional Warranty is valid for being the period of 24 months beginning on the date of delivery of the Warranty Product. Warranty Product: means any Goods that are part of the lighting range.
- 1.2 A reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactments and includes any subordinate legislation for the time being in force made under it.
- 1.3 Words in the singular include the plural and in the plural include the singular.
- 1.4 A reference to one gender includes a reference to the other gender.
- 1.5 Condition headings do not affect the interpretation of these conditions.

2. APPLICATION OF TERMS

- 2.1 Subject to any variation under condition 2.3 the Contract shall be on these Conditions to the exclusion of all terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).
- 2.2 No terms or conditions enclosed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.
- 2.3 These Conditions apply to all the Company's sales and any variation to these Conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by the Managing Director of the Company.
- 2.4 The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in these Conditions shall exclude or limit the Company's liability for fraudulent misrepresentation.
- 2.5 Each order or acceptance of a quotation for Goods by the Buyer from the Company shall be deemed to be an offer by the Buyer to buy Goods subject to these Conditions.
- 2.6 No order placed by the Buyer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Goods to the Buyer.
- 2.7 The Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate.
- 2.8 Any quotation is given on the basis that no Contract shall come into existence until the Company despatches an acknowledgement of order to the Buyer. Any quotation is valid for a period of 30 days only from its date, provided that the Company has not previously withdrawn it.

3. DESCRIPTION

- 3.1 The quantity and description of the Goods shall be as set out in the Company's quotation or acknowledgement of order.
- 3.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form a part of the Contract and this is not a sale by sample.

4. DELIVERY

- 4.1 Unless otherwise agreed in writing by the Company prior to the delivery of the Goods, the Goods shall be delivered, carriage paid, to the Buyer's place of business.
- 4.2 Delivery of an order shall be complete on its arrival at the Buyer's place of business.
- 4.3 The Buyer shall take delivery of the Goods within 30 days (or as otherwise agreed) of the Company giving it notice that the Goods are ready for delivery.
- 4.4 Any dates specified by the Company for delivery of the Goods are an estimate only and time for delivery shall not be at the essence. If no dates are so specified, delivery shall be within a reasonable time.
- 4.5 Save as otherwise expressly set out in these Conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor shall any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 180 days.
- 4.6 If for any reason the Buyer falls to accept delivery of any of the Goods when they are ready for delivery or within the period set out in condition 4.3, or if the Company is unable to deliver the Goods pursuant to condition because the Buyer has not provided appropriate instructions:
 - (a) the Goods shall be deemed to have been delivered on the next Business Day following the last day of the period set out in 4.3;
 - (b) risk in the Goods shall pass to the Buyer on the Goods are deemed to have been delivered (including for loss or damage caused by the Company's negligence); and
 - (c) the Company may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 4.7 The Buyer shall provide at the Delivery Point and at its expense adequate and appropriate equipment and manual labour for loading the Goods.
- 4.8 If the Company delivers to the Buyer a quantity of Goods of up to 5% more or less than the quantity accepted by the Company, the Buyer shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or shortfall and shall pay for such goods at the pro rata Contract rate.
- 4.9 The Company may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 4.10 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Buyer to repudiate or cancel any other Contract or instalment.

5. NON-DELIVERY

- 5.1 The quantity of any consignment of Goods as recorded by the Company on despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide the contrary.
- 5.2 The Company shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless the Buyer gives written notice to the Company of the non-delivery within 7 days of the date when the goods would in the ordinary course of events have been received.
- 5.3 Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

6. RISK/TITLE

- 6.1 The Goods are at the risk of the Buyer from the time of delivery.
- 6.2 Title to the Goods shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
 - (a) the Goods; and
 - (b) all other sums which are or which become due to the Company from the Buyer on any account.
- 6.3 Until title to the Goods has passed to the Buyer, the Buyer shall:
 - (a) hold the Goods on a fiduciary basis as the Company's bailee;

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- (b) store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;
 - (c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (d) maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company; and
 - (e) inform the Company as soon as possible if it becomes subject to any of the events set out condition 6.5.
- 6.4** The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:
- (a) any sale shall be effected in the ordinary course of the Buyer's business at full market value; and
 - (b) any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.
- 6.5** The Buyer's right to possession of the Goods shall terminate immediately if:
- (a) the Buyer calls any meeting of its creditors or makes any voluntary arrangement with its creditors for rescheduling, or compounding of its debts;
 - (b) the Buyer suspends or threatens to suspend payment of its debts or is unable to pay its debts or is deemed unable to pay its debts;
 - (c) the Buyer passes a resolution for winding-up or the appointment of an administrator, or a liquidator or administrator is appointed in relation to the Buyer or a winding-up order is made in relation to the Buyer;
 - (d) the Buyer (being an individual or firm) becomes bankrupt or (being a company) shall present a petition or have a petition presented by creditors against it for winding-up;
 - (e) an encumbrancer takes possession or a receiver or administrative receiver is appointed over the whole or any part of the property or assets of the Buyer;
 - (f) any creditor of the Buyer attaches, takes possession of, or any distress, execution or similar process is levied or enforced against, all or any part of the Buyer's assets and such attachment or process is not discharged within 14 days;
 - (g) the Buyer suspends trading or ceases or threatens to cease to carry on business;
 - (h) the Buyer suffers any action similar to any of the above in any juncture;
 - (i) the Buyer commits an irremediable breach of the condition; or
 - (j) the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer in writing accordingly.
- 6.6** The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.
- 6.7** The Buyer grants the Company, its agents and employees on irrevocable licence of any time to enter any premises where the Goods are or may be stored in order to inspect them or, where the Buyer's right to possession has terminated, to recover them.
- 6.8** Where the Company is unable to determine whether any Goods are the goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by the Company to the Buyer in the order in which they were invoiced to the Buyer.
- 6.9** On termination of the Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in this condition 6 shall remain in effect.
- 7. PRICE**
- 7.1** The price of the Goods shall be the price quoted to the Buyer by the Company in its quotation or written confirmation of order (the "Price").
- 7.2** The Company reserves the right by giving notice in writing to the Buyer at any time before delivery to increase the Price to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company (such as without limitation any foreign exchange fluctuation currency regulation alteration of duties significant increase in the cost of labour materials or other costs of manufacture) or any change in delivery dates quantities or specifications for the Goods which is requested by the Buyer on any delay caused by any instruction of the Buyer or failure of the Buyer to give the Company adequate information on instructions.
- 7.3** The Price shall be exclusive of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Buyer shall pay in addition when it is due to pay for the Goods.
- 8. PAYMENT**
- 8.1** Subject to condition 8.4 payment of the Price is due in the currency specified in the quotation or written confirmation of order within 30 days from end of month invoiced, and the Company shall be entitled to recover the Price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer.
- 8.2** Time for payment shall be the essence.
- 8.3** No payment shall be deemed to have been received until the Company has received cleared funds.
- 8.4** All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.
- 8.5** If the Buyer disputes any invoice issued by the Company, the Buyer shall immediately notify the Company in writing. The parties shall negotiate in good faith to resolve the dispute promptly. The Company shall provide all such evidence as may be reasonably necessary to verify the disputed invoice. Where only part on an invoice is disputed, the undisputed amount shall be paid on the due date as set out in condition 8.1.
- 8.6** Subject to condition 8.5, the Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.
- 8.7** If the Buyer fails to pay the Company any sum due pursuant to the Contract the Company reserves the right to claim interest (and any other charges) under the Late Payment of Commercial Debts (Interest) Act 1998.
- 9. QUALITY**
- 9.1** Where the Company is not the manufacturer of the Goods, the Company shall endeavour to transfer to the Buyer the benefit of any warranty or guarantee given to the Company.
- 9.2** The Company warrants that's (subject to the other provisions of these conditions) on delivery, and for a period of 12 months from the date of delivery the Goods shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979.
- 9.3** The Company shall not be liable for a breach of the warranty in condition 9.2 unless:
- (a) the Buyer gives written notice of the defect to the Company, and, if the defect is a result of damage in transit to the carrier, within 7 days of the time when the Buyer discovers or ought to have discovered the defect; and
 - (b) the Company is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Company's cost for the examination to take place there.
- 9.4** The Company shall not be liable for a breach of the warranty in condition 9.2 if:
- (a) the Buyer makes any further use of such Goods after giving such notice; or
 - (b) the defect arises from fair wear and tear, wilful damage, negligence, or abnormal working conditions;
 - (c) the defect arises because the Buyer failed to follow the Company's or the manufacturer's verbal or written operation or installation instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or
 - (d) the Buyer modifies, alters, repairs or services such Goods without the written consent of the Company;
 - (e) the Goods have been subject to physical abuse, overload of, or misuse;
 - (f) the Goods have been used for a purpose other than that for which they were intended.

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- 9.5 Subject to condition 9.3 and condition 9.4, if any of the Goods do not conform with the warranty in condition 9.2 the Company shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Company so requests, the Buyer shall, at the Company's expense, return the Goods or the part of such Goods or the part of such Goods which is defective to the Company. k
- 9.6 If the Company complies with condition 9.5 it shall have no further liability for a breach of the warranty in condition 9.2 in respect of such Goods.
- 9.7 Any Goods replaced shall belong to the Company and any repaired or replacement Goods shall be guaranteed on these terms for the unexpired portion of the 12 month period.
- 9.8 In addition to the warranty at condition 9.2 and any statutory rights the Buyer may have as a consumer, where the Buyer has purchased a Warranty Product the Company will, provide the Additional Warranty in respect of the Warranty Product for the Warranty Period on the terms set out in this condition 9.8 and conditions 9.9 to 9.11.
- 9.9 The Additional Warranty is only valid if;
- (a) the purchase can be verified by the Company and or the production of a valid receipt for the Warranty product;
 - (b) the Warranty Product has been used for its intended purpose and stored, installed, commissioned, used and maintained in accordance with any verbal or written operating and installation instructions or guidelines of the Company or manufacturer; and
 - (c) the Buyer has not made any further use of the Warranty Product after notifying the company of the fault.
- 9.10 Subject to condition 9.9, during the Warranty Period, the Company will replace, repair, rectify or take back any non-functioning Warranty Products provided that the Company is notified with full details of the non-functionality of the Warranty Product within the Warranty Period. The Company reserves the right at its sole discretion to replace a Warranty Product with a new product of equivalent specification if the Warranty Product is found to be beyond repair. Any repaired or replaced products will then have the benefit of the Additional Warranty for the remaining term of the Warranty Period.
- 9.11 The Company shall not be liable for and the Additional Warranty does not cover any defects, costs or damages resulting from:
- (a) fair wear and tear, wilful damage, negligence, or abnormal working conditions;
 - (b) the Buyer's failure to comply with the Company's or manufacturer's verbal or written operating and installation instructions in respect of the storage, installation, commissioning, use or maintenance of the Warranty Products;
 - (c) any modification, alteration, repair or service of the Warranty Product by anyone or any entity other than the Company;
 - (d) physical abuse to, overload of, or misuse of, the Warranty Product or operation thereof in a manner contrary to the Company's or manufacturer's instructions; and
 - (e) any use of the Warranty Product other than that for which it was designed.
- 9.12 The Additional Warranty does not cover labour costs. To use the Additional Warranty the Buyer is responsible for the careful packing or return of the Warranty Product to the Company accompanied by the proof of purchase.
- ### 10. LIMITATION OF LIABILITY
- 10.1 Subject to condition 4, condition 5 and condition 9, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:
- (a) any breach of these Conditions;
 - (b) any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and
 - (c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 10.2 Save as expressly set out in these Conditions, all warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 10.3 Nothing in these Conditions excludes or limits the liability of the Company:
- (a) for death or personal injury cause by the Company's negligence; or
 - (b) under section 2(3), Consumer Protection Act 1987; or
 - (c) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
 - (d) for fraud or fraudulent misrepresentation.
- 10.4 Subject to condition 10.2 and condition 10.3:
- (a) the Company's total liability in contract, tort (including negligence or breach of of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Price; and
 - (b) the Company shall not be liable to the Buyer for any loss of business, loss or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arises out of or in connection with the Contract.
- ### 11. SUBSTITUTION
- The Company may from time to time provide substitute goods to the Buyer of an equivalent or superior quality and price to the Goods ordered by the Buyer in the event that the Company is unable to supply those Goods specified in the Buyer's original order.
- ### 12. USE OF GOODS
- 12.1 If the Goods are resold by the Buyer the Buyer shall bring to the attention of its purchaser all the Company's instructions and/or recommendations for use packed by the Company with the Goods or referred to in the Company's catalogues or brochures or which Company has otherwise notified to the Buyer in writing.
- 12.2 The Buyer shall not remove any plaque or other label affixed to the Goods referring any user thereof to the Company's instructions and/or recommendations for use.
- 12.3 The Buyer shall indemnify and keep indemnified the Company against all actions claims demands losses charges costs and expenses which the Company may suffer or incur in connection with any claim by any third party alleging facts which if established would indicate a breach of the undertaking representations and warranties on the part of the Buyer contained in this Condition 12.
- ### 13. AMENDMENT OF CANCELLATION OF AN ORDER
- 13.1 The Buyer may within 30 days of placing an order for the Goods amend (subject to condition 13.2) or cancel an order by written notice to the Company. If the Buyer amends or cancels an order, its liability to the Company shall be limited to payment to the Company of all costs reasonably incurred by the Company in fulfilling the order up until the date of receipt by the Company of amendment or cancellation, except that where the amendment or cancellation results from the Company's failure to comply with its obligations under the Contract the Buyer shall have no liability to the Company in respect of it.
- 13.2 Any amendment of an order shall have no effect unless expressly agreed in writing and signed by Managing Director of the Company.
- ### 14. ASSIGNMENT
- The Company may assign the Contract or any part of it to any person, firm or company. The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.
- ### 15. FORCE MAJEURE
- The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 180 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.

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16. NOTICE

- 16.1** Any notice required or permitted to be given by either party to the other under the Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified in writing pursuant to this provision to the party giving notice.
- 16.2** Communications shall be deemed to have been received:
- (a)** if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
 - (b)** if delivered by hand, on the day of delivery; or
 - (c)** if sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.

17. GENERAL

- 17.1** Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 17.2** If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 17.3** Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 17.4** No waiver by the Company of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 17.5** The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 17.6** The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by the laws of Ireland, and the parties submit to the exclusive jurisdiction of the Courts of Ireland.