

TERMS AND CONDITIONS OF SALE

1. INTERPRETATION

1.1 In these Conditions, the following definitions apply:

DLL:	Display Lighting Ltd.
Business Day:	a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.
Conditions:	the terms and conditions set out in this document as amended from time to time in accordance with clause 11.10.
Contract:	the contract between DLL and the Purchaser for the sale and purchase of the Goods in accordance with these Conditions.
Force Majeure Event:	has the meaning given in clause 10.
Goods:	the goods (or any part of them) set out in the Order.
Intellectual Property:	means patents, inventions, know-how, trade secrets, confidential information, registered designs, copyright, data, database rights, design rights, rights affording equivalent protection to copyright, database rights and design rights, rights in inventions, processes and formulae, rights in the nature of unfair competition, rights to sue for passing-off, trade marks, service marks, business names, trade names, logos, domain names, moral rights and all registrations or applications to register any of the aforesaid items.
LED Lighting Product:	means any Goods utilising light emitting diodes as indicated in a quotation provided by DLL to the Purchaser.
Non-LED Lighting Product:	means any Goods not utilising light emitting diodes as indicated in a quotation provided by DLL to the Purchaser.
Order:	the Purchaser's order for the Goods, as set out in the Purchaser's written acceptance of DLL's quotation.
Specification:	any specification for the Goods, including any related plans and drawings, that is supplied to DLL by the Purchaser, or produced by DLL and agreed in writing by the Purchaser.

1.2 In these Conditions, the following rules apply:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors or permitted assigns.
- (c) A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- (d) Any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- (e) A reference to **writing** or **written** includes faxes and e-mails.

2. BASIS OF CONTRACT

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Purchaser seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.2 The Order constitutes an offer by the Purchaser to purchase the Goods in accordance with these Conditions. The Purchaser shall ensure that the terms of the Order and any relevant Specification are complete and accurate. The Purchaser shall be responsible for any errors of description or quantity or date of delivery for Goods specified in an Order.

2.3 The Order shall only be deemed to be accepted when DLL issues a written acceptance of the Order, at which point the Contract shall come into existence.

2.4 The Contract constitutes the entire agreement between the parties. The Purchaser acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of DLL which is not set out in the Contract. Any samples, drawings, descriptive matter, or advertising issued by DLL and any descriptions or illustrations contained in DLL'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 part of the Contract or any other contract between DLL and the Purchaser for the sale of the Goods.

2.5 A quotation for the Goods given by DLL shall not constitute an offer. A quotation shall only be valid for a period of 30 Business Days from its date of issue.

2.6 All Intellectual Property in any quotation provided by DLL, the Goods, bespoke plans, or any other material provided to the Purchaser is owned by DLL.

2.7 The Purchaser permits DLL to take images of the Goods following installation. These images may be used by DLL for any purpose and the permission granted is perpetual.

3. DELIVERY

3.1 DLL shall ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Purchaser reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

3.2 DLL shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after DLL notifies the Purchaser that the Goods are ready.

3.3 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.

3.4 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. DLL shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure event or the Purchaser's failure to provide DLL with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

3.5 DLL shall not be liable for any non-delivery of the Goods for any reason, unless written notice is given to DLL within 3 days of the date when the Goods should have been delivered.

3.6 The quantity of any consignment of Goods as recorded by DLL on despatch from DLL's premises shall be conclusive evidence of the quantity received by the Purchaser.

3.7 The Purchaser shall not be entitled to reject the Goods if DLL delivers up to and including 5% more or less than the quantity of Goods ordered, but a pro rata adjustment shall be made to the Order invoice on receipt of notice from the Purchaser that the wrong quantity of Goods was delivered.

3.8 DLL may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Purchaser to cancel any other instalment.

4. QUALITY

4.1 Subject to DLL notifying the Purchaser in any written quotation of any different period from those periods in 4.1 (a) and (b) (due to the Goods being manufactured by third parties), DLL warrants;

- (a) that all Non-LED Lighting Goods shall on delivery, and for a period of 12 months from the date of delivery; and
- (b) that all LED Lighting Goods shall on delivery, and for a period of 24 months from the date of delivery, subject to completion of a registration form supplied by DLL to the Purchaser,
- (a) conform in all material respects with their description and any applicable Specification;
- (b) be free from material defects in design, material and workmanship; and
- (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).

4.2 The Purchaser should inspect all Goods within 7 days of delivery and report any discoverable defects to DLL in writing, and in any event before the Goods are incorporated or manufactured into any other products.

4.3 Subject to the Purchaser's compliance with clause 4.2, if:

- (a) the Purchaser gives notice in writing to DLL during the period set out in 4.1a) and b) and within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 4; and
 - (b) DLL is given a reasonable opportunity to examine such Goods; and
 - (c) the Purchaser (if asked to do so by DLL) returns such Goods to DLL's place of business at the Purchaser's cost,
- DLL shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full. DLL shall not be liable for any costs incurred by the Purchaser in relation to the installation and / or uninstallation of the defective Goods.

4.4 DLL shall not be liable for Goods' failure to comply with the warranty set out in clause 4 if:

- (a) the Purchaser makes any further use of such Goods after giving notice in accordance with clause 4.2 or 4.3(a); or
- (b) the defect arises because the Purchaser failed to follow DLL's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice; or
- (c) the defect arises as a result of DLL following any drawing, design or specification supplied by the Purchaser; or
- (d) the Purchaser alters or repairs such Goods, or uses the Goods with lamps and / or control gear not supplied by DLL, without the written consent of DLL; or
- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, misuse, incorrect installation, installation by a person without appropriate professional qualifications, or abnormal storage or working conditions.

4.5 Where, in accordance with clause 4.3(b), DLL elects, at its sole discretion, to inspect the Goods at their point of installation, and either the Goods comply with the warranty set out in clause 4, or the Goods' failure to comply with such warranty is due to one or more of the circumstances set out in clause 4.4(b), the Purchaser shall reimburse DLL's reasonable costs in making such inspection.

4.6 Except as provided in this clause 4, DLL shall have no liability to the Purchaser in respect of the Goods' failure to comply with the warranty set out in clause 4.

4.7 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

4.8 The Purchaser is solely responsible for ensuring the Goods ordered are suitable for the intended purpose before commencing installation, bulk production or investment in tooling.

4.9 These Conditions shall apply to any repaired or replacement Goods supplied by DLL.

5. RETURNS

5.1 Where the Purchaser wishes to return, and obtain credit for, non-faulty Goods, within 7 days following the day after the Goods were delivered, the Purchaser shall:

- (a) notify DLL in writing by email, fax or letter of the intention to return the Goods and obtain a returns number;
- (b) return the Goods to DLL unused and in their original packaging;
- (c) return the Goods using an insured and appropriate courier satisfactory to DLL;
- (d) be responsible for the condition of such Goods and if the same are returned to DLL damaged, DLL shall be entitled to deduct the cost of such damaged Goods from any credit to which the Purchaser may be entitled.

In certain circumstances DLL may agree to accept goods after the 7 day period, following the day after the Goods were delivered has elapsed. In these circumstances Goods returned after a period of:

- (e) 8-30 days following delivery shall be subject to a 30% handling charge which DLL shall deduct from any credit to which the Purchaser may be entitled.
- (f) 30 – 60 days following delivery shall be subject to a 35% handling charge which DLL shall deduct from any credit to which the Purchaser may be entitled.

5.2 No credit shall be available in relation to non-faulty Goods which were manufactured specifically for the Purchaser or manufactured to a Specification.

6. TITLE AND RISK

6.1 The risk in the Goods shall pass to the Purchaser on completion of delivery.

6.2 Title to the Goods shall not pass to the Purchaser until DLL has received payment in full (in cleared funds) for:

- (a) the Goods; and
- (b) all other sums which are due to DLL for sales of the Goods or any other products to the Purchaser.

6.3 Until title to the Goods has passed to the Purchaser, the Purchaser shall:

- (a) hold the Goods on a fiduciary basis as DLL's bailee;
- (b) store the Goods separately from all other goods held by the Purchaser so that they remain readily identifiable as DLL's property;
- (c) not remove, 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 against all risks for their full price from the date of delivery;

- (e) notify DLL immediately if it becomes subject to any of the events listed in clause 8.1; and
(f) give DLL such information relating to the Goods as DLL may require from time to time, but the Purchaser may resell or use the Goods in the ordinary course of its business, subject to clause 6.4.:
- 6.4 In an instance of a sale of the Goods by the Purchaser before title has passed to the Purchaser from DLL, the Purchaser warrants that the sale shall:
- (a) be effected in the ordinary course of the Purchaser's business;
(b) be at full market value;
(c) be a sale of DLL's property on the Purchaser's behalf and the Purchaser shall deal as principal when making such a sale;
(d) be made in accordance with all applicable laws and comply with all labelling and instruction requirements as required by the Department of Trade and Industry and/or any other authority for the time being empowered to make any requirements as the sale and installation of such Goods.
- 6.5 If before title to the Goods passes to the Purchaser, the Purchaser becomes subject to any of the events listed in clause 8.1, or DLL reasonably believes that any such event is about to happen and notifies the Purchaser accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy DLL may have, DLL may at any time require the Purchaser to deliver up the Goods and, if the Purchaser fails to do so promptly, enter any premises of the Purchaser or of any third party where the Goods are stored in order to recover them.
7. **PRICE AND PAYMENT**
- 7.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in DLL's published price list in force as at the date of delivery.
- 7.2 If the Purchaser is paying for the Goods on a 'pro-forma' basis (whether due to slow payment or otherwise) no discount to the price stated in DLL's published price list will apply notwithstanding any prior arrangement to the contrary unless the discount is confirmed by a director of DLL in writing.
- 7.3 DLL may, by giving notice to the Purchaser at any time 14 Business Days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
- (a) any factor beyond DLL's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
(b) any request by the Purchaser to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
(c) any delay caused by any instructions of the Purchaser or failure of the Purchaser to give DLL adequate or accurate information or instructions.
- 7.4 The price of the Goods is exclusive of the costs and charges of packaging, insurance and carriage of the Goods, which shall be paid by the Purchaser when it pays for the Goods. Carriage charges for Goods shall be at the Purchaser's then prevailing rates, which are currently:
- (a) £12 (with the Goods insured for £12 per kilogram for loss or damage during carriage); or
(b) £19 (with the Goods insured for £15,000 total for loss or damage during carriage. Consignments with a value greater than £15,000 should be split into smaller consignments, each with a value of £15,000 or less).
- 7.5 The price of the Goods is exclusive of amounts in respect of value added tax (VAT). The Purchaser shall, on receipt of a valid VAT invoice from DLL, pay to DLL such additional amounts in respect of VAT as are chargeable on the supply of the Goods.
- 7.6 DLL may invoice the Purchaser for the Goods on, or at any time after, the completion of delivery.
- 7.7 The Purchaser shall pay the invoice in full and in cleared funds within 30 days of the end of the month in which the invoice is raised. Payment shall be made to the bank account nominated in writing by DLL. Time of payment is of the essence.
- 7.8 No payment shall be deemed to have been made until DLL has received full and cleared funds as per the relevant invoice.
- 7.9 If the Purchaser fails to make any payment due to DLL under the Contract by the due date for payment (**due date**), then the Purchaser shall pay interest on the overdue amount at the rate of 5% per annum above Barclays Bank plc's base lending rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Purchaser shall pay the interest together with the overdue amount.
- 7.10 The Purchaser shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Purchaser shall not be entitled to assert any credit, set-off or counterclaim against DLL in order to justify withholding payment of any such amount in whole or in part. DLL may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Purchaser against any amount payable by DLL to the Purchaser.
8. **PURCHASER'S INSOLVENCY OR INCAPACITY**
- 8.1 If the Purchaser becomes subject to any of the events listed in clause 8.2, or DLL reasonably believes that the Purchaser is about to become subject to any of them and notifies the Purchaser accordingly, then, without limiting any other right or remedy available to DLL, DLL may cancel or suspend all further deliveries under the Contract or under any other contract between the Purchaser and DLL without incurring any liability to the Purchaser, and all outstanding sums in respect of Goods delivered to the Purchaser shall become immediately due.
- 8.2 For the purposes of clause 8, the relevant events are:
- (a) the Purchaser suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply; or
(b) the Purchaser commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for, or enters into, any compromise or arrangement with its creditors; or
(c) (being an individual) the Purchaser is the subject of a bankruptcy petition or order; or
(d) a creditor or encumbrancer of the Purchaser attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
(e) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Purchaser; or
(f) (being a company) a floating charge holder over the assets of the Purchaser has become entitled to appoint or has appointed an administrative receiver; or
(g) a person becomes entitled to appoint a receiver over the assets of the Purchaser or a receiver is appointed over the assets of the Purchaser; or
(h) any event occurs, or proceeding is taken, with respect to the Purchaser in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 8.2(a) to clause 8.2(f) (inclusive); or
(i) the Purchaser suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business; or
(j) (being an individual) the Purchaser dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.
9. **LIMITATION OF LIABILITY**
- 9.1 Nothing in these Conditions shall limit or exclude DLL's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
(b) fraud or fraudulent misrepresentation; or
(c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
(d) defective products under the Consumer Protection Act 1987; or
(e) any matter in respect of which it would be unlawful for DLL to exclude or restrict liability.
- 9.2 Subject to clause 9:
- (a) DLL shall not be liable to the Purchaser, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit or indirect or consequential loss arising under or in connection with the Contract; and
(b) DLL's total liability to the Purchaser in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall not exceed the price of the Goods.
10. **FORCE MAJEURE**
- Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A **Force Majeure Event** means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.
11. **GENERAL**
- 11.1 DLL may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 11.2 the Purchaser may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of DLL.
- 11.3 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first-class post, recorded delivery, commercial courier, fax or e-mail.
- 11.4 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the parties registered address; if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- 11.5 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- 11.6 If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 11.7 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 11.8 A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 11.9 A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 11.10 Any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed by the parties in writing.
- 11.11 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.