

**Advanced Lighting Technology (UK) Limited ("ALT")**  
**TERMS AND CONDITIONS OF SALE**

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**1. General & Interpretation.**

- a) All goods supplied by ALT are sold only upon the following conditions and the placing of an order by you (or on your behalf) for any such goods, or the acceptance of our quotation or tender or of delivery of the goods, shall be deemed to be an acknowledgement by you of your acceptance of the following terms and conditions.
- b) And for the purposes of these terms and conditions, the expression "goods" shall mean any item of whatsoever nature which is sold or is to be sold by ALT to you and will be deemed to include any services to be supplied by ALT to you.
- c) These terms and conditions shall apply to and form part of any contract entered into between ALT and you and, unless expressly agreed by ALT in writing, any other terms and conditions, including any which may be contained in your order, are excluded.
- d) Unless expressly incorporated in our quotation or tender, all descriptions, illustrations, drawings, dimensions, weights, measures, specifications, standards of performance or other descriptive matter or pre-contractual statements are approximate only and shall not form part of the contract between us.
- e) Our record of any order placed by you verbally and otherwise than in writing shall be deemed to be conclusive as to the type and quantity of the goods so ordered by you and of the point and date of delivery.
- f) ALT reserves the right to accept or reject any order received from you.
- g) The provisions of the Contracts (Rights of Third Parties) Act 1999 (or any statutory modification or re-enactment of it) shall not apply to any of these terms and conditions and nothing contained herein shall confer on any third party any benefit or the right to enforce any term or condition hereof.
- h) Any failure or delay by ALT to enforce any or all of these terms and conditions shall not be construed as any waiver of or modification to our rights hereunder.
- i) The contract between ALT and you (including, therefore, these terms and conditions) shall be governed by and construed in accordance with English Law and by English Courts of competent jurisdiction and if any provision of the contract between us is found by any court of competent jurisdiction to be wholly or partly unenforceable then it shall, to the extent only of the unenforceability, be deemed severable and, therefore, the remaining

provisions of the contract between us and the remainder of any such provision shall continue in full force and effect.

- j) This contract shall also be deemed to constitute the entire agreement between us and shall, therefore, supersede any previous arrangement, understanding or agreement between ALT and you or your representative relating to the subject matter of this contract, but nothing herein shall be deemed to limit or exclude any liability or either part arising from any fraud or fraudulent misrepresentation by ALT or by or on behalf of you.

## **2. Validity of quotation.**

- a) Unless previously withdrawn, our quotation is open for acceptance within the period stated therein or, when no period is so stated, within 28 (twenty eight) days after its date or delivery to you, and remains subject to written confirmation by ALT at the time of acceptance of your order arising from the quotation.
- b) All goods so offered by us are subject to there being available upon receipt by us of your order.

## **3. Delivery**

- a) Unless otherwise specified, the price quoted includes delivery to any premises specified by you within our van delivery area – full details are available from us on request.
- b) The risk in all goods passes to you when they first enter those premises specified by you for delivery or are placed in store by us on your behalf in accordance with clause 5 below.
- c) ALT reserves the right to choose the method of transport, to charge for deliveries to destinations outside of our van delivery area, and to charge you for all manufacturers' carriage charges for any special items included in your order.

## **4. Delivery times.**

- a) Time for delivery shall not be of the essence of the contract between us – unless previously agreed by us in writing.
- b) Any dates or times quoted for delivery are to be calculated by ALT from receipt by us of your written order and of all necessary additional information from you to enable us to put the goods in hand and our quoted delivery dates or times are to be regarded as being approximate only as we, ourselves, are subject to our manufacturers' or suppliers' delivery promises which we pass on to you in good faith.
- c) For the avoidance of doubt, such delivery dates or times given to you shall not create a contractual obligation on ALT to deliver on such date or time and, accordingly, ALT cannot accept any claim by you or any third party for any loss or damage of whatsoever nature arising from any such delay in delivery.

## **5. Delay by you (or on your behalf) in accepting delivery from us.**

- a) If we do not receive sufficient forwarding/delivery instructions from you within 10 (ten) days after ALT has notified you that the goods are ready for despatch, risk in those goods shall then pass to you and ALT will then be entitled to arrange storage of the goods on your behalf and at your risk and expense – which will then be added to the contract price.
- b) ALT may arrange storage on this basis either within our own premises (making a charge of 2% of the invoice value to you of the goods so stored per month or part of a month exclusive of Value Added Tax at its then prevailing rate) or elsewhere.
- c) ALT shall nevertheless be entitled to payment in accordance with the terms of the contract for the goods as if they had been duly delivered by us and, in addition, all charges for additional transport, storage, insurance and/or demurrage will be payable by you to us.

## **6. Acceptance by you of the goods supplied by us.**

Unless you give us notice in writing within 7 days from (and including) the date of delivery – or deemed delivery in accordance with clause 5 above - that the goods are not in conformity with the contract between us, you will be deemed to have accepted the goods from ALT in good order and condition and otherwise in discharge by ALT of its contractual obligations to supply the goods to you.

## **7. Passing of title in the goods.**

- a) Notwithstanding delivery of the goods by ALT, and the passing of the risk in the goods to you, all goods supplied by us will remain our property until you pay us in full for them and for all other goods which we may have previously supplied to you for which payment by you to us remains outstanding ;
- b) Until payment by you, you will store the goods in such a way so that they are readily identifiable as our property, but you may in the capacity as a trustee for ALT, sell them to a third party in the normal course of your business ;
- c) Upon any such sale by you of the goods (either alone or with other items) all rights which you may have against your buyer shall automatically vest in ALT;
- d) ALT shall be entitled, immediately after giving notice of our intention to repossess the goods (or any part of them), to enter upon any premises where the goods are then stored and with any necessary transport, to repossess those goods to which we have retained title under this clause ;
- e) If you incorporate the goods we supply to you in other products with or without materials you already possess or which are supplied to you by third parties, then title in such other materials will pass to ALT and you will store them safely and keep them in good condition as bailee for ALT and without charge to us ;

- f) You shall not be entitled to pledge or in any way charge by way of giving security any of the goods which remain our property and in which title remains vested in ALT, but in the event of any breach by you of this obligation, all monies then owing by you to us shall become immediately due and payable - without prejudice to any other rights or remedies then available to us.
- g) Where you are not the end user or a householder, you agree to accept responsibility for the cost of collection, treatment, recovery and disposal of all goods that fall within the scope of The Waste Electrical and Electronic Equipment regulations 2006 (as may be modified from time to time) together with any separate or supplemental implementation of the European Parliament and Council Directive on Waste Electrical and electronic equipment whether by DEFRA, the Department of Environment Northern Ireland or the Scottish Executive or their then successor(s).

#### **8. Loss and/or damage in transit from ALT to you.**

- a) Any shortage or damage in the goods must be clearly stated on our driver's delivery sheet and a written statement of the relevant facts must be received by ALT and by our carrier (if not ourselves) as soon as possible and in any event within 3 days of and including the date of delivery - otherwise ALT will not consider any claim from you arising from such shortage and/or damage.
- b) You must retain the damaged package and contents for us to examine.
- c) Any notice from you of non-delivery must be in writing and received by ALT within 7 days from (and including) the date of our invoice to you for the goods and time shall be of the essence for the purpose of this clause.
- d) Our liability in respect of any claim accepted by us under this clause shall be limited to making up the shortage or replacing any of the goods proved to have been damaged or lost in transit to the point of delivery, and ALT does not accept any liability for any loss or damage suffered by you (whether direct or consequential) and howsoever arising from any such damage and/or loss.

#### **9. Packing etc.**

- a) Crates, cases, pallets, stillages or skids or other returnable packaging ("the returnable packaging") are not included in our quoted price, and will be charged to you at the then current rates.
- b) ALT will, however, credit you with the appropriate amounts charged when the returnable packaging is returned to us in good condition and within 14 days of the date of our invoice for the goods so supplied.
- c) Cable drums will be charged to you in accordance with the maker's then prevailing drum price schedules.

## **10. Prices.**

- a) All goods are sold by ALT subject to the prices (and any relevant discounts) ruling at the date of delivery.
- b) Our prices, discount rates and Terms and Conditions of Sale may be altered at any time by ALT without notice.
- c) All discounts and prices are calculated upon a "whole order" basis and, if when placing your order, you select only certain items or you specify reduced quantities only, then ALT reserves the right to review the discounts and prices at which any such larger order from you was originally offered by us.

## **11. Payment by you to us.**

- a) Payment of our price(s) in full without retention or set-off shall be due no later than the end of the month following the month in which the goods were delivered or deemed to have been delivered (see clause 5) to you – or on earlier demand by us ("the due date") and .
- b) If you fail to make any payment to us by the due date then, without prejudice to any other right or remedy due to us, we shall be entitled to (i) charge you interest (both before and after any judgement) on the amount unpaid at the rate of 8.0% plus Bank of England base rate being the statutory rate of interest and fixed sums pursuant to the Late Payment of Commercial Debts (Interest) Act 1998 together with the payment of any fixed and reasonable costs incurred by us until you have made payment in full to us and without notice to suspend further deliveries until all arrears (including interest) have been paid and, at our option, to rescind any subsisting contract with you as to all or any parts of future deliveries but without prejudice to any rights already accrued to us under such contracts any sums payable under which also become payable to us immediately any amount becomes overdue pursuant to this Clause 11.

## **12. Performance.**

- a) It is your responsibility to determine that the goods are sufficient and suitable for the purpose to which they are to be put.
- b) ALT cannot accept any responsibility either in respect of the installation of any of the goods or in respect of the ultimate performance of any product in which the goods may have been installed.
- c) ALT shall not in any way be liable for any direct or consequential damage or any loss and/or expense arising from any defect or inefficiency caused by the manner in which the goods have been installed or are used.

### **13. Defects after delivery by us to you.**

- a) Some goods supplied by ALT are manufactured by others. Accordingly, we shall pass on to you the benefit of the warranty, if any, given by the manufacturer of the goods. ALT will, therefore, not be liable to you for any loss of profit, loss of business and/or depletion in goodwill – whether (in each case) direct, indirect or consequential, or for any claims for consequential compensation whatsoever and howsoever caused which arise out of or in connection with this contract.
- b) Our liability under this clause shall be in lieu any warranty or condition implied by law as to the quality or fitness for any particular purpose of the goods and ALT shall not be under any liability, whether in contract, tort or otherwise in respect of the goods or loss resulting from such defects or from anything done or omitted in connection with the goods or from any work done in connection therewith.

### **14. Return of goods.**

- a) In no circumstances may goods supplied to you by ALT against a firm purchase order be returned to us without you first having obtained the written consent of ALT for you to do so and after we have received your advice note stating the reason for your wish to return the goods and the date and number of our relevant invoice.
- b) All goods which we agree you may return must be securely packed and, unless we arrange collection of them from you, must also be consigned carriage paid.
- c) If we collect the goods we reserve the right to make a handling charge, and the issue of any collection note by us will not be deemed to bind us to issue any credit in respect of the goods.

### **15. Ownership and retention of Copyright by ALT.**

All drawings, descriptions and other information submitted to you by ALT in anticipation and/or in performance of this contract together with any copyright therein shall remain the property of ALT.

### **16. Limitation of liability**

ALT's total liability to you in contract, tort (including negligence and/or breach if statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this contract shall be limited to a sum equivalent to 10% of the contract price and ALT will, therefore, not be liable to you for any loss of profit, loss of business and/or depletion in goodwill – whether (in each case) direct, indirect or consequential, or for any claims for consequential compensation whatsoever and howsoever caused which arise out of or in connection with this contract.

## **17. Samples.**

Unless we expressly otherwise agree, samples submitted to you by ALT must be returned within 60 days of receipt and ALT reserve the right to charge you for them if you do not return them to us within this period.

## **18. Force Majeure and Other Circumstances**

ALT shall be entitled without liability on its part and without prejudice to its other rights, to terminate the contract or any unfulfilled part of it, or at its option to suspend or make deliveries or extend the time or times for delivery, if the manufacture of the goods by our suppliers, or if the delivery of the goods or the performance by us of any of our obligations under the contract is hindered or delayed or rendered impossible - whether directly or indirectly - due to circumstances beyond our reasonable control including, but without limitation, you failing to furnish us with necessary instructions or information to enable us to accurately and effectively process your order, war or other hostilities, acts of terrorism, civil commotion, fire, explosion, flood, epidemic, acts of God, government action or legislation, interruption of transport, strike, lock out or other form of industrial action (including, without limitation, labour disputes with ALT or any of our sub-contractors' employees), accidents or stoppages to work, shortage of labour, materials, equipment, fuel or power, breakdown of machinery - and whether or not such cause(s) exists at the date of your order - provided that, if the event in question continues for a continuous period in excess of 180 days, then you will be entitled to give notice in writing to ALT to terminate the contract.

## **19. Termination**

ALT may, without prejudice to our other rights and remedies in law, determine this contract or any unfulfilled part of it or will be entitled to withhold further deliveries in whole or in part if (i) you fail to make any payment on the due date under this or any other contract between us and/or (ii) you purport to cancel or suspend, or commit any breach of this or any other contract between us and/or (iii) you become insolvent or make any composition with your creditors or have a receiver appointed of all or any part of your undertaking or assets or go into liquidation (except for the purposes of amalgamation or reconstruction) - and in any of these circumstances ALT will be entitled to recover from you all our loss including any loss of profit or loss on re-sale.

## **20. Rights of Third Parties**

For the avoidance of doubt the provisions of Contract (Rights of Third Parties) Act 1999 shall not apply to any term or condition hereof and nothing contained herein shall confer on any third party any benefit or the right to enforce any term or condition hereof.

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