



## **1. INTERPRETATION**

- 1.1 Definitions.
- 1.1 Account Customers: regular customers who operate on 30 day or longer payment terms (at our discretion).
- 1.2 Conditions: the terms and conditions set out in this document as amended from time to time.
- 1.3 Contract: the contract between You and Us for the sale and purchase of the Goods in accordance with these Conditions.
- 1.4 Force Majeure Event: an event or circumstance beyond a party's reasonable control.
- 1.5 Goods: the goods (or any part of them) set out in the Order Acknowledgement.
- 1.6 Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- 1.7 Non-Account Customers: first time, one-off and non-regular customers.
- 1.8 Order: Your order of the Goods..
- 1.9 Order Acknowledgement: Our acceptance of Your Order.
- 1.10 Restocking Charge: 25% of the value of the Contract.
- 1.11 Specification: any specification for the Goods, including any related plans and drawings, that is agreed in writing between Us.
- 1.12 We/Us: Basis Lighting Limited (Company Number 02643994) whose registered office is at Suite 8 Bourne Gate, Bourne Valley Road, Poole, Dorset BH12 1DY.
- 1.13 You/Your: the customer, being the person, company or firm who purchases the Goods from Us.
- 1.14 Interpretation:
  - (a) 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.
  - (b) 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.
  - (c) a reference to writing or written includes faxes and emails.

## **2. BASIS OF CONTRACT**

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that You seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by You to purchase the Goods in accordance with these Conditions. You are responsible for ensuring that the terms of the Order Acknowledgement and any applicable Specification are complete and accurate.
- 2.3 The Order shall only be deemed to be accepted when We issue the Order Acknowledgement, at which point the Contract shall come into existence.
- 2.4 You waive any right You might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of that is inconsistent with these Conditions.
- 2.5 Any samples, drawings, descriptive matter or advertising We produce and any descriptions or illustrations contained in Our brochures or on Our website are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.
- 2.6 Any quotation for the Goods given by Us shall not constitute an offer. A quotation shall only be valid for a period of 20 days from its date of issue.

## **3. GOODS**

- 3.1 The Goods are described in the Order Acknowledgement and any Specification provided by Us.
- 3.2 To the extent that the Goods are to be manufactured in accordance with a specification supplied by You, You shall indemnify Us against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by Us in connection with any claim made against Us for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Our use of the specification. This clause 3.2 shall survive termination.



- 3.3 We reserve the right to amend the Specification if required by any applicable statutory or regulatory requirements.
- 3.4 You agree to ensure that the Goods are installed by a qualified and registered electrician in accordance with British Standards 7671 (or its international equivalent if relevant).

#### **4. DELIVERY**

- 4.1 We shall ensure that each delivery of the Goods is accompanied by a delivery note that shows the date of the Order, the contract number and all relevant 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 Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered.
- 4.2 We shall deliver the Goods to the location set out in the Order or such other location we both may agree (Delivery Location) at any time after We notify You that the Goods are ready.
- 4.3 Delivery is completed on the completion of unloading of the Goods at the Delivery Location.
- 4.4 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. We shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or Your failure to provide Us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.5 If We fail to deliver the Goods, Our liability shall be limited to the costs and expenses incurred by You in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. We shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or Your failure to provide Us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.6 If You fail to take delivery of the Goods within three days of Us notifying You that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or Our failure to comply with Our obligations under the Contract:
- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third day after the day on which We notified You that the Goods were ready; and
  - (b) We shall store the Goods until delivery takes place, and charge You for all related costs and expenses (including insurance).
- 4.7 If fifteen days after the day on which We notified You that the Goods were ready for delivery You have not taken delivery of them, We may resell or otherwise dispose of part or all of the Goods and we reserve the right to charge you the Restocking Charge or deduct the Restocking Charge from any money already paid to Us.
- 4.8 We may deliver the Goods by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle You to cancel any other instalment.

#### **5. QUALITY**

- We warrant that, with the exception of any Emergency light fitting, on delivery and for a period of 5 years from the date of delivery (warranty period), the Goods shall:
- (a) conform with their description and the Specification; and
  - (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); and
  - (d) be fit for any purpose held out by Us.
  - (e) All emergency light fittings will carry their manufacturer's warranty.
- 5.2 Subject to clause 5.3, if:
- You give notice in writing to Us during the warranty period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5;
- (a) We are given a reasonable opportunity of examining such Goods; and
  - (b) You (if asked to do so by Us) return such Goods to Our place of business.
- 1.15 We shall, in Our absolute discretion, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 5.3 We shall not be liable for the Goods' failure to comply with the warranty set out in clause 5 in any of the following events:
- (a) You make any further use of such Goods after giving notice in accordance with clause 5.2;
  - (b) the defect arises because You (or an independent contractor hired by you) failed to follow Our oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
  - (c) the defect arises as a result of Us following any drawing, design or specification supplied by You;
  - (d) You alter or repair such Goods without Our written consent;



- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
  - (f) the Goods differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 5.4 Except as provided in this clause 5, We shall have no liability to You in respect of the Goods' failure to comply with the warranty set out in clause 5.
- 5.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 5.6 These Conditions shall apply to any repaired or replacement Goods supplied by Us.

## **6. TITLE AND RISK**

- 6.1 The risk in the Goods shall pass to You on completion of delivery.
- 6.2 Title to the Goods shall not pass to You until You have paid for the Goods in full (in cash or cleared funds) and any other goods that We have supplied to You in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums.
- 6.3 Until title to the Goods has passed to You, You shall:
- (a) store the Goods separately from all other goods held by You so that they remain readily identifiable as Our property;
  - (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
  - (d) notify Us immediately if You become subject to any of the events listed in clause 10.1; and
  - (e) give Us such information relating to the Goods as We may require from time to time.

## **7. INTELLECTUAL PROPERTY RIGHTS**

- 7.1 All Intellectual Property Rights in or arising out of or in connection with the Goods shall be owned by Us.

## **8. PRICE AND PAYMENT**

- 8.1 The price of the Goods shall be the price set out in the Order Acknowledgement.
- 8.2 We may, by giving notice to You at any time 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 Our control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
  - (b) any request by You to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
  - (c) any delay caused by any of Your instructions or Your failure to give Us adequate or accurate information or instructions.
- 8.3 The price of the Goods:
- (a) excludes amounts in respect of value added tax (VAT), which You shall additionally be liable to pay to Us at the prevailing rate, subject to the receipt of a valid VAT invoice; and
  - (b) excludes the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to You.
- 8.4 Non-Account Customers shall pay the price of the Goods in full and in cleared funds before the Goods are dispatched.
- 8.5 Account Customers shall pay the full price of the Goods within 30 days of receipt of an invoice from Us. Time of payment is of the essence.
- 8.6 We will provide You with an invoice for the Goods on or at any time after the completion of delivery.
- 8.7 If You fail to make any payment due to Us under the Contract by the due date for payment, then You shall pay interest on the overdue amount at the rate of 4% per annum above Barclays Bank plc's base rate from time to time. Such interest shall accrue on a daily basis
- 8.8 from the due date until actual payment of the overdue amount, whether before or after judgment. You shall pay the interest together with the overdue amount.
- 8.9 You shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). We may at any time, without limiting any other rights or remedies We may have, set off any amount owing to Us by You against any amount payable by Us to You.



## **9. CONSUMER RIGHT OF RETURN AND REFUND**

- 1.16 This clause 9 only applies if You are a consumer.
- 9.1 You may end the Contract for the Goods at any time, but in some circumstances We shall have the right to charge certain sums for You doing so.
- 9.2 If You end the Contract for a reason set out at (a) to (e) below the Contract will end immediately and We will refund You in full for any Goods which have not been provided. The relevant reasons are:
- (a) We have informed You about an upcoming change to the Goods or these terms which You do not agree to;
  - (b) We have told You about an error in the price or description of the Goods and You do not wish to proceed;
  - (c) there is a risk that delivery of the Goods will be significantly delayed because of a Force Majeure Event; or
  - (d) We suspend the Goods for technical reasons for a period of more than 6 weeks.
- 9.3 If You end the Contract for one of the reasons set out in clause 9.2, the Contract will end immediately but We will charge You the Restocking Fee to cover the net costs We will incur as a result of You ending the Contract.
- 9.4 If You change Your mind about the Goods, You may be able to get a refund if this is within the 14 day cooling-off period, but this will be subject to the Restocking Charge and You may have to pay the costs of return of the Goods.
- 9.5 We will refund You on the credit card or debit card used to purchase the Goods.

## **10. TERMINATION**

- 10.1 Without limiting Our other rights or remedies, We may terminate the Contract with immediate effect by giving written notice to You if:
- (a) You commit a material breach of any term of the Contract and (if such a breach is remediable) fail to remedy that breach within 14 days of being notified in writing to do so;
  - (b) You take any step or action in connection with You entering bankruptcy (if an individual), administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
  - (c) You suspend, threaten to suspend, cease or threaten to cease to carry on all or a substantial part of Your business; or
  - (d) Your financial position deteriorates to such an extent that in Our opinion Your capability to adequately fulfil Your obligations under the Contract has been placed in jeopardy.
- 10.2 Without limiting Our other rights or remedies, We may suspend provision of the Goods under the Contract or any other contract between us if You become subject to any of the events listed in clause 10.1(a) to clause 10.1(d), or We reasonably believes that You are about to become subject to any of them.
- 10.3 Without limiting Our other rights or remedies, We may terminate the Contract with immediate effect by giving written notice to You if You fail to pay any amount due under the Contract on the due date for payment and remain in default not less than 14 days after being notified to make such payment.
- 10.4 You may terminate the Contract at any time prior to delivery on giving Us 7 days' notice. We will refund any deposit paid by You for Goods not provided but will deduct from the deposit (or charge you) the Restocking Charge to cover the net costs incurred as a result of the termination of the Contract. Such amount shall be a debt owed by You to Us and if the deposit is insufficient to cover the net costs incurred by Us, You shall pay Us all sums due within 7 days of receiving a written request from Us.
- 10.5 On termination of the Contract for any reason You shall immediately pay all of Our outstanding unpaid invoices and interest.
- 10.6 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.
- 10.7 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

## **11. LIMITATION OF LIABILITY**

- 11.1 Nothing in these Conditions shall limit or exclude Our 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;
  - (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 Us to exclude or restrict liability.



- 11.2 Subject to clause 11.1:
- (a) We shall under no circumstances whatsoever be liable to You, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
  - (b) Our total liability to You 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 in no circumstances exceed the price of the Goods supplied.

## 12. **FORCE MAJEURE**

- 1.17 Force majeure. Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for 3 months, the party not affected may terminate the Contract by giving 14 days' written notice to the affected party.

## 13. **GENERAL**

- 13.1 Assignment and other dealings.
- (a) We may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of Our rights or obligations under the Contract.
  - (b) You may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of Your rights or obligations under the Contract without Our prior written consent.
- 13.2 Entire agreement.
- (a) This Contract constitutes the entire agreement between us and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between us, whether written or oral, relating to its subject matter.
  - (b) We both agree that neither of us shall have any remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms and Conditions. We both agree that we shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.
- 13.3 Variation. We may revise these terms and conditions at any time and shall notify You in any such event.
- 13.4 Waiver. A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:
- (a) waive that or any other right or remedy; nor
  - (b) prevent or restrict the further exercise of that or any other right or remedy.
- 13.5 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 13.6 Notices.
- (a) 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 or other next working day delivery service, commercial courier, or fax or email.
  - (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 13.6(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second 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 email, one day after transmission.
  - (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- 13.7 Third party rights. No one other than a party to the Contract and their permitted assignees shall have any right to enforce any of its terms.
- 13.8 Governing law and Jurisdiction.
- (a) If you are a business, the Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales. We each irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.
  - (b) If you are a consumer, please note that the Contract is governed by English law. This means a Contract for the purchase of Goods and any dispute or claim arising out of or in connection with it will be governed by English law. We both agree that the courts of England and Wales will have non-exclusive jurisdiction. However, if you are a



resident of Northern Ireland you may also bring proceedings in Northern Ireland, and if you are a resident of Scotland, you may also bring proceedings in Scotland.

- 13.9 Alternative dispute resolution. Alternative dispute resolution is a process where an independent body considers the facts of a dispute and seeks to resolve it, without you having to go to court. If you are not happy with how we have handled any complaint, you agree in the first instance to try and resolve the matter by Alternative Dispute Resolution. Please contact our Customer Services Team on 020 7284 2040 or email Us at sales@basislighting.com to discuss how to proceed. We will not charge you for making a complaint and if you are not satisfied with the outcome you can still bring legal proceedings.