



Sugg Lighting Ltd Terms and Conditions

1 GENERAL

- 1.1 In these terms & conditions of business (the "Conditions")
- 1.1.1 "Contract" means the Order in the form accepted by the Company and the Conditions.
- 1.1.2 "Company" whenever it appears herein means Sugg Lighting Limited, a company registered in England with Company Number 01099521 and whose registered office is at F W Thorpe plc, Merse Road, Redditch, Worcestershire, B98 9HH
- 1.1.3 "Buyer" means the person ordering Goods and related services from the Company.
- 1.1.4 "Goods" means goods and related services supplied by the Company.
- 1.1.5 "Order" means an order for Goods
- 1.1.6 "Price" means the price of the Goods.
- 1.2 Estimates or quotations or price lists issued by the Company are an invitation to treat only. No Order will be contractually binding on the Company until it has been accepted and acknowledged in writing on behalf of the Company.
- 1.3 Any of the Buyer's terms and conditions of business which are inconsistent with these terms shall not be applicable to the Buyer's Order unless specifically accepted by the Company in writing.
- 1.4 No waiver alteration or modification of any of these terms or of the Order or the specification of the Goods shall be binding on the Company unless confirmed in writing by the Company.
- 1.5 Acceptance of delivery by the Buyer shall be deemed an express acceptance by the Buyer that these Conditions only shall apply to the Order.
- 1.6 The Buyer shall be obliged to provide to the Company in accurate and complete form payment in full where applicable, all instructions, specifications, approved drawings, licences, letters of credit, guarantees, deposits, components or other materials or information required by the Company to enable it to carry out the Order.

2 PRICE

- 2.1 Prices shown in the Company's price list current from time to time are subject to variation without notice. The Price applicable to an Order will be confirmed in writing by the Company and the Buyer shall have three days within which to cancel the Order without liability. Quotations by the Company will become invalid if not accepted within twenty-eight days or as stated therein
- 2.2 All Prices are quoted exclusive of Value Added Tax which will be added to the invoice at the current standard rate. In the case of Goods intended for export by the Buyer Value Added Tax will be added to the invoice unless the Buyer has produced a Customs and Excise clearance or other valid evidence of export.
- 2.3 All Prices are for delivery ex works. If the Company agrees to arrange delivery or to make special arrangements for the packing or storage of the Goods these extra costs will be re-charged to the Buyer.
- 2.4 Unless confirmed in writing by the Company no trade discounts or other benefits will be applicable to an Order.
- 2.5 If after the Order is confirmed by the Company there should be any increase in the cost of materials, labour or other costs (directly or indirectly) the Company shall have the right to increase the Price PROVIDED HOWEVER that the Buyer shall have the right to cancel the Order in writing within 7 days of notification of the increase. Where such cancellation takes place after Goods or materials have been purchased or the manufacture of the Goods by the Company has commenced in performance of the Contract a cancellation charge of 35% of the Price for standard Goods and 100% of the Price for Goods manufactured or treated specially for the Buyer will be payable by the Buyer.

3 SETTLEMENT TERMS AND PAYMENT

- 3.1 Unless the Buyer has a credit account with the Company payment of the Goods will be required before the Order is processed. Until payment is received no part will be ordered and the estimated delivery and manufacture time will start only when payment has been received.
- 3.2 If the Buyer is an approved credit customer payment of each invoice shall be due on the last day of the month following that of the date of invoice.
- 3.3 Where the Goods are delivered in separate consignments the Company may at its discretion invoice separately for the Price of each consignment or for the total Price of the Goods upon delivery of the first consignment.
- 3.4 If Payment shall not have been made in full by the due date interest on the unpaid balance shall be charged at the rate of 4% (four per centum) above the current base rate of Lloyds Bank Plc which interest shall accrue from day to day (whether before or after judgment) until payment in full.
- 3.5 Where payment from the Buyer has not been received by the Company to Contract terms, the Company may hold any subsequent delivery of Goods until such payment has been received in full.

4 DELIVERY

- 4.1 The Company shall deliver to the Buyer or the Buyer's carrier at the Company's works, unless otherwise agreed in writing
- 4.2 The Company reserves the right to use its own transport or its nominated carrier or agent for delivery to the delivery address stated in the Order and to make a reasonable charge therefore unless expressed to be included in the Price.
- 4.3 Any delivery dates given by the Company are estimated only and refer to its readiness to deliver ex works. Although the Company will use its best efforts to meet any dates quoted it shall not be liable for any loss damage or injury or additional expense to the Buyer consequent upon delay in delivery from any cause whatsoever.
- 4.4 If the Buyer fails to accept delivery or make arrangements for collection of the Goods within fourteen days of notification of their readiness (as to which the invoice shall be conclusive evidence of the date and the fact of readiness) then the Goods shall be stored

by the Company and the storage charges therefore (or a reasonable charge if stored at the Company's works) shall be payable by the Buyer. In any event the provisions of clauses 3.1 and 3.2 shall apply.

5 INSURABLE RISK

5.1 The risk in the Goods shall pass to the Buyer upon delivery to the Buyer or to an independent carrier nominated by him or its agent for collection immediately prior to loading onto appropriate transport.

5.2 If the Buyer fails to accept delivery of the Goods when required to do so by these terms the risk shall pass at the latest time when the Buyer was obliged to accept delivery hereunder. Failure to accept Goods will result in the Goods being returned to the Company, any further delivery charges will be charged to the Buyer as he failed to receive Goods when delivered.

5.3 Any sums paid by the Buyer's insurers in respect of the Goods prior to payment therefore in full shall be paid to the Company for the account of the Buyer.

6 PROPERTY

6.1 The property in the Goods shall not pass from the Company to the Buyer until the earliest of the following events occurs:-

6.1.1 receipt by the Company of all sums owed by the Buyer to the Company including without limitation the Price of the Goods (or in the case of sales of Goods in Scotland the purchase price of the Goods comprised in this Contract);

6.1.2 the Buyer sells the Goods to a bona fide purchaser who has no notice of the Company's title thereto in which case the property in the Goods shall pass to the Buyer immediately before the Goods are delivered to such purchaser.

6.2 Until the property in the Goods has passed to the Buyer, the Buyer undertakes:-

6.2.1 to store the Goods separately or to label them in such a way that they can be identified as the Company's property;

6.2.2 to insure the Goods against all normal risks and to pay the proceeds of any insurance claim to the Company for the Buyer's account and the Buyer shall receive such insurance proceeds as trustee for the Company.

6.3 Without prejudice to any other right or remedy before the property in the Goods has passed to the Buyer the Company shall have the right to recover and re-sell the Goods or any of them and may enter upon the premises of the Buyer or its agents for that purpose and if necessary to unfix or sever the Goods from the premises and the Buyer shall be responsible for the cost of such entry and repossession and transport of the Goods to the Company's premises.

6.4 The Buyer's power to sell or dispose of the Goods in the ordinary course of its business prior to payment therefore in full shall cease and the Price shall be payable immediately and automatically in any of the following events:-

6.4.1 if a receiver administrative receiver administrator liquidator trustee in bankruptcy or supervisor shall be appointed in respect of the Buyer;

6.4.2 if any petition or application or notice of resolution shall be made for the appointment of any of the foregoing;

6.4.3 if the Buyer shall propose a voluntary arrangement or any or other composition with its creditors;

6.4.4 if the Buyer shall threaten to cease or cease trading;

6.4.5 if any judgment executed or distress made against any of the Buyer's property.

7 SHORTAGE NON-DELIVERY OR DAMAGE

7.1 It shall be the responsibility of the Buyer in all cases to examine each delivery of Goods immediately upon receipt to check for shortages, non-delivery or damage.

7.2 Any claim by the Buyer for shortage or non-delivery of or damage to any items in a particular invoice shall be notified to the Company in writing within seven days of the date of invoice or three days of receipt (whichever shall be the earlier) and if the Company is satisfied that this claim is well founded it shall make up the shortage replace or repair the items (as appropriate at the Company's option) at no cost to the Buyer.

8 RETURN OF GOODS

8.1 No Goods may be returned unless faulty and only then if the Company has been advised in writing as to the reason for the return.

8.2 Unless the Company accepts the returned Goods for repair or replacement under its warranty the transport costs for such return shall be paid by the Buyer.

8.3 Goods shall not be returned unless goods returned number has been issued to the Buyer. Goods without a number will be refused by the Company.

9 WARRANTIES

9.1 The Goods shall comply with their description on our acknowledgement of order form; and as soon as practicable and in any event within 30 (thirty) days after delivery thereof be inspected and tested by the Buyer. The Buyer shall lodge with the Company in writing within 7 (seven) days after the conclusion of the said inspection and testing any claims in respect of defects which are apparent upon such inspection and testing.

9.2 We do not warrant that the goods are fit for any purpose.

9.3 Defects which are not detectable by a careful examination within 30 (thirty) days after delivery shall be notified as soon as they are discovered but in any event no later than 12 (twelve) months after the delivery of the Goods to the end user or (in the case of fixed installation of Goods), the delivery, installation and commissioning of the Goods for their end user.

9.3.1 The buyer will allow us to investigate (we may need access to your premises and product samples).

9.4 The Company shall make good either by repair or replacement or renewal (following our investigations) at its option defects which under proper storage and use appear in the Goods within the time limits set out in Sub-Clauses 9.1 and 9.3 above and which arise solely from faulty material or workmanship provided that:-

9.4.1 Such defects have not been caused by vandalism, misuse, neglect, accident, improper storage installation or handling, frost damage or by repair or alteration not effected by the Company (including the attachment or connection to the Goods of any devices or accessories other than those distributed or officially recommended by the Company) or non-compliance with the Company's operators' instructions manual.

- 9.4.2 In the event that the Buyer shall agree with the Company that the Buyer will provide the labour necessary to carry out such repair replacement or renewal, then the Buyer shall be entitled to be paid for the said labour at a rate not exceeding the Company's current labour rate.
- 9.4.3 This warranty shall only apply to Goods sold within the U.K.
- 9.4.4 The Buyer at all times shall have used in the operation of the goods only the proper electrical supply voltage.
- 9.4.5 Unless otherwise agreed in writing the Company sells Goods only and it is the responsibility of the Buyer to appoint electrical or gas qualified professionals to install such Goods in full accordance with current regulations and installation instructions.
- 9.4.6 Where the Company attends an installation of the Goods at the request of the Buyer and finds that the Buyer's complaint arises as a result of incorrect installation procedures carried out otherwise than by the Company, the Company will charge for the visit and expenses and provide a quotation for replacement parts to correct the problem.
- 9.5 The Company's liability under Clause 9.4 hereof shall be in lieu of any warranties and conditions whether express or implied by statute common law or otherwise however, which warranties and conditions are hereby expressly excluded.
- 9.6 WITHOUT PREJUDICE TO THE GENERALITY OF THE FOREGOING, NOTHING HEREIN CONTAINED SHALL OPERATE TO EXCLUDE ANY WARRANTY OR CONDITION IMPLIED BY STATUTE IN THE EVENT OF THE BUYER DEALING AS A "CONSUMER" AS DEFINED BY SECTION 12 OF THE UNFAIR CONTRACT TERMS ACT 1977. IN SUCH A CASE THE BUYER'S STATUTORY RIGHTS ARE UNAFFECTED BY THESE TERMS AND CONDITIONS.
- 9.7 Save as aforesaid and save in respect of death or personal injury resulting from the negligence of the Company its servants or agents, the Company shall not be liable for any claim or claims for direct or indirect consequential or incidental injury loss or damage made by the Buyer against the Company whether in contract or tort (including negligence on the part of the Company its servants or agents) arising out of or in connection with any defect in the goods or work or any act, omission, neglect or default (whether or not the same constitutes a fundamental breach of the contract or breach of a fundamental term thereof) of the Company its servants or agents in the performance of the contract.
- 9.8 The Company's obligations contained in this Clause shall apply only to the Buyer but the Buyer shall not be prevented from having recourse to them solely by reason of the Buyer selling the goods in the normal course of its business to a third party. Application for transfer to subsequent purchasers of the goods of the benefit of this warranty for its unexpired period will be considered by the Company upon submission of a written request.
- 9.9 The Buyer accepts as reasonable that the Company's total liability for any goods or work which are defective shall be as set out in these conditions: in fixing that limit the Company has had regard to the contract price of the goods, the nature of the goods, the use they will receive and the resources available to each party including servicing facilities and insurance cover, to meet any liability.
- 9.9.1 Our total liability to you (from one single cause) for damage to property caused by our negligence is limited to ten million pounds.
10. **INTELLECTUAL PROPERTY**
- 10.1.1 The copyright subsisting or which subsequently subsists in all documents, drawings, specifications, designs, programmes or any other material prepared by the Company whether readable by humans or by machines in respect of the goods or work shall belong to the Company absolutely and they shall not be reproduced or disclosed or used in its original or translated form by the Buyer without the Company's written consent for any purpose other than that for which they were furnished.
- 10.1.2 Notwithstanding any implied warranty or condition as to title or otherwise in relation to the goods supplied hereunder, the Company shall not be liable to indemnify the Buyer in respect of any claim made or threatened against the Buyer by a third party whether by legal proceedings or otherwise based on a right claimed under letters, patent, trade-mark, copyright (whether registered as a design or not) or breach of confidence unless:
- 10.1.3 The Company shall have been promptly notified of the claim or threat and no admissions shall have been made by the Buyer such as would prejudice the defence of any such claim or threat; and
- 10.1.4 The Goods shall have been designed by the Company or made to its design and in any event the Company's liability shall be limited to damages and costs awarded by a court of competent jurisdiction in proceedings conducted in accordance with the wishes of the Company or such sum as may be paid in compromise of such proceedings with the assent of the Company.
- 10.1.5 The Buyer shall indemnify the Company against any and all liabilities, claims and costs incurred by or made against the Company as a direct or indirect result of carrying out any work required to be done on or to the goods in accordance with the requirements or specifications of the Buyer involving any infringement or alleged infringement of any rights of any third party."
- 11 **CANCELLATION**
- 11.1 The Buyer shall not be entitled to cancel any Order in whole or in part at any time without the prior written agreement of the Company which may be given on condition that all costs of materials including tooling and labour including drawing and design work and a reasonable profit margin shall be paid by the Buyer.
- 11.2 If any of the events set out in condition the foregoing paragraph 6.4 or if any sum owed by the Buyer shall have remained unpaid for thirty days after the due date then the Company shall be entitled to cancel any uncompleted Order and the Company shall be entitled to charge for tooling drawing work materials and labour on a quantum meruit basis including a reasonable profit margin and such charge shall be payable forthwith.
- 11.3 If Goods are made then standard stock will carry a cancellation charge of 35% and specials or non-standard Goods will carry a charge of 100%, as they will have no re-sale value.
- 12 **SAMPLES AND DESIGNS**
- 12.1 Any samples submitted to the Buyer must be returned within ninety days of dispatch by the Company and if not so returned in good condition may be charged for at the then current Price or such lesser amount as the Company may think fit.

- 12.2 All plans designs specifications design detail drawings and other information provided by the Company to the Buyer shall be treated as confidential and not in the public domain and the Buyer shall not without the prior written consent of the Company disclose or divulge any such documents or information to any third party and shall return the same to the Company forthwith upon written request.
- 13 FORCE MAJEURE**
- 13.1 The Company shall be relieved of all liability whatever in respect of any delay or non-performance in the fulfilment of its obligations if prevented or impeded as a consequence of (directly or indirectly) war civil commotion insurrection government restrictions or regulations transport difficulties strikes lock-outs accidents shortage of labour materials equipment fuel power machinery break down or any other cause whatsoever beyond the reasonable control of the Company whether such cause exists at the date of the Order. At any time after any such event shall occur the Company shall be entitled to suspend or terminate the performance of the Order.
- 14. HEALTH AND SAFETY**
- 14.1 The Buyer shall ensure that the Goods will be safe and without risk to health when properly used and in particular shall ensure that the Goods are used in accordance with any instruction manual or installation instructions which the Company may supply. If the Buyer fails to comply with this duty then the Buyer shall indemnify the Company against all claims by employees and others and all penalties incurred by the Company pursuant to the Act or other wise howsoever to the extent that such liability would not have arisen but for the Buyer's failure.
- 15 CONTRACTS FOR WORK**
- 15.1 If the Contract includes work to be done by the Company whether of installation commissioning repair rectification or improvement, then unless the Contract otherwise provides the following additional provisions shall apply thereto:
- 15.1.1 The Company shall be obliged to carry out such work only during the Company's normal working hours. If the Buyer requests that overtime be worked and the Company agrees thereto such overtime shall be paid for by the Buyer at the rate stipulated by the Company.
- 15.1.2 If the work is to be carried out at the Buyer's premises or on the Buyer's request at the premises of any other person then the Buyer shall undertake to provide or to procure the provision of proper and safe storage and protection of all goods, tools, plant equipment and materials on site.
- a) free and safe access to the site and to the place at which the work is to be carried out
 - b) all facilities and services necessary to enable such work to be carried out safely and expeditiously
 - c) (if such work includes the installation of any goods) all builders work, foundations, cutting away and making good required and the ready availability of all plan and equipment so as to permit the goods to be tested forthwith on completion of such work.
- 15.2 The Buyer shall pay to the Company the amount of any expense incurred by the Company by reason of any breach by the Buyer of its undertakings in sub-clause 15.1 above (but without prejudice to the Company's rights to recover further damages therefore) and a certificate of the Company's auditors certifying such amounts shall be conclusive and binding upon the Buyer and the Company.
- 16 WEEE REGULATIONS**
- 16.1 WEEE-United Kingdom business customers only.
- For the purposes of this clause 'WEEE' means waste electrical and electronic equipment as defined in the WEEE regulations. 'WEEE Regulations' means The Waste Electrical and Electronic Equipment Regulations 2006 (SI 2006/3289) (as amended, replaced and/or modified from time to time).
- 16.2 You shall:
- 16.1.1 be responsible for financing the cost of collection, treatment, recovery and environmentally sound disposal by an approved, authorised treatment facility of:
 - 16.1.1.1 all WEEE (excepting gas discharge lamps) arising or deriving from the goods; and
 - 16.1.1.2 all WEEE (excepting gas discharge lamps) arising or deriving from goods placed on the market prior to 13 August 2005 where such goods are to be replaced by the goods and the goods are of an equivalent type or are fulfilling the same function as that of such goods;
 - 16.1.2 comply with all obligations placed upon you by the WEEE Regulations in respect of all WEEE referred to in 16.2.1.1 and 16.2.1.2 and
 - 16.1.3 provide to us and our WEEE producers compliance scheme operator with such data, documents, information and other assistance as we and/or such scheme operator may from time to time reasonably require to enable us to comply with our obligations pursuant to the WEEE Regulations and such operator to satisfy the obligations assumed by it as a result of our membership of the operator's compliance scheme.
- 16.2 You shall be responsible for all costs and expenses arising from and relating to the obligations in clause 16.2 excepting gas discharge lamps in which case a charge will have been levied at the outset and you must contact the compliance scheme of the actual gas discharge lamp branded manufacturer to arrange recycling. You agree and accept that you shall not dispose of WEEE through municipal waste streams.

17 MISCELLANEOUS

17.1 Notices

- 17.1.1 Any notice to be served under these Conditions may be given orally in person or by telephone but must be confirmed in writing as soon as possible and in any event within 24 hours to the intended recipient either:-
- a) within the United Kingdom by prepaid first class post (when it will be deemed served at noon on the first working day after it was posted); or
 - b) by facsimile transmission or electronic mail between the hours of 9.00 a.m. and 3.00 p.m. on a working day, (when it will be deemed served twelve hours after it was transmitted); or
 - c) by personal delivery (when it will be deemed served when it is delivered).
- 17.1.2 The address for service of notices shall be the party's address as shown in these Conditions or as subsequently notified in writing.

17.2 Waiver

The waiver by the Seller of any breach of any term hereof shall not prevent the subsequent enforcement of that term and shall not be deemed a waiver of any subsequent breach.

17.3 Severance

Should one clause hereof be invalid the provisions of the remainder hereof shall not be affected and in such case the parties hereto shall co-operate to agree replacement terms which are legally valid in order to achieve as nearly as possible the original intentions of the parties particularly regarding the economic effect of such clause.

17.4 Titles

The titles of the clauses hereof shall not be taken into account in the construction hereof.

17.5 Governing Law

Any contract in which these terms relate shall be governed by English Law and the parties shall submit to the non-exclusive jurisdiction of the English Courts.

17.6 Entire Agreement

This document contains the whole terms of the contract and no alteration or variation of the terms of the contract shall be valid unless agreed and made in writing by an authorised officer of the Seller, and no waiver of any breach by either party of the terms of the contract shall prejudice the Seller's strict legal rights hereunder. In the event of any conflict between these.

I agree to the terms and conditions
above and sign for and on behalf of

Print Name of Company Representative

Signature of Company Representative

Date:.....

