

1. Interpretation

- (a) In these Terms & Conditions of sale "the Company" shall mean Design Lighting, a division of WILTS WHOLESALE ELECTRICAL CO. LTD (registered in the Register of Companies under No. 006 79117). "the Buyer", shall mean any person, firm, company, public authority, or statutory body, who places order(s) for equipment, products or services, sold or supplied by the Company which order(s) are accepted by the Company. "Goods" shall mean the goods (including any instalment of the goods or any parts for them) which the Company is to supply in accordance with these Conditions. "Contract" shall mean the contract for the purchase and sale of the goods. "Conditions" shall mean these terms and conditions.
- (b) Quotations are made and all orders accepted, subject to these Conditions.
- (c) The placing of an order with the Company by the Buyer shall be deemed to be an acceptance of these Conditions by the Buyer.
- (d) Any reference in these Conditions to any provision of statute shall be construed as a reference to that provision as amended, re-enacted, or extended at the relevant time.
- (e) The headings in these Conditions are for convenience only and shall not affect their interpretation.
- (f) The Company shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Company which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Company, subject in either case to these conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer. Orders sent in confirmation of telephone or fax instruction should be clearly marked as such, otherwise any additional expense incurred by the Company as a result of duplication of an order, will be charged to the Buyer.
- (g) No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Company.
- (h) These Conditions exclude any other terms and conditions which are inconsistent which the Buyer might seek to impose even though such other terms and conditions may be submitted in a later document and even though such other terms and conditions may purport to exclude or supersede these terms and conditions or may be contained in any offer acceptance or counter offer made by the Buyer.

2. New Accounts, Prospective Buyers wishing to open a credit account should apply on a "Credit Account Application Form" (available from the Company on request), acknowledging these Terms & Conditions, copies of which are available from the Company. Until the opening of an account has been confirmed by the Company in writing, goods will only be supplied on a Pro-Forma or Cash on Delivery basis, otherwise delivery will not be made until the opening of a credit account has been approved. The Company reserves the right to decline any application without stating any reason.

3. Quotations, All quotations are made at current prices, but are subject to alteration without notice. Goods will be charged at prices (and, where applicable, discounts) ruling at the date of despatch. Any price or discount quoted will be applicable only to quantity or quantities specified on the Buyer's enquiry and change in quantity may require an alteration in the price(s) and/or discount(s) (if any) offered in the Company's quotation. Any typographical, clerical, or other error, or omission in any sales literature, quotation, price list, acceptance of offer, invoice, or other document or information issued by the Company, shall be subject to correction without any liability on the part of the Company. Owing to alterations in design, the Company cannot guarantee that all Goods supplied will be in exact accordance with illustrations provided in any sales literature or other document or information issued by the Company, such illustrations being inserted only as a general indication of appearance.

4. Orders & Specifications, The Company's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Company in writing. In entering into the Contract, the Buyer acknowledges that it does not rely on any such representations which are not so confirmed. The Buyer shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Company any necessary information relating to the Goods within a sufficient time to enable the Company to perform the Contract in accordance with its terms. The quantity, quality and description of and any specification for the Goods shall be those set out in the Company's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Company). The Company reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory or EC requirements or, where the Goods are to be supplied to the Company's specification, which do not materially affect their quality or performance. No order which has been accepted by the Company may be cancelled by the Buyer, except with the agreement in writing of the Company, and on terms that the Buyer shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of cancellation. For materials which do not comprise the Company's normal stock orders are accepted on the understanding that once the order has been accepted by the manufacturer, it cannot be cancelled except by agreement with and on the terms and conditions laid down by the manufacturer.

5. Prices, The prices shown in the Company's catalogues and quotations are current at the time of preparation exclusive of any applicable value added tax, but it must be clearly understood that they are subject to alteration without notice, and goods will be invoiced at prices ruling at the date of despatch. Whilst every care is taken in compiling catalogues, and quotations, the Company cannot accept responsibility for accidental errors and omissions.

6. Payment, Subject to any special terms agreed in writing between the Buyer and the Company and/or any provision to the contrary in these Terms & Conditions of Sale, the Company shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Company shall be entitled to invoice the Buyer for the price at any time after the Company has notified the Buyer that the Goods are ready for collection or (as the case may be) the Company has tendered delivery of the Goods. All accounts are due and receivable by the Company on or before the last day of the month following date of invoice. The time of payment shall be of the essence of the Contract. In the event of non-payment by the due date, the Company reserves the right to charge interest at the rate per annum equal to the base rate of HSBC Bank Plc, plus 8% on all monies overdue from whatsoever cause until payment in full is made. Further, if at any time any sum owed by the Buyer is overdue the Company reserves the right to withhold delivery of any goods until such time as all sums due to the Company have been paid or alternatively, at its sole discretion, to cancel the Contract. Where the Buyer has ordered Goods to be available for delivery by a specified date, the Company reserves the right to invoice the Buyer for the price of the goods at any time such goods are ready for delivery in the event that the Buyer subsequently informs the Company that delivery must be delayed for any reason. In the event of any suspension of deliveries the Company shall be entitled to require, as a condition of recurring performance, prepayment or such other security for payment as it may require. If the Buyer fails to make any payment on the due date then all sums owed to the Company by the Buyer, in relation to any account which the Buyer may have with the Company, shall immediately become due and payable in full and the Company reserves the right to appropriate any payment made by the buyer to such of the Goods (or goods supplied under any other contract between the Company and the Buyer) as the Company may think fit even though the Buyer purports to appropriate the payment otherwise. In the event that the Buyer overpays any monies to the Company the amount of such overpayment will be clearly shown on any statement sent to the Buyer and in the event that any such overpayment is not set off against a purchase made by the Buyer with a period of one year from any such overpayment having been made, and in the event that the buyer does not request the repayment of the overpayment from the Company, the Company reserves the right to write off the amount of any such overpayment.

7. Delivery, Delivery will be made to the Buyer's premises as stated by the Buyer when an order is submitted, or if notified by the Buyer Goods shall be left available for collection and this shall constitute delivery. Any dates quoted for delivery of the Goods are approximate only and the Company shall not be liable for any delay in delivery of the Goods however caused, for example, due to delays in manufacturers' deliveries to the Company. Time for delivery shall not be of the essence of the Contract, unless previously agreed by the Company in writing. If the Goods are not delivered within 5 days of the quoted delivery date, the Buyer should notify the Company, so that the Company may in its discretion, assist in investigating the delay. The Goods may be delivered by the Company in advance of the quoted delivery date. The Company reserves the right to deliver all or any of the Goods in advance of the agreed delivery date. All Goods are packed carefully to ensure safe carriage. The Company is not responsible for loss or damage in transit. Any delivery times quoted are advisory only, and may be subject to alteration dependent upon Manufacturers' deliveries to the Company. If the Buyer fails to take delivery of the Goods or fails to give the Company adequate delivery instructions prior to the time stated for delivery (other than by reason of any cause beyond the Buyer's reasonable control or by reason of the Company's fault) then, without prejudice to any other right or remedy available to the Company, the Company may store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage or sell the Goods at the best price readily obtainable and (after deducting all reason-able storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract. No charge is normally made for delivery from the Company's warehouses within van delivery areas (details of which are available from the Company on request), but the Company reserves the right to charge carriage, packing and insurance where appropriate in respect of deliveries outside delivery areas, whether by the Company's transport or other carrier (which delivery areas are available from the Company on request). Where goods are specially ordered from a Manufacturer for delivery to the Company's warehouse or direct to the Buyer's premises and a carriage charge is made by the manufacturer, the Company reserves the right to pass on this charge to the Buyer. Where a delivery is required by the Buyer outside scheduled delivery times or areas and a special delivery is made either by the Company's transport or by other carrier, the Company reserves the right to make a charge for such delivery. Where delivery is made by another carrier, the Company may, at its discretion, but shall not be obliged to, assist in investigating any loss or damage caused. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract, and failure by the Company to deliver any one or more instalment, in accordance with these Conditions, or any claim by the Buyer in respect of any one or more instalment, shall not entitle the Buyer to treat the Contract as a whole as repudiated.

8. Damage or loss in transit and shortages The Company will, when the price quoted includes delivery, repair or replace free of charge goods damaged in transit, provided that the carrier and the Company receive written notice of such damage within THREE DAYS of delivery. Goods should be checked with the Advice Note enclosed with the goods on receipt, and if received in a damaged or unsatisfactory condition, must be signed for as such. Shortages must also be notified to the carrier and the Company within THREE DAYS of delivery, failing which no liability will be accepted. In the above cases, the packing and contents should be retained for inspection. Non-delivery of goods must be reported in writing to the Company within THREE DAYS of receipt of invoice, or Advice Note, whichever is the earlier. Claims for alleged shortage, shall be considered only if received within 5 days of delivery, and if accompanied by full particulars of case number, invoice number, and conditions. Failure to comply with these requirements shall preclude the Buyer from making any claim against the Company. If the Company fails to deliver the Goods (or any instalment) for any reason other than any cause beyond the Company's reasonable control or the Buyer's fault, and the Company is accordingly liable to the Buyer, the Company's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods. Under no circumstances are Goods supplied to the Buyer pursuant to the Contract to be returned without the Company's written consent. Goods so returned shall be refused.

9. Returns, Goods correctly supplied may not be returned without the Company's written agreement. Goods so returned must be consigned carriage paid and be accompanied by a packing note, stating the invoice number and date, together with the reason for return. Any article that has been supplied to special requirements cannot be accepted by the Company for return under any circumstances and in other instances, a restocking charge may be imposed.

10. Retention of Title, It is expressly stated that title to any goods supplied by the Company does not pass to the Buyer until payment in full has been received by the Company in respect of any such goods and any other outstanding amounts due and payable to the Company. The risk of loss or damage to the goods shall pass to the Buyer at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Company has tendered delivery of the Goods. Until such time as the legal title in the Goods passes to the Buyer, the Buyer shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Company's property, but shall be entitled to resell or use the Goods in the ordinary course of its business. Until such time as the legal title in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Company shall be entitled at any time to require the Buyer to deliver up the Goods to the Company and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

11. Warranties & Liability, Any advice or recommendation given by the Company or its employees or agents to the Buyer, or its employees or agents as to the storage, application, or use of the Goods which is not confirmed in writing by the Company, is followed or acted upon entirely at the Buyer's own risk, and accordingly, the Company shall not be liable for any such advice or recommendation which is not so confirmed. Any statutory or other warranty, condition, description, or representation, express or implied, as to the state, quality or fitness of the Goods, the subject of the Contract is hereby expressly excluded. Notwithstanding the foregoing, the Buyer shall be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Company. Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law, are excluded to the fullest extent permitted by law. Where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Buyer are not affected by these Conditions. Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to the Company within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Company accordingly, the Buyer shall not be entitled to reject the Goods and the Company shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract. Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Company in accordance with these Conditions, the Company shall be entitled to replace the Goods (or the part in question) free of charge or at the Company's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but the Company shall have no further liability to the Buyer. Except in respect of death or personal injury caused by the Company's negligence, the Company shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition, or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special, or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Company, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer, and the entire liability of the Company under or in connection with the Contract, shall not exceed the price of the Goods, except as expressly provided in these Conditions. The Company shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations in relation to the Goods; if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Company's reasonable control:-(a) Act of God, explosion, flood, tempest, fire or accident. (b) War or threat of war, sabotage, insurrection, civil disturbance or requisition: (c) Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary, or local authority; (d) Import or export regulations or embargoes; (e) Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or of a third party); (f) Difficulties in obtaining material supplies, labour, fuel, parts or machinery; (g) Power failure or breakdown in machinery.

12. Insolvency of Buyer, If:- (a) The Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or (b) An incumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or (c) The Buyer ceases, or threatens to cease, to carry on business; or (d) The Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer, and notifies the Buyer accordingly; then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable, notwithstanding any previous agreement or arrangement to the contrary.

13. Errors and Omissions, The Company reserves the right to amend any accidental error or omission without liability.

14. Health & Safety at Work Act 1974, All goods are sold on the express understanding that Buyers are aware of the requirements and provisions of the Health & Safety at Work Act 1974. The Company takes every care to ensure that goods offered for sale comply with the above act when properly used, and will not accept liability in the event of misuse by a Buyer.

15. Export, No Goods supplied pursuant to the Contract shall be re-sold or delivered outside Great Britain or Northern Ireland without being agreed in writing between the Buyer and the Company.

16. General, Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office, or principal place of business, or such other address as may at the relevant time, have been notified pursuant to this provision to the party giving the notice. No waiver by the Company of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provisions in question shall not be affected. This Contract shall be governed by the laws of England, and the Buyer agrees to submit to the exclusive jurisdiction of the English courts. This Contract is personal to the Buyer, who shall not assign nor in any way part with the benefit thereof without the Company's prior written consent. The parties do not intend any third party rights to be created under or pursuant to this Contract.

17. Data Protection Act 1988, Use of your Information in considering your application, we will use a credit scoring or other automated decision making system, and make such enquiries about you as we feel appropriate. We will search your records at credit reference agencies ("your Records"). They will add to your Records details of our search and your application and this will be seen by other organisations that make searches. It is important that you give us accurate information. We will add to your Records details of your agreement with us, the payments you make under it, and any default or failure to keep to its terms and any change of address you fail to tell us about where a payment is overdue. Your Records will be shared with other organisations and used by us and them, to:-

- (a) Help make decisions about credit and credit related services.
- (b) Trace debtors, recover debt, and to manage your accounts.

For these purposes, we, or they, may make further searches. Although these searches will be added to your records, they will not be shared with others. We, the credit reference agencies, and fraud prevention agencies, will also use your records for statistical analysis about credit and about insurance and fraud. We may also use information about you to carry out market research.

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