

GENERAL TERMS AND CONDITIONS OF MIDSTREAM LIGHTING LIMITED

Midstream Lighting Limited and the expressions, "Midstream", "we" and "us" and "our" and "the Company" means Midstream Lighting Limited (Company No. 08106829) (VAT Number GB 248812878) whose registered office is at Wessex House, 1 Chesham Street, London, SW1X 8ND, United Kingdom.

The terms and conditions (including the definitions) set forth below; apply to all contracts for the sale of Goods. Copies of these general conditions are available free of charge at our office in London, where they can also be viewed.

Midstream Energy Ltd (Company No. 06832414) is engaged in distribution of the product line of Midstream Lighting Limited.

1. INTERPRETATION

1.1. In these Conditions the following words shall have the meanings set out below:

- 1.1.1. **"Conditions"** means the standard terms and conditions of supply of Goods set out in this document including the introduction.
- 1.1.2. **"Contract"** means a legally binding contract for the sale and supply of Goods and made in accordance with these Conditions, for example your Purchase Order.
- 1.1.3. **"Goods"** means the goods described in the Order.
- 1.1.4. **"Intellectual Property Rights"** means any patents, trademarks, service marks, registered designs, database rights, applications for any of the foregoing, copyrights, unregistered design rights, knowhow and any other similar protected rights in any other country.
- 1.1.5. **"Order"** means an order placed by you for the purchase of Goods.
- 1.1.6. **"Price"** means the price of the Goods either advised to you or detailed in the confirmation email where the Order is placed via a Website.
- 1.1.7. **"Working Day"** means any day other than a Saturday and Sunday but excluding bank and public holidays in England.
- 1.1.8. **"you"** means the person, firm or company who purchases the Goods from us

1.2. Any references to any statute shall include references to that statute as modified or re-enacted from time to time

2. ACCEPTANCE OF OUR CONDITIONS

- 2.1. All orders for Goods supplied by us, or any of our affiliate companies, as the case may be are subject to these Conditions and the placing of an Order by you will constitute acceptance of these Conditions. You may copy these Conditions and store them for your future reference.
- 2.2. Where there is a conflict between these Conditions and any additional terms and conditions, rules and instructions, these Conditions shall apply unless superseded by conditions on order our confirmations.

3. APPLICATION OF TERMS AND BASIS OF SUPPLY

- 3.1. Subject to any variation under Condition 3.2, the Contract shall be on these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which you purport to apply under any purchase order, confirmation of order, specification or other document).
- 3.2. No terms or conditions endorsed on, delivered with or contained in your purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.
- 3.3. These Conditions apply to all our sales and any variations to these Conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by one of our directors, the identity of whom from time to time is available from Companies House.
- 3.4. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract or in any confirmation email. Nothing in this Condition shall exclude or limit the Company's liability for fraud or fraudulent misrepresentation.
- 3.5. You shall ensure that the terms of your order and any applicable specification are complete and accurate.
- 3.6. All illustrations, descriptions, specifications, dimensions, weights and capacities listed on any Website, or in any catalogue, price list or other advertisement are intended merely to present a general idea of the Goods described and shall not form part of the Contract.
- 3.7. Any quotation is given on the basis that no Contract shall come into existence until we dispatch an acknowledgement of order to you. We may withdraw any quotation at any time, even if the quotation is stated to be valid for a particular period, unless you make an offer within the stated validity period which has been accepted by us.

4. TRADE CREDIT ACCOUNTS

- 4.1. If you wish to open a trade credit account we will ask you to complete and sign an application for trade credit account form ("Application Form"). The proprietor(s), partner(s) or an authorised employee (if a limited company), must sign the Application Form. Until an Application Form has been received and a trade credit account approved (in writing) by us, Orders will not be accepted onto the trade credit account until cleared funds have been received. We reserve the right, in our absolute discretion, to grant, refuse, or discontinue any credit facilities or reduce or suspend any credit limit at any time and demand immediate payment of all monies outstanding.
- 4.2. Unless otherwise agreed by us in writing, sums due on a trade credit account are payable before the expiration of (30) calendar days following receipt of delivery of the Goods.
- 4.3. If you exceed any agreed credit limit, we may demand immediate payment of all amounts outstanding from you to us on any account.

5. VARIATION OF GOODS

- 5.1. We reserve the right in our absolute discretion to make any changes to the Goods which do not in our opinion materially affect the quality or technical specification of the Goods.

6. PRICE AND PAYMENT

- 6.1. The prices displayed on the Website and in any catalogue or price list are in pounds sterling (unless otherwise stated) and are exclusive of VAT and other similar sales taxes and do not include packaging and delivery charges. These will be added to the total amount payable by you and will be shown when you make an Order.

- 6.2. Where Goods are specially ordered from other manufacturers, and a carriage charge is made by such manufacturers, we reserve the right to recover this charge from you in addition to any other charges. You will also pay any additional charges incurred as a result of delivery by any particular method you may request (but we shall be under no obligation to comply with any such request).
- 6.3. We may request a sum to be paid in advance. Any advance payment made by you at our request shall be held by us as a deposit and not as a part payment. Any deposit is non-refundable in the event of you cancelling the Order, or us cancelling the Order as a result of your default.
- 6.4. Time for payment shall be of the essence.
- 6.5. No payment shall be deemed to have been received until we have received cleared funds.
- 6.6. All payments payable by you under the Contract shall become due and payable immediately on its termination, despite any other provision.
- 6.7. You shall make all payments due under the Contract or otherwise in full without any deduction by way of set-off, counterclaim, discount, abatement or otherwise unless you have a valid court order requiring an amount equal to such deduction to be paid by you to us.
- 6.8. If you fail to pay us any sum due pursuant to the Contract, you will be liable to pay interest to us on such sum from the due date for payment and we, at our discretion, shall be entitled to either, at our discretion:
- 6.8.1. exercise our statutory right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; or
 - 6.8.2. charge you interest on such sum from the due date for payment at the annual rate of 8% above the base rate of Bank of England from time to time accruing on a daily basis and compounded monthly until payment is made, whether before or after any judgment.
 - 6.8.3. We may exercise this right in addition to any other rights we may have.
- 6.9. In the event of termination, variation or suspension of a Contract on your instruction or by lack of instruction, the Price will be adjusted to reflect the additional costs incurred by us. Where a Price per unit has been quoted and you require a smaller number of units to be delivered than those quoted for, we reserve the right to adjust the Price per unit applicable.
- 6.10. You will indemnify us against all costs, losses, damages, expenses and liability including but not limited to all legal expenses and disbursements incurred by us in recovering, attempting to recover or taking advice in connection with the recovery of any amount which is due from you (whether or not recovery is successful) pursuant to these Conditions or otherwise.

7. DELIVERY & RISK

- 7.1. You shall provide a delivery address in writing.
- 7.2. We will advise you of any applicable delivery charge.
- 7.3. We will deliver the Goods to the address specified by you in your Order unless we have agreed to make them available for collection from another location.
- 7.4. If you fail to take delivery of the Goods on the date notified to you by us, or fail to provide any instructions or authorisations required to enable Goods to be delivered on time, the Goods will be deemed to have been delivered, and risk in the Goods will pass to you on the delivery date and (without prejudice to any other rights we may have) we may store the Goods until actual delivery or

sale and charge you for all related costs and expenses (including, without limitation, transportation, handling, storage and insurance).

- 7.5. We will endeavour to deliver the Goods to you in accordance with any dispatch date notified to you, or, if none is specified, within thirty (30) Working Days of you placing the Order with us or such alternative later date specified by you in your Order but you acknowledge that it may not always be possible to deliver the Goods within this timeframe and you agree that delivery of the Goods may take longer. Any dates or times for delivery of the Goods quoted by us are estimates only.
- 7.6. We shall not be liable if the Goods are not delivered within thirty (30) Working Days or for any failure to meet any estimated delivery date or for any costs, charges or expenses incurred as a result of any delay. You will not be entitled to refuse to accept any Goods or to cancel the Contract with us merely because of such failure unless any delay exceeds 180 days.
- 7.7. We shall be entitled to deliver in instalments. Where the Contract is to be or may be fulfilled in separate instalments, deliveries or parts, payment for each such instalment delivery or part will be made as if the same constituted a separate contract. Failure by you to pay for an instalment in accordance with this Condition will entitle us without prejudice to our other rights and remedies to suspend further deliveries of goods under any other contract we have with you, pending payment by you.
- 7.8. Failure by us to deliver any one or more (but not all) instalments in accordance with these Conditions will not entitle you to treat the Contract as repudiated.
- 7.9. Risk of damage to or loss of the Goods shall pass to you:
- 7.9.1. at the time of us handing the Goods to a third party if you arrange for the Goods to be collected by a third party carrier; or
 - 7.9.2. at the time the Goods are unloaded by our carrier or agent where transportation is arranged by us.
- 7.10. You will provide all appropriate equipment and manual labour for off-loading and loading the Goods.
- 7.11. Whether we or you arrange for the goods to be transported, the carrier shall be deemed to be your agent except for the purposes of sections 44, 45 and 46 of the Sales of Goods Act 1979.
- 7.12. Subject to Condition 12, we shall not replace any lost or damaged Goods after delivery.

8. PACKAGING

- 8.1. The manner of packing and transportation of the Goods shall be at our discretion. No liability shall be accepted for failure to pack to any particular standard, or against any particular risk unless the requirement for such packing is specifically brought to our attention, accepted in writing by us and paid for by you.
- 8.2. We may impose additional charges in respect of packaging we use for transportation and delivery of the Goods. Any such charges will be added to the Order and will be shown when you make an Order. For the avoidance of doubt, you agree that such additional charges will be levied in respect of Goods which are despatched in crates, drums, cases, pallets or other similar packaging and may be levied at our discretion in the case of any other packaging.
- 8.3. Where we charge for packaging pursuant to Condition 8.1, unless otherwise specified by us, you will be entitled to a full credit for such additional charges, to be credited against subsequent invoices, so long as such packaging is returned undamaged to us carriage paid within 14 days of the date of the delivery of the Goods.

9. RETENTION OF TITLE

- 9.1. Ownership of the Goods will not pass to you until we have received in full (in cash or cleared funds) all sums due to us in respect of the Goods and all other sums which are or which become due to us from you on any account.
- 9.2. Until ownership of the Goods has passed to you, you must:
- 9.2.1. hold the Goods on a fiduciary basis as our bailee;
 - 9.2.2. store the Goods (at your own cost) separately from all other goods owned by you or any third party so that they are identifiable as our property and clearly labelled as such;
 - 9.2.3. not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - 9.2.4. maintain the Goods in satisfactory condition insured on our behalf for their full Price against all risks without any deductible to our reasonable satisfaction. On request you will produce evidence of the policy of insurance to us;
 - 9.2.5. hold any proceeds of such insurance on trust for us separately from any other money, and not pay the proceeds into an overdrawn bank account or allow any such bank account to become overdrawn; and
 - 9.2.6. allow us access at any reasonable time to enable us to inspect the Goods and verify that you have complied with your obligations under this Condition 9.1.
- 9.3. You may resell the Goods before ownership has passed to you provided such sale is:
- 9.3.1. in the ordinary course of your business at full market value and you will account to us accordingly; and
 - 9.3.2. on your own behalf and you deal as principal when making such sale.
 - 9.3.3. If we cannot determine which goods are the Goods, you will be deemed to have sold all Goods sold by us to you in the order in which they were invoiced to you.
- 9.4. We will be entitled to recover payment for the Goods notwithstanding that ownership of any Goods has not passed from us.
- 9.5. We may while we are the owner of the Goods (and without prejudice to any other rights we may have under these Conditions) demand the immediate return of the Goods at any time and you will forthwith comply with such demand and bear the expenses for such return.
- 9.6. If you fail to return the Goods in accordance with Condition 9.4, you will be deemed to grant to us (or our successors in title for the Goods) and our respective employees and agents an irrevocable license to enter onto any premises where the Goods are or may be situated for the purpose of removing the Goods (the cost of doing so shall be borne by you) and to sell or otherwise deal with such Goods.

10. DUPLICATION OF ORDERS

- 10.1. Where Orders are sent by post, fax, email or submitted via a Website in confirmation of a telephone order, you must ensure that they are clearly marked as such, failing which any such confirmation will be treated as a separate Order and you will be obliged to pay for the Goods ordered by each means.

11. QUALITY

- 11.1. You acknowledge that we may not be the manufacturer of the Goods. Consequently, subject to Condition 14, we will not be liable for any defect in quality of any of the Goods, and our obligations in such respect will be restricted to applying our reasonable endeavours to:
- 11.1.1. transfer to you the benefit of any warranty or guarantee given to us in respect of the Goods, if requested by you, at your expense; or
 - 11.1.2. make and pursue any available claim under the terms of any warranty or guarantee as mentioned in Condition 11.1.1, subject to you paying all costs and expenses incurred on an indemnity basis in advance of them being incurred, and providing us with such security as we may in our absolute discretion require in respect of the defendant's costs that may become payable should we lose any dispute. In the event of a claim being made, we will promptly account to you (to the extent of your claim and subject to the deduction of an amount equal to any costs incurred in making and pursuing such claim which you have not already paid) for any proceeds resulting to you.
- 11.2. The Goods are not sold by description or sample.

12. DAMAGE IN TRANSIT AND SHORTAGES

- 12.1. The quantity of any consignment of Goods as recorded by us upon dispatch from our place of business shall be conclusive evidence of the quantity received by you on delivery, unless you can provide conclusive evidence to the contrary.
- 12.2. We will not have any liability for short delivery, loss or damage to Goods occurring prior to delivery or for non-delivery (even if caused by our negligence) unless claims to that effect are notified to us and our designated carriers within 48 hours of delivery (in the case of damage or short delivery) or within 48 hours of our invoice or advice note (in the case of non-delivery). Goods received in a damaged or unsatisfactory condition must be signed for as such and the packaging and contents must be retained for inspection, failure to do so will invalidate any claim.
- 12.3. Subject to Condition 12.1, our total liability for short delivery, loss or damage to the Goods prior to delivery, or non-delivery of the Goods, shall be limited to (in each case at our discretion) repairing or replacing free of charge Goods within a reasonable time, or refunding the Price at the pro rata Contract rate.

13. RETURNS

- 13.1. Goods correctly supplied may not be returned without our written agreement.
- 13.2. If Goods have been supplied other than in accordance with these Conditions, they must be rejected within twenty-four (24) hours of delivery (or deemed delivery), otherwise they will be deemed to have been accepted and have been supplied in accordance with these Conditions.
- 13.3. If returned Goods (or any of them) are dispatched and subsequently lost in transit the Company will not issue a credit note or refund (where one is due) unless and until the returned Goods arrive at the Company's premises.

14. LIMITATION OF LIABILITY

- 14.1. Nothing in these terms and conditions excludes or limits our liability:
- 14.1.1. for death or personal injury caused by our negligence; or
 - 14.1.2. for fraud or fraudulent misrepresentation; or

- 14.1.3. in respect of any breach of the warranty as to title implied by section 12 of the Sale of Goods Act 1979; or
 - 14.1.4. under section 2 Consumer Protection Act 1987 to the extent that liability cannot be lawfully excluded under section 7 of the same Act; or
 - 14.1.5. any other liability that cannot be lawfully excluded.
- 14.2. By ordering the Goods, you acknowledge that we may not be the manufacturer of the Goods (or all Goods) and it is therefore reasonable for us to limit our liability to you as set out herein.
- 14.3. All warranties, conditions and other terms implied by statute or common law (save for the condition implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 14.4. Subject to Condition 14.1
- 14.4.1. our total liability in contract, tort (including negligence or breach of statutory duty) misrepresentation, restitution or otherwise, arising in connection with the Contract will be limited to and shall not exceed (in respect of liability associated with defective Goods (if any), and subject to Condition 14.1, the unit Price paid for the relevant Goods, and in all other cases shall not exceed the Price paid for the Goods ; and
 - 14.4.2. we will not be liable to you for loss of use, loss of profit or anticipated profit, loss of business, loss of contracts, loss of overhead recovery, additional machining costs, loss of revenue or anticipated savings, any damage to your reputation or depletion of goodwill, any product recall or business interruption costs or any special, indirect or consequential loss or damage (even if we have been advised of such loss or damage) whatsoever and howsoever caused arising out of or in connection with the Contract.
 - 14.4.3. The provisions of this Condition 14 shall survive the termination or expiry (for whatever reason) of the Contract.

15. INTELLECTUAL PROPERTY RIGHTS

- 15.1. All Intellectual Property Rights relating to the Goods shall at all times be vested in and remain owned by us or our third party licensors.
- 15.2. You shall not use our name, logo or any other identification marks for the purpose of advertising or publicity without our prior written consent.

16. TERMINATION

- 16.1. Either we or you may, without prejudice to any rights or remedies that we or you may have against the other party, terminate our obligations under a Contract with immediate effect or (in our case) suspend future deliveries if on giving the other party written notice the other fails to comply with any material obligation hereunder and such failure has not been remedied within ten (10) days of written notification from the party requiring remedy.
- 16.2. We may terminate our obligations under a Contract immediately if:
 - 16.2.1. you fail to furnish us with any information or instructions required by us to fulfil any Order; or
 - 16.2.2. you enter into any compromise or arrangement with your creditors, or if an order is made or an effective resolution is passed for your winding up (except for the purposes of

- 16.2.3. amalgamation or reconstruction as a solvent company) or if a petition is presented to court, or if a receiver, manager, administrative receiver or administrator is appointed in respect of the whole or any part of your undertaking or assets; or you cease or threaten to cease to carry on your business; or
- 16.2.4. you are made bankrupt; or
- 16.2.5. you breach Condition 23.7 of these Conditions.
- 16.2.6. All outstanding sums shall be due immediately if the Contract is terminated by us for any reason detailed in this Condition 16.
- 16.2.7. Any terms and conditions which impliedly have effect after termination or expiry will continue to be enforceable notwithstanding termination or expiry.

17. THIRD PARTY CLAIMS AND INDEMNITY

- 17.1. You shall indemnify and keep us indemnified from and against any liability, penalty, costs, claims, damages, loss and/or expense incurred or suffered, whether or not foreseeable and howsoever arising:
 - 17.1.1. As a result of incorporating property in the Goods; or applying any patent, registered or unregistered design, copyright, trademark, trade name or design to the Goods; in each case on your instructions, suggestions or specifications, or complying with any other instruction of yours relative to the Goods; and/or
 - 17.1.2. In relation to any third party claims arising out from the use, installation, or dealing by you in the Goods (irrespective of whether or not they involve our negligence), except as a result of our fraud or wilful default; and/or
 - 17.1.3. As a result of your negligence, default or breach in respect of this or any other contract you may have with us.
- 17.2. You shall notify us forthwith of any claim made or action brought or threatened alleging infringement of the rights of any third party. We shall have sole conduct of any proceedings or claim. You shall provide us with all assistance in connection therewith as we shall request.

18. CANCELLATION OF AN ORDER

- 18.1. We reserve the right to refuse to accept any cancellation of an Order. In the event of any cancellation or other default by you, you must pay all costs, losses and expenses incurred by us prior to the date of cancellation, and you will indemnify us in respect of any third party claims arising directly or indirectly out of any such cancellation.

19. CERTIFICATION

- 19.1. If you require Goods from a quality assured source or certificates of conformity, or incompliance with certain standards, you must specify your requirements in writing at the time of placing the Order.

20. SAMPLES

- 20.1. Any samples provided to you at your request must be returned to us in good condition within ninety (90) days of receipt or such shorter period as we may specify. We may charge the market value of all samples not so returned. Such market value will be the market value on the date when the sample was due to be returned.
- 20.2. Samples provided by us shall be subject to these Conditions together with any applicable additional terms and conditions, rules and instructions.

20.3. Goods are not sold by sample or description.

21. EVENTS OUTSIDE OUR CONTROL

21.1. We shall not be liable to you or be deemed to be in breach of any Contract by reason of any delay in performing, or any failure to perform, any of our obligations in relation to the Contract if the delay or failure was due to any events outside of our reasonable control including without limitation a technical failure of the Internet, act of God, explosion, flood, fire, epidemic, accident, war, terrorism, sabotage, insurrection, civil disturbance, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority, import or export regulations or embargoes, industrial actions or trade disputes (whether involving our employees or those of a third party), inability to obtain or delay in obtaining supplies of adequate or suitable material, fuel, parts, machinery or labour.

22. CONFIDENTIALITY

22.1. You will keep the terms on which you buy Goods from us confidential and will not disclose such information to anyone other than your officers and employees who need to know the same, or as required by any order of a competent court or the rules of a regulatory authority.

23. GENERAL

23.1. We may assign (or hold on trust) the Contract or any part of it to any person, firm or Company. We may subcontract the performance of some or all of our obligations under the Contract.

23.2. You may not assign or hold on trust the Contract or any part of it.

23.3. No waiver by us of any breach of any Contract or these Conditions by you shall be considered as a waiver of any subsequent breach of the same or any other provision.

23.4. An entity which is not expressly a party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract or these Conditions.

23.5. If any provision of these Conditions or the Contract is found by any competent authority or a court of law to be invalid or unenforceable for any reason, the remainder of these Conditions and the Contract shall continue in full force and effect.

23.6. These Conditions and any Contract represent the entire agreement between us relating to the purchase of the Goods and supersedes all prior agreements, arrangements and undertakings between us relating to the Goods.

23.7. You shall:

23.7.1. comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Relevant Requirements");

23.7.2. not engage in an activity, practice or conduct which would constitute an offence under sections 1,2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

23.7.3. comply with the Company's anti-bribery policy in respect of which you has received a copy ("Relevant Policy");

23.7.4. have and shall maintain in place throughout the term of this agreement your own policies and procedures including adequate procedures under the Bribery Act 2010 to ensure compliance with the Relevant Requirements, Relevant Policy and Condition 23.7.1; and

23.7.5. promptly report to the Company any request or demand for any undue financial or other advantage of any kind received by you in connection with the performance of this agreement.

23.8. Breach of Condition 23.7.5, by you shall be deemed a termination event pursuant to Condition 16.2 of these terms.

23.9. For the purpose of Conditions 23.7 and 23.7.5 the meaning of adequate procedures shall have the meaning prescribed to those terms by the Bribery Act 2010 and any guidance issued under section 9 of that Act.

23.10. These Conditions and the Contract shall be governed by and construed in accordance with English law and shall be subject to the exclusive jurisdiction of the English courts.