

Auer Lighting GmbH General Terms and Conditions of Purchase

§ 1 Applicability, Form

(1) These Auer Lighting GmbH General Terms and Conditions of Purchase are applicable to all business relationships with our business partners and suppliers ("**Seller**"). They shall only be applicable if the Seller is a company (§ 14 BGB), a legal entity under public law or a special asset under public law.

(2) These Terms and Conditions of Purchase in particular shall apply to contracts for sale and/or supply of movable items ("**Goods**"), regardless of whether the Seller is the manufacturer of the Goods or has purchased them from suppliers (§§ 433, 650 BGB). Unless otherwise agreed, these Terms and Conditions of Purchase shall apply in the version valid at the time of our order and published on our Internet page (<https://www.auer-lighting.com/en/terms/purchasing>). They shall also apply as a framework agreement for future contracts of the same type even if not referenced separately as such by us.

(3) These General Terms and Conditions of Purchase shall apply exclusively. Any deviating, contrary or supplementary terms and conditions of the Seller will only be deemed to become a part of the contract if and to the extent we have consented in text form to the applicability of such. This requirement of our consent applies in all cases, even where we may have been aware of the Seller's terms and conditions at the time of a delivery and have accepted delivery from the Seller without reservation.

(4) Individual agreements with a Seller made on a case-by-case basis (including oral or supplementary agreements or amendments) will take precedence over these Terms and Conditions of Purchase. Notwithstanding other proof, a contract in text form or our confirmation in text form shall be sufficient as proof of such individual agreement.

(5) Declarations or notifications by the Seller which are of legal effect with regard to the contract (e.g. deadlines, warning/reminder notice, withdrawal) must be in written or text form (e.g. letter, e-mail, fax) to be valid.

§ 2 Valid Contract

(1) Our orders become binding only upon their submittal in text form or upon text-form confirmation by the Seller. In the event of obvious errors (e.g. typographical or calculation error) or incomplete orders, for instance if order documents are missing, the Seller will notify us for the purpose of correcting or completing the order prior to accepting it; otherwise the contract is not deemed to have come about.

(2) Unless otherwise expressly noted in our order, the Seller shall confirm our orders within three working days in text form or in particular by sending of the Goods without reservation (acceptance). A belated acceptance by the Seller is deemed a new offer and requires acceptance by us to be valid.

§ 3 Delivery Period / Delay in Delivery

(1) The delivery period indicated by us in our order is binding. If no delivery period is indicated in the order and has not been agreed elsewhere, the delivery period shall be two weeks from conclusion of the contract. The Seller agrees to inform us immediately in text form as soon as it is foreseeable that, for whatsoever reason, it will not be able to meet the agreed delivery period.

(2) If the Seller fails to perform within the agreed delivery period or delivery is delayed, our rights in the event – in particular with regard to withdrawal and damage compensation – shall be based on the applicable statutory provisions. The provisions of paragraph (3) below remain unaffected thereby.

(3) If the Seller is in delay with delivery, then in addition to further claims we may have under law, we may claim a lump-sum compensation for our damages due to the default, in the amount of 1% of the net price per completed calendar week – not to exceed 5% of the net price – of the Goods subject to the delay. We reserve the right to show proof of higher damages incurred.

§ 4 Performance, Delivery, Transfer of Risk, Accident Prevention, Labelling

(1) The Seller shall provide assembly and use instructions free of charge with the Goods. Alternatively, the Seller may provide us with the possibility of calling up the required documents by providing QR codes or readily accessible Internet links. For software products the Seller shall provide us with user documentation in addition to the program. For individual software the Seller shall additionally supply us with manufacturer's documentation and the source code, unless otherwise agreed on a case-by-case basis.

(2) Unless we have given prior consent in text form, the Seller may not have performance rendered by a third party (for instance, sub-contractor). The Seller bears the risk with regard to rendering of performance, unless otherwise agreed on a case-by-case basis (e.g. Sale subject to availability in stock).

(3) Delivery will be **DPU** (Delivered At Place Unloaded) per ICC Incoterms 2020 to the place indicated by us in the order. If no destination place is indicated and none has been agreed, delivery shall be on the basis of the above Incoterms to our place of business at Hildesheimer Straße 35, 37581 Bad Gandersheim, Germany. The place of destination is also the place of fulfilment for delivery and any subsequent performance in the same matter (discharge at creditor's domicile).

(4) In rendering performance the Seller bears sole responsibility for observing all regulations for job safety and prevention of accidents. Any protective equipment necessary for this as well as any instructions of the manufacturer in this respect shall be supplied to us free of charge.

(5) Delivery must include a delivery note indicating the date (date of issuance and date of shipping), contents of the delivery (article number and amount) as well as our order identification (date, number and item). If there is no delivery note or it is incomplete or incorrect, we will not be responsible for any delays in processing or payment resulting therefrom.

(6) The Seller shall ensure that all deliveries subject to labeling laws have been properly labeled and in particular indicate the customs tariff number and the number assigned from the German export list. The labelling must also be included in the order confirmations and shipping documents. In particular the contractor must indicate in such documents or invoices any items subject to customs approval or U.S. re-export regulations and inform us of the customs code number in addition to the export-list number.

§ 5 Prices and Payment Conditions

(1) The price indicated in the order is binding. All prices are understood to include legally valid VAT where this is not shown separately.

(2) Unless otherwise agreed on a case-by-case basis, the price shall include all performance and ancillary performance by the Seller (e.g. assembly, installation) as well as all ancillary costs (e.g. proper packaging, transport costs including transport and liability insurance).

(3) The agreed price is payable, without deduction, within 30 calendar days after full delivery and performance (including any handover/commissioning where agreed) and after receipt of an invoice in the proper form (including by e-mail). In the event we have made payment within 14 calendar days after receipt of the invoice, the Seller agrees to grant us a 3% early-payment discount. We are entitled to reject incorrect or incomplete invoices and to reduce the amount of payment under such invoice by a reasonable amount which takes into account additional expense incurred in checking the invoice.

(4) We will not owe interest on maturity [*Fälligkeitszinsen*, § 353 HGB]. In the event of delay in payment, the applicable statutory provisions will apply.

(5) We reserve the rights of offset and withholding as well as the defense of non-fulfillment of contract to the extent set out by law. In particular we are entitled to withhold due payments to the extent and as long as we have claims against the Seller due to incomplete or defective performance.

(6) The Seller shall have rights of offset or withholding solely on the basis of counterclaims against us which are undisputed or have been upheld by a court of law.

§ 6 Confidentiality and Reservation of Title

(1) We reserve title of ownership and copyright to all illustrations, plans, drawings, calculations, execution instructions, product descriptions and other documents. Such documents are solely to be used for purposes of performance under contracts with us and are to be returned to us immediately and without a need for request upon the end of the contract, unless the Seller has a right to assert withholding. The documents as well as our orders are to be kept confidential from third parties and are only to be used to carry out the order. This confidentiality obligation will only expire if and to the extent the knowledge contained in the provided documents has become public knowledge. Copying or reproduction of the above items is only allowed to the extent it is absolutely necessary to carry out an order placed by us.

(2) The above paragraph applies accordingly to raw materials and other materials (e.g. software, processed and semi-processed products) as well as for tools, samples, patterns and other items which we provide the Seller for manufacture. Up until the time they are processed into a product, such items shall be stored separately at the cost of the Seller and insured to a reasonable degree against destruction or loss.

(3) The Seller is deemed to process, commingle or combine (further process) items provided by us on our behalf. The same applies for our further processing of Goods delivered to us, so that we are deemed the manufacturer and acquire title to the Goods as set out by law at the latest upon further processing. If material provided is only a part of the newly made item, we acquire co-ownership to the new item in accordance with the share in it of the material provided by us.

(4) If the Seller, in order to process our order, produces technical documents, tools, drawings, industrial-standard documents etc , then the provisions under (1) above shall apply accordingly, i.e. we reserve title to such items and the Seller is deemed to keep such items on our behalf free of charge up to the time we demand their handover to us. If we only have a share in the manufacturing costs, we only acquire co-ownership to the items which the Seller is deemed to hold for us free of charge. We may however at any time acquire the Seller's rights regarding the items, upon compensation of those manufacturing costs not yet amortized, and may demand Seller handover to us the items.

(5) Title to the Goods will transfer to us without reservation and regardless of whether payment has been made. If however on a case-by-case basis we accept an offer by the Seller for transfer of ownership conditional upon payment of the purchase price, the Seller's reservation of title is deemed to expire at the latest at the time the payment for the delivered Goods is made. We reserve the right to further sell the Goods in the course of our regular daily business before payment for them has been made, whereby our claim for payment arising from such sale is assigned in advance to the Seller (alternatively, simple reservation of title, extended to further sale). Any and all other forms of reservation of title are excluded, in particular the

extended reservation of title, passing on of reservation of title to third parties or reservation of title extended to further processing.

(6) The Seller may only indicate the business relationship with us in its advertising material, brochures etc and/or exhibit Goods to be delivered to us, upon our prior written consent in text form. The Seller will pass on these obligations of this paragraph 6 to its own suppliers.

§ 7 Defect in delivery or performance

(1) For our rights in the event of legal or material defects in the Goods (including incorrect or incomplete delivery as well as improper assembly, improper instructions for assembly, operation or use) as well as in cases of other breach of duties by the Seller, the applicable statutory provisions shall apply, unless otherwise set out herein below.

(2) According to the applicable statutory provisions, the Seller is liable in particular for ensuring that the Goods have the contractually agreed features at the time of risk transfer. At the least those product descriptions will apply which have become a part of the contract – for instance by being listed or referenced in our order – or which have become a part of the contract in a manner such as these General Terms and Conditions of Purchase, regardless of whether the product description is from us, from the Seller or from the manufacturer.

For deliverables and performance, all laws and public-authority regulations in Germany but also in any export country which may deviate from these, as well in any country of destination as indicated by the Seller, must be observed. In addition to the laws and public-authority regulations of Germany, the Seller shall observe and abide by the recommendations of the competent German expert boards and trade associations such as VDE, VDI, DIN. Applicable certifications, test certificates and documentation in this respect must be supplied free of charge.

(3) In the event the Goods do not meet a quality threshold figure set by us, we are entitled to either reject the delivery entirely or – at the cost of the Seller – to have it 100% evaluated. If we return the defective Goods in full, we are entitled – regardless of the amount of expense incurred thereby – to charge back the full amount of the invoice plus compensation for our expenses in the amount of 5% of the price of the defective Goods. This compensation for expenses may not exceed EUR 550 net per return shipment made by us, whereby however we expressly reserve the right to show proof on a case-by-case basis that our expenses were higher. If, after an internal evaluation, we choose to further process defective Goods, we are entitled to charge the Seller a compensation for expenses in the amount of EUR 50 net for our expenses in such evaluation and communications, or to deduct this amount from the Seller's invoice. In this respect as well we reserve the right to show proof that our expenses were higher.

(4) The provisions of law (§§ 377, 381 HGB) apply with regard to the merchant's duty to inspect deliveries and notify of defects, with the following proviso: Our duty to inspect deliveries is limited to defects which are recognizable through an external examination under our control checks of delivered items, including delivery documentation (e.g. damage in shipping, incorrect or incomplete delivery) or through our spot-checking process under our quality control. Where an acceptance procedure has been agreed, we will have no duty of inspection. In all other respects, it will depend on to what extent an inspection in the daily course of business is capable of discovering defects, taking into account the circumstances of the individual case. Our obligation to notify of defects in the event of defects discovered later remains unaffected thereby. Notwithstanding our obligation of inspection, any defect notification sent by us will be deemed to have been immediate and within the proper time periods if it is sent within 10 working days after the delivery or after the defect was discovered in the case of non-obvious defects.

(5) The subsequent performance of the Seller in the case of defects includes de-installation of the defective Goods and new installation if the Goods were installed in or attached to another thing in accordance with their type and purpose. Our claims to compensation of our expenses in this respect as set out by law remain unaffected. Any expenses incurred for inspection/testing and subsequent performance by the Seller shall be borne by the Seller, even it is subsequently found that there was no defect. Our liability for damages in the event of an unjustified demand on our part for removal of defect remains unaffected; we will however only be liable to the extent that we were aware – or were not aware due to gross negligence on our part – that there was in fact no defect.

(6) Notwithstanding our rights under law and the provisions of paragraph 5, the following applies: If the Seller has not fulfilled its obligation of subsequent performance – at our discretion either by removal of the defect (repair/defect rectification) or by supply of non-defective Goods (replacement delivery) – within a reasonable period set by us, we may have the defect removed ourselves, whereby the Seller is liable for compensation for the expenses incurred by us and/or may be required to pay an advance against such expenses. If the Seller's subsequent performance fails to rectify the defect or cannot reasonably be expected to be accepted by us (e.g. due to urgency, hazard to safety at our place of business or imminent further disproportionate damage) we are not obligated to set a deadline period prior to removing the defect; in such an event we will inform the Seller immediately of the circumstances, if possible prior to beginning removal of the defect.

(7) In deviation from § 442 subsec. 1 sentence 2 BGB, our claims under law will not be limited or excluded if we did not become aware of a defect *in contrahendo* due to gross negligence on our part. In all other respects our right to reduce the purchase price or withdraw from the contract in the event of material or legal defects will be in accordance with the applicable

statutory provisions. We will also have the rights set out by the statutory provisions regarding claims to damage compensation and compensation for expenses.

§ 8 Recourse against suppliers

(1) We reserve full rights of recourse as set out by law within a supply chain (recourse against suppliers, §§ 445a, 445b, 478 BGB), in addition to claims for defects. In particular we are entitled to demand from the Seller the exact same choice of subsequent performance (repair/defect rectification or replacement delivery) which we in turn owe our purchaser. Our right to choose in this respect as set out by law (§ 439 subsec. 1 BGB) is not limited thereby.

(2) Before we acknowledge or fulfill defect claims asserted by our purchaser (including claims for compensation of expenses under §§ 445a subsec. 1, 438 subsec. 2 and 3 BGB), we will inform the Seller of the circumstances including a brief description and ask for Seller's response in text form. If Seller does not provide a substantiated response within a reasonable period and no mutually acceptable solution is brought about, then the defect-warranty claim as actually granted by us will be deemed to be owed to our purchaser. The Seller in such a case will bear the burden of proving otherwise.

(3) Our claims based on recourse against suppliers will also apply if the defective Goods have been further processed, e.g. through installation in another product.

§ 9 Manufacturer's liability

(1) If the Seller is at fault for product damage, the Seller shall indemnify us in this respect against claims of third parties to the extent the cause of the damage lies in its sphere of organization and control and to the extent the Seller itself is liable toward third parties.

(2) Under this indemnification obligation, the Seller will be liable for reimbursement of expenses as set out by §§ 683, 670 BGB which arise from or in connection with claims by third parties, including recalls which must be carried out by us. We will inform the Seller regarding content and extent of any recalls to the extent possible and which may reasonably be expected of us, and will give the Seller the opportunity to respond. Further claims under statutory provisions remain unaffected thereby.

(3) The Seller shall take out and maintain extended product-liability insurance with a lump-sum coverage of at least EUR 10 million per incident of personal/property damage.

§ 10 Expiry period for claims

(1) Mutual claims of the contractual parties will expire in accordance with the statute of limitations unless otherwise set out below.

(2) In deviation from § 438 subsec. 1 no. 3 BGB, the general limitation period for defect claims will be 30 months from the time of transfer of risk. Where an acceptance procedure is agreed, the limitation period will begin upon such declaration of acceptance. The 30-month limitation

period will also apply accordingly for claims based on legal defects, whereby the statutory limitation period for in-rem claims for return of property by third parties remains unaffected (§ 438 subsec. 1 no. 1 BGB). In addition thereto, our claims based on legal defects will not expire for as long as the third party can still assert the right against us, in particular due to their limitation period not having expired.

(3) The limitation period set out by sales law including the above extended periods shall apply to the extent allowed by law for all contractual claims of defect. To the extent we have non-contractual claims for damage compensation, the regular statutory limitation period shall apply (§§ 195, 199 BGB) unless the limitation period under the sales law sets out a longer limitation period.

§ 11 Applicable Law and Place of Jurisdiction

(1) These General Terms and Conditions of Purchase and the contract relationship between ourselves and the Seller are governed by the laws of the Federal Republic of Germany, ousting international harmonized laws, in particular the CISG.

(2) If the Seller is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law or a special asset under public law, then the sole place of jurisdiction, including international jurisdiction, for all disputes arising from the contract shall be our business domicile at Bad Gandersheim. This also applies if the Seller is a company within the meaning of § 14 BGB. In any case however we may also file suit at the place of fulfillment of a delivery obligation under these Terms and Conditions of Purchase or under another individual agreement taking precedence over it, or at Seller's general place of jurisdiction. Laws which take precedence over this provision, in particular with regard to exclusive jurisdictions, remain unaffected.

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