

## **GENERAL SALES CONDITIONS DR. FISCHER EUROPE**

### **1. SIGNATURE OF THE CONTRACT**

#### **1.1 Scope.**

In compliance with the article L 441-6 of the French Commercial Code (Code du Commerce), these general terms and conditions of sale shall constitute the sole basis of the commercial relationship between the parties. These general terms and conditions of sale are intended to define the terms and conditions for the sale of special lamps and luminaires (the "**Products**"), supplied by DR FISCHER EUROPE SAS (the "**Seller**") to any buyer (the "**Buyer**") that requests them through direct, written, or electronic contact. Any contractual relationship (orders, deliveries, prices, payment terms, etc.) concerning the sale of the Products shall imply the Buyer's irrevocable acceptance without reserve of these general terms and conditions of sale (the "**Terms**"), which shall prevail over any other document from the Buyer, including any general terms and conditions of the Buyer, which shall only be considered valid if the Seller expressly accepts them in advance and in writing. In accordance with current regulations, these Terms shall be systematically communicated to any Buyer upon request, to enable it to place orders from the Supplier. In the event of a contradiction between any special written agreements between the Seller and Buyer and the Terms, the special written agreements shall prevail over the Terms.

#### **1.2 Territory.**

These Terms shall apply throughout the world to all contractual relations between the Seller and Buyer, independently of the nationality of the Buyer or of the location where the sale is concluded.

#### **1.3 Exceptions.**

In accordance with current regulations, the Seller reserves the right to waive certain clauses of these Terms, based on negotiations conducted with the Buyer, by establishing special terms of sale.

#### **1.4 Catalogues and Pricing.**

Information listed in the Seller's catalogues, commercial documentation and price lists is given purely for information purposes and therefore is not contractually binding. These documents may be revised at any time without advance notice from the Seller.

#### **1.5 Estimates.**

An estimate or a commercial proposal from the Seller shall not constitute a firm offer, and the Seller shall reserve the right to retract or modify any estimate before the Seller expressly accepts the Buyer's order.

#### **1.6 Errors – Omissions.**

The Seller may correct any material errors or omissions in commercial proposals, sales documents, estimates, price lists, offer acceptances, invoices, or other documents or information issued by the Seller without incurring any liability therefore.

### **2. SPECIFICATIONS – PRODUCTS – QUANTITY – QUALITY**

#### **2.1 Changes to Product Specifications.**

The Seller shall reserve the right to make any changes to the specifications of the Products that may be required for compliance with any legal obligation arising from applicable laws in the United States, Germany, France, and/or the European Union.

Unless the Seller specially agrees in writing, any descriptive or shipping specification, design, or weight and dimensions issued by the Seller shall only be approximate and shall be intended to provide a general idea of the Products to which they relate and shall not be any part of any contract.

### **2.2 Advice from the Seller.**

Any advice, Product descriptions, or instructions for using the Products issued by the Seller or its authorized representatives shall have no contractual value, are based on experience and on the current state of the Seller's knowledge, and are provided to the Buyer only for informational purposes. The Buyer must seek its own information on the suitability of the Products for the planned use. The Buyer must notify the Seller of any special constraints.

## **3. ORDERS - PRICING**

### **3.1 Conclusion of the Sale.**

Sales shall only be final and binding after the Seller expressly accepts the Buyer's order in writing with an order's confirmation. Orders must be placed in writing, using a purchase order duly signed by the Buyer, unless otherwise expressly agreed by the Seller.

### **3.2 Pricing.**

The Products shall be invoiced at the price indicated by the Seller to the Buyer on the order's confirmation, or if no price is indicated, in accordance with the Seller's price lists in force at the time of delivery. The Seller may modify the price lists at any time after having duly notified the Buyers of this before they place their orders. The modified price lists shall take effect on the date indicated on the new lists.

### **3.3 Incoterms.**

Unless otherwise specifically agreed, all prices given by the Seller shall be understood to be "Ex-Works from the Seller's plant" in accordance with the Incoterms 2010 of the I.C.C.; should the Seller accept to deliver the Product other than at its plant, the Buyer shall cover the Seller's shipping, packaging, and insurance expenses.

### **3.4 Duties and Taxes.**

Unless otherwise specifically agreed, the Buyer shall pay all duties, taxes, customs fees, or charges that the Seller must pay or that it must collect now or in the future, established by any government authority or agency, foreign or local, concerning the sale, purchase, production, handling, storage, delivery, shipping, use, or consumption of any Product or service covered by these Terms, including any duty on income from sales and services or determined in relation to them, as well as all charges of this type that the Seller may add as separate items on the Seller's invoice. All prices shall be understood to be exclusive of such charges.

## **4. PAYMENT**

### **4.1 Invoices.**

The payment deadline shall be agreed upon by the parties and indicated on the order's confirmation and on the invoice. Otherwise, the maximum payment deadline shall be 30 net days from the date the invoice is issued.

Invoices must be paid in the currency listed on the order's confirmation and on the invoice, free of charges or currency exchange fees, without compensation or deductions.

### **4.2 Late Payment.**

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If the sums owed by the Buyer are paid after the deadline set on the invoices, or in the event of serious doubt concerning the Buyer's solvency or ability to pay, the Seller may, without advance formal notice:

- i) Suspend upcoming shipments,
- ii) Require any guarantee or advance payment for upcoming shipments,
- iii) Block the handover of Products that have already been shipped.

In the event of a failure to comply with the payment terms listed above, the Seller shall also reserve the right to:

- i) Suspend production and/or delivery of the Products,
- ii) Reduce or cancel any potential discounts granted.

#### **4.3 Documentary Credit.**

In the case of export sales, the Seller may require the establishment of an irrevocable documentary credit with a European Bank of international reputation at no additional cost to the Seller.

#### **4.4 Compensation.**

Additionally, a lump-sum compensation for collection fees, in the amount of 100 euros or its equivalent in foreign currency, shall be due by right and without advance notification by the Buyer in the event of late payment.

The Seller may also:

- i) Invoice late payment interests of 10 points above the European Central Bank interest rate on the unpaid balance,
- ii) Invoice late payment interests of 10 points above the European Central Bank interest rate in the event of failure to pay by the payment deadline.

### **5. REBATES - DISCOUNTS - REFUNDS**

The Buyer may receive rebates or refunds on the Seller's price lists, based on quantities of Products purchased or delivered by the Seller at one time to a single location, or for regular orders of the Buyer.

### **6. DELIVERY**

#### **6.1 Carrier.**

Unless otherwise specially agreed in writing, deliveries shall be made Ex-works Seller's plant. Therefore, the Products shall be transported by the Buyer's carrier, at the Buyer's expense and risk, according to the mode and itinerary selected by the Buyer.

#### **6.2 Delivery Dates and Delays.**

The delivery dates indicated by the Seller on the order's confirmation are indicative and shall be given for informational purposes only. The Seller shall not be liable for any delays in delivering the Products. Also, the Seller may not be held liable for delays or suspensions of delivery due to the Buyer or to force majeure events. Failure to deliver the Products at the date indicated by the Seller may not incur any payment of penalties or compensation or justify termination of the order.

If the Seller delivers the Products before the agreed date, the Buyer may not refuse to accept delivery.

#### **6.3 Split Deliveries.**

When the Products are to be delivered in split deliveries, each partial delivery shall constitute a separate contract and the Seller's omission of one or more deliveries in accordance with these Terms or in the event of a claim issued by the Buyer

concerning one or more partial deliveries, the Buyer shall not be authorized to terminate the entire contract.

#### **6.4 Packaging.**

The Products shall be packaged in accordance with applicable standard practices. Any special requests regarding the packaging of the Products shall be subject to advance written approval from the Seller, and the Buyer shall pay any additional costs incurred by such special request.

### **7. TRANSFER OF RISKS - SHIPPING - TRANSFER OF OWNERSHIP**

#### **7.1 Transfer of Risks.**

The risks of loss or damage to the Products shall be transferred to the Buyer at the time the Products are handed over to the Buyer or its carrier on the Seller's premises, in accordance with the Ex-Works Incoterms (Incoterms 2010 of the ICC). The Buyer shall be responsible for obtaining and paying for any insurance on the Products.

If the Products are ready for transport and if shipment or acceptance of the Products is delayed for reasons that cannot be attributed to the Seller, the transfer of risks shall take place at the time the Buyer receives notice that the Products are available for shipment. If the Buyer does not take possession of the Products following a formal notice to execute that has remained without action, the Seller may - without prejudice to any damages that it may claim - require execution of the contract or consider the sale to be terminated.

#### **7.2 Insurance.**

The Buyer shall be responsible for purchasing and paying for any desired insurance. The Seller shall only purchase transport insurance in the event of a written request from the Buyer and at the Buyer's expense.

#### **7.3 Transfer of Ownership.**

Notwithstanding the delivery and transfer of risks for the Product, the transfer of ownership of the Products to the Buyer shall only take place after full payment of the price, regardless of the payment or delivery date.

i) The Buyer shall not have the right to pledge the Products or to create any lien or encumbrance over the Products or create other type of security interests to guarantee any indebtedness. The Buyer must keep the Products as a trustee for the Seller or as a guarantor. The risk of loss and damage shall be transferred to the Buyer upon delivery of the Products ordered. The Buyer must keep the Products separate from its own products and those of third parties, store them properly, protect them, insure them, and clearly identify them as the Seller's property. The Buyer shall be liable for all risks of loss, damage, or deterioration caused to the Product, occurring for any reason whatsoever, after delivery of the Product to the Buyer.

ii) Until full payment of the price by the Buyer, the Seller shall reserve a right of ownership to the Products sold, enabling it to take possession of said Products. Any advance paid by the Buyer shall be forfeited to the Seller as a lump-sum compensation, without prejudice to any other action that it may bring against the Buyer.

iii) If the Buyer uses the Product as part of a manufacturing process for itself or a third party, the Buyer must hold the parts in trust for the Seller as part of the manufacturing process.

### **8. WARRANTY - CLAIMS - LIABILITY LIMITATIONS**

**8.1 Non-Conformity.**

The Seller must guarantee that the Products delivered conform to the agreed specifications in place at the time the contract was signed.

Any claim or dispute concerning non-compliance of the Products shall be made by the Buyer by registered letter with acknowledgement of receipt sent to the Seller's registered office or, by email with acknowledgement of receipt sent to his Key Account Manager with relevant pictures within 5 days of their delivery. If the Buyer does not state any reservations concerning the non-conformity of the Products at the time of delivery or within the 5-day period, it shall be deemed to have entirely accepted them and may no longer make any claims or demands whatsoever concerning the Products.

**8.2 Guarantee of Peaceful Possession.**

In accordance with article 1627 of the French Civil Code, the Seller does not guarantee the Buyer's peaceful possession of the Products.

**8.3 Hidden Defects.**

The Seller warrants the Products against hidden defects for a period of one year from their delivery date. The Seller must be notified of any claim or dispute concerning a hidden defect by a registered letter with acknowledgement of receipt sent to the Seller's registered office or, by email with acknowledgement of receipt sent to his Key Account Manager with relevant pictures, within 7 days of the discovery of the hidden defect.

**8.4 Exclusion of Liability for Acts that Cannot be Attributed to the Seller.**

The Seller may not be held liable for defects in the Products resulting from a design, a model, or a specification provided by the Buyer to the Seller. The Seller may not be held liable for defects resulting from normal wear and tear, willful damage, negligence, abnormal operating conditions, improper handling or use, force majeure events, third party intervention (inappropriate installation, excessive use, voltage fluctuations), failure to comply with the Seller's instructions (whether oral or written), or modifications or repairs to the Product without express prior approval from the Seller.

**8.5 Compensation.**

If the Buyer evidences the non-conformity of the Product and the Seller acknowledges this, provided that the Buyer notified the Seller in the manner and by the deadlines set out above, the Seller shall repair the products, replace them or, issue a credit note, at its discretion. Replacement of the Products or defective parts shall not extend the warranty set out above. The Buyer shall not have the right to terminate the contract or receive damages.

**8.6 Exclusion of Liability for Indirect Damages.**

NOTWITHSTANDING ANY OTHER TERMS WITHIN THESE TERMS, THE SELLER'S LIABILITY FOR ANY POTENTIAL INDIRECT, NON-CONSECUTIVE, PUNITIVE OR INCIDENTAL DAMAGES, AND IN PARTICULAR LOSS OF PROFIT, OPERATING LOSSES, OR LOSS OF PRODUCTION BY THE BUYER, IS EXPRESSLY EXCLUDED. MOREOVER, THE WARRANTIES DESCRIBED ABOVE ARE THE SOLE AND ONLY WARRANTIES GRANTED BY THE SELLER CONCERNING THE PRODUCTS. ANY OTHER WARRANTIES, SURETIES, OR DECLARATIONS OF ANY KIND (WHETHER EXPLICIT OR IMPLICIT, WHETHER RESULTING FROM THE LAW OR AN AGREEMENT – INCLUDING THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS) ARE EXPRESSLY EXCLUDED.

**8.7 Liability Limitation.**

NOTWITHSTANDING ANY OTHER TERMS WITHIN THESE TERMS, THE SELLER'S LIABILITY FOR ANY ORDER FOR PRODUCTS SHALL BE LIMITED IN ALL CASES TO THE AMOUNT OF THE ORDER TO WHICH THE BUYER'S CLAIM RELATES.

## **9. FORCE MAJEURE**

**9.1** The Seller shall not be held liable for any failure to execute or delay in executing the delivery due to the occurrence of any external, irresistible, and unforeseeable event.

In particular, Force Majeure shall include the occurrence of any of the following events:

- i) War, armed conflicts or the serious threat of armed conflict, hostilities, invasions, acts by foreign enemies, major military mobilizations;
- ii) Civil wars, riots, revolutions, rebellions, military force or usurpation of power, insurrections, social disorder or chaos, mob violence, acts of disobedience against Government authority;
- iii) Acts of terrorism, sabotage, or piracy;
- iv) Government acts, submission to any laws or orders, rules, regulations, or directives issued by a Government, curfews expropriation, plundering, property seizures, requisitions, government takeovers, import-export regulations or embargoes, currency exchange control measures;
- v) Disasters, plagues, epidemics, natural catastrophes, violent storms, tornadoes, earthquakes, landslides;
- vi) Explosions, fires, destruction or machinery, equipment, factories, and all types of facilities;
- vii) Widespread social conflicts, public unrest, boycotts, strikes and lockouts, occupation of factories and premises, accidents, industrial actions or sales disputes, any acts outside the reasonable control of the party involved;
- viii) Lack of transport resources, shipping delays, inability to obtain raw materials, restrictions or inability to obtain sufficient electricity.

**9.2** The party invoking this clause shall be temporarily released from its duty to execute its contractual obligations as of the moment the case of force majeure prevents such execution, provided that the other party has been notified as soon as reasonably possible. This temporary release shall last as long as the case of force majeure.

The party invoking the occurrence of such an event must make all reasonable efforts to mitigate the consequences of the difficulty and to remedy the situation as rapidly as possible.

The party invoking this clause shall be required to take all reasonable measures to limit the effects of the obstacle or event invoked on the execution of its contractual obligations.

The event claimed to invoke the clause on force majeure, should it substantially deprive the Seller of what it might reasonably expect from the contract, shall authorize the Seller to terminate, reduce, or modify its deliveries to the Seller by notifying the other party of the termination within a reasonable time frame, without being held liable. If the case of Force Majeure lasts for more than 3 months, the Seller shall have the right to cancel all or part of the order without any obligation to the Buyer.

## **10. INSOLVENCY**

This contract may be terminated early in the event of insolvency, liquidation or restructuring of either party under current laws or regulations, subject, where applicable, to the application of local provisions or public orders.

## **11. INTELLECTUAL PROPERTY**

### **11.1 Ownership of designs and models.**

All specifications, sketches, designs, models or other technical information, data, tools, molds, overlays, testing equipment, software, and any other objects designed, provided, or created by the Seller within the framework of the execution of the order placed by the Buyer shall remain the exclusive property of the Seller; no right, title, or license to any such component or model shall be granted to the Buyer through this document.

### **11.2 Seller's Intellectual Property.**

- i) The Seller shall keep all industrial and intellectual property rights to the Products, plans, designs, models and documentation of any kind.
- ii) If the Products sold by the Seller are subject to legal action for infringement of intellectual property rights or for patent infringement, the Seller may, at its sole discretion and at its own expense:
  - Grant the Buyer the right to continue using the Product,
  - Modify the Product so that it is no longer infringing,
  - Replace the Product with a Product that does not infringe upon the patent,
  - Withdraw the Product and reimburse the Buyer for the purchase price paid.
- iii) The Buyer shall accept to defend and shall compensate the Seller for any legal action brought by a third party against the Seller if the subject of said legal action is the violation of intellectual property rights, the violation of any inventions whether patented or not, or the violation of trade secrets concerning:
  - Any use of the Products by the Buyer or its customers, in particular the use of Products alone or in combination with other components,
  - The Products supplied or methods used by the Seller, in accordance with specifications or instructions provided expressly or implicitly by the Buyer,
  - Any illegal use of the Products by the Buyer, or any use going beyond their specifications.

## **12. APPLICABLE LAW AND JURISDICTION**

### **12.1 Applicable Law.**

The parties expressly agree that these Terms and all the Seller's sales transactions involving the Products shall be exclusively governed by the French law.

### **12.2 Jurisdiction.**

All disputes to which these Terms may give rise, in particular concerning their validity, interpretation, execution, termination, consequences, and after effects shall be exclusively submitted to the Commercial Court of Nancy, France.

## **13. FINAL PROVISIONS**

### **13.1 Non-waiver by the Seller.**

No waiver by the Seller of claiming any violation of the Terms or the contract by the Buyer may be considered as a waiver by the Seller to claim any other violation of the same or another provision.

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**13.2 Transfer.**

The Buyer may not transfer or assign any of his rights or obligations stemming from the Terms or the contract without prior written approval from the Seller.

**13.3 Severability.**

If any provision in these Terms is voided in its entirety or in part, the validity of the remaining provisions shall not be affected. In such a case, the parties must, if possible, replace the voided provision with a valid provision matching the spirit and purpose of these Terms.