

These Terms and Conditions of Sale apply to sales by eldoLED B.V. ("eldoLED") within Europe and globally. These Terms and Conditions of Sale exclude shipments within and to the United States, Canada or Mexico.

#### PAYMENT TERMS:

Purchaser agrees to pay the prices quoted by eldoLED and is responsible for applicable shipping and handling charges, taxes and duties as provided below. Unless otherwise agreed upon by eldoLED in writing, payment terms for sales by eldoLED of eldoLED products are net 30 days from the invoice date.

If purchaser, in spite of a written demand containing a term of payment of at least seven (7) days, does not fully fulfill its obligations, eldoLED may exercise a right of retention with regard to the products and the funds of purchaser, which means that purchaser will no longer have a right to delivery of the products.

#### PRICES:

The prices quoted are in Euros, or in another currency if stated by eldoLED in writing. Purchaser shall bear any exchange rate risk, unless otherwise agreed in writing. All prices are those in effect at the time of quotation and are subject to change without notice. Unless prices are quoted as "firm," eldoLED reserves the right to invoice at the prices in effect on the date of shipment. eldoLED reserves the right to require minimum order amounts. Prices exclude all taxes.

#### FREIGHT:

All orders (regardless of size or price) will be shipped EXW (INCOTERMS 2020) at eldoLED's office, freight to destination prepaid and invoiced with the order. eldoLED will ship in the manner selected by purchaser provided purchaser assumes any additional transportation costs. If purchaser requests eldoLED to delay shipping all or any portion of an order beyond its scheduled shipment date, eldoLED may impose a service charge of €22 per pallet per day. eldoLED is entitled to make partial deliveries.

#### TAXES:

Purchaser has responsibility for paying and reporting all applicable taxes levied or based on account of the purchase price or the acquisition, ownership, license or use of the products.

#### TRANSPORTATION CLAIMS:

Title and risk of loss passes to purchaser upon delivery of products by eldoLED to the carrier. Therefore, claims for damages or shortages in transit are the responsibility of purchaser. Bills of Lading marked with "Shippers Load and Count" do not constitute a transfer of liability for the freight or damages from purchaser to eldoLED.

#### RISK OF LOSS; TRANSFER OF TITLE:

Risk of loss or damage of products shall pass to purchaser at the moment of delivery EXW (INCOTERMS 2020), even if eldoLED has not yet transferred the ownership thereof. Title to products will transfer to purchaser immediately after the full purchase price has been received by eldoLED, provided that purchaser is not otherwise in default of these Terms and Conditions of Sale.

#### PACKAGING:

eldoLED reserves the right to optimize packaging at its discretion. Some products may only be available in bulk package multiples or case quantities.

#### SERVICE AREA LIMITATION:

eldoLED reserves the right to refuse to make quotations, accept orders or make shipments to points of destination outside of the regular or assigned selling and service area of the applicable eldoLED distributor.

#### RETURN OF STOCK MERCHANDISE:

No merchandise may be returned without prior written authorization from eldoLED. Requests to return merchandise must be made within four (4) months from date of shipment by eldoLED. All returns must be shipped prepaid to the location designated on the return authorization. Credit will be issued based on the original invoice price, or price in effect at time of return, whichever is lower, less a minimum disposition charge of 35% (to defray the cost of handling). All returned product must be in salable condition in order to qualify for credit. Return authorization will not be granted when the value of all items to be returned is less than €300.

#### NON-RETURNABLE MERCHANDISE:

The following products are not returnable: all non-stock, special, custom made or modified products; all stock products containing time-sensitive components that have reached the end of their warranty or shelf life; and clearance and limited-availability products.

#### CANCELLATIONS:

Orders for stock products may be cancelled prior to shipment without charge. Cancellation of any order for non-stock products will incur charges for work already performed and for special material purchased by eldoLED. Cancellation of any product order after shipment will be subject to the return provisions of these Terms and Conditions of Sale.

#### LIMITED WARRANTY:

Statements of the limited warranties provided by eldoLED for eldoLED products are available at <https://www.acuitybrands.com/support/warranty/terms-and-conditions> under Product Warranties.

#### LIMITATION OF LIABILITY:

The total liability of eldoLED on any and all claims of any kind, whether in contract, warranty, tort (including negligence), strict liability or otherwise, arising out of or in connection with, or resulting from, eldoLED's sale, delivery, resale, repair, or replacement of any products, shall in no event exceed the purchase price allocable to the specific product which gives rise to the claim, and any and all such liability shall terminate upon the expiration of the applicable warranty period.

eldoLED shall not be liable for damages that result from the delivery of products that do not occur within purchaser's specified time frame or for any delay or default in delivering products where occasioned by any cause beyond the control of eldoLED, including without limitation embargoes; shortages of labor, raw materials, or fuel; fires; floods; accidents; acts of war; or other similar causes.

IN NO EVENT SHALL ELDOLED BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF THE SALE OF ANY PRODUCTS, OR ANY BREACH OF WARRANTY OR OBLIGATIONS UNDER WARRANTY, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER AS THE RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER THEORY, INCLUDING WITHOUT LIMITATION LABOR OR EQUIPMENT REQUIRED TO REMOVE AND/OR REINSTALL ORIGINAL OR REPLACEMENT PARTS, LOSS OF TIME, PROFITS OR REVENUES, LACK OR LOSS OF PRODUCTIVITY, INTEREST CHARGES OR COST OF CAPITAL, COST OF SUBSTITUTE EQUIPMENT, SYSTEMS OR SERVICES, DOWNTIME COSTS, LOSS OR CORRUPTION OF DATA, LOSS OF USE OF PROPERTY OR EQUIPMENT, OR ANY INCONVENIENCE.

#### INTELLECTUAL PROPERTY:

All intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), models, trademarks, service marks, trade secrets, know-how and other confidential information, trade dress, trademarks, trade names, and logos, together with all of the goodwill associated therewith, derivative works and all other rights in and to all documents, work product and other materials that are delivered to purchaser or prepared by or on behalf of eldoLED in the course of providing the products (the "Deliverables"), including any related software that may be already installed in or included with the products (the "Software"), shall be owned by eldoLED. Purchaser does not acquire any right, title or interest in the Deliverables except the limited and temporary right to use them as necessary solely in connection with purchaser's use of the applicable products. There are no implied licenses. No Software is sold, and all Software is protected by international intellectual property laws and treaties. Such Software may be subject to additional terms and conditions that may become applicable when the end user installs or accepts the Software or part of a written agreement between eldoLED and the end user. Neither the products nor the Deliverables may be loaned or rented, nor may access be provided to the Software, for a fee or otherwise, to any third party. The Software may be permanently transferred, but only as part of a sale or transfer of the products, provided that no copies are retained, all Software is transferred, and such sale is subject to the applicable terms of these Terms and Conditions of Sale. No product, Deliverables or Software shall be duplicated, reverse engineered, or decompiled by anyone other than eldoLED except and only to the extent this restriction is prohibited by law. Purchaser may not, and may not enable or allow third parties to, remove any copyright, trademark or other proprietary rights notices on Products, including Software. Purchaser may become aware of trade secrets, know-how and other information of eldoLED, within the Deliverables or in connection with the delivery by eldoLED of the products, that would reasonably be understood to be confidential under the circumstances ("Confidential Information"). Purchaser (i) must use the same care and discretion as it employs with its own confidential and proprietary information (but in no event less

than reasonable care and discretion) to maintain in confidence, and prevent disclosures of, the Confidential Information, and (ii) must not use the Confidential Information except in connection with its use of the applicable products.

#### PATENT INDEMNITY

eldoLED, at its own expense, shall defend any suit brought against purchaser to the extent that it is based upon a claim that eldoLED products, as such in isolation, directly infringe any third party's patents in the country where the eldoLED products are delivered by eldoLED, and eldoLED shall indemnify purchaser against any final award or agreed-upon settlement of damages or reasonable costs in such suit that are specifically attributable to claimed infringement by the eldoLED products. This indemnity is conditional upon purchaser giving eldoLED prompt notice in writing of any suit for such infringement, full authority at eldoLED's sole discretion to settle or to conduct the defense thereof, sole control of the defense, and full assistance and co-operation in said defense. No cost or expense shall be incurred on behalf of eldoLED without its written consent. This section states the entire liability of eldoLED with respect to any claim of infringement.

In the event that eldoLED products are held to constitute infringement by a court of law, eldoLED at its own election and its own expense may either (i) procure for purchaser the right to continue the application of eldoLED products and/or the use of eldoLED products, (ii) replace the eldoLED products with other suitable products or (iii) modify eldoLED products to make them non-infringing.

It is purchaser's sole responsibility to obtain all necessary approvals and licenses before using and applying the eldoLED products. Some uses and applications of eldoLED's products may only be allowed after prior approval of third parties who may have proprietary rights covering a specific use or application. eldoLED shall not be obligated to defend against, and shall not be liable for, infringement of any patent claim covering any such uses or applications.

eldoLED also shall not be obligated to defend against, and shall not be liable for (i) infringement of any patent claim covering combinations of eldoLED products with any other product, material or apparatus, whether or not supplied by eldoLED, or any method, process or products in which eldoLED products are used, to the extent such claim is directed against such combined use, (ii) patent infringement arising from compliance with purchaser's design, specification or instruction, (iii) patent infringement arising from any alteration, modification or customization of the eldoLED products that was not performed by or on behalf of eldoLED, (iv) patent infringement arising from use of the eldoLED products in a manner other than as specified by eldoLED, or (v) the continued use by purchaser of eldoLED products after being advised of the availability of a replacement or modification that would have avoided the infringement. In these cases purchaser shall defend and indemnify eldoLED against any damages or costs for such infringement and if so requested, eldoLED shall give purchaser full authority to conduct the defense thereof and full assistance and co-operation in such defense.

#### OEM PRODUCTS

To the extent that the eldoLED products comprise LED drivers, LED modules, programmers and/or control interfaces ("OEM Products"), purchaser may only (i) use the OEM Products in purchaser's internal business, or (ii) combine the OEM Products with other products and sell or lease such combined products to third parties. Purchaser may NOT resell OEM Products to any competitor (direct or indirect) of eldoLED.

#### PRIVACY AND USE OF DATA

Each of purchaser and eldoLED shall comply with its obligations under all applicable supranational, federal, state, national and local laws and regulations governing the processing of personal information (collectively, "Applicable Data Privacy Laws") that is collected by or disclosed to it under these Terms and Conditions of Sale. Unless specifically requested or reasonably necessary for the fulfillment of eldoLED's obligations, purchaser will not provide eldoLED with access to personal information. For example, purchaser understands and agrees that eldoLED may require purchaser to provide certain personal information of certain of purchaser's representatives to facilitate the performance of eldoLED's obligations. Personal information disclosed by purchaser shall be processed and maintained by eldoLED as set forth in its Privacy Policy located at [www.https://www.acuitybrands.com/privacy-policy](https://www.acuitybrands.com/privacy-policy).

Purchaser agrees that in relation to all personal information disclosed to it by eldoLED, it shall not process

such eldoLED personal information for purposes other than purchasing eldoLED products, unless required to do so by Applicable Data Privacy Laws, purchaser shall put into place and maintain appropriate technical and organizational measures to secure eldoLED personal information, having regard to the risk of accidental or unauthorized access, loss, destruction, misuse, modification disclosure or damage of or to such eldoLED personal information. Purchaser shall be and remain responsible and liable for all processing of personal information by its sub-processors, and purchaser shall cause such sub-processors to comply at all times with the Applicable Data Privacy Laws. Purchaser shall indemnify, defend and hold harmless eldoLED from and against any and all claims and damages of every kind and character arising from purchaser's breach of this paragraph. Additionally, purchaser licenses to eldoLED the right to extract from purchaser's data certain information that, either alone or in conjunction with other information which eldoLED may decide to include, can be used to make up anonymized data sets which eldoLED may use for any lawful purpose in perpetuity. For the purposes of this license, anonymized data sets may include any of purchaser's data on an aggregated basis except (a) purchaser's information which is protected by a separate license agreement between purchaser and eldoLED, (b) personal information which has not been anonymized, or (c) information which can be used to easily identify purchaser as the source.

#### **GOVERNING LAW AND JURISDICTION:**

These Terms and Conditions of Sale shall be governed by and construed in accordance with the laws of the Netherlands, without giving effect to the United Nations Convention on the Contracts for the International Sale of Goods. With respect to any disputes arising between the parties, the parties hereby submit exclusively to the personal jurisdiction of the court in 's-Hertogenbosch, the Netherlands. The parties consent and agree that such court is a convenient forum for, and has proper venue over, the resolution of all legal actions, proceedings and disputes arising out of or relating to their relationship. Any cause of action against eldoLED, regardless of whether in contract, tort or otherwise, must commence within one (1) year after the cause of action accrues. Otherwise, such action is permanently barred.

#### **GENERAL:**

Unless otherwise specifically agreed in writing by an authorized representative of eldoLED, any different or additional terms and conditions proposed by any purchaser in a purchase order, response to a quotation or other proposal, are hereby rejected by eldoLED and shall not be incorporated into any order or other agreement for the sale of eldoLED products. Purchaser's assent to these Terms and Conditions of Sale shall be conclusively presumed from purchaser's acceptance of all or part of any products ordered. If an authorized representative of eldoLED has acknowledged purchaser's order or proposal, and such acknowledgement is found to constitute an acceptance of an offer, such acceptance is expressly made conditional on purchaser's assent solely to these Terms and Conditions of Sale which shall form part of the acknowledgement, and acceptance or authorized resale by purchaser of any products shall be deemed to constitute such assent. If any quotation or other document of eldoLED is deemed to constitute an offer to purchaser, purchaser's acceptance of such offer is limited to these Terms and Conditions of Sale. These Terms and Conditions of Sale, together with the warranty statements by eldoLED under LIMITED WARRANTY above, constitute the entire sales agreement between eldoLED and purchaser, unless they are made part of a written agreement between eldoLED and purchaser. No custom, practice, or course of prior dealings between the parties and no usage of trade shall modify or otherwise affect these Terms and Conditions of Sale. eldoLED objects to and rejects any terms between purchaser and any other party, and no such terms, including but not limited to any government regulations or "flowdown" terms, shall be a part of or incorporated into any order from purchaser to eldoLED, unless agreed to in writing by an authorized representative of eldoLED. These Terms and Conditions of Sale supersede all those published or issued previously by eldoLED. All orders are subject to final acceptance by eldoLED and credit approval. Any design, submittal or layout provided by eldoLED is subject to the disclaimer set forth on the design, submittal or layout. eldoLED will not accept orders that require purchaser-furnished components, unless agreed to in writing by an authorized representative of eldoLED. eldoLED price sheets are not offers to sell and possession of a price sheet does not entitle one to purchase. eldoLED shall not be bound to sell any products unless it shall (in its sole discretion) accept submitted purchase orders. All orders are subject to product availability.

***eldoLED reserves the right to change these Terms and***

#### ***Conditions of Sale at any time without notice.***

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