

ZUMTOBEL Group

General Terms and Conditions ZG Lighting Australia

GENERAL CONDITIONS OF SALE

1. **GENERAL.** All goods are sold by the Company strictly upon the basis of these General Conditions of Sale. The placing of an order with the Company by the Purchaser thereby signifies the Purchaser's acceptance of these Conditions. No contract shall arise until acceptance of the Purchaser's order by the Company.
2. **QUOTATIONS AND TENDERS.** A quotation or tender by the Company shall not constitute a binding offer by the Company and may be withdrawn at any time.
3. **PRICES.** All prices are net and where a credit account has been approved, accounts are payable within thirty (30) days from the date of invoice unless otherwise agreed by the Company in writing.
4. **PRICE LIST.** In the absence of written tender by the Company goods will be supplied at the prices and, where applicable, with the rates of discount specified in the Company's price lists applicable at the date of acceptance of Order by the Company, provided that if in the period between acceptance of Order and first available delivery by the Company there is an increase in the Company's published prices for those goods the Company shall be entitled to charge the higher price and any Order shall be deemed to have been varied in that respect. The Company's published price lists may be varied at any time without notice. Publication of a price list does not bind the Company to sell at the prices so listed, nor at any other price.
5. **NEW ACCOUNTS.** Where a credit account is desired, the Company's formal credit application must be completed and signed and approved by the Company before any delivery shall commence.
6. **PACKING.** No charge is made for packaging except for the costs of crates, cases or other containers, the cost for which will be paid by the Purchaser and such cost will be refunded or credited by the Company upon return at the customer's expense to the Company's offices of such containers in good condition.
7. **DELIVERY.** The cost of cartage to Purchasers in Sydney, Newcastle, Wollongong, Melbourne, Brisbane, Townsville, Adelaide, Perth, Hobart, Canberra and Darwin will be paid by the Company. The cost of deliveries elsewhere may be charged to the Purchaser unless otherwise agreed by the Company in writing.
8. **LOSS OR DAMAGE AND RISK.** The risk of any goods supplied by the Company and liability for any consequent damage shall pass to the Purchaser immediately upon delivery to the Purchaser or to any carrier or agent acting on behalf of the Purchaser. Any claim against the Company for damage or short delivery must be made in writing addressed to the Company and received within five (5) working days of delivery and in the case of damage, goods must be safely stored and made available for inspection by the Company. Any claim as above must advise the Company of the following details:
 - Advice note number
 - Date consignment received
 - Carrier's name
 - Date carrier advised
 - Condition of Package
 - Extent of damage or shortageThe Purchaser will be deemed to have waived any claim for damage or short delivery not complying strictly and in every respect with the foregoing procedure.
9. **DELAY.** While every effort will be made to adhere to the required delivery times the Company shall not be liable for any failure to procure or deliver, or for any delay in procurement or delivery of goods to the Purchaser arising from any cause beyond the Company's control.
10. **DEFAULT BY PURCHASER.** If the Purchaser makes default in payment or otherwise fails to carry out the terms of or repudiates this or any other contract with the Company, or if the Purchaser stops payment, calls a meeting of his creditors or becomes insolvent or subject to the bankruptcy laws, or being a company calls a meeting for the purpose of or goes into liquidation or has a winding-up petition presented against it or has a Receiver appointed, the Company may at its option and notwithstanding its waiver of such default or failure and without prejudice to its other rights under the contract, suspend or cancel the contract or require payment in cash before or on delivery or tender of goods notwithstanding the terms of payment specified or may take over the goods and dispose of the same in its own interest without prejudice to any claim it may have for any loss resulting from such re-sale.
11. **PROPERTY.** The entire property in the goods shall be and remain with the Company until the full amount due to the Company in respect of the same has been paid. If the Purchaser re-sells the goods in a manner such that the Company's title is extinguished or postponed, then any funds received by the Purchaser from such resale shall before receipt be set aside and held upon trust for the Company. If the goods are employed in such a manner that they become a constituent part of another manufactured object or objects then the Purchaser will be deemed to have sold such goods and the proceeds of such sale will before receipt be set aside and held upon trust for the Company.
12. **WARRANTIES.** All ZG Lighting Australia luminaires are warranted for 12 months to be free from defects in workmanship and materials provided the luminaires are used on proper mains voltage supply, are installed correctly by competent personnel and have not been subjected to misuse. The Company's liability under this warranty is limited to making all necessary replacements of faulty component parts of luminaires during the 12 month period without charge provided the purchaser returns the luminaires to the Company's factory. The Company will not be liable for charges incurred by the purchaser for rectification of the luminaires during either the installation period or the maintenance period unless the charges have been previously approved in writing by the Company. However, the Company reserves the right to carry out rectification at its own factory or other maintenance facilities. This warranty does not apply to light sources, whether supplied separately or as part of a luminaire. Where the manufacturer of the light sources gives a warranty, the Company does not accept any liability in relation to the manufacturer's warranty and the customer should make all claims under the manufacturer's warranty directly against the manufacturer.
- 12A. **EXCLUSIONS and LIMITATION.** The only warranty the Company gives in relation to its goods and services is the one set out in clause 12. The Company excludes all other representations, warranties, conditions and promises in relation to its goods and services. This exclusion applies to all such representations, warranties, conditions and promises, including:
 - any warranty or condition in respect of the quality, fitness or suitability, or state or condition of the Company's goods or services;
 - any warranty or condition implied by law, unless by law the Company is prevented from excluding it.Where by law the Company is prevented from excluding an implied warranty or condition but is permitted to limit its liability for a breach of the warranty or condition, the Company does so limit its liability -
 - in the case of its goods, to replacing the goods or paying the cost of having the goods replaced
 - in the case of its services, to supplying the services again or paying the cost of having the services supplied again.The Company also excludes its liability for negligence and limits its liability for any breach of these General Conditions of Sale to the price of the goods or services supplied. The Company will not be liable for any economic or financial loss or damage, nor for any consequential or indirect loss or damage, directly or indirectly caused by the Company or its goods or services.
13. **SPECIAL ORDERS.** Orders for goods of non-standard voltages or which are of types not included in the Company's product catalogues constitute "Special Orders." All Special Orders are made and accepted strictly on the basis that quantities actually delivered may vary to a range of 10% or more or less than the quantity ordered and the Purchaser will accept delivery of all such goods payment to be calculated on the quoted unit price.
14. **RETURN OF GOODS.** Goods may only be returned upon the prior written consent of the Company. Unless waived by the Company, a handling charge will be deducted from any credit allowed. The Company shall not without having given its express prior agreement be liable for any expense whatever in relation to return of the goods.
15. **HANDLING CHARGE.** The customer agrees that each order to a value of less than \$100 shall be subject to an additional handling charge, payable with invoice.
16. **DESCRIPTIVE MATTER AND ILLUSTRATIONS.** All descriptive and forwarding specifications, all drawings and particulars and weights and dimensions, and all publicity and promotional material issued by the Company is intended to be illustrative only. None of the foregoing nor any particulars or representations contained therein shall form part nor be deemed to have been incorporated in any contract with the Company.
17. **INTERPRETATION AND PROPER LAW.** The contract arising from the acceptance of the Purchaser's order shall be governed in all respects by and construed in accordance with the law of the State of New South Wales. Unless precluded by contract in these conditions the singular shall include the plural and vice versa and a gender shall include all genders. The words "the Purchaser" shall include all servants, agents and employees of the Purchaser.
18. **SALES TAX RATES.** Where nominated are based on current ruling Federal and State laws. Any changes to or introduction of new statutory charges will be to the purchasers account.
19. **DESIGN.** The company reserves the right to improve or modify any designs without prior notice.

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CONDITION OF QUOTATION / TENDER

1. GENERAL. All orders placed as a result of this quotation/tender are accepted and executed subject to the General Conditions of Sale of the Company and these Conditions of Quotation/Tender.
2. ACCEPTANCE. This quotation/tender is open for acceptance for a period of 30 days from the date of dispatch unless some other period shall be mutually agreed and is subject to confirmation at the time of acceptance PROVIDED THAT the Company may revoke the offer constituted by this quotation/tender at any time prior to acceptance. Acceptance must be accompanied by sufficient advice and information to enable the Company to proceed forthwith with the manufacture and/or supply of the products failing which the Company may amend the prices contained in its quotation/tender to cover increases in costs which may have taken place after the date of acceptance. Any samples submitted by the Company for the purpose of such quotation/tender must be returned carriage paid within one month of receipt of alternatively paid for within such period.
3. PRICES. Quoted prices are based on up to date costs at the time of quotation herein, but should increases occur in rates of labour or cost of materials between that date and the date of the completion of the contract constituted by acceptance of this quotation/tender the Company reserves the right to increase prices accordingly.
4. QUOTATIONS. This quotation/tender applies only to the quantities and types of goods referred to herein. Any increased quantities and other types shall be the subject of a separate written quotation/tender. Although the quantities of each item shown in this quotation/tender are believed to be correct the Company accepts no responsibility for their accuracy and shall not be liable for any consequential loss or damage arising out of any error in quantities shown, including financial loss or damage and including loss of profits.
5. SALES TAX. Unless otherwise indicated this quotation/tender is exclusive of sales tax. It is also exclusive of any other cost to the Company due to legislation regulation or other Government action which may come into force after the submission of this quotation/tender or during the currency of any contract and prior to the completion of any of the work resulting from an acceptance hereof and any such added cost to the Company may be charged in addition to the prices quoted in this quotation/tender.
6. The company shall, if requested, submit prototypes for which it reserves the right to charge at the rate of 2.5 times the quoted price in the event of the quotation/tender being unsuccessful.
7. SPECIAL FITTINGS. Where special fittings are incorporated in a quotation/tender our offer is made on the distinct understanding that the prices for each item apply only if we receive an order for all items included in such a quotation/tender. Should an order be placed for special fittings only we reserve the right to review our quotation/tender both as to price and delivery at the time of receiving an order. Any increase in the quantity of special items requested after the commencement of manufacture will be the subject of a separate quotation unless otherwise agreed by the Company.
8. QUANTITY. The right is reserved to adjust the price quoted for any item where the quantities required are substantially less than those shown in this quotation/tender.
9. ORDERS. The quoted price of any item specially designed for any item for this quotation/tender may be adjusted if the whole order is not received.
10. TESTS. Goods will be kept inspected by the Company and where reasonably practicable submitted to standard tests at the Company's works before dispatch. If special tests or tests in the presence of the Purchaser or his representative are required the Company shall be entitled to charge extra for such tests and in the event of any delay on the part of the Purchaser or his representative in attending such tests after 7 day notice of intention to hold the same, the tests may be proceeded within the absence of the Purchaser or his representative and shall be deemed to have been duly made at the Company's works and the Company entitled to charge for the same.
11. CANCELLATION CHARGE. A specially designed or modified item cancelled after commencement of manufacture will be subject to a cancellation charge and if already delivered before cancellation shall not be returnable but be paid for at the quoted price.
12. EXTRA COST. In the event of suspension or delay of work as a result of instructions or lack of instructions from the Purchaser or its representative the quoted prices may be increased at the discretion of the Company to cover extra expense incurred thereby.
13. TERMS OF PAYMENT. Unless stated to the contrary in any quotation/tender all prices are in Australian currency at the rate of exchange ruling at the date of quotation. Prices are net and payment in full shall be made on or before the last day in the month following that in which the goods are delivered unless otherwise specified herein. The Company may increase or decrease at its discretion the prices quoted herein by an amount equivalent to any variation in the rate of exchange subsequent to the date of this quotation/tender.
14. EXCLUSION OF LIABILITY. Save as provided in paragraph 10 of the Company's General Conditions of Sale, the Company shall not be liable for any injury, loss or damage to persons or to property (including injury, loss or damage caused by or attributable to the negligence of the Company, its officers, servants and agents) arising out of or in any way as a consequence of a contract made with the Company pursuant to this quotation/tender or of work performed or goods supplied by the Company. All warranties, conditions or statements as to the service and/or maintenance of goods supplied by the Company and spare or replacement parts therefore whether express or implied and whether as to condition description, merchantable quality, fitness for any purpose or any particular purpose or otherwise are hereby expressly excluded including any statutory warranties and conditions permitted by law. The Company shall not be liable for and shall have no responsibility whatsoever for any consequential loss or damage arising out of or in any way as a consequence of this quotation/tender or a contract made with the Company as a result thereof or of work performed or goods supplied by the Company (including financial loss or damage and including loss of profits) suffered whether directly or indirectly by the person accepting this quotation/tender or any other person as a result of or as a consequence of any negligent or defective manufacture and/or service and/or maintenance of goods supplied by the Company or its agents or of any spare or replacement parts for such goods.
15. VARIATIONS. No variation or deletion of any of the General Conditions of Sale or Conditions of Quotation/Tender will be binding on the Company unless agreed to by it in writing under the hand of its authorised officer.
16. SPECIAL CONDITIONS. Where there is any inconsistency between any Special Conditions incorporated herein and these General Conditions of Sale and conditions of Quotation/Tender the said Special Conditions will prevail.