



COOLEEDGE LIGHTING, INC. TERMS AND CONDITIONS

These TERMS AND CONDITIONS apply to the purchase of light sheet products, LED drivers, systems, assemblies, or accessories (individually or collectively, the “**PRODUCTS**”) from Cooleedge Lighting Inc. or any of its subsidiary or affiliated corporations, including Cooleedge, Inc., as specified in each Quotation (as defined below) (each herein referred to as “**COOLEEDGE**”). Accordingly, all Quotations, Purchase Orders, bills of lading, and invoices for the PRODUCTS or any delivery of the PRODUCTS, including any services related thereto, shall incorporate these TERMS AND CONDITIONS of Sale (“**TERMS AND CONDITIONS**”) which together shall constitute the entire agreement the buyer of the PRODUCTS (as hereinafter defined “**BUYER**”) and COOLEEDGE. These TERMS AND CONDITIONS are between COOLEEDGE and the BUYER identified in the Quotation.

1. DEFINITIONS

- (a) “**COOLEEDGE Factory**” means any manufacturing facility designated by COOLEEDGE from time to time to manufacture the PRODUCTS for BUYER.
- (b) “**Quotation**” means a written document provided by COOLEEDGE or a COOLEEDGE representative to BUYER which shall set forth the description of the PRODUCTS, the quantity of PRODUCTS offered by COOLEEDGE, the price for the PRODUCTS, the address of delivery, expected delivery date(s), and any other applicable specific terms.
- (c) “**Purchase Order**” means the written document provided by BUYER to COOLEEDGE based on the commercial terms specified in the Quotation.
- (d) “**Services Schedule**” means the document produced by COOLEEDGE and accepted by BUYER pursuant to which COOLEEDGE agrees to provide certain services to BUYER in connection with the PRODUCTS sold.
- (e) “**Specifications**” means the technical specifications of COOLEEDGE regarding the PRODUCTS and their components.
- (f) “**Taxes**” means all taxes, duties, charges or levies by any multinational, federal, provincial, state, municipal, local or other governmental or public department, central bank, court, commission, board, bureau, agency or quasi-governmental body, including goods and services taxes, sales taxes and harmonized sales taxes, which are now applicable or which may be imposed in the future.

2. OFFER, CONFIRMATION OR AGREEMENT

These TERMS AND CONDITIONS of commercial sale of COOLEEDGE apply to and form an integral part of all quotations and offers made by COOLEEDGE, all acceptances, acknowledgements and confirmations by COOLEEDGE of any orders by BUYER and any agreements regarding the sale by COOLEEDGE and purchase by BUYER of PRODUCTS, unless and to the extent COOLEEDGE explicitly agrees otherwise. Any TERMS AND CONDITIONS set forth on any document or documents issued by BUYER, either before or after issuance of any document by COOLEEDGE setting forth or referring to these TERMS AND CONDITIONS are hereby explicitly rejected and disregarded by COOLEEDGE, and any such terms shall be wholly inapplicable to any sale made by COOLEEDGE to BUYER and shall not be binding in any way on COOLEEDGE.

3. ACCEPTANCE AND OFFER

COOLEEDGE offers are open for acceptance within the period stated by COOLEEDGE in the offer or, when no period is stated,

with in thirty (30) days from the date of the offer, but any offer may be withdrawn or revoked by COOLEEDGE at any time prior to the receipt by COOLEEDGE of BUYER’s acceptance thereof. All Purchase Orders must be made in writing, COOLEEDGE will determine the minimum order value applicable from time to time. A surcharge may be applied for orders of less than the minimum order value. COOLEEDGE reserves the right to amend offer pricing where a material change in manufacturing costs or exchange rates becomes apparent. All orders and shipments are non cancellable and non-returnable.

4. QUOTING AND PRICING

All Quotations are made, all orders are accepted, goods are sold, and service and advice rendered subject only to these TERMS AND CONDITIONS and to the exclusion of any conditions of purchase. Any variations in these TERMS AND CONDITIONS must be expressly accepted by COOLEEDGE in writing. COOLEEDGE quotations are invitations to treat and not offers to sell. Orders submitted in the terms of our Quotations will not be binding until accepted by COOLEEDGE. The prices charged shall be COOLEEDGE’s prices as agreed in writing otherwise at the ruling date of delivery ex-works COOLEEDGE Factory as designated in Quotation. The price offered is based on the quoted quantities only and upon the quantities referred to in the offer. COOLEEDGE reserves the right to amend the prices in line with the price list or to round any ordered item to full case quantity or minimum order quantity (MOQ) without further correspondence. All information on order confirmations are deemed correct unless notified otherwise to Customer Service within 1 business day. The customer must notify COOLEEDGE of a pricing claim, in writing, within twenty one (21) working days of invoice date, after this time period no claims can be entertained. COOLEEDGE undertakes to investigate, and credit where appropriate. Prices in any offer, confirmation or agreement are in the currency of the United States of America (USD), based on delivery ex-works or as otherwise designated by COOLEEDGE, unless agreed otherwise in writing between BUYER and COOLEEDGE. COOLEEDGE will add Taxes where COOLEEDGE is required or enabled by law to pay or collect them the value of which will be paid by BUYER together with the price.

5. PAYMENT

(a) Unless agreed otherwise between COOLEEDGE and BUYER in writing, COOLEEDGE may invoice BUYER for the price of the PRODUCTS delivered upon delivery of the PRODUCTS in accordance with the applicable INCOTERM. Net payment is due before shipping unless agreed otherwise between COOLEEDGE and BUYER in writing. All payments shall be made to the designated COOLEEDGE address. If deliveries are made in installments, each installment may be separately invoiced and shall be paid for when due. No discount is allowed for early payment unless agreed to in writing by COOLEEDGE. In addition to any other rights and remedies COOLEEDGE may have under applicable law, interest will accrue on all late payments at the rate of eighteen percent (18%) per annum or the applicable statutory rate, whichever is higher and to the extent permitted by applicable law, from the due date until payment in full.

(b) In case of different mutually agreed INCOTERMS, all deliveries of PRODUCTS agreed to by COOLEEDGE shall at all times be subject to credit approval of COOLEEDGE. If, in COOLEEDGE’s judgment, BUYER’s financial condition at any time does not justify production or delivery of PRODUCTS on the above payment terms, COOLEEDGE may require full or partial



payment in advance or other payment terms as a condition to delivery, and COOLEEDGE may suspend, delay or cancel any credit, delivery or any other performance by COOLEEDGE.

(c) In the event of any default by BUYER in the payment of any fees or charges due, or any other default by BUYER, COOLEEDGE shall have the right to refuse performance and/or delivery of any PRODUCTS until payments are brought current and COOLEEDGE may suspend, delay or cancel any credit, delivery or any other performance by COOLEEDGE. Such right shall be in addition to, and not in lieu of, any other rights and remedies available under the Agreement or at law.

(d) Payment method will be agreed upon before order acceptance. In case of payment by check, a \$50 returned check fee will be assessed for any check returned for any reason. Accounts that are in arrears due to a returned check may be suspended until the balance is paid in full, including returned check and reactivation fees.

6. DELIVERY AND QUANTITIES

(a) PRODUCTS shall be delivered ex-works (in accordance with Incoterms 2010: EXW) or as otherwise designated by COOLEEDGE, unless otherwise agreed in writing. Delivery dates communicated or acknowledged by COOLEEDGE are approximate only, and COOLEEDGE shall not be liable for, nor shall COOLEEDGE be in breach of its obligations to BUYER, for any delivery made within a reasonable time before or after the communicated delivery date. COOLEEDGE agrees to use commercially reasonable efforts to meet the delivery dates communicated or acknowledged by it on the condition that BUYER provides all necessary order and delivery information sufficiently prior to the such delivery date.

(b) BUYER will give COOLEEDGE written notice of failure to deliver and thirty (30) days within which to cure. If COOLEEDGE does not deliver within such thirty (30) day period, BUYER's sole and exclusive remedy is to cancel the affected and undelivered portions of the Agreement.

(c) Title in the PRODUCTS shall pass to BUYER upon payment in full of the purchase price in respect thereof. Risk of loss in the PRODUCTS shall pass to BUYER upon delivery to the first carrier at the COOLEEDGE Factory.

(d) If BUYER fails to take delivery of PRODUCTS ordered, then COOLEEDGE may deliver the PRODUCTS in consignment at BUYER's cost.

(e) In the event COOLEEDGE production is curtailed for any reason, COOLEEDGE shall have the right to allocate its available production and PRODUCTS, in its sole discretion, among its various customers and as a result may sell and deliver to BUYER fewer PRODUCTS than specified in the Agreement, as the case may be.

(f) Minimum Order - Unless varied by mutually agreed trading terms, the minimum order value is \$500. A surcharge of \$50 will apply to each invoice of less than \$500.

(g) Carton Quantity/Minimum Order Quantity ("MOQ") - The carton quantity stated in COOLEEDGE quote is the minimum order quantity per item. A 10% surcharge will be applied to each item where the order is less than the minimum order quantity. Notwithstanding, COOLEEDGE Lighting reserves the right not to supply less than the minimum order quantity where breaking a carton could lead to product damage and/or impede the logistics process.

7. FORCE MAJEURE

If by reason of any fact, circumstance, matter or thing beyond the reasonable control of COOLEEDGE,
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COOLEEDGE is unable to perform in whole or in part any obligation under this agreement, COOLEEDGE shall be relieved of that obligation under this agreement to the extent and for the period that it is so unable to perform and shall not be liable to the Purchaser in respect of such inability.

8. INFORMATION AND DRAWINGS

All descriptive Specifications, illustrations, drawings, data, dimensions and weights furnished by COOLEEDGE or otherwise contained in catalogues, price lists and other advertising matter of COOLEEDGE are approximate only and are intended to be by way of a general description of the goods and shall not form part of the contract. Information is subject to change at anytime at COOLEEDGE sole discretion.

9. PATENTS AND DESIGN RIGHTS

In the event of any claim or claims in respect of any infringement of a Registered Design, Trademark, Copyright or Letters Patent, the specification of which is published prior to the date of the offer relating to any part of the goods supplied by COOLEEDGE (other than a part based on a design specified by the Purchaser) COOLEEDGE will at their expense either replace or modify such part with a non-infringing part or procure for the Purchaser the right to use such a part provided COOLEEDGE is given full opportunity to conduct all negotiations in respect of such claim and such claim shall not be accepted by the Purchaser without the prior written consent of COOLEEDGE. In no event shall COOLEEDGE incur any liability for losses arising from the use or non-use of any infringing part. The Purchaser warrants that any design or instructions furnished or given by him shall not be such as to cause COOLEEDGE to infringe any Letters Patent, Registered Design, Trademark or Copyright in the-execution of the order.

The patent and design rights held by COOLEEDGE and relating to goods offered or supplied by COOLEEDGE shall remain the absolute property of COOLEEDGE and COOLEEDGE's designs and drawings shall not be reproduced or disclosed without COOLEEDGE's written consent. The Purchaser will not, without COOLEEDGE's prior written consent, copy or allow others to copy any drawings, goods or part thereof supplied by COOLEEDGE.

10. LIMITED WARRANTY AND INDEMNITY

10.1 Limited Product Warranty. COOLEEDGE warrants that the PRODUCTS manufactured, distributed or sold by it will (i) be free of any claim of ownership by third parties, (ii) be conforming to the Specifications and free from defects in materials and workmanship under normal use, handling, warehousing and service. The warranty period specified in the COOLEEDGE warranty T&C's for the PRODUCTS will be for a period of 5 years from the shipment date of any PRODUCTS sold by COOLEEDGE.

10.2 General limitation of Warranty. UNLESS OTHERWISE PROVIDED HEREOF, ALL OTHER WARRANTIES ARE EXCLUDED INCLUDING, WITHOUT LIMITATION, EXPRESSED AND IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OF TRADE, OR COURSE OF PERFORMANCE. COOLEEDGE SHALL NOT BE LIABLE FOR ANY PERSONAL INJURY, BODILY INJURY, PROPERTY DAMAGE OR OTHER LOSS BASED ON THE USE OF THE PRODUCTS IN COMBINATION OR INTEGRATED IN A THIRD PARTY PRODUCT, INSTRUMENT OR DEVICE. COOLEEDGE AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL



DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF GOODWILL, DELAY IN PERFORMANCE, BUSINESS INTERRUPTION, PRODUCT LIABILITY OR ANY CAUSE OF ACTION IN CONNECTION WITH THE USE, RESALE OR HANDLING OF THE PRODUCTS BY BUYER OR ANY PERSON AUTHORIZED BY BUYER INCLUDING ITS CLIENTS OR CUSTOMERS. WITHOUT LIMITING THE FOREGOING, THE PRESENT LIMITED WARRANTY SHALL NOT APPLY SHOULD

THERE BE ANY IMPACT DAMAGE TO THE PRODUCT. It is understood and agreed that BUYER shall be solely responsible for warranty terms or obligations that BUYER grants to third party beyond those provided hereof by COOLEEDGE.

10.3 Specific Limitation of Warranty. The limited warranty of COOLEEDGE does not apply to PRODUCTS which are (a) incorporated into any third party product, instrument or device; (b) identified by COOLEEDGE as prototypes or pre-production PRODUCTS; (c) the object of modifications or customizations meeting the Specifications provided by the BUYER; (d) items repaired, modified or altered by any party other than COOLEEDGE; (e) items used in conjunction with equipment not provided by, or acknowledged as compatible by, COOLEEDGE; (f) subjected to unusual physical, thermal, or electrical stress; (g) damaged due to improper installation, misuse, abuse, or storage; (h) damaged due to accident or negligence in use, storage, transportation or handling.

10.4 Extent of Warranty. During the warranty period and in all cases where COOLEEDGE cannot waive its liability, COOLEEDGE's liability relating to the PRODUCTS or to the manufacture, shipping, sale or use of same shall not exceed the cost of purchase of such defective PRODUCTS. The BUYER shall have the option to seek: (i) the reimbursement of the purchase price for the defective PRODUCTS or; (ii) the replacement of the defective PRODUCTS at COOLEEDGE's expense.

10.5 Intellectual Property Infringement. Subject to paragraph 5.2 and paragraph 5.3 COOLEEDGE will defend, at its own expense, any action against BUYER brought by a third party to the extent that the action is based upon a claim that the PRODUCTS infringes such third party's [U.S. or Canadian] patents, copyrights or misappropriates such party's trade secrets (an "Infringement Claim") and COOLEEDGE will pay those losses in respect of the Infringement Claim that are specifically attributable to the Infringement Claim or those costs and damages agreed to in a monetary settlement of such action; provided BUYER (i) notifies COOLEEDGE of the Infringement Claim promptly in writing after receiving notice of such claim, (ii) tenders to COOLEEDGE sole control over the defense and settlement of the Infringement Claim and any negotiation for its settlement or compromise; provided however that BUYER may (at its own cost) appoint its own counsel to monitor any such Infringement Claim and settlement proceedings to the extent that the same relate to or might affect BUYER, (iii) does not take a position that is adverse to COOLEEDGE, and (iv) at COOLEEDGE's expense and request, provides reasonable assistance in the defense and settlement of any Infringement Claim.

10.6 Alternative. If BUYER's use of the PRODUCTS is prevented by injunction or court order because of an Infringement Claim, or, in COOLEEDGE's opinion, the PRODUCTS are likely to become the subject of an Infringement Claim, then COOLEEDGE, at its sole discretion and at no additional expense to BUYER, shall either (i) procure the right for BUYER to continue

using the PRODUCTS; or (ii) replace or modify the PRODUCTS so that such PRODUCTS become non-infringing, without a material reduction in functionality or performance. If COOLEEDGE determines that neither (i) nor (ii) is commercially practicable, COOLEEDGE may terminate BUYER's right to use the infringing PRODUCTS and be liable for BUYER's losses in accordance with and subject to the terms of these TERMS AND CONDITIONS.

10.7 Exclusions. COOLEEDGE will have no obligation to BUYER under paragraph 5.5 or paragraph 5.6, if an Infringement Claim results from or is related to (i) a modification of the PRODUCTS made by, or at the request or direction of BUYER, (ii) the combination of the PRODUCTS with an item not supplied by COOLEEDGE, or (iii) the use of the PRODUCTS in a manner not intended by the Documentation.

10.8 Exclusive Remedy. The rights granted to BUYER under this paragraph 5 shall, to the extent permitted by law, be BUYER's sole and exclusive remedy for any Infringement Claim.

11. INTELLECTUAL PROPERTY

The BUYER acknowledges that any and all of the patents, trademarks, copyrights, industrial designs, know-how, and other intellectual property rights, as the case may be, related to the PRODUCTS, their use and/or their manufacture are and shall remain the property of COOLEEDGE or its third party suppliers, as the case may be. The BUYER undertakes to refrain from questioning or disputing the ownership or validity of any of such rights owned by COOLEEDGE or its third party suppliers.

12. CONFIDENTIALITY

BUYER acknowledges that all technical, commercial and financial data disclosed to BUYER by COOLEEDGE is the confidential information of COOLEEDGE. BUYER shall not disclose, release or sell any such confidential information to any third party and shall not use any such confidential information for any purpose other than to use and implement the PRODUCTS for its own business purpose or as agreed by the parties in writing.

13. MISCELLANEOUS

a) Severability. If a court of competent jurisdiction holds any provision, or part of any provision, of these TERMS AND CONDITIONS to be illegal or invalid, the provision, or the affected part of such provision, shall be null and void and deemed automatically severed from these TERMS AND CONDITIONS. Any such determination shall not affect the legality or validity of the remaining provisions or remaining parts or unaffected provisions of these TERMS AND CONDITIONS.

b) Quotation/Purchase Order not to modify Agreement Terms. The terms of these TERMS AND CONDITIONS shall prevail in the case of a conflict with the TERMS AND CONDITIONS of a Quotation or a Purchase Order.

c) Waiver. All waivers must be in writing. Any waiver or failure to enforce any provision of these TERMS AND CONDITIONS on one occasion shall not be deemed a waiver of any other provision or of such provision on any other occasion.

d) Commencement of Action. Except for actions for non-payment, neither the BUYER or COOLEEDGE may commence an action under these TERMS AND CONDITIONS more than two (2) years after the occurrence of an event of default, or in the event such default is not discoverable by the injured party when it has occurred, more than two (2) years after such default could, and in the exercise of due diligence, would have been discovered.



e) Entire Agreement. These TERMS AND CONDITIONS and the related Quotation or Purchase Order, constitute the entire agreement between the parties regarding the subject matter, and supersedes all prior discussions or agreements related to the same.

f) Governing Law. These TERMS AND CONDITIONS will in all respects be governed exclusively by and construed in accordance with the following: (a) if BUYER is located in the United States, these TERMS AND CONDITIONS will in all respects be governed exclusively by and construed in accordance with the laws of the State of Texas; (b) if BUYER is located in Europe, these TERMS AND CONDITIONS will in all respects be governed exclusively by and construed in accordance with the laws of England; (a) if BUYER is located in Asia, these TERMS AND CONDITIONS will in all respects be governed exclusively by and construed in accordance with the laws of the Republic of Singapore; and (d) if BUYER is located in any part of the world other than the United States, Europe or Asia, these TERMS AND CONDITIONS will in all respects be governed exclusively by and construed in accordance with the laws of the Province of British Columbia, except that British Columbia's choice of law rules will not be invoked for the purposes of applying the laws of another jurisdiction. This paragraph will not be construed to affect the rights of a party to enforce a judgment or award outside the State of Texas, England, Singapore or the Province of British Columbia, including the right to record and enforce a judgment or award in any other jurisdiction. The parties expressly disclaim the application of the United Nations Convention on Contracts for the International Sale of Goods and all implementing legislation thereunder.

g) Procedure. Any dispute arising out of or relating to these TERMS AND CONDITIONS that is not settled by agreement between the parties within a reasonable time will be settled exclusively by binding arbitration by a single arbitrator. Such disputes shall be arbitrated and finally resolved by a single arbitrator pursuant to the London Court of International Arbitration Rules (the "Rules"), except that the provisions of these TERMS AND CONDITIONS will prevail over the Rules. COOLEdge and BUYER agree to be bound by the decision of the arbitrator. Judgment upon the award of the arbitrator may be entered in any court of competent jurisdiction. The governing law shall be as specified in paragraph 8.6 and the place of arbitration shall be: San Francisco, if BUYER is located in the United States; London, England, if BUYER is located in Europe; Singapore, if BUYER is located in Asia; and Vancouver, British Columbia, if BUYER is located anywhere other than the United States, Europe or Asia. The language to be used in the arbitral proceedings shall be English. COOLEdge and BUYER will share equally in the fees and expenses of the arbitrator and the cost of the facilities used for the arbitration hearing, but will otherwise each bear their respective costs incurred in connection with the arbitration.