

## **ILIGHT TECHNOLOGIES, INC. STANDARD TERMS AND CONDITIONS OF SALE**

THESE STANDARD TERMS AND CONDITIONS APPLY TO ALL PURCHASES WHETHER OR NOT SUCH PURCHASE IS SUBJECT TO A SIGNED PURCHASE ORDER AGREEMENT BETWEEN ILIGHT TECHNOLOGIES, INC., A DELAWARE CORPORATION, AND THE PURCHASER.

The following shall govern all orders for Products by Purchaser and sales of Products by iLight Technologies, Inc. to Purchaser. iLight Technologies, Inc. shall be referred to herein as the "Manufacturer." The terms herein may be updated by Manufacturer periodically. Ordering Products from Manufacturer constitutes acceptance of the terms set forth herein, as such terms may be updated. Any different, conflicting or additional terms in any purchase order or other writing from Purchaser or in any order acknowledgment or other writing from Manufacturer shall be of no force or effect unless an authorized iLight representative acknowledges in writing. This order sets forth the complete agreement between parties with respect to the matters described herein and supersedes all other agreements of the parties, written or oral.

### **1. ORDERS**

Purchaser shall forward all purchase orders to iLight Technologies' ("Manufacturer") headquarter office. No order shall be considered approved, or will be shipped, without a written confirmation of the order from the Manufacturer and not any other representatives.

All additions, deletions or other changes to an order are subject to the terms and conditions as specified above.

In the event of a conflict between the Purchaser's terms and conditions and Manufacturer's terms and conditions, the Purchaser, by virtue of issuing the Manufacturer a purchase order, acknowledges and agrees that the Manufacturer's terms and conditions shall supersede any and all terms and conditions by the purchaser and the Manufacturer's terms and conditions shall apply.

Manufacturer's field representatives are independent sales contractors. They have no authority to assume or create any obligation, express or implied, nor do they have any authority to accept service or legal process on its behalf.

### **2. CANCELLATION**

After acceptance of the Purchaser's order, it shall not be subject to cancellation without the Manufacturer's consent. In such case, a cancellation penalty equal to 25% to 100% of the order value, at the Manufacturer's determination, will be required.

### **3. PAYMENT**

Unless otherwise stated, terms of payment for orders shipped to destinations in the United States will be net 30 days from date of invoice. Final terms determined by Manufacturer after customer credit review. The Manufacturer reserves the right to set terms on a case-by-case basis at its sole discretion.

Payment is only accepted in United States dollars, fully net without set-off, deduction or counterclaim.

Purchaser shall make payment as specified herein and Manufacturer may suspend shipment of materials until such payment is made. If, in the sole opinion of Manufacturer, the financial condition of the Purchaser becomes impaired or unsatisfactory, Manufacturer may at any time, limit or cancel the credit of Purchaser. Manufacturer may require from Purchaser payment in advance for future deliveries. Approval of credit of one or more deliveries shall not be deemed a waiver hereof.

If any shipment made in accordance with the Purchaser's instructions is refused for whatever reason, the Purchaser shall be responsible for payment of such merchandise, in accordance with the terms of this agreement, as though such merchandise had been accepted at the time of original delivery. Purchaser shall also be responsible for reasonable storage, handling and redelivery charges and shall pay charges as invoices are rendered.

If the Purchaser notifies Manufacturer not to deliver merchandise after said merchandise has been produced in accordance with Purchaser's instructions, then Purchaser shall pay reasonable storage charges until such merchandise is delivered and accepted. The Manufacturer has the right to demand payment of order up to the full value of the order as deposit.

Manufacturer shall have the right, at any time and from time to time, to require an irrevocable letter of credit or other assurance of payment satisfactory to Manufacturer as a condition to acceptance of any order or shipment of any Product. Unless otherwise agreed to by Manufacturer, payment shall be by check to be drawn on Purchaser's corporate account, by wire transfer to Manufacturer's account at a commercial bank Manufacturer shall designate, or by Manufacturer's draw upon a bank letter of credit satisfactory in form and substance to Manufacturer.

For shipments outside the United States and for special Products, Manufacturer's standard terms are full prepayment at the time of order unless otherwise noted in writing.

### **4. LATE CHARGES**

Manufacturer reserves the right to charge interest and handling charges if Purchaser is delinquent in payment of invoices of 1.5% interest per month or a fraction thereof. Manufacturer shall be entitled to reimbursement for all expenses (including reasonable

attorney's fees and other costs) incurred by it in connection with collection of any amounts for goods sold hereunder in the event payment is not made when due.

#### **5. CLAIMS AND ADJUSTMENTS**

The carrier accepts shipments covered by Purchaser's order in good condition and quantity as noted on freight bills. Any claim for damage or shortage lies between the Purchaser and the carrier. It is the Purchaser's responsibility or his/her designated consignee to check shipment carefully and note any visible damage or shortage on freight bill before signing to facilitate a possible claim against the carrier. Concealed loss or damage must be reported to carrier in writing immediately upon discovery, but not later than 72 hours after signing for shipment.

Purchaser agrees not to return any merchandise to Manufacturer for any reason without prior written authorization. Purchaser is responsible for insuring the conformance of delivered material to his/her order or governing specifications. No backcharges are applicable or will be honored. Claims for shipping errors or concealed shortages will be waived unless made in writing directly to Manufacturer, at its Corporate office in Chicago, Illinois, within three (3) days after receipt of the merchandise. Where a return of merchandise is allowed, it must be authorized in writing by Manufacturer. Failure to secure such authorization in advance will result in refusal by Manufacturer of such returned merchandise.

#### **6. PRODUCT RETURNS**

No Product will be accepted for return unless Manufacturer has granted prior written permission. Requests to return defective materials under warranty must be made no later than the end of the warranty period. Prior to returning the material, the customer must contact the Manufacturer to ensure Product is under warranty, adequately test the materials in the field if deemed necessary, and obtain a Return Material Authorization (RMA) number if those materials are deemed defective. It will be at the Manufacturer's discretion to repair or replace defective warranty materials. Merchandise must be returned in the original factory sealed cartons or equivalent packaging. All merchandise must reach the Manufacturer in good condition. All orders must be professionally installed according to specifications provided by Manufacturer or warranty will not apply.

#### **7. PRICING**

Pricing is quoted in United States dollars. Freight is included in pricing for standard orders shipped to destinations in the continental U.S. via ground transportation. Freight is not included for non-continental U.S. locations, international, or expedited shipments. Freight is also not included for manufactured Sign Products and certain custom Products due to the variability in freight and packaging.

Manufacturer reserves the right to change pricing at any time. Unless otherwise specifically provided in writing, the order will be billed at prices prevailing at time of shipment. Additions to orders already processed shall be considered separate orders and shall be priced accordingly.

#### **8. TAXES AND GOVERNMENTAL CHARGES**

Prices do not include any taxes or other governmental charges, including, without limitation, value-added, sales, use or privileges taxes, or excise or similar taxes levied by any government, now or hereafter enacted. Sales tax may apply in IL and TN. In Manufacturer's discretion, any such taxes and charges may be added to the price for any Products or may be billed separately. The Purchaser will, in any event, pay all such taxes and charges, on or before their due dates. In the event Manufacturer is required at any time to pay any such tax or charge, the Purchaser will reimburse Manufacturer promptly on demand. If any governmental agency requires Purchaser to withhold any portion of the gross payment due to Manufacturer, then such payment shall be increased by an amount such that the amount actually remitted to Manufacturer is equal to the amount that would have been remitted had there been no such withholding.

#### **9. SHIPMENTS, DELIVERY**

Dates of all shipments are estimated and not guaranteed. All Products will be shipped F.O.B Manufacturer's plant or other designated location. Shipment of the merchandise herein is subject to any and all delays due to any condition of happening whatsoever beyond Manufacturer's control, including but not limited to other conditions, strikes, fires, riots, wars, act of God, inability to obtain materials, government regulations or restrictions. Manufacturer shall not be responsible for any damage or loss resulting from delayed shipments or its inability to ship as above.

Manufacturer will use its own discretion in packing and routing all shipments and reserves the right to select carrier and truck size. If any shipment made in accordance with Purchaser's instructions shall incur additional labor or carrier costs, said costs shall be paid by the Purchaser as invoices are rendered. Manufacturer reserves the right to make shipment in installments unless otherwise expressly stipulated by the Purchaser in writing. All such installments shall be separately invoiced and paid for when due, without regard to subsequent shipments. Delay in the shipment of any installment shall not relieve Purchaser of its obligation to accept remaining shipments.

#### **10. TITLE**

Title and risk of loss or damage to each of the Products will pass to the Purchaser when delivery is made to the possession of the carrier unless otherwise noted.

#### **11. GRANT OF SECURITY INTEREST**

Purchaser hereby grants Manufacturer a security interest in all Products sold to Purchaser hereunder to secure due and punctual payment and performance of all of its obligations hereunder. Purchaser shall execute all financing statements and other documents, and take all other actions, which Manufacturer shall reasonably request to perfect, protect, continue or maintain such security interests.

**12. LIMITED WARRANTY, LIMITATION OF LIABILITY & THIRD PARTY WARRANTIES**

Manufacturer makes no warranties, express or implied, other than those set forth on the Manufacturer's website at [www.ilight-tech.com](http://www.ilight-tech.com) and specifically disclaims the warranties of merchantability and fitness for any particular purpose.

**13. INDEMNIFICATION**

Purchaser shall indemnify, defend and hold harmless Manufacturer and its officers, directors, agents, employees, affiliates, representatives, successors, and assigns from and against all losses, liabilities, costs and expenses (including, without limitation, attorneys' fees) arising out of or in connection with claims by third parties for any loss, damage or injury (including death) caused or alleged to be caused by (a) breach by Purchaser or its employees, partners to whom Purchaser sold Product, contractors, representatives, agents or affiliates, (collectively, "Purchaser Parties") of any obligation herein; (b) negligent use, application, installation or implementation of Product by any of the Purchaser Parties; and/or (c) unless authorized in writing by Manufacturer, modification of Product or integration of Product into other products by any of the Purchaser Parties. Purchaser shall not join, settle or otherwise attempt to affect or dispose of any such claim without Manufacturer's written consent.

**14. EXPORTATION**

Purchaser shall comply with all applicable laws, including, without limitation, the export control laws in effect in the United States and applicable regulations which may be issued from time to time concerning the exporting, importing and reexporting of the Manufacturer's Products and the direct Products thereof. Purchaser acknowledges that shipments of the Manufacturer's Products are subject to the export laws of the United States and that such laws could delay or preclude delivery of Manufacturer's Products in the future. Purchaser shall also comply with the United States Foreign Corrupt Practices Act, and shall indemnify the Manufacturer of any failure to comply or violation of such Act by Purchaser. Purchaser shall, at its sole cost and expense, obtain and maintain in effect all permits, licenses and other consents necessary to the conduct of its activities hereunder.

**15. CONFIDENTIALITY**

Purchaser shall keep confidential any technical, process, proprietary or economic information derived from drawings, layouts, specifications and any other data and/or information furnished by the Manufacturer in connection with this order and shall not divulge, directly or indirectly, the confidential information for the benefit of any other party without the Manufacturer's prior written approval.

**16. SPECIFICATIONS**

Merchandise will be shipped in accordance with the standard styles, sizes and specification as described in Manufacturer's specification sheets.

In the event of a conflict between a customer's written order and a Manufacturer drawing or specification sheet marked "Approved," the Manufacturer drawing or specifications sheet shall prevail.

Manufacturer reserves the right to change details of design, materials and finish in any way which may alter installed appearance or reduce functional performance. Every effort is made to avoid errors in catalogs, price sheets, specifications sheets and other data.

Manufacturer will not accept responsibility of labor charge backs in connection with errors of measurements, prices, descriptions, etc. Manufacturer will not be bound by general or blanket instructions not contained within the Purchaser's order. Each transaction must be accompanied by full instruction on the order itself. Orders containing such phrases as "all materials to be supplied as per project plans and specifications," etc. are subject to separate written acceptance by Manufacturer.

Most Products sold by the Manufacturer are UL, CSA or MET Labs listed. However, any changes or substitutions to any Product component may negate this listing. Please consult Manufacturer for appropriate listing on any specific unit. It is the Purchaser's responsibility to ascertain the correct voltage for each order, and to mark each order with the voltage.

In the event that a local inspection is required at the site, the Manufacturer shall not be held liable for any additional fees or payments as a result of the inspection and local code requirements.

**17. MISCELLANEOUS**

Manufacturer and Purchaser are independent contractors and shall not represent themselves as principal and agent, partners or joint venturers. This Agreement shall be governed by the state of Illinois law as if fully performed in Illinois and without regard to its conflicts of laws principles. In connection with any dispute hereunder, Manufacturer and Purchaser irrevocably submit to the exclusive jurisdiction and venue of the state and federal courts located in Illinois and waive any right to jury trial. Any notice under this Agreement shall be in writing, delivered personally or by facsimile to the address as the addressee shall have last furnished in writing to the addressor. Such notice shall be effective upon receipt. The provisions of this Agreement are severable and shall be interpreted so as to be valid and enforceable to the maximum extent possible under applicable law. Any invalid or unenforceable provision shall be reformed or replaced by a valid and enforceable provision that is as similar in meaning as possible, and the remaining provisions shall remain enforceable to the fullest extent permitted by law. The rights granted hereunder are personal to Purchaser, and Purchaser may not assign its rights or delegate its duties, including without limitation, in connection with a merger, consolidation, acquisition, asset sale or similar transaction, without the prior written consent of Manufacturer. The waiver by either party of a breach or a default of any provision of this Agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or any other provision, nor shall any delay or omission on the part of either party to exercise or avail itself of any right, power or privilege that it has, or may have hereunder, operate as a waiver of any right, power or privilege by such party.