

1. General Provisions

1.1 All deliveries by LED Linear™ GmbH („LED Linear™“) shall be subject exclusively to the following General Terms and Conditions of Sale and Delivery („General Terms and Conditions“). Any other provisions, in particular any general terms and conditions of the Buyer, shall not be effective, irrespective of whether they have been explicitly rejected by LED Linear™ or not. This shall also apply in the event that LED Linear™ performs under the agreement without reservation despite being aware of conflicting or differing terms and conditions.

1.2 Individual agreements concluded from case to case between LED Linear™ and the Buyer shall have priority. They require written form in order to be effective, as shall any modifications of, amendments to, or cancellation of any agreements between LED Linear™ and the Buyer and of these General Terms and Conditions. This shall also apply to any revocation of this requirement of written form itself. Means of telecommunication that do not comprise at least a copy or facsimile of the signature of the issuing party, in particular simple e-mails, shall not be deemed sufficient to constitute compliance with the requirement of written form.

2. Offers, Orders

2.1 Offers issued by LED Linear™ shall generally not be binding. In the event that an offer issued by LED Linear™ is explicitly designated in writing as binding, it will be regarded as binding for a period of ten workdays from the date of issuance of the offer.

2.2 Light planning especially made for the prospective buyer can be invoiced although no respective delivery order was placed. The amount to be invoiced will be calculated on the basis of hourly rates usual in the market.

2.3 Orders placed by the Buyer shall not become binding for LED Linear™ until the order has been accepted by written confirmation or by dispatch of the product and the invoice. LED Linear™ shall have the right to accept orders within **two** weeks after receipt.

2.4 Orders on call-off have to be called off within the agreed time frame. Is the time limit exceeded for more than three months LED Linear™ is entitled to invoice the total order amount as well as interest on capital and storage fee.

2.5 LED Linear™ shall retain the title and all patent rights in respect of any offers, cost estimates, drawings, and other documentation provided in written, oral, electronic or any other form („Documents“). The Documents and their contents may only be made accessible or otherwise disclosed to third parties after the prior written consent of LED Linear™ and shall be returned at the request of LED Linear™ immediately if the agreement between LED Linear™ and the Buyer is not finalised. Any copies shall be destroyed.

3. Delivery, Acceptance of Delivery

3.1 Deliveries shall be made EXW (Versandwerk LED Linear™, Dr.-Alfred-Herrhausen-Allee 22b-d, 47228 Duisburg, Germany) ICC Incoterms 2010. Even where it is agreed from case to case that LED Linear™ is responsible for shipping the product, the place of fulfilment shall be the place of transfer of the product by LED Linear™ to the individual contracted for shipping.

3.2 Delivery periods or dates stated shall be non-binding unless agreed as binding from case to case. If non-binding delivery periods or dates are stated, LED Linear™ shall not enter into default of delivery until a reasonable delivery period set in writing by the Buyer has expired to no avail. The Buyer shall not set the expiry of such period at a date sooner than four weeks after expiry of the non-binding delivery period or the non-binding delivery date.

3.3 LED Linear™ shall not be in default of delivery if a subcontractor fails to deliver to LED Linear™ correctly or on time for reasons beyond the responsibility of LED Linear™ and despite a congruent hedging transaction having been concluded with the sub-contractor.

3.4 Nor shall LED Linear™ be in default of delivery if the delay is attributable to the fact that the Buyer has failed to present duly or on time the documentation, licenses, approvals, releases or other formalities required for shipment or has failed to meet other obligations. This shall not apply if LED Linear™ is responsible for the delay.

3.5 If LED Linear™ is in default, the Buyer shall be entitled to claim liquidated damages (pauschalierter Schadensersatz) in the amount of 0.5% for each full week of delay, in total however no more than 5% of the net price of that portion of the shipment that could not be put to its intended use on account of the delay. LED Linear™ reserves the right to prove that the damage incurred by the Buyer was significantly less or that no damage was incurred at all.

3.6 The Buyer shall, at the request of LED Linear™, state within a reasonable period whether it elects to withdraw from the agreement because of the delay in delivery or whether it insists on delivery being executed.

3.7 LED Linear™ shall be entitled to effect part deliveries provided the Buyer can reasonably be expected to accept such part deliveries, in particular if the delivery of the remaining products ordered is ensured and this does not constitute a significantly increased effort for the Buyer nor significant extra costs (unless LED Linear™ agrees to bear any such extra costs). Each part delivery may be invoiced separately.

3.8 The Buyer shall be in default of acceptance if it fails to collect the product on the binding delivery date as agreed. In the case of non-binding delivery periods or delivery dates, LED Linear™ shall be entitled to inform the Buyer subject to a notice period of two weeks that the product is ready for collection; if the Buyer fails to collect the product by the expiry date, it shall be in default of acceptance. The Buyer shall not decline acceptance on the grounds of negligible defects.

3.9 If the delivery is delayed at the request of the Buyer by more than one month after notice of readiness for dispatch, it may be charged with a storage fee for each additional month or part thereof in the amount of 0.5% of the net price of the objects of delivery, however no more than 5% in total. The parties to the agreement shall reserve the right to provide proof of storage costs being higher or lower.

4. Samples for temporary review

Luminaires can be supplied for a maximum of one month as samples. After this period an invoice will be issued if the samples were not returned in time. The products have to be returned in the original packaging. Samples not returned in original packing and samples that have been altered or damaged will always be invoiced.

5. Prices, Price Adjustments

5.1 Unless otherwise agreed, the current price list as valid from time to time shall be applicable. Prices shall be understood to be EXW (Versandwerk LED Linear™, Dr.-Alfred-Herrhausen-Allee 22b-d, 47228 Duisburg, Germany) ICC Incoterms 2010 in Euros, and are exclusive of packaging and shipping costs. Any applicable value added tax shall be calculated separately at the statutory rates as valid from time to time and shall be payable by the Buyer.

5.2 LED Linear™ reserves the right to adjust the prices in the event of cost changes occurring after conclusion of the agreement and until delivery is effected, in particular as a result of wage agreements, changes in raw material costs, other price adjustments on the part of subcontractors, or exchange rate fluctuations, that are beyond the responsibility of LED Linear™ and were not with sufficient certainty foreseeable. If requested, LED Linear™ shall substantiate the reasons for the price adjustments to the Buyer.

6. Payment, Default of Payment

6.1 Invoices shall be payable without any deductions within 30 days after delivery and receipt of the invoice by bank transfer to a bank account specified by LED Linear™ to the Buyer. Unless otherwise agreed, payments shall be effected in Euros.

6.2 If the Buyer fails to effect payment by expiry of the due date for payment, it shall be in default without further notice. Timeliness of payment shall be determined by the date of receipt of the invoiced amount in the bank account specified.

6.3 In the event of default of payment, LED Linear™ shall be entitled to charge default interest in the amount of eight percentage points above the base interest rate. The right to assert further damages is reserved.

6.4 If the Buyer is in default with at least two payments that are due from the contractual relationship with LED Linear™, all payment obligations on the part of the Buyer arising from all business relationships with LED Linear™ shall become due and payable immediately.

7. Deterioration of Financial Situation

7.1 If it turns out after signing of the agreement with the Buyer that the fulfilment of its contractual obligations is in jeopardy on account of its financial situation (in particular in the event of suspension of payment, application for institution of insolvency proceedings, attachment or compulsory execution proceedings, protested bills or cheques, and direct debit recalls, also including transactions involving third parties), LED Linear™ shall be entitled, at its own discretion, to retain delivery until the purchase price has been paid in advance or a satisfactory security has been provided. This shall also apply if the default of payment on the part of the Buyer gives rise to reasonable doubt in regard to its ability to meet its financial obligations or in regard to its credit standing.

7.2 In the cases specified in Clause 7.1 LED Linear™ shall moreover be entitled to retain deliveries until receipt of all payments due from outstanding receivables against the Buyer or until provision of an appropriate security. For receivables not yet due, including receivables for which LED Linear™ has entered into an advance performance obligation on the basis of agreements already executed, and for receivables without any natural or economic connection to the delivery, this shall only apply if LED Linear™ has a legitimate interest therein.

7.3 In the event of a current account relationship existing within the context of the business relationship, LED Linear™ shall moreover be entitled, in the cases listed in Clause 7.1, to retain deliveries until receipt of all payments from acknowledged account balances or furnishing of an acceptable security.

7.4 Should the Buyer fail to make the prepayment or to provide the pursuant to Clause 7.1 within two weeks, LED Linear™ shall be entitled to withdraw from the relevant agreement.

8. Retention of Title

8.1 LED Linear™ shall retain title in the supplied product until receipt of all payments due from the contractual relationship. In the event of a current account relationship existing within the context of the business relationship, LED Linear™ shall retain title in the supplied product until receipt of all payments from acknowledged account balances.

8.2 In the event of a violation of the agreement on the part of the Buyer, in particular in the event of default of payment, LED Linear™ shall be entitled to collect the product supplied subject to retention of title („Retained Product“). In the case of default of payment, prior indication of a notice period is not required. For the purpose of collecting the Retained Product LED Linear™ shall be entitled to enter the Buyer's premises during the usual business hours. Any other claims on the part of LED Linear™ shall remain unaffected.

8.3 After taking back the Retained Product, LED Linear™ shall be authorised, after prior announcement, to utilise the product as appropriate; the revenues shall be set off against the Buyer's liabilities, after deduction of the appropriate utilisation costs.

8.4 For the duration of retention of title the Buyer shall not be entitled to pledge the Retained Product or to use it as security. The Buyer is entitled to process and/or to sell the Retained Product in the ordinary course of business, however it now already assigns all claims in the amount of the final invoice amount (including value added tax) to LED Linear™ that it may have as a result of the sale against its customers or third parties, irrespective of whether the Retained Product was sold before or after processing. The Buyer shall not be entitled to pledge the assigned claims or use them as security.

- 8.5 The Buyer shall notify its customer, when selling the product, of the assignment of the claims for payment of the delivered goods. The Buyer shall not be entitled to sell the Retained Product to customers who have excluded or restricted the assignment of claims for payment against them. If the Retained Product has been processed together with other objects that are not the property of the Buyer, the assignment shall be effected only in proportion of co-ownership in the processed object pursuant to Clause 8.10.
- 8.6 The Buyer shall retain its right to collect the receivables even after assignment. The right of LED Linear™ itself to collect the receivables shall remain unaffected. LED Linear™ shall not collect the receivables, however, as long as the Buyer meets its payment obligations from the revenues acquired, does not enter into default of payment, and in particular does not file a petition for institution of insolvency proceedings and has not suspended its payments. In any of the aforementioned cases LED Linear™ shall be entitled to request that the Buyer disclose the assigned receivables and their debtors, that it provide all information necessary for collection, that it surrender the related documents, and that it notify the debtors of the assignment. The occurrence of any of these events shall terminate the right of the Buyer to collect the receivables.
- 8.7 Insofar as the Buyer and its customer have entered into a current account relationship pursuant to § 355 German Commercial Code, the claim assigned in advance to LED Linear™ by the Buyer shall also apply to the acknowledged account balance. If insolvency proceedings are instituted against the customer, such claim shall also apply to the account surplus of the final balance existing at that point in time.
- 8.8 The Buyer shall be obliged to notify LED Linear™ immediately in writing of any and all seizures, pledges, and other attachments and other interventions by third parties in respect of the Retained Product or the assigned receivables. In addition, the Buyer shall inform such third party of the retention of title. If the third party is not able to reimburse LED Linear™ for the court and out-of-court costs of legal action pursuant to § 771 German Code of Civil Procedure, the Buyer shall be held liable for the loss incurred by LED Linear™.
- 8.9 The Buyer shall be obliged to handle the Retained Product with due care. In particular it shall take out adequate insurance to insure the Retained Product at replacement value against damage caused by fire, water, and theft. The Buyer shall be obliged to store the Retained Product separately and to identify it as the property of LED Linear™ and to mark the assigned receivables in its accounts as being owed to LED Linear™.
- 8.10 Processing or conversion of the Retained Product by the Buyer shall invariably be performed on behalf of LED Linear™. If the Retained Product is processed or converted together with other objects not belonging to LED Linear™, LED Linear™ shall acquire co-ownership in the new object in proportion of the value of the Retained Product to the other objects processed or converted at the time of processing or conversion; apart from the aforesaid, the new object thus created shall be subject to the same provisions as those governing the product supplied under retention of title.
- 8.11 If the Retained Product is merged or combined inseparably with other objects not belonging to LED Linear™, LED Linear™ shall acquire co-ownership in the new object in proportion of the value of the Retained Product to the other merged objects at the time of merging or combining. If the merging or combining is performed in such a manner that the Buyer's object is to be regarded as the main constituent, the Buyer shall transfer co-ownership proportionately. The Buyer shall store the sole property or co-property thus created for LED Linear™.
- 8.12 The Buyer shall adopt appropriate measures for and offer LED Linear™ comprehensive support in safeguarding the rights of LED Linear™ pursuant with this Clause 8 (and, as necessary, by other means of protection) in the country in which the Retained Product is located.
- 9. Properties and Condition of the Product, Information and Application, Guarantees**
- 9.1 The properties of the product shall be defined by the agreed specifications only. The Buyer shall be responsible for verifying whether the product is suitable for the intended purpose.
- 9.2 Properties of the product which are indicated in publications of LED Linear™ or by sales representatives of LED Linear™, in particular in advertising, in drawings, brochures or other documents or on the packaging materials and identification labels of the product shall only be regarded as included in the contractual properties of the product if they are explicitly specified in a quotation or in an order confirmation.
- 9.3 Information provided by LED Linear™ in writing or other form with a view to the suitability, including application, processing and other use, as well as technical consultation by LED Linear™ shall be effected to the best of LED Linear™'s knowledge, but shall be regarded as non-binding and shall not release the Buyer from inspecting the product supplied by LED Linear™ with a view to its suitability for the intended purposes. Application, processing, and any other use of the product are beyond the control of LED Linear™ and are therefore the sole responsibility of the Buyer.
- 9.4 Guarantees, in particular guarantees in regard to specific properties, shall only be binding for LED Linear™ to the extent that they (i) are incorporated in a quotation or an order confirmation, (ii) are explicitly identified as „Guarantee“ or „Guarantees“, and (iii) explicitly specify the obligations resulting from such a guarantee for LED Linear™.
- 10. Rights and Warranties**
- 10.1 The Buyer's warranty rights are subject to the Buyer's inspecting the product upon delivery and submitting a proper notice of defects pursuant to the provisions of § 377 HGB.
- 10.2 A notice of defect shall be submitted in writing and shall specifically state the defect in question. Complaints for incomplete delivery and other visible defects shall be notified to LED Linear™ without delay, but no later than one week after delivery, in writing; hidden defects shall be notified without delay, but no later than one week after they were detected. Acceptance of the product shall not be denied on the grounds of insignificant defects. Claims for defects notified belatedly are excluded.
- 10.3 Inspection of the products shall be effected in accordance with our RMA procedure. The costs for inspection of the product shall be for the Buyer's account. The defective products shall be made available to LED Linear™ for inspection upon request. The buyer shall bear the costs to return the products.
- 10.4 LED Linear™ will ensure, at its own discretion, remedy for defective products properly notified as defective either by correcting the defect (rectification) or by supplying non-defective products (replacement). Remedy shall be effected without any acknowledgment of a legal obligation. In the case of rectification, the remaining period of the original statutory period of limitations shall begin with the return of the rectified product. The same shall apply for replacement delivery.
- 10.5 Any claims on the part of the Buyer for expenditures necessary for the purpose of remedy, in particular shipping, transit, labour and material costs, are excluded insofar as these expenditures are increased as a result of the product ultimately being forwarded to a different place of delivery than that originally agreed; LED Linear™ shall be entitled to invoice the Buyer for such extra costs. Similarly, the removal of the defective product and installation of the replacement product and the related costs are not part of the remedy; they may be reimbursable as damages pursuant to Clause 11.
- 10.6 Should the remedy prove unsuccessful, the Buyer may, at its discretion, reduce the purchase price by a reasonable amount or withdraw from the agreement.
- 10.7 Any other warranty claims, regardless of their nature, shall be excluded without prejudice to any claims for damages limited pursuant to Clause 11.
- 10.8 There shall be no warranty claims for insignificant deviations from the agreed properties unless they have a substantial adverse effect on the intended use, for normal wear, improper or negligent handling, unsuitable or incorrect use, incorrect installation or commissioning by the Buyer or third parties subcontracted by the Buyer, excessive operational demands, use of unsuitable materials and supplies or substitute materials, inadequate construction work, unsuitable subsoil material or other special external influences, provided the damage is not due to the fault of LED Linear™. Warranty claims attributable to improper modifications or repair work performed by the Buyer or by third parties subcontracted by the Buyer shall also be excluded.
- 10.9 The Buyer shall bear the reasonable costs of an unjustified assertion of warranty claims (e.g. if the product was not defective); the same shall apply if LED Linear™ wrongfully grants warranty rights without being obliged to do so.
- 10.10 The limitation period for warranty claims is twelve months from the date of delivery. This limitation shall not apply, however, insofar as (i) a defect was intentionally not disclosed or (ii) a guarantee for the properties of a product was given (in this context, the guarantee and/or limitation period laid down in the guarantee shall apply as applicable). In the event of damage claims this restriction shall, moreover, not apply in the following instances: (i) liability pursuant to the German Product Liability Act, (ii) death, damage to body or health, (iii) intent and (iv) gross negligence on the part of corporate bodies or executives of LED Linear™.
- 10.11 The statutory rights of recourse on the part of the Buyer in the event that the product is sold to a consumer, shall remain unaffected. Such rights of recourse shall only exist insofar as the Buyer has not entered into any agreement with its customer that extend beyond the statutory warranty rights.
- 11. Intellectual Property Rights**
- 11.1 LED Linear™ shall deliver the product unencumbered by copyrights and other intellectual property rights only with regard to the country in which the place of delivery is located (hereinafter referred to as „Property Rights“). In the event of a violation of this obligation, LED Linear™ shall be held liable to the Buyer pursuant to the following provisions, provided that the product was used by the Buyer in accordance with the agreement and the statutory period of limitations for warranty claims as specified in Clause 9.10 has not yet expired.
- LED Linear™ shall at its discretion either acquire, at its own cost, an adequate right of exploitation with regard to the violated Property Right, modify the product so that the Property Right is no longer violated, or replace the product, provided this does not impair the agreed or presumed use thereof by the Buyer. If this is not possible, or if this cannot reasonably be expected of LED Linear™, the Buyer may withdraw from the agreement as far as the affected product is concerned, or reduce the purchase price by an appropriate amount.
 - LED Linear™'s liability for damages shall be subject to the provisions laid down in Clause 11.
 - The aforementioned obligations of LED Linear™ shall only apply insofar as the Buyer (i) informs LED Linear™ without delay in writing of the assertion of claims by third parties, (ii) does not acknowledge the existence of a violation vis-à-vis third parties, and (iii) leaves all measures of defence and negotiations aimed at settling the conflict to the discretion of LED Linear™. If the Buyer discontinues the use of the product for the purpose of minimising damage or for any other justified reason, it shall inform the third party that such discontinuation does not constitute any acknowledgement of the alleged violation.
- 11.2 All claims on the part of the Buyer shall be excluded if the violation of a Property Right was caused by the Buyer, in particular if it was caused by a manner of use not intended by LED Linear™, or by a modification of the product by the Buyer or by third parties subcontracted by the Buyer.

tracted by the Buyer or their use in combination with products not provided or recommended for combined use by LED Linear™.

- 11.3 Any other claims on the part of the Buyer against LED Linear™ or its agents that extend beyond the rights laid down in this Clause 11 and are based on a violation of Property Rights are excluded.

12. Liability

- 12.1 LED Linear's liability for damages caused by simple negligence is limited to damages arising from the violation of material contractual obligations the fulfilment of which is prerequisite to the proper execution of the agreement and in the observance of which the contractual partner regularly trusts and is entitled to trust; in this case, however, liability shall be limited to the typical foreseeable damage. This limitation of liability shall apply analogously for any damage caused by gross negligence on the part of employees or agents of LED Linear™ who are not corporate bodies or executives of LED Linear™.
- 12.2 In cases governed by Clause 12.1, the liability shall be limited to three times the purchase price of the delivery in question.
- 12.3 In cases governed by Clause 12.1, the liability for consequential damages, including lost profits and production downtimes, shall be limited to two and a half times the purchase price.
- 12.4 In cases governed by Clause 12.1, the limitation period shall be two years from the time when the claim arose and the Buyer became aware of the circumstances giving rise to the claim. Irrespective of the Buyer's awareness, the claim shall expire three years after occurrence of the event causing the damage. The limitation period for claims for damages due to defects shall be determined pursuant to Clause 10.10.
- 12.5 The aforementioned limitations of liability shall apply for all claims for damages irrespective of the legal basis, with the exception of damage claims filed by the Buyer (i) for defects intentionally not disclosed, (ii) for defects for which a guarantee for the properties of a product was given (in this context, the guarantee provisions and/or limitation periods laid down in the guarantee shall apply as applicable), (iii) pursuant to the German Product Liability Act, (iv) for death, damage to body or health, (v) for intent or (vi) for gross negligence on the part of corporate bodies or executives of LED Linear™.
- 12.6 The aforementioned limitations of liability shall also apply for damage claims filed by the Buyer against corporate bodies, executives, employees or agents of LED Linear™.
- 12.7 The aforementioned limitations of claims for damages shall apply accordingly for claims for reimbursement of futile expenses.
- ## 13. Force Majeure
- 13.1 If LED Linear™ is prevented from fulfilling its contractual obligations due to circumstances of force majeure including mobilisation, warfare, acts of terrorism, riots, natural disasters, fire or other unpredictable circumstances beyond the control of LED Linear™, for example strikes or lawful lockouts, operational or transportation disruptions, raw material shortages, virus and other attacks by third parties to the IT system of LED Linear™, insofar as such attacks

occurred despite compliance with the usual care adopted for protective measures, and shortages in materials supplied by subcontractors, the agreed terms of delivery shall be extended by the duration of the delay plus an appropriate start-up period, however by no more than three months. The aforementioned circumstances shall also be deemed beyond the control of LED Linear™ if they occur in the course of a delay already occurring. LED Linear™ shall inform the Buyer of the beginning and the anticipated end of such events as swiftly as possible.

- 13.2 If the delay extends for a period of six weeks or longer, both parties shall have the right to withdraw from the agreement.

14. Compliance with Regulations and Export

- 14.1 The Buyer shall comply with all applicable legal and regulatory provisions as well as government requirements, including applicable import and export regulations and any other legal provisions valid in the country in which the Buyer is engaged in business. The Buyer shall procure in good time all necessary approvals and licences as well as all other necessary permissions that are required for the use or export of the product pursuant to all such applicable laws and provisions.
- 14.2 LED Linear™ shall be entitled to withhold delivery to the Buyer if the Buyer violates such applicable laws or if the required permissions have not been procured through no fault or responsibility on the part of LED Linear™.

15. Set-Off and Retention of Title

Set-off of claims and the exercising of a right of retention by the Buyer for contested counter-claims or counter-claims not established as final and absolute are excluded. The Buyer's right of retention shall also be excluded insofar as the counterclaims are not based on the same contractual relationship.

16. Assignment

The Buyer shall not assign the rights and obligations that devolve upon him in connection with deliveries, neither in part nor in their entirety, without the prior written consent of LED Linear™. LED Linear™ is entitled to assign the rights and obligations that devolve upon LED Linear™ in connection with deliveries, in particular to associated companies as defined in § 15 German Stock Companies Act.

17. Applicable Law, Place of Jurisdiction, Miscellaneous

- 17.1 All legal relationships between LED Linear™ and the Buyer shall be governed by German law with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 17.2 The exclusive place of jurisdiction for all disputes arising from or in connection with a delivery is Landgericht Kleve; however, LED Linear™ shall also be entitled to file suit against the Buyer at its registered place of business.
- 17.3 Should individual clauses contained in these present General Terms and Conditions prove to be or become invalid, this shall have no bearing on the validity of the remaining clauses.