

***General Conditions of Sale and Delivery of Illuxtron International B.V., Mercuriusweg 19, 4382 NC Vlissingen, The Netherlands***

**1. Applicability**

1. These conditions and the terms included apply to the trade agreements in which Illuxtron International B.V. is the seller and form in their entirety part of all tenders and offers from Illuxtron International and of every acceptance, confirmation and ratification by Illuxtron International of orders placed by the buyer and of all agreements concerning the sale by Illuxtron International and the purchase of goods and services by the buyer, unless and insofar as expressly agreed otherwise in writing with Illuxtron International.

2. The buyer's conditions and provisions are expressly rejected that are published on documents issued by the buyer, both before and after issuing of documents by Illuxtron International. Such conditions and provisions do not apply to sales by Illuxtron International to the buyer and are in no way binding on Illuxtron International.

**2. Tenders, orders and specials**

1. The tenders from Illuxtron International are open for acceptance by customers within the period stated by Illuxtron International in the tender. If no period is mentioned in the tender, it is open for acceptance until 28 days after the date of the tender. Before Illuxtron International has become aware of the acceptance of the tender by the customer, Illuxtron International can revoke or withdraw a tender.

2. Orders are confirmed to the client by Illuxtron International by email. In the event that the order does not match the confirmation, the client must report this within 2 working days. After that it is assumed that the order and confirmation correspond.

3. The customer is free to revoke or withdraw the acceptance of the tender within 2 working days. If the customer (partly) revokes the acceptance of the quotation or (partially) withdraws an order after that deadline, the customer owes Illuxtron International 20% of the sum listed in the tender with a minimum amount of €25.

4. If the customer (partially) revokes the acceptance of the offer or (partially) withdraws an order for specials, special products with components deviating from the standard or custom-made luminaires, the customer shall owe Illuxtron International 50% of the amount stated in the offer or order confirmation with a minimum of 100 euros.

**3. Prices**

1. The prices in tenders, confirmations and agreements are given in euros, excluding tax and levies, based on delivery according to ICC Incoterms 2020 DAP, unless agreed otherwise.

2. Illuxtron International adds taxes and levies to the sale price if Illuxtron International is legally obliged or authorized to pay or collect these taxes and levies. Buyer will pay these taxes and levies together with the price.

3. Illuxtron International is entitled to adjust the prices or parts thereof for products that have not yet been delivered and/or not paid for to any changes in price-determining factors, such as raw material prices, taxes, production costs, currency exchange rates, etc. as well as for the costs of storage as referred to in article 5 paragraph 9 of these general terms and conditions.

4. Illuxtron International charges a surcharge for pallet shipments outside the Benelux.

#### **4. Payment**

1. Upon delivery, Illuxtron International sends an invoice to the buyer by email with the price of the delivered products, unless expressly agreed otherwise in writing.
2. The amount of the invoice must be paid within 30 days of the date of the invoice, unless expressly agreed otherwise in writing.
3. All payments are done to the address and account number specified by Illuxtron International on the invoice.
4. Discount due to prepayment is not permitted, unless expressly agreed otherwise in writing.
5. Credit approval investigation is done by Illuxtron International on all deliveries. Illuxtron International retains the right to demand full, partial and cash payment in advance or during delivery if there are any doubts about the customer's ability to pay
6. Late payment and partial payment incur a legal interest imposed on the unpaid portion to be paid by the buyer without any notice being required. Interest is imposed on expired, unpaid interest after one year.
7. Any legal and extrajudicial costs linked to debt collection are charged to the buyer.
8. In case of delayed payment, including non-compliance with a demand for prepayment or a demand for cash payment in advance or during delivery, Illuxtron International is entitled to suspend implementation of the agreement until the receipt of the full payment and, in case of partial payment after a written notice, to annul the agreement partially or fully. All of this does not affect Illuxtron International's right to compensation.
9. Settlement with claims against Illuxtron International is not permitted. In case of bankruptcy, suspension of payment or seizure on the part of the buyer, everything he owes to Illuxtron International is immediately payable in full and Illuxtron International can settle immediately.

#### **5. Delivery conditions**

1. Unless agreed otherwise in writing, the products are delivered by Illuxtron International in accordance with ICC Incoterms 2020 DAP. In agreement with this, the risk of loss of the products is transferred to the buyer at the moment of delivery.
2. Delivery deadlines, notified or confirmed by Illuxtron International, are approximate.
3. Illuxtron International will carry out commercially responsible, reasonable efforts to deliver on the notified or confirmed deadline, on the condition that the buyer has supplied all necessary information about the order and delivery long enough before the delivery deadline.
4. Deliveries made within a reasonable period before or after the notified or confirmed delivery deadline are presumed to have been done consistent with Illuxtron International's obligations towards the buyer.
5. If Illuxtron International fails to deliver, the buyer will report this in writing and give Illuxtron International the possibility to make a delivery within 14 days. If Illuxtron International does not

deliver within those 14 days, the buyer has the right to annul only the parts of the agreement concerned with the default. The rest of the agreement remains unaffected.

6. If the production process of Illuxtron International stops, declines, has stopped or has reduced, for whatever reason, Illuxtron International has the right at its own discretion to use the available production possibility and distribute products among the customers. As a result, Illuxtron International has the right to sell and deliver fewer products to the buyer than was agreed, in deviation from the agreed amount.

7. Despite Illuxtron International's striving for a high level of customer satisfaction, it is possible that deliveries may be incomplete for some reason. In such cases, partial delivery is permitted.

8. At the request of the buyer and after explicit permission from Illuxtron International in writing or by email, delivery of manufactured goods, which are ready for shipment, can be postponed for a maximum of 30 days.

9. Illuxtron International charges a fee of 2.5% of the invoice price per week for the storage costs of manufactured goods that are ready for shipment and that are stored for more than 30 days.

## **6. Retention of ownership**

1. All items delivered by Illuxtron International remain the property of Illuxtron International until the moment that the buyer has fulfilled all his payment obligations towards Illuxtron International according to the unique agreement concluded with Illuxtron International for the delivery of items, carrying out of tasks and provision of services. This includes claims due to failure to comply with such an agreement.

2. From the moment the goods are made available, the buyer assumes the risk for the delivered items.

3. Buyer is not entitled to encumber the delivered items to the detriment of Illuxtron International or transfer the ownership of these items as security.

## **7. Conformity and liability**

1. Illuxtron International undertakes to deliver goods and materials in accordance with the purchase agreement. In any event, improper performance on the part of Illuxtron International does not include: minor deviations customary in the trade or technically unavoidable and differences in quality, number, color or finish.

2. Illuxtron International is liable for damage to the buyer resulting from intent or gross negligence on the part of Illuxtron International. If Illuxtron International provides advice without there being an express agreement to provide advice, the advice is free of obligation, and Illuxtron International disclaims any liability for it.

3. At the time of delivery the buyer shall conduct a visual inspection of the goods, materials and packaging delivered by us. Any shortages or apparent damages shall be detailed on the consignment note or notified by email. The buyer shall further without delay and at the latest within three (3) days of delivery send a copy of such consignment note and provide at the same time detailed information in writing concerning shortages and/or apparent damages to Illuxtron International including evidence of such defects.

The buyer shall make available all defective products (and the original labelled packaging) or deficient packaging for inspection immediately upon request by Illuxtron International. Further, on

Illuxtron International's request the buyer shall return all such products (and the original labelled packaging) or deficient packaging to Illuxtron International or Illuxtron International's appointed service partner. Illuxtron International is not liable for any visible lack of conformity if the buyer has not complied with the return procedure of Illuxtron International and/or the guidelines mentioned in this article and of which the buyer may be aware.

4. The burden of proof regarding the hidden defects shall be on the buyer. If there is any hidden defect in the goods and materials delivered by us, the buyer shall be required to inform us in writing (by registered mail) within 2 months following the date on which the buyer becomes aware of such

defect. Such written communication must set out in reasonable detail the nature of the hidden defect and include evidence of such defect. The customer shall make available all defective products for inspection upon request by Illuxtron International. Further, on Illuxtron International's request the buyer shall return all such products to Illuxtron International or Illuxtron International's appointed service partner.

We shall not be liable for any hidden defect if the buyer has failed to comply in any manner with this provision or with the Illuxtron International return procedure and/or guidelines known by the buyer.

5. Illuxtron International shall only be held liable where the hidden defect becomes apparent within two years as from delivery of the goods. All the buyer's claims shall become invalid six months after the notification of the hidden defect as indicated in the fourth paragraph of this article. All claims to guarantee for lack of conformity expire in the event of damage caused during processing, assembly or maintenance, changes and/or repairs made by the customer or a third party. A claim to guarantee also expires if the delivered goods are not assembled or processed, used or installed according to our instructions and/or the instructions of the manufacturer that accompanied the delivery and of which the buyer declares having received a copy. The same applies when the goods have not been submitted to an annual check-up or have not been maintained according to our maintenance instructions and/or the instructions of the manufacturer that accompanied the delivery and of which the buyer declares having received a copy. There shall be deemed not to be a hidden defect for the purposes of this article if, at the time the contract was concluded, the buyer was aware, or could not reasonably be unaware of it.

6. In case of a visual lack of conformity or hidden defect that has been notified to us in accordance with this article 7, the buyer is only entitled to require us to repair the goods or to replace them, at our sole discretion, in either case free of charge. In the event of justified liability for defects, Illuxtron International will reimburse the purchaser for proven disassembly/installation costs for defective products in the following manner: if an individual product is defective, the refundable disassembly/installation costs are limited to 30% of the net product price of the product. In the event of serial errors, the reimbursement of costs is limited to 20% of the net invoice value of the delivery in question. Apart from the costs strictly related to conducting such repair or replacement, we shall not be liable for any other costs, transport costs, installation costs, expenditures, damages or any other financial obligation that is in any manner related to the defect in the goods and materials or any possible consequence thereof. Any other liability that is imposed by mandatory law shall, to the extent permitted by such mandatory law, be limited to the amount covered by our insurance. Only if we have not completed the remedy within a reasonable time, the buyer may require an appropriate reduction of the price. The buyer is never entitled to have the contract rescinded. The buyer shall protect us against all claims made by third parties with regard to the delivered goods, as a result of which our maximum obligations would be exceeded. The buyer shall inform Illuxtron International of all complaints received concerning the products. If Illuxtron International so requires, the buyer undertakes to carefully follow up all complaints with the purpose of avoiding damage and questioning of the goodwill pertaining to Illuxtron International and the products.

7. Illuxtron International and the buyer commit to limit damage in cases such as those mentioned in the previous paragraphs of this article. In the event that the buyer foresees that damage may occur in the short term as a result of non-compliance, the purchaser is obliged to make an urgency notification of this to Illuxtron International immediately and without delay, with a sufficiently clear description of the situation.

8. If, during installation or immediately thereafter, buyer discovers any defect that causes buyer to suffer or may cause buyer to suffer damage, buyer shall immediately and without delay make an urgency notification to Illuxtron International and take immediate measures to prevent or limit this damage.

9. Illuxtron International shall within 2 working days after an urgency notification consult with the buyer to discuss how to proceed in order to prevent or limit the damage.

10. Absent our written and specific consent, the amounts owed by the buyer to us cannot in any way be offset against any amount the customer may claim we owe him. Neither can the buyer invoke such claims to justify the suspension or postponement of his payment obligations towards us.

11. In the event that the buyer invokes warranty in the event of possible manufacturing, design or material defects, Illuxtron International reserves the right to decide whether the warranty claim is justified in accordance with Illuxtron International's warranty conditions.

## **8. Exoneration**

1. In cases and conditions, in whole or in part, beyond the control of Illuxtron International, whether foreseeable or not at the time of arranging the agreement, Illuxtron International cannot be made liable for delay in compliance, nor for the non-performance of the agreement.

2. Nor can Illuxtron International be held liable for delays in compliance and for, in whole or in part, non-performance of the agreement resulting from interruptions in the production process.

3. For the duration of the non-performance or delay, the relevant parts of the agreement are suspended without Illuxtron International being liable for any resulting damage.

4. If the non-performance or delay lasts 90 days, or Illuxtron International expects that it will last 90 days, Illuxtron International has the right to annul the relevant part or the entirety of the agreement without being liable in any way for any resulting damage to the buyer or third parties.

## **9. Intellectual property and rights referring to software and documentation**

1. The sale of a product by Illuxtron International does not include the sale of exclusive rights or licensing rights to that product, but only a restricted licence for use or reselling. This complies with the intellectual property rights of Illuxtron International.

2. If software or integrated documentation is delivered with a product, the sale of that product does not include the transfer of the property rights of the software or documentation in question to the buyer, but only a non-exclusive and non-transferrable licence to use such software or documentation in combination with or integrated into products delivered by Illuxtron International, complying with the intellectual property rights of Illuxtron International.

3. With regard to the software provided by Illuxtron International to the buyer, it is forbidden:

- a. to change or modify this software in combination with other products, or produce products based on this software.
- b. to hand over this software, sublicense, lease, rent, lend, transfer, publish or make it available in another way.
- c. combine this software or integrate it in other software.
- d. conduct reverse engineering on this software, decompile it, take it apart or attempt to deduce the source code without written permission from Illuxtron International, unless this is expressly permitted under the applicable legislation.

4. The buyer will reproduce the certificates of property rights from Illuxtron International or its external suppliers in software or documentation supplied by Illuxtron International, without adjusting or changing them.

## **10. Confidentiality**

1. The buyer acknowledges that all technical, commercial and financial data provided by Illuxtron International to the buyer is confidential information of Illuxtron International.
2. The buyer may not reveal this confidential information to third parties and may not use such confidential information for another purpose than that expressly permitted in writing by Illuxtron International and in compliance with the proposed purchase.

## **11. Intellectual property rights, indemnification**

1. Illuxtron International indemnifies the buyer from claims by third parties based on the claim that the software provided by Illuxtron International infringes their intellectual property rights, on the condition that the software in questions was developed by Illuxtron International itself, is used by the buyer within the European Union, and the alleged infringement is not associated with changes made to the software by or on behalf of the buyer.
2. Buyer will inform Illuxtron International promptly and in writing about intended claims with third parties, leaving the manner of handling the case entirely to Illuxtron International and providing Illuxtron International all cooperation to defend itself against the claims, if necessary in the buyer's name.
3. In the event that it is judicially and irrevocably established that the software developed by Illuxtron International infringes the intellectual property rights of a third party, Illuxtron International will ensure that the software is sufficiently modified that it can be used without disruption or provide other, functionally equivalent software. If this is not reasonably possible, Illuxtron International will compensate the buyer for the remaining book value when the infringing software is returned. Further liabilities or obligations to indemnify of Illuxtron International due to infringement of intellectual property rights of third parties are excluded.

## **12. Export and import licences**

1. If an export or import licence is required for the delivery of the agreed products, Illuxtron International can suspend its obligations and the buyer's rights regarding this delivery until the moment when the required licence is provided.

2. If there is another form of restriction or ban due to legislation regulating export or import, Illuxtron International can suspend its obligations and the buyer's rights regarding this delivery for the duration of that restriction or ban.
3. In the above-mentioned cases Illuxtron International has the right to annul the agreement without Illuxtron International being financially liable for damage sustained by the buyer.
4. If an end use certificate is required, Illuxtron International will inform the buyer of this immediately, and the buyer will provide Illuxtron International with the correct document.
5. If an import licence is required, the buyer will inform Illuxtron International of this immediately. The buyer will also provide Illuxtron International with the correct documents as quickly as possible.
6. By accepting the offer from Illuxtron International, concluding an agreement with Illuxtron International or accepting products from Illuxtron International, the buyer agrees that he will not trade with the products or associated documentation in a manner that conflicts with the applicable legislation for export or import.

### **13. Transmission of rights and duties, settlement**

1. With regard to this agreement, the buyer will not transfer any rights or enter into obligations without prior written agreement from Illuxtron International.
2. The buyer does not have the right to withhold payments or to reduce or offset existing or future claims against payments due for the products of the agreement or future agreements with Illuxtron International. Thus, the buyer is obliged to pay the agreed purchase amount, and claims alleged by the buyer may not be offset by the buyer.

### **14. Disputes, applicable law**

1. All offers, confirmations and agreements of Illuxtron International shall be governed by Dutch law. The applicability of the Vienna Sales Convention (CISG) is excluded. The buyer and Illuxtron International shall first try to resolve any dispute arising from or relating to these offers, confirmations and agreements amicably by consultation and negotiation in a consensual manner and in good faith.
2. Disputes which cannot be resolved amicably shall be submitted exclusively to the Court of Middelburg/Breda in the Netherlands, without prejudice to Illuxtron International's right to additionally file a complaint or bring legal proceedings against the buyer before another competent court.
3. The provisions of this article shall not restrict the rights of Illuxtron International or of the buyer to submit a dispute to a provisional relief court or to perform acts to preserve their means of recovery.

### **15. Breaches of conditions and termination of agreement**

In the case of a breach of the conditions of the purchase agreement and in the case that the buyer becomes insolvent, subject to an administration order, bankrupt or has stopped making payments or threatens to stop paying, Illuxtron International has the right through written or electronic notification to the buyer to terminate the purchase agreement with immediate effect, and all outstanding debts owed by the buyer to Illuxtron International become immediately due and payable.

## **16. Change of terms and conditions**

Illuxtron International has the right to unilaterally change these general terms and conditions if there is a compelling interest and the buyer is not disproportionately disadvantaged. These changes will come into effect at the announced time of entry into force. Illuxtron International will publish the amended terms and conditions on the website of Illuxtron International B.V. ([www.illuxtron.com](http://www.illuxtron.com)) in a time

## **17. Supplementary provisions**

1. Any provision in the purchase agreement or these Terms and Conditions which is wholly or partially void, voidable or otherwise inapplicable does not affect the application of the other provisions. For every void, voidable or otherwise inapplicable provision, a valid provision will be substituted that comes as close as possible to the inapplicable provision in spirit.
2. Not performing or delaying the performing or implementation of any right or recovery option derived from the purchase agreement does not mean that the purchase agreement is being renounced. A single or partial implementation of any right or recovery option derived from the purchase agreement, from the associated document or by law does not mean that the purchase agreement is being renounced.
3. In case of conflicts between the Dutch text and the translation of these general terms and conditions, the Dutch text prevails.

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