

**General Terms of Purchase**

**of**

**SONLUX Lighting GmbH**

**as well as RZB subsidiaries**

**Version 104**  
**Last updated: October 2018**

## 1. Applicability

- (1) All goods, services, and quotes from our suppliers (hereinafter referred to as “Vendor” or “Vendors”) shall be governed solely by the standard terms of Purchasing hereof (herein after referred to as the “Standard Terms”), which shall be incorporated into any contract that we conclude with any Vendor concerning any provisioned goods and/or services. These Standard Terms shall also govern any future goods, services or quotes that we are provided with, including in cases where these Standard Terms are not agreed upon separately.
- (2) Any application of any standard terms and conditions of any Vendor or third party shall be excluded, including in cases where such application has not been expressly excluded. Any reference on our part to any document containing any Vendor or third party standard terms and conditions, or any document that refers to such terms and conditions, shall not be construed as any agreement on our part to the effect that such terms and conditions are applicable.

## 2. Orders

- (1) We shall be entitled at any juncture to change the time and place of delivery, as well as the type of packaging used, insofar as we submit written notice of such change a minimum of seven calendar days prior to the contractual delivery date. The foregoing shall also apply to any change request concerning any product specification (“Change Request”) insofar as such Change Request can be implemented within the framework of the Vendor’s normal production and/or procurement processes and without undue additional expense; whereby in such cases, the period of advance notice pursuant to the previous sentence shall be 14 days in lieu of seven. We shall reimburse the Vendor for any substantiated and reasonable costs incurred as the result of implementing any Change Request. Insofar as any Change Request results in any delivery delay that cannot be averted with reasonable effort via the Vendor’s normal production and business processes, the relevant original delivery date shall be pushed back accordingly. The Vendor shall submit to us in a timely manner (but in any case within a maximum of seven working days following receipt of the relevant Change Request) a diligently calculated and elaborated written estimate of the anticipated additional costs and/or any anticipated delivery delay.
- (2) Insofar as any ordered product is no longer of use to us for our business operations and/or activities and/or processes owing to any circumstance which arises after conclusion of the contract, we shall be entitled to terminate the contract at any juncture by issuing a written notice of termination that indicates the grounds for such termination. In such a case, we shall compensate the Vendor for any partial performance that the Vendor has provided to date.

## 3. Prices; terms of payment; invoice information

- (1) The price indicated in the order shall be binding.
- (2) Unless otherwise agreed in writing, the price shall include packaging and handling, as well as shipping and delivery to the shipping address indicated in the contract.
- (3) If the contractual price does not include packaging and handling and the price of such packaging and handling is not expressly indicated in the contract, the vendor may charge - with the exception of loaned packaging - for such packaging and handling at the

substantiated cost thereof. On request from us, the Vendor shall take back the product packaging at the Vendor's cost and expense.

- (4) Unless otherwise agreed, we shall effect payment within 14 days of receipt of delivery of the goods and invoice with a 3 percent discount on the net price, or we shall effect payment on a 30 days net basis. Our payment shall be deemed to have been effected in a timely manner when our debit transfer order is received by our bank on or before the relevant payment due date.
- (5) Our order number, item number, quantity, and delivery address shall be indicated on all order confirmations, shipping documents, and invoices. Should any of the afore mentioned pieces of information be omitted and such omission results in a processing delay in connection with our normal business operations, the payment period pursuant to section 3(4) shall be extended by the length of such delay.
- (6) In the event any payment due from us is in arrears, we shall be subject to late-payment interest amounting to five percent above the base interest rate, within the meaning of Article 247 of the German Civil Code (BGB).

#### **4. Delivery Periods; deliveries; passage of risk**

- (1) The delivery period/delivery deadline ("Delivery Period") indicated in the order shall be binding. Any early delivery shall be subject to prior consultation between us and the Vendor.
- (2) The Vendor shall notify us immediately in writing in the event any circumstance arises or comes to the Vendor's attention that could result in any failure to adhere to a contractual Delivery Period.
- (3) Insofar as the contract specifies a delivery date, the Vendor shall be deemed to have defaulted on the relevant Delivery Period as at midnight of such delivery date, whereby any need for us to issue a warning in this regard shall be excluded in such a case.
- (4) In the event of any delivery delay, we shall be entitled to avail ourselves of any available legal recourse, including the right to cancel the contract and to assert a claim for damages in lieu of the relevant deliverables, insofar as a reasonable grace period has expired.
- (5) In the event of any delivery delay, we shall be entitled – subject to prior transmission of a threatening letter– to receive payment of a contractual penalty amounting to 0.5 percent (max. of 5 percent) of the value of the relevant order for each whole or partial week of delivery delay. The amount of such penalty shall be deducted from any indemnification for loss or damage for which payment is due from the Vendor.
- (6) In case the Vendor is only able to effect partial delivery, he shall be obligated to send us a written information as soon as he is aware of the situation.
- (7) Risk, also for deliverables agreed to be shipped, shall pass to us only after we take possession of the relevant deliverables at the contractually defined place of delivery.

#### **5. Retention of title**

- (1) We shall retain title and industrial property rights to any order, drawing, graphic, photograph, calculation, description or any other document ("Specific Documents") that we make available to the Vendor. The Vendor shall be prohibited from taking any of the following actions without our express consent: providing or disclosing to any third party any Specific Document; making use of or making copies of any Specific Document;

enabling any third party to make use of or make copies of any Specific Document. On request from us, the Vendor shall return all Specific Documents to us insofar as

- a. the Vendor no longer needs such Documents in order to conduct its business operations in a diligent and satisfactory fashion, or
  - b. negotiations between the Parties do not culminate in conclusion of a contract. In such a case, the Vendor shall destroy any copies of Specific Documents that are in the Vendor's possession, to the exclusion of (a) any such Document that the Vendor is required by law to archive; and (b) any data that are backed up during normal backup procedures.
- (2) We shall retain or acquire title to any tool, apparatus, equipment or model ("Apparatus") that we make available to the Vendor or that is fabricated by the Vendor for purposes of performing the contract and for which the Vendor charges us separately. The Vendor shall clearly indicate that the Apparatus is our property, diligently store the Apparatus, insure the Apparatus against common risks and use the Apparatus for contractual purposes only. The Vendor shall bear the entirety of any cost resulting from any defect in any Apparatus that was manufactured by the Vendor or that results from any improper use of such Apparatus by the Vendor, any Vendor employee, or any other Vendor agent. The Vendor shall notify us immediately in case any Apparatus suffers a more than negligible damage. On request, the Vendor shall return to us any Apparatus in good order and condition, if the Vendor no longer needs such Apparatus for purposes of performing the contract.
- (3) Any retention of title on the part of the Vendor shall be valid and admissible only insofar as such retention of title concerns any pecuniary sum that we owe the Vendor for the product to which the Vendor intends to retain title. Any extended retention of title or the extension of the term of any retention of title shall in particular be excluded.

## 6. Warranty

- (1) The Vendor shall guarantee the quality of its products and shall ensure that the products comprising each shipment undergo a final inspection/final testing, in accordance with the criteria that have been defined in consultation with our quality assurance department. Additionally the Vendor guarantees that any supplied goods are in compliance to the EC regulations 2015/863/EU (RoHS) and 1907/2006 (REACH) as well as to the regulations of the Elektro- und Elektronikgeräte-Stoff-Verordnung (ElektroStoffV).
- (2) Any defect shall entitle us to pursue any available legal recourse. Contrary to the foregoing sentence, the warranty period shall be 36 months. In each case, we shall be entitled, at our discretion, to require the Vendor to either eliminate the defect or provide a new product. The foregoing shall not waive our right to lodge claims for indemnification and in particular our right to indemnification in lieu of being provided with the relevant deliverable.
- (3) After reception of a delivery, we will perform identification and quantity check as well as an analysis of any potential transport damage. Should we detect any defect, it shall be deemed to have been reported in a timely manner if we report any such defect within two weeks following receipt of the relevant goods. Any concealed defect shall likewise be deemed to have been reported in a timely manner insofar as the relevant notice of defect is issued to the Vendor within two weeks following the date of discovery of such concealed defect. The supplier therefore waives the objection of a delayed notice of defect.
- (4) Any acceptance or approval of any sample or model by us that may be submitted to us

shall not waive our right to assert warranty claims.

- (5) On receipt by the Vendor of any written notice of defect from us, the statute-barred period for warranty claims shall be suspended. Insofar as any replacement product is provided or any defect is eliminated, such period shall begin over again for any repaired or replaced element, except insofar as the only conclusion that could be reasonably reached in light of the Vendor's behavior is that the Vendor did not regard itself as being legally and/or contractually obligated to take any action to rectify the situation, and instead eliminated the defect or replaced the element in question as a gesture of goodwill or for similar reasons.

## 7. Product liability

- (1) The Vendor shall be liable for any personal injury or property damage claim asserted by any third party insofar as such claim is attributable to any defective product that was supplied by the Vendor; whereby the Vendor shall defend, indemnify and hold us harmless from any such liability. Insofar as, owing to any defect in any product supplied by the Vendor, we are obligated to recall any product from third parties, the Vendor shall bear all costs and expenses arising from the attendant recall program.
- (2) The Vendor shall obtain, at the Vendor's cost and expense, product liability insurance whose cover amounts to a minimum of €1 million and which, insofar as not otherwise agreed in a specific instance, need not cover recall risk, criminal-penalty risk or the like. On request, the Vendor shall submit to us a copy of the relevant liability insurance policy.

## 8. Industrial property rights

- (1) The Vendor warrants that the Vendor's deliverables will not infringe any industrial property rights of any third party in any member state of the European Union, in North America, or in any other country where any Vendor product is manufactured.
- (2) The Vendor shall defend, indemnify and hold us harmless from any third-party claim that may be lodged against us on account of any industrial property rights infringement pursuant to section 8(1) and shall indemnify us for any expenditure we may be required to effect in connection with any such claim. We shall be entitled to be held harmless and be indemnified as provided in the previous sentence of this paragraph 2, irrespective of any liability that may be incurred by the Vendor.

## 9. Spare parts

- (1) The Vendor shall keep spare parts in stock for all products that the Vendor supplies to us, for a period of at least 15 years following delivery of such products.
- (2) Insofar as the Vendor intends to phase out any spare part for any product that the Vendor has supplied us with, the Vendor shall notify to us the Vendor's decision concerning such phasing out, and shall do so without delay following the date upon which such decision is made. Subject to the provisions of section 9(1), such decision shall be made a minimum of 12 months prior to the date upon which manufacture of the relevant part is discontinued.

## 10. Non-disclosure

- (1) The Vendor shall keep confidential the terms and conditions of any order, as well as any information and/or document that was provided to the Vendor for purposes of any order (to the exclusion of any information that is in the public domain) for a period of three years following termination of the contract and shall use any such information or document solely for purposes of fulfilling the relevant order. On request following the date upon which the

relevant query is answered or the relevant order is fulfilled, the Vendor shall return the relevant information/documents elements to us without delay.

- (2) Except insofar as authorized by us in writing in advance, the Vendor shall be prohibited from (a) making any reference to or mention of the Vendor's business relationship with us in any advertising, brochure or the like; or (b) displaying any deliverable that was manufactured for us.
- (3) The Vendor shall obligate any Vendor subcontractor to abide by the provisions of this section 10.

## § 11. Compliance

- (1) The Vendor is committed to do business without corrupt practice, shall not reengage in criminal acts and take all necessary measures to avoid the occurrence of such actions.
- (2) The Vendor ensures compliance with ecologically relevant aspects and always pays attention to sustainability and responsible use of the environment.
- (3) By including the known information, the Vendor assures to exercise social responsibility in the respective company policy and responsibly take a stand against exploitation and child labor in the sense of "Corporate Social Responsibility".
- (4) Any infringement of the obligations under this provision entitles SONLUX to extraordinary termination of the Contract.

## 12. Assignment

- (1) Any Vendor assignment to any third party of any contractual receivable shall be excluded, except such assignment involves any financial claim.

## 13. Place of performance, place of jurisdiction, applicable law

- (1) The place of performance and sole place of jurisdiction for both Parties for any dispute that may arise from the contract shall be Bamberg, Germany.
- (2) Any contract that is concluded between us and any Vendor shall be governed by the laws of the Federal Republic of Germany to the exclusion of the UN Sales Convention.
- (3) Should one paragraph of these terms be or become legally void, it will not affect the validity of the remaining terms. The contractual partners shall replace any invalid clause by a valid clause that equals the void clause in meaning and purpose.  
The same shall be considered for any loopholes.