

GENERAL TERMS AND CONDITIONS

TOTALLUX B.V.



TOTALLUX
LED SOLUTIONS

ARTICLE 1 DEFINITIONS

1.1 In these General Terms and Conditions Totallux B.V. will be referred to as "TLX".

1.2 "The other party" will be defined as each and every (legal) person to whom TLX addresses its offers, as well as all persons addressing offers to TLX or granting assignments to TLX or, as the case may be, the person or party with whom TLX has concluded an agreement.

1.3 "Product" or "good" will be defined as: all goods delivered to the other party under these General Terms and Conditions.

1.4 "At TLX's premises" will be defined as: the warehouses or, as the case may be, the offices of TLX in Almere.

1.5 Insofar as possible, these General Terms and Conditions will also apply to the services performed by TLX in connection with the good intended for the other party, such as its installation.

ARTICLE 2 APPLICABILITY OF THE GENERAL TERMS AND CONDITIONS

2.1 These General Terms and Conditions will apply to all offers made by TLX, to all assignments granted to TLX and to all agreements concluded by TLX.

2.2 Any general terms and conditions and other conditions of the other party will explicitly not apply to the offers, assignments and agreements referred to under 2.1.

2.3 Any deviations from and/or additions to these General Terms and Conditions will bind TLX only insofar as they have explicitly been confirmed in writing by TLX.

ARTICLE 3 OFFER AND ACCEPTANCE

3.1 All offers, brochures and quotations of TLX are subject to contract and without obligations on the part of TLX. An offer in writing will be valid for the term stated in that offer and, failing such statement, for a term of 30 days.

3.2 All data have been stated as accurately as possible, but will be binding only insofar as TLX has explicitly guaranteed their accuracy.

3.3 The agreement will be effective as at the moment when an offer by TLX is accepted in writing by the other party within the term referred to under 3.1. However, TLX reserves the right to cancel its offer within two days after receipt of the acceptance in writing. If an offer is accepted by word of mouth by the other party and in the event that the other party makes an offer and/or gives an assignment, the agreement will be effectuated only if TLX gives effect to it by actually starting the execution thereof or, as the case may be, acknowledging the agreement or accepting the offer in writing.

3.4 If the acceptance by the other party deviates from the offer, this will constitute a new offer by the other party and a rejection of the entire offer made by TLX, even if the deviation refers to minor issues.

ARTICLE 4 PRICE

4.1 The prices quoted by TLX are exclusive of turnover tax and any other government charges levied on the sale and/or delivery and/or execution of the agreement.

4.2 The prices agreed by TLX and the other party may be increased after having concluded the agreement, if TLX, before performing its obligations under the agreement, is confronted with an increase of prices by its supplier or if other price increasing circumstances have occurred. If the price increase is more than 15% of the agreed price, the other party may terminate the agreement regarding the goods to



which the price increase applies in writing within two working days after receipt of the notice of the price increase.

4.3 Price increases as a result of additions and/or amendments of the originally concluded agreement at the request of the other party, will be charged on to the other party.

4.4 Normal standard packaging is included in the price; special packaging will be invoiced separately by TLX at cost price.

ARTICLE 5 DELIVERY

5.1 The terms of delivery and/or dates of delivery are mere indications of the actual time of delivery and may never be regarded as final deadlines, unless agreed otherwise in writing. In the event of an untimely delivery and/or supply, TLX must therefore be declared in default in writing, stating a reasonable term for compliance. In the event that the agreement is terminated on account of delay on delivery, the other party will not be entitled to any compensation of damage other than repayment of sums already paid to TLX in accordance with the agreement.

5.2 Delivery by the other party will be carriage paid within the Netherlands if the order stated in the invoice is larger than €500 (exclusive of VAT) unless agreed otherwise in writing. The costs of transport regarding deliveries outside the Netherlands will be for the account of the other party, unless agreed otherwise in writing. The costs of installation of the goods will always be for the account of the other party, unless agreed otherwise in writing.

5.3 Delivery will take place at the location agreed with the other party and at the times determined by TLX, which will be communicated to the other party by TLX in a timely manner. The other party will be held to accept the good at the determined time of delivery at the agreed location, failing which all costs incurred as a result thereof will be for the other party.

5.4 The risk of the good will pass on to the other party at the time of delivery, even if title to the good has not yet been transferred by TLX.

5.5 TLX has the right to deliver the good in parts, which partial deliveries may be invoiced separately by TLX.

5.6 delivery of orders smaller than €500 (exclusive of VAT) will take place by collection at TLX's premises within seven days after a communication in writing or by telephone by TLX that the good is available to the other party, unless a different term has explicitly been agreed between the parties. If the good is not collected within the term referred to above, TLX will be free to terminate the agreement, without prejudice to TLX's right to claim damages. TLX may charge (reasonable) warehouse costs to the other party, if the other party fails to collect the good within the agreed term of seven days.

5.7 The risk of decrease in value or loss of the good to be delivered by TLX to the other party will be for the account of the other party as from the moment when the other party is informed that the purchased good is available to it for collection.

5.8 If the other party, in deviation from the provisions of 5.6, agrees with TLX that TLX will transport the good or will have the good transported by a third party, the costs and risk of such transport will always be for the account of the other party.

5.9 In cases where it is agreed that TLX will take care of the transport of the good, the packaging and transport will be determined by it, unless agreed otherwise in writing.

ARTICLE 6 PAYMENT

6.1 Payment will be made in cash upon delivery, unless payment in arrears has been agreed. In the latter case payment must take place within 30 days after the invoice date. This term will be a final deadline; if this term is not met, the other party will be in default and the contractual interest will be due at an interest rate of 1% per month, or the statutory interest, if this is a higher percentage, whereby any part of a month will be calculated as a full month, as from 30 days after the invoice date up until the time of payment. In the event of payment into an account, the moment of payment will be the date of deposit into the account of TLX.

6.2 In the event of a failure to pay within the terms referred to in 6.1, TLX reserves the right to increase the amount due by the other party by costs of collection. Such costs of collection will include both extrajudicial and all judicial costs, even if the judicial costs exceed the costs of the proceedings as awarded by the court. The extrajudicial costs of collection will consist of all costs that TLX incurs for the collection of its claims against the other party. These costs are determined at 15% of the amount of the claim, with a minimum of €100.

6.3 Payments made by the other party will always be allocated first of all towards payment of all interest and costs due and, subsequently, towards payment of the claims under the agreement longest due, even if the other party states that its payment refers to another claim.

6.4 in the event that the other party is in default, in liquidation, insolvent, bankrupt or wound up (or if its bankruptcy or winding-up is applied for), all claims against the other party will be immediately due and demandable.

6.5 TLX reserves the right to require payment of part of the purchase price in advance and to request the other party to provide security for its compliance with all of its obligations under the agreement. This provision will also apply in the event that a credit has been agreed.

6.6 TLX has the right to suspend the performance of its obligation if the other party fails to comply with its obligations or if any circumstances that have been brought to the attention of TLX after concluding the agreement give reason to believe that the other party will not comply with its obligations.

ARTICLE 7 RETENTION OF TITLE

7.1 TLX will remain the owner of the delivered good, as long as the other party has not complied with its payment obligations, or has not done so fully: a. in respect of the deliveries pursuant to any agreement; b. in respect of activities performed or to be performed for the benefit of the other party by virtue of such agreement; c. in respect of the debts of the other party relating to its failure to comply with these agreements.

7.2 The other party will be authorised to resell the goods to which the retention of title referred to in the first paragraph relates only in the normal course of business. The other party is expressly not allowed to pledge these goods or encumber them with any other right, or give a third party a personal right in respect of the good.

7.3 If third parties wish to assert any entitlement to the delivered goods to which the retention of title relates, for example by means of an attachment, moratorium of payment or bankruptcy, the other party will be required to inform TLX thereof without delay.

7.4 The other party will be required, at TLX's first request:

1. to ensure and to keep insured the goods delivered under retention of title against fire, against damage



caused by explosions and water and against theft, and to make the policies of those insurances available for inspection;

2. to pledge or, as the case may be, assign in advance to TLX any and all claims of the other party against insurers regarding the goods delivered under retention of title;

3. to pledge or, as the case may be, assign to TLX the claims of the other party against its suppliers obtained by the other party when selling goods delivered by TLX under retention of title within the framework of its normal course of business;

4. to label the goods delivered under retention of title as property of TLX;

5. to otherwise cooperate with any and all reasonable measures that TLX wishes to take in order to project its property rights regarding the goods, which do not unreasonably interfere with the other party's normal business operations.

7.7 If the other party is in default and if there is a well-founded reason to fear that the other party will not fulfil its obligations, TLX will have the right, in every case, to take back the delivered goods to which the retention of title referred to in 7.1 relates, without further notice at the premises of the other party or of third parties keeping the good for the other party, or to instruct others to take those goods back. The other party is required to give its full cooperation to such action, failing which the other party will forfeit a penalty of 10% of the amount then due by it, for each day of non-cooperation. The other party authorises TLX in advance to access the sites or buildings owned or used by it in order to take back the reclaimed goods.

ARTICLE 8 GUARANTEE

8.1 The other party will inspect the delivered good immediately upon receipt for any defects. Repairs or replacements may be claimed only if the other party: – immediately informs TLX of any visible defects; – in the event of non-visible defects: informs TLX in writing of such defects within two working days after the date on which the other party has discovered the defects, or should have reasonably discovered them, while providing evidence for the fact that TLX's instructions for use, maintenance and operation have been observed, and that the defects are not caused by normal wear and tear, inappropriate use, negligence, accidents, the exceeding of limits stipulated by TLX or statutory safety requirements and that the product has not been repaired or changed without permission of TLX or a repairman designated by it, failing which no repair or replacement can be claimed.

8.2 A guarantee as provided for in Article 8.1 for a product located in the Netherlands will consist of free replacement or repair work (at TLX's discretion) of the defective part by TLX or a repairman designated by it, and will not cover the costs of transport of goods or persons relating to the fulfilment of this guarantee. In respect of products outside the Netherlands, this guarantee will only cover the costs of the defective part.

8.3 The replaced parts must be made available to TLX free of cost.

8.4 If the other party fails to comply with one or more of its obligations, TLX will be released from its obligations under the guarantees.

ARTICLE 9 LIABILITY

9.1 Without prejudice to the provisions of article 8, TLX will never be liable for damage unless it is caused by wilful misconduct or gross negligence on the part of TLX or its executive employees.



ARTICLE 10 FORCE MAJEURE

10.1 Without prejudice to any other provisions of these terms and conditions, TLX will never be liable for any failure to comply with an agreement in the event of force majeure.

10.2 Force majeure on the part of TLX will include any circumstance impeding the normal performance of the agreement through no fault on the part of TLX. Such circumstances constituting force majeure will include, in any case, the failure of TLX's own suppliers to deliver a good or goods regardless of the reason therefor, strikes, lock-outs, power failures, traffic jams, defective equipment, government measures, as well as the consequences thereof, loss or damage during transport and excessive absence due to illness with respect to its personnel.

ARTICLE 11 CONFIDENTIALITY

11.1 The other party is required to observe secrecy in respect of any confidential information provided to it by TLX. Confidential information will at any rate be deemed to include information regarding new products to be developed, for example presented by TLX in the negotiations stage. The other party is also required to refrain from using the above information for the benefit of its business operations.

ARTICLE 12 DISPUTES

12.1 All agreements to which these terms and conditions apply in full or in part will be governed by Dutch law.

12.2 The provisions of the Vienna sales convention will not apply, nor will any future international regulation regarding the sale of goods, the applicability of which may be excluded by the parties.

12.3 Any and all disputes arising from offers and agreements, of whatever name, will be submitted to the opinion of the court in the district of Amsterdam, unless another court is competent pursuant to mandatory law.

ARTICLE 13 RETURNED GOODS

13.1 The purchaser must apply for a return form if he wants to return goods. The return of goods without a return form will not be handled or credited. The same applies to goods returned carriage forward. After a return form has been provided, the purchaser must return his order within five (5) working days. Tailor-made orders and special orders cannot be returned unless agreed otherwise in writing. The returned goods must arrive at our premises unused, complete, undamaged and in their original packaging.

Payments already received will be credited, set off and/or repaid if the goods returned are accepted, no later than 30 days after receipt of the goods returned by TLX, with due observance of the conditions described in Article 12 Cancellations. See the guarantee conditions in respect of defective goods.

ARTICLE 14 CANCELLATION

If an order is cancelled within three weeks after the order date, because the goods are no longer desired, we reserve the right to charge on 10% of the gross price to compensate for administrative and handling costs. For specials and goods especially purchased by TLX for the customer, we will request a written agreement. After TLX has obtained a written agreement, these goods cannot be cancelled any more unless explicitly agreed otherwise in writing. Should the cancellation take place after three



weeks, TLX will reserve the right to charge on 20% of the gross price to compensate for administrative and handling costs. The same applies to partial cancellations. Cancellations of standard goods may take place up until six months after an invoice has been sent for the goods.

ARTICLE 15 FORCE MAJEURE

Without prejudice to any other provisions of these terms and conditions, TLX will never be liable for any failure to comply with an agreement in the event of force majeure. Force majeure on the part of TLX will include any circumstance impeding the normal performance of the agreement through no fault on the part of TLX. Such circumstances constituting force majeure will, in any case, include the failure by TLX's own suppliers to deliver any good or goods, regardless of the reason therefor, strikes, exclusions, power failures, traffic jams, defective equipment, government measures as well as the consequences thereof, loss or damage during transport, and excessive absence due to illness with respect to its personnel.

GUARANTEE (additional) The guarantee cannot be invoked if the defect is caused by:

- external contingencies such as strokes of lightning;
 - overheating by central or other heating or by the use of a higher wattage than prescribed; – exposure to humidity, extreme temperatures or extreme sunlight or extreme cold;
 - consumable components such as filament lamps, halogen lights and transformers , which are not covered by the guarantee;
- goods older than one year.



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