

Terms and Conditions - Trade only

The following terms and conditions constitute the entire agreement (to the exclusion of all other terms and conditions) between Saxby Lighting Limited of 28 Airfield Way, Christchurch, Dorset BH23 3PE (“us” or “we”) and the customer (“you”) and govern the supply of goods from us (“Goods”) to you (the “Terms and Conditions”). The Terms and Conditions do not affect your statutory rights.

1. Conditions

1.1. Subject to any variation under condition 1.3, all orders for Goods are on the basis of the Terms and Conditions to the exclusion of all other terms and conditions (including any terms or conditions which you purport to apply under any purchase order, confirmation order, specification or other document).

1.2. You acknowledge that you have not relied on any statement, promise or representation made or given by us which is not set out in the Terms and Conditions.

1.3. Each order for Goods or acceptance of a quotation for Goods by you will be deemed to be an offer by you to buy Goods subject to the Terms and Conditions but will not be deemed to be accepted by us until we have processed your payment or (if earlier) we deliver the Goods to you.

1.4. We reserve the right to refuse to supply any person, partnership or company at any time for any reason.

1.5. You will ensure that the terms of your order and any applicable specification are complete and accurate. All Goods are subject to availability.

1.6. Any quotation for Goods is valid for a period of 30 days from the date on which it is given, provided that we have not previously withdrawn those Goods.

1.7. Our Goods are available for trade only. We reserve the right to refuse orders that we consider are not trade.

1.8. Subject to the other provisions of the Terms and Conditions we will not be liable for any direct, indirect or consequential loss (including, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by our negligence), nor will any delay in delivering the Goods to you entitle you to terminate or rescind the Terms and Conditions (without any liability to us) unless otherwise agreed with us in writing.

1.9. Neither our employees nor our agents are authorised to make any oral representations whatsoever about the Goods unless confirmed by us in writing and you agree that you have not relied upon any such representations which have not been confirmed in writing by us.

2. Price and Payment

2.1. Where the Goods are sold by reference to our then current catalogue of Goods or in other promotional material (the “Catalogue”) or on our website www.saxbylighting.com or any other website used by us from time to time (the “Website”) then the price of the Goods will be the price stated in the Catalogue or on the Website at the date on which the order for the Goods is received by us.

2.2. Prices for Goods incorrectly advertised by us whether on the Website or in the Catalogue or at the Trade Counters do not constitute an offer by us to supply such Goods at the incorrect price and we will not be liable to supply the Goods to you at the incorrect price but we will give you an option of reconfirming your order at the correct price or cancelling it and receiving a full refund. If we are unable to contact you we will treat your order as cancelled.

2.3. Unless otherwise stated, prices advertised for Goods are shown per item.

2.4. You will be required to make payment for the whole of the price of the Goods you order together with any delivery charges, before or at the same time that your order is processed, unless otherwise agreed between you and us in writing.

2.5. If you are an account customer, payment to us will be due in full within 30 days following the date of the invoice. We may cancel your credit at any time without your consent if you fail to make payment when due, and we will advise you of this in writing. If payment is not made when due, interest is payable to us in accordance with condition 5.

2.6. All prices advertised by us are in pounds sterling and are exclusive of VAT (at the then current rate) and any delivery and other charges unless otherwise agreed between you and us in writing.

2.7. All payments must be made in pounds sterling unless otherwise agreed in writing by us, and time will be of the essence for payment.

2.8. Whilst we use all reasonable precautions to protect your credit/debit card details, in the event that you discover that any Goods have been ordered and paid for by persons unauthorised by you using your credit or debit card then you should inform us, the card issuer and the police of such unauthorised usage as soon as is reasonably practicable.

3. Delivery

3.1. We will deliver Goods having a net invoice value of £200 (excluding VAT) to mainland UK, at our cost, to the address on the written order acknowledgement form issued by us (“Order Confirmation”) or, in the case of an account customer, to the account customer’s address on our computer system. All delivery charges below the minimum order value and outside mainland UK are available on request.

3.2. Any dates specified by us for delivery of the Goods are intended to be an estimate and time for delivery will not be made of the essence. If no date for delivery is specified, delivery will be within a reasonable time.

3.3. If you arrange your own delivery of the Goods you will be required to take delivery within 7 days of us giving you notice that the Goods are ready for delivery.

3.4. You will provide (if needed) at the delivery address at your cost adequate equipment and manual labour for loading/unloading the Goods.

3.5. If we deliver to you less than the quantity of Goods ordered, you must notify us in writing within 48 hours of the date of delivery. You will not be entitled to object to or reject any of the Goods by reason of the shortfall and you will pay for such Goods pro rated.

3.6. We may deliver the Goods by separate instalments. Each separate instalment will be invoiced and paid for in accordance with the provisions of the Terms and Conditions.

3.7. Deliveries will be made during normal business hours on any weekday on which banks in England are open for business ("Working Day").

3.8. In the event that you require a delivery on a day and time outside the Working Day we reserve the right to make an additional charge, and will advise you of such additional charge when the order is confirmed. Time will not be of the essence for delivery.

3.9. Delivery of the Goods will be deemed to have taken place when they have been delivered to the destination stated on the order ("Delivery Destination") and a signature on your behalf has been received in respect of the Goods.

3.10. If, for any reason, you are unable to accept delivery of the Goods when the Goods are due and ready for delivery then we may, in our absolute discretion, arrange the storage of the Goods and you will be liable to us for the reasonable costs (including insurance) of such storage. This provision is without prejudice to any of our rights in relation to a failure by you to take delivery of the Goods or pay for them in accordance with the Terms and Conditions.

3.11. Any liability for our late delivery of the Goods will be limited to replacing the Goods within a reasonable time.

3.12. We reserve the right to add an insurance charge to any order to protect any Goods during transit.

3.13. The quantity of any consignment of Goods as recorded by us on despatch from our place of business will be conclusive evidence of the quantity received by you on delivery unless you can provide conclusive evidence proving the contrary.

4. Risk and Title

4.1. Title to all Goods ordered by you will pass to you on delivery provided we have received in cash or other cleared funds full payment of the price of the Goods agreed to be sold and until no other payments whatsoever will be due to us from you.

4.2. Risk in the Goods will pass to you when the Goods are delivered to the address in the Order Confirmation, or, in the case of an account customer, to the account customer's address on our computer system.

4.3. We accept no responsibility for any loss, damage or shortage which may occur to the Goods after risk has passed to you, and in the event that you have a claim arising in respect of any damage, defect or shortage arising during transit, then such claim should be notified to us in accordance with condition 6. You undertake in such circumstances to comply in full with the carrier's standard conditions for claims for damage, defect or shortage in transit, and agree to indemnify us against any loss resulting from any failure to comply.

4.4. Until title in the Goods passes from us to you:

4.4.1. you will hold the Goods as our fiduciary agent and bailee, and will keep the Goods separate from all other goods in your possession, and will keep the Goods properly stored, protected and insured against all normal risks, and identified as our property, at your own cost; and

4.4.2. in the event of a liquidator or receiver being appointed, they will pay into a separate bank account any sums received from third parties in respect of the sales to them of Goods by you up to the amount of your indebtedness to us, for our sole benefit;

4.4.3. we will be entitled at any time to require you to deliver up the Goods to us, and if you fail to do so you grant to us, our agents and employees an irrevocable licence to enter any premises where the Goods are or may be stored in order to inspect them, or, where your right to possession has not crystallised or has terminated, to recover them; and

4.4.4. we are entitled to immediately enter the premises where the Goods are stored and repossess such Goods.

4.5. Any Goods repossessed by us may be resold on such terms as we may in our absolute discretion determine and you will remain liable to us for the difference between the net proceeds or such resale and all outstanding sums due to us in respect of the Goods and for all costs and expenses incurred by us in repossessing, storing, insuring and reselling such Goods.

4.6. You will not pledge in any way, charge by way of security for any indebtedness for any of the Goods which remain our property. Without prejudice to any other rights we may have, in the event that you purport to do so then all sums whatever owing to us by you will immediately become due and payable.

4.7. You are liable to pay for all orders placed with us by any of your authorised employees or officers. We are not bound by any individual order limit you may impose on your authorised employees or officers.

4.8. Your right to possession of the Goods will terminate immediately if:

4.8.1. you have a bankruptcy order made against you or if you make an arrangement or composition with your creditors, or otherwise take the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convene a meeting of creditors (whether formal or informal), or enter into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or have a receiver, administrator and/or manager appointed of your undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator or notice of intention to appoint an administrator is given by you or your directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for your winding-up or for the granting of an administration order or any proceedings are commenced relating to your insolvency or possible insolvency; or

4.8.2. you suffer or allow any execution, whether legal or equitable, to be levied on your property or obtained against you, or fail to observe or perform any of your obligations under the Terms and Conditions, or if you are unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986 or if you cease to trade, or you encumber or in any way charge any of the Goods.

5. Late payment

5.1. If payment is not made when due we will in our sole discretion:

5.1.1. charge interest at the annual rate of 6% above the base rate of The Bank of England on the amount outstanding from the due date for payment until receipt by us of the full amount (including all accrued interest at such rate, legal fees and other recovery costs we have incurred due to your late payment) whether before or after judgment, in accordance with the provisions of the Late Payment of Commercial Debts (Interest) Act 1998;

5.1.2. suspend or cancel any business account in your name;

5.1.3. suspend or cancel deliveries of any Goods due to you under the Terms and Conditions;

5.1.4. appropriate any payment made by you to such of the Goods (or any other Goods supplied by us to you) as we may in our sole discretion think fit; or

5.1.5. pass the outstanding debt to a debt collection agency.

5.2. Our rights and remedies in condition 5.1 are cumulative, not exclusive, and the exercise of any such rights or remedies will not deprive us of the right to exercise others. Further, we will be entitled to exercise the rights and remedies in condition 5.1 notwithstanding that risk in and/or title to the Goods may not have passed to you.

5.3. Nothing in the Terms and Conditions will prevent us from suing you to recover all monies due to us from you.

6. Damaged and defective Goods

6.1. Upon delivery of the Goods you will promptly examine them. If any of the Goods ordered:

6.1.1. have been damaged in transit (unless you are responsible for transport); or

6.1.2. have been incorrectly shipped (unless this is due to incorrect ordering by you); or

6.1.3. are defective through faulty material or factory workmanship, you must notify us in writing (for the attention of the Customer Services Department) within 3 days from the date of delivery of the relevant Goods (and, in the case of defective Goods, within 7 days from the date of delivery of the relevant Goods). You will be deemed to have accepted such Goods if you fail to notify us within such period.

6.2. Upon receipt of the notice under condition 6.1, we will (if we consent to the return of such Goods) issue to you a returns number authorising the return of such Goods. The returns number will be valid for a period of 14 days from the date of issue. We will not be obliged to accept the return of any such Goods without a returns number having first been obtained by you.

6.3. You will return all Goods at your cost, carriage paid and appropriately insured. You will ask us to confirm to you that such costs and charges are reasonable before you return the relevant Goods to us. Please obtain proof of posting or send the item with a tracking number as we cannot accept responsibility for Goods lost in transit.

6.4. Any Goods returned by you under this condition 6 must be unused, unmarked and in their original product packaging (and in the case of defective Goods, such Goods must be returned to us without any attempt having been made by you or any other person to rectify, dismantle or alter such Goods).

6.5. Provided you have complied with this condition 6 and we have issued to you a returns number, we will, subject to the Terms and Conditions, refund to you all reasonable costs incurred by you in returning such Goods and will either rectify or replace such Goods free of charge.

6.6. You agree that our employees and/or agents are authorised by you to enter any premises where the Goods are installed in order to inspect an installation before any suspected defective Goods are removed from the position where they have been installed.

7. Returns and cancellations

7.1. Subject to condition 6, Goods cannot be returned to us without written notice to us within 3 days of the receipt of the Goods. All Goods returned under this condition 7 are subject to a 30% handling and restocking fee.

7.2. Upon receipt of such notice from you to us we will (if we consent to the return of such Goods pursuant to this condition 7) issue to you a returns number authorising the return of such Goods. The returns number will be valid for a period of 7 days from the date of issue. We will not be obliged to accept the return of any such Goods without a returns number having first been obtained by you.

7.3. Any standard Goods (i.e Goods that are contained in the Catalogue or on the Website) returned under condition 7.1 will be subject to a 30% handling and restocking fee. Your right to return any order under condition 7.1 will not apply to any Goods which are not standard Goods and will not apply to any Goods which are Special Orders (as defined in condition 10).

7.4. On cancellation for whatever reason (except under condition 6), you must return the Goods to us at your cost, carriage paid and appropriately insured. Please obtain proof of posting or send the item with a tracking number as we cannot accept responsibility for Goods lost in transit.

7.5. Any Goods returned by you under this condition 7 must be unused, unmarked, in their original product packaging and suitable for resale, and will be determined by us upon receipt of such Goods.

7.6. Provided you have complied with this condition 7 we will refund to you the price of such Goods less a 30% handling and restocking fee.

7.7. We may cancel any order at any time before the Goods are delivered. On giving such notice we will repay to you all sums paid in respect of the Goods through the same method as which payment for the Goods was originally made. Without prejudice to the limitation of liability under condition 14, we will not be liable for any loss or damage whatsoever arising from any cancellation in accordance with this condition 7.

7.8. Where we arrange for the return of Goods from you through our nominated carrier then you undertake to ensure that the Goods are packaged in a manner suitable for safe transportation and are available for collection by the nominated carrier during normal business hours. In the event that the nominated carrier attempts to collect the Goods during normal business hours and is unable to do so (other than at times previously notified by you to us as being times at which the nominated carrier would not be able to collect the Goods) then we reserve the right to charge you for the costs incurred through the nominated carrier's inability to collect. In the event that the Goods are damaged in transit on their return to us as a result of poor or insufficient packaging on your part, or are not complete, then we reserve the right not to credit or otherwise refund you in respect of (in the event that the Goods are being returned for a refund), or replace (in the event that the Goods are being returned for the purposes of replacement), such damaged Goods.

8. Product availability

In the event that you order Goods and we are unable to supply those Goods for whatever reason, then we will be happy to supply a suitable alternative product or refund you with the price paid for the Goods as soon as possible but in any event within 30 days, but we will not be liable to you for any other costs, fees or charges.

9. Special offers, sample Goods and free gifts

9.1. Any special offers specified in the Catalogue or on the Website are subject to availability. In the event that there is no further availability of a special offer, we may, in our sole discretion, offer for sale a similar alternative product.

9.2. All sample Goods must be paid for by you in full. You agree to return all sample Goods to us unused, unmarked, in their original product packaging and suitable for resale (and will be determined by us upon receipt of such Goods) within 30 days from the date such Goods are despatched to you. If you fail to return such sample Goods within 30 days from such date we reserve the right not to refund your payment for such sample Goods.

9.3. Any free gifts specified in the Catalogue on or the Website are subject to availability, and we reserve the right to make suitable substitutions without prior notice to you.

10. Special Orders

10.1. For the purposes of the Terms and Conditions a “Special Order” means any volume order, any customised order or any other order for Goods, which we in our sole discretion deem to be a Special Order.

10.2. A Special Order will have the words SPECIAL ORDER on the Order Confirmation from us.

10.3. All Special Orders will require a deposit of an amount equal to 30% of the price of the Goods to be paid to us (the “Deposit”), unless otherwise agreed between us. We will process the Special Order once payment of the Deposit has been made to us.

10.4. In the event that we receive the Deposit but are then unable to fulfil the Special Order in whole or in part, we will notify you as soon as practically possible and will return to you the Deposit (or a pro rated payment of the Deposit on the part of the Special Order that we were unable to fulfil) within 30 Working Days.

10.5. The balance of the payment equal to 70% of the price of the Special Order must be paid to us, in full, within 30 days from delivery. In the event that payment is not received within such period we will deem such non-payment as a late payment and we will apply condition 5.

10.6. We reserve the right to replicate any designs which we have produced for you (or arranged production of) and offer them to other customers at our discretion.

11. Exports

11.1. We have no obligation to process an order for Goods outside the UK unless you have provided to us an irrevocable letter of credit on terms satisfactory to us.

11.2. If you order Goods for delivery outside the UK, they may be subject to import and export duties and taxes which are levied when the delivery reaches the specified destination. You will be responsible for payment of all such duties and taxes. Please note that we have no control over these duties and taxes and cannot predict their amount.

11.3. You must comply with all applicable laws and regulations of the country for which the Goods are destined. We will not be liable for any breach by you of any such laws.

12. Description of Goods

12.1. The quantity and description of the Goods will be as set out in our quotation or Order Confirmation.

12.2. All samples, drawings, descriptive matter, technical specifications, measurements and advertising issued by us and any descriptions, dimensions or illustrations contained in the Catalogue may be subject to alteration by us at any time without prior notice to you and are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. We will not be liable to you for any errors or otherwise in the Catalogue or on the Website.

13. Installation of Goods and Disposal of Electrical and Electronic Equipment

13.1. We will not be liable for failure of any Goods due to an installation of the Goods which is not in accordance with all the laws and regulations of the relevant jurisdiction.

13.2. You agree that in accordance with regulations 9(2) and 36(2) of the Waste Electrical and Electronic Equipment Regulations 2006 (as amended from time to time) (the “WEEE Regulations”) the collection, treatment, recovery, and environmentally sound disposal of waste electrical and electronic equipment purchased from us will be your

responsibility. In the case of household waste, please dispose of such waste at your nearest designated collection facility where special facilities exist for correct disposals.

13.3. You agree to indemnify us against any and all claims, actions, liabilities, losses, damages, costs and expenses (including legal expenses) incurred by us in complying with the WEEE Regulations in respect of the Goods you have ordered. YOUR ATTENTION IS DRAWN IN PARTICULAR TO THE PROVISIONS OF THIS CONDITION 14

14. Limitation of liability

14.1. Our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with us being in breach of our obligations under the Terms and Conditions is limited to the price of the disputed Goods.

14.2. We are not responsible for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Terms and Conditions.

14.3. All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Terms and Conditions.

14.4. Nothing in these conditions excludes or limits our liability for death or personal injury caused by our negligence, or under section 2(3), Consumer Protection Act 1987, or for any matter which it would be illegal for us to exclude or attempt to exclude our liability; or for fraud or fraudulent misrepresentation.

14.5. In respect of any defect arising from any Goods we will not be liable to you for wear and tear, wilful damage, negligence, abnormal working conditions, a failure to follow our instructions (whether oral or in writing), misuse or alteration or repair of the Goods without our approval.

15. Assignment

15.1. We may assign the Terms and Conditions or any part of it to any person, firm or company.

15.2. You will not be entitled to assign the Terms and Conditions or any part of it without our prior written consent.

16. Copyright and other intellectual property rights

16.1. You agree that all content on the Website and in the Catalogue and including but not limited to text, product names, logos, photographs, images, buttons, icons, graphics, illustrations, designs, written and other material including the program and code that operates the Website (together the "Content") are protected by copyright, trade mark and/or other proprietary rights owned by or licensed to us.

16.2. You agree that you will not copy, reproduce, transmit, distribute, publish, display, commercially exploit, or create derivative works of, any part of the Content without our express written consent, save that you may print out, or otherwise electronically copy, one or more sections of the Website or Catalogue for your personal non-commercial use only with the express purpose of placing an order with us.

17. Events outside our control

17.1. We will not be liable or responsible to you for any failure to perform or delay in performance of any of our obligations under the Terms and Conditions and/or any order for Goods, or for any damage or defect to goods supplied or delivered in relation to any order for Goods that is caused by a Force Majeure Event.

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www.saxbylighting.com

Driven by design

17.2. A “Force Majeure Event” is any act, event, non-happening, omission or accident beyond our reasonable control and includes, without limitation, breakdown in machinery, act of God, governmental action, war or national emergency, act of terrorism, protest, riot, civil commotion, fire, explosion, flood, epidemic, lock-out, strike or other labour dispute (whether or not relating to either party’s workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

18. General provisions

18.1. All communication between us and you will be by telephone or email to our Customer Services Team or in writing to our registered office.

18.2. You are not allowed to use the Website in any way that interferes with our systems or infringes other parties’ rights or to make any false or fraudulent orders.

18.3. Each of our rights or remedies under the Terms and Conditions is without prejudice to any of our other rights or remedies whether under the Terms and Conditions or not.

18.4. If any conditions of the Terms and Conditions is found by any court or other competent authority to be invalid or unenforceable (in whole or in part), the remaining conditions of the Terms and Conditions and the remainder of such condition will continue in full force and effect.

18.5. On termination of the Terms and Conditions, except to the extent that they have been performed, the conditions contained in the Terms and Conditions will remain in effect.

18.6. Any waiver by us of any breach of, or any default under, any provision of the Terms and Conditions by you will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Terms and Conditions.

18.7. The parties to the Terms and Conditions do not intend that any term of the Terms and Conditions will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

18.8. The Terms and Conditions and any dispute or claim arising out of or in connection with them will be governed by and construed in accordance with English law, and the parties submit to the exclusive jurisdiction of the English courts.

