

## LUNERA LIGHTING, INC. STANDARD TERMS AND CONDITIONS OF SALE

1. **Sale and Purchase.** Lunera will use reasonable commercial efforts to sell to Buyer and Buyer will purchase from Lunera the Products in the quantities listed on the reverse side of this document ("Firm Order") only for Buyer's own internal use and not for resale. "Products" are Lunera's products specified by Lunera from time to time, and any other products Lunera may add by notice to Buyer. Lunera may in its sole discretion discontinue or modify any Product upon 60 days notice. Firm Orders are binding, non-cancelable commitments.
2. **Price, Payment and Delivery Terms.** Buyer shall pay the prices listed on the Firm Order. All payments are due to Lunera in US dollars 30 days NET. All Products are delivered F.O.B. Lunera's plant or other place of shipment. Lunera will use reasonable commercial efforts to deliver Products within fifteen (15) days of the delivery dates listed on the Firm Order. In addition to the price, Buyer will pay all charges, including transportation charges, insurance premiums, and all taxes (except Lunera's U.S. income taxes), duties, costs of compliance with export and import controls and regulations, and other governmental assessments.
3. **Product Designations.** Buyer will not remove any names, designations or notices from any Product.

4. **Warranties.** Lunera warrants only to Buyer that the Products, when shipped to Buyer by Lunera, will conform in all material respects to the applicable specifications sheets shipped with the Products at the time of shipment. Such warranty does not apply to units that have been damaged, mishandled, mistreated or used or maintained or stored other than in conformity with such specifications and Lunera's instructions. The complete limited warranty and RMA process is available upon request. BUYER'S SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF THE FOREGOING WARRANTY SHALL BE THE REPLACEMENT OF OR (AT LUNERA'S OPTION OR IF REPLACEMENT IS IMPRACTICAL) REFUND FOR RETURNED NON-CONFORMING UNITS OF PRODUCT FOR WHICH FULL DOCUMENTATION AND PROOF OF NON-CONFORMITY IS PROVIDED TO LUNERA WITHIN FIVE (5) YEARS OF THE ORIGINAL NON-CONFORMING UNITS (BUT NOT REPLACEMENTS) SHIPMENT BY LUNERA. EXCEPT FOR THE FOREGOING WARRANTIES, LUNERA DOES NOT MAKE (AND HAS NOT AUTHORIZED ANYONE TO MAKE) ANY EXPRESS OR IMPLIED WARRANTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. LUNERA HAS NOT AUTHORIZED ANYONE TO MAKE ANY REPRESENTATION OR WARRANTY OTHER THAN AS PROVIDED ABOVE.

5. **Indemnification.** Lunera shall hold Buyer and its officers, directors, agents and employees harmless from liability resulting from infringement by the Products of any United States patent or copyright issued as of the date of the Firm Order, provided Lunera is promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over the defense and all negotiations for a settlement or compromise; Lunera will not be responsible for any settlement it does not approve in writing. The foregoing obligation of Lunera does not apply to Product or portions or components: (i) not supplied by Lunera, (ii) made in whole or in part in accordance to Buyer specifications or requests, (iii) which are modified after shipment, if the alleged infringement relates to such modification, (iv) combined, processed or used with other products, processes or materials where the alleged infringement relates to such combination, process or use, (v) where Buyer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement, or (vi) where the infringement is incident to use of the Product but does not result primarily from the Product and its intended application. Buyer will indemnify Lunera and its officers, directors, agents and employees from all damages, settlements, attorneys' fees and expenses: (i) related to a claim of infringement or misappropriation excluded from Lunera's indemnity obligation by the immediately preceding sentence or (ii) in connection with Buyer's activities regarding the Products or its failure to effectively pass on to its direct or indirect customers Lunera's liability and warranty limitations and disclaimers.

6. **Term, Termination, Survival, and Termination Liability.** The Firm Order and these terms shall be in effect until all Products listed are shipped, except that if either party materially breaches any material provision of these terms and such breach is not remedied within thirty (30) days (or ten (10) days in the case of non-payment) after receipt by the defaulting party of a notice from the other party, the non-breaching party may immediately terminate the Firm Order. Sections 3 through 12 shall survive the termination of this Firm Order. Any accrued rights of Lunera to payments, remedies for breach, as well as obligations of the parties under the Firm Order shall remain in effect, except that Lunera may in its discretion decide whether to honor (i) portions of Firm Order with delivery dates more than

one month after termination, and (ii) in the event of termination by Lunera for Buyer's breach, any Firm Order. Neither party shall incur any liability whatsoever for any damage, loss or expenses of any kind suffered or incurred by the other (or for any compensation to the other) arising from or incident to any termination of the Firm Order by such party which complies with these terms whether or not such party is aware of any such damage, loss, or expenses. Expiration is treated the same as termination.

7. **Confidentiality and Intellectual Property.** Any technical, financial or other information provided by Lunera to Buyer and designated as confidential or proprietary ("Confidential Information") shall be held in confidence and not disclosed or, except as provided in the next sentence, used by Buyer. This obligation will not apply to information that is generally and freely publicly available through no fault of Buyer, or that Buyer otherwise rightfully obtains from third parties without restriction.

8. **Software.** Any software incorporated into or provided for use in or with a Product (whether initially, as part of maintenance or support or otherwise) is not sold, but rather is licensed solely for Buyer's internal use in or with that Product strictly in accordance with the documentation and any other use restrictions applicable for that Product. Such license is non-exclusive, non-sub-licensable and does not include the right to (and Buyer will not) modify, reverse engineer (except to the extent applicable law prohibits reverse engineering restrictions), incorporate or use in any other works, create derivatives of, or copy any portion of such software (except as specifically authorized in documentation provided by Lunera for purposes of installation, support or maintenance), or to use the software or Product for the benefit of any third party.

9. **Limited Liability.** LUNERA WILL NOT BE LIABLE WITH RESPECT TO ANY SUBJECT MATTER HEREIN UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR (I) ANY AMOUNTS IN EXCESS IN THE AGGREGATE OF THE AMOUNTS PAID TO LUNERA HEREUNDER DURING THE TWELVE MONTH PERIOD PRIOR TO DATE THE CAUSE OF ACTION AROSE OR (II) ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR (III) COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES. LUNERA SHALL HAVE NO LIABILITY FOR ANY FAILURE OR DELAY DUE TO MATTERS BEYOND ITS REASONABLE CONTROL OR FOR ANY ALLOCATION OF PRODUCTS BETWEEN ITS CUSTOMERS IN THE EVENT OF A SHORTAGE.

10. **FCPA and Export Control.** Buyer shall comply with the U.S. Foreign Corrupt Practices Act and all export laws and restrictions and regulations of the United States or foreign agency or authority. Buyer shall obtain and bear all expenses relating to any necessary licenses and/or exemptions with respect to the export from the U.S. of all Products to any location and shall demonstrate to Lunera compliance with all applicable laws and regulations prior to delivery thereof by Lunera.

11. **General.** All notices shall be in writing, and shall be deemed given when personally delivered, when sent by confirmed fax, or three days after being sent by prepaid certified or registered U.S. mail to the address of the party to be noticed as set forth herein or such other address as such party last provided to the other by written notice. Buyer shall not assign, transfer, or sublicense any obligation or benefit under the Firm Order and any attempt to do so shall be void. Lunera may assign the Firm Order in whole or in part. The failure of either party to enforce its rights under these terms at any time for any period shall not be construed as a waiver of such rights. These terms supersede all proposals, oral or written, all negotiations, conversations, or discussions between or among parties relating to the subject matter and all past dealing or industry custom. No changes or modifications or waivers are to be made to these terms unless evidenced in writing and signed for and on behalf of both parties. In the event that any provision is determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that these terms shall otherwise remain in full force and effect and enforceable. The Firm Order and these terms are governed by and construed in accordance with the laws of the State of California (without regard to the conflicts of laws provisions thereof). In any action or proceeding to enforce rights under these terms, the prevailing party will be entitled to recover reasonable costs and attorneys fees.

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