

## ZETA SPECIALIST LIGHTING LTD and ZETA GROUP COMPANIES

### General Terms and Conditions of Purchase

These General Terms and Conditions shall, to the exclusion of terms and conditions applied by third parties, govern all requests for quotations made by companies of the Zeta Group, including but not limited to Zeta Specialist Lighting Limited, and any of its subsidiaries ("Zeta") to a third party ("Supplier"), as well as all agreements and acts, whether of a preparatory or executional nature, which are related thereto, such as quotations, order confirmations, purchasing orders, orders and delivery dates, except to the extent that these General Terms and Conditions specify otherwise. These General Terms and Conditions shall not apply to the performance of work by employees from a temporary employment agency.

Deviating conditions shall only apply to the extent that Zeta expressly agrees to them in writing, and they shall apply exclusively to the agreement(s) for which they are made.

In these General Terms and Conditions, "goods" shall be understood to include wafers, software, firmware, databases, documentation and the results of services.

### 1. Requests for Quotations

- a) All requests for quotations and all information furnished in this context by or on behalf of Zeta may contain industrial secrets, shall be treated with confidentiality and may only be used to prepare for the submission of a quotation. Except where required in preparing for the submission of a quotation or where permitted, any kind of reproduction or publication, as defined in the **Copyright, Designs and Patents Act 1988**, of (part of) a request for a quotation shall be prohibited in any shape or form.
- b) If a request for a quotation explicitly deviates from these General Terms and Conditions, said deviations shall prevail. The applicability of the Supplier's own general terms and conditions is hereby expressly ruled out.
- c) The Supplier is aware that Zeta can also act as a supplier and/or sub-contractor and that, in such an event, each and every request for a quotation is drawn up to the best of Zeta's knowledge on the basis of information from Zeta's client and that Zeta can bear no responsibility in this respect, unless expressly stated otherwise in a request for a quotation.

### 3. Agreement

- a) A quotation from a Supplier shall be irrevocable for a period of a minimum of thirty (30) days after its receipt by Zeta, unless the request for a quotation stipulates a different period.
- b) Zeta shall be entitled at all times to terminate negotiations without giving reasons and without being liable to compensate the other party.
- c) An agreement shall be deemed to have been concluded as soon as Zeta accepts a written quotation by means of placing a written order. If, however, the order is sent after expiry of the period referred

to in Article 3(1) or the order deviates significantly from the quotation, the agreement shall be deemed to have been concluded in accordance with the order, unless the Supplier rejects the order in writing within fourteen (14) days of the date of the order. The following items shall form an integral part of the agreement:

1. The (purchase) order from Zeta;
2. These General Terms and Conditions;
3. The quotation;
4. The request for a quotation;

In the event of any contradiction between the provisions contained in two different documents, the documents shall prevail in their numerical order, with 1 taking precedence over 2 etc.

d) If the Supplier has not made an offer or has made a verbal offer, the agreement shall be deemed to have been concluded by the Supplier accepting, in writing, a written order from Zeta within fourteen (14) days of the date of said order.

e) Agreements may only be amended and/or supplemented in writing.

#### **4. Quality**

a) The goods supplied must satisfy the provisions of the agreement. They shall not be deemed to have satisfied the provisions of the agreement, if they do not possess the properties which Zeta was entitled to expect pursuant to the agreement.

b) Where no detailed description has been provided of the requirements of the goods, they shall in any event be of good quality and satisfy, at the very least, the normal requirements of reliability, effectiveness and workmanship.

c) Zeta shall be entitled to reject goods because they do not satisfy the provisions of the agreement, provided that Zeta informs the Supplier accordingly within four (4) weeks of having discovered this to be the case. If Zeta subjects the goods to inspection, a notification of defects which Zeta could reasonably be expected to have detected during said inspection, must take place within four (4) weeks of the inspection having been completed.

d) The goods delivered must be free from all special third-party charges, limitations and rights, including limitations and rights which result from or are connected with intellectual property rights, with the exception of third-party charges, limitations and rights which the Supplier informed Zeta about in writing and which Zeta has expressly accepted in writing. The Supplier shall hold Zeta harmless against third-party claims in this respect, wherever and whenever such claims might be instigated, and also against any and all damage and costs which Zeta might incur in this connection.

#### **5. Testing and Inspection**

a) Zeta shall be entitled to test and/or inspect the goods for, amongst other things, damage, quantity, quality and weight within 4 (four) weeks of their delivery.

b) The Supplier shall be obliged to render, free of charge, all reasonable cooperation required by Zeta within the context of the testing and inspection, including the granting of access to the Supplier's facilities and the provision of personnel expertise.

c) Should the goods become damaged or are used during testing, the Supplier shall have no claims against Zeta if the goods are partially or totally rejected, and Zeta shall have no claims against the Supplier if the goods are approved.

d) Should Zeta reject the goods or find them not to be in order during an inspection, the Supplier shall collect them at its own expense from Zeta within fourteen (14) days of Zeta having informed the Supplier in this respect. Should the Supplier fail to satisfy this obligation, Zeta shall be entitled to have the goods delivered to the Supplier at the Supplier's expense, without prejudice to any of Zeta's other rights or claims.

## **6. Delivery and Transfer of Title**

a) The Supplier shall deliver the goods within the agreed period to the agreed place.

b) Zeta shall acquire title to the goods:

1. As soon as the goods are approved or found to be in order, in cases where Zeta tests or inspects the goods after delivery in accordance with Article 5
2. Four (4) weeks after delivery in all other cases, unless Zeta informs the Supplier in writing within this period that the goods do not satisfy the provisions of the agreement.

## **7. Risk of loss**

a) The risk of loss attaching to the goods shall pass to Zeta with effect from the moment of delivery.

b) In the event that Zeta rejects the goods, finds them not to be in order during inspection, or invokes its right to dissolve the agreement on reasonable grounds or its right to have the goods replaced, the risk of loss attaching to the goods shall be deemed to have remained with the Supplier throughout.

## **8. Prices, Charges, Invoices and Payment**

a) All prices and charges shall be deemed to include all direct and indirect costs of whatever kind. The prices and charges shall be exclusive of turnover tax. Delivery shall take place D.D.P. (Delivery Duty Paid) in accordance with the Incoterms 2010.

b) The prices and charges shall be fixed, unless the agreement specifies the circumstances which may lead to price adjustments, as well as the way in which such adjustments are to take place.

c) Once Zeta has acquired title to the goods, the Supplier shall send its invoices to the address specified by Zeta in its order, quoting, in any event, the agreement number and the purchase order number (without prejudice to the other legally required invoice details) and enclosing the agreed documentation.

- d) Invoices which satisfy the conditions of Article 8(3) shall be paid within sixty (60) days of the date of their receipt, after any possible settlement or compensation of Zeta's claims against the Supplier has taken place.
- e) Zeta shall not be required to pay a proportional part of an invoice if it has not received the agreed quantity of goods at the agreed address.
- f) Payment as described in Article 8(4) shall not prejudice any possible recovery rights or other claims on the part of Zeta with regard to the goods delivered and/or services rendered.
- g) Invoices and payments shall take place in Sterling currency, unless otherwise specified in a purchase order.
- h) Should Zeta have failed to pay an invoice which satisfies the conditions of Article 8(3), without a valid reason, within the period specified in Article 8(4), Zeta shall be liable to pay interest on the amount owed to the Supplier, to be calculated on an annual basis and equivalent to the promissory note discount rate of the European Central Bank.
- i) The expiry of a payment period or non-payment of an invoice by Zeta, shall not entitle the Supplier to terminate its services or, in the event that the expiry or non-payment is a result of the defective nature of the invoiced goods or services and/or the inaccuracy (of the content) of the invoice (details), to postpone its services.

## **9. Force Majeure**

- a) To the extent that a failure to comply with an obligation cannot be attributed to the Supplier itself and is not at the Supplier's risk, the Supplier shall not be deemed to be in default and shall not be liable to pay compensation, provided that the Supplier informs Zeta in writing about the default and the underlying reasons forthwith and, in any event, within the period agreed for compliance with the obligation.

## **10. Compliance**

- a) If the goods delivered fail to satisfy the provisions of the agreement, Zeta may demand that the Supplier deliver the missing goods, or repair or replace the goods, within a reasonable period to be specified by Zeta. Any and all costs related and/or involved shall be at the Supplier's expense.
- b) In the event of the Supplier still failing to render the service in question within the period referred to in the first paragraph, Zeta shall be entitled to have the delivery, repair or replacement carried out by a third party, and recover the costs involved from the Supplier, without seeking prior court intervention.
- c) The provisions of this paragraph 10 shall not prejudice Zeta's other rights and claims with respect to the default.

## **11. Warranty**

- a) Without prejudice to the provisions contained in an agreement, the Suppliers warrants that:
1. software, firmware and databases shall be free of viruses and other foreign items at the time of delivery, testing and/or inspection.
  2. the Supplier is unconditionally authorized to perform the services and deliver the goods encompassed in the context of the agreement.
  3. the goods are suited to the purpose for which Zeta ordered and received them.
  4. the employees and third parties whose services the Supplier uses in the performance of its contractual obligations have sufficient and relevant expertise, experience and training.
  5. all services rendered and goods delivered in the context of the agreement satisfy all the relevant laws and regulations in this respect, which shall also be understood to include EC regulations, in, amongst others, the field of hazardous components, certification and standardisation.
  6. the Supplier possesses the permits and licenses required for the performance of this agreement.
- b) If, in the opinion of Zeta, the warranty stipulations described in the first paragraph have not been satisfied, the Supplier shall be deemed to be in default and Zeta shall be entitled to exercise, forthwith and without seeking court intervention, the rights which it derives from said default.
- c) In the event that Zeta invokes Article 11(1) or (2), the resulting costs shall be at the Supplier's expense.
- d) Article 11(1) through (3) shall not prejudice, either during or after the warranty period, the rights or claims which Zeta can derive from an event of default.

## **12. Licenses for Software/Firmware/Databases**

- a) Zeta shall acquire a non-exclusive license to use the software, firmware and databases (including new versions and releases) furnished by the Supplier under the terms of an agreement, for an indefinite period of time with effect from the time of delivery of said goods. Without prejudice to this license, the right to use the goods may be transferred to one of the companies belonging to the Zeta group. The Supplier agrees that Zeta is and shall remain entitled to pledge this license.
- b) The license shall, in any event, be understood to include loading, displaying on screen, copying, executing, transmitting and storing. In certain cases, the license shall also be understood to include the right to issue sub-licenses and all activities required in that context.
- c) The provision of the second paragraph of this Article shall not prejudice the provisions of the Copyright Act, Section VI, Special provisions for computer programs.

## **13. Transfer of Intellectual and Industrial Property Rights**

- a) Without prejudice to the provisions contained in Article 4(4), Zeta shall hold title to and may exercise all the intellectual and industrial property rights with regard to the results of services to be performed by the Supplier on the basis of an agreement. If any action is required in transferring title

and/or any intellectual and/or industrial property rights, the Supplier shall render its unconditional cooperation in this respect at no charge. The Supplier hereby grants Zeta an irrevocable power of attorney to effect the transfer (including signing the necessary documents on behalf of the Supplier) and agrees that Zeta is unconditionally entitled to register and/or file the intellectual and industrial property rights in the appropriate registers or to have this done on its behalf.

b) The Supplier shall be obliged, either at Zetas first request or immediately after the dissolution and/or termination of this agreement, and for whatever reason, to accurately and fully complete and sign in duplicate the documents required to execute the provisions of the first paragraph, and to send these documents to Zeta immediately.

c) In the event that the Supplier fails to comply with the provision of the second paragraph in full, in part, or on time, the Supplier shall forfeit a penalty, payable without court intervention, of STERLING 10,000 per event and for each consecutive day of default, without prejudice to Zetas other rights in this respect. The burden of proof with regard to the Supplier having fully and correctly completed the deed of transfer on time, and having sent it to Zeta in a timely fashion, shall rest exclusively with the Supplier.

d) The Supplier hereby unconditionally and irrevocably waives its right to exercise any possible droit moral with regard to the results of the services and/or activities to be performed on the basis of an agreement.

e) The Supplier guarantees that:

1. It is unconditionally entitled and authorised to transfer the aforementioned results to Zeta;
2. The aforementioned results are not encumbered with any third-party claims whatsoever and/or that no such claims have been created.

#### **14. Protection of Intellectual Property Rights**

a) The Supplier guarantees that the goods it supplies and the services it renders shall not infringe any current third-party intellectual and industrial property rights and that the use of said goods and services shall not otherwise constitute a wrongful act towards third parties.

b) The Supplier shall indemnify Zeta against claims from third parties in this respect, wherever and whenever such claims might be instigated.

c) In the event that the Supplier admits that the goods it supplies and/or the services it renders infringe on any current third-party intellectual and industrial property rights and/or constitute a wrongful act towards any third party, or in the event that Zeta is prohibited from this use pursuant to an arbitral award or court ruling, the Supplier shall, at the choice of Zeta, either:

1. Acquire the right, on behalf of Zeta, to continue using the goods and/or services under the conditions of the agreement in question; or
2. Replace the goods and/or services or change them in such a way that the infringement no longer exists; or, if the aforementioned options are not reasonably feasible,
3. Take back the goods, crediting Zeta for the amounts it has already paid to the Supplier; all of this without prejudice to Zetas other rights, including its right to compensation.

d) The Supplier shall conduct out the defense in any legal proceedings which might be instigated against Zeta for infringement of any current third-part intellectual and industrial property rights and/or (otherwise) any wrongful act against a third party in connection with goods supplied and/or services rendered by the Supplier. The Supplier shall indemnify Zeta against all damage and costs incurred by Zeta as a result of such legal proceedings.

## **15. Dissolution**

a) Zeta shall be entitled to dissolve any agreement and related purchase orders by means of a registered letter, without notification of default or court intervention, if the Supplier applies for or is granted a (temporary) moratorium, files for bankruptcy or is declared bankrupt, the Supplier's business enters into liquidation, the Supplier ceases its current operation, a considerable portion of the Supplier's assets are seized, Zeta considers the Supplier to be no longer capable of independently guaranteeing the continuity of the use by Zeta of the goods (to be) supplied under the agreement and/or the results of the services, or the Supplier can no longer be deemed capable of meeting its obligations under an agreement.

b) If Zeta dissolves an agreement on the basis of the provisions of the first paragraph, Zeta shall, at the moment of dissolution, acquire an unconditional and irrevocable right to use the information furnished by the Supplier for an indefinite period, irrespective of the nature of this information and the way and manner in which this was and/or will be acquired. In the context of this Article, information shall also be understood to include the source code, object code, the listings, the binaries and all the (technical) documentation relating to the goods. To the extent that Zeta does not already possess this information, the Supplier shall furnish Zeta with this information immediately at Zetas first request and in the way and form chosen by Zeta. To the extent that this is necessary, the Supplier hereby agrees to waive any future rights in this respect. The parties may agree that the information referred to in this Article be made available to Zeta, under still to be agreed conditions, after this agreement has been signed, but with due observance of the provisions of this Article and without any deviation from said provisions. Each and every deviation from the provisions of this Article shall be invalid.

c) Zeta shall be entitled to terminate or cancel an agreement without cause by means of a registered letter, without notification of default or court intervention, at least thirty (30) days prior to the scheduled delivery date, without having any liability to Supplier. If delivery of any Goods is delayed more than three (3) days beyond the scheduled delivery date, Zeta may cancel the delivery by notice, and without liability, to Supplier. Zeta may reschedule the delivery of all or part of the Goods ordered by Zeta by notice to Supplier at least thirty (30) days prior to the scheduled delivery date. Except as expressly stated by Zeta in a purchase order, Zeta will not reschedule a purchase order scheduled for delivery date within thirty (30) days.

d) Termination and/or dissolution of an agreement and/or any related purchase order, for whatever reason, shall not prejudice the licenses and other rights granted to Zeta.

## **16. Confidentiality**

a) The Supplier shall treat as confidential the information which it receives, such as specifications, technical information, company information and other information of a confidential nature, and shall not disclose such information to any person(s) other than its own employees, nor use it for any

purpose other than in the performance of an agreement. With the termination and/or dissolution of an agreement, the Supplier shall immediately send all the carriers of this information and all copies thereof to Zeta.

b) Without Zetas prior consent, the Supplier shall in no way disclose, advertise or publish (the existence of) provisions from, or transactions performed under this agreement.

c) The Supplier shall also ensure that these obligations are also imposed on its own employees and any independent third parties involved, in any way, in the performance of this agreement.

d) Any infringement of the provisions of the first and second paragraphs by an employee of the Supplier shall be deemed to be an infringement of this obligation by the Supplier.

e) In the event of any infringement of one of the obligations contained in the first, second and third paragraphs, the Supplier shall immediately pay a penalty of EURO 10,000, without court intervention and without prior notification of default being required.

#### **17. Specific Provisions With Regards To the Applicability of Conditions Contained In Agreements Concluded Between Zeta and its Clients**

a) The Supplier hereby undertakes that it shall comply with and duly observe all the terms and conditions of any agreement concluded or to be concluded between Zeta and Zetas clients, irrespective of the nature of such agreement, to the extent that these terms and conditions are relevant to that part of the aforementioned agreement which the Supplier is required to perform. All of this shall be done properly and, needless to say, in accordance with the conditions of the aforementioned agreement. Zeta shall always inform the Supplier of the terms and conditions referred to above. Consequently, the Supplier shall indemnify Zeta against any and all claims by Zetas clients and/or third parties in this respect, wherever and whenever these might be instigated on whatever grounds. Furthermore, the Supplier shall indemnify Zeta against the damage and costs involved in this respect. The part of the aforementioned agreement which the Supplier is required to perform, comply with and duly observe, shall, in any event, be understood to include that part which relates to the goods supplied by the Supplier as well as the services which the Supplier renders.

b) The Supplier hereby undertakes that it shall reimburse and pay all compensation, including costs and possible penalties, which Zeta may have to pay to its client as a result of the Supplier's non-compliance or inadequate compliance with the terms, conditions and provisions in question.

c) The provisions of this Article shall apply without prejudice to the other provisions of these General Terms and Conditions.

#### **18. Governing Law and Settlement of Disputes**

a) These General Terms and Conditions shall be governed by the laws of England and Wales. Any disputes which may arise about the interpretation or implementation of these General Terms and Conditions and about the agreements concluded shall be submitted to the competent court in England, including in summary proceedings. However, all disputes shall first be discussed between the Supplier and Zeta in order to reach a solution in mutual consultation.

## 19. General

- a) The Supplier shall inform Zeta immediately if problems arise with respect to the services or goods which pose a threat to the Supplier complying with its obligations in full and on time. The Supplier shall consult with Zeta in order to find a solution which will protect the interests of Zeta, without prejudice to any other rights conferred upon Zeta. Whenever appropriate, the Supplier shall, at Zetas request, provide substitute and functionally equivalent goods and render services on a temporary basis and at no cost for Zeta.
- b) The Supplier shall, at its own expense and risk, take the necessary measures to obtain permits, if and to the extent that these are required in the context of the performance of this agreement.
- c) Any failure on the part of one of the parties to enforce any of the provisions of this agreement within a period specified in these General Terms and Conditions shall not affect the right of said party to demand compliance at a later stage, unless the party in question has expressly accepted the event of non-compliance in writing. The provisions of the previous sentence shall not prejudice the parties' (other) rights and obligations in this respect.
- d) The Supplier hereby agrees that it is willing to service the goods supplied, or to have these serviced, by concluding a separate service agreement.
- e) To the extent that Zeta deems it necessary, the Supplier hereby agrees that it is willing, under reasonable conditions, to conclude an escrow contract for the goods.
- f) The rights and obligations resulting from an agreement may be transferred by Zeta to a third party without further requirements. The Supplier's consent shall not be required in this respect.
- g) Where applicable, each agreement shall be concluded subject to the dissolving condition that Zeta is unable to conclude a lawfully signed agreement with one or more clients which fully matches the scope of the agreement with the Supplier.
- h) Except in cases where legal claims cannot be excluded, and subject to these General Terms and Conditions, Zeta shall have no obligations and the Supplier shall not be able to invoke any claim in this respect.
- i) If any of the provisions of the General Terms and Conditions proves to be void or is repudiated, the other provisions shall remain in full force and this shall have no effect whatsoever on (the performance of) the other parts of an agreement. Furthermore, in such an event, the parties shall consult with one another as soon as possible in order to reach a solution suited to the nature of the agreement and which most closely matches the aim and meaning of the void or repudiated provision.
- j) During the term of the agreement and for a period of one year after termination of the agreement, both parties shall refrain from employing the other party's employees who were involved in the performance of an agreement, or having these persons work for them, directly or indirectly, unless this has been the subject of proper consultations with the other party.
- k) To the extent that Zeta requires certain personal details about the Supplier's employees in the context of normal procedures and/or applications in Zetas branch, the Supplier hereby agrees that it

is willing to see to it that these employees shall give permission for this to take place, unless this could be considered unreasonable. To the extent that, in the context of the performance of an agreement, it is necessary to process the personal details of an employee of the Supplier involved in the performance, the Supplier shall see to it that the employee in question gives his/her permission for this processing to take place.

l) In the event that the Supplier fails to comply with any of the provisions of these General Terms and Conditions, the Supplier shall, irrespective of Zetas other rights, including the right to compensation, and without court intervention, forfeit a penalty of STERLING 5,000 (which may not be offset) for each event of non-compliance, to be increased by STERLING 1,000 for each day of non-compliance.

m) Zeta shall at all times be entitled to have the Supplier's compliance with its obligations under an agreement monitored by an independent expert at Zetas own expense. The Supplier shall be obliged to render all reasonable cooperation free of charge, irrespective of the nature of this cooperation, including the granting of access to the Supplier's facilities.

n) Termination or dissolution of this agreement shall not prejudice the provisions of these General Terms and Conditions with regard to intellectual property, warranty, confidentiality and the settlement of disputes.