

## OEM TERMS AND CONDITIONS OF SALE

### 1. ACCEPTANCE

Universal Lighting Technologies, Inc. is hereinafter referred to as "Seller" and the purchaser is hereinafter referred to as "Buyer." Any order that contains terms and conditions in addition to or inconsistent with the following shall not be binding upon Seller unless acceptance of each non-conforming term or condition is clearly and expressly made in writing by Seller, and failure of Seller to object to provisions contained in any purchase order or other communication from Buyer shall not be construed as a waiver of these terms and conditions nor as acceptance of any such provisions. Acknowledgements of Buyer's order forms, facsimile orders or "releases" shall not be construed to be a waiver, amendment, or modification of these terms and conditions. Seller is not responsible for typographical or written errors made in any quotations, orders or publications and all such errors are subject to correction.

### 2. SHIPMENTS

All shipments of product will be made F.O.B. Point of Shipment. Freight will be allowed on orders in excess of \$2,500 USD to all points within the United States and Canada, outside territories excluded, provided Universal Lighting Technologies selects the method and routing of the shipment. If the purchaser specifies a manner or routing of shipment different from that determined by Universal Lighting Technologies, we will comply but ship product freight collect. If Universal Lighting Technologies chooses to split shipments on a single order of more than \$2,500, the freight charges will still be paid by Universal Lighting Technologies. Any Universal Lighting Technologies products may be combined in one shipment to meet minimum freight weight or dollar requirements. Shipment of plus or minus five (5) percent of order quantity will be considered to have completed the order and Buyer agrees to pay the unit price for the quantities shipped. Purchase orders containing penalty clauses for failure to meet shipment schedules are not acceptable unless specifically approved in writing by an officer of Seller. Prices quoted provide for standard packing for domestic shipment only. Buyer agrees to pay the charges for special packing if it is required for domestic shipment or export shipment. Shipping destinations shall be Buyer's facilities only. Drop shipments to other locations are not permitted unless specifically approved in writing by an officer of the Seller. I-Pack products (individual cartons) and HID Kits are manufactured for the Distribution Channel. Cartons and tray packs are primarily for OEMs. All OEM orders received requesting I-Packs or HID kits will be returned to the Buyer.

### 3. DELIVERY

The promised delivery date is the best estimate of the time when the products will be shipped by Seller. Seller assumes no liability for loss of profits, special, incidental or consequential damages due to delays. Universal Lighting Technologies assumes no responsibility for collection of loss or damage claims. Evident loss or damage to a shipment must be indicated by a notation made by the carrier's agent on the delivery receipt before the receipt is signed. The notation must clearly specify the extent of loss, shortage or damage.

### 4. INSPECTION AND ACCEPTANCE OR REJECTION

All products are subject to inspection by Buyer upon delivery and, unless Seller is advised to the contrary in writing within thirty (30) days after delivery, the products will be deemed to have been accepted as conforming with the requirements of the contract and free from all discoverable defects.

### 5. RETURN POLICY

An approved RMA must accompany every return. All returns are subject to a 25% restocking charge and freight charges are to be prepaid by the customer. Returned product must be of current manufacture (produced in the last twelve months), unused, salable, and in original cartons. Any cost incurred by Universal Lighting Technologies to put product in condition for resale will be charged to the customer. This is in addition to the restocking fee. Universal Lighting Technologies cannot accept discontinued, made to order, or custom-built product as part of any return.

### 6. PRICE

Quotation prices are firm for thirty (30) days from the date of the quotation, unless specifically stated to the contrary as part of a particular price quote, and are subject to change without notice after the expiration of this thirty (30) day period. Any variations in quantity specified and/or rate of delivery may necessitate a revision in price. Unless otherwise stated as part of price quote, all prices are F.O.B. factory.

All products will be billed at prices in effect at time of shipment and, subject to change without notice, at a minimum billing charge of \$100 net plus transportation charges.

### 7. PAYMENT

The terms of payment for all orders are thirty (30) days net (from date of invoice). If, in the judgment of Seller, the financial condition of Buyer at any time does not justify continuation of manufacture, or shipment on the payment terms specified, Seller may require full or partial payment in advance. If shipments are delayed by Buyer, payment dates will nevertheless be computed from the date on which Seller is prepared to make shipment. If payment is received and discount deducted on an invoice or invoices outside of the earned discount period, Universal Lighting Technologies will charge back the unearned discount and Buyer will be liable for immediate repayment. Additionally, a service charge will, without prejudice to any other rights of Seller to demand immediate payment, be added to Buyer's account in the amount of 1.5% per month (or whatever is maximum allowable in the state in which the Buyer is located) on the unpaid past due balance. In the event it becomes necessary to place Buyer's account with a collection agency or attorney, Buyer agrees to pay all cost and reasonable attorney's fees. Buyer further agrees that this is a Tennessee contract construed according to Tennessee law and that any litigation between the parties to this agreement will be exclusively within Tennessee jurisdiction unless otherwise chosen by Universal Lighting Technologies.

### 8. TAXES

Seller's prices do not include any federal, state or local property, sales, use, excise or similar tax. Consequently, in addition to the prices specified, the amount of any present or future sales, use, excise, GST or similar tax imposed due to the sale of products or services shall be paid by Buyer unless Buyer furnished an acceptable tax exemption certificate in advance to Seller.

### 9. CATALOG ITEMS

Seller reserves the right to change the prices, discontinue, modify or alter any and all catalog items at any time without notice. Should such cancellation, modification or alteration prevent the delivery of all or part of any order, Seller will be excused from further delivery.

### 10. TITLE AND RISK OF LOSS

Title and risk of loss to the products supplied hereunder shall pass to Buyer at the F.O.B. shipping point.

### 11. WARRANTY

Seller warrants that products sold will meet the specifications and descriptions during the specified time period for such specific product as described and published in the warranty section of the Seller's website: "www.unvlt.com", or such other website or URL as the Seller may from time-to-time designate or make available to Buyer (the "Website").

If it appears within the specified warranty period that any Universal Lighting Product does not meet the published warranty period, Buyer's sole remedy, and Seller's sole obligation is to provide a replacement lighting product. Universal extends this limited warranty to the original or first end-user purchaser only. This warranty is conditional based upon proper storage, installation, use and maintenance. This warranty is not applicable to, and Universal makes no warranty whatsoever with respect to, any Lighting Product not installed and operated in accordance with the National Electric Code (NEC), the Standards for Safety of Underwriters Laboratories, Inc. (UL), Standards for the American National Standards Institute (ANSI) or, in Canada, the Canadian Standards Association (CSA). Nor is this warranty applicable to any Lighting Product which has not been installed and operated in accordance with Universal's specifications and connection diagrams or Lighting Products which have been subjected to abnormal operating conditions. This includes, but is not limited to, excessive temperatures as specified in Universal's published literature. The conditions for any tests (to be) performed on Lighting Products which are claimed to have not performed in accordance with the terms of the warranty shall be mutually agreed upon in writing and Universal may be represented at any such tests.

**SELLER EXPRESSLY DISCLAIMS, AND BUYER ACKNOWLEDGES, THAT NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE SHALL APPLY TO ANY PRODUCTS SOLD.** The foregoing warranty is exclusive of all other statutory, written or oral warranties and no other warranties of any kind, statutory or otherwise, are given or herein expressed. Warranty claims are to be made in accordance with Universal's published Warranty Service Program which is available upon the Website. This warranty sets forth Universal's obligations and responsibilities regarding its Lighting Products and is the exclusive remedy available to the Buyer or its customers.

**LIMITATIONS OF LIABILITY. UNDER NO CIRCUMSTANCES, WHETHER AS A RESULT OF BREACH OF CONTRACT, BREACH OF WARRANTY, TORT, STRICT LIABILITY OR OTHERWISE, WILL UNIVERSAL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF USE OR DAMAGE TO ANY PROPERTY OR EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE PRODUCT, FACILITIES OR SERVICES, DOWN TIME COSTS OR CLAIMS OF CLAIMANT'S CUSTOMERS.** Universal's liability for all claims of any kind or for any loss or damages arising out of, resulting from or concerning any aspect of this warranty or from the Lighting Products or services furnished hereunder, shall not exceed the price of the specific Lighting Product which gives right to the claim, except in accordance with Universal's Technical Engineering Service (TES) Program.

**STATE LAW RIGHT.** Some states do not allow the exclusion or limitation of consequential or incidental damages or the duration of time for an implied warranty. Therefore, the limitations or exclusions of consequential or incidental damage and implied warranties may not apply to certain claimants. This warranty provides the claimant with specific legal rights and claimants may have other rights that vary from state to state.

### 12. CHANGES

For each Buyer requested product change, if approved by Seller, Seller will charge for all costs (\$100 minimum) necessary to make the change. These costs include, but are not limited to, engineering, drafting, order processing, tooling, hardware, re-work and scrap. In addition, any increase in the product price, caused by a product change, shall be charged to Buyer and Buyer agrees to pay same.

### 13. CANCELLATION AND RESCHEDULING

#### *Cancellation*

Cancellation of any item on an order by Buyer will be accepted only on the following basis: Any items which upon Seller's receipt of Buyer's written notice of cancellation are within thirty (30) days of completion, as determined by Seller's best estimate at the time of receipt of cancellation notice, which will be completed and paid for by Buyer in full accordance with the regular payment terms. All items which are not within thirty (30) days of completion upon Seller's receipt of Buyer's written notice of cancellation is requested, shall be cancelled for a termination charge of ten (10) percent of the net selling price, plus the cost of labor, materials, and supplies used for the production of such items as overhead expenses determined in accordance with good accounting practice.

#### *Re-Scheduling*

A one-time hold on any item ordered from Seller will be allowed for a maximum of thirty (30) days or upon receipt of notice of a second hold. Seller shall have the right to cancel the order and issue appropriate cancellation charges which shall be paid by Buyer. Orders re-scheduled with Seller's consent will be subject to a price adjustment. In the event production has proceeded to the point Seller deems it cannot reasonably reschedule completion, the product shall be completed, invoiced, and placed in storage at Buyer's expense.

### 14. DELAY

Delay in delivery of any installment shall not relieve Buyer of its obligation to accept remaining installments. If Buyer delays shipment after completion of the products ordered by Buyer, title will pass to Buyer, and Seller will issue an invoice. Storage and handling costs will accrue to Buyer's account until shipment is made.

### 15. FORCE MAJEURE

In the event either party is prevented from performing this contract by circumstances beyond its control, and without its fault, including without limitation, strikes, lockouts, fire, explosion, flood, acts of God, war or other hostilities, acts of terrorism, banking or other systemic economic failure, riot or other civil commotion, embargoes or other governmental acts, orders or regulations, breakdown of machinery, and inability to obtain shipping facilities or supplies, the obligation of Seller to deliver and the obligation of Buyer to accept delivery of products or services hereunder during the period of such disability shall be suspended and the products or services so affected shall by mutual agreement either be eliminated from this contract without liability to either party or reasonable extensions of the time for performance will be granted.

### 16. FAIR LABOR STANDARDS ACT

Products to be furnished or services to be rendered hereunder will be produced or performed in compliance with all applicable requirements of the Fair Labor Standards Act of 1938, as amended on the date hereof, and in compliance with all applicable regulation orders of the Administrator of the Wage and Hour Division issued under this Act.

### 17. GOVERNMENT CONTRACTS

In the event this order is for products or services to be furnished by Buyer under any government contract or purchase order, Seller shall have all rights of Buyer that are available to Buyer under such government contract or purchase order, whether or not Buyer is a prime contractor or supplier to the government or is a subcontractor at any tier.

### 18. GOVERNING LAW

The contract will be governed by and construed according to the laws of the State of Tennessee.

### 19. REVISIONS

Universal Lighting Technologies reserves the right to revise or amend any or all items contained herein.