



## Companies Act Information

### Registered Office Address:

KAIA Ltd. ("KAIA")

201 Westbourne Studios

242 Acklam Road

London W10 5JJ

Registered Number: England and Wales 8330968

VAT Number: GB155215723

This information is provided in compliance with the UK E-Commerce Regulations

### KAIA Terms & Conditions for business customers

Effective 1st January 2013

#### **1 - Business customers**

1.1 - These terms and conditions apply to sales of our goods to business customers.

1.2 - If you wish to buy our goods for domestic use or for purposes not connected with a business, you are a consumer, in which case these terms and conditions do not apply to you and our terms and conditions for consumers should be applicable.

#### **2 - The contract between us.**

2.1 - A contract between us on the terms set out in these terms and conditions will come into force when we confirm our acceptance of your order with our order confirmation.

2.2 - These terms and conditions then constitute the full and final agreement between KAIA and the customer and supersede all prior negotiations, discussions and agreements between KAIA and the customer with respect to the order. No terms and conditions of the customer that are inconsistent with, or additional to, the terms and conditions contained herein, whether and estimate, quotation, invoice or otherwise, shall be binding on KAIA unless such terms and conditions are expressly accepted in writing by KAIA.

2.3 - All goods are subject to availability. If, following acceptance of your order, we are not able to supply the goods in question, we will inform you of this and will not process your order. If you have already paid for the goods, we will refund you the full amount as soon as reasonably possible.

2.4 - We may vary these terms and conditions from time to time. Every time you order goods from us, the terms and conditions in force at that time will apply to the contract between us.

#### **3 - Price**

3.1 - The price quoted excludes VAT/Sales Tax /Duty/Custom or levies of similar nature which are imposed or charged by any competent fiscal authority in respect of Goods (unless otherwise stated).

3.2 - Our quotations lapse after 30 days (unless otherwise stated).

3.3 - The price quoted excludes delivery and charges for packing and transport (unless otherwise stated) or custom/duty handling fee. Delivery charges are estimates only and might need adjustment after the delivery of the goods.

3.4 - Any banking, wire transfer fees, banking charges etc. have to be paid by the buyer of the goods.



- 3.5 - Unless otherwise stated, the price quoted to business customers is an illustrative estimate only and the price charged will be our price current at the time of delivery.
- 3.6 - Rates of tax and duties on the goods will be those applying at the time of delivery.
- 3.7 - At any time before delivery we may adjust the price to reflect any increase in our costs of supplying the goods.
- 3.8 - For special orders: All orders for lamps and luminaires of non-standard voltages or types not included in catalogues are considered to be "Special Types" the production of which is undertaken on the understanding that you have accepted the quoted price.
- 3.9 - Where you require the delivery of goods to be on pallets, a charge of 0.5% of the total price payable for the goods shall be added to the price.
- 3.10 - Where it is necessary to dispatch goods in crates, cases, pallets or other such packing, a charge will be made for this. Unless otherwise specified this amount will be credited in full on the return, within one month, of such crates and pallets etc. in good condition carriage paid. No charge is made for any other form of packaging and no credit will be granted for its return.

#### **4 - Delivery**

- 4.1 - Delivery times quoted are estimates only. The estimated delivery time for our Collection line products is usually between 8 - 10 weeks; for our Customize line products the estimated delivery time is between 10 -12 weeks.
- 4.2 - If we fail to deliver within a reasonable time, you may (by informing us in writing) cancel the contract, however:
- 4.2.1 - you may not cancel if we receive your notice after the goods have been dispatched; and
- 4.2.2 - if you cancel the contract, you can have no further claim against us under that contract.
- 4.2.3 - If you accept delivery of the goods after the estimated delivery time, it will be on the basis that you have no claim against us for delay (including indirect or consequential loss, or increase in the price of the goods).
- 4.3 - We may deliver the goods in installments. Each installment is treated as a separate contract.
- 4.4 - We may decline to deliver if:
- 4.4.1 - we believe that it would be unsafe, unlawful or unreasonably difficult to do so; or
- 4.4.2 - the premises (or the access to them) are unsuitable for our vehicle.
- 4.5 - goods will not be delivered on pallets unless requested (see clause 3.8).

#### **5 - Risk**

- 5.1 - The goods are at your risk from the time of delivery; ie when the goods are dispatched.
- 5.2 - Delivery takes place at our premises. Incoterms are applicable. The delivery is "ex work".
- 5.3 - You must inspect the goods on delivery. If any goods are not delivered, you must write to tell us within three working days of delivery or the expected delivery time.
- You must grant us (and any carrier) access to inspect the damaged goods.

#### **6 - Payment terms**

- 6.1 - You are to pay us in cleared funds on or prior to delivery, unless you have



an approved credit account.

6.2 - If you have an approved credit account, payment is due no later than stated on the the invoice unless otherwise agreed in writing.

6.3 - If you fail to pay us in full on the due date we may:

6.3.1 - suspend or cancel future deliveries;

6.3.2 - cancel any discount offered to you;

6.3.3 - charge you interest at the rate set under s.6 of the Late Payment of Commercial Debts (Interest) Act 1998;

(a) - calculated (on a daily basis) from the date of our invoice until payment;

(b) - compounded on the first day of each month; and

(c) - before and after any judgment (unless a court orders otherwise);

6.3.4 - claim fixed sum compensation from you under s.5A of that Act to cover our credit control overhead costs; and

6.3.5 - recover (under clause 6.7) the cost of taking legal action to make you pay.

6.4 - If you have an approved credit account we may withdraw it or reduce your credit limit

or bring forward your due date for payment. We may take any of these actions at any time and without notice.

6.5 - You do not have the right to set off any money you may claim from us against anything you may owe us.

6.6 - While you owe money to us, we have a right to keep any property we may hold of yours until you have paid us in full (a lien).

6.7 - You are to indemnify us in full and hold us harmless from all expenses and liabilities we may incur (directly or indirectly and including finance costs and legal costs on a full indemnity basis) following any breach by you of any of your obligations under these terms.

## **7 - Samples**

7.1 - Unless otherwise expressly agreed between us samples submitted with our quotation or at your request must be returned within 30 days of receipt and we shall be entitled to charge for them if they are not so returned.

## **8 - Storage**

8.1 - If we do not receive forwarding instructions sufficient to enable it to dispatch the goods within 5 days after notification that the goods are ready for delivery, you will take delivery or arrange for storage. If you do not take delivery or arrange for storage, we shall be entitled to invoice and be paid for the goods as though the goods had been delivered. We may arrange storage either at our own premises or elsewhere on your behalf and all charges incurred by us as a result of such delay including storage and insurance shall be payable by you.

## **9 - Performance**

9.1 - Any data, technical information or performance figures provided by us are based on tests performed under standard conditions at our premises. They are believed to be accurate but cannot be guaranteed under different conditions.

9.2 - Our goods are carefully inspected, and, where practicable submitted to standard tests at our works before dispatch. If tests other than those specified or tests in the presence of you or your representatives are required, these will be charged for. In the event of any delay on your part in attending tests after you have received 7 days notice that we are



ready to perform the tests, the tests will proceed in your absence. You agree to accept and pay for such tests as if they had been performed in your presence.

## **10 - Title**

10.1 - Until you pay all debts you may owe us:

10.1.1 - all goods supplied by us remain our property;

10.1.2 - you must store them so that they are clearly identifiable as our property;

10.1.3 - you must insure them (against the risks for which a prudent owner would insure them) and hold the policy on trust for us;

10.1.4 - you may use those goods and sell them in the ordinary course of your business, but not if:

(a) - we revoke that right (by informing you in writing); or

(b) - you become insolvent.

10.2 - You must inform us (in writing) immediately if you become insolvent.

10.3 - If your right to use and sell the goods ends you must allow us to remove the goods.

10.4 - We have your permission to enter any premises where the goods may be stored:

10.4.1 - at any time, to inspect them; and

10.4.2 - after your right to use and sell them has ended, to remove them, using reasonable force if necessary.

10.5 - Despite our retention of title to the goods, we have the right to take legal proceedings to recover the price of goods supplied should you not pay us by the due date.

10.6 - You are not our agent. You have no authority to make any contract on our behalf or in our name.

## **11 - Warranties**

11.1 - We warrant that:

11.1.1 - the goods comply with their description on our acknowledgement of order confirmation and the current Technical Specifications of the lighting fixture. We warrant that our products/lighting fixtures shall represent the state of the art and shall be free of manufacturing and material defects. We will endeavour to match the colour of the finish to the sample chosen as accurately as possible, but variations in both colour and texture may occur and will not constitute a defect.

For items which are worked on and modified without our express consent or exposed to improper conditions of use, we shall not be obliged to pay any compensation, insofar as a query concerning the item can be attributed to this.

11.2 - KAIA cannot give any warranties on the supplied lamps. The terms and conditions and technical specifications of the lamp manufacturer are applicable. Expiration of the normal lifespan of the goods and lamps within the warranty period shall not constitute a defect.

11.3 - If you believe that we have delivered goods which are defective in material or workmanship, you must:

11.3.1 - inform us (in writing), with full details, as soon as possible, latest 3 business days after delivery; and

11.3.2 - allow us to investigate. Queried items must be sent back for inspection at the customers' cost.

11.4 - If the inspection reveals that the goods are found to be defective in material or workmanship (following our investigations), and you have complied with those conditions in full, we will (at our option/discretion) repair the goods, replace the goods or refund the



price. It is your responsibility to return the goods at your cost. If we choose to discharge our obligations in this clause without the return of goods, for example any repair or remedial work on our behalf by you, the cost of such work must be agreed in writing by us before the commencement of any such repair or remedial work.

11.5 The warranty given by Law does not apply to any defect in the goods arising from:

11.5.1 - fair wear and tear;

11.5.2 - willful damage, abnormal storage or working conditions;

11.5.3 - accident or negligence by you or a third party;

11.5.4 - your failure to operate the goods in accordance with user instructions;

11.5.5 - any alternation or attempt to repair by you or a third party;

11.5.6 - any specification provided by you.

## **12 - Our liability**

12.1 - We do not in any way exclude or limit our liability for:

12.1.1 - death or personal injury caused by our negligence;

12.1.2 - fraud or fraudulent misrepresentation;

12.1.3 - any breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); and

12.1.4 - defective products under the Consumer Protection Act 1987.

12.2 - The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded;

12.3 - Subject to clause 13.1, we will under no circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the goods for:

(a) - any loss of profits, sales, business, or revenue;

(b) - loss or corruption of data, information or software;

(c) - loss of business opportunity;

(d) - loss of anticipated savings;

(e) - loss of goodwill; or

(f) - any indirect or consequential loss.

12.4 - Subject to clause 12.1, our total liability to you in respect of all other losses arising under or in connection with the goods, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount of the price of the goods.

12.5 - Except as expressly stated in these terms, we do not give any representation, warranties or undertakings in relation to the goods in particular to the lamps. Any representation, condition or warranty which might be implied or incorporated into these terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, we will not be responsible for ensuring that the goods are suitable for your purposes.

## **13 - Specification**

13.1 - If we prepare the goods in accordance with your specifications or instructions you must ensure that:

13.1.1 - the specifications or instructions are accurate;

13.1.2 - goods prepared in accordance with those specifications or instructions will be fit for the purpose for which you intend to use them; and

13.1.3 - your specifications or instructions will not result in the infringement of any



intellectual property rights of a third party, or in the breach of any applicable law or regulation.

13.2 - We reserve the right:

13.2.1 - to make any changes in the specifications of our goods that are necessary to ensure they conform to any applicable safety or statutory requirements; and

13.2.2 - to make without notice any minor modifications in our specifications we think necessary or desirable.

#### **14 - Return of goods and refund**

14.1 - We will accept the return of goods from you under Distant Selling Regulations if you return the item to us within 14 days of:

14.1.1 - by prior arrangement (confirmed in writing);

14.1.2 - on payment of an agreed handling charge (unless the goods were defective when delivered) and

14.1.3 - where the goods are as fit for sale on their return as they were on delivery.

14.1.4 - when you contact us and request a Goods Returns Number (GRN) and quote this when returning the goods to us.

14.1.5 - when you return the goods within 60 days of being authorised the GRN.

14.2 - We do not accept the return of lamps/light bulbs.

#### **15 - Export terms**

15.1 - Clause 15 of these terms applies (except to the extent that it is inconsistent with any written agreement between us) where we supply the goods over an international border or overseas.

15.2 - The 'Incoterms' of the International Chamber of Commerce which are in force at the time when the contract is made apply to exports, but these terms prevail to the extent that there is any inconsistency.

15.3 - Unless otherwise agreed, the goods are supplied ex works our place of manufacture.

15.4 - Where the goods are to be sent by us to you by a route including sea transport we are under no obligation to give a notice under section 32(3) of the Sale of goods Act 1979.

15.5 - You are responsible for arranging testing and inspection of the goods at our premises before shipment (unless otherwise agreed). We are not liable for any defect in the goods which would be apparent on inspection unless a claim is made before shipment. We are not liable for any damage during transit.

15.6 - We are not liable for death or personal injury arising from the use of the goods delivered in the territory of another State (within the meaning of s.26 (3) (b) Unfair Contract Terms Act 1977).

#### **16 - Rejection**

16.1 - Unless otherwise agreed in writing goods rejected as not complying with the contract must be rejected within 3 working days of delivery to your premises or to such other place as you specified.

#### **17 - Cancellation**

17.1 - You may not cancel the order unless we agree in writing (and clauses 4.2.2 and 17.2 then apply).

17.2 - If the order is cancelled (for any reason) you are then to pay us for all stock



(finished or unfinished) that we may then hold (or to which we are committed) for the order.

17.3 - We may suspend or cancel the order, by written notice if:

17.3.1 - you fail to pay us any money when due (under the order or otherwise);

17.3.2 - you become insolvent;

17.3.3 - you fail to honour your obligations under these terms.

## **18 - Waiver and variations**

18.1 - Any waiver or variation of these terms is binding in honour only unless:

18.1.1 - made (or recorded) in writing;

18.1.2 - signed on behalf of each party; and

18.1.3 - expressly stating an intention to vary these terms.

18.2 - All orders that you place with us will be on these terms (or any that we may issue to replace them). By placing an order with us, you are expressly waiving any printed terms you may have to the extent that they are inconsistent with our terms.

## **19 - Force majeure**

19.1 - If we are unable to perform our obligations to you (or able to perform them only at unreasonable cost) because of circumstances beyond our control, we may cancel or suspend any of our obligations to you, without liability.

19.2 - Examples of those circumstances include act of God, accident, explosion, war, terrorism, fire, flood, transport delays, strikes and other industrial disputes and difficulty in obtaining supplies.

## **20 - General**

20.1 - English law is applicable to any contract made under these terms. The English and Welsh courts have non-exclusive jurisdiction.

20.2 - If you are more than one person, each of you is liable for all of your obligations under these terms (joint and several liability).

20.3 - If you place an order on behalf of a business, by ordering goods from us you confirm that you have authority to bind your business.

20.4 - If any of these terms are unenforceable as drafted:

20.4.1 - it will not affect the enforceability of any other of these terms; and

20.4.2 - if it would be enforceable if amended, it will be treated as so amended.

20.5 - We may treat you as insolvent if:

20.5.1 - you are unable to pay your debts as they fall due; or

20.5.2 - you (or any item of your property) becomes the subject of:

20.5.3 - any formal insolvency procedure (examples of which include receivership, liquidation, administration, voluntary arrangements (including a moratorium) or bankruptcy);

20.5.4 - any application or proposal for any formal insolvency procedure; or

20.5.5 - any application, procedure or proposal overseas with similar effect or purpose.

20.6 - All brochures, catalogues and other promotional materials are to be treated as illustrative only. Their contents form no part of any contract between us and you should not rely on them in entering into any contract with us.

20.7 - Any notice by either of us which is to be served under these terms may be served by leaving it at or by delivering it to (by first class post or by fax) the other's registered office or principal place of business. All such notices must be signed.



20.8 - No contract will create any right enforceable (by virtue of the Contracts (Rights of Third Parties) Act 1999) by any person not identified as the buyer or seller.

20.9 - We may transfer our rights under a contract between us to another organisation. You may only transfer your rights with our prior written approval.

20.10 - The only statements upon which you may rely in making the contract with us are those made in writing by someone who is (or whom you reasonably believe to be) our authorised representative and either:

20.11 - contained in our estimate (or any covering letter) and not withdrawn before the contract is made; or

20.12 - which expressly state that you may rely on them when entering into the contract.

20.13 - If any of these Terms and Conditions are found to be unlawful, invalid or otherwise unenforceable, that/those provision shall be deemed severed from the remainder of these Terms and Conditions. The remainder of these shall be valid and enforceable.

END.

KAIA Ltd. - Terms and Conditions for B to B - 14 January 2016