



Versalux Lighting Systems Pty Ltd

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ABN 68 005 911 802

VERSALUX TERMS & CONDITIONS OF SALE

CONDITIONS OF SALE

Please read these Conditions carefully and any other terms provided to you that incorporate these Conditions (together the **Contract**), as they set out the legal rights and obligations of Versalux and You in relation to all Goods supplied by Versalux to You.

1. DEFINITIONS AND INTERPRETATION

1.1 In this Contract:

"ACL" means the Australian Consumer Law, as set out in Schedule 2 of the Competition and Consumer Act 2010 (Cth).

"Business" means any business entity including a company, partnership, limited liability partnership, sole trader, unincorporated association, or trust.

"Business Day" means any weekday, other than a national public holiday or public holiday in Victoria.

"Business Hours" means between 07:00 and 16:00 on a Business Day. **"Charges"** means the charges payable by You to Versalux under the Contract. **"Conditions"** means these Conditions of Sale.

"Confidential Information" means any information, whether recorded in writing or otherwise disclosed by one party to the other which any reasonable person would consider to be of a confidential nature, including without limitation any trade secrets, methods, strategies, competitor details, pricing, and other business processes. Confidential Information does not include information that:

- (a) is or becomes independently developed or known by the other party through no breach of this Contract by that party; or
- (b) becomes publicly available without breach of this Contract.

"Consumer" means a Consumer as defined in the ACL and in determining if You are a Consumer, the determination is made if You are a Consumer under the Contract.

"Consumer Guarantee" means the consumer guarantees under the ACL.

"Contract" means a contract between Versalux and You incorporating these Conditions.

"Default Rate" means the rate prevailing pursuant to s. 2 of the Penalty Interest Rates Act 1983 (Vic);

"Force Majeure Event" means an event, or a series of related events, that is outside the reasonable control of the party affected (including power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, severe adverse weather conditions, riots, terrorist attacks, and wars).

"Goods" means the Goods (if any) supplied or to be supplied to You by Versalux under the Contract.

"Implied Terms" means any guarantees, conditions, warranties, or other terms implied by any Australian Commonwealth, State or Territory laws (excluding the ACL), or the laws of any other jurisdiction.

"Intellectual Property Rights" means all intellectual property rights of any kind, in any jurisdiction, subsisting now or in the future (including business, company or trade names, domain names, patents, inventions, copyright, design rights, know-how, trademarks, the right to sue for passing off and rights to use, and protect the confidentiality of, confidential information), whether registered or unregistered, and including the rights to apply for or renew the registration of any such rights and any rights the subject of any lapsed application or registration.

"Payment Terms" means 30 days from the end of the month in which You receive an invoice for Charges.

"PPSA" means the Personal Property Securities Act 2009 (Cth).

"Purchase Order" means the document issued by You to Versalux accepting the Charges and Conditions referred to in the Quotation.

"Quotation" means any document issued to You by Versalux detailing the Charges and the Conditions relating to the supply of Goods to You under this Contract.

"Versalux" means Versalux Pty Ltd, a company incorporated in Australia with Australian Business Number: 68 005 911 802 and Australian Company Number: 005 911 802, having its registered office at 28 Edgerton Road, Mitcham, Victoria, 3132.

"You, Your" means you, the customer under the Contract.

1.2 In this Contract, a reference to a statute or statutory provision includes a reference to:

- (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
- (b) any subordinate legislation made under that statute or statutory provision.

1.3 The Clause headings do not affect the interpretation of this Contract.

1.4 In this Contract, "persons" include companies, partnerships, limited liability partnerships, unincorporated associations, and trusts.

1.5 In this Contract, any reference to "include(s)" or "including" is without limitation.

2. QUOTATIONS:

2.1 Subject to clauses 2.2 and 2.3, all prices quoted for Goods are valid for 30 days from the date of Quotation.

2.2 Every Quotation is an estimate only and is subject to withdrawal, correction, or alteration at any time prior to Versalux's receipt of Your Purchase Order.

2.3 You acknowledge and agree that Versalux is entitled to charge for additional costs as set out in this Contract, including:

- (a) the cost for delivery where You are not in attendance at the site at the time of delivery in accordance with clause 6.3; and
- (b) default interest where You fail to pay any amount where due in accordance with clause 3.8.

2.4 Each Quotation is issued by Versalux subject to Your acceptance of this Contract. Versalux's acceptance of any Purchase Order from You is subject to Your acceptance of this Contract, and subject to confirmation by Versalux whether the Purchase Order is accepted or not. Purchase Orders will not be binding on Versalux until such date as Versalux acknowledges acceptance or commences supply (whichever comes first).

2.5 If You issue a Purchase Order accepting a Quotation "subject to sample approval", You agree that the Purchase Order can only be withdrawn if the consulting engineer on the project for which the Goods are ordered provides certification in writing that the sample provided by Versalux does not meet the specification for that project.

2.6 The supply of Goods under accepted Purchase Orders is subject to availability, and if, for any reason the Goods are not, or cease to be available, Versalux reserves the right to cancel all or part of a Purchase Order (in which case Versalux will refund any amounts paid for the cancelled part of that Purchase Order). This is Your only remedy and Versalux will not be liable to pay any other amount to You



3. CHARGES:

- 3.1 Any Charges specified as a deposit will be invoiced by Versalux and must be paid before the Goods are supplied. Subject to applicable laws and the other terms of this Contract any deposit once paid is non-refundable. Versalux may issue an invoice for other Charges to You from time to time during the Term and at any time after the Goods have been supplied. You acknowledge that for any custom made or special orders, due to the nature of such orders, any deposit paid is non-refundable in all circumstances. You understand that this is not a penalty, but a genuine pre-estimate of the loss that Versalux incurs for custom made or special orders.
- 3.2 Unless agreed otherwise by Versalux in writing, You must pay invoiced Charges to Versalux within Versalux's Payment Terms.
- 3.3 The amounts of all Charges specified in the Quotation or elsewhere in relation to the Contract are exclusive of GST. To the extent that any supply made under or in connection with this Contract is a taxable supply, You agree to pay the GST applicable on that supply.
- 3.4 Time for payment of all Charges is of the essence of the Contract.
- 3.5 Charges must be paid in cash or by debit or credit card, bank transfer, or by cheque (using such payment details as are notified by Versalux to You from time to time).
- 3.6 Payment will not be taken to occur until all payments tendered in discharge of Charges owing by You to Versalux have been presented and cleared in full.
- 3.7 If a payment by You is dishonoured, then You acknowledge and agree that Versalux is entitled to charge You for the cost of any dishonour fees incurred by Versalux.
- 3.8 If You do not pay any amount properly due to Versalux under the Contract within the Payment Terms then, Versalux may:
 - (a) charge You interest on the overdue amount at the Default Rate for the period from the due date until the date of payment in full; and/or
 - (b) suspend the supply of the Goods until such time as all outstanding monies, including any accrued interest, are paid in full.
- 3.9 You agree to pay to Versalux, immediately on demand, on a full indemnity basis, all amounts that Versalux may, expend or incur (including legal costs on a solicitor and own client basis) as a result of You defaulting on any of the terms of this Contract.

4. CREDIT SALES:

- 4.1 For credit approved customers payment is to be made within Payment Terms. For all other customers the terms are cash on order.
- 4.2 Versalux reserves the right to withdraw approval of a credit account at any time by written notice to You.
- 4.3 Versalux reserves the right to request such security or additional security for any credit arrangement with You as Versalux shall (acting reasonably) think necessary and shall be entitled to withhold supply of any Goods or credit arrangements until such security or additional security is provided by You

5. CASH ON ORDER:

- 5.1 Where no credit terms have been approved by Versalux, or approval of for any credit has been withdrawn, the Charges for the Goods must be paid in full on placement of the order, or where expressly agreed in writing by Versalux, on delivery of the Goods.

6. DELIVERIES:

- 6.1 Versalux shall use its best endeavours to effect delivery by the estimated date given by Versalux in a Quotation and it shall not be liable to penalties or damages (either direct or indirect), for failure to deliver by the estimated date for any cause whatsoever beyond Versalux's control. Late delivery of Goods outside of Versalux's control does not entitle You to refuse to take delivery of the Goods, claim damages or terminate this Contract.
- 6.2 No deliveries will be made on public holidays.
- 6.3 If Versalux agrees to deliver the goods to a site as specified by You, unloading facilities thereat are the responsibility of You, and if You or Your representatives are not in attendance at the site at the time of delivery, Versalux:
 - (a) Reserves the right to unload the goods at the site at Your expense, and in doing so, except to the extent caused by Versalux's negligence or wilful misconduct, Versalux will not be responsible for any claims of any nature regarding damage, theft or loss to the goods or other property; or where the delivery site specified by You is in the opinion of Versalux inaccessible.
 - (b) May take the goods back to its factory at Your expense and any subsequent cost for storage and re-delivery or collection shall be at Your expense. If the delivery is interstate, then freight costs incurred by Versalux will be payable by You in addition to the other amounts payable hereunder.
 - (c) Reserves the right to charge You an administration fee equal to \$250+GST for administration, handling, restocking, and reissuing. The administration fee is payable within 14 days of demand by Versalux.
- 6.4 Deliveries are FIS to a destination within 50 kilometres from all Capital Cities by normal road freight for all orders greater than or equal to \$1,000. Orders less than \$1,000 will be available Ex Works from Versalux's warehouse.
- 6.5 Goods ordered for collection will be available for collection from Versalux's factory, and if they are not collected by the agreed collection date, except to the extent caused by Versalux's negligence or wilful misconduct then You acknowledge that
 - (a) Versalux will not hold the goods past collection date; and
 - (b) Any such Goods may be returned to stock and You agree to pay a restocking fee in addition to any future orders.

7. PURCHASER TO SATISFY:

- 7.1 You acknowledge and agree: -
 - (a) That the Goods supplied are of the size, design, and capacity and manufacture selected by You.
 - (b) That You are satisfied that the Goods are suitable for its purposes.
 - (c) That You are satisfied as to the quality of the Goods.
 - (d) That in all matters relating to the purchase of goods the subject of this Contract You have relied and will rely entirely on Your own judgement and not in any statements made by Versalux, its agents or servants.

8. NOTIFICATION TO VERSALUX:

- 8.1 You acknowledge and agree that the Goods shall be deemed to have been inspected and accepted by You in accordance with this Contract unless notification of the contrary is received by Versalux in writing within three (3) days after delivery to Your destination.

9. TITLE:

- 9.1 Title to and property in the Goods will not pass until You have paid all moneys owed to Versalux on any account whatsoever.
- 9.2 Until You have paid all moneys owed to Versalux:
 - (a) Versalux retains a purchase money security interest in the Goods and the proceeds of sale of the Goods under the PPSA.
 - (b) Your relationship to Versalux is as a fiduciary in respect of the Goods and accordingly:
 - (i) You will hold the Goods as bailee of Versalux.
 - (ii) You must store the Goods in such a way that they can be recognised as the property of Versalux.
 - (iii) You must deliver up the Goods to Versalux upon demand.
 - (iv) Upon resale of the Goods by You, Versalux will have the right to trace the full proceeds of sale.



- (v) You must account to Versalux for such proceeds of sale and Versalux may recover from such proceeds of sale any moneys then owing to Versalux on any account whatsoever; and
 - (vi) You shall hold all sale proceeds of the sales of the sale of the Goods or any new goods into which the same have been incorporated in trust for Versalux and such moneys shall be deposited by You into a separate bank account apart from any other accounts You may conduct from time to time.
 - (c) If You make new goods or other goods from or with the Goods or mix the Goods with other goods or if the Goods become a constituent part of other goods, Versalux thereupon shall become the owner of such new goods as surety for full payment of the Goods by You.
 - (d) Versalux reserves the right to enter upon any premises where the Goods are or may be situated for the purpose of repossessing the Goods without prejudice to any other rights of recovery available and You grant Versalux and its employees and agents an irrevocable licence to enter such premises for the purpose of exercising such right without liability for trespass or any resulting damage; and
 - (e) Versalux has the right to the Goods and beneficial interest in any conduct of any claims, suits, demands or actions which You may have against any other party emanating from the sale of the Goods (or of the new goods or other goods into which they have been incorporated) and such right of subrogation shall not be affected by the part performance of any of the obligations on Your part herein contained.
- 9.3 You must do all things reasonably required by Versalux in respect of the registration of Versalux's interest in the Goods under this clause or the enforcement of Versalux's rights under the PPSA in respect of the Goods.
- 9.4 You waive any right You have under the PPSA:

10. RISK:

- (a) To receive notice in relation to registration of Versalux's interest in the Goods under the PPSA; and
- (b) To claim damages against Versalux under Section 271 of the PPSA.
 - 10.1 Notwithstanding that ownership of the Goods does not pass to You pending payment for the same, and irrespective of the physical location of the Goods, the risk in the goods shall upon delivery, pass to You.

11. CUSTOMER WARRANTY:

- 11.1 You warrant and represent to Versalux that You have the legal right and authority to enter into and perform Your obligations required by the Contract.

12. AUSTRALIAN CONSUMER LAW:

- 12.1 Where the sale of Goods is made to You as a Consumer under the ACL:
 - (a) our Goods come with guarantees that cannot be excluded under the ACL. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the Goods repaired or replaced if the Goods fail to be of acceptable quality and the failure does not amount to a major failure.
 - (b) the Goods are supplied subject to the Consumer Guarantees.
 - (c) if the Goods fail to meet any Consumer Guarantee, You will be entitled to such rights and remedies as are permitted or provided in the ACL for such failure, to the extent that such rights and remedies cannot be lawfully excluded. You may only exercise any right or remedy for breach of a Consumer Guarantee strictly in accordance with Your rights and responsibilities under the ACL.
- 12.2 Where You resupply the Goods to a Consumer and the Goods are not ordinarily acquired for personal, domestic, or household use or consumption, Versalux's liability to You in connection with any breach of a Consumer Guarantee in respect of the Goods is limited to paying You an amount equal to the cost of replacing the Goods, supplying equivalent Goods, or having the Goods repaired, whichever is the lower amount.
- 12.3 Nothing in the Contract will:
 - (a) limit or exclude the liability of a party for death or personal injury resulting from negligence;
 - (b) limit or exclude the liability of a party for gross negligence or wilful misconduct by that party;
 - (c) limit or exclude the liability of a party for fraud or fraudulent misrepresentation by that party.
 - (d) limit any liability of a party in any way that is not permitted under applicable law; or
 - (e) exclude any liability of a party that may not be excluded under applicable law, and any statutory rights that You have where You are a Consumer and not a Business, that cannot be limited or excluded, will not be limited, or excluded by the Contract.
- 12.4 The limitations and exclusions of liability set out in this Clause 12 and elsewhere in the Contract:
 - (a) are subject to Clause 12.1 and 12.2; and
 - (b) govern all liabilities arising under the Contract or in relation to the subject matter of the Contract, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty.

13. GENERAL LIMITATION OF LIABILITY:

- 13.1 This clause 13 does not limit the liability of Versalux under Consumer Contracts.
- 13.2 Subject to the other terms of this Contract, Versalux excludes all rights, representations, guarantees, conditions, warranties, undertakings, remedies, or other terms in relation to the Goods that are not expressly set out in this Contract to the maximum extent permitted by law.
- 13.3 Nothing in this Contract is intended to have the effect of excluding, restricting, or modifying the application of all or any of the provisions of Part 5-4 of the ACL, or the exercise of a right conferred by such a provision, or any liability of Versalux in relation to a failure to comply with a guarantee that applies under Division 1 of Part 3-2 of the ACL to a supply of goods or services.
- 13.4 If Versalux is liable to You in relation to a failure to comply with a guarantee that applies under Division 1 of Part 3-2 of the ACL that cannot be excluded, Versalux's total liability to You for that failure is limited to, at the option of Versalux, the replacement of the goods or the supply of equivalent goods, or the repair of the goods, or the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired.
- 13.5 Each party shall not be liable to the other for any special, indirect, or consequential loss or damage including loss of profits, loss of anticipated savings, economic loss or interruption of business, ("Consequential Loss") arising out of either party's failure to perform or observe their obligations under any contract or Implied Terms, and each party will keep the other party fully indemnified against any claim made against that party by a third party for any such Consequential Loss.
- 13.6 Versalux's aggregate liability to You for any loss or damage or injury arising out of or in connection with the performance or non-performance of this Contract, including any breach by Versalux of this Contract however arising, in tort (including negligence), under any statute, custom, law or on any other basis, is limited to the actual charges paid by You under this Contract.
- 13.7 Save to the extent that Versalux's negligence has resulted in the loss or damage, Versalux will not be liable to You in respect of any loss or damage arising out of pre-existing faults in Your electrical systems, notwithstanding that such pre-existing faults may only become manifest during or following the installation of any Goods.
- 13.8 Other than as expressly provided under the Contract, any material presented to You by Versalux via its website or otherwise including estimates of costs, savings, or returns is provided as illustration only and is not intended to constitute a definitive statement nor specific advice. You agree that You place no reliance on such material and that You exercised Your own judgement before deciding whether or not to enter into the Contract with Versalux.
- 13.9 Notwithstanding anything else in this clause, each party's liability will be reduced to the extent the loss or damage is caused by or contributed to by the other party.



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14. VERSALUX 5/10 YEAR WARRANTY & CONDITIONS:

- 14.1 Versalux warrants that, subject to compliance with this Contract, the Versalux branded LED products will be free from manufacturing and / or material defects when used in accordance with these terms, for a period of 5 years from the date of invoice. Versalux also warrants that, subject to compliance with this Contract, the FAEL LUCE LED products will be free from manufacturing and / or material defects when used in compliance with these terms, for a period of 10 years from the date of invoice. Versalux also warrants that, subject to compliance with this Contract, the Valmont aluminium poles will be warranted for a period of 25 years for structural integrity only, and 5 years for pole finish (including paint).
- 14.2 In order to make a claim pursuant to this warranty You must notify Versalux within 7 days of becoming aware of the defect and within the warranty period.
- 14.3 Any warranty claim under this clause must be accompanied by:
- (a) full details of the alleged defect (Versalux may require You to provide photographic or other evidence of the defect); and
 - (b) appropriate documentation (such as Your details, the date of installation, the name of the person or company that installed the Goods) and a valid proof of purchase.
- 14.4 Upon receipt of a claim, Versalux reserves the right to assess and inspect the Goods which may involve removal of a sample of the Goods for inspection and/or testing.
- 14.5 The guarantee offered in clause 14.1 shall only be effective subject to You complying with the following conditions:
- (a) Goods must be used in accordance with their intended use.
 - (b) Goods must be installed, used and maintained in strict compliance with the relevant specifications and installation instructions relevant to those goods.
 - (c) Any installation and / or assembly work relating to the Goods shall be carried out by a qualified electrical contractor.
 - (d) Temperature and voltage limit values must not be exceeded, and the Goods must not be subjected to mechanical loads which do not comply with its intended use.
 - (e) The Goods must be maintained by qualified technical staff in compliance with any instructions issued or accompanying the Goods.
 - (f) You must establish to Versalux's reasonable satisfaction that You have taken all necessary steps to examine installation factors and mitigate the risk of loss, i.e.: eliminating exposure to extremes of temperature, not covered by insulation, and preventing overvoltage, incorrect installation, surges, and spikes, including lightning strike.
 - (g) In the event of a claim, You shall not tamper with failed goods and must return them in original condition to Versalux for inspection at Your expense.
 - (h) No guaranteed claim will be entertained until the full invoice amount have been paid and the funds have cleared.
 - (i) The Goods supplied have been installed in Australia or New Zealand.
- 14.6 The guarantee offered in clause 14.1 does not cover defects in Goods due to unforeseen events i.e.: accidental circumstance and / or Force Majeure (including electrical surges and lightning) that cannot be ascribed to a defective manufacturing process of the product.
- 14.7 To the extent permitted by law, Versalux will not be liable for any warranty or a Goods claim for any defect or damage where:
- (a) such defect or damage is caused or partly caused or arises as a result of:
 - (i) Your acts or omissions, including if You fail to take reasonable steps to prevent them from being defective, or if You fail to properly use, assemble, install, service or maintain the Goods in accordance with Versalux instructions or best industry practice;
 - (ii) any third party's actions including (without limitation) interference by a third party trade;
 - (iii) the Goods not being stored, installed, or otherwise used in accordance with Versalux instructions.
 - (iv) the Goods being subject to abnormal conditions including without limitation harsh environments, exposure to fertiliser, temperature, pressure, stress, fire and/or exposure to moisture or high humidity (see clause 15 in this respect);
 - (b) the Goods have been repaired, altered or modified by someone other than Versalux or an authorised repair agent of Versalux or the Goods have been repaired, altered or modified without the consent of Versalux;
 - (c) the alleged defect of the Goods is, in fact, not a defect because it is within acceptable industry variances;
 - (d) Versalux cannot establish any fault of the Goods after testing and inspection;
 - (e) the Goods have been used for a purpose apart the purpose for which it was designed and manufactured;
 - (f) such damage is a normal maintenance item which is Your responsibility;
 - (g) unauthorised parts or accessories have been used on or in connection with the Goods;
 - (h) any damage or fault to the Goods caused by:
 - (i) fair wear and tear or normal deterioration and fading;
 - (ii) air pollution, exposure to harmful chemicals or normal weathering from the elements;
 - (i) Goods have been affected by overheating due to obstruction in the form of insulation or inadequate ventilation within mounting cavity, or operation of exterior luminaires during daylight hours.
 - (j) If it is deemed that a power ripple signal has affected the operation of the product.
 - (k) If the light fittings and components are exposed to an environment where they are adversely affected by conditions not previously known to have been present.
- 14.8 Notwithstanding the other terms of this clause, Versalux will only be responsible for defects in the Goods that it provides and not those attached to the Goods or any goods or services supplied by third parties.
- 14.9 Where Versalux accepts a claim under the guarantee offered in clause 14.1 in relation to Goods, Versalux shall be free to decide in its absolute discretion whether to repair or replace the Goods with the same or an equivalent Goods subject to the technological progress that has taken place from the release of the original Goods or refund the price for the Goods. In the event of a manufacturing or material defect, the goods will be replaced, entirely or partly, or repaired at Versalux's sole discretion. The maximum liability of Versalux (subject to Clause 13 hereof) is limited to the invoice value of the Goods. Removal and return of goods to Versalux's factory is at Your cost.
- 14.10 This warranty is provided to the original purchaser only and is non-transferable to any other person or entity.
- 14.11 The warranty provided under this clause is in addition to any rights that the Consumer may have under the ACL.

15. DISCLAIMER

- 15.1 Without limiting the other terms of this Contract, You acknowledge and agree that:
- (a) any advice, recommendation, information, assistance or service provided by Versalux in relation to the Goods supplied is given in good faith, is based on Versalux's own knowledge and experience and it shall be Your responsibility to confirm the accuracy and reliability of the same in light of the use to which You make or intend to make of the Goods. Such advice, recommendations, information and assistance is followed or acted upon entirely at Your own risk, and accordingly Versalux shall not be liable for any such advice or recommendation; and
 - (b) Versalux are not metallurgists. Any information given by Versalux is not and should not be construed as professional advice on whether the Goods will be suitable for use in abnormal conditions including harsh environments. This includes without limitation where the Goods are installed in premises where chemicals or other substances are stored such as fertiliser. Versalux recommends that You engage a specialist to determine the materials to be used for the Goods that will be appropriate for the environment. You are solely responsible for determining the suitability of the Goods for the given application.



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16. PURCHASER SPECIFICATION:

- 16.1 Except to the extent caused by Versalux's gross negligence or wilful misconduct when Goods are manufactured to Your specification, You indemnify Versalux against any liability to or action by a third party for direct infringement of indirect infringement of a patent, registered design, trademark or copyright or any other intellectual property right whatsoever.

17. GOODS RETURN FOR CREDIT:

- 17.1 Unless otherwise required under this Contract or at law, Versalux is not under any duty to accept Goods returned by You and:
- (a) No claim in relation to damaged goods, as shortage of length, quantity or weight will be considered unless notified in writing in accordance with Clause 8 hereof.
 - (b) No goods will be accepted for credit after 30 days from the date of original invoice.
 - (c) Non-standard items will not be accepted for credit.
 - (d) Versalux reserves the right to charge a restocking fee on Goods accepted for credit, and the minimum fee is 50% of the Charges for the Goods.
 - (e) In all cases an authorisation for a Goods Return Number (GRN) must be obtained from Versalux and quoted on all returned goods. Any Goods returned without a GRN will not be accepted by Versalux.
 - (f) Goods returned for credit must be in original pack and in a completely re-saleable condition.
 - (g) A credit will be raised on customer accounts only when goods have been received with a Goods Return Number and an inspection of goods have satisfied Versalux that a credit is applicable.
 - (h) All freight charges for Goods returned to Versalux are to be borne by You.

18. FORCE MAJEURE EVENT:

- 18.1 Where a Force Majeure Event gives rise to a failure or delay in Versalux performing its obligations required by the Contract, those obligations will be suspended for the duration of the Force Majeure Event.
- 18.2 Versalux will not be liable to You for any losses arising out of a Force Majeure Event.

19. PURCHASER'S RIGHT TO SELL:

- (a) You shall have the right to resell the goods provided always that such a sale shall be made in the ordinary course of Your business.
- (b) You are not authorised and have no right to sell Goods other than in the ordinary course of Your business.
- (c) You must:
 - sell the Goods in the original packaging supplied by Versalux;
 - sell the Goods to third parties on terms that are compliant with applicable laws and on terms that are not inconsistent with this Contract; and
 - not alter or interfere in any way with the Goods including removing any instructions provided with the Goods.
- (d) You must not make any representation or give any warranty in relation to the Goods not expressly authorised by Versalux in writing.
- (e) You must not do anything which might affect the reputation of any of the Goods and/or Versalux.
- (f) You must:
 - promptly inform Versalux of all material complaints or claims in relation to the Goods;
 - not admit liability on behalf of Versalux in respect of any complaint or claim in relation to the Goods;
 - not resolve or settle any complaint or claim in relation to the Goods which may result in Versalux incurring any liability to any party; and
 - deal promptly with all complaints or claims in relation to the Goods which will not result in Versalux incurring any liability.

20. CONFIDENTIALITY

- 20.1 Each party (**Recipient**) must keep secret and confidential and not disclose any Confidential Information, except:
- (a) where the Confidential Information is in the public domain as at the date of this Contract (or subsequently becomes in the public domain other than by breach of any obligation of confidentiality binding on the Recipient);
 - (b) if the Recipient is required to disclose the Confidential Information by applicable law or the rules of any recognised stock exchange or other document with statutory content requirements, provided that the Recipient has, to the extent practicable having regard to those obligations and the required timing of the disclosure, consulted with the provider of the Confidential Information as to the form and content of the disclosure;
 - (c) where the disclosure is expressly permitted under this Contract;
 - (d) if disclosure is made to its officers, employees, and professional advisers to the extent necessary to enable the Recipient to properly perform its obligations under this Contract, in which case the Recipient must ensure that such persons keep the Confidential Information secret and confidential and do not disclose the Confidential Information to any other person.
 - (e) where the disclosure is required for use in legal proceedings regarding this Contract; or
 - (f) if the party to whom the information relates has consented in writing before the disclosure.
- 20.2 Each Recipient must ensure that its directors, officers, employees, agents, and representatives comply in all respects with the Recipient's obligations under this clause.
- 20.3 A party may not make or send any public announcement, communication or circular relating to the subject matter of this Contract unless the other party has consented to the announcement, communication or circular in writing (including the timing, form, and content of that disclosure)

21. INTELLECTUAL PROPERTY

- 21.1 Each party acknowledges that the Intellectual Property Rights of any materials developed by a party prior to the start date of this Contract or that is created independently of this Contract (together the **'Pre-existing IP Rights'**) remains the sole property of the owner (such as a party's logo). Ownership of Pre-existing IP Rights remains unchanged by this Contract, other than as expressly set out in this Contract.
- 21.2 You acknowledge that Versalux shall retain all title, interest, and rights (including Intellectual Property Rights) which subsist in or which may be obtained from the following:
- (a) any material Versalux creates including (without limitation) specifications, drawings, or reports, whether created by Versalux alone, or which is based upon or derived from any materials provided by You or that is made to Your design or at Your direction.
 - (b) the Goods and any specifications of the Goods (whether they are designed, drawn, or developed alone by Versalux or with Your assistance, or solely by You); and



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(c) any additional or further intellectual property created, formulated, or discovered by either party in connection with the Goods (including any developments, improvements, revisions and updates to the Goods) whether or not Versalux or You contributed to them, and whether or not the addition was at Your suggestion or direction,

(collectively the "Versalux Intellectual Property").

21.3 You must not:

(a) take or permit or omit any action which would or might:

(i) invalidate or put in dispute Versalux's title to the Versalux Intellectual Property or any part of it;

(ii) oppose any application for registration or invalidate any registration of the Versalux Intellectual Property or any part of it (including without limitation a registration of the Versalux Intellectual Property as a patent worldwide);

(iii) support any application to remove or undo Versalux's title in the Versalux Intellectual Property or any part of it; or

(iv) assist any other person directly or indirectly in any of the above; or

(b) use, copy, reproduce, distribute, export, adapt, alter, modify, translate, create derivative works, or publicly display any of the Versalux Intellectual Property anywhere in the world, without the prior written consent of Versalux.

21.4 You acknowledge and agree that any materials Versalux creates, including (without limitation) any specifications, drawings or reports may only be used in connection with Versalux supplying the Goods. You are expressly restricted from using such materials elsewhere or otherwise providing such materials to a third party in connection with the supply of goods.

22. TERMINATION

22.1 Either party may terminate this Contract with immediate effect by giving written notice to the other party if:

(a) the other party commits a breach of any other term of this Contract and that breach is irremediable or (if that breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;

(b) the other party repeatedly breaches any of the terms of this Contract in such a manner to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Contract; or

(c) the other party is subject to any form of insolvency or bankruptcy administration.

23. WAIVER:

23.1 No waiver of any time, provision or condition of this Contract or any part of this Contract whether by conduct or otherwise in any one or more instances by a party shall be deemed to be or construed as a further or continuing waiver of any such term, provision, or condition. Written instruments signed by the parties hereto may only amend this Contract.

24. PROPER LAW:

24.1 This Contract shall be governed and construed in accordance with the laws for the time being of the State of Victoria and the parties agree that the courts in the State of Victoria will have jurisdiction to hear and determine any dispute between the parties in relation to or arising out of this agreement.

25. ENTIRE AGREEMENT:

25.1 These Conditions will constitute the entire agreement between the parties in relation to the Contract, and supersede all previous agreements, arrangements, and understandings between the parties in respect of that subject matter.

25.2 No promise, representation, warranty, or undertaking (including any technical advice or assistance provided by Versalux to You in connection with the Goods) other than that which is expressed in this Contract will bind Versalux, unless Versalux expressly agrees otherwise in writing.

25.3 Neither party will have any remedy in respect of any misrepresentation (whether written or oral) made to it upon which it relied in entering the Contract.

26. SEVERANCE:

26.1 In the event that any of the terms or provision or part thereof of this Contract cannot be given effect or full force and effect by reason of statutory invalidity, uncertainty or otherwise the said term or provision of part thereof as the case may be which cannot be given full force and effect alone shall be severed, ignored or read down restrictively to maintain and uphold so far as possible the remaining terms and provisions hereof.

27. TIME OF THE ESSENCE:

27.1 So far as Your obligations herein are concerned, time is of the essence.

28. VARIATION OR AMENDMENT:

28.1 No term of this Contract may be varied except by a written document signed by or on behalf of each of the parties.

29. STAMP DUTY:

29.1 You are liable for stamp duty payable here on or any counterpart of the same.

30. SURVIVAL

30.1 Clauses 20 and 21 and any other clause which by its nature is intended to survive termination or expiry of this Contract, will survive such termination or expiry.

31. ASSIGNMENT

31.1 Any rights of a party that arise out of or under this Contract are not assignable or capable of novation by the party without the prior written consent of the other party, whose consent must not be unreasonably withheld.

32. GENERAL:

32.1 The parties hereto acknowledge and agree that in the event at any time hereafter Versalux will be obliged to pay any tax, imposition, fine, duty, or other fee to any Federal or State authority, department, instrumentality or taxing authority or Commissioner in respect of the goods or services or other matters in transaction the subject of this Contract that You shall indemnify and keep indemnified Versalux, except to the extent caused by the gross negligence or wilful misconduct of Versalux, against all such payments and shall forthwith upon demand pay to Versalux the amount or amounts from time to time acquired by Versalux to reimburse Versalux in respect of any such payments.