

## General Terms and Conditions

of Oktalite Lichttechnik GmbH  
Mathias-Brüggen-Str. 73  
50829 Cologne  
Registered Court of Law: Cologne HRB 13 315 "Oktalite"

### 1. Scope

- 1.1. The Terms and Conditions apply to all our business relations with customers if the customer is an entrepreneur (Section 14, German Civil Code), a legal person under public law or a special fund under public law. All supplies, services and offers from Oktalite are made solely on the basis of these Terms and Conditions, which also apply as framework agreement to future agreements pertaining to the sale and/or supply of movable objects with the same customer without us having to refer to these again in each individual case.
- 1.2. Deviating, contradicting or supplementary General Terms and Conditions do not become part of the Agreement, even if such are known, unless consent to their validity has been given explicitly in writing.
- 1.3. Legally relevant declarations and announcements to be made to us by the purchaser after concluding the contract (e.g. fixing time periods, notices of defects, declarations of withdrawal or reduction) must be made in writing to become effective.

### 2. Formation of Agreement

- 2.1. The offers made by Oktalite are without obligation.
- 2.2. On ordering the goods, the customer gives a binding declaration of his intention to acquire the ordered goods. Oktalite is entitled to accept the tentative offer as entailed in the purchase order within two weeks. Oktalite's written order confirmation is authoritative for the contents and scope of the supplies and services.
- 2.3. Any and all ancillary arrangements, modifications, amendments, etc. are not valid unless made in writing.
- 2.4. All technical data from our catalogues and other sales documents, lists and drawings as well as weights and dimensions have been compiled with all due care; obvious errors are subject to subsequent corrections.
- 2.5. The Agreement's formation is subject to the correct, punctual delivery on the part of Oktalite's subcontractors. This only applies in the event that Oktalite shall not be responsible for nondelivery, particularly when Oktalite concludes a congruent hedging transaction with the subcontractor. The customer shall be informed immediately of non-availability of the service. Any counter-performance already provided shall be refunded without delay.

### 3. Scope of Supply

- 3.1. Oktalite is entitled to make partial deliveries to a reasonable extent. Deviations in terms of dimensions, weight, technical features and colour scheme, production and scope of the goods to be supplied are permissible within the customary tolerance limits for the specific product. The customer shall approve of all deviating modifications in the interests of technical improvement of the product.
- 3.2. In principle, only the product description by Oktalite is agreed as the basis for the properties and condition of the goods. Public announcements, claims or advertising do not constitute a contractual statement of the properties and condition of the goods.
- 3.3. Any statements regarding the lighting period of illuminants do not constitute an agreement on properties and conditions but are merely information without obligation and for which no liability is assumed.
- 3.4. The documents belonging to the offer, such as illustrations, drawings, details of weights and dimensions, shall only be approximately applicable, unless agreed otherwise. With regard to planning lighting installations, Oktalite shall endeavour to perform such services in consideration of corresponding DIN standards or other guidelines where available. However, Oktalite cannot assume any liability to this extent, particularly with regard to the influence of the individual room design on the lighting. Unless stipulated otherwise, lighting planning shall be based on average reflection factors of rooms.
- 3.5. If Oktalite draws up an offer for a lighting installation for which the customer does not place an order, the customer is obliged to return customised documents to Oktalite, immediately and unsolicited. Oktalite reserves the property rights and copyrights to these documents. The copyrights for planning lighting installations remain with Oktalite even for executed orders.
- 3.6. The place of fulfilment shall be Oktalite's registered business address.

### 4. Delivery Dates

- 4.1. Delivery dates and delivery periods are without obligation unless Oktalite has stipulated explicitly and in writing that a period or date for delivery is binding. Such periods certainly do not begin before formation of the contract or before the customer has informed Oktalite of all technical details necessary for execution of the order (e.g. exact dimensions, colours etc.). Fixed date transactions (Section 276 of German Commercial Code) require explicit written confirmation from Oktalite.
- 4.2. Insofar as Oktalite arranges for third-party shipment of the goods, Oktalite is liable for compliance with the

delivery periods and delivery dates only in terms of correct selection of the transport service provider, but not for circumstances that lie within the transport company's sphere of responsibility or for circumstances caused by force majeure.

- 4.3. The delivery periods shall be prolonged appropriately in the event of force majeure and other events that could not be foreseen at the point in time of concluding the contract and for which Oktalite is not responsible, e.g. business disruptions of all kinds, difficulties in procurement of material or energy for which Oktalite is not responsible, transport delays, strikes, lockouts, lack of labour, energy or raw materials or official intervention.
- 4.4. If Oktalite fails to comply with the delivery date or delivery period, the customer shall be obliged to grant Oktalite a reasonable period of grace for delivery. If Oktalite culpably fails to make delivery within the set grace period, the customer shall be entitled to withdraw from the Agreement.
- 4.5. Insofar as Oktalite is responsible for the non-observance of bindingly agreed deadlines, the customer may – insofar as it can credibly prove that it has suffered damage as a result – demand compensation for each full week of the delay of 0.5% each, but not more than a total of 5% of the price for the delivery or service affected by the delay. The limitation of liability shall not apply if Oktalite can be accused of intent or gross negligence or if Oktalite is compulsorily liable for injury to life, body or health.
- 4.6. Oktalite shall be entitled to stipulate that a delivery date is binding by giving advanced notice of 10 working days; in such case the delivery date must not be before the delivery date stated in the Agreement. If this delivery date is then postponed by more than 10 working days for reasons for which the customer is responsible, in this case:
  - a) Oktalite is entitled to place the goods into third-party storage at the customer's cost
  - b) the invoice shall be issued to the customer and shall be due for payment; corresponding discount and invoice periods will start
  - c) the risk of loss and deterioration of the goods shall be transferred to the customer at the end of a period of 10 working days (with Saturdays deemed to be a working day) after the delivery date announced to the customer by Oktalite, unless gross negligence or willful intent applies to the conduct of Oktalite or the third party storing the goods.

## 5. Prices and Terms of Payment

- 5.1. Prices stated by Oktalite are without commitment until a final offer has been submitted. Prices shall be calculated based on the price lists or object-specific

offered prices that are valid at the time of forming the Agreement.

- 5.2. The prices apply to delivery ex works, including usual commercial packaging without installation, unless stated otherwise in the offer.
- 5.3. The Customer is responsible for the shipping and transport costs. Unless agreed otherwise in writing, the selection of transport route and means of transport shall be at Oktalite's discretion. Oktalite is entitled but not obliged to insure the goods in the name of and for the account of the customer.
- 5.4. All prices are net and do not include the applicable value-added tax.
- 5.5. As a standard, we agree 30% cash in advance when the order is placed and grant 2% cash discount on this. The remaining 70% is to be paid within 20 days of the date of the invoice. If the customer fails to pay within the set period, i.e. within 20 days of the date of the invoice, the customer is in default without a reminder.
- 5.6. If the date of receipt of the invoice or the payment summary or the receipt thereof is uncertain, payment is due and payable no later than 20 days after receipt of the services in return. Therefore, a default occurs 21 days after receipt of the service in return.
- 5.7. If the customer is in default, Oktalite is entitled to demand interest in the amount of 8% per year over the base interest rate according to Section 247 of German Civil Code. The customer is not entitled to submit an objection that Oktalite incurred a lesser or no loss of interest at all. This in no way affects the right to assert further damages.
- 5.8. Oktalite reserves the right to call in any culpably default accounts receivable with the aid of an external service provider. The customer in default is responsible for the costs occurring in this regard.
- 5.9. Oktalite is not obligated to accept bills of exchange. These shall only be accepted in lieu of performance on an individual case basis due to special agreements. Payment is deemed as made once the cheque or bill of exchange has been signed redeemed. The discount and collection charges for the bill of exchange shall be borne by the issuer of the bill of exchange when the payment is due and are payable immediately in cash.
- 5.10. Regardless of terms of payment agreed upon separately on an individual case basis, the claims to which the customer is entitled are immediately due if circumstances that make adhering to the agreed terms of payment no longer reasonable should arise with regard to the customer. This is the case if there is justified indication of a significant worsening of the customer's financial situation, especially in case of cessation of payments, protests of cheques or bills of exchange or default in payment, if it becomes evident that the customer's claim to a service in return on part

of Oktalite is at risk due to own lack of capacity. In such cases, Oktalite is entitled to demand step-by-step fulfilment or other collateral security from the customer. Oktalite is moreover entitled to determine a suitable period in which the customer must either effect payment or provide security concurrently with the performance at the Oktalite's discretion. Oktalite is authorised to withdraw from the contract in case period passes without result.

- 5.11. The customer only has a right of set-off and right of retention if its counterclaims have been established in law or are undisputed. In the context of liability for defects, the customer is only allowed to withhold payments after submitting notification of defects to an extent which is in an appropriate ratio to the occurred faults and if such a counter claim is based on the same contractual relationship.

## 6. Transfer of Risk

- 6.1. Risk of accidental loss and accidental deterioration of the goods shall be transferred to the customer on handing over the goods to the forwarder, haulier or other person appointed to proceed with shipment of the goods.
- 6.2. The transfer shall apply in the same way if after being informed by Oktalite that the goods are ready for collection or shipment, the customer defaults in accepting the goods. Acceptance default occurs seven working days (Saturday = working day) after the customer has received Oktalite's information that the goods are ready.
- 6.3. If the goods are delivered by Oktalite, for example because the scope of the order also includes installation work, the risk of accidental loss and accidental deterioration of the goods shall be transferred to the customer as soon as the goods arrive in the customer's custody, regardless of whether the goods have already been installed or not.

## 7. Reservation of Title Clause

- 7.1. Oktalite reserves ownership of the supplied goods until complete payment of all receivables from the business relationship with the customer.
- 7.2. The customer is obliged to handle the goods with all due care and attention during this reservation of title period; in particular, the customer is obliged to insure the goods at replacement value against fire and water damage together with theft, at the customer's own costs. Should any maintenance and inspection work be necessary, the customer shall perform such work in good time during this period at the customer's own costs.
- 7.3. During this reservation of title period, the customer is obliged to inform Oktalite immediately of any third

party recourse to the goods, for example in case of garnishment, or of any damage or destruction of the goods. The customer shall provide immediate notification of any change in possession of the goods, together with changes in the customer's own place of residence or business. Garnishment or other transfer by way of security of the goods on the part of the customer is not permitted during this period.

- 7.4. In the event of behaviour on the part of the customer in breach of the Agreement, particularly default of payment or violation of one of the obligations under paragraphs 7.2 and 7.3 of this clause, Oktalite is entitled to withdraw from the contract and demand the return of the goods.
- 7.5. During the reservation of title period, the customer is entitled to sell the goods in a proper business transaction. Sale in a proper business transaction does not apply if in breach of 7.3 the customer pledges the reserved goods to a third party, transfers them by way of security and/or makes the goods the subject of factoring and/or sale-lease back transactions. The customer's remuneration claims against its purchasers from a resale of the reserved goods, together with those claims regarding the reserved goods to which the customer is entitled for any other legal reasons against his purchasers or third parties (including claims arising from tortious acts and claims for insurance benefits) are assigned herewith by the customer to Oktalite to the full extent, also including all payment balance receivables for the current account. Oktalite shall accept the assignment. After the assignment, the customer is entitled to collect the receivable. Oktalite reserves the right to collect the receivable in person insofar as the customer fails to fulfil his payment obligations correctly and defaults on payment. Insofar as the customer behaves in breach of the Agreement, particularly defaulting on payment, Oktalite can insist that the customer reveals the assigned receivables and the corresponding debtors, informs the affected debtors of the assignment and hands over all documents and provides all information that Oktalite needs to assert the claim.
- 7.6. Any processing of the goods by the customer during the reservation of title period shall always be carried out in the name and on behalf of Oktalite. If the goods are processed together with items not belonging to Oktalite, Oktalite acquires co-ownership of the resulting new item in ratio of the value of the goods supplied by Oktalite to the other processed items. The same applies if the goods are inseparably connected or mixed with items not belonging to Oktalite.
- 7.7. Insofar as the value of the security rights granted to Oktalite exceeds the amount of Oktalite's secured receivables by more than 10 %, the customer has a right to claim a release of an appropriate share of the security rights, such share to be stipulated by Oktalite.

## 8. German Packaging Regulation (VerpackG) and German Electrical and Electronic Equipment Act (ElektroG)

The place of fulfilment for Oktalite's take-back obligation pursuant to Section 15 of German Packaging Regulation [VerpackG] is Oktalite's business address in Cologne, Germany. The customer is entitled to return transport packaging to this address. Returns of transport packaging can only be made during Oktalite's business hours. The returned transport packaging must be clean, free of foreign substances and sorted according to the kind of packaging material. Otherwise Oktalite is entitled to demand compensation from the customer for the additional costs incurred by disposal.

For the disposal of our waste electrical and electronic equipment, please contact [Entsorgung@oktalite.de](mailto:Entsorgung@oktalite.de).

## 9. Liability for Defects

- 9.1. The customer's rights in the event of material defects and defects of title are subject to the statutory provisions, unless stated otherwise below.
- 9.2. If a defect is detected on inspection of the goods or later, Oktalite must be informed immediately in writing. Obvious faults must be reported in writing within a period of two weeks after receiving the goods. In both cases, the deadline is deemed to have been met by sending the notification in time. The customer's failure to comply with his obligations to inspect and file complaints (Sections 377, 381 of German Commercial Code) shall rule out any liability on the part of Oktalite for the defects not reported.
- 9.3. The customer shall inspect the goods sent to it for any signs of transport damage and submit a written report of any externally visible damage without delay pursuant to Section 438 of German Commercial Code. The goods are deemed to have been supplied in contractual condition if the loss or any externally visible damage has not been reported within seven days.
- 9.4. In the case of a justified defects complaint, Oktalite is entitled to eliminate the fault (improvement) or to supply fault-free goods (replacement delivery) at Oktalite's choice.
- 9.5. Insofar as Oktalite's business address is the place of fulfilment for improvement, the customer shall return the faulty parts to Oktalite at its own expense. In the event of improvement, the customer shall return the faulty goods or replaced components pursuant to the statutory provisions.
- 9.6. If Oktalite is not capable of improving or replacement delivery, or if Oktalite is entitled to refuse improvement or replacement delivery pursuant to Section 439 (3) of

German Civil Code, or if Oktalite causes a delay in improvement or replacement delivery over and beyond a reasonable period of time for reasons falling within Oktalite's sphere of responsibility, or if replacement delivery or improvement fails twice, then the customer is entitled to withdraw from the contract or demand a corresponding reduction in the purchase price, at the customer's choice. In case of an immaterial fault, the customer has no such right of withdrawal or reduction.

- 9.7. If a fault rectification demand from the customer should prove to be unjustified, Oktalite can demand that the customer replaces the incurred costs, unless the customer was not aware of and could not have recognised the non-existence of the fault.
- 9.8. Insofar as the statutory provisions regarding the purchase of consumer goods (Section 474 and thereafter of German Civil Code) and in particular regarding recourse of the entrepreneur (Section 478 and thereafter of German Civil Code) do not apply because of the lack of legal prerequisites, claims for material defects and defects of title shall be subject to a one-year period of limitations starting from delivery. In the case of defects in buildings or goods that have been used as usual for a building and have caused the faultiness of the latter, the legal five-year period of limitations applies starting from delivery in accordance with Section 438 (2) of the of German Civil Code. The regulations of Sections 438 Paragraph 1 No. 1, No. 2 a.; 444 German Civil Code and product liability law remain unaffected. The interruption and new beginning of the limitation period are pursuant to the statutory provisions.
- 9.9. Any claims on part of the customer for compensation or replacement of expenditure made in vain shall only exist pursuant to paragraph 11, and are otherwise ruled out.

## 10. Guarantee conditions for LED products

The General Terms and Conditions of Guarantee can be viewed at <https://www.oktalite.com> or can be sent upon request.

[To the General Terms and Conditions of Guarantee.](#)

## 11. Compensation of Damages / Liability

- 11.1. Oktalite is liable to compensate for damage, regardless of the legal reason, particularly for breach of contractual and non-contractual obligations and for tortious acts only in case of wilful intent and gross negligence. In the case of slight negligence, Oktalite is only liable for damages resulting from injury to the life, limb or health of persons and to damage resulting from the breach of a major contractual obligation. In the latter case, the liability is restricted to compensation for the predictable typically occurring damage. This shall not affect liability pursuant to the Product Liability Law



and the provisions of Section 444 of German Civil Code.

- 11.2. The customer's claims due to expenses necessary for the purpose of fulfillment, in particular costs of transport, travel, work and materials, are excluded, if the expenses increase because the object of delivery has been transferred subsequently to another location than that stated by the customer as consignee address, unless the transfer is in accordance with the contractual use. That also applies to any recourse liability.
- 11.3. In case of justified demands for supplementary performance from the customer's purchasers, the customer shall grant Oktalite a reasonable period of time for Oktalite to proceed with supplementary performance before obtaining „replacement“ elsewhere. The customer shall impose this obligation on its purchasers accordingly. If the customer breaches these obligations, Oktalite reserves the right to reduce compensation for expenses by the amount it would have accrued through supplementary performance.
- 11.4. In case of an impossibility of performance which can be attributed to Oktalite, the ordering party's right to damages is limited to 10% of the value of the part of the delivery that, owing to the impossibility, cannot be put to the intended use, unless Oktalite can be accused of intent or gross negligence and there is mandatory liability due to injury to life, body or health of persons. This in no way affects the customer's right to withdraw from the contract.
- 11.5. Compensation for expenditure in the context of supplementary performance by the customer for its customers shall also be ruled out if the customer fails to make use of its right to refuse this type of supplementary performance or both types of supplementary performance because the costs are disproportionate, contrary to its duty to mitigate losses.
- 11.6. Claims for damages and compensation for expenditure of a contractual and non-contractual nature based on a defect in the goods are subject to the periods of limitation stated in paragraph 9.8. In any case, this shall not affect the periods of limitation for claims arising from liability according to the Product Liability Law, wilful or grossly negligent behaviour, or for injury to life, limb or health of persons or for breach of major contractual obligations.

## 12. Returning Goods, Custom-made Products

- 12.1. Any return of fault-free goods is dependent on obtaining prior written consent from Oktalite and shall be made at the customer's risk. Oktalite charges a handling fee amounting to 30% of the product value for returned goods. Both parties have the right to provide evidence of higher or lower damages.

- 12.2. Special luminaires and custom-made products may not be returned nor used to constitute an order cancellation. Custom-made products also refer to deviations from the standard colour, profile installations and customised productions.

## 13. Adaptation of Agreement

If unforeseeable events within the meaning of 4.3 or circumstances pursuant to Section 313 of BGB (disruption of basis of business) make a significant change to the economic importance or contents of the delivery or affect the operations of Oktalite significantly, the contract shall be adapted appropriately taking into account the principles of reasonableness and good faith. If this is not economically reasonable, Oktalite is entitled to withdraw from the contract. Should Oktalite choose to make use of this right to withdraw from contract, the customer shall be informed immediately upon becoming aware of the significance of the event, i.e. even if an extension of the delivery period has initially been agreed upon with the customer.

## 14. Final Provisions

- 14.1. Oktalite reserves its copyrights, proprietary rights and rights of use to cost estimates, drawings and other documents (hereinafter called Documents) without limitation. Documents may only be made available to third parties after obtaining prior authorisation. The clauses 1 and 2 apply likewise to the documents of the customer; however, Oktalite may make these documents available to third parties to whom it has transferred the deliveries as permitted by contract.
- 14.2. The laws of the Federal Republic of Germany apply. The provisions of the UN Convention on Contracts for the International Sale of Goods (CISG) has no applicability.
- 14.3. The place of jurisdiction for all disputes arising from the business relationship is Oktalite's business address.
- 14.4. Should any provision of the Agreement with the customer including these General Terms and Conditions be or become completely or partially ineffective, this shall not affect the validity of the remaining provisions, unless upholding the Agreement would constitute unreasonable hardship for one of the parties. These General Business Conditions in English are translations from the German. In case of doubt, the original German version shall prevail.

## **15. No Re-Export to Russia/Belarus clause**

- 15.1. The Buyer shall not sell, export or re-export, directly or indirectly, any goods supplied under or in connection with this contract which fall within the scope of Article 12g of Regulation (EU) No 833/2014 and Article 8g of Regulation (EU) No 765/2006 to the Russian Federation or Belarus, or for use in the Russian Federation or Belarus.
- 15.2. The Buyer shall use its best endeavours to ensure that the purpose of paragraph 15.1 is not frustrated by third parties in the wider chain of commerce, including potential resellers.
- 15.3. Buyer shall establish and maintain a reasonable monitoring mechanism to detect behaviour by third parties in the further chain of commerce, including potential resellers, that would frustrate the purpose of paragraph 15.1
- 15.4. Any breach of paragraphs 15.1, 15.2 or 15.3 shall constitute a material breach of a fundamental element of this Contract and the Seller shall be entitled to seek equitable remedies, including but not limited to: a) cancellation of this Contract; b) rescission of this Contract; and c) in the event of a culpable breach, liquidated damages of 100% of the total value of this Contract or the price of the Goods exported, whichever is the greater.
- 15.5. The Buyer shall promptly notify the Seller of any problems in the application of paragraphs 15.1, 15.2 or 15.3, including any relevant third party activities that may frustrate the purpose of paragraph 15.1. The Buyer is obliged to provide the Seller with information on compliance with the obligations under paragraphs 15.1, 15.2 and 15.3 within two weeks of simple request.