

## GENERAL TERMS AND CONDITIONS OF SALE - FONROCHE LIGHTING AMERICA

These General Terms and Conditions of Sale apply to all sales or supply of off-grid streetlights and lighting solutions and related materials and services (the "Product(s)") that are sold by FONROCHE LIGHTING AMERICA ("FLA") to you (the "Purchaser"). These general conditions of sale can be consulted online: <https://www.fonrochesolarlighting.com/> and are attached to the acknowledgement of receipt of each of the orders placed by the Purchaser.

The Purchaser acknowledges prior to placing any orders that it has consulted the general conditions of sale and Purchaser's signature on the purchase order(s) shall constitute acceptance by the Purchaser of these general conditions of sale absent a separate written agreement between FLA and the Purchaser. These general conditions shall take precedence over all the Purchaser's conditions of purchase, notwithstanding any provisions to the contrary.

### 1. PRODUCTS

The prices and information stated on the communications media, marketing materials, price lists, and other similar documentation are for information only. FLA reserves the right to make all modifications concerning the design, form, sizes or materials of these Products, for which the sketches and descriptions are shown on the communications media.

The technical characteristics of the Products are for information only and may not, under any circumstances, be the cause of claims regarding the Product or reductions of the price of the Product. The Products are custom manufactured based on information provided by Purchaser and the results of a lighting application study that includes information provided by Purchaser.

### 2. AGREEMENT TO PURCHASE PRODUCTS

#### (i) Agreement.

Purchaser acknowledges and agrees that the following documents shall constitute the agreement between the parties with respect to those Products manufactured, developed or modified by or on behalf of FLA or its affiliates and third-party products offered by FLA ("Third-Party Products") and in the event of any conflict between such documents (collectively, the "Agreement") the following order of precedence shall apply:

1. The Specific Conditions (if any)
2. The General Conditions of Sale;
3. The acknowledgement of receipt of orders;
4. The installation instructions for the products provided by FLA;
5. Privacy Policy set forth at <https://fonroche.wpengine.com/about-us/privacy-policy/>, as may be updated from time to time by FLA (the "Privacy Policy");
6. End User License Agreement, if any.

#### (ii) Orders.

The FLA Products are custom manufactured based on information provided by Purchaser: All inquiries to purchase Products by the Purchaser must include all the requisite information and, in particular, the description of the Products ordered (reference number of the technical study), the quantity and the delivery terms (place, timeframe, etc.), as well as the price (notified by FLA and valid at the time the order is placed, i.e., except as otherwise provided for, sixty (60) days as from it being sent or issued to the Purchaser). The Purchaser warrants the accuracy and completeness of the information provided to FLA in order to conduct the technical study (the "Study"). Such information is contractual in nature, and includes but is not limited to the following information ("Site Information"):

- The geographical location (specific climatic area, whether the area is affected by snow and wind or sand and dust, atmospheric pollution, if the location is a coastal area, if the location required a soil study, etc.);
- The use and intended purpose of the Products (private, public, roads, functioning, intensity and other characteristics);
- The technical characteristics of the Products (type, dimensions, colors, etc.);
- The applicable administrative information notified by the Purchaser (zoning and other regulations that are applicable to the area, etc.).

Based on the Site Information provided to FLA, the Purchaser agrees to use the Product in ways that comply strictly with the information that it declared at the time of the Study.

The Purchaser acknowledges that any commercial picture, graphic design, technical rendering, and video clip used by FLA whether before or after the order has been placed are used only for illustrative purpose and are not contractually binding.

Based on this Site Information, FLA will issue a quotation, proposal or offer to Purchaser to sell the Products to Purchaser ("Offer"). Assumptions, exclusions, and qualifications stated by FLA in an Offer will be construed as part thereof. Any Offer may be accepted by Purchaser within the period stated in such Offer or, in the event that no period is stated, within thirty (30) days from the date of the Offer, provided that FLA may amend, withdraw or revoke any Offer at any time prior to the receipt by FLA of Purchaser's acceptance of an Offer. Offers and Prices are subject to correction for typographical or clerical errors.

All orders must be accepted in writing by FLA. FLA shall confirm its agreement to the Purchaser within eight (8) days in the form of the Agreement.

Purchaser may accept the Offer by issuing a purchase order ("Order"). All Orders must include the project number indicated in the Offer, a description and quantity of each Product ordered, the requested delivery location and timeframe, and the price as set forth in the Offer. Purchaser is solely responsible for the accuracy of any Order, including the accuracy of the specifications for, and configuration of, the Products, and the compatibility and interoperability with other products that are not provided by FLA. Purchaser warrants that all information, including Site Information, provided to FLA is complete, accurate and true, and Purchaser acknowledges that a failure to provide complete, accurate and true information or instructions to FLA may detrimentally affect FLA's ability to perform its obligations or exercise its rights under the Agreement. Any different or additional terms in any Order, blanket instructions, terms of purchase or other writing from Purchaser will be deemed a material alteration of these Terms and are expressly objected to and rejected and will be of no force or effect. Commencement of performance or shipment will not be construed as acceptance of any of Purchaser's terms or conditions. No Order will be deemed final or accepted by FLA unless and until confirmed in a written Acknowledgment from FLA (each an "Order Acknowledgment") and such Order Acknowledgment shall be deemed effective when issued by FLA and shall not be contingent upon signature by Purchaser.

The submission of an Order by the Purchaser constitutes a unilateral, irrevocable promise to purchase Products. Upon acceptance of the purchase order by FLA, the Agreement shall be considered binding. All cancellations, withdrawals or reductions of an order, without FLA's express agreement, shall constitute a breach of its obligations by the Purchaser. FLA reserves the right to exercise contractual rights to obtain performance of the Agreement or to cancel the order, FLA's discretion.

The results of the Study, as well as any proposal or offer are exclusively for the Purchaser and cannot be assigned without FLA's consent. FLA may engage a third-party credit insurance provider to guarantee contractual obligations of Purchaser. Such third-party credit insurance does not relieve Purchaser of contractual obligations. If third-party credit insurance is not available for the transaction or if a third-party credit insurance does not guarantee the Purchaser's order, specific means of payment or guarantees from Purchaser shall be implemented for each transaction.

An invoice shall be issued that corresponds to each delivery. The effective date of delivery shall be both the invoice date of issue and the starting point for the computation of the due date in the event of deferred payment. Credit for deposits or prior payments by Purchaser shall be noted on the invoice.

#### (iii) Changes to orders

The Products sold by FLA are manufactured after receipt and acceptance of the Order. Any changes to or cancellations of orders must be requested in writing by the Purchaser, and shall only be accepted by FLA according to the state of progress of the order fulfillment. If FLA does not agree to the change or cancellation, the deposit made shall not be returned and the costs of modification, paint removal or paint refurbishment, as well as damages, and a restocking fee, may be invoiced. If either: (i) Purchaser requests a change in writing and FLA agrees to such change, including any cancellation, delay or suspension of the Order, or the addition, omission,

alteration, substitution or modification of the design, quality, standard, quantity, or delivery location of Products; or (ii) FLA is required to change an Order due to (A) changes in applicable laws, regulations or industry standards, (B) emergency situations, (C) incorrect or incomplete information provided by Purchaser, or (D) non-compliance by Purchaser of any of its obligations under the Agreement (each, an "Order Change"), Purchaser shall reimburse FLA for all costs and expenses incurred by FLA with respect to such Order Change. If FLA does not agree to a cancellation, delay, or other Order Change requested by Purchaser, FLA shall have no obligation to return any deposits or prior payments made by Purchaser. Course of performance or usage of trade will not be applied to modify these Terms.

All changes shall require a written rider or addendum to the Contract, regardless of the extent of the changes made. A change shall be understood to mean all requests for modifications of the technical characteristics of the Products, or changes in the laws, regulations, standards or quantities, or increases in the prices of raw materials after the date of entry into effect of the Contract.

#### (iv) Other materials

Any FLA or third-party marketing material, specification, price sheet or other similar documentation is provided strictly for informational purposes and will not be deemed an offer. While efforts were made to verify the completeness and accuracy of these materials, they are provided AS IS without warranty of any kind, express or implied. In addition, such materials are subject to change by FLA without notice. FLA shall not be responsible for any damages arising out of the use of, or otherwise related to, these sales and marketing materials and nothing contained therein is intended to, nor shall have the effect of, creating any warranties or representations from FLA or its suppliers or licensors, or altering the terms and conditions of these General Conditions of Sale.

### 3. DELIVERIES

#### (i) Deliveries

Deliveries are made in accordance with the Incoterm FCA-Plant to Needham Heights, Massachusetts (USA), unless stipulated otherwise in the specific conditions that bind the Purchaser and FLA. Deliveries shall only be made according to availabilities and in the sequence in which orders arrive.

The delivery times are stated in the acknowledgement of receipt of the order.

Goods travel at the risks and jeopardy defined by the Incoterm stated in the specific conditions or, by default, at the risks of the Purchaser, which shall be responsible for verifying shipments upon arrival, making known any reservations and lodging any claims with the carrier, even if the shipment was free on board.

FLA shall, as of right, be released from all commitments regarding the delivery time if the Purchaser has not complied with the payment conditions or:

- In the event of force majeure (i.e., all events that are beyond the control of FLA and that prevent it from operating normally at the stage of manufacturing or dispatching the Products), as defined in Article 14;
- If events occur such as lockouts, total or partial strikes that interfere with the functioning of the departments of FLA or of one of its suppliers, sub-contractors or carriers, disruption of transportation, or of the supply of energy, raw materials or spare parts, epidemics, war, requisition, fire, adverse weather conditions, natural disaster, machinery accidents, etc.;
- When the information to be provided by the Purchaser does not reach FLA in a timely manner, as well as in the event of changes or new specifications.

#### (ii) Delays

The delivery times are given for information purposes only and with no guarantee. A delay does not authorise the Purchaser to cancel the sale, to refuse the goods or to benefit from damages.

If FLA does not comply with the contractual performance timeframes, for reasons that are directly attributable to it and when the delay has caused actual harm to the Purchaser, proof of which the Purchaser must provide, FLA shall pay, after formal notice that has remained without effect, within fifteen (15) business days and in response to a substantiated claim by the Purchaser, an indemnity

# GENERAL TERMS AND CONDITIONS OF SALE - FONROCHE LIGHTING AMERICA

calculated on the contractual amount excluding tax, for the part of the services that were delayed, at the rate of 0.2% per complete week's delay.

The aggregate amount of these penalties may not exceed 5% of the amount excluding tax of the order for which FLA collected payment, delivery of which is delayed.

FLA's total liability in respect of the delay may not exceed a total amount of 5% of the amounts that were collected in the form of the price of the Agreement excluding tax.

Said penalties shall take the form of liquidated damages, and shall exclude all other compensation for the Purchaser in this regard and all penalties in respect of the delay.

## (iii) Dispatch

If dispatch is delayed for reasons that are attributable to the Purchaser, FLA reserves the right to apply reasonable storage fees and/or any additional costs to the Purchaser.

## 4. HANDLING AND STORAGE

The batteries, LEDs and solar panels must be stored in a place that is protected from the elements, in their original packaging. The Purchaser shall comply with the provided specifications of the batteries (specifically with all instruction inherent to ambient humidity level, minimum/maximum temperature, etc.). The batteries must be installed before the date stated on the packaging. The mechanical parts must not be stored directly on the ground or near to an area in which powdered materials are stored. It is not recommended to store the mechanical components for a long period without adequate ventilation, in order to avoid any deterioration.

## 5. CARRIAGE

FLA shall organise the Carriage. Responsibility and liability for Carriage are defined by the Incoterm that is stated in the specific conditions or, by default, shall be the responsibility of the Purchaser. It shall be the responsibility of the Purchaser to verify shipments upon arrival, to make known any reservations and to lodge any claims with the carrier, if even the shipment was free on board.

Our shipments, which are free on board and include packaging, shall always be understood to mean unloading by the recipient, as the driver cannot operate alone.

All additional carriage expenses caused by the Purchaser (e.g., in the event of an incorrect delivery address or if the recipient is not present) shall automatically be charged to it. The goods are deliverable under the Incoterm FCA-Plant unless stipulated otherwise in the specific conditions that bind the Purchaser and FLA; otherwise, they travel at the Purchaser's risks and jeopardy. The Purchaser must take all steps to enable and/or facilitate the receipt of the Products ordered. It must, in particular, ensure that the reception infrastructure (premises, facilities, etc.) complies with all requirements or recommendations expressed by FLA in its technical documentation or by any other means. The Products shall be deemed to have been received by the Purchaser within seventy-two (72) hours from the delivery of the Products to the Purchaser's Site.

### (i) Claims

Notwithstanding the statutory obligations, in order to be taken into account, all claims concerning the nature, type, characteristics, delivery notes and apparent quality of the Products must be made in writing and notified to the carrier within a maximum timeframe of 48 hours from the receipt of the Product, with a copy to FLA.

### (ii) Packaging

Packaging that is not consigned shall always be paid by the Purchaser and shall not be recovered by FLA. In the absence of any specific indications on this subject, the packaging shall be prepared in accordance with the standards defined by FLA.

### (iii) Returns of deliveries

The return of a Product that was delivered can only be accepted on an exceptional basis after first obtaining FLA's written agreement and after a delivery return acceptance number has been issued ("*delivery return no.*"); all returns that do not comply with these provisions shall be automatically rejected. After the delivery return acceptance number has been issued by FLA, the Product must be returned within thirty (30) calendar days, in the state in which it was delivered, both with regard to the Product and its packaging. No returns shall be accepted after this date. If the visual aspect does not comply with the purchase order, only undamaged Products that are in perfect condition will be accepted, i.e., with no marks, unopened and with all the accessories, documentation

and cables that were originally supplied. The refurbishment expenses and the risks associated with returning this equipment shall be the responsibility of the Purchaser.

## 6. PRICE AND PAYMENT CONDITIONS

The Products are sold by FLA to the Purchaser at the rate in force when the order is placed. The Purchaser must be able to consult the rate in force at all times. The prices stated in the offer are expressed in US dollars, net of all taxes and excluding transport levies, as applicable. The Specific Conditions of the offer define the total price of the Products when there is flat-rate price and, as applicable, shall provide the breakdown of this price (the price of the studies, supply and carriage).

The price is established on the basis of the laws and regulations in force on the date on which the offer was submitted.

The price may be revised as from the date on which the offer is submitted under the conditions provided for in the offer, according to the formulas for price revision published by the Lighting Confederation.

### (i) Payment terms.

All amounts due from the Purchaser to FLA, including the prices and shipping costs, are payable up-front at the time of order.

For certain orders FLA may agree in the acknowledgment of receipt to accept a 50% (fifty percent) deposit at the time of order with the balance due NET thirty (30) days from the date of an FLA invoice. FLA may change these payment terms, in its discretion, in the event of any non-performance by the Purchaser or any adverse material change in the Purchaser's credit report. The Purchaser shall pay all amounts due to FLA in full without any set-off, counterclaim, deduction, tax, or other withholding. No discounts are offered for cash payment.

Payments by bill of exchange are not accepted.

### (ii) Late payment.

The (total or partial) non-payment of an amount when due shall, constitute a default under the Agreement, and shall lead to accelerated maturity and all monies owed shall be due immediately, even if the due dates are in the future. In such a case, the monies owed shall immediately fall due after formal notice has been duly served by FLA via registered letter with return receipt, unless FLA chooses to cancel the orders. In this case, cancellation shall not only affect the order concerned, but also all orders to be delivered.

FLA shall also, without prior formal notice, charge the Purchaser interest on all due amounts from the due date until FLA has received full payment thereof, the lesser of the rate of eighteen percent (18%) per annum or the applicable statutory rate.

If a payment is not made when due, the Purchaser shall be liable for all reasonable and necessary costs of collection, without prejudice to any other rights of FLA.

No claims by the Purchaser can suspend the payments it owes and no offsetting may be affected without FLA's written agreement; the Purchaser expressly declares that it wishes to make payment notwithstanding any difficulties.

Any deterioration of the Purchaser's credit may justify a demand for guarantees or cash payment before filling the orders received. This shall be the case, in particular, if there is a change in the Purchaser's capacity, in its professional activity (or, if it is a company, in its corporate officers or in the form of the company), or if a sale, lease, pledge or contribution of its going concern has a negative effect on the Purchaser's credit. FLA may also cancel any current orders if, while the orders are being filled, it becomes aware of the fact that the Purchaser is undergoing insolvency proceedings.

## 7. RETENTION OF TITLE

Purchaser undertakes the duty of care and risk of loss at delivery.

In the event of non-payment by the Purchaser, FLA, without losing any of its other rights, may, by registered letter with return receipt, order the Products to be returned at the Purchaser's expense and risk. FLA may:

- Arrange for an inventory of the Products for which the Purchaser has not paid to be drawn up;
- Recover the Products that were delivered, which must be identifiable at all times.

The Purchaser shall owe an indemnity to cover loss of value that is equal to 1% of the price of the Products per

month the Products are held between delivery and return. This indemnity shall be offset against any down payments that were made.

The Purchaser shall refrain from granting any pledge, right of lien or other rights to a third party on the Products and, in general, the Purchaser undertakes to do everything that is necessary in order to protect, as much as possible, the interests of FLA, in particular with regard to the owner of its premises and all other creditors.

Notwithstanding the above, the risks of loss or of total or partial damage of the Products shall be transferred to the Purchaser as soon as they are delivered. The Purchaser must, in this respect, take out all insurance policies to cover the Product and, as applicable to enable any indemnities to be paid directly to FLA commensurately with any amount that is owed to it, including both principal and interest, by the Purchaser.

## 8. WARRANTIES

FLA undertakes, in respect of the warranties offered, to provide free of charge the Product components that are needed in order to repair or replace the defective Products, it being specified that these warranties shall only apply to Products that are installed and used in accordance with the rules of the art, and with the local regulations and standards in force, and in complete compliance with the installation instructions provided by FLA, which are part of the set of contractual documents accepted by the Purchaser. Except as otherwise expressly stated by the Purchaser, the equipment ordered is presumed to be used at the place of reference for the Technical Study referred to in Article 2. It is therefore in relation to this place that the technical characteristics of the equipment delivered are defined.

The warranties offered concern the replacement of parts if they are defective, under the following conditions:

### (i) Defects granting the right to the warranty

The warranty exclusively concerns the supply or the repair of the following parts:

The photovoltaic panel, the battery and the LED array (lights): Replacement or repair of the product for the first five (5) years.

Under the conditions set out herein, FLA undertakes to provide the Product components that are needed to remedy any operating defect of the Products, the origin of which is a flaw in the design or materials.

FLA may, at its option, decide whether it is appropriate to repair or replace the components of the defective Products, without its liability being triggered over and above the warranty conditions that are set forth in this Article.

In the event that FLA decides to replace all or part of the Product, the warranty concerning the replaced components shall be limited to the duration of the initial warranty period.

The cost of carriage and labour incurred by the replacement or the repair of the spare parts shall be paid for by the Purchaser.

The labour operations may only be performed by a third party if FLA has approved said third party in writing.

All other representations, warranties or conditions, whether explicit or implicit, statutory or otherwise, are formally excluded. FLA does not assume any liability of any kind whatsoever concerning all losses, all damage or harm that are directly or indirectly attributable, or that are connected in any way to the quality, compliance or use of the Products.

### (ii) Duration and starting point of the warranty

The warranty period shall start on the delivery date stated on the delivery note that is accepted and signed by the Purchaser or its representative. If, at the Purchaser's request, the dispatch of the equipment that has already been manufactured in full is deferred for a reason that is beyond the control of FLA, the extension of the warranty period cannot exceed three (3) months beyond the delivery date initially defined.

### (iii) Warranty exclusions

Products that are stored and installed under the following conditions are expressly excluded from the warranty:

- Normal wear and tear of the mechanical parts as related to their installation environment;
- Use and utilisation of the Product that does not correspond to the information declared at the time of the Study;
- Geographical location, the effect of which is the occurrence of unpredictable weather conditions,

# GENERAL TERMS AND CONDITIONS OF SALE - FONROCHE LIGHTING AMERICA

winds in excess of 70km/h, etc.;

- Corrosivity:
  - o An environment, the corrosivity of which is higher than that defined in category C3 of ISO 12944 for standard products;
  - o An environment, the corrosivity of which is higher than that defined in category C4 of ISO 12944 for marine products.
- The Product's physical installation does not conform to the physical limitations imposed by the Product;
- Caustic and/or corrosive environments (for example, including but not limited to, industrial chemical plants, very humid environments and environments that are saturated in fertilising products);
- Exposure to very polluted environment, fine particles, excessive dust or sand causing premature soiling of the panels, including without being limited to:
  - o areas with variable rainfall;
  - o high traffic areas (especially if the air emission is not or lightly regulated).
- The existence of over-voltages or non-compliant electrical facilities (over-voltages and under-voltages in excess of those defined by the applicable standards in force or current fluctuations linked to a management system that exceeds the limits specified for the Product);
- The presence of ground vibrations or tremors;
- The presence of a harmonic oscillation phenomenon or any resonance associated with movements of air around the Product;
- Failure to comply with the Installation instructions (for example, in the event of assembly errors);
- Utilization that does not correspond to the purpose or intended use (e.g., an installation that does not comply with the rules of the art, a lack of maintenance as advised in the installation instructions provided by FLA, a lack of surveillance, storage and handling that do not comply with the conditions laid down by FLA, etc.);
- A modification of or work on the Product (in any form whatsoever) performed directly by the Purchaser or by a third party. Work or a modification shall be understood to mean, in particular, any addition or any removal of a part or component of the Product, in particular the installation or the use of accessories, applications (software), or the replacement of original parts (e.g. lighting or cabling systems);
- In the event that the installation is performed after the date stated on the packaging,

#### The following are also excluded from the warranty:

- Defects arising from substances and materials supplied by the Purchaser or a design imposed by the Purchaser;
- Products, the amount of which has not been paid in full to FLA, or, in the event of payments in instalments, Products for which the Purchaser has not respected the payment instalment dates;
- Defects arising from a case of force majeure, as defined in Article 14, or that originate from an act of vandalism, civil unrest, falling objects, explosion or fire, or any other situation beyond the control of FLA.

#### **(iv) Conditions under which the warranty can be triggered**

In order to be able to claim the benefit of triggering the warranty, prior to the order, the Purchaser must have provided to FLA in writing and with proof of receipt, the purpose, intended use and conditions of use of the Product (in particular in connection with the Study).

In order to trigger the warranty, the Purchaser must:

- Inform FLA, in writing without delay, of the defects it is attributing to the equipment and provide all explanations and justifications concerning the reality thereof;
- Make all arrangements for FLA to safely inspect and remedy said defects. This shall include accessibility of FLA team's and vehicles (including aerial work platform);
- Moreover, unless FLA expressly agrees, refrain from carrying out the repair itself or arranging for it to be

carried out by a third party.

#### **(v) Functioning of the warranty (after-sales service)**

After receipt by FLA of the request to trigger the warranty, FLA may accept the request and, in this respect, issue a file number ("after-sales service return no."), or refuse the request and provide the reason(s) for the refusal to the Purchaser.

After-sales service returns function as follows:

- 1- a file number is allocated for the "after-sales service return" by FL;
- 2- FLA sends the equipment in a timely manner at the Purchaser's expense.
- 3- the Purchaser returns the defective equipment, at its expense, within thirty (30) calendar days, as from the "after-sales service return" number being notified, to the following address:

#### **FONROCHE LIGHTING AMERICA**

220 Reservoir St, suite 19,  
Needham Heights, MA 02494, USA

- 4- FLA takes delivery of the technical equipment and starts the in-house technical audit;
- 5- FLA's in-house technical audit reveals if the defect is covered by the warranty or not.

(a) If the defect is covered by the warranty:

- 1- FLA staff replace or repair the defective part in the conditions set out herein;
- 2- FLA sends back the equipment under warranty to the Purchaser at the Purchaser's expense;
- 3- the warranted equipment is returned by the Purchaser, at its expense, to FLA within thirty (30) calendar days of receipt of the replaced equipment. the parts and labour not covered by the warranty\*, if any, are invoiced.

*\*After-sales service repairs or replacements are, as a priority, dealt with in FLA workshops. Nevertheless, in the event that, given the nature of the equipment, the repair must take place on the site where the equipment is installed, the cost of carriage of the equipment or of the defective parts, as well as that of the return of the repaired or replaced equipment or parts, shall be paid by the Purchaser, as shall FLA's travelling and accommodation expenses in the event of repair on the site where the equipment is installed.*

(b) If the defect is not covered by the warranty, the Article 9 may apply.

FLA shall recover title to parts that are replaced free of charge.

This warranty cannot be assigned or transferred.

All repairs or all replacements under the warranty cannot result in the warranty period being extended.

FLA reserves the right to modify the equipment hardware in order to comply with its obligations.

In the event of failure to return the warranted equipment that is under warranty or replacement equipment by the Purchaser, within the timeframes mentioned above (in sections 3 and 6.3), a penalty for late performance of an amount of two hundred (200) dollars per day's delay shall be applied, without any prior formal notice having to be served by FL. The total amount of the penalties invoiced to the Purchaser may not exceed 5% of the total amount of the contract.

## **9. OPTIONS PROPOSED BY FLA**

### **(i) Installation service**

The installation of the Products order may, on an optional basis and after this option is formally confirmed on the purchase order, be provided by FLA.

#### **(a) Custody**

In this case, the Purchaser shall have Custody of all or part of the Products that are removed or installed by FLA, or by one of its partners, prior to or during the installation operations, on the site for which the Products are intended or on the Purchaser's premises.

#### **(b) Receipt**

In this case, all of the risks that are inherent in the Products shall automatically be transferred to the Purchaser upon its signature of the receipt slip that confirms the compliant completion of the installation operations.

FLA may freely decide on partial receipts for selected consignments of Products that have been compliantly installed.

### **(ii) Garland**

If the Purchaser wishes to hang a garland on the Products, it shall subscribe to such option. The said garland shall be compliant to the technical instructions given by FLA, especially as regard to dimensions, weight, projected

surface, etc.

If the Purchaser does not comply with the technical instructions, FLA will be deemed released from any related to the warranty regarding the integrity of the Products.

### **(iii) After-Sale service**

If pursuant to Article 8, the technical audit made by FLA reveals that the defect is not covered by the warranty:

- 1- FLA shall issue a quote for the repair of the equipment;
- 2- FLA carries out the repairs or returns the unrepaired equipment (at the Purchaser's choice);
- 3- The equipment loaned is returned by the Purchaser to FLA within thirty (30) calendar days of receipt of the replaced equipment.
- 4- FLA invoices a flat-rate amount for the loan of the replacement equipment, and for the costs of the technical audit, carriage and travel.

In the event of failure to return such equipment within the timeframes mentioned above, a penalty for late performance of an amount of two hundred (200) dollars per day's delay shall be applied, without any prior formal notice having to be served by FLA. The total amount of the penalties invoiced to the Purchaser may not exceed 5% of the total amount of the contract.

FLA shall recover title to parts that are replaced free of charge.

## **10. RIGHTS IN SOFTWARE, DOCUMENTATION, AND INTELLECTUAL PROPERTY**

(i) **Ownership.** All Intellectual Property Rights in and to the Products and associated software and documentation shall remain the sole and exclusive property of FLA, its affiliates, or third-party suppliers, and their respective licensors. No Intellectual Property Rights are conferred to Purchaser or any third-party other than explicitly granted under the Agreement. For the purposes of these Terms, "Intellectual Property Rights" include but are not limited to patents, copyrights, database rights, trademarks, domain names, trade secrets, and know-how of FLA, its affiliates, or third-party suppliers, and their respective licensors.

(ii) **License Grant.** Subject to Purchaser's fulfillment of all obligations under the Agreement, the supply of Products (including software embedded in Products) includes a license to Purchaser under any Intellectual Property Rights of FLA, to the limited extent that such Intellectual Property Rights are embodied or embedded in the Products purchased, to use or resell the Products as sold by FLA.

(iii) **License Limitations.** With respect to any software embedded in a Product or any other software application supplied to Purchaser, Purchaser shall not and shall not permit any third-party to: (i) copy, reproduce, distribute, modify, adapt, alter, translate, or create derivative works therefrom; (ii) assign, sublicense, lease, rent, loan, transfer, disclose, or otherwise make available such software or other works; (iii) merge or incorporate such software with or into any other software; or (iv) reverse assemble, decompile, disassemble, or otherwise attempt to derive the source code or the algorithmic nature for such software, or to decode, de-crypt or circumvent the protection of software, without authorization from FLA except as explicitly allowed under applicable law.

(iv) **Third-party Rights.** Purchaser acknowledges that third parties may own Intellectual Property Rights related to the Products. Purchaser shall not reproduce, without any amendments or changes, any proprietary rights of FLA, its affiliates, or their third-party suppliers in any software or documentation provided by FLA.

(v) **Feedback and Product Data.** FLA will be free to use in any way or form any ideas, suggestions, feedback, or recommendations by Purchaser (or End-Users) to FLA regarding the Products ("Feedback"), without payment of royalties or other consideration to Purchaser. FLA will own all Intellectual Property Rights in Feedback.

## **11. FONROCHE CONNECT**

The Parties agree that the Fonroche Connect software is and remain the sole property of FLA. Thus, notwithstanding the ones accorded by the present Article, the Purchaser expressly acknowledges that it shall hold no right, whatsoever, on such software.

### **(i) Use prerequisite**

In order for the Product to benefit from Fonroche Connect, the Purchaser shall download and keep updated the

# GENERAL TERMS AND CONDITIONS OF SALE - FONROCHE LIGHTING AMERICA

following technical prerequisite, for the full duration of the Product's use:

- "Google Chrome" Web Browser, as well as JavaScript and Cookies activated

The Purchaser shall refrain from filing any complaint in connection with Fonroche Connect, should the use prerequisite not be fulfilled.

## (ii) Fonroche Connect exploitation

The Purchaser grants to FLA the right to connect to its products through Fonroche Connect, at any given time and without any prior notice.

The Purchaser grants to FLA the right to operate any change or update regarding Fonroche Connect, at any given time and without any prior notice.

The configuration setup of Fonroche Connect were realized by FLA and according to factors established by the latter. Therefore, no modification to the exploitation setting of "Fonroche Connect" shall be requested by the Purchaser, nor it shall refuse FLA's decision to suppress or to reduce the exploitation setting's configuration, the data sharing or the data processing.

The Purchaser is informed that Fonroche Connect might require occasional and free of charge interventions by the FLA teams on the Products.

The Purchaser agrees to the principle of these interventions.

Therefore, FLA shall propose, by email, an intervention appointment to the Purchaser, no later than three (3) days prior to it. Without any answer in the twenty-four (24) hours following the notice, the appointment shall be deemed as accepted.

In the event that the Purchaser's persistent silence and/or repeated denial of the intervention should prevent FLA from operating the intervention needed for Fonroche Connect's proper functioning, the Purchaser shall in no case be entitled to any form of compensation based on either "Fonroche Connect's or the Product's malfunction, and such for as long as the aforementioned intervention is refused.

## (iii) Fonroche Connect Data

The Purchaser declares being informed that Fonroche Connect's exploitation is likely to generate technical data ("the Data").

The Purchaser understand that the Data exploitation doesn't enable, in any form or by any means, its identification and thus authorizes FLA to collect, to store on any physical or digital support and to exploit the Data.

## (iv) Fonroche Connect's property

The Purchaser declares being properly informed of the fact that Fonroche Connect is FLA's exclusive property. Consequently, the Purchaser shall refrain from altering or modifying the latter, as well as from analysing it or to wrongly reproduce it.

## (v) Access rights

The Purchaser is accountable for the confidentiality and security of the Fonroche Connect access rights entrusted to him. The Buyer is therefore accountable for any fraudulent and/or harmful action committed at the expense of FLA by means of or through the rights which he holds.

## 12. PRIVACY AND USE OF DATA

(i) Each party shall comply with all applicable data protection laws. Unless agreed otherwise by the parties, FLA (or its subcontractors) will not process information relating to any identified or identifiable natural persons ("Personal Data") for Purchaser or on Purchaser's behalf. In the event that FLA processes Personal Data as part of its own legitimate business purposes, it will do so in accordance with the Privacy Policy.

(ii) Purchaser acknowledges and agrees that FLA and its affiliates (and their respective subcontractors) may collect information and data generated from the FLA Products (including any Third-Party Product, service or system provided in conjunction with the FLA Product) or the use thereof ("Usage Data") and that FLA shall own and may exercise all Intellectual Property Rights therein. FLA grants to Purchaser a limited non-exclusive, non-sublicensable and non-transferable (except to End-User license to use the Usage Data solely for its internal use in connection with the operation of the FLA Products. Unless otherwise stated in the Agreement (including but not limited to an EULA) or the Privacy Policy, Usage Data will exclude any Personal Data and any data that would enable the identification of Purchaser or any third-party.

## 13. RECYCLING

The Purchaser represents that it has been validly informed of the fact that FLA has a recycling facility that makes it possible to limit the environmental impact of the Products when they are dismantled.

In this respect, the Purchaser undertakes, in the event that its Products are dismantled, to regard FLA as a recycling partner and to propose to it, as a priority over all third parties, to carry out the recycling operations for its Products. Absent FLA's written agreement within fifteen (15) days of the Purchaser's proposal concerning recycling, the Purchaser may validly route its dismantled Products to other recycling channels.

## 14. FLA'S LIABILITY

### (i) Liability for direct and indirect damage to property

FLA shall not compensate the harmful consequences of faults by the Purchaser or third parties concerning the performance of the Contract, or the harm that results from use by FLA of technical documents, data or any other resource provided, use of which is imposed by the Purchaser and that contain errors that were not detected by FLA. Under no circumstances may FLA's liability be triggered in the event of indirect damage to property.

(ii) **Liability for direct and indirect consequential damage**  
Under no circumstances shall FLA be required to indemnify direct or indirect consequential damage, such as, in particular: operating losses, loss of profit and commercial loss.

FLA's liability is strictly limited to the obligations that are expressly stipulated in these general conditions of sale. All the penalties and indemnities that are attributable to FLA and are provided for therein have the nature of liquidated damages that entail discharge and exclude all other sanctions and indemnification.

### (iii) Liability limitation

Other than the compensation of bodily injuries, regardless of the cause, FLA's liability is limited to an amount that, except otherwise provided in the specific conditions, is capped at a maximum amount that corresponds to 10% of the monies received in respect of the supply or the service on the date of the claim.

The Purchaser shall vouch for the waiver of recourse by its insurers or third parties with which it has a contract, against FLA or its insurers, in excess of the limits and for the exclusions defined above.

## 15. INDEMNIFICATION

(i) FLA Indemnity. In the event of a third-party claim alleging that any FLA Product supplied to Purchaser by FLA infringes the Intellectual Property Rights of such third-party ("IP Claim"), FLA will defend Purchaser and reimburse Purchaser for any final award of damages by a court of competent jurisdiction holding that the such FLA Product directly infringes such third-party's Intellectual Property Rights. FLA shall have no obligation to defend or indemnify Purchaser for any IP Claim: (i) arising from or related to any Third-Party Product; (ii) resulting from compliance with Purchaser's design, drawings, specifications or instructions; (iii) resulting from use of the FLA Product other than in accordance with its specifications, (iii) resulting from any modification or adaptation of a product, deliverables and/or Service made by or on behalf of Purchaser; (iv) arising from any third-party Intellectual Property Rights covering any assembly, circuit, combination, method or process, in the manufacture, testing or application in which such Products supplied by FLA may have been used; or (v) resulting from compliance with an industry standard applying to the FLA Product.

(ii) Purchaser Indemnity. Purchaser shall indemnify, defend and hold harmless FLA and its affiliates, and their officers, directors, agents, employees, successors, and assigns from and against, all losses (including loss of profits or turnover), liabilities, costs (including legal costs and costs incurred in relation to unfinished products) and expenses arising out of or in connection with: (i) a breach by Purchaser or any End-User of any of the provisions or obligations of the Agreement, including but not limited to these Terms; or (ii) any claim by third parties for any loss, damage or injury or death caused or alleged to be caused by the negligent use, application, or installation of the Products, or caused by any modification of a Product or integration of a Product into other products not authorized by FLA, by Purchaser or its End-Users, or their respective contractors,

agents, or affiliates ("Third-Party Claim").

(iii) Indemnification Procedure. In the event of any IP Claim or Third-Party Claim (each an "Indemnified Claim"), the party seeking indemnification must give the other party written notice of such Indemnified Claim promptly after such party first becomes aware of it. The party seeking indemnification shall not enter into any settlement in connection with any such Indemnified Claim, nor incur any costs or expenses in connection with any such Indemnified Claim without the prior consent of the other party. The indemnifying party will have the right to choose counsel to defend against the Indemnified Claim (subject to approval of such counsel by the indemnified party, which approval may not be unreasonably withheld, conditioned, or delayed) and to control and settle the Indemnified Claim. The indemnified party will have the right to participate in the defense of the Indemnified Claim at its sole expense.

(iv) Infringement Resolution. If the Products are, or in FLA's opinion, are likely to become, the subject of any IP Claim, FLA may at its own option and at its own expense either: (i) procure for Purchaser the right to continue using such Product; or (ii) provide a replacement non-infringing product for such Product of equivalent functionality; or (iii) modify such Product such that it is no longer infringing; or (iv) make an appropriate refund or credit of monies paid by Purchaser for that Product. Subject to the exclusions and limitations set forth herein, this paragraph states the entire liability of FLA for infringement of third-party Intellectual Property Rights in connection with the supply of Products

## 16. OWNERSHIP - CONFIDENTIALITY

FLA shall retain in full all the intellectual property rights to its projects, studies and documents of all types, which may not be disclosed or performed without its written authorisation, and must be returned to it at its first request.

Throughout the duration of its contractual relations with FLA and for five (5) years after the expiration thereof, the Purchaser undertakes not to disclose to any person or entity whatsoever, in any form whatsoever, any information concerning the processes, methods, patents and other forms of intellectual property that are directly or indirectly used by the Products of which it may be aware or that may be brought to its attention.

The technology and know-how, whether patented or not, as well as all the industrial and intellectual property rights concerning the Products and services, shall remain the exclusive property of FLA. The Purchaser is only granted a non-exclusive licence to use the Products.

## 17. FORCE MAJEURE

FLA's liability may not be triggered under any circumstances due to a delay or any shortcomings whatsoever in the filling of an order, provided that they are attributable to cause beyond its control. FLA may not be deemed to be liable in the event of a breach of one of its contractual obligations, if this non-performance is caused by a case of force majeure, i.e., an event that is unforeseeable and unavoidable with regard to FLA.

By express agreement, it is understood that the following events, in particular, shall constitute cases of force majeure: fire, strikes, unrest, riots, floods, epidemics, administrative or judicial seizures, embargos, quarantines, restrictions, wars, defaults by sub-contractors, acts of state, restrictions on foreign exchange, imports or exports, unforeseeable circumstances, actions or omissions by the Purchaser, or defaults or delays on the part of the carrier. The performance of the obligations shall be suspended if a force majeure event occurs that is beyond the control of FLA, which makes it impossible for it to perform its obligations or which materially affects the performance of its obligations, without it being possible to trigger its liability in this respect with regard to the Purchaser, or to claim any associated indemnification from it by the Purchaser.

FLA shall resume performance of its obligations when the disappearance of the force majeure has been duly observed.

The time limits for the performance of the obligations, in particular those provided for filling the order, shall be extended by a period that is equal to that during which the force majeure event persists.

In case the Force Majeure event causes an increase of the costs of performance of the obligations, FLA shall claim all

# GENERAL TERMS AND CONDITIONS OF SALE - FONROCHE LIGHTING AMERICA

additional costs to the Purchaser.

If the situation continues for more than thirty (30) days, the parties shall meet in order to determine whether they intend to pursue the performance of their respective obligations and, if not, the order shall be cancelled as of right with no indemnities being owed by either party.

It is however specified that in the event of an insurance-related expert appraisal, the aforementioned timeframe may, as necessary, be extended as a result.

## 18. COMPLIANCE

Each of the Parties undertakes to comply with the national and international legal and regulatory provisions in force that are applicable to it, in particular with respect to:

- human rights and the environment;
- prevention of corruption and money laundering;
- financing of terrorist activities;
- prevention of anti-competitive agreements.

Each of the Parties undertakes to act ethically in its business relations and to ensure that its conduct and the performance of its obligations will not in any way damage the reputation of the other Party.

Thus, each of the Parties undertakes to comply with the ten principles of the Global Compact as set out below:

- to promote and respect the protection of international human rights law within its sphere of influence;
- to ensure that it is not complicit in human rights abuses;
- to respect freedom of association and recognise the right to collective bargaining;
- to eliminate all forms of forced or compulsory labour;
- to abolish child labour;
- to act against corruption in all its forms, including extortion and bribery;
- to eliminate discrimination in employment and occupation;
- to apply the precautionary approach to environmental issues.

Each of the Parties agree to strictly comply with all laws and regulations on prohibited business practices, including but not limited to discrimination against persons or groups of persons on the ground of race, religion, colour, sex, marital status, age, national origin, ancestry, disability, sexual orientation, medical condition or in any manner prohibited by federal, state or local laws.

Any breach by a Party of the provisions of this clause shall be deemed a serious breach entitling the other Party to unilaterally terminate this Agreement without notice or compensation, and subject to the payment of all damages to which that Party may be entitled as a result of such breach.

## 19. HEALTH AND SAFETY

(i) The parties shall comply with all applicable legislation, rules and/or regulations on the health and safety of workers and/or employees, as well as health and safety of the public in the vicinity. Purchaser shall provide and shall ensure that its employees, agents, contractors, or subcontractors provide safe work surroundings for FLA personnel and other representatives. Purchaser shall take, and shall ensure that its employees, agents, contractors, or subcontractors take those measures prescribed by law and any other measures necessary for the prevention of accidents at the site and to ensure the health and safety of FLA personnel at the site. Purchaser shall timely inform FLA personnel of required safety precautions and advise FLA of all applicable site-specific health, safety, security and environmental requirements and procedures. FLA has the right, but not the obligation, to, from time to time, review and inspect applicable health, safety, security and environmental documentation, procedures, and conditions at the site.

(ii) Purchaser shall ensure that no hazardous materials are present at the site. If hazardous materials are present, Purchaser shall handle, and shall ensure that its employees, agents, contractors, or subcontractors handle these properly and if applicable, arrange for the appropriate removal and disposal thereof at the expense

of Purchaser. If, in the reasonable opinion of FLA, the health, safety, or security of FLA personnel or the site is, or may be, imperiled by security risks, terrorist acts or threats, the presence of or threat of exposure to hazardous materials, or unsafe working conditions, FLA may, in addition to other rights or remedies available to it, evacuate some or all FLA personnel from the site (with the reasonable assistance of Purchaser), and suspend performance of all or any part of an Agreement with no further liability to Purchaser.

Conditions at a site that differ materially from those disclosed by Purchaser, or previously unknown physical conditions at site that differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Agreement, will be deemed an Order Change.

Conditions at a site that differ materially from those disclosed by Purchaser, or previously unknown physical conditions at site that differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Agreement, will be deemed an Order Change.

## 20. BREACH; SUSPENSION; TERMINATION

In the event of: (i) a breach by Purchaser of any of the provisions of the Agreement, including any failure to pay any amount as and when due; (ii) in the reasonable opinion of FLA, the financial position of the Purchaser (or a material change thereof) is likely to affect Purchaser's ability to perform its obligations under the Agreement; (iii) any proceedings in insolvency, bankruptcy (including reorganization), liquidation or winding up are instituted by or against Purchaser, whether filed or instituted by Purchaser (voluntarily or involuntarily), a trustee or receiver is appointed over Purchaser, or any assignment is made for the benefit of creditors of Purchaser; (iv) Purchaser ceases, or threatens to cease, to carry on business; or (v) the control over or ownership of Purchaser changes, then FLA may declare all amounts outstanding by Purchaser immediately due and payable and may set off any amount that FLA (or any of its affiliates) owes to Purchaser under any agreement between the parties including any advance payments or deposits made by Purchaser, against amounts due under this Agreement. In addition, FLA may in its sole discretion by notice to Purchaser with immediate effect suspend or cancel any performance due from FLA (including production, delivery and commissioning of Products, and obligations under warranty) or terminate the Agreement or any part thereof, including any credit terms offered to Purchaser, without any liability. FLA may only terminate the Agreement for any breach that is capable of being remedied if Purchaser fails to cure such breach within fourteen (14) days of notice from FLA. FLA may terminate the Agreement if Purchaser fails to provide FLA with a bank guarantee or other security reasonably acceptable to FLA within fourteen (14) days of notice from FLA.

(ii) Upon any termination of the Agreement: (i) all rights and licenses granted to Purchaser under the Agreement will immediately cease; (ii) Purchaser shall return, delete (including from all hard disks and memory) or destroy (and a duly appointed officer shall certify to such destruction) all FLA information disclosed, including any software not embedded in Products, and all copies thereof; (iii) Purchaser shall return to FLA, at Purchaser's expense, any Products for which title has not passed to Purchaser in accordance with the Agreement and any other products, systems or equipment supplied by FLA; and (iv) all reasonable costs and expenses incurred by FLA (including a reasonable profit) for any activities related to work performed by FLA prior to such termination will be considered due, payable and non-refundable.

The rights of FLA pursuant to this Section will be in addition to any other rights and remedies FLA may have at law or in equity. In the event of termination of the Agreement.

## 21. CHOICE OF FORUM AND APPLICABLE LAW

These general conditions of sale are governed by the laws of the Commonwealth of Massachusetts, without giving

effect to any conflict of laws principles that would cause the laws of any other jurisdiction to apply. Any action or proceeding by either of the parties shall be brought only in a state or federal court located in Suffolk County, Massachusetts. The parties hereby irrevocably submit to the exclusive jurisdiction of these courts and waive the defense of improper forum for the maintenance of any action or proceeding in such venue. Notwithstanding the foregoing, FLA may seek injunctive relief to enforce its rights hereunder in any court of competent jurisdiction. No acceptance of payment by cheque, bills of exchange or any kind of instrument that is issued in another place shall bring about a derogation from or novation of this choice of forum clause.

## 22. OTHER PROVISIONS

The fact that FLA does not, at any time whatsoever, avail itself of one of the provisions of the general conditions of sale may not be construed as a waiver of the right to avail itself of this provision at a later date.

FLA has taken out an operating liability insurance policy and an insurance policy to cover its civil liability following delivery/work/services. No guarantee concerning ten-year construction liability insurance may be provided in respect of this Agreement.

No amendment of these general conditions of sale shall be valid if it is not evidenced in writing between FLA and the Purchaser.

These general conditions of sale shall prevail over all other general conditions issued by FLA.

Any invalidity of part of the provisions of these general conditions of sale may not affect the validity of the other conditions.

## 23. MISCELLANEOUS

(i) The invalidity or unenforceability of any provision of these Terms or any other component of the Agreement will not affect the validity or enforceability of any other provision thereof, all of which will remain in full force and effect. In the event of such finding of invalidity or unenforceability, the parties shall endeavor to substitute the invalid or unenforceable provision(s) by such effective provision(s) as will most closely correspond with the original intention of the provision(s) so voided. At reasonable notice, Purchaser shall assist FLA in verifying Purchaser's compliance with the Agreement.

(ii) Any notices provided pursuant to the Agreement shall be effective three (3) days after deposit in the U.S. Mail if sent by Certified Mail Return Receipt Requested, or immediately if by in-person delivery or confirmed delivery by a reputable overnight carrier, to the parties at the addresses set forth in the Order Acknowledgment.

(iii) Any right of FLA set out in these Terms will be without prejudice to any rights or remedies FLA may have under the Agreement or at law or in equity. Purchaser acknowledges that Fonroche Lighting S.A. is intended to be a third-party beneficiary for purposes of all benefits under, and may enforce the provisions of the Agreement, including these Terms, where applicable. The failure or the delay of either party to enforce any provision of the Agreement, including but not limited to these Terms, will not constitute a waiver of such provision or a waiver of the right to enforce it.

The Agreement (including but not limited to these general terms and conditions) states the entire understanding and agreement between the parties as to the sale of Products under that Agreement and will supersede any prior promises, agreements, representations, undertakings or implications whether made orally or in writing between FLA and Purchaser with respect to the subject thereof. The Parties expressly acknowledge that, in entering into the Agreement, no reliance has been placed on any representations which have not been incorporated as part of the Agreement. No variation to the Agreement will be binding upon either party unless made in writing and signed by an authorized representative of each of the parties.