

CONXCORP SALES TERMS AND CONDITIONS

Unless otherwise specifically agreed to in writing by Seller, these Sales Terms and Conditions shall apply to any and all orders placed by Buyer for CONXCORP lighting products of Seller. In these sales terms and conditions, the CONXCORP company designated in Seller's order acknowledgement is referred to as "Seller" and the party to whom Seller's order acknowledgement is addressed is referred to as "Buyer."

1. **ACCEPTANCE OF ORDERS.** Seller's acceptance of all orders and all offers and sales by Seller are subject to and expressly conditioned upon Buyer's assent to the terms and conditions of this Agreement. The Agreement consists of these sales terms and conditions, Seller's quotation, if any, and Seller's order acknowledgement. Buyer's acceptance of any offer by Seller must be made on such terms and conditions exactly as offered by Seller. Any of Buyer's terms and conditions which are different from or in addition to those contained in this Agreement are objected to by Seller and shall be of no effect unless specifically agreed to in writing by Seller. Commencement of performance or shipment shall not be construed as acceptance of any of Buyer's terms and conditions which are different from or in addition to those contained in the Agreement. If a contract is not earlier formed by mutual agreement in writing, acceptance by Buyer of products or services furnished by Seller pursuant hereto shall be deemed Buyer's assent to all of the terms and conditions of this Agreement.

This Agreement shall be governed by the laws of the Province of Ontario as if made and to be performed entirely within such Province. The UN Convention on the International Sale of Goods shall not apply. Dollar amounts are expressed in U.S. dollars.

2. **ORDERS AND PRICES.** Proposals for Seller to supply products to Buyer are valid for 30 days from issuance unless otherwise agreed to by Seller in writing. **Orders may not be cancelled or modified, either in whole or part, without Seller's express written consent.** If Seller consents to any order modification or cancellation, it may impose an order modification or cancellation fee. All prices are as stated in Seller's quote and specifically override any prices referenced in Buyer's purchase order. Prices for orders for immediate shipment are prices in effect at time of receipt of order. Qualifying orders specifying future delivery will be invoiced at prices and terms in effect at time of shipment. **The prices stated in this Agreement are in U.S. dollars and do not include transportation, insurance or any sales, use, excise or other taxes, duties, fees or assessments imposed by any jurisdiction. All applicable taxes will be paid by Buyer, unless Buyer provides Seller with appropriate tax exemption certificates,** and if Buyer requests that Seller ship products to Buyer's customer, Buyer must provide Seller with a valid resale certificate or other valid exemption certificate for its customer, and Buyer hereby indemnifies Seller for all taxes, costs, fees, expenses, penalties, and other charges if Buyer cannot provide adequate evidence that it remitted the applicable sales tax to the destination province or state. Any amounts paid at any time by Seller that are the responsibility of Buyer shall be invoiced to Buyer and reimbursed to Seller. All prices and other terms are subject to correction for typographical or clerical errors.

3. **TERMS OF PAYMENT.** All payments shall be in U.S. dollars. Buyer shall pay for products in cash upon delivery, unless an earlier or later time for payment is specified in the order

acknowledgement (in which case payment shall be due at the time so specified). Each shipment shall be considered a separate and independent transaction and payment for each shipment shall be due accordingly.

Seller may, at its option, elect to extend credit to Buyer. There are no discounts for early payment. If Seller extends credit to Buyer, invoices will be issued upon shipment and payment shall be due in full within thirty (30) days from the invoice date or such other date specified in the Agreement. Seller reserves the right to change the amount of or withdraw any credit extended to Buyer.

Amounts not paid when due shall be subject to interest at the rate of two and one-half percent (2½%) per month or, if less, the maximum rate permitted by law.

In the event of the bankruptcy or insolvency of Buyer, or the filing of any proceeding by or against Buyer under any bankruptcy, insolvency or receivership law, or in the event Buyer makes an assignment for the benefit of creditors, Seller may, at its election and without prejudice to any other right or remedy, exercise all rights and remedies granted Seller in Section 7 as in the case of a default by Buyer under this Agreement.

4. **DELIVERY, TITLE AND RISK OF LOSS.** Unless otherwise agreed to in writing by Seller, products shall be shipped EXW Seller's manufacturing facilities or inventory hub (Incoterms 2000) to any location designated by Buyer (subject to Section 14) and shall be deemed delivered to Buyer when delivered to the transportation company at the shipping point. Unless otherwise agreed to in writing by Seller, all transportation charges and expenses shall be paid by Buyer, including the cost of any insurance against loss or damage in transit which Seller may obtain at Buyer's written request. Seller reserves the right to ship products freight collect. Each individual luminaire order having a net value of \$7,500 or more will be shipped prepaid or freight allowed to destination on shipments within Canada via routing of Seller's choice, but Buyer is responsible for all insurance and any sales, use, excise or other taxes, duties, fees or assessments imposed by any jurisdiction. **Luminaire orders with a net value of less than \$5,000 will be charged a shipping and handling fee of 7% of the order value, or \$50, whichever is greater.** DISTRIBUTORS LOCATED IN CANADA ARE NOT AUTHORIZED TO SELL OR SHIP PRODUCTS OUTSIDE OF CANADA WITHOUT PRIOR WRITTEN APPROVAL OF AN AUTHORIZED SELLER MANAGER. If special routing or expedited transportation is requested, the Buyer will assume the additional expense. Seller hereby reserves, and Buyer hereby grants to Seller, a purchase money security interest in all products purchased under this Agreement, together with all proceeds thereof, including insurance proceeds. Such security interest secures all of Buyer's obligations arising under this Agreement, and any other agreements between Buyer and Seller, until all amounts due Seller hereunder have been paid in full. Buyer agrees upon Seller's request to sign appropriate financing statements evidencing Seller's security interest.

Subject to the security interest reserved to Seller, title and risk of loss and/or damage to products shall pass to Buyer upon delivery of the products to the transportation company at the shipping point. Confiscation or destruction of or damage to products shall not release, reduce or in any way affect the liability of Buyer. In the event Buyer rejects or revokes acceptance of any products for any reason, all risk of loss and/or damage to such products shall nonetheless remain with Buyer unless and until the same are

returned at Buyer's expense to such place as Seller may designate in writing.

All products must be inspected upon receipt and claims filed by Buyer with the transportation company when there is evidence of shipping damage, either concealed or external.

5. PERFORMANCE. Seller will make a reasonable effort to observe the dates specified herein or such later dates as may be agreed to by Buyer for delivery or other performance, but Seller shall not be liable for any delay in delivery or failure to perform due to acceptance of prior orders, strike, lockout, riot, war, fire, acts of God, accident, delays caused by any subcontractor or supplier or by Buyer, technical difficulties, failure or breakdown of machinery or components necessary for order completion, inability to obtain or substantial rises in the price of labor or materials or manufacturing facilities, curtailment of or failure to obtain sufficient electrical or other energy supplies, or compliance with any law, regulation, order or direction, whether valid or invalid, of any governmental authority or instrumentality thereof, or due to any circumstances or any causes beyond its reasonable control, whether similar or dissimilar to the foregoing and whether or not foreseen. As used herein, "performance" shall include, without limitation, fabrication, shipment, delivery, assembly, installation, testing and warranty repair and replacement, as applicable.

Buyer agrees that any delay in delivery or failure to deliver or perform any part of this Agreement shall not be grounds for Buyer to terminate or refuse to comply with any provisions hereof and no penalty of any kind shall be effective against Seller for such delay or failure; provided, however, that if the delay or failure extends beyond six (6) months from the originally scheduled date either party may, with written notice to the other, terminate this Agreement without further liability for the unperformed part of this Agreement.

6. ACCEPTANCE. All products delivered hereunder shall be deemed accepted by Buyer as conforming to this Agreement, and Buyer shall have no right to revoke any acceptance, unless written notice of the claimed nonconformity is received by Seller within sixty (60) days of delivery thereof. Notwithstanding the foregoing, any use of a product by Buyer, its agents, employees, contractors or licensees, for any purpose, after delivery thereof, shall constitute acceptance of that product by Buyer.

Any special made-to-order or custom product orders may not be cancelled after Seller's order acknowledgement.

Invoiced overages and product shortages must be reported within 60 days of invoice date. **Any discrepancy not reported within 60 days will not be considered for an adjustment.**

7. DEFAULT AND TERMINATION. Buyer may terminate this Agreement if Seller materially defaults in the performance of its obligations hereunder and fails to cure such default within sixty (60) days after written notice thereof from Buyer. Such termination shall be Buyer's sole remedy in the event of a default by Seller.

Buyer shall be deemed in material default under this Agreement if Buyer fails to pay any amounts when due hereunder, cancels or attempts to cancel this Agreement prior to delivery or refuses delivery or otherwise fails to perform any of its obligations hereunder or fails to pay Seller any sums due under any other agreement or otherwise. In the event of a material default by

Buyer, Seller may, upon written notice to Buyer, (1) suspend its performance and withhold shipments, in whole or in part, (2) terminate this Agreement, (3) declare all sums owing to Seller immediately due and payable, and/or (4) recall products in transit, retake same and repossess any products held by Seller for Buyer's account, without the necessity of any other proceedings, and Buyer agrees that all products so recalled, taken or repossessed shall be the property of Seller, provided that Buyer is given credit therefor. Exercise of any of the foregoing remedies by Seller shall not preclude exercise of any of the others, and neither the existence nor exercise of such remedies shall be construed as limiting, in any manner, any of the rights or remedies available to Seller under the Uniform Commercial Code or other laws.

8. LIMITED COMMERCIAL WARRANTY. Seller shall provide to the original purchaser a limited warranty for each of Seller's commercial grade products provided under this Agreement. The terms, limitations and exclusions for the limited warranty for each product are available at <http://www.conxcorp.com/dist/CONXCORP-VIVIX-Lighting-10-Year-Warranty.pdf>. Seller reserves the right to modify its limited warranty at any time in its sole discretion.

9. LIMITATION OF LIABILITY AND CLAIMS. SELLER'S AGGREGATE LIABILITY IN DAMAGES OR OTHERWISE SHALL IN NO EVENT EXCEED THE AMOUNT, IF ANY, RECEIVED BY SELLER HEREUNDER. IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR SPECIAL LOSS OR DAMAGES OF ANY KIND, HOWEVER CAUSED, OR ANY PUNITIVE, EXEMPLARY OR OTHER DAMAGES. NO ACTION, REGARDLESS OF FORM, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR PRODUCTS OR SERVICES FURNISHED BY SELLER MAY BE BROUGHT BY BUYER MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUED.

10. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement of the parties and supersedes all prior negotiations, proposals, agreements and understandings, whether oral or written, relating to the products to be purchased hereunder or otherwise relating to the subject matter of this Agreement. Any representation, warranty, course of dealing or trade usage not expressly contained or referenced herein shall not be binding on Seller.

11. ATTORNEY'S FEES. In the event of default in payment of the purchase price or any part thereof, Buyer agrees to pay Seller's expenses, including reasonable attorney's fees and expenses, incurred by Seller in enforcing payment thereof, including all expenses incurred in connection with any arbitration or judicial proceeding.

12. CONFIDENTIALITY. In connection with this transaction, Seller and Buyer (as to information disclosed, the "Disclosing Party") may each provide the other party (as to information received, the "Receiving Party") with "Confidential Information." Buyer shall not provide any Confidential Information to Seller without Seller's prior written consent to receive it. "Confidential Information" as used in these Terms and Conditions shall mean all Products pricing, all terms of the Agreement, and all information related to the business or products of the Disclosing Party that is not generally known to the public, provided that the obligations of this Article shall not apply as to any portion of the Confidential Information which: (1) is or becomes generally available to the public other than as a result of disclosure by the Receiving Party, its representatives or its affiliates, or (2) is or becomes available to the Receiving Party or its

representatives or affiliates on a non-confidential basis from a source other than the Disclosing Party when such source is not, to the best of the Receiving Party's knowledge, subject to a confidentiality obligation to the Disclosing Party, or (3) has been or is subsequently independently developed by the Receiving Party, its representatives or affiliates, without reference to the Confidential Information, or (4) is necessarily disclosed in connection with permitted uses of the Products.

The Receiving Party agrees, except as otherwise required by law to use the Confidential Information only in connection with this transaction and permitted uses of the Products, and to take reasonable measures to prevent disclosure of the Confidential Information, except to its employees to the extent necessary to facilitate this transaction and permitted uses of the Products.

If either party or any of their respective affiliates or representatives is requested or required (by interrogatories, subpoena, or similar legal process) to disclose any Confidential Information, such party agrees to provide the Disclosing Party with prompt notice of each such request, to the extent practicable, so that the Disclosing Party may seek an appropriate protective order or waive compliance by the Receiving Party with the provisions of this section, or both.

13. **ASSIGNMENT.** Buyer shall not assign or transfer any rights or claims under this Agreement without the prior written consent of Seller, and any purported assignment made without such consent shall be void. This Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the parties.

14. **EXPORT CONTROL.** Seller's export of the products, and any technical information related thereto, may be subject to Canadian and/or other national or international (e.g., UN) laws and regulations controlling the export and re-export of technical data and products, or limiting the export of certain products to specified countries (e.g., embargo regulations). Seller shall not be obligated under these Sales Terms and Conditions to export, transfer or deliver any products or related technical information to Buyer if prohibited by applicable law or until all necessary governmental authorizations have been obtained. Seller shall not be liable under these Sales Terms and Conditions for any expenses or damages resulting from failure to obtain or delays in obtaining any required government authorizations. Buyer shall comply fully with all export administration and control laws and regulations of the Canadian government and/or other national or international (e.g. UN) laws and regulations as may be applicable to the export, re-export, resale or other disposition of any products purchased from Seller

15. **GENERAL.** If the products purchased from Seller are to be used in the performance of a government contract or subcontract, no government requirements or regulations shall be binding upon Seller unless specifically agreed to by Seller in writing. No modification, amendment, rescission, waiver or other change in this Agreement shall be binding on Seller unless agreed to in writing by Seller. The invalidity or unenforceability, in whole or in part, of any provision herein shall not affect the validity or enforceability of any other provision herein. Failure or delay on the part of either party to exercise any right, power, privilege or remedy herein shall not constitute a waiver thereof. The section headings contained herein are for convenience of reference only and are not to be used in the construction or interpretation of this Agreement.