

**1. Scope:** These SCHRÉDER terms and conditions of sale (“Terms”) apply to contractual relationships in respect of the sale of products (“Goods”) and Services (“Services”) by AUSTUBE SCHRÉDER PTY LTD (“SCHRÉDER”) to the CUSTOMER (“CUSTOMER”). Variations to these Terms shall be enforceable subject to SCHRÉDER’s prior acceptance in writing.

**2. Offering and Ordering:** 2.1. CUSTOMER’s submission of an order (“Order”) in response to SCHRÉDER’s estimate or quotation (“Offer”) constitutes CUSTOMER’s unconditional acceptance of these Terms and implies CUSTOMER’s renunciation of its own terms and conditions. Each Order responding to an Offer must be duly acknowledged by SCHRÉDER in writing (“Acknowledgment”). 2.2. A binding contract (“Contract”) requires an Acknowledgment following an Order in response to an Offer to which these Terms apply. 2.3. Each Offer shall be valid during thirty (30) calendar days from the date it is made, unless otherwise stated in the Offer. Any variation to an Offer shall only be binding when confirmed by SCHRÉDER in writing. Any variation or cancellation of a Contract shall be subject to SCHRÉDER’s acceptance in writing. 2.4. In case of variation or cancellation of a Contract by CUSTOMER, SCHRÉDER shall be entitled to the price corresponding to all ordered products, without prejudice to additional claims, including but not limited to compensation for any ensuing losses. 2.5. SCHRÉDER may at any time, in its sole discretion and without advance notice to CUSTOMER, replace components of Goods by alternative components which will have no impact on the functionality of the Goods and give at least the same efficiency. 2.6. The CUSTOMER agrees and acknowledges that any access to or use of a platform, a software or a user interface offered by SCHRÉDER shall be governed by specific terms in addition to these Terms.

**3. Delivery:** 3.1. Unless otherwise specified in writing by SCHRÉDER, delivery of all Goods is ruled by the Incoterms 2020®, Ex Works (EXW). The place of delivery may be specified by SCHRÉDER on the Acknowledgment. 3.2. Delivery schedules shall be calculated from the later date of the following: 1) the date on which SCHRÉDER acknowledged the Order or 2) the date on which SCHRÉDER received all the necessary information and/or advanced payment required from CUSTOMER. Delivery schedules are estimates and any delays shall not entitle CUSTOMER to cancel or suspend the Order nor to compensation for delay. 3.3. The Goods are packed according to SCHRÉDER’s standards, unless otherwise agreed in the Contract. The Goods may be disassembled for packing and shipping convenience. SCHRÉDER may deliver the Goods in one or more consignments. 3.4. If CUSTOMER is prevented from taking or accepting delivery on the specified delivery date as mentioned in the Acknowledgment, CUSTOMER shall pay the agreed price as if the delivery had taken place. Storage costs shall be charged to CUSTOMER should it fail to take delivery on the specified date of delivery. CUSTOMER bears all risks of loss of or damage to the Goods from the date they have been delivered at the place of delivery. 3.5. Save notification of a complaint by email with return receipt within ten (10) business days following the date of delivery, and/or the date of the first performance of the Services CUSTOMER shall be deemed to have accepted the Goods and/or Services without reservation. 3.6. Title to the Goods shall remain with SCHRÉDER until the payment of such Goods has been made in full. CUSTOMER undertakes that it will not, without SCHRÉDER’s express prior written consent, dispossess itself or otherwise pledge or permit any third party to establish a proprietary interest on the Goods before CUSTOMER has paid for the Goods in full, including due costs and indemnities. As of the date of delivery, CUSTOMER shall be responsible for setting up appropriate insurance coverage in respect of all risks of damage to the Goods or Goods loss. CUSTOMER must also indicate SCHRÉDER’s interest as owner of the Goods on the insurance policy (pending payment in full). CUSTOMER must at all times ensure that the Goods are identified as SCHRÉDER Goods and that they should not be commingled with other Goods or made subject to a claim by any third party. 3.7. Should CUSTOMER fail to pay the price at due date, SCHRÉDER may, at any time prior to payment in full, recover the Goods at CUSTOMER’s expenses. The right of recovery shall be without prejudice to any claim for damage or loss suffered by SCHRÉDER in this regard.

**4. Price and Payment:** 4.1. Unless otherwise agreed in the Contract, the prices are quoted net, in \$AUD or in the local currency, and do not include taxes, duties or other levies applicable to the Goods. 4.2. All transportation costs, including incidental travel and attendance, as well as any costs related to specific tests requested by CUSTOMER shall be charged to CUSTOMER. 4.3. Prices are firm during the validity term of the Offer only. 4.4. Payment shall be made at SCHRÉDER’s registered office, net and without discount, onto one of SCHRÉDER’s bank accounts mentioned on the invoice. Should invoices be payable against an irrevocable documentary credit, they must be opened prior to SCHRÉDER’s Order Acknowledgment and confirmed by a reputable bank,

accepted by SCHRÉDER in writing. If deliveries are made in instalments, each instalment will be separately invoiced and shall be paid for when due. Once the amount indicated on the invoice is credited to SCHRÉDER’s bank account, the invoice shall be perceived as paid by CUSTOMER. 4.5. Any disagreement regarding an invoice must be notified to SCHRÉDER in writing within five (5) business days from the date on which the disputed invoice was sent. Without notification, invoices are deemed accepted. SCHRÉDER’s agents and salesmen are not authorized to collect payments. 4.6. Unless otherwise agreed in writing, all invoices must be paid within thirty (30) calendar days following the invoice date. If the invoice is not paid on its due date, SCHRÉDER may in addition to any other rights and remedies under applicable laws, charge an interest on the outstanding amount at the rate of nine percent (9%) per annum or the applicable statutory rate, whichever is higher. Moreover, SCHRÉDER may claim an amount of \$65 AUD (or the equivalent in the local currency) for collection costs for any overdue invoice. 4.7. Without prejudice to any other rights and remedies, non-payment of any overdue invoice entitles SCHRÉDER amongst other measures to: (1) claim immediate payment of any outstanding invoices; (2) suspend all ongoing Orders and deliveries until the amount due is paid in full, including late interests, costs and indemnities; (3) reclaim possession of the delivered Goods at CUSTOMER’s costs; (4) require financial guarantees or new payment terms for ongoing Orders; (5) suspend or terminate the provision of any ongoing Services and/or (6) terminate the Contract, without prior notice nor compensation. CUSTOMER indemnifies SCHRÉDER against any loss or damage suffered by SCHRÉDER as a result of CUSTOMER’s breach of any of its obligations under the Contract. SCHRÉDER may offset any overdue payment, and loss and damage suffered as a result of CUSTOMER’s breach, from any advance or down payments by CUSTOMER.

4.8. In the event of sale or transfer to a company under any form whatsoever of CUSTOMER’s business assets, all outstanding amounts shall become immediately due, notwithstanding any previous agreement. Mutual debts may be set off by SCHRÉDER, without formality. To the extent permitted by applicable law, CUSTOMER shall reimburse SCHRÉDER of all costs incurred by SCHRÉDER for the recovery of due and unpaid invoices. Should CUSTOMER’s financial situation have deteriorated whether involving a creditors’ voluntary arrangement, seizure of all or part of CUSTOMER’s assets, protest of bills, and more generally any modification of its financial situation, SCHRÉDER shall be entitled to require additional financial guarantees from CUSTOMER for the fulfilment of its obligations or to modify payment terms or to suspend delivery until such have been agreed and implemented or to terminate the Contract by written notice, without prejudice to SCHRÉDER’s rights and without compensation to CUSTOMER.

**5. Warranty:** 5.1 SCHRÉDER warrants that the Goods are conform in all material respects with their description and any applicable SCHRÉDER specifications. The following standard warranty shall apply to all Goods sold to CUSTOMER. Specific warranties applicable to certain SCHRÉDER Goods shall overrule the standard warranty if conflicting therewith. 5.2 SCHRÉDER undertakes for a period of twelve (12) calendar months from the date of delivery of its Goods (“Warranty Period”) that it will at its sole discretion repair or replace, at its premises or elsewhere, any supplied and paid Goods which is defective due to the defective material supplied by SCHRÉDER, provided that CUSTOMER complies with the conditions set forth in this article. 5.3. The CUSTOMER shall comply with the following conditions to claim under the warranty established herein: (1) duly notify SCHRÉDER in writing within thirty (30) calendar days after CUSTOMER detected or should have detected the defect and in any case within the Warranty Period of such defect; and (2) bear shipping, disassembly, reassembly and other costs of any kind; and (3) satisfy SCHRÉDER that the Goods have not been subject to abnormal or unusual use, wilful damage, negligence or used for a purpose which was not stipulated by CUSTOMER in the Order and that the Goods have been exposed only to normal wear and tear; and (4) CUSTOMER has not carried out or made any third party carry out repairs, replacements, adjustments or alterations on the Goods without SCHRÉDER’s express prior written agreement; and (5) CUSTOMER has installed or procured the installation of the Goods strictly in accordance with instructions supplied by SCHRÉDER for that purpose and the defect or fault has not been caused by the careless installation or maintenance of the Goods by CUSTOMER or third parties. Should CUSTOMER assemble the control gear or other devices itself, it bears exclusive and full responsibility for any electrical problem that may arise; and (6) has not continued the use of the Goods after having notified SCHRÉDER of the defect. 5.4. The replaced Goods or parts become SCHRÉDER’s property and, if repairs or replacements take place at CUSTOMER’s installation, such Goods or parts shall be returned to SCHRÉDER at its request, carriage paid within one month of replacement. 5.5. This warranty does not apply to damage or malfunctions in Goods delivered by

SCHRÉDER which are caused by: (1) a failure in performance, structural defect or functional deficient when SCHRÉDER has complied in full with CUSTOMER's written briefs, drawings or designs ("Specifications") for Goods to be supplied by SCHRÉDER, which Specifications subsequently are found to be inadequate, incomplete or defective; or (2) electrical surges or other variations in the electrical supply, or the supply of electricity at a level which exceeds the maximum recommended power supply to enable the Goods to perform safely and properly; or (3) corrosion due to an abnormal environment or to chemical or other elements extraneous to the manufacturing process (eg: salt) or other natural hazard; The warranty shall apply to the replaced Good(s) or part(s) thereof until expiry of the remaining duration of the Warranty Period. 5.6. LED luminaires shall not be considered defective solely as a result of the failure of individual LED components if the number of inoperable components is less than 10% of the total number of LED components in the LED luminaire. 5.7. The present article is not applicable to Services provided by SCHRÉDER, which are subject to specific warranties.

**6. Intellectual property:** 6.1. All intellectual property rights of whatever nature (including any copyright rights, systems including software, database rights, patent or design rights whether or not registered), technology, trade secret and know-how concerning SCHRÉDER's Goods and Services shall remain the exclusive property of SCHRÉDER or SCHRÉDER S.A. 6.2. Subject to the provisions set forth herein, the sale by SCHRÉDER of any Goods shall only imply the non-exclusive, non-transferable and non-sublicensable limited license to CUSTOMER under any SCHRÉDER's intellectual property rights ("IPR") used in the Goods to use (only) the Goods as sold by SCHRÉDER to CUSTOMER. 6.3. CUSTOMER shall not use the Goods for any purpose not expressly authorized by SCHRÉDER. 6.4. SCHRÉDER shall retain all intellectual property rights in all drafts, studies, drawings, plans, designs, texts, projects, records and documents, in whatever medium or reproduction of all kinds, supplied to CUSTOMER ("Documentation"). CUSTOMER may use the Documentation for internal purposes only and must return the Documentation to SCHRÉDER upon first request. 6.5. The sale of any Goods or Services by SCHRÉDER to CUSTOMER shall not constitute the transfer of ownership, title or rights in software(s) that may be embedded in or delivered with the Goods or Services. 6.6. Nothing in these Terms shall be construed as conveying any express or implied license, right or immunity, directly or by implication, estoppel or otherwise, to CUSTOMER under any patent, copyright, trademark or other proprietary/intellectual rights owned or controlled by SCHRÉDER or any third party, except as explicitly granted under these Terms. 6.7. SCHRÉDER assumes no liability for infringement of intellectual property rights of any third party covering any combination of any Goods and Services sold by SCHRÉDER with any product, whether or not supplied or sold by SCHRÉDER, or any method or process in which any Goods or Services sold by SCHRÉDER may be used.

**7. Confidentiality:** 7.1. CUSTOMER acknowledges that all technical, commercial and financial data and information belonging to SCHRÉDER ("Confidential Information") which is not already in the public domain at the time it is communicated to CUSTOMER is communicated by SCHRÉDER in strict confidence and remains the property and entitlement of SCHRÉDER. 7.2. Confidential Information may not be disclosed to a third party without SCHRÉDER's express prior written consent and may not be used for any purpose other than the fulfilling of CUSTOMER's Order. 7.3. CUSTOMER shall indemnify SCHRÉDER against any and all direct, indirect and punitive damages, losses, costs and other liability arising from claims resulting from CUSTOMER's or its own CUSTOMER's breach or non-compliance with this article.

**8. Data Protection:** 8.1. In the context of the sale of Goods and performance of Services, including quotations, offers, tenders and other pre-sale and post-sale activities, each Party will access and otherwise process Personal Data of the other Party. CUSTOMER warrants that it will comply with Applicable Data Protection and Privacy Laws and be fully responsible and liable for any non-compliance. 8.2. CUSTOMER shall provide all the necessary information required under Applicable Data Protection and Privacy Laws to the relevant Data Subjects and, should it be required, obtain all the necessary consents and authorizations for SCHRÉDER to Process such Personal Data. 8.3. SCHRÉDER may access and otherwise Process the following categories of Personal Data: name and surname, contact details, company name, job title, bank account

details and financial information (including VAT number, and credit/income history), transaction history and communications of the following categories of Data Subjects: the other Party's business owners, company management, employees and sales representative. SCHRÉDER will Process the above Personal Data for its own purposes, namely: (1) promotion, quotations, offers and tenders, (2), sales order management, (3) performance of the Contract and Services, (4) customer relationship management, (5) credit collection, (6) compliance with anti-money laundering and fraud prevention regulations as well as other legal requirements, (7) accounting and (8) defence of SCHRÉDER's interests and claims. 8.4. SCHRÉDER may share the Personal Data with its Affiliates, with suppliers that provide services on SCHRÉDER's behalf or help SCHRÉDER provide the Goods and Services to the CUSTOMER as well as with other third parties who perform functions for SCHRÉDER under their own responsibility as well as government and public authorities, for all the purposes set out above. Some of these recipients may be located outside the European Union, including in countries which do not provide an adequate level of protection for Personal Data within the meaning of the GDPR.

**9. Limitation of liability:** To the extent permitted by law: (1) SCHRÉDER shall not be liable to CUSTOMER or any other person for any loss of profits, or revenue, lost savings, loss of reputation, loss of goodwill, legal fees and expenses, business interruptions or other similar pure economic loss, indirect loss, incidental loss, punitive damages, special damages however arising whether occasioned by fault or otherwise in connection with the sale of any Goods or Services by SCHRÉDER or CUSTOMER's use thereof, whether or not such damages are based on tort, warranty, contract or any other legal theory – even if SCHRÉDER has been advised, or is aware, of the possibility of such damages; (2) SCHRÉDER is not liable to CUSTOMER or any other person for any loss of profit or revenue, lost savings, loss of reputation, loss of goodwill, business interruptions or similar pure economic loss, indirect loss, incidental loss, punitive damages however arising whether occasioned by fault or otherwise; and (3) SCHRÉDER's aggregate and cumulative liability towards CUSTOMER, if any, under this Contract shall not exceed an amount of ten percent (10%) of the value of the Goods sold to CUSTOMER under this Contract, which in any case shall not exceed an aggregate amount of \$800 000 AUD and for the Services, ten percent (10%) of the fees paid by the CUSTOMER under the Contract for the twelve (12) months preceding the claim (calculated proportionally in case of fees paid over a longer period) or for the first twelve (12) months in case the claim occurs the first year.

#### **10. Suspension and Termination**

##### **10.1. Suspension:**

**10.1.1. Force Majeure :** Upon due notice to CUSTOMER in writing, SCHRÉDER may suspend performance of its obligations under a contract in the event of occurrences beyond its control and for which it is not responsible including but not limited to fire, storm, earthquake, national or local government law, decree or regulation, strikes or other industrial action, acts of war, insurrection, or national emergency, unavailability of transport, general lack of supplies, interruption of power supplies, or any other event that can be qualified as event of force majeure. If an event of force majeure prevents fulfilment of CUSTOMER's Order and lasts for three consecutive calendar months, or for a total of three months in a period of six calendar months, either SCHRÉDER or CUSTOMER shall be entitled to cancel all or part of the Order without any obligation whatsoever to the other party.

**10.1.2. Import/Export controls/ Sanctions and Embargo(es):** Neither party shall export, re-export or otherwise transfer any Goods, materials commodities, software, or technology that have been supplied under or are otherwise in connection with performance of the Contract, including after further processing by CUSTOMER or incorporation into another item (individually and collectively, "Technology") inconsistent with any requirement of the Export Administration Regulations (EAR), the International Traffic in Arms Regulation (ITAR), or legal measures administered by the U.S. Treasury Department, Office of Foreign Assets Control Regulations, or the laws or regulations of the European Union or its member states, or of the United States and (as applicable) the exporting country outside the United States. CUSTOMER shall comply with restrictions on certain transactions of SCHRÉDER which are subject to export control laws and regulations prohibiting export or diversion

<sup>1</sup> "Applicable Data Protection and Privacy Laws" means any applicable national data protection and privacy laws and, to the extent applicable, the GDPR; The terms "Personal Data", "Data Subjects" and "Processing/Process" shall have the same meaning as in Applicable Data Protection and Privacy Laws; "GDPR" means the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). "Affiliate" means, in relation to any Party, any

company from time to time directly or indirectly controlling, being controlled by or being under common control with the Party, where control shall mean the direct or indirect possession of at least half the voting securities of any company or the power effectively to direct or cause to be directed, the management and policies of a company through the ownership of voting securities or voting interest or otherwise.

of Goods and technology to certain countries. Should delivery of Goods or Services be subject to an export or import license or be restricted or prohibited due to export/import control regulations, SCHRÉDER shall be entitled to suspend its obligations until such license is granted or until such restrictions or prohibitions shall be revoked. In addition SCHRÉDER shall be entitled to immediately cancel any Order without incurring any liability towards CUSTOMER. CUSTOMER represents not to be subject to any sanction(s) or embargo(es) which would prevent SCHRÉDER to enter into or pursue the contractual relationship. Should Customer be or become subject to such sanction(s) or embargo(es), SCHRÉDER shall be entitled to suspend or terminate the contractual relationship forthwith without any notice or indemnification. In such case, CUSTOMER shall be responsible for and indemnify SCHRÉDER for any damages, claims, penalties or other losses that may be asserted against or incurred by SCHRÉDER.

**10.2. Termination:** To the extent permitted by law and without prejudice to any rights or remedies, SCHRÉDER may, by written notice to CUSTOMER, terminate with immediate effect any contractual relationship with CUSTOMER, or any part thereof without liability whatsoever, if (a) CUSTOMER violates or breaches any of the provisions of the agreed contract terms and conditions (including these Terms); (b) Any insolvency proceedings, bankruptcy, liquidation, winding up or similar procedures are instituted against CUSTOMER, whether filed or instituted by CUSTOMER, a trustee or receiver is appointed over CUSTOMER, or any assignment is made for the benefit of creditors of CUSTOMER; (c) The control or ownership of CUSTOMER changes; Upon occurrence of any of the events referred above, all payments to be made by CUSTOMER to SCHRÉDER shall become immediately due and payable.

## **11. General provisions**

### **11.1. References:**

CUSTOMER grants SCHRÉDER the right to inform third parties that SCHRÉDER provides or has provided Goods or Services to CUSTOMER. In consequence thereof, SCHRÉDER shall be entitled to use CUSTOMER's commercial name(s) or brand(s) or logo(s) in a fair and reasonable manner for self-promotion and advertising, to refer thereto or to take pictures of the installed Goods for self-promotion and advertising without any financial compensation to CUSTOMER.

### **11.2. Description plans and documents, samples:**

Information relating to SCHRÉDER's Goods or Services contained in SCHRÉDER's catalogues, prospectuses, promotional documents, notices, price lists or displayed on its websites is given for illustrative purposes only and is not binding on SCHRÉDER.

Samples of Goods will only be shown to CUSTOMER for information purposes and shall not have any contractual or binding nature on SCHRÉDER, even if the CUSTOMER has referred to these in his Order or in any other document.

### **11.3. Anti-bribery:**

CUSTOMER agrees that it shall comply with all applicable laws on prevention of bribery. CUSTOMER's failure to comply with any anti-bribery legislation is a ground for immediate termination of the contractual relationship by SCHRÉDER without SCHRÉDER incurring any liability towards CUSTOMER. In such case, CUSTOMER shall be responsible for and indemnify SCHRÉDER for any damages, claims, penalties or other losses that may be asserted against or incurred by SCHRÉDER.

### **11.4. Assignment:**

CUSTOMER shall not assign either its rights or its obligations arising under any contractual relationship without SCHRÉDER's prior express written consent.

### **11.5. Interpretation:**

If one or more provisions of these Terms is found to be invalid, illegal or unenforceable (in whole or in part), the remainder of the provision and of these Terms shall not be affected and shall continue in full force and effect as if the invalid, illegal or unenforceable provision(s) had never existed. In this case, the Parties shall amend the invalid, illegal or unenforceable provision(s) or any part thereof or agree on a new provision which embodies as closely as possible the purpose of the invalid, illegal or unenforceable provision(s).

## **12. Dispute resolution:**

12.1. Unless otherwise agreed in writing, all contractual relationships between SCHRÉDER and CUSTOMER shall be governed by the law of the country where the SCHRÉDER has its registered office to the exclusion of the application of the Vienna Convention of April 11, 1980 on international sales. 12.2. Any dispute shall be submitted exclusively to the commercial courts of the place where SCHRÉDER has its registered office or, at SCHRÉDER's sole discretion, of the place where CUSTOMER has its registered office.