



Credit Agreement

CREDIT AGREEMENT

(Vivid Leds, Inc. STANDARD TERMS and CONDITIONS of SALE)

Revised 4/24/16

ARTICLE I - APPOINTMENT OF DISTRIBUTORSHIP

1. Distribution Right. The Company hereby appoints and grants Distributor the non-exclusive and non-assignable right to sell the products ("Products") of the Company listed in the then current "Price List".

2. Prices. All prices stated are FOB the Company's offices in Canton, OH, unless otherwise noted on the Order Confirmation. Prices do not include transportation costs which shall be borne by Distributor. Prices do not include federal, state or local taxes applicable to the products sold under this Agreement. An amount equal to the appropriate taxes will be added to the invoice by the Company where the Company has the legal obligation to collect such taxes. Distributor shall pay such amount to the Company unless Distributor provides Company with a valid tax exemption certificate authorized by the appropriate taxing authority. Prices in the Price List are indicative only. Prices are only valid if confirmed in writing in the form of an official Company Estimate, Order Confirmation or Invoice and only for the quoted validity period. All prices are subject to exchange rates, and statutory charges/costs/duties, from confirmation date by the Company to the Company invoice date.

3. Terms. Terms are payment in advance, except where satisfactory credit is established, in which case terms are balance due thirty (30) days from date of delivery. Sales over \$10,000 will be subject to a deposit. The deposit is fifty percent (50%) due at the acceptance of the invoice and the remaining balance due net 30. Sales over \$50,000 will be subject to a greater deposit. The deposit is seventy five percent (75%) due at the acceptance of the invoice and the remaining balance due net 30. The Company reserves the right to revoke any credit extended at the Company's sole discretion. Distributor agrees to pay such invoices when due regardless of other scheduled deliveries. Invoices not paid within thirty (30) days of the invoice date will bear a five percent (5%) per month finance charge assessed against the unpaid balance from the date of invoice until the date of payment. Distributor shall make full payment free of and without any deductions for whatever reason including but not limited to bank charges and settlement discounts. Payment shall be made by either a valid business bank check made out to Vivid Leds, Inc., wire transfer, electronic bank transfer or credit card. A credit card payment is subject to a handling fee.

4. Title to Products. The Company hereby reserves a purchase money security interest in each unit of Products sold or to be sold under this Agreement and in the proceeds thereof, if Distributor shall have sold or leased a unit(s) to another party prior to Distributor paying Company the purchase price for such Unit as set forth herein, in the amount of such unit's purchase price. These interests will be satisfied by payment in full. A copy of this Agreement may be filed with the appropriate authorities at any time after the signature by the Company as a financing statement in order to perfect the Company's security interest. On the request of the Company, Distributor shall execute financing statement(s) and other instruments the Company shall desire to perfect a security interest in the Products for its purchase price. Title to the Products shall pass to Distributor upon receipt by the Company of payment in full for all amounts due for such units of Products.

ARTICLE II - MARKETING AND SUPPORT

1. Sales. Distributor shall use its best efforts to promote the sale and distribution of the Products and to provide adequate support.

2. Advertising. Company shall, upon request, assist the Distributor on all advertising, sales promotion, and public relations campaigns to be conducted, including providing Distributor with documentation of previous promotional campaigns conducted in connection with the Products, and shall provide necessary technical information and assistance.

3. Training. Company shall furnish training of Distributor's sales and technical representatives at various times and locations as shall be designated for this purpose by Company. Enrollment in training courses shall be limited to a reasonable number of persons who shall be sufficiently qualified to take the courses.

ARTICLE III - DELIVERY

1. Purchase Orders. Distributor shall order Products by written notice to Company. Each order shall specify the number of units to be shipped, the type of units to be shipped (as identified by Company model number designations indicated on the Price List and Spec Sheet) including all optional features, the desired method of shipment and the installation site. Company shall indicate its acceptance of such release by returning an Order Confirmation or Invoice to Distributor. Company agrees to ship Products to Distributor as close as possible to the estimated delivery schedule set forth in each order as accepted by Company, unless Company otherwise indicates in writing. Company shall not be required to honor any release which: (a) specifies a shipping date earlier than Company's then current delivery schedule for the date such release is received by Company and/or (b) specifies a quantity to be delivered in any one month, within the current delivery schedule, which is greater than one hundred percent (100%) of the total quantity shipped in the preceding sixty (60) day period. The Distributor agrees that documents in the execution of this clause can be electronically generated, transmitted and stored. The Distributor agrees that electronically generated data substantiating successful or failed transmission by facsimile or e-mail shall be acceptable as evidence and can be submitted by either the Company or Distributor. For the purposes of this clause, transmission shall include both sending and receiving. Purchase orders can be submitted by e-mail to orders@vividleds.us or by facsimile to 800-974-3570.

2. Products Acceptance. The criterion for acceptance of Company Products by Distributor shall be the successful operation of the Products using Company's standard test procedures and diagnostic test programs applicable to the Products involved.

3. Shipment. All shipments of Products shall be made FOB Company's plant and liability for loss or damage in transit, or thereafter, shall pass to Distributor upon Company's delivery of Products to a common carrier for shipment. Shipping dates are approximate and are based, to a great extent, on prompt receipt by Company of all necessary ordering information from Distributor. Distributor shall bear all costs of transportation and insurance and will promptly reimburse Company if Company pre-pays or otherwise pays for such expenses. Company shall not be in default by reason of any failure in its performance under this Agreement if such failure results from, whether directly or indirectly, fire, explosion, lightning strike, freight embargo, Act of God or of the public enemy, war, civil disturbance, act of any government, de jure or de facto, or agency or official thereof, material or labor shortage, transportation contingencies, unusually severe weather, default of any other manufacturer or a supplier or subcontractor, quarantine, restriction, epidemic, or catastrophe, lack of timely instructions or essential information from Distributor, or otherwise arisen out of causes beyond the control of the Company. Nor shall the Company at any time be liable for any incidental, special or consequential damages.

4. Cancellation. Purchase orders can not be canceled after initial deposit is made. Purchase Orders can not be canceled or changed after 3 business days of acceptance by invoice.

5. Loan Products. The Company may supply Products on loan to Distributor. All loan Products shall be invoiced as if Products have been purchased by Distributor. All loan Products must be returned to the Company in terms of conditions specified on the Invoice. Products not returned, late returned, or returned with any damage, or without original Product packaging, manuals or accessories, are payable in full by Distributor, after written notice by the Company to Distributor of the damage.

ARTICLE IV - PROPRIETARY RIGHTS

1. Use of Company Name. Company expressly prohibits any direct or indirect use, reference to, or other employment of its name, trademarks, or trade name exclusively licensed to Company, except as specified in this Agreement or as expressly authorized by Company in writing. All advertising and other promotional material will be submitted to Company at least two weeks in advance and will only be used if Company consents thereto, which consent shall not be unreasonably withheld. Company hereby authorizes and requires Distributor's use of the Company's insignia or lettering which will be on the products at the time of the delivery. Company hereby authorizes the Distributor's use of the legend set forth below. The Company shall submit to the Distributor in writing full particulars prior to any use of the authorized legends on stationery, invoices, promotion material or otherwise, and shall not proceed with such use unless and until the Company's written approval shall have been received. Authorized legend shall be the following: Vivid Leds, Inc. If the authorized legend is used on any stationery, invoices, promotion material or otherwise by Distributor will, on termination of this Agreement, or upon request of Company, discontinue the use of such legend on any stationery, invoices, promotion material or otherwise and thereafter will not use, either directly or indirectly in connection with its business, such legend or any other names, titles of expressions so nearly resembling the same as would likely lead to confusion or uncertainty, or to deceive the public.

2. Patent Indemnity. Company agrees, at its own expense, to indemnify, defend and hold harmless each Distributor and its customers from and against every expense, damage, cost and loss (including attorneys' fees incurred) and to satisfy all judgments and decrees resulting from a claim, suit or proceeding insofar as it is based upon an allegation that the Products or any part thereof furnished by Company or any process which is practiced in the customary use of the Products is or has been infringing upon any patent, copyright or proprietary right, if Company is notified promptly of such claim in writing and given authority, and full and proper information and assistance (at Company's expense) for the defense of same. In case the Products, or any part thereof, in such suit is held to constitute an infringement and the use of said Products or part is enjoined, Company shall, in its sole discretion and at its own expense, either procure for the indemnity the right to continue using said Products or part or replace or modify the same with non-performance or capacity or affect its compatibility with the hardware or firmware comprising the Products or the software utilized thereon.

3. Drawings and Data. The Company normally supplies all necessary data for the proper installation, test, operation and maintenance of its Products. Portions of this data are proprietary in nature and will be so marked. The Distributor agrees to abide by the terms of such markings and to be liable for all loss or damage incurred by the Company as a result of the improper or unauthorized use of such data. The Company retains for itself all proprietary rights in and to all designs, engineering details, and other data pertaining to any Products specified in the contract and to all discoveries inventions, patent rights, etc., arising out of work done in connection with the contract and to any and all Products developed as a result thereof, including the sole right to manufacture any and all such products. The Distributor shall not contact the Company's suppliers, or any other person, for the purpose of manufacture.

4. Title to Products and Documentation Package. Distributor acknowledges that the Products and documentation listed in Schedule 1 are the property of Company, and that the products are being made available to Distributor in confidence and solely on the basis of its confidential relationship to Company, Distributor agrees not to print, copy, provide or otherwise make available, in whole or in part, any portion of an original or modified Products Documentation Package or related materials.

ARTICLE V - WARRANTY


1. Products Warranty. Company warrants that Distributor shall acquire Products purchased hereunder free and clear of all liens and encumbrances except for Company's purchase money security interest defined in Articles I, 4, above. The Company warrants to the original purchaser, with proof of purchase, its supplied products from date of shipment. The Company will repair, or at their discretion, replace the defective product, only when the product is properly handled, installed and maintained in accordance with standard acceptable practices. Company warrants all Products to be free from defects in material or workmanship, under normal use and service, for a period as shown on each Product's individual specification sheet from the date of delivery. All repair covered by this warranty must be performed at Company's factory, or other such warranty repair facilities of Company as designated by Company unless Company specifically directs that this service be performed at another location. Any defect corrected within the warranty date specified and found to be within this scope of the warranty will be repaired by Company and all charges for repair labor and material will be borne by Company. If it is determined that either no fault exists by Company, or the damage to be repaired was caused by negligence of Distributor, its agents, employees or customers, Distributor agrees to pay all charges associated with each such repair. This warranty excludes defects resulting from improper installation, acts of God, fire, vandalism, weather, civil disturbances, power surges or improper power supply, and corrosive environment installations. Purchaser must notify the Company in writing within seven days of noticing the defect. This warranty excludes all field labor or service charges related to the repair or replacement of the product. THIS CONSTITUTES THE SOLE WARRANTY MADE BY COMPANY EITHER EXPRESSED OR IMPLIED. THERE ARE NO OTHER WARRANTIES EXPRESSED OR IMPLIED WHICH EXTEND BEYOND THE FACE HEREOF, HEREIN, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES AND DISTRIBUTOR'S REMEDIES SHALL BE LIMITED TO REPAIR OR REPLACEMENT OF NONCONFORMING UNITS OR PARTS. The Company reserves the right to modify any of its products without prior notice and without incurring obligation.

2. Misuse of Products. Any tampering, misuse or negligence in handling or use of Products renders the warranty void. Further, the warranty is void if, at any time, Distributor attempts to make any internal changes to any of the components of the Products; if at any time the power supplied to any part of the Products exceeds the rated tolerance; if any external device attached by Distributor creates conditions exceeding the tolerance of the Products; or if any time the serial number plate is removed or defaced. OPERATION OF THE PRODUCTS THAT RENDER THIS WARRANTY VOID WILL BE DEFINED TO INCLUDE ALL OF THE POSSIBILITIES DESCRIBED IN THIS PARAGRAPH, TOGETHER WITH ANY PRACTICE WHICH RESULTS IN CONDITIONS EXCEEDING THE DESIGN TOLERANCE OF THE PRODUCTS. WARNING: Electricity is dangerous and can cause injury or death. The Company's Product Warranty is only valid if Products are installed by a licensed, qualified electrician who met all wiring codes during the installation. The Company assumes no responsibility for incorrect installation/usage or any labor costs incurred by Distributor/installer/user for any reason. Distributor shall bring this warning to the attention of its staff and customers.

3. Warranty Terms and Conditions. This warranty is void if the product or the lighting system with which the product is operated is not installed, operated, or maintained in accordance with:

- The National Electric Code (NEC).
- The Standards for Safety of Underwriters Laboratories, Inc. (UL).
- The Standards of the American National Standards Institute (ANSI).
- The specific instructions supplied by Vivid Leds, Inc for the installation, operation and maintenance of the product.

This warranty is void if the product is operated outside of its normal operating conditions as stated on the products specification sheet found at www.vividleds.us. In order to make a claim under the warranty, customer must notify the Company in writing seeking return authorization and provide the defective products (or, if authorized by Vivid Leds, Inc., a sample of such defective products) to the Company.



CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OR DAMAGE ARISING OUT OF, OR IN CONNECTION WITH, THE SALE OF ANY PRODUCT, OR ANY BREACH BY VIVID LEDS, INC. OF ITS OBLIGATIONS WITH RESPECT THERETO, SHALL BE LIMITED TO REPLACEMENTS OF THE PRODUCTS OR REFUND OF THE PURCHASE PRICE PAID BY CUSTOMER TO THE COMPANY FOR THE PRODUCTS, AT VIVID LEDS, INC'S SOLE DISCRETION, PROVIDED, HOWEVER, THE COMPANY SHALL HAVE NO LIABILITY WHATSOEVER TO CUSTOMER UNLESS (I) CUSTOMER HAS COMPLIED WITH THE REQUIREMENTS HEREUNDER FOR MAKING A CLAIM, (II) THE PRODUCTS ARE FOUND TO BE DEFECTIVE BY VIVID LEDS, INC. AND (III) CUSTOMER HAS PAID FOR THE PRODUCTS IN FULL WHEN DUE. THE COMPANY HEREBY EXPRESSLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND MAKES NO OTHER WARRANTIES TO CUSTOMER, EXPRESS OR IMPLIED, EXCEPT AS SPECIFICALLY PROVIDED FOR HEREIN. UNDER NO CIRCUMSTANCES SHALL VIVID LEDS, INC. BE LIABLE TO CUSTOMER FOR ANY PUNITIVE OR EXEMPLARY DAMAGES OR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR SPECIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, PROFITS, REVENUE OR BUSINESS) ARISING FROM, OR IN ANY WAY RELATED TO, THE SALE, USE OF, OR INABILITY TO USE THE PRODUCTS, NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY HEREIN. THIS EXCLUSION SHALL APPLY REGARDLESS OF WHETHER SUCH DAMAGES ARE SOUGHT BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT, OR ANY OTHER LEGAL OR EQUITABLE THEORY. This warranty is subject to the terms and conditions of sale applicable to the initial purchase of the product from the Company, which shall take precedent.

ARTICLE VI - DURATION OF AGREEMENT

1. Term. The term of this Agreement shall be indefinite from the date hereof, unless sooner terminated. Termination shall not relieve either party of obligations incurred prior thereto.

2. Termination. This Agreement may be terminated only: (a) By either party for substantial breach of any material provision of this Agreement by the other, provided due notice has been given to the other of the alleged breach and such other party has not cured the breach within [e.g., thirty (30) days] thereof; or (b) By the Company if: there is an unacceptable change in the control or management of the Distributor; if the Distributor ceases to function as a going concern or makes an assignment for the benefit of creditors; if a petition in bankruptcy is filed by or against the Distributor, resulting in an adjudication of bankruptcy; or, if the Distributor fails to pay its debts as they become due and provided due notice has been given by the Company to the Distributor and the Distributor has not cured such breach within thirty (30) days thereof; (c) By Company at any time, upon the Company having given to Distributor ninety (90) days advanced written notice of its intention to so terminate; (d) Upon termination of this Agreement all further rights and obligations of the parties shall cease, except that Distributor shall not be relieved of its obligation to pay any monies due, or to become due, as of or after the date of termination, and any other obligation set forth in this Agreement which is to take effect after the date of termination.

ARTICLE VII - NOTICES

1. Notice or Communication. Any notice or communication required or permitted hereunder (other than Administrative Notice) shall be in writing and shall be sent by registered mail, return receipt requested, postage prepaid and addressed to the addresses set forth below or to such changed address as any party entitled to notice shall have communicated in writing to the other party. Notices and communications to Company shall be sent to:

Vivid Leds, Inc.
P.O.Box 9
Sellersburg, IN 47172

Notices and communications to Distributor shall be sent to address shown on first page of this Agreement. Any notices or communications to either party hereunder shall be deemed to have been given when deposited in the mail, addressed to the then current address of such party.

2. Date of Effectiveness. Any such notice or communication so mailed shall be deemed delivered and effective seventy two (72) hours after mailing thereof in the United States.

ARTICLE VIII - GENERAL PROVISIONS

1. Relationship of Parties. The relationship between the parties established by this Agreement shall be solely that of vendor and vendee and all rights and powers not expressly granted to the Distributor are expressly reserved to the Company. The Distributor shall have no right, power or authority in any way to bind the Company to the fulfillment of any condition not herein contained, or to any contract or obligation, expressed or implied.

2. Independence of Parties. Nothing contained in this Agreement shall be construed to make the Distributor the agent for the Company for any purpose, and neither party hereto shall have any right whatsoever to incur any liabilities or obligations on behalf or binding upon the other party. The Distributor specifically agrees that it shall have no power or authority to represent the Company in any manner; that it will solicit orders for products as an independent contractor in accordance with the terms of this Agreement; and that it will not at any time represent the Company in any manner; that it will solicit orders for products as an independent contractor in accordance with the terms of this Agreement; and that it will not at any time represent orally or in writing to any person or corporation or other business entity that it has any right, power or authority not expressly granted by this Agreement.

3. Indemnity. The Distributor agrees to hold the Company free and harmless from any and all claims, damages, and expenses of every kind or nature whatsoever (a) arising from acts of the Distributor; (b) as a direct or indirect consequence of termination of this Agreement in accordance with its terms; or (c) arising from acts of third parties in relation to products sold to the Distributor under this Agreement, including, but not limited to execution of liens and security interests by third parties with respect to any such products.

4. Assignment. This Agreement constitutes a personal contract and Distributor shall not transfer or assign same or any part thereof without the advance written consent of Company.

5. Entire Agreement. The entire Agreement between the Company and the Distributor covering the Products is set forth herein and any amendment or modification shall be in writing and shall be executed by duly authorized representatives in the same manner as this Agreement. The provisions of this Agreement are severable, and if any one or more such provisions are determined to be illegal or otherwise unenforceable, in whole or in part, under the laws of any jurisdiction, the remaining provisions or portions hereof shall, nevertheless, be binding on and enforceable by and between the parties hereto. Any provisions, terms or conditions of Distributor's Purchase Orders which are, in any way contradicting of this Agreement, except those additional provisions specifying quantity and shipping instructions, shall not be binding upon Company and shall have no applicability to the sale of goods by Company to Distributor.

6. Applicable Law. This Agreement shall be governed by the laws of the State of Indiana and is accepted by Company at its Corporate Office in Sellersburg, IN. All payments hereunder shall be made at Company's offices at PO BOX 9, Sellersburg, IN 47172. Company's rights granted hereby are cumulative and in addition to any rights it may have at law or equity.

7. Separate Provisions. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the date of initial Purchase Order or received Invoice from the Company. By the acceptance of the Invoice of initial sale, The parties declare that they have read and understood the terms and conditions of this Agreement and agree that this Agreement is the only Agreement between them on the subject matter covered in this document and shall be known as Vivid Leds, Inc. STANDARD TERMS and CONDITIONS of SALE. However, the parties agree that the Company can specify additional SPECIAL CONDITIONS on an official Company quote that shall be valid for that quote only and shall be binding, on Distributor placing a Purchase Order to the Company for that Company quote.