

DISCLAIMER: These terms are provided as a template only. They will not necessarily address all issues a party may wish to address. Recolight does not provide legal advice and cannot guarantee the enforceability or effectiveness of these terms. You should obtain legal advice before using this template.

Sections highlighted in yellow or in square brackets are to be included and are for the parties' consideration/completion.

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**Recolight Reuse Hub**

# TERMS OF DONATION TEMPLATE

## ORDER FORM

<b>Donor</b>	<i>[NAME OF DONOR] (registered in England and Wales with company number [NUMBER]).</i>
<b>Recipient</b>	<i>NAME OF RECIPIENT (registered in England and Wales with company number [NUMBER]).</i>
<b>Products</b>	
<b>Delivery Location</b>	
<b>Delivery Date</b>	
<b>Product Description</b>	

**THIS AGREEMENT** has been entered into on **[DATE]**.

Signed by **[NAME OF DIRECTOR]** for and on behalf of **[NAME OF DONOR]**: .....  
Director

Signed by **[NAME OF DIRECTOR]** for and on behalf of **[NAME OF RECIPIENT]**: .....  
Director

## CONDITIONS

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions:

**Business Day:** a day other than a Saturday, Sunday, or public holiday in England.

**Conditions:** the terms and conditions set out in this document.

**Confidential Information:** means any information of a confidential nature which is disclosed or made available pursuant to or in connection with this Contract or the Products by a party to this Contract (or any of its affiliates or representatives).

**Contract:** the contract between the Donor and the Recipient for the donation of the Products which incorporates these Conditions and the Order Form.

**Force Majeure Event:** an event, circumstance, or cause beyond a party's reasonable control.

**Order Form:** the order form set at the beginning of this document.

## 1.2 Interpretation:

- (a) Any words defined in the Order Form shall have the same meaning when used in the Conditions.
- (b) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (c) A reference to a party includes its personal representatives, successors and permitted assigns.
- (d) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- (e) Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
- (f) A reference to **writing** or **written** includes email.

## 2. PRODUCTS AND BASIS OF CONTRACT

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Recipient seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.2 The Recipient waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Recipient that is inconsistent with these Conditions.

## 3. DELIVERY

- 3.1 [The Donor shall deliver the Products to the Delivery Location on or around the Delivery Date.]

**OR**

- 3.2 [The Recipient shall collect the Products from the Delivery Location on or around the Delivery Date.]

- 3.3 Delivery is completed on the completion of [unloading OR loading] of the Products at the Delivery Location.
- 3.4 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Donor shall not be liable for any delay in delivery of the Products that is caused by a Force Majeure Event or the Recipient's failure to provide the Donor with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
- 3.5 If ten Business Days after the day on which the Donor notified the Recipient that the Products were ready for delivery the Recipient has not [taken OR accepted] actual delivery of them, the Donor may re-donate or otherwise deal in any way it sees fit with part or all of the Products.

#### **4. RECIPIENT OBLIGATIONS**

- 4.1 The Recipient shall:
- (a) carry out all any necessary testing (including electrical safety testing) of the Products to ensure that the Products are compliant with applicable laws and regulatory requirements and are fit for their originally intended uses and any other purpose for which the Recipient intends to use the Products;
  - (b) provide the Donor with such information as the Donor may reasonably require from time to time relating to any use of the Products by the Recipient and reasonable written evidence of any testing which the Recipient will be carrying out on the Products; and
  - (c) comply with the Donor's reasonable instructions in relation to use of the Products provided such instructions are provided prior to the date of this Contract.

#### **5. TITLE AND RISK**

- 5.1 The title and risk in the Products shall be passed to the Recipient on completion of delivery.

#### **6. QUALITY**

- 6.1 To the best of the Donor's knowledge, the Products were fully compliant with applicable laws and regulatory requirements at the time that such Products were placed on the market. To the fullest extent permitted by law, the Donor excludes all other warranties, representations and guarantees in relation to the Products, including that the Donor does not give any warranty, representation or guarantee that the Products are compliant with applicable laws and regulatory requirements at the time of delivery or collection.
- 6.2 The Recipient acknowledges that the Products are being donated free of charge. On this basis, the Recipient acknowledges and agrees that the exclusions of liability and warranties as set out in this Contract are reasonable in the circumstances.

- 6.3 The parties acknowledge and agree that:
- (a) there is no intention on the part of any party to discard the Products;
  - (b) the Products are not waste, and are being donated on the basis that they are capable of use or reuse (as applicable); and
  - (c) it has been established prior to donation that the Products require either no repair or only minor repairs in connection with such use or reuse.

## 7. LIMITATION OF LIABILITY

- 7.1 References to loss or liability in this clause 7 (and elsewhere in this Contract) include every kind of loss or liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 7.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- (a) death or personal injury caused by negligence;
  - (b) fraud or fraudulent misrepresentation;
  - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
  - (d) defective products under the Consumer Protection Act 1987.
- 7.3 Subject to clause 6.2, the Donor's total liability to the Recipient arising out of or in connection with this Contract (including for breach) shall not exceed [£200].
- 7.4 Subject to clause 7.2, the Donor shall not be liable for any of the following losses (whether direct or indirect) arising out of or connection with this Contract (including for breach):
- (a) loss of profits;
  - (b) loss of sales or business or revenue;
  - (c) loss of agreements or contracts;
  - (d) loss of anticipated savings;
  - (e) loss of use or corruption of software, data or information;
  - (f) loss of or damage to goodwill; and
  - (g) indirect or consequential loss.
- 7.5 This clause 7 shall survive termination or expiry of this Contract.

## 8. GENERAL

8.1 **Assignment and other dealings.** Neither party may assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the other party.

### 8.2 Confidentiality

- (a) Each party agrees that it shall not at any time disclose to any person and shall ensure the confidentiality of any Confidential Information of the other party (or its affiliates), save for disclosures permitted by clause 8.2(c).
- (b) Confidential Information shall not include information which:
  - (i) was or becomes publicly known through no default or breach of any contract by the receiving party;
  - (ii) was or becomes lawfully known to the receiving party without restriction from a source other than the disclosing party who itself obtained it without any confidentiality obligation;
  - (iii) has been demonstrated by the receiving party to the disclosing party to have been independently developed by the receiving party without reference to the Confidential Information of the disclosing party (other than pursuant to an obligation to provide services to the disclosing party); or
  - (iv) is approved for disclosure by the party which has provided it without restriction in a document which is signed by a duly authorised representative of such party.
- (c) Each party may disclose the other party's (or its affiliates') Confidential Information:
  - (i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's Confidential Information are subject to a binding duty of confidentiality no less onerous than this clause 8.2; and
  - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (d) Neither party shall use the other party's (or its affiliates') Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- (e) The obligations set out in this clause 8.2 may be waived by the agreement of the parties in writing.
- (f) This clause 8.2 shall survive termination or expiry of this Contract.

- 8.3 **Entire agreement.** The Contract constitutes the entire agreement between the parties. Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 8.4 **Variation.** No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 8.5 **Waiver.** Except as set out in clause 2.2, a waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 8.6 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.
- 8.7 **Survival.** Terms of this Contract which expressly or by implication are intended to survive or come into effect on termination or expiry shall survive or come into effect on termination or expiry of this Contract.
- 8.8 **Third party rights.** Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 8.9 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
- 8.10 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.