

STARLITE STANDARD TERMS AND CONDITIONS OF SALE

(EFFECTIVE JULY 19, 2017)

ALL SALES MADE BY STARLITE PRODUCTIONS INTERNATIONAL, INC. (“Starlite” “we” or “us”) TO THE BUYER (“Buyer” “you” or “your”) ARE SUBJECT TO AND CONDITIONED UPON THE TERMS AND CONDITIONS OF THIS AGREEMENT (the “Terms”), WHICH SHALL CONCLUSIVELY BE DEEMED ACCEPTED AND BINDING ON THE CUSTOMER UPON DELIVERY OF THE GOODS (DEFINED AS THE EARLIEST OF (A) THE DATE OF SHIPMENT OF THE GOODS FROM THE POINT OF SHIPMENT; OR (B) RECEIPT OF THE GOODS BY THE CUSTOMER, CUSTOMER’S AGENT OR SHIPPING CARRIER) AND REGARDLESS OF WHETHER THE CUSTOMER HAS SIGNED THE AGREEMENT. THE PARTIES ACKNOWLEDGE AND AGREE THAT THESE TERMS AND CONDITIONS SHALL CONTINUE TO APPLY TO ALL FUTURE SALES TRANSACTIONS BETWEEN THEM, EVEN THOUGH THE SPECIFIC GOODS OR PRICE THEREFORE MAY VARY, WITHOUT NECESSITY OF EITHER PARTY EXECUTING A NEW AGREEMENT. STARLITE MAY AMEND THESE TERMS AND CONDITIONS FROM TIME TO TIME, AND SUCH AMENDED TERMS AND CONDITIONS SHALL GOVERN ANY FUTURE ORDERS MADE AFTER THE DATE OF ANY SUCH AMENDMENT.

1. “Goods” means the articles which are the subject of the Agreement, the quantity and description of which shall be as set out in our quotation and, where the context permits, any services supplied to you. (“Services”).
2. IF ANY PURCHASE ORDER OR OTHER CORRESPONDENCE SUBMITTED BY YOU AT ANY TIME, CONTAINS ANY TERMS OR CONDITIONS WHICH ARE DIFFERENT CONTRARY OR IN ADDITION TO THESE TERMS, SUCH TERMS ARE HEREBY EXPRESSLY OBJECTED TO AND REJECTED BY US, AND SHALL BE WHOLLY INAPPLICABLE TO ANY SALE MADE OR SERVICES PERFORMED HEREUNDER, AND SHALL NOT BE BINDING IN ANY WAY ON US. IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY BETWEEN ANY PROVISION OF THESE TERMS AND THE PROVISIONS OF ANY OTHER DOCUMENT SUBMITTED BY YOU WITH RESPECT TO THE SUBJECT MATTER HEREOF, THE PROVISIONS OF THESE TERMS SHALL PREVAIL, AND OUR FULFILLMENT OF ANY PURCHASE ORDER SHALL NOT BE CONSTRUED AS ASSENT TO ANY OF THE TERMS AND CONDITIONS PROPOSED BY YOU, AND SHALL NOT CONSTITUTE A WAIVER BY US OF ANY OF THE TERMS CONTAINED HEREIN.
3. Any order for Goods shall be deemed an offer by you to purchase such Goods under these Terms. All orders are subject to acceptance by Starlite and no order shall become binding on us until it is accepted by Starlite, at which point there shall be a binding Contract between you and Starlite in accordance with these Terms (the “Contract”).
4. You acknowledge that you have not relied on any statement promise or representation made or given by, or on behalf of, Starlite, which is not set out in these Terms. Under no circumstances shall we be responsible for, or be held liable, in respect of any statement or representation relied upon by you, which is not attached to, or endorsed within Starlite’s order and subsequently confirmed in writing by Starlite’s order acknowledgment.

QUOTATIONS; PRICE; TAX:

5. Unless stated otherwise, our quotations are valid for 30-days from the date of issue, provided they have not been previously withdrawn. If you do not accept a quotation through the delivery of a written purchase order to us within the 30-day timeframe, the quotation shall automatically lapse and no longer be valid.
6. Prices stated are for the specific quantities indicated and are subject to change by us, with or without notice any time prior to our acceptance of your order.
7. Our pricing is established based on us receiving payment via cash, check or wire transfer, and any payments made via credit card shall be assessed a 2% surcharge.
8. Any typographical, clerical or other error or omission in any quotation, order, acceptance acknowledgment, invoice or other document issued by us is subject to correction without any liability on our part.
9. **Prices do not include taxes.** Unless you provide us with a valid tax exemption certificate, you shall pay all sales tax, use tax, property tax, excise tax, and any other applicable taxes or fees, to the entire exoneration of Starlite.
10. **Prices do not include shipping.** Unless otherwise agreed in writing, all shipping and handling charges, including any export or import charges, transportation, insurance, customs, duties and other fees are your responsibility to pay.

PAYMENT TERMS:

11. Unless otherwise agreed to in writing, standard payment terms for all new accounts require receipt of cash or cleared funds prior to shipment or performance. We shall invoice you for the exact quantity of each shipment of Goods on the day they ship, or the day they are ready for shipment if the Goods are held at Starlite’s facility or elsewhere, based on your instruction; or due to lack of shipping instructions by you.
12. Time and terms of payment are of the essence and you shall pay all of our invoices according to the terms stated therein without offset, withholding or deduction of any kind unless you have received an official credit memorandum from us authorizing such deduction. If payment terms have not been specified, our invoices shall be due no later than 30-days from the date of the invoice. Your payment shall not be considered received until we have obtained cleared funds.
13. If we grant any credit to you, such credit is subject to our review from time to time and we reserve the right, at any time, and at our sole discretion, to (i) Modify or rescind your credit limit or payment terms; (ii) Suspend further sales or require full or partial payment in advance of delivery or manufacture; (iii) Require other satisfactory assurances or security from you that our invoices will be paid when due; and/or (iv) Accelerate and demand immediate payment of any amounts owed.
14. Any payment not made within 30-days after it is due in accordance with these Terms shall be subject to interest from the due date until paid at the lesser of 1.5% per month, or the highest rate permitted by applicable law. You shall be liable for all costs and expenses incurred by us in collecting any past due sums, including reasonable attorney’s fees and costs.
15. We may, at our sole discretion, use any money received from you towards the payment of any debt owed by you, under this or any other contract, irrespective of any instructions by you to the contrary, without discharging your liability for any additional amounts owed to us. Any acceptance of such payment by us shall not constitute a waiver of our right to pursue the collection of any remaining amounts due. Any disputes, which may arise under the Contract, or delays beyond our reasonable control, shall not excuse you from your contractual obligation to pay all sums due hereunder as agreed.

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DELIVERY; INSPECTION; RETENTION OF TITLE:

16. Our obligation with respect to delivery ceases once we have provided the Goods to the carrier, or once we have notified you that the Goods are ready for collection at our premises. Thereafter, all risk of damage, loss or delay in transportation shall be borne by you.
17. Unless otherwise stated in writing by us, all Goods are F.O.B. Origin and we shall deliver the Goods freight prepaid if you pay or reimburse us for all applicable costs of transport, handling, freight, insurance, duty and any other shipping related charges. In the absence of direction or instructions to the contrary, Starlite, on behalf of the Buyer, will exercise its own discretion as to the method of shipment and the selection of the carrier, but shall not be deemed thereby to assume any liability in connection with the shipment, nor shall the carrier thereby be deemed an agent of Starlite.
18. We may deliver the Goods in installments, in which case each shipment shall be a separate sale, and may be invoiced separately.
19. You shall pay each invoice in accordance with its terms and failure by us to deliver any one or more of the installments in accordance with these Terms, or any claim by you with respect of any one or more installments, shall not entitle you to treat the Contract as a whole as repudiated.
20. Any delivery dates or schedules indicated are good faith estimates only and are not guaranteed. While we will make reasonable efforts to make shipments as scheduled, time for delivery shall not be of the essence, and any requirement for expedited or special delivery shall be at your sole cost and expense. We shall not, in any event, be liable for any damages, whether consequential; incidental special or otherwise, for any delay in shipment, delivery or performance, and any such delay shall not relieve you of your obligation to subsequently accept any shipments or services.
21. If you fail to take delivery of the Goods in whole or in part, or fail to provide us with adequate delivery instructions at the time stated for delivery, then without prejudice to any other right or remedy available to us, we may store the Goods until actual delivery, and charge you for the reasonable costs of storage, or sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to you for any excess over the price of the Contract, or charge you for any shortfall below the price of the Contract.
22. You shall inspect the Goods immediately upon arrival, or on collection, as may be the case, and indicate any evident damage on the delivery note, and have the carrier's agent sign the document. While your claim shall be solely against the carrier, if you provide us timely written notice in the event of any loss or damage during shipment, we will attempt to provide reasonable assistance to you with your claim against the carrier.
23. We shall not be liable for any discrepancies or shortages, which would be apparent on reasonable careful inspection. You must present any claim relating to condition, quality, shortage or grade of the Goods to us in writing within five (5) days after delivery of the Goods. Your failure to give such notice shall conclusively deem the Goods delivered and accepted in all respects, and in full conformity with these Terms, and you shall not subsequently be entitled to reject the same or to raise any claim for reparations or for another remedy. In all cases where defects or shortages are alleged, we shall have no liability in respect thereof unless we have had an opportunity to inspect the Goods and investigate any complaint prior to any use, alteration, modification, disposal or other dispensation thereto by you.
24. Notwithstanding delivery, and the passing of risk in the Goods, Title to the Goods shall not pass from Starlite to you until we have received all payments due hereunder in cash or cleared funds, including any interest or other sums due. The Goods shall be and shall remain personal or moveable property, notwithstanding their mode of attachment to realty or other property.

EXCUSABLE DELAYS; CHANGE ORDERS; RETURNS:

25. We shall not be liable for delays or defaults in delivery or performance due to any acts of God or public enemies, war or military activity, riots, insurrection or sabotage, fires, floods, explosions or other catastrophes, unusually severe weather, accidents, epidemics or quarantine restrictions, acts of local, state or national governments or public agencies, labor disputes or shortages, energy or material shortages, utility or communication failures or delays, threats or acts of terrorism, delays of any supplier, or any other causes beyond the reasonable control and without the fault or negligence of Starlite. In the event of any such delay, the date of delivery shall be deferred for a period equal to the time lost because of the delay.
26. Orders accepted by us are not subject to change or cancellation by you unless you have received our written consent. We will review any proposed change you submit in writing, to determine if they are acceptable to us, and to establish the effect of the proposed changes, including shipping schedules, prices, and other factors. We will then submit to you our decision to accept or reject the proposed changes and/or any amendments to the shipping schedules, selling prices and other terms upon which the proposed changes would be acceptable to us. The changes shall become effective as amendments to this Contract upon your written acceptance of our amended terms.
27. You may not return any Goods without our prior written approval. All returns are subject to restocking fees and other charges, and our product return procedures then in effect. You must return the Goods to us (or as we otherwise direct) in the original or equivalent packaging, freight prepaid, at your expense and risk.
28. Certain Goods are not returnable, including custom or special-order Goods, items modified for you, computers, software, expendable supplies (such as lamps, fuses, fluids, and the like) or items of a personal nature such as headphones, ear buds, etc.
29. Goods returned for any reason other than warranty repair or defect, must be in original "as-new", undamaged and untarnished condition, and must include, at the time of return, all original packaging materials, manuals, documentation, and accessories.

DEFAULT:

30. An occurrence of any of the following shall constitute an Event of Default: (i) You fail to pay when due any amount owed under these Terms and that failure continues for 30-days or more; (ii) You commit any material breach, or default in the performance of any obligation under these Terms; (iii) You acknowledge in writing that you are insolvent or unable to pay your debts, or you fail generally to pay your debts when due; (iv) You file a voluntary petition, or one or more of your creditors files a petition seeking your rehabilitation, liquidation, or reorganization under any law relating to bankruptcy, insolvency, or other relief of debtors; (v) A receiver or other custodian is appointed to take possession of any of your assets; (vi) You take any action toward the dissolution or winding up of your affairs or the cessation or suspension of your activities; (vii) A court enters a decree or order directing the winding up or liquidation of any or all of your assets; (viii) You make a general assignment for the benefit of your creditors; (ix) Any attachment, execution, or other judicial seizure is levied against all or substantially all of your assets; (x) The condition of your affairs changes as to, in Starlite's opinion, impair Starlite's security or increase the credit risk involved; or (xi) If Starlite reasonably anticipates that any of the events enumerated above is about to occur.

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EFFECT OF DEFAULT:

31. If you default on any of the payments due herein, you agree that we may retain all payments, which have been made on account of the purchase price as liquidated damages and/or claim the return of any Goods in your possession, the title of which has not passed to you, in which case we shall be free to enter the premises where the goods may be located, without the need to give notice and without any court order or another process of law, and without liability for trespass to remove them as Starlite's property, without prejudice to our right to recover any further expenses or damages we may suffer by reason of such nonpayment.
32. We shall have the right to terminate this Contract or to defer or discontinue further shipments hereunder until past due payments are made and satisfactory assurances of your financial responsibility are received by us (without prejudice, however, to any other rights or claims which we may have at law or in equity).
33. We may declare all of your outstanding bills under this or any Contract immediately due and payable and/or sell all or part of the undelivered Goods, without notice at public and/or private sale, in which case you shall be responsible for all costs and expenses of such sale and be further liable to us for any shortfall in the discharge of the amounts due to us, without us incurring any liability whatsoever to you in any suit, action, or another proceeding. All of the foregoing rights shall be in addition to, and not in limitation of, the rights of a Secured Party, as set forth in the Uniform Commercial Code. You shall not construe anything contained in this section as entitling you to return any of the Goods to us, except as expressly provided in these Terms or as otherwise agreed to in writing between the parties.

LABOR AND SERVICES:

34. Unless otherwise specified in writing by us, where the Goods include the provision of any services, work or labor, we have based all labor pricing on Open Shop (Non-Union) labor, and conformity to all labor regulations, whether it be the payment of money, meeting local craft requirements or otherwise, is exclusively your responsibility. We shall perform all work during normal business hours of 8:00 AM to 5:30 PM, Monday through Friday, excluding recognized holidays and any work required outside of normal business hours, or the need to work more than 8-hours in a day, or 40-hours in a week, or to work second or third shifts shall result in additional charges to you. We have calculated our labor costs reflecting the continued and unrestricted access to the job site and facility where the work is to take place, and any access restrictions, interruptions, work stoppages or rescheduling of work not directly caused by us shall result in additional charges to you.

WARRANTY PROVISIONS:

35. **LIMITED WARRANTY:** IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, STARLITE WARRANTS ALL NEW GOODS MANUFACTURED BY STARLITE TO BE FREE OF SUBSTANTIAL DEFECTS IN MATERIAL AND WORKMANSHIP UNDER NORMAL USE AND SERVICE FOR A PERIOD OF 120-DAYS FROM THE DATE OF DELIVERY. STARLITE MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO ANY GOODS FURNISHED BY STARLITE, BUT NOT MANUFACTURED BY STARLITE, AND ANY GOODS SOLD HEREUNDER, WHICH ARE NOT MANUFACTURED BY STARLITE, ARE WARRANTED ONLY TO THE EXTENT PROVIDED BY, AND ENFORCEABLE AGAINST, THE MANUFACTURER OF SUCH GOODS OR SUPPLIER OF SUCH SERVICES. THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY HAVE OTHER RIGHTS THAT VARY BY STATE.
36. **What we will do under this limited warranty:** During the warranty period, to the extent applicable and qualifying, Starlite shall, at its sole option, provide one of following four remedies to whatever extent it shall deem necessary: (i) Elect to repair or facilitate the repair of the defective Goods; (ii) Replace the product with a direct replacement, or with a similar product; (iii) issue a credit on account, or (iv) issue a refund for the Goods or proportionate part thereof, which upon inspection we determine are non-conforming. Any Goods repaired or replaced under this warranty are warranted for the unexpired portion of the original warranty. Starlite shall pay the shipping costs necessary to return the Goods once the repair is complete.
37. **What we will not do under this limited warranty:** If we direct you to return any Goods to us, the manufacturer, or any other party, you must insure the Goods during shipment, with the insurance and shipping charges prepaid by you. If you return the Goods uninsured, you assume all risk of loss or damage during shipment. Starlite shall not be liable for any costs related to the removal, transportation or reinstallation of the Goods from or into any installation, or any costs or expenses related to setting the Goods up, making adjustments thereto, programming, or for the provision of any temporary substitute Goods.
38. **Other warranty conditions:** There is no warranty with respect to any Goods' uninterrupted or error-free operation or actual performance, other than the Good's capability to meet the Manufacturer's specifications therefor. Warranty coverage under this limited warranty only applies to the original purchaser of the Goods and this limited warranty is not transferable to subsequent purchasers or owners of the Goods. None of the warranties contained herein shall apply, unless you have paid the total purchase price in full for the entire order containing the defective Goods by the required date, and your account is current. This limited warranty shall be void If the original identification information (such as the product serial number) has been obliterated altered or removed.
39. **There shall be no warranty, where in our discretion, any Goods are damaged or impaired as a result of any:** misuse negligence or accident; abuse impact or other force; improper or insufficient maintenance inspection or calibration; improper application installation storage or use; operation of the Goods under any specification other than, or in addition to, the manufacturers published specifications for them including without limitation, environmental, performance, electrical, mechanical, temperature, or humidity specifications; unauthorized or improper repairs, modifications or alterations made or performed by persons other than Starlite or the manufacturer; use under inappropriate conditions or not in accordance with operating instructions; installation of unapproved third party Goods; use in conjunction with or interfacing with unapproved accessory equipment; normal wear and tear; use of third-party parts in the operation or maintenance of the Goods; damage caused by lightning or other electrical discharge, or abnormal voltage, water or moisture, corrosion or exposure to environmental conditions for which the Goods are not intended, including any Force Majeure event; improper site preparation or maintenance; Buyer-supplied software or supplies; problems resulting from operator failure or user error; any equipment rendered obsolete or non-working due to changes in the law or regulatory environment. (I.e. wireless frequencies and other licenses), items consumed by the products during their ordinary use including fuses, batteries, lamps, fluids or any cosmetic damage.
40. **Obtaining a remedy under this limited warranty:** In order to obtain a remedy under this limited warranty, you must request an RMA, by visiting: <https://starlite.com/forms> Once Starlite approves your return, we will provide you with an RMA number authorizing the return in accordance with our

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instructions. We will require the return of the nonconforming goods, transportation prepaid and packaged in the original or equivalent box to prevent loss or damage to goods. Any Goods received by us which have not been pre-authorized for return or any Goods which are not eligible for return shall not be acted on by us and will be returned to you freight collect.

41. **DISCLAIMER OF CONSEQUENTIAL DAMAGES:** IN NO EVENT SHALL STARLITE BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, CONSEQUENTIAL OR OTHER DAMAGES OF ANY KIND, INCLUDING LOSS OF USE, LOSS OF (ANTICIPATED) PROFITS OR BUSINESS REPUTATION, COST OF SUBSTITUTE EQUIPMENT, LOSS OF DATA OR ANY EXPENSES, FINES, FEES OR OTHER COSTS WHATSOEVER RESULTING FROM OR CAUSED BY THE USE, OPERATION, FAILURE, MALFUNCTION OR DEFECTS OF ANY OF THE GOODS (IT BEING UNDERSTOOD THAT THE GOODS SOLD TO YOU ARE NOT CONSUMER GOODS), OR OUR PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT OR THE FURNISHING, PERFORMANCE OR USE OF ANY GOODS SOLD HEREUNDER, WHETHER DUE TO BREACH OF CONTRACT, BREACH OF WARRANTY, STRICT LIABILITY, PRODUCT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, WHETHER OR NOT WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.
42. **LIMITATION OF LIABILITY:** IN ORDER FOR YOU TO OBTAIN THE BENEFITS OF A FEE WHICH INCLUDES A LESSER ALLOWANCE FOR RISK FUNDING, THE RISKS HAVE BEEN ALLOCATED SUCH THAT YOU AGREE, TO THE FULLEST EXTENT PERMITTED BY LAW, TO STRICTLY LIMIT STARLITE'S MAXIMUM LIABILITY FOR ANY CAUSE OR COMBINATION OF CAUSES ARISING FROM STARLITE'S ACTS, ERRORS, OMISSIONS, OR DAMAGES OF ANY KIND REGARDLESS OF LEGAL THEORY, WHETHER OR NOT SUCH DAMAGES ARE FORESEEABLE, SUCH THAT THE TOTAL AGGREGATE LIABILITY OF STARLITE SHALL NOT EXCEED THE LESSER OF (A.) ACTUAL DAMAGES OR (B.) THE TOTAL AMOUNT ACTUALLY RECEIVED BY STARLITE HEREUNDER, AND THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT ENLARGE OR EXTEND THIS LIMIT.
43. **EXCLUSIVE REMEDY:** TO THE MAXIMUM EXTENT PERMITTED BY LAW, THIS LIMITED WARRANTY AND THE REMEDIES SET FORTH HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REMEDIES AND CONDITIONS, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED. TO THE MAXIMUM EXTENT PERMITTED BY LAW, STARLITE SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. SHOULD ANY LIMITATION ON STARLITE'S LIABILITY HEREUNDER BE HELD INEFFECTIVE UNDER APPLICABLE LAW, THEN STARLITE'S LIABILITY SHALL, IN ANY EVENT, BE LIMITED TO THE MINIMUM AMOUNT OF DAMAGES TO WHICH STARLITE MAY LIMIT ITS LIABILITY.
44. **INDEMNITY:** TO THE FULLEST EXTENT PERMITTED BY LAW AND NOTWITHSTANDING THE AVAILABILITY AND POLICY LIMITS OF ANY INSURANCE, YOU SHALL INDEMNIFY DEFEND (WITH COUNSEL REASONABLY ACCEPTABLE TO US) AND HOLD HARMLESS STARLITE AND ITS AFFILIATES AND THEIR RESPECTIVE OWNERS, OFFICERS, DIRECTORS, PERSONNEL, AGENTS, CONTRACTORS, VOLUNTEERS, SERVANTS AND SUCCESSORS AND ASSIGNS COLLECTIVELY ("INDEMNIFIED PARTIES") FROM AND AGAINST ALL CLAIMS, DEMANDS, DAMAGES, LOSSES AND EXPENSES, INCLUDING LEGAL FEES ARISING OUT OF OR RESULTING IN WHOLE OR IN PART FROM THE ACTS OR OMISSIONS OF THE BUYER OR THE BREACH OF THE CONTRACT BY BUYER, OR THE ACTS OR OMISSIONS OF ANY OTHER PARTY REGARDLESS OF WHETHER SUCH CLAIM, DEMAND, DAMAGE, LOSS OR EXPENSE IS CAUSED IN PART BY, OR RESULTED IN PART FROM, THE PERFORMANCE OR FAILURE TO PERFORM OR NEGLIGENCE (WHETHER CHARACTERIZED AS NEGLIGENCE OR GROSS NEGLIGENCE) OF ANY INDEMNIFIED PARTY. THIS OBLIGATION SHALL SURVIVE THE TERMINATION, COMPLETION OR EXPIRATION OF THIS CONTRACT.
45. **DISCLAIMER OF WARRANTY:** EXCEPT AS EXPRESSLY SET FORTH ABOVE, STARLITE DOES NOT MAKE ANY OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. ALL IMPLIED WARRANTIES AS TO SATISFACTORY QUALITY, PERFORMANCE, MERCHANTABILITY, AND FITNESS FOR PARTICULAR PURPOSE OR NON-INFRINGEMENT ARE EXPRESSLY DISCLAIMED. ALL LIABILITY OF STARLITE SHALL TERMINATE UPON THE EXPIRATION OF THE WARRANTY PERIOD.
46. **MISCELLANEOUS:**
 - a) **Counterparts.** The Contract may be executed in separate and several counterparts, each of which is original, but all of which when taken together, form one single document.
 - b) **Compliance with Laws.** Each party shall comply in all respects with all applicable legal requirements governing the duties, obligations, and business practices of that party and shall obtain any permits or licenses necessary for its operations. Neither party shall take any action in violation of any applicable legal requirement that could result in the imposition of any liability on the other party.
 - c) **Intellectual Property Rights.** All Intellectual Property Rights produced from or arising as a result of the performance contemplated herein shall, so far as not already vested, become the absolute property of Starlite, and you shall do all that is reasonably necessary to ensure that such rights vest in Starlite by the execution of appropriate instruments or the making of agreements with third-parties.
 - d) **Limited Relationship.** The parties are Independent Contractors and nothing in this Contract creates any relationship of association, partnership or joint venture between them, or constitutes either party as the agent or legal representative of the other for any purpose whatsoever.
 - e) **Successors and Assigns.** These Terms shall inure to the benefit of, and be binding upon, the heirs, legal or personal representatives, successors and assigns of the parties hereto. The delegation or assignment by Buyer of any or all of its duties or rights hereunder by operation of law, merger or otherwise without our prior written consent shall be void.
 - f) **Waiver.** Our failure to enforce any provision of these Terms shall not in any way be construed as a waiver of any such provision, or prevent us thereafter from enforcing each and every other provision of these Terms.
 - g) **Governing Law; Jurisdiction and Venue.** The Parties agree that these Terms, any sales thereunder, or any claim, dispute or controversy (whether in contract, tort or otherwise) between you and Starlite arising from or relating to these Terms, their interpretation or the breach, termination or validity thereof, the relationships which result from these Terms, or any related purchase shall be governed by the laws of the state of New Jersey, without regard to "conflicts of law" principles. The parties agree that all claims and matters arising out of these Terms shall be conducted in courts located in New Jersey and consent to the personal jurisdiction of these courts and waive any objection that such venue is inconvenient or improper.
 - h) **Security Interest.** You hereby grant to us a security interest in the Goods sold to you hereunder and any proceeds therefrom (including accounts receivable), until payment in full for the Goods has been received by us. You shall sign and deliver to us any document required to perfect such security interest that we reasonably request.
 - i) **Waiver of Jury Trial.** Each of the parties hereto irrevocably waives all rights to a trial by jury in any legal proceeding arising out of or relating to these Terms or the transactions contemplated hereby.

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- j) **Limitation of Actions.** No action arising out of or relating to this agreement or the transactions it contemplates may be commenced against us more than 12 months after the basis for such claim could reasonably have been discovered.
- k) **Severability.** If a court of confident jurisdiction finds any provision of these Terms to be invalid, illegal or unenforceable, such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability, and the validity legality and enforceability of the remaining provisions shall not, in any way, be affected or impaired thereby.
- l) **Rights and Remedies Cumulative.** All rights and remedies arising under these Terms as amended and modified from time to time are cumulative and not exclusive of any rights or remedies which may be available at law or otherwise and may be exercised concurrently or separately.
- m) **Survival.** Any provision of these Terms that contemplates performance or observance subsequent to termination or expiration of this Contract shall survive termination or expiration of this Contract and continue in full force and effect.
- n) **Recovery of Expenses.** In any adversarial proceedings between the parties arising out of these Terms or the transactions they contemplate, the prevailing party shall be entitled to recover from the other party, in addition to any other relief awarded, all expenses that the prevailing party incurs, including legal fees and expenses.
- o) **Headings.** The headings contained herein are for convenience purposes only and shall not affect in any way the meaning or interpretation of these Terms.
- p) **"Including"** Where these Terms use the word "including", it means, "including without limitation" and where these Terms use the word "includes", it means, "includes without limitation".
- q) **Number and Gender.** Unless the context requires otherwise, words importing the singular number include the plural and vice versa; words importing gender include all genders.
- r) **Entire Agreement.** The parties intend that these Terms constitute the final expression of the parties' intent and agreement between them relating to the subject matter hereof, and supersede any previous discussions, understandings, agreements, undertakings or proposals, oral or written.
- s) **Amendments.** No amendment to these Terms shall be binding unless it is in writing and signed by both parties.
- t) **Notices.** All notices and other communications between the parties must be in writing. Notices must be given by (i) personal delivery, (ii) a nationally-recognized, next day courier service, (iii) first class, registered or certified mail, postage prepaid, (iv) by fax or (v) electronic mail to the party's address specified in our quotation or invoice, or to the address that a party has notified us to be that party's address for the purposes of this section. A Notice given in accordance with these terms shall be effective upon receipt by the party to which it is given or, if mailed, upon the earlier of receipt and the fifth Business Day following mailing. The parties agree that such facsimile or email execution and delivery shall have the same force and effect as delivery of an original document with original signatures, and that each party may use such facsimile signatures as evidence of the execution and delivery of these Terms by all parties to the same extent that an original signature may be used.