

Terms and Conditions of Sale

1. ACCEPTANCE

Douglas Lighting Controls, Inc. is hereinafter referred to as "Seller" and the *Purchaser* is hereinafter referred to as "Buyer." Any order that contains Terms and Conditions in addition to or inconsistent with the following shall not be binding upon Seller unless acceptance of each non-conforming term or condition is clearly and expressly made in writing by Seller, and failure of Seller to object to provisions contained in any purchase order or other communication from Buyer shall not be construed as a waiver of these terms and conditions nor as acceptance of any such provisions. Acknowledgements of Buyer's order forms, facsimile orders or "releases" shall not be construed to be a waiver, amendment, or modification of these terms and conditions. Seller is not responsible for typographical or written errors made in any quotations, orders or publications and all such errors are subject to correction.

2. SHIPMENTS

All shipments of product will be made F.O.B. Point of Shipment. Freight will be allowed on orders in excess of \$2,500 to all points within the contiguous United States* and Provinces of Canada*, provided Seller selects the method and routing of the shipment. If Buyer specifies a manner or routing of shipment different from that determined by Seller, Seller will comply but ship product freight collect. If Seller chooses to split shipments on a single order of more than \$2,500, the freight charges will still be paid by Seller. Any Seller products may be combined in one shipment to meet minimum freight weight or dollar requirements. Shipment of plus or minus five (5) percent of order quantity will be considered to have completed the order and Buyer agrees to pay the extended price for the quantities shipped. Purchase orders containing penalty clauses for failure to meet shipment schedules are not acceptable unless specifically approved in writing by an officer of Seller. Prices quoted provide for standard packing for domestic shipment only. Buyer agrees to pay the charges for special packing if it is required for domestic shipment or export shipment.

*For shipments destined to Hawaii, freight will be allowed on orders in excess of \$5,000, provide Seller selects the method and routing of the shipment. For all other areas (e.g. Alaska and Territories of Canada) the cost of freight will be borne by the Buyer.

3. DELIVERY

The delivery date is the best estimate of the time when the products will be shipped by Seller. Seller assumes no liability for loss of profits, special, incidental or consequential damages due to delays. Seller assumes no responsibility for collection of loss or damage claims. Evident loss or damage to a shipment must be indicated by a notation made by the carrier's agent on the delivery receipt before the receipt is signed. The notation must clearly specify the extent of loss, shortage or damage.

4. INSPECTION AND ACCEPTANCE OR REJECTION

All products are subject to inspection by Buyer upon delivery and, unless Seller is advised to the contrary in writing within thirty (30) days after delivery, the products will be deemed to have been accepted as conforming to the requirements of the contract and free from all discoverable defects.

5. PRODUCT AVAILABILITY

Product availability may be limited. Products ordered may not be available for immediate delivery. Seller reserves the right, without liability or prior notice, to revise or cease to make available any or all Products. If there are any revisions to or cessation of Products, Seller may, with Buyer's consent, ship Products which have similar functionality and specifications to the Products originally ordered. Buyer will be given the opportunity to either reject or accept the substitute Product and price for the substitute Product which may differ from the price of the original Product. Product substitutions will not be available on legacy or obsolete Products.

6. RETURN POLICY

With Seller's authorization, Buyer may be permitted to return products in accordance with Seller's Return Policy. Component returns, except special order items, are subject to a 25% restocking fee. Pre-manufactured jobs are subject to up to 50% restocking fee after orders are released to production and a 70% restocking fee after shipment.

An approved RMA, including the original purchase order number, must accompany every return. Freight charges are to be prepaid by the customer. RMAs expire within 30 days from the issue date. In order for a product to be eligible for return it must be of current manufacture (produced in the last twelve months), unused, salable, and in original cartons. Any cost incurred by Seller to put product in condition for resale will be charged to the customer. This is in addition to the restocking fee. Seller cannot accept discontinued, made to order, or custom-built product as part of any return.

*Special Order Components

The following special terms and conditions shall apply to non-stocking components of Seller's products, unless otherwise negotiated in written form.

Seller will not accept any returns for special order product. Seller will define what is considered Special Order, on a project by project basis. Upon acceptance of a special order PO, Seller will be responsible for providing material. Special order component lead time may range from 8 to 20 weeks, depending on availability from manufacturer. Upon delivery of the special order material, material is considered accepted. Payment schedule is to comply with Seller's Terms and Conditions of Sale.

ANY WAIVER OR REDUCTION OF THE RESTOCK FEE OR CUSTOMER REQUESTED RETURNS MUST BE APPROVED BY SELLER'S MANAGEMENT.

7. PRICE AND MINIMUM ORDER AMOUNT

Quotation prices are firm for ninety (90) days from the date of the quotation, unless specifically stated to the contrary as part of a particular price quote, and are subject to change without notice after the expiration of this ninety (90) day period. Quotations are based on information provided at time of quote, any information that is not provided, but alters the quotation, will result in a new quotation being provided. Any variations in materials, quantity specified and/or rate of delivery may necessitate a revision in price. Unless otherwise stated as part of price quote, all prices are F.O.B. factory.

All products will be billed at prices in effect at time of shipment and, subject to change without notice, at a minimum billing charge of \$100 net plus transportation charges. Minimum order is \$100 net.

8. PAYMENT

The terms of payment for all orders are net 30 days (from date of invoice). If, in the judgment of Seller, the financial condition of Buyer at any time does not justify continuation of manufacture, or shipment on the payment terms specified, Seller may require full or partial payment in advance. If shipments are delayed by Buyer, payment dates will nevertheless be computed from the date on which Seller is prepared to make shipment. Additionally, a service charge will, without prejudice to any other rights of Seller to demand immediate payment, be added to Buyer's account in the amount of 1.5% per month (or whatever is maximum allowable in the state in which the Buyer is located) on the unpaid past due balance. In the event it becomes necessary to place Buyer's account with a collection agency or attorney, Buyer agrees to pay all cost and reasonable attorney's fees. Buyer further agrees that this is a British Columbia contract construed according to British Columbia law and that any litigation between the parties to this agreement will be exclusively within British Columbia jurisdiction unless otherwise chosen by Seller.

9. TAXES

Seller's prices do not include any federal, provincial or local property, sales, use, excise or similar tax. Consequently, in addition to the prices specified, the amount of any present or future sales, use, excise or similar tax imposed due to the sale or products or services shall be paid by Buyer unless Buyer furnished an acceptable tax exemption certificate in advance to Seller.

10. CATALOG ITEMS

Seller reserves the right to change the prices, discontinue, modify or alter any and all catalog items at any time without notice. Should such cancellation, modification or alteration prevent the delivery of all or part of any order, Seller will be excused from further delivery.

11. TITLE AND RISK OF LOSS

Title and risk of loss to the products supplied hereunder shall pass to Buyer at the F.O.B. shipping point.

12. WARRANTY.

Seller's Products, including systems, are warranted for one year from date of purchase by the Buyer against factory defects due to materials and the company's workmanship only. The Seller's sole obligation is to repair, or at the Seller's option, to replace defective materials. Seller extends this limited warranty to the original or first end-user Buyer only. This warranty is conditional based upon proper storage, installation, use and maintenance. This warranty is not applicable to, and Seller makes no warranty whatsoever with respect to, any Lighting Product not installed and operated in accordance with the National Electric Code (NEC), the Standards for Safety of Underwriters Laboratories, Inc. (UL), Standards for the American National Standards Institute (ANSI) or, in Canada, the Canadian Standards Association (CSA). Nor is this warranty applicable to any Lighting Product which has not been installed and operated in accordance with Seller's specifications and connection diagrams or Lighting Products which have been subjected to abnormal operating conditions.

SELLER EXPRESSLY DISCLAIMS, AND BUYER ACKNOWLEDGES, THAT NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE SHALL APPLY TO ANY PRODUCTS SOLD.

The foregoing warranty is exclusive of all other statutory, written or oral warranties and no other warranties of any kind, statutory or otherwise, are given or herein expressed.

Limitations of Liability

Under no circumstances, whether as a result of breach of contract, breach of warranty, tort, strict liability or otherwise, will Seller be liable for consequential, incidental, special or exemplary damages, including, but not limited to, loss of profits, loss of use or damage to any property or equipment, cost of capital, cost of substitute product, facilities or services, down time costs or claims of claimant's customers.

Seller's liability for all claims of any kind or for any loss or damages arising out of, resulting from or concerning any aspect of this warranty or from the Lighting Products or services furnished hereunder, shall not exceed the price of the specific Lighting Product which gives right to the claim.

13. CANCELLATION AND RESCHEDULING

Cancellation

Cancellation of an order for a standard product whose value exceeds \$10,000, within two weeks of the original Seller's estimated ship date of that product would be subject to prior approval by appropriate Seller's management. The buyer, without approval, can cancel any line item for a standard product that is valued LESS THAN \$10,000 AND/OR is more than two weeks from the Seller's original estimated ship date. If the Buyer wishes to cancel any line item, standard product, valued OVER \$10,000 AND/OR within two weeks of the Seller's original estimated ship date, this cancellation would be subject to prior approval by appropriate Seller's management.

If an order for a custom product or a make to order product is canceled within 4 weeks of the Seller's original estimated ship date of that product, Seller will apply a cancellation fee. Specific charges will vary, depending on the product involved, quantity, status, and number of unique components (if any). The Regional Sales Manager, without approval, can cancel any item for custom or make to order product that is valued LESS THAN \$10,000 AND/OR is more than four weeks from the Seller's original estimated ship date. If a buyer wishes to cancel any line item, custom or make to order product, valued OVER \$10,000 AND/OR within four weeks of the Seller's original estimated ship date, this cancellation would be subject to prior approval by appropriate Seller's management.

For projects in which approval or submittal drawings are in progress, but not yet submitted and the order cancelled, Seller may charge up to 5% in order to recoup engineering and design effort expanded on the preparation of the submittal package.

For projects in which approval or submittal drawings have been completed and submitted and the order cancelled Seller may charge up to 10% of the value of the project in order to recoup engineering and design effort expanded on the preparation of the submittal package.

Re-Scheduling

Any line item, on any order, may be rescheduled by a Buyer one time, for later shipment, by no more than two weeks. Subsequent reschedules or reschedules beyond two weeks of that line item may be permitted, but will be subject to prior approval of the appropriate Seller's management.

14. DELAY

Delay in delivery of any installment shall not relieve Buyer of its obligation to accept remaining installments. If Buyer delays shipment after completion of the products ordered by Buyer, title will pass to Buyer, and Seller will issue an invoice. Storage and handling costs will accrue to Buyer's account until shipment is made.

15. FORCE MAJEURE

In the event either party is prevented from performing this contract by circumstances beyond its control, and without its fault, including without limitation, strikes, lockouts, fire, explosion, flood, acts of God, war or other hostilities, acts of terrorism, banking or other systemic economic failure, riot or other civil commotion, embargoes or other governmental acts, orders or regulations, breakdown of machinery, and inability to obtain shipping facilities or supplies, the obligation of Seller to deliver and the obligation of Buyer to accept delivery of products or services hereunder during the period of such disability shall be suspended and the products or services so affected shall by mutual agreement either be eliminated from this contract without liability to either party or reasonable extensions of the time for performance will be granted.

16. GOVERNMENT CONTRACTS

In the event this order is for products or services to be furnished by Buyer under any government contract or purchase order, Seller shall have all rights of Buyer that are available to Buyer under such government contract or purchase order, whether or not Buyer is a prime contractor or supplier to the government or is a subcontractor at any tier.

17. GOVERNING LAW

The contract will be governed by and construed according to the laws of the Province of British Columbia, Canada.

18. REVISIONS

Seller reserves the right to revise or amend any or all items contained herein.

19. BACKCHARGES

Seller does not accept any backcharges from any Agency (Representative of Seller) or any contractor performing installation and/or commissioning work, without express written authorization from appropriate Seller's management.

20. DEFICIENCIES

Seller retains the right, at its expense, to correct identified deficiencies in a manner that satisfies Seller's contractual obligation to the project, and which have been reported to Seller within 30 days of initial system start-up. After 30 days the Buyer's only recourse will be through the warranty process as outlined in these Terms and Conditions.

Above Terms and Conditions of Sale take Precedence over any other Terms and Conditions.