

# Lithonia Lighting Terms and Conditions of Sale, Canada

For Shipments Within Canada

Effective January 14, 2009

## TERMS:

All Lithonia Lighting Canada, a division of Acuity Brands Lighting, Inc. ("Lithonia Lighting") Commercial and Industrial (C&I) products payment terms are 1% - 10<sup>th</sup> Prox, Net 25<sup>th</sup> Prox.

## FREIGHT ALLOWANCE:

Lithonia Lighting Canada Commercial and Industrial (C&I) products may be combined on an order to qualify for freight allowance. Peerless, Peerlite, Hydrel and Antique Street Lamps products cannot be combined on an order with Lithonia C&I product or with any other brand to qualify for freight allowance.

For shipments outside Canada, contact factory for applicable terms and conditions.

All shipments are F.O.B. our plants, vendors, Distribution Centers or Field Warehouses All orders for Lithonia Canada C&I product having a distributor price of \$1,500 or more for one consignee for one release qualify for freight allowance. All orders shipping to Yukon, Northwest Territories, Labrador and northern regions will be shipped F.O.B. origin, freight collect. All Lithonia Lighting Canada C&I orders having a distributor price less than \$1,500 will be assessed freight and handling charges. Anchor bolts are included with Lithonia Canada C&I poles. Pre-shipped anchor bolts having a distributor price of less than \$1,500 will be assessed freight and handling charges. Warehouse orders can only consist of products carried in stock.

**ALL SHIPMENTS** — For orders that qualify for freight allowance, we reserve the right to select the carrier and to route shipments at our discretion. We will ship in the manner selected by the customer provided the customer assumes any additional transportation costs.

## TRANSPORTATION CLAIMS:

Our equipment is tested for malfunctions and defects prior to shipping. Our packaging is regularly inspected by transportation authorities who assume responsibility for both apparent and concealed damages sustained by improper handling. Title passes to purchaser upon delivery by us to carrier, and all claims for damages or shortages in transit shall be made by purchaser with delivering carrier. Bills of Lading marked with "Shippers Load and Count" do not constitute a transfer of liability for the freight or damages from the purchaser to Lithonia Lighting.

## PACKAGING:

The company reserves the right to optimize packaging at our discretion. Some products may only be available in bulk package multiples or case quantities.

## PRICES:

Prices are subject to change without notice. In the event of price increases, all accepted orders on hand will be filled at lower prices provided such orders are released from shipping prior to the effective date of the price increase. If the orders are not released for shipment prior to the price increase, the orders will be billed at prices in effect at the time of the shipment. Minimum billing for all product and parts orders is \$75 net. Prices do not include lamps unless so specified. Prices exclude all taxes.

## RETURN OF STOCK MERCHANDISE:

No merchandise may be returned without prior written authorization from our Customer Care. Requests to return merchandise must be made with our agents for transmittal to the Customer Care within four (4) months from date of shipment by us. All returns must be shipped prepaid to the location designated on the return authorization. Credit will be issued based on the original invoice price, or price in effect at time of return, whichever is lower, less a minimum disposition charge of 35% (to defray our cost of handling). All returned product must be in salable condition in order to qualify for credit. Return authorization will not be granted when the value of all items to be returned is less than \$300. All stock products containing time-sensitive components that have reached the end of their warranty or shelf life are not returnable. Outdated or phase-out stock products are also not returnable.

## NON-RETURNABLE MERCHANDISE

All non-stocking, special, custom made, modified products, and parts are not returnable. All Lithonia C&I stock and non-stock poles are not returnable.

## SERVICE AREA LIMITATION:

The company reserves the right to refuse to make quotations, accept orders or make shipments to points of destination outside of the regular or assigned selling and service area of the distributor.

## LIMITED WARRANTY:

Lithonia Lighting Canada warrants all products sold hereunder to be free from defect in manufacturing, under normal and proper storage, installation, and use, for a period of one (1) year from the date of shipment. Our warranty liability extends only to the repair or replacement of the defective part and no labor charges for correction of the defect by repair or replacement will be paid by Lithonia Lighting Canada unless prior written authority has been granted by our Post-Sale department.

Lithonia Lighting shall not be liable for damages that result from deliveries that do not occur within a customer's specified time frame or for any delay or default in delivering products where occasioned by any cause beyond the control of Lithonia Lighting, including without limitation embargoes; shortages of labor, raw materials, or fuel; fires; floods; accidents; acts of war; or other similar causes.

Products from Lithonia Emergency Systems, except lamps and fuses, are warranted for a period of three (3) years, warranty limitations the same as above.

All components of the KiloWatch System, consisting of the factory-installed electrical system inside the HID lighting fixtures, the external switching devices, and all KiloWatch modified lighting fixtures used in the KiloWatch System, are warranted for a period of five (5) years, warranty limitations the same as above.

All polycarbonate lens shielding supplied with Rough Service products is warranted against breakage for the lifetime of the product, warranty limitations the same as above. All HID Industrial lighting fixtures are warranted for a period of five (5) years, warranty limitations the same as above.

Anchor bolts must be installed using current factory-furnished templates.

**Fluorescent Ballast Guarantee:** Ballasts are those of recognized, responsible manufacturers. Orders calling for specified brand name or type ballast will be handled on a quotation basis only. Claims for defective ballast found to be in warranty should be made directly to the ballast manufacturer through their ballast service center of their field representative in order to expedite replacement. Lithonia Lighting is not responsible for any costs or expenses, including without limitation any labor charges for replacement of ballasts. Any such costs would be the responsibility of and must be authorized by the ballast manufacturer. Copies of each manufacturer's standard ballast replacement program are available upon request from Lithonia Lighting Canada representatives or can be accessed via [www.lithonia.com](http://www.lithonia.com).

THE FOREGOING WARRANTY TERMS ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES. LITHONIA LIGHTING MAKES NO REPRESENTATIONS OR WARRANTIES EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS AND CONDITIONS, AND LITHONIA LIGHTING EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO DISTRIBUTOR OR SUPPLIER OF LITHONIA LIGHTING HAS THE AUTHORITY TO MODIFY OR AMEND THIS LIMITED WARRANTY.

## LIMITATION OF LIABILITY:

The foregoing limited warranty provides the purchaser's sole and exclusive remedy relating to Lithonia Lighting's products. The total liability of Lithonia Lighting on any and all claims of any kind, whether in contract, warranty, tort (including negligence), strict liability or otherwise, arising out of or in connection with, or resulting from, Lithonia Lighting's performance or breach of the foregoing limited warranty or from Lithonia Lighting's sale, delivery, repair, or replacement of any products, or the furnishing of any services, shall in no event exceed the purchase price allocable to the specific product which gives rise to the claim, and any and all such liability shall terminate upon the expiration of the limited warranty set forth above. IN NO EVENT SHALL LITHONIA LIGHTING BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER AS THE RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, STRICT LIABILITY) OR ANY OTHER THEORY.

## CANCELLATION CHARGES:

Orders for Distribution Center or Field Warehouse stocking items may be cancelled prior to shipping without charge. All other orders may not be cancelled unless we are reimbursed for work already performed and for special material purchased by our company. If an order is cancelled after shipment or if delivery is refused at destination, all warehousing, delivery, disposition and return costs will be charged to the customer.

## GENERAL:

Lithonia Lighting price sheets are not offers to sell and possession of a price sheet does not entitle one to purchase. Lithonia Lighting shall not be bound to sell any products unless it shall (in its sole discretion) accept submitted purchase orders. Specifications are subject to change without notice. Consult factory for verification. The compliance of our product to individual project specifications and the approval for their use is not warranted by our company. If purchaser does not pay the purchase price within the time periods set forth above, Lithonia Lighting reserves the right to assess a finance charge on any unpaid, past due balance up to the maximum legal rate. If any amount due Lithonia Lighting is collected by, or attempted to be collected through an attorney at law, Lithonia Lighting shall be entitled to recover all collection expenses, including attorney's fees.

## ACCEPTANCE:

Acceptance of orders can be made only at our plants, Distribution Centers or Field Warehouses for warehouse orders on the basis of these terms and conditions of sale. Lithonia Lighting will not accept orders that require customer-furnished components.

## ENTIRE AGREEMENT:

Except as expressly agreed in writing signed by Lithonia Lighting, the terms and conditions stated above shall constitute the entire sales agreement between Lithonia Lighting and the purchaser. Any contrary or additional terms or conditions submitted by the purchaser (other than the description of the products being ordered and the requested quantities, shipping date, and shipping location contained in purchaser's purchase order) shall be deemed to be of no force or effect and are hereby rejected. Purchaser's submission of a purchase order shall indicate purchaser's acknowledgment of and agreement with these Terms and Conditions.

*Lithonia Lighting Canada reserves the right to change these Terms and Conditions of Sale without notice.*



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