

# Lithonia Lighting Canada Terms and Conditions of Sale

For Shipments Within or To Canada  
Effective August 16, 2010

## **TERMS:**

Payment terms for sales by Acuity Brands Lighting Canada, Inc. d/b/a Lithonia Lighting Canada ("Lithonia Lighting Canada") of Commercial and Industrial (C&I) products manufactured and sold by Lithonia Lighting, a division of Acuity Brands Lighting, Inc. ("Lithonia Lighting"), are 1% 10th proximo net 25th. This means that a 1% discount is allowed on invoices paid by the 10th of the month following the month of billing, and payments made after the 10th are due on the 25th.

If purchaser does not pay the purchase price within the time periods set forth above, Lithonia Lighting Canada 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 Canada is collected by, or attempted to be collected through, an attorney at law, Lithonia Lighting Canada shall be entitled to recover all collection expenses, including attorney's fees.

## **FREIGHT ALLOWANCE:**

All orders for Lithonia Lighting C&I product having a distributor price of \$1,500 or more for one consignee for one release qualify for freight allowance. All orders for Lithonia Lighting product having a distributor price of less than \$1,500 will be assessed freight and handling charges.

Anchor bolts are included with Lithonia Lighting C&I poles. Pre-shipped anchor bolts having a distributor price of less than \$1,500 will be assessed freight and handling charges.

*ALL SHIPMENTS* — For orders that qualify for freight allowance, Lithonia Lighting Canada reserves the right to select the carrier and to route shipments at Lithonia Lighting Canada's discretion. In all other cases, Lithonia Lighting Canada will ship in the manner selected by the purchaser provided the purchaser assumes all transportation costs.

## **TRANSPORTATION CLAIMS:**

All shipments are F.O.B. Origin, freight prepaid and allowed, except that (i) all orders that do not qualify for a freight allowance will be shipped F.O.B. Origin, freight prepaid and add and (ii) all orders (regardless of size or price) shipping to Yukon, Northwest Territories, Labrador, Nunavut and northern regions will be shipped F.O.B. Origin, freight collect. Title and risk of loss passes to purchaser upon delivery by Lithonia Lighting Canada or Lithonia Lighting to carrier. Therefore, claims for damages or

shortages in transit are the responsibility of purchaser. 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 or Lithonia Lighting Canada.

## **PACKAGING:**

Lithonia Lighting and Lithonia Lighting Canada reserve the right to optimize packaging at their discretion. Some products may only be available in bulk package multiples or case quantities.

## **PRICES:**

Prices shown are in Canadian Dollars (\$). Prices are subject to change without notice. In the event of price increases, all accepted orders on hand will be filled at the lower prices provided such orders are released for 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. Special quoted orders that cannot be released for shipping prior to the price increase effective date may be subject to an increase in price. 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 Lithonia Lighting Canada Customer Care. Requests to return merchandise must be made with Lithonia Lighting Canada's agents for transmittal to Lithonia Lighting Canada Customer Care within four (4) months from date of shipment. All returns must be shipped prepaid to the location designated on the return authorization. A credit toward the future purchase of Lithonia Lighting C&I products 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 the cost of handling incurred by Lithonia Lighting Canada). All returned products must be in salable condition in order to qualify for such credit. Return authorization will not be granted when the value of all items to be returned is less than \$300.

## **NON-RETURNABLE MERCHANDISE**

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. All non-stock, special, custom made or modified products and parts are not

returnable. All Lithonia Lighting C&I stock and non-stock poles are not returnable.

## **SERVICE AREA LIMITATION:**

Lithonia Lighting Canada 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 Lithonia Lighting Canada's 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. Lithonia Lighting Canada's 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 Lithonia Lighting Canada's Post-Sale department.

Neither Lithonia Lighting nor Lithonia Lighting Canada shall be liable for damages that result from deliveries that do not occur within a purchaser's specified time frame or for any delay or default in delivering products where occasioned by any cause beyond the control of Lithonia Lighting or Lithonia Lighting Canada, including without limitation embargoes; shortages of labor, raw materials, or fuel; fires; floods; accidents; acts of war; or other similar causes.

Products from Lithonia Lighting 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 Lithonia Lighting KiloWatch® System, consisting of the factory-installed electrical system inside the HID lighting fixtures, the external switching devices, and all KiloWatch System modified lighting fixtures used in the KiloWatch System, are warranted for a period of five (5) years, warranty limitations the same as above. All other HID Industrial lighting fixtures are warranted for a period of two (2) 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.

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

Ballasts and lamps are those of recognized, responsible manufacturers. Orders calling for specified brand name or type ballast or lamps will be handled on a quotation basis only. Claims for defective ballast or lamps found to be in warranty should be made directly to the ballast or lamp manufacturer through their ballast or lamp service center or their field representative in order to expedite replacement. Neither Lithonia Lighting nor Lithonia Lighting Canada is responsible for any costs or expenses, including without limitation any labor charges, for replacement of ballasts or lamps. Any such costs are the responsibility of and must be authorized by the ballast or lamp manufacturer. Copies of each manufacturer's standard ballast and lamp replacement program are available upon request from Lithonia Lighting Canada representatives or can be accessed via [www.lithonia.com](http://www.lithonia.com).

Specifications are subject to change without notice. Consult Lithonia Lighting Canada Customer Care for verification. The compliance of Lithonia Lighting products to individual project specifications and the approval for their use is not warranted by Lithonia Lighting or Lithonia Lighting Canada.

THE FOREGOING WARRANTY TERMS ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES. NEITHER LITHONIA LIGHTING NOR LITHONIA LIGHTING CANADA MAKES ANY REPRESENTATIONS OR WARRANTIES EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS AND CONDITIONS, AND EACH OF LITHONIA LIGHTING AND LITHONIA LIGHTING CANADA 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 OR LITHONIA

LIGHTING CANADA 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 products. The total liability of Lithonia Lighting and Lithonia Lighting Canada 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 or Lithonia Lighting Canada's performance or breach of the foregoing limited warranty or from Lithonia Lighting or Lithonia Lighting Canada'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 OR LITHONIA LIGHTING CANADA 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 stock items may be cancelled prior to shipping without charge. All other orders may not be cancelled unless Lithonia Lighting and Lithonia Lighting Canada are reimbursed for work already performed and for special material purchased by Lithonia Lighting or Lithonia Lighting Canada. 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 purchaser.

**ACCEPTANCE:**

All orders are subject to final acceptance by Lithonia Lighting Canada. Lithonia Lighting Canada will not accept orders that require customer-furnished components.

Lithonia Lighting Canada price sheets are not offers to sell and possession of a price sheet does not entitle one to purchase. Lithonia Lighting Canada shall not be bound to sell any products unless it shall (in its sole discretion) accept submitted purchase orders.

**ENTIRE AGREEMENT:**

Except as expressly agreed in writing by Lithonia Lighting Canada, the terms and conditions stated above shall constitute the entire sales agreement between Lithonia Lighting Canada 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 of Sale. The sale of products hereunder does not transfer title to any of Lithonia Lighting's or Lithonia Lighting Canada's intellectual property rights to purchaser. The sale of products hereunder shall be controlled, construed and enforced in accordance with the substantive laws of the State of Georgia, USA, without regard to such state's laws related to choice of law. The foregoing shall not be governed by the terms of the United Nations Convention on Contracts for the International Sale of Goods.

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



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