

# Peerless Lighting Terms & Conditions of Sale

**EFFECTIVE JAN. 14, 2009**

For Shipments Within the United States

## TERMS

Peerless Lighting (a division of Acuity Lighting Group, Inc.), product payment terms are Net 30 days from date of invoice.

## FREIGHT ALLOWANCE

Peerless products cannot be combined on an order with Lithonia C&I product or any other brand for freight allowance.

For shipments outside the contiguous United States, contact factory for applicable terms & conditions.

All shipments are F.O.B. our Plants, Vendors, Distribution Centers or Field Warehouses. Title passes to purchaser upon delivery by us to the carrier. Purchaser has legal responsibility to file transportation claims for damage/shortage with the carrier. See TRANSPORTATION CLAIMS below.

All orders for Peerless product having a distributor price of \$1,000 or more for one consignee for one release qualify for freight allowance.

All Peerless orders having a distributor price less than \$1,000 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. For shipments outside the contiguous United States, consult factory for applicable terms & conditions.

## 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 the 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 consignee to Peerless Lighting.

## PACKAGING

The company reserves the right to optimize packaging at its 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 a price increase, all accepted orders on hand will be filled at 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 shipment. (Special quoted orders that cannot be released for shipping prior to the price increase may be subject to an increase in price.) Minimum billing for all product or parts orders is \$100 net. Prices do not include lamps unless so specified. Prices exclude all taxes.

## RETURNS

Peerless products are made-to-order and 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

Peerless Lighting 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. Claims for labor charges for correction of the defect by repair or replacement will not be honored by Peerless Lighting unless prior written authority has been granted by our Post-Sale Department. Peerless Lighting's liability does not extend to damages that result from deliveries that do not meet or occur within a customer's specified delivery time frame, or for any delay or default resulting from any cause, including, without limitation, embargoes; shortages of labor, raw materials, or fuel; fires; floods; accidents; acts of war; or other similar causes outside of our control.

HOT-5 fixtures typically ship with lamps included. Generally, HOT-5 lamps are warranted for two years by the lamp manufacturer. Separately, when Osram/Sylvania lamps and ballasts are installed in our HOT-5 fixtures, Osram/Sylvania's Quick 60+ warranty program covers lamps for a full two years and ballasts for five years, with convenient on-site professional support from Sylvania Lighting Services.

Fluorescent Ballast Warranties generally apply only to ballasts of recognized manufacturers. Orders calling for specified brand name or type ballasts will be handled on a quotation basis only. Any claims for defective ballasts found to be in warranty should be made directly to the ballast manufacturer through their local ballast service center or their field representative. Peerless Lighting is not responsible for any costs or expenses, including without limitation any labor charges for replacement of defective ballasts. Any such costs are 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 your Peerless Lighting representative or can be accessed via [www.peerless-lighting.com](http://www.peerless-lighting.com)

THE FOREGOING WARRANTY TERMS ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES. PEERLESS LIGHTING MAKES NO REPRESENTATIONS OR WARRANTIES EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS AND CONDITIONS, AND PEERLESS 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 PEERLESS 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 Peerless Lighting's products. The total liability of Peerless 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, Peerless Lighting's performance or breach of the foregoing limited warranty or from Peerless 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 expira-

tion of the limited warranty set forth above. IN NO EVENT SHALL PEERLESS 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).

## PLANS & SPECIFICATIONS

The term "per plans and specifications" is not acceptable to Peerless. Peerless Lighting only accepts orders on the condition that material will be furnished in accordance with our specification sheets or submittal drawings, subsequent to approval of our drawings by the proper authorities. For applicable projects Peerless Lighting's receipt of approved copies of submittal drawings, including corrections or changes thereto, shall constitute the purchaser's approval of those drawings. Peerless Lighting is not responsible for any plans or specifications that are not included in the approved, accepted drawings themselves.

## CANCELLATION CHARGE

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

Peerless Lighting price sheets are not offers to sell, and possession of a price sheet does not entitle one to purchase. Peerless 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. The compliance of our product to individual project specifications and/or local ordinance or 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, Peerless 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 Peerless Lighting is collected by, or attempted to be collected by, a third party collection agent, Peerless 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. Peerless Lighting will not accept orders that require customer-furnished components.

## ENTIRE AGREEMENT

Except as expressly agreed in writing signed by Peerless Lighting, the terms and conditions stated above shall constitute the entire sales agreement between Peerless 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 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.