



Standard Terms and Conditions of Sale and Limited Warranty

The following terms and conditions of sale and limited warranty govern all purchases of products from Sunoptics Prismatic Skylights, a division of Acuity Brands Lighting, Inc. ("SPS"), by Buyer ("Buyer"). If Buyer has entered into a contract directly with SPS for the supply of SPS products, the terms of that contract shall supersede any terms herein that are inconsistent with that contract.

1. AGREEMENT

Acceptance of Buyer's purchase order is conditional upon Buyer's assent to the terms and conditions printed herein. Buyer's acceptance of any SPS product shall be conclusively deemed assent to the terms and conditions herein. SPS's failure to object to any terms or conditions stated in Buyer's purchase orders, forms or other communications from Buyer will not be a waiver of the provisions hereof and no other document, including Buyer's terms and conditions of purchase, will be part of this transaction, unless specifically agreed to in writing by SPS.

2. PAYMENT TERMS

Unless otherwise agreed to in writing by SPS, payment terms are:

For U.S. domestic sales, at SPS's option, either:

- 100% prior to shipment; or
- Net 30 days from date of shipment based on pre-approved credit by Sunoptics.

A 50% deposit minimum may be required on all SPS custom orders.

For international sales: 100% wire transfer or pre-approved letter of credit prior to shipment.

A 50% deposit minimum may be required on all SPS custom orders.

To secure credit, Buyer is required to apply for and obtain approval from SPS prior to initiating an order. Credit terms will be provided to Buyer at the sole discretion of SPS. SPS reserves the right to impose a late penalty fee of 1.5% per month for all past due balances. SPS also reserves the right to require C.O.D. payment, a letter of credit, or other security for payment if SPS determines that such terms are required to assure payment to SPS.

3. PRICES

Unless otherwise provided, all prices are FOB SPS's place of business. Prices are exclusive of shipping costs, insurance, and any applicable Taxes (defined below) unless specified in quotation and/or sales order confirmation. All price quotations are valid for 30 days unless noted otherwise. Published list prices are subject to change without notice.

4. SHIPMENTS AND TITLE TRANSFER

All purchase orders are subject to acceptance by SPS. Unless otherwise provided on an attached acknowledgment, all shipments are F.O.B. SPS's place of business. Title to all products shall be deemed to pass to the Buyer upon delivery to the carrier. SPS reserves the right to select the method and routing of transportation and the right to make delivery in installments unless otherwise specified at the time of order. SPS will provide estimated shipment dates upon acknowledgment of Buyer's purchase order. Shipment dates on SPS quotations are approximate only. Buyer shall arrange air ride and temperature-controlled transportation where applicable. Buyer shall assume all risks of loss and responsibility for the cost of shipping and insurance, regardless of the fact that shipping or insurance may have been arranged by SPS on Buyer's behalf. Any freight or delivery charges paid by SPS on shipments to Buyer will be passed on to Buyer, and shall be in addition to the price of goods. SPS has the right to cancel any order or to refuse or suspend shipment for Buyer's failure to meet payment terms on any outstanding invoice.

5. INSPECTION

Buyer shall examine each shipment of SPS product immediately upon receipt and inform SPS of any shortage, visible defect or incorrect product shipments in writing within 7 days of receipt. If Buyer reports no discrepancies in writing within 7 days of receipt, the shipment shall be deemed delivered complete and defect free and Buyer may not dispute such shipment.

6. PRODUCT RETURNS

Except for any Sunoptics products that fail to meet the applicable warranty described below, within the applicable warranty period, requests to return merchandise must be made within four (4) months from date of shipment from Sunoptics' facilities.

No products will be accepted for return unless accompanied by a "return authorization number," which can be obtained only from an authorized Sunoptics post-sales or customer service representative. Return authorization will not be granted when the value of all items to be returned is less than \$300.

Return shipments must be made F.O.B. Sunoptics' facility as specified on Sunoptics' return authorization form. For products accepted for return, a credit towards the future purchase of Sunoptics products will be issued at the prices prevailing at the time of original shipment or at the time of return, whichever is lower, from which will be deducted all freight charges previously allowed, and any applicable service charge to cover part of the cost of handling, unpacking, repacking and placing the products in salable condition. The actual service charge will be determined from the condition of the products as received at Sunoptics' facility. Products returned for errors in shipment will be accepted at full credit and without service charge. Transportation costs must be prepaid by Buyer on all returned merchandise.

7. NON-RETURNABLE MERCHANDISE

The following products are not returnable: products Sunoptics keeps in stock containing time-sensitive components that have reached the end of their warranty or shelf life; outdated or phase-out products Sunoptics keeps in stock; products and parts Sunoptics does not keep in stock; special, custom made or modified products and parts; and products not in original packages.

8. LIMITED WARRANTY

This limited warranty applies to Sunoptics® 100% Impact Modified Acrylic and Polycarbonate skylight systems and warrants that the specified products will be leak free and without manufacturer defects for a period of 5 years from date of purchase.

EXCLUSIONS AND LIMITATIONS:

The warranty period begins from the date the SPS product is purchased, and must be substantiated with the original invoice or sales receipt. If the purchase date cannot be substantiated, the warranty period will begin with the date of manufacture as recorded by SPS. This warranty does not cover any labor cost associated with the installation of replacement products. The providing of replacement products shall not extend the original warranty period. SPS reserves the right to provide a similar replacement product if the original version is no longer available at the time of the complaint. This warranty will only apply if the product is finished and installed in accordance with SPS's instructions. This warranty does not cover the repair or replacement of products damaged as a result of accident, including but not limited to accidental breakage; abuse; misuse; faulty building construction or design; improper or insufficient handling; applications in areas of high humidity; acts of God; products subjected to conditions outside their design limitations; minor imperfections in plastic components that do not affect the product in performance or obscure light transmittance; minor variations in plastic coloration; or damage caused by corrosive environmental factors, including acid rain and reactive cleaning agents. Lenses should only be cleaned using just water or mild dish soap. NEVER use ammonia, aromatic or petroleum based cleaning agents, adhesives or construction products. Use of such products will immediately void warranty. Normal wear and tear is not covered by this warranty. Flashings are not covered by this warranty. Condensation on skylights and any related water damage, which may occur as a natural result of very high humidity within a building or a variation between indoor and outdoor temperatures, is not a defect and will not be covered by this warranty.

Limitations of Liability

- a) Except as specifically provided above, SPS makes no warranties, express or implied, and specifically disclaims any warranty of merchantability or fitness for a particular purpose. Buyer's right to recover damages for any reason whatsoever shall be limited to the total of amounts paid by Buyer for purchase of product hereunder.
- b) Neither SPS nor SPS's affiliates shall be liable for any indirect, incidental or consequential damages, foreseen or unforeseen, including lost profits, sustained in connection with the use of SPS products, regardless of the form of action, whether in contract or in tort, including negligence, strict liability or otherwise.
- c) Any action against SPS must be brought within 30 days after the cause of action accrues. SPS shall not be liable for any delay, loss, damage or product failure attributable to any equipment or actions of any person or entity other than SPS or SPS's employees or agents.

Claims

Claims for defective product, shortages, delays, or failures in shipment or delivery for any other cause shall be deemed waived and released by Buyer unless made IN WRITING WITHIN 30 DAYS AFTER ARRIVAL OF PRODUCT. If product is delivered short, or damaged due to carrier mishandling, Buyer must make note on the delivery receipt in order to receive replacement material. Under no circumstances shall Buyer install damaged or defective material if claims are to be made.

Liability for Misuse

SPS shall not be liable for damages to property or persons due to improper installation of SPS product or through attempts to utilize the product under conditions which exceed the designed capabilities. Buyer agrees to indemnify and hold SPS harmless from any and all claims, liabilities, damages, costs and expenses asserted against SPS or incurred by SPS because of injuries to persons or damages to property resulting from the improper installation or misuse of the product.

9. FORCE MAJEURE

SPS's performance of any obligation hereunder shall be excused by any event beyond its reasonable control, including without limitation inclement weather, strikes, governmental laws, regulations or interruptions thereof, war, equipment breakdown, interruption of transportation, and delayed deliveries to SPS from SPS's suppliers, which delays or prevents SPS's performance or makes performance commercially impractical due to unreasonable difficulty, expense, or risk of injury or loss.

10. EXPORT CONTROL

Buyer shall at all times comply with United States laws and regulations governing export control. Buyer shall not use, lease, or sell any SPS product in any country, or to any purchaser or lessee in any country, other than the country of destination specified in Buyer's order, except in a manner expressly permitted by such laws and regulations.

11. TAXES AND DUTIES

Unless provided otherwise, prices do not include federal, state, local, or foreign taxes, charges, fees, imposts, levies, duties, or other assessments of any kind or nature imposed by any government ("Taxes"). Buyer shall be responsible for payment of all Taxes on the sale of the products.

12. INDEMNIFICATION

Buyer shall indemnify and hold SPS harmless, including costs and attorney's fees, from any claims by employees, distributors, or customers of Buyer arising from the sale or use of the product sold by SPS or of other systems of Buyer which incorporate the product, unless the claim arises from the sole negligence of SPS.

13. GOVERNING LAW

The validity, interpretation and performance of these terms and conditions and any purchase made hereunder shall be governed by the laws of the State of California, USA, without regard to California conflict of law principles. Except to the extent that invoking the jurisdiction of another court is necessary to enforce (a) any security interest in products or (b) any judgment or order entered in California, any legal action arising out of this purchase and sale shall be prosecuted exclusively in Sacramento, California, USA. Both parties hereby submit to the jurisdiction of the courts located in Sacramento, California over each of them personally in connection with such litigation, and waive any objection to venue in such courts and any claim that such forum is an inconvenient forum.

14. GENERAL

These terms and conditions constitute the entire agreement between SPS and Buyer. No modifications, changes, additions or amendment to these terms and conditions, or promises, representations, or warranties that differ in any way from these terms and conditions, shall be binding on SPS unless such modifications, changes, additions or amendments are in writing and signed by a authorized representative of SPS. The waiver of any breach or default hereunder shall not constitute the waiver of any subsequent breach or default. In the event of any default by Buyer, SPS may decline to make further shipments. If SPS elects to continue to make shipments, such action shall not constitute a waiver of any default by Buyer or in any way affect SPS's legal remedies for such default. If any term or condition hereof shall to any extent be invalid or unenforceable, the remainder of these terms and conditions shall not be affected thereby and each term and condition shall be valid and enforced to the fullest extent permitted by law. Buyer shall not assign the performance obligations or any rights hereunder without the prior written consent of SPS. Subject to the foregoing, these terms and conditions shall bind and inure to the benefit of the respective parties hereto and their successors and assigns.