

EEMA Terms and Conditions

1. ORDER ACCEPTANCE

No modification of these terms or conditions will be recognized by EEMA Lighting Group (herein independently owned & operated Brands including Liton Lighting Inc., Lumenton Inc., Dalume Inc., Coloronix Inc.) also referred to as "EEMA" unless specifically agreed to in writing by EEMA. Failure of EEMA to object to provisions contained in any purchase order or other communication from a purchaser (including, without limitation, penalty clauses or labor charges) shall not be construed as a waiver to these Standard Conditions of Sale nor an acceptance of any other provisions. Nothing in any of the foregoing shall be construed as granting, vesting, creating or conferring any right of action or any other right or benefit upon any third party.

2. PRICES

All orders are subject to effective prices and terms of sale in effect on the date of shipment and subject to change without notice unless otherwise authorized in writing by EEMA. Written quotations expire 30 days after date of quotation. All orders must be over \$50.00 not including freight. Any orders under this amount are subject to a \$10.00 "Below Minimum Fee". EEMA requires a \$20.00 charge per open box orders, which will be added to invoice per item number. EEMA reserves the right to adjust upwardly certain or all of its prices to reflect anticipated volatility in the costs of critical raw materials and components such as steel, copper, aluminum and plastic compounds. Prices do not include any local, state or federal taxes.

3. E-COMMERCE

EEMA products may be sold via Internet with the following restrictions:

- a. EEMA's brand name and other information must be presented in a professional manner,
- b. Products must be advertised at least fifty percent (50%) above the listed Distributors' Price Book. EEMA will cancel any purchase order or suspend account at will if above restrictions are not met.

4. TERMS OF PAYMENT

Unless otherwise agreed to in advance, payment on each invoice is due within 30 days from the invoice date. Any balance unpaid at such time will bear interest at the rate of 1.5% per month with an annual percentage rate of 18%. Purchaser also agrees to pay any costs incurred by EEMA to enforce the terms of this agreement.

5. FREIGHT

EEMA reserves the right to select origin of shipment, routing and other method of transportation. If customer specifies an alternate routing, customer must assume additional charges. Any extra charges occurred for services, such as appointments, special handling, re-delivery, residential delivery, or lift gate must be paid by consignee. This includes orders that meet freight allowed orders). Materials not in stock when order is released by customer will be shipped as soon as possible thereafter. Freight will be allowed on these shipments if original order as released meets allowance terms specified below.

- A. Premium freight charges such as air freight will be at purchasers' expense. Written authorization by facsimile, letter, or email must be received from purchaser prior to the shipment leaving EEMA.
- B. Free deliveries on all orders (except reworks) over \$2,00.00 in the 48 contiguous states.
- C. Transportation charges will be pre-paid and added to invoice unless otherwise stated.

6. SHIPPING PERFORMANCE

When requested, EEMA will establish shipping schedules as closely as practicable in accordance with the purchaser's expressed needs. However, EEMA will not be responsible for deviations in meeting shipping schedules nor for any losses or damages to purchaser (or any third party), whether occasioned by deviations in performance or non-performance of any of EEMA's obligations under the contract, or loss of or damage to goods when caused directly or indirectly by or in any manner arising from any casualty, riots, act of the purchaser, strikes, or other labor difficulties, supplies, or transportation facilities, or any other cause beyond its control or the control of its suppliers.

In no event, and under no circumstances, shall EEMA agree to pay any amount, whether identified as a penalty or as liquidated damages, for failure to meet a shipping schedule unless specific agreement to that effect is made in writing and signed by an officer of EEMA.

Nor will EEMA be made liable for any detention or delay in delivery, installation, or for any loss, damage or expense due to any cause beyond EEMA's reasonable control, including without limitation, an act or omission of the buyer, embargo or other governmental act or authority regulation or request, fire, theft, accident, strike, shutdown, war, riot, delay in transportation, inability to obtain necessary labor, material or manufacturing facilities

7. CLAIMS FOR LOSS OR DAMAGE IN SHIPMENT

If merchandise is delivered in damaged condition or cartons missing, a notation must be placed on all documentation(s) signed by the receiver. Concealed damages are notified after, delivery, the carrier should be contacted by telephone and in writing to request an inspection. All requests for credit due to transportation loss or damage should be accompanied properly with signed documentation. A claim for loss for damage must be filed by customer within 5 working days from receipt of shipment date. Credit cannot be

allowed for damage claims that are not properly substantiated with supporting documentation received by EEMA too late for timely filing with the carrier.

8a. LIMITED WARRANTY

EEMA warrants that products sold will, upon shipment, be free of defects in workmanship or material under normal and proper usage. Should any failure to conform to this warranty become apparent during the warranty period, in most cases one year from date of shipment, EEMA must be notified promptly in writing. EEMA's liability is limited to, at its option, either repair or replacement only of the defective part.

In no event, and under no circumstances, shall EEMA be liable for labor costs in connection with the installation, removal or replacement of warranted products or for any consequential damages. In no event, and under no circumstances, shall EEMA be liable to the purchaser or to any other person for any indirect, special, consequential or incidental losses or damages including, without limitation, lost profits. As used herein, the term "person" shall include, without limitation, any individual, sole proprietorship, partnership, corporation or other entity.

EEMA further reserves the right to refuse to honor the above warranty for any product(s) altered, improperly installed, or installed in applications for which not intended. The foregoing warranty is exclusive and in lieu of all other warranties whether written, oral or implied, including any warranty of merchantability or fitness for purpose. The foregoing warranty is exclusive and in lieu of all other warranties of quality whether written, oral or implied, including any warranty of merchantability or fitness for purpose.

8b. EXCLUSIONS FROM WARRANTY

- 1) **ABUSE:** EEMA cannot assume responsibility for claims arising from abuse of the product due to improper installation or abuse by the ultimate user.
- 2) **DESIGN:** EEMA cannot assume responsibility for claims resulting from failure from improper design of the end product, such as (but not limited to) subjecting the EEMA product to conditions, which exceed the rated capacity of the product to operating conditions, which constitute improper usage.

9. TERMINATION OF ORDER

Any order or contract can be terminated by the purchaser only upon payment of all reasonable charges based upon expenses already incurred and commitments made by EEMA.

All cancellations must be done in writing and must be faxed to EEMA, which then EEMA will fax back a Cancellation Acknowledgment Letter. Please note that cancellation will not go into effect until you have receive EEMA's acknowledgement. Furthermore, all requests must be received prior of shipment to avoid any potential restocking charges.

10. RETURN GOODS AUTHORIZATION (RGA)

No products are to be returned without prior EEMA approval and issuance of a Return Goods Authorization (RGA) number. Under no circumstances shall purchasers assume settlement, nor will EEMA be bound via deductions from remittances due. When return is occasioned due to a warranty issue or EEMA's error, full credit including transportation charges will be allowed. No material will be accepted for credit that was purchased over 90 days prior to request. All credits if approved by EEMA will be applied towards future purchases. No refunds.

Since, as a customer accommodation on warranty claims, replacement fixtures are sent prior to receipt of the returned items, customers will be invoiced as a new order. Once the returns are received and confirmed defective, credits will be applied to the purchaser's original invoice.

Where the purchaser requests authorization to return products for reasons of their own and EEMA issues approval for return, purchaser will be billed a restocking fee of 25% for stock (STK) items and a 40% restocking fee for assembled (ATO) items, plus outbound freight, *provided all materials are returned in their original boxes/cartons, in resalable condition, and of current design.* The return shipment must be freight pre-paid by the purchaser. Obsolete items, or those special products built to the purchaser's specification are not returnable. Special items include all emergency powered commercial recessed downlights, all 277 Volt Housings, and all Made-to-Order (MTO) Items. See alphanumeric price index for details.

11. ERRORS

Typographical or clerical errors in quotation orders or acknowledgments are subject to correction.

12. DIMENSIONS

The dimensions in catalogs and price lists are *nominal*, and not to be used for construction purposes. See product Installation Sheets and/or Specification Sheets available on our website for detailed information or contact EEMA Customer Service Department.