



## **Terms & Conditions**

*Revised: 1/1/2020*

### **General**

These General Terms and Conditions of Sale (the “Terms”) apply to the sale of all products (“Products”) sold by Architectural Lighting Works, LLC (“ALW” or “Seller”) to the party purchasing such Products (“Buyer”). All quotations issued by Seller and all orders placed by Buyer are subject only to these Terms, to the exclusion of any other terms, whether in verbal, written or other form. The buyer's acceptance of the provisions of Architectural Lighting Works, LLC’s Terms and Conditions as recited herein shall be conclusively presumed on Buyer's placement of order with Seller or Seller’s appointed Sales Agencies.

### **Offers/Orders**

All orders must include a formal Purchase Order (PO) from Buyer. All offers made in any form remain non-obligatory. No contract for the sale of Products shall be binding on Seller until confirmed in writing to Buyer, and any order of Buyer shall only become binding on Seller once confirmed in writing by Seller. In no event will verbal promises or arrangements made by or with Seller’s personnel or representatives bind Seller unless confirmed in writing by Seller. All orders must meet a minimum of \$750 total for each purchase order. All orders are considered custom and are non-cancelable and non-refundable.

### **Terms of Payment**

Invoice payment terms are Net 30 days from the Invoice Date – pending prior credit approval. ALW does not ship orders COD. A service charge of 1.5% per month (or if such rate exceeds the maximum lawful rate, then such maximum lawful rate) shall be assessed on all past due payments. All open accounts past due by 30 days or more shall be termed as pay-in-advance accounts. Should it become necessary for Seller to institute formal collection proceedings to collect any past due amounts from the Buyer, Seller shall be entitled to recover its attorney's fees and other costs associated with the proceedings. If Buyer is in arrears with payment of any amount due, Seller shall be entitled to cancel or postpone delivery of Products ordered at its sole discretion. In the event that Buyer enters dissolution or bankruptcy proceedings (whether voluntary or involuntary), or if liquidation proceedings are commenced against Buyer, all amounts due by Buyer to Seller shall immediately become due and Seller may elect to cancel any outstanding orders.



## **Prices**

Prices are in US dollars, Incoterms 2010. Prices subject to change without notice. Price preservation will be provided for a period of thirty (30) days from date of quotation from Seller or Seller's agents. In the event of a price increase, all accepted orders that have been confirmed by Seller will be shipped at the original prices. Prices are exclusive of sales, use, excise, or similar taxes unless otherwise noted. Buyer shall provide Seller with a tax exemption certificate acceptable to the taxing authorities. All additional administrative costs such as, by way of illustration, obtaining certificates of origin or similar documents, are at Buyer's cost.

## **Freight**

Shipments subject to Incoterms 2010, Ensenada, Baja California, Mexico. Freight is prepaid and allowed on all shipments of products for orders over \$7,500.00 USD to all points in the contiguous United States (lower 48 states), excluding freight, overage, or fees. For orders over \$7,500.00 outside the contiguous United States, seller will pay for freight up to 1.0% of the total sales amount and buyer will pay any additional amount. For orders less than \$7,500.00, shipping and handling costs will be billed to the Buyer. All shipments will be made ground freight via carrier selected by the Seller; however, special instructions will be followed if Buyer assumes transportation charges. Cartage or accessorial charges and detention or demurrage charges are not allowed and will be billed to the Buyer. Seller may make partial shipments at its own discretion, billing each shipment as it is made in accordance to terms applicable to the complete order.

## **Title & Claims**

Title to all Product shall pass from Seller to Buyer upon shipping. The carrier assumes all responsibility for safe delivery. Shipments should be inspected by the Buyer immediately upon receipt for transportation loss or damage and any necessary claim reported immediately to Seller. Buyer must reject or return any shipments, unless directed to do so by Seller. For shipments that are freight allowed by Seller, all claims for loss or damage in transit must be made by freight broker (3PL) to carrier. Where Buyer arranges prepaid freight or specifies carrier, Buyer must file any claims directly with the carrier. Seller is not responsible for freight costs, including expediting fees, in excess of initial freight allowance for replacing products damaged in transit.



### **Estimated Shipping Dates**

Standard lead times are 4 to 6 weeks and may be longer for custom products. An estimated shipping date (ESD) will be provided with written order acceptance. Seller will accommodate expedite requests when possible, and depending on circumstances, expedite fees and overnight shipping fees may apply. Seller assumes no liability for late shipping, howsoever caused. Seller reserves the right to extend the shipping date due to changes in work circumstances, or if Buyer fails to perform any act that it has undertaken. Seller shall not be liable for any damages due to delay or default in shipping products.

### **Fitting/Installation**

Buyer is solely responsible for the correct and safe installation of Products purchased. In no event will Seller be held responsible or liable for any damages or loss due to incorrect or unsafe installation of the Products, including without limitation installation that does not conform to all applicable instructions, laws, codes and best practice, nor for any tampering with the Products, Product label or documentation, and/or misuse of the Products.

### **Cancellations & Postponements**

Unless otherwise agreed in writing by Seller, Buyer shall not be entitled to cancel orders for Products that have been accepted by Seller in writing. In the event Seller agrees to cancel an open order, a fee of 50% of the invoice price will be assessed. Seller may reduce this amount to reflect actual sunk costs at their discretion. Postponement of orders by Buyer shall only be allowed with the prior written approval of Seller and may be subject to handling and storage fees.

### **Product Returns**

All sales are final upon shipping. No product will be accepted for return.

### **Liability & Indemnification**

Except as otherwise mandated by applicable law, Seller's liability for damages and losses of any nature whatsoever is strictly limited to the amount actually received by Seller from Buyer for the specific Product delivered which has failed in breach of ALW's Warranty Terms and Conditions. In no event will Seller be liable for any indirect or consequential damages, or for any costs, losses or damages which may be incurred by Buyer or by any third party in connection with the replacement of faulty Products, all as detailed in the Warranty Terms and Conditions. The illustrations and drawings of Products which may appear in Seller's catalogues or website are solely intended to provide a general



impression of the Product. Seller accepts no liability for any damage whatsoever arising out of any differences between product supplied and any illustrations, drawings or installation documents of Products.

### **Errors & Changes**

Every effort is made to avoid error, but Seller cannot be held responsible for any errors or omissions. Seller reserves the right to correct errors or omissions in quotations, acknowledgements, invoices, or other documents. Seller reserves the right to change or improve the design of any of its products without assuming any obligation to modify any product previously manufactured.

### **Force Majeure**

Seller shall not be liable for any delays or other inability to meet its obligations under any purchase order as a result of circumstances beyond its reasonable control (“Force Majeure”). During the period of Force Majeure, Seller has the right to either continue to perform or dissolve the affected order in whole or in part.

### **Construction of Agreements**

These terms and conditions and all agreements between Seller and the Buyer shall be governed by and construed in accordance with the laws of California, including without limitation the Uniform Commercial Code as adopted in California.

### **Severability**

If any provision of these Terms is found by any court or arbitrator to be invalid, illegal or unenforceable, the remainder shall not be affected.

### **Assignment**

Buyer may not assign or transfer these Terms or any rights or obligations hereunder (including pursuant to any purchase order) without Seller’s prior written consent, which may be withheld at Seller’s sole discretion.



## Limited Warranty

### Warranty

Architectural Lighting Works, LLC, (“ALW”) warrants for the applicable Warranty Period below that products made by it and sold through its authorized sales agents and their distributors are free from defects in material and workmanship. In the event of any defect, ALW’s sole obligation is expressly limited to repair or replacement, without charge, at ALW’s factory after prior written return authorization has been granted. No products will be accepted for warranty work unless accompanied by “Return Merchandise Authorization” number (RMA) obtained by Buyer from Seller prior to return. ALW is not responsible for damages due to improperly packing and shipping returned materials to ALW. In no event shall ALW’s obligation under this Warranty extend beyond the initial cost of the product and accordingly, any incidental or consequential damages arising out of the defect therein are expressly excluded.

**All ALW LED lighting fixtures feature a 5-year warranty, not to exceed the initial cost of the product.**

THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, AND WITHOUT EXCLUDING THE GENERALITY OF THE FOREGOING, EXCLUDES ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SPECIFICATIONS SUBJECT TO CHANGE WITHOUT NOTICE.

This Warranty period shall commence on the date of shipment of the relevant products from ALW and will not be extended by any warranty claims, repairs, or replacements. The Warranty shall only be extended to the original purchaser of the products and/or to the first purchaser who is the end user of the products. ALW is not responsible for any auxiliary equipment or third-party products not supplied by ALW.

An extended warranty on LED driver is available from supplier at additional cost. Please inquire for pricing.

### Exclusions

This Warranty shall not apply to damages caused by: (a) force majeure, (b) negligence, misuse or improper use of the products, (c) faulty installation including poor electrical connections, (d) installation and/or operation not in accordance with supplied instructions, National Electric Code (NEC), applicable federal, state and local electrical codes, applicable safety standards issued by the Underwriters Laboratory (UL), as well as the UL’s Conditions of Acceptability, (e) negligence by any party other than ALW. Moreover, this Warranty shall not apply if: (a) any original ALW label or marking was partially or completely removed, covered, or altered, (b) the product may have been subject to unauthorized repair, opened, tampered with, taken apart or otherwise modified, (c) the unit had, at some time prior to



the claim, not been fully paid for, or had otherwise be connected with Buyer's breach of ALW's General Terms and Conditions of Sale, (iv) Buyer is in arrears to ALW.

This Warranty shall not apply to the finish on any portion of the product due to exposure or weathering.

The use of other company's (non-ALW) products or components (unless supplied by ALW as part of the product) in conjunction with ALW products may not be covered by UL classification and could be hazardous. Such usage, whether covered by UL classification or not, automatically voids all ALW product warranties.

### **Disclaimer and Limitation**

Except as stated herein, ALW disclaims all other warranties and conditions, whether express, implied or statutory, including merchantability and fitness for a particular purpose, with respect to the foregoing products to the maximum extent permitted by applicable law. In no event will ALW be liable to Buyer or any third party for any indirect, consequential, special, punitive or exemplary damages, including, without limitation, damages for loss of business, loss of profits, business interruption or damages of associated equipment, loss of use of the ALW unit and associated equipment, cost of substitute products, costs of removal, installation, reinstallation, testing and evaluation or shipping arising out of the use, failure of, or inability to use the products, even if ALW has been advised of the possibility of such damages. ALW's liability with respect to any claim of any kind for loss or damages arising out of or related to a breach of Warranty for a unit shall in no event exceed the actual purchase price of the specific unit giving rise to the claim.

### **To Obtain Warranty Service**

In the event that any of the warranted products fail to comply with the Warranty during the applicable Warranty period, please contact ALW's **Field Services Department** at **510-489-2530** to report the non-compliance and verify Warranty coverage. In the event that ALW issues a Return Merchandise Authorization ("RMA") number, you must comply with the product return procedure and ensure that the RMA number accompanies the product. ALW may, at its sole discretion, repair or replace products determined to be eligible for Warranty coverage or may issue a credit for the original purchase price of the fixture, less freight allowed, and commissions paid. ALW reserves the right to examine the installation site and examine and test all products under claim of warranty to evaluate proper configuration, design, layout, installation, and usage; determine the cause of failure; and make a determination of coverage under warranty. Failure to comply with the request for access to the installation site will void this Warranty.