

TERMS AND CONDITIONS OF SALE

1. All sales are expressly conditional on Buyer's agreement to the terms and conditions hereinafter set forth. No additional or different terms apply unless expressly agreed to in writing by Se'Lux Corporation ("SELUX" and/or "Seller"). Seller hereby gives notice of its objection to any different or additional terms. These terms and conditions shall be binding upon the initial order and upon all future orders, notwithstanding the fact that separate terms and conditions may not be provided for each order.
2. All sales are made FOB at our factory in Highland, N.Y. Each shipment or delivery shall be considered a separate and independent transaction. Buyer assumes the risk of loss after delivery at FOB point, or if buyer arranges transport, at time of production completion and storage (at SELUX or such other point as designated). Provided the net invoice value of any single shipment is at least \$5,000.00 USD the freight will be prepaid by Seller for any shipment within the continental limits of the United States. Any shipment with a net invoice value of less than \$5,000.00 USD will be either shipped prepaid and charged to Buyer or freight collect. If shipping instructions are provided, Seller will attempt to follow same, however Seller reserves the right to use a carrier of its choice if freight is prepaid.
3. Shipping dates are approximate and will be reckoned from the date that seller has all the necessary information available which is required to process the order. Orders are accepted with the understanding that Seller is not obligated to make deliveries by any specific dates and assumes no liability for damages due to delay in filling the order. If delivery dates are specified, they cannot be guaranteed and are estimates only. Seller shall not be liable for late deliveries or non-deliveries due to fires, floods, wars, governmental action, civil commotion, strikes, labor trouble or shortage, inability to procure raw materials, breakdown in machinery, inability to secure transportation facilities or equipment, acts of God or for any other cause beyond the Seller's control interfering with production, delivery, transportation or acceptance of its goods. Quantities so affected may be eliminated without liability, but the orders shall otherwise remain unaffected. If by reason of any such cause provided for herein the Seller's supply and materials specified in Buyer's order shall be limited, Seller, shall have the right to allocate its available supply to any other purchaser(s), without liability.
4. Price quotations will not contain any State Sales Tax and/or freight charges, unless expressly indicated otherwise in writing, and the tax shall be added where applicable. Prices quotations for standard, modified or specially manufactured items must be issued, in writing, from SELUX and are valid for Sixty (60) days unless revoked by Seller prior to acceptance for all released orders. The acceptance by SELUX of any purchase orders is subject to SELUX issuing a written sales acknowledgment, which is subject to these terms and conditions.
5. Every effort is made to avoid errors in catalogues, specifications and other data. SELUX hereby disclaims any liability, of any nature whatsoever, for service or labor charges in connection with errors in measurement, prices or specifications. SELUX reserves the right to change, without notice, specifications and materials, which in our opinion do not alter the function of the product. Prices are subject to change without notice.
6. The goods sold hereunder are sold with all faults and "AS IS". All warranties, express or implied, including any warranties of merchantability, usage of trade and fitness for a particular use are disclaimed, provided however that SELUX CORPORATION WARRANTS TO THE ORIGINAL PURCHASER THAT ITS PRODUCTS HAVE BEEN CAREFULLY INSPECTED TO BE FREE OF DEFECTS OF WORKMANSHIP AND MATERIALS WHEN INSTALLED AND USED AS INTENDED. Any alteration or abuse or misuse of the goods shall void this warranty. SELUX, at its sole option, will repair or replace, FOB our factory in Highland, N.Y. any SELUX product that is defective in workmanship or materials. Any such repair or replacement shall be the exclusive remedy against SELUX. This warranty is effective for Three (3) years from the date of invoice. ANY IMPLIED WARRANTY, INCLUDING THE WARRANTY OF MERCHANTABILITY AND/OR WARRANTY OF FITNESS FOR A PARTICULAR USE OR PURPOSE ARE HEREBY EXCLUDED AND DO NOT APPLY TO THIS, OR ANY OTHER SALE, BY SELUX. This warranty cannot be modified by any oral agreement or understanding and may only be modified in writing signed by an officer of SELUX. This warranty is void if the products are repaired or altered outside the SELUX factory. Ballasts are not covered by any warranty made by SELUX but may be covered by a separate manufacturer's warranty as these components are not manufactured by SELUX. **For LED fixtures different conditions might apply – see product specifications for details.**
7. If in Seller's sole judgment Buyer's credit shall become impaired at any time or if SELUX has obtained insurance coverage with respect to Purchaser's non-payment and said coverage is partially or fully withdrawn, Seller shall forthwith have the right to decline to make shipments hereunder except for cash in advance until such time as said credit or insurance has been reestablished to Seller's satisfaction. Seller reserves the right to require full payment in cash before shipment or delivery. Seller, to the full extent permitted by law, reserves the right to reclaim goods where the Buyer's credit has become impaired.
8. Orders may be canceled by the Buyer only if agreed to, in writing, by Seller and upon payment of 100% cancellation/ restocking charge. All merchandise is shipped at Buyer's risk of loss and/or damage so that Buyer shall promptly make any claims with the carrier. Title to the goods passes to consignee and/or Buyer upon delivery to carrier. Any claim for shortages or incorrect shipments must be made upon Seller, in writing, within Fifteen (15) days of the invoice date. Returns will only be accepted if SELUX issues a Return Goods Authorization. ("RGA") Any request for an RGA must be made, in writing, within Thirty (30) days of the invoice date. All returns are subject to a minimum 50% restocking charge; all freight and reconditioning charges are the responsibility of Buyer.
9. Seller shall not be liable for back-charges incurred by Buyer for any cause or reason, including, but not limited to, delay caused by Seller. In no event shall Seller be liable for prospective or speculative profits, or special, indirect or consequential damages. The remedies of Buyer set forth herein are exclusive and the liability of Seller with respect to any contract or sale or anything done in connection therewith, whether in contract, tort (including Seller's negligence), under any warranty or otherwise, shall not exceed the price of the product on which liability is based.
10. Any controversy or claim arising out of/ or relating to the sale of goods, materials, equipment, etc. from Seller to Buyer, shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator or arbitrators may be entered in any court having jurisdiction thereof. The venue of any such arbitration shall be Highland, New York.
11. The costs of any arbitration fees and/or expenses shall be added to the outstanding amount due seller in addition to interest and attorneys fees. In any action commenced by Seller, whether on the arbitrator's award or otherwise, New York State Law shall govern and Buyer waives the defense of lack of personal jurisdiction.
12. To full extent permitted by law, Buyer waives the right to interpose or assert any counterclaim in any action or arbitration by Seller to enforce payment of its invoices.
13. Unless specifically stated, the prices of goods do not include any sales, use or other taxes or charges payable to federal, state or local authorities. Any such taxes or charges now or hereinafter imposed with respect to sales or shipments hereunder will be added to such prices.
14. No sales representative of Seller has authority to alter, vary or waive any of the terms and conditions contained herein.
15. All sales are final and no merchandise may be returned unless consented to by Seller. Buyer agrees not to back-charge Seller or take a credit against any amount owed Seller for any reason without first obtaining written authorization.
16. Any cash discount allowed and the terms of same will be printed on Seller's invoice and Buyer agrees not to take any such discount unless Buyer has complied with said terms and not to deduct any greater amount than allowed. Payment in full must be made no later than Thirty (30) days from date of invoice. Failure of Buyer to make timely payments shall constitute a default. Any invoice unpaid within terms shall be subject to the highest service charge and interest rate allowed by law. Buyer agrees, if in default, to pay all costs of collection, including attorney's fees as provided below, together with any interest on any unpaid balance at the highest rate allowed by law.
17. In the event Buyer defaults in payment of any invoice, all remaining unpaid invoices shall immediately become due and payable without notice, together with, in the event an attorney is used to effect collection, 33-1/3% of the principal as attorney's fees.