

Standard Terms and Conditions of Sale

1. **Offer, Governing provision and Cancellation.** This writing is an offer by Intrigue Lighting, LLC ("Company") to sell the goods and/or services described herein to the customer to which this offer is addressed ("Customer"), subject to the terms and conditions set forth on the face and reverse sides hereof and in any Schedules identified herein. This writing is not an acceptance of any offer made by customer, and Company hereby objects to any additional or different terms which may be contained in any of Customer's purchase order, acknowledgement or other forms, or in any other communication heretofore or hereafter received from customer. This offer expires 30 days from its date unless services by Company are subsequently accepted by Customer. **This offer, when accepted by Customer explicitly, by acceptance of services or otherwise, shall constitute the entire agreement between Company and Customer, and shall be governed by and construed in accordance with the internal laws of the State of Wisconsin.** No agreement pursuant to this offer may be cancelled or altered by Customer except upon terms and conditions acceptable to the Company as evidenced by Company's written consent.
2. **Prices and Shipment.** Prices and Product Design are subject to change at any time without notice. Federal and State taxes, if applicable, are not included. Invoices are payable in U.S. funds only. Prices acknowledged on orders are current prices; "Hold for Release" orders will be billed at prices in effect at time of shipment. All products shipped F.O.B. Menomonee Falls. The prices set forth herein reflect Company's normal charges where its customer accepts all of the terms and conditions contained herein, including but not limited to Company's limited warranty and disclaimer of consequential damage liability. Company offers to submit to Customer a different quotation providing Customer additional warranty coverage and/or for Company's assumption of the disclaimed liabilities, and containing higher prices to reflect the resulting additional risk that Company would assume. Customer acknowledges that it is foregoing the possibility of making claims against Company for matters limited or disclaimed herein, in exchange for paying a lower purchase price.
3. **Payment Terms.** Subject to approval of Customer's credit, net payments shall be due thirty (30) days from invoice date. If Company (at its sole discretion) determines that Customer should not be extended credit, Company may demand payment in full prior to any work or delivery. Past due invoices are subject to a service charge, calculated on the outstanding balance, at the lesser of (i) the rate of one and one-half percent (1-1/2%) per month or (ii) the highest rate authorized by applicable law. Upon notice to Company pursuant to Section 7, disputed items shall not be subject to a service charge, provided that Customer does not withhold payment of undisputed items. The service charge is not intended as an alternative to payment when due; and upon delinquency further sales may be declined and Customer's account may be referred for collection.
4. **Taxes and Other Charges.** Any manufacturer's tax, occupation tax, use tax, sales tax, excise tax, value-added tax, duty, custom, inspection or testing fee, or any other tax, fee or charge of any nature whatsoever imposed by any governmental authority on or measured by the transaction between Company and Customer shall be paid by Customer in addition to the prices quoted or invoiced. In the event the Company is required to pay any such tax, fee or charge, Customer shall reimburse Company thereof.
5. **Limited Express Warranty.** Company warrants its products against defects in material and workmanship. Without charge, the Company will, at its option, either repair or replace any properly installed Company manufactured product which fails under normal operating conditions within **(5) years** from the date of invoice, and **(1) year for poles**, provided it is returned to the factory (after authorization), transportation prepaid. This warranty covers only products manufactured by the Company and does not extend to transportation, installation or replacement charges incurred by Customer, nor does it apply to products or components of another manufacturer used in conjunction with the Company products according to the terms hereof and standard acceptable in the Company's industry. If you have specified or made reference to source, trademark, or trademarked product not proprietary to us in your letter, inquiry, quotation request, blueprint, or other specification, the product material, or service referred to herein is not offered as a direct substitute, but is a Intrigue Lighting, LLC proprietary item which in our opinion is significantly different and has equal or superior features.
THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ANY OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE.
6. **Risk of Loss.** Title and risk of loss of goods shall pass to the Customer F.O.B. Menomonee Falls, upon the earlier of Company's delivery to carrier or delivery to storage, regardless of whether the transport medium or storage facilities are owned and/or operated by Company, and regardless of whether Company charges Customer for storage.
7. **Claims.** All claims for defective or damaged work must be made by Customer in writing fully setting forth the nature of the alleged defect or damage, within thirty (30) days after receipt thereof by Customer. Customer's failure to so notify Company shall constitute irrevocable acceptance of the work and the waiver of any defect, damage or shortage. Claims for damage or loss in transit must be made by Customer directly against the carrier.
8. **Returns.** Products may be returned to Company only when Company's written permission, signed by duly authorized personnel of Company, shall be obtained by Customer in advance. Goods may not be returned unless they are in marketable condition. Returned products must be securely packaged and reach Company without damage. Any cost incurred by Company to put products in marketable condition will be charged to Customer. Returns are subject to a **25%** restocking charge.
9. **Limitations of Remedies.** The Company's liability with respect to breaches of warranty shall be limited as provided in Section 5 hereof. With respect to other breaches of this contract, the Company's liability shall in no event exceed the contract price. **IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, WHETHER FOR BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE OR OTHER TORT, OR ANY TYPE OF STRICT LIABILITY THEORY OR ANY OTHER THEORY OF LIABILITY.** Without limiting the generality of the foregoing, Company specifically disclaims any liability for penalties (including administrative penalties), special or punitive damages, damages for lost profits or revenues, loss of use of products or any associated equipment, cost of capital, facilities, services, labor or salaries, downtime, shutdown or slowdown costs, spoilage of materials or for any other type of economic loss. All the limitations and disclaimers contained in the paragraph and in the rest of this contract shall apply to claims of Customer's clients or third party asserted by Customer against company or indemnity or contribution, as well as direct claims of Customer against Company. Customer shall indemnify Company against any and all losses, liabilities, damages, expenses (including, without limitation, attorney's fees and other costs of defending any action) which Company may incur as a result of any claim by Customer or others arising out of or in connection with the products and/or services sold hereunder and based on product or service defects not proved to have been caused solely by Company's negligence or, in the event of resale, by virtue of Customer's failure to properly disclaim all implied warranties and consequential damages.
10. **Right to Assurance.** Whenever Company in good faith has reason to question Customer's ability or intent to perform, Company may demand in writing adequate assurance from Customer of Customer's ability or intent to perform, and may suspend performance hereunder pending such assurance. In the event such a demand is made and such assurance is not given within a reasonable time, Company may treat that failure as anticipatory repudiation hereof and exercise any appropriate remedy thereof.
11. **Bankruptcy.** If Customer makes an assignment for the benefit of creditors, or admits in writing its failure or inability to pay its debts as they become due, or becomes the subject of an "order for relief" within the meaning of that phrase in the U.S. Bankruptcy Code, or applies for or consents to the appointment of receiver for any of its property. Company may terminate any agreement arising out of this offer at any time, effective immediately upon notice. Such termination shall not relieve either party from any obligations accrued hereunder up to the date of notice of termination.
12. **Waiver.** No waiver by either party of any default by the other in the performance of or compliance with any provision, condition or requirement herein shall be deemed to be a waiver of, or in any manner release such other party from compliance with any such provision, condition or requirement in the future; nor shall any delay or omission of either party to exercise any right hereunder or otherwise in law in any manner impair the exercise of any such right thereafter.
13. **Assignment.** Neither party shall assign any of its rights hereunder without prior written consent of the other party, but Company may subcontract some or all of its obligations hereunder without consent of Customer. Subject to any required consent, terms hereof shall inure to the benefit of and shall bind the successors and assigns of the parties hereto.
14. **Compliance with Laws.** Company certifies that these goods were produced in compliance with all applicable requirements of sections 6, 7, and 12 of the Fair Labor Standards Act, as amended and of regulations and orders of the United States Department of Labor issued under section 14, thereof.
15. **Severability.** If any provisions of these terms and conditions of sale shall be deemed illegal or unenforceable, such illegality or unenforceability shall not affect the validity and enforceability of any legal and enforceable provision hereof, which shall be construed as if such illegal and unenforceable provisions(s) had not been inserted herein.