

TERSEN Terms and Conditions of Sale

For Shipments Within the United States
Effective June 30, 2009

TERMS

TERSEN, a division of Acuity Brands Lighting, Inc. ("TERSEN") payment terms – Net 30 days (from invoice date).

FREIGHT ALLOWANCE

TERSEN products may be combined on an order to qualify for freight allowance. Lithonia, Peerless, Peerlite, Hydrel and Antique Street Lamps products cannot be combined on an order with TERSEN product or with any other brand to qualify for freight allowance.

For shipments outside the contiguous United States, contact factory for applicable terms & conditions.

All shipments are F.O.B. our plants, vendors, Distribution Centers or Field Warehouses:

All orders for TERSEN product having a distributor price of \$1,000 or more for one consignee for one shipment qualify for freight allowance.

All TERSEN orders having a distributor price less than \$1,000 will be assessed freight and handling charges.

Anchor bolts are included with TERSEN poles. Pre-shipped anchor bolts having a distributor price of less than \$1,000 will be assessed freight and handling charges.

Warehouse orders can only consist of products carried in stock.

ALL SHIPMENTS – For all orders that qualify for freight allowance, we reserve the right to select the carrier and to route shipments at our discretion. We will ship in the manner selected by the customer provided the customer assumes any additional transportation costs.

TRANSPORTATION CLAIMS

Our equipment is tested for mechanical defects prior to shipping. Our packaging is regularly inspected by transportation authorities who assume responsibility for both apparent and concealed damages sustained by improper handling. Title passes to purchaser upon delivery by us to the carrier, and all claims for damages or shortages in transit shall be made by purchaser with delivering carrier. Bills of Lading marked with "Shippers Load and Count" do not constitute a transfer of liability for the freight or damages from the consignee to TERSEN.

PACKAGING

The company reserves the right to optimize packaging at our discretion. Some products may only be available in bulk package multiples or case quantities.

PRICES

Prices are subject to change without notice. In the event of a price increase, all accepted orders on hand will be filled at lower prices provided such orders are released for shipping prior to the effective date of the price increase. If the orders are not released for shipment prior to the price increase, the orders will be billed at prices in effect at the time of shipment. Special quoted orders that cannot be released for shipping prior to the price increase may be subject to an increase in price. Minimum billing for all product or parts orders is \$100 net. Prices do not include lamps unless so specified.

RETURN OF MERCHANDISE

No Tersen products are returnable.

SERVICE AREA LIMITATION

The company reserves the right to refuse to make quotations, accept orders or make shipments to points of destination outside of the regular or assigned selling and service area of the distributor.

LIMITED WARRANTY

TERSEN warrants all products sold hereunder to be free from defect in manufacturing, under normal and proper storage, installation, and use, for a period of one (1) year from the date of shipment. Our guarantee liability extends only to the repair or replacement of the defective part, and no labor charges for correction of the defect by repair or replacement will be paid by TERSEN unless prior written authority has been granted by our Post-Sale department.

TERSEN shall not be liable for damages that result from deliveries that do not occur within a customer's specified time frame or for any delay or default in delivering products where occasioned by any cause beyond the control of TERSEN, including without limitation embargoes; shortages of labor, raw materials, or fuel; fires; floods; accidents; acts of war; or other similar causes.

Anchor bolts must be installed using current factory-furnished templates.

Ballast Guarantee – Ballasts are those of recognized, responsible manufacturers. Orders calling for specified brand name or type ballast will be handled on a quotation basis only. Claims for defective ballasts found to be in warranty should be made directly to the ballast manufacturer through their local ballast service center or their field representative in order to expedite replacement. TERSEN is not responsible for any costs or expenses, including without limitation any labor charges for replacement of defective ballasts. Any such costs would be the responsibility of and must be authorized by the ballast manufacturer. Copies of each manufacturer's standard ballast replacement program are available upon request from TERSEN representatives or can be accessed via www.tersenlighting.com.

THE FOREGOING WARRANTY TERMS ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES. TERSEN MAKES NO REPRESENTATIONS OR WARRANTIES EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS AND CONDITIONS, AND TERSEN EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO DISTRIBUTOR OR SUPPLIER OF TERSEN HAS THE AUTHORITY TO MODIFY OR AMEND THIS LIMITED WARRANTY.

LIMITATION OF LIABILITY:

The foregoing limited warranty provides the purchaser's sole and exclusive remedy relating to TERSEN's products. The total liability of TERSEN on any and all claims of any kind, whether in contract, warranty, tort (including negligence), strict liability or otherwise, arising out of or in connection with, or resulting from, TERSEN's performance or breach of the foregoing limited warranty or from TERSEN's sale, delivery, repair, or replacement of any products, or the furnishing of any services, shall in no event exceed the purchase price allocable to the specific product which gives rise to the claim, and any

and all such liability shall terminate upon the expiration of the limited warranty set forth above. IN NO EVENT SHALL TERSEN BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER AS THE RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORY.

CANCELLATION CHARGE

No Tersen orders may be cancelled unless we are reimbursed for work already performed and for special material purchased by our company. If an order is cancelled after shipment or if delivery is refused at destination, all warehousing, delivery, disposition and return costs will be charged to the customer.

GENERAL

TERSEN price sheets are not offers to sell, and possession of a price sheet does not entitle one to purchase. TERSEN shall not be bound to sell any products unless it shall (in its sole discretion) accept submitted purchase orders. Specifications are subject to change without notice. Consult factory for verification. The compliance of our product to individual project specifications and the approval for their use is not warranted by our company. If purchaser does not pay the purchase price within the time periods set forth above, TERSEN reserves the right to assess a finance charge on any unpaid, past due balance up to the maximum legal rate. If any amount due TERSEN is collected by, or attempted to be collected through an attorney at law, TERSEN shall be entitled to recover all collection expenses, including attorney's fees.

ACCEPTANCE

Acceptance of orders can be made only at our plants, Distribution Centers or Field Warehouses for warehouse orders on the basis of these terms and conditions of sale. TERSEN will not accept orders that require customer-furnished components.

ENTIRE AGREEMENT

Except as expressly agreed in writing signed by TERSEN, the terms and conditions stated above shall constitute the entire sales agreement between TERSEN and the purchaser. Any contrary or additional terms or conditions submitted by the purchaser (other than the description of the products being ordered and the requested quantities, shipping date, and shipping location contained in purchaser's purchase order) shall be deemed to be of no force or effect and are hereby rejected. Purchaser's submission of a purchase order shall indicate purchaser's acknowledgment of and agreement with these Terms and Conditions.

TERSEN reserves the right to change these Terms and Conditions of Sale without notice.

tersen™
An Acuity Brands Company

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Acuity Brands Lighting, Inc.
Rev. 07/09

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