



EUREKA

TERMS AND CONDITIONS OF SALES

1. Orders Acceptance

An order is accepted by **Eureka** only when submitted in writing and when the following conditions are met: (1) Purchaser's credit is approved; (2) The following details are received: project name, the specifier (Designer, Architect and / or engineer) and the quote number if available, your purchase order number, price and information relating to the shipment of the order; (3) Color samples of non-standard **Eureka** offerings have been approved by purchaser; (4) Approved shop drawings for modified or special designs have been received; (5) deposits have been received if required (See "**Deposits**"). (6) If a quotation has been submitted, the quote number must appear on the purchase order. All price changes must be submitted in writing. Missing information on the order form will result in a processing delay of your request that you will be returned to be completed.

2. Pricing

All prices are in US dollars. All previous price lists are hereby superseded. All prices are FOB our warehouse. Purchase orders that have been accepted allowing for shipment within 60 days will carry a firm price. Written quotations are valid for a period of ninety (90) days. If a written quotation is submitted, our quotation number must be included with the purchase order. The price of the product shall be the price set out in the invoice. For any product not on the price list or a modified and/or custom product, please contact your **Eureka** Sales Representative for pricing. Prices are subject to change without notice.

3. Taxes

No tax will be added to products shipped outside Canada, including the United States.

4. Deposits

Eureka reserves to right to ask for a deposit up to fifty (50) % on custom modified standard or large orders. When the order is ready for shipment, the unpaid balance of the order will be invoiced at standard payments terms.

5. Credit

Credit may be established at our sole discretion. **Eureka** reserves the right to cancel or change credit terms at its discretion and may request advance payment at any time.

6. Terms of payment

All invoices are payable in full within thirty (30) days. All first orders (new Purchaser) are on a CIA (cash in advance) basis until payment terms can be set up by **Eureka**. **Eureka** reserves the right to refuse to set up an account for a Purchaser for any reason. We also reserve the right to modify the terms of payment on a Purchaser's account for any reason. **Eureka** determines the terms of payment of the client.

Invoices are payable in accordance to the terms of payment given to the customer by **Eureka**.

Past due accounts shall bear interest from the due date until paid at the lesser of an annual rate of eighteen (18) %, calculated daily, or the highest rate permitted by applicable law. The Products delivered shall remain **Eureka**'s property until **Eureka** has received payment in full.

7. Catalog

Every effort is made to ensure accuracy; however, specifications, dimensions, and information contained in our catalog (print and electronic) are subject to change without notice. Catalog sheets are not to be used for installation information. Installation instructions are provided with the product and can be furnished in advance if requested with our customer service department.

8. Territory

Unless otherwise agreed in writing by **Eureka**, the Purchaser shall refrain from, directly or indirectly, installing or using the products outside the State or Province in which the Purchaser is located ("Territory"), or selling, commercializing, distributing or transferring in any manner the products to any person whom the Purchaser should reasonably expect to install or use the products outside the Territory.

9. Regular Delivery

Unless otherwise specified by the Purchaser, **Eureka** will ship merchandise via the method it deems satisfactory, collect or prepaid and charge on the invoice, based upon convenience, experience and cost. The customer is responsible for any additional freight charges caused by address changes, residential service, re-routed packages, returned packages and/or other adjustments made by the carriers. These additional freight charges will be invoiced to the customer in a supplemental invoice after the shipment.

All orders will be shipped F.O.B our factory. The delivery date shall be determined by **Eureka** in accordance with the product's availability and production capacity. Any and all dates given are approximate only and do not constitute any guarantee of shipment or delivery on or by any particular date. We are not responsible for any damages, penalties or labor charge-backs resulting from delayed shipments or from our inability to ship by the acknowledged shipping date. If **Eureka**'s ability to manufacture and deliver the products shall be curtailed or limited, directly or indirectly, by acts of God, fires, sabotages, wars, riots, typhoons, explosions or other catastrophes, epidemics or quarantine restrictions, embargoes, acts of governmental bodies or agencies foreign or domestic, act of public enemy, strikes, lockouts or labor difficulties or any other occurrences whatsoever beyond **Eureka**'s reasonable control, in whole or in part, the occurrences shall constitute valid grounds for the suspension of delivery to the Purchaser upon notification and without penalty to **Eureka**. In such a case, the date of delivery shall be extended for a



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period equal to the delay. **Eureka** shall notify the Purchaser promptly of any of those events and specify the revised date of delivery as soon as practical. At the Purchaser's request, **Eureka** may, for a period of time not exceeding forty-five (45) days and at no additional cost to the Purchaser, store products ordered by the Purchaser if the Purchaser is not ready to receive such merchandise. All products ready for shipment for more than forty-five (45) days shall be invoiced to the Purchaser and a set fee of five (5) \$ per day shall be charged to the Purchaser until the products are finally released for shipment by the Purchaser. All storage fees shall be invoiced on the last day of every month and are payable in accordance with the terms of payment given to the Purchaser by **Eureka** on the day the invoice is made.

Purchaser should carefully inspect all items at time of delivery and note any damage on the delivery receipt. Obvious or subsequently discovered concealed damage must be reported, promptly and in writing, to the carrier.

Buyer shall examine material upon receipt. All claims for shortages, missing parts or damages must be made in writing within three (3) days of delivery. Claims not received in writing within the time specified are waived by Buyer.

Within twenty (20) days of the delivery of the products, the Purchaser shall inform **Eureka** of any nonconformity of the products (insofar this default is not due or caused by transport) so as to allow **Eureka**, after a proper control as may be requested by us, to replace the nonconforming products or to credit the corresponding value of the nonconforming products to the Purchaser. In case of failure to invoke and to indicate the nature of such nonconformity within the above-mentioned period of time, the Purchaser shall lose the right to rely on the nonconformity of the products.

10. Quick Delivery

Quick Delivery orders will ship within three (3) working days of receipt of orders. The maximum quantity of fixtures allowed per type under the Quick Delivery program is ten (10) units. Quantities above maximum quick delivery quantities are contingent upon stock availability.

11. Returns

All return requests must be made in writing within ninety (90) days of receipt of merchandise for merchandise no longer required by the Purchaser. No merchandise may be returned without a return merchandise authorization (RMA). Should merchandise be deemed defective, **Eureka** will only pay transport fees for said merchandise from the original point of delivery.

All RMA requests must include original invoice, packing slip or purchase order number as well as the reason for the return. Returned merchandise must be in original packaging. All returns are subject to a restocking fee. Restocking fees will be indicated on the on the return authorization. An additional ten (10) % handling fee may apply to merchandise not returned in their original cartons.

Eureka will not accept responsibility for unauthorized returns. All returns must have a RMA number clearly marked on the box(es) as well as on the waybill and commercial invoice. Merchandise sent to **Eureka** without an RMA number will be returned to the Purchaser at his or her expense. Credits for returns that are unsealed, or not in their original cartons, will be issued only after inspection and acceptance by **Eureka**. No credit will be issued for damaged material. **Eureka** reserves the right to refuse any damaged or out of warranty merchandise. Any such merchandise will be returned at the Purchaser's expense. All modified, specially discounted, custom items (including mock-up samples) are **not returnable**.

12. Cancellations

The Purchaser may, at no charge, cancel an order in writing provided the order was sent to **Eureka** twenty-four (24) hours or less prior to cancellation. After that time frame, the Purchaser may in writing cancel or modify the order at any time provided that the Purchaser shall assume any and all costs related to the cancellation or modification. All modified, specially discounted, custom items **cannot be cancelled**.

13. Design Changes

Eureka reserves the right to make changes in design or construction of products, which in **Eureka's** judgment constitutes an improvement, without notice or obligation to the Purchaser. With the exception of parts covered by an extended warranty, **Eureka** cannot guarantee that replacement parts will be available after three (3) years of delivery of a product. This does not apply to products that were being liquidated at the time of delivery; as such parts would not be available for the aforementioned items.

14. Warranty and Disclaimers

Eureka warrants to the Purchaser that the products sold by **Eureka** will be free from defects in material and workmanship for twelve (12) months from the date of delivery of the products. Should at any time defect or deficiency appear due to faulty workmanship and/or material on products still under warranty, **Eureka** may, at its choosing, decide to repair, at its manufacturing facility or on site, or replace said goods. Any goods still under warranty that are to be returned to **Eureka** will be sent via the transport company of **Eureka's** choice.

No labor charge-backs in connection with such defects will be reimbursed without prior written approval from **Eureka**. Purchaser's invoice for labor charge-backs agreed to by **Eureka** must be submitted



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in writing within thirty (30) days of authorization. No returned merchandise will be accepted without a written authorization from **Eureka**. Repaired or replacement fixtures will be sent via ground. All air shipments will ship at the client's expense.

All defective merchandise still under warranty will be repaired or replaced. No credit will be issued.

In no event shall **Eureka** be liable for loss of profit, loss of use, financial loss, damage to other equipment, or any indirect, consequential, incidental, special, punitive or treble damages whatsoever arising out of or relating to any breach of this warranty. The total liability, contractual or in torts, of **Eureka** relating to any claims arising out of, or in connection with the products, their sale, delivery, replacement, use or performance of the products shall in no case exceed the price allocable to the products. We reserve the right to determine the best method for correcting such defects.

Ballasts, Transformers/Converters supplied by **Eureka** in its products are warranted to be free from manufacture and material defects from the date of purchase of said products. This warranty covers only replacements or repairs at **Eureka's** factory to the original purchaser, exclusive of labor costs, transport costs, or any personal or financial losses incurred by the original purchaser. If **Eureka** furnishes you with advice or other assistance concerning the products manufactured, the furnishing of such advice will not subject the company to any liability.

Ballasts, Transformers/Converters, Drivers, and LED products
Warranty Period by **Eureka**:

- Integral Magnetic Low Voltage Transformer: (5) years
- Electronic Low Voltage Converter: (3) years
- LED Driver & Module: (5) years
- Fluorescent, Compact Fluorescent, Ballast: (1) year
- HID: (1) year

All ballasts, transformers/converters, drivers and LED modules might be warranted by the ballasts, transformers/converters, drivers, and LED modules manufacturers for an extended period exceeding the **Eureka** warranty. For warranty requests exceeding **Eureka's** warranty period, ballasts, transformers/converters manufacturers should be contacted directly. **Eureka** Customer Service can also be called for more details and assistance.

Although Eureka makes every effort possible to use only the highest quality ANSI-binned LED emitters, the nature of LED manufacturing means there might be slight fluctuations in performance and colour temperature (+/- 250K) between individual LED module. LED performance and lifetime may vary

depending upon usage levels, environmental temperature, fixture positioning and maintenance of the fixture. We rigorously test all of our LED module designs to ensure an L70 of more than 50 000 hrs life-time. Please note all tests are calibrated to 25° C, and warmer environmental conditions could exponentially affect these results. Eureka does not warrant aesthetic appearance, CCT, lumen output or lifetime performance from order to order. In addition, if a defective product is repaired or replaced we will make every effort to match the original order, but due variations in product usage and rapid rate of development in the LED industry, Eureka cannot guaranty a perfect match.

Note: We recommend that each fixture be checked at the job site by the contractor prior to actual installation. (Some field assembly may be required.)

15. Exceptions to warranty

The warranty described above shall not apply in the following circumstances:

- Damages resulting from normal wear and tear, negligence, accident, or misuse after shipment from the factory, as well as improper selection or installation of lighting products, lack of proper maintenance, abuse, casualty, alteration or damage due to electrical fluctuations as the result of extreme conditions, fire and flooding or any acts of God;
- Failure of products which have been modified or integrated with other manufacturers products;
- Failure of color stability in non-standard paint colors;
- Lamps provided by Eureka as accommodation and not manufactured by Eureka;
- Accessory supplied by Eureka but not manufactured by Eureka provided to the customer for convenience.

16. Intellectual property

The purchaser acknowledges the validity and the ownership of **Eureka's** Intellectual Property and that such Intellectual Property is and shall remain its property. The Purchaser shall not (i) in any way do anything to infringe upon, harm or contest the validity of the Intellectual Property or (ii) register or use for any reason whatsoever the Intellectual Property within the Territory and elsewhere. This obligation shall survive and continue to bind the parties after the termination of this Agreement. The Purchaser agrees not to remove or alter **Eureka's** trademarks, which are affixed to the Products, nor affix any additional trademarks or trade designations to any of the Products that bear **Eureka's** trademarks without the prior written consent of **Eureka**.

17. Litigation and Governing Law

All disputes arising out of this Agreement shall be subject to the exclusive jurisdiction of the competent courts of the district of Montreal,



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Quebec. This Agreement shall be governed by the laws of the Province of Quebec, Canada.

18. Miscellaneous

Offers and acceptance made by facsimile are legally binding as though executed originally. If any provision of this Agreement is found to be null or unenforceable, the remainder shall continue to be in full force and effect. This Agreement constitutes the entire Agreement between **Eureka** and the Purchaser with regard to the purchase and sale of the Products and shall supersede all prior Agreements, undertakings and communications between the Purchaser and **Eureka** with regard to such purchase and sale.