



3704 Hilltop Drive, Suite 200  
Conroe, Texas 77303  
936.494.3900

## Terms and Conditions of Sale

### TERMS AND CONDITIONS FORMS:

These Terms and Conditions of Sale supersede any contrary provisions presented in any written form or otherwise by the buyer ("BUYER") and may not be changed in any manner other than in writing, signed by an authorized representative of Divine Lighting, Fabrication & Powdercoating, LLC ("DIVINE.")

### ACCEPTANCE OF ORDER:

DIVINE reserves the right to review any orders prior to acceptance and to decline and return orders that do not conform to agreed upon price or terms. Acceptance of an order does not guarantee the extension of credit by DIVINE.

### MINIMUM ORDER:

Except for repair parts or freight claims, the minimum order is \$50.00 or subject to a minimum order process fee of \$25.00.

### PRICE AND PAYMENT:

Except as otherwise shown on invoices, all products ("Products") are priced and shipped F.O.B. Factory. Standard terms are NET 30 DAYS with approved credit unless otherwise agreed upon in writing. Prices are subject to change at the discretion of DIVINE in the event of any change in customer's specification from the time of the acceptance of the order. Prices do not include taxes or any other extraneous charges. BUYER assumes all responsibility for taxes or governmental fees associated with this transaction, except for taxes imposed on and measured by DIVINE's net income, unless a valid tax exemption certificate is on file with DIVINE at the time of the sale. Upon maturity of invoices, a 1.5% per month additional charge per month may be assessed on any unpaid balance. Any account submitted for collection is subject to reasonable attorney fees and costs. DIVINE reserves the right to delay shipment on any orders when overdue invoices exist.

### CANCELLATION:

Any cancellation by BUYER of all or any portion of the order made after the order is in production shall be subject to a cancellation fee as determined by DIVINE. Custom or special orders may not be cancelled.

### FREIGHT:

Freight costs may be deducted for shipments in excess of \$1,500 within 1,000 miles of Divine Lighting Warehouse in Conroe, TX or \$3,000 over 1,000 miles of Divine Lighting warehouse, unless otherwise specified on the invoice and provided that the payment is received in full at the DIVINE office by the due date of the invoice. Freight for shipments less than \$1,500 or \$3,000 which ever applies to the above mileage specifications will be prepaid and added to the invoice for payment unless otherwise previously approved by Divine. Freight for Poles, Lenses, Globes, Conversions and "Custom" fixtures are excluded from this freight policy as well as any additional charges, such as lift gate, pallet jack, limited access, apartment deliveries, etc. charged by the freight company or requested by or signed for by the consignee will be billed to the BUYER and may NOT be deducted from the invoice. The original invoice will be revised to include the non-deductible additional charges as soon as Divine receives the freight bill from the carrier. Local deliveries to Houston and surrounding areas will have a \$30 non deductible fuel charge. If poles are delivered, they could carry up to \$100 non deductible delivery charge.

**TITLE:**

Title and the full risk of loss or damage of the Products shipped shall pass to the BUYER upon placement of the Products with a carrier for shipment or upon delivery to the specified delivery site.

**CLAIMS:**

All shipments are packaged by DIVINE with great care. Any damage or shortage must be reported to DIVINE IN writing within 72 hours of receipt of shipment. If damage occurs in shipment, DO NOT refuse the shipment, as this will cause unnecessary delays in delivery of the product and will result in freight charges to the BUYER. Damage or shortage should be marked on the freight bill and a claim MUST BE FILED BY THE BUYER WITH THE CARRIER. DIVINE will gladly assist in processing freight claims. Replacement products will be billed to the BUYER for payment upon reimbursement by the freight company.

**GENERAL EXEMPTION:**

DIVINE shall not be responsible for installation of Products unless such installation is performed by DIVINE or DIVINE's authorized agent. DIVINE provides a Limited Warranty as part of these Terms and Conditions of Sale. No claim for damage can be made outside of that warranty. DIVINE shall not be responsible for any damage or loss incurred by operating the Products for any device, electronic or otherwise, that was not supplied by DIVINE.

**RETURNS:**

No merchandise may be returned without written authorization from DIVINE. Returns without such authorization are at the customer's risk. Merchandise must be returned complete, freight prepaid, in the original cartons within sixty (60) days of the date of sale. A restocking fee will be applied as determined by DIVINE.

**JURISDICTION:**

All sales and related transactions are governed by the applicable laws of the State of Texas and are due and payable at DIVINE's office in Montgomery County, Texas.

**LIMITED WARRANTY:**

Divine Lighting, Fabrication& Powdercoating, LLC, and (further known as "Divine"), warrants its products as follows:

**LED Fixtures:** Divine warrants that for a period of two (2) years from the date of shipment(s) that all LED fixtures, further known as "products", shall be free from defects. If the BUYER reports such defect to DIVINE within the warranty period, DIVINE will, at its discretion, repair or replace the defective products F.O.B. Factory. Freight prepaid by the BUYER. Warranty is for parts only.

**Fluorescent and HID:** A period of one (1) year from the date of shipment(s) that all fluorescent and HID fixtures, further known as "products", shall be free from defects in materials and workmanship. If the BUYER reports such defect to DIVINE within the warranty period, DIVINE will, at its discretion, repair or replace the defective products F.O.B. factory. Freight prepaid by the BUYER. Warranty is for parts only.

Field labor is not included in the warranty. Warranty on lamps are 30 days from date of purchase. The foregoing warranty shall not extend to products that have been (a.) altered, modified, or repaired in any way except by DIVINE or DIVINE's authorized agent. (b.) subjected to unusual physical or electrical stress, abuse, misuse, negligence or accident, (c.) improperly installed, or (d.) installed in a service and/or application other than one for which the product was designed and sold. It is the sole

responsibility of the BUYER to determine if the intended service and/or application for the Product has been approved by DIVINE. The foregoing is the sole and exclusive remedy against Divine for breach of warranty, and any third-party purchaser or user of the products shall be bound by all obligations, limitations and restrictions placed upon the BUYER herein.

**DISCLAIMER:** EXCEPT FOR THE WARRANTIES STATED ABOVE, DIVINE MAKES NO WARRANTIES, WHETHER EXPRESSED, IMPLIED, OR STATUTORY, AS TO ANY OTHER MATTER WHATSOEVER. IN PARTICULAR, ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THE THIRD-PARTY RIGHTS ARE HEREBY DISCLAIMED.

**LIMITATION OF LIABILITY.** Other than the obligation to repair or replace as provided above, Divine shall have no liability for any losses, expenses or damages resulting from installation, use, inability to use, or removal or replacement of any product. Divine will not under any circumstance whether as a result of breach of contract, breach of warranty, tort, strict liability or otherwise be liable for consequential, incidental, special or exemplary damages including but not limited to, loss of profits or revenues, loss of any other goods or associated equipment or damage to any associated equipment, cost of capital, cost of substitute products, facilities or services, down time cost or claims of claimant's customers. Divine's liability on any claim of any kind for any loss or damages arising out of, resulting from or concerning any product, any aspect of this warranty or for any products or services furnished shall not exceed the price of the fixture.

All components and fixtures covered by this warranty as provided above, will be repaired or replaced at no charge to the customer, however, the customer is responsible to hire and pay for an electrician to remove and reinstall such components and fixtures. No labor costs will be covered for the removal or reinstallation of any components or fixtures. The warranty does not cover modifications, repairs or replacements, or the related labor or materials costs that may be necessary to facilities or third-party products in connection with the removal, repair, or replacement of any product under this warranty.

By my signature below, I attest that I am authorized to accept the above Terms and Conditions of Sale on behalf of \_\_\_\_\_ and hereby agree to the content stated herein. I understand that with my signature, I am entering into a contractual relationship between Divine Lighting Fabrication & Powdercoating, LLC and \_\_\_\_\_.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)