

TERMS AND CONDITIONS & STATEMENT OF WARRANTY

Gardco/Emco Terms and Conditions and Statement of Warranty appear in the front of each of the price guides. The Terms and Conditions have been reprinted here for your reference. A copy of our Terms and Conditions is also included in each catalog binder.

TERMS AND CONDITIONS

1. All acknowledged orders are subject to a cancellation charge up to the price of the goods. Part cancellations may affect freight prepayment, whereas adds to orders already processed will be considered separate orders for freight prepayment.
2. Delivery dates are estimates only. The Seller shall not be liable in any respect for failure or delay in the fulfillment or performance of this contract if hindered or prevented, directly or indirectly, by war; conditions of war; acts of enemies; national emergency; sabotage; revolution or other disorders; inadequate transportation facilities; inability to secure raw materials or supplies, fuel, or power; fire, flood, windstorm, or other acts of God; strikes, lockouts, or other labor disturbances, orders or acts of any government or government agency or authority; or any cause of the like or different kind beyond the reasonable control of the Seller.
3. Notwithstanding delivery of goods, no terms or conditions in oral or written communications from Buyer (including Buyer's purchase order or other forms) shall be binding on Seller unless specifically accepted in writing, signed by Seller.
4. The terms of this agreement shall not be modified or changed in any manner except upon the written consent of the Seller. This document contains all the terms, warranties, guarantees and conditions respecting this transaction and cannot be changed by any oral statement of any agent, officer, or representative of Seller.
5. Any goods damaged or lost in transit must be so noted on the delivering carrier's freight bill. Rates are determined in proportion to the damage liability; therefore, the carrier and not the shipper, should be charged with all loss or damage. Gardco/Emco Lighting will do everything to assist the purchaser, except file the claim. Replacement goods must be ordered and paid for by the consignee.
6. Shipment must be unloaded promptly as we will pay no demurrage.
7. Buyer must examine the merchandise upon delivery to him and must report all apparent error or defects to Seller within ten (10) days of said delivery; otherwise, it shall be conclusively presumed between Seller and Buyer that the merchandise has been delivered as specified in this contract.

8. Upon approved credit the following terms apply: 1% -15 days, net 30 from date of invoice. The postmark date will determine the allowable cash discount. A 1½% per month interest charge or the highest rate allowed by applicable law, whichever is lower, will apply to all past due accounts. The Buyer will be liable for all legal fees incurred by the Seller in the event legal action becomes necessary to collect past due accounts.

9. All prices are subject to change without notice. Federal and State taxes, if applicable, not included.

10. All quotations, bids, contracts and orders are subject to a final written approval, or acceptance and acknowledgment by Gardco/Emco with the condition that all noted terms and conditions apply. Quotations will be firm for sixty (60) days. Prices acknowledged on deferred or hold orders will be firm for ninety (90) days.

11. The minimum acceptable order is \$250.00 book price except for replacement parts.

12. All prices are F.O.B shipping point with transportation prepaid and allowed on orders of \$3,000.00 net, or more, combined for luminaires and poles, within the continental United States. All orders that include poles shall incur pole freight charges, a minimum of \$125, if the total pole quantity is less than 5 poles. Separate shipment of anchor bolts ("Pre-shipment") shall incur freight charges on such anchor bolt shipments in all circumstances whatsoever. Shipment to Hawaii or Alaska will be prepaid to any port of debarkation in Oregon, California, or Washington, Routing and means of transportation will be our selection unless otherwise selected and requested by the purchaser; in which case the purchaser assumes any or all added charges. Freight terms for orders qualifying for promotional programs, such as "Quick Ship", "Hot Sheets", "HPV Special" or other programs that may be in effect from time to time, shall be as stated in the applicable promotional program.

13. The Buyer shall not withhold payment of invoices pending settlement of claims.

14. All sales are final, but in some cases, returns may be allowed at the Seller's discretion. All requests to return merchandise must be made within six (6) months from date of invoice. No products will be accepted for return unless accompanied by a Return Goods Authorization, which can only be obtained from the division's headquarters' offices. A restocking and rework charge will be made on all returns to cover all costs, including freight both ways. If repairs or reconditioning costs are involved, these costs will be assessed in addition to the restocking charges. No specially fabricated, custom or modified items are returnable for credit and such orders are non-cancelable after acceptance by Gardco/Emco Lighting.

15. Whenever the Gardco/Emco delivers goods directly to a construction site, it will be understood that such goods are being delivered for the purpose of their incorporation into the structure being constructed, and Gardco/Emco will be relying for payment upon the credit of the structure being constructed in addition to the buyer's credit.

STATEMENT OF WARRANTY

1. The Buyer is responsible for determining the suitability of the Seller's products for its use or resale. Seller warrants to the Buyer, the original purchaser only, title to the goods and material and workmanship at time of shipment (excluding H.I.D. ballasts, photoelectric controls and fluorescent ballasts which are discussed below). Any warranty claims for Gardco products must be asserted by the Buyer in writing within five (5) years from the date of the buyer's receipt of the goods. Any warranty claims for Emco products must be asserted by the Buyer in writing within one (1) year from the date of the buyer's receipt of the goods. Thereafter, they will not be honored. Furthermore, unless any such warranty otherwise specifically states, it is made to the Buyer only and the Buyer is not authorized to extend to any person or entity a warranty on the Seller's behalf, or to extend any remedies against the Seller to anyone. Such extensions by the Buyer shall remain the Buyer's responsibility.

Therefore, except to the extent of the warranty stated above, THE SELLER DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL THE SELLER BE LIABLE TO THE BUYER IN WARRANTY, CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, FOR ANY DAMAGES, WHETHER INCIDENTAL OR CONSEQUENTIAL, WHICH ARE ALLEGED TO BE CAUSED BY ONE OR MORE OF THE SELLER'S PRODUCTS BEYOND THE COST TO THE SOLE AND EXCLUSIVE REMEDY AGAINST THE SELLER FOR BREACH OF WARRANTY, BREACH OF CONTRACT OR NEGLIGENCE OR STRICT LIABILITY, OR OTHERWISE, SHALL BE FOR REPAIR OR REPLACEMENT OF THE SUBJECT PRODUCT AT SELLER'S OPTION (EXCLUDING INSTALLATION AND REMOVAL CHARGES, WHICH SHALL BE THE BUYER'S RESPONSIBILITY) OR, IF THE SELLER CHOOSES, REFUND OF THE PURCHASE PRICE, AND SUCH EXCLUSIVE REMEDY SHALL EXPIRE FIVE YEARS FROM THE BUYER'S RECEIPT OF THE GOODS FOR GARDCO PRODUCTS AND ONE YEAR FROM THE BUYER'S RECEIPT OF THE GOODS FOR EMCO PRODUCTS.

2. H.I.D. ballasts, photoelectric controls, and fluorescent ballasts carry the same warranty as offered by the original manufacturer of these items, but in no event will any warranty claims on these items be honored later than five (5) years for Gardco products or one (1) year for Emco products after the Buyer's receipt of the goods. In the event of a defect in one of these items which is covered by warranty, these items will be shipped and billed at replacement cost and a Return Materials Authorization will be issued for the defective items. Credits will be issued on return of the defective items to the Seller. The invoice for the replacement item is payable within thirty (30) days unless the defective item is returned within this period of time.

3. All cartons should be inspected for freight damage on receipt. Instructions for filing freight claims may be found on the cartons. In the event of freight damage, replacement materials must be ordered and paid for and a claim filed by the consignee on the carrier for the amount of the replacement materials.

4. Gardco/Emco will accept no responsibility for the installation of damaged material.

5. An annual minimum sales requirement and a minimum \$1,000 initial order will be required for all customers.