



AUBERGE

LED-BASED ARCHITECTURAL LIGHTING
2301 4TH STREET, BERKELEY, CA 94710
P: 408 394 3054

WWW.ALVALIGHT.COM // WWW.AUBERGELIGHTING.COM

TERM AND CONDITIONS OF SALE

Terms of Payment NET 30

DEPOSITS: Deposits are required with first order from new customers and those without an open account. Orders over \$10,000 may require a 50% deposit at time of order. Orders with customers without approved credit may require pre-payment.

Prices: Quoted prices firm for orders placed within 30 days.

- (a) Prices are subject to change without notice unless expressly designated as firm for a specified period pursuant to a written Quotation or Sales Order issued by ALVA Lighting.
- (b) Freight allowances per schedule. See freight allowance.

RETURNS & CANCELLATIONS: ALL SALES ARE FINAL. All fixtures are manufactured to order and are not subject to cancellation or return.

PRICES

All prices are quoted in U.S. Dollar. Prices do not include any taxes (unless specifically noted) or charges levied by Federal, State, or Municipal authorities. Pricing on all orders is subject to final approval by the factory. Prices are subject to change without notice.

ESTIMATED SHIP DATES: Orders are acknowledged with ship dates which are approximate and represent our best estimate. If events beyond our control delay shipping, we will not be held responsible for any damages, penalties or labor charge backs resulting from delayed shipments.

Conditions of the Sale

- (a) Title and Risk of Loss – Title, damages and risk of loss pass to and are borne by purchase upon delivery by ALVA Lighting to carrier. Once order is shipped, merchandise must be accepted at point of delivery.
- (b) Acceptance Based on ALVA Lighting Written Quotation – ALVA Lighting reserves the right of acceptance of any purchase order received. Acceptance of a purchase order is based on ALVA Lighting's written quotation and receipt of a purchase order. All purchase orders are subject to ALVA Lighting's terms and conditions stated herein. Any deviation in a purchase order from the written quotation requires a written change notification to accompany the purchase order and for ALVA Lighting to confirm that the change request was both received and accepted. Quoted prices are firm for 30 days or for the specific time indicated in writing by ALVA Lighting. Once the order has been accepted any requests for additional time shall be an additional cost at the current or negotiated price.
- (c) Governing Laws – The terms of sale of any product under this agreement shall be governed in accordance with the laws of the State of California. Buyer waives any objection on the ground of venue or forum non-conveniens or any similar grounds; and consents to service of process by mail or in any other manner performed by the relevant law.
- (d) Guarantee and Waiver – ALVA Lighting is not responsible for any obligation to purchase other than to provide lighting fixtures and parts as specified by ALVA Lighting. The Company does not accept responsibility for take-offs on job specifications, nor for compliance with specifications that are not stipulated in the request for quotation. No orders are accepted per plans and specification or for guaranteed approval. All field measurements and dimensions are the responsibility of the contractor.
- (e) Warranty – Refer to the ALVA Lighting website for warranty information.
- (f) Claims – All merchandise is properly packed for shipment. For extra protection, certain plastic parts are packed separately. In the event of shipping damage, it is the sole responsibility of the buyer to file a freight claim.
- (g) Back Charges – No back charges for any fieldwork on fixtures will be accepted without prior written authorization from ALVA Lighting.
- (h) Marketing material/Pricebook/Website Errors – Every effort is made to prevent informational errors in any ALVA Lighting publications. ALVA Lighting will not accept responsibility and shall be held harmless for all loss and/or damages due to errors relating to, but not limited to dimension data, prices, descriptions, applications etc.
- (i) Acceptance of Buyer – Retention by the buyer for a period of 10 calendar days after receipt of any shipment of goods sold under a purchase order shall constitute an irrevocable acceptance of the goods contained in the shipment, unless ALVA Lighting is notified in writing in accordance with the terms and conditions stated herein.

- (j) Returned Merchandise – Written authorization must be obtained from the factory before merchandise can be returned for credit. Transportation must be prepaid on all returned merchandise. Credit will be issued at prices prevailing at time of shipment, or at the time of return, whichever is lower, provided the products are in sellable condition and are of current style and design. A restocking charge, the amount to be determined at time of request, based on the invoice price plus original freight costs involved, will be deducted from the credit to cover the cost of handling inspecting, and loss of profit. Custom-made or modified merchandise is not subject to return.
- (k) Change Orders – After acceptance of purchase order, all requests for changes must be made in writing and shall not be effective unless accepted by ALVA Lighting.

Freight Allowance: F.O.B. ALVA Lighting's distribution center in Oakland, California. Freight shall be allowed on orders for interior fixtures ONLY of \$2,500.00 or more. Where freight allowance is specifically authorized it shall be the Seller's option to determine the carrier. Freight allowance is based on one single shipment within the **Continental United States** unless stated otherwise on the written quotation. Exterior fixtures are EXCLUDED.

Shipments: all weights shown are approximate and are for estimating purposes only. ALVA Lighting will use its own discretion in routing all freight allowed shipments. The acceptance of shipment by a licensed common carrier shall constitute a delivery.

Date of Shipment: A scheduled production date is not a warranty that ALVA Lighting fixture products will ship on that specific date.

Late Deliveries: ALVA Lighting will not be responsible for or incur any liability for costs associated with "late deliveries" based upon job schedules or contracts to which ALVA Lighting is not a signatory.

Interest on Past-Due Obligations: Any unpaid invoice due to ALVA Lighting shall bear interest at a rate of 10% per annum or the maximum rate allowed by law, from due date.

Attorney's Fees: Should legal action become necessary to enforce the terms of this agreement, the prevailing party shall be entitled to recover all reasonable costs incurred in bringing forth and defending such action, including without limitation, reasonable attorney fees.

Discrepancies: Notification of all claims for short shipments, price differences, freight discrepancies, etc, must be made in writing within 5 calendar days from the receipt of shipment and must include copies of all supporting information. Failure to report a discrepancy within the terms stated above shall be deemed a waiver.

IMPORTANT: The order is subject to all the terms and conditions hereof, all of which are hereby accepted by Buyer.

The order becomes a binding contract when accepted by the Seller at its office. Such acceptance by Seller shall be complete when (A) acceptance in writing is mailed by Seller to Buyer, or (B) when Buyer receives delivery of or retains in its possession without immediate return or any written objection thereto for all or any part of the merchandise ordered hereunder, or (C) Buyer has given to Seller instructions relative to delivery dates, shipments, requests to bill and hold, or has otherwise assented to Terms and Conditions hereof as to all or any part of the goods referred to hereunder.

Trading area: ALVA Lighting reserves the right to refuse acceptance or shipment of any order when destination is outside of the wholesaler's or agent's normal trading area.

Cancellations: Orders are not subject to cancellation except for all costs incurred, engineering work performed and special material purchased.

Arbitration: Any controversy or claim arising out of or related to the agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its rules for the resolution of commercial disputes. Judgement upon the award rendered by the arbitrator may be entered by any court having jurisdiction of the parties and the subject matter. The prevailing party shall be entitled to reasonable attorney fees. The arbitration shall take place in Alameda County, California.

Disclaimer

Unless otherwise stated in the Company's literature, all luminaires and accessories manufactured by ALVA Lighting are designed for indoor use, at voltages 90% to 105% of rated and ambient temperatures of 50F to 85F, installed in conformity with all applicable codes and regulations, and not subjected to unusual atmospheric content, wind, moisture, pressure, vibration or other abnormal ambient conditions. Since the ultimate use of these luminaires and accessories is beyond the control of the Company, said Company assumes no responsibility for their proper operation of safety other than the stated conditions or for any use other than that for which they were designed as described in the Company's literature, unless prior written approval has been obtained from the Company for the specific conditions.

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