

1. Acceptance

The following are the Terms and Conditions upon which Spectralux Corporation ("Spectralux") agrees to sell and deliver its products to Buyer. No contract for sale will be formed until a Sales Order Acknowledgement has been transmitted by Spectralux.

2. Payment of Taxes

Buyer is responsible for paying any and all local, state, territorial, provincial or federal taxes, excise taxes, duties, tariffs, goods and services taxes, value added taxes, withholding taxes, ancillary charges and the like owing to any government body or authority in respect of the transactions anticipated by these Terms and Conditions except that Spectralux will be responsible for its own income taxes.

3. Delivery, Transfer of Title and Risk of Loss

All products delivered under this Agreement are FOB Spectralux facility. Title and risk of loss will pass to Buyer upon delivery to designated carrier.

4. Payment

(a) Spectralux will submit invoices on the date of shipment. Partial invoices may be submitted for partial shipments. Domestic terms are Net 30 days from date of invoice. Late payments are subject to a 2.0% per month late charge. All payments shall be made in U.S. dollars via electronic ACH or wire transfer. (b) Buyer warrants that it is solvent and able to pay for the goods being purchased from Spectralux in accordance with the payment terms. If at any time Spectralux, in its sole and commercially reasonable judgment, has reason to question Buyer's ability to pay for products ordered, Spectralux may, in addition to any other remedies provided in these Terms and Conditions or available under law, require full or partial payment prior to completion of the order or on delivery of the products, or may cease further shipments until all accounts, which are thirty (30) days or more delinquent, are brought current, terminate the order, in which case Buyer shall be liable to Spectralux for the full contract price, together with any charges or expenses incidental to such termination, less (i) the fair value which Spectralux could readily obtain for the work and material appropriated to the order and (ii) any costs from which Spectralux shall be relieved by reason of such termination. Should Buyer become subject to a voluntary or involuntary petition in bankruptcy under the United States Bankruptcy Code or any comparable law or if a receiver, trustee or comparable official is appointed for Buyer; such event shall be deemed a material breach of these Terms and Conditions.

5. Warranty

Spectralux warrants that all products delivered under the order at the time of shipment and for the period (if any) set forth in the Warranty Period Table for each particular type of product will be free from defects in materials and workmanship, and will conform to the Spectralux published specifications and drawings, and, to the extent such products are not manufactured pursuant to detailed drawings furnished by Buyer, will be free from defects in design. In order to make a claim under this warranty, Buyer must provide written notice to Spectralux within thirty (30) days of Buyer's discovery of defect.

6. Indemnification

Spectralux agrees to indemnify Buyer for any monetary damages and costs finally awarded against Buyer in any final judgment that finds that any products manufactured and furnished to Buyer by Spectralux, in the form delivered to Buyer by Spectralux, when properly used in the United States in accordance with Spectralux service manuals, bulletins and instructions, infringe upon any United States patent; provided that Spectralux is given prompt written notice of any and all claims or threatened claims of infringement and full control of the defense and settlement of such claims (with the assistance and cooperation of Buyer as requested). Spectralux shall not be liable to indemnify Buyer for any damages and costs arising out of patent infringement if the infringement arises out of compliance with Buyer's specifications, or from a combination with, and addition to, or a modification of the products after delivery by Spectralux or from use of goods, or any part thereof, in the practice of a process. The foregoing states Spectralux sole liability and Buyer's sole remedy, for infringements of the rights of others by said products.

7. Limitation of Liability

(a) IN NO EVENT SHALL SPECTRALUX BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY REASON WHATSOEVER. THIS EXCLUSION APPLIES TO ALL LEGAL THEORIES UNDER WHICH DAMAGES MAY BE SOUGHT. (b) THE CUMULATIVE LIABILITY, IF ANY, OF SPECTRALUX FOR DIRECT DAMAGES ARISING UNDER ANY PROVISION OF THESE TERMS AND CONDITIONS OR ANY CONTRACT FORMED PURSUANT HERETO AND UNDER ANY THEORY OF LIABILITY WITH RESPECT TO THE PRODUCTS IS LIMITED TO AN AMOUNT NOT TO EXCEED THE PRICE PAID BY BUYER FOR THE PARTICULAR PRODUCTS GIVING RISE TO THE LIABILITY. THE RIGHT TO RECOVER DAMAGES WITHIN THE LIMITATIONS SPECIFIED IN THIS SECTION 9 IS BUYER'S EXCLUSIVE ALTERNATIVE REMEDY IN THE EVENT ANY OTHER CONTRACTUAL REMEDY FAILS IN ITS ESSENTIAL PURPOSE.

8. Compliance with Laws

(a) All information disclosed by Spectralux is to be considered United States ("U.S.") origin technical data. Accordingly, the receiving Party is responsible for complying with, and assures Spectralux that the receiving Party with all export regulations of the U.S., including the U.S. Department of State International Traffic in Arms Regulations ("ITAR"), the U.S. Department of Commerce Export Administration Regulations ("EAR"), and any other U.S. Government regulation applicable to the export, re-export, whether within, or without, the U.S., including those employed by, or otherwise employed by, or otherwise associated with, the receiving Party. (b) No technical data, manufacturing drawings, specifications, software or similar type items shall be transferred, disclosed or exported to "Foreign Persons" without specifically obtaining approvals from the U.S. Department of State's Office of Defense Trade Controls or from the U.S. Department of Commerce's Bureau of Industry and Security, as required.

9. Modifications and Waivers

No modifications of or amendments to these Terms and Conditions will be binding on the Spectralux unless made in a written instrument signed by both parties. A waiver of any breach, the acceptance of any order inconsistent with these Terms and Conditions, or the making of deliveries pursuant to such order, shall not be deemed a modification of these Terms and Conditions.

10. Force Majeure

Spectralux will not be in default with respect to these Terms and Conditions or any contract formed pursuant hereto because of any failure or delay if the failure or delay is the result of any act of God, act of any government in either its sovereign or contractual capacity, fire, flood, loss of electricity, epidemic, quarantine restriction, strike, freight embargo, severe weather condition, civil commotion, war or war-like operation, act of terrorism, invasion, rebellion, hostilities, military or usurped power, sabotage or any other cause beyond the reasonable control of Spectralux.

11. Severability

If any term of these Terms and Conditions or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of these Terms and Conditions, and the application of such term to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term of these Terms and Conditions shall be valid and shall be enforced to the fullest extent permitted by law.

12. Applicable Law; Jurisdiction and Venue

The validity, performance, and construction of these Terms and Conditions and contracts formed pursuant thereto shall be governed by the laws of the State of Washington, USA, without giving effect to its conflict of laws provisions. Buyer and Spectralux irrevocably agree and consent that the federal and state courts of King County, Washington, USA shall have exclusive personal jurisdiction over the parties and proper venue with regard to any claims arising in connection with the purchase, sale or performance of any product, and any objection to the jurisdiction or venue of any such court is hereby waived. Buyer and Spectralux waive the application of the provisions of the 1980 UN Convention on Contracts for the International Sale of Goods, as amended.