

STANDARD TERMS AND CONDITIONS OF SALE FOR DISTRIBUTORS

Leviton's liabilities is expressly limited to the Terms and Conditions of Sale as stated in this document for all-sales orders, sales acknowledgements, purchase orders and/or releases pursuant to blanket purchase orders issued by either Leviton or Purchaser (hereafter "Order"). Any proposal for additional or different terms and any attempt by Purchaser to vary in any way any of the terms and conditions of this document are objected to and rejected, whether made before or after the delivery of this document to Purchaser.

If an Order is deemed to be an acceptance of a prior offer or proposal by Purchaser, such acceptance is conditional on Purchaser's assent to all additional or different terms and conditions contained in this document. Purchaser's receipt of the products accompanying this document shall constitute acceptance of this document and all of these terms and conditions without variation or exception. The terms and conditions of this document cannot be changed in any manner without the express written approval by Leviton's authorized representative in an Addendum to this document executed by both Leviton and Purchaser. No course of dealing by Leviton or usage of the trade or any delay or omission by Leviton to exercise any right to remedy, granted under this document shall operate as a waiver of any of Leviton's rights or remedies or add to Leviton any obligation not in this document.

1. PRICES

•All Orders are subject to current Distributor Net Cost and Index in effect on date of shipment, and are subject to change without notice, unless otherwise authorized and specified in writing by Leviton. Written quotations expire 30 days from date of quotation unless otherwise specified in writing by Leviton. Leviton reserves the right until date of shipment to adjust upwardly certain or all of its prices to reflect anticipated volatility in the costs of critical raw materials and components, such as copper, silver, aluminum, rubber and plastic compounds.

2. TAXES

•Prices do not include any federal, state or local taxes.

3. TERMS OF PAYMENT

•Two percent tenth proximo, net 30th, unless otherwise specified in writing by Leviton.

4. DELIVERY – FREIGHT

•All shipments are F.O.B. shipping point with freight collect to any point in the 48 Contiguous States of America unless the shipment meets an agreed upon written prepaid minimum. All shipments to Alaska and Hawaii may be subject to freight surcharges.

4.1 Leviton reserves the right to select origin of shipment, routing and method of transportation for all prepaid freight. On shipments of \$2000 net or more invoice value, full freight is allowed to destination in the 48 Contiguous States of America. If the customer wants to specify in writing an alternative shipping carrier or method, the customer will be responsible for any additional freight charges beyond Leviton's original freight cost.

4.2 Material not in stock when Order is released by customer will be shipped as soon as possible thereafter.

4.3 Premium freight charges (such as air freight) will be at Purchaser's expense (shipped collect). Written authorization by letter, fax, EDI, VMI, telegram or E-mail must be received from Purchaser prior to the shipment leaving Leviton. All Purchaser requests for such premium freight shipments, whether acknowledged in writing or not, are the liability of the Purchaser.

5. CLAIMS FOR LOSS OR DAMAGE IN SHIPMENT

•Leviton tenders freight palletized in plastic wrap or bundled in heat shrink wrap. If merchandise is delivered in damaged condition or the wrapping appears violated and cartons are missing, a **notation must** be placed on all papers signed by the receiver. If unreported or concealed damages are noticed after delivery, the carrier should be contacted by telephone and if carrier fails to send an inspector within five days, a request should be made in writing to the carrier, confirming the telephone request for an inspection with a copy to Leviton. Any claim of shortage or damage must be made in writing to Leviton within 20 days of receipt of shipment. All requests for credit due to transportation loss or damage should be accompanied by properly signed papers.

For any shipment that is F.O.B. shipping point, freight collect a claim for loss or damage must be filed with the carrier directly by the customer. Credit cannot be allowed for damage claims that are not properly substantiated with supporting papers or received by Leviton too late for timely filing with the carrier.

6. WARRANTY

•Leviton warrants that products sold will, upon shipment, be free of defects of workmanship or material under normal and proper usage. Should any failure to conform to this warranty become apparent during the warranty period specified in the material accompanying the product (in most cases one year after the date of shipment), Leviton shall, upon prompt written notice from the Purchaser, correct such non-conformity by repair or replacement, at Leviton's option, of the defective part or parts. This warranty excludes and there is disclaimed liability for labor for removal or reinstallation of the products. Leviton disclaims all other warranties, express or implied including without limitation warranties of merchantability and fitness for a particular purpose.

Correction in the manner provided above shall be the sole remedy for and constitute a fulfillment of all liabilities of Leviton with respect to the quality of products and/or for breach of warranty. In no event and under no circumstances shall Leviton be liable to the Purchaser or to any other person for any indirect, special, consequential or incidental losses or damages, including, without limitation, damage to or loss of use of any equipment, lost sales or profits, or delay or failure to perform this warranty obligation. As stated herein, the term "person" shall include without limitation, any individual proprietorship, partnership, corporation or entity.

6.1 ABUSE

Leviton does not assume responsibility for claims arising from abuse of the Leviton product.

- (a) due to abuse by the Purchaser in their processing
- (b) due to handling or shipping damage as part of the OEM Manufacturer's product
- (c) due to improper installation practices or procedures
- (d) due to abuse or improper usage by the ultimate user
- (e) due to contaminants, including, but not limited to, exposure to salt or fresh water, chemicals and any other form of contamination from a source outside of Leviton's control.

6.2 DESIGN

Leviton does not assume responsibility for claims resulting from failure from improper design of the end product, such as (but not limited to) subjecting the Leviton product to conditions which exceed the rated capacity of the Leviton product, or subjecting the Leviton product to operating conditions which constitute improper usage.

7. INTELLECTUAL PROPERTY

7.1 Leviton shall defend any lawsuit or court legal proceeding brought against Purchaser, so far as based upon a claim that the furnishing of any product or any part thereof constitutes an infringement of any United States patent, but only if:

- (1) Leviton is notified in writing by Purchaser within thirty (30) days after Purchaser learns of same; and
- (2) Leviton shall have absolute discretion and control over any such action in its entirety and Purchaser shall cooperate fully with Leviton. In the event Leviton's furnishing hereunder of said product or any part thereof is held in such a suit to constitute infringement of a valid and enforceable patent by a court of last resort from which no appeal has been perfected, and the use of said product by Purchaser is enjoined by such court, Leviton shall at its own expense attempt to:
 - (a) produce for the Purchaser the right to continue using said product; or
 - (b) replace said product with what Leviton and its counsel believe to be a non-infringing product; or

(c) modify said product so that it in the opinion of Leviton and its counsel becomes non-infringing; or
(d) accept the return of said product and credit the purchasing price and the reasonable transportation costs of such return toward future sales from Leviton. The foregoing states the entire liability of Leviton for patent infringement of a valid and enforceable U.S. patent.

7.2 If Purchaser learns of any unauthorized or infringing third party use of any marks, names, trade dress, domain names, designs, enhancements, copyrights, patents, inventions, merchandising rights, rights of commercial exploitation, and all other intellectual property rights of any kind whatsoever of Leviton (hereinafter A Leviton Intellectual Property, Purchaser shall promptly notify Leviton of such use. Leviton shall thereafter have the sole right to decide whether proceedings shall be brought. Purchaser agrees to cooperate fully with Leviton to the extent necessary to prosecute such action, all expenses being borne by Leviton and all damages which may be recovered being solely for the account of Leviton.

7.3 Purchaser represents, warrants, covenants, and agrees that any materials and the rights to any specifications, designs or any other intangible rights, whether or not subject to copyright and/or patent protection, provided by Purchaser to Leviton and relied upon by Leviton, are owned free and clear by Purchaser; that no such material or rights violates or infringes or will violate or infringe upon the rights of any third party, including, without limitation, contractual rights, trademarks, copyrights, patents, rights of privacy or any other third party intellectual property or other rights; and that there is no arbitration, litigation, administrative proceeding, government investigation, or any other claim, suit, action or proceeding pending against Purchaser as of the effective date of this agreement and which may affect Leviton or which would adversely affect the ability of Leviton to enter into or perform its obligations under this agreement or have a material adverse effect on the business, prospects, finances or reputation of Leviton, if determined adversely to any of them. Purchaser shall hold Leviton completely harmless and shall defend and indemnify Leviton for any and all expenses, costs, attorney's fees, damages and other losses resulting from claims or assertions of patent, copyright trademark, or other intellectual property infringement arising from compliance with Purchaser's designs or specifications or other materials.

7.4 Purchaser acknowledges, recognizes and agrees that Leviton is the exclusive owner of all right, title and interest in and to the Leviton Intellectual Property as well as Leviton's ownership of any distinctive features of its promotional materials, packaging materials or any other materials, and it is understood throughout the term of this agreement and any time thereafter, that Purchaser shall not contest the validity of any of the Leviton Intellectual Property, use the Leviton Intellectual Property in conjunction with any other intellectual property, claim adversely to Leviton any right, title or interest in and to the Leviton Intellectual Property and shall not use, register, apply to register or aid a third party in registering the Leviton Intellectual Property, or a confusingly similar mark or domain name, nor shall Purchaser register any form of intellectual property, including trademarks or domain names using the name or mark LEVITON as a component thereof during the term of this agreement or at any time thereafter.

8. TITLE – RISK OR LOSS

•Title and risk of loss of the Product or any part of the same, shall pass to the Purchaser at the time of shipment if the terms of sale are F.O.B. Shipping Point, Freight Collect... If the terms of sale are F.O.B. Destination, Freight Prepaid the shipper pays the freight and owns the goods in transit. Any claims for damage or shortage must be conveyed to the shipper for reconciliation. F.O.B. shipping point, Freight Collect means the buyer pays the freight charges and owns the goods in transit and would file any claim with the carrier.

9. TERMINATION OF ORDER

•Any Order may be terminated by the Purchaser only upon payment of all reasonable charges based upon expenses already incurred and commitments made by Leviton as determined solely by Leviton.

10. MINIMUM BILLING and ORDER ACCEPTANCE

•Minimum billing charges will be as follows:

10.1 On Orders for stock items, the minimum acceptable Order from an active account must have a value of \$100 (plus freight). For any amount less than \$100, a \$25.00 service charge will be added.

10.2 On Orders for specials made to unique specifications, the minimum acceptable Order will be for 4000 pieces of that special or \$2000. Consideration will be given to special orders for lesser quantities subject to factory acceptance and subject to an additional handling charge.

10.3 Leviton reserves the right to a tolerance of +5% over-run or under-run on special (non-stock) items unless otherwise specifically stated on the Order.

11. RETURN GOODS AUTHORIZATION (RGA)

•No products are to be returned without prior Leviton written authorization and then only in accordance with Leviton's instructions and terms. Under no circumstances shall Purchasers assume that a return will be accepted nor will Leviton be bound via deductions from remittance due. When return is occasioned due to Leviton's error other than conditions covered by Warranty, full credit including transportation charges will be allowed. Where the Purchaser requests authorization to return products for reasons of its own, and Leviton issues approval for return, Purchaser will be billed a 15% service charge for standard package and 25% service charge for carton packages and freight charges will be the responsibility of the purchaser. The return shipment is to be freight prepaid by the Purchaser. The total value of the return cannot exceed four percent (4%) of the prior years' net stock purchases. All products returned must be in saleable condition and of current design. No obsolete items or those items which are not current stock or standard production items will be accepted or broken carton quantity. Returns for overstock and customer error are subject to the same restocking service charges and the customer is responsible for all freight charges. Products will not be accepted at the time of request if Leviton is in an overstock position. Proof of Purchase (copy of Leviton invoice) should accompany all RGA requests. Additional charges may be made if there is an expense in placing the returned product in saleable condition. Special products built to the purchaser's specifications will not be accepted for return. In no event will Leviton be responsible for products returned without proper authorization or identification. Any attempt to contravene this above-stated policy will subject Purchaser to liability for Leviton's resulting costs, expenses, attorney's fees and any other resulting losses. All returns are subject to a 2% cash discount recovery.

12. SUBSTITUTES

•Leviton may furnish substitutes for materials unobtainable because of priorities or regulations established by governmental authority or because of non-availability of materials from suppliers, provided such substitutes will not adversely affect the technical soundness of the product or the operability of the product.

13. STATE FRANCHISE LAWS

•These Terms and Conditions of Sale do not constitute a franchise or establish a franchise relationship, and do not grant a trademark or any other express or implied license.

14. SHIPPING SCHEDULES – PERFORMANCE

14.1 When requested, Leviton will establish estimated shipping schedules as closely as practicable in accordance with Purchaser's express needs and will exercise diligence in meeting such estimated schedules and in giving the best practicable service. Leviton will not be responsible for deviations in meeting shipping schedules nor for any losses or damages to Purchaser (or any third persons) whether occasioned by the deviations in performance or the nonperformance of any Leviton's obligations under the order or loss of or damage to the product when caused directly or indirectly by or in any manner arising from any casualty, riots, acts of Purchaser, strikes or other labor shortage of labor, supplies and transportation facilities or any other or causes beyond its reasonable control or the control of its suppliers. Any delivery charges incurred for deliveries not accepted on the first attempt, barring any advanced notice from the buyer, will be passed on to the buyer.

14.2 In no event shall Leviton agree to pay any fixed amount whether identified as a penalty or as liquidated damages for failure to meet a shipping schedule unless a specific agreement to that effect is made in writing and signed by an officer of Leviton.

14.3 DELAY IN DELIVERY Leviton shall not be liable for any detention or delay in delivery or installation or for any loss, damage or expense due to any cause beyond Leviton's reasonable control, including without limitation, an act of God, act or omission of the Purchaser, embargo or other governmental act or authority regulation or request, fire, theft, accident, strike, slowdown, a war, riot, delay in transportation, inability to obtain necessary labor, material or manufacturing facilities.

15. ERRORS

•Typographical or clerical errors in quotations, sales orders, purchase orders or acknowledgements are subject to correction.

16. DIMENSIONS

•The dimensions in catalogs are normally accurate, but are not to be used for construction.

17. This agreement shall be governed by and construed in accordance with the laws of the State of New York, exclusive of conflicts of law principles. Any lawsuit arising out of products delivered in connection herewith shall be brought exclusively in the Courts situated in the City and State of New York, and both Purchaser and Leviton consent to the personal jurisdiction of such courts and waive any claim of inconvenient forum. Both Purchaser and Leviton waive Trial by Jury.