

Fulham Co, Inc. Terms and Conditions of Sale

Revised September 1, 2023

TERMS

Payment terms on all Fulham Co, Inc. (“Fulham”) shipped products and services to the applicable customer (“Customer”) are “Net 30 days” from date of invoice, unless otherwise expressly agreed in writing by Fulham. All other orders must be paid in advance either by credit card or wire transfer. Past due invoices are subject to a 1.5% late fee per month. A \$25 service fee will apply to all returned checks.

FREIGHT

Except as otherwise expressly agreed by Fulham in writing, all shipments are EXW Fulham’s dock (Incoterms 2010). Please contact your Fulham Regional Sales Manager for details regarding Fulham’s freight policy.

TRANSPORTATION CLAIMS

Fulham products are tested for mechanical defects prior to shipping. Title and risk of loss passes to Customer upon delivery by Fulham to the transportation company (“Carrier”). All claims for damages or shortages in transit shall be made by the Customer with the delivering Carrier. Carrier are responsible for inspecting packaging at time of shipment and assume responsibility for both apparent and concealed damages sustained by improper handling.

PACKAGING

Fulham reserves the right to optimize packaging at Fulham’s discretion. Some products may only be available in bulk package multiples or case quantities.

ORDER PROCESSING

Fulham’s strives for “same day” shipping for orders received before 12pm PST. To ensure processing accuracy, we encourage placing orders in one of the following ways:

Email: order@fulham.com or Fax: +1 (323) 754-9060

Purchase Orders submitted with discrepancies in price, item, or delivery information may be subject to delays or possible holds, until written confirmation is received. Please include your Fulham account number on your Purchase Orders to ensure accurate pricing and faster order processing.

For order inquiries, tracking information, price & availability questions, or technical questions, please contact us in one of the following ways:

Email: order@fulham.com

Phone: +1 (323) 599-5000 or +1 (323) 779-2980

PRICES

Prices are subject to change without notice. In the event of a price increase, all accepted orders on hand will be filled at the lower prices provided such orders are released for shipping prior to the effective date of the price increase. If the orders are not released for shipment prior to the price increase date, the orders will be billed at prices in effect at the time of shipment. Special quoted orders that cannot be released for shipping prior to the price increase may be subject to an increase in price.

Distributors who advertise, promote, and/or sell Fulham products on their own or via an independent web site are subject to Fulham's IMAP pricing policy.

MINIMUM ORDER / OPENING ORDER

All OEM Orders: Minimum billing for all orders is \$250 net. A \$25 fee will apply for all orders below \$250 plus transportation costs. A \$50 service fee will be applied to all drop ship orders.

All Distribution Orders: Unless contractually different, minimum billing for all orders is \$100 net. A \$15 fee will apply for all orders below \$100 plus transportation costs.

Non-Stocking Distributors (NSD) are required a minimum \$300 opening order requirement per location and \$1,000 annual minimum purchases to maintain active account.

Stocking Distributor (DST) are required a minimum \$3,000 opening mixed stock order requirement per location and \$6,000 annual minimum purchases to maintain stocking distributor status.

ORDER / BLANKET ORDER ACCEPTANCE & HANDLING POLICY

Additional requirements for Customer Orders:

- All customer orders should have a requested release schedule.
- Hold for Release orders will not be accepted
- If an order is refused at destination, all warehousing, delivery, disposition and return costs will be charged to Customer.

Customer may reschedule the original PO release date by one month maximum for each release on a blanket purchase order.

- Requests for an exception to reschedule delivery by more than one month or for any additional rescheduling requests must be reviewed and approved by Fulham.
- Any exception approved by Fulham after the second reschedule will be subject to a 2% per month inventory carrying fee. Such an order will also be reviewed for potential cancellation by Fulham.
- If the order is cancelled by Fulham due to frequent schedule changes, customer will be responsible to take any and all the inventory Fulham has built for that order within 30 days of the cancellation.

RETURNS

Distributors: No merchandise may be returned without prior written authorization from Customer Service. All returns must be shipped prepaid to the location designated on the return authorization. Credit will be issued based on the original invoice price or price in effect at time of return, whichever is lower, less a minimum restocking charge of 25%. Customer is responsible for all return freight charges, including taxes, customs and duties if applicable. All product returned for credit must be unused, undamaged, and in original packaging. Returned products will be received by Fulham's Quality Control Department for inspection and testing to confirm they are undamaged, unaltered and in good working condition. Credit will be based on the ability to resell the product as determined by Fulham's Quality Control Department.

OEMs: No returns are allowed.

NON-RETURNABLE MERCHANDISE

Products may not be returned if they are made to order, non-stock, special, custom, semi-custom, modified, obsolete or discontinued. Additionally, products held by Distribution Customers for more than 12 months, or if they have been installed, damaged, altered, or modified in the field may not be returned. There are no returns for OEM customers.

ORDER CANCELLATION OR MODIFICATION

Orders for stocked items may be cancelled prior to shipment without charge. All other orders may not be cancelled unless Fulham is reimbursed by Customer for work already performed and/or for special material purchased. Changes or modifications to a blanket order are not allowed unless the Customer obtains pre-approval from Customer Service. This includes changes to blanket order release dates by more than 30 days. Any approved change to order release schedule by more than 30 days is subject to 2% inventory carrying fee.

COMPLIANCE WITH REGULATIONS

While Fulham strives to develop its products for operation in as many regions and states as practical, its products may or may not adhere to local or state regulations for specific building codes or energy regulation or other applicable laws or rules. As between Customer and Fulham, Customer is solely responsible for ensuring that the products it purchases from Fulham and the manner in which those products are installed and used adhere to all federal, state, and local laws, codes, rules, and other regulations, including the applicability of any available exemptions.

LIMITED WARRANTY

Fulham warrants all products sold to be free from defect in manufacturing, under normal and proper storage, installation, and use. The full terms of the Fulham Limited Warranty are updated periodically and published on Fulham's website at www.fulham.com under Warranty Center.

LIMITATION OF LIABILITY

The then-current Fulham Limited Warranty provides the Customer's sole and exclusive remedy relating to Fulham products. The total liability of Fulham on any and all claims of any kind, whether in contract, warranty, tort (including negligence), strict liability or otherwise, arising out of or in connection with, or resulting from, Fulham's performance or breach of the foregoing limited warranty or from Fulham's sale, delivery, repair, or replacement of any products, or the furnishing of any services, shall in no event exceed the purchase price allocable to the specific product which gives rise to the claim, and any and all such liability shall terminate upon the expiration of the limited warranty set forth above. IN NO EVENT SHALL FULHAM BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, EVEN IF INFORMED OF THE POSSIBILITY OF

SUCH DAMAGES, WHETHER AS THE RESULT OF BREACH OF CONTRACT, WARRANTY, AND/OR TORT (INCLUDING NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORY).

GENERAL

Fulham price sheets are not offers to sell, and possession of a price sheet does not entitle Customer to purchase products. Fulham shall not be bound to sell any products unless it shall (in its sole discretion) accept submitted purchase orders. Specifications are subject to change without notice; consult Customer Service for verification. The compliance of Fulham's product to individual project specifications and the approval for their use is not warranted by Fulham. If Customer does not pay the purchase price within the time periods set forth above, Fulham reserves the right to assess a finance charge on any unpaid, past due balance up to the maximum legal rate. If any amount due Fulham is collected or attempted to be collected through an attorney at law, Fulham shall be entitled to recover all collection expenses, including attorney's fees.

ACCEPTANCE

Acceptance of orders can be made only by Customer Service in Fulham's Hawthorne, CA offices on the basis of these terms and conditions of sale. Fulham will not accept orders that require Customer furnished components.

GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of California, exclusive of conflict of laws principles that would result in the application of the laws of another jurisdiction. In the event of any dispute arising out of these terms, any United States or State Courts located in Los Angeles County, California shall have personal jurisdiction and venue of the parties and delivery of process in any such dispute by a recognized overnight commercial courier service and telefacsimile to the last known business address of Customer or Fulham shall be deemed sufficient to confer personal jurisdiction on any of said courts. THE PARTIES HEREBY WAIVE ANY CLAIMS OF RIGHT TO A JURY TRIAL OR FORUM NON CONVENIENS OR RIGHTS TO TRANSFER TO ANOTHER JUDICIAL DISTRICT OUTSIDE OF CALIFORNIA. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled. The parties acknowledge that this agreement evidences a transaction involving interstate commerce. Notwithstanding the

provision in the preceding paragraph with respect to applicable substantive law, any arbitration conducted pursuant to the terms of this agreement shall be governed by the Federal Arbitration Act (9 U.S.C., Secs. 1-16).

ARBITRATION OF DISPUTES

Any dispute, controversy or claim arising out of or relating to this contract, including the formation, interpretation, breach or termination thereof, including whether the claims asserted are arbitrable, will be referred to and finally determined by arbitration in accordance with the JAMS International Arbitration Rules. The Tribunal will consist of one arbitrator. The place of arbitration will be Los Angeles, California. The language to be used in the arbitral proceedings will be English. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

SEVERABILITY

Should any part, term or provision of this Agreement be declared by a court, or other tribunal, of competent jurisdiction to be invalid, void, or unenforceable at law or in equity, it is the express intention of the parties hereto that such part, term, or provision shall be construed in such manner as to provide for the enforcement thereof to the maximum extent and in the broadest scope permitted under law, and all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired, or affected thereby.

ENTIRE AGREEMENT

Except as expressly agreed in writing and signed by a corporate officer of Fulham, the terms and conditions stated above shall constitute the entire sales agreement between Fulham and the Customer. Any contrary or additional terms or conditions submitted by the Customer (other than the description of the products being ordered and the requested quantities, shipping date, and shipping location contained in Customer's purchase order) shall be deemed to be of no force or effect and are hereby rejected. Customer's submission of a purchase order shall indicate Customer's acknowledgment of; and agreement with these Terms and Conditions.

Fulham reserves the right to change these Terms and Conditions of Sale without notice.