

## 1. Definitions

1.1. Terms which are capitalized in these General Terms of Sale have the following meaning:

- (a) "Affiliate" means a company or other business entity Controlled by, Controlling, or under common Control with a Party;
- (b) "Agreement" means any agreement between Supplier and Purchaser related to the sale of Goods and/or Services by Supplier entered into as set forth in Section 2.2;
- (c) "Confidential Information" means all information disclosed by Supplier to the Purchaser, whether orally or in writing, that is designated as confidential or can reasonably be assumed to be confidential given the nature and character of the information and the circumstances of the disclosure. Confidential Information in any case includes the contents and existence of the Agreement and the business relationship between the Parties, personal details and technical information, including architecture matters, setup documents, systems documentation, designs, drawings, and samples;
- (d) "Control" (respectively "Controlling" or "Controlled") means (i) that more than 50% of the controlled entity's shares or ownership interest representing the right to make decisions for such entity are owned or controlled, directly or indirectly, by the controlling entity, or (ii) the power to direct or cause the direction of the management and policies of an entity;
- (e) "Goods" means all items supplied or to be supplied by Supplier to Purchaser in the implementation of an Agreement, as well as any services related to the supply of such items;
- (f) "Intellectual Property Rights" means all patent rights (including reissues, divisions, continuations and extensions thereof), copyrights, moral rights, Trademarks, design rights, rights to utility models, trade secret rights, database rights, mask work rights, neighboring rights to the Goods and/or Services;
- (g) "Party" means a party to an Agreement;
- (h) "Purchaser" means each person or entity that enters into an Agreement with Supplier;
- (i) "Section" means a section of these General Terms of Sale;
- (j) "Services" means all services performed by Supplier for or on behalf of Purchaser in the implementation of an Agreement, whether or not in connection with the supply of Goods;
- (k) "Supplier" means either Lumileds Holding B.V. and/or one or more of its Affiliates that enter(s) into an Agreement with Purchaser;
- (l) "Trademarks" means trademark, service mark, trade name, logo or any other indicator of source or origin owned by or licensed to Supplier and its Affiliates.

## 2. Formation of the Agreement

- 2.1. These General Terms of Sale apply to and form part of any Agreement and all other legal relationships between Supplier and Purchaser connected with the sale of Goods and/or Services by Supplier. Unless explicitly agreed otherwise in writing, these General Terms of Sale shall take precedence over any other communication (oral or in writing) between the Parties relating to the sale of Goods and/or Services by Supplier.
- 2.2. An Agreement shall be concluded between the Parties at the earliest of (i) conclusion of a written agreement signed by both Parties, (ii) Supplier issuing

## 1. 定义

1.1. 本通用销售条款中加粗之术语应具有以下含义:

- (a) "关联方"指由一方控制、控制一方或与一方共同受控的公司或其他商业实体;
- (b) "协议"指供应商和采购方按照第 2.2 条所签署的、与供应商销售货物和/或服务有关的任何协议;
- (c) "保密信息"指供应商向采购方口头或书面披露的、被指定为保密或考虑到信息性质特征和披露情形可合理假设为保密的所有信息。任何情况下,保密信息包括协议的内容和存在、以及双方之间的业务关系、个人信息和技术信息,包括建筑事项、设置文档、系统文件、设计、图纸和样品;
- (d) "控制"("控制"或"受控")指(i)控制实体直接或间接地拥有或控制被控制实体的代表该实体决定权的 50%以上股份或所有权益,或(ii)指示或促使他人指示某一实体的管理和政策的权力;
- (e) "货物"指在履行协议时供应商向采购方供应或将要供应的所有物品及与供应该等物品有关的任何服务;
- (f) "知识产权"指对于货物和/或服务的所有专利权(包括其再颁发、分割、连续和延期)、版权、精神权、商标、设计权、实用新型权、商业秘密权、数据库权、掩膜作品权、相邻权。
- (g) "一方"指协议的一方。
- (h) "采购方"指与供应商签订协议的每一人士或实体;
- (i) "条"指本通用销售条款的条款;
- (j) "服务"指在履行协议时供应商向采购方或代表采购方开展的所有服务,无论是否与货物供应有关;
- (k) "供应商"指与采购方签署协议的 Lumileds Holding B.V.和/或其一个或多个关联方;
- (l) "商标"指供应商及其关联方拥有或向供应商及其关联方许可的商标、服务标记、商号、标识或任何其他货源或产地标记。

## 2. 协议的订立

- 2.1. 本通用销售条款适用于任何协议以及供应商和买方之间与供应商销售货物和/或服务有关的所有其他法律关系,并构成其中一部分。除非另有明确书面约定,本通用销售条款应优先于双方之间与供应商就销售货物和/或服务有关的其他(口头或书面)沟通。
- 2.2. 协议应于以下情况最早发生时在双方之间订立:(i)双方签署订一份书面协议、(ii)供应商发出订单确认、或(iii)供应商履行订单。采购

an order confirmation or (iii) Supplier fulfilling the order. Any orders submitted by Purchaser are requests and do not bind Supplier in any way. Supplier is under no obligation to accept an order.

### 3. Specification of the Goods

- 3.1. Purchaser acknowledges and agrees that all information provided by Supplier relating to the Goods and their use, such as weights, dimensions, capacities, performance, colors and other data contained in catalogs, prospectuses, circulars, advertisements, illustrations, price lists, written or oral representations or presented by prototypes, mock ups or demonstration models, shall only be part of the Agreement if accepted by Supplier in writing.
- 3.2. Purchaser may sell the Goods purchased from Supplier to third parties only under the Trademarks and specifications under which the Goods were delivered by Supplier to Purchaser. Purchaser may not change the technical configuration or quality of the Goods it purchased from Supplier nor may Purchaser alter, deface, remove or cover in any way any Trademarks or any serial, model and/or type numbers attached or affixed to the Goods, including their labelling, packaging, imprints and instructions. Purchaser is not allowed to alter the primary packaging or repack the Goods as purchased from Supplier without Supplier's prior written approval.

### 4. Delivery, delivery time, storage and cancellation

- 4.1. Unless the Parties agree otherwise all Goods shall be delivered Ex Works (shipper origin) (as defined in the Incoterms 2010).
- 4.2. Purchaser shall be obliged to take delivery of the Goods and to do all the acts which can reasonably be expected of Purchaser in order to enable Supplier to make the delivery according to the agreed Incoterms. In the event Purchaser breaches this obligation, the risk in the Goods shall, irrespective of what trade term applies, pass to Purchaser on the moment of such breach and all costs incurred by Supplier in connection with the delivery, as well as any further costs of transport, safekeeping and storage shall be borne by Purchaser.
- 4.3. After informing Purchaser thereof, Supplier shall be entitled to make partial deliveries and to invoice each delivery.
- 4.4. Supplier's failure to meet a delivery date or delivery period shall not constitute a breach of the Agreement.
- 4.5. Supplier shall be entitled to suspend its delivery obligations under the Agreement in the event there are, to Supplier's sole discretion, reasonable and objective grounds to doubt whether Purchaser is able or willing to fully and timely fulfil its payment obligations.
- 4.6. If Supplier accepts payment by letter of credit, the delivery period shall not commence prior to the date on which the bank has advised Supplier that the letter of credit has been issued in accordance with Supplier's requirements. If Purchaser must make an advance payment, provide security or must furnish certain information and/or materials in order for Supplier to be able to provide the Goods, then the agreed delivery period shall not commence until such conditions have been met in full.
- 4.7. A request by Purchaser to cancel or modify any order (or part thereof) must be submitted and received in writing by Supplier and is subject to Supplier's written approval. Purchaser may incur charges for order modifications or cancellations.

方提交的任何订单均为请求，其不以任何方式对**供应商**产生约束力。**供应商**无义务接受订单。

### 3. 货物规格

- 3.1. **采购方**确认并同意，**供应商**提供的与**货物**及其使用有关的所有信息，如目录、说明书、通告、广告、插图、价目表、书面或口头陈述或原型、实体模型或演示模型呈现所包含的重量、尺寸、容量、性能、颜色以及其他数据，只有经**供应商**书面接受方才构成**协议**的一部分。
- 3.2. **采购方**仅可在保留**供应商**向**采购方**所交**货物**的**商标**和规格的前提下将从**供应商**购入的**货物**出售给第三方。**采购方**不可改变从**供应商**购入之**货物**的技术配置或品质，且**采购方**亦不可以任何方式变更、损坏、移除或覆盖附着或粘贴在**货物**上的任何**商标**或任何序列号、编号和/或型号，包括其**标签**、**包装**、**印记**和**说明**。未经**供应商**事先书面批准，**采购方**不得变更从**供应商**购入时的**货物**主要**包装**或将**货物**重新**包装**。

### 4. 交付、交付时间、存储和取消

- 4.1. 除非**双方**另有约定，所有**货物**应按工厂交货方式（**托运人**起运地点）（定义见《2010 国际贸易术语解释通则》）交付。
- 4.2. **采购方**有义务提取**货物**，并应采取**采购方**合理预见应采取的所有行动，以使**供应商**能够依照约定之国际贸易术语交货。若**采购方**违反本项义务，无论适用什么贸易术语，**货物**风险应在该等违约发生时转移至**采购方**，且**供应商**与交付有关所发生的所有费用以及任何进一步的运输、保管和存储费用应由**采购方**承担。
- 4.3. 在告知**采购方**相关情况**后**，**供应商**应有权部分交付，并就每次交付开具**发票**。
- 4.4. **供应商**未能满足交付日期或交付期限的，不应构成对**协议**的违反。
- 4.5. 若**供应商**自主确定有合理客观依据怀疑**采购方**是否有能力或愿意完全按时履行其付款义务，则**供应商**有权中止其在**协议**项下的交付义务。
- 4.6. 若**供应商**接受信用证付款，则交付期限的起始日期应不早于银行告知**供应商**已根据**供应商**要求出具信用证之日。若**采购方**必须提前预付、提供担保或必须提供某些信息和/或资料，以便**供应商**能够提供**货物**，则所约定之交付期限自该等条件被全部满足时开始。
- 4.7. **采购方**有关取消或修改任何订单（或其中部分）的请求必须以书面方式提交给**供应商**接收，并受限于**供应商**的书面批准。**采购方**可能因修改或取消订单发生费用。若**采购方**要求加快交付**货物**，则**供应商**

In the event Purchaser requests expedited delivery of shipments, Supplier reserves the right to charge Purchaser for associated costs.

保留向**采购方**收取相关费用的权利。

## 5. Embedded Software

- 5.1. To the extent that software and/or documentation is embedded in or delivered with the Goods and/or Services, the sale of such Goods and/or Services shall not constitute the transfer of ownership rights or title in such software and/or documentation to Purchaser, but, subject to the provisions set forth herein, shall only imply a non-exclusive and non-transferable license to Purchaser to use such software and/or documentation in conjunction with and as embedded in or delivered with the Goods and/or Services. To the extent Parties have agreed that third party software and/or documentation shall be embedded in or delivered with the Goods and/or Services, Purchaser acknowledges and accepts that license terms of third parties may apply.
- 5.2. Purchaser shall not: (a) modify, adapt, alter, translate, or create derivative works from any software residing in or provided by Supplier in conjunction with any Goods and/or Services; (b) assign, sublicense, lease, rent, loan, transfer, disclose, or otherwise make available such software other than in conjunction with and/or as embedded in or delivered with the Goods and/or Services; (c) merge or incorporate such software with or into any other software; or (d) reverse assemble, decompile, disassemble, or otherwise attempt to derive the source code for such software without written authorization from Supplier except as explicitly allowed under applicable law.

## 6. Prices

- 6.1. Unless otherwise agreed in writing, the price does not include value added tax (VAT) or other taxes due as a result of the sale of the Goods and/or Services and does not include the cost of transportation, packaging, insurance or import or export formalities. These costs shall be the responsibility of Purchaser. If the ordered Goods and/or Services are subject to any taxes, Supplier may charge the relevant taxes to Purchaser, which shall be paid by Purchaser in addition to the prices quoted.
- 6.2. If special packing or shipping instructions are agreed, charges incurred by Supplier are at the expense of the Purchaser.

## 7. Payment

- 7.1. Unless otherwise agreed in writing, any invoice shall be due and payable within thirty (30) calendar days of the date of such invoice.
- 7.2. The amounts due shall, unless otherwise agreed in writing, be paid by electronic funds transfer to Supplier's bank as indicated by Supplier. Purchaser shall be deemed to have paid when the respective sums due have been received by Supplier's bank in immediately available funds. All costs related to the method of payment shall be the responsibility of Purchaser.
- 7.3. If Parties have agreed on payment by letter of credit, then, unless otherwise agreed, Purchaser must arrange for an irrevocable letter of credit in favor of Supplier on conditions approved by Supplier and confirmed and payable by a bank designated by Supplier.
- 7.4. At Supplier's first request, Purchaser shall provide any type of security requested, whether or not additional, to secure its payment obligations to

## 5. 嵌入式软件

- 5.1. 在软件和/或文件被嵌入**货物和/或服务**、或与**货物和/或服务**共同交付的情况下，销售该等**货物和/或服务**不得构成向**采购方**转让该等软件和/或文件的所有权或权益，但在受限于**本通用销售条款**所列之条款的情况下，仅意指非排他性且不可转让地许可**采购方**连同**货物和/或服务**并按被嵌入**货物和/或服务**或与**货物和/或服务**共同交付的状况使用该等软件和/或文件。在**双方**已同意第三方软件和/或文件应被嵌入**货物和/或服务**或与**货物和/或服务**共同交付的情况下，**采购方**承认并同意第三方的许可条款可适用。
- 5.2. 除适用法律项下明确允许外，未经**供应商**书面许可，**采购方**不得：  
(a)修改、改编、变更或翻译任何**货物和/或服务**中包含或**供应商与货物和/或服务**共同提供的任何软件或从该等软件生成衍生作品；(b)转让、转许可、出租、租用、租借、让与、披露或以其他方式提供该等软件，但连同任何**货物和/或服务**、和/或被嵌入**货物和/或服务**或与**货物和/或服务**共同交付的除外，(c)将该等软件与任何其他软件合并或吸收、或合并或吸收任何其他软件；或(d)反汇编、反编译、分解或以其他方式试图导出该等软件的源代码。

## 6. 价格

- 6.1. 除非另有书面约定，价格不包含因销售**货物和/或服务**而应缴纳的增值税或其他税费，且不包含运输、包装、保险或进出口手续的费用。该等费用应由**采购方**承担。若所订购之**货物和/或服务**需缴纳任何税费，则**供应商**可向**采购方**收取相关税费，该等税费应由**采购方**在所报价格之外支付。
- 6.2. 若约定了特别包装或装运说明，则**供应商**所产生的费用应由**采购方**承担。

## 7. 支付

- 7.1. 除非另有书面约定，任何发票应在该等发票日期后三十（30）个日历日内到期应付。
- 7.2. 除非另有书面约定，应付款项应通过电子转账方式支付至**供应商**指定的**供应商**银行。当**供应商**银行收到立即可用资金的相关应付款项时，**采购方**应被视为已支付。与该支付方式有关的所有费用应由**采购方**承担。
- 7.3. 若**双方**已约定以信用证支付，则除非另有约定，**采购方**必须安排一份不可撤销的信用证，以**供应商**为受益人，采用**供应商**批准之条件，并由**供应商**指定之银行确认和支付。
- 7.4. 一经**供应商**要求，**采购方**应提供所要求的任何类型担保，无论是否为额外被要求提供，以确保按**供应商**批准之条件履行其对**供应商**的

Supplier on conditions approved by Supplier. Purchaser shall provide such security at least twenty (20) calendar days before the agreed date of delivery or at least twenty (20) calendar days before the earliest date within the agreed delivery period.

7.5. All amounts due under the Agreement to be paid by Purchaser to Supplier shall be paid in full and without any deduction and Purchaser shall not be entitled to any right of setoff. Supplier shall be entitled to setoff any amount due by Supplier to Purchaser against amounts due by Purchaser to Supplier or one of its Affiliates. Supplier is at all times entitled to assign its accounts receivables from Purchaser to any financial institution, without Purchaser's consent and without having to notify Purchaser thereof.

7.6. Any amounts which Purchaser owes Supplier under the Agreement shall become immediately due and payable in full if:

- (a) Purchaser has failed to make a timely payment to Supplier or any of its Affiliates; or
- (b) Supplier is entitled to terminate the Agreement pursuant to Section 17.1; or
- (c) Supplier has objective and reasonable grounds to expect that Purchaser is heading towards bankruptcy.

## 8. Delayed payment

8.1. If Purchaser does not timely pay an amount when it becomes due and payable, Supplier is entitled to late payment interest on such amount, to be calculated from the time such amount became due until the time such amount is paid in full.

8.2. To the extent permitted by law, the rate of late payment interest referred to in Section 8.1 shall be one (1) percent per month (i.e. twelve (12) percent per annum) on the outstanding amount.

8.3. In addition, Supplier may, in the event of any overdue payment, suspend any delivery of Goods and/or Services to Purchaser. As soon as Supplier has received the overdue payment, Supplier shall resume delivery of the Goods and/or Services. With respect to Goods a new delivery period shall start based on delivery lead times quoted by Supplier for such Goods at the time of receipt of payment.

8.4. If a payment has not been received within a period of five (5) working days after a demand notice is sent to Purchaser, Supplier shall be entitled to terminate the order with immediate effect, either in whole or in part, without prejudice to Supplier's other rights.

8.5. All costs, both extrajudicial and judicial (including the costs of legal assistance), incurred by Supplier in the process of the collection of the amounts due by Purchaser pursuant to the Agreement, shall be reimbursed by Purchaser to Supplier.

## 9. Retention of title

9.1. The ownership of Goods shall remain the sole and absolute ownership of Supplier until such time as Purchaser has paid in full to Supplier the agreed price for the delivered Goods, as well as any interest, collection costs, or other amounts due with respect to such Goods.

9.2. If applicable law does not permit the enforcement of a reservation of ownership by Supplier as stipulated in Section 9.1, Purchaser shall warrant that Supplier

付款义务。**采购方**应在约定交付日期前至少二十 (20) 个日历日、或在约定交付期限内最早日期前至少二十 (20) 个日历日提供该等担保。

7.5. **协议**项下所有应付款项将由**采购方向供应商**全额支付，不得有任何扣减，且**采购方**不享有任何抵销权。**供应商**应有权将**供应商**应向**采购方**支付的任何款项与**采购方**应向**供应商**或其任一**关联方**支付的款项相抵销。**供应商**始终有权将其应从**采购方**收取的应收款项转让给任何金融机构，而无需**采购方**同意，且无需将此通知**采购方**。

7.6. 以下情况下，**采购方**在**协议**项下欠于**供应商**的任何款项应立即到期应付：

- (a) **采购方**未能及时向**供应商**或其任何**关联方**支付；或
- (b) **供应商**有权根据第 17.1 条终止**协议**；或
- (c) **供应商**有客观合理理由预见**采购方**趋向破产。

## 8. 延迟付款

8.1. 若**采购方**不及时支付到期应付款项，自该等款项到期应付起，**供应商**有权就该等款项收取滞纳金，直至该等款项被全额付清。

8.2. 在法律允许范围内，第 8.1 条所述之滞纳金利率应为未付金额的每月百分之一 (1%) (即每年百分之十二 (12%) )。

8.3. 此外，若有任何逾期未付款项，则**供应商**可暂停向**采购方**交付**货物**和/或**服务**。一旦**供应商**收到逾期未付款项，**供应商**应恢复交付**货物**和/或**服务**。对于**货物**而言，**货物**的新交付期限应基于**供应商**于收到付款时就该等**货物**报出的交货前置期开始。

8.4. 若在向**采购方**发出付款通知书后五 (5) 个工作日内未收到付款，在不影响**供应商**其他权利的情况下，**供应商**应有权立即终止全部或部分订单。

8.5. **供应商**在收取**采购方**根据**协议**应付之款项的过程中所产生的所有费用 (法律程序以外和以内，包括法律服务费用) 应由**采购方向供应商**偿付。

## 9. 所有权保留

9.1. **货物**所有权应始终归**供应商**独家绝对所有，直至**采购方向供应商**全额支付所交付之**货物**的约定价格以及与该等**货物**有关的任何利息、收款费用或其他应付款项。

9.2. 若适用法律不允许如第 9.1 条所述实施**供应商**所有权保留，则**采购方**应保证，在适用法律项下最大可能范围内，**供应商**拥有与所约定

has rights that have the same or similar effect as the agreed retention of ownership, to the fullest extent possible under the applicable law.

9.3. Until Purchaser becomes the full and unconditional owner of the Goods in accordance with Section 9.1:

- (a) Purchaser shall store the Goods separately from his own goods or the goods of any other person and shall identify these as the property of Supplier and preserve all labels, identifying marks and stock records identifying them as the property of Supplier;
- (b) Purchaser shall, to the satisfaction of Supplier, adequately insure the Goods against loss, theft and damage;
- (c) Supplier shall have absolute authority to retake, sell or otherwise dispose of, all or part of the Goods in which title remains vested in Supplier, without Purchaser being released from the Agreement as a result thereof;
- (d) for the purpose specified in Section 9.3(c) above, Supplier or any of its agents or authorized representatives shall be entitled to enter any premises of Purchaser in which the Goods are stored or kept, or are reasonably believed to be so during business hours without notice;
- (e) Purchaser irrevocably consents to fully cooperate with Supplier and enable Supplier to exercise its rights under Sections 9.3(c) and 9.3(d) in all practical aspects, in particular by taking all commercially reasonable actions requested by Supplier that are necessary or useful to give Supplier free access to the Goods and to allow the transportation of the Goods; and
- (f) Purchaser shall not, without Supplier's prior written consent, assign, pledge, lease or otherwise dispose of any product or enter into any agreement by which the Goods are subjected to any security right or right to surrender the Goods.

## 10. Inspection

10.1. If Supplier has undertaken to arrange the transport of the Goods, Purchaser must examine the Goods for transport damage and must verify that the correct quantity of Goods has been delivered immediately upon arrival at the agreed destination. If any transport damage or deviation in the delivered number of Goods against the ordered quantity of Goods is found, Purchaser must make a detailed description thereof on the transport document to be signed after receipt of the Goods. The reporting of damages, non-conformities or deficiencies will not relieve Purchaser from its payment obligations for the Goods.

## 11. Warranty and non-conformity of the Goods and/or Services

11.1. Notwithstanding Section 10.1, Purchaser shall notify Supplier in writing of any non-conformity of the Goods and/or Services within five (5) calendar days from the date when this was discovered by Purchaser and in no event after expiration of the warranty period specified in Section 11.3, specifying the nature of the non-conformity and providing all available documents, reports and other evidence necessary to evaluate the non-conformity by Supplier, subject to forfeiting the right to invoke any action based on non-conformity.

11.2. Upon receiving a notice of non-conformity as set forth in Section 11.1, Purchaser shall arrange shipment to Supplier and Supplier shall, upon receipt of the Goods, be granted a reasonable time to evaluate the notice and the Goods and/or Services and, where relevant, propose an appropriate solution. If Supplier confirms the non-conformity in writing to Purchaser, Supplier shall

之所有权保留相同或类似的权利。

9.3. 在**采购方**根据第 9.1 条成为**货物**的完全无条件所有人之前:

- (a) **采购方**应将**货物**与其自身**货物**或任何其他人士的**货物**分开存放, 并将**货物**标识为**供应商**财产, 并保持将**货物**识别为**供应商**财产的所有标签、识别标记和存货记录;
- (b) **采购方**应就**货物**充分投保以使**供应商**满意, 保险范围应涵盖损失、盗窃和损坏;
- (c) **供应商**应有绝对权力收回、出售或以其他方式处置所有权仍归**供应商**所有的全部或部分**货物**, 且**采购方**不会因此而被从**协议**中豁免;
- (d) 为上述第 9.3(c)条所列之目的, **供应商**或其任何代理人或授权代表应有权在营业时间内进入储存或存放**货物**或合理认为为储存或存放**货物**的**采购方**任何场所, 而无需发出通知;
- (e) **采购方**不可撤销地同意与**供应商**全面合作, 使**供应商**能够在各实际方面行使其在第 9.3(c)条和第 9.3(d)条项下之权利, 尤其是, 通过采取**供应商**所要求的、为使**供应商**自由获取**货物**并运输**货物**所必要或有用的所有商业合理行动; 及
- (f) 未经**供应商**事先书面同意, **采购方**不得转让、质押、租赁或以其他方式处置任何产品或订立任何**协议**从而使**货物**受限于任何担保权或交出**货物**的权利。

## 10. 检验

10.1. 若**供应商**已承诺安排**货物**运输, **采购方**必须检验**货物**是否有运输损坏, 并必须在**货物**运抵约定目的地后立即核实已交付的**货物**的数量是否正确。若发现有任何运输损坏或**货物**交付数量较**货物**订购数量有偏差, **采购方**必须在收到**货物**后签署的运输文件上详细说明。报告损害、不合格或缺陷的, 不免除**采购方**对于**货物**的支付义务。

## 11. 货物和/或服务的保修和不合格

11.1. 尽管有第 10.1 条, **采购方**应在发现**货物**和/或**服务**不合格之日起五 (5) 个日历日内 (任何情况下均不得在第 11.3 条保修期届满后) 将该等不合格书面通知**供应商**, 列明不合格性质, 并提供**供应商**评估不合格情况所必要的所有可用文件、报告和其他证据, 受限于放弃基于不合格而诉诸于任何诉讼的权利。

11.2. 收到第 11.1 条所列之不合格通知后, **采购方**应安排向**供应商**运送**货物**, 收到**货物**后, **供应商**应有合理时间评估通知及**货物**和/或**服务**, 并在相关情况下提议适当解决方案。若**供应商**向**采购方**书面确认不合格, **供应商**应偿付**采购方**所产生的运费费用。未经**供应商**事先书面批准, 任何**货物**均不得被退还给**供应商**。

reimburse the shipment costs incurred by Purchaser. No Goods shall be returned to Supplier without prior approval from Supplier.

- 11.3. Supplier warrants that under normal use, and in accordance with the Agreement and all other instructions provided by Supplier, the Goods and/or Services shall, at the time of delivery to Purchaser and for a period of twelve (12) months thereafter (or such other period as may be agreed upon in writing by the Parties), conform to the published specifications for such Goods and/or Services. The Goods and/or Services shall be deemed to conform to such published specifications despite minor discrepancies that do not essentially affect the normal use of the Goods and/or Services, unless the Parties have concluded a separate quality agreement in which case the latter shall prevail.
- 11.4. The warranty granted above shall extend directly to Purchaser and not to Purchaser's customers, agents or representatives and is in lieu of all other warranties, whether express or implied, including without limitation any implied warranties of fitness for a particular purpose, merchantability, or non-infringement of intellectual property rights. All other warranties are hereby specifically disclaimed by Supplier.
- 11.5. Supplier shall have no obligations under warranty if the alleged defect or non-conformity is found to have occurred as a result of normal wear and tear, stress testing, exceeding specified maximum operation conditions, misuse, neglect, improper handling, improper installation, improper storage, improper transportation, modification, combining it with other goods, or other circumstances attributable to Purchaser.
- 11.6. Supplier's sole and exclusive obligation, and Purchaser's sole and exclusive right, with respect to claims under this warranty shall be limited, at Supplier's option, either to the replacement or repair of non-conforming Goods and/or Services or to an appropriate credit for the purchase price thereof. To the extent title has already passed to Purchaser, the non-conforming Goods shall become Supplier's property as soon as they have been replaced or credited. Unless otherwise agreed in writing, Purchaser shall not take any legal action based on non-conformity of the Goods and/or Services, or make a counterclaim based thereon, as a result of any action taken by Supplier against Purchaser based on non-performance of the Agreement, after expiry of the warranty period pursuant to Section 11.3.

## 12. Intellectual Property

- 12.1. Supplier reserves all Intellectual Property Rights in respect of the Goods and/or Services. Without Supplier's prior written permission, Purchaser shall not use, reproduce, modify, publish or imitate the Goods and/or Services, in whole or in part, in any way. The Agreement does not entail any transfer of or license to any Intellectual Property Rights or know how relating to the Goods and/or Services or the drawings, documents or software which may have been made available to Purchaser, other than a limited license to use the Goods and/or Services, drawings, documents or software as set forth in, and in accordance with, the Agreement.
- 12.2. In the event of any third party claim against Purchaser for infringement of Intellectual Property Rights arising directly from the use of the Goods and/or Services as supplied by Supplier to Purchaser, Supplier may at its own expense conduct any ensuing litigation and all negotiations for a settlement of the claim.

- 11.3. 供应商保证，在正常使用并依照协议和供应商的所有其他指令的情况下，货物和/或服务应在交付给采购方时以及之后十二（12）个月（或双方可能书面约定的其他期限）内符合该等货物和/或服务的已公布的规格。除非双方已签订单独质量协议（该等情况下应以该等协议为准），即使有本质上不影响货物和/或服务正常使用的轻微差异，货物和/或服务应被视为符合该等已公布的规格。
- 11.4. 上述保修应直接提供给采购方而非采购方的客户、代理人或代表，并取代所有其他保证（无论明示或暗示），包括但不限于有关适合特定目的、适销性或不侵害知识产权的任何暗示保证。供应商的所有其他保证在此被明确免除。
- 11.5. 若所称缺陷或不合格被发现系因正常磨损、压力测试、超出规定最大运行条件、使用不当、疏忽、处理不当、安装不当、储存不当、运输不当、改装、与其他货物结合或归因于采购方的其他情形而造成的，则供应商不承担保修项下的任何义务。
- 11.6. 对于本项保修项下的权利主张，供应商的唯一排他性义务以及采购方的唯一排他性权利应以更换或维修不合格货物和/或服务、或将该等货物和/或服务的购买价做适当贷记为限（按供应商选择）。在所有权已转移至采购方的情况下，不合格货物应在其被更换或贷记时立即成为供应商的财产。除非另有书面约定，在根据第 11.3 条的保修期届满后，采购方不得基于货物和/或服务不合格而提起任何法律诉讼、或对于供应商基于不履行协议而针对采购方提出的任何诉讼基于货物和/或服务不合格而提起反诉。

## 12. 知识产权

- 12.1. 供应商保留对于货物和/或服务的所有知识产权。未经供应商事先书面许可，采购方不得以任何方式全部或部分地使用、复制、修改、公布或仿制货物和/或服务。协议不会引起对于与货物和/或服务、或可能已向采购方提供的图纸、文件或软件有关的任何知识产权或专有知识的任何转让或许可，但依照协议有限许可可使用货物和/或服务或协议所列之图纸、文件或软件的除外。
- 12.2. 若有对于直接因使用供应商向采购方提供之货物和/或服务导致侵害知识产权的任何第三方主张，供应商可自负费用为解决主张而开展任何后续诉讼和所有协商。供应商应承担为解决或（诉讼情况下）因不利于供应商之判决而需进行的任何支付（无论通过一次性或连

Supplier will bear the costs of any payment (either by way of a lump sum or a continuing royalty payment) to be made in settlement or as a result of an award in a judgment against Supplier in the event of litigation. The benefit of this Section 12.2 is granted to Purchaser by Supplier only in the event that Purchaser (i) gives Supplier prompt notice in writing of any such claim being made or action threatened or brought against it, (ii) takes reasonable steps to mitigate any losses or damages incurred as a result of the claim, (iii) makes no admission of liability or takes any other action in connection therewith, (iv) permits Supplier to handle the defense or settlement of the claim as set forth above, and (v) gives all reasonable information, cooperation and assistance to Supplier in relation to the handling of the claim. In addition, if it is made a condition of any settlement made by Supplier, or judgment awarded against Purchaser, Purchaser will return or destroy, as applicable, all infringing Goods still under its control and stop using any affected Services subject to a refund by Supplier of any price already paid for such Goods or already paid for future use of the Services. The foregoing states Suppliers entire liability and Purchaser's exclusive remedies for intellectual property claims with respect to the Goods and/or Services.

- 12.3. The foregoing indemnity shall not apply to any custom or semi-custom products or components supplied by Supplier in accordance with Purchaser's specifications. Any intellectual property indemnity with respect to such custom or semi-custom products shall be subject to a separate written agreement between the Parties.
- 12.4. Purchaser shall not (i) use any Trademarks for its own commercial activities; (ii) seek to register or attempt to register any Trademarks or (iii) contest the validity of any Trademarks. Purchaser hereby acknowledges Supplier's ownership of the Trademarks and the goodwill associated therewith. Purchaser shall not at any time use in its business any mark that is likely to cause confusion with the Trademarks.

### 13. Compliance with Laws

- 13.1. Purchaser shall at all times comply with all applicable laws and regulations, including but not limited to laws and regulations on anti-bribery, anti-trust, data protection, anti-corruption, environmental compliance, and export control.
- 13.2. Purchaser acknowledges that the Goods and/or Services, and any related information, software or technology, may be subject to the export control laws, rules and regulations of the European Union, United States of America, and any other applicable countries. Purchaser agrees and warrants that it will comply with all applicable international and national export control laws and regulations and, without specific prior written Supplier approval, will not export, re-export, or transfer, directly or indirectly, any such Goods and/or Services, information, software and/or technology (a) to any country/region subject to U.S. or EU anti-terrorism controls or comprehensive U.S. or EU sanction or embargo at the time of such activity, (b) to any party included on a U.S. or EU government restricted party list or subject to such restrictions through its ownership structure, or (c) for any prohibited end-use described in the U.S. or EU Export Administration Regulations (e.g., nuclear, chemical/biological weapons, missiles). Purchaser shall maintain records in accordance with the U.S. and other applicable export regulations and provide to Supplier, upon request, documentation to

续特许使用费)的成本。只有在以下情况下**供应商**才授予**采购方**本第 12.2 条的利益：**采购方**(i)及时书面通知**供应商**任何该等主张被提出或有针对其的任何诉讼可能或已经被提起，(ii)采取所有合理措施以减轻因主张所造成的任何损失或损害，(iii)不就此承认负有任何责任或与之有关采取任何其他行动，(iv)允许**供应商**处理进行答辩或按上述规定解决主张，及(v)向**供应商**提供与处理主张有关的所有合理信息、合作和协助。此外，若被作为**供应商**所做任何解决的条件或针对**采购方**任何判决，**采购方**将返还或销毁(按适用)仍处于其控制下的所有侵权**货物**，并停止使用任何受影响的**服务**，但**供应商**需返还就该等**货物**已支付的任何价款或为将来使用**服务**已支付的任何价款。前述规定列出了**供应商**对于与**货物**和/或**服务**有关的知识产权主张的全部责任以及**采购方**对于与**货物**和/或**服务**有关的知识产权主张的唯一救济。

- 12.3. 前述赔偿不得适用于**供应商**根据**采购方**规格提供的任何定制或半定制产品或部件。与该等定制或半定制产品有关的任何知识产权赔偿应受限于**双方**之间的单独书面协议。
- 12.4. **采购方**不得(i)为其自身商业活动而使用任何**商标**；(ii)寻求注册或试图注册任何**商标**；或(iii)质疑任何**商标**的有效性。**采购方**特此承认**供应商**拥有**商标**及相关声誉。**采购方**在任何时候均不得在其业务中使用可能导致与**商标**混淆的任何标记。

### 13. 遵守法律

- 13.1. **采购方**应始终遵守所有适用的法律和法规，包括但不限于反贿赂、反垄断、数据保护、反腐败、环境合规和出口管制方面的法律和法规。
- 13.2. **采购方**承认，**货物**和/或**服务**及任何相关信息、软件或技术可能会受限于欧盟、美国及任何其他相关国家的出口管制法律、法规和规章。**采购方**同意并保证，其将遵守国际和国内所有适用的出口管制法律和法规，并且在未事先取得**供应商**明确书面批准的情况下，**采购方**不会(a)向在开展相关活动之时受限于美国或欧盟的反恐怖主义管制或美国或欧盟的全面制裁或禁运的任何国家/地区，(b)向美国或欧盟政府的受限制贸易方名单所包含的或通过其所有权结构而受限于该等限制的任何当事方，或(c)为美国或欧盟的出口管理条例所述的任何禁止的最终用途(例如，核武器、化学/生物武器、导弹等)直接或间接地出口、再出口或转让任何该等**货物**和/或**服务**、信息、软件和/或技术。**采购方**应按照美国及其他适用的出口条例保留记录，并且应在收到要求后向**供应商**提供文件证明其遵守本第 13.2 条的规定。

demonstrate compliance with this Section 13.2.

- 13.3. Purchaser shall furnish to Supplier any information required to enable Supplier to comply with any applicable laws, rules, and regulations in its sale of the Goods and/or Services. Purchaser agrees and warrants that Purchaser is not included on a U.S. or EU government restricted party list or subject to such restrictions through its ownership structure. Purchaser agrees to not place an order or request with Supplier that, if fulfilled, would cause Supplier to violate an export control related law, rule or regulation. Purchaser agrees to notify Supplier promptly of Purchaser's receipt of any notice of a violation of any export control related law, rule or regulation, which may affect Supplier.
- 13.4. Purchaser acknowledges and accepts that Supplier may at its sole discretion give instructions to and/or impose restrictions on Purchaser with respect to the resale of the Goods which Supplier considers necessary to comply with applicable (local) laws.
- 13.5. Purchaser agrees to indemnify and hold Supplier and its Affiliates harmless from any claims, liabilities, penalties and associated costs and expenses, which Supplier may incur due to Purchaser's non-compliance with applicable laws, rules and regulations as set forth in, but not limited to, Section 13.

#### 14. Data Protection

- 14.1. Where Purchaser in the performance of the Agreement processes Supplier's personal data (as defined by applicable law) (hereafter collectively referred to as "Personal Data"), Purchaser shall:
- (a) process Personal Data only insofar necessary to perform its obligations under the Agreement, Supplier's written instructions, or as required by law;
- (b) promptly, but in any case within twelve (12) hours, inform Supplier of any actual or suspected security incident involving the Personal Data and to provide all data required under applicable law or requested by Supplier with regard to such security incident; and
- (c) enter into a further data processing agreement with Supplier at Supplier's first written request.

#### 15. Limitation of Liability

- 15.1. The Parties agree that Purchaser shall in no event be entitled to claim any compensation under the Agreement for indirect, incidental, consequential, or punitive damages including but not limited to loss of profit, decreased turnover, cost of cover, or property damage, regardless of whether Supplier has been advised of the possibility of such damages. It is understood, however, that any amounts paid to a third party pursuant to Section 12.2 shall, as between the Parties, be considered direct damages.
- 15.2. Without limitation to the obligations of Supplier under Section 11, Supplier's liability for direct damages under an Agreement shall not exceed (a) fifty (50) percent of the purchase price paid to Supplier for the affected Goods and/or Services under such Agreement in the twelve (12) months preceding the event giving rise to the claim, or (b) one million dollars (USD1,000,000), whichever is less.
- 15.3. Supplier shall not be liable for any damage caused to third parties resulting from defects in the design and manufacturing of the Goods and their components, unless and to the extent to be established in accordance to applicable

- 13.3. 采购方向供应商提供为使供应商能够在其销售货物和/或服务的过程中遵守任何适用的法律、法规和规章而需要的任何信息。采购方同意并保证，采购方未被包含在美国或欧盟政府的受限制贸易方名单之内，亦未通过其所有权结构受限于该等限制。若履行订单或要求将导致供应商违反出口管制方面的法律、法规和规章，采购方同意不向供应商发出该订单或请求。采购方同意在其收到关于违反任何出口管制方面的法律、法规和规章、并且可能影响供应商的任何通知后及时通知供应商。

- 13.4. 采购方承认并同意，针对货物的转售，供应商可自主确定向采购方作出采购方认为遵守适用的（地方）法律所必需的指示，及/或向采购方施加采购方认为遵守适用的（地方）法律所必需的限制。

- 13.5. 针对供应商因采购方不遵守第 13 条所列的适用的法律、法规和规章（但不以此为限）而可能发生的任何索赔、责任、处罚和相关成本和费用，采购方同意向供应商及其关联方作出赔偿，并使之免受损害。

#### 14. 数据保护

- 14.1. 若采购方在协议履行过程中处理供应商的个人数据（定义见适用法律）（在下文合称为“个人数据”），采购方应：
- (a) 仅在履行其在协议或供应商的书面指示项下的或法律规定的义务所必需的范围内处理个人数据；
- (b) 及时但在任何情况下在十二（12）小时内将涉及个人数据的任何实际或涉嫌的安全事件通知供应商，并提供适用法律项下规定的或供应商要求的与该安全事件有关的所有数据；及
- (c) 在供应商首次书面要求后即与供应商签订进一步的数据处理协议。

#### 15. 责任限制

- 15.1. 双方同意，就间接、附带性、衍生性或惩罚性损害（包括但不限于利润损失、营业额减少、服务费用或财产损害），采购方在任何情况下均无权根据协议要求任何赔偿，无论供应商是否已被告知可能发生该等损害。但双方理解，根据第 12.2 条支付给第三方的任何金额应在双方之间被视为直接损害。
- 15.2. 在不限第 11 条项下的供应商义务的情况下，供应商在某一协议项下就直接损害承担的责任不得超过以下两者中较少的金额：(a) 在引起索赔的事件发生前的十二（12）个月内，就该协议项下受影响的货物和/或服务支付给供应商的购买价款的百分之五十（50%），或 (b) 一百万美元（USD1,000,000）。
- 15.3. 供应商无须就因货物及其部件的设计和制造瑕疵而对第三方造成的任何损害承担责任，除非根据与因瑕疵货物直接导致的死亡或人身伤害或私人财产损害而承担的责任有关的、适用的强制性法律规定



mandatory provisions of law regarding the liability for death or bodily injuries or damage to personal property, directly caused by defective Goods.

- 15.4. Purchaser shall indemnify and hold Supplier and its Affiliates harmless from all claims for damages of third parties who, for whatever reason, allege to have suffered damage through Goods and/or Services delivered by Supplier, unless Supplier is liable for these damages pursuant to Sections 12.2 or 15.3.
- 15.5. Limitations of liability will not apply against the injured Party in case the damage resulted from gross negligence or wilful misconduct of the other Party or where liability cannot be excluded or limited under applicable mandatory laws.

## 16. Force Majeure

- 16.1. Supplier is not responsible for any delay or other suspension or deviation in the performance of Supplier's obligations under the Agreement which is (in whole or in part) caused by (i) fire, flooding or other natural disasters, (ii) strikes or industrial actions or disputes, (iii) acts or omissions of governmental agencies (including customs agencies in the country of origin or destination), (iv) default of suppliers or sub-contractors (including but not limited to carriers), (v) shortages on the market of required materials or labor, (vi) theft from warehouses of Supplier or its suppliers, (vii) any change in currency laws or regulations or other adverse economic or financial developments in or relating to Purchaser's place of business, or (viii) any other circumstances outside Supplier's reasonable control (each hereafter a "Force Majeure" event or condition).
- 16.2. The estimated delivery dates specified in the Agreement shall be extended by that period of time during which Supplier is unable to perform due to a Force Majeure event; provided, however, that in the event that such delay exceeds three months, Supplier or Purchaser may cancel the affected Agreement(s) by written notice, in which case Supplier is not liable for any resulting damages.
- 16.3. Nothing in this Section 16 will excuse Purchaser from its payment obligations for Goods and/or Services received.

## 17. Termination

- 17.1. A Party shall only be entitled to terminate the Agreement or suspend the performance of its obligations under the Agreement in whole or in part by means of written notice to the other Party in the following situations:
- (a) the other Party files a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, assignment for the benefit of creditors or similar proceeding;
- (b) the other Party becomes the subject of a petition in bankruptcy or any proceeding relating to insolvency, receivership, liquidation, assignment for the benefit of creditors or similar proceeding;
- (c) the other Party is in material breach of the Agreement and that breach (a) is not capable of being cured, or (b) if capable of being cured, remains uncured for thirty (30) calendar days after receiving written notice of the breach. For purposes of this Section 17.1(c), any breach of Sections 4.2, 8.1, 12, 13, 14 and 18 shall, without limitation, be deemed a material breach that is incapable of cure;
- (d) the other Party ceases or threatens to cease to carry on business in the ordinary course.

，确立了该等责任。

- 15.4. 对于声称因任何原因因**供应商**交付的**货物和/或服务**而遭受损害的第三方的损害，**采购方**应就与该等损害有关的所有索赔，向**供应商**及其**关联方**做出赔偿，并使其免受损害，除非根据第 12.2 条或第 15.3 条规定，**供应商**对该等损害负有责任。
- 15.5. 如果损害系因另一方的重大过失或故意不当行为所致，或在适用的强制性法律项下无法对责任加以排除或限制，责任限制将不适用于受损失一方。

## 16. 不可抗力

- 16.1. 对于（完全或部分）因以下原因导致的**供应商**在**协议**项下义务履行的任何延迟或其他中止或背离，**供应商**概不负责：(i)火灾、水灾或其他自然灾害，(ii)罢工或劳工行动或劳资纠纷，(iii)政府机构的作为或不作为（包括原产国或目的地的海关部门），(iv)供应商或分包商（包括但不限于承运人）的过错，(v)市场上所需材料或人力短缺，(vi)**供应商**或其供货商仓库失窃，(vii)货币相关法律或法规发生任何变更或在**采购方**营业地的或与**采购方**营业地有关的其他不利的经济或财政发展状况，或(viii)超出**供应商**合理控制范围的任何其他情形（每种情形以下单称为“**不可抗力**”事件或情况）。
- 16.2. **协议**中规定的预估交付日期应予延长的期限等于**供应商**因不可抗力事件无法履行**协议**的期间；但是，如果该等延迟履行超过三个月，**供应商**或**采购方**可发出书面通知取消受影响的**协议**，在此情形下**供应商**无须为任何因此引起的损害承担责任。
- 16.3. 本第 16 条中的任何规定均不会免除**采购方**就其收取的**货物和/或服务**而负有的支付义务。

## 17. 终止

- 17.1. 一方应仅在以下情形下有权向另一方发出书面通知，终止**协议**或全部或部分中止履行其在**协议**项下的义务：
- (a) 另一方提出自愿破产申请或提起任何与资不抵债、被接管、清算、为债权人利益进行转让有关的自愿程序或类似程序；
- (b) 另一方成为破产申请或任何与资不抵债、被接管、清算、为债权人利益进行转让有关的程序或类似程序的主体；
- (c) 另一方实质性违反**协议**且该等违反(a)无法纠正·或(b)在能够纠正的情况下在收到有关违约的书面通知后三十（30）个日历日内仍未纠正·为本第 17.1(c)条之目的，对第 4.2、8.1、12、13、14 和 18 条的违反应被视为无法纠正的实质性违约（且不以此为限）；
- (d) 另一方停止或威胁停止正常经营。

17.2. Purchaser shall inform Supplier as soon as reasonably possible of any change of Control with respect to Purchaser. Supplier shall have the right to terminate the Agreement in case of a change of Control with respect to Purchaser after having been notified of such change of Control by Purchaser.

## 18. Confidentiality and Publicity Restrictions

18.1. Except as otherwise provided hereunder, all Confidential Information communicated by Supplier to Purchaser shall be kept in confidence and shall be used only for the purpose of any Agreement, except:

- (a) as may be necessary to comply with laws, statutes and regulations, provided that, prior to disclosure, Purchaser notifies Supplier of such requirement and cooperates with Supplier's efforts to seek a protective order or otherwise avoid or minimize the disclosure;
- (b) to the extent such Confidential Information is already known to Purchaser, becomes known to Purchaser without confidentiality obligations attached, or is independently developed by Purchaser without use of the Confidential Information;
- (c) to the extent such Confidential Information is or becomes known to the public other than by a breach of this Section 18;
- (d) to the professional advisers of Purchaser who are under duties of confidentiality; or
- (e) with prior written consent of Supplier.

18.2. Purchaser will take all reasonable measures to ensure safe preservation or storage with respect to the Confidential Information and shall obtain appropriate undertakings of confidentiality from its employees. Purchaser shall promptly return or destroy, at Supplier's option, all Confidential Information when requested.

18.3. The Parties agree that the applicability of the confidentiality provisions of this Section 18 shall be subject to any existing non-disclosure agreement(s) and/or confidentiality agreements between the Parties covering Confidential Information and/or confidentiality of the subject matter hereof and that such agreements shall take precedence over and supersede any inconsistent provisions set forth in these General Terms of Sale.

18.4. Purchaser is not allowed to use Supplier's Trademarks, trade names or any other indications in relation to the Goods and/or Services, or to publicly make any reference to Supplier, whether in press releases, advertisements, sales literature or otherwise, except with Supplier's prior written consent. Such use must at all times be in accordance with the Lumileds branding guidelines as updated by Supplier from time to time.

## 19. Governing law and Competent Court

19.1. The Agreement, the relationship between the Parties, and any dispute, whether contractual or non-contractual, arising out of or in connection with the Agreement, as well as any claims based on tort, shall be governed by the laws of China, without regard to its choice of law rules or the UN Convention on the International Sale of Goods (CISG).

19.2. Any controversy or claim arising out of or relating directly or indirectly to the Agreement, not capable of satisfactory amicable resolution within thirty (30) days after written notice sent by one Party to the other Party setting forth with

17.2. 如发生与**采购方**有关的任何**控制权**变更, **采购方**应合理尽快地告知**供应商**。如果在**采购方**通知**供应商**该等**控制权**变更后发生与**采购方**有关的**控制权**变更, **供应商**有权终止**协议**。

## 18. 保密和对外发布限制

18.1. 除非**协议**项下另有规定, 由**供应商**向**采购方**传达的所有**保密信息**应予保密, 并且仅应用于任何**协议**之目的, 除非:

- (a) 出于遵守法律、成文法和法规的需要而进行披露, 前提是在披露前, **采购方**须通知**供应商**该等要求, 并与**供应商**配合寻求保护令或以其他方式避免披露或尽量降低披露程度;
- (b) 该等**保密信息**在无随附的保密义务的情况下已为**采购方**所知, 变得由**采购方**所知, 或由**采购方**在不使用**保密信息**的情况下独立开发出;
- (c) 若该等**保密信息**非因违反本第 18 条为公众所知或变得为公众所知;
- (d) 向负有保密义务的**采购方**的专业顾问披露; 或
- (e) 经**供应商**事先书面同意后披露。

18.2. **采购方**应采取一切合理措施确保与**保密信息**有关的安全保存或储存, 并应获得其雇员做出的适当的保密承诺。**采购方**应一经**供应商**选择立即要求返还或销毁所有**保密信息**。

18.3. **双方**同意, 本第 18 条之保密规定的适用性受制于**双方**就**保密信息**和/或其主题事项之保密性签订的任何现有的保密协议, 并且该等协议应优先于**本通用销售条款**中所述的任何不一致的条款适用, 并取代该等不一致的条款。

18.4. 除非经**供应商**事先书面同意, 不允许**采购方**使用**供应商**的**商标**、**商号**或任何其他与**货物**和/或**服务**有关的标志, 或在新闻稿、广告、销售说明书或其他资料中公开提及**供应商**。该等使用必须始终遵从**供应商**不时更新的 Lumileds 品牌指引。

## 19. 适用法律和管辖法院

19.1. **协议**、**双方**之间的关系、任何因**协议**引起或与**协议**有关的争议(无论是合同争议还是非合同争议)、以及基于侵权的任何索赔, 均受中国法律管辖, 而不适用其冲突法原则或《联合国国际货物销售公约》。

19.2. 任何因**协议**直接或间接引起或与**协议**直接或间接有关的纠纷或索赔, 如在**一方**向**另一方**发出具体说明任何该等纠纷或索赔的书面通知后三十(30)日内无法令人满意地友好解决, 则应通过以下方式最

specificity any such controversy or claim, shall be finally settled by:

- (a) the competent courts of China if both Parties have their registered office in China; or
- (b) arbitration under the Rules of Arbitration of the International Chamber of Commerce if Purchaser does not have its registered office in China. The place of arbitration will be Shanghai, China. The arbitration will be conducted in English.

19.3. Nothing in the Agreement prevents or prohibits Purchaser or Supplier from seeking urgent interim relief in any court of competent jurisdiction, temporary restraining orders, temporary injunctions, permanent injunctions and/or orders of specific performance, as may appear reasonably necessary to preserve its rights.

## 20. Miscellaneous

20.1. Purchaser shall not subcontract, transfer, pledge or assign any of its rights or obligations under the Agreement without the prior written consent of Supplier, which consent shall not be unreasonably withheld. Any such pre-approved subcontracting, transfer, pledge or assignment shall not release Purchaser from its obligations under the Agreement. Without prejudice to Section 7.5, Supplier may assign or transfer the Agreement or any of its rights and obligations under the Agreement to any of its Affiliates upon written notice to Purchaser.

20.2. The applicability of any general terms or conditions used or to be used by Purchaser is expressly rejected.

20.3. The Agreement is the entire agreement between the Parties concerning its subject matter and supersedes all prior and contemporaneous oral and written agreements, commitments, and understandings concerning its subject matter.

20.4. In the event that any provision(s) of these General Terms of Sale and/or the Agreement shall be held invalid, unlawful or unenforceable by a court of competent jurisdiction or by any future legislative or administrative action, such holding or action shall not negate the validity or enforceability of any other provisions of the Agreement. Any such provision held invalid, unlawful or unenforceable, shall be substituted by a provision of similar import reflecting the original intent of the provision to the extent permissible under applicable law.

20.5. All terms and conditions of the Agreement which are destined, whether express or implied, to survive the termination or the expiration of the Agreement, including but not limited to Sections 5, 9, 12, 13.4, 13.5, 15, 18, 19, 20.5, and 20.6 shall survive.

20.6. Neither the failure nor the delay of a Party to enforce any provision of the Agreement shall constitute a waiver of such provision or of the right of that Party to enforce each and every provision of the Agreement.

20.7. Supplier may amend these General Terms of Sale from time to time by sending a new version of the General Terms of Sale to Purchaser. Unless Purchaser raises a written objection to Supplier within four (4) weeks from the date of receipt of the new version, Purchaser shall be deemed to have accepted that the new version shall apply to any future Agreement.

20.8. In case of any discrepancy or contradiction between the English version of these General Terms of Sale and any translation thereof, the provisions of the English version shall prevail.

终解决:

- (a) 如果**双方**的注册办公地均位于中国境内，由中国主管法院解决；或
- (b) 如果**采购方**的注册办公地并非在中国境内，根据《国际商会仲裁规则》通过仲裁解决。仲裁地应为中国上海。仲裁程序应以英文进行。

19.3. **协议**中的任何规定均不妨碍或禁止**采购方**或**供应商**向任何有管辖权的法院寻求为保全其权利合理所需的紧急临时救济、临时限制令、临时禁令、永久禁令和/或实际履行令。

## 20. 其他

20.1. 未经**供应商**事先书面同意（**供应商**不得无理拒绝做出同意），**采购方**不得分包、转让、质押或让与其在**协议**项下的任何权利或义务。任何该等事先批准的分包、转让、质押或让与均不应免除**采购方**在**协议**项下的义务。在不影响第 7.5 条规定的情况下，**供应商**经向**采购方**发出书面通知，可向任意关联方让与或转让**协议**或其**在协议**项下的任何权利和义务。

20.2. 明确拒绝适用由**采购方**采用或待由**采购方**采用的任何通用条款或条件。

20.3. **协议**是**双方**就其主题事项达成的完整协议，并取代就其主题事项此前和同时期达成的所有口头和书面协议、承诺和谅解。

20.4. 若**本通用销售条款**和/或**协议**的任何条款被有管辖权的法院或任何将来的立法或行政行为认定为无效、不合法或不可执行，该等认定或行为均不得否定**协议**任何其他条款的效力或可执行性。任何该等被认定为无效、不合法或不可执行的条款应由一项具有相似含义的、在适用法律允许的范围内体现原条款之原意的条款所取代。

20.5. **协议**中明示或默示应在**协议**终止或到期后继续有效的所有条款和条件（包括但不限于 5 条、第 9 条、第 12 条、第 13.4 条、第 13.5 条、第 15 条、第 18 条、第 19 条、第 20.5 条和第 20.6 条）应继续有效。

20.6. 一方未能或延迟执行**协议**的任何条款均不构成对该条款或该方执行**协议**每项条款之权利的放弃。

20.7. **供应商**可通过不时向**采购方**发出新版的**通用销售条款**修订**本通用销售条款**。除非**采购方**在收到新版本之日后四（4）周内向**供应商**提出书面异议，否则**采购方**应被视为已认可新版本应适用于任何将来签订的**协议**。

20.8. 如**本通用销售条款**英文版与其任何翻译文本之间有任何不一致或矛盾之处，应以英文版的条款为准。