

1. Definitions

- 1.1. Terms which are capitalized in these General Terms of Purchase have the following meanings:
- (a) "Affiliate" means a corporation or other business entity Controlled by, Controlling or under common Control with a Party;
 - (b) "Agreement" means any agreement between Purchaser and Supplier, including any amendment, addition or annexes thereto, that is entered into as set forth in article 2;
 - (c) "Confidential Information" means all information disclosed by, or on behalf of, one Party to the other Party, 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, proprietary or confidential information of third parties, documents, data, prototypes, ideas, inventions, processes, know-how, plans, or financial information. Confidential Information shall also include items such as wafers, 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 a person;
 - (e) "Creation" means many inventions, ideas, discoveries, designs, improvements, materials, works of authorship or any other subject matter in any form, including drawings, texts, models, manuals, samples, aids, calculations, software, matrices, moulds, other documents and data as well as any applications thereof, capable of protection by Intellectual Property Rights;
 - (f) "Defect" means any deviation in the Goods and/or Services compared with the Specification, its intended use, or any other incorrect functioning of part or all of the Goods or Services;
 - (g) "Goods" means all items supplied or to be supplied to Purchaser by Supplier in the implementation of an Agreement, including software and hardware;
 - (h) "Intellectual Property Rights" means all patent rights (including reissues, divisions, continuations and extensions thereof), copyrights, moral rights, trademark rights, trade name rights, service mark rights, design rights, rights to utility models, trade secret rights, database rights, mask work rights, neighboring rights, and any other form of protection afforded by law to Creations;
 - (i) "Lumileds" means Lumileds Holding B.V.;
 - (j) "Lumileds Property" means any machinery, tools, drawings, specifications, technology, software, raw materials, deliverables and any other property or materials, which Purchaser makes available to Supplier under the Agreement;
 - (k) "Open Source Software" means any software programs which are licensed under any form of open-source license meeting the Open Source Initiative's Open Source Definition (www.opensource.org/docs/definition.php);
 - (l) "Order" means a written confirmation of an order;
 - (m) "Party" or "Parties" means Purchaser, Supplier, each or both of them, as the context may require;
 - (n) "Purchaser" means an entity (either Lumileds, Lumileds LLC or a Lumileds Affiliate) that enters into an Agreement with Supplier;
 - (o) "Services" means all services performed by Supplier for or on behalf of Purchaser in the implementation of the Agreement, whether or not in connection with the supply of Goods;
 - (p) "Specification" means a description of the Goods and/or Services ordered by Purchaser, as stated or referred to in the Agreement. In the absence of such a description, that which is customary between the Parties or, failing that, that which is customary in the industry in which Supplier and/or Purchaser operate shall apply;
 - (q) "Supplier" means each person or entity (including, where relevant, its Affiliate(s)) that enters into an Agreement with Purchaser.

2. Formation of the Agreement

- 2.1. These General Terms of Purchase apply to any Agreement and all other legal relationships between Purchaser and Supplier connected with the purchase by Purchaser of Goods and/or Services from Supplier. Unless explicitly agreed otherwise in writing, these General Terms of Purchase shall take precedence over any other communication, offer, or agreement (oral or in writing) between the Parties relating to the subject matter hereof. The Parties agree that the applicability of the confidentiality provisions of article 19 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 which shall be deemed to take precedence over and supersede any inconsistent provisions set forth herein.
- 2.2. An offer, price quotation or other proposal issued by Supplier shall be irrevocable and valid for a minimum of ninety (90) days. The costs incurred in issuing an offer, price quotation or other proposal shall be for the account of Supplier.
- 2.3. An Agreement shall be concluded when the irrevocable offer by Supplier is accepted by Purchaser by sending an Order to Supplier or by an agreement signed by both Parties.
- 2.4. Upon execution of an Agreement, Supplier will be bound to perform the Services and provide the Goods described in that Agreement, and Purchaser will be required to pay the specified fees, subject to the terms and conditions of the Agreement.
- 2.5. If Supplier performs a service or delivers a product (or makes preparations to that end) before an Agreement has been concluded, this shall be entirely for Supplier's own account and risk.
- 2.6. For the purposes of each Agreement, only the Purchaser which executed the Agreement will incur any obligation or liability to Supplier under that Agreement.

3. Delivery, delivery time and storage

- 3.1. Supplier must deliver and/or perform the Goods and/or Services within the agreed periods or at the agreed times. Time is of the essence and all agreed dates and periods are strict and final deadlines.
- 3.2. In the event that Supplier anticipates any difficulty in complying with any delivery date or any of its other obligations under the Agreement, Supplier shall promptly notify Purchaser in writing.
- 3.3. All Goods shall be delivered FCA (as defined in the Incoterms 2010) on the address which shall be determined by Purchaser. In the event any applicable Incoterms deviate from these General Terms of Purchase, the Order shall take precedence.
- 3.4. At delivery Supplier shall deliver the Goods, provide Purchaser with copies of all applicable licenses, a specified packing list and with all information and instructions necessary for proper and safe use.
- 3.5. Purchaser is entitled to refuse and return at Supplier's risk and expense (i) partial deliveries, (ii) deliveries before the agreed delivery date, or (iii) in case Supplier has violated one of its obligations as stipulated in article 3.4.
- 3.6. All Goods shall be kept individually and separately from other goods, materials, raw materials, semi-manufactured products and shall be easily identifiable.
- 3.7. Supplier shall always be responsible for any loss or damage due to its failure to properly preserve, package, handle (before delivery as per the applicable Incoterm) or pack the Goods.

4. Transfer of title and risk; right of retention

- 4.1. The title to the Goods transfers to Purchaser when the Goods are delivered to Purchaser at the agreed delivery address in accordance with the agreed Incoterm. Supplier guarantees that the full and unencumbered title to the Goods is transferred.
- 4.2. Supplier bears the risk of damage to or loss of the Goods until such time as they have been accepted in accordance with article 6 or, where acceptance fails to take place, during a reasonable time after delivery in accordance with article 3. If installation or assembly by Supplier has been agreed, the risk remains with Supplier until the installed or assembled Goods have been accepted by Purchaser in accordance with article 6, or until the Goods have been put into use by or on behalf of Purchaser.
- 4.3. Supplier has no right of retention or right of suspension in relation to the Goods and/or Services.

5. Inspection and Testing

- 5.1. Supplier acknowledges that Purchaser cannot be expected to inspect the delivered Goods on an individual basis, considering the nature and quantity of the Goods. Purchaser may carry out a representative acceptance test - in line with common practice in the industry in which Supplier and/or Purchaser operate. The outcome of any acceptance test will be binding with respect to the assessment of the quality and/or quantity of the whole delivery, without further inspection.
- 5.2. Purchaser may, at any time, inspect the Goods or the manufacturing process for the Goods. If any inspection or test by Purchaser is made on the premises of Supplier, Supplier shall provide reasonable facilities and assistance for the safety and convenience of Purchaser's inspection personnel or any third party designated by Purchaser. For the avoidance of doubt, such right of inspection is without any prejudice to Purchaser's right to audit as set forth in article 16.

6. Acceptance

- 6.1. After correct delivery and, where applicable, installation of the Goods, an acceptance period of thirty (30) days shall commence, in which an acceptance test is carried out.
- 6.2. Purchaser shall not withhold acceptance in the case of a Defect that is so minor that it does not impede the intended use of the Goods by Purchaser, without detracting from Supplier's obligation to rectify this Defect free of charge.
- 6.3. Acceptance of the Goods can only be demonstrated by the issue of a written acceptance certificate by Purchaser (which for the avoidance of doubt includes email) or by the fact that Purchaser puts the Goods into use.
- 6.4. The Acceptance of Services is deemed to have taken place when Purchaser has declared its approval of the Services performed on the basis of the Specification.
- 6.5. Acceptance of Services by Purchaser can only be demonstrated by the issue of a written acceptance certificate by Purchaser, unless Parties have agreed otherwise in writing for particular Agreements or Services.
- 6.6. Purchaser shall not be liable for any payment of Goods and/or Services until these have been accepted as set forth in this article 6.
- 6.7. The acceptance or non-acceptance by Purchaser of the Goods and/or Services within the meaning of this article 6 does not release Supplier from any obligation, guarantee or liability pursuant to these General Terms of Purchase or the Agreement.

7. Warranty

- 7.1. Supplier guarantees that the Goods it delivers and/or the Services it performs are sound, which shall at a minimum entail that:
- (a) Goods are supplied and/or Services rendered in accordance with the requirements of good workmanship and in accordance with all applicable law;
 - (b) Goods and/or Services are appropriate for the purpose for which the Agreement was concluded and have the promised and expected characteristics;
 - (c) Goods are new, of good quality and free from Defects as regards the design, processing, manufacture, construction and dimensioning, and also offer the due standard of safety;
 - (d) Goods and/or Services are in accordance with the Specification and are free of Defects;
 - (e) all applicable national and international regulations relating to the Goods and their packaging and/or to the Services have been observed, and that all Goods have been designed, manufactured and delivered in compliance with all applicable laws (including labor laws), and the then current Supplier Sustainability Declaration which can be found at www.lumileds.com/uploads/564/ED38-pdf;
 - (f) Goods and/or Services including all its packaging and components supplied to Purchaser comply with the Regulated Substances List (RSL), which can be found at:

www.lumileds.com/uploads/563/ED37-pdf or will be sent to Supplier upon its first written request. Supplier shall furnish to Purchaser any information required to enable Purchaser to comply with such laws, rules, and regulations in its use of the Goods and Services. Supplier shall, upon request of Purchaser, register and use BOMcheck (www.bomcheck.net) or IMDS for automotive supplies (www.mdssystem.com) to make substance compliance declarations including ROHS, REACH and other applicable regulatory requirements by making declarations in BOMcheck or IMDS to fully comply with the Purchaser RSL, unless agreed otherwise in writing. Supplier shall also adhere to future RSL changes following notification from BOMcheck or other non-registered correspondence and is and will be fully compliant with the updated Purchaser RSL within three (3) months of receiving the notification, unless agreed otherwise in writing. Purchaser may reject deliveries that do not comply with these requirements;

(g) unless Purchaser has agreed otherwise in writing, Goods shall not include any Open Source Software.

7.2. Goods and/or Services are in all cases regarded as not sound within the meaning of article 7.1 if Defects are discovered within twenty-four (24) months of delivery, unless the Defects are attributable to Purchaser.

7.3. Defects that are discovered within twenty-four (24) months of delivery shall be corrected immediately and completely by Supplier free of charge. Correction may entail, to be decided at Purchaser's sole discretion and without prejudice to any of Purchaser's rights, the replacement of the Goods (or parts thereof), re-execution of the Services in question, or a (partial) refund of the affected Goods and Services. Additional costs, such as those for dismantling, transport and reassembly, shall also be borne by Supplier.

7.4. With respect to any Defects that have been corrected or Services that have been performed again, a new warranty period as described in article 7.3 commences.

7.5. If necessary for the continuity of Purchaser operations and if Supplier is not able itself to repair or replace the Goods immediately and/or perform replacement Services, Purchaser shall be entitled to carry out (or arrange) temporary repairs or perform (or arrange) replacement Services at the expense of Supplier.

8. Prices

8.1. All prices shall be fixed prices, not subject to price adjustments and exclusive of taxes.

8.2. If the ordered Goods and/or Services rendered 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. Supplier is responsible for the deduction of taxes paid by Purchaser to the relevant (tax) authorities.

8.3. In case no price has been agreed, the price list of Supplier as effective at the time of the order shall apply. In the absence of a price list, the price generally charged for the ordered Goods and/or rendered Services shall apply.

8.4. Purchaser shall have the right to offset any amounts due by Purchaser to Supplier against amounts due by Supplier to Purchaser. Supplier shall have no rights to offset any amounts under the Agreement.

8.5. Any license fees shall be included in the price, unless agreed otherwise in writing.

8.6. Supplier warrants that the prices are not less favorable than those extended to any other customer (whether government or commercial) for the same or similar goods or services in similar quantities.

9. Payment

9.1. Supplier shall issue an invoice meeting all applicable legal and fiscal requirements and shall comply with Purchaser's instructions.

9.2. Unless agreed otherwise in writing, payment shall be made within sixty (60) days after end of month in which a correct and undisputed invoice has been received, being not prior to the date of delivery, and subject to the acceptance of the Goods and/or Services by Purchaser.

9.3. Payment of any invoice shall not be interpreted as the recognition of the correct performance by Supplier of any of its obligations under any Agreement.

9.4. The amounts due shall, unless agreed otherwise in writing, be paid by electronic funds transfer to Supplier's bank in Supplier's country for the account of Supplier. Purchaser shall be deemed to have performed any payment obligations when the respective sums due have been received by Supplier's bank.

9.5. Purchaser may suspend payment to Supplier upon notice if Supplier fails to fulfill any of its obligations under the Agreement.

9.6. Supplier can only charge interest from Purchaser as set forth in this article 9.6 if Purchaser is in breach of its payment obligation and such breach remains uncured for thirty (30) days after being notified thereof in writing. Any applicable interest shall be the aggregate of (i) LIBOR, being the London Interbank Offered Rate of interest per annum relative to the period as published by Bloomberg for relevant currency starting from the Due Date, and (ii) a margin of 3% per annum. Interest will be calculated on the basis of actual number of days elapsed, divided by 360 days.

10. Ownership and Intellectual Property

10.1. All Lumileds Property and all rights therein shall be and remain the sole exclusive property of Purchaser or its respective licensors and shall be used solely for the purpose of fulfilling orders from Purchaser. Supplier shall treat such Lumileds Property properly, store it in such a way that it may be easily identified, keep it in good condition and return it promptly upon Purchaser's first request. Unless agreed otherwise, Supplier shall conclude and maintain sufficient insurance cover against loss and damage. Purchaser shall retain all rights in any Lumileds Property provided by or for Purchaser to Supplier. The use of such Lumileds Property for and/or by third parties is not permitted without prior written permission from Purchaser.

10.2. To the extent required for providing the Goods or rendering the Services, Supplier is hereby granted a strictly personal, non-transferrable, non-sublicensable and non-exclusive limited license to the Intellectual Property Rights in the Lumileds Property for the duration of the Agreement. Purchaser shall retain all rights in such Intellectual Property Rights.

10.3. The purchase of the Goods and/or Services shall confer on Purchaser and its Affiliates an irrevocable, world-wide, royalty-free and fully paid up, non-exclusive and perpetual license under all Intellectual Property Rights owned or controlled,

directly or indirectly, by Supplier to use, make, have made, build-in, have built-in, market, sell, lease, license, distribute and/or otherwise dispose of the Goods and/or Services, including but not limited to machinery, tools, drawings, designs, software, demos, molds, specifications or pieces.

10.4. Purchaser is entitled to all Intellectual Property Rights in respect of (i) the Goods (ii) the results of Services and (iii) any Creation, to the extent produced by Supplier specifically for Purchaser during the term of the Agreement. Supplier agrees to assign and hereby assigns any Intellectual Property Rights to Purchaser on the basis of these General Terms of Purchase. The transfer of these rights once they come into existence is accepted by Purchaser in advance. In so far as a further deed is required for the transfer of such rights to take place, Supplier authorizes Purchaser in advance to prepare such a deed and sign it on behalf of Supplier. Compensation for these rights is deemed to be included in the price.

10.5. Supplier represents and warrants to Purchaser (i) that the Goods and Services do not and shall not, alone or in any combination, infringe or violate any patent, trademark, copyright (including portrait rights and moral rights), trade name, trade secret, license or other proprietary right of any other party (including Supplier's employees and subcontractors); (ii) that it holds all rights, title and interest necessary to license to Purchaser any Intellectual Property Right of every component of the Goods and/or Services provided to Purchaser, as a whole or as integrated part of another Good/Service, including but not limited to machinery, tools, drawings, designs, software, demos, molds, specifications or pieces; and (iii) that the Goods or Services are not the subject of any dispute concerning rights of third parties or otherwise unlawful in relation to third parties.

10.6. Supplier will be liable for any claims made by any of its employees or contractors for additional compensation in view of the use made or value of Creations, Goods or Services, and will pay any amounts due under such claims directly to such relevant employees or contractors and shall indemnify and hold Purchaser harmless from any such claims.

10.7. Unless the inclusion of Open Source Software is specifically authorized in writing by duly authorized officers of Purchaser and unless otherwise stated in an Agreement, Supplier represents and warrants that the Goods do not include any portion of any Open Source Software. As used herein, "Open Source Software" shall mean:

- (a) any software that requires as a condition of use, modification and/or distribution of such software, that such software
 - (i) be disclosed or distributed in source code form
 - (ii) be licensed for the purpose of making derivative works
 - (iii) may only be redistributed free from enforceable Intellectual Property Rights; and/or
- (b) any software that contains, is derived from, or statically or dynamically links to, any software specified under article 10.7(a).

11. Intellectual Property Indemnification

11.1. Supplier shall indemnify Purchaser against any claims or consequences of claims by third parties arising out of or in connection with an infringement or other unauthorized use of their Intellectual Property Rights in connection with the supplied Goods or Services. This indemnification concerns all damage and costs (including reasonable costs for legal assistance) that Purchaser suffers or incurs in connection with such a claim. Without prejudice to the above, at the request of Purchaser, Supplier shall defend Purchaser at its own expense in the case of proceedings brought against it, on condition that Supplier shall keep Purchaser appropriately, timely and fully informed during the proceedings and shall not acknowledge liability or reach an out-of-court settlement except with the prior written permission of Purchaser. Purchaser shall under no circumstances acknowledge liability or reach an out-of-court settlement without the prior permission of Supplier.

11.2. Purchaser shall notify Supplier immediately in writing of every action, claim or lawsuit of the kind referred to in article 11.1 and cooperate to a reasonable degree (at the expense of Supplier) and give reasonable access to all relevant information where there is a reasonable request by Supplier for the defense against the aforementioned action, claim or lawsuit. Supplier shall provide all assistance in connection with any such claim as Purchaser may reasonably require.

11.3. If any Goods or Services supplied under the Agreement are held to constitute an infringement or if their use is enjoined, Supplier shall at the sole discretion of Purchaser and without prejudice to any of Purchaser's rights under the Agreement or applicable law:

- (a) acquire the necessary rights of use for the Goods or Services;
- (b) modify the Goods or Services in question so that they no longer infringe the rights of third parties;
- (c) replace the Goods or Services in question with equivalent Goods or Services that do not infringe rights of third parties; or
- (d) take back the Goods for a refund of the money paid for them or discontinue the Services with a refund for the remuneration paid for them.

12. Compliance with Laws

12.1. Supplier shall at all times comply with all applicable laws and regulations, including laws and regulations on anti-bribery, anti-trust, anti-corruption, environmental compliance, and export control and the Lumileds Code of Conduct (and/or any other Lumileds ethics and compliance policies) as it may be made available from time to time, and will not export or re-export, directly or indirectly, any Goods to any country for which an export license or other governmental approval is required, without first obtaining such license or approval. Supplier shall obtain all required export licenses or permits and shall provide Purchaser with all information required to enable Purchaser and its customers to comply with such laws and regulations.

12.2. Supplier shall furnish to Purchaser any information required to enable Purchaser to comply with any applicable laws, rules, and regulations in its use of the Goods and Services, and agrees to inform Purchaser in writing whether or not the Goods and Services are US controlled and/or controlled under the export control laws of its own country, and if so, Supplier will inform Purchaser of the applicable export control classification number (ECCN) and the extent of the restrictions. Supplier agrees to notify Purchaser promptly of Supplier's receipt of any such notice of a

- violation of any export control related law, rule or regulation, which may affect Purchaser.
- 12.3. Supplier shall obtain all international and national export licenses or similar permits required under all applicable export control laws and regulations and shall provide Purchaser with all information required to enable Purchaser to comply with such laws and regulations. Supplier agrees and warrants that it will comply with all applicable international and national export control laws and regulations and it will not export or re-export, directly or indirectly, any information, goods, software and/or technology to any country for which the European Union or the United States of America or any other country, at the time of export or re-export, requires an export license or other governmental approval, without first obtaining such license or approval. If any, Supplier agrees to inform Purchaser about the extent of possible restrictions. Supplier shall maintain records in accordance with the export regulations and provide to Purchaser, upon request, documentation to demonstrate compliance with this article 12.3.
- 12.4. Supplier shall not, without specific prior written Purchaser approval, directly or indirectly, cause the transfer, export, re-export or release of any Purchaser technology or software to anyone included on a U.S. government restricted party list, to China, Cuba, Iran, North Korea, Sudan, Syria, or to a foreign person (as defined in the U.S. export regulations) of any such countries. Approval must be obtained before any affected Supplier employee, agent or other personnel is placed in a position involving exposure to Purchaser technology or software.
- 12.5. Supplier agrees to indemnify and hold Purchaser harmless from any claims, liabilities, penalties and associated costs and expenses, which Purchaser may incur due to Supplier's non-compliance with applicable laws, rules and regulations as set forth in but not limited to article 12.1.
- 13. Customs Compliance**
- 13.1. On an annual basis, or upon earlier request of Purchaser, Supplier shall provide Purchaser with a supplier declaration of origin in relation to the Goods sufficient to satisfy the requirements of (i) the customs authorities of the country of receipt, and (ii) any applicable export licensing regulations. In particular, the declaration should explicitly mention whether the Goods, or part thereof, have been produced in the United States or originate in the United States. Dual-use Goods, or otherwise classified Goods supplied by Supplier should be clearly identified by their classification code.
- 13.2. For all Goods that qualify for application of Regional or Free Trade Agreements, General Systems of Preference or other preferential arrangements, it is the responsibility of Supplier to deliver products with the appropriate documentary evidence (e.g. Supplier's declaration, preferential origin certificate/invoice declaration) to confirm the preferential origin status.
- 13.3. Supplier shall mark all Goods (or the Goods' container if there is no room on the Goods) with the country of origin. Supplier shall, in marking the Goods, comply with the requirements of the customs authorities of the country of receipt. If any Goods are imported, Supplier shall when possible allow Purchaser to be the importer of record. If Purchaser is not the importer of record and Supplier obtains duty drawback rights to the Goods, Supplier shall, upon Purchaser request, provide Purchaser with documents required by the customs authorities of the country of receipt to prove importation and to transfer duty drawback rights to Purchaser.
- 13.4. Unless otherwise arranged with Purchaser, Supplier is responsible for providing the Goods "Free Carrier", including clearing the Goods through customs for export, and carrying out customs formalities at its expense. In all cases, Supplier must provide the documentation required for cross-border shipments and, if information is required from Purchaser for export clearance purposes. Supplier or its agents must request the information by fax or email to Purchaser's appropriate contact no less than two (2) business days before the date required. Failing that request, a delay in clearing for export resulting from incomplete information will not be an excuse for late delivery.
- 14. Data Protection**
- 14.1. Where Supplier in the performance of the Agreement processes personal data (as defined by applicable law) of Purchaser's employees, contractors, customers or business partners (hereafter collectively referred to as "Personal Data"), Supplier shall:
- comply with all privacy and data protection law and regulations applicable to its Services;
 - process Personal Data only insofar necessary to perform its obligations under the Agreement or as required by law;
 - keep the Personal Data confidential;
 - take appropriate technical, physical and organizational security measures to protect the Personal Data against loss, unauthorized or unlawful processing; and
 - promptly, but in any case within 24 hours, inform Purchaser in accordance with applicable law, of any actual or suspected security incident involving the Personal Data.
- 14.2. Supplier shall, upon the termination of the Agreement, securely erase or destroy all records or documents containing the Personal Data. Supplier accepts and confirms that it is solely liable for any unauthorized or illegal processing or loss of the Personal Data, if Supplier fails to erase or destroy the Personal Data upon termination of the Agreement.
- 14.3. If Purchaser is of the opinion that an additional (data processing) agreement is required to comply with applicable law, Supplier shall enter into such agreement with Purchaser at Purchaser's first written request. Parties shall at all times fully comply with any such data processing agreement.
- 15. Limitation of Liability, Indemnification and Insurance**
- 15.1. The liability of either Party for damages, however caused, arising out of or related to a particular Agreement will not exceed the greater of (a) EUR 2,000,000 or (b) two times amount paid or to be paid under the Agreement to which the claim relates during a period twelve (12) months preceding the claim.
- 15.2. Neither Party shall be liable for indirect damages, which shall mean loss of revenue, loss of profits, and/or damage to reputation.
- 15.3. The limitation in articles 15.1 and 15.2 will not apply to any liability (a) arising out of fraud, gross negligence or willful misconduct, (b) arising out of infringement, misappropriation or violation of any Intellectual Property Rights of a Party, (c) arising out of any claim that is subject to any indemnification, (d) arising out of breach of articles 7, 10, 12, 13 or 14.
- 15.4. In addition to the indemnification in article 11, Supplier indemnifies Purchaser against any claim from a third party arising from or in connection with the Goods supplied or used and/or Services rendered by Supplier that is the direct or indirect consequence of (i) a breach of its contractual obligations under the Agreement or (ii) unlawful actions or negligence on the part of Supplier.
- 15.5. Supplier must hold and keep current a commercial general liability insurance with a reputable insurance firm (covering at least products liability, property damage and personal injury liability), with a minimum limit of EUR 5,000,000 for each occurrence regarding claims of bodily injury, including death, and any other damages that may arise from use of the Goods or Services or acts or omissions of Supplier under any Agreement.
- 16. Audit**
- 16.1. Upon reasonable request of Purchaser, Purchaser may at any time itself and/or designate a reputable certified public accountant to, audit Supplier's records (including electronic records), procedures and policies to verify that Supplier has complied with its obligations under this Agreement. Supplier shall at all times cooperate with Purchaser or such third party account in the execution of the audit. Supplier agrees to maintain all records, contracts and accounts related to the Goods and Services during the term of this Agreement. Supplier will reimburse Purchaser within forty-five (45) days after the audit is completed for any overpayments made by Purchaser plus interest. Supplier will be responsible for the cost of the audit if the audit reveals material deficiencies in compliance with its obligations under this Agreement.
- 16.2. The timing of an audit shall be determined in joint consultation. Purchaser shall use reasonable efforts to ensure that the audits cause minimum interruption to the operations of Supplier.
- 16.3. Supplier shall set up and maintain a satisfactory system of accounts in order to enable an audit as referred to in this article 16 to take place.
- 16.4. Supplier shall contractually ensure that any third parties engaged by Supplier in the performance of the Agreement shall extend their full cooperation to any audit as set forth in article 16.1.
- 17. Force Majeure**
- 17.1. If either Party is unable to perform its obligations under this Agreement due to an event of force majeure, then such Party (the "Affected Party") will immediately notify the other Party in writing describing such event and its effects. Non-performance by the Affected Party will be excused for that period of time during which performance is made impossible due to event of force majeure provided that the delay could not have been prevented by the Affected Party's reasonable precautions. During the period of non-performance, the Party that is not affected by the event of force majeure may suspend its own performance.
- 17.2. Parties agree that the following shall in any case not be construed as an event of force majeure: (a) strike, labor stoppage, or other failure to perform on the part of employees or contractors of Supplier, suppliers of Supplier, or subcontractors of Supplier, except to the extent that the failure was itself caused directly by an event of force majeure, (b) fire or flood unless the fire or flood was caused by a natural disaster rather than by human error and could not have been prevented by reasonable safety and fire protective equipment, or (c) loss of, corruption of, or unauthorized access to, Confidential Information.
- 17.3. Nothing in article 17 will relieve a Party from liability for failure to have back-up systems that are expressly required by this Agreement or that are standard in its industry, failure to have reasonable safety and fire protective equipment, or loss of, corruption of, or unauthorized access to, Confidential Information. Supplier is required to design and, if necessary, implement, a disaster recovery plan.
- 18. Suspension and Termination**
- 18.1. Either Party shall be entitled at its discretion to terminate or cancel 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 event:
- the other Party files a voluntary proceeding relating to liquidation, assignment for the benefit of creditors or similar proceeding;
 - the other Party becomes the subject of any proceeding relating to liquidation, assignment for the benefit of creditors or similar proceeding;
 - an attachment in execution is made on all or an important part of the other Party's assets;
 - the other party ceases or threatens to cease to carry on business in the ordinary course;
 - the other party is in material breach of this Agreement and that breach (a) is not capable of being cured, or (b) if capable of being cured, remains uncured for 10 days after written notice of the breach, or any longer period as explicitly granted by Purchaser in such notice. For purposes of this article 18.1 (e), any breach of articles 3, 7, 10, 11, 12, 13, 18.2, 19 and 21.1 will, without limitation, be deemed a material breach that is incapable of cure.
- 18.2. Supplier shall inform Purchaser as soon as reasonably possible of any change of Control or sale of all or substantially all of its assets with respect to Supplier. Purchaser shall have the right to terminate the Agreement in case of a change of Control with respect to Supplier within six (6) months after having been notified of such change of Control by Supplier. Furthermore, Purchaser has the right to terminate the Agreement immediately in writing if Supplier threatens to become the subject of any proceeding relating to liquidation, assignment for the benefit of creditors or similar proceeding.
- 18.3. Solely Purchaser has the right to terminate the Agreement for convenience before the end of the term with due observance of a period of notice of at least three (3) months, without an obligation to pay compensation for any damage or other costs.

19. Confidentiality and Publicity Restrictions

- 19.1. Except as otherwise provided hereunder, all Confidential Information communicated by one Party to the other 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;
 - (b) to the extent such Confidential Information is known to the public otherwise than by a breach of this article 19;
 - (c) to the professional advisers of the any Party in connection with the interpretation or operation of any Agreement or any dispute arising there;
 - (d) with prior written consent of the other party.
- 19.2. Both Parties will take all reasonable measures to ensure safe preservation or storage with respect to the Confidential Information in whatever form, or on whatever kind of data medium.
- 19.3. Without Purchaser's prior written consent and only when respecting the Lumileds brand protection guidelines as provided by Purchaser, Supplier is not allowed to use Purchaser's trademarks, trade names or any other indications in relation to the Goods or Services, or to publicly make any reference to Purchaser, whether in press releases, advertisements, sales literature or otherwise.

20. Governing law and Competent Court

- 20.1. The Agreement and any dispute, whether contractual or non-contractual, arising out of or in connection with this Agreement shall be governed by the laws of Italy, without regard to its choice of law rules. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.
- 20.2. Any controversy or claim arising out of or relating directly or indirectly to this 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 specificity any such controversy or claim, shall be finally settled by the competent courts of Milan, Italy.
- 20.3. Supplier accepts and agrees that solely Purchaser may, at its own discretion and in lieu of starting court proceedings under article 20.2, choose to finally settle any controversy or claim arising out of or relating directly or indirectly to this Agreement by arbitration under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.
- 20.4. Nothing in this Agreement prevents or prohibits Purchaser or Supplier from seeking urgent interim relief in any court of competent jurisdiction, including pre-arbitral attachments, temporary restraining orders, temporary injunctions, permanent injunctions and/or orders of specific performance, as may appear reasonably necessary to preserve its rights.

21. Miscellaneous

- 21.1. Supplier shall not subcontract, transfer, pledge or assign any of its rights or obligations under the Agreement without the prior written consent of Purchaser. Any such pre-approved subcontracting, transfer, pledge or assignment shall not release Supplier from its obligations under the Agreement. Purchaser may assign or transfer the Agreement or any of its rights and obligations under the Agreement to any of its Affiliates without notice to Supplier.
- 21.2. The applicability of general sales conditions or other general terms used and/or to be used by Supplier is explicitly rejected.
- 21.3. To the extent Purchaser is a Lumileds Affiliate, Supplier agrees that any indemnification by Supplier pursuant to this Agreement shall also apply to Lumileds, who shall for such indemnification(s) be a third party beneficiary to the Agreement.
- 21.4. Except as otherwise provided in article 2.1, 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.
- 21.5. In the event that any provision(s) of these General Terms of Purchase 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.
- 21.6. 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 article 7 (Warranty), article 10 (Ownership and Intellectual Property), article 11 (Intellectual Property Indemnification), article 14 (Data Protection), article 19 (Confidentiality and Publicity Restrictions), and article 21 (Miscellaneous), shall survive.
- 21.7. Neither the failure nor the delay of Purchaser to enforce any provision of the Agreement shall constitute a waiver of such provision or of the right of Purchaser to enforce each and every provision of the Agreement.