

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

## 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 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 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:
- 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;
  - Purchaser shall, to the satisfaction of Supplier, adequately insure the Goods against loss, theft and damage;
  - 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;
  - 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;
  - 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
  - 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 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 and conditions, 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 and conditions 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. 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 Supplier's 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 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:
- process Personal Data only insofar necessary to perform its obligations under the Agreement, Supplier's written instructions, or as required by law;
  - 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
  - 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 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 willful 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.
- 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 the Province of Quebec, Canada, 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 specificity any such controversy or claim, shall be finally settled by:
  - (a) the competent courts of the Province of Quebec, Canada; or
  - (b) arbitration under the Rules of Arbitration of the International Chamber of Commerce if Purchaser does not have its registered office in Canada. The place of arbitration will be New York City, United States of America. 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.