

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 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.

1. 定義

- 1.1. 本一般銷售條款大寫用詞定義如下：
 - (a) 「關係企業」係指：受當事人所控制、控制當事人、或與當事人同受他人控制之公司或其他事業；
 - (b) 「合約」係指：供應商與採購商間就供應商之貨物銷售及/或服務提供簽訂如本文第 2.2 條規定之任何合約；
 - (c) 「機密資訊」係指：供應商向採購商所揭露、指定為機密、或依據資訊性質、特徵與揭露情況可合理推定為機密之所有口頭或書面資訊。機密資訊在任何情況下均包含合約內容及合約存在一事、雙方當事人間業務關係、個人資料、技術資訊、亦包含架構事宜、設立文件、系統檔案、設計、圖說及樣本；
 - (d) 「控制」(分別指「控制他人」或「受他人控制」)係指：(i)控制事業直接或間接擁有受控制事業 50%以上之股份及所有權利益，並有權代表該受控制事業做決定；或(ii)有權主導或間接主導事業之政策及管理事宜；
 - (e) 「貨物」係指：供應商因履行合約而向採購商提供之所有物品及該等物品之所有相關服務；
 - (f) 「智慧財產權」係指：所有專利權(包括專利再認證、專利分割、專利延續、專利延長)、著作權、人格權、商標、設計權、新型專利權利、商業機密權利、資料庫權利、光罩作品權利、貨物及/或服務之周邊權利；
 - (g) 「當事人」係指：合約之一方；
 - (h) 「採購商」係指：與供應訂定合約之各自然人或事業；
 - (i) 「條款」係指：一般銷售條款之條款；
 - (j) 「服務」係指：供應商履行合約時向採購商或代表採購商所提供之全部服務，無論該等服務是否與貨物供應相關；
 - (k) 「供應商」係指：Lumileds Holding B.V.及/或其與採購商訂定合約之一或多個關係企業；
 - (l) 「商標」係指：供應商及其關係企業所擁有或經授權之商標、服務標章、商號、標誌或其他來源之標示。

2. 合約之成立

- 2.1. 本一般銷售條款適用於供應商與採購商間就供應商貨物及/或服務銷售相關合約及所有其他法律關係，形成該等合約或法律關係之一部。除另有書面同意外，本一般銷售條款應取代雙方當事人就供應商貨物及/或服務銷售提供之(口頭或書面)其他溝通。
- 2.2. 有以下情況時，雙方當事人間合約成立應以最早發生者為準：(i)雙方簽署書面合約時；(ii)供應商發出訂單確認書時；或(iii)供應商履行訂單時。採購商提交之所有訂單均屬要約性質，對供應商不具任何形式之約束效力。供應商無義務接受所有訂單。

3. 貨物之規格

- 3.1. 採購商承認並同意，倘供應商以書面表示接受，則供應商就貨物及其使用所提供之所有資訊，如產品目錄、說明書、傳單、廣告、插圖、價格表內所載重量、尺寸、容量、性能、顏色與其他資料、書面或口頭之聲明、或原型、模型或示範版本之呈現，應僅屬於合約的一部分。
- 3.2. 採購商得向第三人轉售從供應商採購之貨物，惟該轉售僅得依據供應商交付採購商貨物之商標及規格為之。採購商不得變更從供應商採購而來貨物之技術配置或品質，亦不得以任何方式改動、損毀、移除或覆蓋貨物所附帶或印製之任何商標或序號、型號及/或類型編號，包括標籤、包裝、印刷字樣及說明。未經供應商書面同意前，採購商不得改動供應商貨物之原始包裝或對貨物進行重新包裝。

4. 交貨、交貨時間、儲存與取消

- 4.1. 除雙方當事人另有約定外，所有貨物之交貨條件均為工廠交貨(Ex Works)(出貨人地點)(以「國貿條規 2010 年版」定義為準)。
- 4.2. 採購商有義務受領貨物，並採取供應商合理預期之行為使供應商得依約定之國貿條規交貨。如採購商違反此義務，則貨物風險應於違反發生時移轉至採購商承擔(無論所適用之貿易條款為何)，且供應商因交貨衍生之所有費用及運輸、保管、倉儲之後續費用均應由採購商承擔。
- 4.3. 供應商得於通知採購商後，分次交貨並分別開立發票。
- 4.4. 供應商未於交貨日期或期間內交貨時，不構成違約。

- 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. 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.
- 4.5. 若依據供應商單獨裁量，有客觀及合理理由懷疑採購商可能無法完全並準時清償款項時，供應商有權依據合約暫停交貨。
- 4.6. 倘供應商接受信用狀付款，則交貨期間應於銀行通知供應商已依據供應商要求開立信用狀後方開始起算。倘採購商須先付款、提供擔保或提供一定資料及/或文件後供應商方能提供貨物，則約定交貨期間應於該等條件滿足後方開始起算。
- 4.7. 採購商要求取消或修改任何訂單(或部分訂單)時，應以書面方式告知供應商並確認供應商接到其通知；取消或修改訂單之成立，必須得到供應商之書面同意。採購商可能因訂單修改或取消而衍生費用。倘採購商要求提前交貨，供應商保留向採購商收取相關費用的權利。
- 5. 內建軟體**
- 5.1. 在交付貨物及/或服務含有內建軟體及/或檔案的情況下，貨物及/或服務銷售均不構成移轉該等軟體及/或檔案之所有權予採購商；在本條款規定範圍內，貨物及/或服務之銷售僅默示授權採購商，非專屬、不可轉讓、得與交付貨物及/或服務一併使用該等內建或交付之軟體及/或檔案之權利。在雙方當事人已同意第三人軟體及/或檔案應內建於貨物及/或服務且一併交付的情況下，採購商承認並接受第三人之該等授權條款。
- 5.2. 採購商不得：(a)針對供應商貨物及/或服務內建軟體或供應商提供之軟體，加以修改、改編、改動、翻譯或製作衍生作品；(b)轉讓、轉授權、出租、租賃、貸款、移轉、揭露或以其他方式提供前述軟體，僅得結合及/或內建於或連同貨物及/或服務一起使用；(c)將前述軟體合併或結合於其他軟體；或(d)在未經供應商書面授權的情況下進行反向組裝、反編譯、拆解或以其他方式企圖取得前述軟體之原始碼，但有相關法律明文許可者，不在此限。
- 6. 價格**
- 6.1. 除另有書面約定外，價格不含增值稅(VAT)或其他因貨物及/或服務銷售而衍生之稅賦，亦不含運輸、包裝、保險或進出口規費。這些費用應由採購商承擔。倘貨物/或服務被課徵任何稅金，供應商得向採購商收取相關費用；採購商除價格外應另外支付該等稅金。
- 6.2. 倘雙方當事人約定需要特殊包裝或有運輸特別指示，供應商因此而衍生之費用應由採購商承擔。
- 7. 付款**
- 7.1. 除另有書面約定外，所有請款發票應於開立日期後三十(30)個日曆日內到期。
- 7.2. 除另有書面約定外，到期應付款項應以電匯方式轉帳至供應商指定銀行。當供應商銀行收到立即可用款項後，採購商方被視為已付款。相關付款方式之所有花費均由採購商承擔。
- 7.3. 倘雙方當事人同意以信用狀付款，除非雙方另有約定，採購商須依據供應商同意條款開立受益人為供應商之不可撤銷信用狀，並由供應商指定銀行確認及付款。
- 7.4. 當供應商首次提出要求時，採購商即應提供任何類型、額外或非額外之擔保，以確保其將依供應商同意條件履行支付義務。採購商應於約定交貨日期前至少二十(20)個日曆日，或在約定交貨期內首日前至少二十(20)個日曆日，提供該等擔保。
- 7.5. 採購商依據合約積欠供應商之所有金額，應全額清償，不得有任何扣除金額，且採購商不得以其他金額抵銷積欠金額。供應商有權以採購商積欠供應商或其關係企業之金額抵銷其所積欠採購商之金額。供應商得隨時在未經採購商同意亦未知會採購商的情況下，將其對採購商應收賬款轉讓予任何金融機構。
- 7.6. 如有下列情況，採購商依據合約積欠供應商之金額將立即到期並應獲全額清償：
- (a) 採購商未能及時向供應商或其任何關係企業支付款項；或
- (b) 供應商有權依據合約第 17.1 條終止合約；或
- (c) 供應商客觀並合理預期採購商即將破產。
- 8. 延遲付款**
- 8.1. 倘採購商未於款項到期時及時付款，供應商有權於款項到期日開始加計遲延利息，直到該到期款項全部清償為止。

- 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:
- (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 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-
- 8.2. 在法律許可範圍內，第 8.1 條所載遲延利息利率為，每月計收欠款金額的 1%(即年利率 12%)。
- 8.3. 如有任何逾期款項，供應商得暫停對採購商交付貨物及/或服務。一旦供應商收到逾期款項之付款，供應商將恢復貨物及/或服務之交付。新交貨期之開始日期，應以供應商收到款項時而向採購商表示之出貨時間為準。
- 8.4. 倘供應商向採購商發出催告通知後五(5)個工作日內仍未收到款項，供應商有權在不影響其他自身權利的情況下，立即終止全部或部分訂單。
- 8.5. 採購商應補償供應商因收取採購商依合約積欠金額過程而所衍生之非司法及司法(包括法律協助費用)之所有費用。
- 9. 所有權保留**
- 9.1. 採購商向供應商全額支付交付貨物之約定價格、利息、收取費用或與貨物相關之其他欠款前，供應商仍應保有貨物之唯一且絕對之所有權。
- 9.2. 倘相關法律禁止第 9.1 條規定得由供應商執行並保留所有權時，採購商應保證供應商在法律最大許可範圍內取得同等或類似約定之保留所有權權利。
- 9.3. 採購商依據第 9.1 條成為貨物之完整且絕對所有人之前：
- (a) 採購商應將貨物與其自有貨物或任何他人貨物分開存放，應標示貨物為供應商財產，並保存所有標示屬於供應商財產之標籤、辨認記號及存貨記錄；
- (b) 採購商應針對滅失、偷竊及毀損對貨物加以投保，至供應商滿意為止；
- (c) 當貨物之所有權仍屬於供應商時，且採購商仍受合約約束時，供應商擁有絕對權力得取回、出售或以其他方式處理貨物之全部或一部；
- (d) 為前開第 9.3(c)條規定之目的，供應商或其任何代理人或授權代表有權得於未事先通知的情況下，於營業時間內進入採購商儲存或保管貨物之場所，或其合理認定之此等場所；
- (e) 採購商不可撤銷地同意，將與供應商充分合作，使供應商能夠在各方面實質行使第 9.3(c)及 9.3(d)條約定權利，尤其將採取供應商所要求之所有商業合理行動，使供應商得自由取得貨物並運輸貨物；及
- (f) 未經供應商書面同意時，採購商不得轉讓、質押、出租或以其他方式處理任何產品，或訂定使貨物受制於任何擔保或放棄權利之其他合約。
- 10. 驗貨**
- 10.1. 倘供應商已保證將安排貨物運輸，採購商必須於貨物送達目的地後立即檢查貨物是否因運輸而有毀損，並確認送達貨物之正確數量。倘貨物因運輸而有毀損，或貨物交付數量與訂購數量不符，採購商於接受貨物後必須於運輸單據上提供相關詳細說明並加以簽名。通報貨物之毀損、不相符或缺缺不會因此解除採購商支付貨款的義務。
- 11. 保固；貨物及/或服務不相符**
- 11.1. 第 10.1 條縱有相反規定，採購商應於發現貨物及/或服務不相符之日起五(5)個日曆日內，且在任何情況下不得晚於第 11.3 條所載保固期滿日，以書面告知供應商，註明不相符之性質，並提供所有可提供之文件、報告及必要證據以利評估供應商不符規定狀況，同時放棄以不符規定為由提起訴訟之權利。
- 11.2. 收到第 11.1 條所載不相符之通知後，採購商應安排運輸貨物至供應商處，供應商於收到貨物後應有合理時間對通知與貨物及/或服務進行評估，於必要時提出適當解決方案。如供應商以書面向採購商確認貨物不相符，供應商應補償採購商衍生之運輸費用。未經供應商同意前，不得將貨物退還給供應商。
- 11.3. 供應商保證，於正常使用情況並依據合約及供應商提供所有指示之使用情況下，貨物及/或服務於送達採購商時以及送達後十二(12)個月期間內(或雙方當事人以書面約定之其他期間內)應符合已公佈之貨物及/或服務規格。貨物及/或服務應被視為符合該等公佈規格，縱有輕微差異仍不實質影響貨物及/或服務之正常使用，但雙方另外簽訂品質合約書時，則以後者為準。
- 11.4. 前開保證應直接適用至採購商為止而非採購商之客戶、代理人或代表人，並取代所有其他明示或默示保證，包括但不限於貨物適合特定目的、具備

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. 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

商業性、無侵犯智慧財產權之保證。供應商茲此特別聲明，不提供其他保證。

- 11.5. 倘所指稱瑕疵或不相符係起因於自然耗損、壓力測試、超過規定最大操作條件、誤用、疏失、不當操作、不當安裝、不當儲存、不當運輸、修改、與其他貨物相結合、或其他可歸責於採購商等情事，則供應商無須負擔保證責任。
- 11.6. 保固之主張受有限制，供應商之唯一責任，亦即採購商之唯一權利，僅限於根據供應商之選擇，將不相符之貨物及/或服務進行替換或維修，或就採購價格給予適當扣抵金額。所有權經移轉給採購商後，不相符貨物一經更換或給予扣抵金額則立即屬於供應商之財產。除另有書面約定外，第 11.3 條規定之保固期間期滿後，採購商不得以貨物及/或服務之不相符為由採取任何法律行動，或在供應商因採購商不履行合約而提出法律任何行動時，以此向供應商提出反訴。

12. 智慧財產

- 12.1. 供應商保留相關貨物及/或服務之所有智慧財產權。未經供應商書面同意前，採購商不得以任何方式全部或部分使用、重製、修改、出版或模仿貨物及/或服務。除按合約規定有限授權而得根據合約使用相關貨物及/或服務之圖說、文件或軟體之外，合約並未轉讓或授權使用貨物及/或服務任何相關智慧財產權、專門技術、圖說、文件或軟體，縱使此等智慧財產曾被提供予採購商亦然。
- 12.2. 倘任何第三人直接因採購商使用供應商提供之貨物及/或服務而主張有侵犯智慧財產權情事，供應商得自費進行後續訴訟以及和解之所有協商。供應商將承擔和解金(一次性或以連續權利金方式給付)或訴訟後不利供應商判決之金額款項。唯有在以下情況下，供應商才會將本第 12.2 條之利益授予採購商：採購商(i)立即以書面通知供應商，已有針對供應商提出之該等主張或法律行動或有可能發生之虞，(ii)採取合理措施，以降低該等主張衍生之任何損失或損害，(iii)不自認責任或採取其他相關之其他法律行動，(iv)同意供應商針對上述主張進行辯護或解決，(v)向供應商提供處理該主張之一切合理資訊、合作與協助。另外，如供應商和解條件或判決有所要求，採購商應依據適用情況返還所有仍受其控制之侵權貨物，使該等貨物得以被銷毀，並應停止使用任何受影響服務，而供應商應就貨物或未來使用服務已付款項者進行退款。前開規定乃聲明供應商之全部責任，以及採購商就貨物及/或服務對智慧財產權所得主張之唯一救濟。
- 12.3. 前開賠償不適用於供應商依據採購商規格所提供之客製化或半客製化產品或零件。雙方當事人應另外訂定相關客製化或半客製化產品之智慧財產權賠償書面合約。
- 12.4. 採購商不得(i)為自身商業活動使用任何商標；(ii)註冊或企圖註冊任何商標，或(iii)針對商標效力提出異議。採購商茲承認供應商對商標及相關商譽之所有權。採購商在任何時候均不得使用任何可能與商標混淆之其他商標。

13. 法規遵循

- 13.1. 採購商應始終遵守所有適用法律及法規，包括但不限於反賄賂、反托拉斯、資料保護、反腐敗、環保以及出口管制等法律及法規。
- 13.2. 採購商承認，貨物及/或服務以及任何相關資訊、軟體或科技可能受歐盟、美國及任何其他適用國家之出口管制法律、規定及法規之約束。採購商同意並保證，其將遵守所有適用國際性及國家性出口管制法律及法規，且在沒有取得供應商特別書面同意前，其將不會以直接或間接方式出口、轉出口或轉運該等貨物及/或服務、資訊、軟體及/或科技：(a)至受美國/歐盟反恐管制或受美國/歐盟全面制裁或禁運限制之國家/地區；(b)至美國/歐盟政府限制名單上任何人士，或透過所有權控制結構而受到該等限制之人士，或(c)用於為美國/歐盟出口管理條例(如核子、生化武器、飛彈)所禁止之最終用途。採購商應依據美國及其他適用之出口規定保存記錄，並於供應商提出要求時提供遵循本第 13.2 條規定之證明文件。
- 13.3. 採購商應向供應商提供任何必要資訊，俾利供應商遵守貨物及/或服務銷售之任何適用法律、規定及法規。採購商同意並保證，採購商並非美國/歐盟政府限制名單上任何人士，或透過所有權控制結構而受到該等限制。採購商同意，不會向供應商訂購或要求，而可能導致供應商違反出口管制相關

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 compensate Supplier for any and all pecuniary losses incurred by Supplier and arisen out of any claims to Supplier and its Affiliates, 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. Pecuniary losses under this Section 13.5 shall be compensated in full actual amount of such losses incurred by Supplier.

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 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 compensate to Supplier any and all pecuniary losses incurred by Supplier arisen out of all claims for damages to Supplier and its Affiliates 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. Pecuniary losses under this Section 15.4 shall be compensated in full actual amount of such losses incurred by Supplier.
- 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 or 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;

之法律、規定或法規。採購商同意，一旦收到可能影響供應商違反出口管制相關法律、規定或法規之通知時，將立即通知供應商。

- 13.4. 採購商承認並接受，供應商得就貨物之轉售，依據其單獨裁量向採購商提供指示及/或施加限制，以利如供應商之考量遵循適用(當地)法令。
- 13.5. 採購商同意，將賠償供應商，並使供應商及其關係企業免於因採購商未遵守適用法規而使供應商因此承擔任何主張、責任、處罰及相關費用(包括但不限於本第 13 條)。

14. 資料保護

- 14.1. 採購商因履行合約而處理供應商個人資料(按適用法律定義；以下總稱「個人資料」)時，採購商應：
- (a) 僅得於履行合約、供應商書面指示或法律規定義務之必要範圍內，處理個人資料；
- (b) 於十二(12)小時內儘速通知供應商，與個人資料有關之任何實際或疑似安全事故，並就該等安全事故提供適用法律規定或供應商要求之所有資料；以及
- (c) 於供應商提出首次書面請求時，訂定進一步的資料處理合約。

15. 責任限制

- 15.1. 雙方當事人同意，採購商在任何情況下均無權依據合約要求間接、附帶、衍生或懲罰性賠償，包括但不限於利益損失、營業額減少、保險成本或財產損害，無論供應商是否已被告知該等損害賠償之可能性。然而，雙方瞭解，依據第 12.2 條向第三人支付之任何金額被視為雙方當事人間直接損害賠償。
- 15.2. 在不限制供應商第 11 條責任的前提下，供應商就任一合約之直接損害賠償責任不得超過：(a) 提出賠償主張前十二(12)個月內，依據合約向供應商支付受影響貨物及/或服務採購價格之百分之五十(50%)；或(b) 一百萬美元(USD1,000,000)，以較低者為準。
- 15.3. 供應商不負責任貨物及其零件設計與製造瑕疵而對第三人造成之任損害。但法律強制規定供應商應負擔因貨物瑕疵直接造成死亡、人身傷害或個人財產損害責任時，不在此限。
- 15.4. 採購商應使供應商及其關係企業免受第三人以任何理由指稱因供應商交付貨物及/或服務受有損害而提出之損害賠償主張，並應因此賠償供應商或其關係企業；但供應商依據第 12.2 條或第 15.3 條規定對該等損害賠償負有責任時，不在此限。
- 15.5. 如損害係肇因於一方當事人之重大過失或故意行為，或有適用強制性法律規定不得排除或限制責任時，責任之限制不得用於對抗受有損害之當事人。

16. 不可抗力

- 16.1. 供應商履行合約義務時，因以下事由所造成之遲延或其他暫停或違失，供應商概不負責：(i) 火災、洪水或其他自然災害，(ii) 罷工或產業行動或爭議，(iii) 政府機關(包括貨物出產地或運輸目的地之海關單位)之作為或不作為，(iv) 供應商或承包商(包括但不限於承運人)之遲延，(v) 原料或勞工市場短缺，(vi) 供應商或其上游廠商之倉庫發生竊盜，(vii) 貨幣法律或法規發生任何變動，或採購商營業場所所在地發生不利負面經濟或金融狀況，或(viii) 超出供應商合理控制之外之其他情況(以下各稱「不可抗力」事件或情況)。
- 16.2. 合約載明之預定交貨日期得延長至供應商因不可抗力無法履行義務期間之後，惟該等遲延超過三個月時，供應商或採購商得以書面通知取消受影響之合約，且供應商在此情況下不承擔任何損害負責。

- 16.3. 本第 16 條無論如何無法免除採購商就已接收之貨物及/或服務之付款義務

17. 合約終止

- 17.1. 任一方當事人應僅得於下列任一情事發生時，方有權以書面通知另一方當事人全部或部分終止或暫停合約義務：
- (a) 另一方當事人提出自願破產申請，或提出破產、接管、清算、或為債權人利益進行轉讓等類似自願性程序；
- (b) 另一方當事人成為破產申請或相關破產、接管、清算、利益轉讓或債權人或類似程序之主體；

- (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 Taiwan, 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 Taiwan if both Parties have their registered office in Taiwan; or
- (b) arbitration under the Rules of Arbitration of the International Chamber of Commerce if Purchaser does not have its registered office in Taiwan. 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.

- (c) 另一方當事人有重大違反合約事宜，且該違約(a)無法改正，或(b)倘若得以改正，於收到書面通知後三十(30)個日曆日內仍未改正。為本第 17.1(c)條之目的，違反包括但不限於第 4.2 條、第 8.1 條、第 12 條、第 13 條、第 14 條及第 18 條規定時，應視為重大違約且無法改正；或
- (d) 另一方當事人於正常情況下停止或威脅停止營業。

- 17.2. 如採購商發生控制權變更，採購商應盡快通知供應商。供應商有權於採購商通知該等控制權變更事宜後終止合約。

18. 保密及宣傳限制

- 18.1. 除合約另有規定外，所有由供應商向採購商傳達之機密資訊均予以保密，且僅為任何合約之目的而使用，但以下情事不在此限：
- (a) 為遵循法律、條例、法規所必須而揭露者，惟揭露前採購商應先通知供應商該等法律規定，並於供應商尋求保護命令時提供協助，或以其他方式降低揭露程度；
- (b) 該等機密資訊為採購商原已知悉，或在採購商不受保密義務約束之情況下而由其得知，或在採購商未利用機密資訊的情況下所獨立開發者；
- (c) 在沒有違反第 18 條的情況下，該等機密資訊成為眾所周知；
- (d) 揭露予具備保密義務之採購商專業顧問；或
- (e) 經供應商事先書面同意。
- 18.2. 採購商將採取一切合理措施，確保機密資訊之安全保存或儲存，並向其員工取得適當之保密承諾。如供應商提出要求，採購商應依供應商選擇立即返還或銷毀所有機密資訊。
- 18.3. 雙方當事人同意，本文第 18 條保密條款之適用，應受限於為規範雙方間包含機密資訊及/或本文標的保密事宜，而現存之所有保密協議及/或合約，該等合約應優先並取代本一般銷售條款內任何不一致之規定。
- 18.4. 除供應商以書面事先同意外，採購商不得使用商標、商號或其他與貨物及/或服務相關之任何名稱，亦不得在新聞稿、廣告、銷售文獻或其他內容公開提到供應商。相關使用必須符合供應商隨時更新之品牌指南。

19. 準據法及管轄法院

- 19.1. 合約、當雙方當事人間法律關係、合約所衍生或相關之契約或非契約屬性之爭議，以及任何侵權主張，應以中華民國法律為準據法，但排除其衝突法或《聯合國國際貨物銷售合同公約》(CISG)之適用。
- 19.2. 合約所引起或直接或間接引起之任何爭議或主張，於一方當事人向另一方當事人發出書面通知載明該等爭議或主張後三十(30)日內無法圓滿和諧解決時，最終解決方式應為：
- (a) 雙方當事人均在台灣擁有註冊辦公室時，台灣之管轄法院；或
- (b) 當採購商在台灣沒有註冊辦公室時，則依據國際商會(ICC)仲裁規則提交仲裁。仲裁地為中國上海市。仲裁語言為英文。
- 19.3. 合約任何內容均未防止或禁止採購商或供應商於任何管轄權法院尋求暫時限制命令、臨時禁令、永久禁令及/或保障權益合理必要之其他緊急臨時救濟。

20. 其他條款

- 20.1. 採購商不得在未經供應商書面同意前轉包、移轉、質押或轉讓合約內任何權利或義務，但供應商亦不得無理拒絕採購商之該等要求。任何事先同意之轉包、移轉、質押或轉讓均不得豁免採購商於合約下之義務。在不違反第 7.5 條的前提下，供應商得以書面通知採購商其將轉讓或移轉合約或任何權利義務予其關係企業。
- 20.2. 茲明文拒絕採購商所使用或將使用之任何一般條款或條件之適用。
- 20.3. 合約為雙方當事人就標的事宜達成之完整合意，取代相關標的事宜所有先前口頭及書面協議、承諾及諒解。
- 20.4. 倘一般銷售條款及/或合約經管轄法院或任何未來立法或行政作為而被宣告無效、不合法或無法執行，該等宣告或做為不應影響合約其他條款之效力或執行力。在適用法律許可範圍內，應有反映合約本意之類似條款取代該受宣告無效、不合法或無法執行之條款。

- 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, 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.
- 20.5. 合約所約定之所有條款與條件，若原設定將於到期或終止後仍維持有效，則不論其為明示或暗示，包括但不限於第 5 條、第 9 條、第 12 條、第 13.4 條、第 15 條、第 18 條、第 19 條、第 20.5 條以及 20.6 條，其應具備此等效力。
- 20.6. 任一當事人無法或遲延履行合約之任何條款時，不構成對該條款之拋棄，亦不構成當事人拋棄行使合約內任一條款之權利。
- 20.7. 供應商得以向採購商寄送新修訂版本之方式，隨時修訂一般銷售條款。除採購商於收到新版本後四(4)週內以書面方式向供應商提出異議，應視為採購商已經接受，該等新版本將適用於合約之未來相關事項。
- 20.8. 一般銷售條款之英文版及其翻譯版有任何歧異時，應以英文版為準。