

通用销售条款及条件
General Sales Terms & Conditions

1. 总则

General

- 1.1 除非卖方明确以书面形式同意，否则在任何情况下，买方的通用条款及条件（包括买方声称适用于任何订单、订单的接受、产品规格、买家的网站、电子商务平台等其他电子网站或其它文件的通用条款及条件）概不适用。NO GENERAL TERMS OR CONDITIONS OF THE BUYER SHALL APPLY UNDER ANY CIRCUMSTANCES WHATSOEVER (INCLUDING ANY GENERAL TERMS OR CONDITIONS WHICH THE BUYER PURPORTS TO APPLY UNDER ANY ORDER, ACCEPTANCE OF ORDER, SPECIFICATIONS, BUYER'S WEBSITE, E-COMMERCE PLATFORM OR OTHER ELECTRONIC SITE OR OTHER DOCUMENTS), UNLESS EXPRESSLY AGREED BY THE SELLER IN WRITING.
- 1.2 以下所列条件适用于卖方作为产品出售人或潜在出售人的所有商业交易。除非卖方另有明确书面同意，否则对此等条件所作的变更无效。
These Conditions shall apply to all business dealings by the Seller acting as seller or potential seller of Products. Variation to these Conditions shall have no effect unless expressly agreed in writing by the Seller.
- 1.3 如以下所列条件与具体合同不符，则应当以双方签署的具体合同中的条款为准。
If there is a conflict between these Conditions and the Contract, the provisions of such specific Contract shall prevail.

2. 订单与订单的确认

Order & Confirmation

- 2.1 买方须以书面方式向卖方发出订单（“订单”），列明下述项目：(i)产品种类；(ii)产品数量；(iii)适用的单价；(iv)订单总价；及(v)交付时间和地点以及交付条款（如国际贸易术语解释通则2010）。除非买方在订单上明确提出且卖方以书面或实际交付的方式明确接受两个或以上的交付地点，否则每份订单只可指定一个交付地点。买方须对订单上任何不正确信息承担责任。
The Buyer shall send orders (“Orders”) to the Seller in writing, listing the following items: (i) type(s) of Products; (ii) quantity of Products; (iii) applicable unit price, (iv) total price in the Order, and (v) time, place and conditions (e.g. Incoterms 2010) of de-livery. Each Order may contain only one place of delivery, unless specifically requested for in the Order and confirmed by the Seller either by way of written confirmation or making delivery of Products. The Buyer shall be liable for any incorrect information given in an Order.
- 2.2 若(a)卖方以书面形式确认某一订单（“订单确认书”）；或者，(b)卖方已按照某一订单的要求向买方发送货物，则该份订单应视为已被卖方确认（“受确认订单”）。
An Order shall be deemed as confirmed by Seller (“Confirmed Orders”) if (a) it is confirmed by the Seller in writing (“Order Confirmation”); or, (b) the Seller has delivered the Products to Buyer according to such Order.
- 2.3 在卖方确认订单前，订单对卖方不具有约束力。如卖方不同意订单内某些条款，买卖双方须本着诚信原则协商和解决分歧，以便买方能重新发出能订单以使之能被卖方无异议地确认。对于欧司朗已确认之订单，如买方未经欧司朗同意单方取消而给欧司朗造成损失的，买方应补偿欧司朗因此而蒙受的损失。
An Order is not binding effect on Seller unless it is confirmed by the Seller. If the Seller disagrees with certain items in the Order, the Buyer and the Seller shall discuss in good faith and resolve the differences so that the Buyer can submit a final Order fully acceptable to the Seller. Alternatively, Seller may issue an order confirmation with different terms for Buyer to accept. Buyer shall indemnify and keep OSRAM harmless for any loss incurred due to the unilateral cancellation by Buyer of the confirmed order without OSRAMs' consent.
- 2.4 若订单确认书中的内容与订单不一致，买方应于收到订单确认书后的一(1)个工作日内书面向卖方提出，买卖双方应协商解决分歧，以便买方重新发出令经卖方确认的订单。或者卖方可自行发出具备新条款的订单确认书，由买方确认。若卖方未于前述时间内收到关于异议的通知的，即以订单确认书中的内容为准（视同买方完全接受欧司朗订单确认文件，该订单确认文件即刻生效）。
If there is any deviation between Order and Order Confirmation, Buyer shall inform Seller in writing of such deviation within one (1) working day of its receipt of the Order Confirmation. Both Buyer and Seller shall discuss and resolve such deviation so that the Buyer could re-send the Order to Seller for its Order Confirmation without deviation. If within the aforementioned period the Seller receives no written notice about the deviation, then the items in the Order Confirmation shall prevail (in such situation, this order confirmation deemed accept and effect immediate).
- 2.5 所有涉及订金的订单，除非订金金额到账，订单不视为被确认生效。所有订单/订单确认书须受合同和本条件的约束，而不论它们有否在订单/订单确认书中被提及。
For Orders with deposit, the Orders shall not be deemed confirmed or become effective unless the deposits are received by Seller in full. All Orders/Order Confirmations are governed by the Contract and the Conditions, whether they are mentioned in the Orders/Order Confirmations.

3. 交付

Delivery

- 3.1 除非买卖双方另有书面约定，产品须根据在受确认订单上订明的交付条款(Incoterms 2010)交付。 Unless otherwise agreed in writing between Buyer and Seller, Products shall be delivered according to delivery terms (Incoterms 2010) as specified in the Confirmed Order.
- 3.2 确认订单上的交付时间只是预计的交付时间。卖方将根据其生产及业务能力，尽最经济、合理的努力按此交付。
The delivery time stated in the Confirmed Order is only an estimated time for delivery, which Seller will use its best economically reasonable efforts to deliver accordingly, subject to Seller's manufacture and business capacity.

- 3.3 产品灭失或损坏的一切风险在交付后立即移转给买方。除非另行约定，产品的所有权在同时满足以下条件时转移给买方：1) 产品已经交付给买方，并且 2) 卖方已经收到了买方支付的全额货款。信用证或汇票（如有）不得视为货款的支付。在货物所有权转让给买方之前，买方仍有义务履行其在订单和条件下的所有义务(包括付款义务)。买方退回的货物及其他物品的损失风险(“退还货物”)不早于在卖方收到退货之前转移给卖方，如果卖方未授权退货，则不得将风险转移给卖方。

Risk of loss and risk of damage shall be transferred to the Buyer upon delivery. Except as otherwise provided, title to Products shall be transferred to the Buyer upon satisfaction of both of the following two conditions: (i) Products have already been delivered to Buyer; and (ii) Seller has already received from Buyer the full payment for the Goods. A letter of credit or bill of exchange, if any, shall not be deemed as payment.

- 3.4 除非买卖双方另有书面协议，否则产品应当以卖方的标准包装交付。

Products are delivered in Seller's standard packaging unless otherwise agreed between the Buyer and the Seller in writing. Before the title to Goods is transferred to the Buyer, Buyer is still obligated to perform all its obligations (including payment obligations) under the Orders and Conditions. Risk of loss to Goods and other items returned by Buyer ("Returned Goods") will be transferred to Seller no earlier than Seller's receipt of the Returned Goods and will not be transferred to the Seller if the return is not authorized by the Seller.

- 3.5 买方须根据受确认订单进行收货。如买方未能进行收货，则

Buyer shall take delivery according to the Confirmed Order. If the Buyer fails to take delivery, then

- (a) 在卖方已接受确认订单准备好产品并使其处于可交付状态时，产品应视为已交付，产品的灭失或损坏的一切风险亦同时移转给买方；及

Products shall be deemed to be delivered and the risk of loss and risk of damage shall transfer upon Seller's making of the Products available for Buyer according to the Confirmed Order; and

- (b) 卖方可选择（但无义务）安排储存产品，由此所引起的费用须由买方自行承担，并每周向欧司朗支付贮存产品0.5%的违约金。

The Seller may choose to, but is not obligated to, arrange for storage of the Products at Buyer's sole expenses, and pay to OSRAM storage penalty at the rate of 0.5% per week.

4. 价格和付款条件

Price & Payment

- 4.1 价格条款以在受确认订单上订明的国际贸易术语为准。价格以合同或者受确认订单上指定的货币计价。价格中已包括了适用的法律以及国际贸易术语解释通则的交付条款下卖方应当承担的包装费用、增值税、消费税以及其它税款及关税，但不包括适用的法律以及国际贸易术语解释通则的交付条款下买方应当承担的增值税、消费税或者其它税款及关税，后者应由买方承担。

The price term shall be according to the Incoterms as specified in the Confirmed Order. The price shall be denominated in the currency as specified in the Contract or the Confirmed Order. Price includes packaging, VAT, consumption tax and any other tax and customs duty that Seller is required to pay under the applicable law and Incoterms for delivery. The Price does not include, and the Buyer shall be responsible for, any VAT, consumption tax or any other tax and customs duty that the Buyer is required to pay under the applicable law or Incoterms for delivery.

- 4.2 如构成卖方成本的一项或多项因素（例如但不限于原材料成本、工资、保险费、运费、汇率及税款）出现波动，则卖方有权相应调整价格。欧司朗有权以向买方发出新的产品价目表或报价函的方式随时调整欧司朗产品价格，买方在此同意接受该等价格调整。

If fluctuations occur in one or more of the factors constituting Seller's cost position, such as, but not limited to, cost of raw materials, wages, insurance premiums, freight, exchange rates and taxes, Seller is entitled to adjust the Prices accordingly. Seller shall have the right to revise the prices from time to time by issuing new Price Lists or Quotation to Buyer. The Buyer hereby agrees to accept such adjustment.

- 4.3 除非买卖双方另有书面约定，买方须在双方约定的交付时间前向卖方全额支付货款。如果：

Unless it is otherwise agreed in writing by both Buyer and Seller, Buyer shall pay Sell the full purchase price before the agreed delivery date, if

- (a) 买方延迟付款不超过一（1）个工作日的，卖方应在收到全部货款后尽快安排交货；

Buyer is delay in payment for less than one (1) working day, Seller should arrange the delivery as soon as practical after it receives full payment from the Buyer.

- (b) 买方延迟付款超过一（1）个工作日的，卖方有权选择 1) 取消受确认订单；或者 2) 在收到买方全部货款后尽快安排交货。无论卖方何选择，卖方均有权根据本条件和法律法规要求买方支付利息以及进一步赔偿损失。

Buyer is delay in payment for more than one (1) working day, then Seller has the right to choose to 1) cancel the Order and Order Confirmation; or 2) arrange the delivery as soon as practical after it receives full payment from the Buyer.

For both choices, Seller has right to charge Buyer the late interest and to further ask Buyer to compensate for Seller's loss according to this Agreement and the applicable law.

- 4.4 买方准确的付款日期应以卖方收到货款的日期为准。

The authoritative date for timely payment shall be the date of receipt of the payment by Seller.

- 4.5 付款时间是至关重要的。若买方延迟向卖方付款，在卖方可以享有的其它救济权利之外，每延迟一星期，买方须向卖方支付相等于总延迟付款金额0.5%的违约金，并支付数额为总延迟货款的*0.04% * 逾期天数的逾期利息，另外还须承担对卖方造成的付款货币兑换成欧元的汇率损失（如有）。

Time for payment is of the essence. In case the Buyer is late in payment, in addition to any other remedies the Seller might be entitled to, the Buyer shall pay to the Seller interest equal to 0.5% of total amount due for each full calendar week of the delay, plus interest the amount is 0.04% of * total delay payment * overdue days. This clause shall not be in prejudice of

other remedies and rights that OSRAM is entitled to have according to this Agreement or applicable laws, such as any exchange loss between the payment currency and EURO as suffered by the Seller.

- 4.6 买方不得从货款中减去或暂扣任何仍有争议（指买卖双方仍未就和解办法达成协议，任何终局仲裁裁决或法院判决仍未作出的情况）的价款。

Buyer shall not deduct or withhold from the payment any amount still in dispute where Buyer and Seller have not reached agreement or settlement, or until there is any final arbitral award or court judgment.

- 4.7 如买方订购需特别制造的产品或特殊型号的标品，卖方可要求买方在卖方开始生产前支付不低于总购买价格30%的订金，且订金到账为订单被确认并生效的先决条件。如买方取消订单或未能及时支付购买价格的余款的，除卖方有权获得适用法律项下的所有其他赔偿外，买方并须完全放弃订金及其它由此引起的任何权利。
If Buyer Orders Products specifically made for Buyer or standard products of special types, Seller may require the Buyer to pay a deposit at the amount of no less than 20% of the total purchase price prior to commencement of the Seller's production, and Seller's receipt of the deposit in full is one of the necessary conditions precedent for the Order to be confirmed or become effective. If the Buyer cancels the Order or fails to pay the remainder of the purchase price when due, then in addition to Seller's other available remedies under applicable law, Buyer shall forfeit the deposit and any rights thereon completely.

5. 质量及检验

Quality & Inspection

- 5.1 交付的产品质量须符合买卖双方一致同意的产品规格及 / 或质量标准，如没有一致同意的产品规格及 / 或质量标准，则须符合欧司朗标准的产品规格或普遍适用的行业质量标准。

The Products delivered shall satisfy the specifications and quality standard as agreed between the Buyer and the Seller, or if absent such agreed specifications and/or quality standard, satisfying OSRAM's standard specifications or the prevailing industry quality standard.

- 5.2 交付时，买方须就产品数量和质量进行进货检查。如买方在产品交付后七（7）个工作日内没有针对产品的数量或者明显的缺陷提出异议的，则视为产品完全符合合同、本条件及受确认订单的规定，并须视为买方已接受产品在数量和质量上均符合其要求且状况良好。除非相应的订单确认书或用户手册里另行规定，产品质量保证期（“质保期”）的期限和质保政策按产品类型规定于卖方的标准产品质保声明中。

Upon delivery, the Buyer shall conduct an incoming inspection as to the quantity and quality of the Products. If no objection to the quantity and apparent defect in quality is raised within seven (7) working days after delivery, the Products shall be deemed to be in full compliance with the Contract, the Conditions and the Confirmed Order and have been accepted by the Buyer with satisfactory quantity and quality and in good status. The Product warranty period (“Warranty Period”) and the warranty policy shall refer to Seller's standard warranty statements according to different categories of the Projects, unless otherwise specified in the Order Confirmation or user manual.

如买方在产品质保期内，对产品的潜在缺陷提出异议，而且该缺陷不是由买方或第三方引起的，买方可向卖方报告该质量缺陷。一旦卖方确认质量缺陷存在，卖方须承担因维修及/或更换（不包括拆除、安装及/或有关保险）产品而引致的直接费用。卖方毋须对买方在质保期届满之后提出的任何有关产品质量的异议承担任何责任。

For any objection to the latent defect in quality raised within the Warranty Period, which is not caused by the Buyer or a third party, the Buyer may report the quality defect to the Seller. Once the Seller confirms there exists a quality defect, the Seller shall bear the direct expenses for repairs and/or replacements (excluding removal, installation and/or insurance thereon) of the Products. **The Seller shall not be liable for any objection on quality of the Products raised by the Buyer after the expiration of the Warranty Period.**

- 5.3 卖方明确声明，根据本条件出售的所有产品不含有任何明示或者默示的适销性或者适用于某一特定目的的保证。并且，除本条件明确规定外，卖方不提供并在此最大程度地排除任何其它明示或者暗示的保证、条款或者条件。

Seller expressly declares that there are no warranties of merchantability and of fitness for a particular purpose, whether express or implied, with respect to Products sold under these Conditions. Further, except as expressly provided for in these Conditions, no other warranty, condition or term, whether express or implied is given by the Seller and all such warranties, conditions or terms are hereby excluded to the extent possible.

- 5.4 本条件第5条列明了对买方的所有和唯一的补偿，以及卖方须就交付的产品的数量、质量、使用及/或适用目的而承担的所有和唯一的责任。为明确起见，该补偿不适用于未遵照卖方提供的用户手册、指导、指示或类似说明上所载目的而对产品的不适当使用或应用。

Section 5 of the Conditions sets forth the entire and sole remedy of the Buyer, and the entire and sole liability of the Seller arising from the quantity, quality, use and/or purposes of the Products delivered. For the avoidance of doubt, such remedy does not extend to improper use or application of Products for purposes not in line with user manual, guidance, instructions or the like provided by Seller.

6. 知识产权

Intellectual Property Right

- 6.1 除非另行明确授予，产品、合同、订单和/或订单确认书中或项下的所有权利、所有权和利益均仍应属于卖方或其第三方许可人。买方确认，除非本条款另行明确约定，买方对产品、合同、订单或订单确认书不存在任何权利或许可。

All rights, title and interest in and to the Goods, the Contract, the Order and/or the Order Confirmation (and any part thereof), other than those expressly granted herein, shall remain wholly vested in Seller or its third party licensors. Buyer acknowledges that it has no rights or licenses whatsoever in respect of the Goods, the Contract, the Order or the Order Confirmation, save for those expressly granted to it by this Contract.

- 6.2 若产品是卖方按买方要求或买方提供的商标、版权、设计、技术、信息、专利或任何其它知识产权而制造的，则买方须保证卖方生产和销售产品的行为不会遭受任何第三方关于侵犯知识产权的权利主张。
In case the Products are manufactured by Seller with Buyer required or provided trademarks, copyrights, designs, technologies, information, patents or any other intellectual property rights, Buyer shall ensure that manufacture and sale of the Products by Seller is free from any claim of infringement of any third party intellectual property rights.
- 6.3 无论是本条款或条件、订单或订单确认书授予买方使用任何卖方或卖方的第三方许可人的任何商标或任何相似商标。未经卖方的事先书面明确许可，买方不得引用任何卖方的商号或商标，无论是用于买方的文具、名片、销售营销材料或网页/社交媒体等。若买方亦在生产包含卖方产品的制造业的，除非获得卖方的事先书面许可，买方不得在买方产品上使用卖方的商号或商标。
Nothing in this General Terms and Conditions, an Order or Order Confirmation entitles Buyer to use any trademark of Seller or its third party licensors, or any other mark confusingly similar thereto. Without the express prior written approval of Seller, no reference to Seller's trade name and trademark shall be made, without limitation, on Buyer's stationeries, business cards, sales promotional materials or web pages/social media. If Buyer is in the business of manufacturing products which incorporate Seller's Products, the use of Seller's trade name and trademarks on Buyer's products is strictly prohibited, except in cases where prior written approval has been obtained.

7. 合同的终止

Termination of Contract

- 7.1 任何一方均可通过提前三（3）个月发出书面通知的方式终止合同而无须任何理由。
Either party may terminate the Contract with the other party by serving three (3) months advance written notice without cause.
- 7.2 如任何一方实质性违反合同，非违约一方可向违约一方发出书面违约通知，容许违约一方在三十(30)天宽限期内就违约作出补救。如违约一方未能在三十(30)天宽限期内就违约作出补救，非违约一方可选择事先向违约一方发出三十(30)天书面通知而终止合同。
If either party is in material breach of the Contract, the non-breaching party may serve the breaching party a written notice of breach allowing the breaching party to rectify the breach in a thirty (30) day grace period. If the breaching party does not rectify the breach within such thirty (30) day grace period, the non-breaching party may elect to terminate the Contract by serving the breaching party a thirty (30) day advance written notice.
- 7.3 如任何一方无力偿债或破产，或被委派了接管人或托管人，或正进行性质类似的法律程序，则另一方可立即终止合同。
If either party is insolvent, in bankruptcy, or is appointed a receiver or liquidator, or is in proceedings of similar nature, the other party may terminate the Contract with immediate effect.
- 7.4 如卖方基于合理原因怀疑买方的付款能力，则即使合同、原来的订单及 / 或订单确认书内未约定买方需要提供抵押或预付货款，卖方亦可要求买方就任何订单提供抵押或预付部分或全部货款。如买方未能提供抵押或预付货款，卖方可选择立即终止合同及/或受确认订单。
If the Seller has a reasonable grounds to have doubt on the Buyer's financial ability to pay, the Seller may require the Buyer to provide security or advance payment in part or in full for any Order even if the security or advance payment is not contemplated under the Contract or in the initial Order and/or Order Confirmation. If the Buyer fails to provide such security or advance payment, the Seller may elect to terminate the Contract and/or Confirmed Order with immediate effect.
- 7.5 如买方涉及及销售侵犯卖方商标的产品或卖方提供给买方用于促销的非卖品，卖方有权立即终止合同及/或受确认订单。
The Seller shall have the right to terminate the Contract and/or Confirmed Order with immediate effect if the Buyer is involved in sales of products infringing the Seller's trademark or involved in sales of non-for-sale products supplied by Seller for promotion purpose.

8. 法律责任的限定

Limitation of Liability

- 8.1 不论基于任何法律基础，对买方的(a)业务中断、设备停机期间、设备无法使用而导致的损失；(b)收入、储备、利润（包括但不限于生产利润、经营利润和转售利润等）或销售额或任何其它可得利益的损失；或(c)买方的任何特别的、惩罚性的、间接的、附带的或结果性的损失，卖方均毋须承担责任。在任何情况下，卖方的法律责任仅限于相关订单的货款总数或合同上约定的金额。如卖方违反合同、本条件或者受确认订单，可能同时引起侵权损害之诉，在该情况下，卖方只承担违约责任。
Regardless of the legal theory, Seller shall not be liable for (a) business interruption, down time, inability to use Buyer's equipment; (b) loss of revenue, lost savings, profits (including without limitation production profits, operating profits and resale profits) or sales or any other loss of possible benefit of Buyer; or (c) for any special, punitive, indirect, incidental or consequential damages of the Buyer. Seller's liabilities shall in no event exceed a maximum amount of the total price of the corresponding Order. In case any breach by Seller of the Contract, the Conditions or the Confirmed Order may also give rise to a claim of tortious act at the same time, Seller shall only be liable for breach of contract.
- 8.2 就(a)买方违反任何其于合同、本条件或受确认订单项下的义务；(b)买方或它的直接或间接客户疏忽使用、滥用、误用、不当应用、不妥善安装、处理和使用的产品；及 / 或(c)买方或其直接或间接客户未经卖方明确书面授权而对产品作出变更，包括但不限于以任何形式设计、包装及 / 或完成产品，或将产品整合至其它产品，由此而导致第三方提出关于任何财产损失或损害、人身伤害（包括死亡）的损失、责任、开支和支出（包括法律费用）的主张，买方须赔偿卖方、为卖方辩护并使卖方免于损害。

Buyer shall indemnify, defend and hold Seller harmless from and against any and all third party claims for losses, liabilities, costs and expenses, including legal fees in relation to any loss or damage to property or injury to persons (including death) arising from (a) Buyer's breach of any of its obligations under the Contract, the Conditions, or Confirmed Order; (b) negligent use, abuse, misuse, misapplication, improper installation, handling or implementation of the Products by the Buyer or its direct or in-direct customers; and/or (c) any modification of the Products by the Buyer or its direct or indirect customers without the express written authorization of the Seller, including without limitation formulating, packaging and/or finishing the Products in any manner whatsoever or integrating the Products into other products.

9. 其它

Miscellaneous

9.1 对于因不可抗力而导致违反合同、无法或延迟履行本条件或合同项下任何义务，双方均不向对方承担责任，但在任何该等情况下，受不可抗力影响的一方应尽最大努力减低不可抗力的影响并及时通知另一方。不可抗力包括但不限于由火损、自然现象、任何国内或国外的政府机构的作为、限制或不作为、罢工、劳动纠纷、内乱、延迟运输及其它超出一方合理控制的事由所直接或间接导致的状况（不包括影响买方履行对卖方支付义务能力的原因）（“不可抗力”）。

Neither party shall be liable to the other party for any breach of the Contract, or any inability or delay in performing its obligations under the these Conditions or the Contract, if such breach, inability or delay is caused by any force majeure event, including without limitation the direct or indirect results of fire, natural phenomena, acts, restrictions or failure to act of any government authority, domestic or foreign, strikes, labor disputes, civil commotion, delays in transportation and other cause beyond the affected party's reasonable control (excluding causes which affect the capability of the Buyer to fulfill its payment obligations towards Seller) (“Force Majeure”), provided that in any such event the party affected by such Force Majeure event shall use its best efforts to minimize the impact of such Force Majeure event and shall notify the other party in time.

9.2 买方应严格遵守适用法律项下的各项法律法规，包括但不限于反腐败法律，履行其在订单、本条件或合同项下的义务。

Buyer shall strictly comply with all laws and regulations applicable to its performance of the obligations under the Order, Conditions or Contract, including without limitation any applicable anti-corruption laws.

9.3 所有按合同接收自另一方并书面标注或界定为保密的信息，双方均须予以保密，未经另一方事先书面同意不得向任何第三方披露，并只为合同的目的而使用该信息。本保密义务不适用于已为公众所知或由接收方独立开发或由第三方合法获取的信息。本保密义务自买卖双方的合同或销售关系期满或终止后三(3)年内仍然有效。

Each party shall keep confidential, not disclose to any third party without the other party's prior written consent, and use only for the purpose of the Contract, all information marked or identified in writing as confidential that it receives from the other party under the Contract. This obligation shall not apply to information: which is or becomes public knowledge other than through a breach of any obligation of confidentiality to the disclosing party; which is independently developed by the recipient of the information; or that is lawfully received from a third party. This obligation shall survive the expiry or termination of the Contract or the sales relation between the Buyer and the Seller for a period of three (3) years.

9.4 除非合同另有规定，否则，合同及本条件受中华人民共和国法律管辖。所有因双方间的合同以及本条件所产生的或与之有关的争议，均应提交上海国际经济贸易仲裁委员会，依据其规则由一名独任仲裁员通过仲裁解决。仲裁地点在上海。《联合国国际货物销售合同公约》不适用于本条件。

Except as otherwise provided in the Contract, the Contract and the Conditions shall be governed by the law of People's Republic of China and any dispute arising out of or in connection with the Contract or the Conditions shall be resolved through arbitration with Shanghai International Economic and Trade Arbitration Commission under its rules by one sole arbitrator. The seat of arbitration shall be in Shanghai. The United Nations Convention on Contracts for the International Sales of Products is excluded.

9.5 本条件及所有受确认订单为合同不可分割的一部分。合同、本条件及所有受确认订单构成买卖双方之间的完整合同。

The Conditions and all Confirmed Orders shall be an integral part of the Contract. The Contract, the Conditions and any and all Confirmed Orders shall constitute the entire Contract between the Buyer and the Seller.

9.6 若本条件的任一条款在法律上无效或无法执行，本条件的其余条款仍应有效。

Should any individual clause of these Conditions be held to be illegal, unenforceable or unfeasible, the remaining clauses shall remain in full force and effect.

9.7 本条件使用中英两种语言，如两种语言意思有差异，则以中文为准。

The Conditions is made in both English and Chinese. In the event of any discrepancy between both languages, the Chinese version shall prevail.

9.8 卖方已特别提醒买方注意本条件中限制或免除卖方责任的条款以及增加买方责任的条款，并已按买方要求对该等条款予以说明，买方已仔细阅读、充分理解并自愿接受该等条款。

Seller has specifically reminded Buyer of those provisions hereunder limiting or exempting Seller's liability and/or in-creasing Buyer's liabilities and has explained to the Buyer such provisions as required by Buyer. Buyer has carefully read, sufficiently understood and voluntarily accepted such provisions.

10. 转让或转移

Transferability

无需买方的许可，欧司朗可将本协议转让或转移给无论是通过股权收购、资产收购或者其他方式并购包括本协议在内的全部或部分业务的业务承继方或并购方。同样的，欧司朗亦可，无需买方的许可，在保留本协议项下欧司朗的权利和义务的前提下，转让或转移本协议项下的该等权利和义务给无论是通过股权收购、资产收购或者其他方式并购包括本协议在内的全部或部分业务的业务承继方或并购方，且欧司朗及其业务承继方均与买方保持独立的合同关系。欧司朗应书面通知买方该等转让及转让生效日。

Seller may, without the consent of Buyer, assign and transfer this Agreement to a successor in business or an acquirer of all or a substantial part of the business whether by way of a share deal, asset deal or otherwise to which this Agreement pertains. Likewise, Seller may, without the consent of Buyer, while remaining entitled and obligated under this Agreement, assign and transfer the same rights and obligations under this Agreement to a successor in business or an acquirer of a substantial part of the business whether by way of a share deal, asset deal or otherwise to which this Agreement pertains in a way that both Seller and successor in business enjoy an independent contractual relationship with Buyer. Seller shall inform Buyer in writing of such assignment as well as of the date of such assignment becoming effective.

11. 出口控制

Export Control

11.1 If Buyer transfers items (goods, software, technology) delivered by OSRAM or works and services performed by OSRAM to a third party Buyer shall comply with all applicable national and international (re-) export control regulations (e.g., regulations of the European Union, regulations of the United States).

如果买方将欧司朗提供的货物(商品、软件、技术)或欧司朗提供的工作和服务转移给第三方, 则买方应遵守所有适用的国内和国际(再)出口管制法规(例如欧盟法规、美国法规)。

11.2 Buyer shall in particular check and guarantee by appropriate measures that:

买方应特别采取适当措施检查和确保:

- There will be no infringement of an applicable embargo (in particular imposed by the United States of America) by such transfer, by brokering of contracts concerning those goods, works and services or by provision of other economic resources in connection with those goods, works and services, also considering the limitations of domestic business and prohibitions of by-passing those embargos;

上述转移, 或者上述货物、工作和服务的合同中介, 或者提供与上述货物、工作和服务有关的其他经济资源, 将不违反任何一项适用的禁运(尤其是美国执行的禁运), 且应考虑对国内贸易的限制和禁止采取规避上述禁运的行为;

- Such goods, works and services are not intended for use in connection with armaments, nuclear technology or weapons, if and to the extent such use is subject to prohibition or authorization, unless required authorization is provided;

当此类货物、工作和服务的用途受到禁止或者需要以获得授权为前提的话且在此范围内, 该类货物、工作和服务不用于与军备、核技术或武器有关的用途, 除非已获得必要的授权;

- The regulations of all applicable Sanctioned Party Lists concerning the trading with entities, persons and organizations listed therein are considered.

对所有适用的受制裁方清单中所列与实体、个人和组织进行贸易的规定已予以考虑。

11.3 If required to enable authorities or OSRAM to conduct export control checks, Buyer, upon request by OSRAM, shall promptly provide OSRAM with all information pertaining to the particular end customer, the particular destination and the particular intended use of goods, works and services provided by OSRAM, as well as any export control restrictions existing.

如果被当局或欧司朗要求进行出口控制检查时, 买方在收到欧司朗的要求后, 应立刻向欧司朗提供包含有欧司朗所提供的货物、工作和服务的特定最终客户, 特定最终目的地, 以及特定预期用途的所有信息, 以及任何现有的出口控制限制。

11.4 Buyer shall indemnify and hold harmless OSRAM from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any noncompliance with export control regulations by Buyer, and Buyer shall compensate OSRAM for all losses and expenses resulting thereof.

就任何由于买方违反出口管制规定而引起的、或与之相关的索赔、诉讼、行动、罚款、损失、成本和损害, 买方应补偿欧司朗并使其免受损害, 并赔偿欧司朗由此产生的一切损失和费用。

11.5 Both parties shall not be obliged to fulfill this Agreement or any Order placed hereunder if such fulfillment is prevented by any impediments arising out of national or international foreign trade or customs requirements or any embargoes or other sanctions.

若由于国内或国际外贸或海关要求或任何禁运或其他制裁而产生的任何障碍, 妨碍了本协议或本协议项下的任何订单的履行, 任何一方均无义务履行本协议或本协议项下的任何订单。

12. 定义

Definitions

“本条件”指本文所列的通用销售条款及条件。

“Conditions” shall mean the General Sale Terms & Conditions set out in this document.

“合同”指买卖双方为销售和购买产品而订立的合同及/或协议, 包含本条件以及双方根据本条件而发出的所有订单和订单确认书。

“Contract” shall mean the contract and/or agreement for the sale and purchase of the Products concluded between the Buyer and the Seller, incorporating these Conditions, and including all Orders and Order Confirmations given by the parties thereunder.

“产品”指卖方根据合同及按照本条件供应给买方的产品。

“Products” shall mean the Products which the Seller is to supply to the Buyer under the Contract and in accordance with the Conditions.