

Terms and Conditions of Sale
Lumberg Electronics (Shanghai) Ltd.

1. General Provisions

1.1 These General Terms and Conditions of Business (hereinafter: „General Terms of Sales“) regulate all – also future – deliveries of goods and services (hereinafter: „Deliveries“) of Lumberg Electronics (Shanghai) Ltd. (hereinafter: „Lumberg“) to its customers in or outside of China (hereinafter: „Purchaser“).

These present General Terms of Sales shall apply exclusively to the business relationship between Lumberg and the Purchaser in the version in effect at the respective order date. General terms and conditions which conflict with or deviate from the following provisions shall not apply. General terms and conditions of the Purchaser shall only apply insofar as Lumberg has expressly consented thereto in writing. The present General Terms of Sales shall also apply exclusively even if Lumberg executes delivery with knowledge of terms and conditions which are contrary to or in deviation of the present General Terms of Sales.

- 1.2 Offers of Lumberg (e.g. quantity, delivery time, price) are always subject to change without notice, which shall be without obligation and non-binding. The Purchaser shall make a legally binding order upon sending the order in writing (including fax or e-mail letter or by telephone). The Purchaser is bound to the order for one month - calculated from the order placement date. A contract shall first come into effect when Lumberg accepts the Purchaser's order by a declaration of acceptance (e.g. contract confirmation) or by delivery of the ordered good(s). All agreements, also ancillary agreements, other commitments or subsequent amendments to the contract shall require written confirmation by Lumberg to be legally valid.
- 1.3 Lumberg (or the original manufacturer) reserves its property ownership and copyright rights of use to cost estimates, drawings and other documents of Deliveries (hereinafter: Documents) without limitation. These Documents can be adjusted, and shall only be binding where Lumberg expressly designates them as such. Third parties shall only be allowed access to the Documents after prior consent of Lumberg and, if the contract with Lumberg is not awarded, are to be returned to Lumberg upon demand without undue delay. The Documents shall not be exploited in any other way without the consent of Lumberg.
- 1.4 Partial deliveries are permissible insofar as such would be deemed reasonable for the Purchaser, taking into consideration the interests of Lumberg and the Purchaser's own legitimate interests.

2. Deadlines for Deliveries; Default

- 2.1 Proposed deadlines and dates for deliveries proposed by Lumberg are only approximate, which shall not legally be binding, unless a fixed deadline or date is expressly promised or agreed.
- 2.2 Observance of delivery deadlines shall prerequisite the timely receipt of all documents, required approvals and releases, in particular, plans to be delivered by the Purchaser as well as the observance of the agreed payment terms and other obligations by the Purchaser. Should these prerequisites not be met in a timely manner, the delivery deadlines shall be extended accordingly without any liability for Lumberg; this shall not apply if Lumberg is responsible for the delay. Lumberg reserves the right to object to the unfulfilled contracts.
- 2.3 Insofar as binding delivery deadlines cannot be met on account of Lumberg's intentional misconduct and gross negligence or due to reasons for which Lumberg is not responsible (i.e. not due to its intentional mis-

conduct and gross negligence, such as non-availability of the delivery), Lumberg shall inform the Purchaser hereof without undue delay and simultaneously give notice of the foreseeable new approximate delivery deadline, which shall be granted by the Purchaser as reasonable period of grace. Should the delivery also not be available within the aforementioned period of grace, Lumberg shall be entitled to rescind the contract, in whole or in part; any counter-performance already rendered by the Purchaser shall be reimbursed. A case of non-availability of the delivery within the meaning of this provision shall be deemed to be, in particular, the non-timely delivery to Lumberg itself by its supplier(s), if Lumberg has concluded a congruent hedging transaction, neither Lumberg or its own supplier is at fault nor Lumberg is obligated to procurement in the individual case. The statutory rescission and termination rights to which Lumberg is entitled as well as the statutory provisions related to ending a contract in cases of preclusion of the obligation to perform (e.g. impossibility or unreasonableness of performance and/or subsequent performance) remain unaffected.

- 2.4 In the case of call orders without agreement on specific delivery deadlines, Lumberg shall be entitled to demand a mandatory definition of such dates up to three months after the confirmation of order. If the Purchaser fails to comply with this request within three weeks, Lumberg shall be entitled to impose a second deadline of two weeks and withdraw from the contract after this period has expired or reject any delivery, and claim for compensation.
- 2.5 Lumberg is only liable insofar as the default of performance is caused due to its intentional misconduct and gross negligence. In this case, the Purchaser can demand flat-rate reimbursement of its default damage. The damage flat rate for each completed week of default shall be 0.5 % of the net price (delivery value) of the goods under the delivery default but however a total maximum amount of 5 % of the net price thereof. If the Purchaser did not incur any damage at all or the substantial damage is less than the afore-mentioned flat rate amount, the flat-rate default damage shall be reduced accordingly. The rights of the Purchaser pursuant to Clause VI (Total Liability) of these General Terms of Sales and the statutory rights of Lumberg, in particular, in cases of preclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance) remain unaffected.
- 2.6 Should the Purchaser be in default of acceptance of the goods (default of acceptance), be in default of acceptance after the readiness for shipping has been indicated at the request of the Purchaser after dispatch or delivery, fail to act in cooperation or perform its obligations under General Terms of Sales, or if the delivery of Lumberg is delayed for other reasons for which the Purchaser is responsible, Lumberg shall be entitled to demand the damage resulting herefrom including additional expenses (e.g. storage costs). Lumberg shall calculate a flat rate compensation herefor per calendar day in the amount of 0.5 % of the net price (delivery value) of the Deliveries accepted late commencing with the delivery deadline or, respectively – absent a delivery deadline – with the notification of the shipment availability of the goods. In addition, proof of higher damage and any statutory claims of Lumberg (in particular, reimbursement of additional expenses, reasonable compensation including profits, termination) remain unaffected; the flat rate damage is however to be offset against additional monetary claims of the Purchaser.
- 2.7 Where the Deliveries become impossible due to Lumberg's intentional misconduct and gross negligence, the Purchaser shall be entitled to claim compensation limited to 10% of the value of that part of the Deliveries which cannot be put in operation as intended for reasons of impossibility. This does not provide for an amendment to the burden of proof to the disadvantage of the Purchaser. The right of the Purchaser to withdraw from the contract is unaffected.

3. Transfer of Risk and Return of Packaging

- 3.1 Insofar as not stated otherwise in the order confirmation, delivery shall be made „EXW“ pursuant to the Incoterms 2010 ex works of Lumberg in Shanghai/P. R. China. Should shipment of the goods ordered be necessary and/or this is requested by the Purchaser (subject to prior consent of Lumberg), such shall occur at the expense of the Purchaser (sale with carriage of goods). In this case, Lumberg is entitled to determine itself the type of shipment (in particular, transport companies, dispatch route, packaging).
- 3.2 The risk of accidental loss and deterioration of the Deliveries shall be passed to the Purchaser, also in cases of delivery carriage paid, when such Deliveries are made available to the Purchaser or when the Purchaser comes into default of acceptance (if applicable). In cases of sales with carriage of the goods, however, the risk of accidental loss and deterioration of the goods as well as the risk of delay are passed to the Purchaser upon delivery of the goods to the carrier, the freight forwarder or any other person or institution stipulated to carry out the shipment.
- 3.3 The packaging of Deliveries shall not be taken back by Lumberg; such shall become the property of the Purchaser; except that the packaging is returned to Lumberg with carriage prepaid.

4. Prices and Payment Terms

- 4.1 Prices are ex works excluding packaging, plus the respectively applicable statutory VAT and other applicable taxes. Any discount is subject to a separate written agreement.
- 4.2 In cases of sales with delivery (Clause III, para. 1), the Purchaser shall bear the transport costs ex works and the costs of any transport insurance requested by the Purchaser. The Purchaser shall bear the costs of any customs, fees, taxes and other public charges.
- 4.3 If the agreed delivery period exceeds four (4) months, Lumberg shall have the right at the expiry of that time to consider alterations of cost factors having occurred in the meantime (especially due to changes in the price of materials or due to collective agreements) by adapting its prices or by a recalculation.
- 4.4 The purchase price is payable and due within 30 days of the invoice date or delivery of the goods to the Purchaser, whichever comes first. Upon expiry of the afore-mentioned payment date, the Purchaser shall be in default of payment. During the default period, the purchase price shall accrue interest at the respectively applicable statutory default interest rate. Lumberg shall also be entitled to make all claims (including those based on a draft) due immediately and make any further Deliveries conditional on immediate payment. This shall also apply if circumstances become known which may cause doubts as to the Purchaser's credit-worthiness. Furthermore, Lumberg reserves the right to claim additional default damages.
- 4.5 The Purchaser can only offset claims against such claims which are undisputed or determined with final res judicata effect. In the case of defects with the Deliveries, counterclaims of the Purchaser, in particular, pursuant to Clause V, para. 4, sentence 4 of these General Terms of Sales, remain unaffected.
- 4.6 Should it become apparent after conclusion of the contract that Lumberg's claim to the purchase price is at risk due to the Purchaser's lack of performance capability or the Purchaser's inability to payment (e.g. substantial deterioration in the Purchaser's financial situation), Lumberg shall be entitled to refuse performance of the contract and - as applicable, after affixing a reasonable deadline for performance - to rescind the contract. In cases of contracts for the manufacture of

non-fungible goods (custom-made products), Lumberg can declare the rescission immediately.

5. Defects of Quality

Lumberg shall be liable for defects of quality as follows:

- 5.1 Claims for defects of the Purchaser require that the Purchaser properly complied with his owed duties of inspection and notification of defects. The statutory regulations shall apply for the rights of the Purchaser in cases of defects of quality insofar as not otherwise regulated in the following.
- 5.2 Notice must be given in writing of defects in the Deliveries, incorrect Deliveries and Deliveries of a quantity less than contracted as well as defects that are visible, without delay and at the latest within 10 days upon receipt of the Deliveries. Where concealed defects are ascertained, these must be notified in writing within three (3) working days of discovery. Lumberg is entitled to do the inspection to the Deliveries at the presence of both Parties. Before such inspection (if applicable) or subsequent performance of Lumberg, the Purchaser shall not be entitled to use the Deliveries which were claimed to be defective and dispose of them in any form, except for the appropriate measures to prevent the further deterioration in the quality of Deliveries or increase of the loss on the part of Lumberg.
- 5.3 The quality in the Deliveries and/or quality agreements that differ from those defined by Lumberg must be agreed in writing upon award of contract at the latest. A guarantee as to the attributes or durability that results in strict liability shall only apply where Lumberg has expressly guaranteed details of attributes or durability in writing.
- 5.4 Should a defect of quality exist due to Lumberg's intentional misconduct and gross negligence before the risk in connection with the Deliveries was transferred to the Purchaser and during the period of twelve (12) months thereafter, Lumberg shall first be granted the opportunity to render subsequent performances. Lumberg can choose whether to perform subsequent performance through elimination of the defect (remedy) or by delivery of goods which are free from defects (replacement delivery). Lumberg is entitled to make subsequent performance dependent upon the Purchaser paying the purchase price due. In cases of defect complaints, payments of the Purchaser may, however, be withheld or suspended in a scope which is in a reasonable relationship to the defects of quality which have occurred. Should the defect complaints be without good reason, Lumberg shall be entitled to demand reimbursement from the Purchaser of the expenses accruing to it.
- 5.5 The right of Lumberg to refuse subsequent performance under the statutory prerequisites remains unaffected.
- 5.6 Should the subsequent performance fail, the Purchaser can - without prejudice to any damage claims according to Clause VI hereof - rescind the contract or reduce the remuneration.
- 5.7 No defect claims shall exist in cases of only inconsiderable deviation from the agreed quality, only minor impairment of utility, normal wear and tear or damage which occurs after transfer of risk as a consequence of incorrect or negligent handling, excessive operational demands, unsuitable equipment, defective workmanship or such caused by special external influences (e.g. chemical, electrochemical, electrical) which are not presupposed in accordance with the contract as well as with software defects which cannot be reproduced. Should improper modification or repair work be undertaken by the Purchaser or third parties, no defect claims shall also exist for these and the resultant consequences.
- 5.8 The expenditures necessary for purposes of inspection and subsequent performance, in particular, transport, travel, labor and material costs (not:

disassembly and installation costs) shall be borne by Lumberg if and insofar as in fact a defect claim exists. Claims of the Purchaser for expenditures necessary for the subsequent performance, in particular, transport, travel, labor and material costs, are precluded however insofar as the expenditures increase because the Deliveries subsequently differ from the contract unless such difference correspond to the intended use.

- 5.9 Claims based on the legal right of recourse by the Purchaser against Lumberg shall only exist to the extent that the Purchaser had not come to an agreement with his end customer beyond the legal claims for defects.
- 5.10 Claims for damages or, respectively, claims for reimbursement of futile expenditures which the Purchaser makes on the basis of and/or in connection with any defects of quality exist only according to Clause V and VI hereof, and are otherwise excluded.

6. Total Liability

- 6.1 Insofar as not otherwise regulated in these General Terms of Sales including the following provisions, Lumberg shall be liable in a case of a breach of contractual and non-contractual obligations according to the relevant statutory regulations.
- 6.2 Lumberg shall be liable for damages – regardless of the legal grounds – in cases of wrongful intent and gross negligence, and its liability for damages is limited to the foreseeable damage that typically occurs. In cases of ordinary negligence, Lumberg shall be liable only
 - (a) for damages resulting from death, injury to body or health,
 - (b) for damages arising from breach of a material contractual duty (i.e. an obligation, the satisfaction of which first enables the proper execution of the contract to begin with and with which the contractual partner relies and may as a rule rely on its compliance); in this case, the liability of Lumberg is limited however to the reimbursement of the foreseeable, typically occurring damages. The regulations above do not provide for an amendment to the burden of proof to the disadvantage of Purchaser.
- 6.3 The limitations of liability resulting from Clause VI, para. 2 hereof shall not apply to claims of the Purchaser according to the Chinese Product Liability Act.
- 6.4 Where Lumberg has provided a guarantee as to the quality or durability of the Deliveries or parts thereof, Lumberg shall also be liable in respect of this guarantee. However, Lumberg shall only be liable for damage which is based on the absence of the guaranteed attributes or durability but which is not directly connected with the Deliveries in question where the risk of such damage is clearly understood from the guarantee as to attributes or durability.
- 6.5 Further liabilities on the part of Lumberg shall be excluded without consideration of the legal nature of the asserted claim. This shall apply in particular to tortious claims or claims for compensation of frustrated expenses in lieu of performance.
- 6.6 Insofar as the liability for damages against Lumberg is excluded or limited, this shall also apply with regard to the personal liability for damages of salaried employees, workers, other employees, representatives and vicarious agents of Lumberg.

7. Reservation of Ownership Title

- 7.1 The objects of the Deliveries remain the property of Lumberg until fulfillment of all of its claims against the Purchaser from the business relationship ("Reserved Goods"). Insofar as the value of all security rights

capable of being realized to which Lumberg is entitled exceeds the amount of all secured claims of Lumberg against the Purchaser by more than 10 %, upon the Purchaser's request, Lumberg shall release a respective part of the securities of its discretion.

- 7.2 The Purchaser shall be prohibited from disposing of, pledging or transferring the Reserved Goods by way of security during the period of reservation of ownership title. A resale of the Reserved Goods shall only be permitted by the Purchaser and also in the ordinary course of business subject to the condition that the Purchaser equally agrees upon a reservation of title with his end customers as per this Clause and only insofar as the Purchaser is not in default of payment.
- 7.3 Should the Purchaser resell the Reserved Goods according para. 2 hereunder, it shall assign to Lumberg already now its future accounts receivables from the resale against its customers, together with all ancillary rights – including any outstanding balance claims – by way of security to the full extent. Lumberg accepts this assignment. Should the Reserved Goods be resold together with other objects without an individual price being agreed for the Reserved Goods, the Purchaser shall assign to Lumberg with priority before other claims that part of the total price claim which corresponds to the price of the Reserved Goods invoiced by Lumberg.
 - (a) Until revocation of this right, the Purchaser is authorized to collect the assigned accounts receivables from the resale for and on behalf of Lumberg. Lumberg's authority to collect the accounts receivables itself remains unaffected. Lumberg agrees, however, not to revoke the Purchaser's collection authority and to claim the accounts receivables itself as long as the Purchaser is not in default of payment, the Purchaser has not ceased making payment or has not filed an application for the opening of an insolvency proceeding related to its assets. If this is the case, however, Lumberg can demand that the Purchaser inform it of the assigned accounts receivables and their debtors, provide all information necessary for collection, deliver the documents related thereto and notify the debtors (third parties) of the assignment. The Purchaser's right of resale of the Reserved Goods shall depend on the effectiveness of the individual assignment of claims to Lumberg.
- 7.4 The Purchaser is permitted to process, modify or combine the Reserved Goods with other objects. The processing, modification or combination shall take place on behalf of Lumberg. The Purchaser shall hold the new goods on behalf of Lumberg with the care of an ordinary businessperson. The same regulations shall apply for the processed, modified or combined good as for the Reserved Goods.
 - (a) In cases of processing, modification or combination with other goods not belonging to Lumberg, Lumberg shall have co-ownership in the new goods in the proportionate share of the value of the processed, modified or combined Reserved Goods (final invoice amount including VAT) to the value of the remaining processed goods at the date of the processing, modification or combination. Insofar as the Purchaser gains sole ownership in the new good, Lumberg and the Purchaser agree that the Purchaser shall grant Lumberg co-ownership in the new good resulting from the processing, modification or combination in the relationship of the proportionate share of the value of the processed, modified or combined Reserved Goods (final invoice amount including VAT) to the value of the remaining processed goods at the date of the processing, modification or combination.
 - (b) In the case of the sale of the new objects with prior consent of Lumberg, the Purchaser assigns herewith to Lumberg its claim from the resale against the Purchaser together with all ancillary rights by way of security without the necessity that additional sep-

arate declarations must be made. The assignment will apply, however, only in the amount which corresponds to the amount invoiced by Lumberg of the processed, modified or combined Reserved Goods (final invoice amount including VAT). The portion of the accounts receivables claim assigned to Lumberg shall be paid on a priority basis. With regard to the collection authorization as well as the prerequisites for its revocation, Clause VII, para. 3.b hereof shall apply accordingly.

- (c) The Purchaser also assigns to Lumberg the accounts receivable to secure its accounts receivable against it which result by the combination of the Reserved Goods with real property against third parties.
- 7.5 In cases of attachments, seizures or other disposals or interferences of third parties, the Purchaser shall notify Lumberg without undue delay and point out the ownership rights of Lumberg, provide all the necessary supports to defend Lumberg's claim.
- 7.6 In cases of breaches of duty on the part of the Purchaser, in particular, default in payment, Lumberg may prohibit any resale and combination of the Reserved Goods and collect the claims covered by the assignment hereunder, and shall also be entitled, after setting a reasonable deadline to remedy the breach of duty, to rescission and to take back the Reserved Goods which shall also include partial withdrawal as to the Reserved Goods still available; the Purchaser shall be obligated to return such. The Purchaser shall bear the transport costs accruing for the return and all other related costs. Insofar as Lumberg takes back the Reserved Goods, such shall constitute rescission of the contract by Lumberg. The contract shall also be deemed as rescinded if Lumberg attaches the Reserved Goods. The value of the Reserved Goods taken back by Lumberg may be realized. The proceeds of the realization of the goods shall be set-off from such amounts which the Purchaser owes to Lumberg after Lumberg has deducted a reasonable amount for the costs of the realization.
- 7.7 The Purchaser shall undertake to treat the Reserved Goods with due care. The Purchaser is in particular entitled to take out sufficient insurance at the original value against damage caused by fire, water and theft at its own costs. Insofar as maintenance and inspection work is required, the customer shall perform this work in due time at its own expense.

8. Intellectual Property Rights and Copyrights; Defects of Title

- 8.1 Insofar as not otherwise agreed, Lumberg is obligated to render the delivery only in the country of the Deliveries free from third party intellectual property rights and copyrights (hereinafter: Intellectual Property Rights).
- 8.2 In the case of existence of a defect of Intellectual Property Rights or title, Lumberg shall, (1) at its choice and at its cost, either obtain a right of use for the relevant Deliveries, modify the goods in a manner that third party rights are no longer infringed or exchange the Deliveries for goods which do not infringe any rights of third parties; (2) The obligation on behalf of Lumberg to pay compensation shall be regulated by Clause VI; (3) If this is not possible for Lumberg at reasonable conditions, the Purchaser shall be entitled to the statutory rights of rescission or reduction of the remuneration.

The above-named obligations of Lumberg shall only be effective where the Purchaser notifies Lumberg immediately in writing about the claims asserted by third parties, does not admit any infringement and reserves to Lumberg all precautionary measures and settlement negotiations.

- 8.3 Should the Purchaser discontinue use of the Deliveries due to reasons of mitigation of damage or other important reasons, it shall be obligated to point out to third parties that the discontinuation of use is not linked with any recognition of an infringement of an Intellectual Property Rights.

- 8.4 Claims of the Purchaser against Lumberg are precluded insofar as the Purchaser is responsible for the infringement of the Intellectual Property Rights or, respectively, the infringement of rights of third parties.
- 8.5 Furthermore, claims of the Purchaser are precluded insofar as the infringement of the Intellectual Property Rights is caused by express specifications of the Purchaser, by an application which Lumberg could not have foreseen or as a result that the Deliveries were used by the Purchaser in a modified manner or together with products not delivered by Lumberg.
- 8.6 In cases of infringements of rights of third parties, in particular, infringements of Intellectual Property Rights, in addition, the regulations in Clause V hereof shall apply accordingly.
- 8.7 Claims for damages or, respectively, claims for reimbursement of futile expenditures which the Purchaser makes on the basis of and/or in connection with any defects of title exist only according to Clause VI hereof and are otherwise excluded.

9. Force Majeure

- 9.1 No contract party shall be responsible for the non-fulfillment of its contractual obligations when the non-fulfillment is prevented by unpredictable circumstances beyond the contract party's control or is based, in particular, on the following reasons: fire, natural catastrophe, war, seizure, trade and/or export restrictions, general shortage of raw materials, limitation of energy consumption, labor disputes or if breaches of contract of suppliers are based on these reasons. This regulation shall apply for all contractual obligations including liability to pay damages. The contract shall be adapted accordingly with the principle of bona fide being observed.
- 9.2 Each party may cancel the contract by written termination in the case the performance thereof is prevented for a period of more than six months according to Clause IX, para. thereof.

10. Jurisdiction and Applicable Law

- 10.1 Exclusive jurisdiction for all disputes arising from these General Terms of Sales and all legal and contractual relationships between Lumberg and the Purchaser is the court in the registered seat of Lumberg. Lumberg is however also entitled to file a lawsuit against the Purchaser at the registered seat of the Purchaser.
- 10.2 These General Terms of Sales as well as all legal and contractual relationships between Lumberg and the Purchaser shall be governed exclusively by the law of P. R. China, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 10.3 Insofar as not otherwise stated in the order confirmation, the registered seat of Lumberg shall be the place of performance.

11. Binding Character of the Contract

In the event of the legal invalidity of individual provisions of the General Terms of Sales or the contract, the remaining provisions of the contract shall remain binding. This shall not apply if the adherence to the contract would constitute an unreasonable hardship for one of the parties. In the place of such invalid provision, a valid provision is presumed to be agreed upon by the parties, which comes economically closest to the one actually agreed upon. The same shall apply in the case of an omission.