

Light is OSRAM

OSRAM
Opto Semiconductors

Terms & Conditions for the use of PASS Services (Global except for U.S.)

Unless otherwise agreed in writing by an authorized representative of OSRAM (as defined below), all work, goods, services, reports and obligations provided under the OSRAM PASS Program (hereinafter defined and referred to as “**PASS Services**”) by OSRAM Opto Semiconductors GmbH, OSRAM Opto Semiconductors, Inc. or OSRAM Opto Semiconductors Asia Limited, their respective subsidiaries, and their respective directors, officers and employees (all such persons and entities being collectively referred hereinafter as “**OSRAM**”, are undertaken under the following terms and conditions (“**Terms & Conditions**”).

Limited Scope. This Agreement sets forth the entire agreement and undertakings of the entity requesting services (“**Customer**”) and OSRAM (the “**Parties**”) relating to the PASS Services. PASS Services are limited to testing, measurement, preliminary engineering, analysis, reports and potential prototype development by OSRAM under the procedures herein. The purpose of PASS Services is to help the Parties mutually identify (and discuss the feasibility and terms for) a possible purchases by Customer of products from OSRAM. All other services and products are excluded unless in writing mutually signed.

Acceptance of Terms. By clicking on the “I accept” button, the person acting for Customer agrees, on behalf of the Customer, that these Terms and Conditions shall apply to the provision of PASS Services by OSRAM agreed between the Customer and OSRAM. These Terms and Conditions shall also govern all future transactions between the Parties and shall also apply if OSRAM performs services despite its knowledge of differing or contrary terms.

1. Online Application

- 1.1 Service Request via PASS Portal. By submitting personal and/or company data and a description of the Pass Services requirements (“**Service Request**”) through the PASS Program section of the OSRAM web page (“**PASS Portal**”) the Customer

makes a unilateral request to OSRAM to provide the PASS Services to the Customer.

- 1.2 Authorized Signatory. Each of Customer, and the person acting on behalf of the Customer, represents and warrants that he, she or it has the power and authority to enter into agreements and procure the PASS Services for the Customer as well as representative for Customer's associated companies.

2. Acceptance of Service Request

- 2.1 Discretionary Acceptance. At its sole discretion, OSRAM explicitly reserves the right to reject all or part of a Service Request after internal review of the Service Request without further explanation. OSRAM shall have no obligation to perform any PASS Services unless and until OSRAM has confirmed to the Customer by email or regular mail the acceptance and scope of the Service Request as so accepted by OSRAM. In order to evaluate a Service Request OSRAM may request the Customer to submit further technical information ("**Customer Technical Information**") to OSRAM and/or provide OSRAM with samples, prototypes, and materials ("**Customer Materials**"). Should OSRAM decide to reject the Service Request OSRAM will return all Customer Materials to Customer without undue delay.
- 2.2 Customer's Engagement of a Third Party Service Provider. In case OSRAM rejects a Service Request OSRAM may refer Customer to other service providers, including affiliates of OSRAM ("**Third Party Service Provider**") which OSRAM considers capable for performing the requested services. However, any such referral shall not create any contractual relationship between the Customer and OSRAM. OSRAM shall have no liability vis-à-vis the Customer for the services of the Third Party Service Provider, including, but not limited to the competence, quality and reliability of the Third Party Service Provider and the results submitted by the Third Party Service Provider. The Customer shall be solely responsible for the engagement of the Third Party Service Provider and the negotiation of contractual agreements with the Third Party Service Provider or the handling of the Customer Materials.
- 2.3 Evaluation by OSRAM Representatives or Distributors. Customer agrees that OSRAM may forward the Customer's Service Request to a Third Party Service Providers including but not limited to OSRAM representatives or distributors solely for evaluating the Service Request. Before doing so, OSRAM shall ensure that the confidentiality of Customer's Confidential Information remains protected under terms substantially equivalent to Section 10.

3. Services

- 3.1 Scope of Reports. The PASS Services provided by OSRAM for the Customer and the measurements, laboratory data, calculations, evaluations, estimates, notes and other documents provided by OSRAM, together with status summaries, or any other communications describing the results of any PASS Services, or element thereof (herein collectively referred to as “**Report(s)**”) are based upon the Customer Materials submitted or delivered to OSRAM. OSRAM will use Customer Materials solely for performance of the PASS Services. OSRAM’s Pass Services are limited to those procedures which OSRAM, in its sole discretion, deems appropriate to perform the work and/or services required according to the Service Request. OSRAM’s procedures and Reports are not necessarily designed or intended to address all matters of functionality or quality or condition of any possible products.
- 3.2 Information in the Reports; Customer’s Relations with Third Parties. Reports are based on and the PASS services are conducted only in the manner set out in the confirmation of acceptance of the Service Request sent by OSRAM to the Customer. Customer acknowledges that there may be other relevant information not requested and not tested and/or reported. Customer acknowledges that OSRAM retains copyright ownership in the Reports as Confidential Information and licenses them to Customer under Section 11. Accordingly, Customer undertakes that if it provides any Report to any other party (whether or not with the express or implied authorization of OSRAM) the Customer shall require such party to enter into a non-disclosure agreement with Customer protecting such Confidential Information, and Customer agrees to allow OSRAM to enforce such rights as an intended third party beneficiary. In any disclosure of a Report to a third party, and after obtaining such a non-disclosure agreement, Customer agrees to draw the attention of such other party to the foregoing limitations on the scope of the PASS Services. Further the Customer acknowledges that OSRAM does not, either by entering into a contract or by performing work or PASS Services, assume, limit, cancel or undertake to discharge any duty of the Customer to any other person, including without limitation any obligation of the Customer to deliver goods of a certain quality or condition under any contract of sale.
- 3.3 Reserved Rights. OSRAM reserves the right at any time, before or after accepting a Service Request, to cease or modify operation of any PASS Services and/ or the PASS Service website, in part or in its entirety, or any particular Service Request even if accepted by OSRAM, provided that OSRAM shall refund any unearned payment received for any canceled Service Request. Due to the nature of the Internet and computer systems, OSRAM does not guarantee continuous availability of the OSRAM Pass Services website.
- 3.4 Access Restrictions. OSRAM may deny access to the OSRAM PASS Service web site at any time, in particular if the Customer breaches any obligation arising from these Terms and Conditions.

4. Fees

- 4.1 Fees for Third Party Provider Services. In general OSRAM does not charge the Customer for the performance of the PASS Services, unless OSRAM has engaged any Third Party Service Providers with the prior written agreement of the Customer and such agreement specifies the scope of PASS Services to be subcontracted. Customer agrees to pay and indemnify OSRAM against all fees and costs charged by a Third Party Service Provider charged in connection with the PASS Services rendered to and with the prior consent of the Customer.
- 4.2 Fees for OSRAM Services. Except in relation to a subcontracted PASS Services by a Third Party Service Provider, OSRAM will only request payment for the PASS Services if the scope or specific requirements of the Customer Request exceed the level of testing services that OSRAM wishes, in its sole discretion, to perform without charge. In cases where OSRAM wishes to charge a fee, OSRAM will submit a fee proposal to the Customer and will only start with the provision of the PASS Services after written acceptance of the fee proposal by the Customer.

5. Delivery and Handling of Customer Materials

- 5.1 Customer Obligations. Customer may be required to provide Customer Technical Information and Customer Materials, in particular but not limited to drawings, designs, calculations, products, proto-types, samples and other testing equipment, to OSRAM at its own cost and risk. Customer shall remain the sole owner of all Customer Materials. OSRAM will handle all Customer Materials with due care in a commercially reasonable manner. Customer shall retain a copy of all Customer Technical Information and Customer Materials at all times unless OSRAM rejects a Service Request in accordance with Sec.2.1.
- 5.2 Return after Completion. Upon completion of the PASS Services, OSRAM will return the Customer Materials at the instruction and cost of the Customer to the location designated by the Customer. For Customer Technical Information, OSRAM destroy all active copies and retain an archival copy under access controls and security measures to prevent unauthorized access except in connection with audit, interpretation or enforcement of this Agreement or compliance with applicable laws and regulations.

6. Customer Warranty

- 6.1.1 Customer represents and warrants that:

- 6.1.2 It is the sole owner of the Customer Technical Information and the Customer Materials;
- 6.1.3 To its best knowledge after due inquiry, the Customer Technical Information and the Customer Materials, in total or partially, and the use of them by OSRAM do not infringe any third-party rights;
- 6.1.4 If Customer is the licensee of any Customer Technical Information or Customer Materials, Customer has the right to disclose same to OSRAM under this Agreement, Customer shall identify the elements that are so licensed and confirm to OSRAM in writing with its request for PASS Services that the terms of such license permit OSRAM to perform PASS Services with respect thereto; and
- 6.1.5 To the extent that Customer is beneficiary of any warranty against infringement, Customer passes such warranty along to OSRAM.

7. OSRAM Warranty

OSRAM warrants to the Customer that the PASS Services shall be performed in a commercially reasonable and diligent manner, taking into consideration that the PASS Services are generally provided without cost to the Customer.

OSRAM makes no other express warranties. TO THE EXTENT PERMITTED UNDER LAW, OSRAM EXCLUDES AND DISCLAIMS ALL IMPLIED WARRANTIES, CONDITIONS OR UNDERTAKINGS, WHETHER STATUTORY, COMMON LAW OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, WARRANTY OF MERCHANTABILITY, WARRANTY OF WORKMANLIKE PERFORMANCE AND WARRANTY OF RESULTS.

Nothing in the Report shall be construed as a representation or warranty made by OSRAM with regard to the capability of the Customer Technical Information or Customer Materials for commercial exploitation. The risk of such realization and exploitations shall be assumed by and remain solely with the Customer.

8. Sub-Contracting by OSRAM

- 8.1 OSRAM reserves the right to sub-contract Third Party Service Providers to perform parts or all of the PASS Services agreed between OSRAM and the Customer. Before any such sub-contract is entered into, OSRAM will notify Customer of the fees and scope of such sub-contract. Customer shall either approve or reject such fees and scope. For this purpose, OSRAM is authorized to share the Customer

Technical Information and Customer Materials with the Third Party Provider and, subject to Customer's prior agreement on fees and scope, agrees to pay and indemnify OSRAM from any such fees and cost incurred by such sub-contracting.

- 8.2 OSRAM, at its sole discretion shall be entitled to sub-contract Third Party Providers to perform parts or all of the PASS Services without the prior consent of the Customer provided that (i) OSRAM bears all costs associated with the sub-contracting of such Third Party Provider and (ii) OSRAM ensures that the rights of the Customer under this Agreement are protected.

9. Timing, Delivery Dates

All dates for the performance of PASS Services and the delivery of Reports stated by OSRAM shall be non-binding estimates. OSRAM will use reasonable efforts to meet such dates but shall have no liability for delays.

10. Confidential Information

- 10.1 Definition. The term "**Confidential Information**" shall mean any information disclosed by one party to the other (the "**Receiving Party**") in connection with this Agreement which, if in written, graphic, machine readable or other tangible form is marked as "Confidential" or "Proprietary", or which, if disclosed orally, is identified at the time of initial disclosure as confidential. Confidential Information shall include, without limitation: (i) OSRAM's or Customer's technical documentation provided under this Agreement (including without limitation Customer Technical Information and OSRAM's Reports; (ii) information and materials regarding the operation of Customer's or OSRAM's business; and (ii) information that was disclosed by either party to the other prior to the Effective Date and which otherwise falls within the above definition of Confidential Information.
- 10.2 Exclusions. Notwithstanding the provisions of Section 10.1 above, Confidential Information shall exclude information that:
- 10.2.1 was independently developed by the Receiving Party without any use of the Confidential Information of the other party or by employees or other agents of (or independent contractors hired by) the Receiving Party who have not been exposed to the Confidential Information;
- 10.2.2 becomes known to the Receiving Party, without restriction, from a source other than the other party hereto without breach of this Agreement and who had a right to disclose it;
- 10.2.3 was in the public domain at the time it was disclosed or becomes in the public domain through no act or omission of the Receiving Party;

- 10.2.4 was rightfully known to the Receiving Party, without restriction, at the time of disclosure; or
- 10.2.5 is disclosed pursuant to the order or requirement of a court, administrative agency, or other governmental body; provided, however, that the Receiving Party shall provide prompt notice thereof to the other party and shall use its reasonable best efforts to assist the other party to obtain a protective order or otherwise prevent public disclosure of such information.
- 10.3 Non-Disclosure and Non-Use Obligations. Each party shall treat as confidential all of the other party's Confidential Information and shall not use such Confidential Information except as expressly permitted under this Agreement. Without limiting the foregoing, each party shall use at least the same degree of care which it uses to prevent the disclosure of its own confidential information of like importance, but in no event with less than reasonable care, to prevent the disclosure of the other party's Confidential Information under this Agreement. Subject to Section 10.6, OSRAM may disclose Confidential Information pursuant to Sections 2.3 and 8, and Customer may disclose OSRAM Reports under Section 2.2.
- 10.4 Enforcement. Each party shall exert its reasonable and diligent efforts to enforce compliance with the provisions of this Section by its directors, officers, employees and any third party who need to know, and to whom it provided access to, Confidential Information of the other party.
- 10.5 Remedies. Unauthorized use by a party of the other party's Confidential Information will diminish the value of such information. Therefore, if a party breaches any of its obligations with respect to confidentiality and unauthorized use of Confidential Information hereunder, the other party shall be entitled to seek equitable relief to protect its interest therein, including but not limited to injunctive relief, as well as money damages.
- 10.6 Arm's Length Treatment of OSRAM's Affiliates. Customer acknowledges that affiliates of OSRAM, that are not engaged in the performance of any PASS Services, regularly engage in the manufacture, production and sale of lighting and other products that are, or may become, competitive with current or future products of Customer, and that, independent of OSRAM, such affiliates may develop from time to time concepts for products or services that may be similar to or competing with those that are developed by OSRAM under this Agreement. OSRAM agrees not to disclose any Customer Technical Information, Customer Materials or PASS Service Reports to any such potentially competitive affiliates. Conversely, Customer acknowledges that OSRAM's affiliates are under no obligation to share any of their own technical information or materials with OSRAM, but that they may share such technical information with OSRAM under the same or similar obligations for the protections of such items. The PASS Services are intended not to incorporate any such affiliate-developed technical information.

11. Intellectual Property Rights

- 11.1 Customer Rights. OSRAM does not obtain any intellectual property by accepting the Customer Technical Information or the Customer Materials.

- 11.2 OSRAM Rights. Customer does not obtain any intellectual property by accepting any OSRAM Reports. Customer may use such Reports solely pursuant to Section 10 and solely for internal evaluation of business proposals by OSRAM for possible further PASS Services under this Agreement or, under separate agreements to be mutually agreed, new product development services or product manufacture and sale.
- 11.3 Ownership of Improvements. OSRAM shall be the sole owner of any improvements and new developments to the Customer Technical Information or the Customer Materials (“**Improvements**”) in the event that OSRAM develops any such Improvements in connection with the provision of PASS Services. OSRAM alone shall be entitled to apply for and obtain patent protection in its discretion.
- 11.4 License to Improvements. Customer acknowledges that the purpose of the PASS Services is to assist in development of products that OSRAM or its subcontractor could sell to Customer. OSRAM agrees to impose no royalty upon (i) the manufacture by OSRAM or its subcontractor of any products sold to Customer (which may be components of finished products made by the Customer) that incorporate any Improvements, or (ii) the incorporation by Customer, its affiliates and contractors, of any product made by or for OSRAM that incorporate any Improvements.
- 11.5 OSRAM Trademarks. The word and device OSRAM, other product trademarks, illustrations and logos identify OSRAM products and are the property of OSRAM. Eventually, registrations have not yet taken place in all relevant countries. Use of these names and trademarks requires express permission of OSRAM. The use of the name OSRAM as a reference is permitted. OSRAM must receive prior notification of such use.

12. Limitation of Liability and Indemnification

- 12.1 Maximum Liability. The work product of PASS Services is not intended for use in the eventual production of any products for use by customers. EXCEPT IN CONNECTION WITH ANY CLAIMS FOR WILLFUL MISCONDUCT OR GROSS NEGLIGENCE, OR ANY CLAIMS FOR PERSONAL INJURY OR TANGIBLE PROPERTY DAMAGE, OR IN THE EVENT OF BREACH OF A MATERIAL CONTRACTUAL OBLIGATION (i.e. AN OBLIGATION THE FULFILLMENT OF WHICH IS ESSENTIAL TO THE PROPER PERFORMANCE OF THE CONTRACT AND UPON COMPLIANCE WITH WHICH THE CUSTOMER IS DULY ENTITLED TO RELY ON) IN NO CASE SHALL OSRAM’S LIABILITY EXCEED THE HIGHER OF THE FORESEEABLE DAMAGE TYPICAL FOR A CONTRACT OF THIS NATURE AND THE AMOUNTS ACTUALLY PAID TO OSRAM UNDER THIS AGREEMENT DURING THE SIX MONTHS PRIOR TO THE EVENT GIVING RISE TO SUCH LIABILITY.
- 12.2 Exclusions. IN NO EVENT SHALL OSRAM BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, DATA, PRODUCTION, OR

FUTURE BUSINESS NOR ANY LIABILITY FOR INDIRECT, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES, OR ANY CONSEQUENTIAL LOSS, INCURRED BY THE CUSTOMER OR ANY OTHER PERSON, WHETHER IN CONTRACT OR TORT, ARISING FROM ACCESS TO OR USE OF OR INABILITY TO USE THE PASS SERVICES RENDERED BY OSRAM OR SIMILAR DAMAGES (INCLUDING WITHOUT LIMITATION ANY LOST PROFITS OR LOST DATA ARISING OUT OF THE USE OR INABILITY TO USE THE SERVICES), REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE, EVEN IF OSRAM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME STATES DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO CUSTOMER.

Provided that PASS Services are rendered by OSRAM GmbH or any of its European affiliates, the aforementioned exclusion or limitation shall not apply in cases of damage to life, body or health or damage to private property under the Product Liability Act (ProdHaftG) or in other cases of statutory liability.

- 12.3 Customer Technical Information and Customer Materials. The Customer shall defend, indemnify and hold harmless OSRAM against all claims for damages, costs and expenses that are made by any third party asserting that by using Customer Technical Information or the Customer Materials OSRAM is violating any third party rights, including but not limited to any intellectual property rights.
- 12.4 Customer Operations. Customer shall defend, hold harmless and indemnify OSRAM from and against all claims, suits and liabilities arising from or related to, directly or indirectly, (i) actions by any governmental authority or others for any actual or asserted failure of the Customer, or of any party other than the Customer who may have received or relied upon a Report, to comply with any law, ordinance, regulation, rule or order of any governmental or judicial body; (ii) claims arising out of or in connection with any information and materials supplied by the Customer and relied upon by OSRAM; and/or (iii) personal injuries, loss of or damage to property, economic loss and loss of or damage to intellectual property incurred by or occurring to any person or entity and arising in connection with or related to the PASS Services performed by OSRAM.
- 12.5 Customer's Use of Reports. . Customer shall defend, indemnify and hold OSRAM harmless from and against all claims, suits and liabilities arising from or related to the unauthorized use or misuse of the Reports brought up against OSRAM by any third party.
- 12.6 Residual Knowledge. Nothing in this Agreement shall restrict any employee or representative of a Party from using general skill and knowledge, ideas, concepts, practices, learning or know-how relating to the functioning of electricity, semiconductors, optics, LED's, or lighting products or other process or services that are retained in the unaided memory of such employee or representative after performing the obligations of such Party under this Agreement, except to the extent that such use infringes upon any pre-existing patent, copyright or other intellectual property right of a Party or its affiliates; provided, however, that this Section 12.6 shall not (i) be deemed to limit either Party's obligations under this Agreement with respect to the disclosure or use of Confidential Information under Section 11,

or (ii) operate or be construed as permitting an employee or representative of a Party to disclose, publish, disseminate or use (a) the source of any proprietary Confidential Information of the other Party, (b) any financial, statistical or personnel information of a Party, or (c) the business plans of a Party. An individual's memory is unaided if the individual has not intentionally memorized the Confidential Information (or source code or other subject matter under this Agreement) for the purpose of retaining and subsequently using or disclosing it and does not identify the information as Proprietary Information upon recollection.

- 12.7 Disclaimer. OSRAM expressly disclaims any liability as a guarantor of the quality of any goods or products. Any liability as to products sold by or through OSRAM shall be governed by separate mutual written agreement.
- 12.8 Indemnified Costs. Indemnification under this Agreement shall include all indemnified claims, damages, losses, risks, liabilities and expenses and the indemnified party's costs, including without limitation reasonable attorney's and expert's fees and expenses.

13. Force Majeure

OSRAM shall not be liable to the Customer or be deemed to be in breach of contract by reason of any delay in performing or any failure to perform and of OSRAM's obligations in relation to the PASS Services if the delay or failure is due to any cause beyond OSRAM's control.

14. Use of Result of PASS Services

- 14.1 No Third Party Beneficiaries. Except as disclosed in writing by the Customer and agreed in writing in advance by the Parties, Customer is procuring the PASS Services of OSRAM solely for its own account and not for any other person or entity, and Customer is not acting as an agent or broker or in any other representative capacity. Customer and OSRAM agree that, except as expressly provided in these Terms and Conditions, there are no third party beneficiaries to the contract between Customer and OSRAM.
- 14.2 Excluded Uses of Reports, Etc. Notwithstanding the provisions set forth in Section 14.3 Customer acknowledges that the results of the PASS Services, including but not limited to any Reports cannot be used in certification processes. Any prototypes produced by OSRAM in connection with the PASS Services are produced for the Customer only and only for testing purposes for possible development of products to be manufactured or sold by OSRAM to Customer. The design of prototypes produced by OSRAM are not tested or qualified for end user application. OSRAM does not assume any liability for damages caused by the use of a prototype by the Customer. Customer shall indemnify OSRAM from and

against any claims brought by third parties for any loss (including without limitation attorneys' and experts' fees), damages and cost incurred due to the use of a prototype produced by OSRAM in connection with the provision of PASS Services.

- 14.3 Limited Customer Use. Customer may only use a Report in a certification process if (i) OSRAM has approved the use of a Report in a certification process in writing or (ii) if a Third Party Service Provider which is operating an accredited laboratory has approved the use of the data produced by such Third Party Service Provider in writing.

15. Prevailing Terms

OSRAM's acceptance of the Customer Request is limited to these General Term and Conditions of Service. These General Terms and Conditions are the only terms upon which OSRAM agrees to provide PASS Services and shall prevail of any terms proposed or submitted by Customer at any time. Any provisions or in Customer's purchase order, instruction, nomination or other document are objected to and rejected and shall be of no force or effect.

16. Severability

Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. However, if any provision of this Agreement shall be prohibited by or invalid under such law, it shall be deemed modified to conform to the minimum requirements of such law or, if for any reason it cannot validly be deemed so modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any other such provision being prohibited or invalid.

17. Jurisdiction and Governing Law

All disputes in relation to these Terms and Conditions and to the PASS Services and in relation to any matter covered by these Terms and Conditions shall be governed by the internal laws of the country where the OSRAM company providing the PASS Services to the Customer is domiciled. If OSRAM Opto Semiconductors, Inc. is the OSRAM company providing the PASS Services, the laws of the State of New York, shall govern in any case, excluding choice of law principles. Any disputes shall be subject to the exclusive jurisdiction of the state and federal courts in New York, New York. If OSRAM Opto Semiconductors, GmbH is the OSRAM company providing the PASS Services, the laws of Germany shall govern and Munich courts

shall be the proper venue. If any Chinese OSRAM company is the provider of the PASS Services, the laws of China shall govern and the matter heard before the courts in Hong Kong. The application of the United Nations Convention on Contracts for the International Sales of Goods (CISG) of 11 April 1980 is excluded. The parties hereby consent and submit to the personal jurisdiction of such courts for the purposes of litigating any such action.

18. Servants and Affiliates

The officers, employees, subsidiaries, affiliated and related companies and other business and entities of OSRAM shall enjoy the full protections and benefit of these General Terms and Conditions.

19. Data Privacy Protection; Miscellaneous

- 19.1 For collecting, using and processing personal data of Customers, OSRAM complies with applicable New York and federal laws on protection of data privacy and the OSRAM data privacy protection policy, available on the Internet under Privacy at <http://ledlight.osram-os.com/privacy/>.
- 19.2 Electronic Signatures and Notices; E-mail Notices. For any written agreement, notices or communications contemplated under this Agreement, the parties agree to accept facsimile, scanned and copied signatures of their respective authorized representatives as original signatures for the purposes of executing this Agreement as specified below and further agree to accept faxed, copied, scanned, electronic, and printed versions of this Agreement fully signed and/or executed as if it were an original. Notices may be sent via e-mail, facsimile or courier. Notices sent via facsimile transmission shall be deemed communicated as of receipt by the sender of written confirmation of transmission thereof. Notices sent via overnight courier shall be deemed communicated as of two business day following sending. Notices mailed shall be deemed communicated as of five business days after proper mailing. A party may change its address by written notice in accordance with this Notice section.
- 19.3 OFAC Certification. ONLY FOR CUSTOMERS LOCATED IN NAFTA COUNTRIES: Customer hereby certifies that (i) Customer is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specifically Designated National and Blocked Person," or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule or regulations that is enforced or administered by the Office of Foreign Assets Control; and (ii) Customer is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person,

group, entity or nation. Customer hereby agrees to defend, indemnify and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities and expenses arising from or related to any breach of the foregoing certification.

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