



BRIDGELUX STANDARD TERMS AND CONDITIONS OF SALE

ACCEPTANCE OF A PURCHASE ORDER (“ORDER”) BY BRIDGELUX, INC. (“BRIDGELUX”) IS EXPRESSLY CONDITIONED ON ASSENT TO THESE TERMS AND CONDITIONS OF SALE (“TERMS AND CONDITIONS”), WHICH SHALL CONSTITUTE THE ENTIRE AGREEMENT BETWEEN BRIDGELUX AND CUSTOMER WITH RESPECT TO ANY ORDER FOR THE SALE OR DISTRIBUTION OF ANY PRODUCT BY BRIDGELUX TO CUSTOMER OR SERVICE PROVIDED OR PERFORMED BY BRIDGELUX. BRIDGELUX WILL NOT BE BOUND BY ANY TERMS OF ANY ORDER THAT ARE IN ADDITION TO OR DIFFERENT FROM THESE TERMS AND CONDITIONS. ASSENT BY CUSTOMER OF THESE TERMS AND CONDITIONS WILL BE DEEMED MADE AT THE EARLIER OF CUSTOMER’S (1) ACCEPTANCE OF THESE TERMS AND CONDITIONS WITHOUT WRITTEN OBJECTION THERETO; (2) RECEIPT OF THESE TERMS AND CONDITIONS, WHETHER IN CONJUNCTION WITH AN ORDER ACKNOWLEDGEMENT OR OTHERWISE, AND FAILURE TO PROVIDE WRITTEN OBJECTIONS THERETO TO BRIDGELUX WITHIN FIVE (5) DAYS AFTER RECEIPT OF THESE TERMS AND CONDITIONS; (3) PLACEMENT OF AN ORDER WITH BRIDGELUX THAT REFERS TO A VALID BRIDGELUX QUOTATION OR THESE TERMS AND CONDITIONS; (4) EXECUTION OF A DEFINITIVE AGREEMENT WITH BRIDGELUX WHICH INCORPORATES BY REFERENCE THE TERMS AND CONDITIONS; OR (5) FAILURE TO DELIVER TO BRIDGELUX WRITTEN NOTICE OF ITS REJECTION OF THESE TERMS AND CONDITIONS WITHIN FIVE DAYS FOLLOWING DELIVERY OF BRIDGELUX PRODUCTS OR PERFORMANCE OF SERVICES. ANY OF CUSTOMER’S TERMS AND CONDITIONS WHICH ARE DIFFERENT FROM OR IN ADDITION TO THESE TERMS AND CONDITIONS ARE HEREBY REJECTED AND COMMENCEMENT OF PERFORMANCE OR SHIPMENT BY BRIDGELUX SHALL NOT BE CONSTRUED AS ACCEPTANCE OF ANY OF CUSTOMER’S TERMS AND CONDITIONS. ALL ORDERS OR CONTRACTS MUST BE APPROVED AND ACCEPTED BY BRIDGELUX AT ITS HEADQUARTERS IN FREMONT, CA. THESE TERMS AND CONDITIONS SHALL BE APPLICABLE WHETHER OR NOT THEY ARE ENCLOSED WITH PRODUCTS SOLD HEREUNDER.

1. DEFINITIONS

- 1.1 “Customer(s)” means the customer name indicated on the face of Bridgelux’s Quotation and/or Order Acknowledgement.
- 1.2 “Die Product(s)” means any Bridgelux LED chip that is sold by Bridgelux as an individual product rather than as part of a Packaged Product. Die Products do not include Packaged Products or Module Products.
- 1.3 “Driver/Control Product(s)” means a component or system sold by Bridgelux that incorporates a driver, a control module, or both a driver and control module. The driver product includes inputs for receiving power and control signal(s), and outputs for driving LED light sources. The control module includes inputs for receiving power and control signal(s), and outputs for interfacing with drivers, other control devices, sensors, etc.
- 1.4. “E Series Product(s)” means chip-on-board (“COB”) LED array products having a part number starting with “BXKE” or “BXKC”. E Series Products are not considered Economy Products.
- 1.5 “EB Series™ Product(s)” means emitter on board series products having Packaged Products (including but not limited to SMD products) arranged on a printed circuit board. EB Series Products include products having a part number starting with “BXEB”. EB Series Products can include linear, circular and custom shapes.
- 1.6 “Economy Product(s)” means Bridgelux Economy LED array or surface mount devices (SMD) Products having a part number starting with “BXK”, except for E Series Products starting with “BXKE” or “BXKC”.
- 1.7 “IB Series™ Product(s)” means a module product consisting of blue emitter products with remote phosphor. IB Series Products include products having a part number starting with “BXIB”.
- 1.8 “Low Power Packaged Product(s)” refer to LED emitter products which are identified under the applicable Specifications with a power level of less than three watts. “Bridgefond Products” are Bridgefond branded Low Power Packaged Products.
- 1.9 “Module Product(s)” means products sold by Bridgelux that include, at a minimum, a combination as a single marketed product of an LED array together with one or more of the following: driver circuitry, embedded controls, communications functionality and/or optics.
- 1.10 “Order(s)” means a purchase order from Customer for the purchase of Products or Services which is accepted by Bridgelux.
- 1.11 “Other Product(s)” means any Product(s) sold or provided to Customer by Bridgelux that

is: (i) a Bridgefond Product; or (ii) designated by Bridgelux as non-returnable, excess inventory, or surplus; or (iii) a sample or prototype; or (iv) not a Packaged Product, Module Product, or Die Product.

1.12 “F90 Product(s)” means a Packaged Product that uses Potassium Fluoride Silicon (PFS) as a complex fluoride phosphor-activated with Mn⁴⁺, including K₂SiF₆:Mn⁴⁺, for use in Commercial Lighting Products and Residential Lighting Products. Commercial Lighting Products are lamps and lighting fixtures which contain F90 Products that are used for general lighting, architectural lighting, outdoor lighting (e.g., roadway or commercial), indoor lighting, specialty lighting, e.g., vehicular and transportation, and non-LCD signage and excluding medical equipment. Residential Lighting Products are (a) lamps and lighting fixtures (including general lighting, architectural lighting, outdoor lighting, indoor lighting, specialty lighting), which contain F90 Products and are intended for sale for residential end-use applications offered for sale through consumer, retail, ecommerce, or homebuilder channels and (b) lamps and lighting fixtures intended for airfields, runways, aircraft, and stage studio applications, which contain F90 Products. Commercial Lighting Products and Residential Lighting Products do not include information displays utilizing LCD backlights and other emissive pixel display technology.

1.13 “Packaged Product(s)” means a component or system that incorporates one or more packaged LED chips into a single marketed product, such as LED arrays, and LED emitters (including, without limitation, Low Power Packaged Products). Packaged Products do not include Die Products, EB Series™ Products, IB Series™ Products, Driver/Control Products, Other Products, or Module Products.

1.14 “Premium Packaged Product(s)” means Bridgelux VERO® series LED array Packaged Products with the part number starting with “BXRC”. Premium Packaged Products do not include Die Products, EB Series™ Products, Economy Products, Low Power Packaged Product(s), Module Products, Other Products, or other Packaged Products.

1.15 “Product” or “Products” means any LED product sold directly by Bridgelux to Customer, including Die Products, Packaged Products, Module Products and/or Other Products.

1.16 “Service(s)” means services to be performed for Customer by Bridgelux or its subcontractors pursuant to a Statement of Work signed by the parties (such as installation or design services) or otherwise in conjunction with the operation of a Module Product.

1.17 “Specification(s)” means the technical information directed at a given Product which is published (or posted on www.Bridgelux.com or www.xeniosystems.com) by Bridgelux in the applicable technical data sheet for such Product in effect as of the date Bridgelux ships such Product to Customer under an Order.

1.18 “Standard Packaged Product(s)” means Packaged Products other than E Series Products, Economy Products, Low Power Packaged Products, Premium Packaged Products, or UV Packaged Products.

1.19 “UV Packaged Product(s)” means a component or system that incorporates one or more packaged ultraviolet (UV) light emitting chips into a single marketed product.

2. ORDERS

- 2.1 All orders or requests for the purchase of Products or Services are subject to acceptance by Bridgelux and Bridgelux may reject any such order or request in whole or in part at its sole discretion.
- 2.2 Each Order must specify a purchase order number, purchase order date, a valid Bridgelux Quotation number (if applicable) Customer’s name, billing address and contact information, ship to address and contact information at the ship to address, Bridgelux product part number, quantity, unit price, and requested ship date (which must be within twelve (12) months from the date of the Order).
- 2.3 Any Services to be performed by Bridgelux shall be set forth in a written Statement of Work (“SOW”) signed by both Bridgelux and Customer.

3. CANCELLATION AND RESCHEDULING

- 3.1 Customer is permitted to cancel or modify an Order (in whole or in part) for Die Products and Packaged Products only if written notification is received by Bridgelux at least thirty (30) calendar days prior to the first ship date acknowledged by Bridgelux. Customer is not permitted to cancel or modify any Orders at any time for Services or Module Products.
- 3.2 Customer is permitted to reschedule Orders for Products only if written notification is received by Bridgelux at least thirty (30) calendar days prior to the first acknowledged ship date. Any such rescheduled Order (or part thereof) can only be rescheduled one time and, in the case of Die Products and Packaged Products, can only be rescheduled within 90 days of the first acknowledged ship date, and, in the case of, Module Products, may only be rescheduled within thirty (30) days of the first acknowledged ship date. Orders for Services cannot be rescheduled by Customer without the prior written consent of an authorized representative of Bridgelux.



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3.3 Notwithstanding anything herein to the contrary, Customer is not permitted to cancel, reschedule, return or modify any Orders for: (i) special or custom Products (such as, Products supplied exclusively to Customer in accordance with Customer's design or specifications or Products which do not conform to published Specifications); (ii) Products sold as excess inventory; (iii) Products identified as "NCNR" (or similarly marking); (iv) Module Products; or (v) Services.

3.4 If Customer cancels, modifies, or reschedules an Order (in whole or in part) other than as permitted herein or otherwise agreed in a signed writing by an authorized representative of Bridgelux, Bridgelux will invoice Customer for, and Customer will pay the full price for, the Products or Services under such Orders, together with the actual costs incurred by Bridgelux (including, without limitation, any out-of-pocket expenses and fees and charges imposed by Bridgelux suppliers) arising out of any such cancellation, modification or reschedule.

4. SHIPMENT AND RISK OF LOSS

4.1 Unless otherwise agreed in a writing signed by an authorized representative of Bridgelux, all shipments of Products will be made Ex Works (Incoterms 2010) Bridgelux's point of shipment.

4.2 Title and risk of loss and/or damage to all Products shall pass to Customer upon delivery of the Products to the carrier at Bridgelux's shipping point.

4.3 Bridgelux will make reasonable efforts to ship Products on the scheduled ship date, and complete Services by the scheduled performance date stated on the applicable SOW; provided, however, all scheduled ship dates and scheduled performance dates are estimates only. Failure by Bridgelux to meet any scheduled ship date or scheduled performance date shall not constitute cause for cancellation of the Order and/or damages of any kind; provided, however, that if the delay or failure extends beyond sixty (60) days from the scheduled ship date or scheduled performance date, either party may, with written notice to the other, terminate the Order, or any part thereof, without any liability or penalty for the unperformed part of the Order.

4.4 If special packing or shipping instructions requested by Customer are agreed to by Bridgelux, Customer shall be responsible for, and shall pay, all amounts charged by Bridgelux for such special packing and/or shipping.

4.5 If Orders for Products exceed Bridgelux's available inventory, Bridgelux may accommodate the Order by allocating available inventory and making shipments on a basis Bridgelux deems equitable in its sole discretion, without liability to Bridgelux on account of the method of allocation chosen or its implementation.

5. PRODUCT ACCEPTANCE

5.1 Products shall be deemed accepted unless within 5 days of delivery, Customer notifies Bridgelux in writing of its rejection of any Product(s) which do not materially conform to the applicable Specifications and/or if Customer identifies a discrepancy between the model or quantity of Products ordered and the Products actually delivered ("Rejected Products"). To return Rejected Products, Customer must first request and obtain from Bridgelux a return material authorization ("RMA") authorizing such return. Customer shall package the Rejected Products in accordance with Bridgelux's published standards of care and apply the RMA number to the outside of the packaging. Such Rejected Products may then be returned to Bridgelux freight prepaid in accordance with Bridgelux's then-current return policies and procedures. All Rejected Products shall be subject to inspection by Bridgelux to confirm that they do not materially conform to the applicable Specifications. Bridgelux shall ship, at its expense, replacement Products in exchange for Rejected Products which Bridgelux confirms as non-conforming. In all other cases, Customer shall be responsible for any shipping charges. RMAs will not be granted for, and Bridgelux will not be responsible for, any Product damage, shortage, or other discrepancy caused by Customer, the carrier or freight provider, or any other third party.

5.2 In the event Customer rejects or returns any Products for any reason, all risk of loss and/or damage to such Products shall nonetheless remain with Customer until the same are returned at Customer's expense to such place as Bridgelux may designate in writing.

6. PRICES

The prices for Products and Services do not include any (i) sales, use, excise, value-added, or other taxes (collectively "Taxes"); (ii) transportation, shipping, insurance or freight charges (unless otherwise agreed to by Bridgelux in writing); (iii) duties, fees or assessments imposed by any jurisdiction now or in the future; or (iv) domestic or foreign forwarding agent's fee, fees covering consular invoices, or fees for any other necessary document required by the country of destination. All applicable Taxes will be paid by Customer, unless Customer provides Bridgelux with appropriate tax exemption certificates. Any amounts paid at any time by Bridgelux that are the responsibility of Customer shall be invoiced to Customer and Customer shall pay and reimburse such amounts to Bridgelux. Bridgelux will be responsible for taxes based on its gross or net income.

7. PAYMENT TERMS

7.1 All payments shall be made in United States dollars unless otherwise indicated on the applicable invoice.

7.2 All invoices shall be due and payable in advance of shipment and/or the performance of Services unless otherwise specifically agreed to in a signed writing by Bridgelux. For Customers purchasing Die Products and/or Packaged Products that meet Bridgelux's credit requirements and are preapproved for credit by Bridgelux, invoices for such Products shall be due and payable within 30 days from the date of invoice or as otherwise stated on the face of the invoice. Bridgelux will not be liable to Customer for any billing discrepancies that are not reported to Bridgelux within thirty (30) days after the date of the invoice containing the discrepancy, and after such period such undisputed invoices will be deemed accepted as presented.

7.3 All amounts not paid when due shall accrue interest daily at the rate of 18% per annum or the highest rate allowed by law on the unpaid balance until paid in full. Customer shall pay any costs and expenses, including without limitation, attorneys' fee and collection costs, incurred by Bridgelux in the collection of such amounts owed to Bridgelux by Customer.

7.4 Bridgelux may change credit or payment terms at any time, in its sole discretion, including, for example, if Bridgelux determines that Customer's financial condition, previous payment record, or the nature of Customer's relationship with Bridgelux so warrants.

7.5 To secure payment of any amounts due, Customer hereby grants to Bridgelux a security interest in each Product furnished hereunder and the proceeds and products thereof, including accounts receivable, until Bridgelux receives payment in full for such Products. Customer agrees to execute any financing statements, continuation of statements, or other documents as Bridgelux requests to protect its security interest.

8. DEFAULT AND TERMINATION

8.1 Bridgelux may immediately cancel any Order or portion thereof or immediately discontinue performance and/or immediately terminate these Terms and Conditions without liability on its part: (i) if Customer fails to pay any amounts when due; (ii) if there is an adverse change in Customer's financial condition; or (iii) if Customer fails to perform or defaults on any terms under these Terms and Conditions or any other agreement with Bridgelux and the failure is not cured within ten (10) days written notice of such default.

8.2 Either party may immediately cancel any Order or portion thereof, or discontinue performance and/or terminate these Terms and Conditions, without liability on its part if the other party becomes insolvent, is unable to pay its debts when due, files for bankruptcy, is the subject of involuntary bankruptcy, has a receiver, liquidator, or trustee appointed, or has its assets assigned.

9. WARRANTIES; PRODUCT RETURN PROCESS; DISCLAIMER

9.1 LIMITED PRODUCT WARRANTY

(a) Subject to the limitations, exclusions and disclaimers set forth in this Section 9, Bridgelux warrants solely to Customer that Products (excluding Other Products) shall materially conform to the applicable Specifications (or Customer's specifications to the extent expressly accepted in writing and signed by an authorized representative of Bridgelux) for the "Warranty Period" applicable for such Products. The Warranty Period for Products from the date of shipment is set forth in the chart below (subject to any lesser period if so specified in the applicable Specifications for such Product):

Product	Limited Warranty Period
Die Products and Low Power Packaged Products (other than Bridgefond Products)	One Year
Standard Packaged Products	Five Years
Premium Packaged Products	Ten Years
UV Packaged Products	Specific to application
Module Products	One Year
Economy Products	30 Days
E Series Products	Two Years
EB Series Products	Five Years**
IB Series Products	Five Years**
Driver/Control Products	Five Years**
All Other Products	AS IS, No Warranty

** Limited Warranty Period of up to 5 years is limited to and shall not exceed the lowest warranty period of any other component that operates in conjunction with EB Series Products, IB Series Products, or Driver/Control Products including but not limited to LEDs, modules, drivers, power supplies, optics, printed circuit boards, etc. Limited Warranty Period is conditioned upon using EB Series Products, IB Series Products, or Driver/Control Products: (1) in accordance with the relevant product and application specifications; (2) in lighting fixtures rated for 50,000 hours of operation or greater; (3) only in indoor residential or indoor commercial settings (not industrial); and (4) in non-corrosive environment.



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Warranty shall only apply when the failure rate of the EB Series Products, IB Series Products, or Driver/Control Products exceeds a 10% failure rate.

(b) The foregoing limited warranty applies only to Customer and not to indirect purchasers or users or other third parties. No other warranties, other than as set forth herein are made by Bridgelux with respect to the Products. This warranty is not transferable except with the prior written consent of an authorized representative of Bridgelux.

(c) If Customer discovers during the applicable Warranty Period that such Product(s) fail to materially conform to the applicable Specifications ("Non-Conforming Products"), Customer shall promptly request (providing a detailed description of the nature of the defect or non-conformity) and obtain from Bridgelux an RMA for the return of the Non-Conforming Product(s) to Bridgelux. EB Series Products and IB Series Products shall be considered to be Non-Conforming Products only if there is no light output when powered up. Driver/Control Products shall be considered to be Non-Conforming Products only if there is no output under normal drive conditions. Customer shall package the Non-Conforming Products in accordance with Bridgelux's published standards of care and apply the RMA number to the outside of the packaging. Such Non-Conforming Products may then be returned to Bridgelux during the applicable Warranty Period freight prepaid, in accordance with Bridgelux's then-current return policies and procedures. If Bridgelux requires that the entire Customer end product with the Non-Conforming Product installed be shipped to Bridgelux, then Customer shall ship the entire Customer end product with Non-Conforming Product installed to Bridgelux at Customer's expense. All returned Non-Conforming Products shall be subject to inspection by Bridgelux. If Bridgelux confirms that the Non-Conforming Products do not materially conform to the applicable Specifications, Bridgelux will, as Customer's sole and exclusive remedy and Bridgelux's sole and exclusive liability under this limited warranty, either, at its sole discretion, ship the same or functionally equivalent or better replacement Products in exchange for Non-Conforming Products, repair the affected Product using new or previously used parts that are equivalent to new in performance, or provide a refund of the net price paid by Customer to Bridgelux for the affected Product(s); provided that Customer (a) notifies Bridgelux in writing within thirty (30) days after discovery of the failure to materially meet the applicable Specifications; (b) Customer obtains an RMA from Bridgelux prior to returning any Non-Conforming Products; and (c) the Non-Conforming Products are received by Bridgelux no later than two (2) weeks following the last day of the applicable Warranty Period. Any such repair or replacement will not extend the Warranty Period. Remedies of Customer for any breach of warranty are limited to those provided herein to the exclusion of all other remedies, including without limitation, incidental or consequential damages.

(d) Customer will prepay shipping charges (and will pay all duties and taxes) for Products returned to Bridgelux under this limited warranty. For valid warranty claims, Bridgelux will reimburse Customer for prepaid freight charges and any return shipment of replacement Products to Customer will be at Bridgelux's expense.

(e) Bridgelux may make process or materials changes affecting the performance or other characteristics of Products. Products provided to Customer after such a change will meet or exceed the Specifications applicable to the Non-Conforming Products, but may not be identical to such Products.

9.2 LIMITED SERVICE WARRANTY

Bridgelux warrants solely to Customer that Services will be performed in a professional manner consistent with reasonably applicable and generally accepted industry standards for the Service Warranty Period. The warranty period for Services is thirty (30) days from the date of: (i) completion of Services performed under a SOW; or (ii) first initialization of a Service provided by or for Bridgelux in conjunction with a Module Product ("Service Warranty Period"). If Customer notifies Bridgelux of a service warranty deficiency within the Service Warranty Period, Bridgelux will at its sole discretion re-perform the deficient services or provide a refund of the price paid to Bridgelux by Customer for the deficient Services. The foregoing states Customer's sole remedy and Bridgelux's sole and exclusive liability for breach of the foregoing Service Warranty.

9.3 EXCLUSIONS TO WARRANTY

Notwithstanding anything herein to the contrary, the foregoing limited warranties shall not apply to, and Bridgelux shall have no liability or obligation with respect to (A) any Product: (i) damaged by abuse, accident, misuse, neglect, mishandling, alteration, power fluctuations, improper power supply, power surges or dips, induced vibrations, environmental contaminants, repair, disaster, mishandling, transit, acts of God, or improper installation, maintenance, alteration, assembly, unauthorized service or testing; (ii) caused to fail by any product, device, circuitry, controls, software, data, system or component (or any combination thereof) not supplied by Bridgelux, operation or use outside of the applicable Specifications, improper site preparation, failure to follow prescribed operating, maintenance, installation, commissioning, assembling, handling or environmental instructions, processes or services, or any other cause external to the Products (such as network connections, Internet access, or operation of infrastructure software systems) or beyond the range of normal use of the Products (including, without limitation, power fluctuations or electrical override); (iii) purchased under an order designating such Product non-returnable ("NCNR"), excess inventory, surplus equipment, prototype, or similar designation; or provided to Customer as a sample; or (iv) which is a non-Bridgelux branded Low Power Packaged Product; or (B) any Product which is not Bridgelux branded, in which case the Bridgelux limited warranty

applies only to Bridgelux branded components of such Product and Bridgelux passes through to you the warranty, if any, provided by the provider of such non-Bridgelux branded Product; or (C) any operation or use of, or in conjunction with, software provided under a separate license agreement, by or through a third party, or which otherwise is not embedded in a Product ("System Software").

9.4 DISCLAIMER

EXCEPT FOR THE EXPRESS WARRANTIES STATED IN THIS SECTION 9, ALL PRODUCTS, SERVICES, AND ANY OTHER MATERIALS PROVIDED BY BRIDGELUX ARE PROVIDED ON AN "AS IS" BASIS, WITHOUT ANY WARRANTY OR CONDITION OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY. BRIDGELUX'S OBLIGATIONS TO HONOR ANY APPLICABLE WARRANTY AS SET FORTH IN THIS SECTION 9, IS CONTINGENT UPON BRIDGELUX'S RECEIPT OF PAYMENT IN FULL FOR THE PRODUCT(S) ENTITLED TO THE WARRANTY. BRIDGELUX AND ITS SUPPLIERS AND SUBCONTRACTORS EXPRESSLY DISCLAIM ANY AND ALL IMPLIED WARRANTIES OF QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. CUSTOMER ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY WARRANTY THAT IS NOT EXPRESSLY SET FORTH IN THIS SECTION AND FURTHER ACKNOWLEDGES THAT IT HAS NOT PURCHASED PRODUCTS OR SERVICES IN RELIANCE ON ANY WARRANTY OR REPRESENTATION BY ANY PERSON OR ENTITY EXCEPT FOR THE WARRANTIES AND REPRESENTATIONS SPECIFICALLY SET FORTH HEREIN.

10. INTELLECTUAL PROPERTY RIGHTS

10.1 As between Bridgelux and Customer, Bridgelux retains ownership of all patents, trademarks, trade names, inventions, copyrights, know-how, and other intellectual property rights in and to the Products, Services, and related designs and materials now in existence or hereafter developed or acquired by Bridgelux as well as data generated through the operation of the Products or Services. The Products and Services are offered for sale and sold on the condition that such sale does not convey any license, express or implied, under any patent or other intellectual property right of Bridgelux, and all such rights are reserved. Furthermore, Customer agrees that any materials, idea, suggestions, comments, information, or reports ("Feedback") created or communicated by Customer to Bridgelux with respect to the Products and/or Services will be the exclusive property of (together with all rights therein), and are hereby assigned to, Bridgelux. Customer agrees not to infringe, directly or indirectly, any patents of Bridgelux, Inc. or its subsidiaries with any combination or system incorporating a Product sold hereunder.

10.2 No title or right of ownership to any computer software, if any, contained in or supplied with the Products and/or Services, in any form or medium, including but not limited to firmware embedded in read-only memory or other semiconductor devices, is granted to Customer. Except with respect to System Software, if any software is contained in or supplied with the Products and/or Services, Customer shall have the right of a non-exclusive license to use such software solely in connection with the Product or associated Service(s), and Customer shall not reproduce, modify alter, disassemble, decompile, or reverse engineer such software. Customer understands and acknowledges that use of System Software is governed by the terms and conditions set forth in the licensor's separate license agreement and not by these Terms and Conditions. The then-current license agreement for System Software licensed by Xenio Corporation, if any, will be posted at www.xeniocorp.com.

10.3 Customer agrees not to (i) sue, or (ii) bring, prosecute, assist or participate in any judicial, administrative or other proceedings of any kind against Bridgelux or its subsidiaries for infringement of any Customer Patents (as defined below) which occurs during the Immunity Period (as defined below) on account of the manufacture, use, sale, import or distribution of Bridgelux products. "Customer Patents" as used in this Section means all patents throughout the world owned or acquired by Customer. The "Immunity Period" shall commence upon the first to issue and shall terminate upon the last to expire, of any of the Customer Patents (in any jurisdiction)

11. INDEMNIFICATION

11.1 Customer agrees that Bridgelux has the exclusive right to defend or, at its option, settle, and Bridgelux agrees, at its own expense, to defend or at its option settle, any claim, suit or proceeding brought against Customer by a third party alleging that the Products, as delivered under and used in accordance with these Terms and Conditions, infringe any issued United States, European Union, or Japanese patent or trademark as of the date of first shipment of such Product. The foregoing obligations of Bridgelux are conditioned on Customer: (a) having no fault for the applicable claim, (b) promptly notifying Bridgelux in writing of each claim within 10 days from the date Customer received such claim; and (c) cooperating with Bridgelux in, and granting Bridgelux sole control of, the defense or settlement of each claim. Bridgelux shall not be liable for any costs or expenses incurred without prior written authorization. If such a claim is brought or appears likely, Bridgelux may, at its option, modify the affected Product, procure any necessary license, or replace the affected Product, or provide a refund for the affected Product, provided that Customer returns such affected Product, at Customer's expense, in accordance with Bridgelux's standard return procedures. Bridgelux has no obligation to pay for any licenses obtained by Customer. The amount of such refund will be the amount actually paid by Customer



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for the affected Product less, in the case of Module Products, any depreciation based on a four year straight line depreciation schedule. Customer agrees that this section 11.1 does not apply to E Series or Economy Products and that Bridgelux will not defend or indemnify for any actions involving E Series or Economy Products. If any claim, suit or proceeding is brought against Customer by a third party alleging that Customer's products infringe intellectual property rights and Customer uses Bridgelux Products in the accused Customer products, then Bridgelux's obligation to indemnify is conditioned on Bridgelux determining that the infringement results only from the Bridgelux Products on a stand-alone basis and only upon the third party showing clear evidence in a claim chart that actual Bridgelux Products infringe. Bridgelux's indemnification obligations shall be limited to a pro-rata portion as determined by a) the percentage of infringing Customer products that actually use Bridgelux Products, b) the percentage of infringing Customer products that actually infringe the intellectual property rights, and c) the percentage of asserted claims that cover Bridgelux Products on a stand-alone basis.

11.2 Bridgelux has no obligation and assumes no liability, for any claim of infringement arising from: (a) Bridgelux's compliance with Customer's designs, specifications or instructions; (b) Bridgelux's use of technical information or technology provided by Customer; (c) Product modifications by Customer or a third party; (d) Product use not in accordance with these Terms and Conditions or in a manner prohibited by or inconsistent with the Specifications or related application notes; (e) use of the Product with products, services or software not supplied by Bridgelux unless such infringement results solely from the use of the Product without such combination; (f) Other Products; (g) any trademark infringement involving markings or branding not applied by Bridgelux or involving marks involving markings or branding applied at the request of Customer (h) any rights in data or with respect to, or use of a Product with, System Software; or (i) third party chips, sensors, electronics or embedded firmware included as a component of a Module Product. Customer agrees that this section 11.1 does not apply to E Series or Economy Products and that Bridgelux has no obligations and assumes no liability for any claim of infringement involving E Series or Economy Products.

11.3 This Section 11 states the entire obligation and liability of Bridgelux, and Customer's sole and exclusive remedy for any infringement claims or actions with respect to the Product or any part thereof.

11.4 Customer shall defend and hold Bridgelux, its subsidiaries, affiliates, directors, officers, agents, and employees harmless against any and all liabilities, claims, demands, damages, causes of action, losses, expenses, and attorney's fees arising out of or in connection with any claimed infringement of patents, trademarks, or other intellectual property rights arising out of compliance by Bridgelux with Seller's designs, specifications or instructions and from and against any and all liabilities, claims, demands, damages, causes of action, losses, expenses and attorney's fees, whether known or unknown, arising out of Customer's use of the Products.

12. GOVERNMENTAL COMPLIANCE

12.1 If the Products purchased from Bridgelux are to be used in the performance of a government contract or subcontract, no government requirements or regulations shall be binding upon Bridgelux unless specifically agreed to by Bridgelux in writing.

12.2 Customer shall comply fully with all industry safety standards applicable to the manufacture, distribution, or sale of items incorporating the Products. Customer shall also comply fully with all applicable safety-related laws, rules and regulations of any governmental body having jurisdiction to regulate the manufacture, distribution or sale of items incorporating the Products. Customer shall defend and hold Bridgelux, its subsidiaries, affiliates, directors, officers, agents, and employees harmless against any and all liabilities, claims, demands, expense, loss, costs, or damages, causes of action, losses, expenses, and attorney's fees arising out of or in connection with any claimed failure by Customer to comply with such industry standard, laws, rules or regulations or from any bodily injury, illness or property damage resulting from Products manufactured by Customer which incorporate the Products supplied by Bridgelux.

13. LIMITATION OF LIABILITY

EXCEPT FOR DAMAGES FOR PERSONAL INJURY OR TANGIBLE PROPERTY DAMAGE, BRIDGELUX'S LIABILITY FOR BREACH OF, OR RESULTING FROM PRODUCTS SOLD AND/OR SERVICES PERFORMED PURSUANT TO THESE TERMS AND CONDITIONS, SHALL BE LIMITED TO THE REMEDIES SET FORTH IN THE WARRANTY PROVISIONS OF THESE TERMS AND CONDITIONS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL BRIDGELUX BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS AND/OR SERVICES BY CUSTOMER OR ANY OTHER OWNER OR USER OF THE PRODUCT AND/OR SERVICES, NOR FOR ANY LOSS OF BUSINESS, LOSS OF USE, INTERRUPTION OF BUSINESS, LOST PROFITS OR GOODWILL, ANY LIABILITY TO CUSTOMER OR ANY OTHER PERSON, WHETHER AS A RESULT OF BREACH OF CONTRACT, TORT LIABILITY (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, OR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF OR RELATED TO THE PRODUCTS, SERVICES, SOFTWARE, OR THESE TERMS AND CONDITIONS, EVEN IF BRIDGELUX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. BRIDGELUX'S TOTAL CUMULATIVE LIABILITY TO CUSTOMER SHALL IN NO EVENT

EXCEED THE LESSER OF (A) THE PRICE PAID BY CUSTOMER FOR THE PRODUCTS AND/OR SERVICES TO WHICH THE APPLICABLE CLAIM RELATES, OR (B) TEN THOUSAND U.S. DOLLARS (\$10,000) OR THE EQUIVALENT THEREOF.

14. GENERAL

14.1 Notwithstanding anything to the contrary, Bridgelux will not be liable for performance delays or for any delay in delivery or failure to fulfill its obligations under these Terms and Conditions due to causes beyond its reasonable control, which includes without limitation, strike, lockout, riot, criminal acts, war, fire, act of God, man-made or natural disasters, epidemic medical crises, accident, technical difficulties, failure or breakdown of machinery or components necessary for order completion, acts of omission of the Customer, operational disruptions, materials shortages, delay in delivery or transportation, inability to obtain labor or materials through its regular sources, inability to obtain or substantial rises in the price of labor or materials or manufacturing facilities, curtailment of or failure to obtain sufficient electronic or other energy supplies, interruption of public or private utilities, networks, Internet access or System Software, compliance with any law, regulation, standard, order or direction, whether valid or invalid, of any governmental authority or instrumentality thereof, or due to any circumstances or any causes beyond its reasonable control. In the event of any such delay, performance of the affected obligation shall be suspended for a period of time equal to the time of such delay save that in the event that the delay continues for more than sixty (60) days, Bridgelux may elect to terminate any Orders with immediate effect without incurring any liability.

14.2 Any notice required or permitted to be given hereunder shall be in writing and shall be deemed to be sufficiently given if sent by registered air mail, overnight express carrier, postage prepaid, addressed to the parties at the addresses set forth in the purchase order. Such notice shall be deemed to have been given two (2) days after deposit in the mail.

14.3 Customer agrees that Bridgelux may subcontract the Services to third parties. Customer authorizes Bridgelux to disclose all information to the subcontractor necessary for such performance of Services by the subcontractor.

14.4 Customer will provide VAT-ID numbers to support VAT exemptions of intra-community supplies where appropriate as governed by national and European legislation and Customer will notify Bridgelux immediately if the VAT-ID number provided becomes invalid or is changed or amended in any way. Bridgelux may have to retrospectively charge VAT to Customer in the event that VAT has been incorrectly exempted due to Customer's failure to notify Bridgelux of the invalidation or change of VAT-ID number.

14.5 Customer may not assign any rights or obligations under these Terms and Conditions without Bridgelux's prior written consent. These Terms and Conditions shall be binding upon and shall inure to the benefit of the party's successors and permitted assign of the parties.

14.6 Customer acknowledges and agrees that the Products and technical data or information provided hereunder may be subject to United States and/or other national or international export control and/or import laws and regulations and/or laws and regulations limiting the export of certain products to specified countries (e.g., embargo regulations). Bridgelux shall not be obligated under these Terms and Conditions to export, transfer or deliver any products or related materials and technical information to Customer if prohibited by applicable law or until all necessary governmental authorizations have been obtained by Customer. Bridgelux shall in no event be liable for any expenses or damages resulting from failure to obtain or delays in obtaining any required government authorizations. Customer agrees to comply strictly with all such laws and regulations and obtain all required licenses to export, re-export, or import the Products and technical data and information provided hereunder.

14.7 These Terms and Conditions will be governed by the laws of the State of California without regard to any conflict of laws principles that would require the application of the laws of a different jurisdiction. Customer and Bridgelux expressly agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to these Terms and Conditions or to any transaction hereunder.

14.8 These Terms and Conditions are prepared in the English language only, which language will be controlling in all respects. Any translations of these Terms and Conditions into any other language are for reference only and will have no legal or other effect.

14.9 Any dispute between the parties arising out of or relating to these Terms and Conditions shall be commenced in a state or federal court in Alameda County, California, and Customer and Bridgelux irrevocably and expressly consent to the jurisdiction and venue of such courts and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such action, suit, or proceeding brought in any such court has been brought in an inconvenient forum.

14.10 Except with regard to Customer's obligations to pay money or to pay or reimburse Bridgelux for taxes, all disagreements or controversies of any kind whether claimed in tort, contract or otherwise, either concerning these Terms and Conditions or any other matter whatsoever must be brought within one (1) year after the accrual of the disagreement or controversy.



BRIDGELUX STANDARD TERMS AND CONDITIONS OF SALE

14.11 The failure by Bridgelux to enforce at any time any provision(s) of these Terms and Conditions will in no way be construed as a waiver of such provision(s). If any provision of these Terms and Conditions is held unenforceable as written, the remainder of these Terms and Conditions will remain in effect and the unenforceable provision will be limited or eliminated to the minimum extent necessary so that these Terms and Conditions will otherwise remain in full force and effect and enforceable. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not be applied in connection with the construction or interpretation of these Terms and Conditions.

14.12 The parties have required that these Terms and Conditions and all documents relating or attached hereto be drawn up in English, which language will be controlling in all respects. Any translations of these Terms and Conditions into any other language are for reference only and will have no legal or other effect. Any notice, which is required or permitted to be given by one party to the other under these Terms and Conditions, will be in the English language. *Les parties ont demandé que cette convention ainsi que tous les documents qui s'y rattachent soient rédigés en anglais, langue qui aura préséance à tous égards. Les traductions de cette entente dans une autre langue sont à titre de référence seulement et n'ont aucune valeur, juridique ou autre. Tout avis donné par une partie à l'autre et requis ou autorisé en vertu de la présente entente sera en langue anglaise.*

14.13 These Terms and Conditions constitute the entire agreement between Bridgelux and Customer, and supersede any previous communications, representations or agreements between the parties, whether oral or written, and apply to all quotations, purchase orders, and acknowledgements relating to the Products and/or Services. ACCEPTANCE OF ANY ORDER BY BRIDGELUX IS MADE ONLY ON THE EXPRESS CONDITION THAT THESE TERMS AND CONDITIONS SHALL GOVERN. BRIDGELUX'S FAILURE TO OBJECT TO PROVISIONS CONTAINED IN ANY COMMUNICATION FROM CUSTOMER WILL NOT BE DEEMED A WAIVER OF ANY PROVISION HEREIN. ANY ADDITIONAL OR DIFFERENT TERM PROPOSED BY CUSTOMER SHALL BE DEEMED MATERIAL, IS OBJECTED TO, AND IS HEREBY REJECTED UNLESS SPECIFICALLY ACCEPTED IN WRITING BY BRIDGELUX. ANY CHANGES IN THESE TERMS AND CONDITIONS MUST BE AGREED IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF BRIDGELUX BEFORE BECOMING BINDING. These Terms and Conditions shall be applicable whether or not they are enclosed with the Products sold, and/or Services provided, hereunder.

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