General Conditions of Purchase

I. Order and Acknowledgement of Order

1. These terms and conditions (the "General Terms and Conditions") are made part of this purchase order, and acceptance of this Purchase Order by Supplier is expressly limited to the terms hereof.
2. Contractor ("Supplier") shall either reject or confirm in writing a purchase order ("Acknowledgement of Order") of Infineon Technologies Americas Corp. ("Purchaser") within 5 (five) working days upon receipt of such purchase order. If Purchaser receives from Supplier neither a confirmation nor a rejection within the time period set forth above, the purchase order shall be deemed to be confirmed by Supplier. Purchaser shall be entitled to cancel the purchase order within 5 (five) working days upon receipt of the purchase order by Supplier if Supplier fails to confirm or reject the purchase order within said time period.
3. If the Acknowledgement of Order differs from the purchase order, it shall be binding on Purchaser only if and to the extent Purchaser has accepted such Acknowledgement of Order in writing. Any general conditions of Supplier shall be binding on Purchaser only insofar as they are consistent with Purchaser's conditions or have been accepted by Purchaser in writing. The acceptance of supplies or services of any nature ("Deliverables") or the making of payments shall not imply acceptance of any conditions.
4. Changes or amendments to the purchase order shall only become effective if confirmed by Purchaser in writing.
5. Purchaser hereby objects to any other additional terms and conditions that are contained in any ordering documents provided by Supplier.
6. For the purpose of this General Terms and Conditions "Affiliated Companies" shall mean any corporation, company, or other entity, which: (i) is Controlled by a Party hereto; or (ii) Controls a Party hereto; or (iii) is under common Control with a Party hereto. For this purpose "Control" means that more than fifty percent (50%) of the controlled entity's shares or ownership interest representing the right to make decisions for such entity are owned or controlled, directly or indirectly, by the controlling entity.

II. Licences

1. Insofar as Deliverables consist of and/or comprise software, documentation and/or specifications, Supplier grants to Purchaser and affiliated companies of Purchaser a non-exclusive, transferable, worldwide and timely unlimited right
   a) to modify (including the creation of derivative works) such Deliverables (for software provided the software was delivered in source code);
   b) to use and/or reproduce such (modified) Deliverables;
   c) to distribute (including lease) and/or make available to the public such (modified) Deliverables, provided the intended use of such Deliverables is the use integrated in and/or in connection with Purchaser hardware;
   d) to have the rights granted under II. para. 1 a), 1 b) and/or 1 c) exercised by persons providing services related to (modified) Deliverables and/or Purchaser hardware to persons licensed under II para. 1.; and/or
   e) to sublicense the rights granted under II para. 1 a), 1 b), 1 c) and/or 1 d) to their respective distributors and/or customers (both direct and indirect), provided the intended use of such Deliverables is the use on and/or in connection with Purchaser hardware.
2. All sublicenses granted pursuant to II. 1. e) shall provide appropriate protection for Supplier's intellectual property rights to such Deliverables by using equivalent provisions for the sublicense as Purchaser uses to protect its own intellectual property.

III. Time of Performance; Late Performance

1. Time is of the essence in the performance of any deliveries and deliveries shall be made both in the quantities and at times specified in Purchaser's schedules. For the purpose of determining the timeliness of supplies or of Supplementary Performance pursuant to VIII para. 2, the relevant point in time shall be the date of receipt at the point of destination specified by Purchaser. For the purpose of determining the timeliness of supplies which include installation or erection and for the performance of services the relevant point in time shall be the date of acceptance by Purchaser.
2. Supplier shall not be entitled to deliver or perform the Deliverables before the agreed delivery or performance date, unless Purchaser expressly agreed to such delivery or performance in writing in advance.
3. If a delay in the Deliverables or a Supplementary Performance pursuant to VIII para. 2 is expected to occur, Purchaser may require Supplier to ship the Deliverables by a faster method than originally specified at Supplier's sole expense. Purchaser reserves the right without liability and in addition to its other rights and remedies, to terminate this purchase order by notice effective when received by Supplier, as to stated Deliverables not yet shopped or services not yet rendered, to purchase substitute Deliverables or services elsewhere and charge Supplier with any loss incurred.
4. In addition, if Supplier fails to meet the agreed delivery or performance date for reasons for which Supplier is responsible, Purchaser shall be entitled, without prejudice to its statutory rights, to charge a contractual penalty amounting to 0.3 % (three tenths percent) of the total amount of the contract per each working day of said delay and not exceeding a maximum of 10 % (ten percent) of this amount. If no reservation is declared at the time of acceptance of the Deliverables or Supplementary Performance pursuant to VIII para. 2, Purchaser shall nevertheless be entitled to claim the contractual penalty until the final payment.

IV. Delivery; Transfer of Risk; Shipment; Place of Performance; Export Control; Customs

1. Any deliveries shall be made DAP pursuant to the Purchase Order according to Incoterms 2010 unless agreed otherwise.
2. The risk of loss of or damage to supplies which include installation or erection and to services shall pass onto Purchaser upon time of acceptance by Purchaser and to other supplies at the time of receipt by Purchaser at the point of destination specified by Purchaser, unless Purchaser and Supplier agreed otherwise.
3. Unless agreed otherwise, shipping costs shall be charged to Supplier. In case Incoterms 2010 are agreed that oblige Purchaser to bear the total or part of the freight costs, shipment shall be effected in the cheapest manner unless otherwise specified by Purchaser. Extra costs incurred due to failure to conform to a shipping specification shall be borne by Supplier. In case Incoterms 2010 are agreed that oblige Supplier to bear all freight costs, Purchaser shall be entitled to determine the mode of shipment. Any extra costs incurred for expediting shipment to meet delivery shall be borne by Supplier.
4. Shipments of Deliverables for use in a clean room shall be effected in a clean room packaging labelled with the part number and part name.
5. Each shipment shall contain packing slips and dispatch notes indicating contents, purchase order number and quantity.
6. Supplier shall inform Purchaser before or upon delivery about any applicable export or re-export restrictions and regulations and the applicable export control classification numbers (including the ones for the USA) applicable to the Deliverables, information, software or technology supplied by Supplier. In addition, Supplier shall inform Purchaser of any documents to be provided by Purchaser, such as an end-use certificate, without undue delay after conclusion of the Contract. Supplier shall implement effective measures to ensure compliance with the applicable anti-terrorism regulations and foreign trade and payment laws. Supplier shall provide Purchaser before or upon delivery with any customs data required in accordance with applicable customs and trade related laws and regulations requiring, amongst other things, clear product descriptions, Harmonized System Codes (HS Codes), country of origin (in the two digit ISO code) and customs value. Such data shall be provided on every invoice. Supplier shall further provide a declaration of preferential treatment, if applicable to the Deliverables.
   Upon request of Purchaser, Supplier shall provide Purchaser with a long term shipper's declaration concerning the requested Deliverables. Supplier shall be liable for the correctness of all provided data. If through governmental anti-dumping measures penalty duties are imposed on Deliverables upon the import in the receiving country, Supplier shall not be entitled to deliver such Deliverables, unless Purchaser expressly agreed to such deliveries in writing in advance.
   In cases, where the shipping-address is different to the billing-address and the goods are subject to export authorization when being exported out of the relevant country, Supplier shall inform Purchaser upon delivery accordingly and provide all relevant shipping data, as in such case, Purchaser shall act as Exporter of Records (EOR) according to the applicable customs and export control laws.
   Supplier is advised that its performance of this purchase order may involve the use of or access to articles, technical data or software that is subject to export controls under 22 United States Code 2751 – 2796 (Arms Export Control Act) and 22 Code of Federal Regulations 120-130 (International Traffic in Arms Regulations) or 50 United States Code 2401 – 2420 (Export Administration Act) and 15 Code of Federal Regulations 768 – 799 (Export Administration Regulations) and their successor and supplemental laws and regulations. Supplier agrees that it will not export, re-export, sell, resell or transfer any Buyer data or any export-controlled commodity, technical data or software (i) in violation of any law, regulation, order, policy or other limitation imposed by the United States (including the US Export Administration regulations) or any other government authority with jurisdiction or (ii) to any country for which an export license or other governmental approval is required at the time of export, without first obtaining all necessary licenses or equivalent.
   Supplier covenants that all of its activities under or pursuant to this purchase order shall comply with all applicable laws, rules and regulations, including but not limited to, as applicable, the U.S. CAN-SPAM Act of 2003, U.S. Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and any similar laws in the jurisdictions in which Representative conducts business.
7. Unless the Incoterm DDP is agreed, Purchaser is responsible for the performance of the import customs clearance. In such case, Purchaser will not refund Supplier or Supplier's service provider any customs duties or service fees when importing or exporting goods. In case the Incoterm DDP is agreed, Supplier is responsible for the export and the import customs clearance and shall bear all related costs.
   In case the Purchase Order refers to the delivery of goods and services, the customs invoice of Supplier shall show the value of goods separately from the value of the services performed or to be performed. In the customs invoice, the services and goods shall be described in detail, including the place of performance.
   In case Supplier cannot show the value of goods and services separately in the customs invoice, Supplier shall supply the goods according to the Incoterm DDP.
8. Overdeliveries are subject to prior written confirmation of Purchaser.

V. Invoices

Invoices shall indicate the purchase order reference and the numbers of every single item. Invoices shall not be payable until this information is complete. Copies of invoices shall be marked as such.

VI. Payment; Taxes

1. Unless agreed otherwise, payment shall be effected and fall fall due and payable within 60 (sixty) days net.
2. The term of payment shall start with the date the Deliverables have been fully effected and a duly issued invoice has been received by Purchaser. Insofar as Supplier is obliged to provide material tests, test certificates, quality related or other documents, the term of payment shall only start with receipt of all such documents by Purchaser. In case of any delivery or performance before the agreed delivery or performance date, the payment term shall start with the agreed delivery or performance date or from receipt of the duly issued invoice, whichever date is later. Discounts shall also be deductible if Purchaser offsets payments against receivables or withholds payments of a reasonable amount due to a defect in Deliverables; the payment term shall start with the complete removal of the defect.
3. Payment of Deliverables shall not be construed as an implied admission that the Deliverables comply with contractual terms.
4. Except for California Sales and Use Tax, if applicable, the price for the Deliverables covered by this purchase order includes all taxes, fees, excises or charges which are now or may hereafter be imposed (whether by Federal, State, Municipal or other public authority) with respect to the manufacture and sale of such Deliverables to be rendered by Supplier hereunder. Supplier shall separately state on its invoices the amount of California Sales and Use Tax applicable to the sale of the goods covered by this purchase order. Property and inventory taxes shall be borne by the party holding title to the goods.

VII. Inspection of Incoming Deliverables

1. Upon receipt of the Deliverables, Purchaser shall without undue delay inspect all incoming Deliverables and check whether they correspond to the quantity and type ordered and whether there are any externally visible transport damage or other externally visible defects.
2. If Purchaser discovers a defect during the abovementioned inspections it shall notify Supplier thereof. This shall also apply if Purchaser discovers a defect at a later date.
3. Notifications of defects may be lodged within one (1) month after delivery or performance of the Deliverables or, where the defects are first noticed during working or processing or first use, within one (1) month after they were first detected.
4. Purchaser shall not be under any commitment to Supplier to make any more inspections and notifications than those specified above.

VIII. Warranty

1. The warranty period shall be 3 (three) years, unless the relevant laws and regulations provide for a longer warranty period. The warranty period shall commence with the transfer of risk pursuant to IV para. 1.
2. If defects are detected prior to or upon the transfer of risk or during the warranty period, Supplier shall, at Purchaser's sole option and discretion, either correct such defects at his own expense, or provide new Deliverables free of defects ("Supplementary Performance"). Purchaser's choice shall be made at reasonable discretion.
3. If the Supplementary Performance fails within a reasonable period of time to be set by Purchaser, Purchaser shall be entitled to withdraw from all or part of the Contract without paying compensation or demand a reduction of price or, at Supplier's expense, perform himself or have performed repairs or replacements and claim damages instead of performance of the Contract. .
4. Purchaser shall be entitled to carry out repairs or have them carried out at Supplier's expense without setting a deadline if Supplier is in delay with the delivery of the Deliverables.
5. The same applies in the event that immediate repairs are in Purchaser's interest to avoid delays by Purchaser or because of any other urgency.
6. Claims under the above warranty provisions shall lapse one (1) year from the time Supplier is notified of a defect, however in no event before the expiration of the warranty period as set forth in VIII para. 1.
7. The foregoing shall not limit any further or other rights or claims of Purchaser provided by applicable law.
8. In case Supplier carries out Supplementary Performance pursuant to VIII para. 2, for these Deliverables the full warranty period set forth in VIII para. 1 shall start anew.
9. Defective Deliverables shall be returned at Supplier's expense and risk.

IX. Subcontracting to Third Parties

Subcontracting to third parties shall not be permissible without Purchaser's prior written consent. In case of subcontracting without Purchaser's prior written consent, Purchaser shall be entitled to withdraw from all or part of the Contract and to claim damages.

X. Material provided by Purchaser

1. Material provided by Purchaser to Supplier shall remain the property of Purchaser and shall be clearly marked and stored separately at no cost for Purchaser. The material shall only be used for Purchaser's purchase orders. Supplier shall compensate Purchaser for depreciation in value or loss. This shall also apply to material provided for and on Supplier's account for a specific Purchase Order.
2. Supplier shall process or transform the material for Purchaser who shall become the direct owner of the new or transformed item. If this is prohibited by law, Purchaser and Supplier agree, that Purchaser shall at all times during processing or transformation become the owner of the new item. Supplier shall apply due and proper care in keeping the new item at no cost to Purchaser.

XI. Tools, Patterns, Samples, Secrecy

1. Tools, patterns, samples, models, sections, drawings, standards, forms, documents and gauges, etc. provided by Purchaser to Supplier, as well as items made together with or for Purchaser, shall not be passed on to third parties nor used for purposes other than those specified in the purchase order without Purchaser's prior written consent. They shall be safeguarded against unauthorized inspection or use. Subject to any further rights, Purchaser shall be entitled to demand their return to Purchaser, if Supplier violates this clause.
2. Supplier is not entitled to disclose information to third parties received from Purchaser, unless such information is of a general nature or was otherwise lawfully in his possession. Where Purchaser has agreed to purchase orders being passed on to third parties, corresponding confidentiality obligations shall be imposed on such third parties in writing by Supplier.

XII. Insurance

Supplier is obliged to ensure transit insurance according to the agreed risk transfer. Insurance required hereunder shall be with companies licensed to do business in the state(s) or country(s) where the Services are to be performed and maintained during the policy terms with an A.M. Best rating of A-VII or better.

XIII. Assignment of Receivables

No receivables shall be assigned without Purchaser's prior written consent.

XIV. Special Right of Termination; Rescheduling & Cancellation

If Supplier ceases payment, a provisional administrator in insolvency is appointed or insolvency proceedings are initiated, Purchaser shall be entitled to give notice to terminate the purchase order in full or in part or to withdraw from the purchase order. In such a case Purchaser shall be entitled to use available equipment or Deliverables

which have already been provided by Supplier in order to continue the work, in return for appropriate payment.
Purchaser may cancel this purchase order for convenience in whole or in part or reschedule any delivery including method of shipment at any time prior to shipment of the Deliverables or the commencement of any services. Purchaser shall not be subject to any charges or other fees as a result of such termination, cancellation, or rescheduling event.

XV. Compliance with Laws; Corporate Social Responsibility; Environmental Protection, Safety and Health (ESH); FCPA

1. Supplier shall comply with all laws, rules and regulations applicable (including in the country of origin and the country of destination) to the manufacture, sale and supply of the Deliverables or otherwise in performance of the contract, including without limitation laws, rules, and regulations regarding labor standards, safety and health, and protection of the environment. In addition, Supplier shall ensure that third parties according to Section X of these General Terms and Conditions comply with such laws, rules, and regulations.
2. Furthermore, Supplier shall comply with the currently applicable version of the Supplier Code of Conduct of Purchaser available on Purchaser's website through the following link: www.infineon.com/Procurement. Purchaser will notify Supplier in written or electronic form (e.g. through a web tool) of any updated applicable version of the Supplier Code of Conduct. Such update shall be deemed to have been agreed by Supplier unless Supplier sends the objection to such update (including an explanation of such objection) in written or electronic form to Purchaser within 15 (fifteen) working days upon its receipt. Supplier shall respect the principles of the UN Global Compact.
3. Purchaser has become a member of the Responsible Business Alliance ("RBA") and has adopted the RBA's Code of Conduct ("RBA Code"), which is available at http://www.responsiblebusiness.org/code-of-conduct/ . Supplier acknowledges the Supplier Code of Conduct of Purchaser and the RBA Code and agrees to comply with, and implement, the requirements of each, as amended from time-to-time by Purchaser. Notwithstanding anything to the contrary herein, Supplier shall give Purchaser and/or a third party access to it facilities, personnel, records reasonably required to assess and audit Supplier's compliance with the Supplier Code of Conduct of Purchaser and the RBA Code. Supplier shall not: (i) request or encourage, directly or indirectly, any Supplier personnel to furnish false or incomplete information in connection with any assessment or audit or (ii) take any retaliatory action any Supplier personnel interviewed. Supplier will immediately implement corrective action to remedy any non-conformance with the Supplier Code of Conduct of Purchaser and/or the RBA Code.
4. Supplier shall comply with the applicable ESH requirements and requirements regarding the employment of foreign personnel during the performance and fulfilment of the Contract and at its cost be responsible for providing and securing any relevant permits or licenses required by applicable law.
5. In case that the Deliverables are classified as hazardous according to the latest version of the CLP regulation (EC) 1272/2008, Supplier shall be obliged to put the applicable labelling in place. Prior to the first delivery Supplier shall provide Purchaser with a Material Safety Data Sheet (MSDS) according to the latest version of the REACH regulation (EC) 1907/2006. In case of any changes, an updated MSDS that highlights the changes shall be provided to the relevant purchasing department of Purchaser by Supplier. On request, Supplier shall provide Purchaser with any additional information necessary to guarantee appropriate ESH measures. Radioactive substances shall be declared in advance. Supplier shall comply with any legal requirements related to dangerous goods including the European Dangerous Goods Transport Requirements (ADR). In this respect, Supplier shall pay attention to the fact that labelling according to ADR can deviate from the hazardous substances labelling according to the latest version of the CLP regulation (EC) 1272/2008 and that the respective labels for dangerous goods are in place.
6. Supplier shall not be entitled to process any personal data received from Buyer or Buyer's affiliates in any way other than set out in applicable data protection law. If Buyer and/or a Buyer affiliate transfers personal data to Supplier, the rights in and to its personal data remain with the data subject (e.g. the Buyer employee). Supplier shall process the personal data received from Buyer (and/or its Affiliate) only in accordance with the terms of this agreement. Supplier shall not store such personal data for a period exceeding the period specified by Buyer. Supplier shall ensure, to the maximum extent possible, that Supplier accesses such personal data only on a need-to-know basis to fulfill the task. Supplier shall entrust the processing of personal data only to employees and subcontractors who have been bound to data secrecy when dealing with personal data in accordance with applicable laws. If Supplier engages subcontractors or other business partner, Supplier shall notify Buyer in writing that the subcontractor is working with personal data. Supplier shall not deploy the subcontractor before Buyer's permission. Supplier shall ensure that any approved and announced subcontractor shall comply with all terms and conditions of this Minimum Data Protection Rules prior to such subcontractor performing any services as well as closing appropriate data transfer agreements with Supplier. Supplier shall be responsible for preventing any unauthorized disclosure of personal data to Third Parties. Supplier shall allow the designated Data Protection Officer of Buyer a reasonable period and sufficient access within which to verify compliance by Supplier with the terms of this agreement and all applicable laws. Supplier shall implement appropriate technical and organizational measures in relation to the physical environment, software and personnel to ensure the protection of personal data and the security of the data processing according to applicable laws and Buyer's Supplier IT Security Guideline. Supplier shall bear all costs and expenses incurred in complying with applicable laws. Supplier shall inform Buyer promptly if serious interruption of the ordinary course of business, in case of reasonable suspicion of privacy violations or other irregularities during the processing of Buyer's personal data. Upon termination or expiration of this Agreement, Supplier will return or destroy all personal data of Buyer in its possession in a manner acceptable to Buyer (e.g. to ensure that the destroyed data cannot be recovered). Supplier has to provide a confirmation thereof within a reasonable period after the termination or expiration of this Agreement.
7. Supplier shall comply with Buyer's Supplier IT Security Guide available under www.infineon.com/Procurement . Infineon will notify Service Provider in written or electronic form (e.g. through a web tool) of any updated applicable version of the Supplier IT Security Guide. Such update shall be deemed to have been agreed by Supplier unless Supplier sends the objection to such update (including an explanation of such objection) in written or electronic form to Buyer within 15 (fifteen) business days upon its receipt.
8. For national security and foreign policy reasons, Buyer restricts access to export controlled areas and technical data only to US Persons (as that term is defined under applicable US laws and regulations) or foreign nationals with the appropriate export authority. As such, if a Seller employee requires access to an export controlled area and/or technical data in order to perform his/her job function, Seller will be required to provide Buyer with written certification that the employee is a US Person or has the proper export authority before the employee is granted such access. Failure by Seller to provide written certification shall be deemed a material breach of this Agreement.

XVI. Indemnification; IP Ownership

1. Purchasers disclaims, and shall have no liability for any trademark, trade dress, trade secret, copyright, design or patent infringement, or any other intellectual property right, which may occur, as a result of the sale of Deliverables to Purchaser.
2. Supplier shall indemnify, defend and hold harmless Purchaser from and against all judgements, settlements, losses, damages, liabilities, costs and expenses (including reasonable legal fees) arising from or related to any action, claim or proceeding incurred as a result of any claim asserted by a third party alleging that the Deliverables or their distribution or use constitute an infringement of any patent, copyright, trademark, trade secret or other intellectual property right or the Deliverables have caused any bodily injury, property damage or death.
Supplier agrees that any services and work performed hereunder shall be conclusively deemed to be works-for-hire and as such all title and rights in such works shall exclusively belong to Purchaser.

XVII. Declaration of Conformity (CE) and Radiation Safety

In case that the point of destination is located in a country within the European Union, Supplier shall ensure and warrants that the Deliverables, if they consist of or comprise units, machines or equipment (or parts thereof) pursuant to the applicable laws and regulations, comply with the applicable CE requirements and are, if required, CE certified,. Supplier shall provide a corresponding declaration of conformity to Purchaser. In case that any laws or regulations regarding to radiation safety requirements apply to the Deliverables, Supplier shall provide Purchaser with the whole set of information necessary to obtain the respective radiation safety permits immediately after conclusion of the Contract.

XVIII. Public Announcement, Press Release

Supplier shall not make any public announcement, press release, industry trade magazines announcement or other form of communication to the press indicating the selection of Supplier and system model by Purchaser without prior written consent of the purchasing department and the public relations manager of Purchaser.

XIX. Additional Provisions

Where points arise that are not covered by these conditions, the legal provisions shall apply.

XX. Venue, Applicable Law

This General Terms and Conditions and any purchase orders thereunder shall be governed by and construed in accordance with the laws of the State of California, without regard to its conflict or choice of law principles. The application of the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 shall be excluded. Any controversy or claim arising out of or relating to this purchase order, or any breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

XXI. NO IMPLIED WAIVER

No express or implied waiver by of either party of any breach of any term, condition or obligation of this purchase order shall be construed as a waiver of any subsequent or continuing breach of that term, condition or obligation or of any other term, condition or obligation of this purchase order of the same or of a different nature. Any waiver, consent, or approval of any kind regarding any breach, violation, default, provision or condition of this purchase order must be in writing and shall be effective only to the extent specifically set forth in such writing.

XXII. RELATIONSHIP OF THE PARTIES

The parties are independent contractors and nothing in this purchase order is intended or shall be construed as one Party being an agent, partner, or joint venturer of the other party.

XXIII. GOVERNMENT CONTRACTS

In the event the purchase order this General Terms and Conditions are attached thereto bears a government contract or subcontract number on the face hereof, such purchase order and the contract resulting therefrom shall be subject to all applicable provisions of, and will contain all clauses and agreements required by, the terms of any government contract or subcontract under which or for which this purchase order is issued, including the Armed Services Procurement Regulations.