CYPRESS SEMICONDUCTOR CORPORATION
TERMS AND CONDITIONS APPLICABLE TO PURCHASE ORDERS
Revised December 4, 2009

1. **APPLICABILITY**. The terms and conditions in this document apply to all purchase orders issued by Cypress Semiconductor Corporation or its subsidiaries ("Cypress" or "Buyer"). This document and the purchase order are collectively referred to as the "Order." The products and services to be provided under the Order are collectively referred to as the "Products." In the event of a conflict between the terms of this document and the terms specified on the face of a purchase order, the terms on the face of the purchase order shall apply to the extent of the conflict. The terms and conditions of the Order are the exclusive and binding agreement between Buyer and the seller or service provider ("Seller") governing the purchase of the Products specified on the face of the purchase order. Such terms and conditions shall be deemed accepted by Seller when (a) the purchase order is accepted by acknowledgement, or (b) Seller ships Products to Buyer, or (c) other commencement of performance by Seller. BUYER'S PURCHASE OF PRODUCTS FROM SELLER IS MADE CONDITIONAL ON SELLER'S ASSENT TO THE TERMS AND CONDITIONS IN THIS ORDER.
2. **MODIFICATIONS.** ADDITIONAL OR DIFFERENT TERMS PROPOSED BY SELLER, WHETHER IN SELLER'S PROPOSAL, QUOTATION, ACKNOWLEDGEMENT, ACCEPTANCE, SALES TERMS, INVOICE, OR OTHERWISE ("SELLER TERMS"), WILL NOT APPLY UNLESS ACCEPTED IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF BUYER (VICE PRESIDENT OR HIGHER). ACCEPTANCE OF THE PRODUCTS DELIVERED UNDER THIS ORDER SHALL NOT CONSTITUTE ACCEPTANCE OF ANY SELLER TERMS OR ANY OTHER ADDITIONAL OR DIFFERENT TERMS. IN THE EVENT OF ANY INCONSISTENCY BETWEEN THE TERMS OF THIS ORDER AND ANY SELLER TERMS ACCEPTED IN WRITING BY BUYER, THE TERMS OF THIS ORDER SHALL PREVAIL. TO THE EXTENT THIS ORDER IS DEEMED AN ACCEPTANCE OF A PREVIOUS OFFER BY SELLER, ANY SUCH ACCEPTANCE IS EXPRESSLY CONDITIONED ON ASSENT BY SELLER TO THE TERMS OF THIS ORDER.
3. **PRICES.** If price terms are omitted from the face of the purchase order, the price of the Products shall be the lower of: (a) the price last quoted by Seller; (b) the last price paid by Buyer to Seller for like goods; or (c) the prevailing market price at the time of shipment.
4. **INVOICES.** Invoices shall be submitted to the address shown on the face of the purchase order and shall include the following information: purchase order number, product number, description of products, sizes, quantities, unit prices and extended totals, any applicable taxes, and any other information requested in the Order. A Bill of Lading or express receipt shall accompany each invoice. Payment of the invoice shall not constitute acceptance of the Products and shall be subject to adjustment for errors, shortages, defects, or other failures of Seller to meet the requirements of the Order as well as Buyer's warranty rights. Buyer may at any time set off any amount owed by Buyer to Seller against any amount owed by Seller or any of its affiliated companies to Buyer.
5. **TAXES AND EXPENSES.** Unless otherwise specified, the prices set forth in this Order include all acceptable federal, state and local taxes and customs duties. All such taxes shall be separately stated separately on Seller's invoice. Unless Buyer has provided Seller with a valid resale certificate, or unless Buyer is otherwise exempt, Buyer shall pay any applicable state sales or use taxes levied on the Products, and Seller shall pay all other taxes on or related to the Products and on the shipment thereof to Buyer. Any packing, storage, transportation or delivery charges prepaid or payable to Buyer which are separately stated on Seller's invoice, pursuant to Section 7 ("Packing and Shipment"), shall not be subject to state sales or use taxes. If any of the Products are imported into any other country, Seller will be responsible for all legal, regulatory and administrative requirements associated with any importation and the payment of all associated duties, taxes and fees.
6. **OVERSHIPMENT.** Buyer reserves the option to return at Seller's expense any shipment of products either (a) in excess of the amount stated on the face of the purchase order, or (b) delivered in advance of the agreed upon schedule. Any such shipment will be held at Seller's risk and expense including reasonable storage charges while awaiting return shipping

instructions. Return shipping charges for Products returned under this Section 6 will be at Seller's expense. Products for which return shipping instructions are not received within a reasonable time, may be destroyed or sold by Buyer at public or private sale, and the proceeds, if any, applied toward storage charges. Should Buyer accept Products received in advance of the agreed upon schedule, the date upon which payment is due shall be calculated as if the Products were delivered on the scheduled delivery date.

7. **PACKING AND SHIPMENT.** The shipping terms stated in the purchase order shall govern which party is responsible for shipping costs and any applicable duties. If the purchase order does not specify the shipping terms, the shipping terms shall be DDP the "ship to" address specified by Buyer per Incoterms 2000. Unless otherwise specified, when the price of this Order is based on the weight of the ordered Products, such price is to cover net weight of Products ordered only and no charge will be allowed for boxing, crating, drayage, storage or the packing requirements or any allowance for damage in connection with foregoing unless specified by Buyer. Unless otherwise specified, all Products shall be packed, marked, and otherwise prepared for shipment in a manner which is (i) in accordance with good commercial practice, (ii) acceptable to common carriers for shipment at the lowest rate for the particular products, and (iii) adequate to ensure safe arrival of the Products at the named destination and for storage and protection against weather. Seller shall mark all containers with necessary lifting, handling and shipping information and also, purchase order numbers, date of shipment and the names of the consignee and consignor. An itemized packaging sheet must accompany each shipment unless otherwise specified and must be located on the outside of the first box or crate of the shipment. No partial or complete delivery shall be made under this Order prior to the requested delivery dates unless Buyer has given prior when written consent.

8. **WARRANTY.**

   (a) Seller warrants that all Products provided under this Order, including all components and raw materials incorporated therein, as well as Products corrected under the warranty, shall be free from defects of workmanship, materials and manufacture, may be used safely, shall comply with the requirements of this Order, including compliance with any drawings or specifications applicable to this Order, to any samples furnished by Seller, and where design is Seller's responsibility, be free from defects in design. Seller further warrants that all Products purchased under this Order shall be of merchantable quality and shall be fit and suitable for the purposes intended by Buyer. All goods, including all parts and components thereof, will be neither used nor reconditioned without the prior written consent of Buyer. Seller warrants that it has disclosed to Buyer in writing the existence of any third party software programming code, including without limitation open source code, that is included in or is provided in connection with the Product(s) and that Seller and the Product(s) are in compliance with all licensing agreements applicable to such third party code. The foregoing warranties are in addition to all other warranties, whether express or implied, and shall survive any delivery, inspection, acceptance, or payment by Buyer.

   (b) If any Products provided under this Order do not comply with the warranties specified in this Order or otherwise applicable (such noncompliance referred to as "Defects"), Buyer may at its election (1) require the Seller to promptly correct such Defects, at no cost to Buyer, by repair or replacement (for products) or reperformance (for services) at the location specified by Buyer, or (2) return nonconforming products at Seller's expense or terminate any services, and recover from the Seller the price paid as well as all shipping and other costs. If, after being requested by Buyer, the Seller fails to promptly remedy any Defects as required under (1) above, Buyer may (i) replace, correct, or have corrected such Products and charge to the Seller the reasonable cost thereof, or (ii) immediately terminate this Order for default in accordance with Section 11 ("Termination"), or (iii) use the Defective Product and obtain an appropriate reduction in price. The foregoing remedies are in addition to all other remedies available under this Order or at law or in equity, for damages or otherwise, and shall not be deemed to be exclusive. All warranties shall run to the Buyer and to its customers and suppliers.

(c) Buyer's approval of the Products (including design) shall not relieve Seller of any warranties, nor shall any waiver by Buyer of any drawing or specification requirement for one or more of the Products constitute a waiver of such requirement for remaining Products to be provided under this Order unless so stated by Buyer in writing. The provisions of this Section 8 ("Warranty") shall not limit or affect the rights of Buyer under Section 9 ("Inspection").

(d) Claims by Buyer under this warranty may be made at any time during the applicable warranty period. Unless specifically agreed otherwise in writing, the warranty period for any Product shall extend until the later of (i) expiration of Seller's standard warranty period for the Product, or (ii) 18 months after final acceptance.

9. **INSPECTION.** All Products provided under this Order shall be subject to inspection and test by Buyer to the extent practicable at all times and places during manufacture (or during performance for services) and thereafter, prior to final acceptance. If inspection or test is made by Buyer on Seller's premises, Seller, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of Buyer's inspectors. No inspection or test made prior to final acceptance shall relieve the Seller from responsibility for Defects or other failure to meet the requirements of this Order. No acceptance by Buyer shall be effective with respect to latent defects.

10. **CHANGES.** The Buyer may at any time, by a written notice to Seller ("Change Notice"), and without notice to sureties or assignees, suspend performance under this Order, increase or decrease ordered quantities, or make changes in any of the following: (a) applicable drawings, designs or specifications; (b) method of shipment or packing, and (c) place of delivery. If any such changes cause an increase or decrease in the cost or time required for the performance of this Order, an equitable adjustment shall be made in the price or delivery schedule, or both, and the Order shall be modified accordingly. No claim by the Seller for adjustment under this section shall be valid unless asserted in a writing accompanied by an estimate of the increased costs, within twenty (20) days from receipt by Seller of the Change Notice and, in any event, Seller must submit its final claim in writing with supporting documentation within the twenty (20) days after its initial claim with the cost estimate. Failure of the Seller to either (a) assert an initial claim within twenty (20) days, or (b) submit a final claim within the next succeeding twenty (20) days as provided above, shall constitute an unconditional and absolute waiver by the Seller of any right to make a claim for adjustment. The Change Notice will be binding upon Seller under the original terms and pricing of the Order if no adjustment is made. Buyer reserves the right to verify claims under this section and Seller shall make available to Buyer, upon its request, all relevant books, records, inventories and facilities for its inspection and audit to verify the claim.

11. TERMINATION.

(a) It is agreed and understood that time is of the essence under this Order or any extension thereof. Buyer may, by written notice, terminate this Order in whole or in part if the Seller fails to: (i) provide the Products within the time specified in the Order, or any extension thereof, or (ii) replace or correct defective Products in accordance with Sections 8 and 9 ("Warranty" and "Inspection"), or (iii) perform any of the provisions of this Order or fail to make progress so as to endanger performance in accordance with the terms hereof, including delivery schedules, or (iv) if Seller or its parent company or successor in interest becomes insolvent, admits in writing its inability to pay its debts as they mature, files a voluntary petition in bankruptcy, makes an assignment for the benefit of creditors, if a petition under any bankruptcy or insolvency law is filed against it, or if Buyer reasonably believes that Seller will not be able to pay its debts as they come due.

(b) In the event of termination pursuant to this Section 11, Buyer may procure upon such terms and in such manner as Buyer may deem appropriate, Products similar or substantially similar to those so terminated and Seller shall be liable to Buyer for any reasonable excess cost occasioned thereby, provided that in the event that Buyer elects to terminate only a portion of this Order, Seller shall continue the performance of this Order to the extent not terminated.

(c) If this Order is terminated pursuant to paragraph (a) of this Section 11, Buyer in addition to any rights provided in this Order, may require Seller to transfer title and deliver to

Buyer, in the manner, time and to the extent directed by Buyer, (i) any completed Products and (ii) such partially completed Products and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, or contract rights as the Seller has produced or acquired for the performance of the terminated part, and (iii) Seller shall and hereby does grant Buyer a royalty-free, assignable, non-exclusive license to use Seller's designs, processes, drawings and technical data, and other information and materials reasonably necessary for Seller to make or have made the Products. Seller, upon direction of Buyer, will protect and preserve property encompassed in this paragraph (c) in the possession of Seller. Payment for completed Products delivered to and accepted by Buyer shall be in amount agreed upon by the Seller and Buyer, however, such amount shall not exceed the Order price per unit and Seller's obligation under this section to carry out Buyer's direction as to delivery protection and preservation shall not be contingent upon prior agreement as to such amount.

(d) Failure of Buyer to enforce any right under this Section 11 shall not be deemed a waiver of any right under this Order. The rights and remedies of the Buyer under this Section 11 shall not be exclusive and are in addition to any rights and remedies provided by the law or this Order.

(e) Buyer's performance under this Order shall be excused if rendered impossible or "impracticable". "Impracticable" shall have the same general meaning as in Section 2615 of the California Commercial Code.

12. CANCELLATION.

(a) Buyer may cancel any Order, subject to the following restrictions :

(i) Standard Product. Cancellation of Standard Products without charge requires notice to Seller seven (7) days or more prior to the Order delivery date.

(ii) Nonstandard Product. Cancellation of Nonstandard Products without charge requires written notice to the Seller thirty (30) days or more prior to the Order delivery date.

(iii) Nonstandard Products are goods that Seller can not sell to a third party using reasonable efforts due to customizations performed for Buyer. Standard Products are (1) all goods other than Nonstandard Products, and (2) unperformed services.

(b) In the event that the above cancellation notice requirements are not met, Seller shall immediately stop work and Buyer shall pay the following charges. For Standard Product so cancelled, Buyer will be liable for restocking charge equal to the 10% of the Order price for the cancelled Products. For Nonstandard Products, Buyer will be liable for all costs reasonably incurred or committed for raw materials and work in process that cannot be diverted to other sale or use by Seller, up to the price for the cancelled Products. Seller agrees to divert raw materials, work in process and completed materials from canceled Orders to other sale or use by Seller wherever possible in order to minimize cancellation charges. Payment of cancellation charges shall be due within forty-five (45) days of the date Buyer receives a written invoice for cancellation charges. In no event shall Seller be entitled to incidental or consequential damages, anticipated or projected profits, costs of preparing claims, attorney's fees, costs of tooling or equipment or sales or agents commissions on the terminated product.

(c) Buyer reserves the right to verify claims under this Section 12 and Seller shall make available to Buyer upon its request, all relevant books, records, inventories and facilities for its inspection and audit. In the event Seller fails to reasonably afford Buyer its rights under this Section 12, the Seller shall be deemed to have relinquished any claim asserted under this Section 12.

(d) This Section 12 shall be applicable only to a termination for Buyer's convenience, without any default on Seller's part, and shall not affect or impair any other rights of Buyer to terminate this Order upon Seller's default in the performance hereof.

13. **WAIVER.** The failure of Buyer to enforce at any time any of the provisions of this Order, or to exercise any election or option provided in this Order, or to require at any time performance by the Seller of any of the provisions hereof, shall in no way constitute a waiver of such provisions,

nor in any way to affect the validity of this Order or any part thereof, or the right of Buyer thereafter to enforce each and every such provision.

14. **ENCUMBRANCES; INDEMNIFICATION.** All Products supplied must be free from claims by third parties with respect to royalties, intellectual property rights, mechanics' liens, or other encumbrances or charges. Seller agrees to indemnify and hold harmless the Buyer and Buyer's employees, officers, agents, suppliers, and customers ("Buyer Indemnified Parties") against all claims, demands, costs and actions for actual or alleged infringement or misappropriation of patent, copyright, trademark, trade secret, or other intellectual property rights in the making, use, import, sale or resale, reproduction, display, distribution, modification, or other exploitation of the Products.
15. **COMPLIANCE WITH LAWS.** Seller shall, at its expense, comply with the terms of any contract, obligation, law, regulation, or ordinance ("Law" or "Laws") to which it is or becomes subject, including, without limitation, anti-corruption Laws, import or export Laws, environmental Laws, and any other Laws that govern Buyer's purchase, use, sale, or distribution of Seller's Products as, or as part of, a Buyer product (such as those that implement European Union Directive 2002/95/EC). Without limiting the generality of the foregoing: (a) Seller warrants that no law, rule or ordinance of any government has been violated in the development, manufacture, export, import, sale, or provision of the Products, and will defend and hold the Buyer Indemnified Parties harmless from loss, cost or damage as a result of any such actual or alleged violation. Upon written request by Buyer, Seller agrees to execute and furnish a certification of compliance, which may be on Buyer's form and which shall certify compliance with any applicable laws or regulations. (b) Seller shall procure, maintain and pay for adequate workers' compensation coverage, including employer's liability covering its employees. (c) Seller shall comply with the applicable laws and requirements of the United States, including without limitation, the requirements of the United States Foreign Corrupt Practices Act. (d) Seller is and will remain in full compliance with all applicable export and import laws, regulations, orders, and policies (including, but not limited to, securing all necessary clearance requirements, export and import licenses and exemptions from, and making all proper filings with appropriate governmental bodies and/or disclosures relating to the release or transfer to non-U.S. nationals of technology and software in the U.S., or outside the U.S., release or transfer of technology and software having U.S. content or derived from U.S.-origin software or technology). Seller will use its best efforts to comply with applicable supply chain security recommendations issued by applicable governments and industry standards organizations. Seller will not export, directly or indirectly, any technology, software or commodities of U.S. origin or having U.S. content provided by Buyer or their direct product to any of the countries or to nationals of those countries, wherever located, listed in U.S. export regulations, as modified from time to time, unless authorized by appropriate government license or regulations.
16. **GRATUITIES.** Seller warrants that it has not offered or given and will not offer or give to any employee, agent or representative of Buyer any gratuity with a view toward securing any business from Buyer or influencing such person with respect to the terms, conditions or performance of any contract with or order from Buyer. Any breach of this warranty shall be a material breach of each contract between Buyer and Seller.
17. **NONDISCLOSURE OF CONFIDENTIAL MATTER AND PUBLICITY.** Products purchased pursuant to Buyer's specifications or drawings shall not be quoted for sale to others without Buyer's prior written authorization. Such specifications, drawings, samples, or other data furnished by the Buyer (including any other non-public information pertaining to Buyer's business, product developments, or marketing plans) shall be treated as confidential information by Seller, shall remain Buyer's property and shall be promptly returned to Buyer upon request. Seller will not use or disclose any such confidential information except as necessary to fulfill its obligations under this Order. Nothing in this Section 17 shall restrict Seller's right to use or disclose drawings, specifications, technical information and other data which are or become generally known to the public without breach of this Section 17 by the Seller or which are rightfully obtained from other sources. Any publicity regarding this Order is prohibited without Buyer's prior written approval.

18. **ASSIGNMENTS AND SUBCONTRACTS.** Seller will not assign, transfer or subcontract its rights or obligations under this Order without prior written consent by an authorized representative of Buyer. Any prohibited assignment, transfer or subcontract shall be void.
19. **BUYER-FURNISHED PROPERTY.** All tools, know-how, intellectual property, or other materials furnished by the Buyer for use in the performance of this Order shall remain the property of the Buyer, shall be used by the Seller only in the performance of this Order (and not for any third party or for itself), in accordance with the requirements of the Order relating to such use, and shall be returned to the Buyer when requested upon the completion or termination of the Order to the extent not previously delivered to the Buyer. Seller agrees to exercise reasonable care in the safeguarding and preservation of all Buyer-furnished property and assumes all responsibility for loss, damage or destruction while such property is within its possession or control. Buyer makes no warranties or representations, express or implied, of any nature with respect to such property and expressly disclaims the warranties of non-infringement, merchantability, and fitness for a particular purpose.
20. **IP LICENSE.** Seller, as part consideration for this Order and without further cost to the Buyer, hereby grants Buyer a perpetual, irrevocable, transferable, worldwide, non-exclusive, royalty-free right and license (with the right to sublicense) under its intellectual property rights to import, have imported, use, modify, display, sell, offer for sale and otherwise distribute and exploit products embodying any and all materials and inventions made, conceived or actually reduced to practice in connection with the performance of this Order, solely to the extent reasonably necessary for Buyer and its suppliers and customers to make their intended use of the Products.
21. **INSURANCE.** Seller agrees to procure, maintain, and pay for, and shall require its subcontractors at all times to maintain insurance for, comprehensive product liability, property damage and general liability including blanket contractual coverage insuring claims resulting from the indemnification of Buyer Indemnified Parties as required by this Order and shall maintain proper worker's compensation insurance covering all employees performing obligations under this Order. Upon request of Buyer, Seller shall furnish to Buyer certificates of insurance and any other documents for the purpose of verifying Seller's compliance with this Section 21.
22. **GENERAL INDEMNIFICATION**. Seller hereby agrees to indemnify and hold the Buyer Indemnified Parties harmless from and against any and all claims by third parties for property damage, personal injury, death, expenses (including reasonable attorney's fees), economic loss, foregone profits and losses or damages of any kind whatsoever actually or proximately resulting from the failure of the Products to conform to the warranties, representations, and other obligations contained in this Order.
23. **FORCE MAJEURE.** Neither party shall be deemed in default of this Order to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its fault or negligence, including, without limitation, acts of God, acts of civil or military authority, embargoes, strikes, work stoppages, war, riots, fires, explosions, delays by suppliers, shortages of parts or materials, power failures, or communication line interruptions. Upon any delay described in this section, the time for performance by the party affected by a Force Majeure event shall be extended for a period equal to the time lost by reason of the delay. Notwithstanding the foregoing, Buyer may terminate this Order or any portion thereof if Seller's performance is delayed by more than 5 days by an event described in this section.
24. **NOTICE.** All notices required under this Order shall be in writing and shall be deemed to have been duly given if
    - (i) delivered by hand;
    - (ii) mailed by registered or certified mail;
    - (iii) sent by air courier; or
    - (iv) sent by cable, telex or facsimile, followed within twenty-four (24) hours by notification pursuant to (i), (ii) or (iii) above, in each case to the address first set forth below, or to such other address as a party may specify for itself by written notice under this Order. All such notices shall be effective upon receipt and addressed as follows:

To Buyer at:

198 Champion Court
San Jose, CA 95134
Attn: Vice President Procurement
With a copy to the attention of CFO at the same address

To Seller at:
The address appearing on the face of the purchase order.

25. **SEVERABILITY.** If any of the provisions of this Order shall be or become invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the remaining provisions of this Order. Instead, this entire Order shall be construed as though not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the parties shall be construed and enforced accordingly.
26. **LIMITATION OF LIABILITY.** Buyer's liability arising out of or related to this Order shall not exceed the purchase price of the Products ordered in this Order giving rise to the liability. IN NO EVENT SHALL BUYER BE LIABLE TO SELLER OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES WHATSOEVER, WITHOUT REGARD TO CAUSE OR THEORY OF LIABILITY (INCLUDING, WITHOUT LIMITATION, DAMAGES INCURRED BY SELLER OR SUCH THIRD PARTY FOR LOSS OF BUSINESS PROFITS OR REVENUE, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION OR OTHER PECUNIARY LOSS) ARISING OUT OF THIS ORDER, EVEN IF BUYER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
27. **APPLICABLE LAW.** This Order shall be governed by and construed under the laws of the State of California, without regard to conflict of law principles or the UN convention on contracts for the international sale of goods. The parties consent to personal and exclusive jurisdiction of and venue in the state and Federal courts within Santa Clara Country, California. The following statement is translated in English to "The parties have agreed to draft this Order in English" and is applicable only if Seller is located in Canada: Les parties ont consenti à rédiger ce contrat en langue anglaise.