5.3 Unless the Incoterm DDP is agreed, Infineon is responsible for the performance of the import of the purchase order. 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 DCP.

6. Invoices

6.1 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 issued.

6.2 In the event that Infineon is using an electronic invoicing system, Supplier is obliged to use this invoicing system for all the purchase orders, except for those specified.

7. Payment

7.1 Unless agreed otherwise, payment shall be effected within 60 (sixty) days from receipt of the invoice.

7.2 The term of payment shall start with the date the Deliverables have been fully effected and a duly issued invoice has been received by Infineon. Infineon is obliged to provide payment statements, test deliveries or other similar information and the agreed payment shall commence only after receipt of all such documents by Infineon. In case of any delivery or performance before the agreed delivery or performance date, the payment term shall start with the date of delivery or performance.

7.3 Payment of Deliverables against partial delivery shall be construed as an implied admission that the Deliverables comply with contractual terms. Infineon may set off against any sums due to the Supplier whether under this order or otherwise as permitted by law.

8. Inspection of Incoming Deliverables

8.1 Upon receipt of the Deliverables, Infineon shall have the right to inspect all incoming supplies and check whether they are consistent with Infineon's requirements. In case there are any externally visible transport damage or other externally visible defects.

8.2 If Infineon discovers a defect during the abovementioned inspections it shall notify Supplier immediately. This shall also apply if Infineon has prior knowledge of defects.

8.3 Notifications of defects may be lodged within 1 (one) month after delivery or performance of the Deliverables or, where the defects are first noticed during working or processing or first use, within 1 (one) month after they were first detected.

8.4 Infineon shall not be under any commitment to Supplier to make any more inspections and notifications than those specified above.

9. Warranty

9.1 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.

9.2, for these

9.2 If defects are detected prior to or upon the transfer of risk or during the warranty period, Supplier shall, at Infineon's sole discretion, either correct such defects at his own expense, or provide new Deliverables free of defects ("Supplementary Performance"). Infineon's choice shall be made at reasonable discretion.

9.3 If defects are detected after the transfer of risk within a reasonable period of time_SECT_9.2, Infineon shall be entitled to withdraw from all or part of the Agreement without paying compensation or deducting a proportion of price or, at Supplier's expense, perform himself or provide new Deliverables with or free of defects ("Supplementary Performance"). Infineon's choice shall be made at reasonable discretion.

9.4 Supplier guarantees that no intellectual property rights conflict with the use of the Deliverables for, in the event that Supplier agrees to distribute (including lease) and/or make available to the public such (modified or transformed) Deliverables, Supplier shall indemnify and reimburse Infineon for all damages caused by an infringement or any other violation of intellectual property rights of third parties.

9.5 In case of subcontracting, Supplier guarantees that the Deliverables shall be free of defects and that the subcontractor agrees to indemnify Infineon in the event of any legal claim.

9.6 Supplier is responsible for any defects in the Deliverables, which are due to Supplier's negligence.

9.7 The foregoing shall not limit any further or other rights or claims of Infineon provided by applicable law.

9.8 In case Supplier carries out Supplementary Performance pursuant to Section 9.2, the supplier guarantees that the Deliverables shall be free of defects. Infineon reserves the right to demand compensation or demand a reduction of price or, at Supplier's expense, perform himself or provide new Deliverables free of defects ("Supplementary Performance"). Infineon's choice shall be made at reasonable discretion.

9.9 If Supplier ceases payment, a provisional administrator in insolvency is appointed or insolvency proceedings are initiated, Infineon may set off against any sums due to Supplier whether under this order or otherwise as permitted by law.

10. Liability for the Infringement of Intellectual Property Rights

10.1 Supplier guarantees that the Deliverables do not infringe any intellectual property rights of third parties. Supplier shall indemnify and reimburse Infineon for all damages caused by an infringement or any other violation of intellectual property rights of third parties.

10.2 Supplier guarantees that the Deliverables do not infringe any intellectual property rights of third parties. Supplier shall indemnify and reimburse Infineon for all damages caused by an infringement or any other violation of intellectual property rights of third parties.

10.3 Unless the Incoterm DDP is agreed, Infineon is responsible for the performance of the import of the purchase order. 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 DCP.

11. Subcontracting to Third Parties

11.1 Subcontracting to third parties shall be permissible without Infineon's prior written consent. In case of subcontracting without Infineon's prior written consent, Infineon shall be entitled to withdraw from all or part of the Agreement and to claim damages.

12. Material provided by Infineon

12.1 Material provided by Infineon shall remain the property of Infineon and shall be clearly marked and stored separately at no cost for Infineon. The material shall be safeguarded Infineon, shall not be passed on to third parties nor used for purposes other than those specified in the Agreement without Infineon's prior written consent. They shall be safeguarded

13. Tools, Patterns, Samples, Secrecy, etc.

13.1 Tools, patterns, samples, models, sections, drawings, standards, forms, documents, and gauges, etc. provided by Infineon to Supplier, as well as items made together with or for Infineon and not solely for Infineon's purchase orders or not used for purposes other than those specified in the Agreement without Infineon's prior written consent. They shall be safeguarded against unauthorized inspection or use. Supplier shall indemnify and reimburse Infineon for all damages caused by an infringement or any other violation of Infineon's rights.

14. Insurance

14.1 Supplier is obliged to ensure transit insurance according to the agreed risk transfer.

15. Special Right of Termination

15.1 If Supplier ceases payment, a provisional administrator in insolvency is appointed or insolvency proceedings are initiated, Infineon shall be entitled to give notice to terminate the Agreement.
in full or in part or to withdraw from the Agreement. In such a case Infineon 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.

15.2 In case of the other provisions which Infineon may have to cancel the purchase order, Infineon shall have the further right, without assigning any reason therefore, to terminate any work order, in whole or in part, at any time. Infineon will not be liable to Supplier for any costs for completed items, items in process or materials acquired or contracted for, if such costs were incurred more than the permitted number of days prior to the delivery dates as stated on the face of the purchase order. If none is stated, 30 (thirty) days. If Infineon cancels the purchase order within such time as specified on the face of the purchase order or, if none is stated, 30 (thirty) days, and if the parties cannot agree within a reasonable time upon the amount of compensation to Supplier for such termination, the parties may refer the matter to arbitration. Should Infineon so desire, cancellation charges shall be subject to Infineon's audit at Infineon's expense.

15.3 Infineon's right to terminate the purchase order for cause shall be immediate and without prior written notice, in the event of any of the following by Supplier:

i) a breach of any covenant, representation or warranty hereunder;

ii) in the event of (a) any change in the active management or ownership of Supplier or (b) the sale, transfer or other disposition of all or substantially all of the assets of Supplier or any affiliate, division or unit of Supplier; either of which, in its sole discretion, believes may have an adverse effect on Supplier's ability to fulfill its obligations under the purchase order; or

iii) any proceeding in bankruptcy, reorganization or arrangement for the appointment of a receiver or trustee to take possession of Supplier’s assets or any other proceeding under any law for relief from creditors shall be instituted by or against Supplier (and such proceeding is not dismissed within 60 (sixty) days from the filing date); or (b) if Supplier shall fail to provide the applicable ESH measures. In such a case Infineon shall be entitled to use available equipment or Deliverables and services which have already been provided by the Supplier in order to continue the work, in return for appropriate payment.

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

16.1 Supplier shall comply with all laws, rules and regulations applicable (including in the country of origin, country of receipt, country of shipment, and in the Infineon-identified country of destination, if provided) to the manufacture, sale and supply of the Deliverables or otherwise in performance of the Agreement, 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 11 comply with these laws, rules, and regulations.

16.2 Furthermore, Supplier shall comply with the currently applicable version of the Supplier Code of Conduct available at www.infineon.com/Procurement. Infineon will notify Supplier in written or electronic form 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 Infineon within 15 (fifteen) working days upon its receipt. Supplier shall respect the principles of the UN Global Compact.

16.3 Supplier shall comply with the applicable ESH requirements and requirements regarding the employment of foreign personnel during the performance and fulfilment of the Agreement and shall be responsible for providing and securing any relevant permits or licenses required by applicable law.

16.4 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 Infineon 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 procurement department of Infineon by Supplier. On request, Supplier shall provide Infineon with any additional information necessary to guarantee appropriate ESH measures. Radiotoxic substances shall be declared in advance. Supplier shall comply with any legal requirement related to hazardous 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.

16.5 Infineon and/or any third party authorized by Infineon shall be entitled to conduct audits at Supplier's premises and production sites in order to verify Supplier's compliance with the requirements according to this Section 16.

16.6 In addition to Section 16.5 Supplier shall support any review, audit or investigation duly requested by relevant authorities.

17. 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 Infineon. In case that any laws or regulations regarding radiation safety requirements apply to the Deliverables, Supplier shall provide Infineon with the whole set of information necessary to obtain the respective radiation safety permits immediately after conclusion of the Agreement.

18. Indemnity

18.1 Supplier shall indemnify Infineon against any and all losses, damages, costs, claims, demands, expenses and liabilities whatsoever which Infineon may incur whether directly, or as a result of:

i) personal injury or death of any person or in respect of any loss or destruction or damage to property attributable to any defect in the Deliverables or services which have been provided by Supplier;

ii) any action, claim or demand of any third party by reason of any breach of Supplier of the Agreement or of any terms or obligations of any applicable law or regulation or any other provision relevant to the purchase order or to the goods; and/or

iii) any breach by Supplier of applicable laws in the performance of the purchase order. In case any performance of the purchase order is withdrawn within Infineon's premises, Supplier shall not use or hire anyone in contravention of any applicable laws and regulations in force and shall comply with all safety and security directives of Infineon at all times.

19. Withholding Tax

19.1 Each party will bear and account for its own taxes on its income to the relevant tax authorities. No party shall bear any liability for any taxes of any other party arising in connection with this transaction.

19.2 For payment made to overseas, any withholding taxes applicable under the prevailing laws of the People's Republic of China for payment made hereunder shall be deducted from the payment due to Supplier and the balance of the payment shall be remitted to Supplier. The tax withheld shall be paid to the tax authorities by Infineon on Supplier's behalf and the relevant tax receipts issued by the tax authorities shall be returned by Infineon to Supplier in due course.

20. Applicable Law, Venue


20.2 Any dispute arising from or in connection with the Agreement shall be submitted to the Shanghai International Arbitration Center ("SIAC") for arbitration which shall be conducted in accordance with SIAC's arbitration rules in effect at the time of applying for arbitration. The arbitral award is final and binding upon the Parties. The seat of the arbitration shall be Shanghai, P.R. China. The number of arbitrators shall be one (1) arbitrator. The arbitration proceedings shall be conducted in English. Exhibits and witness testimony may be submitted/given in Chinese without the requirement of a translation.

21. Miscellaneous

21.1 Supplier may not assign the Agreement, transfer its obligations or assign its rights hereunder without the prior written consent of Infineon.

21.2 Supplier understands that Infineon relies on the uninterrupted availability of the Deliverables. Therefore, Supplier may only exercise any right of retention, if and to the extent:

i) its counterclaims are not disputed by Infineon or are finally awarded by a court of competent jurisdiction, and

ii) Supplier has notified such retention in writing at least 10 (ten) days in advance.

Additionally, Supplier may exercise any rights or remedies it may have in connection with or as a result of any dispute with Infineon only in relation to such Deliverables which gives cause to any such dispute.

21.3 None of the rights and remedies granted to Infineon under the Agreement shall be exclusive, and Infineon may exercise all such rights and remedies in relation to any item or group of items and/or any such dispute.

21.4 Supplier shall not make any public announcement, press release, industry trade magazines announcement or other form of communication to the press regarding the collaboration between Infineon and Supplier without Infineon's prior written consent.

21.5 The provisions of the Agreement may not be modified, amended, nor waived, except by a written instrument duly executed by the parties. The requirement of written form itself can only be waived by mutual written agreement.

21.6 The effectiveness of the Agreement shall not be impaired if any provision of the Agreement should be completely or partially invalid or unenforceable. In this case, the parties shall agree on a provision that meets the economical intention of the invalid or unenforceable provision.

The Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all previous communications, discussions, understandings, agreements and negotiations between the parties with respect to such subject matter hereof.