General Conditions for Procurement of Services

1. Acknowledgement of Order
Supplier shall, within two (2) working days from receipt of the order form / (electronic) purchase order (“Purchasing Order”) or other order form issued by Infineon, as the case may be, order any raw materials, components, tools, equipment, machinery, facilities and any other items necessary for the performance of the Services. Supplier acknowledges that time is of the essence. If Supplier fails to cancel or reject the purchase order within the specified time period, Supplier shall undertake to perform the Services in accordance with the Purchasing Order. Supplier shall not 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.

2. Service to be Provided, its Nature and its Requirements to be Met
2.1 The Service to be provided, its nature and its requirements to be met shall be described in the Purchasing Order.

3. Duties of Infineon
3.1 Upon Supplier’s request, Infineon will provide Supplier with the information necessary to render the Services.

4. Acceptance of Services
4.1 For each Service Supplier shall nominate in writing a representative who is well experienced or otherwise suitable for his assignment to perform the Services to be rendered.

5. Remuneration
5.1 Infineon is entitled to accept offers issued by Supplier within (3) three (weeks) from their receipt, unless Supplier specifies a longer time period for its offer.

6. Rights to the Results
6.1 All results (regardless of their form) achieved in the course of and/or in connection with Supplier’s Services including all intellectual property rights (including copyrights) (“Results”) shall become the sole property of Infineon. If Supplier is the owner of any intellectual property rights, Supplier shall transfer such intellectual property rights in full to Infineon within (3) three (weeks) of receipt of an invoice. Supplier shall transfer, assign and license to Infineon all results, know-how, drawings, documentation and data together with the goods or services. This includes, e.g., without limitation, the following: (i) all rights to patents, utility models, utility models, and design rights; (ii) the right to apply for patents and other request for protection; (iii) all rights to patents, utility models, utility models, and design rights; (iv) all rights to confidential information, including technical data and know-how; (v) all rights to trademarks, trade names, trade names, and service marks; and (vi) all rights to copyrights, other than any rights which Infineon does not acquire. Supplier shall provide at its cost and be responsible for securing any labour permits or licenses required by applicable law for performing the Services.

7. Confidentiality, Site-Security, Data Protection and IT-Security
7.1 Supplier shall acknowledge and agree to comply with Infineon’s and Infineon’s suppliers’, subcontractors’ and other third parties’ confidentiality, site-security, data protection and IT-security requirements, including but not limited to the following:

8. Indemnification for Infringement of Proprietary Rights
8.1 Supplier acknowledges, upholds, and agrees to indemnify and hold harmless Infineon, its employees, agents, representatives, successors, assigns, and licensees from and against any and all losses, damages, costs, expenses, and liabilities, and any and all actions, suits, claims, demands, judgments, awards or penalties of any kind, whether by reason of tort, breach of contract or any other cause of action, arising out of any actual or alleged infringement of any patent, copyright, trademark, trade secret, or other intellectual property right by Supplier or by any of Supplier’s subcontractors, agents, representatives, successors, assigns, or licensees.

9. Remuneration, Invoicing and Payment Terms
9.4 The remuneration agreed upon in the purchase order covers all Services to be rendered by Supplier, its employees and any subcontractors as per Section 2.4, and its independent contractor suppliers.

10. Confidentiality, Site-Security, Data Protection and IT-Security
10.1 Supplier shall inform Infineon before or upon delivery about export control classification concerning the protection of Confidential Information, (personal) data or relating to site- or IT-security, including but not limited to the following:

11. Indemnification for Infringement of Proprietary Rights
11.1 Supplier hereby indemnifies, upholds and agrees to indemnify and hold harmless Infineon, its employees, agents, representatives, successors, assigns, and licensees from and against any and all losses, damages, costs, expenses, and liabilities, and any and all actions, suits, claims, demands, judgments, awards or penalties of any kind, whether by reason of tort, breach of contract or any other cause of action, arising out of any actual or alleged infringement of any patent, copyright, trademark, trade secret, or other intellectual property right by Supplier or by any of Supplier’s subcontractors, agents, representatives, successors, assigns, or licensees.

12. Rights to the Results
12.1 All results (regardless of their form) achieved in the course of and/or in connection with Supplier’s Services including all intellectual property rights (including copyrights) (“Results”) shall become the sole property of Infineon. Supplier grants to Infineon and Infineon accepts all right, title and interest in and to the Results. If and to the extent the Results are protected by copyright and if for legal reasons Infineon cannot become the owner of such copyright, Supplier grants to Infineon and Infineon accepts a worldwide, non-exclusive, transferable, unrestricted and unlimited right of use (including the right to sublicense) for all known types of use. If and to the extent the Results make use of preexisting intellectual property rights (including copyrights) of Supplier, its subcontractors and/or any other third party participating in performing the Services as per Section 2.4, Supplier grants to Infineon and Infineon accepts a worldwide, non-exclusive, transferable, unlimited right of use (including the right to sublicense) for all known types of use.
entitled to deliver such products, unless Infineon expressly agreed to such deliveries in advance.

10.4 In case the Services require the shipment of goods, 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 Infineon upon delivery according and provide all relevant shipping data, as in such case Infineon shall act as Exporter of Records (EOC) according to the applicable customs and export control laws.

10.5 Unless the Incoterm DDP is agreed, Infineon is responsible for the performance of the import customs clearance. In such case, Infineon 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 all related costs.

10.6 In case the purchase order refers to the delivery of goods and services, the customs invoice of Supplier shall show the value of the services performed to be or 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.

11. Compliance with Laws; Corporate Social Responsibility; Audit

11.1 Supplier shall and shall not (i) deliver, sell or export goods (including in the country of origin, country of receipt, country of shipment, and in the Infineon-identified country of destination, if provided) to the Services to be performed under the Agreement, including without limitation any goods, products, services, 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 2.4 comply with these laws, rules, and regulations.

11.2 Supplier shall ensure that:

i) Supplier timely pays statutory minimum wages;

ii) Supplier does not use any subcontracts that does not timely pay statutory minimum wages;

iii) Neither Supplier nor its subcontractor is a temporary employment agency that does not timely pay statutory minimum wages; and

iv) Neither Supplier nor its subcontractor is excluded from public procurement procedures.

Upon Infineon’s request in this regard, Supplier shall provide Infineon with all relevant documentation evidencing the absence of any breach of any of the above mentioned obligations Infineon is – notwithstanding any other rights – entitled to exercise in accordance with Section 1.8.2. Infineon and Supplier shall agree on a reasonable period determined by Infineon and upon unsuccessful expiration of such deadline terminate the Agreement.

11.3 From time to time, Supplier shall comply with the currently applicable version of the Supplier Code of Conduct of Infineon available on Infineon's website through the following link: www.infineon.com/procurement. Infineon will notify Supplier in written or electronic form (e.g. through a web tool) of any updates to the 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 Infineon within thirty (30) days or Supplier shall accept the principle of the UN Global Compact.

11.4 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 11.

11.5 In addition to Section 11.4 Supplier shall support any review, audit or investigation duly requested by relevant authorities.

12. Termination of Agreement

12.1 In addition to all of the other rights which Infineon may have to cancel the purchase order, Infineon may have the right to terminate the Agreement, without notice, in whole or in part, at any time. Infineon shall 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 or, if none is stated, thirty (30) days. If Infineon cancels the purchase order within such time as specified on the face of the purchase order or, if none is stated, thirty (30) days, and if the parties do not agree within a reasonable time upon the amount of fair compensation to Supplier for such termination:

i) Infineon will pay the price for all items reasonably completed in accordance with the purchase order and not previously paid for unless said item(s) is part of Supplier’s standard commercial items; and

ii) Infineon will pay a fair and proper proportion of the price for items in process and for all materials acquired or contracted for in anticipation within the time specified on the face of the purchase order for the purpose of fulfilling the purchase order which Supplier is unable to cancel, return or otherwise use in Supplier’s operations.

Should Infineon so desire, cancellation charges shall be subject to Infineon’s audit at Infineon’s expense.

12.2 Infineon will have the 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 of a 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 Infineon, in its sole discretion, believes may have an adverse effect on Supplier’s ability to fulfill its obligations under the purchase order; or

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

13. Indemnity

13.1 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, except out of or in connection with a damage or accident whether or not such damage or accident was solely caused by the Services or achieved results or Supplier has contributed thereto, as long as the damage or accident was not caused shall be held liable by Infineon;

ii) any action, claim or demand of any third party by reason of any breach by Supplier of any agreement or of any terms or obligations of any applicable law or regulation or a contractual provision on the part of Supplier relevant to the purchase order or to the Services; and

iii) any breach by Supplier of applicable laws in the performance of the purchase order.

In case any performance of the purchase order is required within the Infineon’s premises, Supplier shall not use or hire any person or entity in contravention of any applicable laws and regulations in force and shall comply with all safety and security directives of the Infineon at all times.

14. Withholding Tax

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.

15. Venue, Applicable Law


15.2 Any dispute arising from or in connection with the Agreement shall be submitted to the Shanghai International Arbitration Center (“SIHAC”) for arbitration which shall be conducted in accordance with SIHAC’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.

16. Miscellaneous

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

16.2 Supplier understands that Infineon relies on the uninterrupted availability of the Service and the immediate delivery of Results, reports or information. Therefore, Supplier may only exercise any right of retention, if and to the extent its counterclaims are not disputed by Infineon or are finally awarded by a court of competent jurisdiction, and

i) Supplier has notified such retention in writing at least 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 in relation to such individual Service, which gives cause to any such dispute.

16.3 None of the rights and remedies Granted to Infineon under the Agreement shall be exclusive and prevent Infineon from rights and remedies granted under the Agreement or governing law.

16.4 Supplier shall not make any public announcement, press release, industry trade magazine, advertisement or other form of communication to the press regarding the collaboration between Infineon and Supplier. Supplier is also under no obligation to notify Infineon of any such publications.

16.5 The provisions of the Agreement may 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.

16.6 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.

16.7 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 herewith.

Version: Aug. 22
Infineon Semiconductors (Wuxi) Co., Ltd.,