1. Acknowledgement of Order
Supplier shall either respond to Infineon in writing (“Acknowledgement of Order”) a purchase order of Infineon Technologies Taiwan Co., Ltd., 17F, No. 335, Ruiguang Road, Neihu District, Taipei 114063, Taiwan (R.O.C.) (“Infineon”) within 5 (five) working days upon receipt of such purchase order. If Supplier fails to respond to Infineon neither a confirmation nor a rejection alone shall determine the time period set forth above, the purchase order shall be deemed to be confirmed by Supplier. The Supplier shall be deemed to have accepted 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. The purchase order shall be deemed to be withdrawn at Supplier’s risk and Infineon shall not be bound by any change proposed by Supplier without Infineon’s written consent. If both parties agree to a final agreement, it shall constitute a final agreement by both parties to be bound by and comply with all terms and conditions contained in the purchase order as written.

5. Dates, Timelines and Liquidated Damages
5.1 Supplier shall at Infineon’s request and at any time:
   i) report to Infineon the computing resources used;
   ii) in case of a failure of the delivered Services, report to Infineon in writing to a reasonable extent on the current status of the Services.
   iii) Supplier shall provide at its cost and be responsible for securing any labour permits or licenses required by applicable law for performing the Service.

2. Scope and Nature of Service
2.1 The Service to be provided, its nature and its requirements to be met shall be described in the purchase order.
   i) Unless agreed otherwise in the purchase order, Supplier bears the risk that the Service meets all the requirements set forth in the purchase order and requires acceptance by Infineon.
   ii) The purchase order explicitly specifies that Infineon bears the risk of meeting the requirements of the Service and the remediation is based on the provision of the agreed resources, the parties may specify Service levels in the purchase order with certain portions of such remuneration being based on bonus/malus principles.

3. Representations and Undertakings
3.1, any items not explicitly specified in the purchase order as an Infineon provided item, shall be regarded as item to be provided by Supplier. This includes, but is not limited to, information, documentation, data management services and software or hardware facilities only if and to the extent such information is reflected in the purchase order.
3.2 Any item identified in the purchase order as an Infineon provided item shall be deemed to be “as is” without any warranty and Supplier shall not rely on it. However, a reasonable time extension shall be granted to Supplier, if Supplier’s delay is attributable to Infineon provided items. Infineon reserves the ownership to any Infineon provided item. All Infineon provided items are to be provided to Infineon’s specifications and to Infineon’s satisfaction, in a timely manner or termination of the applicable Service, unless otherwise specified in the purchase order.

4. Undertakings to Infineon
4.1 For each Service Supplier shall nominate in writing a representative who is well experienced with Infineon’s IT Security Guide available under http://www.infineon.com/dbwi. Information concerning the requested supplies and services. Supplier shall be liable for the correctness of such information. Supplier shall indemnify and reimburse Infineon for all audit costs and all damages caused by identified deficiencies.
4.2 Rights to the Results
6.1 Rights to the Results (or identified by 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 at the moment the Results are created. Supplier transfers and assigns all Intellectual Property Rights concerning the Results to Infineon and shall not use them in any manner in the future 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, exclusive, transferable, unrestricted and timely 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, exclusive, transferable, unrestricted and timely unlimited right of use (including the right to sublicense) with respect to such intellectual property rights as part of and/or in connection with the Services. Supplier shall keep Infineon apprised of all developments and results that are the subject of this Section 6.1.

6. Rights to the Results
6.1 Supplier shall inform Infineon before or upon delivery about export control classification information, such as Incoterms, clear product descriptions, harmonized system documentation and data together with the goods or services. This includes, e.g., without limitation, identification of applicable export control classification numbers as well as customs documentation. Export control classification information may also include anti-terrorism, harmonized system codes, country of origin, and itemized values, on each invoice, especially in case of consigned materials, equipment or the like. Supplier shall further comply with agreed Incoterms, and also provide preferential treatment declarations conforming to pertinent preferential or free trade agreements, where applicable. Supplier shall further implement effective measures to comply with all applicable anti-terrorism measures. Supplier shall indemnify and reimburse Infineon for all audit costs and all damages caused by identified deficiencies.
6.2 Supplier shall safeguard Infineon’s ownership and license rights in the Results as per Section 6.1 towards its employees, subcontractors and/or any other third party participating in performing the Services as per Section 2.4.
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 accordingly and provide all relevant shipping data, as in such case Infineon shall act as Exporter of Records (OCR) 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 shall bear 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 values 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.

11. Compliance with Laws; Corporate Social Responsibility; Audit

11.1 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 Services to be performed under 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 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 subcontractors that does not timely pay statutory minimum wages;

iii) Neither Supplier nor its subcontractor use 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.

11.3 In case Infineon requests Supplier to provide written evidence in this regard, Supplier hereby represents that it has not committed a breach of any of the above mentioned obligations Infineon is – notwithstanding any other rights - entitled to enforce in accordance with the Agreement and Supplier acknowledges that Infineon is entitled to terminate the Agreement in case of Supplier’s default for a period determined by Infineon and upon unsuccessful expiration of such deadline terminate the Agreement.

11.4 Further, 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. Supplier shall be deemed to have agreed to be bound by this Audit, which update shall be deemed to have been agreed by Supplier unless Supplier sends the objection to Infineon in writing within fifteen (15) calendar days of the date of such notice. Supplier shall respect the principles of the UN Global Compact.

11.5 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 11.

11.6 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 shall have the further right, without assigning any reason therefore, to terminate any work performed, 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 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 agree not to 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 Infineon 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's ability 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 this Agreement, representation or warranty hereunder;

ii) in the event of (a) any change in the active management or ownership of Supplier or (b) 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 other 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 a 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 for a fair and proper proportion of the price.

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 arising 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 of Supplier or Supplier has contributed there to, as long as the damage or accident was not caused solely by Infineon;

ii) any action, claim or demand of any third party by reason of any breach by Supplier of the Agreement or of any terms or obligations of any applicable law or regulation or contractual provision on the part of Supplier relevant to the purchase order or to the Services; 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 required within the Infineon's premises, Supplier shall not use any materials, processes or methods which are in contradiction 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

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

For the avoidance of doubt any withholding taxes which apply to a payment shall be for the account of Supplier but Infineon shall use its best endeavors to assist Supplier to reclaim or reduce such withholding tax. The tax withheld shall be paid to the tax authorities by Infineon and the relevant tax receipts issued by the tax authorities shall be returned by Infineon to Supplier in due course.

15. Venue, Applicable Law


15.2 Any dispute, controversy, difference or claim arising out of, relating to, or in connection with the Agreement, or the breach, termination or invalidity thereof, shall be finally settled by arbitration referred to the Chinese Arbitration Association, Taipei in accordance with the Association's arbitration rules. The seat of arbitration shall be Taipei, Taiwan. The language of arbitration shall be English. The arbitral award shall be final and binding upon the Parties. The number of arbitrators shall be one. 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 that the corresponding retention periods of Supplier are not yet expired.

16.3 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.

16.4 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.

16.5 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.

16.6 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.

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 hereof.

[Version: Aug. 22 Infineon Technologies Taiwan Co., Ltd.]