

## Terms and Conditions Lifetime Estimation Service of Infineon IPOSIM Online Tool

Terms and Conditions for the Use of the **Lifetime Estimation Service of Infineon IPOSIM Online Tool**

between

Infineon Technologies AG Am Campeon 1-15, 85579 Neubiberg, Federal Republic of Germany, registered in the Commercial Register of the Local Court of Munich under HRB HRB126492, ([insert: link to imprint](#))

- hereinafter referred to as “Infineon”

and

the customer designated in Section 1.2 of the Terms and Conditions

- hereinafter referred to as “Customer” -.

### **1. Applicability**

1.1 These Terms and Conditions shall exclusively apply to all contracts entered into by and between Infineon and Customer for the **Lifetime Estimation Service of Infineon IPOSIM Online Tool** (the “Services”), unless nothing else has been expressly agreed in writing. Infineon does not accept additional, deviating or conflicting conditions insofar as Infineon has not expressly agreed to them in writing.

1.2 The offer to subscribe to the Services is directed exclusively at companies acting in exercise of their trade, business or profession (within the meaning of Section 14 of the German Civil Code, *Bürgerliches Gesetzbuch, BGB*).

1.3 Subject to these Terms and Conditions and the description of the Services, Infineon provides Customer with access to the subscribed Services in accordance with the description of the Services and any applicable Infineon’s documentation for the term of subscription.

1.4 The Customer shall pay Infineon the agreed remuneration as specified in the order process to the extent that the Customer receives Services which are identified by Infineon as chargeable at the time of entering into the contract.

### **2. Data Protection**

All personal data given by Customer (name, title, address, email-address, telephone number, etc.) will only be collected, processed and stored by Infineon pursuant to applicable data protection law. More information about Infineon’s data protection policy can be found [HERE \(to privacy policy\)](#).

### **3. Entering into the Contract**

3.1 The presentation of the Services does not constitute a legally binding offer, but merely an invitation to place orders for subscription (*invitatio ad offerendum*).

3.2 In order to subscribe for the Services within the scope of such subscription, it is first necessary to enter the Customer's company details, the first name and surname of the person authorized to represent the Customer and to enter a billing address. If the Customer clicks on the "Continue" button, a check of the Customer's details under tax and export control aspects will first take place. This check may take several minutes to hours, so the Customer will be notified by email when this check is complete. Following this, a summary of the order will be displayed for review. Via the "Pay Now" button, after agreeing to these Terms and Conditions, the Customer is redirected to the payment service provider Stripe Inc. ("Stripe"). There the Customer can select the preferred payment method and enter the payment data accordingly. As soon as the Customer clicks the button "Pay [plus respective amount in Euro]" in this last step of the ordering process, the Customer submits a binding offer for the entering into a contract for subscription (the "Contract").

3.3 Infineon reserves the right to reject Customer requests to entering into a Contract. In this case, Infineon will display a corresponding message during the ordering process, at the latest in Step 3 "Account activation" within the order process .

3.4 Until clicking the button "Pay [plus respective amount in Euro]" on the Stripe check-out page, Customer can change or cancel the order at any time.

3.5 Infineon provides the Services immediately after entering into the Contract.

3.6 Customer will receive the contractual provisions with information on the Services subscribed to including these Terms and Conditions by e-mail with acceptance of the contract offer. Infineon does not store the contractual provisions for Customer.

3.7 The exclusive language available for the entering into the Contract (including these Terms and Conditions) shall be English. Translations of these Terms and Conditions into other languages are for information only. In the event of contradictions between the English text and the translations, the English text shall prevail.

### **4. Free Trial Subscription**

4.1 Infineon may, at its sole discretion, provide Customer with a free trial subscription to selected Services for a period at Infineon's sole discretion.

4.2 After the free trial period, the free trial subscription ends automatically without the need for cancellation.

### **5. Payment and Payment Conditions**

5.1 The subscription fee for the Services is due immediately with placing of the order.

5.2 Customer shall pay the subscription fee as stipulated when the Contract for subscription was entered into.

5.3 The invoices shall be sent exclusively in digital form as pdf files by e-mail to the invoice e-mail address provided by the Customer.

## **6. Availability of Services**

6.1 The availability of the Services is not continuous and may be interrupted, amongst others, by maintenance work. Furthermore, limitations and impairments of the Services may occur which are beyond Infineon's control, in particular actions of third parties not acting on behalf of Infineon, technical conditions of the Internet beyond Infineon's control and force majeure. The hardware, software and technical infrastructure used by the Customer may also have an influence on the availability of the Services. Insofar as such circumstances have an influence on the availability or functionality of the Services, this shall have no effect on the contractual conformity of the Services provided.

6.2 The Customer is obliged to report functional failures, malfunctions or impairments of the Services immediately and as precisely as possible. If the Customer fails to do so, Section 536 c German Civil Code (*BGB*) shall apply accordingly.

## **7. Duties of the Customer**

7.1 For the use of the Services, any system requirements resulting from the Service description must be fulfilled by the Customer. The Customer bears the responsibility for this.

7.2 The Customer shall be solely responsible for the proper and regular backup of its own data. This also applies to the documents handed over to Infineon in the course of the execution of the Contract.

7.3 To the extent that the Customer provides Infineon with protected content (e.g., content protected by copyright or trademark law), the Customer grants Infineon all rights necessary for the performance of the Services. In this context, the Customer warrants that it owns all necessary rights to Customer materials provided in order to grant Infineon the corresponding rights.

7.4 The Customer must keep the access data made available to Customer secret and ensure that any employees to whom access data is made available do the same. The Services may not be made available to third parties unless this has been expressly agreed by the parties.

## **8. Rights of Use**

8.1 The Services and the software on which the Services are based are comprehensively protected by intellectual property rights.

8.2 Infineon grants to Customer the non-exclusive, non-transferable, non-sublicensable right, limited in time to the duration of the subscription term and the usage-based consumption as

contained in the respective description of the subscribed Service, to use the subscribed Service in accordance with the Contract and to generate the resulting reproductions of the user interface.

## **9. Subscription Term**

9.1 The subscription is concluded for the time or usage-based consumption as contained in the respective description of the subscribed Service. The subscription ends automatically without need for cancellation.

9.2 For Services with a maximum usage cap for the subscribed period, Infineon only allows the contracted number of successful simulation runs (as described in the Service description) to be accessed within a subscription period. Once the usage cap is reached in the subscribed period, the Customer will no longer be able to run new simulations unless a new subscription is purchased.

9.3 The statutory right of termination for good cause remains unaffected.

## **10. Warranty**

10.1 In principle, the statutory regulations on warranty in tenancy agreements apply. Infineon warrants only that the Services complies with the quality specified by Infineon in the Service description throughout the term of the subscription and that no third-party rights prevent the contractual use of the Service. Infineon shall remedy any defects of the Service within a reasonable period of time. However, the application of Section 536a para. 2 German Civil Code (*BGB*, tenant's right of self-remedy) is excluded. The application of Section 536a para. 1 German Civil Code (*BGB*, lessor's liability for damages) is also excluded insofar as the standard provides for strict liability.

10.2 The Customer shall inform Infineon immediately in writing ( writing to the Technical Assistance Center in the product support form available in <https://www.infineon.com/cms/en/about-infineon/company/contacts/product-support-form/is> sufficient) of any defects occurring. The Customer is obliged to support Infineon free of charge in remedying the defects, in particular by providing all necessary documents, data and other information required to analyze and remedy the defects.

10.3 With regard to the provision of free Services, Infineon shall only be liable for defects if Infineon has fraudulently concealed the defects.

10.4 Any warranty regarding the results of the simulation runs is excluded as per the disclaimer in the respective IPOSIM Lifetime Calculation Report.

## **11. Liability**

11.1 Infineon is liable for intent and gross negligence. Further, Infineon is liable for the negligent breach of obligations, whose fulfillment is essential to enable the ordinary implementation of the contract, whose breach jeopardizes the achievement of the purpose of the contract and on whose compliance the Customer may rely on regularly. In the last-mentioned case, Infineon is only liable for the foreseeable, typical contractual damage. Infineon is not liable for slight negligent breach of other obligations than those mentioned in the above sentences. The aforementioned exclusions of liability

do not apply in case of damage of life, body and health. The liability pursuant to the product liability law remains unaffected.

11.2 Based on the current state of art, data communication via internet cannot be guaranteed or warranted to be error-free and/or available at any time. Infineon is not liable for constant and continuous availability of the online Infineon IPOSIM tool.

11.3 Any strict liability for damages in accordance with § 536 a para. 1 sentence 1 Alt. 1 German Civil Code (*BGB*) for defects existing at the time of conclusion of the contract is excluded.

11.4 Infineon is not liable for damages resulting from the loss of data, insofar as the damage would have been avoided by regular and complete backup of all relevant data by the Customer. The Customer must carry out a regular and complete data backup or have it carried out by a third party and shall be solely responsible for this.

11.5 Any liability regarding the results of the simulation runs is excluded as per the disclaimer in the respective IPOSIM Lifetime Calculation Report.

## **12. Customer Data and Indemnification from Third Party Claims**

12.1 Infineon stores and processes content and data for the Customer which the Customer enters when using the Services. The Customer undertakes vis-à-vis Infineon not to enter any contents and data which are punishable by law or otherwise illegal in absolute terms or in relation to individual third parties and not to use any programs containing viruses or other malware in connection with the Services.

12.2 The Customer is solely responsible for all content and data used by it or its employees and for any legal positions required for this purpose.

12.3 In this context, Customer agrees to indemnify Infineon against any liability, including possible and actual costs of legal proceedings, in case Infineon is held liable by third parties, including employees of Customer personally or any customers, as a result of alleged acts or omissions of Customer. Infineon shall notify the Customer of the claim and, to the extent legally possible, give the Customer the opportunity to defend the asserted claim. At the same time, the customer shall immediately provide Infineon with all available information on the facts which are the subject of the claim.

12.4 Any further claims for damages by Infineon shall remain unaffected.

## **13. Tax**

13.1 All fees and charges (amounts) specified in accordance with the contract shall be net of any value added tax (hereinafter "VAT") or similar taxes including sales tax, goods and service tax, digital taxes, equalization levy, business taxes or other similar taxes thereon. Insofar as the charge is subject to VAT or similar taxes, such VAT/similar taxes shall be paid by Customer to Infineon in addition to the agreed amounts unless and to the extent they are owed to the competent tax authority by Customer on the basis that the transactions qualify as B2B transactions and are subject to reverse

charge mechanism. Infineon shall render proper invoices within the meaning of the applicable tax law.

13.2 All amounts due under the contract shall be made free and clear of any deduction or withholding. If withholdings of whatever nature are due on payments by Customer under domestic law, the Customer shall be responsible to make such deduction or withholding as required under applicable laws, but the Customer shall make the necessary gross up payments to leave Infineon (after the deduction of the withholdings) with an amount equal to the payment if no withholdings were required.

13.3 The Customer shall pay, indemnify and hold Infineon harmless from all taxes under 13.1 and 13.2 arising out of or in connection with the contract.

#### **14. Changes**

14.1 Infineon is entitled to make changes to these Terms and Conditions at any time with effect also within existing contractual relationships under the following conditions:

- Services ordered via the online Infineon IPOSIM Tool may be subsequently modified or deviated from if the agreement of the modification or deviation is reasonable for the Customer, taking into account Infineon's interests. Accordingly, only such changes or deviations are reasonable which do not change the overall character of the Services and which become necessary due to circumstances occurring after the conclusion of the contract (e.g., changes in the law or changed market actions).
- Other changes that do not affect the Services may be changed by Infineon without the requirement of reasonableness.

14.2 Changes to these Terms and Conditions which affect the contractual relationship will be communicated by e-mail. If the Customer does not object to the amendment within four (4) weeks after receipt of the notification and if the Customer continues to use the Services even after expiry of the objection period, the amendments shall be deemed accepted by the Customer. The right to object and the legal consequences of silence will be pointed out separately in case of an amendment of the Terms and Conditions. In the event of rejection, Infineon shall be entitled to terminate the existing contract with effect from the time the amendment becomes effective.

#### **15. Final Provisions**

15.1 These Terms and Conditions shall be governed by and construed in accordance with the law in force in Germany without reference to its conflicts of law provisions. The application of the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 shall be excluded.

15.2 Venue of performance is Munich, Germany. The courts of Munich, Germany shall have exclusive jurisdiction for dispute, in connection with this contract.

15.3 The effectiveness of these Terms and Conditions shall not be impaired if any provision of these Terms and Conditions 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 aforementioned provision shall accordingly apply in case of gaps.