

IMS NANOFABRICATION

GENERAL TERMS AND CONDITIONS OF PURCHASE

1. DEFINITIONS

1.1 For purposes of these IMS Nanofabrication Purchase Terms and Conditions (hereafter, the "General Conditions of Purchase"), the following definitions apply:

- (A) **"Buyer"** means IMS Nanofabrication GmbH, and its worldwide subsidiaries.
- (B) **"Consumable"** means a Spare Part whose life expectancy and mode of failure is known or predictable during the normal operation of the Equipment.
- (C) **"Copyrights"** means all copyrights worldwide arising under statutory or common law, including without limitation copyright applications, copyright registrations, and any analogous right.
- (D) **"Documentation"** means all documentation and training materials provided by Supplier regarding the proper installation, use, maintenance, repair and operation of Items.
- (E) **"Effective Date"** means the date when this Purchase Order is issued to Supplier.
- (F) **"Electronic Ordering System"** means any web based ordering system, electronic purchase order system, electronic order acknowledgement, form of electronic order acceptance, or any software based ordering system. Electronic Ordering Systems do not include any systems designed for the negotiation, signature, offer, or acceptance of purchase specifications or configuration specifications.
- (G) **"Equipment"** means whole systems, or subsystems, including upgrade and conversion kits, tooling, pre-facilities kits, modifications, and other hardware that produce the required output per the applicable configuration specification and purchase specification for each Equipment model.
- (H) **"Final Acceptance"** means Buyer's express approval to Supplier that Items conform to the requirements in the In-House Acceptance section of the purchase specification or any other mutually determined specifications.
- (I) **"Hazardous Materials"** means dangerous goods, chemicals, contaminants, substances, pollutants or any other materials that are defined as hazardous by any applicable law, regulations, or industry standard.
- (J) **"Intellectual Property Rights"** means all intellectual property rights worldwide arising under statutory or common law, including without limitation Copyrights, Moral Rights, Mask Work Rights, Patent Rights, Trade Secret Rights, Trademark Rights and any analogous right.
- (K) **"Items"** means, either singly or collectively, any goods provided by Supplier during the term of this Purchase Order, including but not limited to Equipment, New Developments, Software, and Spare Parts.
- (L) **"Mask Work Rights"** means all mask work rights worldwide arising under statutory or common law, including without limitation mask work registrations, and any analogous right.
- (M) **"Moral Rights"** means all rights of attribution worldwide arising under statutory or common law, including without limitation rights that may be known as "moral rights," "artist's rights," "droit moral" and any analogous right.
- (N) **"New Developments"** means any Technology developed, conceived, obtained, or created by Supplier or its subcontractors (solely or in collaboration with others) under this Agreement with funding, engineering resources, or confidential information provided by Buyer. New Developments do not include any Supplier Background Technology.
- (O) **"New Development Documentation"** means any information and documents, including, but not limited to, drawings, schematics, works of authorship, and instructions, relating to New Developments.

- (P) **"Non-Consumable"** means a Spare Part(s) that is not replaced routinely and has an unpredictable life expectancy and that is typically replaced or repaired due to failures or deteriorating performance.
- (Q) **"Patent Rights"** means all patent rights worldwide arising under statutory or common law from all classes or types of patents (including, without limitation, originals, divisions, continuations, continuations-in-part, extensions or reissues), and applications for these classes or types of patent rights.
- (R) **"Purchase Order"** means the purchase order issued by Buyer and which refers to these Conditions.
- (S) **"Release"** means Buyer's Purchase Order or change order to ship, provide, or cancel, a specific quantity of Items or perform Services to a specified schedule.
- (T) **"Supplier Background Technology"** means any Technology that Supplier developed, conceived, obtained, licensed, or acquired prior to the Effective Date of this Agreement or that Supplier develops, conceives, obtains, licenses, or acquires independently of this Agreement. Supplier Background Technology does not include any New Developments.
- (U) **"Services"** means any work to be performed by Supplier including, but not limited to: installation, process qualification, maintenance, warranty repair, service call, continuous improvement, training, Equipment upgrades or modification, and extended service contracts.
- (V) **"Software"** means any software or firmware provided by Supplier in line with a relevant Purchase Order including, but not limited to, modifications, enhancements, upgrades, subsequent versions or releases, and software or firmware provided in connection with Items and updates.
- (W) **"Spare Part"** means any Consumable or Non-Consumable, whether procured by Buyer from Supplier or a third party.
- (X) **"Supplier"** means the party to whom a relevant Purchase Order is being issued and who is providing Items or Services to Buyer under a Purchase Order.
- (Y) **"Technology"** means all know-how, information, ideas, inventions, modifications, prototypes, tools, other tangible embodiments, and works of authorship, including without limitation, specifications, drawings, software, databases, compilations, schematics, documentation, and presentations.
- (Z) **"Trademark Rights"** means all trademark rights worldwide arising under statutory or common law, including without limitation trademarks, trade names, service marks, trade dressing or other forms of corporate or product identification.
- (AA) **"Trade Secret Rights"** means all trade secret rights worldwide arising under statutory or common law, and any analogous right.

2. SCOPE AND TERMS OF AGREEMENT

2.1 These General Conditions of Purchase, together with the relevant Purchase Order issued by Buyer, set forth the terms under which Buyer's offers to purchase Items from Supplier. When Supplier accepts Buyer's offer, either by acknowledgement, delivery of any Item and/or commencement of performance of any Services, a binding contract shall be formed (the "Agreement"). Such Agreement is limited to these General Conditions of Purchase as specified in this document, the relevant Purchase Order and any attachments. Any additional or different terms or conditions contained in Supplier's documents will not apply. Buyer is not bound by and hereby expressly rejects Supplier's general conditions of sale and any additional or different terms or provisions that may appear on any proposal, quotation, price list, acknowledgment, invoice, packing slip or the like used by Supplier. Unless specifically agreed to in writing by Buyer's authorized purchasing representative, Buyer objects to, and is not

bound by, any term or condition that differs from or adds to these General Conditions of Purchase. Course of performance, course of dealing, and usage of trade shall not be applied to modify these General Conditions of Purchase. All costs incurred by Supplier in preparing and submitting any acceptance of Buyer's offer shall be for the account of Supplier.

3. PRICING AND TAXES

3.1 All prices quoted in the Agreement shall be fixed prices. Supplier warrants that such prices are not in excess of the lowest prices charged by Supplier to other similarly situated customers for similar quantities of Goods or Services of like kind and quality.

3.2 Taxes

(i) All prices are gross amounts but exclusive of any value added tax (VAT), sales tax, GST, consumption tax or any other similar tax only. (ii) If the transactions as described in the Agreement are subject to any applicable VAT, sales tax, GST, consumption tax or any other similar tax, Supplier may charge VAT, sales tax, GST, consumption tax or any other similar tax to IMS, which shall be paid by IMS in addition to the prices quoted. Supplier is responsible for paying any applicable VAT, sales tax, GST, consumption tax or any other similar tax to the appropriate (tax) authorities. At or after the time delivery has been completed as per Section 10 but ultimately within six months from delivery, Supplier shall issue an invoice meeting all applicable legal and fiscal requirements and which shall contain: (i) the IMS purchase order number, and (ii) wording that shall allow IMS to take advantage of any applicable "input" tax deduction. In addition, Supplier shall inform IMS whether IMS is allowed to apply for an exemption if and to the extent allowed under applicable law in such specific situation.

4. INVOICING AND PAYMENT

4.1 Unless otherwise agreed and specified in writing, prompt payment discounts will be computed from the latest of: (i) the scheduled delivery date; (ii) the date of actual delivery; or (iii) the date Buyer receives a properly filled out original invoice. Payment is made when Buyer's check is mailed, credit card charge is accepted, or EDI funds transfer initiated. Buyer will, at its option, make payment within 14 days and receive a 2% discount from the total invoice, or will make payment within 45 days.

4.2 Original invoices or packing lists will be submitted and will include: purchase agreement number from the Purchase Order, Purchase Order number, line item number, Release number, part number, complete bill to address, description of Items, quantities, unit price, extended totals, and any applicable tax or other charges. All costs forwarded to Buyer for reimbursement of expenses agreed under the terms of these General Conditions of Purchase will be net of any reclaimable Value Added Taxes ("VAT") incurred on such expenses. Buyer's payment will not constitute acceptance.

4.3 Supplier will indemnify, defend Buyer at Buyer's discretion, and hold Buyer harmless from and against any allegation arising from or in connection with payments or expenses associated with Supplier's vendors or subcontractors, and Supplier will pay all losses, liabilities, and costs (including attorneys' fees) arising from the allegation.

4.4 Supplier agrees to invoice Buyer no later than 180 days after completion of Services or shipment of Items. Buyer will not be obligated to make payment against any invoices submitted after such period.

5. TERMINATION

5.1 Buyer may terminate a relevant Purchase Order at any time for its sole convenience by giving written notice of termination to Supplier. On Supplier's receipt of such notice, Supplier will, unless otherwise specified in such notice, immediately stop all work hereunder, cause all of its suppliers or subcontractors to cease all related work, and, upon Buyer's

request, return all materials provided to Supplier by Buyer under this Purchase Order.

5.2 There will be no charges for termination of orders for Items or for Services not yet provided. Buyer will be responsible for payment of authorized Services and Items already provided by Supplier but not yet invoiced. Notwithstanding anything to the contrary, Supplier will not be compensated in any way for any work done after receipt of Buyer's notice, nor for any costs incurred by Supplier's vendors or subcontractors after Supplier receives the notice, nor for any costs Supplier could reasonably have avoided.

5.3 The parties agree that TIME IS OF THE ESSENCE as to the delivery of Items and performance of Services under a relevant Purchase Order. Accordingly, the parties agree that Supplier's failure to meet the delivery dates in the relevant Purchase Order will be considered a material breach of contract and Buyer may terminate: (1) the relevant Purchase Order, (2) any portion of a Release, (3) the order for the Item, and (4) any subsequent Releases, without any liability for standard or custom Items. Furthermore, the parties agree that Buyer never acquiesces to Supplier's failure to meet the delivery dates in the Purchase Order and that Buyer's decision not to terminate due to Supplier's failure to meet the delivery dates in this Purchase Order in no way establishes a course of performance or course of dealing between the parties. In the event that Buyer does not terminate due to Supplier's failure to meet the delivery dates in the relevant Purchase Order, Supplier agrees that Buyer's actions were taken only to preserve the parties' business relationship.

6. TENDER, RELEASES, AND SCHEDULING

6.1 Any forecasts provided by Buyer are for planning purposes only and do not constitute a Release or other commitment by Buyer.

6.2 If Supplier is unable to make the scheduled delivery of Items or promptly perform Services described in a relevant Purchase Order, Supplier will notify Buyer in writing with the reasons for such inability to deliver or perform. The failure of Supplier to give such notice to Buyer will constitute the acceptance of the relevant Purchase Order and these General Conditions of Purchase.

6.3 Supplier will deliver Items per the Release schedule and will accept Buyer's return of defective or non-conforming shipments at Supplier's risk and expense. The obligations in this clause will survive termination of the relevant Purchase Order for Items purchased but not received prior to the termination.

6.4 Buyer may reschedule any Release in whole or in part prior to the Release date at no additional charge.

6.5 Buyer may place any portion of a Release on hold by notice that will take effect immediately upon receipt. Releases placed on hold will be rescheduled or terminated in accordance with the Termination section of these General Conditions of Purchase within a reasonable time.

6.6 If for any reason Supplier discontinues the manufacture of any Item during the term of a relevant Purchase Order or within one year after the final delivery under a relevant Purchase Order, Supplier will give Buyer at least 180 days prior written notice of such Item discontinuance, during which time Buyer will have the option to place a final Release for such Items for delivery to Buyer within an agreed upon period. If any warranty return claims are made for such discontinued Items, then such returns will be subject to the warranty provisions of the Acceptance and Warranty section of these General Conditions of Purchase.

7. INSPECTION AND TESTING OF ITEMS

7.1 Buyer may inspect and test all Items at reasonable times before, during, and after manufacture. All Items will be received subject to Buyer's inspection, testing, approval, and acceptance at Buyer's premises notwithstanding any inspection or testing at Supplier's premises or any prior payment for such Items. Buyer may attend and participate in source inspections and testing, and if any inspection or test is performed on Supplier's premises, Supplier will provide Buyer with reasonable access to Supplier's facilities and reasonable assistance at no additional charge to Buyer. All related goods and services necessary for any installation or Buyer's process qualification at Buyer's designated facility, including but not limited to any sequential testing conducted prior to Final Acceptance, will be provided by Supplier at no additional charge to Buyer. The completion of any inspections, including but not limited to any source inspections, testing, or Final Acceptance by Buyer will not constitute or be interpreted as a waiver of any of Buyer's rights or remedies with regard to any subsequently discovered defect or nonconformity with respect to the quality of the Items. Items rejected by Buyer as not conforming to a relevant Purchase Order or Item specifications, whether provided by Buyer or furnished with the Item, may be returned to Supplier at Supplier's risk and expense and, at Buyer's request, will immediately be repaired or replaced.

8. ACCEPTANCE AND WARRANTY

8.1 Item Warranty

(A) Supplier warrants to Buyer, its successors and assigns, that all Items will: (i) be free from defects in material and workmanship, and (ii) comply with any purchase specification or any other mutually agreed on specifications, and (iii) be free from any liens, encumbrances, or claims from third parties (the "Warranty of Title"), and (iv) be new and unused for any purpose, other than routine testing by Supplier to ensure Supplier's compliance with a relevant Purchase Order and these General Conditions of Purchase, and (v) not infringe any Intellectual Property Rights of others (the "Warranty of Non-Infringement").

8.2 Service Warranty

(A) Supplier warrants to Buyer, its successors, and assigns, that all Services will: (i) be free from defects in workmanship, (ii) comply with any Statements of Work, (iii) not infringe the Intellectual Property Rights of others, and (iv) be performed in a workmanlike and professional manner in accordance with the highest professional standards in the industry.

8.3 Applicable Item Warranty Period

(A) Subject to sections B and C below, the warranty period for Items or Services or both (the "Item Warranty Period") will be three years starting on the earlier of: (1) the date of Final Acceptance, or (2) the end of the Acceptance Period.

(B) Spare Parts replaced during the Item Warranty Period will be warranted for the longer of one year from the date of installation or the remainder of the Item Warranty Period.

(C) All warranties described in this section are available from Supplier only during the applicable warranty period prescribed above, except the Warranty of Title and the Warranty of Non-Infringement will continue in full force and effect after the expiration of the applicable Item Warranty Period. Buyer may transfer the warranties available in these General Conditions of Purchase to a third party in connection with the sale or transfer of the Item.

8.4 Final Acceptance

(A) All Items and Services are subject to Buyer's inspection, testing, approval, and acceptance at Buyer's facility for a period of 90 days after delivery to Buyer's facility (the "Acceptance Period"), regardless of any inspection, testing, or approval at Supplier's premises or any payment made by Buyer for such Items or Services. Any inspection, testing,

approval, or acceptance of the Items or Services, including Final Acceptance, will not constitute a waiver of any of Buyer's rights and remedies available to Buyer under these General Conditions of Purchase. Items or Services rejected by Buyer during the Acceptance Period may be, at Buyer's option and Supplier's sole expense: i) returned to Supplier for full purchase price refund to Buyer, including reimbursement for associated costs, such as installation, or ii) repaired or replaced (or for Services, re-performed), or iii) reduced in price by an amount mutually agreed to by the parties, or iv) subject to any other remedy as mutually agreed to by the parties.

8.5 Warranty Procedures

(A) Items or Services subject to a warranty claim by Buyer may, at Buyer's option and Supplier's sole expense: i) be repaired, replaced, or modified (or for Services, re-performed), or ii) be reduced in price by an amount agreed to by the parties, or iii) be subject to any other remedy as mutually agreed to by the parties. Supplier will also be responsible for any other loss or damage incurred by Buyer for any non-conforming Item or Service. Supplier must resolve Buyer's warranty claims within 30 calendar days, unless otherwise mutually agreed by the parties. At Supplier's option, Spare Parts required for Supplier to repair Equipment during the Item Warranty Period may be new or, with Buyer's prior consent, refurbished, but all such parts will be warranted for the unexpired portion of the Item Warranty Period. During the applicable warranty period, Supplier will perform all preventative maintenance according to a jointly agreed on schedule. Unless otherwise agreed by the parties, Supplier will perform warranty work for Buyer at all times during the day or night, including holidays and weekends, with a two hour response time.

9. PRODUCT SPECIFICATION AND IDENTIFICATION

9.1 Supplier will not modify the specifications, materials, or (sub)suppliers, for Items without Buyer's written consent. Supplier will notify Buyer at least 180 days in advance of any changes in the manufacturing process for Items. Supplier will cooperate with Buyer to provide configuration control and traceability systems for Items supplied under a relevant Purchase Order.

10. PACKING AND SHIPMENT

10.1 All Items and Documentation requiring shipping will be prepared for shipment in a manner that: (i) follows good commercial practice; (ii) is acceptable to common carriers for shipment at the lowest rate; and (iii) is adequate to ensure safe arrival. Buyer will notify Supplier of the method of shipment and expected delivery date. If no instructions are given, Supplier will select the most cost effective carrier, given the time constraints known to Supplier. Supplier will ship only the quantity of Items and Documentation specified in the Release. Buyer may return at Supplier's expense any Items and Documentation in excess of the quantity stated in the Release.

11. CONFIDENTIALITY AND PUBLICITY

11.1 Each party agrees to maintain the other party's information in accordance with the terms of the Non-Disclosure Agreement "NDA", and any other applicable nondisclosure agreement, between the parties.

11.2 Neither party may use the other's name or trademarks in advertisements, news releases, publicity statements, web sites, press releases, interviews, articles, brochures, banners, letterhead, business cards, project reference, client listings or financial statement filings or disclose the existence of the relationship created by a Purchase Order to any third party, other than a Buyer affiliate, without the written consent of the other party. Notwithstanding the Termination of Obligation of Confidentiality terms as set forth in the NDA, and any other applicable nondisclosure agreement, the parties agree that neither party will disclose any of its details or the existence of the relationship created by a relevant

Purchase Order or these General Conditions of Purchase, to any third party without the specific, written consent of the other.

12. PRIVACY

12.1 Where Supplier in the performance of the Agreement Processes Personal Data, then Supplier agrees and warrants that Supplier shall:

(a) comply with all privacy and data protection law and regulations applicable to its Services;

(b) Process Personal Data only (i) on behalf of and for the benefit of IMS, (ii) in accordance with IMS' instructions, and (iii) for the purposes authorized by this Agreement or otherwise by IMS, and (iv) insofar necessary for the Services rendered to IMS and as permitted or required by law;

(c) maintain the security, confidentiality, integrity and availability of the Personal Data;

(d) implement and maintain appropriate technical, physical, organizational and administrative security measures, procedures, practices and other safeguards to protect the Personal Data against (i) anticipatable threats or hazards to its security and integrity; and (ii) loss, unauthorized access to, or acquisition or use of or unlawful Processing; and

(e) promptly inform IMS of any actual or suspected security incident involving the Personal Data.

12.2 To the extent that Supplier allows a (sub)contractor to process the Personal Data, Supplier shall ensure that it binds such (sub)contractor to obligations which provide a similar level of protection, but in no way less restrictive, as this Section 12.

12.3 Supplier shall, upon the termination of the Agreement, securely erase or destroy all records or documents containing the Personal Data. Supplier accepts and confirms that it is solely liable for any unauthorized or illegal processing or loss of the Personal Data, if Supplier fails to erase or destroy the Personal Data upon termination of the Agreement.

12.4 Supplier shall indemnify and hold harmless IMS, their officers, agents and personnel from any damages, fines, losses and claims arising out of a breach of Section 12.

12.5 For the purposes of this Section 12, (a) "Processing" shall mean any operation or set of operations performed or to be performed upon Personal Data, whether or not by automatic means, such as creation, access, collection, recording, organization, storage, loading, employing, adaptation or alteration, retrieval, consultation, displaying, use, disclosure, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction, and (b) "Personal Data" shall mean any and all information relating to an identified or identifiable individual, including but not limited to IMS current or former employees, employee family members, dependents or beneficiaries, customers, consumers, suppliers, business partners or contractors.

13. INTELLECTUAL PROPERTY & OWNERSHIP

(A) All intellectual property rights newly created by Supplier (including its employees, directors or officers) in the performance of this Agreement (including the performing of Services) shall be owned by Buyer and its Affiliates, and Supplier hereby agrees to transfer any Intellectual Property Rights, and assign all rights thereto, to Buyer immediately after creation.

(B) Any specifications, drawings, schematics, technical information, data, tools, dies, patterns, masks, gauges, test equipment and other materials furnished to Supplier by Buyer or Items paid for by Buyer and being held by Supplier shall (i) remain or become Buyer's property, (ii) be used by Supplier exclusively for Buyer's orders, (iii) be clearly marked as Buyer's property, (iv) be segregated when not in use, (v) be kept in good working condition at Supplier's expense, and (vi) be shipped to Buyer promptly on Buyer's demand or upon termination or expiration of this Agreement, whichever occurs first. Any such property furnished by Buyer to Supplier that is marked or otherwise noted by Buyer as being confidential information will be treated by Seller in accordance with Section 11.

14. INTELLECTUAL PROPERTY RIGHTS INDEMNIFICATION

14.1 General

(A) Supplier will indemnify, defend Buyer at Buyer's discretion, and hold Buyer harmless from and against any allegation that Buyer has violated a third party's Intellectual Property Right in connection with any Service or Item, and Supplier will pay all losses, liabilities, and costs (including attorneys' fees) arising from the allegation.

14.2 Notice

(A) Buyer will notify Supplier in writing of any allegation for which it seeks indemnification from Supplier. Any delay in this notice will not relieve Supplier of its indemnity obligations unless the delay causes Supplier to forfeit material rights and defenses it would have otherwise been able to assert on behalf of Buyer.

14.3 Defense

(A) Buyer Defends

Buyer has the right to defend, control, and settle any allegation, at its discretion, without prejudice to its right to recover all losses, liabilities, and costs (including attorneys' fees) from Supplier. If Buyer defends, then Supplier may retain separate counsel, at its own expense, and participate in the defense, under the direction of Buyer, who will maintain sole control of the defense.

(B) Supplier Defends

If Buyer provides written notification to Supplier requesting Supplier to assume the defense, then Supplier will promptly retain competent legal counsel that is acceptable to Buyer, assume the defense, solely control the defense of the allegation, and pay all defense costs (including attorneys' fees). If Supplier defends, then Buyer may retain separate counsel, at its own expense, and participate in the defense, under the direction of Supplier, who will maintain sole control of the defense. Supplier will not settle any allegation without Buyer's prior written authorization. Supplier will solely incur all liability for any settlement made without Buyer's prior written consent. If Supplier settles the allegation, then Supplier will also obtain an unconditional liability release for Buyer for any liability arising from the allegation. Supplier will not disclose any settlement terms nor authorize the party who asserted the allegation to disclose any settlement terms without first obtaining Buyer's prior written permission, which Buyer may withhold in its sole discretion.

14.4 Injunction Mitigation

(A) In addition to Supplier's obligations in previous sections, if Buyer's actions with the Service or Item are enjoined, Supplier will reimburse Buyer for all of Buyer's costs reasonably necessary for it to purchase an alternative Service or Item required to fulfill Buyer's requirements, and in addition, Supplier will, at its expense, provide one or more of the following remedies:

(1) procure for Buyer the right to continue Buyer's actions with the enjoined Service or Item without restriction; or

(2) replace the enjoined Service or Item with a Buyer approved Service or Item that (i) does not have restrictions on Buyer's actions, (ii) provides the same or better features, performance and functions as the original Service or Item, and (iii) meets the requirements of this Agreement; or

(3) modify the enjoined Service or Item so that (i) the Service or Item becomes non-infringing, (ii) Buyer can continue Buyer's actions with the Service or Item without restriction on Buyer's actions, (iii) the modified Service or Item provides the same or better features, performance and functions as the original Service or Item, and (iv) the modified Service or Item meets the requirements of this Agreement; or

(4) pay for disposal of the enjoined Service or Item and refund the full purchase price of such Service or Item.

14.5 Each party's rights and obligations under this Intellectual Property Rights Indemnification section is expressly in lieu of any other form of indemnity that may be available under the Uniform Commercial Code or the United Nations Convention on Contracts for the International Sale of Goods.

15. SUPPLY LINE PROTECTION

15.1 Supplier covenants and agrees not seek or enforce an injunction which would have the effect of prohibiting or placing conditions upon the use of any third party products or services ("Third Party Products") in connection with the development, manufacture, testing, assembly, sale, use, or distribution of any Buyer product, nor seek damages from Buyer or any Buyer affiliate or any of their customers in connection with any use or sale of any Buyer product by virtue of the use, sale, or distribution of Third Party Products by Buyer or its affiliates. These General Conditions of Purchase may be pleaded as a complete defense to any action, suit or claim attempted in breach of this clause, and may be used to obtain an injunction against any such action, suit, claim or other proceeding of any type which may be prosecuted, initiated, or attempted in violation of the terms hereof. This covenant will be binding on Supplier's successors, transferees and assignees of and exclusive licensees to Supplier's Intellectual Property Rights.

16. HAZARDOUS MATERIALS

16.1 If any Items or Services provided to Buyer include Hazardous Materials, Supplier represents and warrants that, before delivery of the Item or Service, Supplier will: 1) provide Buyer with Material Safety Data Sheets (MSDS) and other documentation reasonably necessary to enable Buyer to comply with the applicable laws and regulations, and 2) obtain prior written approval from Buyer's Site Environmental, Health, and Safety (EHS) organization, and 3) certify in writing that the Items or Services supplied to Buyer comply with all applicable requirements of the most current revision of Environmental Product Content Specification 18-1201 at <http://supplier.intel.com>.

16.2 Supplier will be fully responsible for, indemnify, defend Buyer at Buyer's discretion, and hold Buyer harmless from and against any allegation arising from or in connection with: 1) Supplier's failure to comply with the requirements of section 15.1, or 2) Supplier's handling, transportation, provision, or use of such Hazardous Materials, including a failure to comply with any applicable law or regulation relating to such Hazardous Materials, and Supplier will pay all losses, liabilities, and costs (including attorneys' fees) arising from the allegation.

16.3 Items returned to Supplier will be decontaminated by Buyer from Hazardous Materials to a practical and reasonable degree and as required by applicable law or regulation, except where Supplier is financially responsible for shipping Items returned to Supplier, then Supplier will be responsible for their decontamination. Where Buyer performs the decontamination, and subject to Supplier's written request, Buyer will provide documentation to Supplier that the returned Items have been decontaminated.

17. COMPLIANCE WITH LAWS AND RULES

17.1 Supplier represents and warrants that it will comply with all applicable laws, statutes, regulations, rules, ordinances, codes, and standards, including but not limited to any export laws of the U.S. and abroad, (collectively referred to as "Applicable Laws"), and that Supplier will obtain at its expense any permits, approvals, licenses, authorizations, or consents necessary for Supplier to deliver the goods and services provided to Buyer. Supplier agrees to comply with all rules, regulations, policies, and requested audits described by Buyer's ultimate parent company, Intel Corporation, at <https://supplier.intel.com/>, including but not limited to the Electronic Industry Code of Conduct (EICC). Additionally, for

services in the U.S., Supplier agrees not to provide foreign nationals (non U.S. citizens or U.S. permanent residents) from controlled countries as employees or contractors for work on any Buyer site unless that foreign national is covered under a valid U.S. Export License or is not exposed to controlled technology. For services outside the U.S., Supplier agrees not to provide foreign nationals from controlled countries as employees or contractors for work on any Buyer site unless that foreign national is a citizen of the country of that Buyer site, is covered under a valid U.S. Export License, or is not exposed to controlled technology. Supplier will perform only those Services ordered by Buyer and will work only in the areas designated by Buyer for such Services. Supplier will perform all work in accordance with safe working procedures and will keep its work area clean and neat.

17.2 Anti-corruption Laws

(A) In this Anti-corruption Laws section of these General Conditions of Purchase, the term "Included Scope" means, both collectively and separately, the relevant Purchase Order, these General Conditions of Purchase, and the portions of Supplier's and Buyer's respective businesses that are involved in it.

(B) In this Anti-corruption Laws section of these General Conditions of Purchase, "Anti-Corruption Laws" means, both collectively and separately, any anti-corruption, anti-bribery or similar governmental ethics and transparency laws that have particular jurisdiction or that govern the Included Scope in any general manner. Although Supplier and Buyer are each responsible for determining the extent and applicability of Anti-Corruption Laws, the US Foreign Corrupt Practices Act of 1977 (the "FCPA") and the UK Bribery Act 2010 are both expressly included in the scope of "Anti-Corruption Laws" regardless of Buyer's or Supplier's actual residency or the actual location that Services are performed and received or that Items are made, delivered and received under the relevant Purchase Order.

(C) Supplier and Buyer represent and warrant to each other that, with respect to the Included Scope, on an ongoing basis they have not and will not::

(1) violate any Anti-Corruption Laws; and
(2) directly or indirectly make any offer, payment, promise to pay, or authorized payment, or offered a gift, promised to give, or authorized the giving of anything of value to any Government Official (defined as any officer, employee or person acting in an official capacity for any government department, agency or instrumentality, including state-owned or -controlled companies, and public international organizations, as well as a political party or official thereof or candidate for political office) or any other person while knowing or having reason to know that all or a portion of such money, gift or thing of value will be offered, paid or given, directly or indirectly, to any Government Official, for the purpose of (1) improperly influencing an act or decision of the Government Official in his or her official capacity, (2) inducing the Government Official to do or omit to do any act in violation of the lawful duty of such official, (3) securing an improper advantage, or (4) improperly inducing the Government Official to use his influence to affect or influence any act or decision of a government or instrumentality, in order to assist Buyer or any of its subsidiaries or affiliates in obtaining or retaining business.

(D) Supplier represents that, unless disclosed to Buyer in a separate written statement, none of its employees, directors, officers or principals is a Government Official with jurisdiction or influence over the Included Scope. Supplier must notify Buyer in writing within five business days if at any time, any of its employees, directors, officers or principals is named, appointed, or otherwise becomes a Government Official with jurisdiction or influence over the Included Scope.

(E) If Supplier learns or comes to have reason to know of any payment or transfer (or any offer or promise to pay or transfer) in connection with the Included Scope that would violate Anti-Corruption Laws, it must immediately disclose it to Buyer.

17.3 Conflict Minerals

(A) For the purposes of this Conflict Minerals section only, the following definitions apply:

“Conflict Minerals” means cassiterite, columbite-tantalite, gold, and wolframite; their derivatives including the 3Ts (tantalum, tin, and tungsten); and, any other mineral, derivative, or ore that the Organization for Economic Co-operation and Development (OECD), United States Securities and Exchange Commission (SEC), United States government, or United States Secretary of State considers to be directly or indirectly financing conflict in the Covered Countries.

“Covered Countries” means the Democratic Republic of Congo (DRC) and any adjoining country that shares an internationally recognized border with the DRC.

(B) Supplier agrees to fully comply with and follow Buyer's policies relating to Conflict Minerals, including the Conflict Minerals Reporting section of the Environmental Product Content Specification 18-1201, all of which are set forth at <http://supplier.intel.com>. To the extent Buyer's compliance with the Dodd-Frank Wall Street Reform and Consumer Protection Act requires disclosure of Buyer's relationship with Supplier and Supplier's compliance with Buyer's Conflict Minerals policies, then any applicable confidentiality obligations set forth in this or any other agreement are expressly waived with respect to such disclosures.

18. CUSTOMS CLEARANCE

18.1 Upon Buyer's request, Supplier will promptly provide Buyer with a statement of origin for all Items and with applicable customs documentation for Items wholly or partially manufactured outside of the country of import.

19. GENERAL INDEMNIFICATION

19.1 Except to the extent caused by Buyer's negligence or willful misconduct, Supplier will indemnify, defend Buyer at Buyer's discretion, and hold Buyer harmless from and against any allegation arising from or in connection with the development and manufacture of Items or Services or performance of Services by Supplier, its employees, officers, agents, representatives, or subcontractors, and Supplier will pay all losses, liabilities, and costs (including attorneys' fees) arising from the allegation. Supplier will maintain, at its sole cost and expense, customary insurance coverage and will name Buyer as additional insured.

20. RETENTION AND AUDITS

20.1 Supplier will maintain complete and accurate records of all work associated with the performance of a relevant Purchase Order, including but not limited to, the Items tendered, Services performed, work conducted, processes used, personnel involved, and deliverables performed under a relevant Purchase Order, for a period of seven years after the completion of such Services, or delivery or performance of Items, whichever occurs last.

20.2 To ensure compliance with the terms of these General Conditions of Purchase, minimize supply chain risk, ensure quality, secure supply, or ensure safety of Items purchased from or offered for sale by Supplier, Supplier will fully cooperate with Buyer, or a third party designated by Buyer, who may at any time use reasonable means to inspect Supplier's work, documents, property, assets, records, and communications. Inspections may be made at Buyer's written request for any reason in good faith, conducted in accordance with the terms of these General Conditions of Purchase, and not unreasonably interfere with Supplier's normal

business activities or operations. Within two weeks of receipt of Buyer's written request for such an inspection, Supplier will employ commercially reasonable efforts to disclose, make available, or obtain and provide any necessary consent for Buyer, third party, or authorized government authority to conduct their inspection. Furthermore, should any third party inspection find that Supplier is not in compliance with the terms of these General Conditions of Purchase, Supplier will reimburse Buyer for all costs associated with such inspection.

21. SOFTWARE AND DOCUMENTATION

21.1 Supplier hereby grants to Buyer a fully paid, worldwide, royalty-free, non-exclusive, perpetual, irrevocable license under Supplier's Intellectual Property Rights to reproduce, publicly perform, publicly display, prepare derivative works of, distribute, use, and disclose the Software and Documentation. In connection with Buyer's transfer of the Items to a third party, Buyer may also transfer the Software and Documentation. Supplier agrees at no cost to transfer the license to the Software to the new owner under the same terms and conditions as granted to Buyer under the relevant Purchase Order. Notwithstanding anything to the contrary in these General Conditions of Purchase, Supplier authorizes Buyer to disclose the terms of this section to third parties in connection with the transfer of Items.

22. MERGER, MODIFICATION, WAIVER, REMEDIES AND SEVERABILITY

22.1 The relevant Purchase Order, these General Conditions of Purchase including the NDA, and the addenda attached hereto, contains the entire understanding between Buyer and Supplier with respect to the subject matter hereof and merges and supersedes all prior and contemporaneous agreements, dealings and negotiations. No modification, alteration, or amendment will be effective unless made in writing, dated and signed by a duly authorized representative of each respective party. Any additional or different terms made by Buyer through Buyer's Electronic Ordering Systems will be effective without any additional signature or writing requirements.

22.2 No waiver of any breach hereof will be held to be a waiver of any other subsequent breach.

22.3 Except as expressly provided otherwise in these General Conditions of Purchase, Buyer's rights and remedies herein are in addition to any other rights and remedies provided by law or in equity.

22.4 If any provision of these General Conditions of Purchase is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such determination will not affect the validity of the remaining provisions unless Buyer determines in its discretion that the court's determination causes these General Conditions of Purchase to fail in any of its essential purposes.

23. ASSIGNMENT

23.1 Buyer may assign or delegate all, or any part, of its rights or obligations under a relevant Purchase Order or these General Conditions of Purchase to any or all of its subsidiaries. Otherwise, neither party may assign or factor any rights in, nor delegate, any obligations or rights under a relevant Purchase Order or these General Conditions of Purchase without the prior written consent of the other party. For purposes of this section, the acquisition, merger, consolidation or change in control of Supplier or any assignment by operation of law will be considered an assignment of the relevant Purchase Order and these General Conditions of Purchase that requires Buyer's prior written consent. Buyer may cancel a relevant Purchase Order or these General Conditions of Purchase for cause should Supplier attempt to make an unauthorized assignment of any right or obligation arising under a relevant Purchase Order or these General Conditions of Purchase.

24. CHOICE OF LAW AND FORUM

24.1 All matters arising out of or related to a relevant Purchase Order or these General Conditions of sale, including without limitation all matters connected with its performance, will be construed, interpreted, applied and governed in all respects in accordance with the laws of Austria, without reference to conflict of laws principles. The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Purchase Order. All disputes and litigation arising out of or related to a relevant Purchase Order or these General Conditions of sale, including without limitation matters connected with its performance, will be subject to the exclusive jurisdiction of the courts of Vienna, Austria. Each party hereby irrevocably submits to the personal jurisdiction of such courts and irrevocably waives all objections to such venue.

25. DISPUTE RESOLUTION

25.1 Dispute Resolution Process

(A) Subject to the Trade Secrets and Breach of Confidentiality Exception section below, any dispute arising out of or relating to this Agreement, whether based on contract, tort, or any other legal or equitable theory, will be resolved as follows: Either party will notify the other party of the dispute, and provide a detailed description of the basis for the dispute as well as any relevant supporting documents. Senior management of each party will then attempt to resolve the dispute. If the parties do not resolve the dispute within 45 days of the initial dispute notice, either party may provide notice of its demand for formal dispute resolution through non-binding mediation. Within 30 days after the formal dispute resolution demand, the parties will meet for one day with an impartial mediator selected by mutual agreement and consider dispute resolution alternatives other than litigation. If the parties cannot agree on a mediator, they will each select one nominator, who must not at that time be employed by either party, and the two nominators will agree on and appoint the mediator. If the parties do not resolve the dispute or agree on an alternative method of dispute resolution within 60 days after the formal dispute resolution demand, either party may begin litigation proceedings.

25.2 Trade Secrets and Breach of Confidentiality Exception

(A) Either party at any time may seek an injunction or other equitable remedies against the other party for misappropriation of trade secrets or breach of confidentiality obligations without complying with the dispute resolution process in the Dispute Resolution Process section.

26. SPECIFIC PERFORMANCE

26.1 Notwithstanding anything to the contrary in these General Conditions of Purchase, the failure of Supplier to provide an Item or perform a Service in accordance with the terms and conditions contained in the relevant Purchase Order or these General Conditions of Purchase after the acceptance of a Release would cause irreparable damage to Buyer for which monetary damages would not provide an adequate remedy. Accordingly, in addition to any other remedy to which Buyer may be entitled, at law or in equity, Buyer will be entitled to injunctive relief to prevent breaches of the provisions of these General Conditions of Purchase by Supplier, and an order of specific performance to compel performance of such obligations.

27. ELECTRONIC SYSTEMS

27.1 Supplier is hereby given notice and agrees that the persons responsible for using any Electronic Ordering Systems originating from Supplier on behalf of Buyer do not have any actual or apparent authority to create legally binding obligations which are different from the terms and conditions contained in these General Conditions of Purchase.

27.2 The parties agree that any different or additional terms and conditions offered by Supplier through an Electronic Ordering System will not be legally binding on Buyer, and that any of Supplier's "click to accept"

arrangements or Electronic Ordering Systems will not be legally binding on Buyer.

27.3 The parties agree to accept electronic records and electronic signatures relating to transactions contemplated by this Purchase Order.

27.4 Supplier represents and warrants to Buyer that any of Supplier's personnel using electronic signatures, electronic approvals, or "click to accept" type arrangements originating from Buyer, to accept purchase specifications, configuration specifications, or Releases, have the authority to accept such specifications or Releases.

27.5 If a party has adopted an electronic identifier such as a digital signature, or electronic approval for a specification, the other party is entitled to rely on the authenticity of documents signed by, approved, or associated with that electronic identifier unless that party had previously received written notification stating otherwise from the party using the electronic identifier.

28. QUOTATIONS

28.1 Any quotation number or any other reference to a quotation on a relevant Purchase Order is for reference purposes only and the quotation terms and conditions will not be legally binding on either party. By shipping Items or performing Services described in a relevant Purchase Order, Supplier thereby accepts Buyer's terms and conditions stated on these General Conditions of Purchase and withdraws any other terms and conditions described in Supplier's documents or Supplier's Electronic Ordering Systems. In the event of the existence of any other agreements between the parties, the price for Items and Services described in the relevant Purchase Order will be the lesser of Supplier's quoted price, or the price described in such other agreements between the parties.

29. SURVIVAL

All terms and conditions of These General Conditions of Purchase which are destined, whether express or implied, to survive the termination or the expiration of a relevant purchase order or these General Conditions of Purchase, including but not limited to Warranty, Intellectual Property, Confidentiality and Personal Data, shall so survive.
