

GENERAL MICRO SYSTEMS, INC.

TERMS AND CONDITIONS

The following provisions and conditions of sale are applicable to all purchase orders, and this Document constitutes the entire agreement between the parties; and are the only conditions of sale applying to the sale of the seller's products or services except conditions relating to prices, quantities, delivery schedules, terms of payment, invoicing, shipping instructions, and the descriptions and specifications of the product together with other written conditions to be mutually agreed upon by the parties and set forth in said purchase orders. Although this form is an acceptance or confirmation document, the seller shall not be deemed to have waived the following conditions if it fails to object to the conditions appearing incorporated by reference, or attached to buyer's purchase order. This acknowledgement copy is our formal acceptance of your purchase order as described above. The banking, negotiation or other use of down payment shall not constitute an acceptance, nor should Seller's failure to object to provisions contained in any communications from Buyer will this be considered a "waiver" of the provision(s) hereof, including, counter-offers, partial or full payment or further negotiations.

1. CONDITIONS OF SALE

The terms of sale are as indicated below unless otherwise indicated on the face of the SELLER'S Sales Order Acknowledgement. SELLER'S acceptance of BUYER'S purchase order is expressly made conditional on BUYER'S assent to the terms and conditions of SELLER'S Sales Order Acknowledgement and these terms and conditions identified in this document.

2. TERMS OF SHIPMENT

All shipments are made F.O.B. factory, freight prepaid and added to invoicing or BUYER may choose to provide a carrier account number for collect shipments. Insurance is not provided by SELLER, unless otherwise requested by BUYER in writing. All shipments are made the best way as determined by the SELLER unless otherwise indicated on the purchase order.

3. PRICE

Prices are subject to adjustments prior to the time of delivery should delivery be delayed by the BUYER. Prices do not include any Sales tax, use, excise or similar taxes. Any such tax applicable to products covered by this quotation, bid, proposal, or resultant purchase order and sales order will be billed and paid as separate and additional items on the invoice.

4. CHANGES IN DESIGN

Any modifications or changes to the product in part at any time prior to the delivery thereof, in order to include therein refinements deemed appropriate by SELLER, must be made by written mutual agreement between SELLER and BUYER. Any such mutually agreed to modifications or changes will not incur any liability by SELLER to modify or change any product previously delivered or to supply new products in accordance with earlier specifications.

5. PURCHASE ORDERS

Changes in purchase orders initiated by the BUYER will not be considered effective until mutual agreement has been reached in writing between the BUYER and SELLER concerning the effect of said changes on price, delivery or other terms and conditions of the purchase order.

6. INSTALLATION

The prices quoted by the SELLER unless otherwise specifically stated, do not include installation. The product shall be installed by the BUYER and the BUYER assumes all responsibility for installation and operation of the product as well as obtaining all permits, licenses, and certificates required by any regulatory agency or any other body for the installation and use of the products.

7. TERMS OF PAYMENT

Terms are net thirty (30) days from date of invoice upon approved credit with no exceptions whatsoever, unless stated otherwise by the express written prior approval of SELLER. Design/Non-Recurring Engineering (NRE) shall be 50% prepay and 50% net thirty (30) upon approved credit, or

GENERAL MICRO SYSTEMS, INC.

TERMS AND CONDITIONS

50% C.O.D. International sales terms are 50% to accept BUYER'S Purchase Order, balance due one (1) week prior to shipment of product to BUYER. End of Life (EOL) orders are 50% to accept BUYERS Purchase Order, balance on Net 30 terms OAC. Otherwise terms are 100% prepay. No discount is allowed for earlier payment unless otherwise stated on Sales Order and Invoice. An additional 2% per month penalty fee for late payment is applicable for every invoice not paid within thirty (30) days.

However, should different payment terms apply other than what is stated above and which have been negotiated between the two Parties then these negotiated payment terms must be referenced on the face of the Purchase Order at the time the order is issued.

8. DELIVERY

Damage and risk of loss of any kind or nature after delivery to the carrier shall be at the BUYER'S sole risk. Every effort will be made to effect delivery within the time specified by the SELLER on the SELLER'S Quotation, provided however, that SELLER shall not be liable for additional transportation charges incurred at BUYER'S request to use expedited means of shipment. In no event shall SELLER be liable for failure to deliver product on or about the estimated delivery time. SELLER is protected from delay in or inability to perform to the extent provided in section 2-615 of the Uniform Commercial Code (U.C.C.) – Sales entitled "Excuse by Failure of a Presupposed Condition."

9. PACKAGING

All products shall be shipped in standard commercial packaging, unless otherwise specified. The cost of special or export packaging, as may be required, shall be invoiced separately.

10. WARRANTY

SELLER warrants the goods to be delivered hereunder to be free from defects in material or workmanship for a period of one year (standard warranty term) from the date of delivery to BUYER. BUYER may choose to optional purchase extended warranty services for terms up to 48 months, at additional cost. If within the period of such warranty BUYER promptly notifies Seller of any claimed defect and if requested by SELLER returns such part or parts as are claimed defective, transportation charges prepaid, to SELLER, and it appears to SELLER that such part or parts are defective, SELLER will at its option repair, or replace the same with a like or similar part or parts at no expense to BUYER. BUYER shall be responsible for all transportation charges. If the component fails, for any reason, to comply with any purchase order, SELLER may, at its sole option, remove the component at its own expense and in full and final discharge of liability, refund to BUYER all sums which shall have been paid by BUYER on account of the purchase price named herein. IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL, SPECIAL, LIQUIDATED NOR COMPENSATORY DAMAGES OF A COMMERCIAL NATURE. The repair or replacement of such defective part or parts by SELLER shall constitute the sole remedy of BUYER and the sole liability of SELLER whether on warranty, contract or negligence. Upon expiration of such warranty period or in the event such goods are subjected to misuse, negligence, alteration, improper use or operated contrary to SELLER'S printed instructions; all liability of SELLER shall cease, when any alterations, modifications, changes, adjustments, conversions, transformations to the product for what it was intended for – of any kind, immediately nullifies all previous warranties to the original equipment. The warranties provided and the obligations and liabilities of SELLER hereunder, and the rights and remedies of BUYER hereunder are exclusive and in substitution for, and BUYER hereby waives, all other warranties, guarantees, obligations, claims for liabilities, rights and remedies, express or implied, arising by law or otherwise, including but limited to the implied warranty of merchantability and fitness for purpose. The forgoing warranty is exclusive and in lieu of all warranties, express or implied including the warranty of merchantability and fitness for purpose.

11. LIMITATION OF LIABILITY

IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL, SPECIAL, LIQUIDATED, EXEMPLARY, RELIANCE OR INDIRECT DAMAGES (INCLUDING LOST PROFITS OR LOSS OF GOODWILL), NOR COMPENSATORY DAMAGES OF A COMMERCIAL NATURE.

GENERAL MICRO SYSTEMS, INC.

TERMS AND CONDITIONS

SELLER'S LIABILITY IN ANY EVENT, SHALL NOT EXCEED THE PRICE OF THE SPECIFIC PRODUCT WHICH GAVE RISE TO THE CLAIM. General Micro Systems disclaims any and all other warranties of any kind, whether expressed, implied or statutory, including to the implied warranties of merchantability, title, non-infringement, fitness of a particular purpose, quiet enjoyment, or any implied warranties arising from usage of trade, course of dealing or course of performance thereof.

12. DISCLAIMER OF LIABILITY

General Micro Systems (GMS), builds its products in a competent and workmanlike manner, and makes every commercially reasonable effort and care, that they will be manufactured in accordance with the process specification. However, GMS does not take responsibility for any use of its products outside of the process specification for which it was built; nor, for compatibility issues associated with second and/or third party software compatibility. Except for the Warranty provided in section (10); GMS makes "no" warranty, including the Uniform Commercial Code warranty, of "any" kind, expressed or implied, including, representations of any kind which are herein disclaimed with respect to second and/or third party: software products, code, drivers, controllers, operating system, language, BIOS, configuration files, bugs, user preferences, properties, versions, programming language, processes, procedures, firmware, network, debugging, software design, engineering, application development, programming, application program interface, software development kit, script, installer, registry, service pack, mount, kernel, bootloaders, configuration settings, file systems, computer programs, alerts/warnings, editions, integrated development environments, subscriptions, certifications, virtualizations, optimizations, interoperability, scalability, security, high availability, redundancy/failover, clustering, authentication, load balancing, protocols (referred herein as "items") as to "any" contamination, deficiencies, limitations or incompatibility; as shipped concurrent with GMS goods herein. GMS specifically and emphatically makes no claim, nor warranty, of any kind, that said items shall be merchantable or fit for any particular purpose or non-infringement, or application whatsoever, including, but not limited to: safety, suitability, lack of viruses, inaccuracies, typographical errors, or harmful effects therein. Furthermore, any description of said items contained herein, shall "not" be deemed to create an express warranty that such items shall conform to any description whatsoever. The items contained herein, shall "not" be regarded as part of the basis of this order, and shall not, under "any" circumstances create an express warranty that the whole of the items shipped herein shall conform to any expectations, opinions, or claims. If the items enclosed are used, it shall be at receiver's own risk, as it is automatically assumed by receiver. GMS disclaims "all" liability for direct, indirect, or proxy use thereof; and disclaims, to the maximum extent permitted by applicable law, in no event will GMS be responsible for, without limitation, or liable to you for "any" direct, indirect, special, punitive, incidental, exemplary, compensatory, nominal, future, expectation, liquidated, treble, hedonic, excessive, or consequential damages, or any other pecuniary loss (including, but not limited to, procurement of substitute goods or services; loss of use, data or profits, business interruption, loss of programs, equipment, services, telecommunication devices, devices of any kind, handling systems, electronics of any kind, whatsoever), however caused and on any theory of liability, whether in contract, strict liability, or tort (including negligence or otherwise), arising in any way out of the use of these items, even if advised of the possibility of such damage resulting from the use of enclosed items. This disclaimer of responsibility and liability applies to "any" damages or injury caused by "any" failure of performance, error, omission, interruption, deletion, defect, delay in operation or transmission, computer virus or spyware/malware, worms, communication line failure, theft or destruction, or unauthorized access to, alteration of, or use of record, whether for breach of contract, tortious behavior, strict liability, negligence, or under any other cause of action, or theory of liability et al., as a result of using the items aforementioned, even if General Micro Systems has been advised of the possibility of such damage. The "entire" risk arising out of the use or performance of said "items" remains with the recipient. Furthermore, the receiver assumes "all" risk and "all" liability for "any" and "all" loss, damage, claims, costs, or expense resulting from its use, purchase, or possession of any of the items herein, as furnished by this order. The receiver agrees to indemnify, defend, and hold harmless General Micro Systems, its officers, directors, agents, representatives, and employees, including, any affiliates, from and against all claims, liability, loss, damage, expenses, costs, including reasonable attorney fees, arising from or by reason of the use or possession of items furnished herein pursuant to this order; and, such obligation shall survive acceptance of said items

GENERAL MICRO SYSTEMS, INC.

TERMS AND CONDITIONS

and payment therefore by receiver. Nothing in this Disclaimer shall transfer any right, title, interest, license, ownership, or claim that a Party holds in or to any intellectual property, and each Party shall retain its unrestricted ownership it has in its respective intellectual property ab initio.

13. PRODUCT EVALUATION POLICY

A BUYER'S purchase order will clearly state the product is an evaluation item and will be for the full dollar value of the evaluation period NOT TO EXCEED THIRTY (30) DAYS. NO EVALUATION SALES ORDERS WILL BE ALLOWED FOR PERIPHERALS OR SOFTWARE. After 30 days BUYER may:

1. Purchase the product, all terms and conditions of standard SELLER'S standard terms and conditions apply.
2. Extend the evaluation period – BUYER shall submit a written request including reason for request and extension time requested. SELLER will respond in writing to such a request.
3. Return the product – BUYER shall obtain an RMA number from SELLER'S customer service department. BUYER shall be responsible for condition of product at its arrival at SELLER'S place of business. Such condition will be determined by inspection and test. If such product is found to be damaged or non-operational BUYER will be required to pay the cost of the product. Invoice terms will be net 30 from the original evaluation shipment date.

14. RETURNS

No returns of any type will be accepted without a RETURN MATERIALS AUTHORIZATION (RMA) from SELLER. BUYER will provide a purchase order to SELLER prior to return of product to BUYER. BUYER may request to return product to SELLER, if request is approved and product is received by SELLER within 30 days of original shipment, BUYER agrees to a 30% restocking fee. SELLER will not accept returns beyond 30 days.

15. CANCELLATION OR RESCHEDULING

BUYER may cancel or reschedule any undelivered portion of an Order by giving written notice to SELLER, subject to the following fees based on the schedule below:

<u>Number of days prior to Scheduled Shipment Date that Notice of Cancellation/Reschedule Is Received by SELLER:</u>	<u>Cancellation/Reschedule Charge</u>
91 or more	0 %
61-90 days	33 %
31-60 days	63 %
0-30 days	100%

16. ERRORS

SELLER reserves the right to correct clerical errors and typographical errors in any Quotation, purchase orders, and/or invoices or product publications.

17. DELINQUENT ACCOUNT

Should BUYER become delinquent in their payments to SELLER, SELLER reserves the right to refuse to issue an RMA number or accept product returned for repair or sell new product to BUYER until BUYER has cured the delinquency. Further, SELLER will accept only written correspondence from BUYER until the delinquency is cured. In the event of any default by Buyer, Seller may invoke any remedy provided by law or by the terms herein stated, and may decline to make further shipments. Seller may elect to collect in the amount of 1% per month (12% per annum) from date of past due invoice in addition to amount owed to Seller. If Seller elects to continue to make shipments, Seller's actions shall not constitute a waiver of any default by Buyer or in any way affect Seller's legal remedies for any such default. In the event Seller resorts to a third party or to litigation in order to

GENERAL MICRO SYSTEMS, INC.

TERMS AND CONDITIONS

collect amounts due Seller, Buyer agrees to pay costs of collection for amount owed to Seller, including, but not limited to, reasonable attorney's fees, court costs, and interest in the amount of 1% per month (12% per annum) from the date the balance is due.

18. APPLICABLE LAW AND FORUM

The validity, performance and construction of this contract shall be governed by the laws of the State of California, and shall be the only jurisdiction in which any suit may be brought against Seller regarding any dispute arising of this transaction.

19. QUANTITIES

Any variation in quantities shipped over or under the quantities ordered (not to exceed 10%) shall constitute compliance with Buyer's order and the stated unit price will continue to apply.

20. ASSIGNMENT

This contract is binding upon and inures to the benefit of the parties and the successors and assigns of the entire business and good will of Buyer, or that part of the business used in performance of this contract, but shall not be otherwise assignable, without the prior consent of the Seller.

21. AFFIDAVITS AND CERTIFICATES

No certificates of compliance, conformance, or chemical analysis shall be provided unless Buyer's detailed requirements are stated on the face of the Buyer's order. Seller reserves the right to charge an additional fee for any such certificate.

22. ACCEPTANCE OF PRODUCT

Acceptance shall be presumed conclusively to have occurred thirty (30) days following delivery of product to Buyer, unless Buyer has accepted the product prior to that date.

23. CONTINGENCIES AND FORCE MAJEURE

Seller shall not be liable for any delay in delivery or for non-delivery, in whole or in part, caused by the occurrence of any contingency beyond the control either of Seller or Seller's suppliers, including, but not limited to, war (whether an actual declaration thereof is made or not), sabotage, terrorism, insurrection, riot or other act of civil disobedience, act of a public enemy, failure or delay in transportation, act of any government or any agency or subdivision thereof, judicial action, labor dispute, accident, fire, explosion, flood, storm or other act of God/Nature, shortage of labor, fuel, raw material or machinery or technical failure, including, software; where Seller has exercised ordinary care in the prevention thereof. Seller may allocate production and deliveries among Seller's customers.

24. SUBSTITUTIONS AND MODIFICATIONS OF GOODS

Seller may modify the specifications of goods designed by Seller, and substitute goods manufactured to such modified specifications for those specified herein, provided such goods substantially conform to this Agreement, upon written mutual agreement by SELLER and BUYER. Where Buyer orders goods subject to military specifications, Buyer agrees that Seller may supply goods which conform to the most current version of the applicable military specifications.

25. LEGAL COMPLIANCE

Buyer, at all times, shall comply with all applicable federal, state, and local laws and regulations. Export of the products covered by this quotation or acknowledgment may be subject to export license control by the U.S. government. It is Buyer's responsibility to obtain any license which may be required under all of the applicable export laws and regulations of the U.S.

26. U.S. GOVERNMENT CONTRACTS; INTERNATIONAL ORDERS

If the goods to be furnished under this contract are to be used in the performance of a U.S. Government contract or subcontract, and a U.S. Government contract number shall appear on Buyer's purchase order, those clauses of the applicable U.S. Government procurement regulations

GENERAL MICRO SYSTEMS, INC.

TERMS AND CONDITIONS

which are required by Federal Statute to be included in U.S. Government subcontracts are incorporated herein by reference. International orders are subject to applicable U.S. export laws and restrictions applicable at the time of order shipment.

27. FAR/DFAR/NASA CLAUSES, CONVENTIONS

Unless specifically accepted by GMS in writing, no additional FAR, DFARS, NASA, or any other FAR Supplemental clauses shall be applicable to this Agreement. In no event shall U.S. Government Cost Accounting Standards (CAS) or Defense Cost Accounting Standards (DCAS) or the Truth in Negotiations Act (TINA) apply to the work performed under this Agreement, and in no event shall GMS be required to provide or certify cost or pricing data. The parties specifically agree that the United Nations Convention on the International Sale of Goods shall not apply to this Agreement.

28. INDEMNIFICATION

Seller and Buyer shall fully and timely cooperate with each other to defend against such claims, and hold each other non-liable for such action.

29. INTELLECTUAL PROPERTY

The parties agree as follows:

1. Confidential Information: "Confidential Information" means all information of a party which relates, respectively, to the Purpose stated above, including, trade secrets, inventions, discoveries, developments, marketing plans, strategies, forecasts, new products, ideas, customer lists, vendor lists, pricing, budgets, licenses, costs, financial data, business and marketing/sales plans, company information of all kinds, including, employee/consultants, proposals, business and technical information and data, and which, in any case, is disclosed by Discloser to Recipient in document, electronic media, or other form bearing an appropriate legend indicating its confidential or proprietary nature, or which, if initially disclosed orally, visually, virtually is considered and identified as confidential at the time of disclosure and a written summary, also marked with a confidential or proprietary legend, is provided to Recipient within 30 days of initial disclosure. Notwithstanding the above requirement for marking or other identification of Proprietary Information, the parties agree that all drafts, revisions, and final documents that, in whole or in part, comprise or include proposals, proposal information, financial data or strategic plans of the parties shall be deemed "Proprietary Information" and handled as such without the requirement of marking or other form of identification.

2. Proprietary Information: "Proprietary Information" means all information related to the purposes that is identified as Proprietary Information, including, but not limited to: technical information, general information, product information, plans, pricing, know-how, formulas, algorithms, development, research, netlists, experiments, computer programs, roadmaps, data sheets, reliability data, architecture, security, schedules, inventions, drawings, prints, sketches, blue prints, prints, images, ideas, schematics, documents, improvements, photos, materials, modifications, quality data, price lists, designs, concepts, requirements, specifications, software, hardware, interfaces, components, sub-components, processes, procedures, methods, financial information, customer lists, contracts, business and marketing/sales plans, contacts, and computer systems.

30. IP OWNERSHIP:

Nothing in this Agreement shall transfer any right, title, interest, license, ownership, or claim that a Party holds in or to any IP, and each Party shall retain the unrestricted ownership it has in its respective IP.

31. EXPORT CONTROL:

(a) Recipient agrees to comply with all applicable U.S. export control laws and regulations, specifically including, but not limited to, the requirements of the Arms Export Control Act, 22 U.S.C.2751-2794, including the International Traffic in Arms Regulation (ITAR), 22 C.F.R. 120 et seq.; and the Export Administration Act, 50 U.S.C. app. 2401-2420, including the Export Administration Regulations, 15 C.F.R. 730-774; Recipient agrees that it will not transfer any received

GENERAL MICRO SYSTEMS, INC.

TERMS AND CONDITIONS

items, data, or services, to include transfer to foreign persons employed by or associated with, or under contract to Recipient or Recipient's lower-tier suppliers, without exception.

32. NO REVERSE ENGINEERING:

No reverse engineering or any modifications or alterations of any kind whatsoever, for any hardware, components or assemblies/sub-assemblies is agreed to by the Parties herein. Each of the parties agrees that the software programs of the other party contain valuable confidential information and each party agrees it will not modify, reverse engineer, decompile, create other works from, or disassemble any software programs contained in the Confidential Information of the other party without the prior written consent of the other party.

33. SUSPECT/COUNTERFEIT PARTS (ELECTRONIC COMPONENTS)

Only new and authentic materials are to be used in products delivered to Buyer. No counterfeit or suspect counterfeit parts are to be contained within the delivered product. Parts shall be purchased directly from the OCMs/OEMs, or through the OCM/OEMs Franchised Distributor. Documentation must be available that authenticates traceability to the applicable OCM/OEM. Independent Distributors (Brokers) shall not be used without written consent from Buyer. If suspect/counterfeit parts are furnished under this subcontract and are found in any of the goods delivered hereunder, such items will be impounded by Buyer. The Seller shall promptly replace such suspect/counterfeit parts with parts acceptable to the Buyer and the Seller shall be liable for all costs relating to the removal and replacement of said parts as specified in the subcontract requirements or Distributor's insurance policies. All occurrences of Suspect Counterfeit and/or Counterfeit parts will be immediately reported to the Buyer. Buyer reserves all contractual rights and remedies to address grievances and detrimental impacts caused by suspect/counterfeit parts. For purposes of this Section a "Counterfeit Item" is defined to include, but is not limited to, (i) an item that is an illegal or unauthorized copy or substitute of an OEM item; (ii) an item that does not contain the proper external or internal materials or components required by the OEM or that is not constructed in accordance with OEM specification; (iii) an item or component thereof that is used, refurbished or reclaimed but the Seller represents as being a new item; (iv) an item that has not successfully passed all OEM required testing, verification, screening and quality control but that Seller represents as having met or passed such requirements; or (v) an item with a label or other marking intended, or reasonably likely, to mislead a reasonable person into believing a non-OEM item is a genuine OEM item when it is not.

Accepted by: _____
Company

Signature

Printed Name

Title

Date

General Micro Systems, Inc.
Company

Signature

Printed Name

Title

Date