Sales terms and conditions

Release Date March 2015

1. Purpose

1.1. For purposes of these Conditions, the word “CES” shall mean the legal entity CES specified in the CES’ order; the word "Buyer" shall mean the party which agrees to purchase the Products as specified in the CES' Order Acknowledgment; the words "Party" and "Parties" shall mean CES and the Buyer individually or collectively; the words "Conditions" or “GSC" shall mean these General Sales Conditions; the word "Products" or “Product” shall mean all or part of an order for merchandise, software and/or hardware any appurtenance thereto including packaging, described in the Order Acknowledgement or indispensable for its execution; the word "Services" shall mean the services (if any) described in the Order Acknowledgment or which are indispensable for its execution; the word "Specifications" shall mean the CES' plans, drawings, directives of design, data and other relative information given by CES to the Buyer concerning the order of Products/Services; the word “Purchase Order” shall mean the purchase order sent by the Buyer to the CES describing the Products purchased by the Buyer from the CES and delivered by CES to the Buyer under these GSC; the word “Order Acknowledgment” shall mean the order acknowledgment sent by CES to the Buyer after reception of the Purchase Order; the word "Force Majeure" shall mean any act of government, natural catastrophe, destruction by insurrection war or hostilities, riots, public disturbances or any other event beyond the will of the parties which delays, hinders, restricts or makes the execution of the order impossible.

2. Offer and Acceptance

2.1. For each order Buyer shall submit to CES a Purchase Order making reference to a valid commercial offer from CES. Buyer’s Purchase Order shall have to be confirmed by CES through an Order Acknowledgement. The Order Acknowledgment itself and these GSC are indivisible.

2.2. These Conditions apply to all Order Acknowledgments; Buyer’s general conditions shall not be applicable unless there is an express written agreement of CES to the contrary. To be valid against CES, any amendments or supplements to these Conditions and/or the Order Acknowledgments must be made in writing, signed by Buyer and confirmed in writing by CES.

3. Prices, Releases and Invoices

3.1. Unless otherwise agreed by the Parties, CES' price in effect at the time CES receives Buyer's Purchase Order shall continue to apply if the quantity ordered is released by CES within twelve (12) months and shipments are scheduled within eighteen (18) months. Otherwise, CES' price in effect on the actual release date for the quantity actually shipped shall apply.

3.2. If the price of fuels, metals, raw materials, equipment or other production costs increases significantly, CES shall have the right and Buyer shall have the obligation to renegotiate the price of all Products not yet shipped, and if an agreement is not reached, CES shall have the right to cancel the current orders and terminate this order without liability.

3.3. Invoices shall be issued in the currency cited in the Order Acknowledgment.

4. Payment Terms

4.1. Payment terms shall be net thirty (30) days from the date of CES' invoice. Failure to pay CES' invoice in the stipulated period shall give CES the right to charge interest of the highest between one and a half percent (1,5%) per late month (pro rata temporis) and the extend permitted by law from the due date thereof until paid in full. This shall be without prejudice to CES' right to any other remedy under these Conditions, at law or in equity. If, in CES' judgment, Buyer's financial condition does not justify the payment terms specified herein, then CES may terminate the agreement unless Buyer immediately pays for all Products that have been delivered and pays in advance for all Products to be delivered. Termination in accordance with this clause shall not affect CES' right to pursue any other available remedies.

5. Taxes

5.1. Any and all payments made by Buyer shall be exclusive of any taxes and charges that might be assessed against Buyer by any jurisdiction. All amounts payable to CES under this Agreement shall be without set-off and without deduction of any taxes, levies, imposts, charges, withholdings and/or duties of any nature which may be levied or imposed, including without limitation, value added taxes, customs duties and withholding taxes. If Buyer is at any time required by any applicable law to make any such set-off or deduction from any amount due to CES, then the amount due from Buyer to CES in respect of such payment shall be increased by such amount to result, notwithstanding the deduction, in CES' receipt on the due date of the amount that CES would have received if Buyer had not been required to make such set-off or deduction. The parties agree to reasonably assist each other in obtaining the necessary documents requested under the applicable double taxation treaty, if any, in order to obtain the reduced rate of withholding tax foreseen therein.

6. Title and Delivery

6.1. CES reserves title to the Products until full payment of the invoice. Buyer shall treat the Products with reserved title with due care, and in particular to adequately insure them at its own expense from the transfer of the risks to Buyer.

6.2. Shipments shall be delivered Ex-Works (location of CES factory) Incoterm 2000 unless expressly stipulated otherwise by CES in the Order Acknowledgment.

6.3. Risks shall be transferred to Buyer in accordance with Incoterm 2000 cited section 6.2 above or in the Order Acknowledgment. Any loss or damage subsequent to the transfer of the risks to Buyer shall not relieve Buyer from its obligations.

6.4. Buyer shall reimburse CES for insurance and transportation costs on international shipments and shall be responsible for all import duties, taxes and any other expenses incurred or licenses or clearances required unless otherwise agreed in the Order Acknowledgement.

6.5. CES is entitled to deliver Products in installments. Delivery dates are estimates. CES shall not be liable for any damage, losses or expenses incurred by Buyer if CES fails to meet the estimated delivery dates.

6.6. In the event of any default by Buyer, CES may decline to make further deliveries. If CES elects to continue to deliver, CES' action shall not constitute a waiver of any such default or affect CES' legal remedies for any such default.

7. Cancellations and Rescheduling

7.1. No cancellation or rescheduling of Products by Buyer within thirty (30) days of CES' estimated shipping date for such Products will be accepted. Buyer has the right to cancel 25% of quantity and to reschedule 50% of quantity more than thirty (30), but less than sixty (60), days before CES' estimated shipping. Buyer has the right to cancel 50% of quantity and to reschedule 75% of quantity more than sixty (60), but less than ninety (90) days before CES' estimated shipping. Orders may be cancelled or rescheduled by Buyer more than ninety (90) days before CES' estimated shipping date for such Products at Buyer's discretion and without charge.

8. Contingencies

8.1. CES shall not be in breach of these Conditions and shall not be liable for any non-performance or delay in performance if such non-performance or delay is due to a force majeure event or other circumstances beyond CES' reasonable control, including but not limited to, shortages of labor, energy, fuel, machinery or materials, technical or yield failures, war, civil unrest, any government act, law or regulation, including any judicial order or decree, any communication or power failure, labor dispute, natural disaster, fire, flood, earthquake, explosion, terrorist act or Act of God. In the event of a shortage of Products, CES may allocate, at its sole discretion, Products production and deliveries.

9. Warranties and Related Remedies

9.1. Subject to clauses 9.5 and 9.6 below, CES warrants that CES Products will conform either to CES' published Specifications for such Products or other mutually agreed upon written specifications signed by an authorized CES' representative. For finished Products, this warranty lasts for one (1) year after delivery, provided, however, that with respect to Products sold in dry pack, Buyer must install those Products within one (1) year after delivery. CES shall not be liable for any defects that occur in dry packed Products that are installed more than one (1) year after delivery. For Products sold in wafer or die form, the warranty period is thirty (30) days. Notwithstanding the foregoing, CES shall not be liable for any defects that are caused by neglect, misuse or mistreatment by an entity other than CES, including improper installation or testing, or for any products that have been altered or modified in any way by an entity other than CES. Moreover, CES shall not be liable for any defects that result from Buyer's design, specifications or instructions for such products. Testing and other quality control techniques are used to the extent CES deems necessary. Unless mandated by government requirements, CES does not necessarily test all parameters of each Product.

9.2. Unless otherwise agreed by the Parties, if any of CES Products fail to conform to the warranty set forth above, CES' sole liability shall be at its option to repair or replace such Products, or credit Buyer's account for such Products. CES' liability under this warranty shall be limited to Products that are returned during the warranty period to the address designated by CES and that are determined by CES not to conform to such warranty. If CES elects to repair or replace such Products, CES shall have a reasonable time to repair such Products or provide replacements. Repaired Products shall be

warranted for the remainder of the original warranty period. Replaced products shall be warranted for a new full warranty period.

9.3. Obligations and Protocol. For defective or non-conforming Products, Buyer will need to request a Return Material Authorization ("RMA") number for each return prior to shipping Product to CES. CES shall approve or reject the RMA request within 10 days after the receipt of such request. Return Material Authorization numbers are valid for thirty (30) days from the date of issuance. If Buyer fails to return the Products within that 30-day period, CES shall not be obligated to accept the Products. Upon receipt of the RMA, Buyer shall send to CES the defective or non-conforming Products. CES shall within thirty (30) working days after receipt of such Products, examine them and confirm or reject the RMA. For the case that the RMA is confirmed CES will, at its option, repair or replace the Products or issue a credit for the purchase price. Every returned Product that CES replaces, or for which CES issues a credit note, will become CES property.

9.4. EXCEPT AS SET FORTH ABOVE, PRODUCTS ARE PROVIDED "AS IS" AND "WITH ALL FAULTS." CES DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.WITH REGARD TO THE MERCHANDISE/SERVICES, AND THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES.

9.5. Buyer agrees that prior to using or distributing any systems that include CES Products, Buyer will thoroughly test such systems and the functionality of such CES Products as used in such systems. CES may provide technical, applications or design advice, quality characterization, reliability data or other services. Buyer agrees that providing these services shall not expand or otherwise alter CES' warranties, as set forth above, and no additional obligations or liabilities shall arise from CES providing such services.

9.6. Notwithstanding anything to the contrary, SOFTWARE PRODUCTS AND EXPERIMENTAL AND DEVELOPMENT PRODUCTS ARE PROVIDED "AS IS" AND "WITH ALL FAULTS." CES DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING SUCH SOFTWARE PRODUCTS AND EXPERIMENTAL AND DEVELOPMENT PRODUCTS, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE

10. Intellectual Property Indemnification

10.1. CES represents that, to the best of its knowledge at the time of delivery, the Products/Services supplied do not violate any patent, license, patented drawings and models, copyrights, rights to masks or any other intellectual or industrial property rights of a third party. CES represents that, to the best of its knowledge, it holds all the rights to utilize, manufacture and sell the Products/Services, and that Buyer shall have the right to use and resell the Products/Services and it grants Buyer a license to utilize the intellectual property rights to the Products/Services which permit Buyer to utilize the Products/Services throughout the world for the duration of the intellectual property rights.

10.2. CES will defend any suit or proceeding brought against Buyer to the extent that such suit or proceeding is based on a claim that Products/Services sold by CES to Buyer constitute direct infringement of any valid patent and that the intellectual property rights of that party (excluding intellectual property and items supplied by non affiliated third-

parties) misappropriates a third party trade secret, or infringes a copyright, patent, or other intellectual property right of a third party. Subject to article 10.5, CES shall pay all damages and costs awarded by final judgment (from which no appeal may be taken) against Buyer, on condition that CES:

i. is promptly informed and furnished a copy of each communication, notice or other action relating to the alleged infringement,
ii. is given authority, information and assistance necessary to defend or settle such suit or proceeding in such manner as CES shall determine,
iii. is given sole control of the defense (including the right to select counsel) and the sole right to compromise and settle such suit or proceeding, and
iv. is found guilty of infringement and of misappropriation.

10.3. CES shall not be obligated to defend or be liable for costs and damages if the infringement arises out of compliance with Buyer's specifications or from a combination with, an addition to, or modification of the Products.

10.4. If any Products manufactured and supplied by CES to Buyer are held to directly infringe any valid patent and Buyer is enjoined from using the same, or if CES believes such infringement is likely, CES will exert reasonable, at its option and it expenses,

i. to procure for Buyer the right to use such Products free of any liability for patent infringement or
ii. to replace or modify such goods with a non-infringing substitute otherwise complying substantially with all the requirements of the contract or
iii. upon return of the Products, refund the purchase price and the transportation costs of such Products. If the infringement is alleged prior to completion of delivery of the Products CES has the right to decline to make further shipments without being in breach of contract. If CES has not been enjoined from selling such Products to Buyer, CES is entitled (at CES' sole election), at Buyer's request, to supply such Products to Buyer, in which event, Buyer shall be deemed to extend to CES the same patent indemnity hereinabove stated.

10.5. CES' liability under this section 10, if any, shall be strictly and solely limited to the amount of royalties which would be payable to the claiming third party in respect of revenues derived by CES from Buyer from sales of the infringing Products. In no event shall CES be liable for royalties payable with respect to the use of such infringing Products, or subscriber revenues derived by Buyer therefrom or any royalty basis, other than as set forth above

10.6. The same patent indemnity shall be deemed to be extended to CES by Buyer if any suit or proceeding is brought against CES based upon a claim that the Products manufactured by CES in compliance with Buyer's specifications infringe any valid patent.

10.7. THE FOREGOING STATES THE SOLE AND EXCLUSIVE LIABILITY OF THE PARTIES HERETO FOR INFRINGEMENT OR THE LIKE PATENTS, TRADEMARKS AND COPYRIGHTS, AND OTHER PROPRIETARY PROPERTY RIGHTS, WHETHER DIRECT OR CONTRIBUTORY, AND IS IN LIEU OF ALL WARRANTIES, EXPRESS, IMPLIED OR STATUATORY IN REGARD THERETO.

10.8. Each Party shall have no intellectual property indemnification obligation for any infringement or claim which results solely from:

i. use of other than unaltered version of the other Party's intellectual property, if the infringement is avoided by using the unaltered version;
ii. one Party's compliance with designs or specifications of the other Party;
iii. use of the intellectual property of the other Party in violation of these GSC or in combination with intellectual property or materials not provided by the other party where there would not be an infringement or claim except therefore; or
iv. any matter for which the other Party has an obligation to indemnify hereunder.

11. 11. Limitations and Damages Disclaimer

11.1. General Limitations.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL CES BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER ARISING OUT OF THE USE OF OR INABILITY TO USE THE PRODUCTS/SERVICES OR THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES, EVEN IF CES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCLUDED DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, COST OF REMOVAL OR REINSTALLATION, ANCILLARY COSTS TO THE PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES, RETESTING, OUTSIDE COMPUTER TIME, LABOR COSTS, LOSS OF GOODWILL, LOSS OF PROFITS, LOSS OF SAVINGS, LOSS OF USE, LOSS OF DATA, OR BUSINESS INTERRUPTION. NO CLAIM, SUIT OR ACTION SHALL BE BROUGHT AGAINST CES MORE THAN ONE YEAR AFTER THE RELATED CAUSE OF ACTION HAS OCCURRED.

11.2. Specific Limitations. IN NO EVENT SHALL CES' AGGREGATE LIABILITY FROM ANY WARRANTY, INDEMNITY, OR OTHER OBLIGATION ARISING OUT OF OR IN CONNECTION WITH THESE CONDITIONS, OR ANY USE OF ANY CES PRODUCTS/SERVICES PROVIDED HEREUNDER, EXCEED THE TOTAL AMOUNT PAID TO CES FOR THE PARTICULAR UNITS/SERVICES SOLD UNDER THESE CONDITIONS WITH RESPECT TO WHICH LOSSES OR DAMAGES ARE CLAIMED. THE EXISTENCE OF MORE THAN ONE CLAIM AGAINST THE PARTICULAR UNITS SOLD/SERVICES PROVIDED TO BUYER UNDER THESE CONDITIONS SHALL NOT ENLARGE OR EXTEND THIS LIMIT.

11.3. BUYER UNDERSTANDS AND AGREES THAT THE FOREGOING LIABILITY LIMITATIONS ARE ESSENTIAL ELEMENTS OF THESE CONDITIONS AND THAT IN THE ABSENCE OF SUCH LIMITATIONS THE MATERIAL AND ECONOMIC TERMS OF THIS CONTRACT WOULD BE SUBSTANTIALLY DIFFERENT.

12. Life support policy

CES Products are not authorised for use as critical components in life support devices or systems. In particular, they shall not be used in:

i. Life support devices or systems are devices or systems which:

a) are intended for surgical implant into the body; or
b) support or sustain life and whose failure to perform when properly used in accordance with instructions for use provided in the labelling can be reasonably expected to result in significant injury to the user.

ii. A critical component is any component in a life support device or system whose failure to perform can be reasonably expected to cause the failure of the life support device or system or to affect its safety or effectiveness.

13. Intellectual Property on CES Software

In the event CES Software is implemented in the Products, no license on any intellectual property right of CES Software is granted herein. The licenses are granted with the signature of the End-User License Agreement.

14. Confidentiality and documents

14.1. Buyer shall observe confidentiality concerning the technical know-how, the invention or processes, and all other confidential or commercially sensitive information concerning CES' activity communicated to it or which it received from CES or its agents. Buyer's employees shall have access only to the information needed to comply with Buyer's obligation to CES; Buyer must make sure that the said employees are bound by the same obligation of confidentiality as Buyer. This obligation shall end 10 (ten) years after the date of completion of the Order Acknowledgment.

14.2. In particular, any drawing, design, data, equipment or any other material and/or information provided by CES shall be considered confidential information belonging exclusively to the CES.

14.3. At CES' request, Buyer shall immediately return to CES all confidential or commercially sensitive information which has been communicated to it by CES.

14.4. Buyer is not authorized to publicize its commercial relations with CES without the latter's express, written authorization.

14.5. Any written or oral communication and any publication to third parties concerning the Order Acknowledgment or its contents shall be subject to CES' prior written consent.

15. Wassenaar Arrangements

The Parties acknowledge that the subject matter to these Conditions may fall within the scope of the provisions set forth by the Wassenaar Arrangements or any successor, substitute or additional body regulating sensitive technologies. Should performance of these Conditions legally be prevented by the regulators of the Wassenaar Arrangements or any such other body such prevention shall be considered as a case of Force Majeure. Neither Party shall be liable to the other for any damages resulting from the non-performance of these Conditions as the result of the application of any such regulations, save to the extent caused by the other Party's negligence.

16. Miscellaneous

16.1. If one clause of these Conditions is found to be or subsequently becomes inoperative, the validity of these Conditions and of the Order Acknowledgment shall not be affected thereby.

16.2. The fact that one of the parties does not exercise, or delays to exercise, one of its rights under the Order Acknowledgment or the GSC shall not be interpreted as a waiver of such right; likewise the sole or partial exercise of a right shall not exclude the exercise of any other rights. To be valid, any waiver must be in the form of a written document signed by the waiving Party.

16.3. All Order Acknowledgments can not be subcontracted, assigned or transferred to another person without CES' prior written agreement.

16.4. Each party shall be considered to be independent. These Conditions in no way create a joint company, a partnership or any other form of association by the Parties and never designates one Party the agent or legal representative of the other Party for any purpose whatever. Neither Party is authorized or empowered to assume or create an explicit or implied obligation or responsibility for the account and in the name of the other Party, nor to commit the other Party in any manner or in any area whatsoever.

17. Governing Law

17.1. Any dispute concerning these Conditions, in particular as to its existence, validity, interpretation, performance or non-performance, whether arising before or after the expiration, shall be exclusively settled by arbitration. The seat of the arbitration shall be in Lausanne, Switzerland and shall be conducted in English. The arbitration shall take place in accordance with the Swiss Rules of International Arbitration, Swiss law being exclusively applied to the merits, without consideration for the conflict of laws provisions.

17.2. These Conditions shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods.