



MAXIM INTEGRATED PRODUCTS, INC
GENERAL TERMS AND CONDITIONS OF SALE FOR STANDARD PRODUCT

- A. The term "Seller" as used herein shall mean Maxim Integrated Products, Inc., and/or its present and future subsidiaries. The term "Buyer" shall mean the third party placing the purchase order.
- B. No contractual relationship between Seller and Buyer shall arise until such time as Buyer has placed an order which has been accepted by Seller.
- C. Stenographic and clerical errors are subject to correction.
- D. Subject to the provisions hereof, all quotes submitted are firm for thirty (30) days from the date of the quotation unless indicated differently on the face of the quotation. Alterations or changes of quotations after thirty (30) days may be made at the discretion of Seller without notice.
- E. Orders shall be subject to all of Seller's Standard Terms and Conditions printed below

1. **SCOPE.** The terms and conditions of sale contained herein, and as amended by Seller from time to time, apply to Seller's quotations and purchase orders placed by Buyer on Seller. These terms and conditions may in some instances conflict with some of the terms and conditions on Buyer's form of purchase order or otherwise specified by the Buyer or these terms and conditions may cover matters not addressed in Buyer's documentation. Therefore, acceptance of the Buyer's order is made only on the express understanding and condition that insofar as the terms and conditions of this acceptance conflict with any terms and conditions of the Buyer's order or cover matters not addressed in Buyer's documentation, Seller's terms and conditions shall govern, irrespective of whether the Buyer accepts these conditions by a written acknowledgment, by implication, or by acceptance and payment for goods ordered. Seller's failure to object to provisions contained in any communication from Buyer shall not be deemed a waiver of the provisions of this acceptance. Any changes from the terms and conditions of sale contained herein must be specifically agreed to in writing by an authorized officer of Seller before becoming binding on the Seller. All orders or contracts must be approved and accepted by the Seller at its head office at 120 San Gabriel Drive, Sunnyvale, California 94086. From time to time, Seller may accept certain of Buyer's terms and conditions of sale by signing Buyer's proposed sale agreement. If such acceptance is preceded or accompanied by Seller's interpretation of Buyer's terms and conditions, such interpretation shall control the construction or interpretation of the meaning of Buyer's terms and conditions.

2. **PRICES.** Irrespective of any prices quoted by Seller or listed on Buyer's order, an order is accepted only at the prices shown on Seller's acknowledgment.

Prices listed on Seller's acknowledgment are firm and not subject to audit or price redetermination or renegotiation, except that at Seller's sole discretion any and all prices are subject to adjustment either directly or by the addition of a precious metals surcharge in order to cover the cost of precious metals utilized by Seller in supplying goods.

If Buyer fails to take delivery hereunder of the quantity of goods upon which a quantity discount price, if any, is based, Buyer will be back-billed an amount based upon the quantity actually delivered hereunder and upon the quantity pricing schedule in effect at the time the order was placed. Such charges shall be in addition to any cancellation charges.

Prices apply only if the quantity ordered hereunder is released within twelve (12) months and shipments scheduled no more than twelve (12) months from the date Seller received Buyer's order. Otherwise, Seller's standard prices in effect on the date of receipt by Buyer of the quantity actually shipped shall apply, and Buyer shall pay the difference in price, if any.

3. **TERMS AND METHOD OF PAYMENT.** Unless expressly specified otherwise on the Seller's sales confirmation, where Seller has extended credit to Buyer, terms of payment shall be net thirty (30) days from the date of Seller's invoice. Buyer will be charged 1.5% per month (but not more than is permitted under applicable law) on overdue accounts. If Buyer fails to make payment for goods delivered as herein provided, or if, in Seller's opinion, a change in Buyer's financial condition or other circumstances has created reasonable concerns as to Buyer's credit worthiness, Seller may at any time limit or cancel the credit of Buyer as to time and amount and may demand payment in cash before delivery of any part of the goods. On any order on which credit is not extended by Seller, shipment or delivery shall be made at Seller's election. Payment shall be made for the goods without regard to whether Buyer has made or will make any inspection of the goods.

4. **INSPECTION.** Buyer shall either accept or reject all shipments of goods within thirty (30) days of receipt by Buyer. In the event that Buyer does not either complete final inspection and accept the goods or present a rejection notice to Seller in writing within thirty (30) days of delivery, the goods shall be conclusively deemed accepted. At that time, Buyer's only recourse or remedy for non-conforming or defective goods shall be Seller's standard warranty. Buyer's inspection and/or acceptance tests shall not exceed the inspection and/or test procedures customary in the industry for the goods furnished and shall be at Buyer's expense. Seller reserves the right to charge to Buyer any costs resulting from the testing, handling and disposition of any goods returned by Buyer which are found by Seller to conform to the applicable specifications.

5. **SELLER WARRANTY.** Seller warrants to Buyer that goods delivered hereunder that are standard products of Seller will conform to the applicable specifications and be free of defects in material and workmanship for a period of one (1) year from date of



shipment to Buyer. For goods that are not standard products of Seller, such as dice and developmental or custom-designed goods, Seller warrants to Buyer that such goods delivered hereunder will conform to the applicable specifications and be free of defects in material and workmanship upon receipt by Buyer.

Seller makes no warranty or guarantee whatsoever with respect to sales or orders for nonstandard or sub-grade goods. Goods sold under such sales or orders are furnished "as is" and "with all faults."

Seller shall repair, rework, replace, or credit Buyer's account, at its sole discretion, any goods delivered hereunder which either become defective or fail to meet the applicable specifications during the warranty period, provided that (a) Seller is notified in writing by Buyer within thirty (30) days after discovery of defects or failure to meet specifications; (b) Buyer obtains a Return Material Authorization form from Seller prior to returning any defective goods to Seller; (c) the defective goods are returned to Seller, transportation charges prepaid by Buyer (provided, however, that if upon examination by Seller, it determines that the goods are entitled to this warranty, then Seller shall be responsible for all transportation charges to and from Seller's facility); (d) the defective goods are received by Seller for adjustment no later than four (4) weeks following the last day of the warranty period; and (e) Seller's examination of such goods shall disclose that such defects or failures have not been caused by misuse, abuse, neglect, improper installation or application, repair, alteration, damage by rain, fire or casualty or by accident or negligence in use, storage, transportation or handling. In the event that any one or more of the foregoing conditions (a) through (e) is not satisfied, Seller shall have no liability under this warranty whatsoever. In the event that the foregoing exclusive remedy under this warranty is determined upon judicial review to have failed in its essential purpose through no fault of Buyer, the alternate exclusive remedy shall be the refund of the purchase price of the non-conforming or defective goods. Any repairs to or alterations on the goods shipped hereunder must be authorized in writing by Seller to prevent voiding Seller's warranty.

THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE, ALL OF WHICH OTHER WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED.

THE FOREGOING STATES THE ENTIRE WARRANTY LIABILITY OF SELLER.

6. **BUYER WARRANTY.** Acceptance of goods is a warranty by Buyer that Buyer is solvent as of the date of shipment. With respect to goods delivered hereunder, Buyer agrees to accept responsibility for (i) their selection to achieve Buyer's intended results, (ii) their use, (iii) the results obtained therefrom and (iv) the selection of, use of and results obtained from any equipment, programs or services not provided by Seller and used in connection with goods delivered hereunder.

7. **INFRINGEMENT.** With respect to goods manufactured solely to Seller's designs and specifications, Seller shall defend any suit or proceeding brought against Buyer insofar as such suit or proceeding is based on a claim that any such goods furnished hereunder infringe any patent(s), copyright(s) or trademark(s), or for misappropriation or use of any trade secret(s), or for unfair competition, if Seller is notified promptly in writing of such suit or proceeding and is given full and complete authority, information and assistance by Buyer for such defense. Seller shall pay all damages and costs finally awarded against Buyer in any such suit or proceeding, but Seller shall not be responsible for any compromise thereof made by Buyer without the written consent of Seller. If infringement is alleged prior to the completion of delivery of the goods, Seller may decline to make further shipments without being in breach of any agreement. In the event that such goods are held in such suit or proceeding to be infringing and their use is enjoined, or if in the opinion of Seller such goods are likely to become the subject of a claim of infringement, Seller at its sole discretion and at its own expense, may either (a) procure for Buyer the right to continue using such goods; (b) modify such goods so that they become non-infringing; (c) replace such goods with non-infringing goods; or (d) accept the return of such goods, granting Buyer a refund therefore equal to the original purchase price. Seller's obligations hereunder shall not apply to any alleged infringement occurring after Buyer has received notice of such alleged infringement unless Seller thereafter gives to Buyer written consent for such continuing alleged infringement.

Any provision herein to the contrary notwithstanding, Seller shall have no obligation to Buyer (to defend or make any payment to or for Buyer) for any infringement, misappropriation or misuse claimed by any third party or parties if any such claim arises, in whole or in part, (a) as a result of a modification of the goods not introduced or approved by Seller; or (b) as a result of the interconnection or use of the goods in combination with goods or other devices not made by Seller; or (c) as a result of, or following, Buyer's asserting a claim of infringement, misappropriation or misuse against such third party or parties, or (d) the use of the goods in other than an application recommended by Seller.

With respect to goods manufactured to Buyer's designs or specifications, Buyer shall defend any suit or proceeding brought against Seller, either severally or jointly with Buyer, insofar as such suit or proceeding is based on a claim, that any such goods furnished hereunder infringe (either direct or contributory) any patent(s), copyright(s), or trademark(s), or for misappropriation or use of any trade secret(s) or for unfair competition, arising from (i) compliance with Buyer's designs, specifications, or instructions; (ii) the use of any item or any part thereof, furnished hereunder, in combination with goods not supplied by Seller, or (iii) in connection with a manufacturing or other process utilizing any item, or part thereof, furnished hereunder. Seller shall notify Buyer promptly in writing of such suit or proceeding and give Buyer full and complete authority, information and assistance for such defense. Buyer shall pay all damages and costs finally awarded against Seller in any such suit or proceeding, but Buyer shall not be responsible for any compromise thereof made by Seller without the written consent of Buyer.

THE FOREGOING STATES THE SOLE AND EXCLUSIVE LIABILITY OF THE PARTIES HERETO FOR INFRINGEMENT AND IS IN LIEU OF ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY WITH RESPECT THERETO.

8. **NO LICENSE.** Goods or any parts thereof sold hereunder may be protected by intellectual property rights of Seller, including, but not limited to, rights under issued and pending patents, mask work rights, copyright rights, trademark rights and trade secret rights. Neither the sale of goods or any parts thereof hereunder nor the provision by Seller of any supporting or related documentation, technical information or advice shall confer on Buyer any license, express or implied, under any intellectual property rights of Seller covering or related to (i) apparatus or circuits in which the goods or parts thereof may be used; (ii) a process, machine, use or application in connection with which the goods or parts or parts hereof may be used; (iii) the process of their manufacturer; or (iv) a combination in which the goods or parts hereof may be used.

9. **TAXES.** Any tax or government charge by any Federal, state or municipal government applicable to the goods sold hereunder now imposed or hereafter becoming effective during the term of any contract made hereunder shall be added by Seller to the sales price where Seller has the legal obligation to collect or pay same, and shall be paid by Buyer unless Buyer provides Seller with a proper tax-exemption certificate. Buyer shall pay any duties, levies, taxes, brokerage fees or customs fees imposed in the Buyer's country to shipments made under this contract.

10. **TITLE AND DELIVERY.** The goods shall be delivered when ordered by Buyer on reasonable notice to Seller, EXW, Seller's factory, (Incoterms 2000). Risk of loss shall pass to Buyer upon Seller's delivery of the goods to a common carrier for shipment to Buyer. Title in the goods shall not pass to Buyer until Seller has received in full all Monies owed by Buyer under this or any other agreement.

11. **DELIVERY SCHEDULE.** Notwithstanding any of the foregoing, Buyer understands that any delivery schedule set forth herein or in any subsequent order or release is estimated only and is presented in good faith by Seller. Seller will use its best efforts to meet such schedule. IN NO EVENT WILL SELLER BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY FAILURE TO MEET ANY DELIVERY SCHEDULE OR FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS. THE LIMIT OF LIABILITY FOR ANY FAILURE BY SELLER TO MEET ANY DELIVERY SCHEDULE SHALL BE THE RETURN OF ANY AMOUNT PAID OR PREPAID ON ACCOUNT OF THE GOODS NOT DELIVERED OR NOT DELIVERED ON TIME. Delays or changes in schedules due to Buyer directed actions are subject to price adjustments. In the absence of instructions by Buyer prior to delivery, Seller will select the carrier to whom delivery will be made for shipments to Buyer.

Seller reserves the right to allocate production and deliveries among its various customers under any circumstances.

Buyer will be deemed to have waived any and all claims for shipments containing less than the number of goods indicated on the shipping documents unless written notice of such claims is received by Seller within thirty (30) days after receipt of shipment.

12. **CANCELLATIONS.** No cancellations or reschedules will be accepted within thirty (30) days of the earliest requested ship date. All cancellations and reschedules of orders by the Buyer between thirty-one (31) and eighty-nine (89) days prior to the earliest requested ship date shall result in a charge to Buyer to be reasonably determined by the Seller based on such factors as whether the product was manufactured specifically for Buyer, Seller's ability to change its production schedule within the period of the notice provided by Buyer, whether Seller acquired or allocated particular supplies or equipment to meet Buyer's order, etc.

13. **NON-WAIVER DEFAULT.** Each shipment made under any order shall be treated as a separate sale and transaction, but in the event of any default by Buyer, if Seller elects to continue to make shipment, its action shall not constitute a waiver of any default by Buyer or in any way affect Seller's legal remedies for any such default.

14. **CONTINGENCIES.** Seller shall not be liable for delay in performance or failure to perform in whole or in part the terms of this Agreement due to causes beyond the reasonable control of Seller, including, without limitation, strike, labor disputes, war, riot or civil commotion, acts of the public enemy, insurrection, sabotage, or fire, flood or other acts of God. The period for performance for the party affected by such a cause shall be extended by the duration of the condition, provided, however, if any such delay shall continue for more than 120 days from the start of the cause of delay, the quantities undelivered during such period of delay or to be delivered, may be canceled at Seller's election without liability of Seller to Buyer by written notice to Buyer at any time.

15. **ARBITRATION.** In the event that any dispute arises between Seller and Buyer with respect to any of the provisions of this form of the performance of the terms and conditions hereof or of any modification hereof by either of the parties hereto, such dispute, if not settled by negotiations between the parties within a reasonable time, shall be settled by arbitration in accordance with the rules then prevailing of the American Arbitration Association and judgment upon the award rendered may be entered in any court having jurisdiction thereon. In any such proceeding the arbitrator shall make every reasonable effort to resolve the matter expeditiously and to reduce the costs of the proceeding, by limiting discovery and other means; and neither party shall be entitled under any circumstances to receive punitive exemplary damages. Unless the parties otherwise agree in writing, such arbitration shall be conducted in Sunnyvale, California, and Buyer and Seller consent to jurisdiction and venue in the courts of California located in Santa Clara County, California. Judgment of arbitrator shall be final and binding. Each party hereto waives its right to an appeal and/or a jury.



16. **ASSIGNS.** Any contract made hereunder shall be binding upon and inure to the benefit of the successors and assigns of the entire business and good will of either Seller or Buyer, or of that part of the business of either used in the performance of such contract but shall not be otherwise assignable. Buyer affirms that there exists no third party beneficiaries to Buyer's rights hereunder unless Buyer specifically identifies such beneficiary on the face of Buyer's order or Buyer's acceptance of Seller's quotation.

17. **MODIFICATION OF STANDARD TERMS AND CONDITIONS.** No addition to or modification of any of the provisions upon the face or reverse of this form shall be binding upon Seller unless made in writing and signed by a duly authorized representative of Seller located in Sunnyvale, California.

18. **LAW.** This Agreement shall be governed by and construed under the laws of the State of California and the United States without regard to conflicts of laws provisions thereof or the United Nations Convention on Contracts for the International Sale of Goods. The sole jurisdiction and venue for actions related to the subject matter hereof shall be the state and U.S. federal courts in the State of California, located in Santa Clara County, California.

19. **EXPORT CONTROL.** Buyer acknowledges and agrees to comply with all applicable restrictions on exports and re-exports, including obtaining any required U.S. Government license, authorization, or approval. Buyer represents that it either is knowledgeable about U.S. Government export and re-export requirements or that it will become so prior to engaging, directly or indirectly, in any export or re-export transaction involving Seller's products or technical data. Seller shall have no responsibility for delayed delivery or non-delivery resulting from (i) any governmental action under U.S. or other applicable law suspending or revoking a necessary export license or authorization, or (ii) any failure by Buyer to furnish reasonable assurance, upon request, of its compliance with applicable export requirements.

The above assurances shall not apply to data that have been made generally available to the public in any form, including (a) data released orally or visually at open conferences, lectures, trade shows or other media open to the public; (b) publications that may be obtained without costs or are readily available at libraries open to the public; and (c) data not directly and significantly related to design, production or utilization in industrial process.

19. **AIRCRAFT.** Seller does not authorize any of Seller's goods for use in aircraft, aircraft devices and/or systems without the express written approval of an officer of Seller. Aircraft devices or systems are devices or systems that are intended to be used in or in support of aircraft and whose failure to perform can be reasonably expected to result in interference with aircraft communication systems and/or significant injury to the user.

20. **LIFE SUPPORT.** Seller does not authorize any of Seller's products for use in medical applications, including, without limitation, life support devices and/or systems without the express written approval of an officer of Seller. 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 labeling, can be reasonably expected to result in significant injury to the user.

21. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL SELLER BE LIABLE (A) FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, WHETHER OR NOT FORESEEABLE OR FORESEEN, OR (B) FOR THE COST OF PROCURING SUBSTITUTE GOODS, INCLUDING WITHOUT LIMITATION, COSTS OF REMOVAL AND REINSTALLATION OF GOODS, LOSS OF GOODWILL, LOSS OF PROFITS, OR LOSS OF UNITS, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY THEREOF, IN EITHER CASE RESULTING FROM ITS PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT OR FROM THE FURNISHING, PERFORMANCE OR USE OF ANY GOODS OR SERVICES SOLD PURSUANT HERETO, WHETHER DUE TO BREACH OF CONTRACT, BREACH OF WARRANTY, SUCH SELLER'S NEGLIGENCE OR OTHERWISE. Buyer shall be deemed to assume all liability for any and all damages arising from or in connection with the use or misuse of the goods by Buyer, its employees, customers and others.

22. **RELATIONSHIP OF PARTIES.** Seller and Buyer expressly understand and agree that Buyer is an independent contractor in the performance of each and every part of this order, is solely responsible for all of its employees, agents and will indemnify Seller from any and all claims, liabilities, damages, debts, settlements, costs, attorneys' fees, expenses and liabilities of any type whatsoever that may arise on account of Buyer's activities or those of its employees or agents (including, without limitation, direct and indirect distributors or subdistributors), including without limitation unauthorized representations or warranties (or failing to effectively disclaim all warranties and liabilities on behalf of Seller to the same extent as disclaimed herein) to its customers.

23. **BASIS OF BARGAIN.** EACH PARTY RECOGNIZES AND AGREES THAT THE WARRANTY DISCLAIMERS AND LIABILITY AND REMEDY LIMITATIONS IN ANY ORDER OR CONTRACT ARE MATERIAL, BARGAINED FOR BASES OF SUCH ORDER OR CONTRACT AND THAT THEY HAVE BEEN TAKEN INTO ACCOUNT AND REFLECTED IN DETERMINING THE CONSIDERATION TO BE GIVEN BY EACH PARTY UNDER SUCH ORDER OR CONTRACT AND IN THE DECISION BY EACH PARTY TO ENTER INTO SUCH ORDER OR CONTRACT.

24. **PACKAGING.** Packaging for commercial shipment is included in the quoted price. When special or export packaging is specified involving a greater expense than the cost of commercial shipment included in the quoted price, a charge will be made to cover such extra expense. Reasonable care is exercised in packaging goods for shipment and no responsibility is assumed by Seller for delay, breakage, or damage after having made delivery to the carrier. All claims for breakage or damage shall be made to the carrier, however, Seller will render reasonable assistance in securing satisfactory adjustment of such claims.

25. **CHANGES TO SPECIFICATIONS.** Seller reserves the right to change the specifications of any goods (including all statements and data appearing in Seller's catalogs, data sheets and advertisements) without notice. If such changes to specifications are made, Seller assumes no obligation to provide the change on goods previously purchased or to continue to supply discounted goods. Seller may substitute goods manufactured to such modified specifications for those specified herein provided such goods substantially conform to the order or contract.

26. **PROPRIETARY DATA.** Buyer agrees not to use or disclose drawings, specifications, technical information or other data furnished by Seller and identified by Seller as confidential or proprietary data without the prior written consent of Seller. Buyer agrees and acknowledges that any improvement or modification to such confidential or proprietary data shall be the sole property of Seller, regardless of whether any such improvement or modification was the creation of Buyer. Buyer further agrees to use all appropriate copyright and proprietary notices on all goods delivered hereunder regardless of their intended use. Buyer recognizes that such proprietary data is unique and consents to the remedy of injunction in addition to damages for violation of the terms of this provision.

27. **TOOLING.** Unless otherwise expressly agreed in writing, Seller shall retain rights and title to and possession of any tooling, drawings, mask sets, tapes, fixtures, original documentation and intellectual property used in the furnishing of goods.

28. **GENERAL:**

In the event of the appointment of a trustee, receiver, or liquidator for all or a portion of Buyer's property, Buyer's insolvency, or any voluntary or involuntary petition in bankruptcy by or against Buyer, Seller may terminate any order without further obligation or liability of Seller to Buyer.

In the event any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.