



XYLON TECHNOLOGY EVALUATION LICENSE AGREEMENT

FOR logiREF-BTRD-2014.4-ZED REFERENCE DESIGN

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5. Disclaimers. THE LICENSED MATERIALS ARE PROVIDED "**AS IS**" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION, ANY WARRANTY WITH RESPECT TO NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AND ANY WARRANTY THAT MAY ARISE FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. XYLON DOES NOT WARRANT THAT THE LICENSED MATERIALS WILL MEET LICENSEE'S REQUIREMENTS, THAT THE LICENSED MATERIALS WILL BE FREE OF DEFECTS, OR THAT ANY SUCH DEFECTS WILL BE CORRECTED. FURTHERMORE, XYLON DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING USE OR THE RESULTS OF THE USE OF THE LICENSED MATERIALS IN TERMS OF COMPLETENESS, CORRECTNESS, ACCURACY, RELIABILITY OR OTHERWISE.

LICENSEE ACKNOWLEDGES THAT USE OF THE LICENSED MATERIALS IN COMBINATION WITH OTHER FUNCTIONALITY, CORES, SOFTWARE OR PROTOCOLS MAY REQUIRE LICENSES FROM THIRD PARTIES AND LICENSEE ACCEPTS SOLE RESPONSIBILITY FOR OBTAINING SUCH LICENSES.

THE LICENSED MATERIALS ARE NOT DESIGNED OR INTENDED TO BE FAILSAFE, OR FOR USE IN ANY APPLICATION REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS IN LIFE-SUPPORT OR SAFETY DEVICES OR SYSTEMS, CLASS III MEDICAL DEVICES, NUCLEAR FACILITIES, APPLICATIONS RELATED TO THE DEPLOYMENT OF AIRBAGS, OR ANY OTHER APPLICATIONS THAT COULD LEAD TO DEATH, PERSONAL INJURY OR SEVERE PROPERTY OR ENVIRONMENTAL DAMAGE (INDIVIDUALLY AND COLLECTIVELY, "CRITICAL APPLICATIONS"). FURTHERMORE, THE LICENSED MATERIALS ARE NOT DESIGNED OR INTENDED FOR USE IN ANY APPLICATIONS THAT AFFECT CONTROL OF A VEHICLE OR AIRCRAFT, UNLESS THERE IS A FAIL-SAFE OR REDUNDANCY FEATURE (WHICH DOES NOT INCLUDE USE OF SOFTWARE IN THE LICENSED DEVICE TO IMPLEMENT THE REDUNDANCY) AND A WARNING SIGNAL UPON FAILURE TO THE OPERATOR. LICENSEE AGREES, PRIOR TO USING OR DISTRIBUTING ANY SYSTEMS THAT INCORPORATE THE LICENSED MATERIALS, TO THOROUGHLY TEST THE SAME FOR SAFETY PURPOSES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, LICENSEE ASSUMES THE SOLE RISK AND LIABILITY OF ANY USE OF THE LICENSED MATERIALS IN CRITICAL APPLICATIONS.

6. Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, XYLON AND ITS SUPPLIERS SHALL NOT BE LIABLE (WHETHER IN CONTRACT, TORT, INCLUDING NEGLIGENCE, OR UNDER ANY OTHER THEORY OF LIABILITY) FOR ANY LOSS OR DAMAGE OF ANY KIND OR NATURE RELATED TO, ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE LICENSED MATERIALS, INCLUDING FOR ANY DIRECT, OR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGE (INCLUDING LOSS OF DATA, PROFITS OR GOODWILL OR ANY TYPE OF LOSS OR DAMAGE SUFFERED BY LICENSEE AS A RESULT OF ANY ACTION BROUGHT BY A THIRD PARTY) EVEN IF SUCH DAMAGE OR LOSS WAS REASONABLY FORESEEABLE OR XYLON OR ITS SUPPLIERS HAD BEEN ADVISED OF THE POSSIBILITY OF LICENSEE INCURRING THE SAME.

7. Term; Termination; Survival. This Agreement will commence upon the Effective Date. Licensee may terminate this Agreement at any time by destroying the Licensed Materials and all copies thereof. This Agreement will terminate immediately without notice from Xylon if Licensee fails to comply with any provision of this Agreement. Upon expiration or termination of this Agreement, the licenses and rights granted hereunder will cease, and Licensee shall destroy the Licensed Materials and all copies thereof. Licensee shall provide written confirmation of such destruction to Xylon upon request. The provisions of Sections 2 (Ownership), 3 (Restrictions), 4 (Confidentiality), 5 (Warranty

Disclaimer), 6 (Limitation of Liability), 7 (Term; Termination; Survival) and 8 (General) shall survive the termination or expiration of this Agreement.

8. General.

a. **Export Compliance.** Licensee shall adhere to all applicable export laws and regulations including but not limited to those administered by the European Union (Regulation (EC) No 428/2009) and the United States Departments of Commerce and Defense. The importer/exporter of record shall not export, reexport, resell, transfer, or disclose, directly or indirectly, any products or technical data, to any proscribed person, entity, or country, or foreign persons thereof, unless properly authorized by any applicable or relevant government or regulatory body.

b. **Third-Party Beneficiary.** Licensee understands that portions of the Licensed Materials may have been licensed to Xylon from third parties and that such third parties are intended third party beneficiaries of the provisions of this Agreement.

c. **Third-Party Licenses.** Certain files, programs or other materials distributed in connection with the Licensed Materials may originate from third-party licensors and are licensed to Licensee (not under the terms and conditions of this Agreement, but rather) pursuant to the terms and conditions of the applicable licenses that appear upon installation, acceptance and/or activation of the Licensed Materials and/or are contained or described in the corresponding release notes or other documentation or header or source files. Licensee agrees to carefully review and abide by the terms and conditions of these licenses to the extent that they govern such files, programs or other materials. Notwithstanding the foregoing, as between Xylon and Licensee, to the maximum extent permitted by applicable law and if not prohibited by any such third-party licenses, all such third-party files, programs or other materials shall be deemed covered under Sections 5 (Disclaimers) and 6 (Limitation of Liability).

d. **Non-assignment and Binding Effect.** Licensee may not assign this Agreement or transfer any of its rights or obligations under this Agreement, directly or indirectly by operation of law or otherwise, without the prior written consent of Xylon. Any such attempted assignment or transfer shall be void and terminate this Agreement. Subject to the foregoing, this Agreement shall be binding upon, and inure to the benefit of, the successors and permitted assigns of the parties.

e. **Governing Law.** Unless expressly prohibited by the local law of your domicile, this Agreement shall be governed by the laws of the Republic of Croatia. United Nations Convention on Contracts for the International Sale of Goods shall not apply. Any dispute, controversy or claim arising under, out of or relating to this Agreement and any subsequent amendments of this Agreement, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be submitted to mediation in accordance with the WIPO Mediation Rules. The place of mediation shall be Zagreb, Croatia. The language to be used in the mediation shall be English. If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation within sixty (60) days of the commencement of the mediation, it shall, upon the filing of a Request for Arbitration by either party, be referred to and finally determined by arbitration in accordance with the WIPO Arbitration Rules. Alternatively, if, before the expiration of the said period of sixty (60) days, either party fails to participate or to continue to participate in the mediation, the dispute, controversy or claim shall, upon the filing of a Request for Arbitration by the other party, be referred to and finally determined by arbitration in accordance with the WIPO Arbitration Rules. The arbitral tribunal shall consist of one (1) arbitrator. The place of arbitration shall be Zagreb, Croatia. The language to be used in the arbitral proceedings shall be English. Nothing in this Agreement shall affect the right of Xylon to commence legal proceedings, preliminary relief measures/injunctions or otherwise sue you in any appropriate jurisdiction, or concurrently in more than one jurisdiction, or to serve process, pleadings and other papers upon you in any manner authorized by the laws of any such jurisdiction.

f. **Assignment.** Licensee shall not assign this Agreement or transfer any of the rights or obligations under this Agreement, in whole or in part, by operation of law or otherwise, without the prior written consent of Xylon. Any merger, acquisition, reorganization, change of control, or the like, involving Licensee shall be deemed an assignment in violation of the foregoing. Subject to the foregoing, this Agreement will be for the benefit of Xylon and its successors and assigns, and will be binding on Licensee's permitted assignees.

g. **Allocation of Risk.** Licensee acknowledges and agrees that each provision of this Agreement that provides for a disclaimer of warranties or an exclusion or limitation of damages represents an express allocation of risk, and is part of the consideration of this Agreement.

h. **Severability.** If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, that provision of the Agreement shall be replaced to the maximum extent permissible so as to effectuate the intent of the parties, and the remainder of this Agreement shall continue in full force and effect.

i. **Waiver.** No failure or delay by Xylon to enforce any provision hereof, or to exercise any right, power or privilege in connection herewith, shall in any way be construed as a waiver of such provision, right, power or privilege, nor will any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof.

j. **Independent Contractor.** Each party to this Agreement is an independent contractor and is not an agent, partner or joint venturer with the other party for any purpose whatsoever. Neither party shall make any warranties or representations, or assume or create any obligations, on the other party's behalf.

k. **Notices.** Any notices required or permitted by this Agreement shall be in writing and shall be delivered as follows, with notice deemed given as indicated: (i) by personal delivery, when delivered personally; (ii) by overnight courier, upon written verification of receipt; (iii) by facsimile transmission, upon acknowledgment of receipt of electronic transmission, provided that notice is also provided by one of the other methods herein within five (5) days thereafter; or (iv) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to the addresses set forth above or to such other address as either party may specify in writing. Notices to Xylon shall be addressed to the attention of: Xylon d.o.o., Fallerovo setaliste 22, 10000 Zagreb, Croatia.

l. **Entire Agreement.** This Agreement contains the entire agreement and understanding between the parties with respect of the subject matter hereof and supersedes all prior agreements, understandings and representations. No addition or modification to this Agreement is valid unless made in writing and signed by the parties. The printed terms and conditions of any forms issued by Licensee will not modify or be a part of this Agreement.

m. **Interpretation.** Licensee acknowledges and agrees that it has read and understood this Agreement, has had an opportunity to discuss this Agreement with its legal and other advisors, and agrees to be bound by the terms and conditions of this Agreement. This Agreement shall be interpreted fairly in accordance with its terms and without any strict construction in favor of or against either party.

EXHIBIT A – PRODUCT EXHIBIT

Licensed Materials:

Part No: logiREF-BTRD-2014.4-ZED

Description: Xilinx ZC702 Base Targeted Reference Design ver. 2014.4 ported to ZedBoard from Avnet Electronics Marketing

Content:

- IP Cores: logiCVC-ML and other included logicBRICKS or 3th party IP cores
- FPGA Reference Design
- Demo applications, utility software, scripts etc.
- Documentation
- Other included software and documentation

Notes:

- Xylon preserves rights to change content of included licensed materials without prior notice.