



## EMULATION CLOUD SOLUTION TERMS AND CONDITIONS

This Emulation Cloud Solution Terms and Conditions (“**Terms**”) apply to Orders for the Emulation Product from Cadence Design Systems, Inc., a Delaware company, having a principal place of business at 2655 Seely Avenue, San Jose, California 95134-1937 U.S.A. or any other Cadence Affiliate as indicated in the Order (“**Cadence**”). “**Customer**” refers to the person or entity that enters into the Order with Cadence. For an Order entered into by a Cadence Affiliate, references to Cadence under the Agreement shall be deemed references to the Cadence Affiliate who entered into the Order. “**Customer**” refers to the person or entity that enters into the Order with Cadence.

### 1. **DEFINITIONS**

The following definitions apply herein:

- 1.1. “**Affiliate**” means an entity that now or hereafter controls, is controlled by, or is under common control with a specified entity, where “control” means beneficial ownership, directly or indirectly, of more than fifty percent (50%) of the outstanding shares or other ownership interest (representing the right to vote for the election of directors or other managing authority or the right to make the decisions for such entity, as applicable) of an entity. Such entity shall be deemed to be an Affiliate only so long as such control exists.
- 1.2. “**Agreement**” means these Terms together with the applicable Order. Each Order subject to these Terms constitutes a separate Agreement.
- 1.3. “**Authorized User**” means a person who is authorized by Customer to Use the Licensed Solution, and who has been supplied a user ID and password by Customer (or by Cadence at Customer’s request). Authorized Users may also include Customer’s Authorized Contractors, subject to Section 2.4 (Limitation on Use and Access).
- 1.4. “**Customer Data**” means all electronic data, documents, and information submitted by Customer to the Chamber for the Use of the Emulation Product under the terms of the Agreement, and any output results created by Customer through Customer’s Use of the Emulation Product. Customer Data shall be related to its technology design database(s) and shall not contain any personal identifiable information (except for an Authorized User’s Credentials).
- 1.5. “**Documentation**” means the technical documentation, guides and instructions related to Use of the Emulation Product.
- 1.6. “**Emulation Capacity**” means the number of gates (or ASIC register transfer level (RTL) gates) of the Emulation Product provided by Cadence for remote Use by Customer over a specified period within the Term of Use and provided as a quantity of million gates of access in one (1) month (MGM) for each Cadence Emulation Product, as set forth in the applicable Order. Customer’s consumption of Emulation Capacity shall be limited to a minimum of 32 MG and a specified maximum Vertical Peak Use at any given time during the Term of Use.
- 1.7. “**Emulation Product**” means the Cadence cloud-based emulation hardware and the Licensed Solution, made available to Customer for Use in the Chamber via remote access pursuant to the Agreement.
- 1.8. “**Licensed Solution**” means: (i) Software which Cadence licenses for Use by Customer with the Emulation Product in the Chamber pursuant to an Order; and (ii) any Updates (if any) deployed to the Chamber by Cadence in its discretion during the Term of Use. The Licensed Solution may include Cadence Software and software from third parties.
- 1.9. “**Open Source Software**” means any software or derivative work thereof that is subject to terms imposing on Customer: (i) a requirement that it is to be distributed or made available in source code; (ii) a requirement that any patents related to the software are either licensed to or may not be asserted against, recipients of the software; or (iii) any license meeting the Open Source Definition (as promulgated by the Open Source Initiative) or the Free Software Definition (as promulgated by the Free Software Foundation, or any substantially similar license, including the GNU General Public License (GPL), Lesser/Library GPL (LGPL); the Mozilla Public License (MPL); the Apache License, the BSD license or the MIT license).
- 1.10. “**Order**” means a Product Quotation entered into and signed by authorized representatives of Cadence and Customer. Orders may state additional terms and conditions which apply to the Emulation Product. These Terms shall

apply separately to each Order. Customer's order forms may be used for invoicing or administrative purposes but are subject to Section 3.2 (Purchase Order) herein and are not considered part of the Order under the Agreement.

**1.11. "Product Quotation"** means a written quotation from Cadence to Customer identifying the Emulation Product, quantity, charges, and other information relevant to a specific transaction which Cadence is quoting to Customer.

**1.12. "Software"** means Cadence proprietary applications programming code or executable computer program(s), and any Updates thereto.

**1.13. "Term of Use"** means the period Customer is authorized to Use the Emulation Product under the Agreement as specified in the applicable Order.

**1.14. "Update"** means a modification to the Licensed Solution that may be deployed by Cadence in the Chamber during the term of the Agreement.

**1.15. "Use"** means, in compliance with the Agreement, (i) remotely accessing the Emulation Product; (ii) executing or processing instructions contained in the Licensed Solution, as applicable; (iii) performing and displaying the Licensed Solution; (iv) performing and displaying any documentation made available by Cadence for use with the Emulation Product; (v) loading Customer Data into or displaying, viewing or extracting output results from or otherwise operating any portion of the Emulation Product, as applicable; and (vi) using the Documentation, in each case solely for the purpose of assisting Customer in using the Emulation Product for Customer's internal design and manufacture of electronic circuits and systems.

**1.16. "Vertical Peak Use"** means the maximum consumption of Emulation Capacity allowable at any given time during the Term of Use, as specified in the applicable Order.

## **2. LICENSE GRANT AND LIMITATIONS**

**2.1. Right to Use Licensed Solution.** Cadence shall provide, install, and operate a secure, basic network, computer and software infrastructure ("**Chamber**") where Cadence hosts the Emulation Product. Subject to Customer's timely payment of the Fees set forth in the applicable Order and compliance with the Agreement, Cadence hereby grants Customer, and those Customer Affiliates indicated in the applicable Order, a worldwide, nonexclusive, nontransferable, right for its Authorized Users to: (i) access the Chamber using remote access credentials provided by Cadence ("**Credentials**") during the Term of Use solely for the purpose of Authorized Users accessing the Emulation Product; (ii) Use the Emulation Product for Customer's internal business operations only; and (iii) perform and display the Documentation as reasonably necessary for Customer's licensed Use of the Emulation Product for which it is provided.

**2.2. Right to Access Cadence Emulation Product.** Cadence authorizes Customer to access the Chamber to consume up to a maximum amount of Emulation Capacity over the Term of Use, as specified in the applicable Order ("**Total Emulation Capacity**"). Customer may continue to consume Emulation Capacity until the Total Emulation Capacity is depleted. Customer shall forfeit, without any right to a refund, any remaining portion of the Total Emulation Capacity if not consumed prior to expiration or termination of the Term of Use. In the event the Total Emulation Capacity is depleted prior to expiration or termination of the Term of Use, Customer shall make prompt payment in full to Cadence for all amounts then due plus the unpaid balance of the remaining Fees as set forth in the Order, together with applicable Taxes, which shall accelerate and become immediately due and payable by Customer to Cadence.

**2.2.1. Emulation Capacity Change.** Subject to Customer's timely payment of the Fees set forth in the applicable Order, Customer may increase or decrease its rate of consumption of Emulation Capacity during the Term of Use ("**Emulation Capacity Change**").

**(a) Emulation Capacity Change (Increase).** Customer may increase Emulation Capacity up to the Vertical Peak Use set forth in the Order, provided that (i) Customer provides Cadence a written request for increased Emulation Capacity at least sixty (60) days prior to Customer's desired start date of the increased Emulation Capacity; (ii) Customer has available Emulation Capacity at the time of the request; and (iii) the increased Emulation Capacity must be consumed by Customer over a minimum consecutive three (3) month period. Customer may extend the period of Use for each requested Emulation Capacity Change under this Section 2.2.1(a) beyond the initial period by providing Cadence fifteen (15) days' written notice prior to the end of the initial period of Use, however, under no circumstances shall any extended period of Use continue beyond expiration or termination of the Term of Use. An increase in Emulation Capacity may result in downtime of the Chamber of up to seven (7) days to accommodate Customer's need for additional rack installation. Cadence shall provide notice to Customer of such required downtime, as applicable.

(b) **Emulation Capacity Change (Decrease)**. Customer may decrease its current Emulation Capacity down to no lower than a minimum required Emulation Capacity of 32 MGM, provided that (i) Customer provides Cadence a written notice at least sixty (60) days prior to Customer's desired start date of the decreased Emulation Capacity; (ii) Customer has available Emulation Capacity at the time of the request; and (iii) the decreased Emulation Capacity must be consumed by Customer over a minimum consecutive three (3) month period.

(c) **Non-Cancellable**. Customer's Emulation Capacity Change is a binding commitment by Customer, is not cancellable once exercised, and the agreed-upon start date for the Emulation Capacity Change cannot be rescheduled or changed once agreed by the parties.

**2.3. Access to Emulation Product in the Chamber**. During the applicable Term of Use, Customer's access to the Emulation Product in the Chamber shall be permitted seven (7) days a week, twenty-four (24) hours a day, subject to Section 2.2.1(a) (Emulation Capacity Change (Increase)) and any mutually planned maintenance required by Cadence. Other than the Emulation Product provided by Cadence pursuant to these Terms and an applicable Order, Cadence is not licensing or delivering to Customer any other Cadence software programs, products, technology or intellectual property.

**2.4. Limitations on Use and Access**. Use of and access to the Emulation Product are restricted to Authorized Users, unless specified otherwise in the Order, and Customer shall not share the Credentials with any person other than Authorized Users. Customer's right of Use and access to the Emulation Product is limited solely for (i) Customer's own business operations; and (ii) the Use(s) permitted by the license granted to Customer hereunder. Customer is not allowed (a) to distribute, sublicense, rent, lease or operate the Emulation Product to, for, or on behalf of third parties; or (b) to otherwise access the Chamber or Use the Emulation Product on a service bureau or similar basis. Notwithstanding the foregoing, Customer's authorized consultants and subcontractors (excluding any direct competitors of Cadence) ("**Authorized Contractors**") may Use the Emulation Product, solely where such Use is incidental to their performing services on Customer's behalf. Customer must ensure that such access and Use by Authorized Contractors is limited solely to the Use permitted by the license granted to Customer hereunder. Prior to allowing any access or Use by Authorized Contractors under this Section 2.4 (Limitations on Use and Access), Customer shall first have a written agreement in place between Customer and such Authorized Contractors obligating Customer and its Authorized Contractors to observe the same restrictions concerning the Emulation Product and Chamber as are contained in the Agreement. Customer shall be responsible to Cadence for all acts and omissions of each Authorized Contractor as if they were the acts and omissions of Customer, which responsibility shall survive termination of the Agreement.

**2.5. Restrictions**. Customer is prohibited from (i) assigning, giving or transferring its rights to access and Use the Emulation Product or any interest in it to another entity or person; (ii) reverse engineering (unless required by law for interoperability), disassembling or decompiling the Licensed Solution; (iii) duplicating, downloading, or attempting to download or duplicate the Licensed Solution; (iv) modifying, redistributing or creating derivative works of the Licensed Solution; and (v) accessing or attempting to access or derive the source code for the Licensed Solution, or allowing any third party do so. By way of example and not limitation, Customer shall not disclose to any third party any benchmarking of: (a) the Emulation Product; or (b) the output of any Emulation Product (which means any form of competitive analysis of the Emulation Product versus competitive tool products), nor permit any third party to do so. Customer grants Cadence the right and license to make, use, sell, reproduce, modify, sublicense, disclose, distribute, and otherwise exploit error reports, corrections or suggestions provided by Customer concerning the Emulation Product and any modifications based thereon. The Emulation Product may not be used for any applications or activities described in Section 7 (Limitation of Liability) or Section 10.8 (Export Laws and Regulations) below.

**2.6. Reservation of Rights**. Subject to the limited rights expressly granted hereunder, all rights, title and interest in the Emulation Product, Documentation and Chamber and all intellectual property rights therein shall remain the exclusive property of Cadence and/or its licensors. Customer shall not access the Chamber or Use the Emulation Product except as expressly permitted herein. No rights are granted to Customer hereunder other than as expressly set forth herein. Customer shall not remove or alter any of Cadence's or its licensors' restrictive or ownership legends appearing on or in the Emulation Product or Documentation and shall reproduce such legends on all copies permitted to be made.

**2.7. Customer Data**. As between Cadence and Customer, Customer exclusively owns all rights, title and interest in and to all of Customer Data. Customer hereby grants to Cadence a nonexclusive right and license during the term of the Agreement to access, copy, display, view or otherwise use the Customer Data in connection with the provision, maintenance, and support of the Emulation Product to Customer as provided herein. Customer represents, warrants, and covenants that the Customer Data is the original work product of Customer, or that it owns or has all necessary rights to all Customer Data to enable submission and transmission of such Customer Data to the Chamber for use with and

processing through the Emulation Product, and to grant Cadence the licenses granted hereunder without infringing or misappropriating the rights of any third party or violating any applicable law or regulation. Customer is solely responsible for backing up all Customer Data and all materials produced Using the Emulation Product, and for downloading copies of such materials from the Chamber. Cadence shall not be responsible for the backup or storage of Customer Data, other than its standard business practice for routine maintenance and support purposes. Cadence disclaims any and all liability for any and all loss of Customer Data. At the end of the Term of Use, Customer will no longer have access to the Chamber or any materials stored thereon, including Customer Data, and Cadence shall have no responsibility to maintain copies of any such materials.

**2.8. Data Protection & Security.** Cadence shall implement administrative, physical and technical safeguards to protect Customer Data that are no less rigorous than accepted industry practices.

**2.9. Open Source.** The Licensed Solution includes software that is Open Source Software, which is subject to separate third party terms and conditions. Customer's Use of the Open Source Software will be subject to the terms and conditions of such other license agreement and are not considered part of the Licensed Solution subject to the terms and conditions of the Agreement. By using such Open Source Software, Customer shall be bound by all applicable Open Source Software license agreements, notices and information.

**2.10. Maintenance Services.** Subject to Customer's payment of applicable Fees, Cadence agrees to make reasonable efforts to provide technical assistance to Customer through Cadence Customer Support between 9:00am and 5:00pm, local Pacific Time (PT), Monday through Friday, excluding Cadence holidays, to answer questions about the Use of the Emulation Product in accordance with Cadence's standard commercial practices.

### **3. FEES; ORDERS; TAXES**

**3.1. Fees and Payment.** Customer shall pay Cadence the fees for the Emulation Product (collectively, the "**Fees**") specified in the Agreement or, if not specified, at Cadence's then-current standard rates. All payments shall be in U.S. Dollars, unless otherwise specified in the Order. Such Fees shall be remitted so that they are received by Cadence by the dates and in the amounts set forth in the Order, and except as expressly provided herein, are non-cancellable, non-refundable, and shall not be subject to any abatement, set-off, claim, counterclaim, adjustment, reduction, or defense for any reason. Without limiting any other rights or remedies of Cadence (including termination rights), past due amounts shall be subject to a charge of one and one-half percent (1½%) per month of the unpaid balance or the maximum rate allowable by law. In addition, Customer shall pay all reasonable out-of-pocket expenses incurred by Cadence, including, but not limited to, counsel fees and costs, in connection with collection thereof.

Except as otherwise specified herein or in an Order, the Term of Use and Total Emulation Capacity of the purchased Emulation Product ordered cannot be decreased during the relevant term stated in the Order form. In case payment of an invoice is overdue, Cadence may interrupt Customer's access to the Emulation Product subject to Customer's cure in Section 5.3 (Termination of an Order). Customer acknowledges and agrees that resuming such access may not be feasible immediately upon subsequent receipt of the payment, depending on reassignment of resources. Invoices will only be issued on or after the applicable Term of Use Effective Date, unless otherwise set forth in the Order.

**3.2. Purchase Order.** If required by Customer, Customer may submit a purchase order along with the signed Order for the Emulation Product using Customer's standard purchase order forms solely for invoicing or administrative purposes. A Customer purchase order form for the Emulation Product shall be submitted at least thirty (30) days prior to any desired start date for Customer's authorized Use of the Emulation Product. Such Customer purchase order forms shall: (i) conform to and cite the Agreement (including the Product Quotation and these Terms); (ii) describe the Emulation Product and/or Maintenance Services ordered (using Cadence's product numbers and nomenclature); (iii) identify the quantity, Term of Use, and Fees consistent with the Order; and (iv) include such other data as Cadence may reasonably require. The Agreement shall govern all Orders for the Cadence Emulation Products and any Customer purchase orders for such Emulation Products. Any terms and conditions contained or incorporated by reference in purchase orders, acknowledgments, invoices, confirmations or other business forms of either party which add to or differ from the terms and conditions of the Agreement are rejected and shall be of no force or effect whatsoever, and either party's failure to object thereto shall not be deemed a waiver of such party's rights hereunder.

**3.3. Taxes.** All Fees and payments are exclusive of any and all applicable sales, use, excise, import or export, value added or similar taxes, duties and other governmental charges including any interest or penalties assessed thereon (collectively, "**Taxes**"). Customer shall pay or reimburse Cadence for all Taxes based on or measured by the amounts payable hereunder, excluding only taxes based on Cadence's net income. If any Fees or payments are subject to

withholding, then Customer shall pay such additional amounts to ensure that Cadence receives the full amount it would have received had payment not been subject to such withholding. The parties shall cooperate to qualify for the benefits available under any applicable treaty, legislation, or regulation for the avoidance of double taxation and provide to each other relevant documentation for same.

**3.4. Records; Audit.** Customer shall keep full, clear and accurate records to confirm its authorized Use of the Emulation Product hereunder, and other obligations hereunder. Cadence shall have the right to audit such records during regular business hours to confirm Customer's compliance with its obligations hereunder. Customer shall promptly correct any deficiencies discovered by such audit including payment to Cadence of the amount of any shortfall in Fees uncovered by such audit plus interest at the rate set forth in Section 3.1 (Fees and Payment) above. If the audit uncovers any shortfall in payment of more than five percent (5%) for any quarter or any material non-compliance with the obligations under the Agreement, then Customer shall also promptly pay to Cadence the costs and expenses of such audit, including fees of auditors and other professionals incurred by Cadence in connection with such audit.

#### **4. CUSTOMER RESPONSIBILITIES**

**4.1. General.** Customer shall be responsible for (i) managing its Authorized Users; (ii) maintaining the security of all Credentials, passwords, and user IDs made available by Customer; (iii) preventing unauthorized access to or Use of the Chamber or the Emulation Product and notifying Cadence promptly of any such unauthorized access or use; (iv) using the Chamber and Emulation Product only in accordance with the Documentation and applicable laws and governmental regulations; and (v) maintaining malicious code detection technology and firewall technology implemented in accordance with industry standards, to protect the integrity of Customer's systems, environment and data, and avoid transmitting any malicious code to the Chamber or Emulation Product.

#### **4.2. VPN Connection.**

**4.2.1.** Customer shall be solely responsible for (i) providing an encrypted VPN connection from Customer's network to the Chamber via the Internet (the "**VPN Connection**") prior to the Term of Use; (ii) maintaining a VPN encryption box in Customer's network infrastructure at all times during the term of the Agreement; and (iii) providing a commercial wired grade Internet connection to connect to the Internet at the Customer location capable of simultaneously connecting to the Chamber and to the Internet. Requirements for all hardware and software necessary to establish and maintain the VPN Connection are provided in the Documentation.

**4.2.2.** Customer shall be responsible for: (i) downloading software clients recommended by Cadence to enable Customer's access to the Emulation Product; and (ii) ensuring that only Authorized Users use the VPN Connection for the purposes described herein and any applicable Order.

**4.3. Authorized User(s).** Customer acknowledges and agrees that any person who enters an Authorized User ID shall be presumed by Cadence to be an Authorized User and have the power and authority to bind Customer to the terms of the Agreement. Cadence shall not be under any obligation to verify the identity of any such person.

**4.4. Customer Restrictions.** Customer shall not: (i) use the Chamber or Emulation Product to process, store or transmit any content that is defamatory, obscene, libelous, violative of another's privacy or intellectual property rights, menacing, racially, or otherwise unlawful or objectionable; (ii) use the Chamber or Emulation Product to store or transmit malicious code; (iii) interfere with or disrupt the integrity or performance of the Chamber or Emulation Product or third-party data contained therein, including by overloading, flooding or crashing; (iv) attempt to gain unauthorized access to the Chamber or Emulation Product or related systems or networks; (v) copy, frame or mirror any part or content of the Chamber or Emulation Product; or (vi) access the Chamber or Emulation Product in order to build a competitive product or service to the Chamber, Emulation Product or the configuration defined in the Order.

#### **5. TERM AND TERMINATION**

**5.1. Term.** These Terms shall remain in effect for the applicable Order for the duration of the Term of Use, as set forth in Section 5.2 below.

**5.2. Term of Use.** The Term of Use for the Emulation Product provided to Customer pursuant to an applicable Order shall commence on the Start Date for authorized Use of the Emulation Product and continue until the earlier of (i) its End Date as set forth in the Order, (ii) the date the Total Emulation Capacity is depleted by Customer, and (iii) the date the applicable Order is terminated pursuant to Section 5.3 (Termination of an Order) below.

**5.3. Termination of an Order.** Any Order hereunder may be terminated by Cadence: (i) if Customer fails to pay

when due, all or any portion of any amounts payable under such Order, and such failure is not cured within ten (10) days after receipt of written notice; (ii) immediately if Customer becomes insolvent or makes an assignment for the benefit of creditors, or a trustee or receiver is appointed for Customer or for a substantial part of its assets, or bankruptcy, reorganization or insolvency proceedings shall be instituted by or against Customer; or (iii) if Customer breaches any other material provision of the Agreement and such failure is not cured within ten (10) days after receipt of written notice if such breach is curable or immediately upon notice if such breach is not curable. In addition, without limiting any other rights or remedies available to Cadence (including termination rights), in the event Customer fails to pay any Fees due under an Order, Cadence may accelerate all remaining Fees under such Order, together with any applicable Taxes, to become immediately due and payable by Customer to Cadence and withhold access to any Emulation Products, and delivery of any Documentation until Customer pays such past due amounts in full.

**5.4. Effect of Termination.** Expiration or termination of an Order shall simultaneously terminate all rights for Customer's licenses and Cadence's obligations with respect to the Emulation Product. During the five (5) business day period immediately following such expiration or termination, Customer will no longer have Use of or access to the Emulation Product but will continue to have access to the Chamber for the sole purpose of downloading/backing up any and all Customer Data from the Chamber.

Within thirty (30) days after such expiration or termination, and without limiting any other rights or remedies of Cadence, Customer shall: (i) furnish Cadence written notice certifying that the original and all copies, including partial copies, of the Emulation Product (including Software and Documentation) furnished by Cadence under the Agreement or made by Customer as permitted by the Agreement, have either been returned to Cadence or destroyed and no copies or portions thereof remain in the possession of Customer, its employees or agents; and (ii) make prompt payment in full to Cadence for all amounts then due plus the unpaid balance of the remaining Fees set forth in the Order, together with any applicable Taxes, which shall accelerate and become immediately due and payable by Customer to Cadence. In addition, each party's rights and remedies with respect to any breach by the other party shall survive. Sections 1 (Definitions), 2.4 (Limitations on Use and Access), 2.5 (Restrictions), 2.6 (Reservation of Rights), 2.7 (Customer Data), 2.8 (Data Protection & Security), 2.9 (Open Source), 3.1 (Fees and Payment), 3.2 (Purchase Order), 3.3 (Taxes), 5 (Term and Termination), 6 (Warranty Disclaimer), 7 (Limitation of Liability), 8 (Indemnity), 9 (Confidentiality), and 10 (General Provisions) shall survive expiration or termination of the Agreement.

## **6. WARRANTY DISCLAIMER**

Cadence does not warrant that the Emulation Product will meet Customer's requirements, or that Use of the Emulation Product will be uninterrupted or error free. CADENCE AND ITS LICENSORS MAKE NO WARRANTIES TO CUSTOMER WITH RESPECT TO THE EMULATION PRODUCT, CHAMBER OR ANY SERVICE, ADVICE, OR ASSISTANCE FURNISHED HEREUNDER, AND NO WARRANTIES OF ANY KIND, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR ARISING FROM COURSE OF DEALING OR USAGE IN TRADE SHALL APPLY. CADENCE DOES NOT WARRANT THAT THE CHAMBER OR THE EMULATION PRODUCT WILL MEET CUSTOMER'S NEEDS, OR THAT THE OPERATION OF, OR ACCESS TO, THE CHAMBER AND/OR EMULATION PRODUCT WILL BE UNINTERRUPTED, ERROR FREE, OR DELIVERED AT A PARTICULAR SPEED. CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR THE DESIGN, MANUFACTURE (INCLUDING MANUFACTURING PROCESSES), OPERATION, SAFETY TESTING, AND MARKETING OF ITS OWN PRODUCTS.

## **7. LIMITATION OF LIABILITY**

**7.1.** CADENCE SHALL NOT BE LIABLE FOR COSTS OF SUBSTITUTES OR LOSS OF PROFITS, LOSS OF DATA, INTERRUPTION OF BUSINESS, OR ANY SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OF ANY KIND OR NATURE WHATSOEVER ARISING OUT OF OR RELATING TO THE AGREEMENT, HOWEVER CAUSED, WHETHER BASED ON BREACH OF WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

**7.2.** CADENCE'S CUMULATIVE AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT (OR PERFORMANCE OR BREACH THEREOF) OR THE EMULATION PRODUCT (INCLUDING ALL COSTS, DAMAGES AND LIABILITIES INCURRED UNDER SECTION 8 (INDEMNITY) HEREIN) SHALL BE LIMITED TO AND NOT EXCEED THE AMOUNT OF FEES ACTUALLY RECEIVED BY CADENCE FROM CUSTOMER FOR USE OF THE EMULATION PRODUCT THAT IS THE SUBJECT OF THE CLAIM UNDER THE APPLICABLE ORDER.

**7.3.** THE CHAMBER AND EMULATION PRODUCT ARE NOT DESIGNED, MANUFACTURED OR INTENDED FOR USE IN THE DESIGN OF ANY PRODUCTS IN HAZARDOUS OR CRITICAL ENVIRONMENTS OR IN ACTIVITIES REQUIRING EMERGENCY OR FAIL-SAFE OPERATION, SUCH AS THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS OR IN ANY OTHER APPLICATIONS OR ACTIVITIES IN WHICH FAILURE OF THESE PRODUCTS MAY POSE THE RISK OF ENVIRONMENTAL HARM OR PHYSICAL INJURY OR DEATH TO HUMANS (“**DANGEROUS APPLICATIONS**”). CADENCE SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR ANY DANGEROUS APPLICATION AND ANY SUCH USE SHALL BE AT CUSTOMER’S SOLE RISK.

**7.4.** The above limitations and exclusions shall apply (i) notwithstanding failure of essential purpose of any exclusive or limited remedy; and (ii) whether or not Cadence has been advised of the possibility of such damages. This Section 7 (Limitation of Liability) allocates the risks under the Agreement and Cadence’s pricing reflects this allocation of risk and the above limitations.

## **8. INDEMNITY**

**8.1. Cadence Indemnity.** Cadence shall defend at its expense, or at its option reimburse Customer for reasonable costs of defense of, or settle any legal action brought against Customer to the extent that such legal action is based on a claim that the Software as made available to Customer as part of the Emulation Product by Cadence directly infringes a U.S., European Union or Japan patent issued as of the Order execution date or infringes any copyright or constitutes a misappropriation of any trade secret owned by any third party. However, such defense and payments are subject to the condition that Customer gives Cadence prompt written notice of such claim, allows Cadence to direct the defense and settlement of the claim, and cooperates with Cadence as necessary for defense and settlement of the claim. Should any Software, or the operation thereof, become or in Cadence’s opinion is likely to become, the subject of such claim, Cadence may, at Cadence’s option and expense, procure for Customer the right to continue using the Software, replace or modify the Software so that it becomes non-infringing, or terminate the license granted hereunder for such affected Software and upon authorized return of the applicable Software refund to Customer the Fees paid for such Software (less a reasonable charge for the period during which Customer has had availability of such Software for Use). Notwithstanding anything to the contrary, Cadence will have no obligation or liability for any infringement or misappropriation claim to the extent it: (i) is based on any modification of the Software by any party other than by Cadence, with or without authorization; (ii) results from failure of Customer to use the most recent Updated version of a Cadence-provided software client; (iii) is based on the combination or Use of the Software with any other software, data (including Customer Data), program or device not provided by Cadence if such infringement or misappropriation would not have arisen but for such use or combination; (iv) results from compliance by Cadence with any design, plan or specification furnished by Customer; (v) is based on Customer Data or any product, device, software or application designed or developed through use of the Software; (vi) is based on the use of the Software as part of any infringing process; (vii) is based on any third party circuit library; (viii) is based on any third party component included in or provided with or as a part of the Software; or (ix) arises other than in connection with Authorized Users’ Use of the Software as installed by Cadence in the Chamber and in accordance with all applicable Documentation and the terms and conditions of the Agreement. THIS SECTION 8.1 (CADENCE INDEMNITY) STATES CADENCE’S ENTIRE LIABILITY, AND CUSTOMER’S SOLE AND EXCLUSIVE REMEDY FOR PROPRIETARY RIGHTS INFRINGEMENT OR MISAPPROPRIATION.

**8.2. Customer Indemnity.** Customer shall indemnify Cadence from and against any harm, losses, liability, or expenses arising out of or related to any Customer Data or any product, device, software or application designed or developed through Customer’s Use of the Emulation Product hereunder, including any claim that any such material, or the processing of such material through the Emulation Product, infringes or misappropriates the intellectual property rights of any third party. Cadence shall have the right to control the defense and settlement of any claim subject to Customer’s indemnification obligation, provided that Customer shall provide reasonable assistance with the defense and settlement of any such claim, and Customer may, at its option and expense, participate in the defense and settlement of any such claim using the counsel of its choice.

## **9. CONFIDENTIALITY**

**9.1. Confidential Information.** Customer shall not disclose to any third party or use for any purpose (except as expressly authorized hereunder): (i) any Emulation Product, Chamber, Credentials, or Documentation; (ii) the terms and conditions of the Agreement; or (iii) any other confidential or proprietary information disclosed by Cadence or its

Affiliates marked or otherwise designated as “confidential” or “proprietary” or is clearly by its nature confidential (“**Confidential Information**”). Customer may only disclose Confidential Information to recipients explicitly permitted to access the Emulation Product hereunder on a strict need to know basis and only to the minimum extent necessary. Customer shall use at least the same degree of care that it uses to protect its own confidential information of like kind, but not less than reasonable care, to protect Cadence’s Confidential Information. However, Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no fault of Customer or its contractors; (b) was in Customer’s lawful possession without obligation of confidentiality prior to receipt from Cadence; (c) is provided to Customer without confidentiality obligation from a source independent of Cadence in lawful possession and authorized to disclose it without confidentiality obligation; or (d) is independently developed by Customer without use of or access to Confidential Information.

**9.2. Exception.** The foregoing prohibitions on disclosure of Confidential Information shall not apply to the extent certain Confidential Information is required to be disclosed as a matter of law or by court order or other legal process, provided that Customer uses reasonable efforts to provide Cadence with prior notice of such obligation to disclose and reasonably assists Cadence in obtaining a protective order or in otherwise limiting such disclosure.

**9.3. Safeguards on Customer Data.** Without limiting the above, during the term of the Agreement, Cadence shall maintain reasonable administrative, physical, and technical safeguards designed for protection of the security, confidentiality, and integrity of Customer Data. Cadence shall not (i) modify Customer Data; (ii) disclose Customer Data except as compelled by law in accordance with Section 9.2 (Exception) or as expressly permitted in writing by Customer (in each instance); or (iii) access Customer Data, except to provide, support, or maintain the Emulation Product or prevent or address service or technical problems, or at Customer’s request in connection with customer support matters.

## **10. GENERAL PROVISIONS**

**10.1. Governing Law.** The Agreement will be governed by the procedural and substantive laws of the State of California, U.S.A., without regards to its conflicts of laws principles. The Agreement is prepared and executed and shall be interpreted in the English language only, and no translation of the Agreement into another language shall have any effect. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods (1980) is specifically excluded from and shall not apply to the Agreement.

**10.1.1. For Customers in the United States Only.** Any dispute regarding the Agreement shall be subject to the exclusive jurisdiction of the state courts in and for Santa Clara County, California (or, if there is federal jurisdiction, the United States District Court for the Northern District of California), and the parties hereby irrevocably agree to submit to the personal and exclusive jurisdiction and venue of such courts.

**10.1.2. For Customers Located Outside of the United States.** Any controversy or claim arising out of or relating to the Agreement, or the breach thereof, shall be determined by arbitration administered by the International Centre for Dispute Resolution in accordance with its International Arbitration Rules and applicable law. The number of arbitrators shall be three (3). The place of arbitration shall be San Francisco, California, and the language of the arbitration shall be English. In addition to the authority conferred on the arbitrators by the above-designated rules, and without prejudice to any provisional measures that may be available from a court of competent jurisdiction, the arbitrators shall have the power to grant any provisional measure deemed appropriate, including, but not limited to, provisional injunctive relief. Any provisional measures ordered by the arbitrators may, to the extent permitted by applicable law, be deemed to be a final award on the subject matter of the measures and shall be enforceable as such. The arbitrators shall be guided by the IBA Rules on the Taking of Evidence in International Arbitration when deciding issues addressed by those rules. No information concerning an arbitration, beyond the names of the parties and the relief requested, may be unilaterally disclosed to a third party by any party unless required by law. Any documentary or other evidence given by a party or witness in an arbitration shall be treated as confidential by any party whose access to such evidence arises exclusively as a result of its participation in the arbitration and shall not be disclosed to any third party (other than a witness or expert), except as may be required by law. The arbitrators may award to the prevailing party, if any, its costs and expenses, including attorneys’ fees, as determined by the arbitrators. Judgment upon any award rendered by the arbitrators may be entered in any court of competent jurisdiction.

**10.2. Statistical Analysis.** Cadence shall have the right to track and analyze anonymized tool/product statistics regarding Customer’s access to the Chamber and Use of the Emulation Product for the purposes of improving the design and operation of the Cadence cloud-based emulation hardware solution and providing Maintenance Services to Customer under an applicable Order. Such tool/product statistics shall not be considered Customer Data.



**10.3. Notices.** All notices, demands or consents required or permitted hereunder shall be delivered in writing to the addresses set forth in the applicable Order, and, in the case of Cadence, to the attention of the General Counsel, or at such other address provided in writing for such purposes.

**10.4. Severability.** If any provision is determined to be invalid or unenforceable, it shall be adjusted rather than voided, if possible, to achieve the intent of the parties. All other provisions shall be deemed valid and enforceable to the maximum extent possible.

**10.5. Force Majeure.** Except for Customer's payment obligations, neither party shall be liable for any failure or delay in performing any obligation, if failure or delay is due to circumstances beyond its reasonable control.

**10.6. Relationship.** The relationship between the parties is that of independent contractors.

**10.7. Assignment.** Customer may not delegate, assign or transfer the Agreement or any of its rights and obligations under the Agreement, and any attempt to do so shall be void. Without limitation of the foregoing, an assignment, delegation or transfer shall include, but not be limited to a sale of all or substantially all the assets of Customer, a merger, a re-organization, share exchange, consolidation or change in control of fifty percent (50%) or more of the beneficial ownership of equity interest or voting power of Customer or any entity that directly or indirectly controls Customer (a "**Change in Control**"). No transfer, delegation or assignment (including, without limitation, an assignment by operation of law) of the Agreement may be made without the prior written consent of Cadence, which may be withheld in Cadence's sole discretion. As used in the Agreement, assignment shall not include, and no consent shall be required, (1) if Customer raises additional capital through sale of equity (either privately or through a public offering) or debt instruments, provided that the additional equity issued does not result in a Change in Control; (2) if Customer changes its state of incorporation; or (3) if Customer reorganizes its corporate structure without a change in its equity structure; provided, however, that any reorganization that would result in the rights hereunder being transferred or the Licensed Solution being Used by an entity that is not controlled by Customer shall require Cadence's prior written consent. Cadence may delegate its obligations to its Affiliates or contractors, provided that Cadence remains liable for its obligations hereunder.

**10.8. Export Laws and Regulations.** Customer shall not export, directly or indirectly, any technical data acquired from Cadence pursuant to the Agreement or any product utilizing any such data to any country for which an export license or other governmental approval is required at the time of export from the country in which data originates, without first obtaining such license or approval. Customer shall not disclose any information that is subject to export control under any of the following regimes without the prior written consent of Cadence in each instance: The ITAR, the Wassenaar Arrangement Lists of Dual Use Goods and Technologies and Munitions Lists; or the U.S. Export Administration Regulation ("**EAR**") for control reasons other than anti-terrorism (AT). Customer agrees and certifies that: (i) Customer is not subject to E.U. or U.S. sanctions or prohibitions; (ii) Customer is not an Affiliate of any person or organization who are subject to U.S. or E.U. sanctions; (iii) Customer shall not use the Chamber or the Emulation Product for any purpose prohibited by EAR or for the benefit of any person or organization subject to E.U. or U.S. sanctions or prohibitions; (iv) as prohibited in EAR §744, Customer shall not use the Chamber or the Emulation Product and any Cadence technical data in the design, production, or use of nuclear, missile, or chemical and biological weapons activities or systems; (v) Customer shall not use the Chamber or the Emulation Product and any Cadence technical data for the design or development of microprocessors and microprocessor microcircuits where the end-user or end use is prohibited as described in EAR §744; and (vi) Customer shall not transport, export, or re-export, directly or indirectly, the Chamber or the Emulation Product to Cuba, Iran, North Korea, Sudan, or Syria, or any nationals thereof wherever located. To certify compliance with the foregoing, Customer shall execute and deliver to Cadence such "Letters of Assurance" as may be reasonably requested by Cadence. Customer shall be strictly responsible for ensuring that Customer, its employees and any third parties who access the Chamber or the Emulation Product on its behalf fully comply with the requirements of this Section 10.8 (Export Laws and Regulations) and provisions of ITAR and EAR, and Customer shall indemnify Cadence against any loss related to any failure to conform to these requirements.

**10.9. Entire Agreement.** The Agreement, including its Appendices, is the complete and exclusive agreement between the parties relating to the subject matter hereof and supersede all other communications between the parties relating thereto. The Agreement supersedes all pre-printed terms and conditions contained in any purchase order or other business form submitted hereafter by either party and any inconsistent non-pre-printed terms. Only a written instrument duly executed by both parties may modify the Agreement.

**10.10. Waiver.** Failure by either party to enforce at any time any provision of the Agreement, or to exercise any election of options provided herein shall not constitute a waiver of such provision or option, nor affect the validity of the

Agreement or any part thereof, or the right of the waiving party to thereafter enforce each and every such provision.

**10.11. Construction.** Each party has had the opportunity to review the Agreement with legal counsel, and there shall be no presumption that ambiguities shall be construed or interpreted against the drafter. The words “include” and “including”, and variations shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words “without limitation”.

**10.12. Counterparts.** The parties may execute the Agreement in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The Agreement is effective upon delivery one executed counterpart from each party to other parties, including by facsimile or other electronic form.

**10.13. Injunctive Relief.** Customer acknowledges that breach may cause irreparable harm to Cadence for which money damages would be inadequate, and Cadence shall be entitled to obtain timely injunctive relief without the necessity of posting bonds, in addition to any and all remedies available at law.

**10.14. U.S. Government Rights.** The Licensed Solution and Documentation shall not be provided to any third party, including the U.S. Government, without prior written authorization by Cadence. The Licensed Solution and Documentation are “commercial computer software” and “commercial software documentation” as these terms are defined in Federal Acquisition Regulation (“FAR”) 2.101. If the Licensed Solution or Documentation are licensed by (or if Customer is authorized by Cadence to license on behalf of) (i) a civilian agency, the U.S. Government licenses such items subject to this Cadence commercial license agreement as specified in FAR 12.212 (Computer Software), 12.211 (Technical Data) and 52.227-19 (Commercial Computer Software License), as applicable, any successor regulations; or (ii) an agency within the Department of Defense (“DOD”), the U.S. Government licenses such items subject to this Cadence commercial license agreement as specified in DOD FAR Supplement (“DFARS”) 252.227-7015 (Technical Data – Commercial Items) and 227.7202-3 (Rights in Commercial Computer Software or Commercial Computer Software Documentation), as applicable and any successor regulations. If any U.S. Government entity has a need for rights not conveyed under the terms described in this Section 10.14 (U.S. Government Rights), it must negotiate with Cadence to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable contract or agreement to be effective. If the Agreement fails to meet the Government’s needs or is inconsistent in any way with Federal law, and the parties cannot reach a mutual agreement on terms for licensing the Licensed Solution, and/or Documentation, the Government agrees to return the products, unused, to Cadence. This U.S. Government Rights clause in this Section 10.14 (U.S. Government Rights) is in lieu of, and supersedes, any other FAR, DFARS, or other clause, provision, or supplemental regulation that addresses Government rights in computer software or technical data under the Agreement.

**10.15. Personal Data.** Any personal data provided to Cadence by Customer, shall be used by Cadence in accordance with Cadence’s Privacy Policy available at [www.cadence.com](http://www.cadence.com). Customer shall ensure that its employees and representatives are aware of the personal data processing terms described in such policy.