SERVICES TERMS AND CONDITIONS

These Services Terms and Conditions (“Terms”) apply to Services from Cadence Design Systems Inc., a Delaware corporation, 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”). Where the Statement of Work entered into by a Cadence Affiliate, references to Cadence under these Terms 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. All Orders are subject to Cadence’s acceptance, which acceptance is evidenced by Cadence’s execution of such Order and return of the fully executed Order to Customer.

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 each applicable Order. Each Order subject to these Terms constitutes a separate Agreement.

1.3. “Cadence Technology” means technology, information and materials owned or controlled by Cadence or its Affiliates relating to circuit and systems design and product manufacturing and all Intellectual Property relating thereto, including software tools, computer programs, documentation, computer languages, user interface designs, works of authorship, methods, methodologies, models, design flows, design environments, architecture, cores, blocks, cell libraries, algorithms, databases, mechanical and electronic hardware and electronic components.

1.4. “Confidential Information” means any information disclosed by one party to the other under this Agreement and (i) if disclosed in tangible form, is marked or otherwise designated as “Confidential”, or (ii) if disclosed orally, is identified as confidential at the time of disclosure, summarized in a written notice indicating its confidential nature and forwarded to the receiving party within thirty (30) days after disclosure, or (iii) is clearly by its nature confidential. However, Confidential Information shall not include any information that: (a) is or becomes a part of the public domain through no act or omission of the other party or otherwise available to the public other than by breach of this Agreement; or (b) was in the other party’s lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; or (c) is lawfully disclosed to the other party by a third party without restriction on disclosure; or (d) is independently developed by the other party without use of the Confidential Information.

1.5. “Deliverables” means the specific deliverables provided by Cadence to Customer under this Agreement as a result of performing Services and which are specified in the Statement of Work.

1.6. “Effective Date” means the effective date for the Statement of Work specified in the applicable Order.

1.7. “Innovations” means any Intellectual Property rights created in the performance of the Services, whether or not forming part of a Deliverable. For the purposes of this definition, “created” means authored with respect to copyrightable works of authorship and invented with respect to patentable inventions.

1.8. “Intellectual Property” means semiconductor topography rights, mask works rights, patents, copyrights, trade secrets, and design rights, whether registered or unregistered, and including any application for registration, issue, reissue, continuation, or reexamination, of any of the foregoing and all rights or forms of protection of a similar nature of having equivalent or similar effect to any of these, which may subsist anywhere in the world.

1.9. “Licensed Technology” means the materials and technology owned or controlled and provided by Customer, and all Intellectual Property therein, which Cadence reasonably requires to perform the Services.

1.10. “Milestone” means a specific activity or result, if any, set forth in the Statement of Work. The completion of specific Milestones may trigger specific payment obligations of Customer.

1.11. “Order” means a Statement of Work entered into and signed by authorized representatives of Cadence and Customer. Orders may state additional terms and conditions which apply to the Services. 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 4 (Invoicing and Payment) herein, and are not considered part of the Order under this Agreement.
1.12. “Payment Schedule” means the payment schedule set out in the Statement of Work in respect of the provision of the Services.

1.13. “Project Schedule” means the timetable relating to the performance of the Services set out in the Statement of Work.

1.14. “Residual Information” means information in non-tangible form of knowledge and know-how that is or may be retained by persons who have performed the Services.

1.15. “Services” means the services described in the Statement of Work.

1.16. “Statement of Work” or “SOW” means the mutually agreed and executed Statement of Work or services order referencing these Terms and providing a description of the Services to be provided by Cadence under these Terms, including applicable Deliverables, Project Schedule, Payment Schedule and Milestone(s).

2. PROFESSIONAL SERVICES

2.1. Cadence will provide to Customer the Services that are described in the Statement of Work.

2.2. Cadence will provide such resources and utilize such employees or design consultants as it deems necessary to perform the Services. The manner and means used by Cadence to perform the Services are in the sole discretion and control of Cadence. All work shall be performed at Cadence’s designated facilities unless otherwise mutually agreed in the Statement of Work.

2.3. Cadence shall use commercially reasonable efforts to meet the Project Schedule and time of performance of Services set forth in the Statement of Work, and Customer agrees to cooperate in good faith to allow Cadence to achieve completion of Services in a timely and professional manner. Customer understands and agrees that Cadence’s provision of the Services or achievement of Milestones may depend on completion of certain tasks or adherence to schedules within Customer or a third party’s control; consequently, the Project Schedule, time of performance, and Services may require adjustments or changes in the event such Customer or third party tasks or schedules change, are modified, or are not completed as anticipated.

2.4. Cadence shall use commercially reasonable efforts in order to ensure that the Deliverables meet the specifications, if any, set forth in the Statement of Work for such Deliverables.

2.5. Customer agrees to provide Cadence with all information, documentation and instrumentation Cadence reasonably requires to practice the Licensed Technology pursuant to the license granted in Section 5.1 (Intellectual Property Rights). In addition, Customer shall obtain for Cadence the right to use, for the purpose of performing the Services and preparing the Deliverables, such third party information, materials and technology, which Cadence reasonably requires to perform the Services (the “Third Party Technology”). Customer represents that to the extent it provides any Licensed Technology or Third Party Technology to Cadence in order to perform the Services or prepare the Deliverables, it has obtained all necessary permissions, licenses, consents and has the authority and right to do so.

2.6. Unless otherwise set forth in the Statement of Work, Cadence is not providing or licensing to Customer any existing Cadence software programs, design products, verification products or other Cadence products (including product documentation) pursuant to this Agreement. Any Cadence products shall be provided only under the terms of a separate license agreement or subscription agreement and shall not be considered Deliverables under this Agreement.

3. FEES AND EXPENSES

3.1. Customer agrees to pay Cadence the fees set forth in the Statement of Work or attachments thereto (“Fees”). Customer also shall reimburse Cadence for actual, reasonable travel and out-of-pocket expenses incurred, as set forth in the Statement of Work, for any Services performed away from Cadence facilities.

3.2. Payments will be made in accordance with the Payment Schedule set forth in the Statement of Work. Payment of certain Fees under the Statement of Work may also be subject to achievement of specific Milestones by Cadence. Upon achievement of the Milestone, Cadence will provide to Customer a statement showing achievement of the Milestone and an invoice for the amount of the applicable Milestone payment in accordance with the Statement of Work.

3.3. 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 (“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 of any applicable treaty for the avoidance of double taxation and provide to each other relevant documentation for same.

4.    INVOICING AND PAYMENT

Unless otherwise expressly stated in the Statement of Work, the following invoicing and payment terms shall apply. All payments shall be in U.S. Dollars, unless otherwise specified in the Statement of Work. Payments shall be remitted so that they are received by Cadence by the dates and in the amounts set forth in the Statement of Work and, except as expressly provided to the contrary 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. Cadence shall invoice Customer for fees and expenses due hereunder. All invoices shall be due and payable when invoiced, and shall be deemed overdue if they remain unpaid thirty (30) days after they become payable. If any sum to be paid hereunder by the Customer is overdue, Cadence may suspend performance of its obligations hereunder until such overdue amounts have been paid. 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, whichever is lower. In addition, Customer shall pay all reasonable out-of-pocket expenses incurred by Cadence, including counsel fees, in connection with collection thereof. If Customer’s procedures require that an invoice be submitted against a purchase order before payment can be made, Customer will be responsible for issuing such purchase order within three (3) calendar days of the Effective Date. This Agreement shall govern all Orders and any such Customer purchase orders. 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 this 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.

5.    INTELLECTUAL PROPERTY RIGHTS

5.1. Customer hereby grants Cadence a royalty-free, non-exclusive, world-wide license to use, copy, modify and practice the Licensed Technology, solely in order for Cadence to perform the Services and develop, prepare and provide the Deliverables.

5.2. Except as otherwise set forth herein, neither this Agreement, nor the provision of Services hereunder, shall give either Cadence or Customer any ownership interest in or rights to the Intellectual Property of the other party. All Intellectual Property owned or controlled by a party prior to or outside the scope of this Agreement shall remain under the ownership or control of such party throughout the term of this Agreement and thereafter.

5.3. Except as otherwise set forth above, Cadence shall own any and all Innovations, including any derivative works of Innovations created pursuant to Section 6.2(b) (License Grant), whether or not jointly created, that (i) are identified as owned by Cadence in the applicable Statement of Work, or (ii) if ownership is not otherwise identified in the Statement of Work, derive solely from Cadence Technology (collectively, “Cadence Innovations”). Except as otherwise set forth above, Customer shall own any and all Innovations, whether or not jointly created, that (i) that are identified as owned by Customer in the applicable Statement of Work, or (ii) if ownership is not otherwise identified in the Statement of Work, derive solely from the Licensed Technology (collectively, “Customer Innovations”).

5.4. To perfect ownership of Cadence Innovations, Customer hereby assigns to Cadence all rights Customer may have in the Cadence Innovations, and agrees to assist and cooperate with Cadence in all reasonable respects, subject to reasonable availability, (a) in actions to acquire, transfer or maintain such Cadence Innovations, including executing documents associated therewith, and (b) in actions of enforcement of such Cadence Innovations, subject to payment by Cadence of all costs incurred by Customer which are associated therewith.

5.5. To perfect ownership of Customer Innovations, Cadence hereby assigns to Customer all rights Cadence may have in the Customer Innovations, and agrees to assist and cooperate with Customer in all reasonable respects, subject to reasonable availability, (a) in actions to acquire, transfer or maintain such Customer Innovations, including executing documents associated therewith, and (b) in actions of enforcement of such Customer Innovations, subject to payment by Customer of all costs incurred by Cadence which are associated therewith.

6.    LICENSE GRANT

6.1. To the extent that Cadence provides “Licensed Materials,” “Design Materials” or other technology to Customer (as defined in either a Software License and Maintenance Agreement, Design Technology License Agreement or another agreement between the parties), the terms and conditions of such agreement shall exclusively govern the use of license of such Licensed Materials, Design Materials or other technology.
6.2. Subject to payment of all Fees and compliance with the terms and conditions of this Agreement, and except as set forth in Sections 2.6 (Professional Services) and 6.1 (License Grant), Cadence grants to Customer, a worldwide, non-exclusive, non-transferable, perpetual, fully paid, royalty free license, under the Cadence Intellectual Property in the Cadence Innovations, (a) to internally use and copy the Cadence Innovations included within the Deliverables for the purposes set forth in the applicable Statement of Work, and (b) to the extent that the applicable Statement of Work specifies that any Cadence Innovation included within a Deliverable is to be incorporated into a Customer integrated circuit product or system, to use, copy, create derivative works of, distribute, and display and to make, use, and sell, offer to sell and import such Cadence Innovation as part of the Customer products that incorporate such Deliverables for the purposes set forth in the applicable Statement of Work. Customer shall have no rights to sublicense to third parties Cadence Innovations except as necessary to allow Customer to make, sell and offer for sale the Customer products as set forth in the applicable Statement of Work; provided, however, that any such sublicensee first signs a written agreement with Customer obligating such sublicensee to terms and conditions protecting the Cadence Innovations no less stringent than those contained herein. In addition, Customer grants to Cadence the right and license to make, use, sell, reproduce, modify, sublicense, disclose, distribute and otherwise exploit any derivatives works, error reports, corrections, and suggestions created or provided by Customer concerning any Cadence Technology or any modifications to any Cadence Technology based thereon.

7. LIMITED WARRANTIES AND EXCEPTIONS

7.1. Cadence warrants that the Services provided hereunder will be performed in a professional manner consistent with the quality of Cadence’s performance of services for similar types of engagements.

7.2. THE WARRANTY ABOVE IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY. EXCEPT AS PROVIDED IN SECTION 7.1 ABOVE, THE SERVICES AND DELIVERABLES ARE PROVIDED “AS IS” AND WITHOUT WARRANTY OF ANY KIND AND CADENCE EXPRESSLY EXCLUDES AND DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY AND ALL WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL WARRANTIES THAT MAY ARISE FROM COURSE OF DEALING, CUSTOM OR USAGE OF TRADE. In addition, Cadence specifically disclaims any warranty as to the accuracy of any report, data or other material or other technology, data, specifications, or designs resulting from any inaccurate data or information in any Customer or third party materials.

7.3. In order to receive warranty remedies, any deficiencies in the Services resulting in breach of the warranty set forth in Section 7.1 must be reported to Cadence in writing within the time period set forth in the Statement of Work, which in no event shall exceed ninety (90) days from Cadence’s delivery of the final Deliverable under the Statement of Work to which the deficiency in the Services relates. Unauthorized modification of the Deliverables shall cause immediate termination of any applicable warranty as established above. Customer’s sole and exclusive remedy shall be to have the deficiencies remedied as set forth in the Statement of Work or to receive a refund of the pro rata amount of the fees allocable to such Services, at Cadence’s option.

8. INDEMNIFICATION

8.1. Subject to the provisions of Sections 8.3 and 9 (Limitation of Liability), Cadence will defend at its own 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 it is based on a claim that the Cadence Innovations included in the Deliverables directly infringe a copyright or misappropriate a trade secret of any third party, and Cadence will pay any costs and damages finally awarded against Customer to the third party in any such action that are attributable to such claim or that are required to be paid by Customer to the third party in settlement of such claim, but shall not be responsible for any settlement or compromise made or expense incurred without its prior written consent. Notwithstanding anything to the contrary, Cadence will have no obligation or liability for any claim to the extent arising out of or relating to: (i) any Customer Innovations or Customer Intellectual Property or any Licensed Technology or Third Party Technology provided by Customer; (ii) compliance by Cadence with designs, plans, customizations or specifications furnished or requested by Customer; or (iii) any modification of the Deliverables other than by Cadence, with or without authorization; or (iv) any combination or use of the Deliverables with any other software, program, device or materials not provided by Cadence; or (v) any manufacturing processes used in connection with Customer’s products. Notwithstanding the foregoing, should any Deliverable become or in Cadence’s opinion be likely to become, the subject of any claim, Cadence may, at Cadence’s option and expense, (1) procure for Customer the right to continue using such Deliverable as set forth in this Agreement, or (2) replace or modify such Deliverable so that it becomes non-infringing, or (3) if Cadence determines that it is not commercially reasonable to perform either of the above options, terminate the license to such Deliverable granted hereunder and refund to Customer the fees paid for such Deliverable (less a reasonable charge for the period during which Customer has had availability of such Deliverable).
for use). THIS SECTION 8.1 STATES CADENCE’S ENTIRE LIABILITY, AND CUSTOMER’S SOLE AND EXCLUSIVE REMEDY, FOR ANY INFRINGEMENT OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS.

8.2. Subject to the provisions of Section 8.3, Customer hereby agrees to defend at its own expense, any legal action brought against Cadence to the extent that it is based on or relates to: (i) use of the Licensed Technology, Third Party Technology or Customer Innovations during Cadence’s performance of the Services to the extent that such use is permitted under the terms of this Agreement; or (ii) the development, manufacture, marketing, sale, use or support of any Customer product. Customer will pay any costs and damages finally awarded against Cadence in any such action that are attributable to such claim or that are required to be paid by Cadence in settlement of such claim, but shall not be responsible for any settlement or compromise made or expense incurred without its prior written consent, except that Customer will have no liability for any claim for which Cadence has an obligation to defend Customer pursuant to Section 8.1.

8.3. The obligations of a party (“Indemnitor”) under Sections 8.1 and 8.2 are subject to the other party (i) giving prompt written notice of the claim, (ii) allowing Indemnitor to control the defense and settlement of such claim, and (iii) cooperating with, and providing all reasonable assistance and information to, Indemnitor in connection with defense and settlement of the claim.

9. LIMITATION OF LIABILITY

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

9.2. CADENCE’S CUMULATIVE AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (OR PERFORMANCE OR BREACH THEREOF) OR THE SERVICES OR DELIVERABLES (INCLUDING ALL COSTS, DAMAGES AND LIABILITIES INCURRED UNDER SECTION 8) SHALL BE LIMITED TO AND NOT EXCEED THE AMOUNT OF FEES ACTUALLY RECEIVED BY CADENCE FROM CUSTOMER FOR THE SERVICES OR DELIVERABLES WHICH ARE THE SUBJECT OF THE CLAIM UNDER THE APPLICABLE ORDER.

9.3. Except as set forth in Section 8.1, Cadence shall not be liable for any loss or damages concerning any products, devices, software or applications developed through use of Cadence’s products or the Deliverables or the Services.

9.4. No action, regardless of form, arising from this Agreement may be brought by either party more than two (2) years after the cause of action has accrued, except that an action for non-payment may be brought within two (2) years after the later of the date of last payment or the date such unpaid amount should have been paid.

9.5. The limitations of liability in this Section 9 (Limitation of Liability) shall apply (i) notwithstanding any failure of the 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 9 allocates the risks under this Agreement and Cadence’s pricing reflects this allocation of risk and the above limitations.

10. CONFIDENTIALITY

10.1. By virtue of this Agreement, each party hereto may disclose to the other party information that is Confidential Information. Such Confidential Information shall be subject to the terms of this Section 10. Except as set forth in Sections 2.6 and 6.1, this Agreement shall supersede any previous confidentiality agreements relating to the subject matter of this Agreement and any Confidential Information pertaining to this Agreement exchanged under such previous agreements shall be treated as though it was exchanged under this Agreement as of the date of such exchange.

10.2. Each party agrees, that for a period of five (5) years after its disclosure, to hold the other party’s Confidential Information in confidence, not to disclose such Confidential Information to third parties not authorized by the disclosing party to receive such Confidential Information, and not to use such Confidential Information for any purpose except as expressly permitted hereunder. Each party agrees to take reasonable steps using at least the same degree of care that it uses to protect its own Confidential Information, but no less than reasonable care, to protect the other party’s Confidential Information to ensure that such Confidential Information is not disclosed, distributed or used in violation of the provisions of this Agreement. The foregoing prohibition on disclosure of Confidential Information shall not apply to the extent certain Confidential Information is required to be disclosed by the receiving party as a matter of law or by order of a court, provided
that the receiving party uses reasonable efforts to provide the disclosing party with prior notice of such obligation to disclose and reasonably assists in obtaining a protective order therefor. Customer may not disclose the terms of this Agreement to any third party without the prior written consent of Cadence.

10.3. Within fifteen (15) days after the party’s receipt of the other party’s written request for the return of Confidential Information, all of the other party’s Confidential Information and all copies thereof in the party’s possession or control shall be returned to the other party or destroyed by the party at the other party’s instruction. The party shall then certify the same in writing and that no copies have been retained by the party, its employees or agents.

10.4. Nothing in this Section 10 (Confidentiality) shall limit either party’s right to independently develop information, materials, technology, or other products or services for itself or for others which may compete with the other party or which may be similar to the Confidential Information, as the case may be, so long as no unauthorized disclosures or uses of such Confidential Information have been made by the party with respect to such activities during the term of the confidentiality obligation. Customer agrees that, except as otherwise agreed in this Agreement, Cadence and its employees may provide design consulting services similar in nature to the Services for any third parties both during and after the term of this Agreement. Cadence and its respective employees may freely use and disclose for any purpose any Residual Information resulting from performing the Services or having access to Confidential Information under this Agreement.

10.5. Each party acknowledges that unauthorized disclosure or use of Confidential Information may cause irreparable harm to the other party for which recovery of money damages would be inadequate, and the other party shall therefore be entitled to obtain timely injunctive relief to protect its rights under this Agreement, in addition to any and all remedies available at law.

11. TERM AND TERMINATION

11.1. This Agreement commences on the Effective Date and shall continue in force unless otherwise terminated as provided herein.

11.2. This Agreement or any Statement of Work hereunder may be terminated by either party (i) upon thirty (30) days prior written notice if the other party materially breaches or fails to perform any material term hereof or in the Statement of Work, respectively, and the breaching party fails to cure such breach within the thirty (30) day period; or (ii) immediately upon the insolvency, bankruptcy, reorganization, or assignment for the benefit of creditors of Customer. Notwithstanding the foregoing, this Agreement shall not terminate until all Statements of Work entered into by the parties hereunder have been either completed or terminated.

11.3. Each party’s obligations under Sections 3 (Fees and Expenses), 4 (Invoicing and Payment), 5 (Intellectual Property Rights), 7.2 (Limited Warranties and Exceptions), 9 (Limitation of Liability), 10 (Confidentiality), 11.3 (Term and Termination) and 12 (General Provisions) of this Agreement shall survive termination or expiration of this Agreement. The license in Section 6 (License Grant) will survive for Deliverables for which all Fees have been paid by Customer, subject to the terms and conditions of Section 6 (License Grant) and the applicable Statement of Work. Unless otherwise stated in the SOW, within thirty (30) days of termination of this Agreement for any reason, Cadence shall submit to Customer an itemized invoice for either (i) all fees or expenses that are due under this Agreement (if this Agreement expires) or (ii) would have been due under this Agreement (if the Agreement was not terminated early). Customer will pay such fees in accordance with Sections 3 (Fees and Expenses) and 4 (Invoicing and Payment).

12. GENERAL PROVISIONS

12.1. Governing Law and Dispute Resolution.

12.1.1. Governing Law. This Agreement will be governed by and in accordance with the laws of the State of California, U.S.A., excluding conflict of law rules and principles. 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 this Agreement. This Agreement is prepared and executed and shall be interpreted in the English language only.

12.1.2. Escalation. The parties shall attempt in good faith to resolve any dispute arising in connection with this Agreement informally according to the following procedure. Upon written request of a party identifying a dispute to be resolved, each party will designate a management representative with the responsibility and authority to resolve the dispute. The designated management representatives shall meet preliminarily within fifteen (15) days after the request is received from the requesting party. At this first meeting, the designated management representatives shall identify the scope of the dispute and the information needed to discuss and attempt to resolve the dispute. These management representatives shall then gather relevant information regarding the dispute and shall meet to discuss the issues and negotiate in good faith to resolve the
dispute. Such second meeting shall occur within fifteen (15) days of the first meeting. Nothing in this Section 12.1.2 (Escalation) shall restrict the right of either party to apply to any court of competent jurisdiction for injunctive relief or for either party to apply to a court under Section 12.1.3 (For Customers in the United States Only) or arbitrators under Section 12.1.4 (For Customers Located Outside the United States), as applicable, for damages at any time. However, the right of either party to file a lawsuit or arbitration does not abrogate each party’s obligations under this Section 12.1.2 (Escalation). Moreover, a party which elects to file a lawsuit or arbitration shall provide the written notice identified in Section 12.2 (Notices) to the other party at the same time the lawsuit or arbitration is filed.

12.1.3. For Customers in the United States Only. Any dispute regarding this 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.

12.1.4. For Customers Located Outside of the United States. Any controversy or claim arising out of or relating to this 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. 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 such costs and expenses are determined by the arbitrators. Judgment upon any award rendered by the arbitrators may be entered in any court of competent jurisdiction.

12.2. 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.

12.3. 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.

12.4. 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.

12.5. Relationship. The relationship between the parties is that of independent contractors. Nothing in this Agreement shall be construed to create or imply a joint venture, partnership, principal-agent or employment relationship between the parties. Neither party shall take any action or permit any action to be taken on its behalf which purports to be done in the name of or on behalf of the other party and shall have no power or authority to bind the other party to assume or create any obligation or responsibility express or implied on the other party’s behalf or in its name, nor shall such party represent to any one that it has such power or authority.

12.6. Assignment. Customer may not delegate, assign or transfer this Agreement or any of its rights and obligations under this 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 reorganization, 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 this Agreement may be made without the prior written consent of Cadence, which may be withheld in Cadence’s sole discretion. As used in this Agreement, assignment shall not include, and no consent shall be required if: (1) 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) Customer changes its state of incorporation, or (3) 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 Deliverables 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.

12.7. **Export Laws and Regulations.** Neither party shall export, directly or indirectly, any technical data acquired from the other pursuant to this Agreement or any product utilizing such data to any country for which the U.S., EU, or Japanese government or any agency thereof at the time of export requires an export license or other governmental approval without first obtaining such license or approval. The disclosing party shall not disclose any information that is subject to export control under any of the following regimes without the prior written consent of the receiving party in each instance: The ITAR, the Wassenaar Arrangement Lists of Dual Use Goods and Technologies and Munitions Lists, the Japanese Ministerial Ordinance Stipulating Goods and Technology, or the U.S. EAR for control reasons other than anti-terrorism (AT). 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 any technical data acquired from the other party pursuant to this Agreement or any product utilizing such data on its behalf fully comply with the requirements of this Section 12.7 (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.

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

12.9. **Waiver.** Failure by either party to enforce at any time any provision of this 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 this Agreement or any part thereof, or the right of the waiving party to thereafter enforce each and every such provision.

12.10. **Construction.** Each party has had the opportunity to review this 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.”

12.11. **Injunctive Relief.** Customer acknowledges that breach may cause irreparable harm to Cadence for which money damages would be inadequate. Subject to Section 12.11(Governing Law and Dispute Resolution) or anything else to the contrary, Cadence shall be entitled to obtain timely injunctive relief in any court of competent jurisdiction without the necessity of posting bonds, in addition to any and all remedies available at law.

12.12. **Affiliates.** Only those Affiliates of Customer listed in the SOW may Use the license to the Cadence Innovations provided under the SOW. In such case, each Affiliate will have the same rights, duties and obligations as Customer under this Agreement. Customer agrees that it is responsible for enforcing the duties and obligations of each Affiliate.

12.13. **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.
Appendix 1

Country Specific Terms and Conditions

If the country specified in Customer’s address in the applicable SOW is one of the countries specified below, then the following terms set forth below for that country replace or modify the referenced terms in the Agreement for the applicable Order as indicated below. All terms in the Agreement that are not changed by these amendments remain unchanged and in effect.

JAPAN

If Customer’s address in the SOW is Japan, then the following shall replace (in their entirety) the Sections referenced:

Section 3.3. 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 (“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. The parties shall cooperate to qualify for the benefits of any applicable treaty for the avoidance of double taxation and provide to each other relevant documentation for same.

Section 12.7. Export Laws and Regulations. Customer shall not export, directly or indirectly, any technical data acquired from Cadence pursuant to this Agreement or any product utilizing any such data to any country for which the U.S., EU, or Japanese government or any agency thereof at the time of export requires an export license or other governmental approval 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 Items 1 through 15 in the Appended Table of the Japanese Foreign Exchange Order, or the U.S. EAR for control reasons other than anti-terrorism (AT). 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 any technical data acquired from the other party pursuant to this Agreement or any product utilizing such data on its behalf fully comply with the requirements of this Section 12.7 and provisions of ITAR and EAR, and Customer shall indemnify Cadence against any loss related to any failure to conform to these requirements.

PEOPLE’S REPUBLIC OF CHINA

If Customer’s address in the SOW is the People’s Republic of China, then the following shall replace (in their entirety) the Section referenced:

Section 12.1.4. Dispute Resolution. Any dispute, controversy or claim arising out of or relating to this Agreement, including the validity, invalidity, breach or termination thereof, shall be settled by arbitration in Hong Kong under the Hong Kong International Arbitration Centre Administered Arbitration Rules (the “Rules”) in force when the Notice of Arbitration is submitted in accordance with these Rules. The number of arbitrators shall be three unless otherwise subsequently agreed in writing by the parties. The arbitration proceeding shall be conducted in English. Nothing in this Section 12.1.4 shall restrict the right of a party to apply to a court of competent jurisdiction for injunctive relief at any time. The arbitrators may award to the prevailing party, if any, as determined by the arbitrators, its costs and expenses, including attorneys’ fees. Judgment upon any award rendered by the arbitrators may be entered in any court of competent jurisdiction.

UNITED KINGDOM

If Customer’s address in the SOW is the United Kingdom, then the following shall replace (in their entirety) or add as new the Sections referenced:
Section 7.2. THE WARRANTY ABOVE IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY. EXCEPT AS PROVIDED IN SECTION 7.1 ABOVE, THE SERVICES AND DELIVERABLES ARE PROVIDED “AS IS” AND WITHOUT WARRANTY OF ANY KIND AND CADENCE EXPRESSLY EXCLUDES AND DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY AND ALL WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND REASONABLE SKILL AND CARE, AND ANY AND ALL WARRANTIES THAT MAY ARISE FROM COURSE OF DEALING, CUSTOM OR USAGE OF TRADE. In addition, Cadence specifically disclaims any warranty as to the accuracy of any report, data or other material or other technology, data, specifications, or designs resulting from any inaccurate data or information in any Customer or third party materials.

Section 9.5. The above limitations 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 9 allocates the risks under this Agreement and Cadence’s pricing reflects this allocation of risk and the above limitations. Nothing in this Agreement shall operate so as to exclude or limit the liability of either party to the other for death or personal injury arising out of negligence, or for any other liability which cannot be excluded or limited by law.

Section 12.1. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of England and Wales, excluding conflict of law rules and principles. The United Nations Convention on Contracts for the International Sale of Goods (1980) is specifically excluded and shall not apply. This Agreement is prepared and executed and shall be interpreted in the English language only.

Section 12.5. Relationship. The relationship between the parties is that of independent contractors. A person who is not a party to this Agreement may not enforce any of its provisions or otherwise benefit from this Agreement, except for any person to whom the benefit of this Agreement is assigned or transferred by Cadence.

Section 12.14. Electronic Contracting. The parties agree that any Orders entered into under these Terms may be concluded by any means (including by facsimile or other electronic means). The parties agree that the provisions of Articles 10 and 11 of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market, as amended and implemented in national applicable law (“Directive on electronic commerce”) shall not apply to any Agreement concluded under these Terms.