

Applied Materials Semiconductor Equipment, Parts and Service Terms and Conditions of Sale

1. Definitions. “**Buyer**” means the customer identified in the Seller’s quotation (“**Quotation**”). “**Seller**” means the Applied Materials entity set forth in the Quotation. Buyer and Seller are each a “**Party**” and collectively are the “**Parties**.” An “**Affiliate**” means any entity directly or indirectly controlling, controlled by, or under common control with Seller, and “**control**” means the power to direct the management and policies of such entity directly or indirectly through ownership of at least fifty percent (50%) of the voting or other equity securities of such entity. “**Product(s)**” means the good(s) sold or licensed to Buyer by Seller under the Sales Contract (defined below), which may consist of (a) semiconductor manufacturing systems (“**Equipment**”), (b) spare parts, upgrades and components (“**Part(s)**”), and/or (c) Seller’s proprietary software that is installed in Equipment or Parts and any other software products offered by Seller “**Software**”. “**Services**” means all services separately priced and purchased in the Sales Contract, or otherwise provided to Buyer in connection with the Products. “**Terms and Conditions**” means this document. “**Sales Contract**” means, collectively, (i) the Quotation, (ii) Buyer’s written purchase order accepted by Seller (“**Order**”) (but only with respect to identification and quantity of the Products and/or Services ordered), and (iii) these Terms and Conditions. “**Buyer’s Site**” means the location where the Products will be delivered, installed and used, and/or where the Services will be provided.

2. Controlling Document. Seller agrees to sell (or in the case of Software, license), and Buyer agrees to buy (or in the case of Software, license), the Products and/or Services specified in the Sales Contract for the Price (defined below) specified in the Sales Contract. SELLER’S ACCEPTANCE OF BUYER’S ORDER IS EXPRESSLY CONDITIONED ON BUYER’S ACCEPTANCE OF THESE TERMS AND CONDITIONS. Except for identification and quantity of the Products and/or Services ordered, any term or condition proposed by Buyer, including any preprinted or customized term on Buyer’s Order, is expressly rejected.

3. Pricing. The total price for the Products and/or Services, and the applicable currency, are set forth in the Quotation (the “**Price**”). Unless the Quotation states otherwise, the Price excludes transportation, insurance, import and brokerage fees, license fees, customs duties, tariffs, and sales, use, value-added (VAT), excise or other taxes. Buyer shall pay all such charges, duties and taxes except taxes imposed on Seller’s net income.

4. Payment Terms.

(a) Equipment. Unless otherwise stated in the Quotation and except as provided in Section 4(b), Buyer shall pay the Price for each item of Equipment by an irrevocable Letter of Credit in the form set forth below (a “**Letter of Credit**”) as follows: ninety percent (90%) of the Price shall be due upon Shipment (defined below) and payable drafts at sight; and ten percent (10%) of the Price shall be due upon Final Acceptance (defined below) of each item of Equipment or ninety (90) days after Shipment, whichever occurs first.

(b) Refurbished Equipment; Equipment for wafer sizes below 300mm. Unless otherwise stated in the Quotation, Buyer’s payment of the Price for refurbished Equipment and Equipment for wafer sizes below 300mm will be made by wire transfer to Seller’s bank account as follows: thirty percent (30%) of the Price shall be due upon Seller’s written acceptance of Buyer’s Order (“**Down Payment**”); sixty percent (60%) of the Price shall be due upon Shipment (defined below) of each item of Equipment; and the final ten percent (10%) of the Price shall be due upon Final Acceptance (defined below) or ninety (90) days after Shipment, whichever occurs first. Seller reserves the right to require a Letter of Credit for payment, in which case all of Buyer’s payments of the Price will be by means of the Letter of Credit except payment of the Down Payment will be made by wire transfer to Seller’s bank account. Where a Letter of Credit is required, the sixty percent (60%) payment due upon Shipment shall be payable at sight.

(c) Parts, Software and Services. Unless otherwise stated in the Quotation, for Parts, Software and separately priced Services, Seller shall invoice Buyer upon Shipment of such Parts or provision of such Software, or thirty (30) days in advance of performance of such Services, and Buyer shall pay the applicable Price within thirty (30) days after the date of Seller’s invoice.

(d) Letter of Credit, Set-Off, and Late Payments. Any required Letter of Credit shall be issued in favor of Seller in a form and by a bank acceptable to Seller no later than sixty (60) days before the date of first Shipment of the Equipment. The Letter of Credit shall be subject to the Uniform Customs and Practice for documentary credits (2007 revision or latest version) of the International Chamber of Commerce Pub 600. The Letter of Credit shall not expire earlier than sixty (60) days after final payment is due under the Sales Contract; Buyer shall amend the Letter of Credit as needed so that it does not expire before all payments are made to Seller. All issuing bank charges, reimbursing/paying bank charges, including acceptance commissions and amendment or extension charges for the Letter of Credit, shall be paid by Buyer. Advising bank and presenting bank charges and discount charges for the Letter of Credit shall be paid by Seller. Buyer will email or fax a copy of the proposed Letter of Credit to Seller’s Treasury Department for review and approval by Seller prior to Buyer submitting it to the opening bank. If the Letter of Credit is not in effect or is insufficient to pay the Price, Buyer shall pay the remaining Price by wire transfer. Seller will designate its account for wire transfers in writing. Except as provided in these Terms and Conditions, a Party may not set off against amounts it owes those amounts owed by the other Party. Late payments will bear interest at the rate of one and one-half percent (1.5%) per month (or the highest rate permitted by law, if less) from the date due until paid. In the event of any default in payment, Buyer shall pay all costs of collection. All payments are nonrefundable once made.

5. Shipment; Title Transfer; Risk of Loss. Unless otherwise stated in the Quotation, the Products will be delivered to Buyer FCA Seller’s factory or other named place identified by Seller (Incoterms 2010). “**Shipment**” of a given Product occurs when such Product is delivered to the carrier at Seller’s factory or other named place determined by Seller. Title and risk of loss for each Product will pass from Seller to Buyer upon delivery in accordance with the applicable Incoterm; provided, however, for international shipments, title and risk of loss to each Product shall pass from Seller to Buyer upon the point of first arrival outside of the country of origination. In the case of shipment by air, the “point of first arrival” means when the wheels of the aircraft first touch down. In the case of shipment by sea, the “point of first arrival” means when the vessel docks. Seller will be responsible for cargo insurance to cover its risk of loss; however, in the event of damage or loss during shipment

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and a claim is made under the insurance policy procured by Seller, then Buyer agrees to notify Seller and subrogate rights of recovery against the freight carrier to Seller. Transshipment and partial shipment will be allowed. The Quotation contains an estimated Shipment date for each Product. Seller is not liable for delays in Shipment due to modification of the Specification (defined below) by Buyer. Seller retains, and Buyer hereby grants, a security interest (or charge, lien, or similar right under applicable local law) in each Product and in all proceeds from the sale or disposition thereof, until Buyer has made payment in full for the Product. Buyer will, upon request by Seller, provide all cooperation required by Seller to perfect such security interest. Seller reserves the right to repossess the Products upon default by Buyer. Parts that are replaced under the Sales Contract will become the property of Seller and will be provided to Seller. Seller at its sole discretion may transfer ownership of some used Parts to Buyer for disposal.

6. Postponing or Cancelling Orders. Buyer may cancel an Order prior to the scheduled Shipment date by delivering written notice to Seller, subject to Buyer's payment of the applicable cancellation charge ("**Order Cancellation Charge**"). Buyer may request a one-time postponement in Shipment for each Product or in commencement of Services of up to thirty (30) days from the scheduled Shipment date or commencement of Services by delivering written notice to Seller; provided that any such postponement must occur within the same fiscal quarter as Seller's scheduled Shipment date or Services commencement date. Buyer will be responsible for all applicable storage fees. If Buyer requests a delay in Shipment or commencement of Services other than as permitted in this Section, Seller may treat such postponement request as a request for cancellation and Buyer shall pay to Seller the applicable Order Cancellation Charge. Seller may apply payments already made to Order Cancellation Charges due. Buyer agrees that Order Cancellation Charges are reasonable and justified, do not constitute penalties, and constitute liquidated damages. Seller is entitled to an extension in Seller's time to perform, if Seller's ability to achieve Final Acceptance of an item of Equipment is delayed for any reasons due to Buyer, including without limitation, the condition, availability and/or facilitization of Buyer's Site.

(a)(i) Product Order Cancellation Charge:

Days between cancellation notice and scheduled Shipment date	Cancellation Charge
90 days or more	30% of the Price
60 – 89 days	50% of the Price
30 – 59 days	60% of the Price
Less than 30 days	70% of the Price

(a)(ii) Service Order Cancellation Charge: Unless otherwise specified in the Quotation, Buyer must provide Seller with ninety (90) days' prior written notice of cancellation of any separately charged Services. If Buyer cancels after the Services have commenced, then Seller will invoice Buyer, and Buyer will pay for those Services which have actually been performed as well as those Services which are scheduled to be performed during such ninety (90) day notice period. If Buyer cancels before the commencement of Services, Buyer will pay Seller an Order Cancellation Charge in an amount equal to the fees that would have been payable for the first ninety (90) days of the scheduled Services.

7. Termination; Seller's Rights on Non-Payment. Either Party may terminate the Sales Contract (i) if the other Party materially breaches the Sales Contract, and fails to cure such breach within thirty (30) days after receipt of notice of that breach (provided that no cure period shall apply to payment obligations), or (ii) if the other Party transfers all or substantially all of its assets, files a voluntary petition for bankruptcy or has an involuntary petition for bankruptcy filed against it that is not dismissed within sixty (60) days, makes an assignment for the benefit of creditors, or becomes insolvent. In addition, without limiting any other rights under contract or applicable law, Seller may immediately suspend its Services or other obligations under this Sales Contract, and/or may postpone or cancel Shipment of one or more Products, if Buyer fails to (i) provide Seller with an Order at least ninety (90) days prior to the scheduled Shipment date; or (ii) pay any amount when due to Seller; or (iii) fails to cause the Letter of Credit to be issued when due. At Seller's option, Seller may (a) reschedule Shipment of the Product(s) upon Buyer's cure of such breach and resume its Services or other obligations; or (b) deem the Order to have been cancelled by Buyer as of the date of the breach, and Buyer will pay the applicable Order Cancellation Charge.

8. Survival. This Sales Contract shall terminate the earlier of (i) as to each Product or Service upon expiration of the applicable Warranty Period or (ii) upon termination of the Sales Contract. Sections 1 (Definitions), 2 (Controlling Document), 4(d) (Payment Terms - Letter of Credit, Set-Off, and Late Payments), 6 (Postponing or Cancelling Orders), 8 (Survival), 9 (Licenses) (except to the extent licenses granted in Section 9 are terminated pursuant to the terms of that Section), 10 (Feedback and Benchmarking), 13(d) (Exclusions and Limitations), 14 (Diagnostic Modules), 16 (Limitation of Liability), 18 (Confidentiality), 21 (Governing Law), 22 (Dispute Resolution), 23 (Assignment), 25 (Order of Precedence), and 28 (Severability) of these Terms and Conditions survive the cancellation, termination or expiration of the Sales Contract regardless of cause.

9. Licenses. Seller (or an Affiliate) grants to Buyer a limited, non-assignable, non-transferable, non-exclusive, royalty free license (without the right to sublicense) to use internally, solely with each Product as purchased from Seller or as identified in Seller's Quotation: (i) the patented methods and processes of Seller in existence as of the delivery date of a Product to Buyer's Site that documentation provided by Seller identified as appropriately utilizable in the Product; (ii) Software and any Updates thereto, solely in object code form; and (iii) all Product-related or Service-related documentation furnished by Seller ("**Documentation**"). "**Updates**" means new versions, including maintenance releases, and localizations and translations thereof, of the Software that contain bug fixes, error corrections and minor enhancements, but not containing major enhancements or significant new functionality, as determined in Seller's sole discretion, and any related Documentation. Unless otherwise specified in Seller's Quotation, the licenses do not extend to the use of Software or Documentation on or with items of equipment or

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parts not purchased from Seller, or modified by any third party, and any and all such use of such intellectual property is expressly not authorized. Any Software or Documentation is licensed, not sold, to Buyer. Any breach of the Sales Contract by Buyer automatically terminates this license. Buyer shall not modify, copy, publish, distribute or make available any Software or Documentation licensed hereunder, except that Buyer may make a single archive copy of such Software or Documentation, provided that it must retain all of the same copyright and proprietary markings that are included in the original. The term of the licenses granted in this Section is the duration identified in Seller's Quotation or, if none is specified, perpetual unless terminated in accordance with this Section. If Seller provides third-party software packaged with an agreement from the vendor of that software, the licenses granted in this Section will not apply to that software, and that software vendor's separate agreement prevails over these Terms and Conditions with respect to that third-party software.

10. Feedback and Benchmarking. In the event Buyer provides to Seller test data and results, suggestions, recommendations, advice, and other feedback concerning Seller's Products and Services, including potential errors and improvements ("**Feedback**"), Buyer hereby grants to Seller a non-exclusive, royalty-free, paid-up, transferable, worldwide, perpetual, irrevocable license, with the right to sublicense, to use, reproduce, modify, distribute, and otherwise exploit the Feedback; to use, make, have made, sell, offer to sell, import, and otherwise transfer any Product or Service based on, incorporating, or embodying the Feedback. Except to the extent applicable law will not enforce this requirement, Buyer shall not directly or indirectly reverse engineer or decompile any element of Products. Buyer acknowledges and agrees to provide Seller with data from Products and Services ("**Data**") in order to support the Services. Seller may use and disclose Data, whether alone or aggregated from other sources, for use in Seller's benchmarking, business and product development. Data will not be disclosed by Seller or otherwise made available to third parties in a manner that would enable such third party to identify the Data as belonging to or originating from Buyer or relating specifically to Buyer's business.

11. Work on Buyer's Site. Buyer is solely responsible at its expense to obtain all authorizations required for Seller, including Affiliates and personnel, to be able to install Equipment, perform Services, or otherwise perform the Sales Contract, at Buyer's Site, and for compliance with all applicable laws in the country and locality of Buyer's Site with respect to the purchase, delivery, installation, and use of the Products. Seller may suspend performance of activities at Buyer's Site without liability if Seller reasonably determines corrective actions are required to remedy safety issues at Buyer's Site. If any safety issue results in a delay of Seller's performance, then Seller will be entitled to an extension of time equal to such delay. Under no circumstances shall any personnel of Seller or Affiliates be required to remain at Buyer's Site during an evacuation or to enter or reenter Buyer's Site during an emergency or any other hazardous situation. Seller shall not be responsible for replacement of Products necessitated by or repair of damage resulting from natural disaster, such as flood or earthquake, strikes, riots, acts of war, acts of terror, or nuclear disaster, unusual physical or electrical stress, accidents, neglect, misuse or abuse, modification or alteration of, or the attachment of equipment or accessories to the Equipment without the written consent of Seller, or failure to perform Seller-recommended preventative maintenance.

12. Final Acceptance. Equipment achieves "**Final Acceptance**" upon the first to occur of the following: (a) a successfully completed Final Acceptance Test (defined below); (b) Buyer commencing usage of the Equipment for production purposes; or (c) ninety (90) days after Shipment of the Equipment (the "**FAT Deadline**"). Notwithstanding the foregoing, if the Equipment does not successfully complete the Final Acceptance Test on or before the FAT Deadline solely due to Seller's fault or delay, then, as Buyer's sole and exclusive remedy, Seller will continue installing and commissioning the Equipment, at Seller's expense, until Final Acceptance is achieved under clause (a) or (b) above. Any failure in the Final Acceptance Test is to be verified by both Parties, and Seller will be allowed sufficient and reasonable time to remedy. "**Final Acceptance Test (FAT)**" means one or more tests of Equipment conducted in accordance with Seller's normal procedures that demonstrates the Equipment meets or exceeds the performance specification identified in the Quotation or if none is identified, Seller's Tier 2 specification (the "**Specification**"). Buyer acknowledges that Seller's ability to deliver, install, and achieve Final Acceptance of Equipment depends upon the condition of Buyer's Site and unless otherwise agreed or due to Seller-caused delays, Seller's obligation to install the Product shall end ninety (90) days after Shipment of Equipment. Seller may use new or refurbished Parts during installation.

13. Warranty.

(a) Express Warranties. Seller warrants to Buyer that, for the applicable Warranty Period, (i) each Product will be free from defects in material and workmanship when that Product is used under normal operating conditions for its intended use and in accordance with the documentation provided by Seller; and (ii) the Services will be performed in a professional and workmanlike manner. Unless otherwise stated in the Quotation, the "**Warranty Period**" shall be as follows: for each item of Equipment (excluding consumable Parts) twelve (12) months after Final Acceptance, but in no event more than fifteen (15) months after the date of Shipment of such item of Equipment; for Parts other than consumable Parts, ninety (90) days from receipt by Buyer of such Parts; for consumable Parts, until twenty-four (24) hours after installation on Equipment or commencement of use, but not to exceed seven (7) days from receipt by Buyer of such consumable Parts; and for Services, ninety (90) days from the date of performance of such Services. The Warranty Period for Equipment is not extended due to Buyer's installation schedule.

(b) Warranty Remedies; RMA Process. If a Product reproducibly fails to comply with Seller's express warranty in Section 13(a) (a "**Non-Conforming Product**"), and Buyer notifies Seller of such failure and complies with this Section 13(b) within the applicable Warranty Period, Seller shall, during its normal business hours and at its option, use reasonable efforts to repair or replace the Non-Conforming Product with new or refurbished Parts. For any warranty failure for Services, if Buyer notifies Seller of such failure within the applicable Warranty Period, Seller shall re-perform the non-conforming Services. Buyer must grant Seller reasonable time and opportunity to take what Seller determines to be the necessary steps for making repairs or supplying replacements or re-performing Services. If Seller requests the return of a Non-Conforming Product for warranty repair or replacement, Buyer will follow Seller's return material authorization ("**RMA**") process, and Seller will bear the cost to return the repaired Non-Conforming Product, or its replacement, to Buyer's Site. Buyer will provide all necessary

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documents to enable the Non-Conforming Product to be re-exported to its place of origin as designated by Seller, and will cooperate with Seller to obtain permits to import the repaired Non-Conforming Product or its replacement free of import duty. In the event a Product that Buyer claims is a Non-Conforming Product is determined by Seller not to be defective, Buyer will be responsible for, and Seller will have the right to charge Buyer for, the replacement Product and for the handling costs associated with the return of the Non-Conforming Product, including a fifteen percent (15%) restocking charge for Parts. This Section sets forth Buyer's sole and exclusive warranty remedies.

(c) Decontamination. Buyer will remove/drain all chemicals and chemical residues (solid, liquid, or gas) from Products (“**perform Decontamination**”) prior to shipment to Seller, Seller's vendors, or other third parties. Buyer is responsible for performing Decontamination prior to shipment and will provide relevant documentation to demonstrate the risk of chemical exposure is mitigated in accordance with local laws and regulations and the minimum required criteria in Table 1 below. Buyer is responsible for transporting and disposing of all waste, including hazardous waste, generated by the Products, in accordance with applicable laws and regulations, regardless whether such Products are under Service or warranty. In addition, Buyer is responsible for preparing for shipment Products and components thereof that cannot be decontaminated without loss of RMA credit from Seller's third-party suppliers (e.g. pumps, turbopumps, and cryos), consistent with applicable laws and regulations. This includes identifying any remaining solid, liquid or gaseous materials not removed from such Products and shipping them as Dangerous Goods / Hazardous Material per IATA/DOT requirements. Buyer will obtain the written approval of Seller, Seller's vendors, or other third-party recipients prior to initiating any Dangerous Goods / Hazardous Materials shipments to their facilities.

TABLE 1: Decontamination Criteria			
Contaminant	Decontamination Criteria	Contaminant	Decontamination Criteria
pH (corrosives)	5-9	DI water	Drain
Fluoride Ion	Non detect using a fluoride test strip	Water reactive	No visible residue
Photoresist	No visible residue (discoloration allowed)	Arsenic	25 micrograms/100 cm ²
Coolants and oils	Drain	Lead	4 micrograms/100 cm ²
Phosphorus	No visible residue		

(d) Exclusions and Limitations. The foregoing warranties shall not cover any Products sold to, transferred to, leased to, or shared with a third party by Buyer; or defects caused by (i) misuse, neglect, accident or normal wear and tear; (ii) unusual physical or electrical stress; (iii) modification without the prior written consent of Seller; (iv) service of a Product by anyone other than Seller or its authorized service provider; (v) parts purchased from a source other than Seller or its authorized supplier; (vi) relocation of the Product other than by Seller; (vii) environmental or facility conditions that are unsuitable for the Products; (viii) Buyer's failure to comply with preventive maintenance specified by Seller; or (ix) use of the Products inconsistent with their intended purpose or contrary to Seller's printed warnings, instructions or recommendations.

TO THE MAXIMUM EXTENT ALLOWED BY LAW, THE WARRANTIES SET FORTH IN THIS SECTION ARE THE SOLE AND EXCLUSIVE WARRANTIES, AND THERE ARE NO OTHER WARRANTIES REGARDING THE PRODUCTS OR SERVICES, WHETHER WRITTEN, ORAL, IMPLIED, OR STATUTORY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE, OR FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES THAT WOULD OTHERWISE ARISE FROM COURSE OF DEALING OR PERFORMANCE. BUYER REPRESENTS THAT IT HAS NOT RELIED ON ANY STATEMENT, REPRESENTATION OR WARRANTY OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS SECTION.

14. Diagnostic Modules. Services offered by Seller may require the use of Seller proprietary hardware and Software (e.g., FSS) “**Diagnostic Module**”. If a Diagnostic Module is used in performance of Services, Buyer will provide systems connectivity so that Seller may perform remote diagnostics, support and troubleshooting. Seller retains exclusive title to each Diagnostic Module. Each Diagnostic Module will only be used by Seller's personnel. Buyer will not relocate or remove any Diagnostic Module from any item of Equipment, and upon termination or expiration of the Sales Contract, Seller shall remove the Diagnostic Module from Buyer's Site.

15. Force Majeure. Neither Party shall be liable for default of any obligation in the Sales Contract if such default results from “**Force Majeure**,” which means any event or circumstance beyond that Party's reasonable control, including but not limited to governmental acts or directives; strikes; acts of God; war; terrorism; riot; civil commotion; fire; flood; embargoes; delays in delivery; or failure to obtain or the withdrawal of any export or import license. If a Force Majeure event arises, which prevents a Party from performing its obligations, the dates and periods for performance of the obligations under the Sales Contract shall be adjusted by mutual agreement of the Parties, or if the Parties fail to agree, shall be extended by the duration of such Force Majeure event or circumstance plus a reasonable time to restart performance. Force Majeure shall not apply, however, to obligations of Buyer to make payments under the Sales Contract.

16. Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL SELLER BE LIABLE IN CONTRACT, TORT OR OTHERWISE (INCLUDING FOR NEGLIGENCE), FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR FOR PROPERTY DAMAGE, LOST REVENUES, PROFITS OR GOODWILL, LOSS OF BARGAIN OR EXPECTATION, OR LOSS OF PRODUCTION, IN EACH CASE ARISING FROM OR RELATED TO THE SALES CONTRACT, THE PERFORMANCE BY SELLER THEREUNDER, OR THE PRODUCTS OR SERVICES, REGARDLESS OF WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF WHETHER THE REMEDIES IN THE SALES CONTRACT FAIL OF THEIR ESSENTIAL PURPOSE.

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TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW: (A) SELLER'S TOTAL LIABILITY FOR ANY CLAIM IN CONTRACT, TORT, OR OTHERWISE (INCLUDING FOR NEGLIGENCE) ARISING FROM OR RELATED TO THE SALES CONTRACT, THE PERFORMANCE BY SELLER THEREUNDER, OR THE PRODUCTS OR SERVICES (INCLUDING AMOUNTS PAID OR INCURRED IN PERFORMANCE UNDER SECTION 13 OR SECTION 17), SHALL NOT EXCEED THE PRICE ACTUALLY PAID BY BUYER TO SELLER FOR THE PRODUCTS OR SERVICES GIVING RISE TO SUCH CLAIM; AND (B) WITHOUT EXPANDING THE FOREGOING LIMIT, SELLER'S MAXIMUM AGGREGATE LIABILITY HEREUNDER (INCLUDING AMOUNTS PAID OR INCURRED IN PERFORMANCE UNDER SECTION 13 OR SECTION 17), FOR ANY AND ALL CLAIMS IN CONTRACT, TORT OR OTHERWISE (INCLUDING FOR NEGLIGENCE), SHALL IN NO CASE EXCEED (1) FOR EACH PRODUCT, THE PORTION OF THE PRODUCT'S PRICE ACTUALLY PAID TO SELLER BY BUYER UNDER THE SALES CONTRACT AND (2) FOR EACH SERVICE, THE PORTION OF THE SERVICE'S PRICE ACTUALLY PAID TO SELLER BY BUYER DURING THE TWELVE (12) MONTHS PRECEDING THE DATE THAT THE FIRST CLAIM ARISES UNDER THE SALES CONTRACT. THE EXISTENCE OF ANY OTHER LIMITATIONS OF LIABILITY SET FORTH HEREIN WILL NOT INCREASE THIS OVERALL AGGREGATE LIMIT. Regardless of whether any remedy provided for hereunder fails of its essential purpose, the allocation of risk in these Terms and Conditions is material to this transaction, the limitations of liability in this Section will be given full effect, and Buyer acknowledges and agrees that Seller would not enter into this transaction without the limitations of liability herein.

17. Patent Indemnity.

Seller shall defend any suit or proceeding brought against Buyer by a third party, and Seller will reimburse Buyer for the damages actually paid by Buyer that are either finally awarded against Buyer in any such suit or proceeding or agreed to by Seller in a settlement of any such suit or proceeding, in each case to the extent the suit or proceeding is directly based on a claim that a Product infringes any apparatus claim under any third-party United States of America patent of such third party that has been examined and validly issued prior to Shipment of the Product to Buyer, all subject to the following: Buyer must notify Seller promptly in writing after Buyer becomes aware of the suit or proceeding (or the possibility of such suit or proceeding), and Buyer must give sole authority and control to Seller, with Buyer's full cooperation, to defend and settle the suit or proceeding.

In addition, if in such suit all use of the Product by Buyer is enjoined, Seller shall (and if at any time Seller believes an infringement claim or finding is likely, Seller may), at Seller's expense and option, use commercially reasonable efforts to (a) procure for Buyer the right to continue using the Product; (b) replace the infringing Product with a non-infringing Product; or (c) modify the Product so that it becomes non-infringing.

In no event will Seller be liable for any claim of infringement that alleges that a Product or its use infringes any process or method claim of any patent; or that arises from (a) Seller's compliance with Buyer's designs, formulae, processes, specifications, instructions or modifications, or with Buyer's requirements that a design be produced to perform a specific process; (b) the combination of the Product with equipment or elements supplied by anyone other than Seller; (c) a use of the Product inconsistent with the dedicated purpose at the time of sale of the Product or which did not comply with user instructions or documentation provided by Seller; (d) modification to all or any part of a Product by anyone other than Seller; or (e) products produced using the Product.

THIS SECTION STATES THE ENTIRE LIABILITY OF SELLER, AND BUYER'S SOLE AND EXCLUSIVE REMEDY, ARISING FROM OR RELATED TO ANY THIRD PARTY'S CLAIM THAT SELLER, THE PRODUCTS OR THE SERVICES INFRINGE INTELLECTUAL PROPERTY RIGHTS. SELLER'S LIABILITY UNDER THIS SECTION IS SUBJECT TO THE LIMITS IN SECTION 16.

Seller accepts no liability for, and Buyer shall hold Seller harmless against any expense or loss from infringement of patents, trademarks, or other intellectual property rights of others arising from Seller's compliance with Buyer's design, formulae, processes, specifications, or instructions, or with Buyer's requirements that a design be produced to perform a specific process.

18. Confidentiality. The receiving Party agrees to disclose the disclosing Party's Confidential Information (defined below) only with Affiliates and those of the receiving Party's employees, contractors, and representatives who need to know that information to enable the receiving Party to perform the Sales Contract or to use the Products and Services purchased from Seller and who are legally required, by contract or otherwise, to maintain the confidentiality of the information in accordance with this Sales Contract. Notwithstanding the foregoing, Buyer may not disclose any Confidential Information received or derived from Seller or its Affiliates to third party contractors (individuals and entities) that are in the business of designing, making, or selling equipment, parts, or service for semiconductor manufacturing, display manufacturing, or the manufacturing of photovoltaic wafers, cells, modules, and/or panels. The receiving Party shall protect the disclosing Party's Confidential Information with at least the care with which it protects its own confidential information of a similar nature but in any event, not less than a reasonable standard of care and shall be liable for any disclosure of the disclosing Party's Confidential Information by receiving Party's employees, contractors and representatives that breaches this Sales Contract. The disclosing Party's "**Confidential Information**" means any information or materials disclosed or made available by a Party to the other Party, provided that (1) in the case of a written or other tangible disclosure, the disclosing Party affixes a "Proprietary", "Confidential" or similar legend indicating the confidential nature of the information, or (2) in the case of an oral or visual disclosure, the disclosing Party makes an oral statement at the time of disclosure to identify the information as confidential and delivers to the receiving Party a written summary of the information confirming that the disclosing Party regards the same as Confidential Information within thirty (30) days of disclosure. Information identified as confidential by the disclosing Party at the time of disclosure pursuant to clause (2) of the preceding sentence shall be treated by the receiving Party as Confidential Information under this Agreement during the thirty (30) day period permitted for providing written confirmation. Notwithstanding the foregoing, Products, Software, Documentation, drawings, specifications, designs, manuals, other reference materials for Products and Services, and Personal Information shall be deemed Seller's Confidential Information regardless of marking. "**Personal Information**" means identifying information of Seller's or Affiliates' employees or contractors such as, name, email address, physical address, telephone number, and the like. Confidential

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Information excludes information that the disclosing Party can demonstrate (i) is generally available to the public through no fault or act of the receiving Party; (ii) was already known to the receiving Party prior to its disclosure by the disclosing Party; (iii) was rightfully disclosed to the receiving Party by a third party, subject to no restrictions of confidentiality; or (iv) was developed by the receiving Party without reference to the disclosing Party's Confidential Information. Notwithstanding the foregoing, Confidential Information may be disclosed by the receiving Party to the extent disclosure is required by law or by the order of a tribunal with jurisdiction, provided the receiving Party notifies the disclosing Party of such mandatory disclosure as soon as reasonably possible; the disclosing Party is provided a reasonable opportunity to contest such disclosure, or to seek a protective order; and the receiving Party reasonably cooperates with the disclosing Party's efforts to do so. The receiving Party acknowledges that disclosure or use of Confidential Information in breach of these Terms and Conditions may cause irreparable harm to the disclosing Party, and monetary damages may be difficult to ascertain or be an inadequate remedy for such breach. The receiving Party therefore agrees that the disclosing Party will have the right, in addition to all other rights and remedies, at law or in equity to seek injunctive relief for any breach or threatened breach of the obligations regarding disclosure or use of Confidential Information.

The Sales Contract and the activities contemplated herein are considered Confidential Information of the Parties. Neither Party will issue any press release, advertising or other form of public disclosure with respect to the Sales Contract or the activities contemplated herein without the prior written approval of the other Party.

19. Compliance with Laws. Each Party agrees to comply with any and all applicable laws, ordinances, rules, regulations and the like of all governmental units, agencies or entities affecting the operation of its business.

20. Export Regulations. Both Parties shall comply with all applicable import and export control laws or regulations of any country with jurisdiction over the Parties or transactions occurring under the Sales Contract, and neither Party shall export, re-export or disclose goods, information, data or technology to persons or destinations in violation of those laws and regulations. Each Party specifically certifies that it will not transfer, export, or re-export to any country or entity subject to export control restrictions or embargoes under any applicable laws, regulations and the like, and Buyer certifies that it is not engaged in, and will not use or make available for use Equipment or any Part thereof for any activities related to, the proliferation of nuclear, chemical or biological weapons or missiles.

Notwithstanding any provision within this Sales Contract, delivery delays resulting from export compliance and control issues shall neither subject Seller to any liabilities, nor excuse Buyer from any performance obligations under this Sales Contract. The failure of any Product to be licensable for export shall not be construed as a failure or breach by Seller of any obligation to Buyer.

21. Governing Law. The applicable choice of law will be determined by the Products and/or Services identified in the Sales Contract as described in this Section. If not identified below, the governing law shall be the laws of the State of California, U.S.A. Choice of law rules of any jurisdiction shall not apply. The United Nations Convention on Contracts for the International Sale of Goods does not apply to the Sales Contract. Sales Contracts for Parts and/or Service shall be governed by the laws specified in the following table.

Seller (as set forth in the Quotation)	Governing Law
Applied Materials, Inc.	California, U.S.A.
Applied Materials GmbH	Germany
Applied Materials Belgium N.V.	Belgium
Applied Materials UK Limited	England and Wales
Applied Materials France	France
Applied Materials Ireland Limited	Ireland
Applied Materials Israel Ltd.	Israel
Applied Materials Italia S.r.l.	Italy
Applied Materials Europe B.V.	Netherlands
Applied Materials (Xi'an), Ltd.	People's Republic of China
Applied Materials (China), Inc.	People's Republic of China
Applied Materials Korea Ltd.	Republic of Korea
Applied Materials South East Asia Pte. Ltd.	For sales outside of China: Singapore; For sales in China: Laws of the Hong Kong Special Administrative Region of the People's Republic of China
Applied Materials South East Asia Pte. Ltd. (Malaysian Branch)	Singapore

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Applied Materials South East Asia Pte. Ltd. (Taiwan Branch)	Taiwan
Applied Materials Philippines LLC	Philippines

22. Dispute Resolution. If any dispute arising out of or related to the Sales Contract is not resolved amicably by the Parties, such dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (“**ICC**”) in effect as of the date of the Quotation before three (3) arbitrators (unless otherwise mutually agreed by the Parties), with the first appointed by Buyer, the second by Seller and the third, who shall be the presiding arbitrator, by the other two (2) co-arbitrators, in consultation with the Parties (or, if such two (2) co-arbitrators fail to agree within sixty (60) days, by the ICC Court). The Expedited Procedure Provisions of the ICC Rules shall not apply. The seat of arbitration shall be San Francisco, California and the language of the arbitration will be English. The Parties agree to apply the International Bar Association Rules on the Taking of Evidence in International Arbitration. The Parties undertake to maintain confidentiality as to the existence of the arbitration proceedings and as to all submissions, correspondence and evidence relating to the arbitration proceedings. This provision shall survive the termination of the arbitral proceedings. During the pendency of the arbitral proceedings, the Parties shall share equally the costs of such arbitration as assessed by the ICC. At the conclusion of the proceedings, the arbitrators shall have the discretion to award reasonable costs to the prevailing Party. Such costs will include the Parties’ costs, expenses, legal fees, and may also include the costs of the arbitrators and the administrative fees, and any other fees assessed by the arbitrators. The award rendered by the arbitrators may be entered in any court having jurisdiction over the Party or Parties to the dispute against which enforcement is sought, or a court in any other competent jurisdiction where the assets of said disputing Party or Parties are located. The written award of the arbitrators will be final and binding. Nothing in this Section prevents any Party from seeking interim relief in a court of competent jurisdiction, and such action shall not be incompatible with the agreement to arbitrate contained herein or the availability of interim measures of protection under the ICC Rules. For that purpose both Parties consent to the jurisdiction of the courts located in Santa Clara County, California.

23. Assignment. Neither Party may assign any right, delegate any obligation or transfer this Sales Contract, in whole or in part, without the other Party’s prior written consent, except that Seller may without Buyer’s consent (a) assign its rights to receive payments hereunder; (b) assign or delegate all or part of its rights or duties to any current or future Affiliate; and (c) subcontract all or any part of its Services or manufacturing obligations (provided that Seller will remain primarily responsible for performance). Any attempted assignment, delegation or transfer in violation of this Section is void and of no effect. This Sales Contract shall be binding upon and inure to the benefit of the Parties and their permitted successors and assigns.

24. Integration and Amendment. The Sales Contract constitutes the entire agreement of the Parties with respect to the subject matter hereof. If there is a conflict, these Terms and Conditions control over the rest of the Sales Contract. The Parties have not entered into this Sales Contract based on any representations other than those contained in this Sales Contract.

25. Order of Precedence. Any terms included in a Specification other than those describing Equipment performance requirements shall be void and of no effect. Buyer and Seller hereby agree that in the event of any conflict between these Terms and Conditions and the terms and conditions of Buyer’s Order or of the Specification, these Terms and Conditions shall govern and control. Fulfilment of Buyer’s Order does not constitute acceptance of any of Buyer’s terms and conditions and does not serve to modify or amend the Sales Contract. Acceptance and fulfilment of Buyer’s Order is expressly conditioned on Buyer’s assent to the Sales Contract, and Seller agrees to provide the Products and/or Services only pursuant to the Sales Contract.

26. Waiver and Modification. No waiver or modification of or addition to any of these Terms and Conditions or to the Specification shall be binding on Seller unless expressly agreed to in writing by an authorized representative of Seller. A waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again.

27. Relationship of the Parties. Buyer and Seller are independent companies and agree that their relationship is that of independent contractors. Buyer shall not exercise control over any conduct or supervision in connection with the Services provided by Seller or, if approved, by Seller’s subcontractor, unless otherwise provided for in this Agreement. Seller shall be solely responsible for the conduct or supervision of Seller’s staff. Seller shall appoint a supervisor for maintaining contact with Buyer, facilitating effective implementation of the operational processes and meeting responsibilities in connection with the Services. The supervisor shall be the point of contact between Buyer and Seller’s or Seller’s subcontractor’s staff and shall provide instructions to such staff in connection with the Services. Buyer will not directly instruct Seller’s or Seller’s subcontractor’s staff regarding the Services and Seller’s or Seller’s subcontractor’s staff shall at no point be integrated into the business of Buyer. There are no intended third-party beneficiaries of the Sales Contract.

28. Severability. If any provision of these Terms and Conditions is held to be unenforceable in whole or in part, such provision or part shall be enforced to the maximum extent permissible so as to effect the intent of the Parties, the enforceability of the remainder shall not be affected, and the unenforceable provision or part shall be replaced by a new provision or part that is enforceable and that accomplishes the intention of the Parties to the maximum extent allowed under applicable law.

29. Notices. Any notice or other communication intended to have legal effect under the Sales Contract must be in writing and may be delivered: (i) personally; (ii) by courier service, all fees prepaid; or (iii) by email (with a confirming copy sent by courier on the next business day).