

These **TERMS AND CONDITIONS** (the “Terms Agreement”) are incorporated by reference in business transactions between SkyWater Technology Foundry Inc. or other applicable SkyWater legal entity (“SkyWater” or “Seller”), located at 2401 East 86th Street, Bloomington, MN 55425, and the company or organization purchasing products and/or receiving services from SkyWater (“Buyer”). SkyWater and Buyer are collectively referred to herein as the “Parties” and each a “Party.”

- 1) **SCOPE AND ACCEPTANCE.** If the Parties have executed a separate written agreement covering the terms of SkyWater’s sale of products and services to Buyer (“Master Agreement”), then this Terms Agreement does not apply. If the Parties are not subject to a Master Agreement, this Terms Agreement becomes the exclusive and binding agreement between the Parties covering the purchase of the products and services ordered herein when the terms and conditions contained in this Terms Agreement are accepted by acknowledgment and/or commencement of performance by Seller. Additional or different terms proposed by Buyer including those in Buyer’s purchase order, other correspondence or any other order shall not apply unless accepted in writing by Seller’s authorized representative. No change, modification, or revision of this document shall be effective unless mutually agreed by the Parties in a signed writing. Seller’s failure to specifically object to any communication from Buyer that contains additional terms and conditions shall not be deemed a waiver of the terms and conditions stated herein. Unless otherwise specified in the quotation, Seller’s quotation shall expire thirty (30) days from its date and may be modified or withdrawn by Seller before receipt of Buyer’s acceptance.
- 2) **PRICES.** Prices, fees, costs, and expenses are shown on the face of this document, Seller’s related quote, or on the applicable invoice. Except as expressly agreed otherwise in writing, all prices, fees, costs, and expenses that apply under this Terms Agreement are subject to Seller’s then-current standard pricing, billing, and operating specifications and procedures. If Buyer does not purchase the entire quantity upon which these prices were based, Buyer agrees to pay the specified higher price for the quantity actually purchased. Prices do not include customs, duties, or any sales, use, excise, ad valorem, VAT, or other taxes, as required under international, federal, local, or county laws, unless alternative terms were pre-negotiated and mutually agreed in writing. When Seller has the legal obligation to collect such taxes, the appropriate amount shall be invoiced to and paid by Buyer unless Buyer provides Seller with a valid tax exemption certificate from the appropriate taxing authority. If Buyer defaults on its payment obligations under this Terms Agreement, SkyWater may suspend further services and re-assign all project resources without further obligation or liability to Buyer.
- 3) **TERMS OF PAYMENT.** Payment terms are net thirty (30) days from date of invoice. All payments shall be made in U.S. dollars unless otherwise agreed in writing by an authorized representative of Seller. Seller may change these credit terms if Buyer’s financial condition changes. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller. In the event that Buyer fails to pay on the due date, Seller shall be entitled to interest at the lesser of one- and one-half percent (1- 1/2%) per month or the highest rate permitted by Minnesota law on the unpaid balance. Each shipment made under Buyer’s purchase order will be considered a separate and independent transaction. As collateral security for the full payment of the purchase price of the products, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the products, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The Parties agree the security interest granted under this provision constitutes a purchase money security interest under applicable law. Seller shall have the right to file any and all documents and take any action it deems necessary to fully establish protection of its security interest in the products; however, the failure of Seller to file any such document shall not in any way act as a waiver of Seller’s right to such security interest.
- 4) **TITLE AND DELIVERY.**
 - a) Buyer acknowledges and agrees that the delivery dates are estimates only and may be changed at Seller’s reasonable discretion. Seller will use good faith efforts to deliver in accordance with the delivery dates; however, Seller will not be liable for failure to deliver as estimated. Unless otherwise agreed to in writing by an authorized representative of Seller, all shipments are Ex Works (Incoterms 2020) point of shipment. Title to goods and risk of loss and damage shall pass to Buyer at Seller’s point of shipment, except as otherwise herein stated. Buyer shall pay all transportation costs. Unless otherwise agreed, Seller will select the carrier. Seller may modify the specifications or manufacturing process provided the modifications do not adversely affect the form, fit, or function of the products.
 - b) In the event that Seller’s ability to supply products becomes constrained, for any reason whatsoever, Seller may reduce quantities, delay shipments, or allocate products among its customers in its sole discretion and, as a result, Seller may sell and deliver to Buyer fewer products than specified in Buyer’s purchase order or agreement or Seller’s confirmation or agreement, as the case may be. Buyer may not cancel, push-out, or reschedule any purchase order placed with Seller.
 - c) Any claims in respect to the products delivered under the Terms Agreement, including quantity shortages or incorrect product shipments, must be made within ten (10) days of delivery. Failure to notify Seller in writing of any visible defects in the products or of quantity shortages or incorrect shipments within such period shall be deemed unqualified waiver of any rights to return products on the basis of visible defects, shortages, or incorrect shipments. Due to the variability of transit times, Seller reserves the right to ship product one to seven days in advance of Buyer’s requests.
- 5) **INTELLECTUAL PROPERTY.**
 - a) Except as expressly stated otherwise in this Terms Agreement, nothing will change or transfer either Party’s ownership or rights in intellectual property owned or licensed by a Party before commencement of, or which exists independent of, this Terms Agreement. Seller owns all manufacturing, unit process, recipe, control plan, and process flow intellectual property developed as part of this Terms Agreement. Buyer owns product design intellectual property developed as part of this Terms Agreement. Any improvements to Seller’s intellectual property made in connection with this Terms Agreement (whether made by Buyer, Seller, the Parties together, or otherwise) is owned by Seller. The Parties agree to obtain or execute any documents, paperwork, signatures, assignments, and the like needed to perfect or effectuate either Party’s rights in intellectual property as contemplated by this Terms Agreement. Each Party further agrees to provide reasonable assistance to the other Party as needed to perfect or effectuate such rights.
 - b) Seller grants a worldwide, non-exclusive, perpetual, royalty- free, irrevocable, non-transferable, fully paid-up license to Buyer for any Seller intellectual property used in the manufacturing and processing of Buyer products, to the extent necessary for, and solely for the purpose of,

Buyer to use such product. Buyer grants a worldwide, non-exclusive, perpetual, royalty- free, irrevocable, non-transferable, fully paid-up license to Seller for any Buyer intellectual property used in the development, manufacturing, and processing of Buyer products, to the extent necessary for Seller's performance under the Terms Agreement. Except as specifically provided under this Terms Agreement, no license or other rights under any of either Party's intellectual property rights are granted or implied under this Terms Agreement.

- c) Buyer shall, at its own expense, indemnify and hold Seller harmless from and against any liabilities, costs, damages, or losses resulting from any alleged infringement of any patent, trademark, copyrights, or other intellectual property right arising as a result of Seller's compliance with any of Buyer's designs, specifications, instructions, or intellectual property, and shall defend at its own expense, including attorneys' fees, any suit brought against Seller alleging any such infringement, including infringement arising out of the use of such products as part of or in combination with another device or from Seller's compliance with instructions from Buyer. Seller agrees to: (i) give Buyer notice of any such allegation or suit and permits Buyer, through counsel of its choice, to defend such allegation or suit; and (ii) give Buyer all reasonably needed information, assistance and authority, at Buyer's expense, necessary for Buyer to defend any such allegation or suit, and further provided that Seller shall have the right to participate in any such suit, at its own expense, using counsel of its choice and that Buyer may not enter into any settlement that would impose any obligation on Seller without first obtaining Seller's written consent.
- 6) **MUTUAL WARRANTIES.** Each Party represents and warrants to the other Party that (i) it has the full right and authority to enter into this Terms Agreement and grant the rights and licenses granted herein; and (ii) it has not previously granted and will not grant any rights that prevent it from fulfilling its obligations under this Terms Agreement.
- 7) **BUYER WARRANTIES.** Buyer represents and warrants that (i) it will not use the products for any purpose other than as expressly intended under this Terms Agreement; and (ii) its use of the products and performance under this Terms Agreement will comply with all applicable laws and regulations. Buyer further represents and warrants that no Buyer employee, affiliate, officer, director, shareholder, agent, or source of funding: (i) is listed on the Specially Designated Nationals and Blocked Persons List maintained by United States Office of Foreign Asset Control, (ii) is listed on any published list of terrorists or terrorist organizations maintained by the United States government, or (iii) is otherwise legally prohibited by the United States government from doing business within the United States.
- 8) **SELLER LIMITED PRODUCTS WARRANTY.**
 - a) Semiconductor Products. Seller warrants for one (1) year following the date of shipment that the products to be delivered hereunder if properly used will materially conform to any objective specifications mutually agreed to in writing at the time of shipment. This warranty does not apply to non-production versions, prototype versions, development versions, test versions, and engineering samples. Seller disclaims all warranties for any product covered by this Terms Agreement designated for "developmental" or "experimental" use, or for reference designs. Buyer shall indemnify Seller for any and all claims or liability asserted against Seller in connection with such products.
 - b) Software Products. All software products are provided "AS IS" unless otherwise specified under a separate written agreement between the Parties pursuant to Section 14 below.
- 9) **EXCLUSIONS OF WARRANTIES.** THE WARRANTIES CONTAINED IN THIS TERMS AGREEMENT ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED WARRANTY ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE. Additionally, the warranties contained in this Terms Agreement shall extend to Buyer only and not to Buyer's customers. If any product furnished by Seller fails to conform to the above warranty, Seller's sole and exclusive liability shall be, at Seller's option, to replace or credit Buyer's account with an amount equal to the price paid for any such product returned by Buyer during the warranty period, provided that: (i) Buyer promptly notifies Seller in writing that such product failed to conform and furnishes a detailed explanation of any alleged deficiency; (ii) such product is returned to Seller's plant at Buyer's risk and expense, (iii) Seller is satisfied that claimed deficiencies actually exist and were not caused by accident, misuse, neglect, alteration, improper installation, repair or improper testing. Seller shall have a reasonable time to make repairs, to replace products or to credit Buyer's account.
- 10) **DISCLAIMER.** Except as expressly agreed otherwise in a signed writing by SkyWater, products are not designed, intended, or authorized for use in components of systems designed or intended for the operation of weapons, weapons systems, nuclear installations, life-support computers, equipment, or other medical systems (including resuscitation equipment and surgical implants), pollution control or hazardous substances management ("Unintended Uses"). Seller is not liable, in whole or in part, and Buyer shall release Seller from any claim or damage arising from all Unintended Uses of product. Buyer shall indemnify, defend, and hold Seller harmless against all claims, costs, damages, expenses, and reasonable attorneys' fees arising out of any claim arising from any Unintended Uses of product sold by Seller.
- 11) **CANCELLATION.**
 - a) Default. If Buyer defaults, Seller may decline to make further shipments, perform further services, and/or may terminate Buyer's order without affecting Seller's rights and remedies including, but not limited to, any right to cancellation charges and quantity price adjustments. If Seller continues to make shipments after Buyer's default, Seller's actions shall not constitute a waiver nor affect Seller's legal remedies.
 - b) Buyer is not permitted to cancel orders for products or services once the order has been accepted by Seller.
- 12) **BREACH.** Any one of the following acts by Buyer shall constitute a material breach of Buyer's obligations hereunder: (i) Buyer fails to make payment for any products or services in full when due; (ii) Buyer fails to accept conforming products or services supplied hereunder; or (iii) filing of a voluntary or involuntary petition in bankruptcy against Buyer, the institution of any proceeding in insolvency or bankruptcy (including reorganization) against Buyer, or an assignment for the benefit of creditors of Buyer. In the event of Buyer's material breach, other than filing of a voluntary or involuntary bankruptcy petition, Seller may (in addition to any other rights or remedies provided herein or at law or in equity), by written notice to Buyer, terminate its obligations or any part thereof, without any liability to Seller. Buyer shall pay all costs, including reasonable attorneys' fees, incurred by Seller in any action brought by Seller to collect payments owing or otherwise enforce its rights.
- 13) **DATA SHEETS/CONTROL SPECIFICATIONS.** Where applicable, Seller's data sheets are controlled specifications applicable to product at the time of delivery. Seller reserves the right to revise data sheets and/or make changes to any product at any time. Seller assumes no responsibility

for the use of any circuits or other products described in data sheets and conveys no license under any patent. Applications for any integrated circuits or other products contained in any publication are for illustration purposes only, and Seller makes no representation or warranty that such applications will be suitable for the use specified, except as described in the data sheet(s).

- 14) **SOFTWARE LICENSE.** Software products furnished hereunder remain the exclusive property of Seller or Seller licensors. By accepting Seller's software license agreement, Buyer will obtain no greater copying and use rights than are available under copyright laws. Buyer will not use, print, copy, modify, translate, alter, or display software products in whole or in part except as expressly provided for in the software license agreement. Buyer will not sell, assign, or transfer rights in such software products except as permitted under the software license agreement. Further, Buyer will not reverse-compile, de-compile, or reverse-engineer any software products, and any attempt to do so shall be a breach of the software license agreement.
- 15) **LIMITATION OF LIABILITY.**
- a) IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES WHATSOEVER, WITHOUT REGARD TO CAUSE OR THEORY OF LIABILITY (INCLUDING, WITHOUT LIMITATION, DAMAGES INCURRED BY THE OTHER PARTY OR SUCH THIRD PARTY FOR LOSS OF BUSINESS PROFITS OR REVENUE, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION OR OTHER PECUNIARY LOSS) ARISING OUT OF THIS TERMS AGREEMENT, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SELLER'S LIABILITY FOR BREACH OF ANY PROVISION SHALL NOT EXCEED THE PURCHASE PRICE OF THE PRODUCTS OR SERVICES HEREIN GIVING RISE TO THE LIABILITY, LESS THE PURCHASE PRICE OF THE PRODUCTS DELIVERED AND ACCEPTED BY BUYER HEREIN. IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY EXCEED THE PRICE PAID UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT THAT GAVE RISE TO THE LIABILITY, OR ONE MILLION DOLLARS (\$1,000,000 USD), WHICHEVER IS LESS. NOTWITHSTANDING THE FOREGOING, THE PRECEDING LIMITATIONS AND EXCLUSIONS OF LIABILITY DO NOT LIMIT OR EXCLUDE BUYER'S OBLIGATION TO PAY FEES FOR PRODUCTS AND SERVICES OR FOR LIABILITY ARISING FROM BUYER'S BREACH OF CONFIDENTIALITY OR BUYER'S INDEMNIFICATION OBLIGATIONS. BUYER MAY NOT BRING AN ACTION IN CONNECTION WITH THE DELIVERY OF PRODUCTS HEREIN UNLESS SUCH ACTION IS COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.
- b) IN ADDITION TO THE LIABILITY LIMITATIONS AND EXCLUSIONS SET FORTH ABOVE, SELLER HAS NO LIABILITY TO BUYER OR ANY THIRD PARTY ARISING FROM: (1) THE USE OF ANY DEVELOPMENT PRODUCT IN A PRODUCTION CAPACITY, OR (2) THE USE OF ANY PRODUCT IN AN APPLICATION OTHER THAN AS EXPRESSLY INTENDED UNDER THIS TERMS AGREEMENT.
- c) THE LIMITATION OF LIABILITY SET FORTH IN THIS SECTION 15 IS A MATERIAL BASIS FOR THE PARTIES' BARGAIN AND REFLECTS THE BARGAINED-FOR ALLOCATION OF RISKS BETWEEN SELLER AND BUYER, WITHOUT WHICH SELLER WOULD NOT HAVE AGREED TO PROVIDE THE PRODUCTS OR SERVICES AT THE PRICE CHARGED.
- 16) **FORCE MAJEURE.** Neither Party shall be deemed in default of this Terms Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its fault or negligence, including, without limitation, acts of God, acts of civil or military authority, embargoes, strikes, work stoppages, war, riots, fires, explosions, delays by suppliers, shortages of parts or materials, power failures, or communication line interruptions. Upon any delay described in this section, the time for performance by the Party affected by a Force Majeure event shall be extended for a period equal to the time lost by reason of the delay.
- 17) **CONFIDENTIAL INFORMATION.** All non-public, confidential or proprietary information of Seller, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Terms Agreement is confidential, solely for the use of performing this Terms Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all confidential documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.
- 18) **CONTROLLING LAW.** This Terms Agreement shall be governed by and construed under the laws of the State of Minnesota, without regard to conflict of law principles or the UN convention on contracts for the international sale of goods. The Parties consent to personal and exclusive jurisdiction of and venue in, the state and federal courts within Hennepin County, Minnesota. The terms and conditions stated herein, and all other documents originated and signed by Seller which are consistent with the terms and conditions stated herein related to the delivery of products, constitute the exclusive and complete agreement between the Parties concerning the delivery of product herein.
- 19) **EXPORT COMPLIANCE.** Unless specifically designated on Seller's quote, it is understood by both Parties that the products and services are not subject to any export compliance restrictions. If products and services furnished under these terms and conditions are subject to U.S. Export Administration Regulations or other trade regulation, Buyer agrees not to export, directly or indirectly, any of the products furnished hereunder to any country for which the U.S. Government requires an export license, re-export authorization, or other approval, without first obtaining such license, authorization, or approval.
- 20) **ENTIRE AGREEMENT.** This Terms Agreement constitutes the entire agreement between Buyer and Seller relating to the subject matter hereof, and supersedes all prior and contemporaneous discussions, understandings, and agreements related to the subject matter hereof. Once effective for a particular order, this Terms Agreement may only be amended or modified in a writing which specifically states that it amends this Terms Agreement and is signed by an authorized representative of each Party.
- 21) **SURVIVAL.** Any provisions of this Terms Agreement which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Terms Agreement.

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- 22) **NOTICES.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a “Notice”) shall be in writing and addressed to the Parties at the addresses set forth on the face of the Terms Agreement or to such other address that may be designated by the receiving Party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Terms Agreement, a Notice is effective only (a) upon receipt of the receiving Party, and (b) if the Party giving the Notice has complied with the requirements of this Section.
- 23) **RELATIONSHIP OF THE PARTIES.** The relationship between the parties is that of independent contractors. Nothing contained in this Terms Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.
- 24) **WAIVER.** No waiver by Seller of any of the provisions of this Terms Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Terms Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.
- 25) **ASSIGNMENT.** Buyer shall not assign or transfer its rights or obligations under this Terms Agreement without the prior written consent of the Seller. Any purported assignment in violation of this clause shall be void.
- 26) **SEVERABILITY.** If any provision contained in this Terms Agreement is, for any reason, held to be invalid or unenforceable in any respect under the laws of any jurisdiction where enforcement is sought, such invalidity or unenforceability will not affect any other provision of this Terms Agreement, and this Terms Agreement will be construed as if such invalid or unenforceable provision had not been contained therein.
- 27) **COMMERCIAL ITEMS: All products, development services, and non-recurring items offered subject to this Terms Agreement are “Commercial Items” as defined in paragraphs (1) through (6) of the Federal Acquisition Regulations (FAR) Part 2, Subpart 2.101.** SkyWater takes commercial exception in accordance with FAR 52.215-20. SkyWater considers any products being purchased by Buyer to be Commercial Item as defined in FAR 2.101 b.3.i.