

## SERVICE ORDER TERMS AND CONDITIONS

**1. Services and Equipment.** These service order terms and conditions apply to all Services provided by Qualcomm pursuant to a service order referencing these terms; provided that any mobile communications hardware or software or any component provided by Qualcomm must be provided under separate agreement(s) which will control with respect to such hardware, software or component.

**2. Publicity; Confidentiality.** Neither Party will issue any press release or otherwise publicize or disclose these Terms, the relationship of the Parties or the Services without prior written approval of the other Party. If the Parties agree to issue a press release or other publicity, the Parties agree to consult with one another concerning the content of any such press release or publicity. The terms of the NDA between or applicable to the Parties (except any termination clause) are incorporated into these Terms by this reference.

**3. Expenses.** Except as may be set forth in an Order, all costs and expenses incurred by the Parties in connection with the Services shall be borne by the Party incurring the expense.

**4. Not a License or Warranty.** Customer acknowledges and agrees, on behalf of itself and its Affiliates, that neither Qualcomm's provision of any Services hereunder, nor any provision of these Terms, will be deemed or construed to grant (whether expressly, by implication or by way of estoppel or otherwise) any right, license, authority to infringe, or immunity from infringement liability under or to: (i) any patents of QUALCOMM Incorporated or any of its Affiliates, or (ii) any other intellectual property rights of QUALCOMM Incorporated or any of its Affiliates. Customer acknowledges and agrees, on behalf of itself and its Affiliates, that (a) these Terms do not modify or abrogate any obligations that Customer or any of its Affiliates has under any license or other agreement with QUALCOMM Incorporated, including, without limitation, any obligation to pay any royalties, and (b) Customer will not, and will ensure that each of its Affiliates does not, contend that it has obtained any right, license, authority to infringe, or immunity from infringement liability with respect to any patents of QUALCOMM Incorporated or any of its Affiliates under or as a result of these Terms (whether expressly, impliedly, by virtue of estoppel or exhaustion, or otherwise).

ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY EXCLUDED AND DISCLAIMED. WITHOUT LIMITING THE FOREGOING, NEITHER

CUSTOMER NOR QUALCOMM MAKES ANY REPRESENTATION, GUARANTY OR WARRANTY OF ANY NATURE WHATSOEVER WITH RESPECT TO THE LIKELIHOOD OF SUCCESS OR RESULTS OF THE SERVICES CONTEMPLATED HEREBY, OR TO THE EFFICACY, ACCURACY OR SUFFICIENCY OF ANY RECOMMENDATIONS, INFORMATION, ADVICE OR ASSISTANCE PROVIDED HEREUNDER OR IN CONNECTION HEREWITH.

**5. Limitation of Liability.** EXCEPT IN CONNECTION WITH CONFIDENTIALITY OBLIGATIONS OR INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF A PARTY OR ITS AFFILIATE, IN NO EVENT SHALL EITHER PARTY OR ANY OF THEIR AFFILIATES BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, ANY LOST PROFITS, LOST SAVINGS, OR OTHER INCIDENTAL DAMAGES ARISING OUT OF OR RELATING TO THE SERVICES OR THESE TERMS, EVEN IF A PARTY OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT IN CONNECTION WITH CONFIDENTIALITY OBLIGATIONS OR INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF A PARTY OR ITS AFFILIATE, THE MAXIMUM TOTAL AGGREGATE LIABILITY OF EACH PARTY HEREUNDER FOR ANY REASON OR WITH RESPECT TO ANY CAUSE OF ACTION SHALL BE LIMITED TO THE GREATER OF: (A) THE AMOUNT CUSTOMER HAS PAID FOR THE SERVICES, OR (B) FIVE THOUSAND U.S. DOLLARS (\$5,000). MULTIPLE CLAIMS WILL BE AGGREGATED TO DETERMINE THIS LIMIT.

**6. Relationship of the Parties.** Nothing in these Terms shall be deemed to create an association, partnership, joint venture, trust or other such relationship between the Parties. No Party shall enter into any agreement with any third party on behalf of the other nor shall either Party be empowered to represent, bind or commit, or purport to be empowered to represent, bind or commit, the other Party to any third party. Qualcomm's provision of the Services is non-exclusive and Qualcomm may provide to any third party services similar or identical to the Services set forth on the Order.

**7. Assignment.** Neither Party may assign any rights or obligations under the Order, in whole or in part, without the prior written consent of the other Party, except that Qualcomm may assign its rights and obligations under the

Order to QUALCOMM Incorporated or any Affiliate of QUALCOMM Incorporated without the prior written consent of Customer. Any attempted assignment in contravention of the foregoing is null and void from inception.

**8. Notices.** Any notice required or permitted by these Terms shall be in writing and, except as may be otherwise set forth in an Order, shall be delivered by Federal Express, by other overnight courier, or by certified or registered mail, return receipt requested, in each case addressed as set forth in the Order. Notice is effective upon receipt.

**9. Export.** Customer acknowledges that all Products obtained from Qualcomm are subject to the U.S. government export control and economic sanctions laws. Customer assures that it and its Affiliates will not directly or indirectly Export any Products or direct product thereof to any destination, person, entity or end use prohibited or restricted under U.S. laws without prior U.S. government authorization to the extent required by applicable regulation. The U.S. government maintains embargoes and sanctions against certain countries, currently Cuba, Iran, North Korea, Sudan (N), and Syria, but any amendments to the countries under a U.S. embargo or sanction shall apply. Customer shall not Export Products listed in Supplement 2 to part 744 of the EAR for military end-uses, as defined in part 744.21, to the People's Republic of China. Customer acknowledges that other countries may have trade laws pertaining to the Export, import, use, or distribution of Products, and that compliance with the same is the responsibility of the Customer.

**10. Governing Law.** The Order and these Terms shall be construed in accordance with the laws of the State of California, U.S.A., without reference to its conflicts of law principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply. The Parties further agree that any dispute, claim or controversy arising out of or relating to the Order, including these Terms, shall be adjudicated only by a court of competent jurisdiction in the county of San Diego, State of California, and thus the Parties consent to the exclusive jurisdiction and venue in a court of competent jurisdiction in the county of San Diego, State of California.

**11. Term.** The Order shall come into effect as of the date set forth on the Order and shall continue in full force and effect until the last end date specified on the Order. The Order may be terminated by either Party, with or without cause, upon thirty (30) days prior written notice.

**12. Miscellaneous.** If any provision of these Terms is held to be unenforceable, the enforceability of the remaining provisions shall not be affected. No action or inaction by either Party shall constitute a waiver of any right or remedy. The Order, including these Terms, embodies the entire agreement between the Parties with respect to the Services and supersedes all prior or contemporaneous agreements and understandings, written or oral, relating to the subject matter hereof (other than any separate agreement for any mobile communications hardware or software or any component thereof). No agreement hereafter made shall be effective to modify or discharge the Order or any of these Terms in whole or in part, unless in writing and signed by the Parties. Any additional or different terms stated by Customer in any purchase order, proposal, acknowledgment, payment, or otherwise shall be of no force and effect, and no course of dealing, usage of trade, or course of performance shall be relevant to explain or supplement any of these Terms. Qualcomm expressly disclaims any other new or supplemental terms and conditions. Customer is responsible for complying with all applicable local, state, and federal laws and regulations in the course of implementing any recommendations arising out of the Services.

**13. Definitions.** "Affiliate" of a Party means any person or entity which directly or indirectly Controls, is Controlled by, or is under common Control with such Party (but a person or entity shall only be considered an Affiliate so long as such Control exists). "Control" and "Controlled" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of more than fifty percent (50%) of voting securities, by contract or otherwise. "Customer" means the customer identified in the Order. "Export" means to directly or indirectly export, re-export, transfer or release one or more items. "NDA" means the non-disclosure agreement between (or applicable to) Qualcomm and Customer. "Order" means a service order referencing these Terms. "Party" refers to a party to these Terms (Qualcomm, or Customer). "Parties" refers to all parties to these Terms (Qualcomm and Customer). "Products" means all hardware, software, source code and technology obtained from Qualcomm or any Qualcomm Affiliate. "Qualcomm" means Qualcomm Technologies, Inc. "Services" means all services, costs and expenses provided by Qualcomm pursuant to an Order. "Terms" means these service order terms and conditions. "U.S." means the United States of America.