

QUALCOMM Atheros, Inc.
PURCHASE ORDER TERMS AND CONDITIONS

- 1) **AGREEMENT:** These Standard Purchase Order Terms and Conditions ("T's&C's") shall apply to any P.O. (a "P.O.") issued by Qualcomm Atheros, Inc. (hereinafter referred to as "Buyer") to seller as identified as the supplier on a P.O. (hereinafter referred to as "Seller"). Buyer and Seller are hereinafter referred to jointly as the "Parties". Unless otherwise provided in a written agreement executed by Seller and Buyer, each P.O. accepted by Seller, together with all documents expressly referenced in such P.O. and these T's&C's shall constitute the entire agreement (the "Agreement") between the Parties with respect to (i) the purchase, sale and delivery of the Products described in such Agreement (the "Products"), and (ii) the performance of any work described in the Agreement and any associated Work Product as defined in paragraph 15 below (collectively the "Services") and shall supersede all prior agreements, understandings and representations between Seller and Buyer with respect thereto. Any additional or different terms stated by Seller in any proposal, quotation, confirmation, acknowledgment, invoice, or otherwise are hereby objected to, 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 term expressed in the Agreement. Seller's commencement of any Services subject to the Agreement or shipment of Products, whichever occurs first, shall be deemed an effective mode of acceptance of the Agreement. Any acceptance of the Agreement is limited to the acceptance of the express terms contained on the face of the P.O. or referenced therein.
- 2) **PRICES, PAYMENT TERMS AND TAXES:** The acceptance of this P.O. constitutes a warranty that the prices to be charged for Products or Services ordered do not exceed the lowest price charged to any customer for similar quantities and delivery requirements. Buyer shall pay for Products and Services accepted according to the Agreement payment terms, or if no payment terms are stated then within forty-five (45) days following receipt of Seller's undisputed invoice or after Buyer's receipt and final acceptance of such Products or completion and final acceptance of such Services, whichever is later. Buyer shall have no obligation to pay for any Products or Services that are rejected in accordance with paragraph 9 below. Unless otherwise specified in the P.O., the prices set forth in this P.O. include applicable federal, state and local taxes, insurance, customs, shipping, and other charges.
- 3) **INVOICES:** Seller will submit invoices in duplicate showing the following information: P.O. number, item number; description of item; size of item; unit prices; each applicable tax; extended totals; and any other information specified elsewhere herein. A Bill of Lading or express receipt must accompany each invoice. Payment of invoice will not constitute acceptance of Products and will be subject to adjustment for errors, shortages, defects in the Products or other failure of Seller to meet the requirements of this P.O. Buyer may at any time set off any amount owed to Seller against any amount owed by Seller or any of its affiliated companies to Buyer.
- 4) **DISCOUNTS:** Time in connection with any discount offered by Seller will be computed from the latest of (i) the scheduled delivery date, (ii) the date of actual delivery, or (iii) the date an acceptable invoice is received. For purposes of earning the discount, payment will be deemed to have been made on the date of mailing of Buyer's check.
- 5) **OVERSHIPMENTS:** Buyer will pay only for maximum quantities ordered. Overshipments will be held by Buyer at Seller's risk and expense for a reasonable time awaiting shipping instructions. Return shipping charges for excess quantities will be at Seller's expense.
- 6) **PACKING AND SHIPMENT:** Unless otherwise specified, when the price of this P.O. is based on the weight of the ordered Products, such price is to cover only the net weight of material ordered, and no charges will be allowed for packing, handling, transportation, storage or other packing requirements. Unless otherwise specified, Seller will package and pack all Products in a manner which is (i) in accordance with good commercial practice, (ii) acceptable to common carriers for shipment at the lowest rate for the particular Products, (iii) in accordance with I.C.C. regulations, and (iv) adequate to insure safe arrival of Products at the named destination. Seller will mark all containers with necessary lifting, handling, and shipping information and with P.O. numbers, date of shipment, and the names of the consignee and consignor. An itemized packing list must accompany each shipment. No partial or complete delivery will be made prior to the due dates shown unless Buyer has given prior written consent.
- 7) **F.O.B. POINT:** Unless otherwise specifically provided on the face of the order, the Products ordered hereunder will be delivered on an F.O.B. origin basis.
- 8) **WARRANTY:**
 - a) Seller warrants that all Products delivered (i) will be free from defects in workmanship, material and manufacture, (ii) will comply with the requirements of the Agreement, including any drawings or specifications incorporated herein or samples furnished by Seller, and (iii) where design is Seller's responsibility, will be free from defects in design. Seller further warrants that all Products purchased hereunder will be of merchantable quality and will be fit for the purposes intended by Buyer. The foregoing warranties constitute conditions to this Agreement. They are in addition to all other warranties, whether express or implied, and will survive any delivery, inspection, acceptance or payment by Buyer. All warranties run to the benefit of Buyer and its customers.
 - b) Buyer's approval of Seller's materials or design will not relieve Seller of any warranties.
 - c) If any Products delivered do not meet the warranties specified herein or otherwise applicable, Buyer may, at its option, (i) require seller to correct any defective or nonconforming Products by repair or replacement at no cost to Buyer, or (ii) return such defective or nonconforming Products itself and charge Seller with the cost of such correction.
- 9) **INSPECTION AND ACCEPTANCE:** Notwithstanding any prior inspection or payments, all Products will be subject to final inspection and acceptance at Buyer's plant within a reasonable time after delivery. In case any item is defective in material or workmanship, or otherwise not in conformity with the requirements of this Agreement, Buyer will have the right to reject it, to require correction or to accept it with an adjustment in price. Any item that has been rejected or required to be corrected must be replaced or corrected by and at the expense of Seller, promptly after notice. If after being requested by the Buyer, Seller fails to promptly replace or correct any defective item, then Buyer (i) may, by contract or otherwise, replace or correct such item and charge to Seller the cost occasioned thereby, (ii) may, without further notice, cancel this Agreement for default in accordance with paragraph 11 below, or (iii) may require an appropriate reduction in price.
- 10) **CHANGE ORDERS:**
 - a) The Buyer may at any time, by a written order, suspend performance hereunder, increase or decrease the ordered quantities, change the due date or make changes in any one or more of the following:
 - i) applicable drawings, designs or specifications;
 - ii) method of shipment or packing; and/ or
 - iii) place of delivery.
 - b) If the change causes an increase in cost or the time required by Seller for performance of this Agreement and Seller so notifies Buyer, then an equitable adjustment will be made in the order price or delivery schedule or both, and the Agreement will be modified accordingly in writing. No claim by Seller for such an adjustment will be valid unless asserted within twenty (20) days from the date of receipt by Seller of the notification of change; provided, however, that such period may be extended upon the written approval of Buyer.
- 11) **CANCELLATION FOR DEFAULT:**
 - a) It is understood and agreed that time is of the essence for this Agreement because the Products or Services ordered herein are needed for products of Buyer that have a very short, carefully timed market life; failure of Seller to deliver on the due date could cause Buyer's products to be unmarketable. Buyer may, by written notice, cancel this Agreement in whole or in part if, in Buyer's good-faith opinion, Seller (i) has failed to make delivery of the Products or to perform the Services within the time specified herein, or any extension thereof by written change order or amendment; or (ii) has failed to replace or correct defective items in accordance with the provisions of paragraphs 8 or 9 above; or (iii) had failed to perform any of the other provisions of this Agreement; or (iv) has so failed to make progress under this Agreement as to endanger performance in accordance with its terms.
 - b) If this Agreement is cancelled for Seller's default, Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, Products or Services similar to those cancelled. Seller will then be liable to Buyer for any excess costs occasioned thereby.
 - c) If all or a portion of this Agreement is cancelled for Seller's default, Buyer may require Seller to transfer title and to deliver to Buyer, in the manner and to the extent directed by Buyer, (i) completed items not yet delivered and (ii) any partially completed items and materials that Seller has produced or acquired for the performance of the terminated portion. Seller will, upon direction of Buyer, protect and preserve the property listed in this paragraph that is in the possession of the Seller. Payment for completed items delivered to and accepted by Buyer under this paragraph will be in an amount (not to exceed the contract price) agreed upon by Seller and Buyer; however, Seller's obligation to carry out Buyer's direction as to delivery, protection and preservation of the property will not be contingent upon prior agreement as to such amount.
 - d) Nothing in this paragraph 11 is intended to excuse Seller from proceeding with any uncanceled portion of this Agreement.
- 12) **TERMINATION FOR CONVENIENCE:**
 - a) At any time for convenience, Buyer may terminate work under this Agreement, in whole or in part, by written or telegraphic notice.
 - b) Upon such termination, Seller will, to the extent and at the times specified by Buyer, stop all work under this Agreement, place no further orders for materials to complete the work, assign to Buyer all Seller's interests under terminated subcontracts and order, settle all claims there under after obtaining Buyer's approval, protect all property in which Buyer has or may acquire an interest, and transfer the terminated portion of this Agreement. Seller will proceed promptly to comply with Buyer's instructions respecting each of the foregoing without awaiting settlement or payment of its termination claim.
 - c) Within six (6) months after such termination, Seller may submit to Buyer its written claim for termination charges, in the form and with the certification prescribed by Buyer. Failure to submit the claim within six months will constitute a waiver of all claims and a release of all Buyer's liability arising out of the termination.
 - d) The parties may agree upon the amount to be paid Seller for such termination. If they fail to agree, Buyer will pay Seller the following amounts:
 - i) The contract price for all Products completed or Services rendered in accordance with this Agreement and not previously paid for.
 - ii) The actual costs incurred by Seller which are properly allocable under recognized commercial accounting practices to the terminated portion of this Agreement, plus a fair and reasonable profit on such costs. If it appears that Seller would have sustained a loss on the order, no profit will be allowed, and an adjustment will be made reducing the amount of the settlement to reflect the indicated rate of loss.
 - iii) The reasonable costs incurred by Seller in making settlement hereunder and in protecting property in which Buyer has or may acquire an interest.
 - e) Payments made under subparagraphs 12 (d) (i) and (ii) above may not exceed the aggregate price specified in this Agreement less payments otherwise made or to be made. Any amounts payable for property lost, damaged, stolen or destroyed prior to delivery to Buyer will be excluded from amounts otherwise payable to Seller under this paragraph 12.
- 13) **RISK OF LOSS OR DAMAGE:** Notwithstanding any prior inspections and irrespective of the F.O.B. point name herein, Seller will bear all risk of loss, damage or destruction to the ordered Products until final acceptance of the Products by Buyer at destination. Seller will bear the same risk with respect to any Products rejected by Buyer. Buyer, however, will be responsible for any loss occasioned by the gross negligence of its employees acting within the scope of their employment.
- 14) **BUYER PROPERTY:** All Property used by Seller in connection with its performance under this Agreement which is owned, furnished, or consigned by Buyer, or is charged to or paid for by Buyer, including but not limited to materials, tools, dies, jigs, molds, patterns, fixtures, equipment, drawings, specifications and other technical documentation (the "Property") shall be and remain the property of Buyer. Unless already so marked by Buyer, Seller shall identify and conspicuously mark all Property as belonging to Buyer and, upon request, shall furnish Buyer a list of all Property being held by Seller. All Property shall be used only for Seller's performance under the Agreement and held at Seller's risk and insured at Seller's sole expense in an amount equal to its replacement cost, with loss payable to Buyer. Buyer may inspect and/or remove any Property at any time at no charge to Buyer, and Buyer shall have reasonable access to Seller's premises for such purpose. Seller shall return such Property to Buyer upon Buyer's demand at Seller's sole expense.
- 15) **PROPRIETARY RIGHTS:** Seller agrees to promptly disclose to Buyer and upon request to assign to Buyer, any (i) works of authorship, discoveries, inventions, and innovations conceived or first actually reduced to practice during the performance of the Agreement, or (ii) any proposals, research, records, reports, recommendations, manuals, findings, evaluations, forms, reviews, information, data, computer programs, and software originated or prepared by Seller for or in the performance of the Agreement the items listed in clauses (i) and (ii) being hereinafter referred to collectively and severally as "Work Product". Seller and Buyer agree that any Work Product which is a work of authorship, including but not limited to any computer program or software, is a "work made for hire" within the meaning of 17 United States Code Section 101. All Work Product shall be promptly communicated to Buyer. As additional consideration for the compensation to be paid to Seller under the Agreement, Seller hereby assigns to Buyer all of Seller's rights, title and interest in and to all Work Product, and to any and all intellectual property rights, including but not limited to, patents, copyrights or trademarks which have been or may be obtained with respect to such Work Product, effective immediately upon conception, origination, creation, preparation or discovery thereof and regardless of the medium of expression thereof. Seller shall communicate to

- Buyer or its representatives all facts known to it respecting such Work Product. Further, whenever requested, Seller immediately shall execute a confirmatory assignment of any particular items(s) of Work Product in such form as may be satisfactory to Buyer, shall testify in all legal proceedings, sign all lawful papers and otherwise perform all acts necessary or appropriate to enable Buyer and its successors and assigns to obtain and enforce all available legal protections for all such Work Product in all countries, for which Buyer will reimburse Seller's reasonable out-of-pocket expenses. All Work Product shall become the exclusive property of Buyer, and Seller shall be deemed to have assigned and relinquished all rights, title and interest in and to such Work Product by virtue of this paragraph 15. Notwithstanding anything herein to the contrary, Buyer acknowledges and agrees that Seller may own certain know-how, trade secrets, plans, designs and construction information, processes and flowcharts, formulas, manufacturing techniques, discoveries, inventions and ideas, product specifications, machinery, drawings, photographs, computer source codes, equipment, devices, tools and apparatus and any other engineering or other technical information that is in existence prior to the date of the Agreement, whether or not protected by law, subject to pending applications therefore or otherwise ("Pre-Existing Intellectual Property"). To the extent that any such Pre-Existing Intellectual Property is (i) incorporated into the Work Product and (ii) has expressly been identified to Buyer in writing prior to the commencement of any Services hereunder, such Pre-Existing Intellectual Property shall remain the property of Seller, and Seller hereby grants to Buyer a royalty-free, non-exclusive, unrestricted, irrevocable, world-wide license to use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such Pre-Existing Intellectual Property as may be necessary for Buyer to use the Work Product for the purposes for which such Work Products were designed and intended, including Buyer's right to provide such Pre-Existing Intellectual Property as embedded in the final deliverables to other third parties to use solely on the behalf of Buyer.
- 16) EXPORT COMPLIANCE ASSURANCE: The Parties agree to comply with all applicable U.S. export laws and regulations. Seller expressly acknowledges that (i) all Products, proprietary data, know-how, software or other data or information obtained from Buyer, and (ii) any Services resulting in Product hereunder, or any Products directly derived from any such Product (collectively referred to herein as "Technical Information") are subject to the United States (U.S.) government export control laws, which may restrict or prohibit their export, re-export, or transfer. U.S. government restrictions are implemented principally through the Export Administration Regulations ("EAR", 15 C.F.R. §§ 730 et seq., available at <http://www.bis.doc.gov/>) administered by Department of Commerce, Bureau of Industry and Security and the Foreign Asset Control Regulations administered by the Department of Treasury, Office of Foreign Assets Control ("OFAC", 30 C.F.R. Part 500 et. Seq. available at <http://www.treas.gov/offices/enforcement/ofac/>). Wassenaar Munitions List is available at <http://www.wassenaar.org/>. Seller agrees that neither it nor any of its subsidiaries, affiliates or subcontractors will directly or indirectly export, re-export, transfer, or release, or cause to be exported or re-exported ("Export"), any such Technical Information to any destination or entity prohibited or restricted under U.S. law including but not limited to U.S. government embargoed or sanctioned countries or entities, unless it shall obtain prior to Export an authorization from the applicable U.S. government agency either in writing or as provided by applicable regulation. The U.S. government maintains embargoes or sanctions against the countries listed in the EAR, Country Group E to Part 740, Supplement 1. The current list of embargoed or sanctioned countries consists of Cuba, Iran, Libya, North Korea, Sudan, and Syria. This list is amended by the U.S. government from time to time and all such amendments shall be applicable to this Agreement. Seller further agrees that no Technical Information will be directly or indirectly employed in or transferred to missile technology, sensitive nuclear, or chemical biological weapons end uses or in any manner transferred to any party for any such end use. Seller agrees to notify Buyer if items to be delivered or sold to Buyer under this Agreement are subject to the U.S. Department of State, International Traffic in Arms Regulations ("ITAR") or the Wassenaar Munitions List ("ML") prior to the delivery of the items. Seller will send notification to Buyer Export Compliance Department via e-mail at export@qualcomm.com with Seller part number and ITAR or ML control number. In the event Seller supplies person(s) employed, hired, or retained ("Person") by Seller to perform under this Agreement on-site at a Buyer location, Seller will first notify Buyer if the Person is national or citizen of a country for which the U.S. government requires an Export license. Seller shall be solely responsible for determining nationality of its employees and contractors. This requirement applies to all countries except countries listed in the U.S. Export Administration Regulations, Supplement No. 3 to Part 740 plus Canada and the United States. Seller may not subcontract Services involving the transfer of Technical Information as defined above unless and until the Export Compliance provisions of this Agreement have been provided in writing to the subcontractor(s). The terms of this Export Compliance Assurance shall survive and continue in effect upon termination of the Agreement with Buyer.
- 17) OZONE-DEPLETING CHEMICALS USAGE CERTIFICATION: Seller, whether a manufacturer, importer, wholesaler, distributor, or retailer, is required to reliably and accurately label consistent with the requirements of 40 CFR part 82, (i) all containers in which a class I or class II substance is stored or transported, (ii) all Products containing a class I substance and (iii) all Products directly manufactured with a process that uses a class I substance, unless the Product was manufactured prior to May 15, 1993.
- 18) INSURANCE: Whenever Seller has in its possession property of Buyer, Seller shall be deemed an insurer thereof and shall be responsible for its safe return to Buyer. Seller shall also maintain at all times during performance of its work related to this P.O. adequate Workers' Compensation insurance to cover all of its general and special employees engaged in such work, including Employer's Liability coverage; insurance to insure against claims for injury to or death of persons or destruction or damage to property (including Buyer's employees and property) which may arise from Seller's actions or omissions in the performance of its Services or in the design or manufacture of its Products, such Commercial General Liability insurance shall specifically include contractual liability coverage; and Business Automobile Liability coverage including coverage for bodily injury and property damage for all owned, hired or non-owned vehicles. Seller shall have all insurance policies endorsed to waive the insurer's rights of subrogation in favor of Buyer.
- 19) REPRESENTATIONS: By acceptance of Buyer's Agreement, Seller is certifying that Seller is in full compliance with the Fair Labor Standards Act of 1938, as amended, and regulations issued thereunder. Upon request, Seller shall furnish Buyer with satisfactory evidence of its compliance with the representation in this paragraph 19.
- 20) WAIVER: The failure of Buyer to enforce at any time any of the provisions of this Agreement, to exercise any election or option provided herein, or to require at any time the performance by Seller of any of the provisions herein will not in any way be construed to be a waiver of such provisions.
- 21) REMEDIES: The remedies stated herein are in addition to all other remedies at law or in equity.
- 22) INDEMNIFICATION:
- Seller agrees to indemnify, defend and hold Buyer, its affiliates, agents, customers, successors and assigns harmless against any loss, damage, liability, costs and expenses (including reasonable attorneys' fees) arising from or related to any actual or alleged infringement of any patent, copyright, trademark or other intellectual property right arising out of the Services or the use or sale of the Products by Buyer, its agents or customers-provided, however, that Buyer must notify Seller of any suit, claim or demand involving such infringement, and permit Seller to defend against or settle the same. Buyer shall have the right to participate at its own expense in the defense of such claim or action, including any related settlement negotiations. No such claim or action may be settled or compromised without Buyer's express written consent, which may be conditioned upon the execution of a release of all claims against the Buyer by the party(ies) bringing such claim or action. Buyer shall have the right to withhold from payments due to Seller the amount of Buyer's costs of defending any such claim or action, plus reasonable additional amounts, as security for Seller's obligations under this Paragraph 22. If any Product or Service is determined to infringe any intellectual property right of any third party or any injunction is issued as the result of any such infringement, Seller agrees, at Buyer's option, to (i) refund to Buyer amounts paid to Seller for the Products or Services covered by the injunction, or (ii) furnish Buyer with acceptable and noninfringing Products or Services.
 - Seller agrees to indemnify, defend and hold Buyer, its affiliates, agents, customers, successors and assigns harmless against any and all loss, damage, liability, costs and expenses (including reasonable attorneys' fees) arising from or related to any alleged defect in Products, whether latent or patent, including allegedly improper construction and design, or from failure of the Products to comply with specifications.
 - Seller warrants that there are no liabilities for royalties, mechanics liens or other encumbrances on the Products supplied and agrees to indemnify Buyer and its affiliates against any such liabilities.
 - The above indemnifications are in addition to all other rights or indemnification of Buyer against Seller.
- 23) NON-DISCLOSURE OF CONFIDENTIAL MATTER: Seller will not quote for sale to others, without Buyer's written authorization, any Products purchased under Buyer's specifications or drawings. All specifications, drawings, samples and other data furnished by Buyer will be treated by Seller as confidential information, will remain Buyer's property, and will be returned to Buyer on request.
- 24) ASSIGNMENTS: No right or obligation under this Agreement (including the right to receive monies due) may be assigned by Seller without prior written consent of Buyer, and any purported assignment without such consent will be void. Buyer may assign this Agreement at any time if such assignment is considered necessary by Buyer in connection with a sale of Buyer's assets or a transfer of its obligations.
- 25) NOTICE OF DELAYS: Whenever any event delays or threatens to delay the timely performance of this Agreement, Seller will immediately notify Buyer of such event and furnish all relevant details. Receipt by Buyer of such notice will not constitute a waiver of the due dates hereunder.
- 26) PATENT LICENSE: Seller, as part consideration for this Agreement and without further cost to Buyer, hereby grants to Buyer (and, to the extent requested by Buyer, to the government) an irrevocable, nonexclusive, royalty-free license to use, sell, manufacture and cause to be manufactured Products embodying any inventions and discoveries made, conceived or actually reduced to practice in connection with the performance of this Agreement.
- 27) U.S. GOVERNMENT CONTRACTS: If the P.O. is issued for any purpose that is either directly or indirectly connected with the performance of a prime contract with the U.S. government or a subcontract thereunder, the terms that the Federal Acquisition Regulation or other appropriate regulations require to be inserted in contracts or subcontracts will be deemed to apply to this Agreement, including the requirements of 41 C.F.R. 60-1.4(a)(7), 60-250.4 and 60-741.4 (Equal Opportunity), if applicable.
- 28) APPLICABLE LAW: This Agreement will be governed by the laws of the state of California.