

HLMG Standard Service Level Terms and Conditions

1. Definitions

- 1.1 “**Terms and Conditions**” means these HLMG Standard Service Level Terms and Conditions which may be amended, varied and updated by HLMG Group from time to time.
- 1.2 “**Carsem**” means Carsem (M) Sdn Bhd of Jalan Lapangan Terbang, P.O. Box 204, 30720 Ipoh, Perak, Malaysia and Carsem Semiconductor (Suzhou) Co. Ltd. of No. 408, Shen Hu Road, Suzhou Industrial Park, Jiangsu P.R. China 215021 a member of the HLMG Group.
- 1.3 “**Carsem’s Terms and Conditions**” means the terms and conditions more particularly stipulated in Clause 26 and Appendix A which are applicable to Carsem’s Customer only.
- 1.4 “**Contract**” means quotations or proposals issued by HLMG or contracts of sales of the Good and/or Services signed by HLMG and/or other documents issued or signed by HLMG specifying the terms and conditions of the sale and purchase of the Goods and/or Services between HLMG and the Customer.
- 1.5 “**Customer**” means any person or corporation who purchases the Goods and/or Services from HLMG.
- 1.6 “**Goods and/or Services**” means the goods and/or services agreed to be sold by HLMG to the Customer pursuant to a Contract.
- 1.7 “**HLMG**” means a member of the HLMG Group entering into the Contract with the Customer.
- 1.8 “**HLMG Group**” means subsidiaries and related companies of Hong Leong Manufacturing Group Sdn. Bhd. (747140-U).
- 1.9 “**Intellectual Property Rights of HLMG Group**” means any and all intellectual property rights in and to all the Goods and/or Services including but not limited to patents, patent applications, copyrights, copyright registrations, trade secrets, trademarks and service marks, industrial designs, industrial designs registrations (including, where applicable, all derivative works of the foregoing).
- 1.10 “**Specific Terms and Conditions**” means the specific terms and conditions set out in the Contract.

2. Application and Conflict of the Terms and Conditions

- 2.1 The Terms and Conditions shall form part of all Contracts relating to the Goods and/or Services. The Specific Terms and Conditions and the Terms and Conditions shall apply exclusively and shall override any terms and conditions whether previously or hereafter stipulated incorporated or referred to by the Customer whether orally, in its purchase orders or other documents.
- 2.2 Any inconsistent, diverging or additional conditions of the Customer shall not apply even if they are incorporated in its purchase orders or other documents whether issued before or after the Contract and HLMG does not need to expressly object to the inconsistent, divergent or additional conditions of the Customer and HLMG may execute the order pursuant to the Contract without reservation. HLMG's silence signifies its rejection of the inconsistent, divergent or additional conditions of the Customer.
- 2.3 The Terms and Conditions shall apply in addition to the Specific Terms and Conditions provided that in the event of any conflict between the Terms and Conditions and the Specific Terms and Conditions, the Specific Terms and Conditions shall prevail.

3. Amendments of the Terms and Conditions

- 3.1 Any amendments, supplement or cancellation of the provisions of the Terms and Conditions shall not be effective and binding unless the same shall be in writing and duly executed by HLMG.
- 3.2 Notwithstanding the aforesaid, HLMG reserves the right to amend and vary the terms and conditions herein contained from time to time without notice or reference to the Customer.

4. Delivery

- 4.1 Any time for delivery stipulated whether in the Contract or any other documents shall be an estimate only and HLMG shall not be liable in any manner whatsoever to make good any damage or loss arising out of any delay in delivery.
- 4.2 Unless otherwise agreed expressly in writing, the delivery of the Goods and/or Services shall be at the risk of the Customer. HLMG reserves the right to select the method of transport, the route and the carrier. Partial delivery is permitted.
- 4.3 Delivery shall be deemed to have been made if HLMG delivers the Goods and/or Services to the location specified by the Customer and the delivery order is endorsed by any person present thereat. HLMG shall not be responsible to ensure the Goods and/or Services have been delivered to or is collected by the Customer or its authorized personnel and shall not

be liable for any loss or damage to the Customer by reason of unauthorized collection of the Goods and/or Services.

- 4.4 Should the Customer fail to take delivery of the Goods and/or Services, HLMG shall be entitled (without prejudice to its right under the laws) to charge the Customer for storage and insurance for the Goods and/or Services calculated from the date fixed for delivery.

5. Defective Goods and/or Services

- 5.1 The Customer shall inspect the Goods and/or Services immediately upon delivery and shall notify HLMG if the Goods and/or Services are not in accordance with the Contract and the Customer shall return the Goods and/or Services to HLMG within 24 hours from the date of delivery. Should the Customer fail to give such notification, the Goods and/or Services shall be deemed accepted Provided Always HLMG will not accept return of used Goods and/or Services and the Customer shall not reject any Goods and/or Services which are in accordance with the Contract.
- 5.2 If notification is duly served in accordance with Clause 5.1 hereof, HLMG shall, at its discretion, either replace or repair the defective Goods and/or Services or refund the purchase price for such defective Goods and/or Services.
- 5.3 Notwithstanding anything herein contained, the Customer's remedies in respect of the defective Goods and/or Services as set out in Clause 5.2 hereof shall be exclusive and in lieu of all other remedies, and represent HLMG's sole obligations.

6. Goods and/or Services Information

- 6.1 Notwithstanding any description and/or details of the Goods and/or Services given by HLMG or Customer, no sale of the Goods and/or Services shall constitute or be construed as a sale by description.
- 6.2 Any information of the Goods and/or Services in the brochures or other advertisements are merely recommendations. It is not possible to infer any warranted qualities or warranted use from these details, unless they were expressly agreed as a warranted quality. HLMG reserves the right to make technical modifications in the course of the Goods and/or Services development.
- 6.3 The Customer must verify the suitability of the Goods and/or Services for the use or application intended by the Customer. Information on the quality and durability and other particulars are warranted only if these are agreed and designated as such.

7. Retention of Title

- 7.1 The title to the Goods and/or Services sold and/or delivered shall remain with HLMG until payment of the purchase price in full for the respective Goods and/or Services has been received by HLMG. If any of the Goods and/or Services is sold by the Customer before title has passed to the Customer, the Customer shall hold the proceeds of sale in trust for HLMG.

8. Risk

- 8.1 The risk in the Goods and/or Services shall pass to the Customer upon Ex-Works HLMG's premises. Unless otherwise agreed expressly in writing, the Customer shall insure and bear all the costs and expenses in relation to the delivery of the Goods and/or Services.

9. Prices

- 9.1 Unless otherwise agreed expressly in writing, the prices quoted and/or stated in the Contract shall be subject to changes without notice in the event of any imposition of or increase in taxes and duties whatsoever on the Goods and/or Services, its component or raw materials, costs or any other production or related costs and shall exclude the cost of packing, insurance, freight, all taxes and duties. If exemption from such taxes and duties is claimed, the Customer must provide a certificate of exemption.
- 9.2 The payment for the Goods and/or Services and all other monies to be paid by Customer to HLMG under this Contract, including any amount representing reimbursements to be paid by Customer to HLMG, is exclusive of any Tax, and shall be paid without any set-off, restriction or condition and without any deduction for or on account of any counterclaim or any deduction or withholding.
- 9.3 In the event Customer is required by law to make any deduction or withholding from the payment for the Goods and/or Services and/or all other monies payable to HLMG under this Agreement in respect of any Tax or otherwise, the sum payable by Customer in respect of which the deduction or withholding is required shall be increased so that the net payment for the Goods and/or Services and/or the net amount of monies received by HLMG is equal to that which HLMG would otherwise have received had no deduction or withholding been required or made.

- 9.4 The Customer shall in addition to the payment for the Goods and/or Services and all other monies payable, pay to HLMG all applicable Tax at the relevant prevailing rate and/or such amount as is determined by HLMG to cover any Tax payments/liabilities/obligations in connection therewith, without any set-off, restriction or condition and without any deduction for or on account of any counterclaim or any deduction or withholding, apart from any Taxes which may be required under any laws to be paid by the Customer directly to any Appropriate Authority, which the Customer shall remit directly to the Appropriate Authority .
- 9.5 If at any time an adjustment is made or required to be made between HLMG and the relevant taxing authority on account of any amount paid as Tax as a consequence of any supply made or deemed to be made or other matter in connection with this agreement by HLMG, a corresponding adjustment may at HLMG's discretion be made as between HLMG and Customer and in such event, any payment necessary to give effect to the adjustment shall be made.
- 9.6 All Tax as shall be payable by the Customer to HLMG as herein provided shall be paid at such times and in such manner as shall be requested by the HLMG, failing which the Customer shall pay to the HLMG interest at the rate of ten per centum (10%) per annum calculated on a day to day basis on the amount of Tax unpaid from the due date until payment.
- 9.7 The Customer hereby agrees to do all things reasonably requested by HLMG to assist HLMG in complying with its obligations under any applicable legislation under which any Tax is imposed. In the event a new Tax is introduced and such Tax is required to be charged on the transaction contemplated in this Agreement, the Customer agrees to provide its fullest cooperation to HLMG in assisting HLMG in complying with its obligations under the relevant laws.
- 9.8 The Customer shall indemnify HLMG and shall hold HLMG harmless from any liability arising as a result of any breach of obligation on the part of the Customer to pay the Tax as set out herein, together with all loss, costs and expenses resulting from such breach. Nothing in this Agreement requires HLMG to pay any amount of fine, penalty, interest or other amount for which the Customer is liable for.
- 9.9 For the avoidance of doubt, the parties agree that any sum payable or amount to be used in the calculation of a sum payable expressed elsewhere in this agreement has been determined without regard to and does not include amounts to be added on under this clause on account of Tax.

- 9.10 Tax" means any present or future, direct or indirect, Malaysian or foreign tax, levy, impost, duty, charge, fee, deduction or withholding of any nature, that is imposed by any Appropriate Authority, including, without limitation, any consumption tax such as the goods and services tax ("GST") and other taxes by whatever name called, and any interest, fines or penalties in respect thereof.

"Appropriate Authority" means any government or taxing authority.

10. Payment Terms

- 10.1 Payment for the Goods and/or Services shall be made within the time stipulated in the invoice. Interest at 1.5% per month will be charged on late payment.
- 10.2 Time within which the Customer is to pay for the Goods and/or Services shall be of the essence of the Contract.

11. Appropriation of Payment

- 11.1 All payments received from the Customer will be applied towards settlement of the Customer's oldest debts comprising of the earliest invoices, debit notes (including debit notes for overdue interest) and other charges howsoever arising Provided Always HLMG may appropriate any payments towards account of interest before principal in respect of any debt as HLMG shall in its absolute discretion deem fit.

12. Right of Set-Off

- 12.1 HLMG shall be entitled to set-off against the Customer's overdue debts all monies now or hereafter standing to the credit of the Customer's account with HLMG or with any companies within Hong Leong Group of Companies and for this purpose, the Customer shall give irrevocable authority to HLMG, to collect on behalf of the Customer and give valid receipt and discharge in respect of all such monies owing to the Customer.

13. Sale of Goods Act 1957 (Revised 1989) ("the Act")

- 13.1 The terms and conditions in respect of the Goods and/or Services under the Act or any statutory modification and re-enactment thereto for the time being enforced are hereby expressly excluded.

14. Force Majeure

14.1 In the event of force majeure, resulting from elements, earthquake, acts of God, act of the public enemy, wars, insurrection, riots, lock out, directions by authorities, or any other cause, contingency or circumstance, whether similar or dissimilar, beyond the reasonable control of the affected party, all commitments and obligations under the contracts, if any, (other than the obligation to make payment thereunder) shall be suspended for the duration and scope of the imperilment. The parties shall amicably agree to which extent suspended deliveries caused by force majeure shall be effected subsequently.

15. Limitation of Warranty

15.1 Save and except for written warranties, if any, given by HLMG, HLMG MAKES NO OTHER WARRANTIES OR REPRESENTATION, EXPRESS OR IMPLIED, IN FACT OR IN LAW, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE OR FOR USE UNDER ANY SPECIFIC CONDITIONS, NOTWITHSTANDING THAT SUCH PURPOSE OR CONDITION MAY BE KNOWN OR MADE KNOWN TO HLMG.

16. Limitation of Liability

16.1 Unless otherwise agreed in writing, HLMG's sole and entire liability for any demands, claims or actions which the Customer or third party may have against HLMG at law or in equity, shall be limited to not more than the value of the Goods and/or Services rendered to the Customer that gave rise to the claim.

16.2 In no event will HLMG be liable for any delivery delays, negligence, loss of profits, loss of market share, savings, goodwill, or any type of special, exemplary, incidental, indirect or consequential loss or damage howsoever arising whether or not HLMG has been advised of the same.

17. Infringement of Third Party Intellectual Property Rights

17.1 The Customer shall indemnify HLMG Group against all damage, claims, costs and expenses including third party claims for which HLMG Group may become liable as a result of the Goods and/or Services rendered to the Customer in accordance with the Customer's specification which involves infringement of any third party's intellectual property rights. The Customer is also responsible for independently checking the existing intellectual property rights of third parties and is obliged to notify us of such rights.

18. Intellectual Property Rights of HLMG Group

18.1 HLMG Group shall at all times retain the ownership and rights of the Intellectual Property Rights of HLMG Group. Nothing herein shall be deemed to grant the Customer the right to use or exploit the Intellectual Property Rights of HLMG Group.

19. Termination and Consequences of Termination

19.1 Notwithstanding anything to the contrary herein contained, HLMG is entitled to terminate the Contract at any time upon the occurrence of any one or more of the following:-

19.1.1 the Customer shall fail, refuse and/or neglect to:-

- a) pay HLMG all or any part of any monies on the payment due date; or
- b) perform and observe any of the covenants undertakings obligations stipulations and agreements on its part contained herein or in the Contract and for which it is liable,

and the same is not remedied upon the expiry of fourteen (14) days after written notice thereof shall have been given by HLMG;

19.1.2 the Customer becomes insolvent or commits an act of bankrupt or a petition is presented for its winding up or a resolution is passed for its voluntary winding up; and

19.1.3 the Customer enters into any arrangements or compositions with its creditors,

whereupon,

19.1.4 the Customer shall be liable to pay, in accordance with the payment terms agreed by the parties, all monies payable by the Customer for the Goods and/or Services already delivered by HLMG, the work in progress and all the raw materials purchased for the Contract with the Customer;

19.1.5 HLMG shall be entitled to cancel any or all orders which have yet to be delivered to the Customer; and

19.1.6 the Customer shall be liable to pay damages to HLMG for breach of contract.

19.2 HLMG may with prior notice but without prejudice to its other rights, suspend and/or cancel further delivery, stop any delivery in transit under the Contract. The Customer shall be liable to HLMG for all loss and damage suffered by HLMG arising from suspension, cancellation or

stoppage in transit of any deliveries due to the default of the Customer. HLMG shall not be liable to the Customer for any damages whatsoever which the Customer may suffer or incur by reason thereof.

19.3 Without prejudice to anything contained herein, HLMG shall also be at liberty to terminate the Contract by serving a written notice unto the Customer whereupon:-

19.3.1 the Customer shall be liable to pay, in accordance with the payment terms agreed by the parties, all monies payable by the Customer for the Goods and/or Services already delivered by HLMG, the work in progress and all the raw materials purchased for the Contract with the Customer; and

19.3.2 HLMG shall be entitled to cancel any or all orders which have yet to be delivered to the Customer;

and thereafter the Contract shall be null and void and be of no further effect save for any antecedent breaches.

20. No Privity of Contract

20.1 Nothing in the Terms and Conditions shall be construed to imply the existence of a contractual relationship or privity of Contract between any member of the HLMG Group (other than HLMG) and the Customer or to make HLMG the agent or representative of the HLMG Group and further, HLMG shall not be construed to hold itself out as such agent or representative nor shall HLMG Group be liable for or bound by any act or omission of HLMG in respect of the Contract.

21. Third Party Rights

21.1 A person and/or entity who is not a party to the Contract, has no right to enforce any term of the Contract including the Terms and Conditions.

22. Governing Law

22.1 Unless otherwise agreed expressly in writing, the Terms and Conditions and the Contract, shall be governed by the laws of Malaysia and the parties further agree to submit to the non-exclusive jurisdiction of the Courts of Malaysia.

23. Notices

23.1 Any notices, communications or demands shall be deemed to have been sufficiently given if sent by prepaid post to the address of the addressee stated herein or to the addressee's last known place of business and shall be presumed to have reached the address in ordinary course of post.

24. Waiver

24.1 No failure or delay by HLMG in exercising any rights hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right preclude any further exercise thereof or the exercise of any other right.

25. Severability

25.1 If any provision of the Terms and Conditions or the application thereof to any situation or circumstance shall be invalid or unenforceable, the remainder of the Terms and Conditions shall not be affected, and each remaining provision shall be valid and enforceable to the fullest extent.

26. Carsem's Terms and Conditions

26.1 The Terms and Conditions shall apply in addition to Carsem's Terms and Conditions provided that in the event of any conflict between the Terms and Conditions and Carsem's Terms and Conditions, Carsem's Terms and Conditions shall prevail.

26.2 Carsem's Terms and Conditions are more particularly set out in Appendix A hereof.

Appendix A – Carsem’s Terms and Conditions

1. Carsem’s Sales Terms and Conditions

- 1.1.** Customer will consign die in wafer form, while Carsem will supply the other standard materials.
- 1.2.** Carsem’s standard process and Bill of Materials will apply.
- 1.3.** Customer shall consign materials and / equipment to Carsem under Delivered Duty Paid (DDP) Incoterms 2010, while Carsem will return finished Goods and/or Services under Ex-Works (EXW) Incoterms 2010. In other words, all freight/ insurance/ handling charges (both ways) and duties, where applicable, shall be borne by the Customer.
- 1.4.** Insurance coverage for all consigned materials whilst in-transit is the responsibility of the Customer. Customer that adopts billing method whereby finished Goods and/or Services are invoiced once arrived at finished goods store/ product distribution center, it is the Customer’s responsibility to take adequate insurance to cover all liabilities, losses, costs and expenses that may incur as a result of any loss or damage to any of the finished goods kept at Carsem’s facility whilst awaiting the Customer’s shipment instruction.
- 1.5.** Carsem’s preferred terms of payment are as follows :-
 - 1.5.1.** firstly, an irrevocable letter of credit at sight;
 - 1.5.2.** secondly, cash before delivery may be applied on a case to case basis;
 - 1.5.3.** thirdly, thirty (30) days net from the date of Carsem’s invoice provided that evidence of the Customer’s financial stability is accepted by Carsem; and
 - 1.5.4.** any incoming bank remittances charges arising from payment made by Customer vide Wire Transfer, shall be borne by the Customer.
- 1.6.** Prices quoted by Carsem are based on the current precious metal pricing at the time of the quote. Should the price of the precious metals vary significantly, Carsem reserves the right to invoke price adjustments to compensate these changes.
- 1.7.** Based on the Customer’s loading forecast, Carsem will procure the necessary materials to support the Customer’s needs. In the event the loading forecast failed to materialize, the Customer agrees to buy back at Carsem’s cost of procurement plus administration charges, any excess materials that cannot be returned to the supplier or used by Carsem’s

other customers. In any case, the Customer's maximum liability is limited to not more than three (3) calendar months of equivalent forecast or based on minimum order quantity that has been pre-agreed in writing by Carsem and the Customer, whichever is higher.

- 1.8.** Any claims for defective Goods and/or Services shall be lodged within thirty (30) days from the date of receipt of the said Goods and/or Services by the Customer. If the defective Goods and/or Services are proven to be ascribable to Carsem's non-compliance of mutually agreed specifications, systems or normal handling/ processing procedures, Carsem's liability shall be limited to its value-added amount of the said defective Goods and/or Services.
- 1.9.** Carsem assumes no obligation or liability of any kind with respect to claims of infringement of United States or foreign patents, copyrights, trademarks or other proprietary rights arising out of or relating to the Customer purchases, importation, use, possession, sale or delivery of any such products or services sold to the Customer by Carsem, and the Customer shall indemnify, defend at the Customer's cost, and hold Carsem harmless from any and all such claims.
- 1.10.** The validity of the sales quotation is ninety (90) days from the date of the quotation.
- 1.11.** Where volume or tier pricings are quoted under exceptional circumstances, the tier price to be used for invoicing during Carsem's current financial month shall be determined based on the actual quantity of finished Goods and/or Services shipped by Carsem to the Customer during Carsem's immediate preceding financial month or averaged by the number of weeks of Carsem's immediate preceding financial month if the tier pricings are quoted by weeks. Price tiering is based on volume of individual package and lead count.
- 1.12.** Where fast track premiums are quoted, the definition of fast track e.g. fast track 2 days (FT2) assumes die arrives on Monday, ship out on Thursday. Each day of the fast track is a working day. Public holidays as per Carsem's calendar are not considered in the fast track cycle time, if the Customer makes a fast track request after lots have been issued to line, then the start date for determining fast track is the date the Customer informs Carsem.
- 1.13.** Carsem reserves the right to invoice Customer for any partially processed assembly and/or test lot which is scrapped prior to completion due to product related reasons. Invoicing will be based on costs incurred by Carsem up to the point at which the lot is dispositioned for scrap.
- 1.14.** Residual lots at test will be held for a maximum period of three (3) months after which time Carsem reserves the right to return the residuals and invoice the Customer.

1.15. Where the Goods and/or Services rendered by Carsem have no association with physical shipments of the finished Goods and/or Services, Carsem shall invoice Customer upon completion of the services performed.

2. Customer's Consigned Equipment And Materials To Carsem

2.1. Definitions

2.1.1. "Consigned Equipment" shall mean equipment and any parts, tools and accessories belonging to Customer and provided to Carsem for performing the Goods and/or Services.

2.1.2. "Consigned Material" shall mean raw materials including Customer's wafers, die, and certain raw materials as specified in Customer's bill of material that is procured or otherwise provided to Carsem by Customer for Carsem use in providing the Goods and/or Services, work-in-process Customer's wafers and scrap.

2.2. Delivery of Consigned Equipment

2.2.1. The Customer shall deliver and ship the Consignment Equipment to Carsem under Delivered Duty Paid (DDP) Incoterms 2010. All freight charges, insurance charges, handling charges, duties applicable and all other costs related to the shipment of the Consigned Equipment shall be borne by the Customer. The Customer shall procure adequate all risks insurance coverage for the Consigned Equipment during the time of transit of the Consigned Equipment.

2.2.2. All rights, titles, ownerships and risks of the Consigned Equipment shall remain with the Customer at all material time including but not limited to time of in-transit of the Consignment Equipment and in the possession of Carsem.

2.2.3. Prior to the Consigned Equipment is delivered to Carsem, the Customer shall produce a maintenance Mean Time Before Alarm ("MTBA") report to Carsem showing 3 months data for each tool or parts being delivered. The Customer shall further provide Preventive Maintenance ("PM") and calibration history records to Carsem, in order for Carsem to refer these records to continue the PM history of the equipment. The Customer shall also run an equipment diagnostics report of the Consigned Equipment immediately prior to packing and shipment of the Consigned Equipment from the Customer's premises, so that the state of the Consigned Equipment before delivery is known to the parties.

2.2.4. The Customer shall at its own costs be responsible for the assembling and installation of the Consigned Equipment at Carsem's premises except for facilities costs such as electrical connection.

- 2.2.5. The Customer shall carry the risks for all activities in connection with the delivery, assembling and installation of the Consigned Equipment performed by its employees, agents and/or workers as regards any personal injury and/or death caused by or to its employees, agents and/or workers and any loss and/or damage caused by its employees, agents and/or workers to the Consigned Equipment or to any other properties of Carsem within Carsem's premises.
- 2.2.6. Without prejudice to the Customer's liability to indemnify Carsem, the Customer shall take out adequate insurance for all interested parties in respect of personal injuries or death and injury or loss and/or damage of property or personal arising out of or in the course of or by reason of the execution of delivery, assembling and installation of the Consigned Equipment whether or not such injury, death, loss and/or damage is caused by negligence, omission, default and/or breach of contract by the Customer, Carsem and interested parties and any of their servants and agents. Such insurance policy shall provide cover in respect of third party liability for personal injury or death and damage to property.
- 2.2.7. Upon receipt of the Consigned Equipment by Carsem, Carsem shall perform a detailed visual and system diagnostics test to determine the condition of the Consigned Equipment. Upon confirmation of the Consigned Equipment is in good and working condition, Carsem shall notify the Customer of the same and document such condition in writing for future records.

2.3. Operation of Consigned Equipment

- 2.3.1. All Consigned Equipment kept at Carsem's premises shall be at the Customer's own risk and Carsem shall not be responsible or liable for any liabilities, losses, costs and expenses incurred by the Customer as a result of any loss of or damage or destruction to any of the Consigned Equipment from any cause whatsoever save for its intentional damage to the Consigned Equipment or gross negligence. It shall be the responsibility of the Customer to take adequate insurance to cover all liabilities, losses, costs and expenses that it may incur as a result of any loss, damage or destruction to any of the Consigned Equipment kept at Carsem's premises.
- 2.3.2. Carsem agrees to maintain procedures and records that enable Carsem to maintain and readily locate all Consigned Equipment.
- 2.3.3. Carsem shall keep all Consigned Equipment at Carsem's premises unless otherwise authorized in writing, in advance, by the Customer. The Consigned Equipment shall be clearly identified and labeled as property of the Customer, with the Customer's identification attached.

- 2.3.4. Carsem shall not make any alterations or modifications to the Consigned Equipment without the Customer's written permission. Any alterations and improvements shall immediately become the property of Customer. Any attachments, provided by Carsem to the Consignment Equipment, can be easily and readily removed without decreasing the value of the Consigned Equipment, shall remain the property of Carsem.
- 2.3.5. Carsem shall use all the Consigned Equipment in a careful and proper manner, solely for the performance of Contract Products and for no other purpose unless otherwise specified in writing, and in compliance with all applicable laws, rules, and regulations relating to the possession and use of Consigned Equipment.
- 2.3.6. The Customer warrants and represents that all Consigned Equipment is in good working condition and be capable of working at an overall operating efficiency of a minimum of 65%. The operating efficiency will be monitored and shall be reported on a weekly basis on some equipment platforms.

2.4. Maintenance of Consigned Equipment

- 2.4.1. Carsem shall be responsible for the first strike of any ordinary calibration, maintenance and repair of Consigned Equipment while in Carsem's possession and control. Carsem shall bear the cost for all consumable spare parts and spare parts below US\$50 per item
- 2.4.2. Any consumable spare parts and spare parts above US\$50 per item shall be borne by the Customer, in such event; the Customer shall deal and liaise with, and pay its appointed supplier(s) or agent(s) directly.
- 2.4.3. Any repair, calibration or maintenance of Consigned Equipment which requires outside intervention, including complicated system repair or equipment board repair or replacement, will be facilitated by Carsem, but the costs of repair, calibration or maintenance shall be borne by the Customer; in such event, the Customer shall deal and liaise with, and pay its appointed supplier(s) or agent(s) directly.

2.5. Delivery of Consigned Materials

- 2.5.1. The Customer shall deliver and ship the Consignment Materials to Carsem under Delivered Duty Paid (DDP) Incoterms 2010. All freight charges, insurance charges, handling charges, duties applicable and all other costs related to the shipment of the Consigned Materials shall be borne by the Customer. The Customer shall procure adequate all risks insurance coverage for the Consigned Materials during the time of transit of the Consigned Materials .

- 2.5.2. All rights, titles, ownerships and risks of the Consigned Materials shall remain with the Customer at all material time including but not limited to time of in-transit of the Consigned Materials and in the possession of Carsem.
- 2.5.3. Without prejudice to the Customer's liability to indemnify Carsem, the Customer shall take out adequate insurance for all interested parties in respect of personal injuries or death and injury or loss and/or damage of property or personal arising out of or in the course of or by reason of the execution of delivery, assembling and installation of the Consigned Materials whether or not such injury, death, loss and/or damage is caused by negligence, omission, default and/or breach of contract by the Customer, Carsem and interested parties and any of their servants and agents. Such insurance policy shall provide cover in respect of third party liability for personal injury or death and damage to property.

2.6. Handling of Consigned Materials

- 2.6.1. All Consigned Materials kept at Carsem's premises shall be at the Customer's own risk and Carsem shall not be responsible or liable for any liabilities, losses, costs and expenses incurred by the Customer as a result of theft, any loss of or damage or destruction to any of the Consigned Materials from any cause whatsoever save for its intentional damage to the Consigned Materials or gross negligence. It shall be the responsibility of the Customer to take adequate insurance to cover all liabilities, losses, costs and expenses that it may incur as a result of any theft, loss, damage or destruction to any of the Consigned Materials kept at Carsem's premises.
- 2.6.2. Carsem agrees to maintain procedures and records that enable Carsem to maintain and readily locate all Consigned Materials. Carsem will facilitate periodic physical audits by Customer that required to be carried out at Carsem's premises.
- 2.6.3. Carsem shall keep all Consigned Materials at Carsem's premises unless otherwise authorized in writing, in advance, by the Customer. The Consigned Materials shall be clearly identified and labeled as property of the Customer, with the Customer's identification attached.
- 2.6.4. The Customer warrants and represents that all Consigned Materials are in good working condition. Carsem will notify the Customer as soon as practicable in the event the Consigned Materials are discovered to be defective. The Customer shall replace or retrieve the defective Consigned Materials as soon as practicable upon notification by Carsem.

2.7. CONFIDENTIAL INFORMATION / proprietary information

2.7.1. Either Carsem or the Customer may disclose to the other party, certain information, relating to process, material and/or equipment, which is deemed by the Disclosing Party to be confidential or proprietary. Unless the context otherwise requires, the words and expressions used herein shall (unless the context otherwise requires) have the following meaning :

- “Authorized Personnel” means employees of Carsem or Customer;
- “Disclosing Party” means the party disclosing such Confidential Information as stipulated in Clause 2.7.2;
- “Receiving Party” means the party receiving such Confidential Information as stipulated in Clause 2.7.2;
- “Party” means either Carsem or Customer;
- “Parties” means Carsem and Customer
- “Purpose” means a possible business relationship with regard to provision of subcontract assembly, test and services of micro electronic devices;
- “Term” The term of Clause 2.7 shall be effective as of the date of this Agreement and shall continue during a period of five (5) year(s) from the date of this Agreement;

2.7.2. Confidential Information shall mean all material and information, other than the Exceptions specified in Clause 2.7.10, relating to the Customer and Carsem including but not limited to:

- (a) information of whatever nature relating to the Parties’ business, finances, operations, activities or affairs, whether of a technical nature or not (including but not limited to trade secrets, know-how, processes and other technical or business information) which is obtained, whether (without limitation) in writing, pictorially, in machine-readable form or orally, which the Receiving Party or its advisors acquires directly or indirectly from the Disclosing Party or by observations during visits to the Disclosing Party’s premises or site of operations;
- (b) information derived from information falling within the preceding clause;
- (c) the fact of the existence and contents of Clause 2.7;

- (d) the fact that the discussions and proposals referred to in Clause 2.7 and the content of such discussions, proposals and/or the Purpose;
 - (e) if disclosed orally, the content of which must be summarized and confirmed in writing by the Disclosing Party within thirty (30) days after said oral disclosure, that the orally disclosed information is Confidential Information;
 - (f) if disclosed in any other manner, it shall be designated in writing as confidential at the time of disclosure by the Disclosing Party.
- 2.7.3. The Receiving Party agrees to keep confidential and secret all or any Confidential Information and shall not, without the prior written consent of the Disclosing Party, disclose or permit a disclosure of any Confidential Information to any third party;
- 2.7.4. The Receiving Party agrees not to use any Confidential Information disclosed to it by the Disclosing Party for its own use or for any purpose except to carry out discussion concerning, and undertaking of, any business relationship between the Receiving Party and the Disclosing Party.
- 2.7.5. The Receiving Party shall not and shall not permit any employees or third party to translate, reverse engineer, disassemble, decompile, recompile, update or modify any software part of Confidential Information without the prior express written consent of the Disclosing Party.
- 2.7.6. The Receiving Party will not disclose any Confidential Information of the Disclosing Party to third parties or to employees of the Receiving Party except to its Authorized Personnel who are required to have information in order to carry out the Purpose.
- 2.7.7. The Receiving Party will advise its Authorized Personnel who have access to the Confidential Information of the Disclosing Party of their confidentiality obligations under Clause 2.7.
- 2.7.8. The Receiving Party shall have the full and sole liability or responsibility for all breaches by its Authorized Personnel. The Receiving Party agrees

that it will take all reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of the Disclosing Party in order to prevent it from falling into the public domain or the possession of persons other than those persons authorized hereunder to have any such Information, which measures shall include the highest degree of care that the Receiving Party utilizes to protect its own Confidential Information of a similar nature, but in any event not less than a reasonable degree of care.

2.7.9. The Receiving Party shall ensure that the Authorized Personnel do not:

- a) use any Confidential Information for any purpose other than for the Purpose provided under Clause 2.7;
- b) make any copies, either in writing, in machine-readable form or on any other materials or format of any of the Confidential Information for any purpose other than the purposes provided under Clause 2.7;
- c) take any step or action in relation to, or publish or procure or solicit the publication of any document, statement or communication containing any Confidential Information;
- d) use the Confidential Information directly or indirectly to procure any commercial advantage over the Disclosing Party; and
- e) procure, obtain or attempt to procure or obtain any Confidential Information from or otherwise discuss, liaise or deal with any directors, officers, shareholders, employees, agents and representatives of the Disclosing Party in matters relating to the Disclosing Party or the Confidential Information or the Purpose referred to in Clause 2.7 other than from or with those persons expressly notified by the Disclosing Party to the Receiving Party.

2.7.10. NOTWITHSTANDING any other provisions of Clause 2.7-, NO information received by a party hereunder shall be deemed Confidential Information if said information is:

- a) published or generally available to the public or later becomes public knowledge other than by a breach of Clause 2.7;
- b) furnished to either party by an independent third party without restriction on its dissemination;
- c) approved for release in writing by the party designating said information as Confidential Information;

- d) known to or independently developed by the party receiving Confidential Information hereunder without reference to or use of said Confidential Information;
- e) already known to or in the possession of the Receiving Party with the full right to disclose prior to its receipt from the Disclosing Party or which is publicly available at the time of disclosure; and
- f) required to be disclosed by operation of law or by a valid order of a court of competent jurisdiction or of a government or regulatory agency to which the Receiving Party is subject to provided that the Receiving Party promptly notifies the other party of such order and makes good faith effort, to assist the party which originally disclosed the information, to obtain at the expense of the party which originally disclosed the information, a protective order requiring the Confidential Information so disclosed to be kept in confidence and use only for the purpose for which such order was issued *if so required* in writing by the party which originally disclosed the information.

2.7.11. The Term of Clause 2.7 shall be effective as of the date of this Agreement and shall continue during a period of five (5) year(s) from the date of this Agreement. However, those terms and conditions of this Agreement as set out in Clauses 2.7.3 to 2.7.9 above, which are, by their nature, meant to survive the Term of this Agreement, shall so survive in respect of each Confidential Information received by the Receiving Party for five (5) years from the respective date of receipt of such Confidential Information by the Receiving Party.

2.7.12. OWNERSHIP

- (a) All Confidential Information disclosed under Clause 2.7 (including information contained in computer software or held in electronics storage media) shall be and remain the property of the Disclosing Party.
- (b) All evidences or embodiments of the Confidential Information including, without limitation to all information, notes, analyses, compilations, studies, specifications, drawings, papers, computer disks, tapes, or other materials or format on which the Confidential Information is stored or other documents produced, developed or compiled by the Receiving Party and/or its representatives from the Confidential Information disclosed by the Disclosing Party (the "Derivatives") shall be deemed Confidential Information and the

obligations under Clause 2.7 in relation to Confidential Information shall apply to the Receiving Party in respect of Derivatives.

2.7.13. RETURN/DESTRUCTION OF EVIDENCE OR EMBODIMENTS

- (a) Any Evidences or embodiments, which have been furnished by the Disclosing Party to the Receiving Party will be promptly destroyed, deleted or returned to the Disclosing Party, accompanied by all copies of such documentation as soon as practicable upon expiry of the Term of Clause 2.7.
- (b) Notwithstanding the aforementioned, summaries, reports, notes or other material prepared by the Receiving Party or on the Receiving Party's behalf which incorporates Information may be retained by the Receiving Party solely for the purpose of compliance with any statutory, legal, regulatory or audit requirements and the Receiving Party hereby agrees that the same confidentiality obligations contained herein shall also apply to such retained documents.

2.7.14. STATUS AND EXPENSES

- (a) No Confidential Information made available to the Receiving Party or its advisors will constitute an offer or invitation or form the basis of any contract. The Disclosing Party shall be entitled at any time to decline to provide or to continue to provide any Confidential Information to the Receiving Party.
- (b) Nothing contained in this undertaking shall be construed as granting or conferring on the Receiving Party any rights by license or otherwise, expressly, impliedly or otherwise for any intellectual property rights, inventions, discoveries, improvements or developments made, required, acquired or conceived by the Disclosing Party prior to or after the date of this undertaking.
- (c) The Disclosing Party is not under any obligation to reimburse any costs and expenses which the Receiving Party may incur in connection with the review of the Confidential Information.

2.7.15. Neither party shall be entitled to assign or sub-contract or otherwise delegate any of its obligations hereunder by either Party without the prior written consent of the other party.

2.7.16. Information provided in the form of Engineering Change Notice (ECN) also known as Specification with a “uncontrolled copy” printed onto the cover page, will not be updated when the revision changes occur; unless requested by the Receiving Party.

2.7.17. GENERAL

- (a) The Receiving Party accepts that any breach of Clause 2.7 could cause injury to the Disclosing Party and that monetary damages would not be an adequate remedy. In the event of a breach or threatened breach by the Receiving Party, the Disclosing Party shall be entitled to injunctive relief in any court of competent jurisdiction. Nothing contained in this Agreement shall be construed as prohibiting the Disclosing Party from pursuing any other remedies available to it for a breach or threatened breach.
- (b) If any provision of Clause 2.7 is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of Clause 2.7 and the remainder of the provision in question shall not be affected thereby.
- (c) Any notice, communication or demand required to be given or made hereunder shall be in writing and deemed to have been sufficiently served if delivered personally or sent by registered post or by telex or facsimile transmission, (the respective numbers of which shall be made available to the parties hereto) to the addressee's address stated herein or to the last known registered office address (in the case of a Disclosing Party) or last known principal place of business (in the case of a firm) or last known address (in the case of an individual) of the addressee or the last known telex or facsimile number of the addressee and shall be deemed to be served or received in the ordinary course of post or (if sent by way of telex or facsimile transmission) at the time of such transmission.
- (d) Any writ of summons or any legal process in respect of any action or proceeding arising out of or connected with Clause 2.7 shall be sufficiently served on the Receiving Party if sent by registered post to the address stated herein or to the last known registered office address (in the case of a Disclosing Party) or last known principal place of business (in the case of a firm) or last known address (in the case of an individual) of the Receiving Party and shall be deemed served or received in the ordinary course of post.
- (e) The headings herein are inserted for convenience only and shall not affect the construction and/or interpretation of Clause 2.7.
- (f) No failure or delay by the Disclosing Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor

will any single or partial exercise thereof preclude any other or further exercise of any right, power or privilege hereunder.

- (g) This Clause 2.7 contains the entire agreement and understanding between the parties herein with respect to the subject matter hereof and supercedes all prior agreements, arrangements and communications, whether written or oral. Clause 2.7 can only be modified by a written amendment mutually agreed and signed by the parties herein.
- (h) These conditions shall be binding on the successors-in-title and permitted assigns of the parties hereto.