

**TERMS AND CONDITIONS OF SALE**

1. **PROCESS FOR PURCHASING PRODUCTS.** These Terms and Conditions of Sale ("Terms and Conditions") govern the sale by the party referenced on the Confirmation of Order ("Customer") by Micron Japan, Ltd., or if applicable to any particular transaction, any of its subsidiaries or affiliates ("Seller"). Unless otherwise agreed to in writing by the parties, Seller's acceptance of this Purchase Order is conditioned upon, Customer's agreement to these Terms and Conditions stated herein and on Seller's Confirmation of Order, which exclusively govern and control and are in lieu of, replace and supersede any and all terms and conditions set forth in any documents issued or submitted by Customer, including, without limitation, purchase orders and specifications. ANY ADDITIONAL, DIFFERENT, OR CONFLICTING TERMS AND CONDITIONS ISSUED OR SUBMITTED BY CUSTOMER IN ANY MANNER WHATSOEVER AT ANY TIME ARE HEREBY REJECTED BY SELLER, AND SHALL BE WHOLLY INAPPLICABLE TO ANY SALE MADE HEREUNDER AND SHALL NOT BE BINDING IN ANY WAY ON SELLER. No waiver or amendment to these Terms and Conditions shall be binding on Seller unless made in writing expressly stating that it is such a waiver or amendment and signed by Seller.
2. **PRICES.** Except as otherwise specified by Seller in writing, all billings for products and services will be at the price indicated on the Confirmation of Order. Seller shall have the right to increase the prices at any time to reflect increases in manufacturing costs or for any additional duty, tariff, tax, or other charge imposed as a result of any action by the U.S. Government, any state or local government, or any agent or agency thereof or to compensate for exchange rate variations. For such different prices, Customer may upon five (5) days written notice and within five (5) days of the date of Seller's acknowledgement, cancel this order without liability.
3. **PAYMENT.** ALL PAYMENTS SHALL BE MADE IN UNITED STATES DOLLARS WITHIN THIRTY (30) DAYS OF THE DATE OF INVOICE; provided, however, that if shipments are delayed by Customer without Seller's prior written consent, payments shall become due on the date that Seller is prepared to make shipment. Time is of the essence. On any amounts not paid when due, Customer agrees to pay interest at the rate of 1-1/2% per month (18% per year) or, if such rate is in excess of the rate allowed by law, then Customer agrees to pay the highest rate allowed by law. In addition, Customer agrees to pay all costs of collection, including costs of litigation and reasonable attorneys' fees. Seller may accept partial payment in an amount less than the full amount of any invoice, but such acceptance shall not constitute a waiver of Seller's right to collect the balance or accord and satisfaction notwithstanding Seller's endorsement of a check or other instrument. If Customer does not comply with the payment terms, Seller may suspend further shipments and require new payment terms as a condition of further shipments. If Customer is adjudicated bankrupt or a petition for winding up or judicial management is made against Customer or corporate reorganization under any bankruptcy or similar laws is filed by or against Customer, or Customer makes a general assignment for the benefit of creditors or a receiver and/or manager for Customer is appointed, Seller may, to the extent allowed by applicable law, cancel any unfilled order. Each individual shipment shall be invoiced and paid as a separate and independent transaction. Customer hereby grants, assigns, conveys, mortgages, pledges, hypothecates and transfers to Seller and Seller reserves a purchase money security interest in the products sold to Customer, and in the proceeds thereof, until payment is made in full by Customer. In the event that Customer sells or otherwise disposes of the products sold to Customer without the prior written consent of Seller prior to full payment for these products being made to Seller, Seller shall be entitled to the entire proceeds of sale, which amount will be held by Customer in a separate bank account on trust for Seller. Customer agrees to execute financing statements and other instruments at Seller's request and Customer authorizes the filing and recording of such financing statements and other instruments. Alternatively, Seller may file a copy of these Terms and Conditions of Sale.
4. **CREDIT.** All shipments, deliveries, and performance of work covered by this sale shall at all times be subject to credit approval or review by Seller at its sole discretion. Customer shall provide such credit information, references, and assurances as are requested by Seller at any time. Customer authorizes such references to release credit information about Customer's accounts and warrants that all such information and assurances shall be true and correct. Customer agrees to indemnify and hold harmless Seller and their employees and agents from any and all liability, including all costs and reasonable attorneys' fees, resulting from the references and released information and the extension of credit hereunder. Seller, in its sole discretion and judgment, may discontinue credit at any time without notice.
5. **TAXES.** Stated prices do not include any customs duties, sales, use, value added, excise, goods and services, federal, state, local or other similar taxes. All such duties or taxes shall be paid by Customer, or, in lieu thereof, Customer shall provide Seller with an appropriate exemption certificate acceptable to the relevant taxing authority.
6. **F.C.A. AND RISK OF LOSS.** All shipments are F.C.A. Seller's shipping facility. Seller's liability for delivery shall cease and title and all risk of loss or damage shall pass to Customer upon delivery to carrier, per Incoterm 2010 rules, regardless of any provision for payment of freight or insurance or the form of shipping documents. Products held by Seller for Customer shall be at Customer's risk and expense. Unless otherwise specified by Seller in writing, Seller shall ship by the method which it deems most advantageous. Transportation will be collected, or if prepaid, will be subsequently billed to Customer. Claims against Seller for shortages shall be deemed waived if not made within ten (10) days after receipt of the shipment. Seller may modify the specifications of products designed by Seller, provided such modifications do not adversely affect the performance of the products.
7. **ORDER CANCELLATION; RETURNS AND ADJUSTMENTS.** Customer may cancel any Purchase Order without liability by providing Seller with at least thirty (30) days' written notice of cancellation prior to the scheduled shipment date. No delivered product may be returned by Customer for any reason without the prior written authorization of Seller. All returns shall be in the original packaging or equivalent. Any product returned to Seller without prior authorization for its return or proper packaging may be refused.
8. **REMEDIES.** If Customer fails to pay any sum when due, fails to accept any delivery of conforming goods, returns product without advance written authorization of Seller, or otherwise fails to abide by these Terms and Conditions, in addition to any other remedies allowed by law and under these terms, Seller may suspend deliveries while Customer is in breach, or cancel all further deliveries, and Customer shall remain liable for, as damages, the difference between the stated price of this sale and the average selling price obtained by Seller for product of like kind and quality for sales at or about the time of scheduled delivery.
9. **FORCE MAJEURE.** Seller shall not be liable for any delay in performance directly or indirectly caused by or resulting from acts of God, fire, flood, accident, riot, war, terrorism, epidemic, pandemic, government intervention, embargoes, strikes, labor difficulties, equipment failure, late delivery by suppliers or other difficulties which are beyond the reasonable control of Seller. QUANTITIES ARE SUBJECT TO AVAILABILITY. In the event of production difficulties or product shortages, Seller may allocate sales and deliveries at its sole discretion.
10. **ORDER; FORECASTS; COMPONENT RESALE.** Customer acknowledges that Seller has offered to negotiate sales of its different products in separate transactions, but Customer has specifically requested that Seller sell the set of products hereunder together. Seller recommends that Customer provide a forecast of Seller's intended product purchases for a twelve (12) month period on a rolling monthly basis. Customer's forecast are non-binding estimates for planning purposes. Customer shall not resell components, or remove components from a board for resale or otherwise, except upon express Seller's prior written authorization.
11. **PRODUCT SAMPLES.** Product samples or prototypes are sold or provided on an "AS IS" BASIS, WITHOUT WARRANTIES OF ANY KIND.
12. **WARRANTY.** EXCEPT AS SET FORTH EXPRESSLY IN THIS SECTION, SELLER MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OTHER WARRANTIES THAT MIGHT ARISE FROM COURSE OF DEALING OR CUSTOM OF TRADE. SELLER WARRANTS ONLY THAT THE PRODUCT COMPLIES WITH SELLER'S SPECIFICATION SHEET FOR THE PRODUCT AT THE TIME OF DELIVERY, PROVIDED THAT DEVIATIONS FROM SPECIFICATIONS WHICH DO NOT MATERIALLY AFFECT PERFORMANCE OF SUCH PRODUCT IN THE SYSTEM AND CONFIGURATION IN OR FOR WHICH IT IS INITIALLY INSTALLED OR QUALIFIED BY CUSTOMER SHALL NOT BE DEEMED TO CONSTITUTE FAILURE TO COMPLY WITH SUCH SPECIFICATIONS. All warranties cover only defects arising under normal use in compliance with Seller's specifications and do not include malfunctions or failures resulting from misuse, , malicious attack, intentional misconduct, hacking, row-hammer invasions abuse, neglect, alteration, modification, combination, failure by customer of qualification of product, or improper installation, or repairs by anyone other than Seller. Further, warranties do not cover nonconformity resulting from a custom product, Customer's design, specifications, or integration with Customer's system. No agent, employee or representative of Seller has any authority to bind Seller to any affirmation, representation or warranty relating to the products other than as specifically provided herein.
  - (a) Except as expressly provided in Sections 12(b), 12(c), and 12(d) of these Terms and Conditions, any claim against Seller must be made within ninety (90) days from the date of shipment by Seller for Micron-branded products and Seller has no liability thereafter.

## Micron Confidential

(b) SpecTek Products are sold or provided on an "AS IS" BASIS, WITHOUT WARRANTIES OF ANY KIND, except as indicated in the [Buyers Guide](#) or as prohibited by local statute.

(c) For client solid-state drive ("SSD") products, any claim against Seller must be made within three (3) years from the date of shipment by Seller or prior to the occurrence of the client SSD exceeding its useful life as specified in Seller's specifications, whichever occurs earlier, and Seller has no liability thereafter. For data center SSD products, any claim against Seller must be made within five (5) years from the date of shipment by Seller or prior to the occurrence of the data center SSD exceeding its useful life as specified in Seller's specifications, whichever occurs earlier, and Seller has no liability thereafter. "Data center SSDs" prior to July 2020 were referenced in these Terms and Conditions as "enterprise SSDs".

(d) For refurbished client SSD products and refurbished data center SSD products (collectively, "Refurbished SSD"), any claim against Seller must be made within one (1) year from the date of shipment by Seller or prior to the occurrence of the Refurbished SSD exceeding its useful life as specified in Seller's specifications, whichever occurs earlier, and Seller has no liability thereafter.

(d) For Micron-branded DRAM modules sold through an authorized distribution channel, any claim against Seller must be made within three (3) years from the date of shipment by Seller and Seller has no liability thereafter.

(e) The warranty provided for herein is subject to the following conditions: (i) the product must have been purchased from Micron or a Micron authorized distribution channel; (ii) if product becomes defective during the warranty period, Customer shall notify Seller promptly, and no later than ten (10) days after the failure has been detected, in writing of any claims; (iii) if Seller authorizes Customer to return product for repair or replacement, Customer will follow Seller's instructions with respect to the return of such product within thirty (30) days and install all software updates as directed by Seller; (iv) if product alleged by Customer to be defective or returned to Seller for repair as provided in this section is either (x) not under warranty, or (y) determined by Seller not to be defective, or (z) defective due to any cause or condition not covered under the warranty provided herein, Customer agrees to reimburse Seller for all reasonable expenses incurred in traveling and/or the shipping, handling, and inspection of such product; (v) products will be accepted by Seller for warranty claim verification only when returned by Customer in a condition which allows for suitable testing by Seller; (vi) when more than one type of product is returned, the products must be segregated by product type; (vii) Seller shall reimburse Customer for shipping charges to the extent of the percent of the total returns that are found by Seller to be defective as specified herein; (viii) any returned products damaged or destroyed by Customer or third parties will not be covered by this warranty, and will not be returned to Customer, but will be scrapped by Seller. Any products which are repaired are warranted only for the remaining warranty period. For any warranty claim, irrespective of product, Seller's liability at Seller's sole discretion is limited to repair or replacement of the defective product or credit or refund of the applicable depreciated portion of the purchase price of the defective product over the term of the applicable warranty. The foregoing warranties shall not be enlarged by, nor shall any obligation or liability of Seller arise due to, Seller providing technical advice, facilities or service in connection with any products.

13. **LIMITATION OF LIABILITY.** TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES ARISING FROM THESE TERMS, SELLER'S PERFORMANCE OR FAILURE TO PERFORM UNDER THIS SALE, OR THE FURNISHING, PERFORMANCE OR USE OF ANY GOODS OR SERVICES SOLD PURSUANT HERETO, WHETHER DUE TO A BREACH OF CONTRACT, BREACH OF WARRANTY, STRICT LIABILITY, THE NEGLIGENCE OF SELLER, OR OTHERWISE. EXCLUDED DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, COST OF REMOVAL, RECALL, REWORK, REINSTALLATION, ANCILLARY COSTS TO THE PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, RETESTING, OUTSIDE COMPUTER TIME, LABOR COSTS, LOSS OF GOODWILL, LOSS OF PROFITS, LOSS OF SAVINGS, LOSS OF USE, LOSS OF DATA, OR BUSINESS INTERRUPTION, INCLUDING LINES DOWN. NO CLAIM, SUIT OR ACTION WILL BE BROUGHT AGAINST SELLER MORE THAN TWELVE (12) MONTHS AFTER THE EVENT THAT FIRST GAVE RISE TO THE CAUSE OF ACTION OCCURRED. IN NO EVENT WILL SELLER'S AGGREGATE LIABILITY HEREUNDER, INCLUDING, WITHOUT LIMITATION, FROM ANY WARRANTY, OR OTHER OBLIGATION ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID TO SELLER FOR THE PARTICULAR ORDER AT ISSUE DURING THE PRIOR SIX (6) MONTHS WITH RESPECT TO WHICH LOSSES OR DAMAGES ARE CLAIMED. THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE OR EXTEND THIS LIMIT. THE FOREGOING LIABILITY LIMITATIONS ARE ESSENTIAL ELEMENTS OF THIS AGREEMENT AND THAT IN THE ABSENCE OF SUCH LIMITATIONS THE MATERIAL AND ECONOMIC TERMS OF THIS AGREEMENT WOULD BE SUBSTANTIALLY DIFFERENT.

14. **NO WARRANTY AGAINST PATENT INFRINGEMENT.** CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT SELLER DOES NOT WARRANT THAT THE PRODUCT IS FREE OF CLAIMS OF PATENT INFRINGEMENT OR OTHER INFRINGEMENT BY ANY THIRD PARTY. SELLER HEREBY DISCLAIMS ANY SUCH WARRANTY OR INDEMNIFICATION AGAINST ANY INFRINGEMENT.

15. **CRITICAL COMPONENTS AND CRITICAL APPLICATIONS.** CUSTOMER ACCEPTS ALL LIABILITY FOR USE OF SELLER'S PRODUCTS IN HEALTH DEVICES OR SYSTEMS OR IN ANY OTHER CRITICAL APPLICATIONS. SELLER'S PRODUCTS ARE NOT AUTHORIZED FOR USE AS CRITICAL COMPONENTS IN HEALTH DEVICES OR SYSTEMS OR OTHER CRITICAL APPLICATIONS. Health devices or systems are those which are intended to support or sustain life and whose failure to perform can be reasonably expected to result in a significant injury to the user. Critical components are those whose failure to perform can be reasonably expected to cause failure of a health device or system or affect its safety or effectiveness. Critical applications are those applications in which failure of the Seller's product could result directly or indirectly in death, personal injury, or severe property or environmental damage. CUSTOMER ACKNOWLEDGES THAT ALL SEMICONDUCTOR PRODUCTS EXPERIENCE FAILURE RATES, WHICH MAY VARY ACCORDING TO USE CONDITIONS AND OTHER CIRCUMSTANCES. CUSTOMER ACKNOWLEDGES AND AGREES THAT CUSTOMER IS RESPONSIBLE FOR ALL DESIGN DECISIONS REGARDING CUSTOMER'S PRODUCTS AND IS SOLELY RESPONSIBLE TO IMPLEMENT SAFETY MEASURES TO GUARD AGAINST THE POSSIBILITY OF INJURY OR DAMAGE IN THE EVENT OF A FAILURE OR MALFUNCTION OF A SELLER'S PRODUCT USED IN A CUSTOMER PRODUCT OR SYSTEM. SHOULD CUSTOMER PURCHASE OR USE SELLER'S PRODUCTS FOR ANY CRITICAL APPLICATION, CUSTOMER SHALL INDEMNIFY AND HOLD SELLER HARMLESS AGAINST ALL CLAIMS, COSTS, DAMAGES AND EXPENSES AND REASONABLE ATTORNEYS' FEES ARISING OUT OF, DIRECTLY OR INDIRECTLY, ANY CLAIM OF LIABILITY, PRODUCT LIABILITY, PERSONAL INJURY, OR DEATH ARISING IN ANY WAY OUT OF USE OF SELLER'S PRODUCT IN A HEALTH DEVICE OR SYSTEM OR OTHER CRITICAL APPLICATION.

16. **AUTOMOTIVE APPLICATIONS INDEMNITY AND OBLIGATION TO NOTIFY.** PRODUCTS ARE NOT DESIGNED OR INTENDED FOR USE IN AUTOMOTIVE APPLICATIONS UNLESS SPECIFICALLY DESIGNATED BY MICRON AS AUTOMOTIVE-GRADE BY USE OF THE SUFFIX "A\*" (INCLUDING BUT NOT LIMITED TO AIT, AAT AND AUT) IN THE PART NUMBER OR DESIGNATED AS SUCH BY THEIR RESPECTIVE DATASHEETS. CUSTOMER SHALL ASSUME THE SOLE RISK AND LIABILITY FOR AND SHALL INDEMNIFY AND HOLD MICRON HARMLESS AGAINST ALL CLAIMS, COSTS, DAMAGES, AND EXPENSES AND REASONABLE ATTORNEYS' FEES ARISING OUT OF, DIRECTLY OR INDIRECTLY, ANY CLAIM OF PRODUCT LIABILITY, PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE RESULTING DIRECTLY OR INDIRECTLY FROM ANY USE OF NON-AUTOMOTIVE-GRADE PRODUCTS IN AUTOMOTIVE APPLICATIONS. CUSTOMER SHALL ENSURE THAT THESE TERMS AND CONDITIONS OF SALE BETWEEN CUSTOMER AND ANY END CUSTOMER OF CUSTOMER (1) STATE THAT MICRON PRODUCTS ARE NOT DESIGNED OR INTENDED FOR USE IN AUTOMOTIVE APPLICATIONS UNLESS SPECIFICALLY DESIGNATED BY MICRON AS AUTOMOTIVE-GRADE BY USE OF THE SUFFIX "A\*" IN THE PART NUMBER OR DESIGNATED AS SUCH BY THEIR RESPECTIVE DATASHEETS AND (2) REQUIRE SUCH END CUSTOMER TO INDEMNIFY AND HOLD MICRON HARMLESS AGAINST ALL CLAIMS, COSTS, DAMAGES, AND EXPENSES AND REASONABLE ATTORNEYS' FEES ARISING OUT OF, DIRECTLY OR INDIRECTLY, ANY CLAIM OF PRODUCT LIABILITY, PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE RESULTING DIRECTLY OR INDIRECTLY FROM ANY USE OF NON-AUTOMOTIVE-GRADE PRODUCTS IN AUTOMOTIVE APPLICATIONS.

17. **SOFTWARE OR FIRMWARE.** Any software or firmware included with products licensed by Seller is protected by copyright law and international treaty provisions. Unless otherwise provided for in applicable software terms, by purchasing a hardware product that includes pre-loaded software or firmware, Customer is hereby granted a limited copyright license to use the software or firmware solely in conjunction with the hardware product. No other rights or licenses to the software or firmware are granted under these terms. Customer agrees to comply with the license hereunder, all copyright laws and other applicable laws in connection with the software or firmware. Software or firmware which may be provided with the product are provided on an AS IS basis, with no representations or warranties of any kind. In the event that Customer refuses or fails to install a software or firmware update, any warranties set forth in these Terms and Conditions for any products shall be void and no longer applicable.

18. **PRODUCT DISCONTINUANCE.** Seller reserves the right to discontinue production of any product at any time without notice except for that quantity of product for which Seller has received, acknowledged and accepted a Purchase Order from Customer and has scheduled such product for shipment within six (6) months of the date of such acceptance.

## Micron Confidential

19. PROPERTY RIGHTS. The design, development or manufacture by Seller of a product for Customer shall not be deemed to produce a work made for hire and shall not give to Customer any copyright interest in the product or any interest in all or any portion of the mask works or other intellectual property rights relating to such product. All such rights shall remain the property of Seller. No license, express or implied, with regard to any trademark of Seller or its affiliated companies is granted to Customer under this agreement. Sale of products or any part thereof does not convey to Customer any license, express or by implication, estoppel or otherwise, under any patent or patent claim with respect to which Seller can grant licenses covering completed equipment, or any assembly, circuit, combination, method or process in which any such products are used as components (notwithstanding the fact that such products may have been designed for use in or may only be useful in such patented equipment, assembly, circuit, combination, method or process, and that such products may have been purchased and sold for such use). Seller expressly reserves all rights under such patent or patent claim.

20. CONFIDENTIAL INFORMATION. Seller shall have no obligation to hold any information received from Customer hereunder in confidence unless such information is covered by a separately negotiated non-disclosure agreement which is reduced to writing and signed by both parties. Unless covered by a separate non-disclosure agreement executed by the parties, Customer acknowledges that all information and materials that come into Customer's possession or knowledge in connection with past and future purchases of product from Seller and which is marked, identified, accepted as confidential or proprietary information or may be deemed confidential or proprietary by its nature or by the circumstances of its disclosure ("Confidential Information"), consists of confidential or proprietary information the improper disclosure or use of which will be damaging to Seller. Therefore, Customer agrees to hold all Confidential Information in confidence to disclose Confidential Information only to those of its employees having a need to know, and not to disclose Confidential Information to any other party. Customer agrees that it will not use of any Seller's Confidential Information, and to the fullest extent permissible under applicable law, will not modify, reverse engineer, reverse compile, reverse assemble or synthesize in any way Micron products or Micron Confidential Information to facilitate or aid in the design, debugging of a memory, storage or other semiconductor device whether for internal consumption, open market sale or for any other purpose inconsistent with these Terms and Conditions.

21. EXPORT COMPLIANCE AND ECONOMIC SANCTIONS. Customer is responsible for complying with all applicable export control laws and regulations with respect to the reexport, shipment, transfer, or use of the products. Customer will not provide products to entities or individuals that are prohibited from receiving such products under applicable laws, including the laws of the United States. Customer shall conduct sufficient screening and due diligence to ensure the transaction does not involve any person or entity identified as a restricted or denied party pursuant to any embargo, sanction, debarment or denied party designation maintained by any country or government whose laws are applicable to this transaction, to the extent that designation prohibits the transaction. A current list of such prohibited entities under U.S. law is available at the following link: [http://2016.export.gov/ecr/eg\\_main\\_023148.asp](http://2016.export.gov/ecr/eg_main_023148.asp). Customer will not export, reexport, or transfer products as follows, unless it has authorization to do so under any applicable export control and sanctions laws of the United States: (a) to the Crimea Region, Cuba, Iran, North Korea, Sudan, Syria, or any other country sanctioned or embargoed under U.S. law, or any nationals of such countries; (b) for military end-uses or military end-users restricted under United States laws; and (c) for any end use involving the development, production or uses in connection with chemical, biological, or nuclear weapons, rocket systems or unmanned air vehicle applications, or missiles capable of delivering such weapons. Customer agrees to obtain an export license, if applicable, for sales, exports, reexports and/or transfers of Seller's products and/or sale of platforms containing Seller's products as applicable. Customer agrees that they will not transfer any export-controlled item to include transfer to foreign persons, including any lower tier customers, without the necessary export license, or applicable exemption or exception.

22. GOVERNING LAW. This agreement is governed by the laws of Japan. Customer acknowledges and agrees that Tokyo courts have jurisdiction over this agreement and Customer, that Tokyo is an appropriate place for venue of any litigation, and that all litigation, shall be in Tokyo. Customer consents and agrees that Tokyo shall be the sole forum for resolution of disputes regarding this Agreement or transactions hereunder. The parties hereby acknowledge and agree that the provisions of the Sale of Goods (United Nations Conventions) Act, Chapter 283A, as amended or replaced, are expressly excluded and shall not apply to these Terms and Conditions of this Order.

23. ASSIGNMENT. Customer may not assign its rights or obligations hereunder without the express prior written consent of Seller, and any assignment without such consent shall be a breach hereof by Customer. Seller shall be entitled at any time to assign its rights or obligations hereunder to any third party without Customer's prior written consent.

24. TERM; TERMINATION. These Terms and Conditions will remain in effect for the longer of (a) fulfillment of the order or (b) if Seller terminates the relationship with Customer for convenience. If Customer materially breaches these Terms and Conditions and fails to cure such breach within thirty (30) days after receiving such notice of the breach from Seller, Seller may terminate these Terms and Conditions. Seller may terminate these Terms and Conditions and uncompleted portions of any and all pending orders if Customer files for protection under bankruptcy laws, makes an assignment for the benefit of creditors, or a trustee or a similar officer is appointed for the other party or its assets. On termination or expiration of these Terms and Conditions Sections 3, 5, 8, 9, 11,12 (solely disclaimer of warranty), 13, 14, 15, 16, 17 (solely disclaimer of warranty), 19, 20, 21, 22, 24, and 25 shall survive. Termination will not prejudice either party to require performance of any obligation due at the time of termination.

25. ENTIRE AGREEMENT; SEVERABILITY; HEADINGS. These Terms and Conditions and any applicable nondisclosure agreement, (but expressly not including any terms and conditions of Customer's documents, including any Purchase Order) constitute the entire agreement with regard to this sale and expressly supersede and replace any prior or contemporaneous agreements, written or oral, relating to said sale. Seller and Customer are independent contractors of one another. This agreement shall be binding upon the heirs, successors, and permitted assigns of the parties hereto. If any provision of this agreement is adjudged to be unenforceable in whole or in part, such adjudication shall not affect the validity of the remainder of this agreement. Each provision of this agreement is severable from every other provision and constitutes a separate, distinct and binding covenant. No third party beneficiaries are intended or created unless specifically agreed otherwise in writing. A waiver of a breach of any term will not be construed as a waiver of any succeeding breach of that term or as a waiver of the term itself. A party's performance after that other's breach will not be construed as a waiver of that breach. Each party will, at its own expense, comply with all applicable governmental laws, statutes, ordinances, administrative orders, rules or regulations relating to its obligations and performance under this agreement. Headings are inserted solely for convenience of reference, shall not constitute a part of this agreement and shall not otherwise affect the interpretation hereof.

Revised August 20, 2024 - Micron Japan, Ltd.