



STANDARD TERMS AND CONDITIONS

Acceptance. These Standard Terms and Conditions and the Confirmation (taken together, the "Agreement") constitute the entire agreement between Acacia Communications, Inc. and/or its direct or indirect wholly owned affiliates ("Acacia") and the customer identified in the Confirmation ("Customer") for the purchase and sale of Products. In the case of any conflict or inconsistency between these Standard Terms and Conditions and the Confirmation, the provisions of these Standard Terms and Conditions shall control. This Agreement controls over any additional, conflicting or different terms in Customer's purchase order or other documentation. Customer's acceptance will be indicated in any reasonable manner (such as, for example, by submitting a purchase order referencing the Sales Quote, by signing or acknowledging the Confirmation, or by taking delivery of or paying for any Product). Notwithstanding the foregoing, if Customer and Acacia have signed and delivered a separate written agreement (such as, for example, a channel partner agreement or supply agreement) that is currently effective and intended to cover the Products identified in the Confirmation ("Other Supply Agreement"), then the terms and conditions of the Other Supply Agreement (not these Standard Terms and Conditions) shall apply to the purchase and sale the Products.

Definitions. "Confirmation" means the most current sales acknowledgment, confirmation or other similar writing issued by Acacia that accepts Customer's order for Products (or invoice, if no such writing exists); "Customer Application" means any product, system, network or other application in which Customer (or its customer) includes or uses any Product; "Hardware" means any module, appliance, system or other equipment supplied by Acacia; "Product" means any Hardware or Software product that is specifically identified in the Confirmation; "Prototype" means any Product that is identified in the Confirmation as a sample, prototype, emulator or other pre-production or non-production version; "Sales Quote" means the most current sales quotation, proposal or other similar writing provided by Acacia that describes the Products, prices and lead times offered to Customer; "Software" means any firmware or other computer program (in object code) that is installed and executes on Hardware, or that is delivered on separate media and loaded and executed on any Hardware (or loaded and executed on Customer's computer system in connection with operating any Hardware); "Specification" means the technical specification (not including marketing collateral) applicable to the Product, as prepared by Acacia.

Orders. Prices and lead times stated in any Sales Quote expire after 30 days, unless expressly stated otherwise therein. In the absence of a Sales Quote, Acacia's list prices and standard lead times shall apply. Orders must be in writing and submitted by mail, facsimile, electronic mail or other means agreed by Acacia. No order shall be binding

upon Acacia until Acacia confirms acceptance (including without limitation, credit approval) by delivering a Confirmation. Customer may not cancel or otherwise modify any order after Confirmation, without Acacia's prior written consent; provided, no more than once, Customer may extend by up to thirty (30) days the delivery date(s) by giving written notice to Acacia at least thirty (30) days prior to the scheduled delivery date for that order, provided that such new delivery date is within the same calendar quarter as the original scheduled delivery date.

Delivery. Acacia will use reasonable efforts to supply to Customer by full or partial shipment such quantity of Products as set forth in the Confirmation. Products will be packed in accordance with Acacia's standard practices and delivered to Customer or its carrier EXW (Incoterms 2010), Acacia's designated facility. Upon such delivery, title to Hardware (but not Software), and all risk of loss and damage to Products, shall pass to Customer. Customer shall be solely responsible to arrange and pay for all costs of handling, shipping and insuring the Products. If Customer does not provide complete instructions in the order, then Acacia may make such arrangements, which will be charged to Customer (or if paid for by Acacia, then Customer shall promptly reimburse Acacia). Delivery may be made in advance of scheduled delivery dates upon reasonable prior notice to Customer. Delivery dates are not guaranteed and Product supply is subject to availability and Acacia's other obligations. In case of shortages, Acacia may allocate Products among its customers in its reasonable discretion. Acacia will endeavor to notify Customer if its Product requirements will not likely be satisfied, as a result of shortage or delay. In no event shall Acacia be liable for damages or penalties of any kind for delay in delivery or for failure to give notice of delay. Customer shall submit all claims for shortages or notice of other irregularities to Acacia within 10 days after delivery.

Payments. Prices and other amounts payable by Customer are described in the Confirmation. All amounts shall be due and payable within 30 days by wire transfer to an account specified by Acacia, in full without set-off, counterclaim or deduction. Past due amounts shall bear a late payment charge until paid at the rate of 1.5% per month or the maximum amount permitted by law, whichever is less. If any payment is past due, Acacia shall have the right to take whatever action it deems appropriate (including without limitation, suspending its performance until paid, requiring payment in advance, requiring Customer to establish an irrevocable standby letter of credit or refusing further orders). Customer agrees to reimburse Acacia for all reasonable costs (including attorneys' fees) incurred in collecting payments.

Taxes. All prices and payments to Acacia are exclusive of federal, state, local and foreign taxes (including sales, use and value added taxes), withholdings, duties, tariffs,

levies and similar assessments on the sale, transport or use of any Product, and Customer agrees to be liable for and pay all such charges. If Customer claims exemption from any tax, then it shall furnish Acacia with a valid tax exemption certificate issued by or acceptable to the applicable taxing jurisdiction or entity. All amounts due hereunder shall be grossed-up for any withholding taxes.

Security. To secure Customer's full and timely payment, Customer hereby grants to Acacia a valid, first priority, continuing lien on and security interest in all Products and proceeds of resale. Customer irrevocably authorizes Acacia, at any time and from time to time, to file corresponding financing statements, and Customer agrees to execute any notice, assignment or other documents and to otherwise assist Acacia in perfecting and recording its security interest.

Limited Warranty. (i) Acacia warrants to Customer that Products, other than Prototypes) will be free from defects in materials and workmanship and will operate in substantial conformance with the then current (at time of delivery) published Specification. Warranty claims must be made within one (1) year after shipment of the nonconforming Product. Acacia's sole obligation under this warranty, and Customer's exclusive remedy, is to use reasonable efforts to repair or replace any Product that Acacia determines, in its reasonable judgment, is defective or, at Acacia's sole discretion, to accept return of such Product and credit the actual price paid to Customer's account. Customer must obtain Acacia's prior written authorization and comply with Acacia's instructions in connection with returning any Product under warranty. (ii) Prototypes are intended to function in line with preliminary specifications, but may contain errata and may not function properly. Customer acknowledges and agrees that Prototypes are pre-release, pre-production technology that has not yet been licensed and/or sold to commercial customers and may contain "bugs," incomplete documentation or other inconsistencies. Prototypes are covered by a limited six (6) month warranty on parts and workmanship. During the warranty term, Acacia will repair or replace any Prototype that includes defective parts or workmanship. This limited warranty does not include product upgrades. (iii) If Prototypes are designated "Hot Samples" by Acacia, then the Prototypes come with no product warranty and are delivered "as is." Except as stated above in clause (ii), Acacia makes no warranties or representations with respect to Prototypes or any part thereof, express or implied, in fact or in law, and disclaims all warranties, including the implied warranties of merchantability, fitness for a particular purpose, and noninfringement. Acacia gives no assurance that the Prototypes are suitable for any use beyond test and evaluation. Acacia shall have no liability arising out of the use of any Prototypes.

Warranty Service. Requests for warranty service shall be initiated by written notice from Customer (including by facsimile or electronic mail), advising Acacia of the nature of the problem. If Acacia is unable to resolve the problem through remote diagnostics or other communications with Customer, Acacia shall assign Customer a return material authorization number ("RMA"). At its risk and expense, Customer shall deliver the nonconforming Product (with prominent indication of the RMA) to Acacia or its designated

repair center. Any Product returned without an RMA shall not be afforded warranty service, and Acacia shall return such Product to Customer at Customer's sole cost and expense. Products repaired or replaced hereunder shall be covered by the warranty for the longer of 30 days after re-shipment to Customer or the remainder of the original warranty period. All Products (or any component) that are replaced hereunder become Acacia's property.

Exclusions. No warranty applies to any Product that is (a) returned without Acacia's prior written authorization, (b) handled, transported, installed, operated, maintained, stored or used improperly, or in any manner not in accord with the Specification, Acacia's instructions or recommendations or industry standard practice or (c) repaired, altered or modified other than by Acacia or its authorized agents.

Disclaimers. EXCEPT AS EXPRESSLY SPECIFIED IN THESE STANDARD TERMS AND CONDITIONS, ALL PRODUCTS ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. ACACIA DOES NOT WARRANT THAT PRODUCTS WILL BE COMPATIBLE WITH ANY CUSTOMER APPLICATION OR OTHERWISE MEET CUSTOMER'S REQUIREMENTS, OR THAT OPERATION WILL BE UNINTERRUPTED OR ERROR-FREE. ACACIA HEREBY DISCLAIMS (FOR ITSELF AND ITS SUPPLIERS) ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF NON-INFRINGEMENT, INTEGRATION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM ANY COURSE OF DEALING OR PERFORMANCE OR USAGE OF TRADE. CUSTOMER ACKNOWLEDGES THAT IT (NOT ACACIA) IS RESPONSIBLE FOR THE SELECTION OF THE PRODUCTS AND ALL RESULTS OBTAINED FROM USE OF THE PRODUCTS IN CUSTOMER APPLICATIONS, AND THAT CUSTOMER HAS RELIED SOLELY ON ITS OWN TECHNICAL AND COMMERCIAL EXPERTISE, EXPERIENCE AND ANALYSES IN DECIDING TO ENTER INTO THIS AGREEMENT.

Confidentiality. The term "Confidential Information" means all financial, business and technical information that is disclosed by or for Acacia in relation to this Agreement, which is marked or otherwise identified as proprietary or confidential at the time of disclosure or which, by its nature, would be understood by a reasonable person to be proprietary or confidential), and all copies, abstracts, summaries, analyses and derivatives thereof. Without limitation, Confidential Information includes the Specification and pricing information. Confidential Information shall not include any information that Customer can demonstrate is generally available to the public without breach of this Agreement. Customer shall maintain Confidential Information as secret and, except for the specific rights granted by this Agreement, Customer shall not possess, access, use or disclose any Confidential Information without Acacia's prior written consent. Customer may disclose Confidential Information only to its employees and contractors that have a need to know and who are bound by confidentiality obligations at least as protective as these. Customer shall be responsible for any breach of confidentiality by its employees and contractors. Within 10 business days following the termination of this Agreement, or at any time upon Acacia's request, Customer shall return all tangible Confidential Information, permanently erase all

Confidential Information from any storage media and destroy all information, records and materials developed therefrom.

Restrictions. Customer agrees not to use any Confidential Information to create any product or specification that is similar to any Product or Specification, not to decompile, disassemble or otherwise reverse engineer any Product or use similar means to discover its underlying composition, structure, design, source code or trade secrets, not to use the Products (or allow the transfer, transmission, export or re-export of all or any part of the Products or any product thereof) in violation of any export control laws or regulations of the United States or any other relevant jurisdiction, not to alter, obscure or remove any patent notice or other proprietary or legal notice contained on any Product or packaging, and not to permit any third party to do any of the foregoing. Customer further agrees to not implicate any Acacia Intellectual Property (as defined below) in a lawsuit against a third party, including without limitation other Acacia customers, without Acacia's express prior written consent.

Software. Notwithstanding anything to the contrary herein, Software is licensed, not sold. Any reference to the sale or price of Software or copy thereof refers to its license or license fee. Subject to all terms and conditions herein, Acacia grants Customer a nonexclusive, nontransferable (except to any subsequent purchaser of the applicable Hardware) right and license (without right to sublicense) to use the Software solely in connection with the Hardware for which it was provided. Software may contain code or require devices that detect, prevent or disable unauthorized use.

No Implied Licenses. Except for the Software license expressly granted hereunder, Acacia shall own and retain all rights, title and interests to its intellectual property including without limitation as embodied in its Products, inventions, information, documentation, improvements, works of authorship, processes, techniques, know-how, specifications, algorithms, designs, patent rights, trademarks, copyright rights, trade secrets, software, firmware, confidential information, proprietary rights, data and all materials provided by Acacia to Customer to facilitate this Agreement ("**Acacia Intellectual Property**"). If any derivatives, improvements, modifications, and enhancements to Acacia Intellectual Property are contemplated by or occur pursuant this Agreement or any attachments hereto, Acacia shall own all rights, title, and interests in and to all derivatives, improvements, modifications, and enhancements to Acacia Intellectual Property regardless of what Party creates it.

Indemnification. Customer agrees to (a) defend Acacia against any demand, suit, action or other claim by a third party that is related to any Customer Application, any representation, warranty or other statement concerning any Product made by or for Customer (except those that conform to the Specification), Customer's violation of any applicable law or regulation, Customer's negligence, misconduct or breach of this Agreement or actions excluded from Acacia's indemnity below, and (b) indemnify Acacia for settlement amounts or damages, liabilities, costs and expenses (including reasonable attorneys' fees)

awarded and arising out of such claim.

Infringement. Except as provided below and provided Customer is not in breach of this Agreement, Acacia agrees to (a) defend Customer against any demand, suit, action or other claim by a third party alleging that the Product infringes a valid US patent (issued as of the Effective Date) or any copyright of such third party enforceable in a country that is a signatory of the Berne convention, and (b) pay Customer for the resulting costs and damages finally awarded against Customer by a court of competent jurisdiction to the extent such are the result of a third party claim or pay the amounts stated in a written settlement approved by Supplier. If the Product becomes or, in Acacia's opinion, is likely to become the subject of such a claim, Acacia shall, at its option, either (i) obtain for Customer the right to continue using the Product, (ii) replace or modify the Product so that it becomes non-infringing without substantially compromising its principal functions, or (iii) if in Acacia's sole opinion neither (i) nor (ii) are reasonable, Acacia may terminate this Agreement with respect to the affected Products upon written notice to Customer and refund to Customer the depreciated value of such Products that are returned to Acacia (calculated as the price Customer paid less amortization on a straight-line basis over a 3-year period).

Exclusions. Acacia shall have no liability or obligation hereunder with respect to any claim attributable to (a) any use of a Product not strictly in accord with this Agreement, or in an application or environment or on a platform or with devices for which it was not designed or contemplated, (b) alterations, modifications or enhancements of the Product not created by or for Acacia, (c) combinations, operation, or use of a Product as provided by Acacia to Customer with any products, services, items, or technology that were not provided by Acacia to Customer, (d) Customer's continuing allegedly infringing activity after being notified to stop use thereof or its continuing use of any version of the Product after being provided modifications or upgrades that would have avoided the alleged infringement, (e) Products that comply in whole or in part with Customer's designs, specifications, instructions or technical information, (f) services provided by Customer and/or any revenue Customer derives therefrom (g) any intellectual property right in which Customer or any of its Affiliates has or had an interest or (h) any entity that derives more than 50% of its revenue from patent licensing and/or asserting patent claims against third parties.

Entire Liability. The foregoing indemnity states the entire liability of Acacia, and Customer's exclusive remedy, with respect to any actual or alleged violation of intellectual property rights by any Product, any part thereof or by its use or operation.

Conditions. The indemnifying party's obligations hereunder are conditioned on (a) the party seeking indemnification providing prompt written notice thereof and reasonable cooperation, information, and assistance in connection therewith and (b) the indemnifying party having sole control and authority to defend, settle or compromise such claim. The indemnifying party shall not be responsible for any settlement it does not approve in writing.

Limitations of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ACACIA SHALL NOT BE LIABLE CONCERNING THE SUBJECT MATTER OF THIS AGREEMENT, REGARDLESS OF THE FORM OF ANY CLAIM OR ACTION (WHETHER IN CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE), FOR ANY (A) MATTER BEYOND ITS REASONABLE CONTROL, OR COST OF PROCURING SUBSTITUTE TECHNOLOGIES, GOODS OR SERVICES, (B) INDIRECT, PUNITIVE, INCIDENTAL, RELIANCE, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, INTERRUPTION OR LOSS OF DATA, USE, BUSINESS, REVENUES, PROFITS OR GOODWILL OR (C) AGGREGATE DAMAGES BEYOND THE LESSER OF (A) FIFTY PERCENT (50%) OF THE AMOUNTS PAID TO ACACIA HEREUNDER DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE CLAIM FOR THE PRODUCT GIVING RISE TO SUCH DAMAGES, OR (B) USD \$3,000,000, EVEN IF ACACIA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS ARE INDEPENDENT FROM ALL OTHER PROVISIONS OF THIS AGREEMENT AND SHALL APPLY NOTWITHSTANDING THE FAILURE OF ANY REMEDY PROVIDED HEREIN. PRODUCTS ARE NOT DESIGNED, MANUFACTURED OR INTENDED FOR USE IN HAZARDOUS ENVIRONMENTS OR WHERE FAIL-SAFE CONTROLS ARE REQUIRED (INCLUDING WITHOUT LIMITATION, OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, AND LIFE SUPPORT OR WEAPONS SYSTEMS) AND, NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, CUSTOMER HEREBY ASSUMES AND ACCEPTS ALL LIABILITY RELATED TO ANY SUCH USE.

General. This Agreement constitutes the entire agreement, and supersedes all prior negotiations, understandings or agreements (oral or written), between the parties concerning the subject matter hereof. This Agreement is in English only, which language shall be controlling in all respects. No version of this Agreement in another language shall be binding or of any effect. No modification, consent or waiver to this Agreement will be effective unless in writing and signed by the party against which enforcement is sought. The parties shall be independent contractors under

this Agreement, and nothing herein will constitute either party as the employer, employee, agent or representative of the other party, or both parties as joint venturers or partners for any purpose. The failure of either party to enforce its rights under this Agreement at any time for any period shall not be construed as a waiver of such rights. Unless expressly provided otherwise, each right and remedy in this Agreement is in addition to any other right or remedy, at law or in equity, and the exercise of one right or remedy will not be deemed a waiver of any other right or remedy. If any provision of this Agreement is determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that the Agreement otherwise remains in full force and effect and enforceable. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, USA, without regard to the conflicts of laws provisions thereof. In the event of any conflict between US and foreign laws, rules and regulations, US laws, rules and regulations shall govern. The United Nations Convention on Contracts for the International Sale of Goods will not apply. Exclusive jurisdiction and venue for any action arising under this Agreement is in the federal and state courts located in Massachusetts having jurisdiction over Acacia's principal office, and both parties hereby consent to such jurisdiction and venue for this purpose. Any notice hereunder will be effective upon receipt and shall be given in writing, in English and delivered to the other party at its address given in the Confirmation or at such other address designated by written notice. Customer consents to Acacia's use of its name and logo in customer listings that may be published as part of Acacia's marketing efforts. In no event shall Acacia have any liability to Customer for any delay or nonperformance by Acacia that results, in whole or in part, directly or indirectly, from any condition beyond Acacia's reasonable control (including without limitation, manufacturing yield failures or unavailability resulting from an inability to (a) obtain needed materials, equipment or supplies at commercially reasonable prices or (b) produce sufficient Products to meet the demands of all its customers).