

INTELLIPROP, INC. TERMS AND CONDITIONS OF SALE FOR INTELLIPROP PRODUCTS

The following Terms and Conditions of Sale (contract) constitute IntelliProp, Inc. (IntelliProp) offer to sell and deliver ASSPs, Boards, or IP Cores (collectively the "Product") to Buyer. Unless specifically agreed to in writing, IntelliProp rejects any terms which are different or in addition to those contained in this document.

1. Definitions.

- 1.1. "ASSP" is an acronym for Application Specific Standard Product and shall mean a semiconductor device integrated circuit product developed by IntelliProp. ASSP includes IntelliProp designed FPGAs, semiconductors, and ASICs.
- 1.2. "Board" shall mean a printed circuit board designed and manufactured by IntelliProp. Board shall include IntelliProp's reference, evaluation, development, and testing boards.
- 1.3. "IP Core" shall mean the building block for use within FPGA or ASIC designs offered as synthesizable RTL. IP Core includes but is not limited to any IntelliProp provided RTL, software, firmware, reference design, reference code, bitstream, test, testbench, or script.
- 1.4. "Product" includes but is not limited to the IntelliProp ASSP, IntelliProp Board, or IntelliProp IP Core.

2. **Property and Ownership Rights.** IntelliProp shall retain exclusive rights to the Product. IntelliProp design, development, or manufacture of Product for Buyer shall not be deemed to produce a work made for hire and shall not give to Buyer any patent, copyright, trademark, or any other intellectual property right interest in the Product or any portion thereof. Tooling, fixtures, test equipment, models, patterns, molds, processing, software and technology and other proprietary information shall remain the sole property of IntelliProp. Payment of any costs or expenses related to any of the foregoing (including without limitation non-recurring expenses) shall not be deemed to grant Buyer any ownership interest therein. IntelliProp offers its Product subject to the condition that such sale does not convey any license, expressly or otherwise, under any patent, copyright, trademark, mask work or the like with respect to which IntelliProp can grant licenses covering compete equipment, or any compilation, assembly, combination, method or process in which any such goods are used as components. IntelliProp reserves its rights under such patents, copyrights, trademarks, mask works or the like.

3. **Reproduction Notice.** An ownership notice and any other notices included in machine readable copies must be reproduced on all authorized copies of the Product containing at a minimum (1) the IntelliProp logo, (2) that the Product is comprised of confidential and unpublished information of IntelliProp, and that (3) all rights are reserved by IntelliProp.

4. **Prices and Taxes:** Except as otherwise agreed to by the parties in a pricing agreement, the applicable prices shall be those prices quoted by IntelliProp and contained in the Buyer's purchase order accepted/confirmed by IntelliProp. Prices do not include applicable taxes, duties, or shipping fees, and Buyer is solely responsible for paying all applicable taxes, duties, and fees. IntelliProp will add sales taxes to the sales price where required by applicable law, and Buyer will pay such taxes unless Buyer provides IntelliProp with a duly executed sales tax exemption certificate prior to shipment by IntelliProp.

5. **Payment Terms:** Generally prepayment in full is required, however, if IntelliProp extends credit to Buyer, payment terms shall be net thirty (30) days after IntelliProp's invoice. IntelliProp may change or withdraw credit amounts or payment terms at any time and for any reason. If the products are delivered in installments, Buyer shall pay for each installment in accordance with the above payment terms. IntelliProp prices are conditioned upon timely payment and any past due balance will accrue interest at the monthly rate of 1.5%, beginning the 1st month following the invoice due date assessed against any unpaid balance from the invoice due date until the payment date, together with IntelliProp's cost of collection to include reasonable attorney fees. If Buyer fails to make any payment when due, IntelliProp may suspend or cancel performance under any agreements in which IntelliProp has extended credit to Buyer. Freight charges may not reflect actual transportation costs. IntelliProp's suspension of performance may result in rescheduling delays. If, in IntelliProp's judgment, Buyer's financial condition does not justify the payment terms specified herein, then IntelliProp may terminate this contract unless Buyer immediately pays for all Products that have been delivered and pays in advance for all Products to be delivered. Termination in accordance with this clause shall not affect IntelliProp's right to pursue any other available remedies.

6. **Method of Payment:** Payment shall be made in US dollars by company check or wire transfer to IntelliProp's financial institution. Credit card payment will be accepted for amounts less than \$2,500.00 and an additional 4% will be added to such invoices to cover the cost of credit card processing.

7. **Risk of Loss, Title and Delivery:** Shipments shall be delivered F.O.B. IntelliProp's shipping location. Title and liability for loss or damage shall pass to Buyer upon IntelliProp's delivery to Buyer's designated carrier, or as designated by IntelliProp in the event that Buyer does not specify a particular carrier. Any subsequent loss or damage shall not relieve Buyer from its payment obligations. Buyer shall reimburse IntelliProp for insurance and transportation costs on international shipments and shall be responsible for all import duties, taxes and any other expenses incurred or licenses or clearances required. IntelliProp may deliver Products in partial shipments. Delivery dates are estimates. IntelliProp shall not be liable for any damage, losses or expenses incurred by Buyer if IntelliProp fails to meet the estimated delivery dates.

8. **Buyer Duty to Give Timely Notice of IntelliProp Breach.** Buyer shall notify IntelliProp in writing within 30 calendar days after receipt of the Product of any defective performance, failed performance or other breach of this contract by IntelliProp. Buyer failure to provide such notice to IntelliProp within this specified period constitutes a waiver of the defective or failed performance or other applicable breach by IntelliProp.

9. **Return Material Authorizations (RMA):** Material will be considered for an RMA only if there is a failure or non-compliance of a Product with a published compatibility, datasheet or firmware specification; the Customer is current on payment; and the Product is within the Warranty period. Prior to the return of any Product, an RMA number must be requested and approved by IntelliProp. If the product is within the Warranty period, IntelliProp will resolve the return per the Warranty policy. IntelliProp will make best efforts to resolve application related issues, however RMAs will not be issued, subject to section 13.4 for compatibility with other hardware implementations.

10. **Cancellations and Rescheduling:** All requests for cancellations or reschedules must be submitted to IntelliProp in writing and approved in writing. Typically no cancellation or reschedule is allowed once IntelliProp has committed Buyer's orders of Product to the factory.

11. **Substitutions and Modifications.** Seller reserves the right to make substitutions and modifications in the specifications of Product sold by it if such substitution or modification does not cause a material adverse affect on overall performance.

12. **Force Majeure:** IntelliProp shall not be in breach of this contract and shall not be liable for any non-performance or delay in performance beyond its control or the control of its suppliers or subcontractors including, but not limited to, shortages of labor, energy, fuel, machinery or materials, technical or yield failures, war, civil unrest, any government act, law or regulation, including any judicial order or decree, any communication or power failure, labor dispute, natural disaster, fire, flood, earthquake, explosion, terrorist act or Act of God. In the event of a shortage of Products, IntelliProp may allocate, at its sole discretion, Product production and deliveries.

13. Warranty.

- 13.1. THE PRODUCT IS PROVIDED "AS IS" AND "WITH ALL FAULTS". INTELLIPROP DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, REGARDING SUCH PRODUCTS, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

13.2. Subject to clauses 13.6 and 13.7 below, IntelliProp warrants that IntelliProp Products will conform either to IntelliProp's published specifications for such Product or other mutually agreed upon written specifications signed by an authorized IntelliProp representative. This warranty lasts for ninety (90) days after the date IntelliProp ships such Products to Buyer. Notwithstanding the foregoing, IntelliProp shall not be liable for any defects that are caused by neglect, misuse or mistreatment by an entity other than IntelliProp, including improper installation or testing, or for any Products that have been altered or modified in any way by an entity other than IntelliProp. Moreover, IntelliProp shall not be liable for any defects that result from Buyer's design, specifications or instructions for such products. Testing and other quality control techniques are used to the extent IntelliProp deems necessary. IntelliProp does not necessarily test all parameters of each Product.

13.3. If any IntelliProp Products fail to conform to the Product specifications set forth above, IntelliProp's sole liability shall be, at its option, to repair or replace such Products, or credit Buyer's account for such Products. IntelliProp's liability under this warranty shall be limited to Products that are returned during the warranty period to the address designated by IntelliProp and that are determined by IntelliProp not to conform to such Product specifications. If IntelliProp elects to repair or replace such Products, IntelliProp shall have a reasonable time to repair such Products or provide replacements. Repaired Products shall be warranted for the remainder of the original warranty period. Replaced Products shall be warranted for a new full warranty period.

13.4. **Compatibility.** IntelliProp may, at its discretion, conduct compatibility testing of IntelliProp Products including but not limited to specific hardware, software, firmware configurations, HBAs, CPUs or storage interface solutions. The Buyer accepts sole responsibility for verification of compatibility of IntelliProp Products with their system configuration. IntelliProp will assist Buyer with such verification if Buyer provides IntelliProp will all relevant configurations of their system for testing at IntelliProp's labs. If verification of compatibility is not conducted by IntelliProp with Buyer's system configuration(s), any such incompatibility will not be considered a failure of IntelliProp Product or cause for issuance of an RMA by IntelliProp.

13.5. Buyer agrees that prior to using or distributing any systems that include IntelliProp Products, Buyer will thoroughly test such systems and the functionality of such IntelliProp Products as used in such systems. IntelliProp may provide technical, applications, or design advice, quality characterization, reliability data or other services. Buyer agrees that providing these services shall not expand or otherwise alter IntelliProp's warranties, as set forth above, and no additional obligations or liabilities shall arise from IntelliProp providing such services.

13.6. **Safety-Critical, Military and Automotive Applications.**

13.6.1. IntelliProp Products are not intended or authorized for use in safety-critical applications (such as life support) where a failure of the IntelliProp Product would reasonably be expected to cause severe personal injury or death, unless officers of the parties have executed an agreement specifically governing such use. Buyer shall fully indemnify IntelliProp and its representatives against any damages arising out of the unauthorized use of IntelliProp Products in such safety-critical applications.

13.6.2. IntelliProp Products are neither designed nor intended for use in military/aerospace applications or environments that require military-grade or space-grade specifications, testing or ratings unless the IntelliProp Products are specifically designated by IntelliProp as military-grade or "enhanced plastic." Buyer acknowledges and agrees that any such use of IntelliProp Products, which IntelliProp has not designated as military-grade, is solely at the Buyer's risk, and that Buyer is solely responsible for compliance with all legal and regulatory requirements in connection with such use.

13.6.3. IntelliProp Products are neither designed nor intended for use in automotive applications requiring compliance with automotive requirements. IntelliProp will not be responsible for any failure to meet such requirements.

13.6.4. Buyer represents that it has all necessary expertise in the safety and regulatory ramifications of its applications, and Buyer acknowledges and agrees that it is solely responsible for compliance with all legal, regulatory and safety-related requirements concerning its products and any use of IntelliProp Products in Buyer's applications, notwithstanding any applications-related information or support that may be provided by IntelliProp.

13.7. Notwithstanding anything to the contrary, EXPERIMENTAL AND DEVELOPMENT PRODUCTS ARE PROVIDED "AS IS" AND "WITH ALL FAULTS". INTELLIPROP DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING SUCH EXPERIMENTAL AND DEVELOPMENT PRODUCTS, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

14. Limitations and Damages Disclaimer:

14.1. **General Limitations.** IN NO EVENT SHALL INTELLIPROP BE LIABLE FOR ANY SPECIAL, COLLATERAL, INDIRECT, PUNITIVE, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS CONTRACT OR THE USE OF THE GOODS PROVIDED HEREUNDER, REGARDLESS OF WHETHER INTELLIPROP HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCLUDED DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, COST OF REMOVAL OR 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. NO CLAIM, SUIT OR ACTION SHALL BE BROUGHT AGAINST INTELLIPROP MORE THAN ONE YEAR AFTER THE RELATED CAUSE OF ACTION HAS OCCURRED.

14.2. **Specific Limitations.** IN NO EVENT SHALL INTELLIPROP'S AGGREGATE LIABILITY FROM ANY WARRANTY, INDEMNITY, OR OTHER OBLIGATION ARISING OUT OF OR IN CONNECTION WITH THIS CONTRACT, OR ANY USE OF ANY INTELLIPROP PRODUCT PROVIDED HEREUNDER, EXCEED THE TOTAL AMOUNT PAID TO INTELLIPROP FOR THE PARTICULAR UNITS SOLD UNDER THIS CONTRACT WITH RESPECT TO WHICH LOSSES OR DAMAGES ARE CLAIMED. THE EXISTENCE OF MORE THAN ONE CLAIM AGAINST THE PARTICULAR UNITS SOLD TO BUYER UNDER THIS CONTRACT SHALL NOT ENLARGE OR EXTEND THIS LIMIT.

14.3. BUYER UNDERSTANDS AND AGREES THAT THE FOREGOING LIABILITY LIMITATIONS ARE ESSENTIAL ELEMENTS OF THIS CONTRACT AND THAT IN THE ABSENCE OF SUCH LIMITATIONS THE MATERIAL AND ECONOMIC TERMS OF THIS CONTRACT WOULD BE SUBSTANTIALLY DIFFERENT.

15. **Non-waiver of Default:** In the event of any default by Buyer, IntelliProp may decline to make further shipments. If IntelliProp elects to continue to make shipments, IntelliProp's action shall not constitute a waiver of any such default or affect IntelliProp's legal remedies for any such default.

16. **Governing Law:** The U.N. Convention on Contracts for the International Sale of Goods shall not apply to this contract; rather, this contract shall be governed by and interpreted in accordance with the laws of the State of Colorado, without reference to conflict-of-laws principles. If for any reason a court of competent jurisdiction finds any provision of this contract to be unenforceable, that provision will be enforced to the maximum extent

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possible to effectuate the intent of the parties, and the remainder of this contract will continue in full force and effect.

17. **Export Control:** Buyer agrees to comply with all applicable export laws, regulations and orders, including, but not limited to, all such laws, regulations and orders of the United States of America. Specifically, but without limitation, Buyer agrees that it will not resell, re-export or ship, directly or indirectly, any Products or technical data in any form without obtaining appropriate export or re-export licenses. Buyer acknowledges that the applicable export laws, regulations and orders may differ from item to item and/or time to time.
18. **Government Contracts:** If Buyer sells Products to the U.S. Government, IntelliProp makes no representations, warranties or certifications whatsoever about compliance with acquisition statutes or regulations (including, without limitation, those related to pricing, quality, origin or content). Notwithstanding, if Buyer sells products to any other public entity, state, or local or international, or to a prime contractor or subcontractor of such entities, Buyer remains solely liable for compliance with all acquisition statutes and regulations.
19. **Resale or Distribution of Product:** Unless expressly authorized in writing by Seller, Buyer shall not resell the Product. If Buyer breaches the terms of this paragraph, IntelliProp will have the right to cancel all outstanding deliveries on the purchase order. Additionally, Buyer agrees to indemnify IntelliProp from any and all resulting liability, including attorneys' fees.
20. **Assignment:** This contract shall not be assignable by Buyer without IntelliProp's prior written consent. Any unauthorized assignment shall cause this contract and any outstanding purchase orders to be null and void.
21. **Entire Agreement:** This contract constitutes the entire agreement between the parties relating to the sale of the products and supersedes all previous communications, representations, or agreements, either oral or written, with respect to the subject matter hereof. No prior representations or statements relating to the sale of the Products made by any IntelliProp representative, which are not stated herein, shall be binding on IntelliProp. No addition to or modification of any provision of this contract shall be binding upon IntelliProp unless made in writing and signed by a duly authorized IntelliProp representative. No course of dealing or trade usage or course of performance shall be relevant to explain or supplement any term in this contract. These terms and conditions shall prevail notwithstanding any different, conflicting or additional terms and conditions that may appear on any purchase order or other writing not expressly incorporated herein, including but not limited to data sheets, application notes and purchase order acknowledgements. The section headings contained in this contract are for reference purposes only and shall not affect in any way the meaning or interpretation of this contract.
22. **Severability.** If any term or provision of this contract is held to be illegal, invalid, unenforceable, or in conflict with any law of any government entity with jurisdiction over this contract, this contract shall continue in force without such provision or as changed and interpreted to give best effect to the parties' intentions.
23. **Mediation and Litigation.** If any dispute arises out of or related to this contract, the parties shall first try in good faith to settle the dispute by mediation in Boulder County, Colorado. Either party may initiate mediation by delivering a written request to the other party. Within 10 calendar days of such request, the parties shall confer to select a mediator. If the parties fail to agree upon a mediator, either party may request that the Judicial Arbitration and Mediation Services (JAMS) appoint a mediator. The prevailing party in any action of proceeding to enforce or interpret this contract shall be entitled to recover its reasonable expenses including without limitation attorney fees and fees on appeal.