



## onsemi Standard Terms and Conditions of Sale

**1. PRODUCT AND SALE TERMS.** The buyer ("Buyer") agrees to purchase, and Semiconductor Components Industries, LLC ("SCI") and its affiliates and subsidiaries (collectively, "onsemi") agree to sell, products ("Product(s)") under the terms and conditions contained in this Standard Terms and Conditions of Sale (these "Terms and Conditions"). The actual seller applicable to and obligated under a particular purchase order may vary by location.

Buyer acknowledges to have read and understood these Terms and Conditions, which shall prevail over and apply to the exclusion of any terms and conditions contained or referred to in Buyer's purchase order or in correspondence or elsewhere or implied by trade custom, practice, or course of dealing. Unless there is a separate executed written agreement for the Products between Buyer and onsemi in effect at the time of the order, all purchase orders received by onsemi from Buyer shall be governed only by these Terms and Conditions notwithstanding any preprinted terms and conditions on Buyer's purchase order or any other communication or document of Buyer. Any additional or different terms in Buyer's documents are hereby deemed to be material alterations and notice of objection to and rejection of them is hereby given. Buyer accepts these Terms and Conditions by accepting delivery of the Product(s) whether or not these Terms and Conditions are provided with each sales transaction. These Terms and Conditions are also available at [www.onsemi.com](http://www.onsemi.com).

If the seller is a subsidiary or affiliate of SCI, the obligations of the parties are solely between such subsidiary or affiliate and Buyer, and not between SCI and Buyer.

**2. DELIVERY, TITLE AND RISK OF LOSS.** Unless otherwise agreed to in writing by onsemi, Product(s) shall be delivered EXW, onsemi's distribution center, in accordance with INCOTERMS 2020. Title to and risk of loss of the Products shall pass to Buyer when made available to Buyer for pick-up at onsemi's distribution center. onsemi will use commercially reasonable efforts to fill all orders according to the schedule mutually agreed to by the Buyer and onsemi. However, delivery dates are approximate only and Buyer shall have no remedy, and onsemi shall not be liable, for delays in delivery for any reason. Deliveries may be made in installments and a delay or default in delivery of any installment shall not relieve Buyer of the obligation to accept and pay for other deliveries. Delays or changes in schedules due to Buyer directed actions are subject to price adjustments. Claims for shipment shortage shall be deemed waived unless presented to onsemi in writing within forty-five (45) days of delivery. In the event Buyer contests that the Product(s) were delivered, Buyer must request a proof of delivery from onsemi within ninety (90) days of the date of onsemi's invoice, otherwise delivery shall be deemed completed. Buyer shall give onsemi written notice of failure to deliver and thirty (30) days within which to cure. If onsemi does not cure within thirty (30) days, Buyer's sole and exclusive remedy is to cancel the affected and undelivered portions of the order.

Notwithstanding anything in these Terms and Conditions to the contrary, onsemi may not have sufficient supplies of one or more Product(s) from its then-contemplated sources of supply to meet the full requirements of its customers. If that situation exists from time to time, onsemi may, at its option, allocate shipments of such Product(s) among onsemi's customers on any basis which in onsemi's sole opinion is equitable and to adjust delivery schedules accordingly. onsemi is not required to increase future shipments or compensate Buyer for any such reduction. Product(s) must be scheduled for delivery within six (6) months of date of Buyer's purchase order. Shipment of Product(s) within +/- five per cent (5%) of the quantity ordered shall be deemed to constitute full delivery.

**3. PRICES, QUOTATIONS AND TAXES.** Except as otherwise agreed by the parties in a written pricing agreement, prices quoted by onsemi are those prices current at the date of quotation and may be changed in onsemi's sole discretion prior to the acceptance of a purchase order. Any purchase order that can be cancelled or rescheduled by either party under Paragraphs 9 or 10 below, is subject to an immediate price change, unless otherwise agreed in separate, written agreement. Buyer agrees to pay all applicable taxes.

**4. PAYMENT TERMS.** Except as otherwise agreed to between the parties in writing, payment will be due thirty (30) days from the date of invoice. All invoices shall be paid without retention or set-off by Buyer. If Buyer does not make

payment on time, onsemi may charge Buyer interest on the unpaid amount at the rate of five percent (5%) above the published Wall Street Journal Prime Rate in effect from the date on which payment becomes due (or the maximum rate permitted by law) until payment is made, whether or not after judgment. onsemi reserves the right at any time to revoke any credit extended to Buyer because of Buyer's failure to pay an invoice when due or for any other similar reason and to suspend any subsequent shipments until Buyer's account is current.

## **5. WARRANTY.**

(a) onsemi warrants that its Product(s) will, for the time period set forth below, be free from defects in material and workmanship and will conform to onsemi's approved specifications.

(b) Except as provided below, Product(s) are warranted for a period of two (2) years from the date of delivery.

Image Sensor Product(s) are warranted for a period of one (1) year from the date of delivery.

Die and Wafer Product(s) packaged on sticky tape are warranted for a period of one-hundred and eighty (180) days from the date of delivery.

Un-probed Die and Wafer Product(s): Un-probed Products(s) in die or wafer form are warranted for a period of thirty (30) days from the date of delivery.

DEVELOPMENT PRODUCT(S), PROTOTYPE OR OTHER NON-PRODUCTION PRODUCT(S), SAMPLES OF PRODUCTION PRODUCT(S) AND SOFTWARE ARE NOT WARRANTED AND ARE PROVIDED ON AN "AS IS" BASIS ONLY.

(c) If any Product fails to conform to the applicable warranty, onsemi will, at onsemi's option, replace or repair such Product or credit Buyer's account with an amount equal to the price paid for any such Product returned by Buyer, provided that: (i) Buyer promptly notifies onsemi in writing, during the warranty period, that such Product failed to conform and furnishes a detailed explanation of any alleged deficiency; (ii) Buyer promptly obtains a return material authorization number and promptly returns the Product to the location designated by onsemi at Buyer's expense (provided, however, that if upon examination by onsemi, onsemi determines that the Product is entitled to this warranty, then onsemi shall be responsible for reasonable transportation costs to and from onsemi's facility); and (iii) onsemi is reasonably satisfied that claimed non-conformities exist and such claim complies with the terms of this warranty. onsemi shall have a reasonable time period to replace or repair Products or to credit Buyer's account. These constitute Buyer's sole remedies in the event of a breach of warranty. Replaced Product(s) are subject to the applicable warranty for the longer of the period remaining (if any) in the warranty period of the original Product or thirty (30) days. The non-conforming Product(s) shall become onsemi's property as soon as they have been replaced or when a credit is issued. In no event, however, shall onsemi be responsible for any non-conformance in the Product(s) to the extent such non-conformance is caused by incompatibility with other components used by Buyer, improper handling or storage during or after shipment, Product misuse, neglect, improper installation or operation, repair, alteration, accident, or for any other cause not attributable to defective workmanship or failure to meet onsemi's published specifications. This warranty shall not be expanded, and no obligation or liability will arise, due to technical advice or assistance, computerized data, facilities or services onsemi may provide in connection with Buyer's purchase. onsemi provides no warranty for onsemi Product(s) purchased through unauthorized sales channels. In the event that any one or more of the foregoing conditions is not satisfied, onsemi shall have no liability under this warranty whatsoever.

(d) THIS WARRANTY EXTENDS TO BUYER ONLY AND MAY BE INVOKED ONLY BY BUYER FOR ITS CUSTOMERS. ONSEMI WILL NOT ACCEPT WARRANTY RETURNS FROM BUYER'S CUSTOMERS OR USERS OF BUYER'S PRODUCT(S). THIS WARRANTY DOES NOT APPLY TO DEFECTS ARISING AS A RESULT OF BUYER'S DESIGNS OR FORMULAS.

(e) THE WARRANTY AND REMEDIES SET FORTH ABOVE CONSTITUTE ONSEMI'S EXCLUSIVE LIABILITY, AND BUYER'S EXCLUSIVE REMEDIES, FOR ANY BREACH OF WARRANTY OR NON-CONFORMITY OF THE PRODUCT(S). THE WARRANTY SET FORTH ABOVE IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, WHICH ARE HEREBY EXPRESSLY DISCLAIMED. ONSEMI SHALL MAKE THE FINAL DETERMINATION AS TO ANY BREACH OF WARRANTY OR NON-CONFORMITY OF THE PRODUCT(S).

**6. CONFIDENTIAL INFORMATION.** All materials and Product(s) furnished by onsemi and identified as containing confidential information must be held in confidence by the recipient using at least the degree of care the recipient uses for

its own confidential information, but no less than reasonable care. Except as required by law, the recipient may not disclose such materials or confidential information except to its own employees who require use of the materials in the performance of their duties and who are bound by a duty of confidentiality under terms no less restrictive than contained herein concerning the use of confidential information. Any non-public samples or prototypes, or any source code provided by onsemi shall constitute confidential information, whether or not so identified. Nothing contained in these Terms and Conditions limits a party from filing a truthful complaint or the party's ability to communicate directly to, or otherwise participate in, either: (i) any investigation or proceeding with a United States of America ("USA") government agency alleging a securities law violation, waste, fraud or abuse; or (ii) an investigation or proceeding that is protected under a whistleblower provision of a USA federal law or regulation.

## **7. PATENT, MASK WORK RIGHT AND COPYRIGHT INDEMNIFICATION.**

(a) The design, development or manufacture by onsemi of Product(s) and/or services shall not be deemed to produce a work made for hire. Except as expressly set forth herein, all intellectual property rights arising out of Product(s) or services sold to Buyer belong to onsemi. Except for Buyer's implied license to use and sell a Product(s) incident to its purchase and the implied license of Buyer to sell or otherwise dispose of possession of a copy of a copyrighted work from onsemi, the sale of Product(s) and/or services does not convey any license by implication, estoppel or otherwise in respect of Product(s) and/or services alone or in combination with other products. Unless otherwise agreed in writing, onsemi shall retain all rights in mask works. Buyer agrees not to reverse engineer, decompile or disassemble any prototypes, Software (as defined herein), hardware or other tangible objects or Product(s) provided to Buyer.

(b) onsemi agrees to defend any claim, suit or proceeding asserted against Buyer based upon a claim that any Product(s) purchased hereunder, excluding Software, directly infringes any patent, mask work right or copyright, effective in the USA and to pay settlements or costs and damages finally awarded in any such suit; provided that onsemi is promptly notified in writing of the claim and given, at onsemi's request and expense, sole control of the defense or response to such claim and all requested reasonable assistance by Buyer for defense of the same. If such a claim has occurred, or in onsemi's sole and reasonable judgment is likely to occur, Buyer shall permit onsemi to use its sole discretion to (i) obtain for Buyer the right to use and sell the Product, (ii) replace or modify the Product(s) with non-infringing Product(s), or (iii) accept the return of the Product(s) and refund the purchase price less reasonable wear and tear. Further, onsemi may cease shipping infringing Product(s) without being in breach of these Terms and Conditions. This indemnity does not extend to any claims based upon any infringement or alleged infringement of any patent, mask work right or copyright arising from: (i) the combination of any Product(s) with other elements if such infringement would be avoided by the use of the Product(s) alone; (ii) the use of the Product(s) in a manner or for an application other than that for which such Product(s) was designed or intended, regardless of whether onsemi was aware of such use; (iii) any addition to or modification of the Product(s), (iv) the use of the Product(s) in connection with manufacturing or other process; (v) onsemi's compliance with Buyer's designs, instructions or specifications in making a Product for Buyer that is not in onsemi's standard product catalogue; or (vi) the implementation in the Product(s) of a known industry standard (such claims, i.e. those set forth in (i) through (vi) above, are referred to herein as "Other Claims"). THE FOREGOING STATES ONSEMI'S ENTIRE LIABILITY FOR PATENT, MASK WORK RIGHT OR COPYRIGHT INFRINGEMENT AND IS IN LIEU OF ALL REPRESENTATIONS, WARRANTIES OR CONDITIONS EXPRESSED OR IMPLIED, IN REGARD THERETO. ONSEMI WILL NOT BE RESPONSIBLE FOR ANY COSTS, EXPENSES OR COMPROMISE INCURRED OR MADE BY BUYER WITHOUT ONSEMI'S PRIOR WRITTEN CONSENT.

(c) Buyer shall defend any claim, suit or proceeding asserted against onsemi based upon Other Claims and to pay costs and damages finally awarded from such suit provided that Buyer is promptly notified in writing of the claim and given, at Buyer's request and expense, sole control of the defense or response to such claim and all requested reasonable assistance by onsemi for defense of the same.

(d) onsemi does not warrant that Product(s) (including Software under Paragraph 8) and/or services are free of infringement of any patents, copyrights or other proprietary rights of third parties. IN NO EVENT SHALL ONSEMI BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF PATENTS, COPYRIGHTS OR OTHER INTELLECTUAL PROPERTY RIGHTS.

(e) Buyer, without the express prior written consent of onsemi, has no right to use onsemi's trademarks, trade names, corporate slogans, corporate logos or corporate designations in the sale, lease or advertising of any Product(s) or any other product or product containers, component parts, business forms, sales, advertising or promotional materials, or other business supplies or materials, whether in writing, orally or otherwise.

(f) Except as stated below in Paragraph 8, the sale of Product(s) furnished hereunder does not convey any license by

implication, estoppel or otherwise, under any proprietary or patent rights of onsemi covering modifications of Product(s) furnished hereunder, or combinations of Product(s) furnished hereunder with other elements. For the avoidance of doubt, the parties agree that the results of the efforts regarding the sale of the Product(s) furnished hereunder by either party shall not be considered "work for hire," and that neither party acquires any rights to, or licenses to use, any such results except as expressly set forth herein.

**8. SOFTWARE.** In the absence of a separate software agreement between Buyer and onsemi, the following terms and conditions apply to onsemi's software ("Software"):

(a) Software includes computer software and firmware in all forms. Title to the Software delivered by onsemi to Buyer hereunder remains vested in onsemi or onsemi's licensor and cannot be assigned or transferred without onsemi's written authorization. Buyer agrees to respect and not to remove any copyright, trademark, confidentiality or other proprietary notice, mark or legend appearing on the Software.

(b) For standalone Software provided in connection with the purchase of Product(s) from onsemi, onsemi grants to Buyer an individual, personal, non-transferable, non-exclusive license, without the right to sublicense, to use the standalone Software for its own internal use in a single computer system to evaluate, demonstrate, test and/or configure Product(s) only for onsemi authorized applications or to design Product(s) for manufacture by onsemi. Buyer shall faithfully reproduce all of onsemi's copyright notices and other proprietary legends. Buyer agrees not to disclose, in any form, the standalone Software or any portion thereof to any person other than employees of Buyer without the express written permission of onsemi.

(c) For Software embedded in Product(s), onsemi grants Buyer a non-transferable, non-exclusive license to use such embedded Software in the onsemi authorized operation of Product(s) on which such Software are embedded and subject to the terms and conditions herein. Buyer may transfer its license to use the embedded Software to a third party only in conjunction with Buyer's sale of any onsemi Product(s) or Buyer product on which the onsemi Product(s) with embedded Software is installed. Buyer's transfer of the embedded Software as authorized herein must be under terms consistent with and no less stringent than the terms set forth in these Terms and Conditions. Except as specifically permitted in these Terms and Conditions, embedded Software may not be sublicensed, transferred or loaned to any other party without onsemi's prior express written consent.

(d) If Buyer is in default of any of these Terms and Conditions, the rights granted to Buyer herein may be terminated in onsemi's sole discretion on one (1) month's prior written notice. Within one (1) month after termination, Buyer shall furnish to onsemi a certificate certifying that the original and all copies of the Software and derivative versions thereof ("Derivatives"), in whole or in part and in any form, have been destroyed.

(e) EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE SOFTWARE IS PROVIDED "AS IS." ONSEMI EXPRESSLY DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE SOFTWARE, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF NONINFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTY OF CONTINUED OR UNINTERRUPTED OPERATION OF THE SOFTWARE LICENSED HEREUNDER.

(f) The Software is licensed for use only in conjunction with onsemi Product(s). Use of the Software in conjunction with non-onsemi Product(s) is not licensed hereunder.

(g) No license or right of any kind is granted herein by onsemi to Buyer to disclose, distribute or otherwise provide the Software or any Derivatives in source code format to any third party.

(h) Without limiting the foregoing, Buyer agrees to not take any actions whatsoever that could or would cause the Software or Derivatives or any portion thereof to become subject to the GNU General Public License (GPL), GNU Lesser General Public License (LGPL), Mozilla Public License (MPL), Artistic License, Apache License, Q Public License, IBM Public License, BSD, or any other open source license requiring the distribution of the Software or Derivatives or any part thereof in source code format.

(i) Buyer acknowledges and agrees that onsemi has no and shall have no obligation or responsibility whatsoever to provide to Buyer, Buyer's customers or any third party, any maintenance, support or assistance ("Support"), including without limitation in relation to the Software or Derivatives, and onsemi cannot and shall not be held liable or responsible to Buyer, Buyer's customers or any third party for the failure to provide any such Support. However, onsemi may from time-to-time in its sole discretion provide such Support, and provision of same shall not create nor impose any future obligation on onsemi to provide any such Support. Such Support may include updates and/or upgrades to the Software,

which may include bug fixes and/or error corrections, and any such updates and/or upgrades to the Software provided shall be deemed and considered to be the Software hereunder and shall be governed by these terms and conditions. Buyer is and shall be solely responsible and liable for any Derivatives; for testing the Software and Derivatives; and for testing and implementation of the functionality of the Software and Derivatives with the Product(s).

(j) Buyer shall not distribute externally or disclose to any customer or to any third party any reports or statements that directly compare the speed, functionality or other performance results or characteristics of the Software with any similar third party products without the express prior written consent of onsemi in each instance.

**9. CANCELLATION.** Except for NCNR (non-cancellable, non-returnable) purchase orders and Products, Buyer may cancel purchase orders for standard Product(s) by providing written notice to onsemi during the cancellation window listed for the Product in the table below. Buyer may also cancel purchase orders for non-standard, application specific integrated circuits or any product unique to the Buyer or applicable customer (each, a "Custom Product") by providing written notice to onsemi prior to onsemi's shipment of such Custom Product; provided that Customer shall pay, as a cancellation charge, onsemi's actual costs for such Custom Product as of the date that onsemi receives such notice, not to exceed onsemi's selling price of such Custom Product (such "actual costs" include, but are not limited to, material costs, labor costs, restocking fees, duties, taxes, yield variation, change-order fees and overhead allocations such as depreciation, facility charges and utilities). onsemi reserves the right to cancel all or any part of a purchase order without any liability to Buyer if Buyer supplies inaccurate information or if Buyer is in default under any of these Terms and Conditions. onsemi may also cancel any purchase order without any liability to Buyer that can be cancelled by Buyer under this Paragraph upon written notice to Buyer.

Standard Product Cancellation Window Table

Product Category/onsemi Product Technology Indicator	Cancellation Window
ACDC Converters (PG), Amplifiers (PY), IGBT Discrete 1200V/650V (PP1), Isolation (F9), LDO & VREGS (P0), Low Voltage FETS (PM), Med/High Voltage FETS (PA), Memory Products (CA), MOS Logic (PK), Protection (PE), SI Rectifier & Consumer IGBT Discrete (PPI, PPU), SI Wafer Sales (PPW), Small Signal Products (PD)	Up to 45 days prior to the onsemi scheduled ship date.
SIC JFETS (S4)	Up to 120 days prior to the scheduled ship date.
Any onsemi standard Products not in one of the categories above on this table.	Up to 90 days prior to the scheduled ship date.

**10. RESCHEDULE.** Buyer may reschedule Product shipments for purchase orders placed in accordance with these Terms and Conditions subject to the following restrictions: (i) for each shipment, only one (1) reschedule is allowed; (ii) the rescheduled ship date must fall within the same fiscal quarter as the original ship date; and (iii) Buyer must provide written notice to onsemi during the cancellation window listed for the Product in Paragraph 9. onsemi may reschedule any shipment that can be rescheduled by Buyer under this Paragraph 10 upon written notice to Buyer.

**11. EXPORT CONDITIONS.** If, at the time or times of onsemi's performance hereunder, an export license or other permission is required for onsemi to lawfully export Product(s) or technical data or to undertake export-controlled services, then the issuance of the appropriate license or agreement to onsemi or its subcontractor shall constitute a condition precedent to onsemi's obligations hereunder. onsemi reserves the right to stop performance at any time if onsemi believes that such performance may violate export laws or regulations. Buyer agrees to comply with all applicable export laws, regulations and orders, including, but not limited to, the Export Administration Regulations (EAR), the International Traffic In Arms Regulations (ITAR) and those administered by the Office of Foreign Assets Control (OFAC). Specifically, but without limitation, Buyer agrees that it will not (i) resell, re-export, re-transfer or ship, directly or indirectly, any Product(s) or technical data in any form without obtaining appropriate export or re-export licenses and (ii) directly nor indirectly export, re-export, distribute or otherwise transfer the Product(s) to Russia or for any end-use in Russia. Buyer

acknowledges that the applicable export laws, regulations and orders may differ from item to item and/or time to time.

**12. RESALE PROHIBITED.** Unless expressly authorized in writing by onsemi, Buyer shall not resell Product(s). If Buyer breaches the terms of this Paragraph 12, in addition to onsemi's cancellation rights, Buyer agrees to fully indemnify onsemi, its officers, employees and distributors from any and all resulting liability, including attorneys' fees and costs.

**13. LIMITATION OF LIABILITY.** SUBJECT TO THE REMEDIES IN PARAGRAPH 5(C), TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW AND REGARDLESS OF THE NUMBER OF CLAIMS IN ANY CALENDAR YEAR, IN NO EVENT SHALL ONSEMI BE LIABLE TO BUYER OR ANY THIRD PARTY FOR AN AMOUNT EXCEEDING THE LESSER OF: (A) THIRTY PERCENT (30%) OF THE TOTAL AMOUNTS PAID BY BUYER TO ONSEMI FOR THE SPECIFIC PRODUCT(S) GIVING RISE TO THE LIABILITY OR (B) THIRTY PERCENT (30%) OF THE TOTAL AMOUNTS PAID BY BUYER TO ONSEMI FOR ALL PRODUCT(S), SOFTWARE AND SERVICES PROVIDED BY ONSEMI IN THE CALENDAR YEAR THAT THE EVENT GIVING RISE TO THE LIABILITY OCCURRED. BUYER MAY NOT BRING AN ACTION IN CONNECTION WITH THESE TERMS AND CONDITIONS UNLESS SUCH ACTION IS COMMENCED WITHIN ONE (1) YEAR AFTER THE EVENT GIVING RISE TO THE LIABILITY.

IN NO EVENT SHALL ONSEMI BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING BUT NOT LIMITED TO, THE LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF USE, LOSS OF GOODWILL, DATA LOSS, REWORK, REPAIR, MANUFACTURING EXPENSES, COSTS OF PRODUCT RECALL, LOSS OF REPUTATION OR LOSS OF CUSTOMERS, REGARDLESS OF WHETHER ONSEMI HAS BEEN GIVEN NOTICE OF SUCH DAMAGES AND REGARDLESS OF WHETHER THOSE DAMAGES ARE SOUGHT UNDER CONTRACT, TORT OR ANY OTHER THEORIES OF LAW.

**14. EXCUSABLE DELAY.** onsemi shall not be liable for any delay or failure to perform resulting from: (i) lower than anticipated manufacturing volume of Product(s); (ii) interruptions in the manufacturing process; (iii) delays or failure to perform due to any cause beyond its control or the control of its suppliers or subcontractors; (iv) epidemics, pandemics, strikes, acts of God, man-made or natural disaster, acts or omissions of Buyer, interruptions in transportation, act of a governmental authority including laws, regulations, orders, or decrees, or the inability to obtain necessary labor, materials or facilities through regular sources; or (v) any legal theory of force majeure. Delivery schedules shall be considered extended by a period of time equal to the time lost because of any excusable delay. In the event onsemi is unable wholly or partially to perform because of any such cause it may cancel its acceptance of Buyer's purchase order without liability to Buyer.

**15. GOVERNING LAW AND VENUE.** These Terms and Conditions shall be interpreted, construed and governed in all respects in accordance with the laws of the state of New York, USA, excluding its conflict of laws provisions. The UN Convention on Contracts for the International Sale of Goods (Vienna, 1980) shall not apply to any purchases made hereunder. The Federal and State courts of New York shall have exclusive jurisdiction and venue over controversies arising out of, or relating to, these Terms and Conditions. Each party consents to the exercise by any such court of personal jurisdiction over them and each party waives any objection it might otherwise have to venue, personal jurisdiction, inconvenience of forum, and any similar or related doctrine. Each party hereby waives to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any litigation directly or indirectly arising out of, under or in connection with these Terms and Conditions. However, nothing shall limit onsemi's ability to assert its intellectual property rights in any court of competent jurisdiction or any government agency, including: the right to seek injunctive relief; or file, defend, oppose, or challenge patents, copyrights, or trademarks; or enforcing an award in any court of law; or forgo mediation and directly seek relief via judicial or government agency proceedings.

**16. DISPUTE RESOLUTION.** onsemi and Buyer will attempt to settle all claims (other than claims relating to intellectual property issues) through negotiation or non-binding mediation prior to commencement of court proceedings.

**17. OTHER MISCELLANEOUS TERMS.**

**ENTIRE AGREEMENT.** These Terms and Conditions constitute the entire and final agreement between onsemi and Buyer with regard to the subject matter herein and supersedes all other communications.

**THIRD PARTY RIGHTS EXCLUDED.** These Terms and Conditions are made solely for the exclusive benefit of onsemi and Buyer and all third-party rights of enforcement are hereby excluded to the fullest extent possible.

**WAIVER.** Failure by onsemi to exercise or enforce any rights hereunder shall not be deemed to be a waiver of any such

right nor operate so as to bar the exercise or enforcement thereof at any time or times thereafter.

**NOTICES.** Any notice hereunder shall be deemed to have been duly given when sent by certified mail or nationally-recognized pre-paid delivery service to the party concerned at its last known address.

**AMENDMENTS.** No modifications to these Terms and Conditions shall be binding unless expressly agreed to in writing by onsemi.

**SEVERABILITY.** If any provision of these Terms and Conditions is held invalid, all other provisions shall remain valid.

**NO ASSIGNMENT.** Neither party may assign its rights and obligations hereunder without the prior written consent of the other, except that onsemi is permitted to subcontract all or part of its obligations hereunder as it deems necessary, and these Terms and Conditions shall apply to sales by any onsemi subsidiaries. Any unauthorized assignment shall be null and void.

**DISCLAIMER FOR CRITICAL APPLICATIONS.** Product(s) sold under these Terms and Conditions are not designed, intended or authorized for use as a critical component in life support systems or any FDA Class 3 medical devices or medical devices with a similar or equivalent classification in a foreign jurisdiction, or any devices intended for implantation in the human body. Sale for such use is subject to onsemi's advance written authorization for product use and a separate indemnification agreement signed by Buyer. Buyer agrees to indemnify, defend and hold harmless onsemi, its directors, officers, employees, representatives, agents, subsidiaries, affiliates, distributors and assigns, against any and all liabilities, losses, costs (including attorneys' fees and costs), damages, judgments and expenses, arising out of or resulting from any claim, demand, investigation, lawsuit, regulatory action or cause of action arising out of or associated with any unauthorized use, even if such claim alleges that onsemi was negligent in the design or manufacture of the Product(s).

**GOVERNMENT CONTRACT PROVISIONS.** The Product(s) (which for purposes of this Paragraph also includes services and/or Software) that onsemi provides are "Commercial Items," "commercial computer software," and "commercial computer software documentation" as defined in accordance with FAR 2.101 (Definitions) and FAR 12.212 (Computer software). The USA government's rights to any Product(s) consisting of "commercial computer software" and "commercial computer software documentation" shall be limited to those rights customarily provided by onsemi to the public as provided in Paragraphs 7 and 8 of these Terms and Conditions. If Buyer sells Product(s) to the USA government or if Buyer is using Product(s) on behalf of the USA government, onsemi 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). If Buyer sells Product(s) 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 laws and regulations. onsemi does not provide any cost or pricing data or technical data rights to the Buyer or the Buyer's customer, and the cost accounting standards, audit and reporting requirements shall not apply for the Product(s) sold hereunder.

**BUYER'S APPLICATIONS.** Buyer is solely responsible for the design, validation and testing of its applications and for complying with all legal and regulatory requirements related to its applications. Industry best practice generally requires that Buyer conduct qualification and other tests on its applications taking into account environmental and other conditions that the application may encounter. Buyer understands and represents that, with respect to its applications, it has the necessary expertise to create and implement safeguards that: (i) anticipate consequences of failures; (ii) monitor failures and their consequences; and (iii) lessen the likelihood that failures create harm and to take appropriate remedial steps. Buyer agrees that prior to using or distributing any applications using onsemi Products, Buyer will thoroughly test such systems and the functionality of such Products as used in such systems. Where onsemi promotes certain Products as facilitating functional safety or complying with industry functional safety standards or requirements, such products are intended to assist buyers in designing and creating their own applications meeting designated function safety standards and requirements. Using one or more onsemi Products in an application does not itself establish any safety features in the application. Buyer is solely responsible for and must ensure compliance with any safety requirements and standards applicable to its applications. Buyer will indemnify, defend, and hold onsemi harmless from and against any and all damages, costs (including attorneys' fees and costs), fees and liabilities arising out of or resulting from Buyer's non-compliance with this Subparagraph.