



CORE LICENSE AGREEMENT

THIS CORE LICENSE AGREEMENT (the “Agreement”) is entered into as of _____, 201_ (the “Effective Date”) by and between _____, incorporated under the laws of _____, with principal offices located at _____ (“Company”) and _____, incorporated under the laws of _____, with principal offices located at _____ (“Licensee”).

The parties agree as follows:

1. **Product Exhibit(s); Order of Precedence.** This Agreement incorporates the initial core order form attached hereto as Exhibit A (the “Product Exhibit”). From time to time, the parties may agree to include additional Licensed Materials (defined below) under this Agreement by executing a document similar to Exhibit A that references this Core License Agreement (each a “Product Exhibit”). As used herein, “Agreement” means, collectively, this Core License Agreement, the initial Product Exhibit attached hereto as Exhibit A, and all subsequent Product Exhibits (if any). Each Product Exhibit shall identify any terms or conditions that are applicable to the Licensed Materials described therein that are additional to or different from the provisions of this Core License Agreement, and in such case the terms and conditions of a Product Exhibit shall supersede any conflicting provisions of this Core License Agreement solely for such Licensed Materials. The terms or conditions of any purchase order or other document issued by Licensee in connection with this Agreement shall be deemed invalid and have no force or effect to add to or modify this Agreement.

2. **Definitions**

“Affiliate” means an entity which controls, is controlled by or is under common control with a party hereto; where “control” means that the controlling party directly or indirectly has the beneficial ownership of more than fifty percent of the controlled entity’s shares or ownership interest giving the power to direct or cause the direction of the general management of the controlled entity. An entity shall be an Affiliate only during the time when such control exists.

[If applicable] “Authorization Codes” means any FLEXIm license key, license file, license manager, dongle or other key, code or information issued by (or on behalf of) Company that is necessary to use the Licensed Materials.

“Authorized Site” means a single geographic location in which Licensee conducts business, with a radius of no more than five (5) miles, as further described on the applicable Product Exhibit.

“Bitstream” means a machine-executable, binary form of Licensee’s design used to program a Xilinx Device.

“Error” means a repeatable failure of the Licensed Materials to substantially conform to the Specification as published by Company.

“Licensed Materials” means the Company design files (also referred to as a “core”) and documentation as further described in the Product Exhibit, and any Updates thereto as delivered by Company to Licensee.

“Specification” means the data sheet provided by Company for use with the Licensed Materials.

“Updates” means, with respect to the Licensed Materials, the following as delivered by Company to Licensee: (a) Error corrections developed by or for Company; and (b) functional enhancements or other modifications developed by or for Company (which Company in its sole discretion decides does not constitute a new product).

“Xilinx Device” means FPGA, PLD, SoC, configurable memory or other semiconductor devices that Xilinx designs and sells directly or through one or more of Xilinx’s authorized distributors.

3. **License Grants.** Subject to the terms and conditions of this Agreement, Company hereby grants Licensee the following nonexclusive, nontransferable licenses:

3.1 **Use Rights:** Licensee may internally reproduce and use the Licensed Materials for the sole purpose of creating designs that are programmed into a Xilinx Device; and

3.2 **Distribution Rights:** Licensee may reproduce and distribute the Licensed Materials, solely in Bitstream form for use to program a Xilinx Device that operates in Licensee's system-level hardware products.

Licensee may allow any of its Affiliates to exercise the rights granted to Licensee above, and to enter into their own Product Exhibits with Company pursuant to this Agreement; provided however, that Licensee shall be liable for any failure of Affiliates to abide by the terms and conditions of this Agreement as if such failure was the failure of Licensee.

4. **Restrictions.**

4.1 Licensee shall not use the Licensed Materials for any purpose other than in compliance with Section 3.1 (Use Rights), or allow use by any person outside the Authorized Site other than in compliance with Section 3.2 (Distribution Rights).

4.2 Licensee shall not reproduce the Licensed Materials other than to the extent necessary for its authorized use or distribution of the Licensed Materials (per Section 3 above), and for archival and back-up purposes, provided always that Licensee will at all times and in each instance, reproduce all copyright notices and proprietary legends on each copy in the same manner as such notices and legends appeared on the original.

4.3 Licensee shall not distribute or provide Licensed Materials to a third party, other than in compliance with Section 3.2 (Distribution Rights).

4.4 Licensee shall not publish or disclose the results of any benchmarking of the Licensed Materials, or use such results for its own competing development activities.

4.5 Licensee shall not decrypt, decompile, reverse-engineer, disassemble, or otherwise reduce to a human-perceivable form, the Licensed Materials.

4.6 Licensee shall not modify or alter the Licensed Materials.

4.7 Licensee shall not hypothecate, rent, lease, loan, lend, time-share, sublicense or otherwise transfer the Licensed Materials.

5. **Payment; Taxes.**

5.1 **Payment.** [If applicable] For purchases made through Company's authorized distributor, this Section 5 (Payment; Taxes) shall not apply. Company shall invoice Licensee for the license fee listed in a Product Exhibit and any amounts set forth in a purchase order issued by Licensee for support renewals. Licensee shall pay such invoices in full thirty (30) days after the invoice date, without any deduction, counterclaim or offset. Overdue amounts shall accrue interest at the rate of one and one-half percent (1.5%) per month, or at the highest legal interest rate, if less. Company may change these payment terms for subsequent Product Exhibits or renewals to Updates by inclusion of amended terms therein, including requiring pre-payment or other security, depending on a credit review by Company of Licensee's payment history or changes in financial condition. If Licensee's procedures require that an invoice be submitted against a purchase order before payment can be made, Licensee will be responsible for issuing such purchase order thirty (30) days before the payment due date.

5.2 **Transfer Taxes.** The amounts payable to Company pursuant to this Agreement are exclusive of any sales or use or other taxes or governmental charges. Licensee shall be responsible for payment of all such taxes or charges, except for any taxes based solely on the net income of Company. If applicable, Licensee will provide Company with valid certification of any exemption from tax or reduced rate of tax imposed by any applicable taxing authority at the time of order.

5.3 **Withholding Taxes.** If Licensee is required by applicable law to apply withholding taxes, Licensee shall provide Company with advance notification of the requirement to apply such taxes and

shall take all allowable actions requested by Company that will reduce the withholding tax liability regarding transactions under this Agreement, including, but not limited to, applying on its own or on behalf of Company for reduced withholding rates, concessionary tax rates or other favorable tax treatment. Licensee shall comply with applicable tax laws and regulations at its sole expense. Licensee will assist the efforts of Company to obtain allowable tax credits or deductions for withholding taxes by providing to Company, in a form acceptable to Licensee, original or certified copies of tax payments receipts or other evidence of payment of taxes withheld by Licensee regarding payments made under this Agreement.

6. Intellectual Property.

6.1 **Ownership.** Licensee acknowledges and agrees that all intellectual property and industrial rights in and to the Licensed Materials and all copies thereof are and will remain the sole property of Company, or its licensors (if any). Nothing contained in this Agreement will be construed as conferring by implication, estoppel or otherwise upon Licensee any license or other right except the licenses and rights expressly granted to Licensee in Section 3 (License Grants). Licensee understands that portions of the Licensed Materials and related documentation may have been licensed to Company from third parties and that such third parties are intended third-party beneficiaries of the provisions of this Agreement. The Licensed Materials are protected by laws and international treaty provisions covering intellectual property and industrial rights.

6.2 **Indemnification.** Subject to the terms and conditions of this Agreement, Company agrees to defend Licensee against third-party claims, actions, suits or proceedings (collectively, "Claims"), and to pay damages that are awarded to such third party by a final court judgment or are agreed upon by Company in settlement thereof, and costs and expenses including reasonable attorneys' fees incurred at the request of Company (collectively, "Damages"), to the extent caused by the Licensed Materials as delivered by Company infringing any third party patent or copyright, or containing any misappropriated trade secret; provided, however, that Licensee shall give Company prompt written notice of any Claim, full authority to defend and settle such Claim, and all reasonable assistance requested by Company in regard thereto. Company shall not be obligated to defend Claims or pay Damages to the extent caused by: (a) any modification to the Licensed Materials made by anyone other than Company, (b) any combination of the Licensed Materials with any other products, items, materials or technologies, (c) unauthorized use or distribution of the Licensed Materials, or use beyond the Specification for the Licensed Materials, (d) compliance with Licensee's specifications or requirements, (e) use or inclusion in the Licensed Materials of any Licensee-supplied products, items, materials or technologies, (f) conformance of the Licensed Materials to any standard published by a standards organization or body, (g) circuitry or other functionality present in or resulting from the overall design into which the Licensed Materials are incorporated, other than the circuitry or functionality provided solely by the Licensed Materials in the form supplied to Licensee by Company, or (h) any claim made by a third party against Licensee alleging that the Licensed Materials infringes any intellectual property right where such claim has been made in response to an initial claim by Licensee or any of its Affiliates. Notwithstanding the foregoing, should any Licensed Materials become, or in Company's opinion be likely to become, the subject of any such Claim, Company may, at its option: (1) procure for Licensee the right to continue using such Licensed Materials, (2) replace or modify such Licensed Materials so that it becomes non-infringing, which shall extinguish Company's obligations hereunder, or (3) if in Company's judgment neither of such alternatives is commercially reasonable, then terminate this Agreement with respect to, and refund any sums paid hereunder (amortized on a five-year, straight-line basis) for, the allegedly infringing Licensed Materials. Subject to Section 10 (Limitation of Liability), the foregoing states the entire liability and obligation (express, statutory, implied or otherwise) of Company, and Licensee's sole and exclusive remedy, with respect to claims of infringement of intellectual property rights of any kind.

7. Confidentiality.

7.1 **Duties.** Except as otherwise expressly permitted in Section 3 (License Grants), Licensee shall (a) maintain the confidentiality of the Licensed Materials as the proprietary trade secrets of

Company; and (b) not make the Licensed Materials available in any form to any person other than to its employees who are working at the Authorized Site, who have a genuine “need to know” for purposes authorized by this Agreement, and who are bound by obligations of confidentiality no less protective of Company (and its licensors, if any) than those contained herein. Licensee represents to Company that it maintains a system of confidentiality consistent with commonly accepted practices to protect its own confidential business information, including written agreements with employees, and that the Licensed Materials will be protected by such a system to the same extent, but in no event with less than reasonable care. Licensee agrees that a breach of this Agreement may result in irreparable and continuing damage to Company for which there may be no adequate remedy at law, and Company shall be entitled to seek injunctive relief and/or a decree for specific performance, and such other relief (including monetary damages) as may be proper.

7.2 Exceptions. The obligations of confidentiality under this Agreement shall not apply to information that: (a) is already known to Licensee at the time of disclosure without obligation of confidentiality; (b) is or becomes publicly known through no wrongful act or omission of Licensee; (c) is rightfully received by Licensee from a third party without obligation of confidentiality; (d) is approved for release by written authorization of Company; or (e) was developed by Licensee independently and without the use or benefit of the Licensed Materials.

8. **Limited Warranty.** Company warrants that if Licensee reports an Error to Company in writing within a period of one (1) year from the Effective Date or, as applicable, from the effective date of the applicable subsequent Product Exhibit (the “Warranty Period”), then Company shall correct or provide a workaround for the Error or replace the Licensed Materials with substantially similar materials without such Error, or if neither is in the opinion of Company commercially feasible, then Company may terminate the license granted to Licensee for such Licensed Materials and refund the license fee received by Company for such Licensed Materials. The foregoing describes the sole liability of Company and the exclusive remedy of Licensee with respect to any breach of the foregoing limited warranty.

9. **Disclaimers.**

9.1 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR THE EXPRESS LIMITED WARRANTY SET FORTH IN SECTION 8 (LIMITED WARRANTY), THE LICENSED MATERIALS ARE PROVIDED “**AS IS**” WITHOUT WARRANTY OR REPRESENTATION OF ANY KIND, AND COMPANY DISCLAIMS ALL OTHER WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. COMPANY MAKES NO WARRANTY OR REPRESENTATION THAT THE FUNCTIONS CONTAINED IN THE LICENSED MATERIALS WILL MEET LICENSEE’S REQUIREMENTS, THAT THE LICENSED MATERIALS WILL OPERATE PROPERLY IN COMBINATION WITH OTHER FUNCTIONALITY, CORES, SOFTWARE OR PROTOCOLS, OR THAT THE OPERATION OF THE LICENSED MATERIALS WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ALL ERRORS OR DEFECTS IN THE LICENSED MATERIALS ARE CAPABLE OF BEING CORRECTED.

9.2 LICENSEE ACKNOWLEDGES THAT USE OF THE LICENSED MATERIALS IN COMBINATION WITH OTHER FUNCTIONALITY, CORES, SOFTWARE OR PROTOCOLS MAY REQUIRE LICENSES FROM THIRD PARTIES AND LICENSEE ACCEPTS SOLE RESPONSIBILITY FOR OBTAINING SUCH LICENSES.

9.3 THE LICENSED MATERIALS ARE NOT DESIGNED OR INTENDED TO BE FAIL-SAFE, OR FOR USE IN ANY APPLICATION REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS APPLICATIONS RELATED TO LIFE-SUPPORT OR SAFETY DEVICES OR SYSTEMS, CLASS III MEDICAL DEVICES, NUCLEAR FACILITIES, DEPLOYMENT OF AIRBAGS, CONTROL OF VEHICLE OR AIRCRAFT (UNLESS THERE IS A FAIL-SAFE OR REDUNDANCY FEATURE WHICH DOES NOT INCLUDE USE OF SOFTWARE IN THE XILINX DEVICE TO IMPLEMENT THE REDUNDANCY AND A WARNING SIGNAL UPON FAILURE TO THE OPERATOR), OR ANY OTHER APPLICATIONS THAT COULD LEAD TO DEATH, PERSONAL INJURY OR SEVERE PROPERTY OR ENVIRONMENTAL DAMAGE (INDIVIDUALLY AND COLLECTIVELY, “CRITICAL APPLICATIONS”). LICENSEE AGREES, PRIOR TO USING OR DISTRIBUTING ANY SYSTEMS THAT INCORPORATE THE LICENSED MATERIALS, TO THOROUGHLY TEST THE SAME FOR SAFETY PURPOSES. TO THE MAXIMUM EXTENT

PERMITTED BY APPLICABLE LAW, LICENSEE ASSUMES THE SOLE RISK AND LIABILITY OF ANY USE OF THE LICENSED MATERIALS IN CRITICAL APPLICATIONS.

10. **Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW: (1) IN NO EVENT SHALL COMPANY OR ITS LICENSORS BE LIABLE FOR ANY LOSS OF DATA, LOST PROFITS, GOODWILL, OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES ARISING UNDER, RELATED TO, OR IN CONNECTION WITH THIS AGREEMENT OR THE USE OR OPERATION OF THE LICENSED MATERIALS, IN WHOLE OR IN PART, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY; (2) IN NO EVENT SHALL THE ENTIRE LIABILITY OF COMPANY OR ITS LICENSORS ARISING UNDER, RELATED TO, OR IN CONNECTION WITH THIS AGREEMENT, EXCEED THE AMOUNT OF LICENSE FEES RECEIVED BY COMPANY FROM LICENSEE FOR THE APPLICABLE LICENSED MATERIALS GIVING RISE TO SUCH LIABILITY; (3) THESE LIMITATIONS AND EXCLUSIONS SHALL APPLY REGARDLESS OF WHETHER SUCH LOSS WAS REASONABLY FORESEEABLE OR IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (4) THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDIES HEREIN. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, NEITHER PARTY EXCLUDES OR LIMITS ITS LIABILITY IN ANY WAY FOR ANY MATTER THAT CANNOT, AS A MATTER OF APPLICABLE LAW, BE LIMITED OR EXCLUDED. THE PARTIES AGREE THAT THIS SECTION 10 (LIMITATION OF LIABILITY) REPRESENTS AN ALLOCATION OF RISK WHICH THE PARTIES CONSIDER REASONABLE.

11. **Term and Termination.**

11.1 **Term.** This Agreement will commence upon the Effective Date and will remain effective until terminated in accordance with this Section 11.

11.2 **Termination by Licensee.** Licensee may terminate this Agreement (or any individual Product Exhibit by itself) at any time for any or no reason by destroying the Licensed Materials and all copies and derivative works, and providing notice to Company of same. Licensee may also terminate this Agreement for material breach by Company, provided that Licensee has given written notice to Company of such breach and Company fails to cure such breach within thirty (30) days thereof.

11.3 **Termination by Company.** Company may terminate this Agreement for material breach by Licensee, provided that Company has given written notice to Licensee of such breach and Licensee fails to cure such breach within thirty (30) days thereof; provided, however, in the event of a breach of confidentiality under Section 7 whereby unauthorized disclosure and/or dissemination by electronic or other means is likely to cause undue harm to Company, then Company may, at its discretion, immediately terminate this Agreement and seek other appropriate equitable and legal remedies as deemed necessary to protect its interests hereunder.

11.4 **Effects of Termination.** Upon termination of this Agreement (or, if applicable, upon termination of an individual Product Exhibit by itself) the licenses and rights granted by Company hereunder will cease, and Licensee shall destroy the Licensed Materials, including all copies and derivative works, and all related documentation and certify such destruction in writing to Company. In addition to any outstanding payment obligations of Licensee, each party's rights and obligations under the following provisions of this Agreement shall indefinitely survive the termination of this Agreement: Sections 6 (Intellectual Property); 7 (Confidentiality); 9 (Disclaimers); 10 (Limitation of Liability), 11.4 (Effects of Termination); and 12 (General).

12. **General.**

12.1 **Governmental Use.** The Licensed Materials are comprised of commercial computer software developed exclusively at the expense of Company. Accordingly, pursuant to the U.S. government's Federal Acquisition Regulations (FAR) Section 12.212 and Defense FAR Supplement (DFARS) Section 227.7202, use, duplication and disclosure of the Licensed Materials by or for the U.S. government is subject to the restrictions set forth in this Agreement. Manufacturer is [add name and address of Company].

12.2 **Export Compliance.** Licensee shall adhere to all applicable import and export laws and regulations of Licensee's country and of the United States, without limitation. This Agreement may involve items and information that are subject to the U.S. government's International Traffic in Arms Regulations (ITAR) or Export Administration Regulations (EAR). The importer/exporter of record shall not export, reexport, resell, transfer, or disclose, directly or indirectly, any products or technical data, to any proscribed person, entity, or country, or foreign persons thereof, unless properly authorized by the U.S. government and/or any other applicable or relevant government or regulatory body.

12.3 **Governing Law.** This Agreement and its performance will be governed by, subject to, and construed in accordance with the laws of the State of California, excluding conflict of law rules. The parties specifically exclude from application to this Agreement the United Nations Convention on contracts for the International Sale of Goods.

12.4 **Assignment.** Licensee shall not assign this Agreement or transfer any of the rights or obligations under this Agreement, in whole or in part, by operation of law or otherwise, without the prior written consent of Company. Any merger, acquisition, reorganization, change of control, or the like, involving Licensee shall be deemed an assignment in violation of the foregoing. Subject to the foregoing, this Agreement will be for the benefit of Company and its successors and assigns, and will be binding on Licensee's permitted assignees.

12.5 **Allocation of Risk.** Licensee acknowledges and agrees that each provision of this Agreement that provides for a disclaimer of warranties or an exclusion or limitation of damages represents an express allocation of risk, and is part of the consideration of this Agreement.

12.6 **Waiver; Amendment.** No waiver, express or implied, by either party of any right or remedy for any breach by the other party of any provision of this Agreement will be deemed or construed to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself or of any other breach or provision. No waiver of or modification or amendment to this Agreement will be effective unless reduced to writing and executed by authorized representatives of the parties.

12.7 **Severability.** If any provision of this Agreement is found unenforceable, illegal, void or invalid in whole or in part, then it shall to that extent be deemed not to form part of this Agreement and the remainder of the Agreement will remain in full force and effect.

12.8 **Notices.** Any notices required or permitted by this Agreement shall be in writing and shall be delivered as follows, with notice deemed given as indicated: (i) by personal delivery, when delivered personally; (ii) by overnight courier, upon written verification of receipt; (iii) by facsimile transmission, upon acknowledgment of receipt of electronic transmission, provided that notice is also provided by one of the other methods herein within five (5) days thereafter; or (iv) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to the addresses set forth above or to such other address as either party may specify in writing.

12.9 **Entire Agreement.** This Agreement represents and constitutes the entire agreement between the parties with respect to the Licensed Materials, and supersedes all prior or contemporaneous discussions, representations, arrangements, understandings or agreements, written or oral, regarding the subject matter hereof. No additional terms or modifications proposed by Licensee shall be binding on Company unless expressly agreed to in writing and signed by Company.

12.10 **Interpretation.** By signing below, Licensee acknowledges and agrees that it has read and understood this Agreement, has had an opportunity to discuss this Agreement with its legal and other advisors, and agrees to be bound by the terms and conditions of this Agreement. This Agreement shall be interpreted fairly in accordance with its terms and without any strict construction in favor of or against either party.

12.11 **Counterparts.** The parties may execute this Agreement in counterparts, including facsimile, PDF, and other electronic copies, which taken together will constitute one instrument. A

facsimile of an original signature or electronically signed version transmitted to the other party is as effective as if the original was sent to the other party.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the date(s) indicated below.

COMPANY:

LICENSEE:

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

SAMPLE

EXHIBIT A – INITIAL PRODUCT EXHIBIT

Licensed Materials:

<u>Description</u>	<u>Part No.</u>	<u>License Fee</u>

<p><u>ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS APPLICABLE TO THE LICENSED MATERIALS DESCRIBED ABOVE:</u></p> <p>insert any applicable “special” terms here, or, delete this box and the reference to additional or different terms if not applicable to this Product Exhibit.</p>

The Licensed Materials listed above may be used only at the following Authorized Site:

(Include company name and address)

Support: [add description here]

[If applicable]

Renewal: Upon the expiration of the Support period, and subject to Company’s product discontinuance policies, Licensee may purchase new Authorization Codes for on-line access to Updates for subsequent annual periods by issuing a purchase order for an amount identified by Company in connection with such renewal.