



**LINEAR TECHNOLOGY CORPORATION**  
**Standard Terms and Conditions of Sale**  
**January, 2005**

**1. GENERAL**

These Standard Terms and Conditions of Sale shall apply to all quotations and offers made, and purchase orders accepted, by Linear Technology Corporation, a Delaware Corporation (“Linear”). THESE STANDARD TERMS AND CONDITIONS OF SALE MAY, IN SOME INSTANCES, CONFLICT WITH THE TERMS AND CONDITIONS AFFIXED TO PURCHASE ORDERS OR OTHER PROCUREMENT DOCUMENTS ISSUED BY BUYER. IN SUCH CASE, THE TERMS AND CONDITIONS CONTAINED HEREIN SHALL PREVAIL. Linear’s acceptance of any purchase order of Buyer is strictly conditioned upon Buyer’s acceptance of these Standard Terms and Conditions of Sale. Buyer shall be conclusively deemed to have accepted the same upon any of the following by Buyer, its agents or representatives: (i) written or electronic acknowledgement or acceptance hereof, (ii) transmission to Linear, its agents or representatives of any order for Linear Products or services, or (iii) acceptance of or payment for any product or service covered hereby. Linear’s failure to object to any provision contained in any communication from Buyer shall not be deemed a waiver of any provision hereof. Any changes in the terms and conditions of sale contained herein, or in any document or agreement referred to herein, must be specifically agreed to in a writing signed by a corporate officer of Linear, before being binding on either party. No order will be binding upon Linear unless and until accepted in writing on Linear’s behalf by an authorized official of Linear at its corporate office in Milpitas, California, U.S.A. Linear may accept or reject any order at Linear’s sole discretion.

**2. PRICING**

Prices quoted are subject to modification or withdrawal without notice, unless otherwise stated in a written quotation provided by Linear. All invoices and charges for products and services will be at the price indicated in Linear’s written order acknowledgement, or other mutually agreeable form of order acceptance by Linear. In the event that the acceptance price differs from the price originally quoted to Buyer, Buyer may cancel such order without liability so long as it gives written notice thereof to Linear within five (5) days following the date of Linear’s order acceptance notice. Unless otherwise specified or required by law, all prices are exclusive of any sales, use, revenue or excise tax, import duty (including brokerage fees) or other tax (excepting only taxes based on Seller’s income), fees or other charges of any nature imposed by any public authority (national, state, local or other) applicable to the products and services described in the contract of sale. Such taxes, when applicable, shall be added to the purchase price and be paid by Buyer, unless Buyer delivers to Linear with the purchase order a proper tax exemption certificate acceptable to Linear and the applicable taxing authority.

**3. TERMS OF PAYMENT**

The terms of payment are net thirty (30) days from the invoice date, subject to the approval of Linear’s credit department at the time of shipment. Linear reserves the right to require payment in advance, C.O.D. or guarantee by letter of credit, and otherwise modify credit terms at its discretion based upon the financial condition of Buyer.

**4. TITLE AND DELIVERY**

Unless otherwise agreed to by Linear in an advance writing, all sales are made Ex-Works Linear’s shipping facility in Singapore or Milpitas, California, U.S.A. (Incoterms 2000) or other shipping point designated by Linear. In other words, title shall pass to Buyer, and Linear’s liability shall cease, when Linear places the Products covered hereby at the disposal of Buyer (or Buyer’s selected carrier as Buyer’s agent) at Linear’s facility in Singapore, Milpitas-California, U.S.A., or other shipping point designated by Linear. All claims for loss or damages must be filed with the carrier. In the absence of timely and specific shipping instructions from Buyer, or the failure of Buyer’s selected carrier to accept Products on the acknowledged shipment date, Linear may select another carrier and service level similar to that of Buyer’s selected carrier (if any), so as to complete the order as originally acknowledged by Linear. In such cases, Buyer will promptly accept any and all ordered products as if placed at the disposal of Buyer or its selected carrier at Linear’s facility. Claims against Linear for shortages must be made within ten (10) days after arrival of shipment. Linear assumes no responsibility for delay, breakage or damage after having placed Products in good order at the disposal of Buyer or its carrier at Linear’s facility.

**5. ACCEPTANCE BY BUYER**

Buyer shall accept or reject products within thirty (30) days following receipt of each shipment. In the event that Buyer fails to notify Linear in writing of rejection and the specific grounds therefore within such time period, Buyer shall be conclusively deemed to have accepted such products without qualification.

**6. LIFETIME WARRANTY**

Subject to the terms of Paragraph 14, Linear warrants that the Products covered hereby shall be free from defects in workmanship and materials, and shall conform to Linear’s specifications as published at the time of order acceptance, or other specifications accepted in writing by Linear, for an unlimited time following the date of shipment. The foregoing warranty does not apply to any Product subjected to misuse (including static discharge), neglect, accident, modification, or testing or handling by a third party not approved in writing in advance by Linear, or which has been soldered or altered during assembly and is unsuitable for testing by Linear under normal conditions and methods or which have been subjected to alteration, removal or remarking of any portion of the Product part number, date code, logo or factory code, all of which are subject to the determination of Linear in its discretion. Linear’s sole obligation to Buyer for Products failing to meet the aforesaid warranty shall be, at Linear’s option, to (a) replace the nonconforming Products, or (b) issue Buyer a credit for the purchase price of the nonconforming Products, where (i) Linear has timely received written notice in reasonable detail of any nonconformity; (ii) after Linear’s written authorization to do so, Buyer has returned the

nonconforming Products to Linear, freight prepaid, accompanied by Linear's standard return material authorization ("RMA") form; and (iii) Linear has determined to its satisfaction that the Products are nonconforming and that such nonconformity is not subject to the foregoing warranty exclusion (concerning misuse, neglect and other causes). Each return shipment must be in proper and appropriate packaging with the RMA number clearly stated on the outside of the container. Unauthorized returns, or returns that fail to comply with the foregoing requirements, will be subject to reshipment to Buyer at its sole cost and expense and all risk of loss for unauthorized returns shall be borne by the Buyer.

Linear's warranty does not relieve the Buyer of the reasonable responsibility to test for Product nonconformity before soldering or installing Linear's Products to a circuit board.

THE FOREGOING WARRANTY AND REMEDIES ARE EXCLUSIVE AND ARE MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED, STATUTORY OR BY OPERATION OF LAW OR OTHERWISE, INCLUDING (WITHOUT LIMITATION) WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE OR PURPOSE. LINEAR NEITHER ASSUMES, NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT, ANY OTHER LIABILITY IN CONNECTION WITH THE SALE, INSTALLATION OR USE OF ITS PRODUCTS, AND LINEAR MAKES NO WARRANTY WHATSOEVER FOR PRODUCTS NOT MANUFACTURED BY LINEAR NOR FOR ANY LINEAR TECHNOLOGY PRODUCT PURCHASED OR ACQUIRED FROM ANY DISTRIBUTOR, BROKER OR OTHER SOURCE WHICH HAS NOT BEEN AUTHORIZED BY LINEAR TECHNOLOGY TO SELL OR DISTRIBUTE ITS PRODUCTS.

NO LINEAR PRODUCT MAY BE USED IN A LIFE SUPPORT APPLICATION (SEE PARAGRAPH 8).

#### **7. LIMITATION OF LIABILITY**

LINEAR SHALL NOT BE LIABLE FOR DAMAGES DUE TO DELAYS IN DELIVERY OR USE. IN NO EVENT SHALL LINEAR BE LIABLE FOR SPECIAL, CONSEQUENTIAL OR INCIDENTAL COSTS OR DAMAGES OF ANY KIND, HOWEVER CAUSED, WHETHER ARISING FROM CONTRACT, TORT, NEGLIGENCE OR OTHERWISE, INCLUDING (WITHOUT LIMITATION) DAMAGES TO PERSONS OR PROPERTY, LOSS OF PROFITS, GOODWILL, OVERHEAD COSTS OR PROCUREMENT OF SUBSTITUTE GOODS, LOSS OF PROFITS, OR ANY OTHER LIKE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, LINEAR'S AGGREGATE LIABILITY TO BUYER AND THIRD PARTIES SHALL NOT EXCEED THE REFUNDING OF THE PURCHASE PRICE OF PRODUCTS HEREUNDER.

#### **8. LIFE SUPPORT POLICY**

LINEAR'S PRODUCTS ARE NOT AUTHORIZED FOR USE AS CRITICAL COMPONENTS IN LIFE SUPPORT DEVICES OR SYSTEMS WITHOUT THE PRIOR EXPRESS WRITTEN APPROVAL OF THE PRESIDENT OR CEO OF LINEAR. As used herein:

- a. "Life support devices or systems" are devices or systems which (i) are intended for surgical implant into the body, or (ii) support or sustain life and whose failure to perform when properly used can be reasonably expected to result in loss of life or significant injury to the user.
- b. "Critical component" is any component in a life support device or system whose failure to perform can be reasonably expected to cause the failure of the life support device or system or to affect its safety or effectiveness.

#### **9. PATENT INFRINGEMENT**

Linear shall defend any valid suit, proceeding, or claim of infringement asserted against Buyer alleging that any Linear Product supplied by Linear to Buyer infringes any United States integrated circuit patent, excluding claims directed to manufacturing equipment, processes, software or foundry services utilized or purchased by Linear. Buyer must promptly inform Linear of any such claim, and provide Linear with each communication, notice or other action relating to the alleged infringement and give full authority, information, and assistance (at Linear's expense) necessary to defend or settle such suit or proceeding. Linear shall have the absolute right to control the defense and settlement of any infringement suit or proceeding for which Buyer seeks indemnification under this paragraph.

If any Linear Products purchased by Buyer shall be held to infringe any United States integrated circuit patent and Buyer is judicially ordered not to purchase or use such Products, Linear will at its sole option and at its expense (1) procure for Buyer the right to purchase and use such Products free of any liability for patent infringement or (2) modify such Products to become non-infringing or (3) replace such Products with non-infringing Products or (4) cancel such Products on backlog with Linear or (5) refund the purchase price of such Products after successfully completing an RMA. Linear's sole obligation will be the options specified in this section. If Linear, after reasonable attempts, determines that it is impractical or uneconomical to secure the right to continued use of the infringing product, Linear will be relieved of all obligations and liabilities to secure its continued use. If the infringement by Buyer is alleged prior to Linear's completion of delivery of the Products, Linear may decline to make further shipments without being in breach of this Agreement.

Linear shall not be obligated to defend or be liable for costs and damages if the infringement arises out of (1) Products that are manufactured by Linear in accordance with Buyer's specifications, or (2) Buyer's use or application of Products in combination with other components not supplied by Linear, or (3) the Products being modified by Buyer or (4) from use of the Products, or any part

thereof, in the practice of a process. Linear's obligations hereunder shall not apply to any infringement occurring after Buyer has received notice of such suit or proceeding alleging the infringement unless Linear has given written permission for such use by Buyer.

Sales of Products, or any part thereof, hereunder confers upon Buyer no license under, or grant of any right to acquire, any patent or any other intellectual property rights owned or controlled by Linear whatsoever. Unless expressly provided otherwise in writing, Linear shall retain exclusive title to and possession of any tools, mask works, circuit designs, dies, fabrication processes, test methods and fixtures invented, made for, used or obtained by Linear in connection with any purchase order.

#### **10. CONTINGENCIES; DELAY; FORCE MAJEURE**

All shipment dates and quantities are approximate. Linear will use commercially reasonable efforts to fill all orders according to the agreed upon schedule and quantity. Linear reserves the right to make products available in installments and the contract of sale shall be severable as to each such installment. Delay in delivery or other default of any installment of any one or more Products shall not relieve Buyer of its obligation to accept and pay for remaining deliveries.

Linear shall not be responsible for any failure to perform due to acts of God, war, riot, acts of terrorism, embargoes, acts of civil or military authorities, fire, flood, earthquake, accident, strike, shortages of transportation facilities, fuel, labor or materials, or for any other cause beyond Linear's reasonable control. In the event of any delay caused by any such contingency, the date of shipment shall, at the discretion of Linear, be deferred on a day-by-day basis until such event has terminated. In the event Linear's production is curtailed for any of the foregoing reasons so that Linear cannot make available the full amount released hereunder, Linear may allocate production deliveries to the various customers then under contract for similar goods. The allocation will be made in a commercially fair and reasonable manner. When allocation has been made, Linear will notify Buyer of the estimated quantity to be made available to Buyer and the approximate time when this quantity will be made available.

#### **11. CANCELLATION OR RESCHEDULING BY BUYER FOR CONVENIENCE**

Buyer may cancel or reschedule any order for convenience under the following terms and conditions: (a) for standard products, the minimum advance written notice to Linear for any cancellation or rescheduling is thirty (30) calendar days prior to the current acknowledged shipment, and such notice will be effective only upon the specific written approval of Linear's customer service department and may be subject to special charges; (b) for standard products with additional special handling, marking or other processing, Linear shall state the minimum advance written notice period for cancellation or rescheduling with its price quote to Buyer for such Products, or at any other time prior to Linear's acceptance of an Order for such Products, which period in no event shall be less than thirty (30) calendar days prior to the current acknowledged shipment date; and (c) for non-standard, custom or special Products, Buyer shall accept delivery of, and promptly make full payment to Linear for all such Products for which Linear has outstanding purchase orders from Buyer at the time of cancellation. No purchase order accepted or acknowledged by Linear shall be subject to partial payment or setoff by Buyer. No cancellation or rescheduling of any non-standard, custom or special Product is allowed without the advance written consent of Linear specifically as to each such Product, and cancellation charges shall apply. Standard Products also may be subject to cancellation charges (as per non-standard, custom and special products), as determined by Linear in its sole discretion. In such events, Buyer shall promptly pay a cancellation fee to Linear, which fee may include, but is not limited to: (i) costs of settling and paying claims arising out of the termination of work of Linear's subcontractors and/or vendors; and (ii) other reasonable costs of Linear, including (without limitation) manufacturing, engineering, development, accounting, legal and clerical costs.

#### **12. CANCELLATION BY BUYER FOR DEFAULT**

Buyer may cancel any order for standard Products, in whole or in part, upon written notice to Linear in the event that Linear fails to make such Products available in accordance with the terms hereof, except as such failure is excused or deferred pursuant to Paragraph 10. Cancellation by Buyer for default shall be effective only upon Linear's failure to correct such default within a reasonable period following written notice by Buyer specifying such default. Non-standard or custom Products, or any Products with special handling, testing or other processing are not subject to cancellation without the advance written consent of Linear, which consent shall not be unreasonably withheld, unless Linear's failure to so make such products available, or to so correct such default within a reasonable period following written notice thereof, is excused or deferred pursuant to Paragraph 10. Linear shall not be liable for incidental, punitive or consequential damages, including but not limited to the cost of labor, purchase of substitute goods, requalification, delay, loss of profits, loss of opportunities or goodwill, if Linear fails to meet Linear's acknowledged delivery dates.

#### **13. CANCELLATION BY LINEAR FOR INSOLVENCY**

Linear reserves the right to cancel any unfilled order immediately and without notice to Buyer in the event that Buyer becomes insolvent, is adjudicated bankrupt, petitions for or consents to any relief under any bankruptcy reorganization statutes, or in the judgment of Linear is unable to timely meet its financial obligations in the normal course of business.

#### **14. SUBSTITUTIONS AND MODIFICATIONS**

Linear reserves the right to modify the specifications of any component or Product offered by Linear, provided that, in Linear's opinion, the modification will not materially affect the form, fit or performance of such component or Product.

#### **15. SECURITY INTEREST**

Buyer, for valuable consideration, the receipt and sufficiency of which Buyer hereby acknowledges, grants to Linear a security interest, under the provisions of the California Commercial Code, in the Products covered hereby, together with all accessions thereto and all increases, replacements, proceeds and products thereof or therefrom. The security interest granted hereunder secures the payment, in

lawful money of the U.S.A., to Linear of the purchase price of such Products. Buyer hereby appoints Linear as Buyer's lawful attorney to sign Buyer's name on any documents necessary or appropriate to perfect or continue the perfection of any security interest granted herein. Linear's appointment as Buyer's attorney in fact, and all of Linear's rights and powers hereunder, are coupled with an interest and remains irrevocable until all of Buyer's obligations have been fully repaid and performed.

#### **16. CONTROLLING LAW; VENUE & JURISDICTION; ATTORNEYS' FEES**

These Standard Terms and Conditions of Sale shall be governed by and construed under the laws of the State of Delaware, U.S.A., without regard to the principles of conflicts of law. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply. In the event any applicable contract or agreement is executed in more than one language version, the English language version shall control. Any and all disputes arising hereunder or with respect hereto shall be subject to the exclusive jurisdiction and venue of the state and federal courts in the State of Delaware, U.S.A., and Buyer consents to the personal and exclusive jurisdiction and venue of these courts. The prevailing party in any legal action brought by one party against the other shall be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses incurred thereby, including court costs and reasonable attorneys' fees.

#### **17. GENERAL**

- a. All licenses or other required governmental approvals shall be obtained by Buyer at its sole cost and expense. Buyer agrees to comply with all applicable laws and regulations. Buyer understands that Linear is subject to regulation by agencies of the U.S. government, including the U.S. Department of Commerce, which prohibit export or diversion of Linear's products or technical information to certain countries, and agrees it will not knowingly assist or participate in any such diversion or other violation of applicable U.S. laws and regulations. Buyer warrants that it shall not sell any Product covered hereby in any country, or to any user, not then approved to receive classified technical equipment or information under applicable U.S. laws and regulations, that Buyer has knowledge of such laws and regulations, and that it will abide by such laws and regulations. Buyer shall hold harmless and indemnify Linear for any damages resulting to Linear from a breach of this subparagraph by Buyer.
- b. Each shipment made hereunder shall be considered a separate transaction. In the event of any default by Buyer, Linear may decline to make further shipments. If Linear elects to continue making shipments, such action shall not constitute a waiver of any default by Buyer or in any way affect Linear's legal remedies for such default.
- c. Any change, waiver or deviation made by Linear in the course of doing business with Buyer shall not exclude or diminish, in any way, the effectiveness of any other portion of these Standard Terms and Conditions of Sale, nor shall it determine or limit the effectiveness of any agreement between the parties for any other transaction at any time.
- d. The language used herein shall be deemed to be the language chosen by the parties hereto to express their mutual intent and shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted, or in favor of the party receiving a particular benefit under the agreement. No rule of strict construction will be applied against any person.
- e. If any term or provision hereof is determined to be illegal, unenforceable or invalid, in whole or in part, for any reason, such illegal, unenforceable or invalid provisions or part thereof shall be stricken, and such provision shall not affect the legality, enforceability or validity of the remainder. If any provision or part hereof is stricken in accordance with this subparagraph, then such stricken provision shall be replaced, to the extent possible, with a legal, enforceable and valid provision that is as similar in tenor to the stricken provision as is legally possible.
- f. These Standard Terms and Conditions of Sale, and the documents and agreements referred to herein, set forth the entire agreement between the parties with regard to the subject matter hereof and thereof, and supersede all previous agreements between or among the parties. There are no agreements, representations or warranties between or among the parties other than those set forth herein, or the documents and agreements referred to herein. No waiver of any provision or consent to any action by Linear shall constitute a waiver of any other provision or consent to any other action, whether or not similar. No waiver or consent by Linear shall constitute a continuing waiver or consent or commit Linear to provide a waiver in the future, except to the extent specifically set forth in writing. Any waiver given Linear shall be null and void if Buyer has not provided a full and complete disclosure of all material facts relevant to the waiver requested. [END]