

# Terms and Conditions - TechInsights for Licensing Entities

## 1. Proprietary Rights

Under this agreement (the "Agreement") TechInsights provides Company (including affiliates of Company, meaning entities under common control with Company) with the Service as more fully described in this Agreement and the Company receives access to Technology Analysis which is either sent directly to the Company or is accessed by Company through a TechInsights' proprietary access portal (collectively, the "Content Access Tool"). The Content Access Tool makes Technology Analysis and other content available by making it viewable, which content viewed thereby may not be saved or printed, except as permitted below (the "Service"). "Technology Analysis" comprises all technical and business information obtained or generated by TechInsights and/or that is made available via the Content Access Tool, and includes but is not limited to information obtained by TechInsights from market analysis, analysis of parts procured, samples prepared, images captured, schematic diagrams produced, test results documented of semiconductor or electronics circuits, processes, or systems, products torn down, except that it does not include Customer Data (defined below). "Customer Data" means any information or data collected by TechInsights or by the Content Access Tool with regard to Company's use of the Service, including, but not limited to usage patterns, Technology Analysis accessed or viewed by Company, sale of reports, images, schematics, tables, etc. to Company. All copyright, proprietary, and other intellectual property rights to the Content Access Tool, any Technology Analysis, and collected Customer Data will reside with TechInsights and/or the creators thereof. The individual authors of various aspects of the Technology Analysis hold moral rights in the Technology Analysis, which are not waived. TechInsights reserves the right to re-use and re-sell any Technology Analysis. TechInsights warrants that TechInsights shall solely use the Customer Data for the purposes of providing the Services and other support to Company.

## 2. License, Distribution & Use

TechInsights grants to Company, during the Term (defined below), a non-exclusive, non-transferable, revocable, limited license (without the right to sublicense – except as expressly permitted) to use the Content Access Tool in the manner designed and to use the Technology Analysis, in accordance with the following, adherence to ALL of which is the responsibility of Company (the "Usage Clause"):

- The Service may only be used by "Authorized Users" which are defined as employees or contractors of the Company authorized by

Company to access the Content Access Tool and who have been supplied a user account and password by Company, and who are subject to obligations of confidentiality at least as restrictive as those set forth below in Section 5. Company may substitute a previously unauthorized user for an Authorized User provided that the number of Authorized Users does not exceed the maximum permitted of 25, unless specified as otherwise in writing in this Agreement, or other applicable agreement, and provided that Company changes the designated username and password for each newly designated Authorized User.

- Company must use the Content Access Tool in the way that the tool is designed to be used and specifically must not modify, reverse engineer, disassemble or decompile or create derivative works based on software programs or data associated with the Content Access Tool and technology Analysis.
- Company may only access, distribute, copy, and reproduce any Technology Analysis as permitted and set out in this Usage Clause and may not use it any way not explicitly provided for herein.
- Unless expressly agreed otherwise and documented in the Agreement:
  - The license granted hereunder, revocable in accordance with the terms hereof, is a "Right to View" license only, and Company, and its Authorized Users, shall solely be granted permission to view Technology Analysis only except as may be permitted otherwise herein or as agreed to otherwise in advance and in writing by TechInsights; for clarity, none of Company and its Authorized Users may save, download, print, copy, distribute, publish, or disclose or make available to any third party any Technology Analysis without TechInsights' prior written consent, except as permitted hereby.
  - Company may only use Technology Analysis for one, and only one, of the following (the "Permitted Purposes"): (I) for assessing whether or not additional license rights for External Purposes (defined below) shall be purchased; OR (II) a limited technical analysis to determine mode of functionality and construction, including layout, materials, and cost, provided that no information from the limited technical analysis is used in any way for any External Purpose. For any use of a Technology Analysis that is an External Purpose, including their use in association with the preparation of claim charts, establishing or confirming infringement, and use in communication of such infringement and/or evidence thereof to any third party, or in

any way for intellectual property licensing discussions or litigation, Company must purchase additional license rights.

- iii. Company may make up to three (3) hard copies of subject matter from any given Technology Analysis for a Permitted Purpose, provided that no more than is necessary to achieve the Permitted Purpose is copied at any given time, and any such copies are immediately destroyed thereafter.
- iv. Unless expressly permitted, Company may not provide access to the Content Access Tool, or to any Technology Analysis, to any person who is not an Authorized User, except that Company may provide access to the Content Access Tool, or to a copy of a Technology Analysis made in accordance with Section 2.d.iii. above, to persons advising Company, who are not adverse to Company, solely for a Permitted Purpose. For greater certainty, the sale, lending, or disclosure to any third party of the Technology Analysis, or any portions thereof, whether for financial compensation or tangible or intangible benefit, is deemed not to be for a purpose solely associated with Company's business and is prohibited absent Company first obtaining written approval of TechInsights.
- v. Solely to the extent expressly permitted in this Agreement, Company may sublicense to person advising Company, and who is not adverse to Company, its rights under sub-paragraphs (a) (b) and (c) of this Section, provided that such sublicense is for purposes solely associated with Company's business and that the entity to whom its rights have been sublicensed agrees to be bound by Sections 1, 2, 5, 6, 8.b. and 9.b of this Agreement.
- e. "External Purposes" includes any commercial or business use that requires a disclosure of any Technology Analysis, or portion thereof, to a third party and/or includes any use associated with the preparation of claims charts, comparison of Technology Analyses to patents or other third party technical information, or use in association with intellectual property licensing discussions or litigation (including pre-litigation), including any disclosure to any third party of any of the foregoing and/or any allegation or confirmation of infringement based on, determined from, or supported by, a Technology Analysis, directly or indirectly, whether or not in respect of any licensing negotiations or litigation (including pre-litigation).
- f. Purchasing Additional "Right-to-Use" License Rights: Company may purchase additional licensing rights in respect of each Technology Analysis that grant Company certain additional rights to use such Technology Analyses for External Purposes (for each such Technology Analysis, a "Right-to-Use" License"), subject to the following:
  - i. Company hereby commits to purchase a minimum amount of content and services in respect of Technology Analyses during the Initial Term and in every Renewal Term (the "Annual Commitment"). The Annual Commitment for the Initial Term shall be as set forth in the proposal and, for clarity, this amount does not include the Subscription Fee. If the cumulative Fees from the purchase of goods and services in the current year fall short of the Annual Commitment (the "Annual Shortfall"), TechInsights shall invoice Company for an amount equal to the Annual Shortfall at the end of the calendar year of the Term and, if different, at the end of the Term. For clarity, there is no carryover or refund of unconsumed Annual Commitment at the end of each 1-year period of the Term;
  - ii. The Annual Commitment (as set forth on the proposal) can be used on goods and services (Content and Fee-For-Service) within the current Term. In the event Company does not use the Annual Commitment during the current term, Company shall pay to TechInsights the amount of any shortfall;
  - iii. Company may freely distribute, copy and reproduce such Technology Analyses within Company's business or its affiliates for any purpose whatsoever;
  - iv. Company may distribute copy and reproduce the Technology Analyses purchased as part of the Annual Commitment for External Purposes solely associated with Company's business activities directly relating to patent licensing, licensing negotiations, technical review of Company's patent applications, patent claim chart development and assertion, infringement analysis, valuation, patent litigation and patent sales ("Patent- Related Business Activities") but, for greater certainty, the sale, lending or disclosure by Company of the TechInsights Content for other purposes, whether or not for financial compensation or tangible or intangible benefit, is prohibited absent Company first obtaining written approval from TechInsights;
  - v. Company may sublicense to others its rights under sub-paragraphs (i) and (ii) of this Section 2.f., provided that such sublicense is for purposes solely associated with Company's Patent-Related Business Activities and that the entity to whom its rights have been sublicensed agrees to be bound by each of the provisions of ii), iii), v) and vi) of this Section 2.f.;
  - vi. All copies and reproductions of the Technology Analyses, or any substantial part thereof, must bear on their face, or be inextricably linked with an indication that the Technology Analyses was prepared by and that copyright is held by TechInsights;
  - vii. Company shall take all reasonable efforts, at its own expense, to obtain a protective order or similar in respect of any Technology Analysis used, disclosed, and/or produced in any litigation proceeding, arbitration, hearing, or other similar dispute process; and
  - viii. All extracts taken from the Technology Analyses,

whether incorporated into Company content or otherwise, must continue to have the meaning that would be ordinarily attributed to it within the context of the original report, document, or other format, in which it was obtained by Company.

### 3. **Term**

The initial term of this Agreement (the "Initial Term") shall run from the Start Date to the End Date set forth in the Agreement. Unless otherwise set forth in the Agreement, the Initial Term shall be automatically renewed for additional one-year periods (each a "Renewal Term"), provided however: (i) either party may provide the other party a notice of non-renewal no less than thirty (30) days prior to the end of the Initial Term or Renewal Term, as applicable; (ii) TechInsights reserves the right to increase the fees for any Renewal Term on at least sixty (60) days prior notice to Company. The Initial Term together with all Renewal Terms (or portions thereof) is referred to herein as the Term.

### 4. **Technology Analysis Derived from Reverse Engineering and Liability**

- a. Company acknowledges that devices and components analyzed by TechInsights are complex and that while TechInsights takes commercially reasonable measures to ensure that its analysis work is carried out to a high standard and seeks to present complete and accurate Technology Analysis information, it is not possible to guarantee absolute completeness or accuracy of that information, and accordingly, TechInsights makes no representation or warranty about its work/written report. Company acknowledges the absence of any representation or warranty of any kind and agrees to accept all deliverables from TechInsights "as is/where is."
- b. TechInsights undertakes to correct omissions and errors that are identified, including carrying out additional re-work. Company agrees and acknowledges that its obligation to make payment under this Agreement is set out in the Agreement and in Section 7, below.
- c. In no event shall the amount of TechInsights' liability hereunder, whether as a compensatory payment or the cost of re-work, exceed the aggregate amount payable by Company to TechInsights hereunder, within the 12 months preceding the incident giving rise to a liability.

### 5. **Confidential Information**

- a. The Parties agree that all Technology Analysis, as well as information derived therefrom, including comparison to third-party devices or activities, as well as any assessment or determination of infringement of any patent or other intellectual property right based on or derived from a Technology Analysis, including confirmation thereof, shall constitute "Confidential Information".
- b. The Company agrees that it shall not use

Confidential Information for any purpose other than to carry out one, and only one of the Permitted Purposes. The Company shall not disclose or permit disclosure of any Confidential Information to third parties or to its employees, other than Authorized Users or persons described in Section 2.d.ii. above, and for whose actions in violation of this Agreement, the Company agrees that it shall remain responsible. The Company agrees that it shall take all reasonable measures to protect the secrecy of and avoid disclosure or use of the Confidential Information to persons not authorized under this Agreement to have such information. The Company further agrees to notify TechInsights in writing of any actual or suspected misuse, misappropriation, or unauthorized disclosure of Confidential Information as soon as possible after it becomes aware thereof. Notwithstanding the above, the Company shall not have liability with regard to any Confidential Information to the extent it can prove (a) it was in the public domain at the time it was disclosed or has entered the public domain through no fault of the Company in breach of this Agreement; (b) it was known to the Company at the time of disclosure, as demonstrated by files in existence at the time of disclosure; (c) it is disclosed with the prior written approval of TechInsights; (d) it becomes known to the Company, without restriction, from an independent source, without breach of this Agreement and not in violation of the disclosing party's rights; (f) is disclosed generally to third parties by TechInsights without restrictions similar to those contained in this Agreement; or (g) is disclosed pursuant to an order or requirement of law, regulation, a court or similar governmental body that is not related to an External Purpose, provided that the Company shall provide prompt notice of such court order or requirement to TechInsights to enable TechInsights to seek a protective order or otherwise prevent or restrict such disclosure.

- c. The Company and TechInsights each agree that (a) the terms herein are necessary and reasonable in order to protect TechInsights and its business, (b) due to the unique nature of the Confidential Information, monetary damages would not necessarily, or on their own, be adequate to compensate TechInsights for any breach of this Agreement by the Company, (c) any such violation or threatened violation shall cause irreparable injury to TechInsights, and (d) in addition to any other remedies that may be available, in law, in equity or otherwise, TechInsights shall be entitled to injunctive relief, as well as other equitable relief, against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages or of posting any bond. In addition to any other remedy provided by law or equity, including the above injunctive relief under this Section 5.c., TechInsights may claim, at its sole option, and Company hereby agrees to be liable for, damages in the amount of 1.5X the price the highest reasonable price it would charge to any

customer for a given Technology Analysis for *each* disclosure to a third-party provided access to such given Technology Analysis that resulted from a breach of this Agreement.

#### 6. Export Control and Sanctions Compliance

- a. Company acknowledges that the information, data, technology, software, products, and/or services obtained from TechInsights may be subject to the export control and economic sanctions laws and regulation of the United States, European Union, Canada, and other relevant jurisdictions (the "Export Control and Sanctions Laws"). By accessing or downloading TechInsights information, data, technology, software, products, and/or services you certify that you and your organization are eligible to receive such items under applicable Export Control and Sanctions Laws, will not use such items in breach of or contrary to Export Control and Sanctions Laws, and, further, that you and your organization are not: (i) located, resident, operating, or organized in a country or territory subject to, or whose government is subject to, comprehensive U.S. sanctions (currently including Cuba, Crimea Region of Ukraine, Iran, North Korea, Venezuela, or Syria) ("Sanctioned Territory"); (ii) identified on any list of restricted parties targeted under U.S., EU, Canadian, or multilateral sanctions, including, but not limited to, the U.S. Department of the Treasury, Office of Foreign Assets Control's List of Specially Designated Nationals and Blocked Persons, the U.S. Department of Commerce's Entity or Denied Persons Lists, the EU Consolidated list of persons, groups and entities subject to EU financial sanctions, or the Consolidated Canadian Autonomous Sanctions List; or (iii) owned or controlled by, or acting on behalf of, or at the direction of, any of the foregoing.
- b. Company may not export, re-export, transfer, retransfer, sell, supply, or allow access to or use of the information, data, technology, software, products, and/or services obtained from TechInsights to any prohibited or unauthorized parties or in breach of Export control and Sanctions Laws, or in any way that would expose any person to the risk of any adverse measures pursuant to any Export Control and Sanctions Laws. Diversion contrary to U.S. or other laws is prohibited.

#### 7. Invoicing, Payment Terms, and Project Scope and Schedule

- a. Currency: All prices are quoted in US dollars and do not include applicable taxes.
- b. Invoicing: Invoicing will be annual in advance unless otherwise provided for in this Agreement. Purchases made against the Annual Commitment will be invoiced individually at the time of purchase.
- c. Prices, taxes, etc.: If any tax, public charge, duty or tariff, or increase therein, is or shall be assessed or imposed on TechInsights, on the goods or services on any sale, delivery or other action taken hereunder, each such charge shall

be paid by Company and shall be additional to any price quoted by TechInsights.

- d. Terms: Payment terms will be as per invoice, unless otherwise noted. Account payment terms can be confirmed with your TechInsights Sales contact.
- e. Late Payments: Interest will be charged on all overdue accounts at 1.5% per month (18% per annum) in US dollars.

#### 8. Cancellation and Termination

- a. Either party may cancel a subscription during the Term by giving the other party not less than thirty (30) days' prior written notice. TechInsights may cancel this Agreement, with immediate effect upon written notice to Company, if Company breaches a material provision of this Agreement, including non-payment of invoiced amounts due.
- b. TechInsights may immediately terminate this agreement when, in TechInsights' reasonable judgment, TechInsights determines that Company has, in its use of TechInsights' information, data, technology, software, products, and/or services, breached Section 6 of this Agreement, and/or violated, or exposed TechInsights to the risk of penalties under, any applicable Export Control and Sanctions Laws. TechInsights will not have any liability to Company, and Company will not be entitled to any total or partial refund, for any termination of the Agreement in these circumstances.
- c. Company will be charged for all fees due during the Term regardless of whether Company accesses or uses, or cancels the Service during the Term, or whether TechInsights cancels the subscription due to material breach of this Agreement by Company.
- d. Upon termination of the subscription for any reason, Company shall promptly remove or delete all software and data related to the Service from all computer equipment and electronic memories and return all tangible copies of Technology Analysis to TechInsights.

#### 9. Mutual Indemnification

- a. TechInsights shall at its own expense, defend Company in any action, suit or proceeding by a third party alleging that the Service infringes or misappropriates any intellectual property rights of such third party (an "IP Claim") and shall indemnify and hold Company harmless from and against any settlement amounts agreed in writing by TechInsights and/or any losses, damages, expenses or costs (including but not limited to reasonable attorneys' fees) awarded to such third party against Company by a court or tribunal of competent jurisdiction. As conditions for such defense and indemnification by TechInsights, (i) Company shall notify TechInsights promptly in writing upon becoming aware of any IP Claim; (ii) Company shall give TechInsights sole control of the defense and settlement of IP Claims; (iii) Company shall cooperate fully with TechInsights in the defense or settlement of such IP Claims; and (iv) Company shall not settle any IP Claims without

TechInsights' written consent, or compromise the defense of any such IP Claims or make any admissions in respect thereto.

- b. Company shall indemnify, defend and hold harmless TechInsights from and against all liabilities, damages, claims, losses, costs and expenses, including reasonable attorneys' fees, arising, directly or indirectly, out of or in connection with acts or omissions giving rise to a breach of this Agreement or any of the representations or warranties contained herein.
- c. Except as otherwise expressly provided in this agreement, neither party makes any warranties of any kind, either express or implied, including but not limited to warranties of non-infringement, merchantability, or fitness for a particular purpose, or any implied warranties arising from any course of dealings or course of performance. In no event shall either party be liable for any indirect, consequential incidental or special damages arising out of this agreement, and proposal, or work order or its termination, or the breach of any of its provisions, whether for breach of warranty or any obligation arising therefrom or otherwise, whether liability is asserted in contract or tort (including negligence and strict product liability), and irrespective of whether a party has been advised of the possibility of such loss or damage or if any remedy specified in this agreement fails of its essential purpose. In no event will either party's total cumulative liability arising under or in connection with this agreement exceed the total amount of fees paid by the Company to TechInsights under the applicable proposal or work order from which the claim arises.

#### **10. Entire Agreement**

- a. The terms and conditions outlined in this Agreement supersede any and all prior understandings and agreements, whether written or oral, between TechInsights and Company, save that any Mutual Non-Disclosure Agreement remains in effect with regard to the subject matter of that agreement.
- b. These terms and conditions cannot be modified or amended by any other or subsequent document or agreement, unless a written agreement referencing this Agreement is provided and signed by an authorized representative from both TechInsights and Company.
- c. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this agreement shall remain in effect.
- d. This Agreement shall not be assigned by either Company or TechInsights without the other party's prior written consent.

#### **11. Force Majeure**

TechInsights shall not be liable for any loss or

damage arising, directly or indirectly, through or as a consequence of, or any delay in the fulfillment of or failure to fulfill an order for any cause beyond TechInsights' reasonable control including, without limitation, any act of God, government regulation or order, inability to obtain from or curtailment of TechInsights' then existing sources of supply of energy, raw materials, or components, water shortage, explosion, fire, flood, civil commotion, terrorist act, war (whether or not declared), inability to obtain labor, lockout, strike, or other labor trouble. In any such event, TechInsights may terminate this Agreement in whole or in part, or delay performance thereunder, and shall give Company notice of such election. Company agrees to pay TechInsights for services rendered to up to and including the date of notice of such election, pro rata for the expired Term of the agreement to the date of such notice.

#### **12. Miscellaneous**

- a. The parties consent and agree that the construction, interpretation and enforcement of this Agreement shall be governed by the laws of the Province of Ontario, Canada, and further consent and agree that the courts of the Province of Ontario, Canada shall have exclusive jurisdiction over any claim or dispute arising under or related to this Agreement, and each party consents to the personal jurisdiction and venue therein. This Agreement may be signed in counterparts.
- b. Notices under this Agreement shall be in writing and shall be addressed to the Legal Department of the relevant party.