

## **Declaration of Non-infringement**

This Declaration is made by the undersigned (“Supplier”) for Semiconductor Manufacturing International Corporation and its Affiliates, (individually and collectively the “SMIC”), in respect of the hardware, software, services and other tangible or intangible products which Supplier provides to SMIC, (collectively, “Products”). In consideration of the Products prices as are set forth in SMIC’s purchase orders for such Products, Supplier hereby agrees, for such Products, expressly make in this Declaration the following irrevocable commitments and warranties, without further charge, to SMIC:

“**Affiliate**” means corporation, company or other entity which: (i) is controlled by a party to this Declaration; (ii) controls a party to this Declaration; or (iii) is under common control with a party to this Declaration. For the purpose of this definition, “control” means that more than fifty percent (50%) of the shares or ownership interest representing the voting right for the election of directors or persons performing similar functions for such a corporation, company or entity are owned or controlled, directly or indirectly, by the controlling entity. Such corporation, company or entity shall be deemed to be an Affiliate so long as such ownership or control exists.

1. Supplier represents and warrants that each of the Products shall not infringe, induce and/or constitute infringement of, any foreign or domestic intellectual property rights of any third party.
2. Supplier shall defend, hold harmless, indemnify and keep indemnified SMIC, and its officers, directors, employees, agents, representatives, successors, and assigns, in full against any and all claims, losses, damages, liabilities, judgments, awards, costs and expenses, including but not limited to settlement amounts, costs of compliance with any judicial orders, Custom/court bond payment(s), reasonable attorneys’ fees, suffered, incurred, paid or shall suffer, incur, or be required to pay, in connection with any claim or allegation against SMIC, that the Products and/or any part of the Products constitute or cause any direct, indirect, inducing, and/or contributory infringement, of any patent, copyright, trade secret, and/or other intellectual property rights, foreign or domestic.

**IN WITNESS WHEREOF**, this Declaration has been duly executed by the duly authorized representatives of Supplier.

**Supplier**

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_