

## **Master Service Agreement**

**Between**

**Nippon Technology Corp**

**And**

**Nippon Design France S.A.S**

This Agreement is made as of the 1st day of March, 2005, by and between Nippon Technology corp. (hereinafter referred to as "NIPPON") a corporation organized and existing under the laws of Japan with its principal place of business at Maru Bldg., 4-1 Marunouchi 2-chome, Chiyoda-ku, Tokyo 100-6334, Japan, and Nippon Design France S.A.S (hereinafter referred to as "RDF"), a corporation organized and existing under the laws of French Republic, with its principal place of business at 52 Bd De Sebastopol 75003 Paris 3, France.

### **Recitals**

NIPPON desires to engage RDF to provide technical and/or engineering services for NIPPON in accordance with NIPPON' requirements and RDF wishes to undertake the provision of such services.

### **1. Definitions**

- 1.1 "NIPPON" shall mean Nippon Technology Corp. including its subsidiaries in Japan in which more than 50% stock is directly or indirectly controlled by Nippon Technology corp.
- 1.2 "Product" shall mean a semiconductor product that has been developed and/or manufactured by NIPPON or which may be developed and/or manufactured by NIPPON.
- 1.3 "Services" shall mean, collectively and individually, the following types of technical and/or engineering services described fl paragraphs (a) through (g) below or any other services which may be agreed to be added by the parties from time to time during the term of this Agreement.
  - (a) "Design Services" shall mean services relating to the development and design of Products, including evaluations improvements<sup>1</sup> and modifications to existing Products.
  - (b) "System Development Services" shall mean services relating to the

development of System relating to Products.

- (c) "Marketing Service" shall mean services relating to research, surveys, evaluation and promotion to potential or specified customers of NIPPON.
  - (d) "Customer Support Services" shall mean services relating to technical and/or engineering support for direct and indirect customers of NIPPON.
  - (e) "Technical Analysis Services" shall mean services relating to the analysis of product and market trends including, but not limited to the establishment of industry standards relating to Products.
  - (f) "IT Infrastructure Management Services" means services relating to the development, improvement, management and maintenance of the IT infrastructure environments within RDF's facilities or other facilities under the control of RDF for use by NIPPON and/or customers of NIPPON.
  - (g) "CAD Infrastructure Management Services" means the services relating to the development, improvement, management and maintenance of the CAD infrastructure environments within RDF's facilities or other facilities under the control of RDF for use by NIPPON and/or customers of NIPPON
- 1.4 "Agreement" shall mean this Master Service Agreement and every Supplement as defined below.
- 1.5 "Supplement" shall mean an individual contract to be entered into by RDF, and a certain department of NIPPON from to time during the term of this Master Service Agreement which defines the following conditions specific to a certain project
- (1) Category of Services (as defined in Article 1.1 above)
  - (2) Contract Number
  - (3) Project Name
  - (4) Division and Contact Person of NIPPON
  - (5) Scope
  - (6) Specification
  - (7) Price
  - (8) Deliverables
  - (9) Delivery Schedule
  - (10) Delivery Place

- (11) Acceptance Criteria
- (12) Other special conditions

A sample Supplement is attached hereto as Exhibit A.

- 1.6 Specification shall mean any technical information that NIPPON provides to RDF in any form for performance under this Agreement.
- 1.7 Work shall mean all the work to be performed by RDF under this Agreement.
- 1.8 Deliverables shall mean any documentation, software or other materials required to be developed, provided and/or delivered in connection with the Services.

## **2. Formation of Contract**

- 2.1 This Agreement provides the terms and conditions which shall apply to each Supplement and constitutes an integral part thereof.
- 2.2 Each Supplement shall be made effective when signed by authorized representatives of RDF and NIPPON.
- 2.3 In the event the terms and conditions described in any Supplement are in conflict with the terms and conditions of this Master Service Agreement, those of the Supplement shall govern.

## **3. Standard of Work**

- 3.1 During the term of this Agreement, RDF shall perform Work for NIPPON in accordance with generally accepted industrial standards.
- 3.2 RD may subcontract a part or all of the Services ordered by NIPPON to third parties, provided that such subcontracting does not adversely affect the quality of work, total cost or the delivery schedule for said services. RDF shall be fully responsible for the performance of any such third party as well as the compliance of such third party to the terms and conditions of this Agreement, including, but not limited to the compliance with the secrecy obligations in Article 9 below.

#### **4. Price and Payment**

- 4.1 Payment of the firm and fixed price set forth in a Supplement shall be made by NIPPON against RDF's presentation of an invoice within thirty (30) days of the last day of the month during which NIPPON accepts the Deliverables delivered to NIPPON in accordance with the provisions of the applicable Supplement. The parties may agree on different arrangements for payments hereunder.
- 4.2 NIPPON shall assume and pay for all duty, sales, use and other excise taxes or other charges imposed on the Deliverables in Japan.

#### **5. Delivery**

- 5.1 Time is of the essence with respect to all work performed under this Agreement.
- 5.2 Delivery schedules, Deliverables, place and manner shall be described in a respective Supplement.
- 5.3 Work shall be performed in accordance with the time schedule set forth in a respective Supplement. In the event RDF finds, for whatever reason, that RDF is unable to keep the schedule as stipulated in the Supplement, RDF shall immediately notify NIPPON in writing of the reason for such delay and advise NIPPON of the new schedule.
- 5.4 If a shipment or delivery is delayed as a result of an act of God, an act of any governmental authority, riot, revolution, fires or war beyond the reasonable control of RDF and not as a result of its negligence, and if the date of shipment or delivery shall consequently extend for more than fourteen (14) days beyond the original shipment or delivery date, then the parties shall negotiate a new shipment or delivery schedule, and if such delay continues for more than two (2) months, then NIPPON may terminate the Supplement affected by such delay as to the unexecuted portion without termination charge or other liability.
- 5.5 Title for and risk of loss to the Deliverables shall pass to NIPPON upon the delivery as provided in this in Article 5.

## **6. Intellectual Property Right**

6.1 NIPPON shall own all right, title and interest in any intellectual property rights made, discovered, developed or conceived during the course of RDF's performance of Services hereunder and arising out of or related to all Deliverables hereunder. NIPPON shall also have responsibility for the administration and management of such intellectual property rights.

## **7. Inspection and Acceptance**

7.1 NIPPON shall have the right to inspect at any time the progress of Work to ensure it is in accordance with the internal regulations and rules of NIPPON.

7.2 The Deliverables are subject to inspection by NIPPON in accordance with the acceptance criteria set forth in a respective Supplement, unless otherwise agreed to in writing. Should such inspection reveal that Deliverables or any part thereof do not conform to the applicable Specifications in any respect, NIPPON may, at its option:

(a) Reject the Deliverables, in which case RDF shall promptly correct or replace the Deliverables at RDF's risk and expense.

(b) Repair or make the Deliverables otherwise conform to the Specifications at RDF's risk and expense in accordance with NIPPON' timely instructions or best judgment; or

(c) Accept the Deliverables at a reasonably reduced price.

7.3 NIPPON shall notify RDF in writing of its acceptance or rejection of the Deliverables within thirty (30) days after the delivery date. In the absence of an express rejection within the time set forth above, the Deliverables shall be deemed conclusively to have been accepted.

## **8. Warrantles**

8.1 RDF hereby represents and warrants that Services provided hereunder, including any Deliverables delivered to NIPPON pursuant to this Agreement wDI be reasonably free from errors and defects and the Deliverables will conform with the Specifications. ROF will use commercially reasonable efforts to correct any errors or defects to ROF's Work found subsequent to acceptance by NIPPON for a period of one (1) year following NIPPON' acceptance of the

Deliverables.

- 8.2 RDF shall indemnify and hold NIPPON harmless from any and all losses, costs, damages or expenses arising from, or in connection with, any claims or actions based on any actual or alleged infringement of any patents, trademarks, utility models, design patents, copyrights, mask works, trade secrets or other intellectual property rights owned or controlled by any third party in connection with its performance of Services hereunder including any claims of infringement by any Deliverables provided to NIPPON by RDF hereunder: provided that RDF is promptly notified by NIPPON of such claims or actions and is given full control of the defense and/or settlement of such claims or actions. This obligation shall not apply if the infringement is attributable solely to RDF's compliance with Specifications supplied by NIPPON, or to any modification or alteration of the Deliverables by NIPPON.

## **9. Confidential information**

- 9.1 Any information furnished by NIPPON to RDF under this Agreement relating to Products as well as any information and material including, but not limited to the Deliverables arising out of, or in connection with Services provided hereunder, shall be considered proprietary information of NIPPON. RDF agrees to maintain in confidence and prevent any unauthorized use or disclosure of such information, either by itself or by any third parties engaged in any work hereunder with the same degree of care that it exercises to prevent the unauthorized use or disclosure of its own proprietary information.
- 9.2 Notwithstanding anything to the contrary contained herein, RDF shall not be responsible for the disclosure of any information which:
- (a) is known to RDF at the time of the disclosure by NIPPON
  - (b) is or becomes publicly known through no wrongful act of RDF;
  - (c) is received from a third party without breach of the restrictions contained in this Agreement;
  - (d) is independently developed by RDF without reference to the Work performed under this Agreement or under any prior agreement with NIPPON;
  - (e) is furnished to any third party by NIPPON without any restrictions on its disclosure and use;

- (f) is disclosed upon the written consent by NIPPON; or
- (g) is required to be disclosed by an order of a court or governmental agency, provided that NIPPON is afforded a reasonable advance notice of such required disclosure.

9.3 The secrecy obligations in this Article 9 shall survive any expiration or termination of this Agreement.

## **10. Governing Laws**

10.1 This Agreement shall be governed by and construed in accordance with the laws and regulations of Japan, without application of principles of conflicts of law. Both parties agree that any dispute or difference arising out of or in relation to this Agreement shall be discussed in good faith with the intention of resolving matters amicably between the parties.

10.2 Any dispute or difference arising out of or in relation to this Agreement, or the breach hereof thereof, which cannot be settled amicably between the parties without undue delay, shall be submitted, to the extent legally permissible, to the exclusive jurisdiction of the courts situated in Japan.

## **11. Changes**

11.1 NIPPON may, at any time, by written notice to RDF, make changes in Specifications described in any Supplement, or any other document associated with this Agreement.

11.2 If such changes affect delivery or amount to be paid by NIPPON, then RDF shall immediately notify FIENESAS in writing. Upon such notification, the parties shall enter into negotiation for adjustment. If there is no notification from RDF within fourteen (14) days after NIPPON's written notification of such changes, RDF shall be deemed to accept the change without any alteration in price or delivery.

## **12. Export Regulations**

12.1 RDF shall obtain, or ensure that any other persons engaged to perform work hereunder obtains, any export license or other authorization required under the any laws regulations, or ordinances which may be in effect from time to time

during the term of this Agreement governing the export of commodities and technical data from French Republic to other countries in order to export Deliverables and other material to NIPPON.

12.2 NIPPON hereby assures ROF that it will not export, or cause to be exported any commodities, technical data or direct products of any technical data received from RDF to any country in contradiction to any laws, regulations or ordinances of French Republic.

### **13. Term of Agreement**

13.1 This Agreement shall enter into force on the date first above written and shall continue in force for an initial term of two (2) years unless terminated earlier in accordance with the provisions of Article 13.2 below. Thereafter, this Agreement shall be automatically renewed for additional one (1) year periods unless terminated by either party by serving written notice to the other party upon the end of such period or the completion of all Services requested of RIDE, whichever is later, at least sixty (60) days before the end of such period.

13.2 Either party may terminate this Agreement by giving written notice to the other party with immediate effect, if the other party:

- (a) is in breach of any term or condition of this Agreement and fails to correct or remedy such breach within sixty (60) days from the receipt of notice from the non-breaching party requesting the correction or remedy of such breach;
- (b) enters into voluntary or involuntary bankruptcy, or ceases to make payments to its creditors;
- (c) ceases to conduct its business or makes or causes to be made an assignment of its assets or business, whether in whole or in part, for the benefit of its creditors; or
- (d) has a receiver or trustee appointed to take over or administer or conduct all or a substantial part of the business or property of such party.

The exercise of the right to terminate this Agreement shall not prejudice the right of the party exercising such right to seek other forms of remedies or relief available either under law or this Agreement.



- 13.3 NIPPON may at any time terminate the Agreement or any Supplement in whole or in part for its convenience upon sixty (60) days prior written notice to RDF, in which case RDF shall be entitled to reasonable charges, which at a maximum is the percentage of the contract price reflecting the percentage of Work performed prior to termination. In such case, RDF shall deliver to NIPPON any undelivered portion of the Deliverables performed prior to the termination.
- 13.4 If the Agreement or any Supplement is terminated, RDF shall promptly return all originals and copies of information, including, but not limited to, working papers, narrative descriptions, Specifications, drawings, reports, data, computer programs or documentation, and tools supplied by NIPPON.

#### **14. Miscellaneous**

- 14.1 A waiver of a breach or default under the Agreement shall not be a waiver of any other or subsequent default or breach. Failure or delay by either party to enforce compliance with any term or condition of the Agreement shall not constitute a waiver of such term or condition.
- 14.2 Assignment of the Agreement or any interests therein or of any payment due or to become due thereunder by RDF, without the written consent of NIPPON, shall be void.
- 14.3 The Agreement contains the entire understanding of the parties with respect to the matter contained herein. There are no promises, **covenants** or undertakings other than those expressly set forth herein. Any modification or amendment to this Agreement shall not be valid unless made in writing and signed by a duly authorized representative of both parties.

14.4 All notices in connection with this Agreement shall be addressed as follows:

(1) Notice to RDF to the attention of:

Nippon Design France S.A.S  
52 Bd De Sebastopol 75003 Paris 3. France.  
Attention: Holland, Jean-Marie  
Chief Executive Officer

(2) Notice to NIPPON to the attention of:

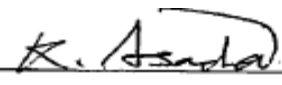
Nippon Technology Corp.  
Nippon Bldg. 2-6-2, Ote-machi, Chiyoda-ku,  
Tokyo 100-0004, Japan  
TEL: +81-3-5201-5287 FAX: +81-3-5201-5289  
Attention: Kiyoshi Asami  
Team Leader, Purchasing Div.


If a person identified above is changed, the relevant party shall immediately inform the other party of such change and the name of the new person designated to receive notices.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective duly authorized representatives as of the day and year last written below.

Nippon Technology Corp

Nippon Design France S.A.S

Signed: 

Signed: 

Name: Katsuyuki Asada

Name: Rolland Jean-Marie

Title: Manager, Purchasing Div

Title: Chief Executive Officer

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

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