

Evaluation Kit Agreement

Important – Please carefully read the following terms and conditions (“Agreement”). This is a legally binding agreement. If after reading this Agreement you submit an application for an Evaluation Kit, your application is your acceptance of this Agreement. Do not proceed with an application unless: (1) you are authorized to accept and agree to the terms of this Agreement on behalf of yourself and your company; and (2) you intend to enter into and to be bound by the terms of this legally binding Agreement on behalf of yourself and your company. You and your company are referred to in this Agreement as the “Developer”.

This Agreement applies to the hardware and software products and associated documentation contained in this package (“Evaluation Kit”) shipped to Developer by Intel or on Intel’s behalf. For shipments within the United States, Intel shall mean Intel Americas, Inc. For any shipments under this Agreement outside the United States, Intel shall mean Intel Technology (US) LLC.

- 1. Scope of Use.** Developer may use the Evaluation Kit solely for the purposes of evaluating, developing and testing products incorporating one or more Intel products. Developer agrees that it will not offer for sale or lease, sell or lease, transfer or distribute the Evaluation Kit to any third party (including, without limitation, any end developers, resellers, distributors or customers of Developer’s products. The Evaluation Kit or other material included in this package may not be resold or used for any other purpose. Developer shall not perform, nor allow, authorize or assist others in, reverse engineering, decompilation, disassembly, photographic or video reproduction, or the like upon the Evaluation Kit to attempt to learn information about the internal architecture, design, operation, manufacture, features, or functionality, beyond that information provided to Developer. Nothing in this Agreement will be construed to limit Developer’s ability to design, develop, debug, optimize or support Developer’s products without use of or access to the Evaluation Kit.
- 2. Confidentiality.** Recipient will at all times maintain appropriate physical security of the Evaluation Kit. Either prior to or concurrent with shipment of this Evaluation Kit, Developer and Intel may execute a Corporate Non-Disclosure Agreement (“CNDA”), in which case, the terms of the CNDA are incorporated into this Agreement by this reference. By opening this package and using the Evaluation Kit, Developer acknowledges that the Evaluation Kit and Developer’s use or evaluation of the Evaluation Kit, including any problems encountered by Developer, are hereby deemed “Intel Confidential Information”. Developer agrees that knowledge of or information about pre-release features, capabilities or errata of the Evaluation Kit gained through Developer’s use of the Evaluation Kit (including knowledge or information gained through the use of any test and measurement equipment) and Feedback is Intel Confidential Information. Developer may not disclose any Intel Confidential Information received under this Agreement to any third party without prior written approval from Intel. Information regarding Developer’s design and development of Developer’s programs or products is “Developer Confidential Information.” Any residual rights, express or implied, concerning Developer’s residual use of Intel Confidential Information will not apply to Developer’s use or evaluation of the Evaluation Kit.
- 3. Evaluation Kit Features and Capabilities.** The Evaluation Kit may include pre-release features, capabilities or errata which may not be available or accessible in Intel’s commercial versions of the hardware or software contained in the Evaluation Kit. Pre-release features and capabilities in the Evaluation Kit may include features or capabilities that are not required in order to meet the Intel data sheet specifications for the commercial versions of the hardware or software contained in the Evaluation Kit. Inclusion of such features or capabilities, or development or support of a commercial version of any of the pre-release feature or capability, is at Intel’s sole discretion.
- 4. Regulatory Compliance and Instructions.** Developer understands that the Evaluation Kit or portions thereof may not have received all regulatory approvals required by governmental authorities and standards organizations for finished products as the Evaluation Kit is being provided solely for development and evaluation purposes. Developer is responsible for ascertaining and complying with all applicable governmental regulations for the use of the Evaluation Kit in the appropriate jurisdiction. To the extent Intel provides notice to the Developer of additional instructions regarding labeling or use of the Evaluation Kit, Developer will strictly comply with all such instructions.
- 5. FCC Notice:** Without limiting the generality of the the foregoing section of this Agreement, this kit is designed to allow within the United States: (1) Product developers to evaluate electronic components, circuitry, or software associated with the kit to determine whether to incorporate such items in a finished product and (2) Software developers to write software applications for use with the end product. This kit is not a finished product and when assembled may not be resold or otherwise marketed unless all required FCC equipment authorizations are first obtained. Operation is subject to the condition that this product not cause harmful interference to licensed radio stations and that this product accept harmful interference. Unless the assembled kit is designed to operate under part 15, part 18 or part 95 of the FCC Rules, the operator of the kit must operate under the authority of an FCC license holder or must secure an experimental authorization under part 5 of the FCC Rules. If the Evaluation Kit is being provided to Developer within the United States or will be used by Developer within the United States, Developer acknowledges that it is eligible acquire the Evaluation Kit under the FCC Rules and will operate the Evaluation Kit in compliance with applicable FCC Rules.

6. **Ownership and License.** Title to the hardware products contained in the Evaluation Kit is vested in Developer. Intel or its suppliers retain all right, title and interest in all intellectual property rights of the Evaluation Kit. Developer's use of any software provided with the Evaluation Kit shall also be subject to the terms and conditions of any written license agreement included with the software as provided by Intel. In the absence of an express software license and subject to the terms and conditions of this Agreement, Intel grants Developer a non-exclusive, non-transferable copyright license (without the right to sublicense) to reproduce software solely for the purposes of evaluating Intel's Evaluation Kit and developing products incorporating one or more Intel products. Developer is not permitted to modify, rent, sell or distribute the software. Developer may make one back-up copy of software.
7. **Feedback.** To assist Intel in identifying problems with and making improvements to the Evaluation Kit, Intel invites Developer's suggestions, comments, or other feedback, including problems relating to any bugs, errors or other problems discovered during the course of Developer's evaluation or use of the Evaluation Kit ("Feedback"). Developer will use reasonable efforts to help Intel analyze problems or issues with the Evaluation Kit encountered by Developer. Developer grants to Intel a non-exclusive, irrevocable, worldwide, royalty-free license under Developer's intellectual property rights to display, perform, copy, distribute, make, have made, make derivative works, use, sell, offer to sell, and import Feedback, without reference to the Developer as the source.
8. **Disclaimers.** The Evaluation Kit is provided "As Is" and possibly with faults. Intel is under no obligation to provide updates, upgrades, support, or maintenance of any kind under this Agreement. **Intel disclaims any and all warranties and guarantees, express, implied or otherwise, arising with respect to the Evaluation Kit delivered hereunder, including but not limited to the warranty of merchantability, the warranty of fitness for a particular purpose, and any warranty of non-infringement of the intellectual property rights of any third party. Intel neither assumes nor authorizes any person to assume for it any other liability. Developer will use the Evaluation Kit at its own risk. Intel will not be liable to Developer for any direct or indirect damages incurred in using the Evaluation Kit. In no event will Intel be liable for loss of profits, loss of use, loss of data, business interruption, nor for punitive, incidental, consequential, or special damages of any kind, even if advised of the possibility of such damages.**
9. **Delivery.** The following delivery terms shall apply for Evaluation Kit shipped to Developer's ship-to address: (a) to US ship-to addresses: DDP (Incoterms 2010) and (b) to non-US ship-to addresses: DDU (Incoterms 2010). Developer shall be responsible for customs clearance and payment of all applicable import duties, taxes and fees.
10. **Export.** Developer shall not, either directly or indirectly, export the Evaluation Kit, on a standalone basis or otherwise, without first obtaining any required license or other approval from the appropriate host Government or the U.S. Department of Commerce or any other agency or department of the host Government or the U.S. Government with appropriate authority.
11. **Applicable Law.** Claims arising under this Agreement shall be governed by the laws of the State of Delaware, excluding its principles of conflict of laws and the United Nations Convention on Contracts for the Sale of Goods.
12. **Assignment.** Neither this Agreement nor any rights or obligations hereunder may be assigned or delegated (whether by operation of law, in conjunction with a change of control or ownership, or otherwise) by Developer without Intel's prior written consent.
13. **Audits.** Developer agrees to cooperate with Intel during commercially reasonable audits to verify Developer's compliance with its obligations under this Agreement.
14. **Notices.** Intel will provide notice to the contact and address listed in the Developer's application for the Evaluation Kit. All required or permitted notices to Intel under this Agreement will be in writing, make reference to this Agreement, and be delivered by hand, or dispatched by prepaid air courier or by registered or certified airmail, postage prepaid, addressed as follows:

Intel Corporation
2200 Mission College Blvd
Santa Clara, CA 95052
Attention: General Counsel
Reference ID: IOTG LEGAL