



**OEM TERMS**  
**U.S. Version**

These OEM Terms are incorporated by reference into the CSS Terms and apply only if the Special Terms expressly authorize Customer to purchase OEM Products.

**1. SCOPE.**

1.1 These OEM Terms apply only to Customers purchasing Products from Company who (a) embed or bundle the Products with Customer's proprietary hardware, software or other intellectual property; and (b) resell the combined solution under Customer's own brand (hereinafter "OEM"). In the event of any conflict between the CSS Terms and any other Modular Terms, these OEM Terms will prevail.

**2. FORECAST.**

2.1 Each month, OEM will provide Company with a twelve (12) month rolling forecast specifying estimated orders for each type of Product. The first four (4) months of each forecast will be a fixed, firm and binding commitment on the Customer ("Fixed Forecast").

2.2 OEM may not cancel any part of the Fixed Forecast without Company's written approval.

2.3 OEM Customer will be responsible for costs incurred by Company to meet the Fixed Forecast, including without limitation minimum order quantities, extended-lead time material, work-in-progress and finished goods inventory.

**3. CUSTOMIZATION AND OEM COMPONENTS.**

3.1 Any customization of Products undertaken by Company for OEM will be performed subject to the Company's Time & Materials Services Terms. Customization services may include without limitation the integration of OEM provided products, software or services as may be detailed in a Statement of Work ("OEM Components").

3.2 OEM warrants that OEM Components are not defective and do not infringe any third party's Proprietary Rights. OEM shall defend and indemnify Company from and against claims arising from or related to OEM Components.

3.3 OEM will not change or modify OEM Components without Company's prior written approval. Customer will provide Company with prior written notice of its intention to discontinue OEM Components or a Product at least four (4) months in advance.

**4. PURCHASES LIMITED TO OEM**

4.1 OEM may use the Products only for integration into systems or subsystems that include additional hardware or software that represents an enhancement to and transformation of the Product.

4.2 If OEM sells Product separately without integration, OEM will pay Company the difference between Company's then-current published reseller's price and price charged to OEM. OEM's obligation to pay the reseller's price does not limit any other Company rights under the CSS Terms.

**5. TOOLING.** All tooling used to manufacture Products is owned by Company. OEM has no right, title, or interest in or to such tooling.

**6. PRODUCT ALTERATION OR DISCONTINUATION.**

6.1 In the event that Company (i) modifies the Product and such modification affects the form, fit, or function of the Product, or (ii) discontinues the Product, Company will notify OEM in advance. In the event that Company discontinues the Product, OEM will be entitled to issue a last time purchase order within the notice period communicated by Company. A last time purchase order is non-cancellable and non-reschedulable.

6.2 In the event that Company receives a discontinuation notice from a component from a third party supplier, Company will promptly forward such notice to OEM.

**7. OEM SHIPMENT TO THIRD PARTY.**

7.1 Warranty remedies set forth herein are applicable only to OEM and are not transferable. OEM must clearly state in its contracts or warranty statements for its end-users that any product warranty to its end-users is from OEM and not from Company. OEM will provide technical support services to its customers for all Products purchased by OEM.

**8. NON-APPROVED PRODUCT USE**

8.1 Company's Products are not designed for use in environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft systems, air traffic control, life support machines, weapons systems, or any other environment in which the failure of Products could lead directly to death, personal injury, or severe physical or environmental damage ("Non-Approved Product Use"). If OEM knowingly includes Company Products in systems for Non-Approved Product Use, then OEM assumes the risk of loss associated with the Non-Approved Product Use and OEM will defend and indemnify Company against all claims or actions arising out of the use of the Products in any Non-Approved Product Use.

**9. SOFTWARE LICENSE**

9.1 The Software is licensed for use only in conjunction with the Product, together with any OEM Components. Use of the Software in conjunction with non-Company component products is not licensed. Company grants to OEM a non-exclusive, non-transferable, worldwide license to: (i) copy the Software internally for OEM's own development and maintenance purposes; (ii) distribute the Software to OEM end-users in accordance with Company's standard end user license agreement ("EULA") available at [www.seagate.com](http://www.seagate.com) or as otherwise made available by Company; and (iii) copy and distribute the end-user documentation which may accompany the Software, but only in association with the Software.

9.2 OEM may not otherwise copy, modify, reverse engineer, decompile, or make derivative works of the Products, including the Software. Any unauthorized modifications or derivative works will belong to Company and OEM assigns to Company all rights in any modifications, derivative works or enhancements.