

## EVALUATION BOARDS TERMS OF USE

By using this EVB (as defined in section 1.(1) of this Agreement), you ("**You**") agree to be bound by the terms and conditions of this Evaluation Boards Terms of Use ("**Agreement**"). Please do not use the EVBs until You have carefully read and accepted this Agreement. Your use of the EVBs signifies Your acceptance of this Agreement.

This Agreement may be modified by 3PEAK INCORPORATED and its affiliates (collectively referred to as "**3PEAK**") from time to time. It is recommended that You regularly review 3PEAK website to stay informed about any changes and remain up to date with 3PEAK policies. By visiting 3PEAK website or using EVBs, You acknowledge and accept the most recent version of this Agreement.

### 1. OWNERSHIP AND COPYRIGHT

- (1) The design of EVBs and all associated intellectual property rights worldwide remain the property of 3PEAK and/or its licensors. You are strictly prohibited from removing any copyright or proprietary right notice from the EVBs without prior written authorization from 3PEAK. You agree to prevent any unauthorized copying, either in whole or in part, of the EVBs.

For the avoidance of doubt, "**EVb**" or "**EVBs**" means evaluation board, simulator, kit, or hardware tools (including but not limited to emulator and programmer) along with all associated hardware and software (including but not limited to code and tools), firmware, components, related materials (including but not limited to CAD files, Schematic, PCB files, Gerber files, BOM, CAD models), and documentation (including but not limited to chip manual and user guide), provided by 3PEAK.

- (2) Any inventions, product improvements or modifications to the EVBs conceived or developed by 3PEAK, based either entirely or partially on Your feedback, suggestions, or recommended improvements, shall be the exclusive property of 3PEAK. All rights, title, and interest in and to such inventions, product improvements, or modifications to the EVBs will solely remain with 3PEAK.
- (3) Unless otherwise provided in this Agreement or explicitly permitted in the documentation of the EVBs, You may not, in whole or in part, reproduce, modify, reverse engineer, decompile, or disassemble the EVBs or its software and/or firmware.

### 2. USE GUIDELINES AND RESTRICTIONS

- (1) Before handling or using the EVBs, You shall carefully review any accompanying documentation provided by 3PEAK. Such documentation may contain crucial warnings which must be complied with. You shall comply with all warnings, instructions and employ reasonable safety precautions when utilizing the EVBs and You are aware of that failing to

do so may result in property damage, personal injury, or death.

- (2) The EVBs are not finished products and are not intended for consumer or household use. Under no circumstances should they be directly or indirectly assembled or integrated as part of any production system of Yours.
- (3) The EVBs offer limited features and are conceived to be used solely for the evaluation and testing of 3PEAK products in a research and development environment. They should not be used for pre-mass production evaluation testing or any other purposes.
- (4) When incorporating the EVBs into an evaluation system, You may use the evaluation system solely for Your own evaluation and testing purposes. The evaluation system may not be sold, leased, or distributed for commercial purposes, and a prominent notification in the following manner shall be presented: "This device is not and may not be offered for sale, lease or otherwise distributed for commercial purposes."
- (5) Unless expressly authorized in writing by 3PEAK, You may not use the EVBs in any safety-critical scenarios or functional safety testing, including but not limited to life support scenarios, military, or nuclear applications. Unless expressly authorized in writing by 3PEAK for use in automotive or aerospace testing, You may not use the EVBs for such purposes. 3PEAK explicitly disclaims any responsibility for such usage, which is undertaken solely at Your own risk, even if You have informed 3PEAK of such usage.

### **3. SOFTWARE LICENSE**

The use of any software and/or firmware embedded in or working in conjunction with the EVBs are subject to separate end-user license agreements that accompany such software and/or firmware. For the terms and conditions of the Software License Agreement, please refer to the Software License Agreement provided by 3PEAK.

### **4. WARRANTY**

- (1) 3PEAK warrants that it has the right to provide the EVBs to You.
- (2) The EVBs are provided "as is." 3peak disclaims all other warranties, express or implied, regarding such items, including but not limited to any epidemic failure warranty, or any implied warranties of merchantability or fitness for a particular purpose or non-infringement of any third-party patents, copyrights, trade secrets or other intellectual property rights.
- (3) While 3PEAK strives to provide accurate information on the availability and function of EVBs, 3PEAK does not warrant the accuracy, completeness, reliability, currency, or error-free nature of EVBs descriptions, availability, or other information on its website.
- (4) You warrant that You understand and assume the risks associated with handling and using

electrical mechanical components, systems, and subsystems. You are responsible and liable for any improper or unsafe handling or use of the EVBs by You, Your employees, affiliates, contractors, and designees.

## **5. LIMITATION OF LIABILITIES**

- (1) Under no circumstances shall 3PEAK be held liable to You for damages of any kind, including without limitation, direct, indirect, special, consequential, incidental, punitive, or exemplary damages (including loss of use, data, business or profits) relating to any matters arising out of or in connection with this Agreement, or the use of or inability to use the EVBs, or for any error or defect in the EVBs, regardless of whether based on a contract, warranty, tort (including negligence), negligence, strict liability, or any other legal theory and whether or not 3PEAK has been notified of the possibility of such damages.
- (2) In no event shall 3PEAK's liability arising from this Agreement, in total, exceed the higher of the amount You have paid under this Agreement for the acquisition of the EVBs or RMB ¥ 100.00.
- (3) Your claims against 3PEAK are void if You fail to notify 3PEAK of any apparent defects in the EVBs within 10 business days after delivery, or of any hidden defects within 10 business days after the defect has been detected.
- (4) Nothing in this Agreement grants or confers any rights, whether through license, patent, or any other industrial or intellectual property right of 3PEAK, to its suppliers or licensors, or any other third party. This includes the use of the EVBs in any end-user product or ready-to-use final product, or for any invention, discovery, or improvement, regardless of when it was made, conceived, or acquired.

## **6. INDEMNIFICATION**

- (1) You shall defend, indemnify, and hold 3PEAK, its licensors, and their representatives harmless from and against any claims, damages, losses, expenses, costs, and liabilities arising out of or in connection with any handling or use of the EVBs that is not in accordance with this Agreement.
- (2) You shall defend 3PEAK against any claim or action brought by a third party for infringement or misappropriation of any patent, copyright, trade secret, or other intellectual property right to the extent resulting from (1) Your combination of the EVBs with any other component, system, software, or firmware, (2) Your modification of the EVBs, or (3) Your use of the EVBs in a manner not permitted under this Agreement.
- (3) You shall indemnify 3PEAK against and pay any resulting costs and damages finally awarded against 3PEAK or agreed to in any settlement. You have sole control of the defense and settlement of the claim or action, and 3PEAK cooperates in the defense and

furnishes all related evidence under its control at Your expense. 3PEAK will be entitled to participate in the defense of such claim or action and to employ counsel at its own expense.

## **7. COMPLIANCE WITH LAWS AND REGULATIONS**

You must comply with all laws and regulations of the People's Republic of China ("PRC") and other countries governing the export, re-export, import, transfer, distribution, use, and servicing of EVBs. In particular, you must not: (a) sell or transfer EVBs to a country subject to sanctions, or to any entity listed on a denial order published by the United States government or any other relevant government; or (b) use, sell, or transfer EVBs for the development, design, manufacture, or production of nuclear, missile, chemical or biological weapons, or for any other purpose prohibited by the United States government or other applicable government, without first obtaining all authorizations required by all applicable laws.

## **8. APPLICABLE LAW AND JURISDICTION**

This Agreement will be governed, interpreted, and enforced in accordance with the laws of PRC, without regard to its conflict of laws rules. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. In the event of a dispute and the absence of an amicable settlement, the only competent jurisdiction will be the competent people's courts in Pudong District, Shanghai, PRC. If You breach this Agreement, it may cause irreparable harm to 3PEAK for which 3PEAK might not have a sufficient remedy under the law. Therefore, besides any other available remedies and damages, You acknowledge and agree that 3PEAK may immediately seek enforcement of this Agreement in any jurisdiction through specific performance or injunction, without any prerequisites.

## **9. SEVERABILITY**

If any provision of this Agreement becomes unenforceable or invalid at any time or for any reason, it will not affect any other provision of this Agreement, and the remaining provisions will continue to be in full force and effect as if the unenforceable or invalid provisions were not included in this Agreement. Additionally, any unenforceable or invalid provision will be considered replaced by a valid and enforceable provision that most closely reflects the intention of the unenforceable or invalid provision.

## **10. WAIVER**

The waiver by either party of any breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach of the same provision or any different provision.

## **11. RELATIONSHIP OF THE PARTIES**

Nothing in this Agreement will create, or be deemed to create, a joint venture, partnership,

principal-agent, employer-employee, or any other relationship between You and 3PEAK. Neither You nor 3PEAK has the authority or power to bind, contract in the name of, or create liability for the other in any manner or for any purpose.

## **12. SURVIVAL**

Any provision of this Agreement that imposes an obligation after termination will survive the termination of this Agreement.

Version: V1.0

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