



MUTUAL NONDISCLOSURE AGREEMENT

NDA# (*Contract Number*)

This Mutual Nondisclosure Agreement (the “**Agreement**”) is made as of (*Effective Date*) (the “**Effective Date**”) by and between (*NXP Company Name*), a corporation, having a place of business at (*NXP Company Address*) (“**NXP**”), and (*Company Name*), having a place of business at (*Company Address*) (“**Company**”).

1. Purpose. Each party, its Affiliates and/or their Contractors (collectively “**Discloser**”) may disclose certain information to the other party, its Affiliates and/or their Contractors (collectively “**Recipient**”) related to Discloser’s products, services and/or technologies for the purpose of internal discussions concerning and evaluation of a potential business relationship between the parties, and, should the business relationship be established, for exchanges of information in furtherance thereof (the “**Authorized Purpose**”). Nothing in this Agreement shall: (a) obligate either party to disclose any information to the other party, (b) obligate either party to buy, sell or license any products, services and/or technology from/to the other party, or to enter into any other agreement with the other party, or (c) preclude either party from pursuing any business opportunity with any third party. Subject to the obligations of this Agreement, neither party shall be precluded from independently developing any product, service or technology.

2. Confidential Information. NXP contemplates disclosing information related to its products and services. Company contemplates disclosing information related to its products and services. Discloser’s “**Confidential Information**” means any and all proprietary and/or confidential data and information that it may disclose (directly or indirectly, whether in writing or other tangible form, or orally, visually, electronically or other intangible form) to Recipient (including, without limitation, data and information related to: products, services, business and marketing plans, roadmaps, strategies, finances, prices, customers, suppliers, business partners, software, hardware, research and development, methods, techniques, drawings, designs, specifications, know-how, ideas, inventions (patentable or otherwise) or patents), which: (a) is marked as “confidential”, “proprietary” or the like when disclosed, (b) is unmarked (e.g. orally disclosed) but treated as confidential at the time of disclosure and is summarized and described as confidential in a writing that is delivered to Recipient within thirty (30) days of disclosure, or (c) a reasonable person would recognize as confidential or proprietary considering the nature of the information and the circumstances of disclosure.

3. Terms for Affiliates and Contractors. “**Affiliate**” means, with respect to a party, any corporation or other legal entity that now or hereafter Controls, is Controlled by or is under common Control with such party; where “Control” means the direct or indirect ownership of greater than fifty percent (50%) of the shares or similar interests entitled to vote for the election of directors or other persons performing similar functions. “**Contractor**” means a third-party contractor, agent, representative and/or advisor, which is engaged by a party or its Affiliate under a written agreement in which such third party provides products, services and/or technologies that relate to the Authorized Purpose. Each party shall be liable for any failure of its Affiliates, its Contractors and/or its Affiliates’ Contractors to abide by the provisions of this Agreement as if such failure was the act or omission of such party.

4. Obligations. Recipient shall not: (a) use Discloser’s Confidential Information for any purpose, other than for the Authorized Purpose; (b) disclose Discloser’s Confidential Information to any third party, except to Recipient’s, its Affiliates’ and their Contractors’ employees who (i) have a legitimate “need to know” to accomplish the Authorized Purpose, and (ii) are obligated to protect such Confidential Information pursuant to terms and conditions no less protective of Discloser than those contained in this Agreement; and/or (c) reverse engineer, decompile or disassemble Discloser’s Confidential Information. Recipient shall protect Discloser’s Confidential Information as required hereunder using the same degree of care, but no less than a reasonable degree of care, as Recipient uses to protect its own confidential information of a like nature.

5. Exclusions. Recipient’s obligations under Section 4 shall not apply to any data or information that it can prove: (a) is lawfully possessed or known by Recipient, prior to the time of receipt from Discloser, without use or disclosure restrictions; (b) is or becomes publicly available through no act or omission of Recipient; (c) is lawfully

NOTE: TO ENABLE QUICK EXECUTION, NXP HAS PRE-SIGNED THIS MUTUAL NONDISCLOSURE AGREEMENT (“AGREEMENT”). ANY MODIFICATIONS TO THIS AGREEMENT WILL RENDER THIS AGREEMENT AND NXP’S SIGNATURE HERETO NULL AND VOID.



furnished to Recipient by a third party, after the time of receipt from Discloser, without use or disclosure restrictions; (d) is independently developed by Recipient without use of or reference to any of Discloser's Confidential Information; or (e) is explicitly approved for release by written authorization of Discloser.

6. Required Disclosures. A disclosure by Recipient pursuant to the order or requirement of a court, administrative agency or other governmental body shall not be considered a breach of this Agreement, *provided* that Recipient promptly after learning of such order or requirement shall (unless prohibited by law) notify Discloser thereof to give Discloser the opportunity to contest disclosure or to seek any available legal remedies to maintain such information in confidence. If, in the absence of protective order, the Recipient determines, upon the advice of counsel, that it is required to disclose such information, it may disclose only Confidential Information specifically required and only to the extent compelled to do so.

7. As-Is Disclosures. Discloser warrants that it has the right to disclose the Confidential Information it provides to Recipient. Except as stated in the preceding sentence, Confidential Information is provided "as-is" with no warranty of any kind.

8. Ownership; No Other Licenses. Discloser's Confidential Information, and all copies thereof, remain owned or controlled by Discloser. No licenses or other rights are granted or conferred under this Agreement, express or implied, under any patents, copyrights, trade secrets, trademarks, mask works or any other intellectual property rights.

9. Term and Termination. This Agreement commences on the Effective Date and continues for a period of 2 years. Either party may terminate this Agreement for any reason upon ten (10) days' written notice to the other party. For each item of Confidential Information, the obligations of this Agreement shall expire 5 years from the date of expiration or termination of this Agreement. Upon receipt of Discloser's written request, made no later than thirty (30) days after termination of this Agreement, Recipient shall promptly: (i) return (or destroy at Discloser's option) all Discloser's Confidential Information, and all copies thereof, and (ii) certify in writing its compliance with this requirement. Notwithstanding the above, Recipient may retain: (a) backup copies of intangible Confidential Information produced in the ordinary course of business, for which destruction is not commercially feasible, and (b) an archival copy of the Confidential Information that it may use only in case of a dispute concerning this Agreement. Any Confidential Information retained shall be held subject to the obligations of this Agreement.

10. Remedies. Recipient acknowledges that if Discloser is required to bring an action to enforce the provisions of this Agreement, the damages may be irreparable and difficult to measure and Discloser shall be entitled to seek equitable relief including a preliminary injunction in addition to any other relief available. «IF»

11. Compliance with Laws; Export Control. Each party shall comply with all applicable laws and regulations, including, but not limited to all such export and import controls or restrictions, prohibited party lists, catch-all regulations, sanctions and embargoes. In particular, Recipient shall not directly or indirectly export, re-export, transfer or release any Confidential Information or other data, information or materials received from Discloser under this Agreement, or direct product of any of the aforesaid items, to any destination, person, entity or end use restricted or prohibited by applicable laws and regulations without obtaining prior authorization from the applicable competent government authorities to the extent required.

12. Commercial Items. Company may disclose NXP Confidential Information to the United States Government as necessary for the Authorized Purpose if the disclosure bears the appropriate restrictive legend and proprietary information notice permitted by the applicable government regulations and statutes related to (i) the restriction on disclosure and use of data, (ii) delivery of technical data delivered under the contract for commercial items and (iii) the protection of proprietary, trade secret and confidential business information. NXP does not consent to be bound by any government contract or subcontract provisions unless NXP has explicitly agreed in writing to those provisions.

13. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of *(Country or State of Jurisdiction)* without regard to any principle of conflicts of law. *(Court Location)* and the parties hereby agree that venue and jurisdiction for any related proceedings arising hereunder shall lie exclusively with such courts; provided, however, that each party may enforce its, its Affiliates' and their Contractors'

NOTE: TO ENABLE QUICK EXECUTION, NXP HAS PRE-SIGNED THIS MUTUAL NONDISCLOSURE AGREEMENT ("AGREEMENT"). ANY MODIFICATIONS TO THIS AGREEMENT WILL RENDER THIS AGREEMENT AND NXP'S SIGNATURE HERETO NULL AND VOID.



intellectual property rights in any court, and similar governing body, of competent jurisdiction, including but not limited to equitable relief.

14. Miscellaneous. (A) Nothing in this Agreement shall create a joint venture, partnership or principal/agent relationship between the parties. (B) Neither party shall assign or transfer any of its rights or obligations hereunder without the prior written consent of the other party hereto, except to a successor of all or substantially all of the assets of the assigning party if the successor assumes the terms, conditions and obligations of the assigning party hereunder. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Any attempted assignment other than in strict compliance with this Section shall be void. (C) A waiver of any right hereunder shall in no way waive any other rights. No waiver, alteration, modification or amendment of this Agreement shall be effective unless in writing and signed by both parties. (D) In the event that any provision of this Agreement is held to be invalid, illegal or unenforceable, such provision shall be deemed amended to achieve the economic effect of the intent of the parties in a valid, lawful and enforceable manner, or if not possible then deleted and deemed ineffective to the extent thereof, without affecting any other provision of this Agreement. (E) This Agreement constitutes the entire agreement regarding the subject matter hereof and supersedes all prior agreements, understandings and communications, oral and written, between the parties regarding the subject matter hereof. (F) This Agreement may be executed in counterparts (and may be electronically signed, and/or mailed when signed), each of which shall be deemed to be an original, and all of such counterparts shall together constitute one instrument.

IN WITNESS WHEREOF, duly authorized representatives of each party have executed this Agreement as of the Effective Date:

(NXP Company Name)

By: _____

Name: _____

Title: _____

(Company Name)

By: _____

Name: _____

Title: _____

NOTE: TO ENABLE QUICK EXECUTION, NXP HAS PRE-SIGNED THIS MUTUAL NONDISCLOSURE AGREEMENT ("AGREEMENT"). ANY MODIFICATIONS TO THIS AGREEMENT WILL RENDER THIS AGREEMENT AND NXP'S SIGNATURE HERETO NULL AND VOID.