



DKEA AGREEMENT NO. (to be input by Jazz) _____

DESIGN KIT EVALUATION AGREEMENT

This Design Kit Evaluation Agreement (this "Agreement") is entered into as of _____ (the "Effective Date") by Jazz Semiconductor, including its Affiliates ("Jazz" or "Discloser"), and _____ ("Recipient"). This Agreement defines the terms and conditions pursuant to which Recipient may access the following Jazz proprietary Design Kits: (Design Kits requested).

THE PARTIES AGREE AS FOLLOWS:

1. Definitions.

The term "Design Kit" means: (a) any machine readable instructions or statements, any machine readable data base, and/or any machine readable or printed related materials, including documentation, listings, design rule documents, electrical specification and tools provided to Recipient by Jazz; (b) all copies of all or any portion of such Design Kit(s); and (c) all updates or derivatives of the Design Kit(s) or any portion thereof.

The term "Design Kit Derivative" means any designs created or generated using the Design Kit, and any analyses, compilations, studies or other documents, records or data prepared by Recipient or any of its Representatives which contain, embody or otherwise reflect or are created or generated from the Design Kits,

2. Use of Design Kit.

2.1. Permitted Use. The Design Kits are licensed to Recipient solely for the purpose of Recipient's evaluating Jazz technology, manufacturing processes for consideration of a possible future business relationship. No right to use the Design Kits or any Design Kit Derivatives for manufacture is granted. If, upon completion of evaluation, Recipient and Jazz desire to establish a further business relationship, the parties will negotiate in good faith a Design Kit License Agreement. If upon completion of evaluation, Jazz or Recipient determines not to establish a further business relationship, Recipient will comply with the provisions of Section 3 below. Recipient shall not disclose or provide to any third party or allow any third party to access the Design Kits or Design Kit Derivatives. Recipient shall not reverse assemble, reverse compile or reverse engineer the Design Kit and shall not use, copy, modify or transfer the Design Kit or Design Kit Derivatives except as expressly authorized by this Agreement.

2.2. No Rights. Recipient shall acquire, by virtue of this Agreement no intellectual property and/or other rights or licenses, express or implied, to the Design Kits (other than the right set forth in Section 2.1) and Discloser shall retain all rights in the Design Kits and all intellectual property rights relating to the Design Kits..

3. Term. Any Design Kit is licensed to Recipient as provided in Section 2.1 for an evaluation period of one (1) year from the date the Design Kit is first provided to Recipient. The evaluation period may be extended by written agreement of Jazz and Recipient. Upon expiration of the evaluation period, or if upon earlier completion of evaluation, Jazz or Recipient determines not to establish a further business relationship, Recipient agrees to return to Jazz or destroy such Design Kit, including Design Rule Documents, Electrical Specifications, Tools, and all documents in Recipient's possession related to such Design Kit and to remove all portions, elements, components and contents embodying or derived from the Design Kits from Recipient's product design and from all Design Kit Derivatives, within 30 days of the determination. Additionally, Recipient will give written certification within 30 days of the return to Jazz of all such materials and of such removal from Recipient's product design and from all Design Kit Derivatives. . The Design Kits are provided solely for purposes of evaluation, and Recipient will not, and is expressly prohibited from, use of devices, modules, or layouts created or generated from the Design Kits or Design Kit Derivatives for manufacturing without Jazz's prior written consent. .

4. THE DESIGN KITS AND RELATED MATERIALS LICENSED HEREUNDER ARE PROVIDED "AS IS" WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, EITHER EXPRESSED, IMPLIED STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY WARRANTY WITH RESPECT TO MERCHANTABILITY, NON-INFRINGEMENT, TITLE OR FITNESS FOR ANY PARTICULAR PURPOSE.

5. No Further Agreement. Neither party has any obligation under this Agreement to purchase, license or sell any product or service supplied by the other party. The parties do not intend that any agency or partnership relationship be created between them by this Agreement.

6. General.

6.1. Export Control. Recipient acknowledges its obligations to control access to technical data under the U.S. Export Administration laws and regulations and agrees to adhere to such laws and regulations with regard to the Design Kits and Design Kit Derivatives. Recipient will not export Design Kits or Design Kit Derivatives outside the United States, if a United States company or citizen, or reexport, if a foreign company or citizen, except as permitted by the laws and regulations of the United States.

6.2. Notices. All notices or correspondence pertaining to this Agreement shall be addressed and sent as follows:

Jazz Semiconductor Company Name: _____
4321 Jamboree Road Address: _____
Newport Beach, CA 92660 City/State/Zip/Country: _____
Attention: Contracts Manager Attention: _____

6.3. Injunctive Relief. Recipient agrees that any unauthorized use of any of the Confidential Information in violation of this Agreement will cause Discloser irreparable injury for which it would have no adequate remedy at law. Accordingly, Discloser shall be entitled to immediate injunctive relief prohibiting any violation of this Agreement, in addition to any other rights and remedies available to Discloser.

6.4. Attorneys' Fees. If Discloser brings any action to enforce or protect any of its rights under this Agreement, Discloser shall be entitled to recover, in addition to its damages, its reasonable attorneys' fees and costs incurred in connection therewith.

6.5. Governing Law and Forum. This Agreement shall be governed in all respects solely and exclusively by the laws of the State of California, U.S.A. without regard to conflict of laws principles. The parties hereto expressly consent, and submit themselves, to the exclusive jurisdiction of the courts of California, and it is stipulated that venue shall be in Orange County for the adjudication or disposition of any claim, action or dispute arising out of this Agreement.

6.6. Assignment. Recipient may not assign or delegate all or any part of its rights or obligations under this Agreement without Discloser's prior written consent. Any attempted assignment or delegation without such consent, except as expressly set forth herein, will be void.

6.7. Construction; No Drafter. The invalidity or un-enforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement. The captions appearing in this Agreement have been included only for convenience and shall not affect or be taken into account in the interpretation of this Agreement. Neither party shall be deemed the drafter of this Agreement as both parties acknowledge and agree that they were represented by counsel and that they had ample opportunity to negotiate the specific provisions herein.

6.8. Entire Agreement. Any amendment to or modification of this Agreement must be made in writing and signed by both parties. This Agreement is the complete and final agreement of the parties with respect to the subject matter hereof and supersedes all proposals or other prior agreements or communications, oral or written, between the parties relating to the Design Kits.

This Agreement has been executed in counterparts by the duly authorized representatives of the parties whose signatures appear below.

Jazz Semiconductor

BY: _____
Jazz Signer: _____
Jazz Signer Title: _____
DATE: _____

Company Name

BY: _____
Signer: _____
Signer Title: _____
DATE: _____