



AGREEMENT NO. (to be input by Jazz) \_\_\_\_\_

STANDARD NON-DISCLOSURE AGREEMENT

This Standard Non-Disclosure Agreement (the "Agreement") is entered into as of \_\_\_\_\_ (the "Effective Date") by Jazz Semiconductor, including its Affiliates ("Jazz") and \_\_\_\_\_ (Company Name). This Agreement defines the terms and conditions pursuant to which the parties will have confidential discussions and disclose Confidential Information (as defined below). For the purpose of this Agreement, Affiliates shall mean, as to any person or entity, a person or entity which, directly or indirectly, controls, is controlled by or is under common control with such first person or entity. As used in this Agreement, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the actions and/or policies and management of such person or entity, whether by the ownership of stock, by ownership of voting security, by contact or by any other method.

THE PARTIES AGREE AS FOLLOWS:

1. Confidential Information. "Confidential Information" means nonpublic information disclosed by the disclosing party ("Discloser") to the receiving party ("Recipient") that the Discloser designates as being confidential or which, under the circumstances surrounding disclosure, should be reasonably understood to be confidential or proprietary to the Discloser, including, without limitation, information in tangible or intangible form relating to and/or including released or unreleased products; technical and manufacturing processes, procedures, methodologies and formulae; general process information including technology roadmaps, electrical specifications, acceptance criteria, performance data, reliability data, estimated leadtimes and pricing information; names of members of either party's respective technical teams; unpublished cost, pricing and other financial information; product and business plans, projections and marketing data; product designs, product development roadmaps, market opportunities, performance requirements, delivery requirements, business plans, scope and content of potential business relationship; technology, inventions, specifications, processes, models and know-how.

2. Protection of the Confidential Information.

2.1 Each party as Recipient agrees not to disclose Confidential Information of the Discloser or the existence or terms of this Agreement without prior approval of the Discloser; however, either party may disclose this Agreement under a confidentiality agreement no less restrictive than this Agreement to bankers, accountants, attorneys, consultants, potential acquirers and/or potential merger partners in connection with any potential financing, merger, acquisition or public offering. Each party as Recipient agrees not to use Confidential Information of the Discloser other than for the purpose for which it was disclosed by Discloser and in furtherance of the business relationship between Discloser and Recipient. A Recipient of Confidential Information disclosed pursuant to this Agreement agrees to limit the disclosure inside its organization to those employees having a need-to-know and that those employees shall treat the Confidential Information as a trade secret under the law. A Recipient of Confidential Information shall protect the information by using the same degree of care to prevent the unauthorized use, disclosure, dissemination or publication of the Confidential Information as the Recipient uses to protect its own comparable confidential and proprietary information, but not less than a reasonable degree of care. Any permitted reproduction of Confidential Information shall contain all confidential or proprietary legends which appear on the original.

2.2 If the Confidential Information disclosed or provided by Discloser includes any software or firmware, Recipient is prohibited during the term of this Agreement and thereafter from disassembling, decompiling, reverse-engineering or otherwise attempting to discover or disclose the Discloser's software or firmware or methods or concepts embodied in such software or firmware, except to the extent, if at all, expressly permitted by applicable law.

2.3 Upon receipt of written request of the Discloser, Recipient will return, or provide Discloser with written certification of the destruction of all Confidential Information in any tangible or digital form, including all copies thereof whether on paper or in digital form, which are in Recipient's possession or control. Recipient will immediately notify Discloser in writing in the event of any loss or unauthorized disclosure of Confidential Information. The obligations of the Recipient under Section 2.1 will survive for the longer of five (5) years from first disclosure or receipt of Confidential Information or, with respect to Confidential Information in tangible or digital form, five (5) years following the return or destruction of all copies thereof in Recipient's possession or control, irrespective of any earlier termination or expiration of this Agreement.

3. Exceptions. The obligations of the Recipient under Section 2.1 shall not apply to any Confidential Information that:

- is or becomes known in the public domain or in the possession of the Recipient without restriction at the time of receipt under this Agreement other than as a result of a breach by Recipient of its obligations hereunder;
- is used or disclosed with prior written approval of the Discloser;
- is independently developed by the Recipient without breach of this Agreement as demonstrated by written records;
- is lawfully disclosed to the Recipient from a source other than the Discloser without restriction on disclosure as demonstrated by written records; or
- is required to be disclosed pursuant to law or the order of any governmental authority, provided that, prior to disclosing any information pursuant to this clause, Recipient will, if possible, give prior notice thereof to Discloser and provide Discloser with the opportunity to contest such disclosure.

4. Term. The term of this Agreement shall be for a period of five (5) years from the Effective Date. This Agreement may be earlier terminated, renewed or extended by mutual written agreement of the parties.

5. No Warranty. ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS." NEITHER PARTY MAKES ANY WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, REGARDING THE ACCURACY, COMPLETENESS, OR PERFORMANCE OF ITS CONFIDENTIAL INFORMATION.

Jazz Semiconductor

BY: \_\_\_\_\_

Jazz Signer: \_\_\_\_\_

Jazz Signer Title: \_\_\_\_\_

DATE: \_\_\_\_\_

6. Reservation of Rights - No other warranties are made by the Discloser as to the Confidential Information. Recipient acquires no license or other intellectual property rights from Discloser under this Agreement (other than the right to review the information for the purpose described in the applicable CTR). Discloser retains all rights in the Confidential Information.

7. Independent Development: Each party understands that the other party may currently or in the future be developing information internally, or receiving information from third parties that may be similar to the Confidential Information. Accordingly, nothing in this Agreement will be construed as a representation or inference that either party will not develop products, or have products developed for it, or enter into joint ventures, alliances, or licensing arrangements that, without violation of this Agreement, compete with the products or systems embodying the Confidential Information.

8. 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.

9. General.

9.1 Export Control. The Recipient of Confidential Information under this Agreement 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 any Confidential Information received under this Agreement. Recipient will not export 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.

9.2 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: \_\_\_\_\_

9.3 Enforcement of Agreement. Each party agrees that money damages would not be a sufficient remedy for any breach of this Agreement and, accordingly, that the other party may be entitled to equitable relief, including injunction and specific performance, in the event of any breach of the provisions of this Agreement, in addition to all other remedies available to the other party at law or in equity, except as limited by this Agreement.

9.4 Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California without regard to the conflicts of laws provisions of that State.

9.5 Severability. If any term or provision of this Agreement is determined to be invalid or unenforceable for any reason, it shall be adjusted rather than voided, if possible, to achieve the intent of the parties to the extent possible. In any event, all other terms and provisions shall be deemed valid and enforceable to the maximum extent possible.

9.6 Non-Waiver of Rights. The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other party that is in violation of the terms of this Agreement shall not be construed as a waiver thereof, or as waiver of any future breach or subsequent wrongful conduct.

9.7 Assignment. Neither party may assign or delegate all or any part of its rights or obligations under this Agreement without the prior written consent of the other party, except to an entity that succeeds to all or substantially all of the business assets of such party, and so long as such entity agrees to be bound by all the rights, obligations and other terms and conditions of this Agreement. Any attempted assignment or delegation without such consent, except as expressly set forth herein, will be void; provided, however, that Jazz may unilaterally assign its rights and obligations under this Agreement to any entity to hold, lease, own or otherwise operate substantially all of the assets of any Jazz business division.

9.8 LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY ELSEWHERE HEREIN, NEITHER PARTY SHALL BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, REMOTE, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE OR PROFITS AND ATTORNEYS' FEES, ARISING FROM OR CAUSED, DIRECTLY OR INDIRECTLY BY THE BREACH OF THIS AGREEMENT OR USE OF CONFIDENTIAL INFORMATION HOWEVER PROVIDED UNDER THIS AGREEMENT.

9.9 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 Confidential Information.

10. Counterparts. This Agreement may be executed in counterparts, which together shall constitute one and the same Agreement.

Company Name \_\_\_\_\_

BY: \_\_\_\_\_

Signer \_\_\_\_\_

Signer Title \_\_\_\_\_

DATE: \_\_\_\_\_