



## MUTUAL NONDISCLOSURE AGREEMENT

This Agreement is dated as of \_\_\_\_\_, 20\_\_ (the "Effective Date"), by and between Analog Devices, Inc., a Massachusetts corporation (including its Affiliates, "ADI"), with offices at One Technology Way, Norwood, MA 02062, U.S.A., and \_\_\_\_\_ (including its Affiliates, "Participant"). Participant and ADI are collectively referred to as "Party" or "Parties". "Affiliate" means a Party and any other entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, that Party. However, the term Affiliate shall expressly exclude any entity that is a direct competitor of the other Party.

**1. Background.** The Parties intend to engage in discussions concerning a possible business relationship and each Party may disclose or deliver to the other Party and its directors, officers, employees, agents or advisors (collectively, "Representatives") confidential information to enable the other Party to evaluate the feasibility of the business relationship, and to perform its obligations under related agreements (the "Purpose"). The Parties have entered into this Agreement to assure the confidentiality of such information. As used herein, the Party disclosing Proprietary Information is referred to as the "Disclosing Party" and the Party receiving such Proprietary Information is referred to as "Recipient."

**2. Proprietary Information.** The term "Proprietary Information" shall mean information of the Disclosing Party, including, but not limited to, trade secrets, know-how, proprietary, technical, developmental, operating, financial, performance, cost, process, client and prospect information, and all samples, models, evaluation boards, reports, tables, data and prototypes containing or disclosing such information, that is (a) marked or accompanied by documents clearly and conspicuously designating the information as "confidential" or the equivalent, (b) identified by the Disclosing Party in writing as confidential before, during or promptly after the disclosure or (c) information that, given the nature of the information or the circumstances surrounding its disclosure, a reasonable person would understand to be confidential. "Proprietary Information" shall be deemed to include notes, analyses, compilations, interpretations, memoranda or other documents prepared by Recipient or its Representatives which contain, reflect or are based upon, Proprietary Information of the Disclosing Party.

**3. Use and Disclosure of Proprietary Information.** Recipient and its Representatives shall hold in confidence, and shall not disclose, any Proprietary Information of the Disclosing Party; provided, however, that (i) Recipient may make any disclosure of such information to which the Disclosing Party gives its prior written consent, and (ii) Proprietary Information may be disclosed by Recipient to its Representatives who need to know such information in connection with the Purpose and who are informed of the confidential nature of such information, the terms of this Agreement, and who agree to keep such information confidential. Recipient shall be responsible for any breach of this Agreement by its Representatives, and agrees, at its sole expense, to take reasonable

measures to restrain its Representatives from unauthorized disclosure or use of the Proprietary Information. Recipient shall use the Proprietary Information only for the Purpose, except upon receipt of prior written consent of the Disclosing Party. Neither Party shall disassemble, dismantle, redesign or reverse engineer any Proprietary Information of the other Party.

**4. Limitation on Obligations.** The obligations specified in Section 3 above shall not apply to Proprietary Information that: (a) is or becomes generally known to the public through no wrongful act or omission on the part of Recipient; (b) is rightfully in Recipient's possession at the time of disclosure otherwise than as a result of Recipient's breach of any legal obligation to the Disclosing Party; (c) becomes known to Recipient through sources (other than the Disclosing Party) having the legal right to disclose such Proprietary Information; (d) is independently developed by Recipient without reference to or reliance upon the Proprietary Information; or (e) is required to be disclosed by Recipient to comply with applicable laws or governmental regulations, provided that Recipient provides prior written notice of such disclosure to the Disclosing Party and takes reasonable and lawful actions to avoid and minimize the extent of such disclosure.

**5. Ownership of Proprietary Information.** The Disclosing Party is and shall remain the exclusive owner of its Proprietary Information and all patent, copyright, trade secret, trademark, domain name and other intellectual property rights therein. No license or conveyance of any such rights to Recipient is granted or implied under this Agreement.

**6. Return of Proprietary Information.** Recipient shall, upon the written request of the Disclosing Party, return to the Disclosing Party or destroy all Proprietary Information it received hereunder. Notwithstanding the return or destruction of the Proprietary Information, Recipient and its Representatives will continue to be bound by their confidentiality and other obligations in this Agreement.

**7. No Representation or Warranty.** Each Party warrants that it has the right to make the disclosures contemplated by this Agreement **NO OTHER WARRANTIES ARE MADE BY EITHER PARTY UNDER THIS AGREEMENT.** Each Party acknowledges and agrees that all Proprietary Information is provided without any representation or warranty, express or implied, as to the accuracy or completeness thereof. Only those representations and warranties which are made in a definitive agreement entered into by the Parties, when, as and if executed, and subject to such limitations and restrictions as may be specified therein, will have any legal effect. This Agreement shall not be construed to be an obligation to enter into any definitive agreement or to result in any claim by one Party against the other for reimbursement of cost for any efforts expended with respect to the Purpose. No contract providing for any transaction contemplated

by the Parties shall be deemed to exist between the Parties unless and until a definitive agreement has been executed.

**8. Miscellaneous.** (a) This Agreement (i) will be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns, (ii) supersedes all prior agreements, written or oral, between the Parties relating to the subject matter hereof, and (iii) may not be modified or discharged, in whole or in part, except by an agreement in writing signed by both Parties. (b) This Agreement shall be construed and interpreted in accordance with the internal laws of The Commonwealth of Massachusetts, without giving effect to the principles of conflicts of law thereof. (c) The Parties acknowledge and agree that Proprietary Information may be subject to U.S. and other export control laws and regulations, and Recipient hereto agrees, with respect to the Disclosing Party's Proprietary Information, to follow all applicable export laws and regulations. The foregoing obligations shall survive any termination or expiration of this Agreement. (d) The provisions of this Agreement are necessary for the protection of the business

and goodwill of the Parties and are considered by the Parties to be reasonable for such purpose. Recipient agrees that any breach of this Agreement may cause the Disclosing Party substantial and irreparable damages and, therefore, in the event of any such breach or threatened breach, in addition to other remedies which may be available at law, the Disclosing Party shall have the right to seek specific performance and other injunctive and equitable relief. (e) Recipient's obligations under Section 3 with respect to Proprietary Information shall expire three (3) years from the date of disclosure of such Proprietary Information. This Agreement shall terminate on the third anniversary of the last disclosure of Proprietary Information hereunder. Notwithstanding the foregoing, the confidentiality and use restrictions with respect to Proprietary Information related to ADI's semiconductor fabrication process shall expire six (6) years from the date of disclosure of such Proprietary Information. (f) This Agreement may be executed electronically and in counterparts, each of which shall be deemed to be an original, and when taken together shall constitute one binding agreement.

EXECUTED as a sealed instrument as of the day and year first set forth above.

ANALOG DEVICES, INC.

PARTICIPANT

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_