



MUTUAL NONDISCLOSURE AGREEMENT

相互保密协议

NDA# (*Contract Number*)

第(*Contract Number*)号保密协议

This Mutual Nondisclosure Agreement (the ‘**Agreement**’) is made as of (*Effective Date*) (the ‘**Effective Date**’) by and between NXP (CHINA) Management Ltd., a P.R.C. limited liability company, having a place of business at 19F~21F, BM InterContinental Business Center, 100 Yu Tong Road, 200070 Shanghai, China (‘**NXP**’), and (*Company Name*), having a place of business at (*Company Address*) (‘**Company**’).

本相互保密协议（下称“**本协议**”）由恩智浦（中国）管理有限公司，一家中国有限责任公司，其营业地点位于中国上海裕通路 100 号宝矿洲际商务中心 19-21 楼（下称“**恩智浦**”），与(*Company Name - Chinese*)，其营业地点位于(*Company Address - Chinese*)下称“**公司**”，于(*Effective Date*)（下称“**生效日**”）订立。

1. Purpose. Each party, and in the case of NXP only, including its Affiliates and/or their Contractors (collectively ‘**Discloser**’) may disclose certain information to the other party, and in the case of NXP only, including 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, or (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. Subject to the obligations of this Agreement, neither party shall be precluded from independently developing any product, service or technology.

1. 目的。 每一方（并且仅就恩智浦而言，包括其关联公司和/或承包商，以下统称为‘**披露方**’）均有可能向另一方（并且仅就恩智浦而言，包括其关联公司和/或承包商，以下统称为‘**接收方**’）披露与披露方的产品、服务和/或技术有关的某些信息，用于与双方之间潜在业务关系有关的内部讨论和评估，并在该等业务关系确定后，用于交换信息、进一步促进该等业务关系（下称‘**核准目的**’）。本协议中的任何内容均不(a)使任何一方有义务向另一方披露任何信息；或者(b)使任何一方有义务向/从另一方购买、出售或许可任何产品、服务和/或技术，或与另一方订立任何其他协议。在不违反本协议项下义务的情况下，任何一方均有权独立开发任何产品、服务或技术

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.



2. 保密信息。恩智浦拟披露与其产品及服务有关的信息。公司拟披露与其产品及服务有关的信息。披露方的‘**保密信息**’指披露方通过书面或其他有形形式或口头、视频、电子或其他无形形式，向接收方可能直接或间接披露的一切专有和/或保密性的数据和信息，包括但不限于与下列各项相关的数据和信息：产品、服务、商业及营销计划、路线图、战略、财务、价格、客户、供应商、商业伙伴、软件、硬件、研发、方法、技术、图纸、设计、规格、技术诀窍、构思、发明（无论能否获得专利）或专利，并且该等数据和信息：(a)在披露时已用‘保密’、‘专有’等字样加以标示；(b)虽未做标示（如口头披露的信息），但在披露时得到保密处理，并在披露后三十（30）日内提交给接收方的一份文件中被总结并描述为保密信息；或者(c)属于具有理性的人士在考虑到信息的性质及披露的情形后应该认识到其保密性或专有性的信息。

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. NXP 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.

3. 适用于关联公司和承包商的条款。‘**关联公司**’就任何一方而言，指目前或今后控制该一方、受该一方控制或与该一方共同受到他人控制的任何公司或其他法律实体；而‘**控制**’则指直接或间接拥有或百分之五十（50%）以上股权或类似的可选举董事或类似职能人员的表决权。‘**承包商**’指一方或其关联公司通过书面协议聘用的第三方承包商、代理商、代表和/或顾问，根据该等协议，该等第三方提供与核准目的相关的产品、服务和/或技术。恩智浦应对其关联公司、承包商和/或关联公司的承包商未能遵守本协议规定的行为负责，如同该等违约行为就是恩智浦自己的任何作为或不作为一样

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. Company agrees that without prior written approval from NXP, it will not: (a) maliciously use NXP’s Confidential Information to compete with NXP, or (b) directly or indirectly, circumvent NXP to deal with any customer of NXP, or a third-party contractor manufacturer, for the sale or utilization of the products generated specifically under the cooperation described under this Agreement.

4. 义务。接收方不得：(a)将披露方的保密信息用于核准目的以外的任何其他目的；(b)向任何第三方披露披露方的保密信息，但向接收方及其关联公司以及其承包商的下列雇员做出的披露除外：该等雇员(i)为实现核准目的有合法的理由‘需要了解’保密信息；并且(ii)根据相关条款和条件，有义务保护该等保密信息（该等条款和条件在对披露方的保护上不低于本协议中所含的条款和条件）；并且/或者(c)对披露方的保密信息进行反向工程、反编译或反汇编。接收方在根据本协议的要求对披露方的保密信息进行保护时应给予接收方保护自己同等性质的保密信息时所给予的同等程度的审慎，该等审慎的程度不得低于合理的水平。公司同意，未经恩智浦事先书面批准，公司不得：(a)恶意使用恩智浦的保密信息与恩智浦进行竞争，或者(b)为销售或利用本协议所述合作项下专门生产的产品，直接或间接地绕过恩智浦，与恩智浦的任何客户或第三方承包制造商进行交易。



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 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.

5. 例外。接收方在第 4 条项下的义务不适用于可以得到接收方证明的下列数据或信息：(a)接收方在披露方披露之前已合法拥有或知晓的信息，且未受任何使用或披露限制；(b)并非由于接收方的作为或不作为而为公众所知的信息；(c)在披露方披露之后，第三方向接收方合法提供的信息，且未受任何使用或披露限制；(d)接收方在未使用或参考披露方任何保密信息的情况下独立开发的信息；或者(e)根据披露方的书面授权发布的得到明确批准的信息。

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.

6. 必要的披露。接收方根据法院、行政机构或其他政府机构的命令或要求进行披露不得视为违反本协议，*前提是*，在得知上述命令或要求之后，接收方应立即将该等命令或要求通知披露方（法律禁止的除外），使其有机会对该等披露提出异议，或寻求可以获得的法律救济，使上述信息得到保密。如果在缺乏保护令的情况下，接受方根据律师的建议认定有必要披露该等信息，则接收方仅可在其被迫披露的范围内，披露其被要求披露的那些保密信息。

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.

7. 按现状披露。披露方保证其有权披露其向接收方提供的保密信息。除前句所述外，保密信息按'现状'提供，无任何种类的任何保证。

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.

8. 所有权；无其他许可。披露方的保密信息及所有副本均为披露方所有或控制。本协议项下未对任何专利、版权、商业秘密、商标、掩膜作品或任何其他知识产权授予或让与任何明示或暗示的许可或其他权利。

9. Term and Termination. This Agreement commences on the Effective Date and continues for a period of 2 year(s). 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 year(s) 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.

9. 有效期与终止。本协议自生效日起生效并在 5 year(s) 的期间内保持有效。经提前十（10）天向另一方发出书面通知后，每一方均可出于任何原因终止本协议。就任何一条保密信息而言，本协议项下的义务均应在本协议到期或终止之日起的 5 year(s) 年后到期。一旦收到披露方在本协议终止后不超过三十（30）天提出的书面要求后，接收方应立即：(i) 归还（或根据披露方的选择销毁）披露方的所有保密信息及其所有副本；(ii) 书面证明其已遵守本项要求。即使有前述规定，接收方可以保留：(a) 正常经营过程中产生的无形保密信息的备份副本（销毁该等副本不具有商业上的可行性）；(b) 保密信息的存档副本（接收方仅可在发生与本协议有关的争议时使用该等副本）。保留的保密信息应遵守本协议的保密义务。

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.

10. 救济。接收方承认，如果披露方为使本协议得到执行不得不采取法律行动，损害可能无法弥补且难以估量。因此，除任何其他可以获得的救济外，披露方还应有权寻求包括初步禁令在内的衡平法救济。

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.

11. 遵守法律；出口管制。双方均应遵守所有可适用的法律法规，包括但不限于所有进出口管制或限制，禁止出口方清单，一揽子规定，制裁及禁运规定。特别是，在未事先获得上述法律所要求的相关政府主管机构的书面授权的情况下，接收方不得向相关法律法规限制或禁止的任何目的地、人员、实体或终端用户，直接或间接地出口、再出口、转让或发布其在本协议项下从披露方处获得的任何保密信息或其他数据、信息或资料，或上述各项的任何直接产品。

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.

12. 商用产品。公司可以出于核准目的的必要时向美国政府披露恩智浦保密信息，但前提是该项披露需带有规定以下内容的可适用的政府法规和法令所允许的适当限制性图例和专有信息声明：(i) 与数据披露和使用的限制有关的法规和法令，(ii) 与商用产品合同项下技术数据的交付有关的法规和法令；及 (iii) 与专有、商业秘密和商业机密信息的保护有关的法规和法令。除非恩智浦书面明示同意，否则恩智浦拒绝接收任何政府合同或政府分包合同条款的约束。

13. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the P.R.C. without regard to any principle of conflicts of law. Any dispute arising hereunder shall be exclusively settled by the competent court located in Shanghai, China.

13. 适用法律。本协议应受中华人民共和国法律管辖并根据该等法律加以解释，不考虑任何法律冲突原则。本协议项下产生的任何争议均应交由中国上海有管辖权的法院排他性管辖。

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 emailed when signed), each of which shall be deemed to be an original, and all of such counterparts shall together constitute one instrument. (G) This Agreement is written in both English and Chinese, in case there is inconsistency, the Chinese version shall prevail.

14. 其他。(A)本协议中的任何内容均不得在双方之间设立任何合资、合作或委托/代理关系。(B)未经另一方事先书面同意，任何一方均不得出让或转让其在本协议项下的任何权利或义务，向继承出让一方的全部资产或其全部实质部分的继承人做出的出让除外，但条件是该等继承人继承出让一方在本协议项下的所有条款、条件和义务。根据前述规定，本协议应有益于每一方及其各自继承人和得到许可的受让人的利益并对其具有约束力。不符合本条规定试图做出的任何出让一概无效。(C)一方放弃本协议项下的任何权利并不等于放弃任何其他权利。除非采取书面形式并由双方签署，否则对本协议的任何弃权、更改、修改或修正一概无效。(D)如果本协议的任何规定被判无效、不合法或不可执行，则该等规定应被视为已得到修正，使其得以按照有效、合法并可执行的方式，实现双方预期的经济效果；否则，该等规定应被删除并被视为在该等规定的范围内归于无效，但不影响本协议的任何其他规定。(E)本协议构成双方就本协议主题事项达成的全部协议，并取代双方先前与该等主题事项有关的一切口头和书面协议、谅解和通讯。(F)本协议可签署复本（并可通过电子方式签署和/或在签字后通过电子邮件进行交换），每份复本均应视为正本，并且所有复本加在一起应仅构成同一份文件。(G)本协议以中英两种文本书就，如有任何差异，以中文文本为准。



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

鉴此，双方正式授权代表已于生效日签署本协议。

NXP (CHINA) Management Ltd.

恩智浦（中国）管理有限公司

Company Chop/公章:

By/签字人: _____

Name/姓名:

Title/职务:

(Company Name - English)

(Company Name - Chinese)

By/签字人: _____

Name/姓名:

Title/职务:

SAMPLE