

MUTUAL NON-DISCLOSURE AGREEMENT

This MUTUAL NONDISCLOSURE AGREEMENT (hereinafter "Agreement") is made and executed on this the [] day of [], Two Thousand and Nine ([]/[]/2009), BY AND BETWEEN:

SANKALP SEMICONDUCTOR PRIVATE LIMITED, a company incorporated under the Companies Act, 1956, having its registered office at [], (hereinafter referred to as "Company", which term shall, where the context admits, mean and include, its successors and permitted assigns), OF THE ONE PART;

AND

*Mr./Ms. _____, the sole *proprietor/proprietress of [], a sole proprietorship concern having its office at [] (hereinafter referred to as the "Customer", which term shall, where the context admits, mean and include *[his/her] heirs, executors and administrators), OF THE OTHER PART.

(OR)

*[], a partnership firm having its head office at [], (hereinafter referred to as the "Customer", which term shall, where the context admits, mean and include the successors of the said firm and the heirs, executors and administrators of each of its partners from time to time) OF THE OTHER PART.

(OR)

*[], a company incorporated under the Companies Act, 1956, having its registered office at [], (hereinafter referred to as "Customer", which term shall, where the context admits, mean and include, its successors and permitted assigns), OF THE OTHER PART.

****(Strike out which ever is not applicable)***

WHEREAS:

1. The Company is, *inter alia*, engaged in the business of [];
2. The Customer is engaged in the business of [];
3. The Customer is desirous of utilizing the services of the Company to meet its business requirements ("Purpose");
4. In connection with the Purpose, each party has disclosed ("Disclosing Party") and may further disclose to the other party ("Receiving Party"), Confidential Information (as defined below) that the Disclosing Party desires the Receiving Party to treat as confidential; and
5. The parties wish to protect their respective Confidential Information against any unauthorized use and disclosure in strict accordance with the terms of this Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS CONTAINED IN THIS AGREEMENT, THE PARTIES AGREE AS FOLLOWS:

1. CONFIDENTIAL INFORMATION

1.1 For the purposes of this Agreement, the term “Confidential Information” shall mean all information, whether or not reduced to writing, possessed by or disclosed the Disclosing Party or relating to the business of the Disclosing Party, of any actual or demonstrably anticipated business development and strategies of the Disclosing Party, which gives the Disclosing Party an advantage over competitors who do not know or use it or is otherwise not generally known in the trade or available to others, or the utility or value of which is not known or recognised, whether or not the same is in public domain, including but not limited to:

1.1.1 information or material relating to Disclosing Party and its business as conducted or anticipated to be conducted, trade secrets, business plans and strategies, research and operations past, current or anticipated, research and development, computer software techniques, programs and systems, methods, processes, concepts, experimental methods and results, scientific plans, data processing, technical documentation, user manuals, data files and data bases, purchasing, accounting, marketing activities and strategy, pricing, financial data and confidential and propriety information of similar nature received or to be received from third parties with whom the Disclosing Party does business;

1.1.2 all information received, utilized, conceived, originated or developed by the Receiving Party independently or with others in furtherance of the Purpose; and

1.1.3 all information of whatsoever nature, disclosed by the Disclosing Party to the Receiving Party, whether directly or indirectly, through any means of communication or observation, in connection with the Purpose and designated as confidential.

1.2 Confidential Information shall not, however, include any information that: (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the Disclosing Party; (ii) becomes publicly known and made generally available after disclosure by the Disclosing Party to the Receiving Party without any breach by the Receiving Party of its obligations hereunder; (iii) is already in the possession of the Receiving Party at the time of disclosure by the Disclosing Party, as shown by the Receiving Party's files and records, immediately prior to the time of disclosure; (iv) is obtained by the Receiving Party from a third party lawfully in possession of such information and without a breach of such third party's obligations of confidentiality; or (v) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information, as shown by documents and other competent evidence in the Receiving Party's possession.

2. USAGE OF CONFIDENTIAL INFORMATION

2.1 The Receiving Party shall not to use any Confidential Information of the Disclosing Party for any purpose, directly or indirectly, except in connection with the Purpose.

3. DISCLOSURE OF CONFIDENTIAL INFORMATION AND STANDARD OF CARE

3.1 The Receiving Party shall maintain the Confidential Information received from the Disclosing Party in strict confidence. The Receiving Party may disclose Confidential Information only in connection with the Purpose, to its employees, officers or agents who have a need to know the Confidential Information in connection with the Purpose, provided they have been advised of the confidential nature of such information and are under an obligation to maintain its confidentiality.

3.2 The Receiving Party shall not copy, adapt, summarize, reproduce, alter, modify, merge or create derivative works of the Confidential Information or reverse engineer, disassemble, or decompile any objects which embody the Confidential Information or attempt to do any of the foregoing.

3.3 The Receiving Party must use at least the same standard of care in protecting the confidentiality of the Disclosing Party's Confidential Information as it uses in protecting its own information of a similar nature and, in any event, no less than a reasonable standard of care.

4. OWNERSHIP AND RETURN OF CONFIDENTIAL INFORMATION.

4.1 All documents and other tangible objects, in any form or media, containing or representing Confidential Information that have been disclosed by the Disclosing Party to the Receiving Party, and all copies or extracts thereof that are in the possession of the Receiving Party, shall be and remain the property of the Disclosing Party and shall be forthwith returned to the Disclosing Party upon completion or termination of the Purpose, or upon the Disclosing Party's request, as the case may be.

4.2 Nothing in this Agreement is intended to grant any rights to the Receiving Party under any trade mark, patent, copyright, trade secret or other intellectual property right of the Disclosing Party, nor shall this Agreement grant the Receiving Party any rights in or to the Disclosing Party's Confidential Information.

5. NO OBLIGATIONS

5.1 Nothing in this Agreement shall obligate a party to disclose Confidential Information or the parties to proceed with the Purpose.

6. NO REPRESENTATIONS AND WARRANTIES

6.1 All confidential information is provided "as is." Each party makes no representation, warranty, assurance or guarantee with respect to any Confidential Information disclosed hereunder, including without limitation any representation or warranty of accuracy and completeness, merchantability, fitness for any particular purpose, or non-infringement of intellectual property or other rights of third parties.

7. TERM

7.1 The obligations of the Receiving Party under this Agreement shall survive until such time as all Confidential Information of the Disclosing Party disclosed hereunder becomes publicly known and made generally available without any breach by the Receiving Party of its obligations hereunder, or [] () years after the last disclosure of Confidential Information under this Agreement, whichever is earlier.

8. EQUITABLE RELIEF

8.1 The Receiving Party acknowledges that its breach of this Agreement may result in immediate and irreparable harm to the Disclosing Party, for which there will be no adequate remedy at law. Accordingly, the Disclosing Party shall be entitled to equitable relief to compel the Receiving Party to cease and desist all unauthorized use and disclosure of the Disclosing Party's Confidential Information. The parties' rights under this Agreement are cumulative, and a party's exercise of one right shall not waive that party's right to assert any other legal remedy.

9. GOVERNING LAW/JURISDICTION AND DISPUTE RESOLUTION

9.1 All questions concerning the construction, validity and interpretation of this Agreement will be governed by the laws of India, and the courts at [], India shall have exclusive jurisdiction.

9.2 The parties shall amicably resolve any and all disputes arising out of or in connection with this Agreement, failing which, the disputes shall be settled in accordance with provisions of the Indian Arbitration and Conciliation Act, 1996. The parties shall mutually appoint a sole arbitrator to conduct the arbitration proceedings. The venue for arbitration shall be [], India and the language for arbitration shall be English.

9.3 Nothing in this Clause 9 shall prevent a party from resorting to judicial process if injunctive or other equitable relief from a court is necessary to prevent serious and irreparable injury.

10. MISCELLANEOUS PROVISIONS

10.1 All notices, requests, demands or other communications which are required to be given pursuant to the terms of this Agreement will be in writing and will be deemed to have been duly given when received. The notices shall be sent to the addresses as set forth above and to the attention of the signatories of this Agreement, or to such other address(es) or individual(s) as the parties may specify in writing from time to time.

10.2 This Agreement may not be assigned by a party without the prior written consent of the other party.

10.3 This Agreement can be modified, supplemented or amended only by a written agreement executed by both parties.

10.4 The parties have executed this Agreement on a principal to principal basis.

- 10.5 If any provision of this Agreement is held to be invalid, illegal or unenforceable, such provision will be struck from the Agreement and the remaining provisions of this Agreement shall remain in full force and effect.
- 10.6 No failure on the part of any party to exercise or delay in exercising any right hereunder will be deemed a waiver thereof, nor will any single or partial exercise preclude any further or other exercise of such or any other right.
- 10.7 This Agreement constitutes the entire agreement between parties relating to the subject matter hereof.
- 10.8 Each party agrees to execute and deliver any further instruments and perform any acts which are or may become necessary to effectuate the purposes of this Agreement.
- 10.9 This Agreement may be executed in counterparts, which together will constitute one instrument.

IN WITNESS WHEREOF, the parties hereto have set and subscribed their respective hands and seals unto this Agreement on the day and date first set out hereinabove.

By **SANKALP SEMICONDUCTOR PRIVATE LIMITED** By **CUSTOMER**

Through its authorised signatory

Through its authorised signatory

NAME :
DESIGNATION :

NAME :
DESIGNATION :