

(i) would not normally reveal to third parties except in confidence or has undertaken with others to maintain in confidence, or (ii) believes in good faith is protected by a right to privacy under federal or state law or any other applicable privilege or right related to confidentiality or privacy. This designation includes all Material referring or relating to the foregoing, including but not limited to copies, summaries, and abstracts of the foregoing.

4. “OUTSIDE COUNSEL EYES ONLY Material”: information, documents, and things the Designating Party believes in good faith is not generally known to others and has significant competitive value such that unrestricted disclosure to others would create a substantial risk of serious injury, and which the Designating Party (i) would not normally reveal to third parties except in confidence or has undertaken with others to maintain in confidence, or (ii) believes in good faith is significantly sensitive and protected by a right to privacy under federal or state law or any other applicable privilege or right related to confidentiality or privacy. The designation is reserved for information that constitutes proprietary financial or technical or commercially sensitive competitive information that the Designating Party maintains as highly confidential in its business, including information obtained from a non-party pursuant to a Nondisclosure Agreement (“NDA”), information relating to future products, strategic plans, non-public financial data, documents that would reveal trade secrets, licensing documents or licensing communications, and settlement agreements or settlement communications, the disclosure of which is likely to cause harm to the competitive position of the Designating Party. This designation includes all Material referring or relating to the foregoing, including but not limited to copies, summaries, and abstracts of the foregoing.

5. “OUTSIDE COUNSEL EYES ONLY – SOURCE CODE”: C, C++, assembler, digital signal processing (DSP) programming language, firmware source code, register transfer

language (RTL), hardware description language (HDL), circuit simulation files, non-programming files that are part of the source code development suite (such as README, Release Note, log and input files), design files (schematics, netlists, and layout files), microcode, and/or similarly sensitive code or schematics (i.e., representations of any silicon mask or circuit design, diagram, or blueprint containing specific gate-level circuit design representations) (collectively, “Source Code”) that the Designating Party believes in good faith is not generally known to others and has significant competitive value such that unrestricted disclosure to others would create a substantial risk of serious injury, and which the Designating Party (i) would not normally reveal to third parties except in confidence or has undertaken with others to maintain in confidence, or (ii) believes in good faith is significantly sensitive and protected by a right to privacy under federal or state law or any other applicable privilege or right related to confidentiality or privacy. This designation includes all Materials referring or relating to the foregoing, including but not limited to copies, summaries, and abstracts of the foregoing. If a non-Source Code document specifically refers or relates to Source Code (e.g., a copy, summary, or abstract is included therein), upon request from the Receiving Party, the Producing Party will meet and confer in good faith with the Receiving Party regarding whether the Producing Party will redact the relevant portion of the document and make the redacted document available as non-Source Code material subject to appropriate alternative designation. If the Parties are unable to agree within 5 business days of the meet and confer, the Parties will jointly seek the Court’s assistance in resolving the dispute. Any document designated as “OUTSIDE COUNSEL EYES ONLY – SOURCE CODE” information is automatically designated as SUBJECT TO PROSECUTION BAR in Section H.

6. “OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE”: especially sensitive semiconductor fabrication processes documentation (process flow specifications, operating

specifications, process sequence documents, die layout files, and process recipes) (collectively “Process Recipes”) which the Designating Party believes in good faith is not generally known to others, which has significant competitive value such that unrestricted disclosure to others would create a substantial risk of serious injury, and which the Designating Party, in the ordinary course of business, takes precautions to protect, and, further, which the Designating Party (i) would not normally reveal to third parties except in confidence or has undertaken with others to maintain in confidence, or (ii) believes in good faith is significantly sensitive and protected by a right to privacy under federal or state law or any other applicable privilege or right related to confidentiality or privacy. This designation includes all Materials referring or relating to the foregoing, including but not limited to copies, summaries, and abstracts of the foregoing. If a non-Process Recipe document specifically refers or relates to Process Recipe Material (e.g., a copy, summary, or abstract is included therein), upon request from the Receiving Party, the Producing Party will meet and confer in good faith with the Receiving Party regarding whether the Producing Party will redact the relevant portion of the document and make the redacted document available as non-Process Recipe material subject to appropriate alternative designation. If the Parties are unable to agree within 5 business days of the meet and confer, the Parties will jointly seek the Court’s assistance in resolving the dispute. Samsung states that it treats Process Recipe Material in a manner that is at least as protective as Source Code. Any document designated as “OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE” information is automatically designated as SUBJECT TO PROSECUTION BAR in Section H.

7. “Producing Party”: a Party or non-party that produces Material in this action.
8. “Receiving Party”: a Party that receives Material from a Producing Party.

9. “Designated Material”: Material that is designated “CONFIDENTIAL”, “OUTSIDE COUNSEL EYES ONLY”, “OUTSIDE COUNSEL EYES ONLY – SOURCE CODE” or “OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE” under this Order.

10. “Designating Party”: a Party or non-party that designates Material as “CONFIDENTIAL”, “OUTSIDE COUNSEL EYES ONLY”, “OUTSIDE COUNSEL EYES ONLY – SOURCE CODE” or “OUTSIDE COUNSEL EYES ONLY – PROCESS RECIPE”.

11. “Counsel of Record”: (i) outside counsel who appears on the pleadings as counsel for a Party; (ii) partners, associates, and employees of such outside counsel to whom it is reasonably necessary to disclose the information for this litigation, including supporting personnel employed by the attorneys, such as paralegals, legal translators, legal secretaries, legal clerks, and shorthand reporters; (iii) independent legal translators retained to translate in connection with this action, or independent shorthand reporters retained to record and transcribe testimony in connection with this action. “Counsel of Record” does not include any person who is an employee, director, or officer of a Party or a Party’s affiliates even if that person appears on the pleadings as counsel for a Party.

12. “Litigation Manager”: an employee or consultant in a Party’s legal department or intellectual property division whose responsibilities include overseeing this litigation, who is not a competitive decisionmaker regarding equipment for physical vapor deposition of thin films in semiconductor integrated circuit products and who is not a Board member or Board-appointed officer of that Party. For the avoidance of doubt, an individual is not a competitive decisionmaker solely by virtue of participating in the negotiation of settlement agreements. Each Party may have a maximum of one Litigation Manager. Either party may substitute its Litigation Managers with reasonable notice to the other party.

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