

INSTRUCTIONS FOR OBTAINING PRODUCTION READY SOFTWARE.

OEM Authorized Representative will:

- 1) Complete the two copies of the OEM Required Information on the Cover Page of the OEM Software License Agreement and check those modules desired.
- 2) Read and sign two originals of the last page of the OEM Software License Agreement.
- 3) Fax a signed copy of the OEM Software License Agreement to: +61-3-9881-9999 or scan a copy and send it to: productionsoftware@analog.com.
- 4) Send two originals of the OEM Software License Agreement to Analog Devices at the following address:

Analog Devices Australia Pty Ltd
Unit 3, 97 Lewis Road
Wantirna, Victoria
Australia, 3152

Once a duly signed OEM Software License Agreement is received by Analog Devices, an Analog Devices Authorized Representative will:

- 1) Countersign the OEM Software License Agreement and return one original copy to the OEM Contact indicated on the cover page of the OEM Software License Agreement.
- 2) Facilitate delivery of production-ready software to the OEM Contact named on the cover page of the OEM Software License Agreement.

OEM SOFTWARE LICENSE AGREEMENT

Cover Page

Upon completion of this Agreement by both parties, Analog Devices, Inc. appoints the entity named below as an Original Equipment Manufacturer ("OEM") on the terms and conditions in this OEM Software License Agreement:

TO BE COMPLETED BY OEM	
OEM Name:	
OEM Address:	
OEM Contact: Name of OEM employee to whom Licensed Software is to be sent:	
E-mail:	
Phone:	
Licensed Software: Includes software modules selected in this table and provided by Analog Devices in Object Code Form.	☐ MP3 Decoder ☐ (ISO) MPEG-4 AAC Decoder
Target Hardware: please list the specific ADI device, e.g. ADSPBF531SBB400	

Note: For Analog Devices internal purposes only:

Approved by Analog Product Line Manager	
Signature:	
Name:	
Title:	
Date:	

OEM SOFTWARE LICENSE AGREEMENT

This OEM Software License Agreement (the "Agreement") is dated as of the Effective Date, and is entered by and between Analog Devices, Inc., a Massachusetts corporation, with principal offices at One Technology Way, Norwood, Massachusetts 02062 ("Analog Devices") and OEM identified on the Cover Page ("OEM").

Analog Devices has developed and distributes a certain processor identified as the Target Hardware on the Cover Page of this Agreement; and

OEM desires to license from Analog Devices Licensed Software for use and distribution with Licensed OEM Products (both as defined below), and Analog Devices is willing to grant to OEM a non-exclusive right to license Licensed Software for distribution with Licensed OEM Products on the terms and conditions herein;

In consideration of these premises and the mutual covenants herein contained, the parties agree as follows:

1. Definitions

- a. "End User" means the ultimate user of Licensed Software in a Licensed OEM Product.
- b. "Excluded License" is any license, including "open source" code (as defined by the Open Source Initiative) or "Free" code (as defined by the Free Software Foundation), that requires as a condition of use, modification and/or distribution of software subject to the Excluded License, that such software or other software combined and/or distributed with such software be (i) disclosed or distributed in Source Code Form; (ii) licensed for the purpose of making derivative works; or (iii) redistributable at no charge.
- c. "Licensed Software" means the software described in the Cover Page of this Agreement.
- d. "Licensed OEM Product" means an OEM Product that includes Licensed Software as an embedded or bundled component with Target Hardware in OEM product(s).
- e. "Object Code Form" means a form of software code resulting from the compilation or processing of Source Code by a computer into machine language or intermediate code, which, after such compilation or processing, is in a form that would not be convenient to human understanding of the program logic but which is appropriate for execution or interpretation by a computer. Code in such form is "Object Code."
- f. "Source Code Form" means a form of computer code and/or instructions in which a computer program's logic can be perceived by a human being with skill in programming. Code in such form is "Source Code."
- g. "Territory" means Worldwide.
- i. "Updates" means a new revision of Licensed Software that includes corrections and modifications.
- j. "Upgrades" means a new revision of Licensed Software that includes enhancements.

2. Licenses

- a. Development License. Subject to the terms and conditions contained herein, Analog Devices grants OEM, and OEM accepts, a non-exclusive, nontransferable license (without the right to grant sublicenses) to use and copy Licensed Software at OEM's premises or OEM's subcontractor's premises, for the sole purpose of incorporating or bundling Licensed Software into one or more Licensed OEM Products.

- b. Distribution License. Subject to the terms and conditions contained herein, including the restriction in Section 3.d, Analog Devices grants OEM a non-exclusive, nontransferable license to copy and distribute Licensed Software in Object Code Form in the Territory, solely for use in the Licensed OEM Products, directly, through resellers and/or through one or more levels of distribution to End Users.
- c. Prototype & Demonstration License. Subject to the terms and conditions contained in this Agreement, Analog Devices grants to OEM a non-exclusive, non-transferable right and license in the Territory to copy and distribute up to 25 copies of Licensed Software (i) in Object Code Form only and (ii) solely as incorporated into or bundled with a prototype or demonstration version of Licensed OEM Products.

3. Restrictions

- a. OEM shall not decompile, disassemble or otherwise reverse engineer Licensed Software; provided, however, that if reproduction of Licensed Software and translation of its form are necessary as required by law.
- b. Licensed Software is only licensed for use with Licensed OEM Products, and OEM agrees not to use, copy, transfer, or exploit Licensed Software except as expressly permitted in this Agreement.
- c. OEM shall not alter or remove any printed or on-screen copyright, trade secret, proprietary and/or other legal notices contained on or in copies of Licensed Software or displayed by any Licensed Software, and shall ensure that (if applicable) all on-line screens, logos, or messages displayed by Licensed Software with respect to identification of Analog Devices and its suppliers shall be displayed in a similar fashion and location by the Licensed OEM Products.
- d. OEM shall distribute Licensed Software to resellers and End Users in solely Object Code Form for use in the Licensed OEM Products and conditioned upon resellers' and End Users' acceptance of a license agreement with terms compliant with this Agreement.
- e. OEM is responsible for obtaining any required licenses or permissions regarding the Licensed Software.

4. Excluded Licenses

- a. OEM shall not use Licensed Software in any manner that would cause Licensed Software, in whole or in part, to become subject to any terms of an Excluded License or distribute Licensed Software in any manner that would cause Licensed Software to become subject to any of the terms of any Excluded License.
- b. The restrictions in this Section apply regardless of whether Licensed Software is intended or designed to run in an environment that includes software under an Excluded License (such as a version of the Linux operating system).
- c. Any license, agreement or other document issued, entered into or granted by OEM purports to apply any Excluded License to any Licensed Software shall be null and void insofar with regard to Licensed Software. Under no circumstances will OEM offer, provide, distribute, or license any Licensed Software (whether in Source Code Form or Object Code Form) under any form of Excluded License.

5. **Delivery of Licensed Software.** Analog Devices shall provide OEM with one (1) complete copy of Licensed Software within a reasonable time after this Agreement is executed.
6. **Ownership of Software.** Analog Devices and its suppliers shall retain all its right, title and interest in Licensed Software. Analog Devices shall retain all right, title and interest in all modifications and derivative works thereof made by or for Analog Devices during the term of this Agreement. OEM shall not take any action inconsistent with such title and ownership. OEM shall not have any ownership interest in any element, segment or component of Licensed Software incorporated into the Licensed OEM Products.
7. **Reporting.**
- a. OEM shall report to Analog Devices on a quarterly basis: (i) the name of each Licensed OEM Product which contains a component of Licensed Software listed above, (ii) the name of each component of Licensed Software included in such Licensed OEM Product, (iii) the number of operational channels of functionality of each component of Licensed Software included in such Licensed OEM Product, and (iv) the quantity of such Licensed OEM Product used or distributed by OEM broken down by the number of channels (e.g. the number of Licensed OEM Products with one channel, the number of Licensed OEM Products with two channels, etc.). All reporting shall be made to licensing@analog.com in a Microsoft Excel Spreadsheet using the template provided by ADI, which may be updated by ADI.
8. **Update or Upgrade.** Nothing in this Agreement imposes upon Analog Devices any obligation to provide any Update or Upgrade for Licensed Software. If Analog Devices elects to make Updates or Upgrades to Licensed Software available to OEM, such Updates or Upgrades shall be provided under the terms of this Agreement unless the parties otherwise agree in writing.
9. **Term and Termination**
- a. This Agreement shall commence on the Effective Date and shall continue for three (3) years, unless earlier terminated as permitted in this Agreement. The parties may agree in writing to renew or extend this Agreement for additional twelve month terms.
- b. This Agreement may be terminated, prior to the expiration of its term: **(i)** By either party in the event the other party materially breaches a provision of this Agreement and the breaching party fails to cure such breach within thirty (30) days of the receipt of notice of such breach from the non-breaching party; **(ii)** By either party immediately in the event any assignment is made by the other party for the benefit of creditors, or if a receiver, trustee in bankruptcy or similar officer shall be appointed to take charge of any or all of the other party's property, or if the other party files a voluntary petition under federal bankruptcy laws or similar state statutes or an involuntary petition is filed against the other party and is not dismissed within sixty (60) days; or **(iii)** Under any other provision of this Agreement providing for termination.
- c. **Effects of Termination.** Upon expiration or termination of this Agreement for any reason, all rights, obligations

and licenses of the parties hereunder shall cease, except as follows: **(i)** OEM's liability for any charges, payments or expenses due to Analog Devices which accrued prior to the termination date shall not be extinguished by termination, and such amounts (if not otherwise due on an earlier date) shall be immediately due and payable on the termination date. **(ii)** Immediately after the termination on the grounds of a material breach by OEM, all license grants shall terminate. **(iii)** In the event of termination other than for an uncured material breach by OEM or in the event of expiration of this Agreement, OEM shall have the right to distribute all copies of Licensed Software incorporated in or bundled with Licensed OEM Products in its finished goods inventory on the date of such expiration or termination provided that all use and distribution shall end three (3) months after the date of such expiration or termination and provided that OEM complies with the terms and conditions of this Agreement related to the distribution of Licensed Software. At that point in time, OEM shall return, erase or destroy all copies of Licensed Software in the possession or control of OEM (including any contractor) and shall certify in writing to Analog Devices within ten (10) days thereafter that it has complied with this requirement. **(iv)** The termination or expiration of this Agreement or any licenses hereunder shall not affect the licenses granted under this Agreement by OEM to End Users prior to termination, provided said End Users comply with terms of their respective end user license. **(v)** The provisions of Sections 6-8, 10-15 and 16 shall survive any termination or expiration of this Agreement according to their terms.

10. **Confidentiality**

- a. **Confidential Information.** Licensed Software in Source Code Form and any accompanying documentation shall be regarded as "Confidential Information" of Analog Devices whether or not it is identified in writing as "Confidential". Any other materials identified by Analog Devices as "Confidential" or "Highly Confidential" shall also be treated as Confidential Information under this Agreement.
- b. OEM agrees to protect the confidentiality of Analog Devices Confidential Information with at least the same degree of care that it utilizes with respect to its own similar proprietary information, including without limitation agreeing:
- c. Not to disclose or otherwise permit any other person or entity access to, in any manner, Confidential Information, or any part thereof in any form whatsoever, except that such disclosure or access shall be permitted to an employee or Consultant of OEM requiring access to Confidential Information in the course of his or her employment in connection with this Agreement and who has signed an agreement obligating the employee/Consultant to maintain the confidentiality of confidential information of third parties in OEM's possession;
- d. To notify Analog Devices promptly and in writing of the circumstances surrounding any suspected possession, use or knowledge of Confidential Information other than those authorized by this Agreement; and
- e. Not to use Confidential Information for any purpose other than as explicitly set forth herein.

- f. Nothing in this Section 10 shall restrict OEM with respect to information or data, whether or not identical or similar to that contained in Confidential Information, if such information or data: (a) was rightfully possessed by OEM before it was received from Analog Devices; (b) is independently developed by OEM without reference to Analog Devices' information or data; (c) is subsequently furnished to OEM by a third party not under any obligation of confidentiality with respect to such information or data, and without restrictions on use or disclosure; or (d) is or becomes public or available to the general public otherwise than through any act or default of OEM.
- g. Because the unauthorized use, transfer or dissemination of any Confidential Information provided by Analog Devices to OEM may diminish substantially the value of such materials and may irreparably harm Analog Devices, if OEM breaches the provisions of this Section 10, Analog Devices shall, without limiting its other rights or remedies, be entitled to equitable relief, including but not limited to injunctive relief.

11. Disclaimer of Warranty. LICENSED SOFTWARE IS BEING PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, AND ANALOG DEVICES, FOR ITSELF AND ITS SUPPLIERS, HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE LICENSED SOFTWARE INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR NON-INFRINGEMENT.

12. Indemnification

- a. Unless otherwise specified in this Agreement, OEM agrees to defend indemnify and hold harmless Analog Devices and its suppliers and Analog Devices' and its supplier's respective officers, directors, employees and agents (each an "Indemnified Party") harmless from and against any damages, fines, penalties, assessments, liabilities, costs and expenses (including reasonable attorneys' fees and court costs) in the event that any claim is brought against any Indemnified Party (i) arising or alleged to arise from OEM's use, reproduction or distribution of Licensed Software, and/or the Licensed OEM Product, (ii) alleging that Licensed Software and/or any Licensed OEM Product infringes any patent, trade secret, or other third party right, or (iii) on account of OEM's actual or alleged failure to obtain any required permission or consent (including those applicable to Third Party Software or third party technology), provided that (a) the Indemnified Party shall have promptly provided OEM written notice thereof and reasonable cooperation, information, and assistance in connection therewith, (b) OEM shall have sole control and authority with respect to the defense, settlement, or compromise thereof, and (c) OEM shall not enter into a settlement which creates an obligation on behalf of Analog Devices or its suppliers without its written consent. Except as may be expressly agreed in writing, OEM acknowledges that Analog Devices and its suppliers have no obligation or agreement to arrange for any patent license for Licensed Software or to indemnify OEM in the event that any claim is brought against OEM alleging that it infringes or violates any patent or other proprietary right.
- b. If the right of OEM to distribute Third Party Software is terminated, OEM's right to distribute any Licensed

Software incorporating such Third Party Software shall also terminate. OEM shall notify Analog Devices immediately if its right to distribute Third Party Software is terminated.

13. Limitations on Liability

- a. UNLESS SPECIFIED OTHERWISE, ANALOG DEVICES' AND ITS SUPPLIER'S CUMULATIVE LIABILITY FOR DAMAGES TO OEM FOR ANY AND ALL CAUSES WHATSOEVER, REGARDLESS OF THE FORM OF ANY CLAIMS OR ACTIONS, SHALL NOT EXCEED THE AGGREGATE FEES PAID BY OEM FOR LICENSED SOFTWARE UNDER THIS AGREEMENT OR, IF GREATER, THE AMOUNT OF \$100. EXCEPT WITH REGARD TO EXPLOITATION OF LICENSED SOFTWARE OTHER THAN AS AUTHORIZED HEREIN OR WITH REGARD TO EITHER PARTY'S UNLICENSED EXPLOITATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY OR CONFIDENTIAL INFORMATION, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY LOSS OF DATA, PROFITS OR FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES.
- b. IN NO EVENT WILL ANALOG DEVICES BE LIABLE TO END USERS, RESELLERS OR OTHER THIRD PARTIES FOR ANY DAMAGES WHATSOEVER.
- c. OEM will immediately inform Analog Devices as soon as OEM becomes aware of any threatened or actual liability by a third party relating to Licensed Software.

14. Compliance with Laws

- a. Export. OEM shall not export, directly or indirectly, Licensed Software, or other information or materials provided by Analog Devices or its suppliers hereunder, to any country for which the United States or any other relevant jurisdiction requires any export license or other governmental approval at the time of export without first obtaining such license or approval. OEM shall defend indemnify and hold harmless Analog Devices from and against any damages, fines, penalties, assessments, liabilities, costs and expenses (including reasonable attorneys' fees and court costs) arising out of any failure by OEM to comply with this Section.
- b. Compliance with Laws of Other Jurisdictions. OEM shall comply with all laws, legislation, rules, regulations, governmental requirements and industry standards with respect to Licensed Software, and the performance by OEM of its obligations hereunder, existing in any jurisdiction into which OEM directly or indirectly distributes Licensed Software. In the event that this Agreement is required to be registered with any governmental authority, OEM shall cause such registration to be made and shall bear any expense or tax payable in respect thereof.

15. Notices. Any notice or communication from one party to the other shall be in writing and either personally delivered or sent via facsimile or certified mail, postage prepaid and return receipt requested, addressed to such other party at the address specified above or such other address as either party may from time to time designate in writing to the other party. All notices to Analog Devices shall be sent to: Attention: General Counsel with a copy to Licensing Manager.

16. General Provisions

- a. Force Majeure. In the event that either party is prevented from performing, or is unable to perform, any of its obligations under this Agreement due to any cause beyond the reasonable control of the party invoking this provision, the affected party's performance shall be excused and the time for performance shall be extended for the period of delay or inability to perform due to such occurrence.
- b. U.S. Government Agencies. If Licensed Software or documentation provided by Analog Devices or its suppliers is procured by or on behalf of the United States Government, the Government agrees that such software or documentation is "commercial computer software" or "commercial computer software documentation" and that absent a written agreement to the contrary, the Government's rights with respect to such Licensed Software or documentation are limited by the terms of this Agreement, pursuant to FAR § 12.212(a) and/or DFARS § 227.7202-1(a), as applicable.
- c. Publicity. Neither party shall originate any publicity, news release or other public announcement relating to this Agreement or the existence of an arrangement between the parties without the prior written approval of the other party, except as otherwise required by law.
- d. Waiver. The waiver by either party of a breach or a default of any provision of this Agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or any other provision, nor shall any delay or omission on the part of either party to exercise or avail itself of any right, power or privilege that it has, or may have hereunder, operate as a waiver of any right, power or privilege by such party.
- e. No Agency; Independent Contractors. Each party is an independent contractor, and nothing contained in this Agreement shall be deemed to imply or constitute either party as the agent or representative of the other party, or both parties as joint venturers or partners for any purpose.
- f. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without regard to its choice of law provisions. Exclusive jurisdiction and venue for claims relating to this Agreement or the relation of the parties shall lie in the state and federal courts located in Boston, Massachusetts, USA.
- g. Entire Agreement; Amendment. This Agreement and the Exhibits and Cover Page attached hereto constitute the entire agreement between the parties with regard to

Licensed Software. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing signed by both parties, and then such waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given.

- h. Conflicting Provisions. In case of any conflict between the body of this Agreement and an attached Exhibit, the provision of the Exhibit shall prevail.
- i. Assignment. This Agreement, and the rights and obligations hereunder, may not be assigned, in whole or in part by OEM without the prior written consent of Analog Devices. In the case of any permitted assignment or transfer of or under this Agreement, this Agreement or the relevant provisions shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the latest of the dates below (the "Effective Date").

ANALOG DEVICES, INC.

By: _____

(must be PLD level or above)

Name: _____

Title: _____

Date: _____

OEM: [_____]

By: _____

Name: _____

Title: _____

Date: _____