UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q

(Mark One)

x **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the quarterly period ended December 1, 2016

OR

o **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the transition period from to

Commission file number 1-10658

Micron Technology, Inc.
(Exact name of registrant as specified in its charter)

Delaware	**75-1618004**
(State or other jurisdiction of incorporation or organization)	(IRS Employer Identification No.)
8000 S. Federal Way, Boise, Idaho	**83716-9632**
(Address of principal executive offices)	(Zip Code)
Registrant's telephone number, including area code	**(208) 368-4000**

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes x No o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes x No o

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large Accelerated Filer x	Accelerated Filer o
Non-Accelerated Filer o (Do not check if a smaller reporting company)	Smaller Reporting Company o

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).
Yes o No x

The number of outstanding shares of the registrant's common stock as of January 3, 2017, was 1,102,751,846.

Definitions of Commonly Used Terms

As used herein, "we," "our," "us," and similar terms include Micron Technology, Inc. and our consolidated subsidiaries, unless the context indicates otherwise. Abbreviations, terms, or acronyms are commonly used or found in multiple locations throughout this report and include the following:

Term	Definition	Term	Definition
2022 Term Loan B	Senior Secured Term Loan B due 2022	Micron	Micron Technology, Inc. (Parent Company)
2032 Notes	2032C and 2032D Notes	MSTW	Micron Semiconductor Taiwan Co., Ltd.
2032C Notes	2.375% Convertible Senior Notes due 2032	MMJ	Micron Memory Japan, Inc.
2032D Notes	3.125% Convertible Senior Notes due 2032	MMJ Companies	MAI and MMJ
2033 Notes	2033E and 2033F Notes	MMJ Group	MMJ and its subsidiaries
2033E Notes	1.625% Convertible Senior Notes due 2033	MMT	Micron Memory Taiwan Co., Ltd.
2033F Notes	2.125% Convertible Senior Notes due 2033	Nanya	Nanya Technology Corporation
2043G Notes	3.00% Convertible Senior Notes due 2043	Qimonda	Qimonda AG
Elpida	Elpida Memory, Inc.	R&D	Research and Development
IMFT	IM Flash Technologies, LLC	SG&A	Selling, General, and Administration
Inotera	Inotera Memories, Inc.	SSD	Solid-State Drive
Intel	Intel Corporation	TAIBOR	Taipei Interbank Offered Rate
Japan Court	Tokyo District Court	Tera Probe	Tera Probe, Inc.
MAI	Micron Akita, Inc.	VIE	Variable Interest Entity
MCP	Multi-Chip Package		

Additional Information

PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

MICRON TECHNOLOGY, INC.

CONSOLIDATED STATEMENTS OF OPERATIONS
(in millions except per share amounts)
(Unaudited)

Quarter ended	December 1, 2016	December 3, 2015
Net sales	$ 3,970	$ 3,350
Cost of goods sold	2,959	2,501
Gross margin	1,011	849
Selling, general, and administrative	159	179
Research and development	470	421
Restructure and asset impairments	29	15
Other operating (income) expense, net	(6)	2
Operating income	359	232
Interest income	7	11
Interest expense	(139)	(96)
Other non-operating income (expense), net	(14)	(4)
	213	143
Income tax (provision) benefit	(31)	4
Equity in net income (loss) of equity method investees	(2)	59
Net income	180	206
Net income attributable to noncontrolling interests	—	—
Net income attributable to Micron	$ 180	$ 206
Earnings per share		
Basic	$ 0.17	$ 0.20
Diluted	0.16	0.19
Number of shares used in per share calculations		
Basic	1,040	1,035
Diluted	1,091	1,085

See accompanying notes to consolidated financial statements.

MICRON TECHNOLOGY, INC.

CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(in millions)
(Unaudited)

Quarter ended	December 1, 2016	December 3, 2015
Net income	$ 180	$ 206
Other comprehensive income (loss), net of tax		
Foreign currency translation adjustments	37	(90)
Gain (loss) on derivatives, net	(7)	(4)
Pension liability adjustments	(1)	(6)
Gain (loss) on investments, net	(1)	(3)
Other comprehensive income (loss)	28	(103)
Total comprehensive income	208	103
Comprehensive (income) attributable to noncontrolling interests	—	—
Comprehensive income attributable to Micron	$ 208	$ 103

See accompanying notes to consolidated financial statements.

MICRON TECHNOLOGY, INC.

CONSOLIDATED BALANCE SHEETS
(in millions except par value amounts)
(Unaudited)

As of	December 1, 2016	September 1, 2016
Assets		
Cash and equivalents	$ 4,139	$ 4,140
Short-term investments	30	258
Receivables	2,453	2,068
Inventories	2,750	2,889
Other current assets	132	140
Total current assets	9,504	9,495
Long-term marketable investments	155	414
Property, plant, and equipment, net	15,321	14,686
Equity method investments	1,401	1,364
Intangible assets, net	445	464
Deferred tax assets	599	657
Other noncurrent assets	411	460
Total assets	$ 27,836	$ 27,540
Liabilities and equity		
Accounts payable and accrued expenses	$ 4,155	$ 3,879
Deferred income	236	200
Current debt	1,155	756
Total current liabilities	5,546	4,835
Long-term debt	8,490	9,154
Other noncurrent liabilities	601	623
Total liabilities	14,637	14,612
Commitments and contingencies		
Redeemable convertible notes	31	—
Micron shareholders' equity		
Common stock, $0.10 par value, 3,000 shares authorized, 1,098 shares issued and outstanding (1,094 as of September 1, 2016)	110	109
Additional capital	7,777	7,736
Retained earnings	5,469	5,299
Treasury stock, 54 shares held (54 as of September 1, 2016)	(1,029)	(1,029)
Accumulated other comprehensive (loss)	(7)	(35)
Total Micron shareholders' equity	12,320	12,080
Noncontrolling interests in subsidiaries	848	848
Total equity	13,168	12,928
Total liabilities and equity	$ 27,836	$ 27,540

See accompanying notes to consolidated financial statements.

MICRON TECHNOLOGY, INC.

CONSOLIDATED STATEMENTS OF CASH FLOWS
(in millions)
(Unaudited)

Quarter ended	December 1, 2016	December 3, 2015
Cash flows from operating activities		
Net income	$ 180	$ 206
Adjustments to reconcile net income to net cash provided by operating activities		
Depreciation expense and amortization of intangible assets	771	737
Amortization of debt discount and other costs	32	33
Stock-based compensation	46	46
Equity in net (income) loss of equity method investees	2	(59)
Change in operating assets and liabilities		
Receivables	(401)	297
Inventories	139	(95)
Accounts payable and accrued expenses	299	2
Deferred income taxes, net	64	(1)
Other	6	(46)
Net cash provided by operating activities	1,138	1,120
Cash flows from investing activities		
Expenditures for property, plant, and equipment	(1,264)	(990)
Payments to settle hedging activities	(173)	(46)
Purchases of available-for-sale securities	(84)	(510)
Proceeds from sales and maturities of available-for-sale securities	567	1,044
Other	64	(158)
Net cash provided by (used for) investing activities	(890)	(660)
Cash flows from financing activities		
Repayments of debt	(188)	(197)
Payments on equipment purchase contracts	(24)	—
Cash paid to acquire treasury stock	(13)	(135)
Proceeds from issuance of stock under equity plans	29	15
Proceeds from issuance of debt	16	174
Contributions from noncontrolling interests	—	37
Other	(32)	(34)
Net cash provided by (used for) financing activities	(212)	(140)
Effect of changes in currency exchange rates on cash and equivalents	(37)	(2)
Net increase (decrease) in cash and equivalents	(1)	318
Cash and equivalents at beginning of period	4,140	2,287
Cash and equivalents at end of period	$ 4,139	$ 2,605

See accompanying notes to consolidated financial statements.

Business and Basis of Presentation

We are a global leader in advanced semiconductor systems. Our broad portfolio of high-performance memory technologies, including DRAM, NAND Flash, and NOR Flash, is the basis for solid-state drives, modules, multi-chip packages, and other system solutions. Our memory solutions enable the world's most innovative computing, consumer, enterprise storage, networking, mobile, embedded, and automotive applications. The accompanying consolidated financial statements include the accounts of Micron and our consolidated subsidiaries and have been prepared in accordance with accounting principles generally accepted in the United States of America consistent in all material respects with those applied in our Annual Report on Form 10-K for the year ended September 1, 2016. In the opinion of our management, the accompanying unaudited consolidated financial statements contain all necessary adjustments, consisting of a normal recurring nature, to fairly state the financial information set forth herein. Certain reclassifications have been made to prior period amounts to conform to current period presentation.

Our fiscal year is the 52 or 53-week period ending on the Thursday closest to August 31. Fiscal years 2017 and 2016 each contain 52 weeks. All period references are to our fiscal periods unless otherwise indicated. These interim financial statements should be read in conjunction with the consolidated financial statements and accompanying notes included in our Annual Report on Form 10-K for the year ended September 1, 2016.

Variable Interest Entities

We have interests in entities that are VIEs. If we are the primary beneficiary of a VIE, we are required to consolidate it. To determine if we are the primary beneficiary, we evaluate whether we have the power to direct the activities that most significantly impact the VIE's economic performance and the obligation to absorb losses or the right to receive benefits of the VIE that could potentially be significant to the VIE. Our evaluation includes identification of significant activities and an assessment of our ability to direct those activities based on governance provisions and arrangements to provide or receive product and process technology, product supply, operations services, equity funding, financing, and other applicable agreements and circumstances. Our assessments of whether we are the primary beneficiary of our VIEs require significant assumptions and judgments.

Unconsolidated VIEs

***Inotera*:** Prior to our acquisition of the remaining interest in Inotera on December 6, 2016, Inotera was a VIE because of the terms of its supply agreement with us. We had determined that we did not have the power to direct the activities of Inotera that most significantly impacted its economic performance, primarily due to limitations on our governance rights that required the consent of other parties for key operating decisions and due to Inotera's dependence on Nanya for financing and the ability of Inotera to operate in Taiwan. Therefore, we did not consolidate Inotera and we accounted for our interest under the equity method. (See "Equity Method Investments – Inotera" note.)

***EQUVO*:** EQUVO HK Limited ("EQUVO") is a special purpose entity created to facilitate an equipment sale-leaseback financing transaction between us and a consortium of financial institutions. Neither we nor the financing entities have an equity interest in EQUVO. EQUVO is a VIE because its equity is not sufficient to permit it to finance its activities without additional support from the financing entities and because the third-party equity holder lacks characteristics of a controlling financial interest. By design, the arrangement with EQUVO is merely a financing vehicle and we do not bear any significant risks from variable interests with EQUVO. Therefore, we have determined that we do not have the power to direct the activities of EQUVO that most significantly impact its economic performance and we do not consolidate EQUVO.

***SC Hiroshima Energy Corporation*:** SC Hiroshima Energy Corporation ("SCHE") is an entity created to construct and operate a cogeneration, electrical power plant to support our wafer manufacturing facility in Hiroshima, Japan. We do not have an equity interest in SCHE. SCHE is a VIE due to the nature of its tolling agreements with us and our option to purchase SCHE's assets. We do not control the operation and maintenance of the plant, which we have determined are the activities of SCHE that most significantly impact its economic performance. Therefore, we do not consolidate SCHE.

***PTI Xi'an*:** Powertech Technology Inc. Xi'an ("PTI Xi'an") is a wholly-owned subsidiary of Powertech Technology Inc. ("PTI") and was created to provide assembly services to us at our manufacturing site in Xi'an, China. We do not have an equity interest in PTI Xi'an. PTI Xi'an is a VIE because of the terms of its service agreement with us and its dependency on PTI to finance its operations. We have determined that we do not have the power to direct the activities of PTI Xi'an that most significantly impact its economic performance, primarily because we have no governance rights. Therefore, we do not consolidate PTI Xi'an.

Consolidated VIE

***IMFT*:** IMFT is a VIE because all of its costs are passed to us and its other member, Intel, through product purchase agreements and because IMFT is dependent upon us or Intel for additional cash requirements. The primary activities of IMFT are driven by the constant introduction of product and process technology. Because we perform a significant majority of the technology development, we have the power to direct its key activities. In addition, IMFT manufactures certain products exclusively for us using our technology. We consolidate IMFT because we have the power to direct the activities of IMFT that most significantly impact its economic performance and because we have the obligation to absorb losses and the right to receive benefits from IMFT that could potentially be significant to it. (See "Equity – Noncontrolling Interests in Subsidiaries – IMFT" note.)

Recently Adopted Accounting Standards

In March 2016, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2016-09 – *Improvements to Employee Share-Based Payment Accounting*, which simplified several aspects of the accounting for share-based payment transactions, including income tax consequences, classification of awards as either equity or liabilities, forfeitures, and classification within the statement of cash flows. We adopted this ASU as of the beginning of our first quarter of 2017 and elected to account for forfeitures when they occur, on a modified retrospective basis. As a result of the adoption of this ASU, we recognized deferred tax assets of $325 million for the excess tax benefits that arose directly from tax deductions related to equity compensation greater than amounts recognized for financial reporting and also recognized an increase of an equal amount in the valuation allowance against those deferred tax assets. The adoption did not have any other material impacts on our financial statements.

In April 2015, the FASB issued ASU 2015-05 – *Customer's Accounting for Fees Paid in a Cloud Computing Arrangement*, which provided additional guidance to customers about whether a cloud computing arrangement included a software license. Under ASU 2015-05, cloud computing arrangements that contain a software license should be accounted for in a manner consistent with the acquisition of other software licenses, otherwise customers should account for the arrangement as a service contract. ASU 2015-05 also removed the requirement to analogize to ASC 840-10 – *Leases*, to determine the asset acquired in a software licensing arrangement. We adopted this ASU as of the beginning of our first quarter of 2017 on a prospective basis. The adoption of this ASU did not have a material impact on our financial statements.

In February 2015, the FASB issued ASU 2015-02 – *Amendments to the Consolidation Analysis*, which amended the consolidation requirements in Accounting Standards Codification 810 – *Consolidation*. ASU 2015-02 made targeted amendments to the consolidation guidance for VIEs. We adopted this ASU as of the beginning of our first quarter of 2017 under a modified-retrospective approach. The adoption of this ASU did not have an impact on our financial statements.

Recently Issued Accounting Standards

In November 2016, the FASB issued ASU 2016-18 – *Restricted Cash*, which requires amounts generally described as restricted cash and restricted cash equivalents be included with cash and cash equivalents when reconciling the total beginning and ending amounts for the periods shown on the statement of cash flows. This ASU will be effective for us beginning in our first quarter of 2019 with early adoption permitted and requires retrospective adoption. We are evaluating the timing and effects of our adoption of this ASU on our financial statements.

In October 2016, the FASB issued ASU 2016-16 – *Intra-Entity Transfers Other Than Inventory*, which requires an entity to recognize the income tax consequences of an intra-entity transfer of an asset other than inventory when the transfer occurs. This ASU will be effective for us beginning in our first quarter of 2019 with early adoption permitted and requires modified retrospective adoption. We are evaluating the timing and effects of our adoption of this ASU on our financial statements.

In June 2016, the FASB issued ASU 2016-13 – *Measurement of Credit Losses on Financial Instruments*, which requires a financial asset (or a group of financial assets) measured on the basis of amortized cost to be presented at the net amount expected to be collected. This ASU requires that the income statement reflect the measurement of credit losses for newly recognized financial assets as well as the expected increases or decreases of expected credit losses that have taken place during the period. This ASU requires that credit losses of debt securities designated as available-for-sale be recorded through an allowance for credit losses and limits the credit loss to the amount by which fair value is below amortized cost. We are required to adopt this ASU beginning in our first quarter of 2021; however, we are permitted to adopt this ASU as early as our first quarter of 2020. This ASU is required to be adopted using a modified retrospective approach, with prospective adoption for debt securities for which an other-than-temporary impairment had been recognized before the effective date. We are evaluating the timing and effects of our adoption of this ASU on our financial statements.

In February 2016, the FASB issued ASU 2016-02 – *Leases*, which amends a number of aspects of lease accounting, including requiring lessees to recognize operating leases with a term greater than one year on their balance sheet as a right-of-use asset and corresponding liability, measured at the present value of the lease payments. This ASU will be effective for us beginning in our first quarter of 2020 with early adoption permitted and is required to be adopted using a modified retrospective approach. We are evaluating the timing and effects of our adoption of this ASU on our financial statements.

In January 2016, the FASB issued ASU 2016-01 – *Recognition and Measurement of Financial Assets and Financial Liabilities*, which provides guidance for the recognition, measurement, presentation, and disclosure of financial assets and liabilities. This ASU will be effective for us beginning in our first quarter of 2019 and requires modified retrospective adoption. We are evaluating the effects of our adoption of this ASU on our financial statements.

In May 2014, the FASB issued ASU 2014-09 – *Revenue from Contracts with Customers*, which supersedes nearly all existing revenue recognition guidance under generally accepted accounting principles in the U.S. The core principal of this ASU, as amended, is that an entity should recognize revenue when it transfers promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. This ASU also requires additional disclosure about the nature, amount, timing, and uncertainty of revenue and cash flows arising from customer contracts, including significant judgments and changes in judgments and assets recognized from costs incurred to obtain or fulfill a contract. We are required to adopt this ASU beginning in our first quarter of 2019; however, we are permitted to adopt this ASU as early as our first quarter of 2018. This ASU allows for either full retrospective or modified retrospective adoption. We expect that, as a result of the adoption of this ASU, the timing of recognizing revenue from sales of products to our distributors will be generally earlier than under the existing revenue recognition guidance. We are evaluating the timing, method, and effects of our adoption of this ASU on our financial statements.

Acquisition of Inotera

On December 6, 2016, subsequent to the end of our first quarter of 2017, we acquired the 67% interest in Inotera not owned by us for an aggregate of $4.1 billion in cash (the "Inotera Acquisition"), funded with proceeds from the 2021 Term Loan (defined below), the sale of shares of our common stock to Nanya, and cash on hand. Prior to December 6, 2016, we held a 33% ownership interest in Inotera, Nanya and certain of its affiliates held a 32% ownership interest, and the remaining ownership interest was publicly held.

Inotera manufactures DRAM products at its 300mm wafer fabrication facility in Taoyuan City, Taiwan, and sold such products exclusively to us through supply agreements. As a result of the Inotera Acquisition, we expect to experience greater operational flexibility to drive new technology in products manufactured by Inotera, optimize the deployment of the cash flows of Inotera across our operations, and enhance our ability to adapt our product offerings to changes in market conditions.

We are evaluating the fair values of the accounting consideration transferred, assets acquired, and liabilities assumed. Our accounting for the Inotera Acquisition will include the fair value of our previously-held noncontrolling equity interest in Inotera as of the acquisition date as consideration, which differs from the per share amount paid to acquire the controlling interest in Inotera. We will recognize a gain or loss to the extent of the difference between the fair value and the carrying value as of the acquisition date. We expect to complete the provisional purchase price allocation for the Inotera Acquisition in our second quarter of 2017.

Acquisition Financing

***2021 Term Loan*:** On December 6, 2016, we drew 80 billion New Taiwan dollars (equivalent to $2.5 billion) under a collateralized, five-year term loan that bears interest at a variable rate equal to the three-month or six-month TAIBOR, at our option, plus a margin of 2.05% per annum (the "2021 Term Loan"). Principal under the 2021 Term Loan is payable in six equal semi-annual installments, commencing in June 2019, through December 2021. The 2021 Term Loan is collateralized by certain assets including a real estate mortgage on Inotera's main production facility and site, a chattel mortgage over certain equipment of Inotera, all of the stock of our MSTW subsidiary, and the 82% of stock of Inotera owned by MSTW.

The 2021 Term Loan contains affirmative and negative covenants, including covenants that limit or restrict our ability to create liens in or dispose of collateral securing obligations under the 2021 Term Loan, mergers involving MSTW and/or Inotera, loans or guarantees to third parties by Inotera and/or MSTW, and MSTW's distribution of cash dividends (subject to satisfaction of certain financial conditions). The 2021 Term Loan also contains financial covenants as follows, which are tested semi-annually:

- MSTW must maintain a consolidated ratio of total debt to adjusted EBITDA not higher than 5.5x in 2017 and 2018, and not higher than 4.5x in 2019 through 2021;
- MSTW must maintain adjusted consolidated tangible net worth of not less than 4.0 billion New Taiwan dollars (equivalent to $125 million) in 2017 and 2018, not less than 6.5 billion New Taiwan dollars (equivalent to $203 million) in 2019 and 2020, and not less than 12.0 billion New Taiwan dollars (equivalent to $374 million) in 2021;
- on a consolidated basis, we must maintain a ratio of total debt to adjusted EBITDA not higher than 3.5x in 2017, not higher than 3.0x in 2018 and 2019, and not higher than 2.5x in 2020 and 2021; and
- on a consolidated basis, we must maintain adjusted tangible net worth not less than $9.0 billion in 2017, not less than $12.5 billion in 2018 and 2019, and not less than $16.5 billion in 2020 and 2021.

If one or more of the required financial ratios is not maintained at the time the ratios are tested, the interest rate will be increased by 0.25% until such time as the required financial ratios are maintained. In addition, if MSTW fails to maintain a required financial ratio for two consecutive semi-annual periods, such failure will constitute an event of default that could result in all obligations owed under the 2021 Term Loan being accelerated to be immediately due and payable. Our failure to maintain a required consolidated financial ratio will only result in an increase to the interest rate and will not constitute an event of default. The 2021 Term Loan also contains customary events of default and is guaranteed by Micron.

***Micron Shares*:** In connection with the Inotera Acquisition, subsequent to the end of our first quarter of 2017, we sold 58 million shares of our common stock to Nanya for $981 million (the "Micron Shares"), of which 54 million were issued from treasury stock. The sale of the Micron Shares was exempt from the registration requirements of the Securities Act of 1933, as amended, and the Micron Shares are subject to certain restrictions on transfers. Our accounting for the Inotera Acquisition will include the fair value of the Micron Shares as of the acquisition date as consideration.

Technology Transfer and License Agreements with Nanya

Beginning effective December 6, 2016, under the terms of technology transfer and license agreements, Nanya has options to require us to transfer to Nanya for Nanya's use certain technology and deliverables related to the next DRAM process node generation after our 20nm process node (the "1X Process Node") and the next DRAM process node generation after the 1X Process Node. Under the terms of the agreements, Nanya would pay royalties to us for a license to the transferred technologies based on revenues from products utilizing the technologies, subject to specified caps, and we would also receive an equity interest in Nanya upon the achievement of certain milestones.

Cash and Investments

Cash and equivalents and the fair values of our available-for-sale investments, which approximated amortized costs, were as follows:

As of	December 1, 2016				September 1, 2016			
	Cash and Equivalents	Short-term Investments	Long-term Marketable Investments[1]	Total Fair Value	Cash and Equivalents	Short-term Investments	Long-term Marketable Investments[1]	Total Fair Value
Cash	$ 3,923	$ —	$ —	$ 3,923	$ 2,258	$ —	$ —	$ 2,258
Level 1[2]								
Money market funds	82	—	—	82	1,507	—	—	1,507
Level 2[3]								
Certificates of deposit	134	3	—	137	373	33	—	406
Corporate bonds	—	14	71	85	—	142	235	377
Government securities	—	13	63	76	2	62	82	146
Asset-backed securities	—	—	21	21	—	12	97	109
Commercial paper	—	—	—	—	—	9	—	9
	$ 4,139	$ 30	$ 155	$ 4,324	$ 4,140	$ 258	$ 414	$ 4,812

(1) *The maturities of long-term marketable securities range from one to four years.*

(2) *The fair value of Level 1 securities is measured based on quoted prices in active markets for identical assets.*

(3) *The fair value of Level 2 securities is measured using information obtained from pricing services, which obtain quoted market prices for similar instruments, non-binding market consensus prices that are corroborated by observable market data, or various other methodologies, to determine the appropriate value at the measurement date. We perform supplemental analysis to validate information obtained from these pricing services. No adjustments were made to such pricing information as of December 1, 2016.*

Proceeds from sales of available-for-sale securities for the first quarters of 2017 and 2016 were $512 million and $407 million, respectively. Gross realized gains and losses from sales of available-for-sale securities were not material for any period presented. As of December 1, 2016, there were no available-for-sale securities that had been in a loss position for longer than 12 months. As of December 1, 2016 and September 1, 2016, we also had certificates of deposit classified as restricted cash (included in other noncurrent assets) of $2 million and $59 million, respectively, valued using Level 2 fair value measurements.

Receivables

As of	December 1, 2016	September 1, 2016
Trade receivables	$ 2,162	$ 1,765
Income and other taxes	135	119
Other	156	184
	$ 2,453	$ 2,068

As of December 1, 2016 and September 1, 2016, other receivables included $58 million and $53 million, respectively, due from Intel for amounts related to product design and process development activities under cost-sharing agreements for NAND Flash and 3D XPoint™ memory.

Inventories

As of	December 1, 2016	September 1, 2016
Finished goods	$ 787	$ 899
Work in process	1,722	1,761
Raw materials and supplies	241	229
	$ 2,750	$ 2,889

Property, Plant, and Equipment

As of	September 1, 2016	Additions	Retirements and Other	December 1, 2016
Land	$ 145	$ 3	$ (3)	$ 145
Buildings	6,653	183	(8)	6,828
Equipment[1]	25,910	1,282	(96)	27,096
Construction in progress[2]	475	(90)	3	388
Software	422	6	—	428
	33,605	1,384	(104)	34,885
Accumulated depreciation	(18,919)	(744)	99	(19,564)
	$ 14,686	$ 640	$ (5)	$ 15,321

(1) *Included costs related to equipment not placed into service of $1.11 billion and $1.47 billion as of December 1, 2016 and September 1, 2016, respectively.*

(2) *Included building-related construction and tool installation costs for assets not placed into service.*

Depreciation expense was $744 million and $706 million for the first quarters of 2017 and 2016, respectively.

Equity Method Investments

As of	December 1, 2016		September 1, 2016	
	Investment Balance	Ownership Percentage	Investment Balance	Ownership Percentage
Inotera	$ 1,360	33%	$ 1,314	33%
Tera Probe	25	40%	36	40%
Other	16	Various	14	Various
	$ 1,401		$ 1,364	

Equity in net income (loss) of equity method investees, net of tax, included the following:

Quarter ended	December 1, 2016	December 3, 2015
Inotera	$ 9	$ 52
Tera Probe	(12)	3
Other	1	4
	$ (2)	$ 59

Inotera

We partnered with Nanya in Inotera, a Taiwan DRAM memory company, through December 6, 2016, at which time we acquired the remaining 67% interest in Inotera. As a result, we will consolidate Inotera's operating results beginning December 6, 2016. (See "Acquisition of Inotera" note.)

As of December 1, 2016, the market value of our equity interest in Inotera was $2.00 billion based on the closing trading price of 29.80 New Taiwan dollars per share in an active market. As of December 1, 2016 and September 1, 2016, there were losses of $9 million and $44 million, respectively, in accumulated other comprehensive (loss) for cumulative translation adjustments from our equity investment in Inotera.

From January 2013 through December 2015, we purchased all of Inotera's DRAM output under supply agreements at prices reflecting discounts from market prices for our comparable components. After December 2015, the price for DRAM products purchased by us was based on a formula that equally shared margin between Inotera and us. We purchased $504 million and $379 million of DRAM products from Inotera in the first quarters of 2017 and 2016, respectively.

Tera Probe

We have a 40% interest in Tera Probe, which provides semiconductor wafer testing and probe services to us and others. In the first quarter of 2017, we recorded an impairment charge of $16 million within equity in net income (loss) of equity method investees to write down the carrying value of our investment in Tera Probe to its fair value based on its trading price (Level 1 fair value measurement). As of December 1, 2016, our proportionate share of Tera Probe's underlying equity exceeded our investment balance by $52 million, which is expected to be accreted to earnings over a weighted-average period of seven years. We incurred manufacturing costs for services performed by Tera Probe for us of $16 million and $21 million in the first quarters of 2017 and 2016, respectively.

Intangible Assets and Goodwill

As of	December 1, 2016		September 1, 2016	
	Gross Amount	Accumulated Amortization	Gross Amount	Accumulated Amortization
Amortizing assets				
Product and process technology	$ 757	$ (421)	$ 757	$ (402)
Other	1	—	1	—
	758	(421)	758	(402)
Non-amortizing assets				
In-process R&D	108	—	108	—
Intangible assets	$ 866	$ (421)	$ 866	$ (402)
Goodwill[1]	$ 104		$ 104	

(1) *Included in other noncurrent assets.*

During the first quarters of 2017 and 2016, we capitalized $8 million and $9 million, respectively, for product and process technology with weighted-average useful lives of nine years. Amortization expense was $27 million and $31 million for the first quarters of 2017 and 2016, respectively. The expected amortization expense is $82 million for the remainder of 2017, $94 million for 2018, $46 million for 2019, $30 million for 2020, and $26 million for 2021.

Accounts Payable and Accrued Expenses

As of	December 1, 2016	September 1, 2016
Accounts payable	$ 1,304	$ 1,186
Property, plant, and equipment payables	1,583	1,649
Salaries, wages, and benefits	351	289
Related party payables	340	273
Customer advances	156	132
Income and other taxes	60	41
Other	361	309
	$ 4,155	$ 3,879

As of December 1, 2016 and September 1, 2016, related party payables included $329 million and $266 million, respectively, due to Inotera primarily for the purchase of DRAM products. As of December 1, 2016 and September 1, 2016, related party payables also included $11 million and $7 million, respectively, due to Tera Probe for probe services.

As of December 1, 2016 and September 1, 2016, customer advances included $130 million and $108 million, respectively, and other noncurrent liabilities also included $85 million and $107 million, respectively, for amounts received from Intel in 2016 under a Trade Non-Volatile Memory supply agreement.

Debt

Instrument	Stated Rate[1]	Effective Rate[1]	December 1, 2016			September 1, 2016		
			Current	Long-Term	Total	Current	Long-Term	Total
MMJ creditor installment payments	N/A	6.52%	$ 156	$ 588	$ 744	$ 189	$ 680	$ 869
Capital lease obligations[2]	N/A	N/A	338	925	1,263	380	1,026	1,406
1.258% notes	1.258%	1.97%	87	132	219	87	131	218
2022 senior notes	5.875%	6.14%	—	591	591	—	590	590
2022 senior secured term loan B	4.360%	4.77%	5	729	734	5	730	735
2023 senior notes	5.250%	5.43%	—	990	990	—	990	990
2023 senior secured notes	7.500%	7.69%	—	1,237	1,237	—	1,237	1,237
2024 senior notes	5.250%	5.38%	—	546	546	—	546	546
2025 senior notes	5.500%	5.56%	—	1,139	1,139	—	1,139	1,139
2026 senior notes	5.625%	5.73%	—	446	446	—	446	446
2032C convertible senior notes[3]	2.375%	5.95%	—	206	206	—	204	204
2032D convertible senior notes[3]	3.125%	6.33%	—	155	155	—	154	154
2033E convertible senior notes[3]	1.625%	4.50%	170	—	170	—	168	168
2033F convertible senior notes[3]	2.125%	4.93%	273	—	273	—	271	271
2043G convertible senior notes	3.000%	6.76%	—	661	661	—	657	657
Other notes payable	2.513%	2.65%	126	145	271	95	185	280
			$ 1,155	$ 8,490	$ 9,645	$ 756	$ 9,154	$ 9,910

[1] *As of December 1, 2016.*

[2] *Weighted-average imputed rate of 3.4% and 3.3% as of December 1, 2016 and September 1, 2016, respectively.*

[3] *Since the closing price of our common stock exceeded 130% of the conversion price per share for at least 20 trading days in the 30 trading day period ended on September 30, 2016, these notes were convertible by the holders during the calendar quarter ended December 31, 2016. The closing price of our common stock also exceeded the thresholds for the calendar quarter ended December 31, 2016; therefore, these notes are convertible by the holders through March 31, 2017. The 2033 Notes were classified as current as of December 1, 2016 because the terms of these notes require us*

to pay cash for the principal amount of any converted notes and holders of these notes had the right to convert their notes as of that date.

Capital Lease Obligations

In the first quarter of 2016, we recorded capital lease obligations aggregating $51 million at a weighted-average effective interest rate of 6.5% and a weighted-average expected term of 12 years.

Convertible Senior Notes

As of December 1, 2016, the trading price of our common stock was higher than the initial conversion prices of our 2032 Notes and our 2033 Notes. As a result, the conversion values for these notes exceeded the principal amounts by $683 million as of December 1, 2016.

2022 Senior Secured Term Loan B Repricing Amendment

On October 27, 2016, we amended our 2022 Term Loan B, substantially all of which was treated as a debt modification, to reduce the margins added to the base rate from 5.00% to 2.75% and to the adjusted LIBOR rate from 6.00% to 3.75%.

Other Facilities

On November 18, 2016, we entered into a five-year variable-rate facility agreement to obtain up to $800 million of financing, collateralized by certain production equipment, which may be utilized in multiple draws until June 10, 2017. Interest is payable quarterly at a rate equal to three-month LIBOR plus 2.4% per annum. Principal is payable in 16 equal quarterly installments beginning in March 2018. The facility agreement contains covenants which are customary for financings of this type, including negative covenants that limit or restrict our ability to create liens or dispose of the equipment securing the facility agreement. The facility also contains a covenant that the ratio of the outstanding loan to the fair value of the equipment collateralizing the loan not exceed 0.8. If such ratio is exceeded, we are required to grant a security interest in additional equipment and/or prepay the loan in an amount sufficient to reduce such ratio to 0.8 or less. The facility agreement also contains customary events of default which could result in the acceleration of all amounts to be immediately due and payable and cancellation of all commitments under the facility agreement. On December 2, 2016, subsequent to the end of our first quarter of 2017, we drew $450 million under this facility.

Contingencies

We have accrued a liability and charged operations for the estimated costs of adjudication or settlement of various asserted and unasserted claims existing as of the balance sheet date, including those described below. We are currently a party to other legal actions arising from the normal course of business, none of which is expected to have a material adverse effect on our business, results of operations, or financial condition.

Patent Matters

As is typical in the semiconductor and other high-tech industries, from time to time others have asserted, and may in the future assert, that our products or manufacturing processes infringe their intellectual property rights.

On November 21, 2014, Elm 3DS Innovations, LLC ("Elm") filed a patent infringement action against Micron, MSP, and Micron Consumer Products Group, Inc. in the U.S. District Court for the District of Delaware. On March 27, 2015, Elm filed an amended complaint against the same entities. The amended complaint alleges that unspecified semiconductor products of ours that incorporate multiple stacked die infringe thirteen U.S. patents and seeks damages, attorneys' fees, and costs.

On December 15, 2014, Innovative Memory Solutions, Inc. filed a patent infringement action against Micron in the U.S. District Court for the District of Delaware. The complaint alleges that a variety of our NAND Flash products infringe eight U.S. patents and seeks damages, attorneys' fees, and costs.

On June 24, 2016, the President and Fellows of Harvard University filed a patent infringement action against Micron in the U.S. District Court for the District of Massachusetts. The complaint alleges that a variety of our DRAM products infringe two U.S. patents and seeks damages, injunctive relief, and other unspecified relief.

Among other things, the above lawsuits pertain to certain of our DDR DRAM, DDR2 DRAM, DDR3 DRAM, DDR4 DRAM, SDR SDRAM, PSRAM, RLDRAM, LPDRAM, NAND Flash, and certain other memory products we manufacture, which account for a significant portion of our net sales.

We are unable to predict the outcome of assertions of infringement made against us and therefore cannot estimate the range of possible loss. A determination that our products or manufacturing processes infringe the intellectual property rights of others or entering into a license agreement covering such intellectual property could result in significant liability and/or require us to make material changes to our products and/or manufacturing processes. Any of the foregoing could have a material adverse effect on our business, results of operations, or financial condition.

Qimonda

On January 20, 2011, Dr. Michael Jaffé, administrator for Qimonda insolvency proceedings, filed suit against Micron and Micron Semiconductor B.V., our Netherlands subsidiary ("Micron B.V."), in the District Court of Munich, Civil Chamber. The complaint seeks to void under Section 133 of the German Insolvency Act a share purchase agreement between Micron B.V. and Qimonda signed in fall 2008 pursuant to which Micron B.V. purchased substantially all of Qimonda's shares of Inotera Memories, Inc. (the "Inotera Shares"), representing approximately 18% of Inotera's outstanding shares as of December 1, 2016, and seeks an order requiring us to re-transfer those shares to the Qimonda estate. The complaint also seeks, among other things, to recover damages for the alleged value of the joint venture relationship with Inotera and to terminate under Sections 103 or 133 of the German Insolvency Code a patent cross-license between us and Qimonda entered into at the same time as the share purchase agreement.

Following a series of hearings with pleadings, arguments, and witnesses on behalf of the Qimonda estate, on March 13, 2014, the Court issued judgments: (1) ordering Micron B.V. to pay approximately $1 million in respect of certain Inotera shares sold in connection with the original share purchase; (2) ordering Micron B.V. to disclose certain information with respect to any Inotera Shares sold by it to third parties; (3) ordering Micron B.V. to disclose the benefits derived by it from ownership of the Inotera Shares, including in particular, any profits distributed on such shares and all other benefits; (4) denying Qimonda's claims against Micron for any damages relating to the joint venture relationship with Inotera; and (5) determining that Qimonda's obligations under the patent cross-license agreement are canceled. In addition, the Court issued interlocutory judgments ordering, among other things: (1) that Micron B.V. transfer to the Qimonda estate the Inotera Shares still owned by it and pay to the Qimonda estate compensation in an amount to be specified for any Inotera Shares sold to third parties; and (2) that Micron B.V. pay the Qimonda estate as compensation an amount to be specified for benefits derived by it from ownership of the Inotera Shares. The interlocutory judgments have no immediate, enforceable effect on us, and, accordingly, we expect to be able to continue to operate with full control of the Inotera Shares subject to further developments in the case. We have filed a notice of appeal, and the parties have submitted briefs to the appeals court.

We are unable to predict the outcome of the matter and therefore cannot estimate the range of possible loss. The final resolution of this lawsuit could result in the loss of the Inotera Shares or monetary damages, unspecified damages based on the benefits derived by Micron B.V. from the ownership of the Inotera Shares, and/or the termination of the patent cross-license, which could have a material adverse effect on our business, results of operation, or financial condition.

Other

In the normal course of business, we are a party to a variety of agreements pursuant to which we may be obligated to indemnify the other party. It is not possible to predict the maximum potential amount of future payments under these types of agreements due to the conditional nature of our obligations and the unique facts and circumstances involved in each particular agreement. Historically, our payments under these types of agreements have not had a material adverse effect on our business, results of operations, or financial condition.

Redeemable Convertible Notes

Under the terms of the indentures governing the 2033 Notes, upon conversion, we would be required to pay cash equal to the lesser of (1) the aggregate principal amount or (2) the conversion value of the notes being converted. To the extent the conversion value exceeds the principal amount, we could pay cash, shares of common stock, or a combination thereof, at our option, for the amount of such excess. The closing price of our common stock met the thresholds for conversion for the calendar quarter ended September 30, 2016; therefore, the 2033 Notes were convertible by the holders during the calendar

quarter ended December 31, 2016. As a result, the 2033 Notes were classified as current debt and the aggregate difference between the principal amount and the carrying value of $31 million was classified as redeemable convertible notes in the accompanying consolidated balance sheet. The closing price of our common stock did not meet the thresholds for the calendar quarter ended June 30, 2016; therefore, the 2033 Notes were not convertible by the holders as of September 1, 2016. Therefore, as of September 1, 2016, the 2033 Notes had been classified as noncurrent debt and the aggregate difference between the principal amount and the carrying value had been classified as additional capital.

Equity

Micron Shareholders' Equity

***Treasury Stock*:** As of December 1, 2016, we held 54 million shares of treasury stock. All 54 million shares of treasury stock were included as part of the sale of the Micron Shares to Nanya subsequent to the end of our first quarter of 2017.

***Outstanding Capped Calls*:** Our capped calls are intended to reduce the effect of potential dilution from our convertible notes and provide for our receipt of cash or shares, at our election, from our counterparties if the trading price of our stock is above strike prices on the expiration dates. As of December 1, 2016, the dollar value of cash or shares that we would receive from our outstanding capped calls upon their expiration dates range from $0, if the trading price of our stock was below strike prices for all capped calls, to $719 million, if the trading price of our stock was at or above the cap prices for all capped calls.

Expiration of Capped Calls: A portion of our 2032C and 2032D Capped Calls expired in the first quarter of 2017. We elected share settlement and in the second quarter of 2017 received 4 million shares of our stock, equal to a value of $67 million, based on the volume-weighted trading stock prices at the expiration dates. The shares received were recorded as treasury stock.

***Accumulated Other Comprehensive (Loss)*:** Changes in accumulated other comprehensive (loss) by component for the quarter ended December 1, 2016 were as follows:

	Cumulative Foreign Currency Translation Adjustments	Gains (Losses) on Derivative Instruments, Net	Gains (Losses) on Investments, Net	Pension Liability Adjustments	Total
As of September 1, 2016	$ (49)	$ 2	$ —	$ 12	$ (35)
Other comprehensive income (loss)	37	(9)	(1)	(1)	26
Tax effects	—	2	—	—	2
Other comprehensive income (loss)	37	(7)	(1)	(1)	28
As of December 1, 2016	$ (12)	$ (5)	$ (1)	$ 11	$ (7)

Noncontrolling Interests in Subsidiaries

As of	December 1, 2016		September 1, 2016	
	Noncontrolling Interest Balance	Noncontrolling Interest Percentage	Noncontrolling Interest Balance	Noncontrolling Interest Percentage
IMFT	$ 832	49%	$ 832	49%
Other	16	Various	16	Various
	$ 848		$ 848	

***IMFT*:** Since IMFT's inception in 2006, we have owned 51% of IMFT, a joint venture between us and Intel that manufactures NAND Flash and 3D XPoint memory products exclusively for the members. The members share the output of IMFT generally in proportion to their investment. IMFT is governed by a Board of Managers, for which the number of managers appointed by each member varies based on the members' respective ownership interests. The IMFT joint venture agreement extends through 2024 and includes certain buy-sell rights. Through December 2018, Intel can put to us, and from January 2019 through December 2021, we can call from Intel, Intel's interest in IMFT, in either case, for an amount equal to the

noncontrolling interest balance attributable to Intel at such time either member exercises its right. If Intel exercises its put right, we can elect to set the closing date of the transaction to be any time within two years following such election by Intel and can elect to receive financing of the purchase price from Intel for one to two years from the closing date. Creditors of IMFT have recourse only to IMFT's assets and do not have recourse to any other of our assets. In the first quarter of 2016, we and Intel contributed $38 million and $37 million, respectively, to IMFT.

IMFT manufactures memory products using designs and technology we develop with Intel. We generally share with Intel the costs of product design and process development activities for NAND Flash and 3D XPoint memory at IMFT and our other facilities. Our R&D expenses were reduced by reimbursements from Intel of $56 million and $46 million for the first quarters of 2017 and 2016, respectively.

Our sales include Non-Trade Non-Volatile Memory, which primarily consists of products sold to Intel through our IMFT joint venture at long-term negotiated prices approximating cost. Non-Trade Non-Volatile Memory sales to Intel were $123 million and $126 million for the first quarters of 2017 and 2016, respectively.

The following table presents the assets and liabilities of IMFT included in our consolidated balance sheets:

As of	December 1, 2016	September 1, 2016
Assets		
Cash and equivalents	$ 77	$ 98
Receivables	83	89
Inventories	91	68
Other current assets	4	6
Total current assets	255	261
Property, plant, and equipment, net	1,748	1,792
Other noncurrent assets	47	50
Total assets	$ 2,050	$ 2,103
Liabilities		
Accounts payable and accrued expenses	$ 131	$ 175
Deferred income	6	7
Current debt	53	16
Total current liabilities	190	198
Long-term debt	41	66
Other noncurrent liabilities	92	94
Total liabilities	$ 323	$ 358

Amounts exclude intercompany balances that were eliminated in our consolidated balance sheets.

Restrictions on Net Assets

As a result of the corporate reorganization proceedings the MMJ Companies initiated in March 2012, and for so long as such proceedings continue, the MMJ Group is subject to certain restrictions on dividends, loans, and advances. In addition, our ability to access IMFT's cash and other assets through dividends, loans, or advances, including to finance our other operations, is subject to agreement by Intel. As a result, our total restricted net assets (net assets less intercompany balances and noncontrolling interests) as of December 1, 2016 were $3.13 billion for the MMJ Group and $895 million for IMFT, which included cash and equivalents of $684 million for the MMJ Group and $77 million for IMFT.

As of December 1, 2016, our retained earnings included undistributed earnings from our equity method investees of $290 million.

Fair Value Measurements

All of our marketable debt and equity investments (excluding equity method investments) were classified as available-for-sale and carried at fair value. Amounts reported as cash and equivalents, receivables, and accounts payable and accrued expenses approximate fair value. The estimated fair value and carrying value of debt instruments (excluding the carrying value of the equity and mezzanine equity components of our convertible notes) were as follows:

As of	December 1, 2016		September 1, 2016	
	Fair Value	Carrying Value	Fair Value	Carrying Value
Notes and MMJ creditor installment payments	$ 7,139	$ 6,917	$ 7,257	$ 7,050
Convertible notes	2,548	1,465	2,408	1,454

The fair values of our convertible notes were determined based on inputs that were observable in the market or that could be derived from, or corroborated with, observable market data, including the trading price of our convertible notes when available, our stock price, and interest rates based on similar debt issued by parties with credit ratings similar to ours (Level 2). The fair values of our other debt instruments were estimated based on discounted cash flows using inputs that were observable in the market or that could be derived from, or corroborated with, observable market data, including the trading price of our notes, when available, and interest rates based on similar debt issued by parties with credit ratings similar to ours (Level 2).

Derivative Instruments

We use derivative instruments to manage a portion of our exposure to changes in currency exchange rates from our monetary assets and liabilities denominated in currencies other than the U.S. dollar. We do not use derivative instruments for speculative purpose.

Derivative Instruments without Hedge Accounting Designation

***Currency Derivatives*:** To hedge our exposures of monetary assets and liabilities to changes in currency exchange rates, we generally utilize a rolling hedge strategy with currency forward contracts that mature within 35 days. In addition, to mitigate the risk of the yen strengthening against the U.S. dollar on MMJ creditor installment payments due in December 2017 and 2018, we entered into forward contracts to purchase 18 billion yen on December 1, 2017 and 28 billion yen on December 3, 2018. At the end of each reporting period, monetary assets and liabilities denominated in currencies other than the U.S. dollar are remeasured into U.S. dollars and the associated outstanding forward contracts are marked-to-market. Currency forward contracts are valued at fair values based on the middle of bid and ask prices of dealers or exchange quotations (Level 2).

In connection with the Inotera Acquisition, we borrowed 80 billion New Taiwan dollars. To hedge our currency exposure of this borrowing, in December 2016, subsequent to the end of our first quarter of 2017, we entered into a series of currency forward contracts to purchase an aggregate of 80 billion New Taiwan dollars under a rolling hedge strategy. The forward contracts expire at various dates through June 2017.

The following summarizes our derivative instruments without hedge accounting designation, which consisted of forward contracts to purchase the noted currencies as a hedge of our net position in monetary assets and liabilities:

	Notional Amount (in U.S. Dollars)	Fair Value	
		Current Liabilities[1]	Noncurrent Liabilities[2]
As of December 1, 2016			
Yen	$ 1,396	$ (18)	$ (4)
Singapore dollar	204	(1)	—
Euro	175	—	—
Other	48	(1)	—
	$ 1,823	$ (20)	$ (4)
As of September 1, 2016			
Yen	$ 1,668	$ (10)	$ —
Singapore dollar	206	—	—
Euro	93	—	—
Other	85	(1)	—
	$ 2,052	$ (11)	$ —

(1) *Included in accounts payable and accrued expenses – other.*
(2) *Included in other noncurrent liabilities.*

Realized and unrealized gains and losses on derivative instruments without hedge accounting designation as well as the change in the underlying monetary assets and liabilities due to changes in currency exchange rates are included in other non-operating income (expense), net. Net losses for foreign exchange contracts without hedge accounting designation were $178 million and $21 million for the first quarters of 2017 and 2016, respectively.

Derivative Instruments with Cash Flow Hedge Accounting Designation

***Currency Derivatives*:** We utilize currency forward contracts that generally mature within 12 months to hedge our exposure to changes in cash flows from changes in currency exchange rates for certain capital expenditures. Currency forward contracts are measured at fair value based on market-based observable inputs including currency exchange spot and forward rates, interest rates, and credit-risk spreads (Level 2).

For derivative instruments designated as cash flow hedges, the effective portion of the realized and unrealized gain or loss on the derivatives is included as a component of accumulated other comprehensive income (loss). Amounts in accumulated other comprehensive income (loss) are reclassified into earnings in the same line items and in the same periods in which the underlying transactions affect earnings. The ineffective or excluded portion of the realized and unrealized gain or loss is included in other non-operating income (expense). Total notional amounts and gross fair values for derivative instruments with cash flow hedge accounting designation were as follows:

	Notional Amount (in U.S. Dollars)	Fair Value	
		Current Assets[1]	Current Liabilities[2]
As of December 1, 2016			
Yen	$ 62	$ —	$ (6)
Euro	10	—	(1)
	$ 72	$ —	$ (7)
As of September 1, 2016			
Yen	$ 107	$ 2	$ (1)
Euro	65	—	(1)
	$ 172	$ 2	$ (2)

(1) *Included in receivables – other.*
(2) *Included in accounts payable and accrued expenses – other.*

For the first quarters of 2017 and 2016, we recognized losses of $9 million and $4 million, respectively, in accumulated other comprehensive income (loss) from the effective portion of cash flow hedges. The ineffective and excluded portions of cash flow hedges recognized in other non-operating income (expense) were not material in the first quarters of 2017 and 2016. For the first quarter of 2016, we reclassified gains of $1 million from accumulated other comprehensive income (loss) to earnings. As of December 1, 2016, $2 million of net gains from cash flow hedges included in accumulated other comprehensive income (loss) is expected to be reclassified into earnings in the next 12 months.

Equity Plans

As of December 1, 2016, 84 million shares were available for future awards under our equity plans.

Stock Options

Quarter ended	December 1, 2016	December 3, 2015
Stock options granted	2	2
Weighted-average grant-date fair value per share	$ 7.66	$ 7.99
Average expected life in years	5.7	5.6
Weighted-average expected volatility	46%	46%
Weighted-average risk-free interest rate	1.4%	1.5%
Expected dividend yield	0%	0%

Restricted Stock and Restricted Stock Units ("Restricted Stock Awards")

Quarter ended	December 1, 2016	December 3, 2015
Restricted stock award shares granted	3	3
Weighted-average grant-date fair value per share	$ 18.22	$ 18.52

Stock-based Compensation Expense

Quarter ended	December 1, 2016	December 3, 2015
Stock-based compensation expense by caption		
Cost of goods sold	$ 19	$ 18
Selling, general, and administrative	15	17
Research and development	12	11
	$ 46	$ 46
Stock-based compensation expense by type of award		
Stock options	$ 17	$ 20
Restricted stock awards	29	26
	$ 46	$ 46

As of December 1, 2016, $369 million of total unrecognized compensation costs for unvested awards was expected to be recognized through the first quarter of 2021, resulting in a weighted-average period of 1.2 years. Stock-based compensation expense in the above presentation does not reflect any significant income tax benefits, which is consistent with our treatment of income or loss from our U.S. operations.

Restructure and Asset Impairments

Quarter ended	December 1, 2016	December 3, 2015
2016 Restructuring Plan	$ 29	$ —
Other	—	15
	$ 29	$ 15

In the fourth quarter of 2016, we initiated a restructure plan in response to business conditions and the need to accelerate focus on our key priorities (the "2016 Restructuring Plan"). The 2016 Restructuring Plan includes the elimination of certain projects and programs, the permanent closure of a number of open headcount requisitions, workforce reductions in certain areas of the business, and other non-headcount related spending reductions. In connection with the plan, we incurred charges of $29 million in the first quarter of 2017 and $58 million in the fourth quarter of 2016 and do not expect to incur additional material charges. As of December 1, 2016 and September 1, 2016, we had accrued liabilities of $17 million and $24 million, respectively, related to the 2016 Restructuring Plan. For the first quarter of 2017, the restructure and asset impairment charges related primarily to our CNBU and MBU operating segments.

Other Non-Operating Income (Expense), Net

Quarter ended	December 1, 2016	December 3, 2015
Loss from changes in currency exchange rates	$ (12)	$ (3)
Other	(2)	(1)
	$ (14)	$ (4)

Losses from changes in currency exchange rates for the first quarter of 2017 included net losses for foreign exchange contracts without hedge accounting designation of $178 million offset by revaluations of our monetary assets and liabilities.

Income Taxes

Our income tax (provision) benefit included the following:

Quarter ended	December 1, 2016	December 3, 2015
Utilization of and other changes in net deferred tax assets of MMJ and MMT	$ (13)	$ (22)
U.S. valuation allowance release resulting from business acquisition	—	41
Other, primarily non-U.S. operations	(18)	(15)
	$ (31)	$ 4

We have a full valuation allowance for our net deferred tax asset associated with our U.S. operations. The amount of the deferred tax asset considered realizable could be adjusted if significant positive evidence increases. Income taxes on U.S. operations in the first quarters of 2017 and 2016 were substantially offset by changes in the valuation allowance.

We operate in tax jurisdictions, including Singapore and Taiwan, where our earnings are indefinitely reinvested and are taxed at lower effective tax rates than the U.S. statutory rate and in a number of locations outside the U.S., including Singapore, where we have tax incentive arrangements that are conditional, in part, upon meeting certain business operations and employment thresholds. The effect of tax incentive arrangements, which expire in whole or in part at various dates through 2030, reduced our tax provision for the first quarters of 2017 and 2016 by $40 million (benefitting our diluted earnings per share by $0.04) and $12 million ($0.01 per diluted share), respectively.

Earnings Per Share

Quarter ended	December 1, 2016	December 3, 2015
Net income available to Micron shareholders – Basic and Diluted	$ 180	$ 206
Weighted-average common shares outstanding – Basic	1,040	1,035
Dilutive effect of equity plans and convertible notes	51	50
Weighted-average common shares outstanding – Diluted	1,091	1,085
Earnings per share		
Basic	$ 0.17	$ 0.20
Diluted	0.16	0.19

Antidilutive potential common shares that could dilute basic earnings per share in the future were 64 million and 66 million for the first quarters of 2017 and 2016, respectively.

Segment Information

Segment information reported herein is consistent with how it is reviewed and evaluated by our chief operating decision maker. We have the following four business units, which are our reportable segments:

***Compute and Networking Business Unit ("CNBU")*:** Includes memory products sold into compute, networking, graphics, and cloud server markets.
***Mobile Business Unit ("MBU")*:** Includes memory products sold into smartphone, tablet, and other mobile-device markets.
***Storage Business Unit ("SBU")*:** Includes memory products sold into enterprise, client, cloud, and removable storage markets. SBU also includes products sold to Intel through our IMFT joint venture.
***Embedded Business Unit ("EBU")*:** Includes memory products sold into automotive, industrial, connected home, and consumer electronics markets.

Certain operating expenses directly associated with the activities of a specific segment are charged to that segment. Other indirect operating expenses (income) are generally allocated to segments based on their respective percentage of cost of goods sold or forecasted wafer production. In the first quarter of 2017, we revised the measure of segment profitability reviewed by our chief operating decision maker and, as a result, certain items are no longer allocated to our business units. Items not allocated are identified in the table below. Comparative periods have been revised to reflect these changes.

We do not identify or report internally our assets or capital expenditures by segment, nor do we allocate gains and losses from equity method investments, interest, other non-operating income or expense items, or taxes to segments.

Quarter ended	December 1, 2016	December 3, 2015
Net sales		
CNBU	$ 1,470	$ 1,139
MBU	1,032	834
SBU	860	884
EBU	578	479
All Other	30	14
	$ 3,970	$ 3,350
Operating income		
CNBU	$ 204	$ 40
MBU	89	148
SBU	(45)	(14)
EBU	178	121
All Other	12	3
	438	298
Unallocated		
Stock-based compensation	(46)	(46)
Restructure and asset impairments	(29)	(15)
Other	(4)	(5)
	(79)	(66)
Operating income	$ 359	$ 232

Certain Concentrations

Customer concentrations included net sales to Apple of 11% and Intel of 11% for the first quarter of 2017.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion contains trend information and other forward-looking statements that involve a number of risks and uncertainties. Forward-looking statements include, but are not limited to, statements such as those made regarding benefits from the Inotera Acquisition; changes in future depreciation expense; our pursuit of additional financing and debt restructuring; the sufficiency of our cash and investments, cash flows from operations, and available financing to meet our requirements for at least the next 12 months; capital spending in 2017; and the timing of payments for certain contractual obligations. We are under no obligation to update these forward-looking statements. Our actual results could differ materially from our historical results and those discussed in the forward-looking statements. Factors that could cause actual results to differ materially include, but are not limited to, those identified in "Part II Other Information – Item 1A. Risk Factors." This discussion should be read in conjunction with the consolidated financial statements and accompanying notes for the year ended September 1, 2016. All period references are to our fiscal periods unless otherwise indicated. Our fiscal year is the 52 or 53-week period ending on the Thursday closest to August 31. Our fiscal 2017 and 2016 each contain 52 weeks. All production data includes the production of IMFT and Inotera. All tabular dollar amounts are in millions except per share amounts.

Our Management's Discussion and Analysis is provided in addition to the accompanying consolidated financial statements and notes to assist readers in understanding our results of operations, financial condition, and cash flows. This discussion is organized as follows:

- ***Overview*:** Overview of our operations, business, and highlights of key events.
- ***Results of Operations*:** An analysis of our financial results consisting of the following:
  - Consolidated results;
  - Operating results by business segment;
  - Operating results by product; and
  - Operating expenses and other.
- ***Liquidity and Capital Resources*:** An analysis of changes in our balance sheet and cash flows and discussion of our financial condition and liquidity.
- ***Recently Adopted and Issued Accounting Standards***

Overview

We are a global leader in advanced semiconductor systems. Our broad portfolio of high-performance memory technologies, including DRAM, NAND Flash, and NOR Flash, is the basis for solid-state drives, modules, multi-chip packages, and other system solutions. Our memory solutions enable the world's most innovative computing, consumer, enterprise storage, networking, mobile, embedded, and automotive applications. We market our products through our internal sales force, independent sales representatives, and distributors primarily to original equipment manufacturers and retailers located around the world. We face intense competition in the semiconductor memory market and in order to remain competitive we must continuously develop and implement new technologies and decrease manufacturing costs. Our success is largely dependent on market acceptance of our diversified portfolio of semiconductor products, efficient utilization of our manufacturing infrastructure, successful ongoing development of advanced product and process technologies, and generating a return on R&D investments.

Acquisition of Inotera

On December 6, 2016, subsequent to the end of our first quarter of 2017, we acquired the 67% interest in Inotera not owned by us for an aggregate of $4.1 billion in cash (the "Inotera Acquisition"), funded with 80 billion New Taiwan dollars (equivalent to $2.5 billion) of proceeds from the 2021 Term Loan, the sale of shares of our common stock to Nanya, and cash on hand. Prior to December 6, 2016, we held a 33% ownership interest in Inotera, Nanya and certain of its affiliates held a 32% ownership interest, and the remaining ownership interest was publicly held.

Inotera manufactures DRAM products at its 300mm wafer fabrication facility in Taoyuan City, Taiwan, and sold such products exclusively to us through supply agreements. As a result of the Inotera Acquisition, we expect to experience greater operational flexibility to drive new technology in products manufactured by Inotera, optimize the deployment of the cash flows of Inotera across our operations, and enhance our ability to adapt our product offerings to changes in market conditions.

We are evaluating the fair values of the accounting consideration transferred, assets acquired, and liabilities assumed. Our accounting for the Inotera Acquisition will include the fair value of our previously-held noncontrolling equity interest in Inotera as of the acquisition date as consideration, which differs from the per share amount paid to acquire the controlling interest in Inotera. We will recognize a gain or loss to the extent of the difference between the fair value and the carrying value as of the acquisition date. We expect to complete the provisional purchase price allocation for the Inotera Acquisition in our second quarter of 2017.

Results of Operations

Consolidated Results

	First Quarter				Fourth Quarter	
	2017	% of Net Sales	2016	% of Net Sales	2016	% of Net Sales
Net sales	$ 3,970	100 %	$ 3,350	100 %	$ 3,217	100 %
Cost of goods sold	2,959	75 %	2,501	75 %	2,638	82 %
Gross margin	1,011	25 %	849	25 %	579	18 %
Selling, general, and administrative	159	4 %	179	5 %	157	5 %
Research and development	470	12 %	421	13 %	411	13 %
Restructure and asset impairments	29	1 %	15	— %	51	2 %
Other operating (income) expense, net	(6)	— %	2	— %	(8)	— %
Operating income (loss)	359	9 %	232	7 %	(32)	(1)%
Interest income (expense), net	(132)	(3)%	(85)	(3)%	(126)	(4)%
Other non-operating income (expense), net	(14)	— %	(4)	— %	(10)	— %
Income tax (provision) benefit	(31)	(1)%	4	— %	(3)	— %
Equity in net income (loss) of equity method investees	(2)	— %	59	2 %	1	— %
Net income attributable to noncontrolling interests	—	— %	—	— %	—	— %
Net income (loss) attributable to Micron	$ 180	5 %	$ 206	6 %	$ (170)	(5)%

Net Sales

	First Quarter				Fourth Quarter	
	2017	% of Total	2016	% of Total	2016	% of Total
CNBU	$ 1,470	37%	$ 1,139	34%	$ 1,247	39%
MBU	1,032	26%	834	25%	671	21%
SBU	860	22%	884	26%	758	24%
EBU	578	15%	479	14%	513	16%
All Other	30	1%	14	—%	28	1%
	$ 3,970		$ 3,350		$ 3,217	

Percentages of total net sales reflect rounding and may not total 100%.

Total net sales for the first quarter of 2017 increased 23% as compared to the fourth quarter of 2016. Higher sales for all operating segments resulted from increases in gigabits sold and DRAM average selling prices. The increases in gigabits sold for the first quarter of 2017 were primarily attributable to increases in market demand and higher manufacturing output due to improvements in product and process technologies.

Total net sales for the first quarter of 2017 increased 19% as compared to the first quarter of 2016 primarily due to higher CNBU, MBU, and EBU sales as increases in gigabits sold outpaced declines in average selling prices. The increases in gigabits sold for the first quarter of 2017 were primarily attributable to increases in market demand and higher manufacturing output due to improvements in product and process technologies.

Gross Margin

Our overall gross margin percentage increased to 25% for the first quarter of 2017 from 18% for the fourth quarter of 2016 reflecting increases in the gross margin percentages for all operating segments, primarily due to manufacturing cost reductions and to increases in average selling prices for DRAM products.

Our overall gross margin percentage for the first quarter of 2017 was essentially unchanged from the first quarter of 2016. CNBU and EBU gross margin percentages for the first quarter of 2017 improved as compared to the first quarter of 2016 as manufacturing cost reductions outpaced declines in average selling price, while MBU and SBU gross margin percentages declined as decreases in average selling prices outpaced manufacturing cost reductions.

Due to the lengthening period of time between DRAM product technology node transitions, an increased re-use rate of equipment, and industry trends, we revised the estimated useful lives of equipment in our DRAM wafer fabrication facilities from five to seven years in the fourth quarter of 2016. For 2017, we estimate the effect of the revision reduces depreciation costs by approximately $100 million per quarter.

From January 2013 through December 2015, we purchased all of Inotera's DRAM output under supply agreements at prices reflecting discounts from market prices for our comparable components. After December 2015, the price for DRAM products purchased by us was based on a formula that equally shared margin between Inotera and us. We purchased $504 million, $372 million, and $379 million of DRAM products from Inotera in the first quarter of 2017, the fourth quarter of 2016, and the first quarter of 2016, respectively. DRAM products purchased from Inotera accounted for 37% of our aggregate DRAM gigabit production for the first quarter of 2017 as compared to 28% for the fourth quarter of 2016 and 29% for the first quarter of 2016.

Operating Results by Business Segments

In the first quarter of 2017, we revised the measure of segment profitability reviewed by our chief operating decision maker and, as a result, certain items are no longer allocated to our business units. Comparative periods have been revised to reflect these changes. (See "Item 1. Financial Statements – Notes to Consolidated Financial Statements – Segment Information.")

CNBU

	First Quarter		Fourth Quarter
	2017	2016	2016
Net sales	$ 1,470	$ 1,139	$ 1,247
Operating income	204	40	10

CNBU sales and operating results are significantly impacted by average selling prices, gigabit sales volumes, and cost per gigabit of our DRAM products. (See "Operating Results by Product – DRAM" for further detail.) CNBU sales for the first quarter of 2017 increased 18% as compared to the fourth quarter of 2016 primarily due to increases in average selling prices and gigabits sold as a result of stronger demand as well as additional customer qualifications and higher shipments of our 20nm products. CNBU operating income for the first quarter of 2017 increased from the fourth quarter of 2016 due to increases in average selling prices and manufacturing cost reductions.

CNBU sales for the first quarter of 2017 increased 29% as compared to the first quarter of 2016 primarily due to increases in gigabits sold partially offset by declines in average selling prices. CNBU operating income for the first quarter of 2017 improved from the first quarter of 2016 as manufacturing cost reductions outpaced decreases in average selling prices.

MBU

	First Quarter		Fourth Quarter
	2017	2016	2016
Net sales	$ 1,032	$ 834	$ 671
Operating income (loss)	89	148	(35)

MBU sales are primarily composed of DRAM and Non-Volatile Memory, with mobile DRAM products accounting for a significant majority of the sales. MBU sales for the first quarter of 2017 increased 54% as compared to the fourth quarter of 2016 primarily due to increases in both DRAM and Non-Volatile Memory gigabits sold driven by the completion of customer qualifications and higher memory content in smartphones. MBU operating margin for the first quarter of 2017 increased from the fourth quarter of 2016 due to increases in gigabits sold and manufacturing cost reductions for Non-Volatile Memory products partially offset by higher R&D costs.

MBU sales for the first quarter of 2017 increased 24% as compared to the first quarter of 2016 primarily due to significant increases in gigabits sold partially offset by declines in average selling prices. MBU operating margin for the first quarter of 2017 declined from the first quarter of 2016 due to decreases in average selling prices that outpaced manufacturing cost reductions and to higher R&D costs.

SBU

	First Quarter		Fourth Quarter
	2017	2016	2016
Net sales	$ 860	$ 884	$ 758
Operating loss	(45)	(14)	(57)

SBU sales and operating results are significantly impacted by average selling prices, gigabit sales volumes, and cost per gigabit of our Non-Volatile Memory products. (See "Operating Results by Product – Trade Non-Volatile Memory" for further details.) SBU sales for the first quarter of 2017 increased 13% from the fourth quarter of 2016 primarily due to increases in gigabits sold partially offset by declines in average selling prices. SBU sales included Non-Trade Non-Volatile Memory sales of $123 million, $129 million and $126 million, for the first quarter of 2017, fourth quarter of 2016, and first quarter of 2016, respectively.

SBU sales of Trade Non-Volatile Memory products for the first quarter of 2017 increased 17% from the fourth quarter of 2016 primarily due to increases in gigabits sold as a result of higher SSD sales and strong demand in the NAND Flash market combined with higher manufacturing output, partially offset by declines in average selling prices. SBU operating margin for the first quarter of 2017 improved from the fourth quarter of 2016 as manufacturing cost reductions outpaced declines in average selling prices, partially offset by higher R&D costs.

SBU sales of Trade Non-Volatile Memory products for the first quarter of 2017 decreased 3% as compared to the first quarter of 2016 primarily due to declines in average selling prices partially offset by increases in gigabits sold as a result of strong demand combined with higher manufacturing output. SBU operating margin for the first quarter of 2017 declined from the first quarter of 2016 as decreases in average selling prices outpaced manufacturing cost reductions, partially offset by lower operating expenses.

EBU

	First Quarter		Fourth Quarter
	2017	2016	2016
Net sales	$ 578	$ 479	$ 513
Operating income	178	121	141

EBU sales are composed of DRAM, Non-Volatile Memory, and NOR Flash in decreasing order of revenue. EBU sales for the first quarter of 2017 increased 13% as compared to the fourth quarter of 2016 primarily due to higher sales volumes for Non-Volatile Memory products as a result of strong sales in our automotive and our consumer businesses, particularly for home automation and camera applications. EBU operating income for the first quarter of 2017 increased from the fourth quarter of 2016 primarily due to manufacturing cost reductions and the increases in sales volumes.

EBU sales for the first quarter of 2017 increased 21% as compared to the first quarter of 2016 primarily due to higher sales volumes of DRAM and Non-Volatile Memory products as a result of increases in demand. EBU operating income for the first quarter of 2017 improved as compared to the first quarter of 2016 as manufacturing cost reductions outpaced declines in average selling prices and as sales volumes increased.

Operating Results by Product

Net Sales by Product

	First Quarter				Fourth Quarter	
	2017	% of Total	2016	% of Total	2016	% of Total
DRAM	$ 2,421	61%	$ 1,945	58%	$ 1,946	60%
Non-Volatile Memory						
Trade	1,272	32%	1,143	34%	1,013	31%
Non-Trade	123	3%	126	4%	129	4%
Other	154	4%	136	4%	129	4%
	$ 3,970		$ 3,350		$ 3,217	

Percentages of total net sales reflect rounding and may not total 100%.

Trade Non-Volatile Memory includes NAND Flash and 3D XPoint memory. Non-Trade Non-Volatile Memory primarily consists of Non-Volatile Memory products manufactured and sold to Intel through IMFT at long-term negotiated prices approximating cost. Information regarding our MCP products, which combine both NAND Flash and DRAM components, is reported within Trade Non-Volatile Memory. Sales of NOR Flash products are included in Other.

DRAM

	First Quarter 2017 Versus	
	Fourth Quarter 2016	First Quarter 2016
	(percentage change from period indicated)	
Net sales	24 %	24 %
Average selling prices per gigabit	5 %	(21)%
Gigabits sold	18 %	57 %
Cost per gigabit	(5)%	(20)%

The increases in gigabits sold for the first quarter of 2017 as compared to the fourth and first quarters of 2016 were primarily due to strong demand across key markets and customer qualifications combined with increases in gigabit production. The decreases in cost per gigabit for the first quarter of 2017 as compared to the fourth and first quarters of 2016 were primarily due to improvements in product and process technologies and lower depreciation due to a change made in the fourth quarter of 2016 in estimated useful lives for equipment at our DRAM wafer fabrication facilities. Gigabit production and cost reductions for the first quarter of 2017 and the fourth quarter of 2016 were affected by a transition to a higher mix of DDR4 products, which have larger die sizes and fewer bits per wafer.

Our DRAM gross margin percentage for the first quarter of 2017 increased as compared to the fourth quarter of 2016 primarily due to manufacturing cost reductions and increases in average selling prices. Our gross margin percentage on sales of DRAM products for the first quarter of 2017 was relatively unchanged from the first quarter of 2016 as manufacturing cost reductions offset declines in average selling prices.

Trade Non-Volatile Memory

	First Quarter 2017 Versus	
	Fourth Quarter 2016	**First Quarter 2016**
	(percentage change from period indicated)	
Sales to trade customers		
Net sales	26 %	11 %
Average selling prices per gigabit	0 %	(21)%
Gigabits sold	26 %	40 %
Cost per gigabit	(8)%	(20)%

Through the first quarter of 2017, substantially all of our Trade Non-Volatile Memory sales were from NAND Flash products. The increase in gigabits sold of Trade Non-Volatile Memory for the first quarter of 2017 as compared to the fourth quarter of 2016 and first quarter of 2016 was due to an increase in demand, primarily for SSD and MCP products. Our ability to meet this demand was due in part to an increase in production from our facilities, primarily due to the ramp of additional capacity and improvements in product and process technology, including our transition to 3D NAND Flash products. Increases in gigabit production for the first quarter of 2017 as compared to the fourth quarter of 2016 were limited by a shift in product mix to higher levels of managed NAND Flash and MCP products, which have both higher average selling prices and costs per gigabit.

Our gross margin percentage on sales of Trade Non-Volatile Memory products for the first quarter of 2017 increased from the fourth quarter of 2016 primarily due to manufacturing cost reductions. Our gross margin percentage on sales of Trade Non-Volatile Memory products for the first quarter of 2017 was relatively unchanged from the first quarter of 2016 as manufacturing cost reductions offset declines in average selling prices.

Operating Expenses and Other

Selling, General, and Administrative

SG&A expenses for the first quarter of 2017 were relatively unchanged compared to the fourth quarter of 2016. SG&A expenses for the first quarter of 2017 were 11% lower than the first quarter of 2016 primarily due to decreases in payroll costs as a result of the 2016 Restructuring Plan.

Research and Development

R&D expenses for the first quarter of 2017 were 14% higher than the fourth quarter of 2016 primarily due to higher volumes of development wafers processed and higher variable pay costs. R&D expenses for the first quarter of 2017 were 12% higher than the first quarter of 2016 primarily due to higher volumes of development wafers processed.

We generally share with Intel the costs of product design and process development activities for NAND Flash and 3D XPoint memory at IMFT and our other facilities. Our R&D expenses reflect net reductions as a result of reimbursements under our cost-sharing arrangements with Intel and others of $56 million for the first quarter of 2017, $52 million for the fourth quarter of 2016, and $48 million for the first quarter of 2016.

Income Taxes

Our income tax (provision) benefit included the following:

	First Quarter		Fourth Quarter
	2017	2016	2016
Utilization of and other changes in net deferred tax assets of MMJ and MMT	$ (13)	$ (22)	$ (12)
U.S. valuation allowance release resulting from business acquisition	—	41	—
Other, primarily other non-U.S. operations	(18)	(15)	9
	$ (31)	$ 4	$ (3)
Effective tax rate	14.6%	2.8%	1.8%

Our effective tax rates reflect the following:

- operations in tax jurisdictions, including Singapore and Taiwan, where our earnings are indefinitely reinvested and the tax rates are significantly lower than the U.S. statutory rate;
- operations outside the U.S., including Singapore, where we have tax incentive arrangements that further decrease our effective tax rates;
- exclusion of certain jurisdictions from the consolidated effective tax rate computations for instances where no benefit is recorded on forecasted losses; and
- a valuation allowance against substantially all of our U.S. net deferred tax assets.

We have a full valuation allowance for our net deferred tax asset associated with our U.S. operations. The amount of the deferred tax asset considered realizable could be adjusted if sufficient positive evidence increases.

We operate in a number of locations outside the U.S., including Singapore, where we have tax incentive arrangements that are conditional, in part, upon meeting certain business operation and employment thresholds. The effect of tax incentive arrangements, which expire in whole or in part at various dates through 2030, reduced our tax provision by $40 million (benefitting our diluted earnings per share by $0.04) for the first quarter of 2017, were not material for the fourth quarter of 2016, and by $12 million ($0.01 per diluted share) for the first quarter of 2016.

Equity in Net Income (Loss) of Equity Method Investees

Equity in net income (loss) of equity method investees, net of tax, included the following:

	First Quarter		Fourth Quarter
	2017	2016	2016
Inotera	$ 9	$ 52	$ (3)
Tera Probe	(12)	3	5
Other	1	4	(1)
	$ (2)	$ 59	$ 1

Our equity in net income (loss) of Inotera increased for the first quarter of 2017 compared to the fourth quarter of 2016 primarily due to increases in average selling prices and sales volume. Our equity in net income of Inotera declined for the first quarter of 2017 as compared to the first quarter of 2016 primarily due to declines in average selling prices.

In the first quarter of 2017, we recorded an impairment charge of $16 million within equity in net income (loss) of equity method investees to write down the carrying value of our investment in Tera Probe to its fair value based on its trading price.

Other

Further discussion of other operating and non-operating income and expenses can be found in the following notes contained in "Item 1. Financial Statements – Notes to Consolidated Financial Statements":

- Equity Plans
- Restructure and Asset Impairments
- Other Non-Operating Income (Expense), Net

Liquidity and Capital Resources

Our primary sources of liquidity are cash generated from operations and financing obtained from capital markets. Cash generated from operations is highly dependent on selling prices for our products, which can vary significantly from period to period. We are continuously evaluating alternatives for efficiently funding our capital expenditures and ongoing operations. We expect, from time to time in the future, to engage in a variety of transactions for such purposes, including the issuance or incurrence of secured and unsecured debt and the refinancing and restructuring of existing debt. As of December 1, 2016, we had a revolving credit facility available for up to $675 million of additional financing based on eligible receivables. As of December 1, 2016, we also had an available five-year variable-rate facility agreement to obtain up to $800 million of financing, collateralized by certain production equipment, of which we drew $450 million on December 2, 2016, and for which the remainder may be utilized in multiple draws until June 10, 2017. We expect that our cash and investments, cash flows from operations, and available financing will be sufficient to meet our requirements through at least the next 12 months.

To develop new product and process technologies, support future growth, achieve operating efficiencies, and maintain product quality, we must continue to invest in manufacturing technologies, facilities and equipment, and R&D. We estimate that net cash expenditures in 2017 for property, plant, and equipment will be approximately $4.8 billion to $5.2 billion, which reflects the offset of amounts we expect to be funded by our partners. The actual amounts for 2017 will vary depending on market conditions. As of December 1, 2016, we had commitments of approximately $550 million for the acquisition of property, plant, and equipment, substantially all of which is expected to be paid within one year.

Cash and marketable investments included the following:

As of	December 1, 2016	September 1, 2016
Cash and equivalents and short-term investments	$ 4,169	$ 4,398
Long-term marketable investments	155	414

Our investments consist primarily of liquid investment-grade fixed-income securities, diversified among industries and individual issuers. As of December 1, 2016, $1.83 billion of our cash and equivalents and short-term investments was held by our foreign subsidiaries, of which $1.33 billion was denominated in currencies other than the U.S. dollar. To mitigate credit risk, we invest through high-credit-quality financial institutions and, by policy, generally limit the concentration of credit exposure by restricting the amount of investments with any single obligor.

Acquisition of Inotera

On December 6, 2016, subsequent to the end of our first quarter of 2017, we acquired the 67% interest in Inotera not owned by us for an aggregate of $4.1 billion in cash (the "Inotera Acquisition"), funded with proceeds from the 2021 Term Loan (defined below), the sale of shares of our common stock to Nanya, and cash on hand.

Acquisition Financing

2021 Term Loan: On December 6, 2016, we drew 80 billion New Taiwan dollars (equivalent to $2.5 billion) under a collateralized, five-year term loan that bears interest at a variable rate equal to the three-month or six-month TAIBOR, at our option, plus a margin of 2.05% per annum (the "2021 Term Loan"). Principal under the 2021 Term Loan is payable in six equal semi-annual installments, commencing in June 2019, through December 2021. The 2021 Term Loan is collateralized by certain assets including a real estate mortgage on Inotera's main production facility and site, a chattel mortgage over certain equipment of Inotera, all of the stock of our MSTW subsidiary, and the 82% of stock of Inotera owned by MSTW.

The 2021 Term Loan contains affirmative and negative covenants, including covenants that limit or restrict our ability to create liens in or dispose of collateral securing obligations under the 2021 Term Loan, mergers involving MSTW and/or Inotera, loans or guarantees to third parties by Inotera and/or MSTW, and MSTW's distribution of cash dividends (subject to satisfaction of certain financial conditions). The 2021 Term Loan also contains financial covenants as follows, which are tested semi-annually:

- MSTW must maintain a consolidated ratio of total debt to adjusted EBITDA not higher than 5.5x in 2017 and 2018, and not higher than 4.5x in 2019 through 2021;
- MSTW must maintain adjusted consolidated tangible net worth of not less than 4.0 billion New Taiwan dollars (equivalent to $125 million) in 2017 and 2018, not less than 6.5 billion New Taiwan dollars (equivalent to $203 million) in 2019 and 2020, and not less than 12.0 billion New Taiwan dollars (equivalent to $374 million) in 2021;
- on a consolidated basis, we must maintain a ratio of total debt to adjusted EBITDA not higher than 3.5x in 2017, not higher than 3.0x in 2018 and 2019, and not higher than 2.5x in 2020 and 2021; and
- on a consolidated basis, we must maintain adjusted tangible net worth not less than $9.0 billion in 2017, not less than $12.5 billion in 2018 and 2019, and not less than $16.5 billion in 2020 and 2021.

If one or more of the required financial ratios is not maintained at the time the ratios are tested, the interest rate will be increased by 0.25% until such time as the required financial ratios are maintained. In addition, if MSTW fails to maintain a required financial ratio for two consecutive semi-annual periods, such failure will constitute an event of default that could result in all obligations owed under the 2021 Term Loan being accelerated to be immediately due and payable. Our failure to maintain a required consolidated financial ratio will only result in an increase to the interest rate and will not constitute an event of default. The 2021 Term Loan also contains customary events of default and is guaranteed by Micron.

To hedge our currency exposure of this borrowing, in December 2016, subsequent to the end of our first quarter of 2017, we entered into a series of currency forward contracts to purchase an aggregate of 80 billion New Taiwan dollars under a rolling hedge strategy. The forward contracts expire at various dates through June 2017.

Micron Shares: In connection with the Inotera Acquisition, subsequent to the end of our first quarter of 2017, we sold 58 million shares of our common stock to Nanya for $981 million (the "Micron Shares"), of which 54 million were issued from treasury stock. The sale of the Micron Shares was exempt from the registration requirements of the Securities Act of 1933, as amended, and the Micron Shares are subject to certain restrictions on transfers. Our accounting for the Inotera Acquisition will include the fair value of the Micron Shares as of the acquisition date as consideration.

Limitations on the Use of Cash and Investments

***MMJ Group*:** Cash and equivalents and short-term investments in the table above included an aggregate of $684 million held by the MMJ Group as of December 1, 2016. As a result of the corporate reorganization proceedings the MMJ Companies initiated in March 2012, and for so long as such proceedings are continuing, the MMJ Companies and their subsidiaries are prohibited from paying dividends, including any cash dividends, to us. In addition, pursuant to an order of the Japan Court, the MMJ Companies cannot make loans or advances, other than certain ordinary course advances, to us without the consent of the Japan Court and may, under certain circumstances, be subject to approval of the legal trustees and Japan Court. As a result, the assets of the MMJ Group are not available for use by us in our other operations. Furthermore, certain uses of the assets of the MMJ Group, including investments in certain capital expenditures and in MMT, may require consent of MMJ's trustees and/or the Japan Court.

***IMFT*:** Cash and equivalents and short-term investments in the table above included $77 million held by IMFT as of December 1, 2016. Our ability to access funds held by IMFT to finance our other operations is subject to agreement by Intel and contractual limitations. Amounts held by IMFT are not anticipated to be available to finance our other operations.

***Indefinitely Reinvested*:** As of December 1, 2016, $723 million of cash and equivalents and short-term investments, including substantially all of the amounts held by the MMJ Group, was held by foreign subsidiaries whose earnings were considered to be indefinitely reinvested and repatriation of these funds to the U.S. would subject these funds to U.S. federal income taxes. Determination of the amount of unrecognized deferred tax liabilities related to investments in these foreign subsidiaries is not practicable.

Cash Flows

	First Quarter	
	2017	2016
Net cash provided by operating activities	$ 1,138	$ 1,120
Net cash provided by (used for) investing activities	(890)	(660)
Net cash provided by (used for) financing activities	(212)	(140)
Effect of changes in currency exchange rates on cash and equivalents	(37)	(2)
Net increase (decrease) in cash and equivalents	$ (1)	$ 318

***Operating Activities*:** For the first quarter of 2017, cash provided by operating activities was due primarily to cash generated by our operations and the effect of working capital adjustments, which included $401 million cash used for net increases in receivables and $299 million cash provided by net increases in accounts payable and accrued expenses. For the first quarter of 2016, cash provided by operating activities was due primarily to cash generated by our operations and the effect of working capital adjustments, which included $297 million of cash provided from net reductions in receivables.

***Investing Activities*:** For the first quarter of 2017, net cash used for investing activities consisted primarily of $1.26 billion of expenditures for property, plant, and equipment (which excludes offsets of amounts funded by our partners), partially offset by $483 million of net inflows from sales, maturities, and purchases of available-for-sale securities. For the first quarter of 2016, net cash used for investing activities consisted primarily of $990 million of expenditures for property, plant, and equipment (which excludes offsets of amounts funded by our partners) and $148 million for our acquisition of Tidal Systems, Ltd., partially offset by $534 million of net inflows from sales, maturities, and purchases of available-for-sale securities.

***Financing Activities*:** For the first quarter of 2017, net cash used for financing activities consisted primarily of $188 million for repayments of debt. For the first quarter of 2016, net cash used for financing activities consisted primarily of $197 million for repayments of debt (including $36 million for the amount in excess of principal in connection with the repurchase of a portion of our convertible notes) and $125 million for the open-market repurchases of 7 million shares of our common stock, partially offset by $174 million of proceeds from the issuance of debt. See "Item 1. Financial Statements – Notes to Consolidated Financial Statements – Debt."

Potential Settlement Obligations of Convertible Notes

Since the closing price of our common stock for at least 20 trading days in the 30 trading day period ended on December 31, 2016 exceeded 130% of the conversion price per share of our 2032 Notes and 2033 Notes, those notes will be convertible by the holders during the calendar quarter ended March 31, 2017. The following table summarizes the potential settlements that we could be required to make for the calendar quarter ending March 31, 2017 if all holders converted their 2032 Notes and 2033 Notes. The amounts in the table below are based on our closing share price of $18.48 as of December 1, 2016.

	Settlement Option for			If Settled With Minimum Cash Required		If Settled Entirely With Cash
	Principal Amount	Amount in Excess of Principal	Underlying Shares	Cash	Remainder in Shares	Cash
2032C Notes	Cash and/or shares	Cash and/or shares	23	$ —	23	$ 429
2032D Notes	Cash and/or shares	Cash and/or shares	18	—	18	328
2033E Notes	Cash	Cash and/or shares	16	176	7	297
2033F Notes	Cash	Cash and/or shares	27	297	11	502
			84	$ 473	59	$ 1,556

Contractual Obligations

	Payments Due by Period						
As of December 1, 2016	**Total**	**Remainder of 2017**	**2018**	**2019**	**2020**	**2021**	**2022 and Thereafter**
Notes payable[(1)(2)]	$ 11,713	$ 675	$ 893	$ 898	$ 1,040	$ 551	$ 7,656
Capital lease obligations[(2)]	1,405	292	352	299	204	77	181
Operating leases[(3)]	903	317	404	129	14	11	28
Total	$ 14,021	$ 1,284	$ 1,649	$ 1,326	$ 1,258	$ 639	$ 7,865

(1) *Amounts include MMJ Creditor Installment Payments, convertible notes, and other notes. Any future redemptions, repurchases, or conversions of debt could impact the amount and timing of our cash payments.*

(2) *Amounts include principal and interest.*

(3) *Amounts include contractually obligated minimum lease payments for operating leases having an initial noncancelable term in excess of one year and primarily relate to the expected costs which meet the criteria of a minimum operating lease payment under our Inotera supply agreement. As a result of the Inotera Acquisition on December 6, 2016, subsequent to the end of our first quarter of 2017, these amounts become intercompany transactions and will be eliminated in our consolidated financial statements.*

The expected timing of payment amounts of the obligations discussed above is estimated based on current information. Timing and actual amounts paid may differ depending on the timing of receipt of goods or services, market prices, changes to agreed-upon amounts, or timing of certain events for some obligations. The contractual obligations in the table above include the current portions of the related long-term obligations. All other current liabilities are excluded.

Recently Adopted Accounting Standards

See "Item 1. Financial Statements – Notes to Consolidated Financial Statements – Recently Adopted Accounting Standards."

Recently Issued Accounting Standards

See "Item 1. Financial Statements – Notes to Consolidated Financial Statements – Recently Issued Accounting Standards."

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Interest Rate Risk

We are exposed to interest rate risk related to our indebtedness and our investment portfolio. A substantial portion of our indebtedness is at fixed interest rates. As a result, the fair value of our debt fluctuates based on changes in market interest rates. We estimate that, as of December 1, 2016 and September 1, 2016, a decrease in market interest rates of 1% would increase the fair value of our notes payable by approximately $395 million and $420 million, respectively. A 1% increase in the interest rates of our variable-rate debt would result in an increase in interest expense of approximately $10 million per year. In addition, in connection with the Inotera Acquisition, we drew 80 billion New Taiwan dollars under the 2021 Term Loan on December 6, 2016, subsequent to the end of our first quarter of 2017, at a variable interest rate. A 1% increase in the interest rates of our 2021 Term Loan would result in an increase in interest expense of approximately $25 million per year.

As of December 1, 2016 and September 1, 2016, we held fixed-rate debt securities of $321 million and $1.11 billion, respectively, that were subject to interest rate risk. We estimate that a 0.5% increase in market interest rates would decrease the fair value of these instruments by approximately $1 million as of December 1, 2016 and September 1, 2016.

Foreign Currency Exchange Rate Risk

The information in this section should be read in conjunction with the information related to changes in the currency exchange rates in "Part II. Other Information – Item 1A. Risk Factors." Changes in currency exchange rates could materially adversely affect our results of operations or financial condition.

The functional currency for all of our operations is the U.S. dollar. The substantial majority of our sales are transacted in the U.S. dollar; however, significant amounts of our operating expenditures and capital purchases are incurred in or exposed to other currencies, primarily the euro, Singapore dollar, New Taiwan dollar, and yen. We have established currency risk management programs for our operating expenditures and capital purchases to hedge against fluctuations in the fair value and volatility of future cash flows caused by changes in currency exchange rates. We generally utilize currency forward contracts in these hedging programs, which reduce, but do not always entirely eliminate, the impact of currency exchange rate movements. We do not use derivative financial instruments for trading or speculative purposes.

Based on our foreign currency balances from monetary assets and liabilities, we estimate that a 10% adverse change in exchange rates versus the U.S. dollar would result in losses of approximately $289 million as of December 1, 2016 (or, after giving effect to the 80 billion New Taiwan dollars we drew on the 2021 Term Loan on December 6, 2016 and the use of cash to fund the Inotera Acquisition, losses of $462 million) and $241 million as of September 1, 2016. We hedge our exposure to changes in currency exchange rates from our monetary assets and liabilities by utilizing a rolling hedge strategy for our primary currency exposures with currency forward contracts that generally mature within 35 days. In addition, we have entered into foreign currency forward contracts that mature in as many as 24 months to hedge our currency exchange rate risk on certain debt. The effectiveness of these hedges is dependent upon our ability to accurately forecast our monetary assets and liabilities. To hedge the exposure of changes in cash flows from changes in currency exchange rates for certain capital expenditures, we utilize currency forward contracts that generally mature within 12 months. (See "Item 1. Financial Statements – Notes to Consolidated Financial Statements – Derivative Instruments.")

ITEM 4. CONTROLS AND PROCEDURES

An evaluation was carried out under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rule 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934) as of the end of the period covered by this report. Based upon that evaluation, the principal executive officer and principal financial officer concluded that those disclosure controls and procedures were effective to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act are recorded, processed, summarized, and reported within the time periods specified in the Commission's rules and forms and that such information is accumulated and communicated to our management, including the principal executive officer and principal financial officer, to allow timely decision regarding disclosure.

During the quarterly period covered by this report, there were no changes in our internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

Reorganization Proceedings of the MMJ Companies

In July 2013, we completed the acquisition of Elpida, now known as MMJ, a Japanese corporation, pursuant to the terms and conditions of an Agreement on Support for Reorganization Companies (as amended, the "Sponsor Agreement") that we entered into in July 2012 with the trustees of the MMJ Companies' pending corporate reorganization proceedings under the Corporate Reorganization Act of Japan. The MMJ Companies filed petitions for commencement of corporate reorganization proceedings with the Japan Court under the Corporate Reorganization Act of Japan in February 2012, and the Japan Court issued an order to commence the reorganization proceedings (the "Japan Proceedings") in March 2012. Under the Sponsor Agreement, we agreed to provide certain support for the reorganization of the MMJ Companies and the trustees agreed to prepare and seek approval from the Japan Court and the MMJ Companies' creditors of plans of reorganization consistent with such support.

The trustees initially submitted the proposed plans of reorganization for the MMJ Companies to the Japan Court in August 2012 and submitted final proposed plans in October 2012. In October 2012, the Japan Court approved submission of the trustees' proposed plans of reorganization to creditors for approval. In February 2013, the MMJ Companies' creditors approved the reorganization plans and in February 2013, the Japan Court issued an order approving the plans of reorganization. Appeals filed by certain creditors of MMJ in Japan challenging the plan approval order issued by the Japan Court were denied.

In a related action, MMJ filed a Verified Petition for Recognition and Chapter 15 Relief in the United States Bankruptcy Court for the District of Delaware (the "U.S. Court") in March 2012 and, in April 2012, the U.S. Court entered an order that, among other things, recognized MMJ's corporate reorganization proceeding as a foreign main proceeding pursuant to 11 U.S.C. § 1517(b). On June 25, 2013, the U.S. Court issued a recognition order, which recognized the order of the Japan Court approving MMJ's plan of reorganization. In November 2013, the U.S. Court closed the U.S. Chapter 15 proceeding.

The plans of reorganization provide for payments by the MMJ Companies to their secured and unsecured creditors in an aggregate amount of 200 billion yen, less certain expenses of the reorganization proceedings and certain other items. The plans of reorganization also provided for the investment by us pursuant to the Sponsor Agreement of 60 billion yen paid at closing in cash into MMJ in exchange for 100% ownership of MMJ's equity and the use of such investment to fund the initial installment payment by the MMJ Companies to their creditors of 60 billion yen, subject to reduction for certain items specified in the Sponsor Agreement and plans of reorganization.

Under MMJ's plan of reorganization, secured creditors will recover 100% of the amount of their fixed claims and unsecured creditors will recover at least 17.4% of the amount of their fixed claims. The actual recovery of unsecured creditors will be higher, however, based, in part, on events and circumstances occurring following the plan approval. The remaining portion of the unsecured claims will be discharged, without payment, over the period that payments are made pursuant to the plans of reorganization. The secured creditors will be paid in full on or before the sixth installment payment date, while the unsecured creditors will be paid in seven installments. MAI's plan of reorganization provides that secured creditors will recover 100% of the amount of their claims, whereas unsecured creditors will recover 19% of the amount of their claims. The secured creditors of MAI were paid in full on the first installment payment date, while the unsecured creditors will be paid in seven installments.

Because the plans of reorganization of the MMJ Companies provide for ongoing payments to creditors following the closing of the MMJ acquisition, the Japan Proceedings are continuing and the MMJ Companies remain subject to the oversight of the Japan Court and of the trustees (including a trustee designated by us, who we refer to as the business trustee, and a trustee designated by the Japan Court, who we refer to as the legal trustee), pending completion of the reorganization proceedings. The business trustee makes decisions in relation to the operation of the businesses of the MMJ Companies, other than decisions in relation to acts that need to be carried out in connection with the Japan Proceedings, which are the responsibility of the legal trustee. The Japan Proceedings and oversight of the Japan Court will continue until the final creditor payment is made under the MMJ Companies' plans of reorganization, which is scheduled to occur in December 2019, but may occur on a later date to the extent any claims of creditors remain unfixed on the final scheduled installment payment date. The MMJ Companies may petition the Japan Court for an early termination of the Japan Proceedings once two-thirds of all payments under the plans of reorganization are made. Although such early terminations are customarily granted, there can be no assurance that the Japan Court will grant any such petition in these particular cases.

During the pendency of the Japan Proceedings, the MMJ Companies are obligated to provide periodic financial reports to the Japan Court and may be required to obtain the consent of the Japan Court prior to taking a number of significant actions relating to their businesses, including transferring or disposing of, or acquiring, certain material assets, incurring or guaranteeing material indebtedness, settling material disputes, or entering into certain material agreements. The consent of the legal trustee may also be required for matters that would likely have a material impact on the operations or assets of the MMJ Companies and their subsidiaries or for transfers of material assets, to the extent the matters or transfers would reasonably be expected to materially and adversely affect execution of the plans of reorganization of the MMJ Companies. Accordingly, during the pendency of the Japan Proceedings, our ability to effectively integrate the MMJ Companies as part of our global operations or to cause the MMJ Companies to take certain actions that we deem advisable for their businesses could be adversely affected if the Japan Court or the legal trustee is unwilling to consent to various actions that we may wish to take with respect to the MMJ Companies.

Other Proceedings

For a discussion of other legal proceedings, see "Part I. Financial Information – Item 1. Financial Statements – Notes to Consolidated Financial Statements – Contingencies" and "Item 1A. Risk Factors."

ITEM 1A. RISK FACTORS

In addition to the factors discussed elsewhere in this Form 10-Q, the following are important factors which could cause actual results or events to differ materially from those contained in any forward-looking statements made by us. The order of these factors is not necessarily indicative of the level of risk that each poses to us. Our operations could also be affected by other factors that are presently unknown to us or not considered significant. The factors below could materially adversely affect our business, financial condition, results of operations, and stock price.

We have experienced dramatic declines in average selling prices for our semiconductor memory products which have adversely affected our business.

If average selling prices for our memory products decrease faster than we can decrease per gigabit costs, our business, results of operations, or financial condition could be materially adversely affected. We have experienced significant decreases in our average selling prices per gigabit in previous years as noted in the table below and may continue to experience such decreases in the future. In some prior periods, average selling prices for our memory products have been below our manufacturing costs and we may experience such circumstances in the future.

	DRAM	Trade Non-Volatile
	(percentage change in average selling prices)	
2016 from 2015	(35)%	(20)%
2015 from 2014	(11)%	(17)%
2014 from 2013	6 %	(23)%
2013 from 2012	(11)%	(18)%
2012 from 2011	(45)%	(55)%

We may be unable to maintain or improve gross margins.

Our gross margins are dependent upon continuing decreases in per gigabit manufacturing costs achieved through improvements in our manufacturing processes and product designs, including, but not limited to, process line-width, additional 3D memory layers, additional bits per cell (i.e., cell levels), architecture, number of mask layers, number of fabrication steps, and yield. In future periods, we may be unable to reduce our per gigabit manufacturing costs at sufficient levels to maintain or improve gross margins. Factors that may limit our ability to reduce costs include, but are not limited to, strategic product diversification decisions affecting product mix, the increasing complexity of manufacturing processes, difficulties in transitioning to smaller line-width process technologies, technological barriers, changes in process technologies, and new products that may require relatively larger die sizes. Per gigabit manufacturing costs may also be affected by the relatively smaller production quantities and shorter product lifecycles of certain specialty memory products.

The semiconductor memory industry is highly competitive.

We face intense competition in the semiconductor memory market from a number of companies, including Intel; Samsung Electronics Co., Ltd.; SK Hynix Inc.; Toshiba Corporation; and Western Digital Corporation. Some of our competitors are large corporations or conglomerates that may have greater resources to invest in technology, capitalize on growth opportunities, and withstand downturns in the semiconductor markets in which we compete. Consolidation of industry competitors could put us at a competitive disadvantage. In addition, some governments, such as China, have provided, and may continue to provide, significant financial assistance to some of our competitors or to new entrants. Our competitors seek to increase silicon capacity, improve yields, reduce die size, and minimize mask levels in their product designs resulting in significant increases in the worldwide supply of semiconductor memory and downward pressure on prices. Increases in worldwide supply of semiconductor memory also result from semiconductor memory fab capacity expansions, either by way of new facilities, increased capacity utilization, or reallocation of other semiconductor production to semiconductor memory production. Our competitors may increase capital expenditures resulting in future increases in worldwide supply. We and some of our competitors have plans to or are constructing or ramping production at new fabrication facilities. Increases in worldwide supply of semiconductor memory, if not accompanied by commensurate increases in demand, would lead to further declines in average selling prices for our products and would materially adversely affect our business, results of operations, or financial condition. If competitors are more successful at developing or implementing new product or process technology, their products could have cost or performance advantages.

Debt obligations could adversely affect our financial condition.

In recent periods, our debt levels have increased due to the capital intensive nature of our business, business acquisitions, and restructuring of our capital structure. As of December 1, 2016, we had debt with a carrying value of $9.65 billion. In addition, in connection with the Inotera Acquisition, on December 6, 2016, we drew 80 billion New Taiwan dollars (equivalent to $2.5 billion) under the 2021 Term Loan. As of December 1, 2016, we also had an available five-year variable-rate facility agreement to obtain up to $800 million of financing, collateralized by certain production equipment, of which we drew $450 million on December 2, 2016, and the remainder may be utilized in multiple draws until June 10, 2017. As of December 1, 2016, we also had a revolving credit facility available for up to $675 million of additional financing. The availability of this revolving facility is subject to certain conditions, including outstanding balances of eligible receivables. Events and circumstances may occur which would cause us to not be able to satisfy these applicable draw-down conditions and utilize this facility. We have incurred in the past, and expect to incur in the future, debt to finance our capital investments, business acquisitions, and restructuring of our capital structure.

Our debt obligations could adversely impact us. For example, these obligations could:

- require us to use a large portion of our cash flow to pay principal and interest on debt, which will reduce the amount of cash flow available to fund working capital, capital expenditures, acquisitions, R&D expenditures, and other business activities;
- result in all obligations owing under the 2021 Term Loan being accelerated to be immediately due and payable if our MSTW subsidiary fails to comply with financial covenants;
- increase the interest rate under the 2021 Term Loan if we or MSTW fails to maintain certain financial covenants;
- adversely impact our credit rating, which could increase future borrowing costs;
- limit our future ability to raise funds for capital expenditures, strategic acquisitions or business opportunities, R&D, and other general corporate requirements;
- restrict our ability to incur indebtedness, create or incur certain liens, and enter into sale-leaseback financing transactions;
- increase our vulnerability to adverse economic and semiconductor memory industry conditions;
- continue to dilute our earnings per share as a result of the conversion provisions in our convertible notes; and
- require us to continue to pay cash amounts substantially in excess of the principal amounts upon settlement of our convertible notes to minimize dilution of our earnings per share.

Our ability to meet our payment obligations under our debt instruments depends on our ability to generate significant cash flows in the future. This, to some extent, is subject to market, economic, financial, competitive, legislative, and regulatory factors as well as other factors that are beyond our control. There can be no assurance that our business will generate cash flow from operations, or that additional capital will be available to us, in an amount sufficient to enable us to meet our debt payment obligations and to fund other liquidity needs. If we are unable to generate sufficient cash flow to service our debt obligations, we may need to refinance or restructure our debt, sell assets, reduce or delay capital investments, or seek to raise additional capital. If we were unable to implement one or more of these alternatives, we may be unable to meet our debt payment obligations, which could have a material adverse effect on our business, results of operations, or financial condition.

We may be unable to generate sufficient cash flows or obtain access to external financing necessary to fund our operations, make scheduled debt payments, and make adequate capital investments.

Our cash flows from operations depend primarily on the volume of semiconductor memory sold, average selling prices, and manufacturing costs. To develop new product and process technologies, support future growth, achieve operating efficiencies, and maintain product quality, we must make significant capital investments in manufacturing technology, capital equipment, facilities, R&D, and product and process technology. We estimate that net cash expenditures in 2017 for property, plant, and equipment will be approximately $4.8 billion to $5.2 billion, which reflects the offset of amounts we expect to be funded by our partners. Investments in capital expenditures for the first quarter of 2017, offset by amounts funded by our partners, were $1.18 billion. As of December 1, 2016, we had cash and marketable investments of $4.32 billion. As of December 1, 2016, $723 million of cash and equivalents and short-term investments, including substantially all of the $684 million held by the MMJ Group, were held by foreign subsidiaries whose earnings were considered to be indefinitely reinvested and repatriation of these funds to the U.S. would subject these funds to U.S. federal income taxes. In addition, cash held by IMFT of $77 million was generally not available to finance our other operations.

As a result of the Japan Proceedings, for so long as such proceedings are continuing, the MMJ Companies are prohibited from paying dividends, including any cash dividends, to us and require that excess earnings be used in their businesses or to fund the MMJ Companies' installment payments. In addition, pursuant to an order of the Japan Court, the MMJ Companies cannot make loans or advances, other than certain ordinary course advances, to us without the consent of the Japan Court and may, under certain circumstances, be subject to approval of the legal trustees and Japan Court. As a result, the assets of the MMJ Companies are not available for use by us in our other operations. Furthermore, certain uses of the assets of the MMJ Group, including investments in certain capital expenditures and in MMT, may require consent of MMJ's trustees and/or the Japan Court.

In the past we have utilized external sources of financing when needed. As a result of our debt levels, expected debt amortization, and general economic conditions, it may be difficult for us to obtain financing on terms acceptable to us. There can be no assurance that we will be able to generate sufficient cash flows, use cash held by MMJ to fund its capital expenditures, access capital markets or find other sources of financing to fund our operations, make debt payments, and make adequate capital investments to remain competitive in terms of technology development and cost efficiency. Our inability to do the foregoing could have a material adverse effect on our business, results of operations, or financial conditions.

Our acquisition of the remaining shares of Inotera involves numerous risks.

On December 6, 2016, subsequent to the end of our first quarter of 2017, we acquired the 67% interest in Inotera not owned by us for an aggregate of $4.1 billion in cash (the "Inotera Acquisition"), funded with 80 billion New Taiwan dollars (equivalent to $2.5 billion) of proceeds from the 2021 Term Loan, $981 million of proceeds from the sale of shares of our common stock to Nanya, and cash on hand. Prior to December 6, 2016, we held a 33% ownership interest in Inotera, Nanya and certain of its affiliates held a 32% ownership interest, and the remaining ownership interest was publicly held.

In addition to the acquisition risks described elsewhere, the acquisition is expected to involve the following significant risks:

- we may be unable to realize the anticipated financial benefits of the acquisition;
- increased exposure to the DRAM market, which experienced significant declines in pricing during 2015 and 2016;
- increased leverage resulting from the transaction;
- higher capital expenditures in future periods;
- increased exposure to operating costs denominated in New Taiwan dollars;
- changed relationship with Nanya and its affiliated companies;
- effectiveness of internal controls and disclosure controls and procedures;
- effectiveness of environmental, health and safety, anti-corruption, human resource, or other policies or practices;
- integration issues with Inotera's manufacturing operations in Taiwan; and
- integration of business systems and processes.

Our acquisition of the remaining shares of Inotera is inherently risky and may materially adversely affect our business, results of operations, or financial condition. (See "Part I Financial Information – Item 1. Financial Statements – Notes to Consolidated Financial Statements – Acquisition of Inotera.")

Our future success depends on our ability to develop and produce competitive new memory technologies.

Our key semiconductor memory technologies of DRAM and NAND Flash face technological barriers to continue to meet long-term customer needs. These barriers include potential limitations on the ability to shrink products in order to reduce costs, meet higher density requirements, and improve power consumption and reliability. To meet these requirements, we expect that new memory technologies will be developed by the semiconductor memory industry. Our competitors are working to develop new memory technologies that may offer performance and cost advantages to our existing memory technologies and render existing technologies obsolete. Accordingly, our future success may depend on our ability to develop and produce viable and competitive new memory technologies. There can be no assurance of the following:

- that we will be successful in developing competitive new semiconductor memory technologies;
- that we will be able to cost-effectively manufacture new products;
- that we will be able to successfully market these technologies; and
- that margins generated from sales of these products will allow us to recover costs of development efforts.

In 2015, we announced the development of new 3D XPoint technology, which is an entirely new class of non-volatile memory. There is no assurance that our efforts to develop and market this new product technology will be successful. If our efforts to develop new semiconductor memory technologies are unsuccessful, our business, results of operations, or financial condition may be materially adversely affected.

New product development may be unsuccessful.

We are developing new products, including system-level memory products, which complement our traditional memory products or leverage their underlying design or process technology. We have made significant investments in product and process technologies and anticipate expending significant resources for new semiconductor product development over the next several years. The process to develop DRAM, NAND Flash, and certain specialty memory products, requires us to demonstrate advanced functionality and performance, many times well in advance of a planned ramp of production, in order to secure design wins with our customers. There can be no assurance of the following:

- that our product development efforts will be successful;
- that we will be able to cost-effectively manufacture new products;
- that we will be able to successfully market these products;
- that we will be able to qualify new products with our customers on a timely basis; or
- that margins generated from sales of these products will allow us to recover costs of development efforts.

If our efforts to develop new products are unsuccessful, our business, results of operations, or financial condition may be materially adversely affected.

Products that fail to meet specifications, are defective, or that are otherwise incompatible with end uses could impose significant costs on us.

Products that do not meet specifications or that contain, or are perceived by our customers to contain, defects or that are otherwise incompatible with end uses could impose significant costs on us or otherwise materially adversely affect our business, results of operations, or financial condition. From time to time we experience problems with nonconforming, defective or incompatible products after we have shipped such products. In recent periods we have further diversified and expanded our product offerings, which could potentially increase the chance that one or more of our products could fail to meet specifications in a particular application. As a result of these problems, we could be adversely affected in several ways, including the following:

- we may be required to compensate customers for costs incurred or damages caused by defective or incompatible product and to replace products;
- we could incur a decrease in revenue or adjustment to pricing commensurate with the reimbursement of such costs or alleged damages; and
- we may encounter adverse publicity, which could cause a decrease in sales of our products.

A determination that our products or manufacturing processes infringe the intellectual property rights of others or entering into a license agreement covering such intellectual property could materially adversely affect our business, results of operations, or financial condition.

As is typical in the semiconductor and other high technology industries, from time to time others have asserted, and may in the future assert, that our products or manufacturing processes infringe their intellectual property rights. We are unable to predict the outcome of assertions of infringement made against us. A determination that our products or manufacturing processes infringe the intellectual property rights of others, or entering a license agreement covering such intellectual property, could result in significant liability and/or require us to make material changes to our products and/or manufacturing processes. Any of the foregoing results could have a material adverse effect on our business, results of operations, or financial condition. (See "Part I. Financial Information – Item 1. Financial Statements – Notes to Consolidated Financial Statements – Contingencies.")

We have a number of intellectual property license agreements. Some of these license agreements require us to make one-time or periodic payments. We may need to obtain additional patent licenses or renew existing license agreements in the future. We are unable to predict whether these license agreements can be obtained or renewed on acceptable terms.

The acquisition of our ownership interest in Inotera from Qimonda has been challenged by the administrator of the insolvency proceedings for Qimonda.

On January 20, 2011, Dr. Michael Jaffé, administrator for Qimonda insolvency proceedings, filed suit against Micron and Micron Semiconductor B.V., our Netherlands subsidiary ("Micron B.V."), in the District Court of Munich, Civil Chamber. The complaint seeks to void under Section 133 of the German Insolvency Act a share purchase agreement between Micron B.V. and Qimonda signed in fall 2008 pursuant to which Micron B.V. purchased substantially all of Qimonda's shares of Inotera Memories, Inc. (the "Inotera Shares"), representing approximately 18% of Inotera's outstanding shares as of December 1, 2016, and seeks an order requiring us to re-transfer those shares to the Qimonda estate. The complaint also seeks, among other things, to recover damages for the alleged value of the joint venture relationship with Inotera and to terminate under Sections 103 or 133 of the German Insolvency Code a patent cross-license between us and Qimonda entered into at the same time as the share purchase agreement.

Following a series of hearings with pleadings, arguments, and witnesses on behalf of the Qimonda estate, on March 13, 2014, the Court issued judgments: (1) ordering Micron B.V. to pay approximately $1 million in respect of certain Inotera shares sold in connection with the original share purchase; (2) ordering Micron B.V. to disclose certain information with respect to any Inotera Shares sold by it to third parties; (3) ordering Micron B.V. to disclose the benefits derived by it from ownership of the Inotera Shares, including in particular, any profits distributed on such shares and all other benefits; (4) denying Qimonda's claims against Micron for any damages relating to the joint venture relationship with Inotera; and (5) determining that Qimonda's obligations under the patent cross-license agreement are canceled. In addition, the Court issued interlocutory judgments ordering, among other things: (1) that Micron B.V. transfer to the Qimonda estate the Inotera Shares still owned by it and pay to the Qimonda estate compensation in an amount to be specified for any Inotera Shares sold to third parties; and (2) that Micron B.V. pay the Qimonda estate as compensation an amount to be specified for benefits derived by it from ownership of the Inotera Shares. The interlocutory judgments have no immediate, enforceable effect on us, and, accordingly, we expect to be able to continue to operate with full control of the Inotera Shares subject to further developments in the case. We have filed a notice of appeal, and the parties have submitted briefs to the appeals court.

We are unable to predict the outcome of the matter and therefore cannot estimate the range of possible loss. The final resolution of this lawsuit could result in the loss of the Inotera Shares or monetary damages, unspecified damages based on the benefits derived by Micron B.V. from the ownership of the Inotera Shares, and/or the termination of the patent cross-license, which could have a material adverse effect on our business, results of operation, or financial condition.

Our joint ventures and strategic relationships involve numerous risks.

We have entered into strategic relationships, including our IMFT joint venture with Intel, to manufacture products and develop new manufacturing process technologies and products. These joint ventures and strategic relationships are subject to various risks that could adversely affect the value of our investments and our results of operations. These risks include the following:

- our interests could diverge from our partners or we may not be able to agree with partners on ongoing manufacturing and operational activities, or on the amount, timing, or nature of further investments in our joint venture;
- our joint venture partners' products may compete with our products;

- we may experience difficulties in transferring technology to joint ventures;
- we may experience difficulties and delays in ramping production at joint ventures;
- our control over the operations of our joint ventures is limited;
- we may recognize losses from our equity method investments;
- due to financial constraints, our joint venture partners may be unable to meet their commitments to us or our joint ventures and may pose credit risks for our transactions with them;
- due to differing business models or long-term business goals, we and our partners may not participate to the same extent on funding capital investments in our joint ventures;
- cash flows may be inadequate to fund increased capital requirements;
- we may experience difficulties or delays in collecting amounts due to us from our joint ventures and partners;
- the terms of our partnering arrangements may turn out to be unfavorable; and
- changes in tax, legal, or regulatory requirements may necessitate changes in the agreements with our partners.

If our joint ventures and strategic relationships are unsuccessful, our business, results of operations, or financial condition may be materially adversely affected.

If our manufacturing process is disrupted, our business, results of operations, or financial condition could be materially adversely affected.

We manufacture products using highly complex processes that require technologically advanced equipment and continuous modification to improve yields and performance. Difficulties in the manufacturing process or the effects from a shift in product mix can reduce yields or disrupt production and may increase our per gigabit manufacturing costs. We maintain operations and continuously implement new product and process technology at our manufacturing operations which are widely dispersed in multiple locations in several countries including the U.S., Singapore, Taiwan, Japan, Malaysia, and China. Additionally, our control over operations at IMFT and Tera Probe is limited by our agreements with our partners. From time to time, we have experienced disruptions in our manufacturing process as a result of power outages, improperly functioning equipment, equipment failures, earthquakes, or other environmental events. If production at a fabrication facility is disrupted for any reason, manufacturing yields may be adversely affected or we may be unable to meet our customers' requirements and they may purchase products from other suppliers. This could result in a significant increase in manufacturing costs, loss of revenues, or damage to customer relationships, any of which could materially adversely affect our business, results of operations, or financial condition.

We may incur additional restructure charges in future periods.

In the fourth quarter of 2016, we initiated a restructure plan in response to business conditions and the need to accelerate focus on our key priorities (the "2016 Restructuring Plan"). The 2016 Restructuring Plan includes the elimination of certain projects and programs, the permanent closure of a number of open headcount requisitions, workforce reductions in certain areas of the business, and other non-headcount related spending reductions. In connection with the plan, we incurred charges of $29 million in the first quarter of 2017 and $58 million in the fourth quarter of 2016 and do not expect to incur additional material charges. As of December 1, 2016 and September 1, 2016, we had accrued liabilities of $17 million and $24 million, respectively, related to the 2016 Restructuring Plan.

We may not realize the expected savings or other benefits from our restructure plans and may also incur additional restructure charges or other losses associated with other initiatives in future periods. In connection with those initiatives, we could incur restructure charges, loss of production output, loss of key personnel, disruptions in our operations, and difficulties in the timely delivery of products, which could materially adversely affect our business, results of operations, or financial condition.

The operations of the MMJ Companies are subject to continued oversight by the Japan Court during the pendency of the corporate reorganization proceedings.

Because the plans of reorganization of the MMJ Companies provide for ongoing payments to creditors following the closing of our acquisition of MMJ, the Japan Proceedings are continuing, and the MMJ Companies remain subject to the oversight of the Japan Court and of the trustees (including a trustee designated by us, who we refer to as the business trustee, and a trustee designated by the Japan Court, who we refer to as the legal trustee), pending completion of the Japan Proceedings. The Japan Proceedings and oversight of the Japan Court are expected to continue until the final creditor payment is made under the MMJ Companies' plans of reorganization, which is scheduled to occur in December 2019, but may occur on a later date to the extent any claims of creditors remain unfixed on the final scheduled installment payment date. Although we may be able to

petition the court to terminate the Japan Proceedings once two-thirds of all payments under the plans of reorganization are made, there can be no assurance that the Japan Court will grant any such petition.

During the pendency of the Japan Proceedings, the MMJ Companies are obligated to provide periodic financial reports to the Japan Court and may be required to obtain the consent of the Japan Court prior to taking a number of significant actions relating to their businesses, including transferring or disposing of, or acquiring, certain material assets, incurring or guaranteeing material indebtedness, settling disputes, or entering into certain material agreements. The consent of the legal trustee may also be required for matters that would likely have a material impact on the operations or assets of the MMJ Companies and their subsidiaries or for transfers of material assets, to the extent the matters or transfers would reasonably be expected to materially and adversely affect execution of the plans of reorganization of the MMJ Companies. Accordingly, during the pendency of the Japan Proceedings, our ability to effectively operate the MMJ Companies as part of our global operations or to cause the MMJ Companies to take certain actions that we deem advisable for their businesses could be adversely affected if the Japan Court or the legal trustee is unwilling to consent to various actions that we may wish to take with respect to the MMJ Companies.

Changes in foreign currency exchange rates could materially adversely affect our business, results of operations, or financial condition.

Across our global operations, significant transactions and balances are denominated in currencies other than the U.S. dollar (our reporting currency), primarily the euro, Singapore dollar, New Taiwan dollar, and yen. We recorded net losses from changes in currency exchange rates of $12 million for the first quarter of 2017, $24 million for 2016, and $27 million for 2015. Based on our foreign currency balances of monetary assets and liabilities as of December 1, 2016 and after giving effect to the 80 billion New Taiwan dollars we drew on the 2021 Term Loan on December 6, 2016 and the use of cash to fund the Inotera Acquisition, we estimate that a 10% adverse change in exchange rates versus the U.S. dollar would result in losses of approximately $462 million. Although we hedge our exposure to changes in currency exchange rates from our monetary assets and liabilities by hedging our primary currency exposures with currency forward contracts, the effectiveness of these hedges is dependent upon our ability to accurately forecast our monetary assets and liabilities. In addition, a significant portion of our manufacturing costs are denominated in foreign currencies. Exchange rates for some of these currencies against the U.S. dollar, particularly the yen, have been volatile in recent periods. If these currencies strengthen against the U.S. dollar, our manufacturing costs could significantly increase. In the event that exchange rates for the U.S. dollar adversely change against our foreign currency exposures, our results of operations or financial condition may be adversely affected. In addition, in connection with Inotera Acquisition, our exposure to changes in foreign currency exchange rates could increase if not offset by corresponding hedges.

We may make future acquisitions and/or alliances, which involve numerous risks.

Acquisitions and the formation or operation of alliances, such as joint ventures and other partnering arrangements, involve numerous risks including the following:

- integrating the operations, technologies, and products of acquired or newly formed entities into our operations;
- increasing capital expenditures to upgrade and maintain facilities;
- increased debt levels;
- the assumption of unknown or underestimated liabilities;
- the use of cash to finance a transaction, which may reduce the availability of cash to fund working capital, capital expenditures, R&D expenditures, and other business activities;
- diverting management's attention from daily operations;
- managing larger or more complex operations and facilities and employees in separate and diverse geographic areas;
- hiring and retaining key employees;
- requirements imposed by governmental authorities in connection with the regulatory review of a transaction, which may include, among other things, divestitures or restrictions on the conduct of our business or the acquired business;
- inability to realize synergies or other expected benefits;
- failure to maintain customer, vendor, and other relationships;
- inadequacy or ineffectiveness of an acquired company's internal financial controls, disclosure controls and procedures, and/or environmental, health and safety, anti-corruption, human resource, or other policies or practices; and
- impairment of acquired intangible assets and goodwill as a result of changing business conditions, technological advancements, or worse-than-expected performance of the acquired business.

In previous years, supply of memory products has significantly exceeded customer demand, resulting in significant declines in average selling prices for DRAM, NAND Flash, and NOR Flash products. Resulting operating losses have led to the

deterioration in the financial condition of a number of industry participants, including the liquidation of Qimonda and the 2012 bankruptcy filing by Elpida (now known as MMJ). These types of proceedings often lead to court-directed processes involving the sale of related businesses or assets. We believe the global memory industry is experiencing a period of consolidation as a result of these market conditions and other factors, and we may engage in discussions regarding potential acquisitions and similar opportunities arising out of these industry conditions. To the extent we are successful in completing any such transactions, we could be subject to some or all of the risks described above, including the risks pertaining to funding, assumption of liabilities, integration challenges, and increases in debt that may accompany such transactions. Acquisitions of, or alliances with, high-technology companies are inherently risky and may not be successful and may materially adversely affect our business, results of operations, or financial condition.

Breaches of our security systems could expose us to losses.

We maintain a system of controls over the physical security of our facilities. We also manage and store various proprietary information and sensitive or confidential data relating to our operations. In addition, we process, store, and transmit large amounts of data relating to our customers and employees, including sensitive personal information. Unauthorized persons or employees may gain access to our facilities or network systems to steal trade secrets or other proprietary information, compromise confidential information, create system disruptions, or cause shutdowns. These parties may also be able to develop and deploy viruses, worms, and other malicious software programs that disrupt our operations and create security vulnerabilities. Breaches of our physical security and attacks on our network systems could result in significant losses and damage our reputation with customers and suppliers and could expose us to litigation if the confidential information of our customers, suppliers, or employees is compromised.

Compliance with regulations regarding the use of conflict minerals could limit the supply and increase the cost of certain metals used in manufacturing our products.

Increased focus on environmental protection and social responsibility initiatives led to the passage of Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd-Frank Act") and its implementing Securities and Exchange Commission regulations. The Dodd-Frank Act imposes supply chain diligence and disclosure requirements for certain manufacturers of products containing specific minerals that may originate in or near the Democratic Republic of the Congo (the "DRC") and finance or benefit local armed groups. These "conflict minerals" are commonly found in materials used in the manufacture of semiconductors. The implementation of these new regulations may limit the sourcing and availability of some of these materials. This in turn may affect our ability to obtain materials necessary for the manufacture of our products in sufficient quantities and may affect related material pricing. Some of our customers may elect to disqualify us as a supplier or reduce purchases from us if we are unable to verify that our products are DRC conflict free.

We are subject to a variety of laws and regulations that may result in additional costs and liabilities.

The manufacturing of our products requires the use of facilities, equipment, and materials that are subject to a broad array of laws and regulations in numerous jurisdictions in which we operate. Additionally, we are subject to a variety of other laws and regulations relative to the construction, maintenance, and operations of our facilities. Any of these laws or regulations could cause us to incur additional direct costs, as well as increased indirect costs related to our relationships with our customers and suppliers, and otherwise harm our operations and financial condition. Any failure to comply with these laws or regulations could adversely impact our reputation and our financial results. Additionally, we partner with other companies in our joint ventures, which are also subject to a broad array of laws and regulations. Our ownership in these joint ventures may also expose us to risks associated with their respective compliance with these laws and regulations. Our failure, or the failure of our joint ventures, to comply with these laws and regulations could result in:

- suspension of production;
- remediation costs;
- alteration of our manufacturing processes;
- regulatory penalties, fines, and legal liabilities; and
- reputational challenges.

We may incur additional tax expense or become subject to additional tax exposure.

We operate in a number of locations outside the U.S., including Singapore, where we have tax incentive arrangements that are conditional, in part, upon meeting certain business operations and employment thresholds. Our domestic and international taxes are dependent upon the distribution of our earnings among these different jurisdictions. Our provision for income taxes and cash tax liabilities in the future could be adversely affected by numerous factors, including challenges by tax authorities to

our tax structure and intercompany transfer pricing agreements, income before taxes being lower than anticipated in countries with lower statutory tax rates and higher than anticipated in countries with higher statutory tax rates, changes in the valuation of deferred tax assets and liabilities, failure to meet performance obligations with respect to tax incentive agreements, and changes in tax laws and regulations. We file income tax returns with the U.S. federal government, various U.S. states, and various other jurisdictions throughout the world. Our U.S. federal and state tax returns remain open to examination for 2012 through 2016. In addition, tax returns remain open to examination in Singapore, Japan, and Taiwan range from the years 2011 to 2016. The results of audits and examinations of previously filed tax returns and continuing assessments of our tax exposures may have an adverse effect on our provision for income taxes and cash tax liability.

We may not utilize all of our net deferred tax assets.

We have substantial deferred tax assets, which include, among others, net operating loss and credit carryforwards. As of September 1, 2016, our U.S. federal and state net operating loss carryforwards, including uncertain tax benefits, were $3.90 billion and $1.94 billion, respectively, which, if not utilized, will expire at various dates from 2017 through 2036. As of September 1, 2016, our foreign net operating loss carryforwards were $6.04 billion, including $4.28 billion pertaining to Japan, which will, if not utilized, substantially all expire at various dates from 2019 through 2025. As of September 1, 2016, we had valuation allowances of $1.16 billion and $765 million against our net deferred tax assets in the U.S. and Japan, respectively.

A change in ownership may limit our ability to utilize our net operating loss carryforwards.

If we experience a 50% or greater change in ownership involving shareholders owning 5% or more of our stock, it could adversely impact our ability to utilize our existing net operating loss and credit carryforwards. The inability to utilize existing net operating loss and credit carryforwards would significantly increase the amount of our annual cash taxes reducing the overall amount of cash available to be used in other areas of the business.

On July 20, 2016, our board of directors adopted a Section 382 Rights Agreement (the "Rights Agreement"), under which our shareholders of record as of the close of business on August 1, 2016 received one right for each share of common stock outstanding. The Rights Agreement is intended to avoid an ownership change, as defined by Section 382 of the Internal Revenue Code of 1986, as amended, and thereby preserve our current ability to utilize certain net operating loss and credit carryforwards. In general, an ownership change will occur when the percentage of our ownership by one or more 5% shareholders has increased by more than 50% at any time during the prior three years. Pursuant to the Rights Agreement, if a shareholder (or group) acquires beneficial ownership of 4.99% or more of the outstanding shares of our common stock without prior approval of our Board of Directors or without meeting certain customary exceptions, the rights would become exercisable and entitle shareholders (other than the acquiring shareholder or group) to purchase additional shares of our common stock at a significant discount and result in significant dilution in the economic interest and voting power of acquiring shareholder or group. Although the Rights Agreement is intended to reduce the likelihood of an ownership change that could adversely affect us, there is no assurance that the Rights Agreement will prevent all transfers that could result in such an ownership change. The Rights Agreement is subject to shareholder approval at the Company’s Fiscal 2016 Annual Meeting of Shareholders to be held on January 18, 2017. If not approved by the shareholders, the Rights Agreement will terminate on July 19, 2017.

The limited availability of raw materials, supplies, or capital equipment could materially adversely affect our business, results of operations, or financial condition.

Our operations require raw materials and in certain cases, third party services, that meet exacting standards. We generally have multiple sources of supply for our raw materials and services. However, only a limited number of suppliers are capable of delivering certain raw materials and services that meet our standards. In some cases, materials, components, or services are provided by a single supplier. Various factors could reduce the availability of raw materials or components such as silicon wafers, controllers, photomasks, chemicals, gases, photoresist, lead frames, and molding compound. Shortages may occur from time to time in the future. We and/or our suppliers could be affected by laws and regulations enacted in response to concerns regarding climate change, which could increase the cost and limit the supply of our raw materials. In addition, disruptions in transportation lines could delay our receipt of raw materials. Lead times for the supply of raw materials have been extended in the past. If our supply of raw materials or services is disrupted or our lead times extended, our business, results of operations, or financial condition could be materially adversely affected.

Our operations are dependent on our ability to procure advanced semiconductor manufacturing equipment that enables the transition to lower cost manufacturing processes. For certain key types of equipment, including photolithography tools, we are sometimes dependent on a single supplier. From time to time we have experienced difficulties in obtaining some equipment on a timely basis due to the supplier's limited capacity. Our inability to obtain this equipment timely could adversely affect our

ability to transition to next generation manufacturing processes and reduce costs. Delays in obtaining equipment could also impede our ability to ramp production at new facilities and increase our overall costs of the ramp. If we are unable to obtain advanced semiconductor manufacturing equipment in a timely manner, our business, results of operations, or financial condition could be materially adversely affected.

A downturn in the worldwide economy may harm our business.

Downturns in the worldwide economy have harmed our business in the past and future downturns could also adversely affect our business. Adverse economic conditions affect demand for devices that incorporate our products, such as personal computers, mobile devices, SSDs, and servers. Reduced demand for these products could result in significant decreases in our average selling prices and product sales. A deterioration of current conditions in worldwide credit markets could limit our ability to obtain external financing to fund our operations and capital expenditures. In addition, we may experience losses on our holdings of cash and investments due to failures of financial institutions and other parties. Difficult economic conditions may also result in a higher rate of loss on our accounts receivables due to credit defaults. As a result, our business, results of operations, or financial condition could be materially adversely affected.

Our results of operations could be affected by natural disasters and other events in the locations in which we or our customers or suppliers operate.

We have manufacturing and other operations in locations subject to natural occurrences such as severe weather and geological events including earthquakes or tsunamis that could disrupt operations. In addition, our suppliers and customers also have operations in such locations. A natural disaster, fire, explosion, or other event that results in a prolonged disruption to our operations, or the operations of our customers or suppliers, may materially adversely affect our business, results of operations, or financial condition.

We face risks associated with our international sales and operations that could materially adversely affect our business, results of operations, or financial condition.

Sales to customers outside the United States approximated 84% of our consolidated net sales for 2016. In addition, a substantial portion of our manufacturing operations are located outside the United States. In particular, a significant portion of our manufacturing operations are concentrated in Singapore, Taiwan, and Japan. Our international sales and operations are subject to a variety of risks, including:

- export and import duties, changes to import and export regulations, customs regulations and processes, and restrictions on the transfer of funds;
- compliance with U.S. and international laws involving international operations, including the Foreign Corrupt Practices Act, export and import laws, and similar rules and regulations;
- theft of intellectual property;
- political and economic instability;
- problems with the transportation or delivery of our products;
- issues arising from cultural or language differences and labor unrest;
- longer payment cycles and greater difficulty in collecting accounts receivable;
- compliance with trade, technical standards, and other laws in a variety of jurisdictions;
- contractual and regulatory limitations on our ability to maintain flexibility with our staffing levels;
- disruptions to our manufacturing operations as a result of actions imposed by foreign governments;
- changes in economic policies of foreign governments; and
- difficulties in staffing and managing international operations.

These factors may materially adversely affect our business, results of operations, or financial condition.

We are subject to counterparty default risks.

We have numerous arrangements with financial institutions that subject us to counterparty default risks, including cash deposits, investments, capped-call contracts on our stock, and derivative instruments. As a result, we are subject to the risk that the counterparty to one or more of these arrangements will default on its performance obligations. A counterparty may not comply with their contractual commitments which could then lead to their defaulting on their obligations with little or no notice to us, which could limit our ability to take action to mitigate our exposure. Additionally, our ability to mitigate our exposures may be constrained by the terms of our contractual arrangements or because market conditions prevent us from taking effective

action. If one of our counterparties becomes insolvent or files for bankruptcy, our ability to recover any losses suffered as a result of that counterparty's default may be limited by the liquidity of the counterparty or the applicable laws governing the bankruptcy proceeding. In the event of such default, we could incur significant losses, which could adversely impact our business, results of operations, or financial condition.

ITEM 2. UNREGISTERED SALE OF EQUITY SECURITIES AND USE OF PROCEEDS

Our Board of Directors has authorized the discretionary repurchase of up to $1.25 billion of our outstanding common stock, which may be made in open-market purchases, block trades, privately-negotiated transactions, or derivative transactions. Through the first quarter of 2017, we had repurchased a total of 49 million shares for $956 million through open-market transactions pursuant to such authorization, which were recorded as treasury stock. Repurchases are subject to market conditions and our ongoing determination of the best use of available cash.

Period	(a) Total number of shares purchased	(b) Average price paid per share	(c) Total number of shares (or units) purchased as part of publicly announced plans or programs	(d) Maximum number (or approximate dollar value) of shares (or units) that may yet be purchased under the plans or programs
September 2, 2016 – October 6, 2016	—	$ —	—	$ 294,184,917
October 7, 2016 – November 3, 2016	—	—	—	294,184,917
November 4, 2016 – December 1, 2016	—	—	—	294,184,917
	—	—	—	

Shares of common stock withheld as payment of withholding taxes and exercise prices in connection with the vesting or exercise of equity awards are also treated as common stock repurchases. Those withheld shares of common stock are not considered common stock repurchases under an authorized common stock repurchase plan and accordingly are excluded from the above table.

ITEM 6. EXHIBITS

The following documents are filed as part of this report:

Exhibit Number	Description of Exhibit
10.63	English translation of Syndicated Loan Agreement dated October 11, 2016, as Amended on November 23, 2016 by and among Inotera Memories, Inc., Micron Semiconductor Taiwan Co., Ltd., certain financial institutions party thereto and Bank of Taiwan, as Facility Agent and Mega International Commercial Bank Co., Ltd., as Collateral Agent
10.64	Deferred Compensation Plan
10.65	First Amendment to the Credit Agreement, dated April 26, 2016, by and among Micron Technology, Inc., as borrower, Morgan Stanley Senior Funding, Inc. as administrative agent and collateral agent, and the other agents party thereto and each financial institution party from time to time thereto
10.66	English translation of Facility Agreement dated November 18, 2016, by and among Micron Semiconductor Asia Capital II Pte. Ltd., certain financial institutions party thereto and DBS Bank Ltd., as Facility Agent, Security Agent and Account Bank
31.1	Rule 13a-14(a) Certification of Chief Executive Officer
31.2	Rule 13a-14(a) Certification of Chief Financial Officer
32.1	Certification of Chief Executive Officer Pursuant to 18 U.S.C. 1350
32.2	Certification of Chief Financial Officer Pursuant to 18 U.S.C. 1350
101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	XBRL Taxonomy Extension Label Linkbase Document
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Micron Technology, Inc.

(Registrant)

Date: January 9, 2017

/s/ Ernest E. Maddock

Ernest E. Maddock
Chief Financial Officer and Vice President, Finance
(Principal Financial and Accounting Officer)

EXHIBIT 10.63
[Translation]

NT$80 Billion Syndicated Loan

SYNDICATED LOAN AGREEMENT

Inotera Memories, Inc.
Micron Semiconductor Taiwan Co., Ltd.
(Co-Borrowers)

Bank of Taiwan
Mega International Commercial Bank Co., Ltd.
Taiwan Business Bank
Taiwan Cooperative Bank
Chang Hwa Commercial Bank
Credit Agricole Corporate and Investment Bank, Taipei Branch
CTBC Bank Co., Ltd.
Hua Nan Commercial Bank
Yuanta Commercial Bank
Land Bank of Taiwan
(Mandated Lead Arrangers)

First Commercial Bank
Agricultural Bank of Taiwan
Jih Sun International Bank
The Shanghai Commercial & Savings Bank, Ltd.
EnTie Commercial Bank
KGI Bank
Ta Chong Bank, Ltd.
E.SUN Commercial Bank, Ltd.
Taichung Commercial Bank Co., Ltd.
Taiwan Shin Kong Commercial Bank Company Ltd.
Taishin International Bank
DBS Bank (Taiwan) Ltd.
Bank of Kaohsiung
Taipeifubon Commercial Bank Co., Ltd.
Far Eastern International Bank
Ban SinoPac Co. Ltd.
(Lenders)

Bank of Taiwan
(Facility Agent)
Mega International Commercial Bank Co., Ltd.
(Collateral Agent)

Taiwan Business Bank
(Document Management Agent)

October 11, 2016

Baker & McKenzie

15/F, No. 168, Dunhua North Road, Taipei City

Content

SYNDICATED LOAN AGREEMENT

This Syndicated Loan Agreement (this "**Agreement**") entered into by among the following parties on October 11, 2016:

(1) **Inotera Memories, Inc.**, a company limited by shares organized and existing under the laws of the Republic of China ("**ROC**" or "**Taiwan**"), with its registered office at No.667, Fuxing 3rd Rd., Wenhua Vil., Guishan Dist., Taoyuan City 333, Taiwan ("**Inotera**"); and

Micron Semiconductor Taiwan Co., Ltd., a company limited by shares organized and existing under the laws of the ROC, with its registered office at 25F., No.333, Sec. 1, Keelung Rd., Xinyi Dist., Taipei City 110, Taiwan ("**MST**", together with Inotera, the "**Co-Borrowers**", each a "**Co-Borrower**");

and

(2) Bank of Taiwan, Mega International Commercial Bank Co., Ltd., Taiwan Business Bank, Chang Hwa Commercial Bank, Ltd., Land Bank of Taiwan, Taiwan Cooperative Bank, Credit Agricole Corporate and Investment Bank, Taipei Branch, CTBC Bank Co., Ltd., Hua Nan Commercial Bank, Ltd. and Yuanta Commercial Bank, as the mandated lead arrangers (collectively, the "**Mandated Lead Arrangers**") of this Transaction (as defined herein);

and

(3) **the banks and financial institutions specified in Schedule 1** (each a "**Lender**", together the "**Lenders**");

and

(4) **Bank of Taiwan**, the facility agent ("**Facility Agent**") of this Agreement;

and

(5) **Mega International Commercial Bank Co., Ltd.**, the collateral agent ("**Collateral Agent**") of this Agreement; and

and

(6) **Taiwan Business Bank**, the document management agent ("**Document Management Agent**", together with the Facility Agent and the Collateral Agent, the "**Agent Banks**", each an "**Agent Bank**") of this Agreement.

WHEREAS, in order to pay consideration for Share Swap (as defined herein) and any related transaction costs and provide working capital for Inotera, the Co-Borrowers entrusted the Mandated Lead Arrangers to organize the Lenders to provide a facility for an aggregate facility amount of Eighty Billion New Taiwan Dollars (NT$80,000,000,000) (this "**Transaction**").

WHEREAS, the Mandated Lead Arrangers have arranged the Lenders and the Lenders have agreed to provide a facility to the Co-Borrowers within the Facility Amount (as defined herein) under this Agreement.

WHEREAS, the Mandated Lead Arrangers and the Lenders have agreed to jointly entrust Bank of Taiwan, as the Facility Agent of this Agreement, to act on behalf of the Lenders, facilitate the relevant processes of administering this Transaction pursuant to this Agreement and exercise rights to which the Lenders are entitled under this Agreement.

WHEREAS, the Mandated Lead Arrangers and the Lenders have jointly entrust Mega International Commercial Bank Co., Ltd., as the Collateral Agent of this Agreement, to manage the Collateral provided by the Debtors (as defined herein) pursuant to this Agreement.

WHEREAS, the Mandated Lead Arrangers and the Lenders have jointly entrust Taiwan Business Bank, as the Document Management Agent of this Agreement, to manage the documents provided by the Debtors (as defined hereunder) pursuant to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the parties hereto hereby agree as follows:

Article 1 Definition and Interpretation

1. **Definition**

Unless otherwise defined in the text of this Agreement, the following terms herein shall have the meaning below:

(1) "**Facility Amount**" shall mean the total facility amount committed by each Lender, of which shall be Eighty Billion New Taiwan Dollars (NT$80,000,000,000) upon the execution of this Agreement, and may be cancelled or adjusted pursuant to this Agreement.

(2) "**Commitment Fraction**" shall mean the percentage of the Commitment respectively committed by each Lender to the Facility Amount.

(3) "**Commitment**" shall mean the respective facility amount of this Transaction committed by each Lender as indicated in Schedule 1. The following shall be deducted from time to time when calculating each Commitment: (a) the Commitment Amount already provided by the Lender during each Drawdown; or (b) the amount cancelled or adjusted pursuant to other provisions of this Agreement.

(4) "**Commitment Amount**" shall mean, for the purpose of the Drawdown under this Agreement, the facility amount committed by each Lender for such Drawdown.

(5) "**Outstanding Principal Amount**" shall mean the balance of loan principal amount at any time during the Contract Period advanced by the Lenders to any of the Co-Borrowers and remain outstanding. In the context of a Lender, it shall mean the balance of loan principal advanced by such Lender to any Co-Borrower and remain outstanding.

(6) "**Outstanding Balance**" shall mean any and all amount owed by the Co-Borrowers to the Lenders during the Contract Period, including Outstanding Principal Amount, interest, fees, default interests, penalties and other outstanding payables.

(7) "**Majority Banks**" shall mean such Lenders the aggregate Outstanding Principal Amount of each exceeds two-thirds (2/3) of the entire Outstanding Principal Amount under this Agreement; where no drawdown has been made or no advances are then outstanding, such Lenders the aggregate Commitment of each exceeds two-thirds (2/3) of the Facility Amount.

(8) "**Drawdown**" shall mean a drawdown of the Facility Amount made by the Co-Borrowers by applying with the Lenders for making advances. "**Drawdown Date**" shall mean the date on which the Co-Borrowers draw down the Facility Amount, being the Share Swap Record Date (as defined herein) and a Business Day.

(9) "**Drawdown Request**" shall mean the drawdown request made by the Co-Borrowers in the form set out in Schedule 1.

(10) "**Final Maturity Date**" shall mean the last day of the facility period as set forth in Section 2.3.

(11) "**Contract Period**" shall mean the period commencing on the execution date of this Agreement, ending on the date on which all indebtedness of the Co-Borrowers under this Agreement (including, without limitation, Outstanding Principal Amount, interest, default interest, penalty, reimbursements, other fees, relevant indemnities with accrued interest thereon, commitment fee, Mandated Lead Arrangers' fee, Agent Banks' fee and any other relevant indebtedness) have been fully reimbursed, and all obligations of the Co-Borrowers under this Agreement have been fully performed.

(12) "**Business Day**" shall mean a business day on which banks in the main island of Taiwan are all day open for business, excluding Saturdays and holidays.

(13) "**Note**" shall mean any promissory note issued by the Co-Borrowers and the Guarantor in accordance with Section 10.1(6), and any promissory note to be issued by the Co-Borrowers and the Guarantor in the future to replace the aforementioned promissory note, each of which should be made in form and substance set out in Appendix 2.

(14) "**Note Authorization**" shall mean any note authorization issued by the Co-Borrowers and the Guarantor in accordance with Section 10.1(6) and other note authorization to be issued by the Co-Borrowers and Guarantor in the future to replace the aforementioned note authorization, each of which should be made in form and substance set out in Appendix 3.

(15) "**Negative Pledge Undertaking**" shall mean the negative pledge undertaking issued by MST in accordance with Section 10.1 and in form and substance set out in Appendix11.

(16) "**Micron Technology**" shall mean Micron Technology B. V., the sole shareholder of MST, which is a company registered in Netherlands, with its registered office at Olympia 1A, 1213 NS Hilversum, The Netherlands.

(17) "**Guarantor**" **or** "**MTI**" shall mean Micron Technology, Inc., a company limited by shares organized and existing under the laws of Delaware, U.S.A., with its registered office at 8000 S. Federal Way, Boise, ID 83716, U.S.A..

(18) "**Debtor**" **or** "**Debtors**" shall mean, individually or collectively, the Co-Borrowers, the Guarantor, Micron Technology and any collateral providers posting additional collateral in accordance with this Agreement hereafter.

(19) "**Guarantee**" shall mean the guarantee signed by the Guarantor for the provision of a guarantee of this Transaction in form set out in Appendix 4.

(20) **"Pledged Shares"** shall mean the shares provided by the following collateral providers in accordance with this Agreement for the creation of a pledge (as detailed in Schedule 4):

(a) In terms of Micron Technology, one hundred per cent. (100%) of the issued shares of MST owned by it;

(b) In terms of MST, about eighty per cent. (80%) of the shares of Inotera acquired by MST on the Share Swap Record Date; and

(c) In terms of Micron B.V. (as defined herein), about eighteen per cent (18%) of the shares of Inotera held by Micron B.V. and acquired in 2008 (the "**Pledged Shares of Micron B.V.**") where Micron B.V. and MTI prevail in the Litigation between MTO/Micron B.V. and insolvency administrator for the estate of Qimonda.

(21) "**Inotera Share Pledge Agreement**" shall mean the share pledge agreement entered into or to be entered into by MST in accordance with Section 11.3(2) and in form and substance set out in Appendix 7.

(22) "**Share Pledge Agreement**" shall mean the share pledge agreement entered into or to be entered into by Micron Technology in accordance with Section 11.3(1) and in form and substance set out in Appendix 8.

(23) "**Land**" shall collectively mean the land owned by Inotera as detailed in Schedule 2.

(24) "**Fab**" shall collectively mean the factory buildings and their ancillary equipment owned by Inotera as detailed in Schedule 2.

(25) "**Machinery and Equipment**" shall mean the machinery and equipment and their ancillary equipment and facility owned by Inotera as detailed in Schedule 3, which should be divided into "**The First Batch of Machinery and Equipment**" and "**The Second Batch of Machinery and Equipment**" in accordance with the schedule of completing the creation of chattel mortgage thereover.

(26) "**Repayment Accounts**" shall mean the repayment accounts respectively opened with or to be opened with the Facility Agent and the Collateral Agent by any Co-Borrower in accordance with Section 10.1(7).

(27) "**Insurance Assignment**" shall mean the agreement entered into or to be entered into by Inotera in accordance with Section 11.5(a) to assign the insurance interests in relation to the Fab or the Machinery and Equipment for which Inotera purchases insurances to the Collateral Agent, and such agreement should be in form and substance set out in Appendix 15.

(28) "**Existing Insurance**" has the same meaning as defined in Section 11.5(a).

(29) "**Security Agreement**" shall collectively mean the mortgage agreement of the land and construction improvements in respect of the creation of mortgage over the Land and Fab, the chattel mortgage agreement in respect of the creation of mortgage over the Machinery and Equipment, the Inotera Share Pledge Agreement and the Share Pledge Agreement in respect of the creation of the pledge over the Pledged Shares, the account pledge agreement in respect of the creation of the pledge over the Repayment Accounts and/or the Security Interest of other Security as specified in Article 11. **"Security"** shall collectively mean the real estate mortgage, the chattel mortgage and the pledge created over the Collateral in favor of the Collateral Agent in accordance with Article 11. "**Collateral**" shall mean the Land, the Fab, the Machinery and Equipment, the Pledged Shares and the Repayment Accounts as specified in Article 11.

(30) "**Security Documents**" shall mean this Agreement, the Guarantee, the Note, the Note Authorization, the Insurance Assignment, the Security Agreement, and other documents entered into or to be entered into by the Debtors or other person at any time to secure the liabilities of the Co-Borrower hereunder.

(31) "**Security Interests**" shall mean any real estate mortgage, chattel mortgage, pledge of rights, creation of encumbrance, security assignment by trust, assignment of right and interest, conditional sale, trust receipt, pledge, lien, guaranty agreement, rights of first refusal or other security interests, or any other forms of security arrangements.

(32) "**Reference Rate**" shall mean three-month or six-month ("**Interest Rates and Period**", as determined by the Co-Borrowers) TAIBOR FIX which appears on the Reuters Screen TAIBOR Page under the heading "TAIBOR" around 11:30 am one (1) Business Day prior to the Drawdown Date and every Interest Adjustment Date (as defined herein). If such quotation information appearing on the Reuters Screen TAIBOR Page under the heading "TAIBOR" is not available, the Reference Rate shall be the TAIBOR FIX (current) of the same Interest Rate and Period which announced on the website of the Bankers Association of The Republic of China.

(33) "**Interest Period**" shall mean the period commencing on the Drawdown Date, ending on one day prior to the corresponding date in the next month (where no such corresponding date in the next month, the last day of the next month shall be deemed as the corresponding date) and every full month thereafter.

(34) "**Interest Adjustment Date**" shall mean the commencement date of each interest period.

(35) "**Risk Sharing**" shall mean the percentage of the Outstanding Principal Amount of each Lender to the aggregate Outstanding Principal Amount of all the Lenders.

(36) "**Event of Default**" shall mean any event as specified in Section 12.1.

(37) **"Prospective Event of Default"** shall mean an event, circumstance or situation which, with the passage of time or the giving of notice, would constitute an Event of Default as specified in Section 12.1.

(38) "**New Taiwan Dollars**" and **"NT$"** shall mean the official currency of the ROC.

(39) "**US Dollars**" and "**US$**" shall mean the official currency of the United States of America.

(40) "**Compensatory Interest Rate**" shall mean the then prevailing reference rate applicable to New Taiwan Dollars loans of the Agent Banks plus 2% per annum margin.

(41) **"Share Swap Agreement"** shall mean the share swap agreement entered into by the Co-Borrowers and Micron Technology on February 3, 2016 for the share swap (**"Share Swap"**) in respect of the acquisition of one hundred per cent. (100%) of the issued shares of Inotera by, MST, which would become the sole shareholder of Inotera.

(42) "**Share Swap Closing Account**" shall mean, for the completion of the Share Swap and payment of the consideration of the Share Swap, the shares consideration and closing account as agreed by the parties of the Share Swap Agreement and Inotera's stock affairs agent, opened with Yuanta Commercial Bank, Chengde Branch and named as "Yuanta Securities Co., Ltd. Stock Affairs Account".

(43) "**Share Swap Record Date**" shall mean, for the completion of the Share Swap, the closing date as agreed in the Share Swap Agreement.

(44) "**Litigation between MTI /Micron B.V. and insolvency administrator for the estate of Qimonda**" shall mean the litigation between MTI and Micron B.V. (as defendant) and the insolvency administrator for the estate of Qimonda AG ("**Qimonda**") (as plaintiff) confirming that the share purchase agreement is null and void the return of the shares, which arise from Micron B.V.'s purchase of shares of Inotera held by Qimonda from Qimonda.

(45) "**Micron B.V.**" shall mean Micron Semiconductor B. V., a subsidiary of MTI registered in Netherlands, with its registered office at Olympia 1A, 1213 NS Hilversum, The Netherlands.

(46) "**Permitted Lease**" shall mean the lease of a part of the Fab between Inotera and lessees, including other similar leases between Inotera and lessees after the execution of this Agreement, which are disclosed in writing by the Co-Borrowers to the Lenders prior to the execution of this Agreement.

(47) "**FATCA**" shall mean (a) Sections 1471 through 1474 of the United States Internal Revenue Code of 1986 (the"**U.S. IRC**") and the relevant provisions; (b) to be in compliance with the provisions as mentioned in item (a) above, the relevant provisions promulgated by the competent authority of each country or the treaties or taxation agreements signed with the government of the United States of America; or (c) to be in compliance with item (a) or (b) above, relevant contracts or agreements signed with the government or the Internal Revenue Service of the United States of America or the government or the competent authority of each country.

(48) "**FATCA Withholding**" shall mean the relevant deduction or withholding conducted under the FATCA on the payments made in accordance with the agreements.

(49) "**FATCA Exempt Party**" shall mean any institution which is not subject to the FATCA Withholding when receiving the payment.

(50) "**FATCA FFI**" shall mean the foreign financial institutions as defined in Section 1471(d)(4) of the U.S. IRC (if the payee/the recipient of the payment is not a FATCA Exempt Party, such foreign financial institution is required to conduct the FATCA Withholding.).

(51) "**U.S. Taxpayers**" shall mean (a) legal entities or natural persons considered U.S. residents under the tax laws of the United States of America; or (b) the source of payment, in whole or in part, is treated as the U.S. source income under the tax laws of the United States of America.

2. **Interpretation**

Unless otherwise defined in the text of this Agreement, the following terms herein shall have the interpretations set forth below:

(1) **"Authorization"** includes any approval, consent, license, permit, concession, permission, registration, resolution, instruction, declaration or waiver.

(2) **"Person"** refers to any individual, corporation, partnership, trust, organization, fund, association, firm, joint venture, or other juristic person or non-juristic person organizations, and other legal entities or any government or affiliated agency thereof.

(3) **"Tax"** means any tax, duties, tariff, tax payment, disbursement, deduction or withholding imposed, levied, charged, withheld or determined by taxation agencies or other agencies, including relevant interests, fines, penalties or other accrued or requested payments; the term "taxation" shall be interpreted in the same manner.

3. **Others**

The term "this Agreement" or any "Security Document" referred to in this Agreement includes the amended versions or supplemental versions of this Agreement and the Security Documents amended or supplemented from time to time. Unless otherwise specified herein, Articles, Appendices and Schedules referred to in this Agreement shall mean the Articles, Appendices and Schedules of this Agreement; the captions of Articles are for reference only and shall not be used as basis for interpretation of Articles. The relevant competent authorities referred to in this Agreement shall include the ones replaced or substituted as the new competent authorities thereafter. The terms "guidelines" "directions" "regulations" or "other relevant rules" of the relevant competent authorities referred to herein shall include the future additions, deletions

and amendments thereto afterwards.

Article 2 The Facility and Purpose

1. **Facility Amount**

Medium-term secured facility in the aggregate principal amount of Eighty Billion New Taiwan Dollars (NT$80,000,000,000), which shall be non-revolving. Only one single drawdown can be made by the Co-Borrowers within the recognized value (for the purpose of being Collateral) set forth in Article 11 hereof.

2. **Facility Purpose**

(1) **Facility Purpose**

The facility is for MST to pay consideration and any related transaction costs for Share Swap and to provide working capital for Inotera.

(2) **No Obligation to Supervise**

The Lenders, Agent Banks and Mandated Lead Arrangers shall have the right to examine, supervise and check the Co-Borrowers' application of the proceeds of the facility. However, the Lenders, Agent Banks and Mandated Lead Arranger shall have no obligations to supervise the actual application of the proceeds of the facility by the Co-Borrowers.

3. **Facility Period**

The facility period shall be five (5) years from the Drawdown Date, including a grace period of thirty (30) months.

4. **Drawdown Period**

The Co-Borrowers may draw the Facility Amount within nine (9) months from the execution date of this Agreement.

5. **Cancellation of Facility Amount**

The facility may only be drawn before the expiry of the drawdown period; any facility remained undrawn after expiry of the drawdown period shall be automatically cancelled and no Drawdown can be made.

Article 3 Conditions Relating to Drawdown

The Lenders shall not be obliged to make the facility available to the Co-Borrowers unless all the conditions precedent to Drawdown set forth in this Article have been satisfied when the Co-Borrowers request the Drawdown. The documents submitted by the Co-Borrowers, if they are originals, in form and substance satisfactory to the Facility Agent and/or the Collateral Agent (if applicable); if they are copies, in addition to being in form and substance satisfactory to the Facility Agent and/or the Collateral Agent (if applicable), such copies shall be certified true, accurate and complete by the document provider.

1. **Conditions Precedent to Drawdown**

The Lenders' obligation to make available the facility to the Co-Borrowers is subject to the conditions precedent that no later than five (5) Business Days (or such shorter period expressly provided herein or otherwise agreed by the Facility Agent) prior to the requested date for the Drawdown the Facility Agent and/or the Collateral Agent (if applicable) shall have received the following documents in form and substance satisfactory to the Facility Agent and/or the Collateral Agent (if applicable) and that all the following conditions precedent have been satisfied:

(1) **This Agreement**

This Agreement duly executed by all the parties.

(2) **Corporate Documents of the Co-Borrowers**

Certified true copies of the following documents of each Co-Borrower, affixing of its company seal and responsible person's seal:

(a) the articles of incorporation;

(b) the latest corporate amendment registration card issued by the competent corporate registration authority;

(c) procedures for endorsement and guarantee, if applicable;

(d) meeting minutes of the board of directors of the Co-Borrower approving the execution of this Agreement, the Security Documents to which it is a party and other notices or documents required for matters relating to this Agreement, and authorizing a person or persons referred to in Section 3.1(2)(e) below to execute such documents; and

(e) specimen signatures(s) and/or chop(s) of the person(s) authorized to execute this Agreement, all the Security Documents to which the Co-Borrower is a party and other notices or documents required for matters relating to this Agreement.

(3) **Corporate Documents of the Guarantor**

Certified true copies of the following documents of the Guarantor, with the signature(s) of authorized person(s) of the Guarantor:

(a) Certificate of Incorporation;

(b) Bylaws;

(c) latest Certificate of Good Standing;

(d) resolutions of the board of directors of the Guarantor approving the execution of the Security Documents to which it is a party and other notices or documents required for matters relating to this Agreement, and authorizing a person or persons referred to in Section 3.1(3)(e) below to execute such documents (including but not limited to the meeting minutes or written resolutions of the board of directors of the Guarantor); and

(e) specimen signatures(s) and/or chop(s) of the person(s) authorized to execute the Security Documents to which the Guarantor is a party and other notices or documents required for matters relating to this Agreement.

(4) **Note and Note Authorization**

The original of the Note duly executed by the Co-Borrowers and the Guarantor pursuant to Section 10.1(6) in the form and substance of Appendix 2 hereto and the original of the Note Authorization duly executed by the Co-Borrowers and the Guarantor pursuant to Section 10.1(6) in the form and substance of Appendix 3 hereto.

(5) **Guarantee**

The original of the Guarantee duly executed by the Guarantor.

(6) **Real Estate Mortgage**

A first priority real estate mortgage over the Land and Fab with the maximum secured amount in favor of the Collateral Agent has been created and perfected by Inotera pursuant to Section 11.1 hereof and the mortgage registration has been duly completed.

(7) **Chattel Mortgage**

A first priority chattel mortgage over the First Batch of Machinery and Equipment with the maximum secured amount in favor of the Collateral Agent has been created and perfected by Inotera pursuant to Section 11.2 hereof and the mortgage registration has been duly completed. If such Machinery and Equipment is located in the Land or Fab leased from Nanya Technology Corporation ("**Nanya**"), Inotera shall provide the original of the waiver for potential statutory lien issued by Nanya in the form and substance of Appendix 12 hereto.

(8) **Share Pledge**

(a) The Co-Borrowers shall have procured Micron Technology to execute the Share Pledge Agreement pursuant to Section 11.3(1) hereof to create and perfect a pledge over the Pledged Shares owned by it with the maximum amount in favor of the Collateral Agent, deliver the original share certificates representing the Pledged Shares duly endorsed to the Collateral Agent and complete the relevant notification and application for recordation [of the pledge] in the shareholders' roster [of MST].

(b) MST shall have pre-executed the Inotera Share Pledge Agreement for the creation of a pledge over the Pledged Shares to be held by it and the relevant notice and documents required for the creation and perfection of the abovementioned share pledge in accordance with Section 11.3(2) hereof and delivered such agreement and documents to the Collateral Agent.

(9) **Pledges over the Repayment Accounts**

One of the Co-Borrowers shall have opened the Repayment Accounts respectively with the Facility Agent and the Collateral Agent pursuant to Section 10.1(7) hereof and executed the account pledge agreement to create a pledge over the relevant Repayment Accounts with the maximum secured amount respectively in favor of the Facility Agent and the Collateral Agent in accordance with Section 11.4 hereof, and shall have provided the relevant evidences and notices required thereunder.

(10) **Negative Pledge Undertaking**

The original of the Negative Pledge Undertaking issued by MST in respect of the Pledged Shares owned by it, undertaking that no security interest shall be created over the Inotera shares to be acquired by MST in favor of any third party other than the pledge of such Inotera shares as collateral to the Collateral Agent in accordance with the terms of this Agreement.

(11) **Approval**

All necessary approvals required for Share Swap have been duly obtained by the Co-Borrowers, Micron Technology and the Guarantor (including but not limited to the board approvals of the Co-Borrowers and the Guarantor, the shareholders' approval of Inotera, approval from the Investment Commission, Ministry of Economic Affairs obtained by Micron Technology for investment in MST and the re-investment in Inotera through the Share Swap, approval from the Fair Trade Commission for the combination filing obtained by MST and approval from the relevant competent authorities in other countries (if applicable) and the Co-Borrowers shall have delivered the abovementioned approval from the Investment Commission, Ministry of Economic Affairs to the Facility Agent.

(12) **Share Swap Agreement.**

A copy of the Share Swap Agreement.

(13) **Transaction Documents**

(a) A notice from Inotera's stock affairs agent confirming the total amount of Share Swap cash consideration ("**Total Amount of Share Swap Consideration**") required to be paid by MST for completion of Share Swap.

(b) Documents evidencing that MST has remitted or deposited the amount equivalent to the difference between the Total Amount of Share Swap Consideration and the Facility Amount requested to be drawn in accordance with the terms of this Agreement to the Share Swap Closing Account on or prior to the

Drawdown Date.

(14) **Legal Opinions**

(a) Favorable ROC, Delaware and Dutch legal opinions respectively issued by the Lenders' ROC legal counsel, Delaware legal counsel and Dutch legal counsel in connection with this Agreement, the Guarantee, the Security Agreements and other relevant documents.

(b) A favorable legal opinion issued by MST's ROC legal counsel (i.e., Jones Day) confirming that the conditions precedent to the Share Swap and the conditions precedent set forth in the Share Swap Agreement have been satisfied or waivered at the time when the Drawdown is requested except for those can be only confirmed on the record date for the Share Swap.

(15) **Shareholders Loan**

(a) Where any Co-Borrower obtains any loans from its shareholder, the original of Subordination Undertaking in the form of Appendix 13 hereto issued by such shareholder.

(b) This provision does not apply to the following:

(i) up to Two Billion US Dollars (US$2,000,000,000) intercompany loan for MST's payment of Share Swap consideration for the completion of Share Swap to Inotera's existing shareholders, Micron B.V. and Numonyx Holdings B.V.;

(ii) short term intercompany loan which is for Co-Borrowers' daily operation or fund procurement; and

(iii) intercompany loan which is for any Co-Borrowers' capital expenditure, if there is no Event of Default.

(16) **Insurance**

The Insurance Assignment duly executed by Inotera in accordance with Section 11.5(1), the undertaking required to be issued by the insurance company thereunder, originals of certificates of insurance and originals or certified copies of the certificate for payment (or other evidencing documents).

(17) **Waiver of Rights under Lease Contracts**

The original of waiver of rights under lease contracts in the form of Appendix 16 hereto issued by Nanya, the lessee of the Permitted Leases.

(18) **Photocopies of the Agreement(s) of the Permitted Leases**

The photocopies of the lease agreement(s) between Inotera and the relevant lessee(s) in respect of the Permitted Leases.

(19) **Other Documents**

Other information or documents reasonably required by the Facility Agent or the Collateral Agent.

2. **Other Conditions Precedent**

In addition to the above conditions precedent, the Lenders' obligations to make available the facility to the Co-Borrowers is subject to the conditions precedent that no later than five (5) Business Days (or such shorter period otherwise agreed by the Facility Agent) prior to the requested date for the Drawdown the Facility Agent shall have received the following documents in form and substance satisfactory to the Facility Agent or that all the following conditions precedent have been satisfied:

(1) The Drawdown Request duly issued by the Co-Borrowers in the form of Appendix 1 hereto, specifying the

requested Drawdown amount and the requested date for the Drawdown. The Co-Borrowers shall also certify in the Drawdown Request that as of the date the Drawdown Request is made: (a) no event has occurred or is continuing which constitutes an Event of Default or Prospective Event of Default under this Agreement; (b) none of the Co-Borrowers and the Guarantor has breached any representation made under this Agreement; (c) the Co-Borrowers and the Guarantor have complied with the relevant undertakings under this Agreement that shall have been complied with at the time the Drawdown Request is made; (d) there is no material adverse change in the financial condition of the Co-Borrowers and the Guarantor compared with the financial condition of the Co-Borrowers and the Guarantor as of the execution date of this Agreement; (e) each document under Section 3.1 provided by the Co-Borrowers remain valid/applicable and there has been no changes thereto; and (f) there is no pending litigation, arbitration, enforcement proceeding or other administrative litigation which would materially and adversely affect the ability of any of the Co-Borrowers or the Guarantor to perform its obligations under this Agreement or the Security Documents to which it is a party.

For the avoidance of doubt, each party hereby acknowledges and agrees that the Litigation between MTI /Micron B.V. and the insolvency administrator for the estate of Qimonda does not constitute the litigation referred to in sub-paragraph (f) above.

(2) Prior to Drawdown, MST shall provide documents issued by Inotera's stock affairs agent confirming that MST has acquired 100% of Inotera shares on the record date of the Share Swap (i.e., the Drawdown Date).

(3) When Inotera requests a Drawdown, its drawdown amount shall not exceed Three Hundred Million New Taiwan Dollars (NT$300,000,000).

(4) Each Lender's obligations to make available the Commitment Amount to the Co-Borrowers is also subject to the satisfaction of the following conditions precedent, i.e., as of the date each Lender makes available the amount it is to fund for its Commitment Amount:

(a) The Drawdown is made before the expiry of the drawdown period and the Drawdown Date shall be a Business Day.

(b) The Drawdown amount shall not exceed the Facility Amount, and the Outstanding Principal Amount after the Drawdown shall not exceed the Facility Amount.

(c) The Outstanding Principal Amount payable to any Lender due to the Drawdown shall not cause the Lender's Commitment Amount to exceed the Commitment of such Lender.

(d) No Event of Default or Prospective Event of Default has occurred.

(e) Except for the representations and warranties that were given by reference to circumstances as at specific dates, all representations and warranties made by the Co-Borrowers and the Guarantor in this Agreement and the Security Documents to which they are parties shall be true and correct with reference to the facts and circumstances as at the time the Drawdown is made.

3. **Irrevocable Drawdown Request**

Provided that the conditions precedent described above have been satisfied, the Facility Agent may accept the Drawdown Request submitted by the Co-Borrowers on behalf of each Lender. Unless otherwise agreed by the Facility Agent, the Drawdown Request, once accepted by the Facility Agent, shall be irrevocable and binding on the Co-Borrowers. The Co-Borrowers shall reimburse each Lender, on demand of the Facility Agent, for any costs or losses incurred by the Lender arising from its failure to extend the facility requested by the Co-Borrowers, in part or in whole, in the event that any conditions precedent cannot continue to be satisfied or other conditions precedent to the Drawdown cannot be satisfied provided that the Lender shall provide supporting documents or evidence to prove its costs and losses.

4. **Drawdown Method**

(1) Once the Drawdown Request is accepted, the Facility Agent shall give a written notice to each Lender at least two (2) Business Days prior to the Drawdown Date, stating the Commitment Amount based on its Commitment Fraction and the requested date of Drawdown. Each Lender shall deposit or remit the Commitment Amount in immediately available funds to the account designated by the Facility Agent not later than 12:00 noon on the

Drawdown Date for the Facility Agent to remit or deposit the same to the Share Swap Closing Account (with respect to the consideration for Share Swap and any related transaction costs of MST) or to the account designated by Inotera (with respect to the working capital for Inotera). It shall be deemed that the Co-Borrowers have received the requested Drawdown amount once the Facility Agent has remitted/deposited the funds to the abovementioned relevant accounts.

(2) Any Lender that is unable to make available the funds as agreed hereunder shall notify the Facility Agent in writing no later than 12:00 noon on the first (1st) Business Day prior to the Drawdown Date. Once receiving such notice, the Facility Agent shall immediately notify the Co-Borrowers. Unless the Facility Agent shall have been notified by any Lender prior to Drawdown Date that such Lender does not intend to make available the funds, the Facility Agent may assume that the Lender will make available the funds as agreed hereunder, and the Facility Agent, in reliance upon such assumption, may (in its sole discretion and without any obligation) make available the funds to the Co-Borrowers on time. Notwithstanding the foregoing, the Facility Agent shall not be obligated to make available or advance the funds to the Co-Borrowers on behalf of any Lender before the Facility Agent actually receives the funds as agreed hereunder from such Lender. If such funds are not in fact made available to the Facility Agent or remitted to the account designated by the Facility Agent and the Facility Agent has made available same to the Co-Borrowers, the Co-Borrowers shall return such funds to the Facility Agent as requested by the Facility Agent from time to time. The Co-Borrowers shall also pay the interest from the Drawdown Date to the date the Facility Agent actually receives the refund at the highest overnight interbank call-loan rate after close of business on the Drawdown Date appearing on Reuters screen PIBC page ("**PIBC Rate**"). If the PIBC Rate is unavailable for any reason, the Co-Borrowers shall reimburse the Facility Agent its funding costs as notified by the Facility Agent provided that the Facility Agent shall provide evidence to prove its funding costs.

(3) Failure by any Lender to make available the funds as agreed hereunder shall not relieve such Lender's other obligations hereunder and shall not relieve the Co-Borrowers' obligations hereunder. However, neither the other Lenders nor the Agent Banks shall be liable for the obligations of such defaulting Lender. If the Lender's failure to make available the funds as agreed hereunder is attributable to such Lender, the defaulting Lender shall reimburse the Co-Borrowers: (a) overnight interbank interest paid to the Facility Agent at the abovementioned PIBC Rate (if the PIBC Rate is unavailable for any reason, the funding costs as informed by the Facility Agent) (if the Co-Borrowers have paid the interest); and (b) additional costs and expenses incurred by the Co-Borrowers arising from the defaulting Lender's failure to make available the funds which causes the Co-Borrowers to obtain the financing at an interest rate higher than the interest rate hereunder provided that the Co-Borrowers shall provide evidence to prove its costs and expenses.

5. **Discretion over Drawdown Amount**

In the event that the Co-Borrowers request a Drawdown of the Facility Amount in accordance with the terms of this Agreement, each Lender's Commitment shall be made available based on each Lender's Commitment Fraction. However, if it is unable to make available the funds in strict compliance with each Lender's Commitment Fraction due to technical issues, the funds to be made available by each Lender shall be determined by the Facility Agent based on its reasonable judgment, and none of the Co-Borrowers and the Lenders shall raise any objection.

6. **Conditions Subsequent to Drawdown**

(1) MST shall, within five (5) Business Days from the Drawdown Date, create a share pledge over the Pledged Shares owned by it with the maximum secured amount in favor of the Collateral Agent in accordance with Section 11.3 hereof and complete the relevant procedure to create the pledge.

(2) Inotera shall, before the termination or expiration (without renewal) of the Existing Insurance over the Fab, Machinery and Equipment, name the Collateral Agent and Inotera as the joint loss payee of the relevant insurances and execute a letter of authorization to the insurance company agreeing that the insurance proceeds shall be remitted to the Repayment Accounts in accordance with Section 11.5(2). Inotera shall also deliver originals of certificates of insurance and originals or certified copies of the certificate for payment (or other evidencing documents) to the Collateral Agent in accordance with Section 11.5(2).

(3) Inotera shall, within 6 months from the Drawdown Date, create and perfect a first priority chattel mortgage over the Second Batch of Machinery and Equipment with the maximum secured amount in favor of the Collateral Agent in accordance with Section 11.2 hereof and complete the relevant mortgage registration.

Article 4 Interest, Fees and Ensured Benefits

1. **Interest**

The Co-Borrowers shall pay interest on the Outstanding Principal Amount in the following manners:

(1) **Interest Rate**

The interest rate shall be the Reference Rate plus 2.05% per annum, and shall be adjusted on each Interest Adjustment Date.

(2) **Interest Period and Payment Deadline**

Interest Period shall have the meaning set forth in Section 1.1(33). The Co-Borrowers shall pay the interest accrued for the preceding Interest Period on the commencement day of each Interest Period.

(3) **Taxes**

The statutory business tax imposed on interest and stamp tax shall be borne by the Co-Borrowers.

(4) **Interest Calculation Basis**

Interest shall be calculated on the basis of a year of 365 days and actual number of days elapsed.

2. **Arrangement Fees to Mandated Lead Arrangers and Agency Fee to Agent Banks**

The Co-Borrowers shall pay arrangement fees to the Mandated Lead Arrangers for their arrangement of syndication of the facility and agency fees to the Facility Agent (for management of matters hereunder), the Collateral Agent (for management of Collateral) and the Document Management Agent (for management of relevant documents hereunder). The amount and payment method shall be separately agreed upon by the Co-Borrowers, the Mandated Lead Arrangers, the Facility Agent, the Collateral Agent and the Document Management Agent.

3. **Calculation of Interest Rates and Fee Rates**

Interest rates and fee rates under this Agreement expressed as a percentage (%) shall be rounded off to the nearest fourth decimal point.

Article 5 Repayment and Payment

1. **Repayment**

(1) The Co-Borrowers shall repay the Outstanding Principal Amount as at the expiration of the drawdown period in six (6) equal installments with the first one being repaid on the date falling thirty (30) months after the Drawdown Date and thereafter at intervals of six (6) months, provided that in any event all of the Outstanding Balance shall be fully repaid by the Co-Borrowers on the Final Maturity Date.

(2) Any and all indebtedness incurred by any of the Co-Borrowers under this Agreement, individually or jointly, shall be their joint and several obligations in accordance with Article 272 of the ROC Civil Code where the Co-Borrowers shall be jointly and severally liable for such indebtedness in accordance with applicable laws, regardless of the amount actually drawn by a Co-Borrower, the advance is making available to the account of which Co-Borrower, the actual use of advance or which part of the indebtedness is due but unpaid. However, Inotera's joint and several liabilities for the indebtedness incurred by MST will only commence once Inotera has become MST's wholly owned subsidiary on the Share Swap Record Date. The discharge of any of the Co-Borrowers' liabilities hereunder or the grant of grace period to or other arrangement agreed by the Lenders in respect of one of the Co-Borrowers shall not affect the liabilities of the other Co-Borrower hereunder.

2. **Voluntary Prepayment**

The Co-Borrowers shall not prepay the Outstanding Principal Amount, in whole or in part, unless the following

requirements are all fulfilled:

(1) The Co-Borrowers shall have given to the Facility Agent a written notice not less than ten (10) Business Days prior to the date of prepayment;

(2) Unless the Co-Borrowers prepay all of the Outstanding Principal Amount in full or the Facility Agent otherwise agrees in writing, the prepayment shall be in minimum amount of NT$150,000,000 and in integral multiples of NT$150,000,000; and

(3) The date of prepayment shall be an Interest Payment Date or a repayment date set forth in Section 5.1(1), and all due and payable interest, expenses and other payable amount shall concurrently be fully paid by the Co-Borrowers together with the prepaid principal.

Any prepayment in violation of the above provisions shall be subject to a penalty in an amount equal to point one per cent. (0.1%) of the prepaid principal amount. The Facility Agent will calculate the amount of the penalty and notify the Co-Borrowers of the same. The Co-Borrowers shall pay the Facility Agent the penalty along with the prepaid amount on the prepayment date and the Facility Agent will then distribute it to each Lender.

3. **Mandatory Prepayment**

All the following proceeds received by the Co-Borrowers shall be used to repay the Outstanding Principal Amount, in part or in whole:

(1) proceeds from sale of any Collateral in accordance with this Agreement and the Security Documents (after deduction of the relevant transaction costs); and

(2) property insurance proceeds (except for the proceeds permitted to be used for repair or replacement of damaged or destroyed Collateral).

4. **Provisions Applicable to Prepayment**

(1) Any notice of prepayment given by the Co-Borrowers under the provisions of this Agreement shall be irrevocable and the Co-Borrowers shall be bound to make a prepayment in accordance therewith; and

(2) Prepayment shall be applied against repayment installments set forth in Section 5.1 in the inverse order of maturity.

5. **Proportional Repayment**

Unless otherwise provided in this Agreement, the Outstanding Principal Amount of each Lender shall be reduced by the amount so repaid or prepaid by the Co-Borrowers in proportion to the Risk Sharing among the Lenders. If the Outstanding Principal Amount of each Lender cannot be precisely reduced in proportion to the Risk Sharing among the Lenders, the distribution shall be determined by the Facility Agent based on its reasonable judgment; the Co-Borrowers and each Lender shall not raise any objection.

Article 6 Change of Law

1. **Legality**

(1) If prior to the providing of the facility, due to change of law, it will become unlawful for any of the Lenders to maintain or perform its obligations hereunder, the Lender shall so notify the Facility Agent immediately and the Facility Agent, upon receipt of the notice, shall immediately notify the Co-Borrowers of the same where upon (a) the Lender shall have no obligation to maintain or advance the relevant loan before the end of the unlawful situation (and the Lender shall be obligated to provide the loan if the unlawful situation no longer exists before the expiry of the drawdown period); and (b) the Commitment Fraction and the Commitment of other Lenders shall remain unchanged.

(2) If after the providing of the facility, due to change of law, it is deemed or will be deemed unlawful for any of the Lenders to maintain the specific facility, the Lender shall so notify the Facility Agent immediately and the

Facility, upon receipt of the notification, shall immediately notify the Co-Borrowers of the same, whereupon the Co-Borrowers shall as soon as possible but no later than the expiry of the period permitted by law prepay the Outstanding Principal Amount owed to the Lender together with interest accrued thereon to the date of prepayment and any other sum payable hereunder to the Lender. However, the provisions of Section 5.02 do not apply if the Co-Borrowers prepay in accordance with this Section 6.01(2).

(3) If the unlawfulness described above is attributable to the Lender concerned, the Lender shall arrange to obtain for the Co-Borrowers substitute facility with terms equivalent to this Agreement, and shall indemnify the Co-Borrowers against the additional cost and expense arising from prepaying the Facility in accordance with Section 6.1(2) (provided that the Co-Borrowers shall provide relevant document or proof evidencing such additional cost and expense).

(4) If the unlawfulness described above is not attributable to the Lender concerned, the Lender shall discuss with the Co-Borrowers in good faith and, to the extent permitted under applicable laws and on a reasonable effort basis, arrange or assist the Co-Borrowers to obtain other substitute facility in a way practicable in the then-current market. Notwithstanding the above, the Lender shall have no responsibility to ensure the availability of such substitute facility.

(5) If any of the Lenders fails to provide the Facility under this Agreement for any other reason, and the failure to provide the Facility is attributable to the Lender, such Lender shall arrange for the Co-Borrowers the substitute facility with terms equivalent to this Agreement and shall indemnify the Co-Borrowers against the additional cost so incurred by the Co-Borrowers from obtaining substitute facility at the interest rate higher than that of this Agreement and the relevant additional expense (provided that the Co-Borrowers shall provide relevant document or proof evidencing such additional cost and expense). Notwithstanding the above, if the failure to provide facility is not attributable to the Lender, the Section 6.1(4) shall apply *mutatis mutandis*.

2. **Increase in the cost; change of law, taxation and other deductions**

(1) In the event that, due to the change in laws or in the interpretation of laws by the authorities, or in compliance with the authorities' instruction or requirement, (a) any of the Lenders is required to pay any other tax in addition to the tax payable for the transactions hereunder, or the tax rate or the tax base in respect of the payment by the Co-Borrowers hereunder has changed (except for the change of the net income tax rate under the law of the ROC or the jurisdiction where the Lenders are incorporated); (b) there is an increase or change in applicable reserve, special deposit or similar requirement in respect of this Transaction or any of the forgoing becomes applicable to this Transaction; or (c) the Lenders' cost of providing facility or maintaining facility increases or the amount receivable by the Lenders hereunder reduces, and in each case the aforesaid increase or reduction would, as reasonably determined by the Lenders, make the Lenders lose or become unable to receive the benefit of the transaction under this Agreement that the Lenders have received or anticipate to receive, the Co-Borrowers shall, upon demand by the Facility Agent, pay such additional amount to the Facility Agent which shall in turn pay each Lender. When making the aforesaid request through the Facility Agent, the Lenders concerned shall provide relevant supporting documents or proof evidencing the increase of costs or the reduction of benefits.

(2) The Co-Borrowers shall not make any withholding or deduction from the amount payable to the Lenders under this Agreement. Except for any taxes to be borne by the Lenders or the Agent Banks under this Agreement, if the Co-Borrowers are required by the laws or regulations to make any withholding or deduction from any payment under this Agreement, the Co-Borrowers shall pay such additional amount as will ensure that the amount to be actually received by the Lenders or the Agent Banks after the withholding (including withholding in respect of the additional amount paid by the Co-Borrowers under this Section 6.2(2)) will be equivalent to the full amount which they will receive as if no such withholding or deduction had been required.

(3) All taxes and expenses arising from the execution or registration of this Agreement, Security Documents or other relevant documents now or in the future shall be borne by the Co-Borrowers. If the Mandated Lead Arrangers, the Agent Banks and/or the Lenders have paid any such tax or expense, the Co-Borrowers shall pay the full amount to the Facility Agent within five (5) Business Days of receiving the notice (with the receipt, certificate or related proofs of the aforementioned tax or expense) for the Facility Agent to forward the payment to the relevant Mandated Lead Arrangers, Agent Banks and/or the Lenders, and the Co-Borrowers shall pay the interest on the advanced amount at the Compensatory Interest Rate as of the advance date (on a floating basis) for the number of days from the advance date to the repayment date on the basis of a year of 365 days. Business tax and stamp tax thereof shall be borne by the Co-Borrowers.

(4) The Co-Borrowers shall provide the original of the payment receipts for withholding tax or deducted amount or the copies certified to be identical with the originals to the Facility Agent within thirty days of paying any withholding tax or making any deduction. If the Co-Borrowers make a request through the Facility Agent, the relevant Lenders shall provide the receipts to the Co-Borrowers regarding the taxes paid by the Lenders which have been reimbursed by the Co-Borrowers.

(5) If the Facility Agent is required by laws to deduct or withhold any tax from any payment to any Lender under this Agreement or Security Documents, the Co-Borrowers shall, as notified by the Facility Agent, pay such additional amount to the Facility Agent on the payment date for distribution to the Lenders so that the amount to be actually received by the Lenders after all necessary deduction and withholding will be equivalent to the amount which they will receive as if no such deduction or withholding had been required.

(6) The Co-Borrowers' agreement and obligations under Paragraph 2 of this Article shall survive the Contract Period, provided that the agreement and obligations under each Paragraph of this Article shall solely be borne by MST before Inotera becomes a 100% subsidiary of MST on the Share Swap Record Date.

3. **Bail-in Regime for European Economic Area ("EEA") Banks**

Each party to this Agreement understands that:

(1) Any Lender that is a bank incorporated under the laws of any EEA Member States (the "**EEA Bank**") shall, in addition to complying with the laws and regulations of the country in which it is incorporated, be subject to the supervision and regulation of the relevant Supervisory Authorities in the European Union (as defined below) for any of its activities and be in compliance with any laws and regulations stipulated by such Supervisory Authorities. Pursuant to Article 55 of Directive 2014/59/EU and its relevant laws and regulations, if an EEA Bank faces financial difficulties or fails to perform its contractual liabilities, a Supervisory Authority is empowered to exercise the Write-down and Conversion Powers delegated by applicable laws and regulations, and to take the Bail-in Action (as defined below) against such EEA Bank, including without limitation: (a) a reduction, in full or in part, in the principal amount and interest amount of the liabilities of such EEA Bank, (b) a conversion of all, or part of, any such liability into shares or other instruments representing equities issued by such EEA Bank; (c) a cancellation of any such liability, and/or (d) a variation of any term of the agreement in relation to any such liability to the extent necessary to give effect to the Bail-in Action.

(2) The Bail-in Action that the Supervisory Authorities take under their respective authority is binding upon all the counterparties of such EEA Bank and shall prevail over the terms of the relevant contracts and agreement signed with the counterparties.

(3) For the purpose of this Section 6.3:

(a) "**EEA Member States**" shall mean each EU member state, Iceland, Liechtenstein and Norway.

(b) "**Supervisory Authorities**" shall mean the competent authorities empowered to exercise the Write-down and Conversion Powers under Article 55 of Directive 2014/59/EU and its relevant laws and regulations.

(c) "**Bail-in Action**" shall mean each of the relevant measures adopted by the relevant Supervisory Authorities under their delegated authorities (i.e., the Write-down and Conversion Powers).

(d) "**Write Down and Conversion Powers**" are detailed in the mechanism/plan and laws and regulations in connection with resolving/dealing with the debt problem of financial institutions stipulated by EU Member States under EU regulations (i.e., Article 55 of Directive 2014/59/EU) and its relevant laws and regulations.

The Co-Borrowers, the Agent Banks and each of the Lenders confirm that they have understood the provisions of this Section 6.3 and agree that this Agreement shall be subject to the aforementioned Bail-in Action.

Article 7 Other Expenses and Taxes

1. **Expenses**

The Co-Borrowers shall reimburse the Mandated Lead Arrangers or the Agent Banks within five (5) Business Days upon request all reasonable costs, expenses, and fees incurred from arranging the facility of this Transaction, assembling the Lenders, negotiating, preparing and executing this Agreement, the Security Documents and any other documents required under this Agreement, modifying or amending this Agreement, the Security Documents or any other documents required under this Agreement to which they are parties, or seeking consent and waiver of right (including but not limited to reasonable attorney's fees and advanced fees, audit fees of CPA engaged for the benefit of the Lenders, other advanced fees, fees for creating or acquiring pledge or other Security Interests, legal fees related to this Transaction before execution of this Agreement and etc.), which costs, expenses, and fees shall be borne by the Co-Borrowers no matter they were incurred prior to the execution of this Agreement or during its duration period or whether this Transaction has been completed. However, such costs, expenses, and fees shall be solely borne by MST before Inotera becomes a 100% subsidiary of MST on the Share Swap Record Date.

2. **Execution Expenses**

All costs, expenses and fees (including but not limited to the reasonable attorney's fees, court fees, fees for obtaining enforcement title, fees for compulsory execution, fees for participation in distribution, arbitration fees, and fees arising from a settlement before the court or out-of-court or execution of settlement agreement and other advanced fees) incurred by the Agent Banks and the Lenders as a result of making a claim for or collecting any due indebtedness under this Agreement or any Security Documents or preserving or exercising their rights under this Agreement and Security Documents (including but not limited to participation in bankruptcy, liquidation, reorganization or other legal procedures involving the Co-Borrowers or any other party; or raising objection to or defensing against requests or claims regarding this Agreement or Security Documents made by any other party against the Co-Borrowers) shall be borne by the Co-Borrowers, unless the Co-Borrowers have obtained a favorable judgment or arbitration award under the legal proceeding concerned, in which case the aforesaid fees arising from such legal proceedings shall be borne by the party as determined by the relevant judgment or arbitration award.

3. **Expense sharing**

If the Co-Borrowers fail to pay the execution expenses provided in Section 7.2, the Facility Agent may request the relevant Lenders to pay the execution expenses in advance on a pro rata basis according to their Risk Sharing Ratio and may take the necessary actions only after it has actually received the amount. If the relevant Agent Banks advance such execution expenses, the Lenders shall repay such advances to the Facility Agent promptly when notified by the Facility Agent (for the Facility Agent to transfer those amounts to relevant Agent Banks), or the Facility Agent may deduct such amounts from the payments to be distributed to each Lender.

4. **Taxation**

Except for the income taxes payable by the Lenders on their income and otherwise agreed under this Agreement, all existing and future taxes imposed by the Republic of China on payments to be paid by the Co-Borrowers pursuant to this Agreement or related documents shall be borne by the Co-Borrowers.

5. **Tax Credit or Allowance**

If the Co-Borrowers are of the reasonable opinion that a tax credit or allowance resulting solely and directly from payment by the Co-Borrowers under this Agreement is available under applicable ROC tax laws and regulations and that applying for such tax credit or allowance will not adversely affect the Agent Banks/Lenders or result in the Agent Banks/Lenders incurring any cost (other than a cost reimbursable pursuant to this Section 7.5) or loss, the Co-Borrowers may by notice in writing to the Facility Agent request the Facility Agent/Lenders to and the Facility Agent/Lenders shall apply to the ROC Tax Authority for such tax credit or allowance. The Co-Borrowers shall promptly upon demand by the Facility Agent reimburse the Facility Agent/Lenders for all reasonable costs and expenses incurred by them in preparing, filing and attending to such application. In the event that the Agent Banks/Lenders actually receives the benefit of a tax credit or allowance resulting solely and directly from payment by the Co-Borrowers under this Agreement, the Agent Banks/Lenders shall pay to the Co-Borrowers such part of that benefit as in the opinion of the Agent Banks/Lenders will leave them (after such payment) in no more and no less favourable position than they would have been if the Co-Borrowers had not been required under this Agreement to make payment on account of any deduction or withholding, provided

always that the Agent Banks/Lenders:

(1) have an absolute discretion as to the order and manner in which they employs or claims tax credits and allowances available to them; and

(2) not be obliged to disclose to the Co-Borrowers any information regarding their tax affairs or tax computations.

6. **Co-Borrowers' obligation to repay disbursements**

The Lender or the Agent Banks are not obligated to advance any fees, taxes or expenses for the Co-Borrowers. However, if any of the Lenders or the Agent Banks advances such fees, taxes or expenses, it shall notify the Co-Borrowers. The Co-Borrowers shall repay the full amount to the Facility Agent within five (5) Business Days of receiving the notice from the Lender or relevant Agent Bank for its transfer of such amount to the relevant Agent Bank and/or Lender, and the Co-Borrowers shall pay the interest on the advanced amount at the Compensatory Interest Rate as of the advance date (on a floating basis) for the number of days from the advance date to the repayment date on the basis of a year of 365 days. Business tax and stamp tax shall be borne by the Co-Borrowers.

Article 8 Evidence of Payment and Debt

1. **Payment Made by the Co-Borrowers**

Unless otherwise provided under this Agreement, all payments to be made by the Co-Borrowers shall be made to the Facility Agent; otherwise such payments will be invalid repayments. In addition, the Co-Borrowers shall remit or deposit immediately available funds to the account designated by the Facility Agent by 12:00 PM on the applicable due date or make payment by other payment instruments as agreed by the Facility Agent. For payments made by remitting or depositing funds into the account, the repayment shall be effective upon the amount arrive to the account designated by the Facility Agent; for payments made by means other than remittance or deposit, repayment shall be effective when the Facility Agent actually receives the payments. Unless otherwise provided in this Agreement, the Facility Agent shall, distribute each of the above mentioned payments received from the Co-Borrowers to the accounts designated by each Lender in advance on a pro rata basis according to the Risk Sharing Ratio as soon as possible.

2. **Order of Discharge**

If any amount received by the Facility Agent from any of the Co-Borrowers is less than the payable amount, the Facility Agent is entitled to apply such payment in the following order: (1) Firstly, to pay the Agent Banks the expenses not paid by the Co-Borrowers or the relevant Lenders that have been incurred by the Agent Banks in exercising their rights under this Agreement and or other relevant documents; (2) Secondly, to pay the fees, penalty and interests which shall be paid by the Co-Borrowers to the Lenders or the Agent Banks but remain unpaid (including Agent Banks' fees); (3) Thirdly, to pay the Outstanding Principal Amount; (4) Fourthly, depending on the nature of the amount, for the Agent Banks to distribute such amount in accordance with the terms hereunder (or as determined by the Agent Banks in the absence of such terms) based on each of the relevant Lenders' Risk Sharing Ratio.

3. **Order of Payment**

Unless otherwise provided in this Agreement, when the Facility Agent receives from the Co-Borrowers any amount which shall be distributed to the Lenders, the Facility Agent shall distribute such amount to the Lenders when it actually receives such amount and in accordance with this Agreement. The Lenders shall use the amount to settle the Co-Borrower's debt owed to the Lenders in the order of settlement pursuant to this Agreement and the applicable laws and regulations. If such payment is insufficient to repay all amounts payable to the Lenders under a certain item, the Facility Agent shall distribute such amount based on each Lender's Risk Sharing Ratio.

4. **Refunds**

If the Facility Agent distributes to a Lender an amount which the Facility Agent should receive but has not actually received from the Co-Borrowers, such Lender shall on demand promptly refund such amount to the Facility Agent together with interest thereon for the relevant period (at the rate per annum certified by the Facility Agent to represent its cost of funding such amount for such period). If the Facility Agent distributes to a Lender an amount which is required to be returned to the Co-Borrowers, such Lender shall on demand promptly refund such amount to the Facility Agent together with such interest thereon calculated at the call loan rate displayed on the PIBC page (under the circumstance that there

are interest payable).

5. **Adjustment of Payment Due on Non-Business Days**

Unless otherwise provided under this Agreement, if any payment becomes due and payable on a day other than a Business Day, such payment shall be extended to the subsequent Business Day and if such payable amount is principle, the calculation of the interest payable thereon shall also be adjusted accordingly to the preceding day of the payment day; however, if the above would cause the maturity date of any payment be extended to the next month, such payment shall be made on the preceding Business Day of its original maturity date and if such payable amount is principle, the calculation of the interest payable thereon shall also be adjusted accordingly to the preceding day of the payment day.

6. **Credit Records**

The Facility Agent shall establish and keep the credit records of the Co-Borrowers with details of Drawdown of the Facility Amount and payment by the Co-Borrowers. All details of payments payable but unpaid by the Co-Borrowers, unless the Co-Borrowers can prove errors in such records, shall be subject to such records. If any negotiable instruments or other certificates of debt provided by the Co-Borrowers to the Facility Agent/Collateral Agent pursuant to this Agreement is lost, damaged or destroyed, the Co-Borrowers agree to sign documents, issue new negotiable instruments or certificate of debt in accordance with the Facility Agent/Collateral Agent's records to the he Facility Agent/Collateral Agent and the Co-Borrowers shall assist the Facility Agent/Collateral Agent in completing the loss report and stop payment procedures as required by the applicable laws and regulations.

7. **Certificate Conclusive and Binding**

If any provision of this Agreement stipulates that the Facility Agent or a Lender may specify or confirm the amount payable by the Co-Borrowers or the interest rate, the evidencing documents issued by the Facility Agent or the Lender in connection with such amount or interest rate shall, in the absence of error and to the extent permitted by law, be a conclusive evidence binding on the Co-Borrowers.

Article 9 Representation

1. **Representations**

Unless otherwise agreed in this Agreement, the Co-Borrowers represent to the Lenders, Lead Managers and the Syndicate Banks that as of the date of this Agreement and the date on which the Co-Borrowers submit the Drawdown Request:

(1) Corporate Existence

The Co-Borrowers are duly organized and validly existing as a company under the laws of its incorporation (the registered address thereof as aforementioned), and have full corporate capacity and power to own its assets and to carry out its business.

(2) Corporate Power

The Co-Borrowers have full corporate authority and power to execute and deliver this Agreement and the Security Documents and related documents to which they are parties and to perform their obligations thereunder, and have obtained all necessary corporate resolutions, approval or consent to execute, deliver and perform this Agreement and the Security Documents and related documents to which they are parties. Such resolutions, approval and consent have not been revoked and remain in full force and effect.

(3) Binding Obligations

This Agreement constitutes legal, valid and binding obligations of the Co-Borrowers which are enforceable in accordance with the terms therein. The Security Documents and other related documents to which the Co-Borrowers are parties will, upon the execution and delivery thereof, constitute legal, valid and binding obligations of the Co-Borrowers which are enforceable in accordance with the terms therein. However, this Section 9.1.3 is subject in each case to any applicable reorganization, bankruptcy, insolvency or similar laws in effect generally restricting the Lenders' rights and remedies, and the qualifications or exclusions as provided in the legal opinion issued by the legal counsel of the Lenders in accordance with Section 3.1(14)(a).

(4) No Violation of Laws

(a) Neither the execution and delivery of this Agreement and the Security Documents and other related documents by the Co-Borrowers to which they are parties nor the performance by the Co-Borrowers of any of their obligations or the exercise of any of their rights hereunder or thereunder will (i) conflict with or result in a breach of any law, regulation, order, authorization, or agreement or the obligation thereunder; (ii) conflict with or result in violation of the constitutional document or the related documents of each of the Co-Borrowers; (iii) result in violation of any limitation which the Co-Borrowers shall have abided by; or (iv) exceed the authority of the representative(s) of each of the Co-Borrowers.

(b) Neither the execution and delivery of this Agreement and the Security Documents and other related documents by the Co-Borrowers to which they are parties nor the performance by the Co-Borrowers of any of their obligations or the exercise of any of their rights hereunder or thereunder will not result in a breach of the Co-Borrowers' other contracts or a default thereunder. However, this Section 9.1(4)(b) does not apply to any breach or default which does not have material adverse effect on the ability of the Co-Borrowers and the Guarantor (taken as a whole) to perform their obligations under this Agreement and the Security Documents and related documents to which they are parties.

(5) No Event of Default

There has been no Event of Default or prospective Event of Default which has occurred or is continuing.

(6) Government Approvals

(a) The Co-Borrowers have obtained all necessary consent, approval or authorization of or registration with any governmental authority which is required in connection with the execution and delivery of this Agreement and the Security Documents and related documents to which the Co-Borrowers are parties.

(b) The Co-Borrowers have obtained all necessary consent, approval or authorization of or registration with any governmental authority which is required in connection with the performance and observation of this Agreement and the Security Documents and related documents to which the Co-Borrowers are parties. However, this Section 9.1(6)(b) does not apply to the failure to obtain the aforementioned consent, approval, authorization or registration that does not have material adverse effect on the ability of the Co-Borrowers and the Guarantor (taken as a whole) to perform their obligations under this Agreement and the Security Documents and related documents to which they are parties.

(7) No Filing or Registration

Except for the registration and registration fees in connection with the real estate mortgage and chattel mortgage as set forth in Article 11 in accordance with the laws of the ROC, under the laws of the ROC, it is not necessary in order to ensure the validity, enforceability or admissibility in evidence in proceedings of this Agreement and the Security Documents and related documents to which the Co-Borrowers are parties that this Agreement or any Security Documents be filed or registered with any governmental authority in the ROC or elsewhere or that any tax or fees be paid in respect thereof. However, this Section 9.1(7) does not apply if the filing, registration or payment become necessary due to the change of laws after the Drawdown Date and the Co-Borrowers, the Guarantor and the collateral provider have fulfilled the relevant requirements under the new laws to ensure the validity, enforceability or the admissibility into evidence in proceedings of this Agreement, any Security Documents or other related documents.

(8) No Litigations

(a) Save for those disclosed to the Mandated Lead Arrangers prior to the date of this Agreement, no litigation, non-litigation, arbitration, administrative appeal, administrative proceeding, compulsory enforcement procedures or any other similar legal procedures are currently taking place or pending and, to the knowledge of the Co-Borrowers, threatened against the Co-Borrowers or any of its assets or business. However, this Section 9.1(8)(a) does not apply to any such legal procedures as aforementioned which do not have material adverse effect on the ability of the Co-Borrowers and the Guarantor (taken as a

whole) to perform their obligations under this Agreement and the Security Documents and related documents to which they are parties.

(b) The Co-Borrowers do not file or has being filed or proceeded with any reorganization, bankruptcy, reconciliation under the Bankruptcy Act, dissolution, suspension of business, liquidation, bail-out, debt negotiation, settlement proceeding or other similar legal procedures which may have a material adverse effect on their financial condition, property or business, and, to the knowledge of the Co-Borrowers, no any such proceedings will be filed shortly or is pending.

(9) Compliance

The Co-Borrowers do not violate any law, regulation, order, authorization, agreement or obligation applicable to each of them. However, this Section 9.1(9) does not apply to any such violations which does not have material adverse effect on the ability of the Co-Borrowers and the Guarantor (taken as a whole) to perform their obligations under this Agreement and the Security Documents and related documents to which they are parties.

(10) Financial Statement

The most recent audited financial statements of the Co-Borrowers (for the avoidance of doubts, for MST, except for the financial statements prepared at the end of the fiscal year after the Share Swap Record Date, its financial statements are not required to be audited by the CPA) are prepared in accordance with applicable laws and regulations and generally accepted accounting principles as prescribed by the relevant authorities applied on a consistent basis and fairly represent the financial position of the Co-Borrowers as of the end and during the period of, and the results of their operations for, the financial period to which they relate and, unless otherwise notified by the Co-Borrowers in writing to the Facility Agent, as of the end of such period the Co-Borrowers did not have any significant liabilities (contingent or otherwise) or any unrealized or anticipated losses which are not disclosed by or reserved against in, such financial statements or the footnotes thereof.

(11) No Misleading Information

The Co-Borrowers do not make any untrue representations on the material facts in this Agreement, the Security Documents and other related documents to which they are parties or any documents submitted to the Lenders in connection with this Agreement, and do not omit any material facts which may create any misleading results in the representations or the documents.

(12) Correctness of Disclosed Information

The content of all the documents (other than projection and estimates) provided by the Co-Borrowers to the Lenders for this Transaction prior to the date of this Agreement are true, correct and complete in all material aspect. All projection and estimates in such documents were made by the Co-Borrowers reasonably and carefully based on the relevant facts and circumstances and in the Co-Borrowers' opinion, such projection and estimates are reasonable. To the knowledge of the Co-Borrowers, all facts which might materially affect such documents, projection and estimates have been disclosed to the Lenders. However, the Lenders, the Mandated Lead Arrangers and the Agent Banks acknowledge that any such projection or estimates may vary from actual results.

(13) Taxes

Save for those under the relevant administration remedy proceedings in accordance with laws or regulations, the Co-Borrowers have filed all tax return and paid taxes in a timely manner. However, this Section 9.1(13) does not apply to any such failure to file tax return or pay taxes in a timely manner which does not have material adverse effect on the ability of the Co-Borrowers and the Guarantor (taken as a whole) to perform their obligations under this Agreement and the Security Documents and related documents to which they are parties.

(14) Legal Title of the Collateral

The Co-Borrowers have the complete and legal ownership or other legal rights on the Collateral provided to the Security Agent. There has been no other lien or encumbrances in favor of other person, lease (other than the Permitted Lease) or other circumstance that may affect the exercise of the mortgage. The Collateral is free of defect in title, and the Co-Borrowers may create security interest on the Collateral in favor for the Security Agent

in accordance with the terms hereof.

(15) Pari Passu Ranking

The unsecured payment obligations of the Co-Borrowers owed to the Lenders under this Agreement and the Security Documents and other related documents to which they are parties rank pari passu with their unsecured and unsubordinated indebtedness, except for indebtedness mandatorily preferred by law.

2. **Continuing Representation**

Save for those representations and warranties made solely with reference to the facts and circumstances as of specific date, the Co-Borrowers also represent and warrant to the Lenders, the Agent Banks and the Mandated Lead Arrangers that the foregoing representations under subsections (1) (except that the registered address shall be the one actually registered after change from time to time) , (2), (3), (4), (6), (7), (8)(a), (9), (10), (13), (14) and (15) of Section 9.1 will be true and accurate after the Drawdown Date and throughout the continuance of this Agreement with reference to the facts and circumstances subsisting from time to time.

Article 10 Undertakings

1. **Affirmative Undertakings**

The Co-Borrowers undertake and agree with the Lenders, Mandated Lead Managers and the Agent Banks throughout the continuance of this Agreement that they shall:

(1) **Use of Proceeds**

Use the proceeds of the drawdown hereunder for the purpose as stated in Section 2.2 above. The Co-Borrowers shall maintain proper accounting system and keep proper books and records and will record complete account of the proceeds of the drawdown (including but not limited to the details of the use thereof) on a consistent basis in conformity with all the accounting principles of laws or regulations stipulated by the relevant competent authorities.

(2) **Continuity of Existence and Compliance with Laws**

Maintain continuity of its existence and comply with all applicable laws and orders unless such non-compliance with applicable laws and regulations will not materially and adversely affect the ability of the Co-Borrowers and the Guarantor (taken as a whole) to perform their obligations under this Agreement and the Security Documents and other relevant documents to which they are parties.

(3) **Financial Information**

To provide the Document Management Agent with the following documents reviewed or audited by the CPA reasonably recognized by the Document Management Agent:

(a) MST's CPA-reviewed semi-annual consolidated financial reports within 5 Business Days from 90 days after the end of the first half of each accounting year and MST's CPA audited annual consolidated financial reports within five (5) Business Days from 150 days after the end of each accounting year (in each case including the balance sheets, statement of consolidated income, statement of cash flows and statement of changes in equity). Before MST adjusts its accounting year to be consistent with MTI (i.e. accounting year which starts from around September 1 and ends on around August 31), the accounting year in this Section 10.1(3)(a) shall be MST's accounting year.

(b) MTI's quarterly consolidated financial reports which shall be filed with the US Securities and Exchange Commission ("SEC") within five (5) Business Days from 90 days after the end of the first half of each accounting year; and MTI's CPA audited annual consolidated financial reports within five (5) Business Days from 150 days after the end of each accounting year.

(c) When providing the abovementioned financial reports, the Co-Borrowers shall also provide soft copy of such financial reports to facilitate the Document Management Agent's distribution of the soft copy

of the financial reports of MST and MTI to each Lender. The parties hereto further agree that for any of the consolidated financial reports to be provided by MTI in accordance with this Section 10.1(3)(c), if MTI has uploaded its quarterly consolidated financial reports to the website designated by the SEC from time to time, such consolidated financial reports of MTI shall be deemed to have been provided by the Co-Borrowers and MTI in accordance with this Section 10.1(3)(c). The Co-Borrowers shall notify the Document Management Agent of the website designated by the SEC for uploading the quarterly consolidated financial reports in writing; if such website is changed and renewed, the Co-Borrowers shall notify the Document Management Agent of the same from time to time.

If necessary for complying with applicable regulatory requirements in respect of supervision and examination by the competent authority,, the Co-Borrowers shall promptly upon the reasonable request of the Facility Agent and/or Document Management Agent, provide the Document Management Agent with its financial information and other information as requested including, but not limited to, the Co-Borrower's financial, business, and operation conditions as well as major shareholder structure and assets. The Document Management Agent is obliged to keep the information so obtained in confidential.

(4) **Financial Covenant**

(a) Ensure MST will maintain the following financial ratios and requirement:

(i) Leverage ratio (total debts/EBITDA): not higher than 5.50x in 2017 and 2018; and not higher than 4.50x through 2019 to 2021.

(ii) Tangible net worth (i.e., net worth minus intangible asset): not less than NT$ 4 billion in 2017 and 2018; not less than NT$ 6.5 billion in 2019 and 2020; and not less than NT$ 12 billion from 2021.

The financial ratios and standards above shall be reviewed each half-year based on the semi-annual and annual consolidated financial reports of MST provided in accordance with Section 10.1(3)(a) and the definition of EBITDA described below. When MST provides its financial reports to the Document Management Agent in accordance with Section 10.1(3)(a), it shall also provide a certificate certifying that there is no violation of the financial covenants (in the form of Appendix 10) issued by the CFO or the CPA of MST. Such certificate shall also specify the calculation method and result of the above financial ratios and standards.

If MST fails to meet any of the above-stated financial ratio and requirements but has improved to meet such financial ratio and requirements before the next reviewing date, it would not be deemed as an Event of Default. However, the interest rate for the Outstanding Principal Amount applicable to the Co-Borrowers under this Agreement shall be 0.25% over the agreed applicable interest rate during the period from the day the financial certificate submitted by MST indicates that the agreed financial covenants are not complied to the day of the issuance of the next certificate (which indicates that all financial covenants have been complied). But if MST fails to improve to meet above-stated financial ratio and requirements as of such next reviewing date, it would be deemed as an Event of Default.

(b) To ensure that MTI will maintain the following financial ratios and requirement:

(i) Leverage ratio (total debts/EBITDA): not higher than 4.50x in 2016; not higher than 3.50x in 2017; not higher than 3.00x in 2018 and 2019; and not higher than 2.50x in 2020 and 2021.

(ii) Tangible net worth (i.e., net worth minus intangible asset): not less than US$9 billion in 2016 and 2017; not less than US$12.5 billion in 2018 and 2019; and not less than US$16.5 billion in 2020 and 2021.

The financial ratios and requirements shall be reviewed each half-year quarterly consolidated financial reports and annual consolidated financial reports of MTI provided in accordance with Section 10.1(3)(b) and the definition of EBITDA described below. When the Co-Borrowers provides the financial reports of MTI to the Document Management Agent in accordance with Section 10.1(3)(b), the Co-Borrowers shall also provide a certificate certifying that there is no violation of the financial covenants (in the form of Appendix 1 of Guarantee) issued by the CFO or the CPA of MTI. Such certificate shall

also specify the calculation method and result of the above financial ratios and standards.

If MTI fails to meet any of the above-stated financial ratio and requirements, it would not be deemed as an Event of Default. However, the interest rate for the Outstanding Principal Amount applicable to the Co-Borrowers under this Agreement shall be 0.25% over the agreed applicable interest rate during the period from the day the financial certificate submitted by MTI indicates that the agreed financial covenants are not complied to the day of the issuance of the next certificate (which indicates that all financial covenants have been complied)

For avoidance of doubt, if MST and MTI both fail to meet the financial covenants and thus the interest rate shall be increased in accordance with the above, the required interest margin shall not be double counted. In other worlds, the interest rate under such circumstance shall be the applicable interest rate for the Outstanding Principal Amount agreed under this Agreement plus 0.25% per annum.

(c) For the purpose of reviewing the financial covenants in accordance with this Section 10.1(4), for MST, it shall be based upon the consolidated financial statements of MST; for MTI, it shall be based upon the consolidated financial statements of MTI. The definitions of the relevant terms are:

"**EBITDA**" means, with respect to any Person for any measurement period, the sum of the amounts for such period, taken as a single accounting period, of (1) Consolidated Net Income; excluding (to the extent deducted or otherwise excluded in calculating Consolidated Net Income in such measurement period), the following amounts (or, to the extent attributable to a non-wholly owned consolidated entity, a portion of the following amounts proportionate to such Person's allocable interest in such entity): (2) Consolidated Non-cash Charges; (3) Consolidated Interest Expense; (4) Consolidated Income Tax Expense; (5) restructuring expenses and charges; (6) any expenses or charges related to any equity offering, investment, recapitalization or incurrence of indebtedness not prohibited under this Agreement (whether or not successful) or related to the issuance of negotiable instruments; and (7) any charges, expenses or costs incurred in connection or associated with mergers, acquisitions or divestitures after the execution of this Agreement.

For the purpose of calculating EBITDA, it shall be calculated after giving effect on a pro forma basis for the applicable measurement period to any asset sales or other dispositions or acquisitions, investment, mergers, consolidations and discontinued operations (as determined in accordance with GAAP) by such Person and its Subsidiaries (1) that have occurred during such measurement period or at any time subsequent to the last day of such measurement period and on or prior to the date of the transaction in respect of which Consolidated EBITDA is being determined and (2) that MST determines in good faith are outside the ordinary course of business, in each case as if such asset sale or other disposition or acquisition, investment, merger, consolidation or disposed operation occurred on the first day of such measurement period.

"**Consolidated Income Tax Expense**" means, with respect to any Person for any period, the provision for (or benefit of) federal, state, local and foreign income taxes of such Person and its Subsidiaries for such period as determined on a consolidated basis in accordance with applicable laws and regulations and applicable accounting standards provided by the relevant competent authority, including any penalties and interest related to such taxes or arising from any tax examinations, to the extent the same were deducted (or added back, in the case of income tax benefit) in computing Consolidated Net Income.

"**Consolidated Interest Expense**" means, with respect to any Person for any period, without duplication, the total net interest expense of such Person and its Subsidiaries for such period as determined on a consolidated basis in accordance with applicable laws and regulations and applicable accounting standards provided by the relevant competent authority to the extent deducted in calculating Consolidated Net Income, of such Person and its Subsidiaries.

"**Consolidated Net Income**" means, with respect to any Person, for any period, the consolidated net income (or loss) of such Person and its Subsidiaries, after deduction of net income (or loss) attributable to non-controlling interests, for such period as determined in accordance with applicable laws and regulations and applicable accounting standards provided by the relevant competent authority, adjusted, to the extent included in calculating such net income, by excluding, without duplication, the following (or, to the extent attributable to a non-wholly owned consolidated entity, a portion of the following

amounts proportionate to such Person's allocable interest in such entity): (1) all extraordinary, unusual or nonrecurring gains or losses (net of fees and expense relating to the transaction giving rise thereto); (2) charges or losses as a result of judgments and settlements in connection with litigation or threatened litigation, up to a maximum in any measurement period of NT$31,500,000,000; (3) gains or losses in respect of any asset impairments, write-offs or sales (net of expenses and charges relating to the transaction giving rise thereto); (4) any expenses, losses or charges incurred related to lower of cost or market write-downs for work in process or finished goods inventories; (5) any expenses, losses or charges incurred related to excess or obsolete inventories; (6) the net income (loss) from any disposed or discontinued operations or any net gains or losses on disposed or discontinued operations: (7) any gain or loss realized as a result of the cumulative effect of a change in accounting standards; (8) any net gains or losses attributable to the early extinguishment or conversion of Indebtedness, derivative instruments, embedded derivatives or other similar obligations; (9) equity in net income (loss) of equity method investees; (10) gains, losses, income and expenses resulting from the application of fair value accounting to derivative instruments; and (11) gains or losses resulting from currency fluctuations. In addition, to the extent not already included in Consolidated Net Income of such Person and its Subsidiaries, the amount of proceeds received from business interruption insurance and reimbursements of any expenses or charges that are covered by indemnification or other reimbursement provisions in connection with any investment or sale, conveyance, transfer or disposition of assets not prohibited under this Agreement.

"**Consolidated Non-cash Charges**" means, with respect to any Person for any period determined on a consolidated basis in accordance with applicable laws and regulations and applicable accounting standards provided by the relevant competent authority, the aggregate depreciation; amortization (including amortization of goodwill, other intangibles, deferred financing fees, debt issuance costs, commissions, fees and expenses); non-cash compensation expense incurred in connection with the issuance of Equity Interests to any director, officer, employee or consultant of such Person or any Subsidiary; and other non-cash expenses of such Person and its Subsidiaries reducing Consolidated Net Income of such Person and its Subsidiaries for such period, (excluding any such charge which requires an accrual of or a reserve for cash charges for any future period).

"**Person**" means any individual, corporation, partnership, joint venture, association, limited liability company, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

"**Subsidiary**" of a Person means a corporation, partnership, limited liability company or other similar entity a majority of whose Voting Stock is owned by such Person or one or more Subsidiaries of such Person or any combination thereof. Unless otherwise indicated, the term "Subsidiary" refers to a Subsidiary of MST.

"**Voting Stock**" of a Person means all classes of capital stock or other interests (including partnership interests) of such Person then outstanding and normally entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof.

(5) **Notifications**

The Co-Borrowers shall notify the Facility Agent (but such notification shall not exempt the Co-Borrowers from their obligations under the law or this Agreement and shall not prevent the Lenders from exercising their rights under the law or this Agreement) of the following events and the response measures that the Co-Borrowers Borrower intends to take as soon as possible after they are aware of the same:

(a) Any Event of Default occurs and the remedial actions that have been taken.

(b) The Co-Borrowers know that there is a breach of Sections 9.1(4) or 9.1(6).

(c) The Co-Borrowers know that any of their representations in this Agreement becomes untrue.

(d) Any changes in the Co-Borrowers' shareholder structure.

(6) **Note and Note Authorization**

The Co-Borrowers and the Guarantor shall jointly issue and deliver to the Collateral Agent as payee a Note in the amount of the Facility Amount with blank maturity date, commencement date of interest, and interest rate and its Note Authorization (authorizing the Collateral Agent to fill in the maturity date, the interest rate and commencement date of interest of the Note) no later than the application for Drawdown. Upon the expiration of two (2) years from the issue date of any Note, the Collateral Agent may request the Co-Borrowers and the Guarantor to issue and deliver a new Note specified such date as issue date, in the amount of the Outstanding Principal Amount at that time with blank maturity date, commencement date of interest and interest rate and its Note Authorization to replace the Note and Note Authorization delivered in accordance with this Section 10.1(6). The Collateral Agent shall return the prior Note and Note authorization to MST after it has received the newly issued Note and Note authorization delivered by the Co-Borrowers and the Guarantor in accordance with this Section 10.1(6). The Note and the Note Authorization shall be in the form of Appendices 2 and 3 respectively.

(7) **Repayment Account**

One of the Co-Borrowers shall establish the Repayment Account with the Facility Agent and Collateral Agent prior to the Drawdown Date and complete the pledge of the Repayment Accounts to the Facility Agent and Collateral Agent respectively in accordance with Section 11.4 of this Agreement. The Co-Borrowers shall procure or maintain the total balance in the Repayment Accounts not less than the amount of interest payable by the Co-Borrowers for the subsequent six months pursuant to this Agreement at any time from the Drawdown to the end of the Contract Period.

(8) **Creation of Pledge or Mortgage**

The Co-Borrowers shall, and shall procure the Guarantor to, in accordance with Sections 11.1 to 11.3 of this Agreement, execute relevant Security Documents, provide relevant collaterals and create security interest in favor of the Collateral Agent.

(9) **Maintenance of Shareholding and De Facto Control**

(a) Except that MST and Inotera merge pursuant to the provisions of this Agreement, MST shall directly or indirectly hold no less than sixty-seven per cent (67%) of the issued shares of Inotera, and maintain the de facto control of Inotera.

(b) Ensure and procure MTI to directly or indirectly hold no less than sixty-seven per cent (67%) of the issued shares of MST or the surviving company after the merger of MST and Inotera pursuant to the relevant provisions of this Agreement, and maintain the de facto control of MST (or the above-mentioned surviving company).

(c) Shall ensure and procure that MTI shall not transfer, sell or in any other form dispose of any shares of MST, Inotera or the surviving company after the merger MST and Inotera pursuant to the relevant provisions of this Agreement directly or indirectly held by MTI to any person separately agreed and specified by MTI and the Lenders.

(10) **Maintenance of Listing**

Shall ensure the issued shares of MTI remain listed and traded on NASDAQ or NYSE.

(11) **Pledged Shares of Micron B.V.**

If MTI and Micron B.V. receive a favorable and final judgment in the Litigation between MTI / Micron B.V. and insolvency administrator for the estate of Qimonda, the Co-Borrowers shall procure Micron B.V. to provide the Pledged Shares of Micron B.V. and complete the pledge of such shares according to Section 11.3(3).

(12) **Ranking of Claims Not Subordinated to Unsecured Claims**

Ensure the ranking of claims of its unsecured debts under this Agreement and the Security Documents to which it is a party shall always at least rank pari passu with other unsecured debts of the borrower (save for those

mandatory preferred by law). In addition, the Collateral Agent (for all the Lenders' benefit based on the joint and several claim relationship) shall obtain the Security Interests over the relevant Collateral with the required priority after mortgage and pledge are duly created thereon in accordance with the relevant Security Documents, and the Collateral Agent may share such benefits with each Lender pursuant to the provisions of this Agreement.

(13) **Shareholders Loan** (covenant)

If any Co-Borrower has a loan from its shareholder, it shall procure the shareholder to issue and deliver a Subordination Undertaking (in the form of Appendix 13) to the Facility Agent, agreeing that the ranking in satisfaction of the shareholder's claims being subordinate to that of all claims of the Lenders hereunder and that the interest rate being not higher than the minimum interest rate calculated in accordance with the provisions of this Agreement; however, provided, that the above shall not apply to the following:

(a) up to US$2 billion intercompany loan for the payment of consideration of Share Swap by MST to Inotera's existing shareholders, Micron B.V. and Numonyx Holdings B.V;

(b) short term intercompany loan which is for Co-Borrowers' working capital or fund procurement for their ordinary operation; and

(c) intercompany loan which is for any Co-Borrowers' capital expenditure, if there is no Event of Default.

(14) **Obtain Necessary Licenses**

(a) Obtain, update and maintain according to the then applicable laws and regulations:

(i) permits, approvals, licenses and/or registrations necessary for this Transaction and the Collaterals; and

(ii) other approvals, licenses, consents, permits and/or registrations required for the relevant businesses of the Co-Borrowers, save for that if the failure to obtain the above-mentioned approvals, licenses, consents, permits and/or registrations under this subparagraph (ii) does not materially and adversely affect the abilities for the Co-Borrowers and the Guarantors (taken as a whole) to perform their obligations under this Agreement and the Security Documents and other relevant documents to which they are parties;

(b) However, it does not constitute an Event of Default if the Co-Borrowers breach this Section 10.1(14) but rectify it within thirty (30) days after the breach.

(15) **Maintenance of Good Operation and Business**

Maintain operation and assets in good condition, and purchase such kind and in such amounts of insurance for insurable assets as is customary in the industry from reputable insurance company reasonably approved by the Collateral Agent.

(16) **Performance of Environmental Matters**

Ensure the Co-Borrowers comply with relevant laws and regulations from time to time with respect to matters of environmental protection, pollution prevention, waste disposal, etc., and obtain all permits form the respective competent authority pursuant to such laws and regulations, save for that if the failure to comply with the above-mentioned matters does not materially and adversely affect the abilities for the Co-Borrowers and the Guarantors (taken as a whole) to perform their obligations under this Agreement and the Security Documents and other relevant documents to which they are parties; however, it does not constitute an Event of Default if the Co-Borrowers breach this Section 10.1(16) but rectify it within thirty (30) days after the breach.

(17) **Supervision and Inspection**

(a) If an Event of Default has occurred, after the prior written notice by the Facility Agent, allow the representative of the Facility Agent and the personnel delegated or hired by the Facility Agent, subject to non-interference with the operation of the Co-Borrowers, to enter the relevant facilities during the normal business hours of the Co-

Borrowers, and provide the books, records or documents relevant to the Co-Borrowers' ability of performing the obligations under this Agreement and the Security Documents or other relevant agreements to which they are parties upon the reasonable request by the Facility Agent for the Facility Agent to examine, photocopy or make abstracts of; and (b) where the Collateral Agent is required to inspect and supervise the Collaterals under the applicable laws and regulations, after the prior written notice by the Collateral Agent, allow the representative of the Collateral Agent and the personnel delegated or hired by the Collateral Agent, subject to non-interference with the operation of the Co-Borrowers, to enter the relevant facilities during the normal business hours of the Co-Borrowers to conduct the necessary inspection of the Collaterals. The Facility Agent or Collateral Agent may provide the information so acquired to the Lenders, and the Lenders shall be obligated to keep such information in confidence.

(18) **Equal Mortgage**

Except for the assets pledged or mortgaged in favor of the financial institutions prior to the execution of this Agreement and the right in rem created over the assets for the purpose of financing the consideration for purchase and acquisition of such assets or the relevant capital expenditure in the future, creation of security interest or other encumbrance over the Co-Borrowers' assets or increase of secured amount/indebtedness of existing security interest or other encumbrance over the Co-Borrowers' assets shall be consented by the Majority Banks in writing and in the form and within the term designated by the Facility Agent, unless while creating or increasing such security interests or encumbrance in favor of others, a security interest of the same priority over the same assets (on a proportional basis) or a security interest of the same priority over similar assets with equivalent value has been created in favor of the Collateral Agent for the Collateral Agent to hold such security interests for the benefits of the Lenders.

(19) **Permitted Lease**

If a Permitted Lease is expired and Inotera would like to lease the same area, it must be conducted by signing a new lease agreement, instead of maintaining the existing lease by an extension of the original lease agreement. Where a new lease agreement is signed, Inotera shall provide the Collateral Agent with a copy thereof.

(20) **FATCA**

(a) To the knowledge of each Co-Borrower, it is not a FATCA FFI or a U.S. Taxpayer. If any of the Co-Borrowers is subsequently aware that it might become a FATCA FFI or a U.S. Taxpayer, it shall immediately notify the Facility Agent. The Co-Borrowers agree that, for the compliance with the FATCA, anti-money laundering laws in the ROC and other relevant countries and the relevant laws and regulations applicable to the Lenders, the Lender(s) may request the Co-Borrowers through the Facility Agent to provide them with the relevant data and documents from time to time. The Co-Borrowers shall provide such data and documents in accordance with the Lender(s)' reasonable request(s) made through the Facility Agent. The Co-Borrowers agree that the Lender(s) may submit and report such data and document in accordance with applicable laws and regulations and the order of the competent authorities.

(b) Each Lender shall, upon a reasonable request by any of the Co-Borrowers,[1]

(i) confirm to that Co-Borrower whether it is a FATCA Exempt Party or not; and

(ii) provide that Co-Borrower with such data and documents relating to its status under the FATCA as that Co-Borrower reasonably requests for the purposes of that Co-Borrower's compliance with the FATCA.

[1] Note to B&M: The FATCA withholding/deduction would only occur if the Lenders don't provide the Co-Borrowers with the applicable tax forms confirming FATCA compliance.

(c) Notwithstanding anything to the contrary in this Agreement, each Co-Borrower may conduct any FATCA Withholding it is required to make by the FATCA, and any payment required in connection with the FATCA Withholding, and each Co-Borrower shall not be required to increase any payment in respect of which it conducts such a FATCA Withholding or otherwise compensates the recipient of the payment for that FATCA Withholding.

2. **Negative Undertakings**

The Co-Borrowers hereby undertakes to the Lenders, the Mandated Lead Arrangers and the Agent Banks that the Co-Borrowers shall not conduct any of the following acts during the Contract Period unless otherwise consented by the Majority Banks in writing:

(1) **Change of Main Business Scope and Nature of Business**

Inotera or the actual operating surviving company after the merger/reorganization, save for the necessity for increasing its business scope or expanding its business, change its main business scope (i.e., electronic parts and components manufacturing - semiconductor memory manufacturing) or nature of business.

(2) **Capital Reduction**

Capital reduction (except for the purpose of making up losses in accordance with Company Act), repayment of shareholder's loans (except permitted under Section 10.1(13)), buy-back or redemption of its own shares or distribution of assets to its shareholders (except for the dividends distributed by Inotera and the dividends distributed by MST in accordance with Section 10.2(4)).

(3) **Merger with Other Person**

Merge with any other person (except where the Co-Borrowers will be the surviving company after the merger or MTI will still directly or indirectly hold no less than sixty-seven per cent (67%) of the shares of the surviving company and has actual management control of the surviving company after the merger).

(4) **Distribution of Cash Dividends**

Distribution of any cash dividends by MST or the surviving company after merger of MST and Inotera unless the following two conditions are met: (1) the Leverage Ratio shown in the consolidated financial reports of MST provided in accordance with Section 10.1(3) is less than 3x; and (2) at least 33% of the principal amount drawn by the Co-Borrowers as of the expiration of the drawdown period has been repaid by the Co-Borrowers in accordance with Article 5.

(5) **Providing Funds or Loans**

Provide funds or loans to any person other than the affiliates of MTI (except where (i) the debt ratio shown on the consolidated financial statement of MST is lower than three hundred per cent (300%); or (ii) it is necessary in the ordinary course of business, provided that in each case it shall comply with the articles of incorporation and the procedures for providing loans to others (if any) applicable to the relevant Co-Borrower).

(6) **Provision of Endorsements and Guarantees**

Assume liabilities, provide guarantees, endorsements or otherwise become directly or indirectly liable for the indebtedness of any person other than the affiliates of MTI (except where (i) the debt ratio shown on the consolidated financial statement of MST is lower than three hundred per cent (300%); or (ii) it is necessary in the ordinary course of business, provided that in each case it shall comply with the articles of incorporation and the procedures for providing loans to others (if any) applicable to the relevant Co-Borrower).

(7) **Amendment to Articles of Incorporation**

Make any amendment to the articles of incorporation which has a material adverse effect on its ability to perform its obligations under this Agreement, and the Security Documents and other relevant documents to which it is a party.

(8) **Disposal of Major Assets and Rights**

Sell, lease (other than Permitted Lease), transfer, create encumbrance on or otherwise dispose of its major assets and revenue, unless the forgoing does not have material adverse effect on the ability of the Co-Borrowers and the Guarantor (taken as a whole) to perform their obligations under this Agreement and the Security Documents and related documents to which they are parties.

(9) **Disposal of Collateral**

Unless otherwise provided in Article11, sell, transfer, lend, create encumbrance on or otherwise dispose of the Collateral in whole or in part.

Article 11 Collateral

1. **Land and Fab**

(1) To secure the obligations of the Co-Borrowers to the Lenders under this Agreement, Inotera shall, prior to the Drawdown, create and perfect a first priority real estate mortgage over the Land and Fab (other terms and conditions for creation of real estate mortgage over land and buildings is in the form of Appendix 5 hereto) in favor of the Collateral Agent with the maximum secured amount equal to one hundred and twenty per cent. (120%) of the appraisal value (after deduction of land value increment tax calculated based on the announced current value and depreciation) set forth in the appraisal report for the Land and Fab issued by a professional appraiser approved by the Collateral Agent (the "**Appraisal Value of Real Estate**") and complete the relevant mortgage registrations for the Collateral Agent to hold and enjoy such security interests as joint and several creditor for the benefits of the Lenders. Inotera agrees that the ascertainment date of the secured obligations under the aforementioned real estate mortgage with maximum secured amount shall be thirty (30) years from the date of completion of mortgage registration and agrees to waive its rights under Article 881-7 of the Civil Code.

(2) **Recognized Value (For the Purpose of Being Collateral)**: The recognized value (for the purpose of being Collateral) shall be eighty per cent. (80%) of the Appraisal Value of Real Estate provided that the recognized value (for the purpose of being Collateral) for Land No. 21, Kwun Tong Section, Guanyin District, Taoyuan City shall be fifty-five per cent. (55%) of the Appraisal Value of Real Estate.

2. **Machinery and Equipment**

(1) To secure the obligations of the Co-Borrowers to the Lenders under this Agreement, Inotera shall:

(a) prior to the Drawdown Date, execute the Chattel Mortgage Agreement (in the form of Appendix 6 hereto) to create a first priority chattel mortgage over the First Batch of Machinery and Equipment with the maximum secured amount equal to one hundred and forty per cent. (140%) of recognized value (for the purpose of being Collateral) of the Machinery and Equipment calculated pursuant to Section 11.2(2) in favor of the Collateral Agent and complete the relevant mortgage registrations for the Collateral Agent to hold and enjoy such security interests as joint and several creditor for the benefits of the Lenders. The First Batch of Machinery and Equipment shall include (as of the Drawdown Date): (i) the Machinery and Equipment purchased in the most recent year with an aggregate amount of no less than Twenty Two Billion and Five Hundred Million New Taiwan Dollars (NT$22,500,000,000) based on the price set forth in the invoices for purchase of such Machinery and Equipment or the price set forth in the cost audit report; and (ii) the Machinery and Equipment purchased for more than one (1) year.

(b) within six (6) months after the Drawdown Date, execute the Chattel Mortgage Agreement (in the form of Appendix 6 hereto) to create a first priority chattel mortgage over the Second Batch of Machinery and Equipment with the maximum secured amount equal to one hundred and forty per cent. (140%) of recognized value (for the purpose of being Collateral) of the Machinery and Equipment calculated pursuant to Section 11.2(2) in favor of the Collateral Agent and complete the relevant mortgage registrations for the Collateral Agent to hold and enjoy such security interests as joint and several creditor for the benefits of the Lenders. The Second Batch of Machinery and Equipment shall include

(as of the Drawdown Date) the Machinery and Equipment purchased in the most recent year, with an aggregate amount (together with the amount of mortgaged Machinery and Equipment purchased within the most recent year under the First Batch of Machinery and Equipment) not less than Fifty Eight Billion and Nine Hundred Million New Taiwan Dollars (NT$58,900,000,000).

(2) **Recognized Value (For the Purpose of being Collateral)**: The recognized value (for the purpose of being Collateral) shall be calculated as follows:

(a) Machinery and Equipment purchased within one (1) year from the Drawdown Date: seventy per cent. (70%) of the price set forth in the relevant invoices for purchase of such Machinery and Equipment and the price set forth in the cost audit report (and the aggregate price shall not be lower than Fifty Eight Billion and Nine Hundred Million New Taiwan Dollars (NT$58,900,000,000)).

(b) Machinery and Equipment purchased for more than one (1) year from the Drawdown Date: seventy per cent. (70%) of the in-place value set forth in the appraisal report issued by a professional appraiser approved by the Collateral Agent.

(3) Inotera agrees that the ascertainment date of the secured obligations under the aforementioned chattel mortgage with maximum secured amount shall be thirty (30) years from date of completion of mortgage registration and agrees to waive its rights under Article 881-7 of the Civil Code.

(4) Inotera shall ensure that (a) the appraisal report provided for processing the mortgage over the Equipment and Machinery under this Section 11.2 shall specify the remaining useful life of the Machinery and Equipment; and that (b) the remaining depreciable life or remaining useful life of the Machinery and Equipment stated in item (a) above shall not be shorter than the facility period.

(5) If the Machinery and Equipment is located in the Land or Fab leased from Nanya, Inotera shall provide the waiver for potential statutory lien over such Machinery and Equipment located in such Land or Fab to the Collateral Agent.

(6) Once the chattel mortgage registrations has been completed, Inotera shall affix plaques or other markings on the notable place of the relevant objects subject to mortgage registration in the manner reasonably requested by the Collateral Agent, stating that the Collateral Agent is the mortgagee. Inotera shall, take photos as evidence in accordance with the scope and method as reasonably requested by the Collateral Agent once the plaques or other markings are duly affixed, and shall deliver such photos to the Collateral Agent for safekeeping within fifteen (15) days from the completion date of chattel mortgage registrations or such other longer period as agreed by the Collateral Agent.

(7) Substitution of Machinery and Equipment

During the Contract Period, if Inotera needs to substitute the Machinery and Equipment for its operation, it shall apply with the Collateral Agent and provide new Machinery and Equipment as collateral to complete the substitution of collateral in the following manner:

(a) Application for Substitution of Machinery and Equipment

(i) If the aggregate recognized value (for the purpose of being Collateral) of the substituted Machinery and Equipment as at the time the chattel mortgage is created in the same fiscal year does not exceed Three Billion and Five Hundred Million New Taiwan Dollars (NT$3,500,000,000) (inclusive), Inotera shall notify the Collateral Agent in writing at least thirty (30) days prior to the proposed date of substitution of Machinery and Equipment or such other shorter period as agreed in writing by the Collateral Agent and provide new collateral to substitute the Machinery and Equipment pursuant to Section 11.2(7)(b).

(ii) If the aggregate recognized value (for the purpose of being Collateral) of the substituted Machinery and Equipment as at the time the chattel mortgage is created in the same fiscal year exceeds Three Billion and Five Hundred Million New Taiwan Dollars (NT$3,500,000,000), Inotera shall notify the Collateral Agent in writing at least ninety (90) days prior to the proposed date of substitution of Machinery and Equipment or such other shorter period as agreed in

writing by the Collateral Agent for the Collateral Agent to consult with the Lenders, and the substitution shall be subject to the written consent of the Majority Banks, which consent shall not be unreasonably withheld by the Majority Banks. If Inotera has an urgent business need and the Co-Borrowers have pledged cash deposit/certificate of time deposit to the Collateral Agent or have provided bank guarantee letter or stand-by L/C (in each case with the same recognized value (for the purpose of being Collateral) as the Machinery and Equipment to be substituted), Inotera may, without the written consent of the Majority Banks, proceed in accordance with Section 11.2(7)(a)(i); the Collateral Agent shall release the above-mentioned pledged over deposit/certificate of time deposit and return the bank guarantee letter or stand-by L/C [to the Co-Borrowers] once the written consent of the Majority Banks has been obtained and new collateral to substitute the Machinery and Equipment has been provided in accordance with Section 11.2(7)(b).

(b) Substitution of Machinery and Equipment and/or Provision of Additional Collateral

(i) Inotera shall provide the appraisal report issued by a professional appraiser approved by the Collateral Agent or the invoice of purchasing new Machinery and Equipment (within 12 months from the date of the invoice) and calculate the recognized value (for the purpose of being Collateral) [of the new Machinery and Equipment] in accordance with Section 11.2(2)(a). The recognized value (for the purpose of being Collateral) of the new Machinery and Equipment shall not be less than the then recognized value (for the purpose of being Collateral) of the Machinery and Equipment to be substituted; otherwise the Co-Borrowers shall provide additional Collateral recognized by the Collateral Agent to meet up the shortfall or voluntarily prepay the Outstanding Principal Amount in part in accordance with Article 5.

(ii) Inotera shall execute the Chattel Mortgage Agreement (in the form of Appendix 6 hereto) and create a first priority chattel mortgage over the additional Machinery and Equipment with the maximum secured amount in favor of the Collateral Agent, and once the relevant chattel mortgage registration has been completed, the Collateral Agent shall assist in de-registering mortgage registration over the Machinery and Equipment to be substituted.

3. **Shares**

(1) Share Pledge Agreement

The Co-Borrowers shall procure Micron Technology to execute the Share Pledge Agreement (in the form of Appendix 8 hereto) prior to the Drawdown to create a first priority share pledge over one hundred per cent. (100%) shares in MST with the maximum secured amount of Eighty Billion New Taiwan Dollars (NT$80,000,000,000)[2] in favor of the Collateral Agent and deliver the share certificates representing such shares duly endorsed to the Collateral Agent for the Collateral Agent to hold and enjoy such security interests as joint and several creditor for the benefits of the Lenders. The Co-Borrowers shall procure Micron Technology to agree that the ascertainment date of the secured obligations under the aforementioned share pledge with maximum secured amount shall be twenty (20) years from the date of creation of the share pledge and agree to waive its rights under Article 881-7 of the Civil Code, which applies mutatis mutandis to Article 899-1 of the same.

(2) Inotera Share Pledge Agreement

MST shall, within five (5) Business Days from the Drawdown Date, create a first priority pledge over no less than eighty per cent. (80%) of the issued shares in Inotera with the maximum secured amount of Eighty Billion New Taiwan Dollars (NT$80,000,000,000) in favor of the Collateral Argent in accordance with the Inotera Share Pledge Agreement (in the form of Appendix 7 hereto) pre-executed and delivered prior to the Drawdown Date, and deliver the share certificates representing such shares duly endorsed to the Collateral Agent for the Collateral Agent to hold and enjoy such security interests as joint and several creditor for the benefits of the Lenders. MST

[2] L&L Note to Micron: We think it is OK since no fees will incur from or be affected by the agreed maximum secured amount, and it is common in local practice to put the facility amount as the maximum secured amount under a share pledge agreement.

agrees that the ascertainment date of the secured obligations under the aforementioned share pledge with maximum secured amount shall be twenty (20) years from the date of creation of the share pledge and agrees to waive its rights under Article 881-7 of the Civil Code, which applies mutatis mutandis to Article 899-1 of the same.

(3) Pledged Shares of Micron B.V.

If the final judgment in connection with the Litigation between MTI / Micron B.V. and insolvency administrator for the estate of Qimonda is in favor of MTI and Micron B.V., the Co-Borrowers shall procure Micron B.V. to pledge the Pledged Shares of Micron B.V. to the Collateral Agent within the reasonable period designated by the Collateral Agent. The agreement to be executed and the procedure required for creation of the share pledge shall comply with Section 11.3(2).

4. **Repayment Account**

Either Co-Borrower shall, prior to the Drawdown, execute the Account Pledge Agreement (in the form of Appendix 9 hereto) to create a first priority pledge over the Repayment Accounts respectively in favor of the Facility Agent and the Collateral Agent with the maximum secured amount of Eighty Billion New Taiwan Dollars (NT$80,000,000,000) each for the Facility Agent and the Collateral Agent to hold and enjoy such security interests as joint and several creditor for the benefits of the Lenders. The Co-Borrower opening the Repayment Accounts agrees that the ascertainment date of the secured obligations under the aforementioned account pledge with maximum secured amount shall be twenty (20) years from the date of creation of the account pledge and agrees to waive its rights under Article 881-7 of the Civil Code, which applies mutatis mutandis to Article 899-1 of the same.

5. **Insurance**

(1) Inotera shall keep its Fab and Machinery and Equipment fully insured of such kind and in such amounts as is customary in the industry as recognized by the Collateral Agent (the "**Existing Insurance**") and Inotera shall, prior to Drawdown, execute the Insurance Assignment in the form and substance of Appendix 15 hereto to assign the relevant insurance interest in its Fab and Machinery and Equipment (excluding third party liability insurance and public liability insurance) to the Collateral Agent and name the Collateral Agent as the loss payee (in the first priority), and the agreement to name the Collateral Agent as loss payee shall not be amended without the consent of the Collateral Agent. The originals of certificates of insurance and originals or certified copies of the certificate for payment (or other evidencing documents) shall be delivered to the Collateral Agent for its custody within thirty (30) days after the Drawdown Date.

(2) If Inotera's Fab and Machinery and Equipment that shall have been covered by the insurance pursuant to Section 11.5(1) hereunder shall be covered by the Co-Borrowers' group insurance policy after the Drawdown, the relevant procedures shall be completed before the termination or expiry of the Existing Insurance, and the Collateral Agent shall provide its consent to and assist in the relevant matters if such matters required its consent or assistance provided that the relevant fees and expenses shall be borne by the Co-Borrowers. Inotera shall, prior to the termination or expiry (without renewal) of the Existing Insurance, inform the insurance company of the group insurance policy to name the Collateral Agent and Inotera as the joint loss payee and execute a letter of authorization to the insurance company agreeing that the insurance proceeds shall be remitted to the Repayment Accounts. In the event that the Inotera sends notice to the insurance company, Inotera shall provide the Collateral Agent with a copy of such notice. Inotera shall also deliver to the Collateral Agent originals of certificates of insurance and originals or certified copies of the certificate for payment (or other evidencing documents) to the Collateral Agent upon the termination or expiry (without renewal) of the Existing Insurance or such other period agreed by the Collateral Agent.
(3) If Inotera would like to repair or restore the damaged or destroyed Fab and/or Machinery and Equipment, the Facility Agent shall, based on the relevant evidencing documents [of the repair or restoration costs], directly release the insurance proceeds to the Co-Borrowers up to 10% of the principal amount drawn by the Co-Borrowers as of the expiration of the drawdown period; provided, that if the insurance proceeds exceed the above amount, the Facility Agent would release such insurance proceeds to the Co-Borrowers only after a repair or restoration plan has been provided by the Co-Borrowers and the consent of the Majority Banks has been obtained, which consent shall not be unreasonably withheld. The Co-Borrowers shall also create a first priority mortgage over the restored Fab and/or Machinery and Equipment with a maximum secured amount in favor of the Collateral Agent once the Fab and/or Machinery and Equipment has been rebuilt or re-installed. If Inotera reasonably determines that such damaged Fab and/or Machinery and Equipment cannot be repaired or rebuilt, the insurance proceeds shall be used for the mandatory prepayment of the Outstanding Principal

Amount in accordance with Article 5 hereof.

6. **Registration Fees**

Except for the fees and expenses relating to insurances that shall be borne by Inotera, the relevant taxes, charges or fees arising from the creation and perfection of the relevant mortgages and pledges under this Article and the amendment registrations in connection with the substitute or additional Collateral permitted under this Article and the notice related to insurances shall be borne by MST.

7. **Security Interests**

(1) The parties hereto agree that, with respect to the security interests enjoyed by each Lender under the Security Agreements, the Collateral and each Security Document, the Collateral Agent shall act as the pledgee or the holder of other Security Interests for the Collateral Agent (in its capacity as a joint and several creditor) to hold and control such security interests and to exercise the rights thereunder in accordance with the terms of this Agreement, and the Collateral Agent shall share such interests with each Lender based on its Risk Sharing Ratio on the basis of joint and several claims.

(2) The sums obtained by the Collateral Agent through exercise of the relevant rights under the Security Agreements, each Security Document and this Agreement shall be applied by the Facility Agent in the following order: (a) first, to reimburse expenses incurred by the Agent Banks arising from their exercise of rights under this Agreement, the Security Agreements, each Security Document and other relevant documents that remain unpaid by the Co-Borrowers or the relevant Lenders; (b) then to pay the fees (including the agency fee to the Agent Banks), penalty and interest (including default interest) due and payable to each Lender or the Agent Banks hereunder; (c) then to repay the Outstanding Principal Amount; and (d) then to be distributed by the Agent Banks based on the nature of such sums and the Risk Sharing Ratio of the relevant Lenders in accordance with the provisions of this Agreement (if there is no express provision hereunder, the Agent Banks shall have the discretion to make the distribution).

(3) Notwithstanding anything herein to the contrary, each Lender agrees that its rights and interests relating to or under the Collateral, this Agreement, the Security Agreements and each Security Document shall be exercised by the Collateral Agent for the benefits of each Lender and the Collateral Agent in accordance with the terms of this Agreement and the written instruction of the Majority Banks. Unless otherwise provided hereunder, each Lender shall have no right to individually exercise the abovementioned rights except for exercise of right of set-off, merger or lien. Unless otherwise provided herein, the Collateral Agent shall only exercise the abovementioned rights based on the Majority Banks' instruction.

8. **Handling of Collateral**

(1) Unless otherwise provided herein (including but not limited to Section 11.5 hereof), if the Collateral, Machinery and Equipment is damaged or destroyed to the extent that may not be restored, the Co-Borrowers shall immediately inform the Collateral Agent thereof.

(2) If the Land or the Fab is seized due to public confiscation or other reasons and compensation shall be paid by third parties, the Co-Borrowers hereby authorize the Collateral Agent to directly receive such compensation and apply the same to the prepayment of the Outstanding Principal Amount in accordance with Article 5 hereof; if such compensation is less than the recognized value (for the purpose of being Collateral) of the relevant Land or Fab at the time the real estate mortgage is created, the Co-Borrowers shall also prepay the Outstanding Principal Amount in the amount equal to the difference between the amount of compensation received and such recognized value (for the purpose of being Collateral) of the relevant Land or Fab at the time the real estate mortgage is created within the reasonable period notified by the Collateral Agent.

(3) The Collateral provided by the Co-Borrowers to the Lenders, whenever such Collateral is provided, shall be provided for the joint and several benefits of the Lenders hereunder (using this Agreement as evidence of such provision). Each Lender may enjoy the Security Interests over the relevant Collateral based on its Risk Sharing Ratio in accordance with the terms of this Agreement.

(4) The Co-Borrowers shall immediately proceed with the registration, possession, management, title transfer, amendment registration or other procedures required in connection with the provision, substitution or addition

of the Collateral and such other procedures required for claims against any third party or the insurer due to damage to or destruction of the Collateral. Except for the fees and expenses relating to insurances that shall be borne by Inotera, other fees arising from the above matters shall be borne by MST. The Co-Borrowers shall be solely responsible for any penalty or seizure of the Collateral due to the handling of the above matters. Fees arising from the exercise of the Security Interests by the Lenders shall be borne by the Co-Borrowers.

Article 12 Events of Default

1. **Specific Events**

During the Contract Period, if any of the following events or circumstances occurs or is continuing, the Facility Agent or the Lenders may determine that such event or circumstance constitutes an Event of Default in accordance with Section 12.2:

(1) **Non-Payment**

The Co-Borrowers fail to pay any Outstanding Principal Amount, interest, expenses or other sums when due and payable pursuant to this Agreement, or fail to pay any other sums when due and payable pursuant to the Security Documents to which any Co-Borrower is a party (the liabilities of the Co-Borrowers shall not be released even if the Agent Banks, the Mandated Lead Arrangers or the Lenders have received partial payment), and the Co-Borrowers (a) with respect to default in payment of any interest when due and payable, fail to make the payment within one (1) Business Day after the Facility Agent gives a notice to the Co-Borrowers, or (b) with respect to default in payment of expenses or other sums when due and payable, fail to make the payment within five (5) Business Days after the Facility Agent gives a notice to the Co-Borrowers.

(2) **Non-Performance of Obligations under this Agreement**

(a) The Co-Borrowers fail to utilize the facility extended hereunder in compliance with the funding purposes set forth in Section 2.2.

(b) Unless otherwise provided in Section 12.1(1) and Section 12.1(2)(a) and the provisions hereof, any of the Co-Borrowers and the Guarantor fails to perform its obligations or undertaking hereunder, violate the provisions of this Agreement, or fails to perform its obligations under the relevant documents to which it is a party executed in accordance with this Agreement, and the Co-Borrowers or the Guarantor does not cure such failure within sixty (60) days of the occurrence of such event.

(3) Financial Statement

(a) MST or the Guarantor fails to provide the financial statements within five (5) Business Days after the deadlines for providing such financial statements in accordance with the provisions of this Agreement or the Guarantee.

(b) The financial statements of the Co-Borrowers or the Guarantor are not prepared in accordance with the applicable accounting principles or fail to reflect the relevant Debtors' financial condition and business operations in the relevant material respect.

(4) **Misrepresentation**

Any representation, information, documents or financial statement made or provided by the Co-Borrowers or the Guarantor in Article 9 of this Agreement and the Security Document or other relevant documents to which any of the Co-Borrowers and the Guarantor is a party, contained any untrue or incorrect statement of a material fact or omitted to state a material fact or was untrue or misleading, in the light of the circumstances when they were made and the Co-Borrowers or the Guarantor does not cure the same within thirty (30) days of the occurrence of such event.

(5) **Other Default**

The Collateral (whether the registration has been completed or not) is subject to provisional seizure, provisional injunction, or other injunctive relief proceedings, and the Co-Borrowers or the relevant Collateral provider fails

to discharge such proceedings or to provide substitute Collateral with the consent of the Collateral Agent (such consent cannot be unreasonably withheld) within thirty (30) days after the Co-Borrowers receive a notice from the Collateral Agent [provided that it shall be immediately deemed as an Event of Default if the Majority Banks resolve that or, due to the request of the Facility Agent, determine in writing (including facsimile and e-mail) that such circumstance materially affects the ability of any of the Co-Borrowers to perform its obligations under this Agreement prior to the expiry of the aforementioned cure period].

(6) **Default in Financial Indebtedness**

Other than this syndicated loan, acceleration of maturity (including but not limited to cross-acceleration resulting from cross-default arising from other primary debt or guarantee liability) of monetary obligations of Co-Borrowers or the Guarantor owed to financial institutions or the notes, instruments or other similar debt certificates (including primary debt or guarantee liability) issued by the Co-Borrowers or the Guarantor, provided that in cases where such indebtedness, (i) with respect to the Co-Borrowers, the indebtedness involved for an event does not exceed US$100,000,000 (or its equivalent) and such default is cured within thirty (30) days from the date the Co-Borrowers are aware of such event, or (ii) with respect to the Guarantor, the a indebtedness involved for an event does not exceed US$100,000,000 (or its equivalent), or if the indebtedness involved for an event exceeds US$100,000,000 (or its equivalent) and such default is cured within thirty (30) days from the date the Guarantor is aware of such event, it shall not be deemed a default under this Section 12.1(6).

(7) **Bankruptcy, Reorganization, or Business Suspension**

(a) Any Debtor suspends its business operation for more than forty five (45) consecutive days, or more than ninety (90) days accumulatively in any given year, or any of the Co-Borrowers and the Guarantor generally acknowledges that it is unable to make the repayment when due and payable in writing or generally ceases or suspends the payment to its creditors [provided that it shall be immediately deemed as an Event of Default if the Majority Banks resolve that or, due to the request of the Facility Agent, determine in writing (including facsimile and e-mail) that such circumstance materially affects the ability of any of the Co-Borrowers to perform its obligations under this Agreement prior to the expiry of the aforementioned periods].

(b) The occurrence of any of the following events: any Debtor (i) files a petition for reorganization, bankruptcy, reconciliation under the Bankruptcy Act, liquidation, winding-up or other similar proceeding; or (ii) is declared bankrupt, enters into reconciliation proceedings under the Bankruptcy Act or becomes insolvent, or any petition for reorganization, bankruptcy, reconciliation proceedings under the Bankruptcy Act, liquidation, winding-up or other similar proceeding is applied by third parties against it and such proceeding has not been discharged within 45 days after the receipt of the notice [provided that it shall be immediately deemed as an Event of Default if the Majority Banks resolve that or, due to the request of the Facility Agent, determine in writing (including facsimile and e-mail) that such circumstance materially affects the ability of any of the Co-Borrowers to perform its obligations under this Agreement prior to the expiry of the aforementioned cure period].

(8) **Non-Enforceability of Documents**

(a) This Agreement is invalid, revoked, cancelled or null and void, the performance of the Co-Borrowers' obligations under this Agreement become incapable or illegal, or exercise of the relevant rights and remedy of the Lenders, Mandated Lead Arrangers, or the Agent Banks under this Agreement, any Security Documents, or any other relevant documents becomes incapable or illegal.

(b) The Security Documents or other related documents are invalid, revoked, cancelled or null and void, or the performance of the Co-Borrowers' obligations under the Security Documents or other related documents become incapable or illegal, and the Co-Borrower or the Guarantor does not cure within 30 days of the occurrence of such matters.

(9) **Negotiable Instrument**

Any negotiable instrument issued by the Co-Borrowers is blacklisted by a clearing house or is dishonored and the Co-Borrowers fail to redeem by payment, deposit for payment or payment under re-presentation within seven (7) Business Days after the negotiable instrument is dishonored.

(10) **Collateral**

Any Collateral or Security Documents provided by the relevant Debtors do not comply with the provisions of this Agreement and the Co-Borrowers or the Guarantor does not cure it within 60 days of the occurrence of such matter.

2. **Consequences of Default**

(1) **Determination of Events of Default**

If any of the abovementioned events occurs, the Lenders agree that whether such event constitutes an Event of Default may be determined by the Facility Agent, but if the Lender have a doubt, it shall be determined by the meeting of the Lenders convened by the Facility Agent in accordance with Section 15.14 or written (including facsimile) consent of the majority Lenders.

(2) **Suspension of Drawdown of Advance**

During the period of the Lenders' determination as to whether there is an Event of Default, the Facility Agent shall suspend any Drawdown of Advance and the rights of the Co-Borrowers to request a Drawdown, and the Drawdown shall not be permitted without the unanimous written consent of the Lenders once the Drawdown has been suspended and occurrence of an Event of Default has been confirmed in accordance with Section 12.2(1).

(3) **Declaration of Event of Default**

If an Event of Default is determined, the Facility Agent shall give a written notice to the Co-Borrowers and the Guarantor, and the Facility Agent may directly or based on the written instruction of the Majority Lenders, take any and all of the following actions: (a) giving a written notice to the Co-Borrowers and the Guarantor that the Facility is cancelled and no Drawdown shall be permitted; (b) giving a written notice to the Co-Borrowers and the Guarantor to declare that the Outstanding Principal Amount, all then outstanding interest and all other sums payable by the Co-Borrowers hereunder to be immediately due and payable, in part or in whole, and the Co-Borrowers shall immediately make the repayment; (c) giving a notice to the Lenders that all kinds of deposits placed with the relevant Lenders by the Co-Borrowers or the Guarantor and the claims of the Co-Borrowers or the Guarantor against the relevant Lenders shall become immediately due and payable and that the relevant Lenders may set-off and apply any and all such deposits and other indebtedness owing by the relevant Lenders to or for the credit or the account of the Co-Borrowers against any and all of the obligations of the Co-Borrowers; (d) exercising the rights in respect of the Note obtained by the Agent Banks hereunder and requesting the Co-Borrowers and the Guarantor to make the payment; (e) making a claim against the Guarantor; (f) foreclosure the Collateral hereunder; or (g) exercising other rights under the applicable laws, this Agreement, any Security Document or other relevant documents and, to the extent permitted by law, presentation, demand, protest or other notice is waived. Unless otherwise provided hereunder, to the fullest extent permitted by law, the Co-Borrowers and the Guarantor agree to waive the right to request each Lender and the Facility Agent to make such presentation, demand, protest or notice.

(4) **Payment of Default Interest**

Upon the occurrence of an Event of Default, the Co-Borrowers shall pay the default interest and the penalty to each Lender and/or the Agent Banks based on the Compensatory Interest Rate as provided hereunder from the date of the occurrence of an Event of Default to the date on which the Co-Borrowers have actually made the relevant payment (including but not limited to principal, interest, default interest, penalty, fees or advances) or the date the Event of Default has ceased to exist.

(5) **Indemnification**

The Co-Borrowers shall be liable for the fees arising from the exercise of the above rights and the action taken by the Agent Banks, provided, that if the Co-Borrowers do not make the payment, such fees shall be borne by the Lenders based on the Risk Sharing Ratio as provided hereunder. If the Co-Borrowers fail to pay such fees, the Agent Banks have no obligation to make the payment and may request each Lender to pay the fees based on

the Risk Sharing Ratio before the Agent Banks take any action in the capacity of the Agent Banks.

(6) **Validity**

Unless other provided hereunder, this Agreement shall remain in full force and effect after the Drawdown is suspended or the Facility is cancelled in accordance with this Article 12.

Article 13 Default Interest and Penalty

If the Co-Borrowers fail to pay any sums when due and payable pursuant to this Agreement, the Co-Borrowers shall pay the default interest at the Compensatory Interest Rate applicable on the due date for such repayment from and including the due date until the date on which the Co-Borrowers actually make the payment, and the business tax and stamp tax shall be borne by the Co-Borrowers. If (i) the repayment has been overdue for no more than 6 months, the Co-Borrowers shall pay a penalty calculated at 10% of the abovementioned Compensatory Interest Rate [from and including the due date until the date on which the Co-Borrowers actually make the payment]; and if (ii) the repayment has been overdue for more than 6 months, in addition to the penalty calculated in accordance with clause (i) above, the Co-Borrowers shall pay a penalty calculated at 20% of the Compensatory Interest Rate [from and including the first day after 6 months from the due date until the date on which the Co-Borrowers actually make the payment], and the business tax and stamp tax shall be borne by the Co-Borrowers. In the event of change of the Compensatory Interest Rate, the Interest Adjustment Date shall be the first day of the following month. The default interest and the penalty shall daily accrue on the basis of actual number of days elapsed and a year of 365 days. If the Co-Borrowers' repayment of interest has been overdue for more than one year (or a shorter period permitted by applicable laws) and the Co-Borrowers fail to make the payment after the receipt of notice from the Facility Agent, the Lenders may add such accrued and unpaid interest into the Outstanding Principal Amount for the purpose of computation of interest. If the Co-Borrowers fail to pay the arrangement fees then due to Mandated Lead Arrangers, the agency fees then due to the Agent Banks, or the expenses advanced by the Mandated Lead Arrangers or the Agent Banks or the Lenders, the Mandated Lead Arrangers, the Agent Banks or the Lenders may directly add such fees or advances due but remained unpaid by the Co-Borrowers into the Outstanding Principal Amount, and the Co-Borrowers shall pay the default interest and penalty in accordance with the above. The Co-Borrowers shall, on demand, immediately pay such default interest and penalty.

Article 14 Indemnification, Set-Off and Sharing

1. **General Indemnification**

The Co-Borrowers and the Guarantor shall indemnify each Lender, the Agent Banks and Mandated Lead Arrangers against (i) all losses, indebtedness, damages, costs and expenses (including any losses or expenses arising from the release or re-utilization of funds obtained by the relevant Lenders to maintain the Commitment Amount under the Facility Amount) arising from an Event of Default, the Co-Borrowers' failure to make the prepayment in accordance with the repayment notice delivered in accordance with Section 5.2 hereof or the violation of the obligations under this Agreement by the Co-Borrowers or the Guarantor; and (ii) funding cost, including any interest and expenses arising from the non-payment of the relevant sums. The Co-Borrowers and the Guarantor shall hold harmless the Lenders, the Agent Banks and Mandated Lead Arrangers from and against any losses arising therefrom provided that the Co-Borrowers and the Guarantor shall not be held responsible for any losses, indebtedness, damages, costs and expenses incurred due to the willful misconduct or gross negligence of the relevant Lenders, Agent Banks or Mandated Lead Arrangers claiming reimbursement or compensation.

2. **Set-off**

In the event that any of the Co-Borrowers or the Guarantor fails to perform or breaches its monetary obligations under this Agreement, the Security Documents or other related documents to which it is a party, in addition to such rights or claims that it may have under applicable laws, each Lender is entitled (but not obligated) to set-off and apply any and all deposits of the Co-Borrowers or the Guarantor with the Lenders and the Agent Banks (including their respective head office and branch offices) and other indebtedness owing by the Lenders to the Co-Borrowers or the Guarantor against the liabilities of the Co-Borrowers or the Guarantor to each Lender and/or Agent Bank hereunder (the Co-Borrowers and the Guarantor further agree that such deposits or rights of claims shall be deemed automatically matured upon the exercise of the right of set-off by the Lenders and/or the Agent Banks) and shall immediately notify the Co-Borrowers or the Guarantor. With respect to deposits of the Co-Borrowers or the Guarantor with any Lender or Agent Bank, if such deposits are time deposit, such Lender or such Agent Bank is authorized to terminate and withdraw such deposits for the repayment of the obligations hereunder, without regard to the original maturity thereof. Any other rights of the Co-Borrowers or the Guarantor against each Lender and/or Agent Bank based on the abovementioned deposits (including time deposits) and

claims under applicable laws shall not be affected by the abovementioned set-off. Notwithstanding to the foregoing, in the event that any Lender or Agent Bank receives any order of seizure, order of garnishment, order of transfer or order of payment issued by the relevant enforcement court or the Administrative Enforcement Agency of the Ministry of Justice and each of its branches against any deposit of the Co-Borrowers with such Lender or such Agent Bank due to any compulsory execution or similar legal process initiated by any other creditor of the Co-Borrowers, the Lender or the Agent Bank shall be entitled to accelerate the maturity of the Outstanding Balance in an amount equal to the enforceable amount of deposits stated in the abovementioned order and exercise the right of set-off. Unless other event has occurred which constitutes an event set forth in Section 12.1 hereof, the abovementioned acceleration of maturity shall not constitute an Event of Default.

In the event that the abovementioned deposit is a check deposit, the Co-Borrowers and the Guarantor acknowledge and agree that the agreements for check deposits executed by and between them and the relevant Lenders and/or the Agent Banks shall be subject to the termination condition that the Facility Amount shall be deemed to have matured due to the exercise of rights by the Lenders and/or the Agent Banks in accordance with the terms of this Agreement. Upon the fulfillment of the termination condition, the abovementioned agreements for check deposits shall expire, and each Lender and/ or Agent Bank shall immediately return the balance in the checking deposit account provided that each Lender and/ or Agent Bank may offset and apply such balance against any and all obligations of the Co-Borrowers or the Guarantor to each Lender and/or Agent Bank hereunder.

The expression of intent of exercise of the right of set-off by each Lender and/or Agent shall retroactively take effect from the time that such Lender and/or Agent Bank offsets the indebtedness once the notice of set-off sent by the Lender and/or Agent Bank has reached or is deemed to have reached the Co-Borrowers or the Guarantor. Meanwhile, the certificates of deposit, passbooks, checks or other certificates issued to the Co-Borrowers or the Guarantor by each Lender and/or the Agent Bank shall expire to the extent of set-off. In the event that the Co-Borrowers or the Guarantor deposit other properties with the relevant Lenders and/or the Agent Banks, or in the event that the Lenders and/or the Agent Banks receive other sums in the future, the relevant Lenders and/or the Agent Banks shall be entitled to exercise the rights of retention or set-off.

3. **Pro-rata Sharing**

In the event that any Lender or Agent Bank receives any payment (whether voluntary, involuntary, through the exercise of any right of set-off or otherwise) under this Agreement from the Co-Borrowers or other persons (other than those received from the Agent Banks in accordance with Section 8.1 hereof), the Lender shall immediately deliver such payment to the Facility Agent within three (3) Business Days after receipt of the same for the Facility Agent to distribute such payment to each Lender based on its Risk Sharing Ratio. The Facility Agent shall deem such payment as payment directly made by the Co-Borrowers to the Facility Agent for the sums due and payable hereunder; therefore, such sums shall be deemed as unrepaid by the Co-Borrowers to the Lender originally receiving the payment, and such Lender shall remain entitled to all the rights against the Co-Borrowers and such other rights relating to such payment except for the amount received from the distribution of the Facility Agent. Notwithstanding the foregoing under this Article, in the event that any Lender is required to return to the Co-Borrowers any amount received from the Co-Borrowers and distributed in accordance with this Article, the other Lenders shall provide funds to the Facility Agent for it to return the same to such Lender and for such Lender to return the amount to the Co-Borrowers (less any amount that such Lender has received from the distribution of the Facility Agent). Each Lender understands that although each Lender shall be deemed a creditor jointly and severally with each other with respect to the claims hereunder against the Co-Borrowers, among the Lenders, each Lender shall be repaid and shall enjoy the Security Interests based on the Risk Sharing Ratio, and any and all the losses and risks relating to the facility under this Agreement shall be also born by each Lender based on the Risk Sharing Ratio.

Article 15 Mandated Lead Arrangers, Lender and Lead Managers

1. **Severability of the Lenders' Obligations**

The obligations of the Mandated Lead Arrangers, the Lender and the Agent Bank under this Agreement are several. In the event that any Lender fails to perform its obligations hereunder, the obligations of the other Lenders, the Mandated Lead Arrangers and the Agent Banks to the Co-Borrowers shall not be discharged thereby. Any Lenders, Mandated Lead Arrangers and Lead Managers shall not be liable for the obligations of the other Lenders.

2. **Joint and Several Claims among the Banks**

The claims of the Mandated Lead Arrangers, the Agent Banks and the Lenders under this Agreement are joint and several. Therefore, the Facility Agent may request the Co-Borrowers to pay all indebtedness owed by the Co-Borrowers to the Lenders under this Agreement and apply for the enforcement of such indebtedness on behalf of each Lender; however, each Security Interest specified in this Agreement shall be exercised by the Collateral Agent pursuant to the resolution of the Majority Banks in accordance with this Agreement and each relevant agreement. Nevertheless, the Mandated Lead Arrangers, the Agent Banks and the Lenders agree that the exercise of each right relating to this Agreement shall be conducted in accordance with the relevant provisions of this Agreement. The Mandated Lead Arrangers, the Agent Banks and the Lender shall internally share all risks and interests under this Agreement and the Security Documents by the Risk Sharing. Each Lender agrees that, unless otherwise resolved by all the Lenders, the Lender not being the Facility Agent or the Collateral Agent may not solely request the Co-Borrowers to repay the joint and several claims, solely take actions on matters relating to this Agreement, or take actions inconsistent with the resolutions of the Majority Banks, except for the exercise of rights of offset, merger and retention.

3. **Designation of the Agent Banks**

Each Lender hereby designates the Facility Agent and the Collateral Agent as its agents in accordance with relevant provisions of this Agreement to achieve the purposes set forth in this Agreement and the Security Documents, and such designation may not be cancelled or revoked. In addition, each Lender irrevocably authorizes the Facility Agent and the Collateral Agent to take relevant actions on its behalf and to exercise relevant rights, authority and discretion (including those reasonably attached thereto) which are expressly or inexplicitly delegated to the Facility Agent and the Collateral Agent in accordance with the terms and conditions of this Agreement and the Security Documents.

4. **Scope of Obligations**

With regard to the obligations and functions of the Agent Banks provided in this Agreement, any Lead Manager may only be deemed an Agent Bank of the Lender for the convenience to conduct administrative management. None of the Agent Banks is a trustee of any Lender, has any trust relationship with any Lender or is deemed an agent or a trustee of the Co-Borrowers. Unless otherwise explicitly provided in this Agreement, the Agent Banks shall not be subject to any other obligations or responsibilities.

5. **Duties and Obligations**

The Facility Agent shall perform the following duties and obligations:

(1) Pursuant to this Agreement, to pay each Lender all the amounts received from the Co-Borrowers and other amounts relating to the Facility Amount in accordance the Risk Sharing of each Lender on the day of receiving each amount or the next Business Day.

(2) To notify each Lender of the following matters as soon as possible:

(a) The contents of the documents received by it relating to the Facility Amount (however, limited to the matters which the Facility Agent considers material).

(b) Any Event of Default identified by the Facility Agent's staff in performing the duties under this Agreement.

(3) Unless otherwise restricted in this Agreement, the Facility Agent shall act or omit to act in accordance with any lawful and proper instructions given to the Facility Agent by the Majority Banks, and any of such acts or omissions shall be binding upon all the Lenders.

(4) Prior to giving any notice or making any declaration of default in accordance with Section 12.2, the Facility Agent shall, to the extent that it is practically possible, endeavor to consult the opinions of the Lenders in advance.

6. **Rights and Authority**

The Facility Agent may:

(1) perform the obligations and duties of the Facility Agent provided in this Agreement through its directors, officers, staff or agents.

(2) when it deems necessary, mandate lawyers, accountants or other experts or professionals to provide professional advice and services required and pay their remunerations, and may rely on and take actions based on the advice of the abovementioned professionals.

(3) not exercise any rights, authority and make any decision before receiving instructions from the Majority Banks. Before obtaining the compensation to its satisfaction or any security ensuring that the amounts, fees and expenses (including, without limitation, attorneys' fees and disbursements) incurred can be repaid, the Facility Agent is not required to take any legal proceedings as instructed by the Majority Banks.

(4) refuse to take actions which it considers that such actions may violate relevant laws and regulations or are likely to make the Facility Agent liable for the compensation to a third party; however, the Facility Agent may directly take any action which it considers necessary in accordance with laws and regulations.

(5) before the receipt of any written notice from the Lenders or the Co-Borrowers, assume that there is no occurrence of any Event of Default and that each party to this Agreement does not violate any obligation which it assumes in accordance with this Agreement or any Security Documents. The Facility Agent is not obligated to verify any Event of Default of the Co-Borrowers.

(6) deem the Lender who originally offered the Commitment entitled to receive the repayment, unless the Facility Agent has otherwise received other instructions in writing from relevant Lender.

(7) for each document delivered to the Facility Agent by each Lender and Co-Borrowers in accordance with the terms of this Agreement, in addition to verifying the seal specimen (or the specimen of any authorized signatory) by the Facility Agent with due care of the same degree in managing its own affairs, the Facility Agent is not required to verify the content of each document or any other relevant matters. When performing each relevant matter under this Agreement, the Facility Agent may rely on the signatures and the contents of the received documents as valid, true and accurate. When communicating with or making remittance to each Lender, the Facility Agent may rely on the contact information and account details for remittance provided by the Lender before the execution of this Agreement (and the subsequent revisions informed by written notices) as accurate.

(8) In handling the Facility Amount of the Loan and each relevant matter, the Facility Agent shall make the distribution on a pro-rata basis as provided under this Agreement. However, in the event that the distribution cannot be made perfectly on a pro-rata basis, the Facility Agent may make the distribution on its reasonable discretion, and each Lender may not have any objection thereto.

(9) conduct the communication of matters relating to this Agreement by facsimile or email and may rely on the contents of received facsimile documents as authentic and accurate, unless otherwise provided in this Agreement. The Facility Agent does not bear any responsibility for interruptions or delays of transmission or receipt of communication (by phone, facsimile, email or courier), or defects or failures occurred during the transmission or receipt of communication or consequences resulting therefrom, unless those are caused by willful misconduct or gross negligence of the Facility Agent. With regard to communication matters, in the event that the Co-Borrowers submit any request as they deem necessary, the Facility Agent shall provide the originals of the relevant documents for the Co-Borrowers' reference.

7. **Disclaimers to the Lenders**

The Facility Agent shall not be responsible for or obligated to the following matters for the Lenders:

(1) Liability incurred as a result of failure or delay of the Co-Borrowers or any other parties to perform the obligations under this Agreement or any Security Documents.

(2) The authorization, signature, legitimacy, legal validity, enforceability, authenticity or sufficiency of this

Agreement, any Security Documents and any other documents relating to this Transaction; the accuracy of any representations, warranties or explanations in or related to this Agreement or any Security Documents; the accuracy or completeness of any information provided by any person, regardless of whether such information is delivered by the Facility Agent.

(3) Taking any action to verify the occurrence of an Event of Default or any breach of the Co-Borrowers or any other parties hereto of their obligations under this Agreement or any Security Documents.

(4) The accuracy and reliability of the Co-Borrowers' credit, financial condition, revenue forecasts, statements, reports and so forth; whether this Agreement is sufficient to ensure the claims; or the provision of information relating to the financial condition, the credit in other conditions or other information of the Co-Borrowers or any other parties to any other Security Documents. The Facility Agent is not obligated to actively supervise or inspect the operation of the Co-Borrowers.

(5) The payments or disbursements relating to this Agreement that the Facility Agent receive for itself, or any interests (except for those received for the interests of the Lenders hereunder) that the Facility Agent receives from the current or future transactions with the Co-Borrowers or any other parties to the Security Documents in respect of other banking transactions or other relationship irrelevant to this Agreement.

(6) Any amount agreed as payable under this Agreement or the Security Documents has been settled or not.

The term "Facility Agent" in this Article shall include (without limiting the meaning of this term referred to in other provisions in this Agreement) any Facility Agent and any successor delegated in accordance with Paragraph 11 of this Article and the staff, directors, employees and agents thereof (collectively referred to as the "**Related Persons of the Facility Agent**").

8. **Obligations to the Co-Borrowers**

The Related Persons of the Facility Agent do not bear any responsibilities or assume any obligations to the Co-Borrowers for any failure or delay of any Lender or any other parties in performing the obligations under this Agreement and any Security Documents.

9. **Liability and Indemnity**

None of the Related Persons of the Facility Agent is liable for any of its acts or omissions relating to this Agreement, except for their willful misconduct or gross negligence. To the extent not reimbursed by the Co-Borrowers, the Lenders shall, ratably in accordance with Risk Sharing Ratio (in the event that there is no Outstanding Principal Amount, the Commitment Fraction), indemnify the Facility Agent from and against any requests, claims, damages, fines, losses, costs and any expenses (including, without limitation, attorneys' fees and disbursements) arising from acts or omissions of the Facility Agent for the protection or enforcement of the rights of the Lenders or the rights relating to the Facility Amount or arising from any matter relating to the aforementioned matters, unless such requests, claims, damages, fines, losses, costs and any expenses are directly attributable to the Facility Agent's willful misconduct or gross negligence.

10. **Acknowledgement of the Lender**

Each Lender hereby acknowledges to the Facility Agent and agrees on the following:

(1) The Lender has not relied on any of the Related Persons of the Facility Agent, and has in the first place (and will in the future) made its own analysis and investigation of the current status, credit, prospect, business, operations, asset and financial condition of the Co-Borrowers and any other related persons under its sole responsibility, has act on its own responsibility for the value or ownership of any Security Interests held by the Lender currently or in the future, has been solely responsible for its compliance with the laws and regulations applicable to the financial intuitions related to the transactions under this Agreement, and has made its own decisions to proceed this Transaction or not and to take or omit to take action relating to this Transaction.

(2) The Lender does not rely on any representation or statement of the Facility Agent to execute this Agreement.

11. **Resignation of the Facility Agent**

The Facility Agent may resign its duties as the Facility Agent at any time, provided that it has notified each Lender and the Co-Borrowers in writing at least sixty (60) days prior to the resignation. The Majority Banks are entitled to designate a successor Facility Agent. In the event that the Lenders fail to designate a successor Facility Agent within such sixty (60) days, the resigned Facility Agent shall be entitled to designate a successor Facility Agent on behalf of the Lenders. The resignation of the Facility Agent shall not take effect until the successor Facility Agent has been delegated and has agreed to take on the position. The successor Facility Agent shall assume and be entitled to the original rights, authority, decision making rights and duties of the resigned Facility Agent upon its agreement of succession, and the resigned Facility Agent shall be exempt from bearing any responsibilities and assuming obligations as the Facility Agent hereunder upon the succession. The resigned Facility Agent shall deliver Agents' Fee which it has received as of effective date of the resignation to the successor Facility Agent on a pro-rata basis. The parties to this Agreement agree to execute any documents required for the replacement of the Agent Banks. After the resignation of the original Facility Agent, the provisions in Sections 11.7, 11.8 and 11.9 shall, for the interest of the designated Facility Agent, to the extent of acts or omissions of the designated Facility Agent within its term of office, remain effective.

12. **Lender as the Agent**

Without informing or obtaining the approval of the Lender, the Agent Banks and their affiliates may directly provide loans to the Co-Borrowers and their subsidiaries and the affiliates, issuing letters of credit under the engagement of the Co-Borrowers, accepting the deposits, obtaining the equity, and operating the business of general banking of any type, trust, financial advisory, underwriting or other business dealings, and such business shall not be affected by their role as the Agent Banks of this Transaction. The Lender hereby acknowledges that, on account of the abovementioned business dealings, the Agent Banks and their affiliates may acquire the information relating to the Co-Borrowers and their subsidiaries (including the information that possibly requires the duty of confidentiality to the Co-Borrowers or their subsidiaries), which the Lender acknowledges that the Agent Banks do not have any obligation to provide to the Lender. The Agent Banks are entitled to and may exercise the same rights and authority as the other Lender by their participation amount in the Facility Amount, and shall not be affected by their role as the Agent Banks of this Transaction.

13. **The Mandated Lead Arrangers, the Collateral Agent and the Document Management Agent**

The Mandated Lead Arranger is not required to bear the responsibilities or obligations which the other Lender is not required to bear for its role as the Mandated Lead Arranger.

For the interest of the Mandated Lead Arrangers, the Collateral Agent and the Document Management Agent, Sections 15.5, 15.8 and 15.10 (where applicable) shall apply, in which the "Facility Agent" referred to shall be viewed respectively as the "Mandated Lead Arrangers", the "Collateral Agent" and the "Document Management Agent."

14. **Lenders' Meeting**

The Majority Banks may request the Facility Agent to hold a Lenders' meeting in writing and the Facility Agent may also hold a Lenders' meeting as it deems necessary to discuss the defaults of the Co-Borrowers or other matters relating to this Agreement. Upon the request by the Majority Banks in writing, the Facility Agent shall distribute the convening notice of a Lenders' meeting within fifteen (15) Business Days after receiving such request, and shall hold the Lenders' meeting within ten (10) Business Days after giving the convening notice.

15. **Holding of Security Rights**

The Collateral Agent hereby acknowledges that it holds all the Security and keeps the Collaterals under control for the interests of the relevant Lenders. Unless obtained written consent of all the Lenders, the Collateral Agent may not use the funds obtained from the enforcement of any Security to repay the current or future indebtedness incurred by other financing between the Collateral Agent and the Co-Borrowers.

Article 16 Amendment

1. **Majority Consent and Entire Consent**

Any amendment to or waiver of the provisions under this Agreement and any wavier of the Event of Default under this Agreement shall be made by the consent of the Majority Banks in writing, and shall not take effect until such written

consent being executed by the parties relating to such amendment or waiver. Without prejudice to the generality of the foregoing, in the event that any amendment or waiver will affect the interest of the Mandated Lead Arrangers and/or the Agent Banks, such amendment or wavier shall be made by the consent of the Mandated Lead Arrangers and/or the Agent Banks in writing and the written consent shall be executed by Mandated Lead Arrangers and/or the Agent Banks. After the Facility Agent obtains the consent of all the Lenders or the Majority Banks in accordance with this Agreement, the Mandated Lead Arrangers and the Lenders shall thereby authorize the Facility Agent and the Collateral Agent to make relevant amendments or waiver in writing with the Co-Borrowers (the consent of all the Lenders or the Majority Banks shall be deemed the authorization of each Lender), and such amendment or waiver made by the Facility Agent and the Collateral Agent on behalf of the Lenders shall have binding effect on all the Lenders. Provided, however, the amendment or waiver relating to the following matters the matters otherwise specified in other provisions of this Agreement shall be subject to the prior written consent of all the Lenders:

(1) **Facility Purpose**

Any change of the facility purpose.

(2) **Facility Amount, Period, Amount and Currency**

Any increase of the Facility Amount, extension of the facility period or amendment to the amount, currency or maturity date of any payment under this Agreement.

(3) **Interest Rate and Fee Rate**

Reduction in or exemption from the interest rate, fee rate or other fees or payments payable to the Lenders under this Agreement.

(4) **Repayment**

Any voluntary or compulsory prepayment or substitute payment, unless otherwise provided in this Agreement.

(5) **Majority Banks**

Any amendment relating to the definition of the "Majority Banks", this Article or Section 14.3.

(6) **Settlement and Mediation**

An exemption or a deduction of any of the Co-Borrowers' payment or repayment obligations under this Agreement or a settlement or mediation with the Co-Borrowers on the indebtedness relating to this Agreement.

(7) **Collateral**

Return of, cancellation of or release of the Collateral specified in Article 11 or change of Collateral or the contents of the Security Document, unless otherwise provided in this Agreement.

(8) **Replacement of the Guarantor**

Discharge of all or part of the responsibilities of the Guarantor or replacement of the Guarantor.

Notwithstanding the foregoing in this Article, any amendments to or revisions on the agreement between the Agent Banks and the Lenders which will not prejudice the rights and obligations of the Co-Borrowers and/or Guarantor, may be made merely by the written consent of the Facility Agent, the Collateral Agent and the Majority Banks and without the consent of the Co-Borrowers and/or the Guarantor; provided that the Facility Agent shall notify the Co-Borrowers and/or the Guarantor of the amendments and content thereof in writing.

2. **Amendment/Waiver Fee**

In the event that the Co-Borrowers apply with the Lenders to change the terms and conditions, to request the consent of the amendments to this Agreement, Security Documents or other relevant documents or to give a waiver, regardless of such change, amendment or waiver is consented by the Lenders, when submit the application, the Co-Borrowers shall,

pay amendment/waiver fee of One Hundred Thousand New Taiwan Dollar (NT$100,000) to each Lender and the Facility Agent; provided that the total amendment/waiver fee for each amendment/waiver under this Agreement should be up to One Hundred Thousand US Dollar (US$100,000) or New Taiwan Dollar equivalent.

Article 17 Waiver and Severability

1. **Waiver**

Unless other provided by law, no failure or delay by the Agent Banks, the Mandated Lead Arrangers, or any Lenders in exercising any right, power, remedy hereunder shall impair such right, power or remedy or operate as a waiver thereof; nor shall any single or partial exercise of the same preclude any further exercise thereof or the exercise of any other right, power or remedy. Any waiver of the rights hereunder by the Agent Banks, Mandated Lead Arrangers, or the Lenders shall be made in writing and shall take effect until the execution by the Agent Banks, the Mandated Lead Arrangers and all the Lenders. The effectiveness of any waiver of the Event of Default should be determined in accordance with the terms and conditions of the waiver document, and should be subject to the restrictions set forth therein. The rights, power and remedies hereunder do not exclude any other rights, power or remedies provided by law.

2. **Severability**

In the event that at any time any provision in this Agreement is held illegal, null or unenforceable due to violation of any ROC laws, the legality, validity and enforceability of other provisions under this Agreement shall not be affected.

Article 18 Assignment

1. **Co-Borrowers and Guarantor**

The Co-Borrowers and the Guarantor shall not assign any rights or obligations hereunder to any third party.

2. **Lender**

Any Lender (the "**Assignor Bank**") may, without prior consent of the Co-Borrowers, the Guarantor or the Agent Banks, transfer all or a part of its rights, benefits and obligations under this Agreement or the Security Documents or arising from this Agreement or the Security Documents to a third party (the "**Assignee**") in form and substance set out in Appendix 14. Provided, however, if there is no continuing Event of Default, the Assignee may only be a financial institution, and the Assignor Bank shall notify the Co-Borrowers, Guarantor and Facility Agent of such assignment (the notification should be in form as the schedule to Appendix 14). Other parties hereto shall not be affected by such assignment. The foregoing assignment of the rights and/or obligations shall not increase the obligations of the Co-Borrowers hereunder, nor affect the rights of the Co-Borrowers hereunder, and the Assignee shall agree in writing to all the provisions under this Agreement. Except for a merger, spin-off, general assignment or an assignment under any other similar circumstance made under the Financial Institutions Merger Act or the Business Mergers and Acquisitions Act, the Lender assigning all or a part of its rights and obligations hereunder shall pay an operation fee of NT$100,000 to the Facility Agent for each assignment.

3. **Agreement on Risk Sharing**

Any Lender may, without notice to the Co-Borrowers, assign the foregoing rights, benefits and obligation to the Assignee by entering into a risk sharing agreement with such party. To the extent that the Assignee shares the risk as agreed by the Assignor Bank, the Assignor Bank shall continue being the contracting party under this Agreement or Security Documents, and the Assignee shall exercise its rights and perform its obligations under this Agreement and/or Security Documents in the name of the Assignor Bank. The Assignee shall not directly make any claim to the Co-Borrowers pursuant to the risk sharing agreement or this Agreement. All fees incurred on the risk sharing shall be borne by the Assignor Bank.

4. **Effect of Assignment**

This Agreement shall have binding effect on the Assignee, successor of the Lenders, or the person who assumes or succeeds to the rights or obligations of the party hereto according to other laws.

5. **Disclosure of Information**

Where the Lenders deem appropriate, the Lenders may inform the Assignee, potential Assignee, appraiser or auditor of the claim or other persons permitted by laws and regulations of the information relating to all the debts of Co-Borrowers owed to the Lenders in confidential and shall inform the Co-Borrowers of the same when making such disclosure.

Article 19 Notice and the Delivery of Payments by the Facility Agent

1. **Served**

Any notice, requirement, or other communications made under this Agreement shall be made in writing, and shall be served or delivered to the relevant parties according to the following addresses, facsimile numbers or e-mail addresses (or the addresses, facsimile numbers or e-mail addresses to be changed which is notified in writing by the other parties hereto five (5) Business Days prior to the change). The payments that the Facility Agent shall remit to each Lender according to this Agreement shall be made through the inter-bank remittance system to the designated accounts notified in writing by each Lender to the Facility Agent prior to the execution of this Agreement. The contact information of the Co-Borrowers, the Facility Agent, the Collateral Agent and the Document Management Agent is as follows:

Co-Borrower: Inotera Memories, Inc.
Address 667, Fuhsing 3rd Rd, Hwa-Ya Technology Park Guishan Dist., Taoyuan City
Telephone Number: (03)327-2988 ext. 3930
Fax Number: (03)327-7188
E-mail address: philipjao@inotera.com
Attention: Philip Jao

Co-Borrower: Micron Semiconductor Taiwan Co., Ltd.
Address: 25th Floor, 333 Keelung Road, Sec 1, Taipei, Taiwan
Telephone Number: (02)2757-6687
Fax Number: (02)2757-6656
E-mail address: stephendrake@micron.com
Attention: Legal Counsel

Facility Agent: Bank of Taiwan, Tun Hua Branch
Address: 1F, 205 Tun Hua N. Road, Taipei, Taiwan
Telephone Number: (02)2545-5111 ext. 57
Fax Number: (02)2718-8572
E-mail address: 123742@mail.bot.com.tw
Attention: Zhi-Yi Yeh

Collateral Agent: Mega International Commercial Bank Co., Ltd.
Address: No.100, Chi-lin Rd., Taipei City 10424, Taiwan
Telephone Number: (02)2563-3156 ext. 2381/2727
Fax Number: (02)2531-1599
E-mail address: rogerreceive@megabank.com.tw
tzydaichen@megabank.com.tw
Attention: Chung-Wei Chen/Tzy-Dai Chen

Document Management Agent: Taiwan Business Bank
Address: No.30, Tacheng St., Datong Dist., Taipei City, Taiwan
Telephone Number: (02)2559-7171 ext. 6261/6665
Fax Number: (02)2559-1412
E-mail address: dodoro@mail.tbb.com.tw/cf063212@mail.tbb.com.tw
Attention: Wen-Kai Huang/Qing-Fen Li

Where there is any change of the address, e-mail address, facsimile number, or the attention of each party hereto, such party shall notify the other parties hereto immediately. In case of any failure to give notice according to this Agreement, the change shall not constitute a defense against the other parties.

2. **Deemed Served**

Any notice, requirement and other communications provided to other parties according to the aforementioned provisions shall be deemed given or served at the following time: (1) if sent by post, at the time after ordinary postal delivery period since it is sent to relevant addresses; (2) if delivered by facsimile, at the time the facsimile is delivered and the record of the facsimile transmission is received; (3) if delivered by hand delivery, the time of the delivery; (4) if sent by e-mail, at the time the e-mail is delivered and no extraordinary notice is received.

3. **Facility Agent**

All communications relating to this Agreement between the Co-Borrowers and each Lender shall be made through the Facility Agent.

4. **Language**

Any notice, requirement and other communications specified in this Agreement and other documents required to be delivered under this Agreement shall be made in Chinese or made in English with Chinese translation attached thereto (the translation attached thereto may be a summary translation as the case may be; provided that the recipient may ask for the translation consistent with the original when it deems necessary). If there is any discrepancy between the Chinese version and the English version, the Chinese version shall prevail.

Article 20 Document Destruction and Seal Handling Process

1. **Document Destruction Process**

In the event where any notes or documents provided by the Co-Borrowers or Guarantor to any Lead Managers as agreed in this Agreement and any certificates of the debts borne by the Co-Borrowers or Guarantor under this Agreement are destroyed, lost or delayed due to an incident, disaster, or accident while in transit, or in any event not attributable to the relevant Lead Managers or other force majeure events, the Co-Borrowers or Guarantor shall admit all the monies in the amount specified in the aforementioned books and certificates, and shall repay the principal and interest on all debts and all other expenses forthwith on the due date, unless the Co-Borrowers prove that there are indeed mistakes in the records specified in the Agent Banks' book of account, vouchers, computer-produced information, certificates of claims, and the copies and microfilm of correspondence; or the Co-Borrowers shall issue a certificate of claim and provide it to the Facility Agent before the debt is due according to the notice from the Facility Agent.

2. **Notice of Change**

When there is a change of the name, legal form or company seal of a Co-Borrower or the Guarantor, the Co-Borrowers or the Guarantor shall forthwith notify the Facility Agent in writing of the change and apply for the change or cancellation of the original seal. Before the procedures for the change are completed, neither the Co-Borrowers nor the Guarantor may defense against the Agent Banks and the Lenders based on the change of the aforementioned matters. Prior to the consent of the relevant Lender or the Facility Agent and the completion of the procedures for change or cancellation of seal, the original seal of the Co-Borrowers or the Guarantor as preserved by the relevant Lender or the Facility Agent shall remain effective, and the Co-Borrowers or the Guarantor shall be responsible for all the transactions made with the relevant Lender or the Facility Agent by using the original seal.

Article 21 Consent to Use and Deliver Information

1. **Rights to Collect and Use Information**

The Co-Borrowers and their responsible persons agree that each Lender may collect, process, and use (including international transmission) the information of the Co-Borrowers and their responsible persons as well as the transaction information between the Co-Borrowers, their responsible persons, and the institutions (including basic identification information, credit investigation report, loan information (including the records of overdue debt, debt collection and bad debt), savings information, financial information and other information regarding personal properties or real estate, credit information regarding notes, personal credit information, credit information regarding credit cards (including IC cards and magnetic stripe cards), credit information in the contracted merchant of credit card companies, and other personal information regarding loan and credit transactions) according to the Personal Information Act and/or the relevant laws and regulations amended and promulgated thereafter. However, each Lender shall keep the aforementioned information

and the information obtained as a result of this Transaction in confidential. The responsible persons of the Co-Borrowers may request to query or review their personal information and request to supplement, correct, make copies of the personal data, or request to delete or cease the collection and use of their personal information. However, during the Contract Period or after its expiration, if the personal information which the responsible persons of the Co-Borrower requests to delete or cease the collection and use of, is the personal information which necessary for the user of the personal information to perform the relevant matters hereunder or to operate its business, the Facility Agent and each Lender may refuse the request.

2. **Provision of Information**

Each Lender, in addition to collecting, processing and using (including international transmission) by itself, may provide all information of the Co-Borrowers and their responsible persons described under Paragraph 1 of this Article in confidential to the Assignee of the Lender, potential Assignee, appraiser or auditor of the claim, or other persons permitted by laws and regulations, the Joint Credit Information Center, the Small and Medium Enterprise Credit Guarantee Fund of Taiwan, Financial Information Service Co., Ltd., Taiwan Clearing House, outsourcing institutions, financial holding companies and their subsidiaries (branches) of each Lender, the headquarter and branches, parent companies and subsidiaries and affiliates of each Lender, persons providing out-sourcing services for each Lender, persons who propose to merge with the Lenders, and other persons who propose to engage in similar transactions with the Lenders, investors (or potential investors) of the asset securitization transactions (or transactions with similar economic effects) initiated by such Lender, arranger, trustees or other relevant personnel, recipients of personal information via international transmission who have not been restricted by the central competent authority, financial supervisory agencies or agencies with investigation power provided by laws, and other related institutions having transactions with any Lender, and the aforementioned institutions may process and use (including international transmission) the information.

3. **Further use of Information**

The institutions listed in the preceding paragraph may collect, process and use (including international transmission) the information of the Co-Borrowers, the Guarantor and their responsible persons specified in Paragraph 1 of this Article for the specific purposes such as the needs of their registered business or business specified in their Articles of Incorporation, and may provide such information to each Lender for its collection, processing and use (including international transmission). When each Lender further processes and uses (including international transmission) the personal information of the responsible persons of the Co-Borrowers obtained from the aforementioned institutions, as the responsible persons of the Co-Borrowers have been aware of the items which each Lender shall notify of, neither the Facility Agent nor each Lender shall give such notification.

4. **Use of Information by Third Party**

When the Lender intends to sell, assign, or entrust their claims under this Transaction to a third party, or intends to engage a third party to carry out a lawsuit, compulsory enforcement or other legal proceedings, the Co-Borrowers, their responsible persons and Guarantor agree that the Lender may provide the aforementioned third party and its trustees and the professional consultants with the contents of the transaction, the status of the repayment and debt collection under this Agreement, the credit information, loan information and personal information of the Co-Borrowers and their responsible persons in confidence, and agree that the aforementioned third party, its assignee and the professional consultant may collect, process, and use (including international transmission) the said information.

5. **Continuous Effectiveness of Written Consent**

The written consent previously given by the Co-Borrowers and their responsible persons specifying that the recipient of the information may use the personal information of the Co-Borrowers and their responsible persons shall, to the extent not contrary to this Agreement, remains effective.

6. **Consent of the Responsible Person**

The Co-Borrowers shall procure their responsible persons (and the new responsible persons as well) to agree the aforementioned provisions regarding the collection, processing and use (including international transmission) of information and to execute the written consent as required by the Facility Agent.

7. **Asset Securitization**

The Lenders may, for the specific purpose of the assignment of claim, provide the information relating to all indebtedness owed by the Co-Borrowers to the Lenders in confidential, to the assignee to whom the claim is assigned (including the assignee who intends to be assigned to the claim) and the appraisal auditor who carries out the assignment of the claim.

8. **Outsourcing**

The Co-Borrowers agree that each Lender and the Agent Banks may outsource relevant banking processes such as the collection of account receivable under this Transaction according to the "Regulations Governing Internal Operating Systems and Procedures for the Outsourcing of Financial Institution Operation" promulgated by the competent authority of the ROC, the "Guidelines for Outsourcing of Collection of Account Receivable by Financial Institutions" adopted by the Bankers Association of the ROC and other relevant laws and regulations.

Article 22 Miscellaneous

1. **Integrity of this Agreement**

This Agreement and the documents referred to herein (including but not limited to the Appendices, Schedules and attachments attached hereto) constitute entire obligations that each of the Lenders, the Agent Banks, the Mandated Lead Arrangers, and the Co-Borrowers shall assume, and supersede any prior expression of intentions or understanding with respect to this Transaction.

2. **Duty of Confidentiality**

Unless otherwise provided by law or agreed upon in this Agreement, the matters in relation to this Agreement or the Facility Amount shall not be publicly announced or disclosed without the consent of the Co-Borrowers.

3. **Counterparts**

This Agreement may be executed in any number of counterparts, and different parties hereto may execute on its respective counterparts, provided that all the counterparts shall constitute a single agreement.

4. **Place of Performance under this Agreement**

The place where the Facility Agent is located shall be the place for the parties hereto to perform the rights and obligations hereunder.

Article 23 Governing Law and Jurisdiction

1. **Governing Law**

This Agreement and the rights and obligations of each party hereunder shall be governed by, and construed according to, the laws of the ROC.

2. **Jurisdiction**

Each party agrees that any and all legal actions and proceedings arising from or relating to this Agreement shall be submitted to Taiwan Taipei District Court as the court of first instance, unless otherwise required to be submitted to the exclusive jurisdiction as provided by law.

3. **No Restriction on the Rights to Take Legal Proceedings**

The matters specified in this Agreement do not affect the rights of the Lenders, the Facility Agent, the Collateral Agent and/or the Document Management Agent to take court action against the Co-Borrowers and/or their properties in other jurisdictions or to serve in the manner permitted by law. The legal proceeding carried out in the court in any jurisdiction does not affect other legal proceedings carried out in the courts in other jurisdictions, regardless of whether those legal proceedings are carried out simultaneously.

4. **Number of copies**

This Agreement shall be executed in 41 original copies and the Co-Borrower, the Lenders and each Lead Manager shall keep one original copy respectively as evidence.

Co-Borrowers

Inotera Memories, Inc.

Authorized Signatory: /s/ Lee, Pei-Ing (personal chop and corporate chop)

Micron Semiconductor Taiwan Co., Ltd.

Authorized Signatory: /s/ Stephen Ray Drake (personal chop and corporate chop)

Mandated Lead Arranger, Lender and Facility Agent
Bank of Taiwan

Authorized Signatory: (corporate chop)

Mandated Lead Arranger, Lender and Collateral Agent
Mega International Commercial Bank Co., Ltd.

Authorized Signatory: (corporate chop)

Mandated Lead Arranger, Lender and Document Management Agent
Taiwan Business Bank

Authorized Signatory: (corporate chop)

Mandated Lead Arranger and Lender
Taiwan Cooperative Bank

Authorized Signatory: (corporate chop)

Mandated Lead Arranger and Lender
CTBC Bank Co., Ltd.

Authorized Signatory: /s/ Shen, Wei-Guang

Mandated Lead Arranger and Lender
Hua Nan Commercial Bank

Authorized Signatory: (corporate chop)

Mandated Lead Arranger and Lender
Yuanta Commercial Bank

Authorized Signatory: (corporate chop)

Mandated Lead Arranger and Lender
Land Bank of Taiwan

Authorized Signatory: (corporate chop)

Lender
First Commercial Bank

Authorized Signatory: (corporate chop)

Lender
Agricultural Bank of Taiwan

Authorized Signatory: (corporate chop)

Lender
Jih Sun International Bank

Authorized Signatory: (corporate chop)

Lender

The Shanghai Commercial & Savings Bank, Ltd.

Authorized Signatory: (corporate chop)

Lender
EnTie Commercial Bank

Authorized Signatory: (corporate chop)

Lender
KGI Bank

Authorized Signatory: (corporate chop)

Lender
Ta Chong Bank, Ltd.

Authorized Signatory: (corporate chop)

Lender
E.SUN Commercial Bank, Ltd.

Authorized Signatory: /s/ Liao, Fu-Long

Lender
Taichung Commercial Bank Co., Ltd.

Authorized Signatory: (corporate chop)

Lender

Taiwan Shin Kong Commercial Bank Company Ltd.

Authorized Signatory: (corporate chop)

Lender
Taishin International Bank

Authorized Signatory: (corporate chop)

Lender
DBS Bank (Taiwan) Ltd.

Authorized Signatory: /s/ Lu, Sheng-Fu

Lender
Bank of Kaohsiung

Authorized Signatory: (corporate chop)

Lender

Taipeifubon Commercial Bank Co., Ltd.

Authorized Signatory: (corporate chop)

Lender
Far Eastern International Bank

Authorized Signatory: /s/ Qiu, Guan-Lun

Lender
Bank SinoPac Co. Ltd.

Authorized Signatory: (corporate chop)

Mandated Lead Arrangers and Lender
Credit Agricole Corporate & Investment Bank, Taipei Branch

Authorized Signatory: /s/ Liu, Long-Chang / Hsueh, Chih-Wen

NT$80 Billion Syndicated Loan

FIRST AMENDMENT TO THE SYNDICATED LOAN AGREEMENT

Inotera Memories, Inc.
Micron Semiconductor Taiwan Co., Ltd.
(Co-Borrowers)

Bank of Taiwan
Mega International Commercial Bank Co., Ltd.
Taiwan Business Bank
Taiwan Cooperative Bank
Chang Hwa Commercial Bank
Credit Agricole Corporate and Investment Bank, Taipei Branch
CTBC Bank Co., Ltd.
Hua Nan Commercial Bank
Yuanta Commercial Bank
Land Bank of Taiwan
(Mandated Lead Arrangers)

First Commercial Bank
Agricultural Bank of Taiwan
Jih Sun International Bank
The Shanghai Commercial & Savings Bank, Ltd.
EnTie Commercial Bank
KGI Bank
Ta Chong Bank, Ltd.
E.SUN Commercial Bank, Ltd.
Taichung Commercial Bank Co., Ltd.
Taiwan Shin Kong Commercial Bank Company Ltd.
Taishin International Bank
DBS Bank (Taiwan) Ltd.
Bank of Kaohsiung
Taipeifubon Commercial Bank Co., Ltd.
Far Eastern International Bank
Ban SinoPac Co. Ltd.
(Lenders)

Bank of Taiwan
(Facility Agent)
Mega International Commercial Bank Co., Ltd.
(Collateral Agent)

Taiwan Business Bank
(Document Management Agent)

November 23, 2016

Baker & McKenzie

15/F, No. 168, Dunhua North Road, Taipei City

FIRST AMENDMENT TO THE SYNDICATED LOAN AGREEMENT

This First Amendment to the Syndicated Loan Agreement (this "**Amendment**") is entered into by among the following parties on November 23, 2016:

(1) **Inotera Memories, Inc.**, a company limited by shares organized and existing under the laws of the Republic of China ("**ROC**" or "**Taiwan**") , with its registered office at No.667, Fuxing 3rd Rd., Wenhua Vil., Guishan Dist., Taoyuan City 333, Taiwan ("**Inotera**"); and

Micron Semiconductor Taiwan Co., Ltd., a company limited by shares organized and existing under the laws of the ROC, with its registered office at 25F., No.333, Sec. 1, Keelung Rd., Xinyi Dist., Taipei City 110, Taiwan ("**MST**", together with Inotera, the "**Co-Borrowers**", each a "**Co-Borrower**");

and

(2) Bank of Taiwan, Mega International Commercial Bank Co., Ltd., Taiwan Business Bank, Chang Hwa Commercial Bank, Ltd., Land Bank of Taiwan, Taiwan Cooperative Bank, Credit Agricole Corporate and Investment Bank, Taipei Branch, CTBC Bank Co., Ltd., Hua Nan Commercial Bank, Ltd. and Yuanta Commercial Bank, as the mandated lead arrangers (collectively, the "**Mandated Lead Arrangers**") of this Transaction (as defined below);

and

(3) **the banks and financial institutions listed in Schedule 1 to the Existing Agreement** (as defined below) (each a "**Lender**", together the "**Lenders**");

and

(4) **Bank of Taiwan**, the facility agent ("**Facility Agent**") of this Transaction (as defined below);

and

(5) **Mega International Commercial Bank Co., Ltd.**, the collateral agent ("**Collateral Agent**") of this Transaction (as defined below);

and

(6) **Taiwan Business Bank**, the document management agent ("**Document Management Agent**", together with the Facility Agent and the Collateral Agent, the "**Agent Banks**", each an "**Agent Bank**") of this Transaction (as defined below).

WHEREAS, the parties above have entered into that certain Syndicated Loan Agreement (the "**Existing Agreement**") for an aggregate facility amount of Eighty Billion New Taiwan Dollars (NT$80,000,000,000) (this "**Transaction**"). As requested by the Co-Borrowers and after obtaining the Lenders' consent through the Facility Agent, the parties hereby agree to enter into this Amendment.

1. Unless otherwise provided in this Amendment, the terms used in the Existing Agreement shall have the same meanings when used herein. In addition, the Facility Agent has obtained the Lenders' written consent for the proposed amendments specified in Articles 2 to 6 of this Amendment, and the Lenders have authorized the Facility Agent and the Collateral Agent to execute this Amendment on behalf of the Lenders in accordance with the Lenders' written consent.

2. The Co-Borrowers, the Lenders and the Agent Banks agree that Section 3.6(1) of the Existing Agreement shall be replaced with the following:

"(1) MST shall, within thirty five (35) Business Days from the Drawdown Date or such longer period as agreed by the Facility Agent in writing, create a share pledge over the Pledged Shares owned by it with the maximum secured amount in favor of the Collateral Agent in accordance with Section 11.3 hereof and complete the relevant procedure to create the pledge."

The Co-Borrowers, the Lenders and the Agent Banks also agree that the "5 Business Days" mentioned in section (B) of the preamble and Article 4.01 of Appendix 7 to the Existing Agreement be amended accordingly to "35 Business Days or such longer period as agreed by the Facility Agent in writing ".

3. The Co-Borrowers, the Lenders and the Agent Banks agree that Section 11.2(1)(b) of the Existing Agreement shall be replaced with the following:

"(b) within six (6) months after the Drawdown Date, execute the Chattel Mortgage Agreement (in the form of Appendix 6 hereto) to create a first priority chattel mortgage over the Second Batch of Machinery and Equipment with the maximum secured amount equal to one hundred and forty per cent. (140%) of recognized value (for the purpose of being Collateral) of the Machinery and Equipment calculated pursuant to Section 11.2(2) in favor of the Collateral Agent and complete the relevant mortgage registrations for the Collateral Agent to hold and enjoy such security interests as joint and several creditor for the benefits of the Lenders. The Second Batch of Machinery and Equipment shall include (as of the Drawdown Date) the Machinery and Equipment purchased in the most recent year, with an aggregate amount (together with the amount of mortgaged Machinery and Equipment purchased within the most recent year under the First Batch of Machinery and Equipment) not less than Thirty Three Billion and Eight Hundred Million New Taiwan Dollars (NT$33,800,000,000)."

4. The Co-Borrowers, the Lenders and the Agent Banks agree that Section 11.2(2)(a) of the Existing Agreement shall be replaced with the following:

"(a) Machinery and Equipment purchased within one (1) year from the Drawdown Date: seventy per cent. (70%) of the price set forth in the relevant invoices for purchase of such Machinery and Equipment and the price set forth in the cost audit report (and the aggregate price shall not be lower than Thirty Three Billion and Eight Hundred Million New Taiwan Dollars (NT$33,800,000,000))."

5. The Co-Borrowers, the Lenders and the Agent Banks agree that Section 11.3(2) of the Existing Agreement shall be replaced with the following:

"(2) MST shall, within thirty five (35) Business Days from the Drawdown Date or such longer period as agreed by the Facility Agent in writing, create a first priority pledge over no less than eighty per cent. (80%) of the issued shares in Inotera with the maximum secured amount of Eighty Billion New Taiwan Dollars (NT$80,000,000,000) in favor of the Collateral Argent in accordance with the Inotera Share Pledge Agreement (in the form of Appendix 7 hereto) pre-executed and delivered prior to the Drawdown Date, and deliver the share certificates representing such shares duly endorsed to the Collateral Agent for the Collateral Agent to hold and enjoy such security interests as joint and several creditor for the benefits of the Lenders. MST agrees that the ascertainment date of the secured obligations under the aforementioned share pledge with maximum secured amount shall be twenty (20) years from the date of creation of the share pledge and agrees to waive its rights under Article 881-7 of the Civil Code, which applies mutatis mutandis to Article 899-1 of the same."

6. The Co-Borrowers, the Lenders and the Agent Banks agree that details of "1. Machinery and Equipment Purchased for More Than One Year" of the "First Batch of Machinery and Equipment" stipulated in Schedule 3 (Machinery and Equipment) to the Existing Agreement shall be replaced by the Appendix to this Amendment.

7. Except as otherwise amended herein, other provisions of the Existing Agreement shall remain in full force and effect. This Amendment shall take effect when duly executed by the parties hereto and shall be deemed a part of the Existing Agreement provided that in the event of any discrepancy between the provisions of the Existing Agreement and the provisions of this Amendment, the provisions of this Amendment shall prevail.

8. This Amendment shall be governed by the laws of the ROC. Any matter not set forth in this Amendment shall be dealt with in accordance with applicable laws and regulations.

9. Each party hereto agrees that Taiwan Taipei District Court shall be the court of first instance to settle any disputes arising from this Amendment, unless there is special provision of exclusive jurisdiction under the laws.

10. This Amendment shall be executed in thirty one (31) original copies, and each of the Co-Borrowers, the Lenders and the Agent Banks shall keep one (1) original copy as evidence.

This Amendment is duly executed by each party hereto as of the date first above written.

Co-Borrower
Inotera Memories, Inc.

Authorized Signatory: /s/ Lee, Pei-Ing (personal chop and corporate chop)

Co-Borrower
Micron Semiconductor Taiwan Co., Ltd.

Authorized Signatory: /s/ Stephen Ray Drake (personal chop and corporate chop)

Lenders:

Bank of Taiwan
Mega International Commercial Bank Co., Ltd.
Taiwan Business Bank
Taiwan Cooperative Bank
Chang Hwa Commercial Bank
Credit Agricole Corporate and Investment Bank, Taipei Branch
CTBC Bank Co., Ltd.
Hua Nan Commercial Bank
Yuanta Commercial Bank
Land Bank of Taiwan
First Commercial Bank
Agricultural Bank of Taiwan
Jih Sun International Bank
The Shanghai Commercial & Savings Bank, Ltd.
EnTie Commercial Bank
KGI Bank
Ta Chong Bank, Ltd.
E.SUN Commercial Bank, Ltd.
Taichung Commercial Bank Co., Ltd.
Taiwan Shin Kong Commercial Bank Company Ltd.
Taishin International Bank
DBS Bank (Taiwan) Ltd.
Bank of Kaohsiung
Taipeifubon Commercial Bank Co., Ltd.
Far Eastern International Bank
Bank SinoPac Co. Ltd.

Representatives for the above Lenders:

Facility Agent
Bank of Taiwan

Authorized Signatory: (corporate chop)

Collateral Agent
Mega International Commercial Bank Co., Ltd.

Authorized Signatory: (corporate chop)

MICRON TECHNOLOGY, INC.
DEFERRED COMPENSATION PLAN

Effective March 1, 2017

PREAMBLE

The Plan is intended to be a “plan which is unfunded and is maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees” within the meaning of Sections 201(2), 301(a)(3) and 401(a)(1) of the Employee Retirement Income Security Act of 1974, as amended, or an “excess benefit plan” within the meaning of Section 3(36) of the Employee Retirement Income Security Act of 1974, as amended, or a combination of both. The Plan is further intended to conform with the requirements of Internal Revenue Code Section 409A and the final regulations issued thereunder and shall be interpreted, implemented and administered in a manner consistent therewith.

ARTICLE 1 - GENERAL

1.1 **Purpose**. The purpose of the Plan is to provide Eligible Employees an opportunity to defer to a future date the receipt of base and bonus compensation for services performed for the Employer.

1.2 **Effective Date.** The Effective Date of the Plan is March 1, 2017.

ARTICLE 2 - DEFINITIONS

Pronouns used in the Plan are in the masculine gender but include the feminine gender unless the context clearly indicates otherwise. Wherever used herein, the following terms have the meanings set forth below, unless a different meaning is clearly required by the context:

2.1 **"Account"** means an account established for the purpose of recording amounts credited on behalf of a Participant and any income, expenses, gains, losses or distributions included thereon. The Account shall be a bookkeeping entry only and shall be utilized solely as a device for the measurement and determination of the amounts to be paid to a Participant or to the Participant's Beneficiary pursuant to the Plan.

2.2 **"Administrator"** means, unless otherwise determined by the Plan Sponsor, the Micron Technology, Inc. Retirement at Micron (RAM) Committee.

2.3 **"Adoption Agreement"** means the agreement adopted by the Plan Sponsor that establishes the Plan.

2.4 "**Base Compensation**" means the Participant's base rate of compensation (including regular compensation, holiday, vacation, personal and sick pay) payable for services performed for the Employer for the Plan Year, as adjusted to reflect increases and decreases to the base rate during the Plan Year.

2.5 **"Beneficiary"** means the persons, trusts, estates or other entities entitled under Section 8.2 to receive benefits under the Plan upon the death of a Participant.

2.6 **"Board" or "Board of Directors"** means the Board of Directors of the Plan Sponsor.

2.7 **"Bonus Compensation"** means the Participant's bonus or incentive compensation payable for services performed for the Employer for the Plan Year pursuant to the Micron Technology, Inc. Executive Incentive Plan, the Micron Technology, Inc. Annual Incentive Plan, the Micron Technology, Inc. Incentive Pay Plan and/or the Micron Technology, Inc. Sales and Field Application Engineer FAE Variable Incentive Plan.

2.8 **"Change in Control"** means the occurrence of an event involving the Plan Sponsor that is described in Section 9.6.

2.9 **"Code"** means the Internal Revenue Code of 1986, as amended.

2.10 **"Compensation**" means Base Compensation, Bonus Compensation and/or Performance-Based Compensation.

2.11 **"Disability"** means a determination by the Administrator that the Participant is either (a) unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, or (b) is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or last for a continuous period of not less than twelve months, receiving income replacement benefits for a period of not less than three months under an accident and health plan covering employees of the Employer. A Participant will be considered to have incurred a Disability if he is determined to be totally disabled by the Social Security Administration or the Railroad Retirement Board.

2.12 **"Discretionary Credits"** has the meaning set forth in Section 5.1 hereof.

2.13 **"Distribution Date"** means, as selected by the Participant during the Election Period: (1) a calendar year elected by the Participant that is after the Plan Year for which the deferrals are made; (2) the Participant's Separation from Service for any reason (including death or Disability). If the Participant selects both (1) and (2), then the earliest to occur of (1) or (2) will be the Distribution Date. Notwithstanding the foregoing, in the case of a distribution to a Specified Employee on account of Separation from Service, the Distribution Date shall be the Specified Employee Delayed Payment Date.

2.14 "**Election Period**" means the period established by the Administrator during which Participant deferral and distribution elections must be made in accordance with the requirements of Code Section 409A. The Election Period for Base Compensation and for Bonus Compensation that does not qualify as Performance-Based Compensation shall end no later than the last day of the Plan Year immediately preceding the Plan Year in which such Base Compensation or Bonus Compensation is earned, and the Election Period for Bonus Compensation qualifying as Performance-Based Compensation shall end no later than six (6) months before the end of the fiscal year or other period in which the Performance-Based Compensation is earned; provided, that the Eligible Employee is employed continuously from the later of the beginning of the performance period or the date the performance criteria are established through the date an election is made to defer such Performance-Based Compensation and the amount of such Performance-Based Compensation has not become readily ascertainable as of the date the election is made; and further provided, however, that the Election Period with respect to the first Plan Year in which an Eligible Employee is eligible to participate in the Plan may, to the extent permitted under Code Section 409A, end no later than thirty (30) days after the Eligible Employee first becomes eligible under the Plan and shall apply only to compensation earned after such election is made. A former Eligible Employee who again becomes an Eligible Employee shall be treated as newly eligible to make deferrals under the Plan within thirty (30) days upon return to eligible status if: (i) the former Eligible Employee has received distribution of the full amount of his or her Account balance attributable to deferral contributions and on or before the last such distribution was not eligible to make deferral contributions for periods after the last distribution payment; or (ii) the former Eligible Employee has not been eligible to make deferral contributions at any time during the twenty-four (24)-month period ending on the date he or she again becomes an Eligible Employee. In addition, if an Eligible Employee is or was eligible to participate in another plan that is aggregated with the elective deferral portion of the Plan under Code Section 409A, participation in such plan shall be treated as participation in the Plan for purposes of determining whether the Eligible Employee is treated as newly eligible under the Plan. Except in the case of the first Plan Year in which an Eligible Employee is eligible to participate in the Plan, including a former Eligible Employee who is treated as newly eligible to make deferrals, the effective date of elections to defer Base or Bonus Compensation shall be the first day of the calendar year following such election and in the case of an election to defer Performance-Based Compensation, such election shall be effective with respect to Performance-Based Compensation payable after the end of the applicable performance period.

2.15 **"Eligible Employee"** means an employee of the Employer selected by the Employer for participation in the Plan.

2.16 **"Employer"** means the Plan Sponsor and any other entity which is authorized by the Plan Sponsor to participate in and, in fact, does adopt the Plan.

2.17 **"ERISA"** means the Employee Retirement Income Security Act of 1974, as amended.

2.18 **"Participant"** means an Eligible Employee who commences participation in the Plan in accordance with Article 3.

2.19 **"Performance-Based Compensation"** means any bonus, award or other compensation, the amount of which, or the entitlement to which, is contingent on the satisfaction of pre-established organizational or individual performance criteria relating to a performance period of at least twelve (12) consecutive months. For such bonus or award to be performance-based with respect to a Participant's deferral election with respect to such bonus or award, the following requirements must be met: (i) the performance criteria must be established in writing no later than ninety (90) days after the beginning of the applicable "performance period"; (ii) the outcome of the performance criteria must be substantially uncertain when the criteria are established; (iii) no bonus or award, or portion of any bonus or award, that will be paid either regardless of performance, or based upon a level of performance that is substantially certain to be met at the time the criteria are established, shall be considered Performance-Based Compensation; (iv) Performance-Based Compensation shall not include payments based upon subjective performance criteria unless: (a) the subjective performance criteria are bona fide and relate to the Participant's performance, the performance of a group of employees that includes the Participant, or the performance of a business unit for which the Participant provides services (which may include the entire organization); and (b) the determination that any subjective performance criteria have been met is not made by the Participant or a family member of the Participant (as defined in Code Section 267(c)(4), applied as if the family of an individual includes the spouse of any member of the family), or a person under the effective control of the Participant or such a family member, and no amount of the compensation of the person making such determination is effectively controlled in whole or in part by the Participant or such a family member. A performance-based bonus that otherwise meets the above criteria may provide for payment regardless of satisfaction of the performance criteria upon the Participant's death, disability (defined as a medically determinable physical or mental impairment resulting in the Participant's inability to perform the duties of his or her position or any substantially similar position, where such impairment can be expected to result in death or can be expected to last for a continuous period of not less than six (6) months), or a change in control event (as

defined in Treasury Regulations Section 1.409A-3(i)(5)(i)). Any amount that actually becomes payable upon such events without regard to the satisfaction of the performance criteria will not be considered Performance-Based Compensation.

2.20 **"Plan"** means the unfunded plan of deferred compensation set forth herein, including the Adoption Agreement and any trust agreement, as adopted by the Plan Sponsor and as amended from time to time.

2.21 **"Plan Sponsor"** means Micron Technology, Inc. or any successor by merger, consolidation or otherwise.

2.22 **"Plan Year"** means the period commencing January 1 and ending on December 31.

2.23 **"Related Employer"** means the Employer and (a) any corporation that is a member of a controlled group of corporations as defined in Code Section 414(b) that includes the Employer and (b) any trade or business that is under common control as defined in Code Section 414(c) that includes the Employer.

2.24 **"Separation from Service"** means the date that the Participant dies, retires or otherwise has a termination of employment with respect to all entities comprising the Related Employer. A Separation from Service does not occur if the Participant is on military leave, sick leave or other bona fide leave of absence if the period of leave does not exceed six months or such longer period during which the Participant's right to reemployment is provided by statute or contract. If the period of leave exceeds six months and the Participant's right to re-employment is not provided either by statute or contract, a Separation from Service will be deemed to have occurred on the first day following the six-month period. If the period of leave is due to any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than six months, where the impairment causes the Participant to be unable to perform the duties of his or her position of employment or any substantially similar position of employment, a 29 month period of absence may be substituted for the six month period.

Whether a termination of employment has occurred is based on whether the facts and circumstances indicate that the Related Employer and the Participant reasonably anticipated that no further services would be performed after a certain date or that the level of bona fide services the Participant would perform after such date (whether as an employee or as an independent contractor) would permanently decrease to no more than 20 percent of the average level of bona fide services performed (whether as an employee or an independent contractor) over the immediately preceding 36 month period (or the full period of services to the Related Employer if the employee has been providing services to the Related Employer for less than 36 months).

An independent contractor is considered to have experienced a Separation from Service with the Related Employer upon the expiration of the contract (or, in the case of more than one contract, all contracts) under which services are performed for the Related Employer if the expiration constitutes a good-faith and complete termination of the contractual relationship.

If a Participant provides services as both an employee and an independent contractor of the Related Employer, the Participant must separate from service both as an employee and as an independent contractor to be treated as having incurred a Separation from Service. If a Participant ceases providing services as an independent contractor and begins providing services as an employee, or ceases providing services as an employee and begins providing services as an independent contractor, the Participant will not be considered to have experienced a Separation from Service until the Participant has ceased providing services in both capacities.

If a Participant provides services both as an employee and as a member of the board of directors of a corporate Related Employer (or an analogous position with respect to a noncorporate Related Employer), the services provided as a director are not taken into account in determining whether the Participant has incurred a Separation from Service as an employee for purposes of a nonqualified deferred compensation plan in which the Participant participates as an employee that is not aggregated under Code Section 409A with any plan in which the Participant participates as a director.

If a Participant provides services both as an employee and as a member of the board of directors of a corporate related Employer (or an analogous position with respect to a noncorporate Related Employer), the services provided as an employee are not taken into account in determining whether the Participant has experienced a Separation from Service as a director for purposes of a nonqualified deferred compensation plan in which the Participant participates as a director that is not aggregated under Code Section 409A with any plan in which the Participant participates as an employee.

All determinations of whether a Separation from Service has occurred will be made in a manner consistent with Code Section 409A and the final regulations thereunder.

2.25 **"Specified Employee"** is an employee who on the date of his Separation from Service is a "specified employee" within the meaning given such term under Code Section 409A and the regulations thereunder applying the default criteria.

2.26 **"Specified Employee Delayed Payment Date"** means the first business day of the seventh month following the date of a Specified Employee's Separation from Service.

2.27 **"Valuation Date"** means each business day of the Plan Year that the Nasdaq Global Stock Market is open.

2.28 **"Years of Service"** shall be determined in accordance with the Participant's Years of Service credited under the Micron Technology, Inc. Retirement at Micron (RAM) Plan.

ARTICLE 3 - PARTICIPATION

3.1 **Participation.** An Eligible Employee shall commence participation in the Plan upon the effectiveness of his first deferral election in accordance with Section 4.1.

3.2 **Termination of Participation.** The Administrator may terminate a Participant's participation in the Plan in a manner consistent with Code Section 409A. If the Employer terminates a Participant's participation before the Participant experiences a Separation from Service the Participant's vested Accounts shall be paid in accordance with the provisions of Article 9.

ARTICLE 4 - PARTICIPANT ELECTIONS

4.1 **Deferral Agreement**. An Eligible Employee may elect during the applicable Election Period, by executing in writing or electronically a deferral agreement on form(s) approved by the Administrator, to defer the receipt of a designated percentage of Base Compensation per payroll period that is earned and payable after the effective date of such election, a designated percentage of Bonus Compensation per payroll period that is earned and payable after the effective date of such election and a designated percentage of Performance-Based Compensation that is payable after the effective date of such election and have such amount credited to the Participant's Account pursuant to the terms of the Plan. The Participant shall make a separate deferral election for Base, Bonus and Performance-Based Compensation deferrals for each Plan Year. Notwithstanding the foregoing, deferrals under this Plan are made before any elective deferrals into the Employer's qualified retirement plans.

A new deferral election must be timely executed for each Plan Year during which the Eligible Employee desires to defer Compensation. An Eligible Employee who does not timely execute a deferral election shall be deemed to have elected zero deferrals of Compensation for such Plan Year.

4.2 **Revocation/Modification of Deferral Elections**. Except as otherwise provided in Section 9.2, a Participant may not revoke or modify his deferral agreement after the Election Period. The Administrator in its discretion may cancel a deferral election if permitted under Code Section 409A (such as upon disability), provided that the Participant shall not be provided an election with respect to such cancellation. Notwithstanding anything in this Plan to the contrary, if a Participant receives a hardship distribution of elective deferrals from a qualified cash or deferred arrangement maintained by the Employer, then such Participant's deferral election shall be cancelled for the remainder of the calendar year in which he received such hardship distribution, to the extent necessary to satisfy the requirements of Treas. Reg. Section 1.401(k)-1(d)(3).

4.3 **Amount of Deferrals**. An Eligible Employee is not required to make a deferral election for any Plan Year. However, if an Eligible Employee makes a deferral election, the following minimums and maximums apply. These minimums and/or maximums may be modified by the Administrator for a given Plan Year on the election forms for such Plan Year without the need of a formal plan amendment.

(a) **Minimum Base Compensation Deferral Election**. The minimum deferral election percentage an Eligible Employee may make for a Plan Year with respect to Base Compensation is 1% of Base Compensation.

(b) **Minimum Bonus Compensation Deferral Election**. The minimum deferral election percentage an Eligible Employee may make for a Plan Year with respect to Bonus Compensation is 1% of such Eligible Employee's Bonus for a Plan Year.

(c) **Maximum Base Compensation Deferral Election**. The maximum deferral election percentage an Eligible Employee may make for a Plan Year with respect to Base Compensation is 75% of Base Compensation.

(d) **Maximum Bonus Compensation Deferral Election**. The maximum deferral election percentage an Eligible Employee may make for a Plan Year with respect to Bonus Compensation is 100% of such Eligible Employee's Bonus for a Plan Year.

4.4 **Timing of Election to Defer.** Each Eligible Employee who desires to defer Compensation otherwise payable during a Plan Year must execute a deferral agreement within the Election Period.

4.5 **Election of Payment Schedule and Form of Payment.** All elections of a payment schedule and a form of payment will be made in accordance with rules and procedures established by the Administrator. At the time an Eligible Employee first completes a deferral agreement during the Election Period, the Eligible Employee must elect a Distribution Date and a form of payment in accordance with Section 9.3 for amounts credited to his Account. If an Eligible Employee fails to elect a Distribution Date, then he shall be deemed to have elected Separation from Service as the Distribution Date for his Account. If an Eligible Employee fails to elect a form of payment in accordance with Section 9.3, then he shall be deemed to have elected a lump sum form of payment.

4.6 **No Deferrals from Severance**. Deferral elections shall not apply to severance or other amounts payable after a Participant's Separation from Service.

ARTICLE 5 - EMPLOYER CONTRIBUTIONS

5.1 **Employer Contributions.** The Employer may, in its sole discretion, make discretionary Employer credits ("Discretionary Credits") on behalf of any Eligible Participant. In its sole discretion, the Employer shall determine the Eligible Participants to be credited with any Discretionary Credit, the amount of any such Discretionary Credit and the vesting schedule applicable thereto (including any accelerated vesting thereof and the events of such acceleration). In addition, the Employer may permit the Participant to elect the timing and form of distribution of such Discretionary Credits, provided that any such election shall be made no later than the latest time permitted by Code Section 409A.

ARTICLE 6 - ACCOUNTS AND CREDITS

6.1 **Establishment of Account.** For accounting and computational purposes only, the Administrator will establish and maintain an Account on behalf of each Participant which will reflect the credits made pursuant to Section 6.2, distributions or withdrawals, along with the earnings, expenses, gains and losses allocated thereto, attributable to the hypothetical investments made with the amounts in the Account as provided in Article 7. The Administrator will establish and maintain such other records and accounts, as it decides in its discretion to be reasonably required or appropriate to discharge its duties under the Plan.

6.2 **Credits to Account.** A Participant's Account will be credited for each Plan Year with the amount of his elective deferrals under Section 4.1 at the time the amount subject to the deferral election would otherwise have been payable to the Participant and the amount of Employer contributions treated as allocated on his behalf under Article 5.

ARTICLE 7 - INVESTMENT OF CONTRIBUTIONS

7.1 **Investment Options.** The amount credited to each Account shall be treated as invested in the investment options selected in advance by the Administrator. The Administrator, in its sole discretion, shall be permitted to add or remove investment options from the Plan menu from time to time, provided that any such additions or removals of investment options shall not be effective with respect to any period prior to the effective date of such change.

7.2 **Investment Allocations**. A Participant's investment allocation constitutes a deemed, not actual, investment among the investment options comprising the investment menu. At no time shall a Participant have any real or beneficial ownership in any investment option included in the investment menu, nor shall the Employer or any trustee acting on its behalf have any obligation to purchase actual securities as a result of a Participant's investment allocation. A Participant's investment allocation shall be used solely for purposes of adjusting the value of a Participant's Account.

(a) A Participant shall specify an investment allocation for each of his Accounts in accordance with procedures established by the Administrator. Except as otherwise provided by the Administrator, the following provisions of this Section 7.2 shall apply to allocations under the Plan.

(i) Allocation among the investment options must be designated in increments of 1%. The Participant's investment allocation will become effective on the same business day or, in the case of investment allocations received after a time specified by the Administrator, the next business day.

(ii) A Participant may change an investment allocation on any business day, both with respect to future credits to the Plan and with respect to existing Accounts, in accordance with procedures adopted by the Administrator. Changes shall become effective on the same business day or, in the case of investment allocations received after a time specified by the Administrator, the next business day, and shall be applied prospectively.

7.3 **Adjustment of Accounts.** The amount credited to each Account shall be adjusted for hypothetical investment earnings, expenses, gains or losses in an amount equal to the earnings, expenses, gains or losses attributable to the investment options selected by the Participant from among the investment options provided in Section 7.1. A Participant (or the Participant's Beneficiary after the death of the Participant) may, in accordance with rules and procedures established by the Administrator, select the investments from among the options provided in Section 7.1 to be used for the purpose of calculating future hypothetical investment adjustments to the Account or to future credits to the Account under Section 6.2 effective as of the Valuation Date coincident with or next following notice to the Administrator. Each Account shall be adjusted as of each Valuation Date to reflect: (a) the hypothetical earnings, expenses, gains and losses described above; (b) amounts credited pursuant to Section 6.2; and (c) distributions or withdrawals. In addition, each Account may be adjusted for its allocable share of the hypothetical costs and expenses associated with the maintenance of the hypothetical investments provided in Section 7.1.

ARTICLE 8 - RIGHT TO BENEFITS

8.1 **Vesting.**

(a) A Participant, at all times, has a 100% nonforfeitable interest in the amounts credited to his Account attributable to his elective deferrals made in accordance with Section 4.1.

(b) A Participant's right to the amounts credited to his Account attributable to Discretionary Credits made in accordance with Article 5, if any, shall vest at to 100% of the applicable Discretionary Credit on the date that such Participant achieves two Years of Service (each, an "Employer Contribution Vesting Date"). Upon a Separation from Service prior to an Employer Contribution Vesting Date, the Participant shall forfeit the nonvested portion of his Account. Notwithstanding the foregoing, a Participant's rights to the amounts credited to his Account attributable to Discretionary Credits made in accordance with Article 5, if any, shall vest as to 100% of the applicable Discretionary Credit in the event of such Participant's death or Disability, or upon the occurrence of a Change in Control.

8.2 **Death; Disability.** A Participant may designate a Beneficiary or Beneficiaries, or change any prior designation of Beneficiary or Beneficiaries in accordance with rules and procedures established by the Administrator.

A copy of the death notice or other sufficient documentation must be filed with and approved by the Administrator. If upon the death of the Participant there is, in the opinion of the Administrator, no designated Beneficiary for part or all of the Participant's vested Account, such amount will be paid to his estate (such estate shall be deemed to be the Beneficiary for purposes of the Plan) in accordance with the provisions of Article 9.

ARTICLE 9 - DISTRIBUTION OF BENEFITS

9.1 **Amount of Benefits.** The vested amount credited to a Participant's Account as determined under Articles 6, 7 and 8 shall determine and constitute the basis for the value of benefits payable to the Participant under the Plan.

9.2 **Method and Timing of Distributions**. Except as otherwise expressly provided herein, amounts credited to a Participant's Account for each Plan Year shall be paid to the Participant in accordance with the Participant's distribution election under Article 4. Distributions shall commence to the Participant, in the form elected by the Participant in accordance with Section 9.3, as soon as administratively feasible following the Distribution Date selected by the Participant, but in no event later than the time prescribed by Treas. Reg. Section 1.409A-3(d). If payments to a Specified Employee are delayed in accordance with Section 2.13, the payments to which the Specified Employee would otherwise have been entitled during the six month period shall be accumulated and paid on the Specified Employee Delayed Payment Date. A Participant may make a one (1) time change to his or her distribution election to elect a later Distribution Date in accordance with Section 9.3 and may make a one (1) time change to his or her distribution election to change the form of the distribution in accordance with Section 9.4; provided, however, that an election to defer payment or change the form of distribution

shall not take effect until at least 12 months after the date on which the election is made and shall be effective only if (i) the election is made at least twelve (12) months before the Participant's elected Distribution Date, and (ii) the Participant elects a new Distribution Date that is no less than five (5) years later than the original Distribution Date. For purposes of this Section 9.2, a series of installment payments is always treated as a single payment and not as a series of separate payments.

9.3 **Form of Distribution**. Vested amounts credited to a Participant's Account shall, at the Participant's election specified in his deferral agreement in accordance with Article 4, be payable to the Participant in a single sum cash payment or in substantially equal annual cash installments over not less than two (2) years and not more than ten (10) years. Annual installment payments shall be calculated by dividing the Account balance by the remaining annual installments to be made.

9.4 **Payment Election Overrides.** Notwithstanding the Participant's election as to the time and form of payment, upon the Participant's death or Disability, the Participant's entire Account (including any amounts with respect to which installment payments have previously commenced) shall be paid to the Participant or his Beneficiary in a single sum cash payment.

9.5 Item intentionally left blank.

9.6 **Change in Control.** Notwithstanding the Participant's election as to the time and form of payment, in the event of a Change in Control, the Participant's entire Account (including any amounts with respect to which installment payments have previously commenced) shall be paid to the Participant in a single sum cash payment upon the Change in Control.

A Change in Control, for purposes of the Plan, will occur upon a change in the ownership of the Plan Sponsor, a change in the effective control of the Plan Sponsor or a change in the ownership of a substantial portion of the assets of the Plan Sponsor. The Plan Sponsor, for this purpose, includes any corporation identified in this Section 9.6.
If a Participant continues to make deferrals in accordance with Article 4 after he has received a distribution due to a Change in Control, the residual amount payable to the Participant shall be paid at the time and in the form specified in the elections he makes in accordance with Article 4 or upon his death or Disability as provided in Article 8.

Whether a Change in Control has occurred will be determined by the Administrator in accordance with the rules and definitions set forth in this Section 9.6. A distribution to the Participant will be treated as occurring upon a Change in Control if the Plan Sponsor terminates the Plan in accordance with Section 10.2 and distributes the Participant's benefits within twelve months of a Change in Control as provided in Section 10.3.

(a) **Relevant Corporations.** To constitute a Change in Control for purposes of the Plan, the event must relate to (i) the corporation for whom the Participant is performing services at the time of the Change in Control, (ii) the corporation that is liable for the payment of the Participant's benefits under the Plan (or all corporations liable if more than one corporation is liable) but only if either the deferred compensation is attributable to the performance of services by the Participant for such corporation (or corporations) or there is a bona fide business purpose for such corporation (or corporations) to be liable for such payment and, in either case, no significant purpose of making such corporation (or corporations) liable for such payment is the avoidance of federal income tax, or (iii) a corporation that is a majority shareholder of a corporation identified in (i) or (ii), or any corporation in a chain of corporations in which each corporation is a majority shareholder of another corporation in the chain, ending in a corporation identified in (i) or (ii). A majority shareholder is defined as a shareholder owning more than fifty percent (50%) of the total fair market value and voting power of such corporation.

(b) **Stock Ownership.** Code Section 318(a) applies for purposes of determining stock ownership. Stock underlying a vested option is considered owned by the individual who owns the vested option (and the stock underlying an unvested option is not considered owned by the individual who holds the unvested option). If, however, a vested option is exercisable for stock that is not substantially vested (as defined by Treasury Regulation Section 1.83-3(b) and (j)) the stock underlying the option is not treated as owned by the individual who holds the option.

(c) **Change in the Ownership of a Corporation.** A change in the ownership of a corporation occurs on the date that any one person or more than one person acting as a group, acquires ownership of stock of the corporation that, together with stock held by such person or group, constitutes more than fifty percent (50%) of the total fair market value or total voting power of the stock of such corporation. If any one person or more than one person acting as a group is considered to own more than fifty percent (50%) of the total fair market value or total voting power of the stock of a corporation, the acquisition of additional stock by the same person or persons is not considered to cause a change in the ownership of the corporation (or to cause a change in the effective control of the corporation as

discussed below in Section 9.6(d)). An increase in the percentage of stock owned by any one person, or persons acting as a group, as a result of a transaction in which the corporation acquires its stock in exchange for property will be treated as an acquisition of stock. Section 9.6(c) applies only when there is a transfer of stock of a corporation (or issuance of stock of a corporation) and stock in such corporation remains outstanding after the transaction. For purposes of this Section 9.6(c), persons will not be considered to be acting as a group solely because they purchase or own stock of the same corporation at the same time or as a result of a public offering. Persons will, however, be considered to be acting as a group if they are owners of a corporation that enters into a merger, consolidation, purchase or acquisition of stock, or similar business transaction with the corporation. If a person, including an entity, owns stock in both corporations that enter into a merger, consolidation, purchase or acquisition of stock, or similar transaction, such shareholder is considered to be acting as a group with other shareholders in a corporation only with respect to ownership in that corporation prior to the transaction giving rise to the change and not with respect to the ownership interest in the other corporation.

(d) **Change in the effective control of a corporation.** A change in the effective control of a corporation occurs on the date that either (i) any one person, or more than one person acting as a group, acquires (or has acquired during the twelve month period ending on the date of the most recent acquisition by such person or persons) ownership of stock of the corporation possessing thirty percent (30%) or more of the total voting power of the stock of such corporation, or (ii) a majority of members of the corporation's board of directors is replaced during any twelve month period by directors whose appointment or election is not endorsed by a majority of the members of the corporation's board of directors prior to the date of the appointment or election, provided that for purposes of this paragraph (ii), the term corporation refers solely to the relevant corporation identified in Section 9.6(a) for which no other corporation is a majority shareholder for purposes of Section 9.6(a). In the absence of an event described in Section 9.6(d)(i) or (ii), a change in the effective control of a corporation will not have occurred. A change in effective control may also occur in any transaction in which either of the two corporations involved in the transaction has a change in the ownership of such corporation as described in Section 9.6(c) or a change in the ownership of a substantial portion of the assets of such corporation as described in Section 9.6(e). If any one person, or more than one person acting as a group, is considered to effectively control a corporation within the meaning of this Section 9.6(d), the acquisition of additional control of the corporation by the same person or persons is not considered to cause a change in the effective control of the corporation or to cause a change in the ownership of the corporation within the meaning of Section 9.6(c). For purposes of this Section 9.6(d), persons will or will not be considered to be acting as a group in accordance with rules similar to those set forth in Section 9.6(c) with the following exception. If a person, including an entity, owns stock in both corporations that enter into a merger, consolidation, purchase or acquisition of stock, or similar transaction, such shareholder is considered to be acting as a group with other shareholders in a corporation only with respect to the ownership in that corporation prior to the transaction giving rise to the change and not with respect to the ownership interest in the other corporation.

(e) **Change in the ownership of a substantial portion of a corporation's assets.** A change in the ownership of a substantial portion of a corporation's assets occurs on the date that any one person, or more than one person acting as a group (as determined in accordance with rules similar to those set forth in Section 9.6(d)), acquires (or has acquired during the twelve month period ending on the date of the most recent acquisition by such person or persons) assets from the corporation that have a total gross fair market value equal to or more than forty percent (40%) of the total gross fair market value of all of the assets of the corporation immediately prior to such acquisition or acquisitions. For this purpose, gross fair market value means the value of the assets of the corporation or the value of the assets being disposed of determined without regard to any liabilities associated with such assets. There is no Change in Control event under this Section 9.6(e) when there is a transfer to an entity that is controlled by the shareholders of the transferring corporation immediately after the transfer. A transfer of assets by a corporation is not treated as a change in ownership of such assets if the assets are transferred to (i) a shareholder of the corporation (immediately before the asset transfer) in exchange for or with respect to its stock, (ii) an entity, fifty percent (50%) or more of the total value or voting power of which is owned, directly or indirectly, by the corporation, (iii) a person, or more than one person acting as a group, that owns, directly or indirectly, fifty percent (50%) or more of the total value or voting power of all the outstanding stock of the corporation, or (iv) an entity, at least fifty (50%) of the total value or voting power of which is owned, directly or indirectly, by a person described in Section 9.6(e)(iii). For purposes of the foregoing, and except as otherwise provided, a person's status is determined immediately after the transfer of assets.

9.7 **Permissible Delays in Payment.** Distributions may be delayed beyond the date payment would otherwise occur in accordance with the provisions of Articles 8 and 9 in any of the following circumstances as long as the Employer treats all payments to similarly situated Participants on a reasonably consistent basis.

(a) The Employer may delay payment if it reasonably anticipates that its deduction with respect to such payment would be limited or eliminated by the application of Code Section 162(m). Payment must be made during the Participant's first taxable year in which the Employer reasonably anticipates, or should reasonably anticipate, that if the payment is made during such year the deduction of such payment will not be barred by the application of Code Section 162(m) or during the period beginning with the Participant's Separation from Service and ending on the later of the last day of the Employer's taxable year in which the Participant separates from service or the 15th day of the third month following the Participant's Separation from Service. If a scheduled payment to a Participant is delayed in accordance with this Section 9.7(a), all scheduled payments to the Participant that could be delayed in accordance with this Section 9.7(a) will also be delayed.

(b) The Employer may also delay payment if it reasonably anticipates that the making of the payment will violate federal securities laws or other applicable laws provided payment is made at the earliest date on which the Employer reasonably anticipates that the making of the payment will not cause such violation.

(c) The Employer reserves the right to amend the Plan to provide for a delay in payment upon such other events and conditions as the Secretary of the Treasury may prescribe in generally applicable guidance published in the Internal Revenue Bulletin.

9.8 **Permitted Acceleration of Payment.** The Employer may permit acceleration of the time or schedule of any payment or amount scheduled to be paid pursuant to a payment under the Plan provided such acceleration would be permitted by the provisions of Reg. Sec. 1.409A-3(j)(4), including the following events:

(a) **Domestic Relations Order.** A payment may be accelerated if such payment is made to an alternate payee pursuant to and following the receipt and qualification of a domestic relations order as defined in Code Section 414(p).

(b) **Compliance with Ethics Agreements and Legal Requirements.** A payment may be accelerated as may be necessary to comply with ethics agreements with the Federal government or as may be reasonably necessary to avoid the violation of Federal, state, local or foreign ethics law or conflicts of laws, in accordance with the requirements of Code Section 409A.

(c) **FICA Tax.** A payment may be accelerated to the extent required to pay the Federal Insurance Contributions Act tax imposed under Code Sections 3101, 3121(a) and 3121(v)(2) of the Code with respect to compensation deferred under the Plan (the "FICA Amount"). Additionally, a payment may be accelerated to pay the income tax on wages imposed under Code Section 3401 of the Code on the FICA Amount and to pay the additional income tax at source on wages attributable to the pyramiding Code Section 3401 wages and taxes. The total payment under this subsection (d) may not exceed the aggregate of the FICA Amount and the income tax withholding related to the FICA Amount.

(d) **Section 409A Additional Tax.** A payment may be accelerated if the Plan fails to meet the requirements of Code Section 409A; provided that such payment may not exceed the amount required to be included in income as a result of the failure to comply with the requirements of Code Section 409A.

(e) **Offset.** A payment may be accelerated in the Employer's discretion as satisfaction of a debt of the Participant to the Employer, where such debt is incurred in the ordinary course of the service relationship between the Participant and the Employer, the entire amount of the reduction in any of the Employer's taxable years does not exceed $5,000, and the reduction is made at the same time and in the same amount as the debt otherwise would have been due and collected from the Participant.

(f) **Other Events.** A payment may be accelerated in the Administrator's discretion in connection with such other events and conditions as permitted by Code Section 409A.

ARTICLE 10 - AMENDMENT AND TERMINATION

10.1 **Amendment by Plan Sponsor.** The Plan Sponsor reserves the right to amend the Plan (for itself and each Employer) through action of its Board of Directors. No amendment can directly or indirectly deprive any current or former Participant or Beneficiary of all or any portion of his Account which had accrued and vested prior to the amendment.

10.2 **Plan Termination Following Change in Control or Corporate Dissolution.** The Plan Sponsor reserves the right to terminate the Plan and distribute all amounts credited to all Participant Accounts within the 30 days preceding or the twelve months following a Change in Control as determined in accordance with the rules set forth in Section 9.6. For

this purpose, the Plan will be treated as terminated only if all agreements, methods, programs and other arrangements sponsored by the Related Employer immediately after the Change in Control which are treated as a single plan under Reg. Sec. 1.409A-1(c)(2) are also terminated so that all participants under the Plan and all similar arrangements are required to receive all amounts deferred under the terminated arrangements within twelve months of the date the Plan Sponsor irrevocably takes all necessary action to terminate the arrangements. In addition, the Plan Sponsor reserves the right to terminate the Plan within twelve months of a corporate dissolution taxed under Code Section 331 or with the approval of a bankruptcy court pursuant to 11 U. S. C. Section 503(b)(1)(A) provided that amounts deferred under the Plan are included in the gross incomes of Participants in the latest of (a) the calendar year in which the termination and liquidation occurs, (b) the first calendar year in which the amount is no longer subject to a substantial risk of forfeiture, or (c) the first calendar year in which payment is administratively practicable.

10.3 **Other Plan Terminations.** The Plan Sponsor retains the discretion to terminate the Plan if (a) all arrangements sponsored by the Plan Sponsor that would be aggregated with any terminated arrangement under Code Section 409A and Reg. Sec. 1.409A-1(c)(2) are terminated, (b) no payments other than payments that would be payable under the terms of the arrangements if the termination had not occurred are made within twelve months of the termination of the arrangements, (c) all payments are made within twenty-four months of the date the Plan Sponsor takes all necessary action to irrevocably terminate and liquidate the arrangements, (d) the Plan Sponsor does not adopt a new arrangement that would be aggregated with any terminated arrangement under Code Section 409A and the regulations thereunder at any time within the three year period following the date of termination of the arrangement, and (e) the termination does not occur proximate to a downturn in the financial health of the Plan sponsor. The Plan Sponsor also reserves the right to amend the Plan to provide that termination of the Plan will occur under such conditions and events as may be prescribed by the Secretary of the Treasury in generally applicable guidance published in the Internal Revenue Bulletin.

ARTICLE 11 - THE TRUST

11.1 **Establishment of Trust.** The Plan Sponsor may but is not required to establish a trust to hold amounts which the Plan Sponsor may contribute from time to time to correspond to some or all amounts credited to Participants under Section 6.2. In the event that the Plan Sponsor wishes to establish a trust to provide a source of funds for the payment of Plan benefits, any such trust shall be constructed to constitute an unfunded arrangement that does not affect the status of the Plan as an unfunded plan for purposes of Title I of ERISA and the Code.

11.2 **Rabbi Trust.** Any trust established by the Plan Sponsor shall be between the Plan Sponsor and a trustee pursuant to a separate written agreement under which assets are held, administered and managed, subject to the claims of the Plan Sponsor’s creditors in the event of the Plan Sponsor’s insolvency. The trust is intended to be treated as a rabbi trust in accordance with existing guidance of the Internal Revenue Service, and the establishment of the trust shall not cause the Participant to realize current income on amounts contributed thereto. The Plan Sponsor must notify the trustee in the event of a bankruptcy or insolvency.

11.3 **Investment of Trust Funds.** Any amounts contributed to the trust by the Plan Sponsor shall be invested by the trustee in accordance with the provisions of the trust and the instructions of the Administrator. Trust investments need not reflect the hypothetical investments selected by Participants under Section 7.1 for the purpose of adjusting Accounts and the earnings or investment results of the trust need not affect the hypothetical investment adjustments to Participant Accounts under the Plan.

ARTICLE 12 - PLAN ADMINISTRATION

12.1 **Powers and Responsibilities of the Administrator.** The Administrator has the full power and the full responsibility to administer the Plan in all of its details, subject, however, to the applicable requirements of ERISA. The Administrator’s powers and responsibilities include, but are not limited to, the following:

(a) To make and enforce such rules and procedures as it deems necessary or proper for the efficient administration of the Plan;

(b) To interpret the Plan, its interpretation thereof to be final, except as provided in Section 12.2, on all persons claiming benefits under the Plan;

(c) To decide all questions concerning the Plan and the eligibility of any person to participate in the Plan;

(d) To administer the claims and review procedures specified in Section 12.2;

(e) To compute the amount of benefits which will be payable to any Participant, former Participant or Beneficiary in accordance with the provisions of the Plan;

(f) To determine the person or persons to whom such benefits will be paid;

(g) To authorize the payment of benefits;

(h) To comply with the reporting and disclosure requirements of Part 1 of Subtitle B of Title I of ERISA;

(i) To appoint such agents, counsel, accountants, and consultants as may be required to assist in administering the Plan;

(j) By written instrument, to allocate and delegate its responsibilities, including the formation of an administrative committee to administer the Plan.

12.2 Claims and Review Procedures.

(a) **Claims Procedure**. If any person believes he is being denied any rights or benefits under the Plan, such person may file a claim in writing with the Administrator. If any such claim is wholly or partially denied, the Administrator will notify such person of its decision in writing. Such notification will contain (i) specific reasons for the denial, (ii) specific reference to pertinent Plan provisions, (iii) a description of any additional material or information necessary for such person to perfect such claim and an explanation of why such material or information is necessary, and (iv) a description of the Plan's review procedures and the time limits applicable to such procedures, including a statement of the person's right to bring a civil action following an adverse decision on review. Such notification will be given within 90 days (45 days in the case of a claim regarding Disability) after the claim is received by the Administrator. The Administrator may extend the period for providing the notification by 90 days (30 days in the case of a claim regarding Disability) if special circumstances require an extension of time for processing the claim and if written notice of such extension and circumstance is given to such person within the initial 90 day period (45 day period in the case of a claim regarding Disability). If such notification is not given within such period, the claim will be considered denied as of the last day of such period and such person may request a review of his claim.

(b) **Review Procedure**. Within 60 days (180 days in the case of a claim regarding Disability) after the date on which a person receives a written notification of denial of claim (or, if written notification is not provided, within 60 days (180 days in the case of a claim regarding Disability) of the date denial is considered to have occurred), such person (or his duly authorized representative) may (i) file a written request with the Administrator for a review of his denied claim and of pertinent documents and (ii) submit written issues and comments to the Administrator. The Administrator will notify such person of its decision in writing. Such notification will be written in a manner calculated to be understood by such person and will contain specific reasons for the decision as well as specific references to pertinent Plan provisions. The notification will explain that the person is entitled to receive, upon request and free of charge, reasonable access to and copies of all pertinent documents and has the right to bring a civil action following an adverse decision on review. The decision on review will be made within 60 days (45 days in the case of a claim regarding Disability). The Administrator may extend the period for making the decision on review by 60 days (45 days in the case of a claim regarding Disability) if special circumstances require an extension of time for processing the request such as an election by the Administrator to hold a hearing, and if written notice of such extension and circumstances is given to such person within the initial 60-day period (45 days in the case of a claim regarding Disability). If the decision on review is not made within such period, the claim will be considered denied.

(c) **Exhaustion of Claims Procedures and Right to Bring Legal Claim**. No action at law or equity shall be brought more than one (1) year after the Administrator's affirmation of a denial of a claim, or, if earlier, more than four (4) years after the facts or events giving rising to the claimant's allegation(s) or claim(s) first occurred.

12.3 Plan Administrative Costs.
All reasonable costs and expenses (including legal, accounting, and employee communication fees) incurred by the Administrator in administering the Plan shall be paid by the Plan to the extent not paid by the Employer.

ARTICLE 13 - MISCELLANEOUS

13.1 Unsecured General Creditor of the Employer. Participants and their Beneficiaries, heirs, successors and assigns shall have no legal or equitable rights, interests or claims in any property or assets of the Employer. For purposes of the payment

of benefits under the Plan, any and all of the Employer's assets shall be, and shall remain, the general, unpledged, unrestricted assets of the Employer. Each Employer's obligation under the Plan shall be merely that of an unfunded and unsecured promise to pay money in the future.

13.2 Employer's Liability. Each Employer's liability for the payment of benefits under the Plan shall be defined only by the Plan and by the deferral elections entered into between a Participant and the Employer. An Employer shall have no obligation or liability to a Participant under the Plan except as provided by the Plan and a deferral election or agreements. An Employer shall have no liability to Participants employed by other Employers.

13.3 Limitation of Rights. Neither the establishment of the Plan, nor any amendment thereof, nor the creation of any fund or account, nor the payment of any benefits, will be construed as giving to the Participant or any other person any legal or equitable right against the Employer, the Plan or the Administrator, except as provided herein; and in no event will the terms of employment or service of the Participant be modified or in any way affected hereby.

13.4 Anti-Assignment. Except as may be necessary to fulfill a domestic relations order within the meaning of Code Section 414(p), none of the benefits or rights of a Participant or any Beneficiary of a Participant shall be subject to the claim of any creditor. In particular, to the fullest extent permitted by law, all such benefits and rights shall be free from attachment, garnishment, or any other legal or equitable process available to any creditor of the Participant and his or her Beneficiary. Neither the Participant nor his or her Beneficiary shall have the right to alienate, anticipate, commute, pledge, encumber, or assign any of the payments which he or she may expect to receive, contingently or otherwise, under the Plan, except the right to designate a Beneficiary to receive death benefits provided hereunder. Notwithstanding the preceding, the benefit payable from a Participant's Account may be reduced, at the discretion of the administrator, to satisfy any debt or liability to the Employer.

13.5 Facility of Payment. If the Administrator determines, on the basis of medical reports or other evidence satisfactory to the Administrator, that the recipient of any benefit payments under the Plan is incapable of handling his affairs by reason of minority, illness, infirmity or other incapacity, the Administrator may direct the Employer to disburse such payments to a person or institution designated by a court which has jurisdiction over such recipient or a person or institution otherwise having the legal authority under State law for the care and control of such recipient. The receipt by such person or institution of any such payments therefore, and any such payment to the extent thereof, shall discharge the liability of the Employer, the Plan and the Administrator for the payment of benefits hereunder to such recipient.

13.6 Notices. Any notice or other communication to the Employer or Administrator in connection with the Plan shall be deemed delivered in writing if addressed to the Plan Sponsor at the following address: 8000 South Federal Way, Boise, ID 83707, and if either actually delivered at said address or, in the case or a letter, 5 business days shall have elapsed after the same shall have been deposited in the United States mails, first-class postage prepaid and registered or certified.

13.7 Tax Withholding. If the Employer concludes that tax is owing with respect to any deferral or payment hereunder, the Employer shall withhold such amounts from any payments due the Participant or from amounts deferred, as permitted by law, or otherwise make appropriate arrangements with the Participant or his Beneficiary for satisfaction of such obligation. Tax, for purposes of this Section 13.7 means any federal, state, local or any other governmental income tax, employment or payroll tax, excise tax, or any other tax or assessment owing with respect to amounts deferred, any earnings thereon, and any payments made to Participants under the Plan.

13.8 Indemnification.

(a) Each Indemnitee (as defined in Section 13.8(e)) shall be indemnified and held harmless by the Employer for all actions taken by him and for all failures to take action (regardless of the date of any such action or failure to take action), to the fullest extent permitted by the law of the jurisdiction in which the Employer is incorporated, against all expense, liability, and loss (including, without limitation, attorneys' fees, judgments, fines, taxes, penalties, and amounts paid or to be paid in settlement) reasonably incurred or suffered by the Indemnitee in connection with any Proceeding (as defined in Subsection (e)). No indemnification pursuant to this Section shall be made, however, in any case where (1) the act or failure to act giving rise to the claim for indemnification is determined by a court to have constituted willful misconduct or recklessness or (2) there is a settlement to which the Employer does not consent.

(b) The right to indemnification provided in this Section shall include the right to have the expenses incurred by the Indemnitee in defending any Proceeding paid by the Employer in advance of the final disposition of the Proceeding, to the fullest extent permitted by the law of the jurisdiction in which the Employer is incorporated; provided that, if

such law requires, the payment of such expenses incurred by the Indemnitee in advance of the final disposition of a Proceeding shall be made only on delivery to the Employer of an undertaking, by or on behalf of the Indemnitee, to repay all amounts so advanced without interest if it shall ultimately be determined that the Indemnitee is not entitled to be indemnified under this Section or otherwise.

(c) Indemnification pursuant to this Section shall continue as to an Indemnitee who has ceased to be such and shall inure to the benefit of his heirs, executors, and administrators. The Employer agrees that the undertakings made in this Section shall be binding on its successors or assigns and shall survive the termination, amendment or restatement of the Plan.

(d) The foregoing right to indemnification shall be in addition to such other rights as the Indemnitee may enjoy as a matter of law or by reason of insurance coverage of any kind and is in addition to and not in lieu of any rights to indemnification to which the Indemnitee may be entitled pursuant to the by-laws of the Employer.

(e) For the purposes of this Section, the following definitions shall apply:

(i) "Indemnitee" shall mean each person serving as an Administrator (or any other person who is an employee, director, or officer of the Employer) who was or is a party to, or is threatened to be made a party to, or is otherwise involved in, any Proceeding, by reason of the fact that he is or was performing administrative functions under the Plan.

(ii) "Proceeding" shall mean any threatened, pending, or completed action, suit, or proceeding (including, without limitation, an action, suit, or proceeding by or in the right of the Employer), whether civil, criminal, administrative, investigative, or through arbitration.

13.9 **Successors.** The provisions of the Plan shall bind and inure to the benefit of the Plan Sponsor, the Employer and their successors and assigns and the Participant and the Participant's designated Beneficiaries.

13.10 **Disclaimer.** It is the Plan Sponsor's intention that the Plan comply with the requirements of Code Section 409A. Neither the Plan Sponsor nor the Employer shall have any liability to any Participant should any provision of the Plan fail to satisfy the requirements of Code Section 409A.

13.11 **Governing Law.** The Plan will be construed, administered and enforced according to the laws of Delaware.

Executed this 19th day of October 2016 but effective March 1, 2017 except as otherwise expressly provided herein.

MICRON TECHNOLOGY, INC.

/s/ April Arnzen

By: April Arnzen
Its: Vice President, Human Resources

EXHIBIT 10.65

FIRST AMENDMENT

FIRST AMENDMENT, dated as of October 5, 2016 (this "Amendment"), to the CREDIT AGREEMENT, dated as of April 26, 2016 (as amended, restated, supplemented or otherwise modified from time to time heretofore, the "Existing Credit Agreement" and as amended by this Amendment, the "Amended Credit Agreement") among MICRON TECHNOLOGY, INC., a Delaware corporation (the "Company"), MORGAN STANLEY SENIOR FUNDING, INC., as administrative agent and as collateral agent (the "Administrative Agent"), the other agents party thereto and each of the financial institutions from time to time party thereto.

W I T N E S S E T H :

WHEREAS, the Company has requested that the Existing Credit Agreement be amended in the manner provided for herein; and

WHEREAS, (a) existing Lenders which consent to this Amendment (the "Consenting Lenders") shall have the pricing of all of their Term Loans adjusted on the Repricing Date in accordance with this Amendment; (b) existing Lenders which do not consent to this Amendment (the "Non-Consenting Lenders") shall be paid all accrued and unpaid interest on their Term Loans and have their Term Loans assigned to certain Persons (the "New Lenders") on the Repricing Date in accordance with Section 2.26 of the Amended Credit Agreement and such New Lenders shall become Lenders under the Amended Credit Agreement and hold a portion of the Term Loans (or, in the case of any existing Lenders, hold a greater portion of the Term Loans), which Term Loans shall accrue interest on and after the Repricing Date at the pricing set forth in this Amendment and (c) the consent of the Required Lenders is required pursuant to Section 2.26 of the Existing Credit Agreement to effectuate the assignment contemplated by the preceding clause (b);

NOW, THEREFORE, the parties hereto hereby agree as follows:

SECTION 1. Defined Terms. Unless otherwise defined herein, terms defined in the Amended Credit Agreement and used herein shall have the meanings given to them in the Amended Credit Agreement.

SECTION 2. Amendments.

(a) Section 1.1 of the Existing Credit Agreement is hereby amended by adding the following definitions in proper alphabetical order:

"First Amendment": means that certain Amendment to this Agreement, dated as of October 5, 2016, by and among the Company, the Administrative Agent and the other parties thereto.

"Repricing Date": as defined in the First Amendment.

(b) Section 1.1 of the Existing Credit Agreement is hereby amended by deleting clauses (i) and (ii) of the definition of "Applicable Margin" contained therein in their entirety and replacing them with the following:

(i) Base Rate Loans, 2.75% and (ii) Eurodollar Loans, 3.75%.

(c) Section 2.13(b) of the Existing Credit Agreement is hereby amended by deleting the term "Closing Date" in the first sentence thereof and replacing it with the term "Repricing Date".

(d) Notwithstanding anything to the contrary in the Existing Credit Agreement and for the avoidance of doubt, all Term Loans held by Non-Consenting Lenders that are assigned pursuant to this Amendment and for which accrued and unpaid interest has been paid pursuant to Section 4(c) shall accrue interest solely on and after the Repricing Date. For the further avoidance of doubt, nothing herein shall be deemed to modify the definition of "Applicable Margin" for any day in the relevant Interest Period prior to the Repricing Date for purposes of calculating interest accrued prior to the Repricing Date.

SECTION 3. Conditions to Effectiveness. This Amendment (other than the amendments to be effectuated pursuant to Section 2 of this Amendment) shall become effective on the date that each of the following conditions shall have been satisfied (or waived by the Required Lenders):

(a) the Administrative Agent shall have received this Amendment, executed and delivered by a duly authorized officer of the Company and acknowledged by the Administrative Agent;

(b) the Administrative Agent shall have received the Consent, substantially in the form of Exhibit A hereto, executed and delivered by duly authorized officers of the Required Lenders and all Consenting Lenders; and

(c) the Administrative Agent shall have received the Acknowledgement and Confirmation, substantially in the form of Exhibit B hereto, executed and delivered by a duly authorized officer of the Company.

SECTION 4. Conditions to Effectiveness of Section 2. Section 2 of this Amendment shall become effective on the date (the "Repricing Date") occurring on or after October 26, 2016 that each of the following conditions shall have been satisfied (or waived by the Required Lenders):

(a) each New Lender has become a party to the Credit Agreement and this Amendment;

(b) the Administrative Agent shall have received from the Company payment of all fees and expenses required to be paid to the Administrative Agent on or before the Repricing Date for which written invoices in reasonable detail have been submitted at least two Business Days prior to the Repricing Date;

(c) the Administrative Agent shall have received from the Company, for the benefit of the Non-Consenting Lenders, payment of all accrued interest through the Repricing Date with respect to the Term Loans held by the Non-Consenting Lenders and being assigned pursuant to this Amendment;

(d) immediately before and after giving effect to Section 2 of this Amendment, each of the representations and warranties made by the Loan Parties and set forth in each Loan Document shall be true and correct in all material respects with the same effect as if made on the Repricing Date (unless stated to relate solely to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date), in each case other than representations and warranties which are subject to a materiality qualifier, in which case such representations and warranties shall be (or shall have been) true and correct; and

(e) no Default or Event of Default shall have occurred and be continuing, or would result from the effectiveness of this Amendment on the Repricing Date.

SECTION 5. New Lenders. Each New Lender, the Administrative Agent and each Loan Party acknowledges and agrees that on the Repricing Date, upon the execution and delivery of an Assignment and Acceptance by each New Lender, it (i) shall become a "Lender" under, and for all purposes of, the Amended Credit Agreement and the other Loan Documents with a Term Loan in an amount as set forth on its signature page to this Amendment, (ii) shall be subject to and bound by the terms thereof and (iii) shall perform all the obligations of and shall have all rights of a Lender thereunder. Each Non-Consenting Lender which does not execute such Assignment and Acceptance shall be deemed to have executed and delivered such Assignment and Acceptance in accordance with Section 2.26 of the Amended Credit Agreement and shall be required to assign 100% of the outstanding principal amount of the Term Loans held by such Lender to one or more assignees which have agreed to such assignment.

SECTION 6. No Other Amendment or Waivers; Confirmation. Except as expressly provided hereby, all of the terms and provisions of the Existing Credit Agreement and the other Loan Documents are and shall remain in full force and effect. The amendments contained herein shall not be construed as an amendment of any other provision of the Existing Credit Agreement or the other Loan Documents or for any purpose except as expressly set forth herein or a consent to any further or future action on the part of any Loan Party that would require the waiver or consent of the Administrative Agent or the Lenders. This Amendment shall constitute a Loan Document for purposes of the Amended Credit Agreement and from and after the Repricing Date, all references to the Credit Agreement in any Loan Document and all references to "this Agreement", "hereunder", "hereof" or words of like import referring to the Credit Agreement in the Amended Credit Agreement shall, unless expressly provided otherwise, refer to the Amended Credit Agreement.

SECTION 7. APPLICABLE LAW; WAIVER OF JURY TRIAL. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. EACH PARTY HERETO HEREBY AGREES AS SET FORTH IN SECTION 9.16 OF THE EXISTING CREDIT AGREEMENT AS IF SUCH SECTION WERE SET FORTH IN FULL HEREIN.

SECTION 8. Miscellaneous.

(a) This Amendment may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Amendment by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Agreement.

(b) The provisions of this Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including permitted assignees of its Term Loans in whole or in part prior to effectiveness hereof).

SECTION 9. Headings. Section headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

MICRON TECHNOLOGY, INC.

By: */s/ Greg Routin*

Name: Greg Routin

Title: Treasurer

MORGAN STANLEY SENIOR FUNDING, INC., as Administrative Agent

By: */s/ Jonathan Rauen*

Name: Jonathan Rauen

Title: Authorized Signatory

EXHIBIT A

CONSENT TO FIRST AMENDMENT

CONSENT (this "Consent") to FIRST AMENDMENT ("Amendment") to the CREDIT AGREEMENT, dated as of April 26, 2016 (as amended, restated, supplemented or otherwise modified from time to time heretofore) among MICRON TECHNOLOGY, INC., a Delaware corporation, MORGAN STANLEY SENIOR FUNDING, INC., as administrative agent and as collateral agent, the other agents party thereto and each of the financial institutions from time to time party thereto.

Capitalized terms used in this Consent but not defined in this Consent have meanings assigned to such terms in the Amendment.

The undersigned Lender hereby irrevocably and unconditionally approves the Amendment and consents to reprice 100% of the outstanding principal amount of the Term Loans held by such Lender in accordance with the terms of the Amendment.

IN WITNESS WHEREOF, the undersigned has caused this Consent to be executed and delivered by a duly authorized officer as of the date first written above.

,

as a Lender (type name of the legal entity)

By:

Name:

Title:

If a second signature is necessary:

By:

Name:

Title:

EXHIBIT B

FORM OF ACKNOWLEDGMENT AND CONFIRMATION

1. Reference is made to (i) the First Amendment, dated as of October 5, 2016 (the "First Amendment") and (ii) the CREDIT AGREEMENT, dated as of April 26, 2016 (as amended, restated, supplemented or otherwise modified from time to time heretofore, the "Existing Credit Agreement") among MICRON TECHNOLOGY, INC., a Delaware corporation (the "Company"), MORGAN STANLEY SENIOR FUNDING, INC., as administrative agent and as collateral agent (the "Administrative Agent"), the other agents party thereto and each of the financial institutions from time to time party thereto.

2. The Existing Credit Agreement is being amended pursuant to the First Amendment. The undersigned hereby agrees, with respect to each Loan Document to which it is a party:

(a) all of its obligations, liabilities and indebtedness under such Loan Document shall remain in full force and effect on a continuous basis after giving effect to the First Amendment; and

(b) all of the Liens and security interests created and arising under such Loan Documents remain in full force and effect on a continuous basis, and the perfected status and priority of each such Lien and security interest continues in full force and effect on a continuous basis, unimpaired, uninterrupted and undischarged, after giving effect to the First Amendment, as collateral security for its obligations, liabilities and indebtedness under the Existing Credit Agreement and under its guarantees in the Loan Documents.

3. THIS ACKNOWLEDGMENT AND CONFIRMATION SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

4. Delivery of an executed counterpart of a signature page of this Acknowledgment and Confirmation by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Acknowledgment and Confirmation.

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IN WITNESS WHEREOF, the undersigned has caused this Acknowledgement and Confirmation to be duly executed and delivered by its proper and duly authorized officer as of the day and year first above written.

MICRON TECHNOLOGY, INC.

By: _____

Name:

Title:

DATED THIS 18TH DAY OF NOVEMBER 2016

Between

MICRON SEMICONDUCTOR ASIA CAPITAL II PTE. LTD.
as Borrower

DBS BANK LTD.,
THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED, SINGAPORE BRANCH,
ING BANK N.V., SINGAPORE BRANCH,
MALAYAN BANKING BERHAD, SINGAPORE BRANCH,
AND
OVERSEA-CHINESE BANKING CORPORATION LIMITED
as Mandated Lead Arrangers and Bookrunners

THE FINANCIAL INSTITUTIONS LISTED IN SCHEDULE 1
as Original Lenders

DBS BANK LTD. as Facility Agent

DBS BANK LTD. as Security Agent

and

DBS BANK LTD. as Account Bank

US$800,000,000 FACILITY AGREEMENT

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THIS FACILITY AGREEMENT is made on 18th November 2016

BETWEEN:

(1) **MICRON SEMICONDUCTOR ASIA CAPITAL II PTE. LTD.** (Reg. No.: 201626339Z) a company incorporated under the laws of Singapore, with its registered address at 1 North Coast Drive, Singapore 757432, as borrower (the "**Borrower**");

(2) **DBS BANK LTD., THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED, SINGAPORE BRANCH, ING BANK N.V., SINGAPORE BRANCH, MALAYAN BANKING BERHAD, SINGAPORE BRANCH AND OVERSEA-CHINESE BANKING CORPORATION LIMITED** as mandated lead arrangers and bookrunners (the "**Mandated Lead Arrangers and Bookrunners**");

(3) **THE FINANCIAL INSTITUTIONS** listed in Schedule 1 (*The Original Lenders*) as original lenders (the "**Original Lenders**");

(4) **DBS BANK LTD.** as facility agent of the other Finance Parties (the "**Facility Agent**");

(5) **DBS BANK LTD.** as security agent of the other Finance Parties (the "**Security Agent**"); and

(6) **DBS BANK LTD.** as account bank (the "**Account Bank**").

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"**Affiliate**" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

"**Approved Fund**" means any person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by:

(a) a Lender;

(b) an Affiliate of a Lender; or

an entity or an Affiliate of an entity that administers or manages a Lender.

"**Approved Manufacturer**" means a manufacturer listed in the valuation report referred to in paragraph 4(c) of Part I of Schedule 2 (*Conditions Precedent*) or any other manufacturer appointed by the Borrower with the approval of the Lenders.

"**Approved Replacement Equipment**" means the equipment that replaces any unit of the Leased Equipment pursuant to Clause 19.5(b)(iv).

"**Approved Valuer**" means Equvo Limited or any other independent professional valuer appointed by the Borrower with the approval of the Lenders.

"**ASML Equipment**" means Equipment manufactured by ASML Holding N.V. or by any of its Affiliates.

"**Assignment of Lease and Charge over Escrow Account**" means the assignment of the Equipment Lease Agreement and the charge over the Escrow Account by the Borrower in favour of the Security Agent.

"**Authorisation**" means:

(a) an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation, lodgement or registration; or

(b) in relation to anything which will be fully or partly prohibited or restricted by law or regulation if a Governmental Agency intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

"**Availability Period**" means the period from and including the date of this Agreement to and including the date falling:

(a) 90 days after the date of this Agreement, in relation to the first Utilisation Date; and

(b) 190 days after the date of the first Utilisation Date, in relation to each other Utilisation Date.

"**Available Commitment**" means a Lender's Commitment under the Facility minus:

(a) the amount of its participation in any outstanding Loans under the Facility; and

(b) in relation to any proposed Utilisation, the amount of its participation in any Loans that are due to be made on or before the proposed Utilisation Date,

other than that Lender's participation in any Loans that are due to be repaid or prepaid on or before the proposed Utilisation Date.

"**Available Facility**" means the aggregate for the time being of each Lender's Available Commitment.

"**Bail-In Action**" means the exercise of any Write-down and Conversion Powers.

"**Bail-In Legislation**" means in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time and in relation to any other state, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

"**Basel III**" means:

(a) the agreements on capital requirements, a leverage ratio and liquidity standards contained in "Basel III: A global regulatory framework for more resilient banks and banking systems", "Basel III: International framework for liquidity risk measurement, standards and monitoring" and "Guidance for national authorities operating the countercyclical capital buffer" published by the Basel Committee on Banking Supervision in December 2010, each as amended, supplemented or restated;

(b) the rules for global systemically important banks contained in "Global systemically important banks: assessment methodology and the additional loss absorbency requirement - Rules text" published by the Basel Committee on Banking Supervision in November 2011, as amended, supplemented or restated; and

(c) any further guidance or standards published by the Basel Committee on Banking Supervision relating to "Basel III".

"**Break Costs**" means the amount (if any), as determined by a Lender, by which:

(d) the interest which that Lender should have received for the period from the date of receipt of all or any part of its participation in a Loan or an Unpaid Sum to the next Interest Payment Date in respect of that Loan or that Unpaid Sum, had the principal amount or Unpaid Sum received been paid on that Interest Payment Date,

exceeds:

(e) the amount which that Lender would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the London interbank market for a period starting on the Business Day following receipt or recovery and ending on the next Interest Payment Date.

"**Business Day**" means:

(a) in relation to any payments under the Finance Documents, a day (other than a Saturday or Sunday or gazetted public holiday) on which commercial banks and the relevant financial markets are open for general business in Singapore and New York;

(b) for the purposes of the definition of Quotation Day, a day (other than a Saturday or Sunday or gazetted public holiday) on which banks are open for general business in Singapore, New York and London; and

(c) in any other case, a day (other than a Saturday or Sunday or gazetted public holiday) on which banks are open for general business in Singapore.

"**Capitalisation Date**" means the date on which Equipment was placed into commercial operation by the Lessee as referred to in the internal books and records of the Lessee.

"**Charge over Equipment**" means the charge over the Equipment and the Leased Equipment by the Borrower in favour of the Security Agent.

"**Charged Assets**" means the assets from time to time subject, or expressed to be subject, to all or any of the Security created or expressed to be created pursuant to any Security Document.

"**Code**" means the US Internal Revenue Code of 1986.

"**Commitment**" means:

(a) in relation to an Original Lender, the amount in US Dollars set opposite its name under the heading "**Commitment**" in Schedule 1 (*The Original Lenders*) and the amount of any other Commitment transferred to it under this Agreement; and

(b) in relation to any other Lender, the amount in US Dollars of any Commitment transferred to it under this Agreement,

(in each case), to the extent not cancelled, reduced or transferred by it under this Agreement.

"**Compliance Certificate**" means a certificate delivered pursuant to Clause 18.2 (*Compliance Certificate*) and signed by two directors of the Borrower substantially in the form set out in Schedule 5 (*Form of Compliance Certificate*).

"**CRD IV**" means Directive 2013/36/EU of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directive 2006/48/EC and 2006/49/EC.

"**CRR**" means Regulation (EU) no. 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending regulation (EU) No. 648/2012.

"**Default**" means an Event of Default or any event or circumstance specified in Clause 21 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

"**EEA Member Country**" means any member state of the European Union, Iceland, Liechtenstein and Norway.

"**Equipment**" means the semiconductor equipment purchased or to be purchased by the Borrower, as purchaser from the Lessee, as seller pursuant to each Purchase Agreement.

"**Equipment Lease Agreement**" means the master equipment lease agreement (in form and substance satisfactory to the Lenders) dated on or about the date of this Agreement entered into by the Borrower, as lessor and the Lessee, as lessee,

together with all equipment lease schedules substantially in the form set out in Exhibit A thereto (each, a "**Equipment Lease Schedule**") executed from time to time, pursuant to which the Borrower will lease the Leased Equipment to the Lessee.

"**Escrow Account**" means account no. 0003-034088-01-5 denominated in US Dollars in the name of the Borrower maintained with the Account Bank.

"**EU Bail-In Legislation Schedule**" means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

"**Event of Default**" means any event or circumstance specified as such in Clause 21 (*Events of Default*).

"**Facility**" means the term loan facility made available under this Agreement as described in Clause 2 (*The Facility*).

"**Facility Office**" means the office or offices notified by a Lender to the Facility Agent in writing (which in the case of an Original Lender, shall be in Singapore) on or before the date it becomes a Lender (or, following that date, by not less than five (5) Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement.

"**FATCA**" means:

(a) sections 1471 to 1474 of the Code or any associated regulations, instructions or other official guidance, as amended from time to time;

(b) any treaty, law, regulation, instruction or other official guidance enacted or amended in any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law, regulation, instruction or other official guidance referred to in paragraph (a) above;

(c) any agreement pursuant to the implementation of any treaty, law, regulation, instruction or other official guidance referred to in paragraphs (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction; or

(d) any treaty, law, regulation, instruction or other official guidance analogous to paragraphs (a) or (b) enacted or amended in any other jurisdiction from time to time, and any agreement pursuant to the implementation of any such treaty, law, regulation, instruction or other official guidance with any governmental or taxation authority in any jurisdiction.

"**FATCA Deduction**" means a deduction or withholding from a payment under a Finance Document required by FATCA.

"**FATCA Exempt Party**" means a Party that is entitled to receive payments free from any FATCA Deduction.

"**Fee Letter**" means any letter or letters between a Finance Party and the Borrower setting out any of the fees referred to in Clause 11 (*Fees*).

"**Final Maturity Date**" means the date falling 60 Months after the first Utilisation Date.

"**Finance Document**" means this Agreement, any Security Document, any Fee Letter and any other document designated as such by the Facility Agent and the Borrower.

"**Finance Party**" means the Facility Agent, the Security Agent, a Mandated Lead Arranger and Bookrunner or a Lender.

"**Financial Indebtedness**" means, with respect to any person, without double counting, any obligation (other than non-recourse obligations) of that person for borrowed moneys and any obligation evidenced by bonds, debentures, notes or other similar instruments.

"**GAAP**" means generally accepted accounting principles, standards and practices in the jurisdiction of incorporation of the Borrower or (as the case may be) the Guarantor.

"**Governmental Agency**" means any government or any governmental agency, semi-governmental or judicial entity or authority (including, without limitation, any stock exchange or any self-regulatory organisation established under any law or regulation).

"**Group**" means the Guarantor, the Lessee, the Borrower and its subsidiaries.

"**Guarantor**" means Micron Technology, Inc., a corporation incorporated under the laws of the State of Delaware, with its registered address at 2711 Centerville Road, Suite 400, City of Wilmington County of New Castle, State of Delaware, 19808, United States of America.

"**Guaranty**" means the guaranty executed or to be executed by the Guarantor in favour of the Security Agent guaranteeing the Borrower's obligations under the Finance Documents.

"**Holding Company**" means, in relation to an entity, any other entity in respect of which it is a Subsidiary.

"**Indirect Tax**" means any goods and services tax, consumption tax, value added tax or any tax of a similar nature.

"**Information Package**" means the information concerning the Group contained in the documents dated 20 July 2016 approved by the Borrower which, at the Borrower's request and on its behalf, was prepared in relation to this transaction and distributed by the Guarantor to selected financial institutions before the date of this Agreement.

"**Insurance Proceeds**" means all insurance proceeds received by or on behalf of the Borrower (whether by way of claims, return of premiums, ex gratia settlements or otherwise) relating to, or in connection with the Leased Equipment.

"**Interest Payment Date**" means the last day of an Interest Period.

"**Interest Period**" means, in relation to a Loan, each period determined in accordance with Clause 9 (*Interest Periods*) and, in relation to an Unpaid Sum, each period determined in accordance with Clause 8.3 (*Default interest*).

"**Interpolated Screen Rate**" means, in relation to LIBOR for any Loan, the rate which results from interpolating on a linear basis between:

(a) the applicable Screen Rate for the longest period (for which that Screen Rate is available) which is less than the Interest Period of that Loan; and

(b) the applicable Screen Rate for the shortest period (for which that Screen Rate is available) which exceeds the Interest Period of that Loan,

each as of the Specified Time on the Quotation Day for the currency of that Loan.

"**Lease Agreement Event of Default**" means an Event of Default (as defined in the Equipment Lease Agreement).

"**Leased Equipment**" means the Equipment set out in Schedule 7 (*Leased Equipment*) and such other Equipment as set out in the Equipment Lease Agreement from time to time, each of which had a Capitalisation Date which occurred less than 24 Months (and in the case of ASML Equipment, 36 Months) prior to the date such Equipment is included under and is made subject to the Equipment Lease Agreement, and shall also include (i) all accessories, additions, attachments, parts, repairs, replacements, substitutions and upgrades thereto from time to time, and (ii) the Approved Replacement Equipment.

"**Lender**" means:

(a) any Original Lender; and

(b) any bank, financial institution, trust fund or other entity which has become a Party in accordance with Clause 22 (*Changes to the Lenders*),

which in each case, has not ceased to be a Party in accordance with the terms of this Agreement.

"**Lessee**" means Micron Semiconductor Asia Pte. Ltd., Reg. No.:199802941W a company incorporated under the laws of Singapore, with its registered address at 1 North Coast Drive, Singapore 757432.

"**Liabilities**" means all present and future moneys, debts and liabilities due, owing or incurred by the Borrower and the Guarantor to the Finance Parties under or in connection with the Finance Documents (in each case, whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently and whether as principal, surety or otherwise).

"**LIBOR**" means:

(a) the applicable Screen Rate;

(b) (if no Screen Rate is available for the relevant Interest Period) the Interpolated Screen Rate for a Loan; or

(c) if:

(i) no Screen Rate is available for US Dollars; or

(ii) no Screen Rate is available for the relevant Interest Period and it is not possible to calculate an Interpolated Screen Rate for that Interest Period,

the arithmetic mean of the rates (rounded upwards to four decimal places) quoted by the Reference Banks to leading banks in the London interbank market (as supplied to the Facility Agent at its request),

as of, in the case of paragraphs (a) and (c) above, the Specified Time on the Quotation Day for US Dollars and for a period equal in length to the relevant Interest Period.

"**Loan**" means a loan made or to be made under the Facility or the principal amount outstanding for the time being of that loan.

"**Majority Lenders**" means:

(a) if there are no Loans then outstanding, a Lender or Lenders whose Commitments aggregate more than 50 per cent. of the Total Commitments (or, if the Total Commitments have been reduced to zero, aggregated more than 50 per cent. of the Total Commitments immediately prior to the reduction); or

(b) at any other time, a Lender or Lenders whose participations in the Loans then outstanding aggregate more than 50 per cent. of the Loans then outstanding.

"**Margin**" means 2.4 per cent. per annum.

"**Material Adverse Effect**" means a material adverse effect on the operations, assets, prospects, business or condition (financial or otherwise) of the Borrower and the Lessee taken as a whole.

"**Minimum Amount**" has the meaning ascribed to it in Clause 7.4 (*Mandatory prepayment - Equipment Sale*).

"**Month**" means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

(a) subject to paragraph (c) below, if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day; and

(b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and

(c) if an Interest Period begins on the last Business Day of a calendar month, that Interest Period shall end on the last Business Day in the calendar month in which that Interest Period is to end.

The above rules will only apply to the last Month of any period.

"**Net Sale Proceeds**" has the meaning ascribed to it in Clause 7.4 (*Mandatory Prepayment - Equipment Sale*).

"**Original Financial Statements**" means the audited consolidated financial statements of the Guarantor for the financial year ended 1 September 2016.

"**Party**" means a party to this Agreement.

"**Personal Data**" means data, whether true or not, about an individual who can be identified from that data or from that data and other information to which the Finance Parties, their respective agents and/or authorised service providers, and/or (as the case may be) the relevant third parties have or are likely to have access.

"**Prepayment Event**" means each of the events in Clause 7.7 (*Mandatory Prepayment - Termination of Equipment Lease Agreement, Change of Control, Reconstruction Events*).

"**Purchase Agreement**" means any purchase agreement, in the form set out in Schedule 8 (*Form of Purchase Agreement*), entered into between the Borrower, as purchaser and the Lessee, as seller, from time to time pursuant to which the Borrower purchases Equipment from the Lessee.

"**Quotation Day**" means, in relation to any period for which an interest rate is to be determined, two (2) Business Days before the first day of that period.

"**Reference Banks**" means the principal London offices of Barclays Bank Plc, Lloyds TSB Bank Plc or such other banks as may be appointed by the Facility Agent in consultation with the Borrower.

"**Rent**" has the meaning ascribed to such term in the Equipment Lease Agreement.

"**Rent Payment**" has the meaning ascribed to such term in each Equipment Lease Schedule.

"**Repayment Dates**" means:

(a) the date falling 15 Months after the first Utilisation Date (the "**First Repayment Date**");

(b) each of the 14 dates falling at three-monthly intervals after the First Repayment Date; and

(c) the Final Maturity Date.

"**Repeating Representations**" means each of the representations set out in Clauses 17.1 (*Status*) (other than Clause 17.1(c)), 17.2 (*Binding obligations*), 17.3 (*Non-conflict with other obligations*), 17.4 (*Power and authority*), 17.5 (*Validity and admissibility in evidence*), 17.6 (*Governing law and enforcement*), 17.7(a), 17.8(a), 17.8(d), 17.10 (*Pari passu ranking*), 17.14 (*Title*), 17.16 (*Public Records*), 17.17 (*Equipment Lease Agreement*), 17.18 (*Sanctions*), 17.19 (*Anti-Money Laundering*) and 17.19 (*Anti-Corruption / Anti-Bribery*).

"**Resolution Authority**" means any body which has authority to exercise any Write-down and Conversion Powers.

"**Screen Rate**" means the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for US Dollars for the relevant period displayed (before any correction, recalculation or republication by the administrator) on pages LIBOR01 or LIBOR02 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such information or service which publishes that rate from time to time in place of Thomson Reuters. If such page or service ceases to be available, the Facility Agent may specify another page or service displaying the appropriate rate after consultation with the Borrower or the Guarantor.

"**Security**" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"**Security Agency Deed**" means the security agency deed between the Borrower, the Guarantor and the Finance Parties.

"**Security Documents**" means the Charge over Equipment, the Assignment of Lease and Charge over Escrow Account, the Guaranty, the Security Agency Deed and any other security or other document that may at any time be given as security, guarantee or assurance for any of the Liabilities pursuant to or in connection with any Finance Document.

"**Specified Time**" means a time determined in accordance with Schedule 6 (*Timetables*).

"**Subsidiary**" means:

(a) a subsidiary within the meaning of section 5 of the Companies Act (Chapter 50 of Singapore); or

(b) in relation to any company, corporation, trust, fund, or other entity (whether or not a body corporate), a company, corporation, trust, fund, or other entity (whether or not a body corporate):

(i) which is controlled, directly or indirectly, by the first-mentioned company, corporation, trust, fund, or other entity (whether or not a body corporate);

(ii) more than half the issued share capital (if it has an issued share capital) of which is beneficially owned, directly or indirectly by the first mentioned company, corporation, trust, fund, or other entity (whether or not a body corporate); or

(iii) which is a Subsidiary of another Subsidiary of the first-mentioned company, corporation, trust, fund, or other entity (whether or not a body corporate), and for this purpose, a company, corporation, trust, fund, or other entity (whether or not a body corporate) shall be treated as being controlled by another if that other company, corporation, trust, fund, or other entity (whether or not a body corporate) is able (whether through ownership of shares or otherwise) to direct its affairs and/or to control the composition of its board of directors or equivalent body (whether or not it actually exercises such control).

"**Tax**" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"**Total Commitments**" means the aggregate of the Commitments, being US$800,000,000 at the date of this Agreement.

"**Transaction Security**" means the Security created or expressed to be created in favour of the Security Agent pursuant to the Security Documents.

"**Transfer Certificate**" means a certificate substantially in the form set out in Schedule 4 (*Form of Transfer Certificate*) or any other form agreed between the Facility Agent and the Borrower.

"**Transfer Date**" means, in relation to a transfer, the later of:

(a) the proposed Transfer Date specified in the Transfer Certificate; and

(b) the date on which the Facility Agent executes the Transfer Certificate.

"**Unpaid Sum**" means any sum due and payable but unpaid by the Borrower or (as the case may be) the Guarantor under the Finance Documents.

"**US**" means the United States of America

"**US Dollars**" or "**US$**" means United States dollars.

"**US Tax Obligor**" means the Guarantor:

(a) in the event that it is resident for tax purposes in the United States of America; or

(b) in the event that some or all of its payments under the Finance Documents are from sources within the United States of America for US federal income tax purposes.

"**Utilisation**" means a utilisation of the Facility.

"**Utilisation Date**" means the date of a Utilisation, being the date on which the relevant Loan is to be made.

"**Utilisation Request**" means a notice substantially in the form set out in Schedule 3 (*Utilisation Request*).

"**Valuation Basis**" has the meaning ascribed to it under Clause 18.6 (*Inspection and Valuation Rights*).

"**Write-down and Conversion Powers**" means:

(a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule; and

(b) in relation to any other applicable Bail-In Legislation:

(i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and

(ii) any similar or analogous powers under that Bail-In Legislation.

1.2 Construction

(a) Unless a contrary indication appears, any reference in this Agreement to:

(i) the "**Borrower**", the "**Facility Agent**", any "**Finance Party**", the "**Guarantor**", any "**Mandated Lead Arranger and Bookrunner**", any "**Lender**", any "**Party**" or the "**Security Agent**" shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

(ii) "**assets**" includes present and future businesses, properties, assets, revenues and rights of every description;

(iii) "**consent**" also includes an approval, authorisation, exemption, filing, licence, order, permission, recording or registration (and references to obtaining consents shall be construed accordingly);

(iv) "**disposal**" includes any sale, assignment, exchange, transfer, concession, loan, lease, surrender of lease, licence, reservation, waiver, compromise, release of security, dealing with or the granting of any option or right or interest whatsoever or any agreement for any of the same and "**dispose**" means to make a disposal, and "**acquisition**" and "**acquire**" shall be construed *mutatis mutandis*;

(v) an "**Equipment Lease Agreement**", a "**Finance Document**" or a "**Purchase Agreement**" or any other agreement or instrument is a reference to that Equipment Lease Agreement, that Finance Document or that Purchase Agreement or other agreement or instrument as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerous) or replaced and includes any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document, or other agreement or instrument;

(vi) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

(vii) a "**law**" includes common or customary law and any constitution, decree, judgment, legislation, order, ordinance, regulation, statute, treaty or other legislative measure, in each case of any jurisdiction whatsoever (and "**lawful**" and "**unlawful**" shall be construed accordingly);

(viii) any "**obligation**" of any person under any Finance Document or any other agreement or document shall be construed as a reference to an obligation expressed to be assumed by or imposed on it under such Finance Document or, as the case may be, that other agreement or document (and "**due**", "**owing**", "**payable**" and "**receivable**" shall be similarly construed);

(ix) a "**person**" includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or two or more of the foregoing;

(x) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

(xi) "**shares**" or "**share capital**" includes equivalent ownership interests (and "**shareholder**" and similar expressions shall be construed accordingly);

(xii) the "**winding-up**" of a person also includes the amalgamation, reconstruction, reorganisation, administration, judicial management, dissolution or liquidation of that person, and any equivalent or analogous procedure under the law of any jurisdiction in which that person is incorporated, domiciled or resident or carries on business or has assets;

(xiii) a provision of law is a reference to that provision as amended or re-enacted; and

(xiv) a time of day is a reference to Singapore time unless otherwise stated.

(b) Clause and Schedule headings are for ease of reference only.

(c) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.

(d) A Default (including an Event of Default) or Prepayment Event is "**continuing**" if it has not been remedied or waived.

1.3 Third Party Rights

(a) Unless expressly provided to the contrary in the Finance Documents, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act (Chapter 53B of Singapore) to enforce or to enjoy the benefit of any term of this Agreement.

(b) Notwithstanding any terms of this Agreement the consent of any third party is not required for any variation (including any release or compromise of any liability under) or termination of this Agreement.

2. THE FACILITY

2.1 The Facility

Subject to the terms of this Agreement the Lenders agree to make available to the Borrower a term loan facility in US Dollars in an aggregate amount equal to the Total Commitments.

2.2 Finance Parties' rights and obligations

(a) The obligations of each Finance Party under the Finance Documents are several. Failure by a Finance Party to perform its obligations under the Finance Documents does not affect the obligations of any other Party under the Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the Finance Documents.

(b) The rights of each Finance Party under or in connection with the Finance Documents are separate and independent rights and any debt arising under the Finance Documents to a Finance Party from the Borrower or the Guarantor

is a separate and independent debt in respect of which a Finance Party shall be entitled to enforce its rights in accordance with paragraph (c) below. The rights of each Finance Party include any debt owing to that Finance Party under the Finance Documents and, for the avoidance of doubt, any part of a Loan or any other amount owed by the Borrower or the Guarantor which relates to a Finance Party's participation in a Facility or its role under a Finance Document (including any such amount payable to the Agent on its behalf) is a debt owing to that Finance Party by the Borrower or (as the case may be) the Guarantor.

(c) A Finance Party may, except as specifically provided in the Finance Documents, separately enforce its rights under or in connection with the Finance Documents.

3. PURPOSE

3.1 Purpose

The Borrower shall apply all amounts borrowed by it under the Facility towards financing up to 80 per cent. of the lower of:

(a) the net book value; and

(b) the fair market value,

of the Equipment (each of (a) and (b) above, as determined from the valuation report referred to in paragraph 4(c) of Part I of Schedule 2 (*Conditions Precedent*)).

3.2 Conditions

Without prejudice to Clauses 4 (*Conditions of Utilisation*) and 5 (*Utilisation*) and the payment of transaction fees and expenses in connection therewith, the Finance Parties acknowledge and agree as follows:

(a) the Borrower will purchase the Equipment set out in the relevant Purchase Agreement at the Sale Price (as defined in the relevant Purchase Agreement) on each proposed Utilisation Date;

(b) the Lessee will, in accordance with the terms of the relevant Equipment Lease Schedule, prepay the Prepayment Amount (as defined in the relevant Equipment Lease Schedule) on the relevant Sale Price Payment Date (in accordance with the relevant Purchase Agreement); and

(c) for the avoidance of doubt, any such amount prepaid under the Equipment Lease Agreement will not constitute Rent or a Rent Payment for the purposes of this Agreement.

3.3 Monitoring

No Finance Party is bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

4. CONDITIONS OF UTILISATION

4.1 Initial conditions precedent

The Borrower:

(a) may not deliver a Utilisation Request in respect of the first Utilisation unless the Facility Agent has received all of the documents and other evidence listed in Part I of Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Facility Agent (acting on the instructions of all the Lenders); or

(b) may not deliver a Utilisation Request in respect of a Utilisation (other than the first Utilisation) unless the Facility Agent has received all of the documents and other evidence listed in Part II of Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Facility Agent (acting on the instructions of all the Lenders),

and in each case, the Facility Agent shall notify the Lenders promptly upon receipt of such documents and evidence.

4.2 Further conditions precedent

The Lenders will only be obliged to comply with Clause 5.4 (*Lenders' participation*) if the Lenders are satisfied (acting reasonably) that:

(a) on the date of the relevant Utilisation Request and on the proposed Utilisation Date, no Default or Prepayment Event has occurred or would result from the proposed Loan;

(b) on the date of the relevant Utilisation Request and on the proposed Utilisation Date, the Repeating Representations are true and correct in all respects; and

(c) since the date of this Agreement, in the opinion of the Facility Agent (acting on the instructions of the Majority Lenders), no event or circumstance has occurred which has a Material Adverse Effect.

4.3 Maximum number of Loans

The Borrower may not deliver a Utilisation Request if as a result of the proposed Utilisation more than three (3) Loans will be outstanding.

5. UTILISATION

5.1 Delivery of a Utilisation Request

The Borrower may utilise the Facility by delivery to the Facility Agent of a duly completed Utilisation Request not later than the Specified Time.

5.2 Completion of a Utilisation Request

(a) Each Utilisation Request is irrevocable and will not be regarded as having been duly completed unless:

(i) the proposed Utilisation Date is a Business Day within the Availability Period;

(ii) the currency and amount of the proposed Utilisation comply with Clause 5.3 (*Currency and amount*);

(iii) the proposed Interest Period complies with Clause 9 (*Interest Periods*); and

(iv) it specifies the account and bank (which must be in Singapore) to which the proceeds of the proposed Utilisation are to be credited.

(b) Only one Loan may be requested in each Utilisation Request.

5.3 Currency and amount

(a) The currency specified in a Utilisation Request must be US Dollars.

(b) The amount of the proposed Loan must be an amount which must not exceed the Available Facility and when aggregated with all other Loans then outstanding and the amount of all other Loans that are due to be made on or before the proposed Utilisation Date shall not exceed the Total Commitments, and shall not, in any case, be more than 80 per cent. of the lower of:

(i) the net book value; and

(ii) the fair market value,

the Equipment to be purchased pursuant to the relevant Purchase Agreement from the proceeds of such Loan (each of (i) and (ii) above, as determined from the valuation report referred to in paragraph 4(c) of Part I of Schedule 2 (*Conditions Precedent*)).

5.4 Lenders' participation

(a) If the conditions set out in this Agreement have been met, each Lender shall make its participation in each Loan available by the relevant Utilisation Date through its Facility Office.

(b) The amount of each Lender's participation in each Loan will be equal to the proportion borne by its Available Commitment to the Available Facility immediately prior to making that Loan.

(c) The Facility Agent shall notify each Lender of the amount of each Loan and the amount of its participation in that Loan by the Specified Time.

6. REPAYMENT

6.1 Repayment of Loans

(a) The Borrower shall repay the aggregate amount of the Loans outstanding at the end of the Availability Period in 16 equal instalments (each, a "**Repayment Instalment**") by repaying each such equal amount on each Repayment Date.

(b) Without prejudice to the provisions of Clause 6.1(a), the Borrower shall ensure and procure that:

(i) the Lessee pays all Rent directly into the Escrow Account; and

(ii) to the extent not previously paid into the Escrow Account pursuant to paragraph (i) above, promptly upon receipt by the Borrower of any Rent from time to time, such Rent shall be credited by the Borrower directly into the Escrow Account and be applied towards the payment of the Repayment Instalment due on the next Repayment Date, together with interest and all other amounts accrued and payable thereon.

(c) If, on the Final Maturity Date, any part of a Loan remains outstanding, the Borrower shall repay it on that date.

6.2 Reborrowing

The Borrower may not reborrow any part of the Facility which is repaid.

7. PREPAYMENT AND CANCELLATION

7.1 Illegality

If, at any time, it is or will become unlawful in any applicable jurisdiction for a Lender to perform any of its obligations as contemplated by this Agreement and/or to make, fund or allow to remain outstanding its participation in any Loan:

(a) that Lender shall notify the Facility Agent upon becoming aware of that event;

(b) upon the Facility Agent notifying the Borrower, the Commitment of that Lender will be immediately cancelled; and

(c) the Borrower shall repay that Lender's participation in the Loans in full on the last day of the Interest Period for each Loan occurring after the Facility Agent has notified the Borrower or, if earlier, the date specified by the Lender in the notice delivered to the Facility Agent (being no earlier than the last day of any applicable grace period permitted by law).

7.2 Cancellation

Any part of the Facility which remains undrawn by the Borrower at the close of business in Singapore on the last day of the Availability Period shall be automatically cancelled.

7.3 Voluntary prepayment of Loan

The Borrower may, if it gives the Facility Agent not less than 10 Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, prepay the whole or any part of a Loan (but, if in part, being an amount that reduces that Loan by a minimum amount of US$5,000,000 and higher integral multiples of US$1,000,000 in excess thereof).

7.4 Mandatory prepayment - Equipment Sale

(a) In this Clause 7.4:

(i) "**Leased Equipment Sale**" means a sale, transfer or disposal (whether in a single transaction or a series of related transactions) of all or any part of the Leased Equipment.

(ii) "**Minimum Amount**" means 80 per cent. of the fair market value of the Leased Equipment that is the subject of such Leased Equipment Sale, as contained in a valuation report prepared in accordance with the Valuation Basis in respect of such Leased Equipment.

(iii) "**Net Sale Proceeds**" means the cash (including, when received, the cash deposit, whether by way of adjustment to the sale price, or otherwise, and taking into account the cash value of any rental apportionment of any amount given or made to any purchaser or third person upon that Leased Equipment Sale) received by or on behalf of the Borrower in connection with a Leased Equipment Sale after deducting reasonable fees and transaction costs properly incurred in connection with that Leased Equipment Sale, as certified by a director of the Borrower to the Facility Agent.

(b) If the Borrower intends to undertake a Leased Equipment Sale:

(i) the Borrower shall (1) promptly notify the Facility Agent of the date on which the Net Sale Proceeds will be received, the amount of those Net Sale Proceeds and (2) deliver to the Facility Agent a valuation report prepared in accordance with the Valuation Basis certifying the Minimum Amount of the Leased Equipment that is the subject of the Leased Equipment Sale;

(ii) unless otherwise permitted by the Facility Agent (acting on the instructions of the Majority Lenders), the Borrower shall ensure that at any time before or simultaneously with the Leased Equipment Sale, an amount equal to the Minimum Amount shall be credited by the Borrower into the Escrow Account for application in accordance with Clause 7.4(b)(iv) below;

(iii) if the amount of the Net Sale Proceeds paid into the Escrow Account pursuant to Clause 7.4(b)(ii) above is less than the Minimum Amount (the difference being the "**Shortfall**"), the Borrower shall be obliged to pay an amount equal to the Shortfall into the Escrow Account at any time before or simultaneously with the deposit of such Net Sale Proceeds;

(iv) an amount equal to the Minimum Amount standing in the Escrow Account shall be applied on the next Repayment Date, towards prepayment of the Loans together with all interest and all other amounts accrued and payable thereon (or at the written request of the Borrower, may be applied immediately, together with any Break Costs payable thereon under Clause 10.4 (*Break Costs*)); and

(v) immediately after prepayment of the Loans has been effected in accordance with this Clause 7.4 (*Mandatory Prepayment - Equipment Sale*), the Security Agent will, at the request and expense of the Borrower, discharge the Security created in favour of the Security Agent under the Charge over Equipment over the relevant Leased Equipment which is intended to be the subject of the Leased Equipment Sale.

7.5 Mandatory prepayment - Insurance Proceeds

(a) The Borrower shall promptly notify the Facility Agent upon becoming aware of the receipt of any Insurance Proceeds in respect of the Leased Equipment and, as soon as practicable upon it becoming aware, the date on which such Insurance Proceeds will be received and the amount of such Insurance Proceeds.

(b) The Borrower shall ensure that:

(i) immediately upon receipt by the Borrower or the Lessee of any Insurance Proceeds in respect of the Leased Equipment, that an amount equal to such Insurance Proceeds shall be applied in the following manner:

(A) (prior to the occurrence of an Event of Default which is continuing) towards the reimbursement of costs incurred by the Borrower or the Lessee:

(1) in respect of the Affected Equipment (as defined in the Equipment Lease Agreement), for the replacement of such Affected Equipment or towards the reduction of the Lessee's obligation to pay to Lessor all unpaid Rent, and all Outstanding Principal (as defined in an Equipment Lease Schedule) and other sums that are then due and owing under the Equipment Lease Agreement for the Affected Equipment in accordance with Section 9 (*Care, Use and Maintenance*) of the Equipment Lease Agreement. The Security Agent shall endorse any cheque representing such Insurance Proceeds to the Borrower or a person nominated by the Lessee if so requested by the Borrower; or

(2) in respect of Leased Equipment which is not an Affected Equipment, for the repair or replacement of such Leased Equipment. The Security Agent shall endorse any cheque representing such Insurance Proceeds to the Borrower or a person nominated by the Lessee if so requested by the Borrower,

provided that (in each case) evidence of such costs incurred is provided to the Facility Agent; and

(B) (on or after the occurrence of an Event of Default which is continuing) to be paid into the Escrow Account and applied on the next Repayment Date towards prepayment of the Loans, and all interest and all other amounts accrued and payable thereon (or at the written request of the Borrower, may be applied immediately, together with any Break Costs payable thereon under Clause 10.4 (*Break Costs*)); and

(ii) immediately upon receipt of any amount by the Borrower from the Lessee towards a reduction of the Lessee’s obligation to pay the Outstanding Principal in respect of the Affected Equipment pursuant to paragraph (B) of Section 9 (*Care, Use and Maintenance*) of the Equipment Lease Agreement, such amount shall be credited by the Borrower directly into the Escrow Account and applied on the next Repayment Date towards prepayment of the Loans, and all interest and all other amounts accrued and payable thereon (or at the written request of the Borrower, may be applied immediately, together with any Break Costs payable thereon under Clause 10.4 (*Break Costs*)).

7.6 Mandatory Prepayment - Early Termination of Equipment Lease Schedule

(a) In the event that an early termination of an Equipment Lease Schedule occurs pursuant to Section 8 (*Early Termination*) of an Equipment Lease Schedule, the Borrower shall notify the Facility Agent immediately upon receipt of termination notice from the Lessee, and prepay the aggregate of all of the outstanding Loans, together with all interest and all other amounts accrued thereon, at the end of the relevant Interest Period which corresponds with the last day of the Quarter Period (as defined under an Equipment Lease Schedule).

(b) Without prejudice to the provisions of Clause 7.6(a), the Borrower shall ensure and procure that promptly upon receipt by the Borrower of any Outstanding Principal and other amounts from the Lessee pursuant to an early termination of an Equipment Lease Schedule under Section 8 (*Early Termination*) of an Equipment Lease Schedule, an amount equal to Outstanding Principal and other amounts shall be credited by the Borrower directly into the Escrow Account and be applied solely towards the prepayment of the Loans, and all interest and all other amounts accrued thereon in accordance with Clause 7.6(a) (or at the written request of the Borrower, may be applied immediately, together with any Break Costs payable thereon under Clause 10.4 (*Break Costs*)).

7.7 Mandatory Prepayment - Termination of Equipment Lease Agreement, Change of Control, Reconstruction Events

(a) In this Clause 7.7:

"**Change of Control**" means either of the following events:

(i) the Lessee does not or ceases to own, directly or indirectly, 100 per cent. of the issued and paid up share capital of the Borrower;

(ii) the Guarantor does not or ceases to own, directly or indirectly, more than 50 per cent. of the issued and paid up share capital of the Lessee.

"**Reconstruction Event**" means any amalgamation, demerger, merger or corporate reconstruction of any of the Borrower, the Guarantor or the Lessee save where it will be the surviving legal entity and such reconstruction event is undertaken on a solvent basis.

"**Termination Event**" means the rescission, suspension, cancellation or termination (other than pursuant to Section 8 (*Early Termination*) of an Equipment Lease Schedules) of all or any part of the Equipment Lease Agreement (including any Equipment Lease Schedule) (other than in relation to Leased Equipment that is the subject of an intended Leased Equipment Sale, the replacement of Leased Equipment in accordance with Section 9 (*Care, Use and Maintenance*) of the Equipment Lease Agreement or the replacement of an Existing Unit in accordance with Clause 19.5(b)(iv) below) or if all or any part of the Equipment Lease Agreement (including any Equipment Lease Schedule) ceases to be legally valid, binding and enforceable or in full force and effect.

(b) If a Termination Event, a Change of Control or a Reconstruction Event occurs:

(i) the Borrower shall promptly notify the Facility Agent upon the occurrence of such event;

(ii) no Lender shall be obliged to fund any Utilisation;

(iii) (in the case of a Termination Event) any available Commitments shall immediately be cancelled and the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents shall be due and payable on the next Repayment Date, and the Borrower shall ensure that an amount equal to the aggregate of all of the outstanding Loans, together with interest and all other amounts accrued and payable thereon, will be immediately paid into the Escrow Account and shall be applied on the next Repayment Date towards prepayment in full of all of the Loans, together with all interest and all other amounts accrued and payable thereon (or at the written request of the Borrower, may be applied immediately, together with any Break Costs payable thereon under Clause 10.4 (*Break Costs*)); and

(iv) (in the case of a Change of Control or a Reconstruction Event) the Facility Agent may, and shall if so directed by the Majority Lenders, by notice to the Borrower, cancel the available Commitments whereupon any available Commitments shall immediately be cancelled and declare that the aggregate of all of the outstanding Loans, together with interest and all other amounts accrued and payable thereon be due and payable on the next Repayment Date, following which the Borrower shall ensure that an amount equal to the aggregate of all of the outstanding Loans, together with interest and all other amounts accrued and payable thereon, will be immediately paid into the Escrow Account and shall be applied on the next Repayment Date towards prepayment of the aggregate of all of the Loans, together with all interest and all other amounts accrued and payable thereon (or at the written request of the Borrower, may be applied immediately, together with any Break Costs payable thereon under Clause 10.4 (*Break Costs*)).

7.8 Right of repayment and cancellation in relation to a single Lender

(a) If:

(i) any sum payable to any Lender by the Borrower or the Guarantor is required to be increased under paragraph (a) of Clause 12.2 (*Tax gross-up*);

(ii) any Lender claims indemnification from the Borrower under Clause 12.3 (*Tax indemnity*) or Clause 13.1 (*Increased costs*); or

(iii) any Lender does not waive an Event of Default,

the Borrower may, whilst the circumstance giving rise to the requirement for that increase, indemnification or Event of Default continues, give the Facility Agent notice of cancellation of the Commitment of that Lender and its intention to procure the repayment of that Lender's participation in each Loan.

(b) On receipt of a notice referred to in paragraph (a) above, the Commitment of that Lender shall immediately be reduced to zero.

(c) On the Interest Payment Date of each Loan falling immediately after the Borrower has given notice under paragraph (a) above (or, if earlier, the date specified by the Borrower in that notice), the Borrower shall repay that Lender's participation in each such Loan.

7.9 Restrictions

(a) Any notice of cancellation or prepayment given by either Party under this Clause 7 (*Prepayment and Cancellation*) shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.

(b) Any prepayment under this Agreement shall be made together with:

(i) accrued interest on the amount prepaid, any Break Costs under Clause 10.4 (*Break Costs*) and all other sums payable under this Agreement in connection with the amount so prepaid; and

(ii) shall be applied towards prepayment of the Loans on a pro-rata basis.

(c) Any prepayment under this Agreement shall satisfy the obligations under Clause 6.1 (*Repayment of Loan*) in inverse chronological order and be applied rateably among the participations of all the Lenders (other than a repayment pursuant to Clause 7.1 (*Illegality*) or Clause 7.8 (*Right of repayment and cancellation in relation to a single Lender*)).

(d) The Borrower shall not repay or prepay all or any part of the Loans or cancel all or any part of the Total Commitments except at the times and in the manner expressly provided for in this Agreement.

(e) No amount of the Total Commitments cancelled or reduced under this Agreement may be subsequently reinstated.

(f) If all or part of any Loan is repaid or prepaid and is not available for redrawing, an amount of the Total Commitments (equal to the amount of the relevant Loan which is repaid or prepaid) in respect of the Facility will be deemed cancelled on the date of repayment or prepayment. Any cancellation under this paragraph (f) (other than a cancellation pursuant to Clause 7.1 (*Illegality*) or Clause 7.8 (*Right of repayment and cancellation in relation to a single Lender*)) shall reduce the Commitments of the Lenders rateably.

(g) If the Facility Agent receives a notice under this Clause 7, it shall promptly forward a copy of that notice to either the Borrower or the affected Lender, as appropriate.

8. INTEREST

8.1 Calculation of interest

The rate of interest on each Loan for each Interest Period is the percentage rate per annum which is the aggregate of the:

(a) Margin; and

(b) LIBOR.

8.2 Payment of interest

The Borrower shall pay accrued interest on the Loan on each Interest Payment Date.

8.3 Default interest

(a) If the Borrower fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to Clause 8.3(b) below, is the sum of two (2) per cent. per annum and the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan for successive Interest Periods, each of a duration selected by the Facility Agent (acting reasonably). Any interest accruing under this Clause 8.3 shall be immediately payable by the Borrower on demand by the Facility Agent.

(b) If any overdue amount consists of all or part of a Loan which became due on a day which was not an Interest Payment Date relating to that Loan:

(i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan; and

(ii) the rate of interest applying to the overdue amount during that first Interest Period shall be the sum of two (2) per cent. and the rate which would have applied if the overdue amount had not become due.

(c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

8.4 Notification of rates of interest

The Facility Agent shall promptly notify the Lenders and the Borrower of the determination of a rate of interest under this Agreement.

9. INTEREST PERIODS

9.1 Selection of Interest Periods

(a) Subject to this Clause 9, each Interest Period for a Loan shall be three (3) Months or any other period agreed between the Borrower and the Facility Agent (acting on the instructions of all the Lenders).

(b) No Interest Period for a Loan shall extend beyond the then current Interest Period for any other Loan, the next Repayment Date or the Final Maturity Date.

(c) The first Interest Period for each Loan shall start on the Utilisation Date of that Loan.

9.2 Non-Business Days

Subject to Clause 9.1(b), if an Interest Period would otherwise end on a day which is not a Business Day, that Interest Period will instead end on the next Business Day in that calendar month (if there is one) or the preceding Business Day (if there is not).

9.3 Consolidation of Loans

If two or more Interest Periods:

(a) relate to Loans; and

(b) end on the same date,

those Loans will be consolidated into, and treated as, a single Loan on the immediately following Interest Payment Date.

10. CHANGES TO THE CALCULATION OF INTEREST

10.1 Absence of quotations

Subject to Clause 10.2 (*Market disruption*), if the LIBOR is to be determined by reference to the Reference Banks but a Reference Bank does not supply a quotation by the Specified Time on the Quotation Day, the applicable LIBOR shall be determined on the basis of the quotations of the remaining Reference Banks.

10.2 Market disruption

(a) If a Market Disruption Event occurs in relation to a Loan or an Unpaid Sum for any Interest Period, then the rate of interest on each Lender's share of that Loan or Unpaid Sum for the Interest Period shall be the rate per annum which is the sum of:

(i) the Margin; and

(ii) the rate notified to the Facility Agent by that Lender as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period, to be that which expresses as a percentage rate per annum the cost to that Lender of funding its participation in that Loan or that Unpaid Sum from whatever source it may reasonably select.

(b) In this Agreement "**Market Disruption Event**" means:

(i) at or about 11:00 a.m. (London time) on the Quotation Day for the relevant Interest Period , if the Screen Rate is not available or is zero or negative;

(ii) none or only one of the Reference Banks supplies a rate to the Facility Agent by close of business (London time) on the Quotation Day to determine the LIBOR for the relevant Interest Period;

(iii) the arithmetic mean of the rates quoted by the Reference Banks by close of business (London time) on the Quotation Day for the purpose of the LIBOR is zero or negative; or

(iv) before the close of business in London on the Quotation Day for the relevant Interest Period the Facility Agent receives notifications from a Lender or Lenders (whose participations in a Loan exceed 35 per cent. of that Loan) that the cost to it of funding its participation in that Loan from whatever source it may reasonably select would be in excess of LIBOR.

10.3 Alternative basis of interest or funding

(a) If a Market Disruption Event occurs and the Facility Agent (acting on the instructions of all the Lenders) or the Borrower so requires, the Facility Agent and the Borrower shall enter into negotiations (for a period of not more than 30 days) with a view to agreeing a substitute basis for determining the rate of interest.

(b) Any alternative basis agreed pursuant to paragraph (a) above shall, with the prior consent of all the Lenders and the Borrower, take effect in accordance with the agreed terms and be binding on all Parties.

(c) For the avoidance of doubt, in the event that no substitute basis is agreed at the end of the 30-day period, the rate of interest shall continue to be determined in accordance with the terms of this Agreement.

10.4 Break Costs

(a) The Borrower shall on demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Loan or an Unpaid Sum being paid by the Borrower on a day other than the Interest Payment Date for that Loan or that Unpaid Sum.

(b) Each Lender shall, as soon as reasonably practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue.

11. Fees

11.1 Upfront fee

The Borrower shall pay to the Facility Agent (for the account of each Original Lender), an upfront fee in the amount and at the times agreed in a Fee Letter.

11.2 Facility agency / security agency fee

The Borrower shall pay to the Facility Agent and the Security Agent (for their own account) a facility agency / security agency fee in the amount and at the times agreed in a Fee Letter.

11.3 Non-refundable

No fee paid hereunder shall be refundable notwithstanding the invalidity or unenforceability of any of the Finance Documents, the termination of the Facility, the failure of the Borrower to utilise any part of the Facility, the prepayment or cancellation of the Facility or for any reason whatsoever.

12. TAX GROSS-UP AND INDEMNITIES

12.1 Definitions

(a) In this Clause 12 (*Tax Gross-Up and Indemnities*):

"**Tax Credit**" means a credit against, relief or remission for, or repayment of any Tax.

"**Tax Deduction**" means a deduction or withholding for or on account of Tax from a payment under a Finance Document, other than a FATCA Deduction.

"**Tax Payment**" means an increased payment made by the Borrower or the Guarantor to a Finance Party under Clause 12.2 (*Tax gross-up*) or a payment under Clause 12.3 (*Tax indemnity*).

(b) Unless a contrary indication appears, in this Clause 12 (*Tax Gross-Up and Indemnities*) a reference to "**determines**" or "**determined**" means a determination made in the absolute discretion of the person making the determination.

12.2 Tax gross-up

(a) Each of the Borrower and the Guarantor shall make all payments to be made by it under the Finance Documents free and clear of and without any Tax Deduction, unless a Tax Deduction is required by law, in which case the amount of the payment due from the Borrower or (as the case may be) the Guarantor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

(b) Each of the Borrower and the Guarantor shall promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Facility Agent accordingly. Similarly, a Lender shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Lender. If the Facility Agent receives such notification from a Lender it shall notify the Borrower or (as the case may be) the Guarantor.

(c) If the Borrower or the Guarantor is required to make a Tax Deduction, the Borrower or (as the case may be) the Guarantor shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.

(d) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Borrower or (as the case may be) the Guarantor shall deliver to the Facility Agent for the Finance Party entitled to the payment evidence reasonably satisfactory to that Finance Party that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

12.3 Tax indemnity

(a) Each of the Borrower and the Guarantor shall, promptly on demand by the Facility Agent, pay to the relevant Finance Party an amount equal to the loss, liability or cost which that Finance Party determines will be or has

been (directly or indirectly) suffered for or on account of Tax by that Finance Party in respect of a Finance Document.

(b) Clause 12.3(a) above shall not apply:

(i) with respect to any Tax imposed or assessed on a Finance Party:

(A) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or

(B) under the law of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction;

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable, but not actually received or receivable) by that Finance Party; or

(ii) to the extent a loss, liability or cost:

(A) is compensated for by an increased payment under Clause 12.2 (*Tax gross-up*); or

(B) relates to a FATCA Deduction required to be made by a Party.

(c) A Finance Party intending to make a claim under Clause 12.3(a) shall notify the Facility Agent of the event which will give, or has given, rise to the claim, whereupon the Facility Agent shall notify the Borrower or (as the case may be) the Guarantor thereof.

(d) A Finance Party shall, on receiving a payment from the Borrower or the Guarantor under this Clause 12.3, notify the Facility Agent.

12.4 Tax Credit

If the Borrower or the Guarantor makes a Tax Payment and the relevant Finance Party determines that:

(a) a Tax Credit is attributable to that Tax Payment; and

(b) that Finance Party has obtained, utilised and retained that Tax Credit,

that Finance Party shall pay an amount to the Borrower or (as the case may be) the Guarantor which that Finance Party determines will leave it (after that payment) in the same after-Tax position as it would have been in had the Tax Payment not been made by the Borrower or (as the case may be) the Guarantor.

12.5 Stamp duties

The Borrower shall pay and, promptly on demand, indemnify each Finance Party against any cost, loss or liability that Finance Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document.

12.6 Indirect tax

(a) All consideration expressed to be payable under a Finance Document by the Borrower and the Guarantor to a Finance Party shall be deemed to be exclusive of any Indirect Tax. If any Indirect Tax is chargeable on any supply made by any Finance Party to the Borrower or the Guarantor in connection with a Finance Document, the Borrower or (as the case may be) the Guarantor shall pay to that Finance Party (in addition to and at the same time as paying the consideration) an amount equal to the amount of the Indirect Tax.

(b) Where a Finance Document requires the Borrower or the Guarantor to reimburse a Finance Party for any costs or expenses, the Borrower or (as the case may be) the Guarantor shall also at the same time pay and indemnify that Finance Party against all Indirect Tax incurred by that Finance Party in respect of such costs or expenses.

(c) In the event that any Indirect Tax is required to be paid by the Borrower or the Guarantor to a Finance Party pursuant to this Clause 12.6, the relevant Finance Party shall issue a tax invoice in respect of such Indirect Tax to the Borrower or (as the case may be) the Guarantor.

12.7 FATCA Deduction

(a) Each Party may make any FATCA Deduction it is required to make by FATCA, and any payment required in connection with that FATCA Deduction, and no Party shall be required to increase any payment in respect of which it makes such a FATCA Deduction or otherwise compensate the recipient of the payment for that FATCA Deduction.

(b) Each Party shall promptly, upon becoming aware that it must make a FATCA Deduction (or that there is any change in the rate or the basis of such FATCA Deduction), notify the Party to whom it is making the payment and, in addition, shall notify the Borrower and the Facility Agent and the Facility Agent shall notify the other Finance Parties.

12.8 FATCA Information

(a) Subject to paragraph (c) below, each Party shall, within 10 Business Days of a reasonable request by another Party:

(i) confirm to that other Party whether it is:

(A) a FATCA Exempt Party; or

(B) not a FATCA Exempt Party; and

(ii) supply to that other Party such forms, documentation and other information relating to its status under FATCA as that other Party reasonably requests for the purposes of that other Party's compliance with FATCA; and

(iii) supply to that other Party such forms, documentation and other information relating to its status as that other Party reasonably requests for the purposes of that other Party's compliance with any other law, regulation, or exchange of information regime.

(b) If a Party confirms to another Party pursuant to Clause 12.8(a)(i) above that it is a FATCA Exempt Party and it subsequently becomes aware that it is not, or has ceased to be a FATCA Exempt Party, that Party shall notify that other Party reasonably promptly.

(c) Paragraph (a) above shall not oblige any Finance Party to do anything, and paragraph (a)(iii) above shall not oblige any other Party to do anything, which would or might in its reasonable opinion constitute a breach of:

(i) any law or regulation;

(ii) any fiduciary duty; or

(iii) any duty of confidentiality.

(d) If a Party fails to confirm its status or to supply forms, documentation or other information requested in accordance with paragraph (a)(i) or (a)(ii) above (including, for the avoidance of doubt, where paragraph (c) above applies), then such Party shall be treated for the purposes of the Finance Documents as if it is not a FATCA Exempt Party until such time as the Party in question provides the requested confirmation, forms, documentation or other information.

(e) If the Guarantor is a US Tax Obligor or the Facility Agent reasonably believes that its obligations under FATCA or any other applicable law or regulation require it, each Lender shall, within 10 Business Days of:

(i) where the Guarantor is a US Tax Obligor and the relevant Lender is an Original Lender, the date of this Agreement;

(ii) where the Guarantor is a US Tax Obligor on a Transfer Date and the relevant Lender is a New Lender, the relevant Transfer Date; or

(iii) where the Guarantor is not a US Tax Obligor, the date of a request from the Facility Agent,

supply to the Facility Agent:

(A) a withholding certificate on Form W-8, Form W-9 or any other relevant form; or

(B) any withholding statement or other document, authorisation or waiver as the Facility Agent may require to certify or establish the status of such Lender under FATCA or that other law or regulation.

(f) The Facility Agent shall provide any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) above to the Guarantor.

(g) If any withholding certificate, withholding statement, document, authorisation or waiver provided to the Facility Agent by a Lender pursuant to paragraph (e) above is or becomes materially inaccurate or incomplete, that Lender shall promptly update it and provide such updated withholding certificate, withholding statement, document, authorisation or waiver to the Facility Agent unless it is unlawful for the Lender to do so (in which case the Lender shall promptly notify the Facility Agent). The Facility Agent shall provide any such updated withholding certificate, withholding statement, document, authorisation or waiver to the Guarantor.

(h) The Facility Agent may rely on any withholding certificate, withholding statement, document, authorisation or waiver it receives from a Lender pursuant to paragraph (e) or (g) above without further verification. The Facility Agent shall not be liable for any action taken by it under or in connection with paragraph (e), (f) or (g) above.

13. INCREASED COSTS

13.1 Increased costs

(a) Subject to Clause 13.3 (*Exceptions*) the Borrower shall, promptly on demand by the Facility Agent, pay to the Facility Agent for the account of a Finance Party, the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation, (ii) compliance with any law or regulation, in each case that is introduced or changed after the date of this Agreement, or (iii) the implementation or application of or compliance with Basel III, CRD IV or CRR or any law or regulation that implements or applies Basel III, CRD IV or CRR. The terms "**law**" and "**regulation**" in this Clause 13.1(a) shall include, without limitation, any law or regulation concerning capital adequacy, prudential limits, liquidity, reserve assets or Tax.

(b) In this Agreement "**Increased Costs**" means:

(i) a reduction in the rate of return from the Facility or on a Finance Party's (or its Affiliate's) overall capital (including, without limitation, as a result of any reduction in the rate of return on capital brought about by more capital being required to be allocated by that Finance Party);

(ii) an additional or increased cost; or

(iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its Commitment or funding or performing any of its obligations under any Finance Document.

13.2 Increased cost claims

(a) A Finance Party intending to make a claim pursuant to Clause 13.1 (*Increased costs*) shall notify the Facility Agent of the event giving rise to the claim, following which the Facility Agent shall as soon as practicable notify the Borrower.

(b) Each Finance Party shall, as soon as practicable after a demand by the Facility Agent, provide a certificate confirming the amount of its Increased Costs.

13.3 Exceptions

(a) Clause 13.1 (*Increased costs*) does not apply to the extent any Increased Cost is:

(i) attributable to a Tax Deduction required by law to be made by the Borrower or the Guarantor;

(ii) attributable to a FATCA Deduction required to be made by a Party;

(iii) compensated for by Clause 12.3 (*Tax indemnity*) (or would have been compensated for under Clause 12.3 (*Tax indemnity*) but was not so compensated solely because the exclusion in Clause 12.3(b) applied); or

(iv) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation.

(b) In this Clause 13.3 (*Exceptions*), a reference to a "**Tax Deduction**" has the same meaning given to the term in Clause 12.1 (*Definitions*).

14. OTHER INDEMNITIES

14.1 Currency indemnity

(a) If any sum due from the Borrower or the Guarantor under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

(i) making or filing a claim or proof against the Borrower or (as the case may be) the Guarantor; or

(ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Borrower or (as the case may be) the Guarantor shall as an independent obligation, promptly on demand, indemnify each Finance Party against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

(b) The Borrower waives (and shall procure that the Guarantor waives) any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency other than that in which it is expressed to be payable.

14.2 Other indemnities

The Borrower shall, within three (3) Business Days of demand, indemnify each Finance Party against any cost, loss or liability (including, without limitation, any loss, premium, penalty or expense in liquidating or redeploying deposits from third parties, but excluding remote, special, indirect or consequential damages or losses) incurred by that Finance Party as a result of:

(a) the occurrence of any Event of Default;

(b) the Information Package or any other written information furnished by or on behalf of the Borrower or the Guarantor being or being alleged to be misleading or untrue in any respect;

(c) any enquiry, investigation, subpoena (or similar order) or litigation with respect to the Borrower or the Guarantor or with respect to the transactions contemplated or financed under or in connection with any Finance Document;

(d) a failure by the Borrower or the Guarantor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 26 (*Sharing Among the Finance Parties*);

(e) funding, or making arrangements to fund, its participation in a Loan requested by the Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by that Finance Party alone);

(f) any Loan (or part of any Loan) not being prepaid in accordance with a notice of prepayment given by the Borrower or as required by this Agreement; or

(g) by reason of any failure of the Borrower or the Guarantor to perform any of its obligations in connection with any of the Charged Assets or under any Security Document.

14.3 Indemnity to the Facility Agent and the Security Agent

(a) The Borrower shall promptly indemnify the Facility Agent or (as the case may be) the Security Agent against any cost, loss or liability incurred by the Facility Agent or the Security Agent as a result of:

(i) investigating any event which it reasonably believes is a Default;

(ii) acting or relying on any notice, request or instruction of the Borrower which it reasonably believes to be genuine, correct and appropriately authorised; or

(iii) (in the case of the Security Agent) the execution or purported execution of any of the rights, powers, remedies, authorities or discretions vested in the Security Agent under or pursuant to the Security Documents.

(b) If the Security Agent, so required by the Majority Lenders, acting reasonably, sees fit to exercise its rights under the Security Documents with respect to any of the Charged Assets or if the Security Agent makes any payment due to the failure of the Borrower or the Lessee to perform its obligations under any of the Security Documents and the Equipment Lease Agreement in connection with the Charged Assets all moneys so expended by the Security Agent for the purposes aforesaid shall on demand be repaid by the Chargor to the Security Agent together with interest thereon calculated day by day for the period beginning from the date such moneys were expended until full payment (whether before or after judgment) at the rate set out in Clause 8.3 (*Default interest*), and until payment shall be a charge on the Charged Assets.

14.4 Facsimile indemnity

(a) No Finance Party shall be liable for any losses or damages which the Borrower or the Guarantor may suffer as a consequence of that Finance Party acting in accordance with or in reliance upon any fax communication by either of them to that Finance Party.

(b) The Borrower shall on demand indemnify each Finance Party and keep each Finance Party indemnified at all times against all actions, proceedings, claims, losses, damages, costs and expenses brought, suffered or incurred by that Finance Party of whatever nature and howsoever arising out of or in connection with that Finance Party acting in accordance with or in reliance upon any fax communication by the Borrower or the Guarantor.

15. MITIGATION BY LENDERS

15.1 Mitigation

(a) Each Finance Party shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under, or cancelled pursuant to, any of Clause 7.1 (*Illegality*), Clause 12 (*Tax Gross-up and Indemnities*) or Clause 13 (*Increased Costs*)

including (but not limited to) transferring its rights and obligations under the Finance Documents to another Facility Office.

(b) Clause 15.1(a) above does not in any way limit the obligations of the Borrower or the Guarantor under the Finance Documents.

15.2 Limitation of liability

(a) The Borrower shall indemnify each Finance Party for all costs and expenses reasonably incurred by that Finance Party as a result of, or in connection with, the steps taken by it under Clause 15.1 (*Mitigation*).

(b) A Finance Party is not obliged to take any steps under Clause 15.1 (*Mitigation*) if, in its opinion (acting reasonably), to do so might be prejudicial to it.

16. COSTS AND EXPENSES

16.1 Transaction expenses

(a) The Borrower shall promptly on demand pay each Finance Party the amount of all costs and expenses (including legal fees (to be agreed between the Borrower and the relevant Finance Parties) on a full indemnity basis) incurred by that Finance Party in connection with the negotiation, preparation, printing, execution and perfection of:

(i) this Agreement, the Security Documents and any other documents referred to in this Agreement; and

(ii) any other Finance Documents executed after the date of this Agreement.

(b) The Borrower shall also promptly on demand pay each Finance Party the amount of all costs and expenses (including legal fees) properly incurred by any of them in connection with the administration of the Facility, including (without limitation) the disbursement of the Loans, in respect of costs and expenses which are incurred on or after the occurrence of a Default and for so long as such Default is continuing, and the relevant Finance Party shall consult the Borrower prior to incurring such cost or expense provided that the Borrower shall only pay the foregoing expenses in this Clause (b) incurred by the Facility Agent or the Security Agent (and not by any Lender or Lenders).

16.2 Amendment costs

If the Borrower or the Guarantor requests an amendment, waiver or consent, the Borrower shall, promptly on demand, reimburse each Finance Party for the amount of all costs and expenses (including legal fees on a full indemnity basis) incurred by that Finance Party in responding to, evaluating, negotiating or complying with that request.

16.3 Enforcement costs

The Borrower shall, promptly on demand, pay to each Finance Party the amount of all reasonable costs and expenses (including legal fees on a full indemnity basis) incurred by that Finance Party in connection with the enforcement of, or the preservation of any rights under or in connection with, any Finance Document.

16.4 Security Agent expenses

The Borrower shall, promptly on demand, pay the Security Agent the amount of all costs and expenses (including legal fees) incurred by it in connection with the administration, perfection or release of any Security created pursuant to any Security Document.

17. REPRESENTATIONS AND WARRANTIES

The Borrower makes the representations and warranties set out in this Clause 17 (*Representations and Warranties*) to each of the Finance Parties on the date of this Agreement.

17.1 Status

(a) Each of the Borrower and the Guarantor is a corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.

(b) Each of the Borrower and the Guarantor has the power to own its assets and carry on its business as it is being conducted.

(c) The Guarantor is a US Tax Obligor.

17.2 Binding obligations

The obligations expressed to be assumed by each of the Borrower and the Guarantor in each Finance Document to which it is a party are legal, valid, binding and enforceable, subject to:

(a) any general principles of law limiting its obligations which are specifically referred to in any legal opinion delivered pursuant to Clause 4 (*Conditions of Utilisation*); and

(b) in the case of each of the Charge over Equipment and the Assignment of Lease and Charge over Escrow Account, its registration as a charge against the Borrower at the Accounting and Corporate Regulatory Authority in Singapore within the statutory time frame.

17.3 Non-conflict with other obligations

The entry into and performance by each of the Borrower and the Guarantor of, and the transactions contemplated by, the Finance Documents to which it is a party do not and will not:

(a) conflict with:

(i) any law or regulation applicable to it;

(ii) its constitutional documents; or

(iii) any agreement or instrument binding upon each of the Borrower or (as the case may be) the Guarantor or any of its respective assets; or

(b) (except as provided in any Security Document) result in the existence of, or oblige the Borrower or the Guarantor to create, any Security over any of its assets.

17.4 Power and authority

Each of the Borrower and the Guarantor has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

17.5 Validity and admissibility in evidence

All Authorisations required or desirable:

(a) to enable each of the Borrower and the Guarantor lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents;

(b) to make the Finance Documents admissible in evidence in Singapore and (if applicable) the jurisdiction of incorporation of each of the Borrower and the Guarantor; and

(c) to enable each of the Borrower and the Guarantor to create the Security to be created by it pursuant to any Security Document to which it is a party and to ensure that such Security has the priority and ranking it is expressed to have,

have been obtained or effected and are in full force and effect save for the registration of the Charge over Equipment and the Assignment of Lease and Charge over Escrow Account, each as a charge against the Borrower at the Accounting and Corporate Regulatory Authority in Singapore.

17.6 Governing law and enforcement

(a) The choice of law specified in each Finance Document as the governing law of that Finance Document will be recognised and enforced in the jurisdiction of incorporation of each of the Borrower and the Guarantor to the extent that the Borrower or the Guarantor is a party to it.

(b) Any judgment obtained in Singapore in relation to a Finance Document (or in the jurisdiction of the governing law of that Finance Document) will be recognised and enforced in the jurisdiction of incorporation of each of the Borrower and the Guarantor which is party to it and, in relation to a Finance Document governed by a law other than Singapore law, in the jurisdiction of the governing law of that Finance Document.

17.7 No Default

(a) No Event of Default is continuing or might reasonably be expected to result from the making of any Utilisation.

(b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on the Borrower or to which the Borrower's assets are subject which would be reasonably likely to have a Material Adverse Effect.

17.8 No misleading information

(a) Any information provided by or on behalf of the Borrower or the Guarantor in writing in relation to the Borrower or the Guarantor or in connection with the Information Package or any Finance Document was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.

(b) Any financial projections provided by or on behalf of each of the Borrower and the Guarantor in writing in connection with the Information Package or any Finance Document have been prepared on the basis of recent historical information and on the basis of reasonable assumptions.

(c) Any expressions of opinion or intention provided by or on behalf of each of the Borrower and the Guarantor in writing in connection with the Information Package or any Finance Document were made after due and careful consideration on reasonable grounds.

(d) Nothing has occurred or been omitted from the Information Package or the information referred to in Clause 17.8(a) above and no information has been given or withheld that results in the Information Package or that information being untrue or misleading in any material respect.

17.9 Financial statements

(a) The Original Financial Statements and the financial statements delivered under Clause 18.1 (*Financial statements*) (other than Clause 18.1(a)(iii)) were prepared in accordance with GAAP consistently applied.

(b) The Original Financial Statements and the financial statements delivered under Clause 18.1 (*Financial statements*) fairly represent the Borrower’s, the Guarantor’s (or as the case may be) the Lessee’s financial condition as at the end of and for the period in relation to which those financial statements were drawn up, save to the extent expressly disclosed in those financial statements.

(c) There has been no material adverse change in the financial condition or business of the Borrower, the Guarantor or the Lessee or in the consolidated financial condition or business of the Guarantor and its Subsidiaries since the date of the Original Financial Statements.

17.10 Pari passu ranking

(a) Subject to the requirements specified at the end of Clause 17.5 (*Validity and admissibility in evidence*), each Security Document creates in favour of the Security Agent the Security which it is expressed to create fully perfected and with the ranking and priority it is expressed to have.

(b) Without limiting Clause 17.10(a) above, the payment obligations of the Borrower and the Guarantor under the Finance Documents to which it is a party rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

17.11 Immunity

Neither the Borrower nor the Guarantor and none of their assets is entitled to immunity from suit, execution, attachment or other legal process and in any proceedings taken in Singapore in relation to the Finance Documents to which it is a party, neither the Borrower nor the Guarantor will be entitled to claim immunity for itself or any of its assets arising from suit, execution or other legal process.

17.12 Ownership and management control

(a) The Lessee owns directly or indirectly 100 per cent. of the issued and paid up share capital of the Borrower.

(b) The Guarantor owns directly or indirectly 100 per cent. of the issued and paid up share capital of the Lessee.

17.13 Litigation proceedings pending or threatened

No litigation, arbitration, administrative or other proceedings or disputes of or before any court, arbitral body or agency have been started or threatened against the Borrower or the Lessee which would be reasonably likely to have a Material Adverse Effect.

17.14 Title

(Save for any Leased Equipment that is the subject of a Leased Equipment Sale, any Affected Equipment that is replaced in accordance with Clause 7.5 (*Mandatory prepayment - Insurance Proceeds*), or any Approved Replacement Equipment which has been replaced in accordance with Clause 19.5(b)(iv)) the Borrower is the sole legal and beneficial owner of and has good and marketable title to the Charged Assets (in so far as such Charged Assets are stated in the Security Documents to be related to it or owned or controlled by it), free from any Security not created pursuant to or permitted by the Finance Documents.

17.15 No Security

No Security exists over any of the Charged Assets other than as permitted by Clause 19.4(c).

17.16 Public Records

No instrument, financing statement or entry in a register or other record relating to any of the Charged Assets is on file or held in the records of any public register, office, authority or government department or governmental agency except those filed in favour of the Security Agent in connection with the Charge over Equipment and the Assignment of Lease and Charge over Escrow Account.

17.17 Equipment Lease Agreement

The Equipment Lease Agreement remains in full force and effect without supplement or variation except as permitted in the Finance Documents and constitutes the valid, binding and enforceable obligations of the parties thereto.

17.18 Sanctions

Neither the Borrower nor the Guarantor, nor their respective Subsidiaries, nor (to the knowledge of the Borrower) any director or officer, or any employee, agent, or affiliate, of the Borrower or the Guarantor or their respective Subsidiaries is an individual or entity ("**Person**") that is, or is owned or controlled by Persons that are:

(a) the subject of any sanctions administered or enforced by the US Department of the Treasury's Office of Foreign Assets Control ("**OFAC**"), the US Department of State, the United Nations Security Council, the European Union, Her Majesty's Treasury, the Monetary Authority of Singapore (collectively, "**Sanctions**"); or

(b) located, organised or resident in a country or territory that is, or whose government is, the subject of country-wide or territory-wide Sanctions, including, without limitation, Cuba, Iran, North Korea, Sudan and Syria.

17.19 Anti-Money Laundering

The Borrower's, the Guarantor's and their respective Subsidiaries' operations are and have been conducted at all times in compliance in all material respects with all applicable anti-money laundering laws and regulations of each jurisdiction applicable to the Borrower, the Guarantor and their respective Subsidiaries, and (to the knowledge of the Borrower) no claim, action, suit, proceeding or investigation involving the Borrower, the Guarantor or any of their respective Subsidiaries with respect to such anti-money laundering laws is pending, and (to the knowledge of the Borrower) threatened or contemplated.

17.20 Anti-Corruption / Anti-Bribery

The Borrower, the Guarantor, their respective Subsidiaries and (to the knowledge of the Borrower) the directors, officers, employees and agents of each of the Borrower, the Guarantor and their respective Subsidiaries have conducted their business in compliance in all material respects with all applicable anti-corruption and anti-bribery laws, rules and regulations of each jurisdiction applicable to the Borrower, the Guarantor and their respective Subsidiaries, and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

17.21 Repetition

The Repeating Representations will be true and correct in all respects on the date of each Utilisation Request, each Utilisation Date and each Interest Payment Date as if made by reference to the facts and circumstances then existing on each such date.

18. INFORMATION UNDERTAKINGS

The undertakings in this Clause 18 remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

18.1 Financial statements

(a) The Borrower shall, and shall procure that each of the Guarantor and the Lessee shall, supply to the Facility Agent (in sufficient copies for all the Lenders):

(i) as soon as the same become available, but in any event within 180 days after the end of each financial year of the Borrower, the Guarantor or (as the case may be) the Lessee, the audited financial statements of each of the Borrower and the Lessee and the consolidated audited financial statements of the Guarantor (in each case) for that financial year;

(ii) as soon as the same become available, but in any event within 60 days after the end of each financial quarter of the Guarantor, the consolidated management accounts of the Guarantor for that financial quarter; and

(iii) as soon as the same become available, but in any event within 60 days after the end of each financial quarter of the Borrower or (as the case may be) the Lessee, the management accounts of each of the Borrower and the Lessee (in such form as may be agreed between the Borrower or (as the case may be) the Lessee and the Lenders) for that financial quarter.

(b) The financial statements or (as the case may be) management accounts of the Guarantor shall be deemed to be supplied to the Facility Agent in compliance with this Clause 18.1 upon such financial statements or management accounts being made publicly available on the website of the United States Securities and Exchange Commission.

18.2 Compliance Certificate

The Borrower shall supply to the Facility Agent, with each set of financial statements delivered pursuant to Clause 18.1 (*Financial statements*), a certificate which shall confirm that no Default or Prepayment Event is continuing as at the date as at which those financial statements were drawn up (or if a Default or Prepayment Event is continuing, specify the Default or (as the case may be) the Prepayment Event and the steps being taken to remedy it).

18.3 Requirements as to financial statements

(a) Each set of financial statements delivered pursuant to Clause 18.1 (*Financial statements*) shall be certified by a director of the Borrower, a director of the Lessee or (as the case may be) an authorised officer of the Guarantor as fairly representing its (or, as the case may be, its consolidated) financial condition and operations as at the end of and for the period in relation to which those financial statements were drawn up.

(b) The Borrower shall, and shall procure that each of the Guarantor and the Lessee shall, procure that each set of financial statements delivered pursuant to Clause 18.1 (*Financial statements*) (other than Clause 18.1(a)(iii)) is prepared using GAAP and, if there has been a change in the accounting policies of any of the Borrower, the Guarantor or the Lessee, shall provide to the Facility Agent (together with the relevant financial statements), a description of such changes to the extent not already described in the financial statements delivered pursuant to Clause 18.1 (*Financial statements*).

18.4 Notification of Default

The Borrower shall, and shall procure that the Guarantor shall, notify the Facility Agent of the occurrence of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless it is aware that a notification has already been provided by the Borrower or (as the case may be) the Guarantor).

18.5 Information: miscellaneous

The Borrower shall, and shall procure that the Guarantor shall, notify the Facility Agent promptly, of any change in its authorised signatories, signed by a director of the Borrower or (as the case may be) the Guarantor whose specimen signature has previously been provided to the Facility Agent, accompanied (where relevant) by a specimen signature of each new authorised signatory.

18.6 Inspection and Valuation Rights

The Borrower shall supply to the Facility Agent in sufficient copies for all Lenders:

(a) within 30 days after the end of each successive period of 12 Months from the date of this Agreement, an inspection and valuation report of the Leased Equipment addressed to the Lenders; and

(b) within 30 days of a request made by the Facility Agent (acting on the instructions of the Majority Lenders), which request may be made following the occurrence of an Event of Default, an additional inspection and valuation report of the Leased Equipment addressed to the Lenders,

each such inspection and valuation report (which valuation report shall be a desktop valuation):

(i) specifying the current condition of the Leased Equipment for the time being;

(ii) specifying the fair market value of the Leased Equipment for the time being;

(iii) being carried out at the cost and expense of the Borrower, and prepared by the Approved Valuer in accordance with the standards and practices for the time being accepted in the professional equipment inspector's and valuer's profession;

(iv) evidencing to the satisfaction of the Facility Agent (acting on the instructions of the Majority Lenders) that the Leased Equipment is not affixed to any real property; and

(v) being addressed to the Facility Agent and dated not earlier than 30 days prior to the date of delivery,

(the "**Valuation Basis**").

18.7 Equipment Visit

The Borrower shall ensure and procure that each of the Facility Agent (acting on the instructions of the Majority Lenders), the Security Agent (acting on the instructions of the Majority Lenders) and their respective officers, employees and agents (each, a "**Visitor**") shall (subject to making prior appointment (which request for an appointment shall not be unreasonably delayed or denied)) have access to the real property and premises where the Leased Equipment is situated Provided That (i) if such Visitor is not the Approved Valuer, it has adequate liability insurance, (ii) prior to the occurrence of an Event of Default, no more than one (1) visit to such real property and premises where the Leased Equipment is situated shall be made in any calendar year and (iii) each Visitor so appointed by the Facility Agent (acting on the instructions of the Majority Lenders) or the Security Agent (acting on the instructions of the Majority Lenders) shall be escorted by the relevant personnel from the Lessee, does not unduly disrupt the Lessee's business or activities, complies with the Lessee's safety regulations and cleanroom protocol and signs a confidentiality agreement reasonably acceptable to the Lessee to which agreement all information obtained pursuant to such examination and inspection shall be subject.

18.8 "Know your customer" checks

If:

(a) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Agreement;

(b) any change in the status of the Borrower or the Guarantor or in the composition of the shareholders of the Borrower after the date of this Agreement; or

(c) a proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement,

obliges any Finance Party (or in the case of Clause 18.8(c) above, any prospective new lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the Borrower shall promptly upon the request of that Finance Party supply, or procure the supply of, such documentation and other evidence as is required by that Finance Party (or in the case of the event described in Clause 18.8(c) above, any prospective new lender) in order for that Finance Party or, in the case of the event described in Clause 18.8(c) above, any prospective new lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

19. GENERAL UNDERTAKINGS

The undertakings in this Clause 19 (*General Undertakings*) remain in force from the date of this Agreement for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

19.1 Authorisations

(a) The Borrower shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect (and supply certified copies to the Facility Agent of) any Authorisation required under any applicable law or regulation:

(i) to enable it to own its assets;

(ii) to enable it to perform its obligations under the Finance Documents to which it is a party;

(iii) to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document; and

(iv) to enable it to carry on its business as it is being conducted from time to time if failure to obtain, comply with or maintain any such Authorisation would be reasonably likely to have a Material Adverse Effect.

(b) The Borrower shall ensure that the Charge over Equipment and the Assignment of Lease and Charge over Escrow Account are both registered as charges against the Borrower at the Accounting and Corporate Regulatory Authority in Singapore.

19.2 Compliance with laws

The Borrower shall, and shall ensure that each of the Guarantor and the Lessee shall, comply in all respects with all laws to which it may be subject if failure to comply which would be reasonably likely to have a Material Adverse Effect.

19.3 Pari passu ranking

The Borrower shall, and shall ensure that the Guarantor shall, ensure that its obligations under the Finance Documents to which it is a party rank at all times at least *pari passu* in right of priority and payment with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

19.4 Negative pledge

(a) The Borrower shall not create or permit to subsist any Security over all or any part of the Charged Assets, or incur (or agree to incur) or have outstanding, any Financial Indebtedness secured by the Charged Assets.

(b) The Borrower shall not:

(i) sell, lease, transfer or otherwise dispose of any of the Charged Assets on terms whereby they are or may be leased to or re-acquired by any of its Affiliates;

(ii) sell, transfer or otherwise dispose of any of its receivables in respect of the Charged Assets on recourse terms;

(iii) enter into any arrangement under which money or the benefit of a bank or other account in respect of the Charged Assets may be applied, set-off or made subject to a combination of accounts; or

(iv) enter into any other preferential arrangement in respect of the Charged Assets having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

(c) Clause 19.4(a) and Clause 19.4(b) above do not apply to:

(i) the lease created pursuant to the Equipment Lease Agreement;

(ii) any Security created pursuant to any Finance Document;

(iii) any netting or set-off arrangement entered into by the Borrower in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;

(iv) any lien arising by operation of law and in the ordinary course of trading provided that the debt which is secured thereby is paid when due or contested in good faith by appropriate proceedings and properly provisioned; or

(v) any Security created with the consent of the Facility Agent (acting on the instructions of all the Lenders).

19.5 Disposals

(a) The Borrower shall not (whether by a single transaction or a number of transactions (whether related or not) and whether voluntary or involuntary and whether at one time or over a period of time) sell, lease, transfer or otherwise dispose of all or any part of the Charged Assets.

(b) Clause 19.5(a) above does not apply to:

(i) the lease created pursuant to the Equipment Lease Agreement;

(ii) (where the Borrower has not, without the approval of the Lenders, already transferred or agreed to transfer the Leased Equipment (or any part thereof) to any person) the transfer of the Leased Equipment to the Lessee upon the exercise by the Lessee of the option to purchase the Leased Equipment pursuant to the provisions of the Equipment Lease Agreement at the end of the lease contained therein, provided that:

(A) no Event of Default has occurred and is continuing; and

(B) an amount equal to the Minimum Amount will be applied to reduce the Loan in accordance with Clause 7.4 (*Mandatory prepayment - Equipment Sale*);

(iii) the sale of any Leased Equipment (which is not replaced) to a purchaser other than the Lessee:

(A) where no Event of Default has occurred and is continuing; and

(B) where an amount equal to the Minimum Amount will be applied to reduce the Loan in accordance with Clause 7.4 (*Mandatory prepayment - Equipment Sale*); or

(iv) any replacement of any unit of the Leased Equipment ("**Existing Unit**") made by the Lessee in accordance with the terms of the Equipment Lease Agreement with the prior written consent of the Borrower and the Majority Lenders:

(A) which consent shall not be withheld if the costs of the proposed replacement unit(s), when aggregated with the costs of other replacement units effected in the same calendar year (if any) does not exceed US$50,000,000; or

(B) which consent shall not be unreasonably withheld if the costs of the proposed replacement unit(s), when aggregated with the costs of other replacement units effected in the same calendar year (if any) exceeds US$50,000,000,

but subject always, in each case of paragraphs (A) and (B) above, to the following conditions being satisfied:

(1) no Event of Default has occurred and is continuing;

(2) details of such proposed replacement is furnished to the Security Agent no later than 30 days before such proposed replacement;

(3) each proposed replacement unit was manufactured by an Approved Manufacturer on or after the date on which the relevant Existing Unit was manufactured, is free and clear of liens and all other encumbrances, and has at least an equivalent or better value (including market value), remaining useful life, branding profile, utility and operating condition as that Existing Unit;

(4) the Lenders having received a desktop valuation report prepared in accordance with the Valuation Basis in respect of each proposed replacement unit and each Existing Unit; or

(5) each replacement unit shall form part of the Leased Equipment which is the subject of the Security under the Security Documents.

Each replacement unit which is effected in accordance with this paragraph (iv) is an "**Approved Replacement Equipment**".

The Security Agent shall, at the request of the Borrower, discharge the Security created in favour of the Security Agent over the relevant Existing Unit under the Charge over Equipment after Security has been created over the replacement unit in accordance with sub-paragraph (5) above.

The determination of a request for consent shall be notified to the Borrower by the Facility Agent (acting on the instructions of the Majority Lenders) within 15 days of the receipt of such request for replacement.

19.6 Security and guarantees

(a) The Borrower shall, at its own expense, promptly take all such action:

(i) for the purpose of perfecting or protecting the Finance Parties' rights under, and preserving the Security intended to be created or evidenced by, any of the Finance Documents, as the Facility Agent or the Security Agent may reasonably require; and

(ii) for the purpose of facilitating the realisation of any of that Security, as the Facility Agent or the Security Agent may require,

including the execution of any transfer, conveyance, assignment or assurance of any Charged Asset and the giving of any notice, order or direction and the making of any registration which the Facility Agent or the Security Agent may reasonably require.

(b) The Borrower shall not do or consent to the doing of, anything which might prejudice the validity, enforceability or priority of any of the Security created pursuant to the Security Documents.

19.7 Financial Indebtedness

(a) The Borrower shall not grant (or agree to grant) or have outstanding any Financial Indebtedness.

(b) Clause 19.7(a) above does not apply to any Financial Indebtedness arising under the Finance Documents and as permitted under Clause 19.11(b)(i).

19.8 Loans and Guarantees

The Borrower shall not:

(a) make any loan, advance or provide any form of credit or financial accommodation, to any other person; or

(b) give or issue any guarantee, indemnity, bond or letter of credit to or for the benefit of, or in respect of liabilities or obligations of, any other person or voluntarily assume any liability (whether actual or contingent) of any other person.

19.9 Covenants relating to the Leased Equipment

(a) The Borrower shall ensure that the Lessee shall keep in good and marketable condition the Leased Equipment at its own expense and in the manner as specified by the manufacturer of the Leased Equipment in accordance with the terms of the Equipment Lease Agreement.

(b) The Borrower shall ensure that the Lessee maintain each Leased Equipment in a way that the identification numbers appearing in the engine and in the chassis of that Leased Equipment, where applicable, are not destroyed and/or deleted or otherwise illegible.

(c) The Borrower shall ensure that the Lessee keeps accurate, complete and updated records of all service and maintenance activities on the Leased Equipment and shall provided copies thereof to the Facility Agent on request.

(d) The Borrower shall procure that there shall be no relocation of the Equipment whether by itself or the Lessee save for relocation to another facility of the Lessee within Singapore with prior written notice to the Security Agent, provided that all costs arising from such relocation (including but not limited to any administrative fees, additional duties, taxes and insurance coverage) are reconciled and promptly paid by the Lessee provided that the movement of Equipment between Fab 10 and Fab 10X shall not be considered to be such a relocation.

(e) The Borrower shall, promptly upon becoming aware of the same, notify the Security Agent of any right of it or the Lessee arising to terminate or rescind the Equipment Lease Agreement.

(f) The Borrower shall not:

(i) amend, vary or waive (or agree to amend, vary or waive) any provision of the Equipment Lease Agreement;

(ii) exercise any right to rescind, cancel or terminate the Equipment Lease Agreement;

(iii) release the Lessee from any obligation under the Equipment Lease Agreement;

(iv) waive any breach by the Lessee or consent to any act or omission which would otherwise constitute such a breach;

(v) novate, transfer or assign any of its rights to any of the Charged Assets other than as permitted under the Finance Documents; or

(vi) do, or omit to do, or suffer or permit, anything to be done which is likely to render the Equipment Lease Agreement to be or become, in any respect invalid, void or voidable, or which may be adverse to the interests of the Security Agent or any other Finance Parties under the Finance Documents.

19.10 Maximum advance ratio

(a) The Borrower shall ensure and procure that the ratio of the outstanding Loan to the fair market value of the Leased Equipment (which is subject to the Charge over Equipment), as reflected by the valuation report delivered under Clause 18.6 (*Inspection and Valuation Rights*) will not at any time exceed 0.8 to 1 ("**Maximum Advance Ratio**").

(b) In the event that the ratio is exceeded at any time, within 30 days of the Facility Agent giving notice of this to the Borrower, the Borrower shall:

(i) credit directly into the Escrow Account an amount to be applied towards prepayment of the Loan; and/or

(ii) increase the security value of the Leased Equipment (which is subject to the Charge over Equipment) by purchasing additional Equipment acceptable to the Lenders, and deliver valuation reports prepared in accordance with the Valuation Basis in respect of such purchased Equipment,

such that immediately after such prepayment or purchase of additional Equipment, the Maximum Advance Ratio does not exceed 0.8 to 1. The amount credited into the Escrow Account pursuant to paragraph (i) above shall be applied towards the prepayment of the Loan on the next Repayment Date (or at the written request of the Borrower, may be applied immediately, together with any Break Costs payable thereon under Clause 10.4 (*Break Costs*)).

19.11 Change of business

(a) The Borrower shall procure that no substantial change is made to the general nature of the business of the Borrower from that carried on at the date of this Agreement.

(b) The Borrower shall ensure that it shall not trade, carry on any business, own any asset or incur any liability or obligation (actual or contingent, present or future), and enter into any contract other than:

(i) as contemplated by or in connection with the purchase and lease of the Equipment under each Purchase Agreement, the Equipment Lease Agreement and the Finance Documents to which it is a party and in each case perform its obligations thereunder;

(ii) incurring liability to pay Tax, where the liability is incurred in the ordinary course of activities which it is permitted to do under this Agreement, and paying that Tax;

(iii) incurrence of professional fees and administrative costs on arm's length and commercial terms and in the ordinary course of business;

(iv) preparing reports to governmental authorities and as required under this Agreement;

(v) holding meetings of its officers, directors, members or shareholders, as applicable;

(vi) preparing corporate documentation required to maintain its separate corporate structure;

(vii) an activity relating to any of the paragraphs (i) to (vi) above that does not involve the incurrence of any liabilities; and

(viii) incurring reasonable operating expenses in the ordinary course of business in connection with the activities set out in this paragraph (b).

19.2 Insurance

(a) The Borrower shall ensure that the Lessee shall procure and maintain the insurance for the Leased Equipment in accordance with Section 8 (*Risk of Loss and Insurance*) of the Equipment Lease Agreement (including, without limitation, ensuring that the Security Agent is named as a joint loss payee) for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

(b) The Borrower shall ensure that the Lessee, within 30 days of the purchase of an insurance policy, delivers to the Security Agent, the original certificate of insurance issued by the insurer or the insurance broker.

(c) If the Borrower fails to procure the purchase or maintenance of any insurance required by this Clause 19.12 in relation to the Leased Equipment for the time being, the Security Agent (acting on the instructions of the Majority Lenders) may (but shall not be obliged to) purchase such insurance as may be necessary to remedy any such failure and the Borrower shall indemnify the Security Agent on demand against any costs or expenses incurred by it in purchasing any such insurance.

19.13 Sanctions

The Borrower will not, will ensure that the Guarantor will not, and will ensure that none of their respective Subsidiaries will, directly or indirectly:

(a) use the proceeds of the facilities made available hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person, to fund any activities or business of or with any Person, or in any country or territory, that, at the time of such funding, is, or whose government is, the subject of Sanctions or in any other manner that would result in a violation of Sanctions by any Person; or

(b) use or permit to be used any revenue or benefit derived from any activity or dealing, with any Person that is, or in any country or territory that is or whose government is, the subject of Sanctions in discharging any of the obligations under the Finance Documents.

20. ESCROW ACCOUNT

20.1 Maintenance of Escrow Account

The Borrower shall:

(a) at all times maintain the Escrow Account with the Account Bank;

(b) ensure that (i) all Rent, (ii) an amount of the Net Sale Proceeds equal to the Minimum Amount, (iii) all Insurance Proceeds and (iv) all amounts which are to be applied towards prepayment of the Loan where the Borrower elects to remedy the breach of the Maximum Advance Ratio by way of prepayment under Clause 19.10(b)(i), whether as its sole option or together with the option under Clause 19.10(b)(ii) (where applicable) are credited into the Escrow Account in accordance with the terms and conditions specified in respect of each such amount under this Agreement; and

(c) not at any time exercise any right or power conferred on it in respect of the Escrow Account in any manner which may be adverse to the interests of the Security Agent or any other Finance Parties under the Finance Documents.

20.2 Notice of Security Interests

(a) The Borrower hereby gives notice to the Account Bank of the Security granted by it to the Security Agent over the Escrow Account.

(b) Each of the Borrower and the Account Bank hereby acknowledges that all the Borrower's right, title and interest in and to the Escrow Account shall be charged and assigned to the Security Agent.

20.3 Restrictions on withdrawals

The Borrower shall not make or purport to make a withdrawal or transfer from, and the Account Bank shall not permit a withdrawal or transfer from, the Escrow Account unless:

(a) no Event of Default has occurred and is continuing;

(b) such withdrawal or transfer would not cause the Escrow Account to become overdrawn;

(c) such withdrawal or transfer is for the purpose of:

(i) repaying the Loan on a Repayment Date; or

(ii) application of moneys in the Escrow Account in accordance with the provisions of Clauses 7.1 (*Illegality*), 7.4 (*Mandatory Prepayment - Equipment Sale*), 7.5 (Mandatory Prepayment - Insurance Proceeds), 7.6 (*Mandatory Prepayment - Early Termination of Equipment Lease Schedule*), 7.7 (*Mandatory Prepayment - Termination of Equipment Lease Agreement, Change of Control, Reconstruction Events*) or 19.10 (*Maximum Advance Ratio*) (the "**Relevant Prepayment Provisions**"); or

(iii) (subject to Clause 20.3(f)) application of moneys in the Escrow Account to make a payment permitted or required to be made under Clause 19.11(b) of this Agreement, provided that:

(A) (in the case of a payment to be made under Clause 19.11(b)(ii)) the tax receipt, assessment and/or other documents evidencing the amount required for such payment are provided to the Facility Agent prior to such withdrawal or transfer; and

(B) (in the case of a payment to be made under Clause 19.11(b)(iii) to (viii)) subject to the prior written consent of the Facility Agent (acting on the instructions of the Majority Lenders) being obtained (such consent not to be unreasonably withheld);

(d) the Borrower irrevocably authorises each of the Account Bank and the Facility Agent to apply the moneys standing to the credit of the Escrow Account towards any of the purposes specified in Clause 20.3(c) above;

(e) no sum may be withdrawn from the Escrow Account except as expressly permitted or required by this Agreement; and

(f) moneys which have been credited to the Escrow Account pursuant to any of the Relevant Prepayment Provisions shall not be permitted to be withdrawn save for the purposes of repayment or prepayment of the Loans (including

interest and all other amounts accrued and payable thereon) in accordance with the Relevant Prepayment Provisions.

20.4 Account Mandate

The Account Bank hereby agrees that it shall maintain the Escrow Account in accordance with:

(a) any mandate agreed between the Borrower and the Account Bank;

(b) its normal banking practices; and

(c) the provisions of the Finance Documents,

provided that, if there is any conflict between the Finance Documents and any mandate agreed between the Borrower and the Account Bank or the Account Bank's normal practices, the provisions of the Finance Documents shall prevail but only to the extent that the Account Bank would not be in breach of any law as a result.

20.5 Obligations of the Borrower

Neither the existence of the Escrow Account, nor the insufficiency of funds in the Escrow Account, nor any inability to apply any funds in the Escrow Account towards the relevant payment, shall affect the obligation of the Borrower to make all payments required to be made to the Facility Agent on the due date for such payments in accordance with the Finance Documents.

20.6 Currency

(a) The Borrower shall direct the Account Bank to convert monies received by it or paid by it or paid on its behalf to the Account Bank for crediting to an account opened by it which is not denominated in United States Dollars into United States Dollars.

(b) If requested by the Borrower, the Account Bank may effect foreign exchange transactions in relation to funds to be withdrawn from the Escrow Account at the rate of exchange then prevailing in the market in accordance with the Account Bank's normal operating practices in order that the Borrower may satisfy its obligations as and when such obligations may arise in a currency other than United States Dollars.

(c) Any incidental costs of making such conversion in Clauses 20.6(a) and 20.6(b) above, shall be borne by the Borrower.

20.7 Access to Escrow Account

The Borrower irrevocably grants to each of the Facility Agent and the Security Agent access to review the books and records relating to the Escrow Account and irrevocably waives any right of confidentiality which may exist in respect of such books and records to the extent necessary to allow disclosure of such books and records to each of the Facility Agent and the Security Agent. The Borrower authorises the Account Bank to give each of the Facility Agent and the Security Agent unrestricted access to review such books and records held by the Account Bank and to provide to each of the Facility Agent and the Security Agent, without any reference to or any further authority from the Borrower and without any enquiry from it as to the justification for such disclosure, such information relating to the Escrow Account as each of the Facility Agent and the Security Agent may reasonably request such Account Bank to disclose to it.

21. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 21 (*Events of Default*) is an Event of Default.

21.1 Non-payment

The Borrower or the Guarantor does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless:

(a) its failure to pay is caused by administrative or technical error; and

(b) payment is made within five (5) Business Days of its due date.

21.2 Other obligations

(a) The Borrower does not comply with any provision of the Finance Documents (other than those referred to in Clause 21.1 (*Non-payment*).

(b) No Event of Default under paragraph (a) above will occur if the failure to comply is capable of remedy and is remedied within 10 Business Days of the earlier of (i) the Facility Agent giving notice to the Borrower and (ii) the Borrower becoming aware of the failure to comply.

21.3 Misrepresentation

(a) Any representation or statement made or deemed to be made by or on behalf of the Borrower, the Guarantor or the Lessee in the Finance Documents or any other document delivered by or on behalf of the Borrower, the Guarantor or the Lessee under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.

(b) No Event of Default under paragraph (a) above will occur if that misrepresentation or misstatement, or the circumstance giving rise to it, is/are capable of remedy and is/are remedied within 30 Business Days of the date on which the Facility Agent (acting on the instructions of all the Lenders) notifies the Borrower of the occurrence of that misrepresentation or misstatement or the circumstance giving rise to it.

21.4 Cross acceleration

Any Financial Indebtedness of the Borrower or the Lessee in an aggregate amount in excess of US$100,000,000 (taking into account the Financial Indebtedness of the Borrower and the Lessee) is accelerated because of a default with respect to such Financial Indebtedness without such Financial Indebtedness having been discharged or such acceleration having been cured, waived, rescinded or annulled within a period of 30 days.

21.5 Insolvency

(a) The Borrower, the Guarantor or the Lessee is unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness.

(b) The value of the assets of the Borrower, the Guarantor or the Lessee is less than its liabilities (taking into account contingent and prospective liabilities).

(c) A moratorium is declared in respect of any indebtedness of the Borrower, the Guarantor or the Lessee.

21.6 Insolvency proceedings

(a) Any corporate action, legal proceedings or other procedure or step is taken in relation to:

(i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration, judicial management or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Borrower, the Guarantor or the Lessee;

(ii) a composition, assignment or arrangement with any creditor of the Borrower, the Guarantor or the Lessee;

(iii) the appointment of a liquidator, receiver, administrator, judicial manager, administrative receiver, compulsory manager or other similar officer in respect of the Borrower, the Guarantor or the Lessee or any of their assets; or

(iv) enforcement of any Security over the Charged Assets,

or any analogous procedure or step is taken in any jurisdiction.

(b) Paragraph (a) above shall not apply to any winding-up petition which is frivolous or vexatious in nature and is unconditionally discharged or dismissed within 30 days of commencement.

21.7 Creditors' process

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any Charged Asset of the Borrower or the Lessee and is not discharged within five (5) days.

21.8 Nationalisation

Any step is taken by any person with a view to the seizure, compulsory acquisition, expropriation or nationalisation of any part of the Charged Assets or the issued shares in the capital of the Borrower or the Lessee.

21.9 Cessation of Business

The Borrower, the Guarantor or the Lessee ceases to carry on its business as a going concern.

21.10 Unlawfulness

(a) It is or becomes unlawful for the Borrower or the Guarantor to perform any of its obligations under the Finance Documents to which it is a party.

(b) Any obligation or obligations of the Borrower or the Guarantor under any Finance Document is/are not or cease to be legal, valid, binding or enforceable.

21.11 Repudiation or rescission of agreements

(a) The Borrower or the Guarantor rescinds or purports to rescind or repudiates or purports to repudiate a Finance Document to which it is a party or any of the Transaction Security or evidences an intention to rescind or repudiate a Finance Document or any Transaction Security in whole or in part.

(b) Any party to a Purchase Agreement and the Equipment Lease Agreement rescinds or purports to rescind or repudiate the relevant Purchase Agreement or the Equipment Lease Agreement or evidences an intention to rescind or repudiate the relevant Purchase Agreement or the Equipment Lease Agreement in whole or in part.

21.12 Governmental Intervention

By or under the authority of any government, the Borrower or the Lessee is declared by the Minister of Finance to be a company to which Part IX of the Companies Act (Chapter 50 of Singapore) applies.

21.13 Security

Any Security Document or any guarantee in or any subordination under any Finance Document is not in full force and effect or any Security Document does not create in favour of any Finance Party the Security which it is expressed to create with the ranking and priority it is expressed to have or any Security is in jeopardy.

21.14 Equipment Lease Agreement

Any Lease Agreement Event of Default (other than Lease Agreement Events of Default which are Prepayment Events), including but not limited to those under Section 21(a), (c), (d) and (e) of the Equipment Lease Agreement, occurs.

21.15 Leased Equipment

(a) The Borrower ceases to be owner of any of the Leased Equipment.

(b) The Borrower ceases to have valid and marketable title to any of the Leased Equipment.

(c) Paragraphs (a) and (b) above shall not apply to any disposals of the Leased Equipment permitted under this Agreement.

21.16 Acceleration

On and at any time after the occurrence of an Event of Default which is continuing, the Facility Agent may, and shall if so directed by the Majority Lenders, by notice to the Borrower:

(a) cancel the Total Commitments whereupon they shall immediately be cancelled;

(b) declare that all or part of the Loans, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or

(c) declare that all or part of the Loans be payable on demand, whereupon it shall immediately become payable on demand by the Facility Agent on the instructions of the Majority Lenders.

22. CHANGES TO THE LENDERS

22.1 Assignments and transfers by the Lenders

Subject to this Clause 22, a Lender (the "**Existing Lender**") may:

(a) assign all or any of its rights; or

(b) transfer by novation all or any of its rights and obligations,

under the Finance Documents to another bank or financial institution or to a trust, fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (in each case, including, without limitation, any of its Affiliates) (the "**New Lender**"). No Lender shall assign or transfer its rights or obligations to any entity which, to its knowledge, is a competitor of the Guarantor, which is in the business of designing, building or licensing semiconductor technologies, Provided That nothing herein shall oblige the Facility Agent to carry out any checks to ascertain whether any New Lender is a competitor of the Guarantor. The relevant Existing Lender may, if it so wishes, but is not obliged to, procure a confirmation from the Borrower as to whether the proposed New Lender is such a competitor.

22.2 Conditions of assignment or transfer

(a) Subject to paragraph (b) below, the consent of the Borrower and the Guarantor is not required for an assignment or transfer by the Lender.

(b) At any time prior to the earlier to occur of:

(i) Utilisation by the Borrower of the whole of the Available Facility; and

(ii) the last day of the Availability Period,

any Lender may assign or transfer to one or more assignees or transferees all or a portion of its rights and obligations under this Agreement with the prior written consent of the Borrower (such consent not to be unreasonably withheld, conditioned or delayed), provided that the Borrower shall be deemed to have consented to any such assignment or transfer unless it shall object thereto by written notice to the Facility Agent within five (5) Business Days after having received notice thereof, and provided further that no consent of the Borrower shall be required for an assignment or transfer to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default has occurred and is continuing, to any other assignee or transferee.

(c) An assignment will only be effective on receipt by the Facility Agent of written confirmation from the New Lender (in form and substance satisfactory to the Facility Agent (acting on the instructions of the Majority Lenders)) that the New Lender will assume the same obligations to the other Finance Parties as it would have

been under if it was an Original Lender, subject to the compliance of such "know your customer" or other similar procedures as may be necessary to be undertaken by the Facility Agent on such Lender(s).

(d) A transfer will only be effective if the procedure set out in Clause 22.5 (*Procedure for assignment and transfer*) is complied with.

(e) If:

(i) a Lender assigns or transfers any of its rights or obligations under the Finance Documents or changes its Facility Office; and

(ii) as a result of circumstances existing at the date the assignment, transfer or change occurs, the Borrower or the Guarantor would be obliged to make a payment to the New Lender or Lender acting through its new Facility Office under Clause 12 (*Tax Gross-up and Indemnities*) or Clause 13 (*Increased Costs*),

then the New Lender or Lender acting through its new Facility Office is only entitled to receive payment under those Clauses to the same extent as the Existing Lender or Lender acting through its previous Facility Office would have been if the assignment, transfer or change had not occurred.

22.3 Assignment or transfer fee

The New Lender shall, on the date upon which an assignment or transfer takes effect, pay to the Facility Agent (for its own account) a fee of US$5,000 (excluding any applicable goods and services tax).

22.4 Limitation of responsibility of Existing Lenders

(a) Unless expressly agreed to the contrary, an Existing Lender makes no representation or warranty and assumes no responsibility to a New Lender for:

(i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other documents;

(ii) the financial condition of the Borrower, the Guarantor or the Lessee;

(iii) the performance and observance by the Borrower, the Guarantor or the Lessee of its obligations under the Finance Documents or any other documents; or

(iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,

and any representations or warranties implied by law are excluded.

(b) Each New Lender confirms to the Existing Lender and the other Finance Parties that it:

(i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of the Borrower or the Guarantor and their related entities in connection with its participation in this Agreement and has not relied exclusively on any information provided to it by the Existing Lender in connection with any Finance Document; and

(ii) will continue to make its own independent appraisal of the creditworthiness of the Borrower or the Guarantor and their related entities whilst any amount is or may be outstanding under the Finance Documents or any Commitment is in force.

(c) Nothing in any Finance Document obliges an Existing Lender to:

(i) accept a re-transfer from a New Lender of any of the rights and obligations assigned or transferred under this Clause 22; or

(ii) support any losses directly or indirectly incurred by the New Lender by reason of the non-performance by the Borrower or the Guarantor of its obligations under the Finance Documents or otherwise.

22.5 Procedure for assignment and transfer

(a) Subject to the conditions set out in Clause 22.2 (*Conditions of assignment or transfer*), an assignment or a transfer is effected in accordance with paragraph (b) below when the Facility Agent executes an otherwise duly completed Transfer Certificate delivered to it by the Existing Lender and the New Lender at least five (5) Business Days prior to the Transfer Date. The Facility Agent shall, as soon as reasonably practicable after receipt by it of a duly completed Transfer Certificate appearing on its face to comply with the terms of this Agreement and delivered in accordance with the terms of this Agreement, execute that Transfer Certificate.

(b) On the Transfer Date:

(i) to the extent that in the Transfer Certificate the Existing Lender seeks to assign and/or transfer by novation its rights and obligations under the Finance Documents the Borrower, the Guarantor and the Existing Lender shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another shall be cancelled (being the "**Discharged Rights and Obligations**");

(ii) the Borrower, the Guarantor and the New Lender shall assume obligations towards one another and/or acquire rights against one another which differ from the Discharged Rights and Obligations only insofar as the Borrower, the Guarantor and the New Lender have assumed and/or acquired the same in place of the Borrower, the Guarantor and the Existing Lender;

(iii) the Facility Agent, the Security Agent, the Account Bank, the Mandated Lead Arrangers and Bookrunners, the New Lender and other Lenders shall acquire the same rights and assume the same obligations between themselves as they would have acquired and assumed had the New Lender been an Original Lender with the rights and/or obligations acquired or assumed by it as a result of the assignment and/or transfer and to that extent the Facility Agent, the Security Agent, the Account Bank, the Mandated Lead Arrangers and Bookrunners and the Existing Lender shall each be released from further obligations to each other under the Finance Documents; and

(iv) the New Lender shall become a Party as a "**Lender**".

(c) Any consent, waiver or decision given or made by the Existing Lender prior to such assignment or transfer will be binding on the New Lender.

22.6 Security over Lenders' rights

In addition to the other rights provided to Lenders under this Clause 22, each Lender may without consulting with or obtaining consent from the Borrower or the Guarantor, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Lender including, without limitation:

(a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and

(b) in the case of any Lender which is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Lender as security for those obligations or securities,

except that no such charge, assignment or Security shall:

(i) release a Lender from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or other Security for the Lender as a party to any of the Finance Documents; or

(ii) require any payments to be made by the Borrower or the Guarantor or grant to any person any more extensive rights than those required to be made or granted to the relevant Lender under the Finance Documents.

22.7 Disclosure of information

Without prejudice to the Finance Parties' rights to disclose information relating to the Borrower or the Guarantor whether under the common law or the Banking Act (Chapter 19 of Singapore) (as amended or re-enacted from time to time, the "**Banking Act**") or otherwise, the Borrower and the Guarantor consent, to each Finance Party, its officers (as defined in the Banking Act) and agents and all persons to whom Section 47 of the Banking Act applies, disclosing any information relating to the Borrower, the Guarantor and the Finance Documents and any Security therefor as that Finance Party shall consider appropriate for any such purposes as it thinks fit, and any other information (including personal data) relating to the Borrower, the Guarantor and the account relationship (including deposit accounts) and/or dealing relationship of the Borrower and the Guarantor with that Finance Party, including but not limited to details of the Facility, any Finance Document, any security taken, transactions undertaken and balances and positions with the Finance Party to:

(a) any of that Finance Party's or a Related Party's (as defined below) agents, contractors or third party service providers or professional advisers, whether in Singapore or outside Singapore;

(b) that Finance Party's head office, branches, representative offices, Subsidiaries, related corporations or Affiliates, in Singapore or any other jurisdiction (collectively the "**Related Parties**" and each a "**Related Party**") for any database or data processing purposes or other purposes in connection with that Finance Party's operations or businesses, notwithstanding that a Related Party's principal place of business may be outside of Singapore or that the information relating to the Borrower or the Guarantor following disclosure may be collected, held, processed or used by any Related Party in whole or in part outside of Singapore;

(c) any regulatory, supervisory, administrative, governmental, quasi-governmental or other agency, authority, court of law, tribunal or person, in Singapore or any other jurisdiction, where such disclosure is required by law, regulation, judgement or order of court or order of any tribunal;

(d) any actual or potential New Lender or other assignee or transferee of any rights and obligations of a Lender or other participants in any of its rights and/or obligations under or relating to the Facility, this Agreement or any other Finance Document and any security therefor for any purposes connected with the proposed assignment or transfer, or any agent or legal or financial adviser of any of the foregoing;

(e) any person who is succeeding (or may potentially succeed) the Facility Agent, the Security Agent or the Account Bank;

(f) any insurer or insurance broker (whether of that Finance Party, any Related Party, the Borrower, the Guarantor or otherwise) or any direct or indirect provider of credit protection to that Finance Party or Related Party;

(g) any provider of any Security or guarantee for the Facility;

(h) any rating agency (solely for the purpose of providing a confidential private rating of this Agreement or the Loans to a particular Lender(s) or in connection with such rating agency's rating of a particular Lender(s));

(i) the Borrower, the Guarantor or the Lessee;

(j) any of that Finance Party's Affiliates, the Account Bank, the Borrower, the Guarantor and any other person:

(i) with (or through) whom that Finance Party enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, this Agreement, the Borrower or the Guarantor, or any agent or legal or financial adviser of any of the foregoing; or

(ii) who is a person, or who belongs to a class of persons, specified in the second column of the Third Schedule to the Banking Act;

(k) any receiver or receiver and manager appointed by that Finance Party;

(l) whom or for whose benefit that Finance Party charges, assigns or otherwise creates Security (or may do so) pursuant to Clause 22.6 (*Security over Lenders' rights*);

(m) any credit bureau of which that Finance Party is a member and/or any other member(s) of such credit bureau; or

(n) any other person to whom that Finance Party is under a duty to make such disclosure.

This Clause 22.7 is not, and shall not be deemed to constitute, an express or implied agreement by any Finance Party with the Borrower or the Guarantor for a higher degree of confidentiality than that prescribed in Section 47 of the Banking Act and in the Third Schedule to the Banking Act.

22.8 Universal Succession (Assignments and Transfers)

(a) Without prejudice to this Clause 22 (*Changes to the Lenders*), if a Lender is to be merged with any other person by universal succession, such Lender shall, at its own cost within 45 days of that merger furnish to the Facility Agent:

(i) an original or certified true copy of a legal opinion issued by a qualified legal counsel practicing law in its jurisdiction of incorporation confirming that all such Lender's assets, rights and obligations generally have been duly vested in the succeeding entity who has succeeded to all relationships as if those assets, rights and obligations had been originally acquired, incurred or entered into by the succeeding entity; and

(ii) an original or certified true copy of a written confirmation by either the Lender's legal counsel or such other legal counsel acceptable to the Facility Agent and for the benefit of the Facility Agent (in its capacity as facility agent of the Lenders) that the laws of Singapore and of the jurisdiction in which the Facility Office of such Lender is located recognise such merger by universal succession under the relevant foreign laws,

whereupon a transfer and novations of all such Lender's assets, rights and obligations to its succeeding entity shall have been or be deemed to have been duly effected as at the date of the said merger.

(b) If such Lender, in a universal succession, does not comply with the requirements under this Clause 22.8 (*Universal Succession (Assignments and Transfers)*), the Facility Agent has the right to decline to recognise the succeeding entity and demand such Lender and the succeeding entity to either sign and deliver a Transfer Certificate to the Facility Agent evidencing the disposal of all rights and obligations of such Lender to that succeeding entity, or provide or enter into such documents, or make such arrangements acceptable to the Facility Agent (acting on the advice of the Lender’s legal counsel (any legal costs so incurred shall be borne by the relevant Lender)) in order to establish that all rights and obligations of the relevant Lender under this Agreement have been transferred to and assumed by the succeeding entity.

23. CHANGES TO THE BORROWER AND THE GUARANTOR

Neither the Borrower nor the Guarantor may assign any of its rights or transfer any of its rights or obligations under the Finance Documents.

24. ROLE OF THE FACILITY AGENT AND THE MANDATED LEAD ARRANGERS AND BOOKRUNNERS

24.1 Appointment of the Facility Agent

(a) Each other Finance Party appoints the Facility Agent to act as its facility agent under and in connection with the Finance Documents.

(b) Each other Finance Party authorises the Facility Agent to exercise the rights, powers, authorities and discretions specifically given to the Facility Agent under or in connection with the Finance Documents together with any other incidental rights, powers, authorities and discretions.

24.2 Duties of the Facility Agent

(a) The Facility Agent shall promptly forward to a Party the original or a copy of any document which is delivered to the Facility Agent for that Party by any other Party.

(b) Except where a Finance Document specifically provides otherwise, the Facility Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

(c) If the Facility Agent receives notice from a Party referring to this Agreement, describing a Default or a Prepayment Event and stating that the circumstance described is a Default or a Prepayment Event, it shall promptly notify the Finance Parties.

(d) If the Facility Agent is aware of the non-payment of any principal, interest, commitment fee or other fee payable to a Finance Party (other than the Facility Agent and the Mandated Lead Arrangers and Bookrunners) under this Agreement it shall promptly notify the other Finance Parties.

(e) The Facility Agent's duties under the Finance Documents are solely mechanical and administrative in nature.

(f) Each Party agrees that the Facility Agent shall have only those duties, obligations and responsibilities expressly specified in the Finance Documents to which the Facility Agent is party (and no others shall be implied).

24.3 Roles of the Mandated Lead Arrangers and Bookrunners

Except as specifically provided in the Finance Documents, none of the Mandated Lead Arrangers and Bookrunners has any obligation of any kind to any other Party under or in connection with any Finance Document.

24.4 No fiduciary duties

(a) Nothing in this Agreement constitutes the Facility Agent or any Mandated Lead Arranger and Bookrunner as a trustee or fiduciary of any other person.

(b) None of the Facility Agent and the Mandated Lead Arrangers and Bookrunners shall be bound to account to any Lender for any sum or the profit element of any sum received by it for its own account.

24.5 Business with the Guarantor and its Subsidiaries

The Facility Agent and the Mandated Lead Arrangers and Bookrunners may accept deposits from, lend money to and generally engage in any kind of banking or other business with the Guarantor or the Lessee or any of their respective Subsidiaries.

24.6 Rights and discretions of the Facility Agent

(a) The Facility Agent may rely on:

(i) any representation, notice or document believed by it to be genuine, correct and appropriately authorised; and

(ii) any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.

(b) The Facility Agent may assume (unless it has received notice to the contrary in its capacity as facility agent for the Lenders) that:

(i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 21.1 (*Non-payment*)); and

(ii) any right, power, authority or discretion vested in any Party or the Majority Lenders has not been exercised.

(c) The Facility Agent may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.

(d) The Facility Agent may act in relation to the Finance Documents through its personnel and agents.

(e) The Facility Agent may disclose to any other Party any information it believes it has received as facility agent under this Agreement.

(f) Notwithstanding any other provision of any Finance Document to the contrary, none of the Facility Agent and the Mandated Lead Arrangers and Bookrunners are obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law or regulation or a breach of a duty of confidentiality.

24.7 Majority Lenders' instructions

(a) Unless a contrary indication appears in a Finance Document, the Facility Agent shall (i) exercise any right, power, authority or discretion vested in it as Facility Agent in accordance with any instructions given to it by the Majority Lenders (or, if so instructed by the Majority Lenders, refrain from exercising any right, power, authority or discretion vested in it as Facility Agent) and (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Lenders.

(b) Unless a contrary indication appears in a Finance Document, any instructions given by the Majority Lenders will be binding on all the Finance Parties.

(c) The Facility Agent may refrain from acting in accordance with the instructions of the Majority Lenders (or, if appropriate, the Lenders) until it has received such security as it may require for any cost, loss or liability (together with any associated Indirect Tax) which it may incur in complying with the instructions.

(d) In the absence of instructions from the Majority Lenders (or, if appropriate, the Lenders), the Facility Agent may act (or refrain from taking action) as it considers to be in the best interest of the Lenders.

(e) The Facility Agent is not authorised to act on behalf of a Lender (without first obtaining that Lender's consent) in any legal or arbitration proceedings relating to any Finance Document.

24.8 Responsibility for documentation

Neither the Facility Agent, nor any of the Mandated Lead Arrangers and Bookrunners:

(a) is responsible for the adequacy, accuracy and/or completeness of any information supplied by the Facility Agent, the Mandated Lead Arrangers and Bookrunners, the Borrower, the Guarantor or any other person given in or in connection with the Information Package or any Finance Document; or

(b) is responsible for the legality, validity, effectiveness, adequacy, accuracy, genuinity, completeness and/or enforceability of any Finance Document or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Finance Document.

24.9 Exclusion of liability

(a) Without limiting paragraph (b) below, the Facility Agent will not be liable for any action taken or omitted by it under or in connection with any Finance Document, unless directly caused by its gross negligence or wilful misconduct.

(b) No Party (other than the Facility Agent) may take any proceedings against any officer, employee or agent of the Facility Agent in respect of any claim it might have against the Facility Agent or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document and any officer, employee or agent of the Facility Agent may rely on this Clause. Any third party referred to in this paragraph (b) may enjoy the benefit of or enforce the terms of this paragraph in accordance with the provisions of the Contracts (Right of Third Parties) Act (Chapter 53B of Singapore).

(c) The Facility Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Facility Agent if the Facility Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Facility Agent for that purpose.

(d) Nothing in this Agreement shall oblige the Facility Agent, the Security Agent or the Mandated Lead Arrangers and Bookrunners to carry out any "know your customer" or other checks in relation to any person on behalf of any Lender and each Lender confirms to the Facility Agent, the Security Agent and the Mandated Lead Arrangers and Bookrunners that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Facility Agent, the Security Agent or the Mandated Lead Arrangers and Bookrunners.

24.10 Lenders' indemnity to the Facility Agent

Each Lender shall (in proportion to its share of the Total Commitments or, if the Total Commitments are then zero, to its share of the Total Commitments immediately prior to their reduction to zero) indemnify the Facility Agent, within three (3) Business Days of demand, against any fees, remuneration, cost, loss or liability incurred by the Facility Agent (otherwise than by reason of the Facility Agent's gross negligence or wilful misconduct) in acting as Facility Agent under the Finance Documents (including acting or relying on any notice or request) (unless the Facility Agent has been reimbursed by the Borrower or the Guarantor pursuant to a Finance Document).

24.11 Resignation of the Facility Agent

(a) The Facility Agent may resign and appoint one of its Affiliates acting through an office in Singapore as successor by giving notice to the other Finance Parties and the Borrower.

(b) Alternatively the Facility Agent may resign by giving notice to the other Finance Parties and the Borrower, in which case the Majority Lenders (after consultation with the Borrower) may appoint a successor Facility Agent acceptable to the Borrower (acting reasonably).

(c) If the Majority Lenders have not appointed a successor Facility Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the Facility Agent (after consultation with the Borrower) may appoint a successor Facility Agent (acting through an office in Singapore) acceptable to the Borrower (acting reasonably).

(d) The retiring Facility Agent shall, at its own cost, make available to the successor Facility Agent such documents and records and provide such assistance as the successor Facility Agent may reasonably request for the purposes of performing its functions as Facility Agent under the Finance Documents.

(e) The Facility Agent's resignation notice shall only take effect upon the appointment of a successor.

(f) Upon the appointment of a successor, the retiring Facility Agent shall be discharged from any further obligation in respect of the Finance Documents but shall remain entitled to the benefit of this Clause 24 and the rights and protection of the Facility Agent in this Agreement and the Finance Documents. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

(g) After consultation with the Borrower, the Majority Lenders may, by notice to the Facility Agent, require it to resign in accordance with paragraph (b) above. In this event, the Facility Agent shall resign in accordance with paragraph (b) above.

24.12 Confidentiality

(a) In acting as facility agent for the Finance Parties, the Facility Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.

(b) If information is received by another division or department of the Facility Agent, it may be treated as confidential to that division or department and the Facility Agent shall not be deemed to have notice of it.

24.13 Relationship with the Lenders

The Facility Agent may treat each Lender as a Lender, entitled to payments under this Agreement and acting through its Facility Office unless it has received not less than five (5) Business Days prior notice from that Lender to the contrary in accordance with the terms of this Agreement.

24.14 Credit appraisal by the Lenders

Without affecting the responsibility of the Borrower or the Guarantor for information supplied by it or on its behalf in connection with any Finance Document, each Lender confirms to the Facility Agent and the Mandated Lead Arrangers and Bookrunners that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

(a) the financial condition, status and nature of the Guarantor and the Borrower;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

(c) whether that Lender has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document; and

(d) the adequacy, accuracy and/or completeness of any information provided by the Facility Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with the Information Package or any Finance Document.

24.15 Deduction from amounts owing

If any Party owes an amount to the Facility Agent under the Finance Documents the Facility Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Facility Agent would otherwise be obliged to make under the Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the Finance Documents that Party shall be regarded as having received any amount so deducted.

24.16 Transfer Certificate

Each Party (except for the Lender and any bank, financial institution, trust, fund or other entity which is seeking the relevant transfer in accordance with Clause 22 (*Changes to the Lenders*)) irrevocably authorises the Facility Agent to sign each Transfer Certificate on its behalf.

24.17 Anti-Money Laundering and Terrorism

For so long as DBS Bank Ltd. or any of its Affiliates is the Facility Agent, the Facility Agent may take and instruct any delegate to take any action which it in its sole discretion considers appropriate so as to comply with any applicable law, regulation, request of a public or regulatory authority or any DBS Group policy which relates to the prevention of fraud, money laundering, terrorism or other criminal activities or the provision of financial and other services to sanctioned persons or entities. Such action may include but is not limited to the interception and investigation of transactions on accounts (particularly those involving the international transfer of funds) including the source of the intended recipient of funds paid into or out of accounts. In certain circumstances, such action may delay or prevent the processing of instructions, the settlement of transactions over the accounts or the Facility Agent's performance of its obligations under these Finance Documents. Where possible, the Facility Agent will use reasonable endeavours to notify the relevant parties of the existence of such circumstances. Neither the Facility Agent nor any delegate of the Facility Agent will be liable for any loss (whether direct or consequential and including, without limitation, loss of profit or interest) caused in whole or in part by any actions which are taken by the Facility Agent or any delegate of the Facility Agent pursuant to this Clause. For the purposes of this Clause, the "**DBS Group**" means DBS Bank Ltd., its subsidiaries and associated companies.

24.18 Special Damages and Consequential Loss

Notwithstanding any other term or provision of this Agreement to the contrary, the Facility Agent shall not in any event be liable under any circumstances for special, punitive, indirect or consequential loss or damage of any kind whatsoever, whether or not foreseeable, or for any loss of business, goodwill, opportunity or profit, whether arising directly or indirectly and whether or not foreseeable, even if the Facility Agent is actually aware of or has been advised of the likelihood of such loss or damage and regardless of whether the claim for such loss or damage is made in negligence, for breach of contract, breach of trust, breach of fiduciary obligation or otherwise. The provisions of this Clause shall survive the termination or expiry of this Agreement or the resignation or removal of the Facility Agent.

24.19 Force Majeure

Notwithstanding anything to the contrary in this Agreement, neither the Facility Agent nor the Security Agent shall in any event be liable for any failure or delay in the performance of its obligations hereunder if it is prevented from so performing its obligations by any circumstances beyond the control of the Facility Agent or (as the case may be) the Security Agent, including without limitation, existing or future law or regulation, any existing or future act of governmental authority, Act of God, flood, war whether declared or undeclared, terrorism, riot, rebellion, civil commotion, strike, lockout, other industrial action, general failure of electricity or other supply, aircraft collision, technical failure, accidental or mechanical or electrical breakdown, computer failure or failure of any money transmission system.

24.20 Regulatory Position

Nothing in this Agreement shall require the Facility Agent to carry on an activity of the kind specified by any provision of Part I of Schedule 2 of the Securities and Futures Act (Cap. 289) of Singapore, or to lend money to the Borrower in its capacity as Facility Agent.

24.21 Money held as banker

The Facility Agent shall be entitled to deal with money paid to it by any person for the purposes of this Agreement in the same manner as other money paid to a banker by its customers except that it shall not be liable to account to any person for any interest or other amounts in respect of the money.

24.22 Abatement of fees

The fees, commissions and expenses payable to the Facility Agent for services rendered and the performance of its obligations under this Agreement shall not be abated by any remuneration or other amounts or profits receivable by the Facility Agent (or by any of its associates) in connection with any transaction effected by the Facility Agent with or for the Lenders, the Mandated Lead Arrangers and Bookrunners, the Account Bank or the Borrower.

24.23 Facsimile Indemnity

Where instructions, information, communications or other documents are given or sent by way of facsimile (or as otherwise agreed), the fact that a transmission report produced by the originator of such transmission discloses that the transmission was sent will not be sufficient proof of receipt by the Facility Agent. When the Facility Agent acts on any information, instructions, communications, (including, but not limited to, communications with respect to the wire transfer of funds) sent by facsimile or other agreed form of data transmission, the Facility Agent, in the absence of gross negligence, shall not be responsible or liable in the event such communication is not an authorised or authentic communication of the Lenders or is not in the form the Lenders sent or intended to send (whether due to fraud, distortion or otherwise). The Lenders shall jointly and severally indemnify the Facility Agent against any and all actions, losses, costs, charges, liabilities, claims, demands or expenses (including legal fees and expenses) of any and every kind which may at any time hereafter be incurred by the Facility Agent in consequence of its accepting and acting in accordance with any such instructions, information, communications or documents given or sent as aforesaid whether or not such instructions, information, communications or documents were given or sent or purported to have been given or sent by the Lenders or other person duly authorized to give such instructions, information, communications or documents except where such actions, losses, costs, charges, liabilities, claims, demands or expenses are incurred as a result of the gross negligence of the Facility Agent.

24.24 Data Protection

Each of the Guarantor and the Borrower (together the "**Obligors**") consents to the Finance Parties, their respective agents and authorised service providers as well as relevant third parties, collecting, using and disclosing the Personal Data of the individual representatives of their company, which the Guarantor and the Borrower may provide to the Finance Parties (including the Facility Agent) from time to time in the course of its relationship with the Finance Parties and in connection with the Finance Documents for the following purposes (collectively, the "**Purposes**"):

(a) verification of the relevant Obligor's identity for the purpose of the Finance Parties' provision of the Facility under the Finance Documents;

(b) facilitating the verification and checks of the Personal Data in order for the Finance Parties to provide the Borrower with the Facility under the Finance Documents;

(c) preventing, detecting and investigating crime, including fraud and any form of financial crime, and analysing and managing other commercial risks;

(d) facilitating the Finance Parties' provision of the Facility to the Borrower under the Finance Documents;

(e) any other purpose directly or relating to any of the above or in connection with the Facility provided to the Borrower under the Finance Documents; and

(f) such purposes as set out in the relevant Finance Party's prevailing policies, circulars, notices or guidelines relating to personal data (as may be amended from time to time) (collectively, the "**Personal Data Documentation**"), copies of which are provided to the Obligors from time to time.

Where the Personal Data which the Obligors provide was/is collected by the Obligors or from third party sources, each of the Obligors confirms and agrees that:

(i) the relevant consents for the Purposes have been procured by it from all relevant individuals to whom the Personal Data relates; and

(ii) it will provide all relevant individuals with copies of the Personal Data Documentation for their perusal.

24.25 No duty to monitor

The Facility Agent shall not have any duty to monitor:

(a) whether any Default has occurred;

(b) the performance, default or breach by any Party of its obligations under any Finance Document; or

(c) whether any other event specified in any Finance Document has occurred.

24.26 Compliance

Notwithstanding any other provision of this Agreement, each of the Facility Agent and Security Agent shall be entitled to take any action or to refuse to take any action which the Facility Agent and/or (as the case may be) the Security Agent regard as necessary for the Facility Agent and/or (as the case may be) the Security Agent to comply with any applicable law, regulation or fiscal requirement or FATCA, or the rules, operating procedures or market practice of any relevant stock exchange or other market or clearing system.

24.27 Information Collection and Sharing

The Obligors agree to provide to the Facility Agent and the Security Agent, and consent to the collection, use and processing by the Facility Agent and the Security Agent of, any authorisations, waivers, forms, documentation and other information, relating to its status, or otherwise required to be reported, under FATCA ("**FATCA Information**"). The Obligors further consent to the disclosure, transfer and reporting of such FATCA Information to any relevant government or taxing authority, any member of the DBS Group, any sub-contractors, agents, service providers or associates of the DBS Group, and any

person making payments to the Facility Agent and/or (as the case may be) the Security Agent or a member of the DBS Group, including transfers to jurisdictions which do not have strict data protection or similar laws, to the extent that the Facility Agent and/or (as the case may be) the Security Agent reasonably determines that such disclosure, transfer or reporting is necessary or warranted to facilitate compliance with FATCA. The Obligors agree to inform the Facility Agent and the Security Agent promptly, and in any event, within 30 days, in writing if there are any changes to the FATCA Information supplied to the Facility Agent and/or (as the case may be) the Security Agent from time to time. The Obligors warrant that each person whose FATCA Information it provides (or has provided) to the Facility Agent and/or (as the case may be) the Security Agent has been notified of and agreed to, and has been given such other information as may be necessary to permit, the collection, use, processing, disclosure, transfer and reporting of their information as set out in this clause. The Facility Agent and the Security Agent each reserves the right to require the Obligors to produce documentary proof of the consents obtained from such persons, upon reasonable request made by the Facility Agent and/or (as the case may be) the Security Agent from time to time. For the purposes of this clause, the "**DBS Group**" means DBS Bank Ltd., its subsidiaries and associated companies.

25. CONDUCT OF BUSINESS BY THE FINANCE PARTIES

No provision of this Agreement will:

(a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;

(b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or

(c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

26. SHARING AMONG THE FINANCE PARTIES

26.1 Payments to Finance Parties

If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from the Borrower or the Guarantor other than in accordance with Clause 27 (*Payment Mechanics*) or (as the case may be) Clause 2.1 (*Order of Application*) of the Security Agency Deed and applies that amount to a payment due under the Finance Documents then:

(a) the Recovering Finance Party shall, within three (3) Business Days, notify details of the receipt or recovery to the Security Agent or (as the case may be) the Facility Agent;

(b) the Facility Agent or (as the case may be) the Security Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Facility Agent or (as the case may be) the Security Agent and distributed in accordance with Clause 27 (*Payment Mechanics*) or (as the case may be) Clause 2.1 (*Order of Application*) of the Security Agency Deed, without taking account of any Tax which would be imposed on the Security Agent or the Facility Agent in relation to the receipt, recovery or distribution; and

(c) the Recovering Finance Party shall, within three (3) Business Days of demand by the Facility Agent, pay to the Facility Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Facility Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 27.5 (*Partial payments*) or (as the case may be) Clause 2.1 (*Order of Application*) of the Security Agency Deed.

26.2 Redistribution of payments

The Facility Agent shall treat the Sharing Payment as if it had been paid by the Borrower or (as the case may be) the Guarantor and distribute it between the Finance Parties (other than the Recovering Finance Party) in accordance with Clause 27.5 (*Partial payments*) or (as the case may be) Clause 2.1 (*Order of Application*) of the Security Agency Deed.

26.3 Recovering Finance Party's rights

(a) On a distribution by the Facility Agent under Clause 26.2 (*Redistribution of payments*), the Recovering Finance Party will be subrogated to the rights of the Finance Parties which have shared in the redistribution.

(b) If and to the extent that the Recovering Finance Party is not able to rely on its rights under paragraph (a) above, the Borrower or (as the case may be) the Guarantor shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

26.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

(a) each Finance Party which has received a share of the relevant Sharing Payment pursuant to Clause 26.2 (*Redistribution of payments*) shall, upon request of the Facility Agent, pay to the Facility Agent for account of that Recovering Finance Party an amount equal to the appropriate part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay); and

(b) that Recovering Finance Party's rights of subrogation in respect of any reimbursement shall be cancelled and the Borrower or (as the case may be) the Guarantor will be liable to the reimbursing Finance Party for the amount so reimbursed.

26.5 Exceptions

(a) This Clause 26 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the Borrower or (as the case may be) the Guarantor.

(b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:

(i) it notified that other Finance Party of the legal or arbitration proceedings; and

(ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

27. PAYMENT MECHANICS

27.1 Payments to the Facility Agent

(a) On each date on which the Borrower, the Guarantor or a Lender is required to make a payment under a Finance Document, the Borrower, the Guarantor or (as the case may be) that Lender shall make the same available to the Facility Agent (unless a contrary indication appears in a Finance Document) for value on the due date at the time and in such funds specified by the Facility Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

(b) Payment shall be made to such account in the principal financial centre of the country of that currency with such bank as the Facility Agent specifies.

27.2 Distributions by the Facility Agent

Each payment received by the Facility Agent under the Finance Documents for another Party shall, subject to Clause 27.3 (*Distributions to the Borrower and the Guarantor*) and Clause 27.4 (*Clawback*), be made available by the Facility Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a Lender, for the account of its Facility Office), to such account as that Party may notify to the Facility Agent by not

less than five (5) Business Days' notice with a bank in the principal financial centre of the country of that currency or in Singapore.

27.3 Distributions to the Borrower and the Guarantor

The Facility Agent may (with the consent of the Borrower or the Guarantor or in accordance with Clause 28 (*Set-off*)) apply any amount received by it for the Borrower or (as the case may be) the Guarantor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from the Borrower or (as the case may be) the Guarantor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

27.4 Clawback

(a) Where a sum is to be paid to the Facility Agent under the Finance Documents for another Party, the Facility Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

(b) If the Facility Agent pays an amount to another Party and it proves to be the case that the Facility Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Facility Agent shall on demand refund the same to the Facility Agent together with interest on that amount from the date of payment to the date of receipt by the Facility Agent, calculated by the Facility Agent to reflect its cost of funds.

27.5 Partial payments

(a) If the Facility Agent receives a payment that is insufficient to discharge all the amounts then due and payable by the Borrower or the Guarantor under the Finance Documents, the Facility Agent shall apply that payment towards the obligations of the Borrower or (as the case may be) the Guarantor under the Finance Documents in the following order:

(i) **firstly**, in or towards payment *pro rata* of any unpaid fees, costs and expenses of the Facility Agent, the Security Agent and the Mandated Lead Arrangers and Bookrunners under the Finance Documents;

(ii) **secondly**, in or towards payment *pro rata* of any accrued interest, fee or commission due but unpaid under this Agreement;

(iii) **thirdly**, in or towards payment *pro rata* of any principal due but unpaid under this Agreement; and

(iv) **lastly**, in or towards payment *pro rata* of any other sum due but unpaid under the Finance Documents.

(b) The Facility Agent shall, if so directed by the Majority Lenders, vary the order set out in paragraphs (a)(ii) to (iv) above.

(c) Paragraphs (a) and (b) above will override any appropriation made by the Borrower or the Guarantor.

27.6 No set-off by the Borrower and the Guarantor

All payments to be made by the Borrower and the Guarantor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

27.7 Business Days

(a) Any payment which is due to be made on a day that is not a Business Day (including (if any Repayment Date is not a Business Day) any payment which is due to be made on a Repayment Date) shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

(b) During any extension of the due date for payment of any principal or an Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

27.8 Currency of account

(a) Subject to Clauses 27.8(b) to 27.8(e) below, US Dollars is the currency of account and payment for any sum due from the Borrower or the Guarantor under any Finance Document.

(b) A repayment of a Loan or an Unpaid Sum or a part of a Loan or an Unpaid Sum shall be made in the currency in which that Loan or that Unpaid Sum is denominated on its due date.

(c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.

(d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

(e) Any amount expressed to be payable in a currency other than US Dollars shall be paid in that other currency.

27.9 Payments to the Security Agent

Notwithstanding any other provision of any Finance Document, at any time after any Security created by or pursuant to any Security Document becomes enforceable, the Security Agent may require:

(a) the Borrower or (as the case may be) the Guarantor to pay all sums due under any Finance Document; or

(b) the Facility Agent to pay all sums received or recovered from the Borrower or (as the case may be) the Guarantor under any Finance Document,

in each case as the Security Agent may direct for application in accordance with the terms of the Security Documents.

28. SET-OFF

A Finance Party may, without prior notice, set off any matured obligation due from the Borrower or the Guarantor under the Finance Documents against any matured obligation owed by that Finance Party to the Borrower or (as the case may be) the Guarantor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the relevant Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

29. NOTICES

29.1 Communications in writing

Any communication to be made under or in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by electronic mail ("**email**") (including scanned copies of executed documents and other attachments), fax or letter.

29.2 Addresses

The email address, address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Finance Documents is:

(a) in the case of the Borrower, that identified with its name below;

(b) in the case of the Guarantor, that identified with its name in the Security Agency Deed;

(c) in the case of each Lender, that identified with its name below or as otherwise notified in writing to the Facility Agent on or prior to the date on which it becomes a Party; and

(d) in the case of the Mandated Lead Arrangers and Bookrunners, the Facility Agent and the Security Agent, that identified with its name below,

or any substitute email address, address, fax number or department or officer as the Party may notify to the Facility Agent (or the Facility Agent may notify to the other Parties, if a change is made by the Facility Agent) by not less than five (5) Business Days' notice.

29.3 Delivery

(a) Any communication or document made or delivered by one person to another under or in connection with the Finance Documents will only be effective:

(i) if by way of email, only when received in legible form by at least one of the relevant email addresses of the person(s) to whom the communication is made;

(ii) if by way of posting by any Party on a Deal Site, one Business Day after such posting;

(iii) if by way of fax, when received in legible form; or

(iv) if by way of letter, when it has been left at the relevant address or five (5) days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, (in the case of paragraphs (iii) and (iv) above) if a particular department or officer is specified as part of its address details provided under Clause 29.2 (*Addresses*), if addressed to that department or officer (or any substitute department or officer as the relevant Party may specify for this purpose).

(b) Any communication or document to be made or delivered to the Facility Agent will be effective only when actually received by it and then only if it is sent to the correct email address(es) or, in the case of a fax or a letter, expressly marked for the attention of the department or officer identified with its signature below (or any substitute department or officer as the Facility Agent shall specify for this purpose).

(c) All notices from or to the Borrower or (as the case may be) the Guarantor under the Finance Documents (other than the Security Documents) shall be sent through the Facility Agent.

(d) Any communication or document made or delivered to the Borrower or the Guarantor in accordance with this Clause 29.3 will be deemed to have been made or delivered to the Borrower or (as the case may be) the Guarantor.

29.4 Use of a Deal Site by the Facility Agent

(a) The Facility Agent may elect that:

(i) any Lender may satisfy its obligations under this Agreement to deliver any information to the Facility Agent; and/or

(ii) the Facility Agent may satisfy its obligations under this Agreement to deliver any information to any Lender,

by posting such information on an electronic website designated by the Facility Agent for such purpose (the "**Deal Site**") by notifying each such affected Lender of its intention that such Deal Site be used for such purpose (whereupon each such Lender or the Facility Agent may so satisfy such obligations).

(b) Any costs and expenses incurred by the Facility Agent in relation to the Deal Site shall be for the account of the Facility Agent and the Lenders.

(c) The Facility Agent shall, at its discretion or upon request of the relevant Party, disclose the website (or other electronic) address of and any relevant password specifications for the Deal Site ("**Access Information**") to one or more officers, directors, employees or other representatives ("**Representatives**") of each Party that the Facility Agent has elected to deliver information to or receive information from through the Deal Site.

(d) Each Party using the Deal Site agrees to:

(i) keep all Access Information confidential and not to disclose it to anyone, other than such of its Representatives as it has requested the Facility Agent to provide Access Information to; and

(ii) ensure that all persons to whom they give access can properly receive the information available on the Deal Site, including (in the case of a Lender) under Clause 22.7 (*Disclosure of Information*).

(e) If the Deal Site is not available for any reason, promptly following this being brought to its attention, the Facility Agent shall provide communications to the affected Parties by another means as contemplated by this Clause 29. A Party will notify the Facility Agent promptly if it is (despite being in receipt of the relevant Access Information) unable to access or use the Deal Site or if it becomes aware that the Deal Site is or has been infected by an electronic virus or similar software.

(f) Each of the Parties agrees that: (i) the Facility Agent shall not be liable for any cost, loss or liability incurred by any Party as a result of its access or use of the Deal Site or its inability to access or use the Deal Site; and (ii) the Facility Agent is under no obligation to monitor access to or the availability of the Deal Site.

(g) The Facility Agent may terminate a Deal Site at any time. If such termination occurs whilst amounts remain outstanding under the Facilities the Facility Agent shall (unless such termination arises as a result of technical failure of the Deal Site (including as a result of infection by an electronic virus or similar software) or as a result of a concern as to the security and confidentiality of the Deal Site), if reasonably practicable, give not less than 5 days' prior notice to each affected Party of such termination.

29.5 English language

(a) Any notice given under or in connection with any Finance Document must be in English.

(b) All other documents provided under or in connection with any Finance Document must be in English.

30. CALCULATIONS AND CERTIFICATES

30.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with a Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

30.2 Certificates and Determinations

Any certification or determination by a Finance Party of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

30.3 Day count convention

Any interest, commission or fee accruing under a Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days or, in any case where the practice in the London interbank market differs, in accordance with that market practice.

31. PARTIAL INVALIDITY

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

32. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under the Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

33. AMENDMENTS AND WAIVERS

33.1 Required consents

(a) Subject to Clause 33.2 (*Exceptions*), any term of a Finance Document may be amended or waived only with the consent of the Majority Lenders and the Borrower or (as the case may be) the Guarantor and any such amendment or waiver will be binding on all Parties to such Finance Document.

(b) The Facility Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause.

33.2 Exceptions

(a) An amendment or waiver that has the effect of changing or which relates to:

(i) the definition of "**Majority Lenders**" in Clause 1.1 (*Definitions*);

(ii) an extension to the date of payment of any amount under the Finance Documents;

(iii) a reduction in the Margin or a reduction in the amount of any payment of principal, interest, fees or commission payable;

(iv) an increase in or an extension of any Commitment;

(v) a change to the Borrower or the Guarantor other than in accordance with Clause 23 (*Changes to the Borrower and the Guarantor*);

(vi) the release of any guarantee or Security created pursuant to any Security Document or of any Charged Assets;

(vii) any provision which expressly requires the consent of all the Lenders;

(viii) Clause 2.2 (*Finance Parties' rights and obligations*), Clause 22 (*Changes to the Lenders*), Clause 26 (*Sharing among the Finance Parties*), or this Clause 33; or

(ix) the nature or the scope of the Guaranty,

shall not be made without the prior consent of all the Lenders.

(b) An amendment or waiver which relates to the rights or obligations of the Facility Agent, the Security Agent or any Mandated Lead Arranger and Bookrunner may not be effected without the consent of the Facility Agent, the Security Agent or (as the case may be) such Mandated Lead Arranger and Bookrunner.

34. BAIL-IN

34.1 Contractual recognition of bail-in

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

(a) any Bail-In Action in relation to any such liability, including (without limitation):

(i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;

(ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and

(iii) a cancellation of any such liability; and

(b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

35. COUNTERPARTS

Each Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

36. GOVERNING LAW

This Agreement shall be governed by, and construed in accordance with, the laws of Singapore.

37. ENFORCEMENT

37.1 Jurisdiction of Singapore courts

The courts of Singapore have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement) (a "**Dispute**").

37.2 Venue

The Parties agree that the courts of Singapore are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

37.3 Other competent jurisdiction

This Clause 37 (*Other competent jurisdiction*) is for the benefit of the Finance Parties only. As a result, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

EXHIBIT 31.1

RULE 13a-14(a) CERTIFICATION OF
CHIEF EXECUTIVE OFFICER

I, D. Mark Durcan, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Micron Technology, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations, and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information; and

   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: January 9, 2017

/s/ D. Mark Durcan

D. Mark Durcan
Chief Executive Officer

EXHIBIT 31.2

RULE 13a-14(a) CERTIFICATION OF
CHIEF FINANCIAL OFFICER

I, Ernest E. Maddock, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Micron Technology, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations, and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information; and

   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: January 9, 2017

/s/ Ernest E. Maddock

Ernest E. Maddock
Chief Financial Officer and Vice President, Finance

EXHIBIT 32.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO 18 U.S.C. 1350

I, D. Mark Durcan, certify, pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Quarterly Report of Micron Technology, Inc. on Form 10-Q for the period ended December 1, 2016, fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in the Quarterly Report on Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of Micron Technology, Inc.

Date: January 9, 2017

/s/ D. Mark Durcan

D. Mark Durcan
Chief Executive Officer

EXHIBIT 32.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO 18 U.S.C. 1350

I, Ernest E. Maddock, certify, pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Quarterly Report of Micron Technology, Inc. on Form 10-Q for the period ended December 1, 2016, fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in the Quarterly Report on Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of Micron Technology, Inc.

Date: January 9, 2017

/s/ Ernest E. Maddock

Ernest E. Maddock
Chief Financial Officer and Vice President, Finance