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 May 29, 2008

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 (State or other jurisdiction of incorporation or organization)	**75-1618004** (IRS Employer Identification No.)
8000 S. Federal Way, Boise, Idaho (Address of principal executive offices)	**83716-9632** (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 is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definition of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

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

Accelerated Filer **o**
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 June 30, 2008 was 761,040,324.

PART I. FINANCIAL INFORMATION

Item 1. ***Financial Statements***

MICRON TECHNOLOGY, INC.

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

	Quarter ended		Nine months ended	
	May 29, 2008	May 31, 2007	May 29, 2008	May 31, 2007
Net sales	$ 1,498	$ 1,294	$ 4,392	$ 4,251
Cost of goods sold	1,450	1,188	4,382	3,346
Gross margin	48	106	10	905
Selling, general and administrative	116	134	348	467
Research and development	170	195	513	621
Goodwill impairment	--	--	463	--
Restructure	8	--	29	--
Other operating (income) expense, net	(21)	(28)	(86)	(64)
Operating loss	(225)	(195)	(1,257)	(119)
Interest income	15	29	68	105
Interest expense	(21)	(12)	(62)	(17)
Other non-operating income (expense), net	--	1	(7)	9
Loss before taxes and noncontrolling interests	(231)	(177)	(1,258)	(22)
Income tax (provision)	(13)	(9)	(16)	(24)
Noncontrolling interests in net (income) loss	8	(39)	(1)	(116)
Net loss	$ (236)	$ (225)	$ (1,275)	$ (162)
Loss per share:				
Basic	$ (0.30)	$ (0.29)	$ (1.65)	$ (0.21)
Diluted	(0.30)	(0.29)	(1.65)	(0.21)
Number of shares used in per share calculations:				
Basic	772.8	769.9	772.4	768.5
Diluted	772.8	769.9	772.4	768.5

See accompanying notes to consolidated financial statements.

MICRON TECHNOLOGY, INC.

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

As of	May 29, 2008	August 30, 2007
Assets		
Cash and equivalents	$ 1,474	$ 2,192
Short-term investments	110	424
Receivables	995	994
Inventories	1,453	1,532
Prepaid expenses	67	67
Deferred income taxes	30	25
Total current assets	4,129	5,234
Intangible assets, net	375	401
Property, plant and equipment, net	8,721	8,279
Deferred income taxes	72	65
Goodwill	58	515
Other assets	261	324
Total assets	$ 13,616	$ 14,818
Liabilities and shareholders' equity		
Accounts payable and accrued expenses	$ 1,374	$ 1,385
Deferred income	80	84
Equipment purchase contracts	68	134
Current portion of long-term debt	262	423
Total current liabilities	1,784	2,026
Long-term debt	2,159	1,987
Deferred income taxes	11	25
Other liabilities	343	421
Total liabilities	4,297	4,459
Commitments and contingencies		
Noncontrolling interests in subsidiaries	2,811	2,607
Common stock, $0.10 par value, authorized 3 billion shares, issued and outstanding 761.0 million and 757.9 million shares, respectively	76	76
Additional capital	6,558	6,519
Retained earnings (accumulated deficit)	(112)	1,164
Accumulated other comprehensive loss	(14)	(7)
Total shareholders' equity	6,508	7,752
Total liabilities and shareholders' equity	$ 13,616	$ 14,818

See accompanying notes to consolidated financial statements.

MICRON TECHNOLOGY, INC.

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

Nine months ended	May 29, 2008	May 31, 2007
Cash flows from operating activities		
Net loss	$ (1,275)	$ (162)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	1,528	1,244
Goodwill impairment	463	--
Provision to write-down inventories to estimated market values	77	--
Stock-based compensation	40	30
Noncash restructure charges	7	--
Gains from disposition of equipment, net of write-downs	(70)	(25)
Change in operating assets and liabilities:		
Decrease in receivables	11	158
(Increase) decrease in inventories	2	(487)
(Decrease) in accounts payable and accrued expenses	(48)	(56)
Deferred income taxes	(3)	(2)
Other	43	93
Net cash provided by operating activities	775	793
Cash flows from investing activities		
Expenditures for property, plant and equipment	(1,809)	(2,851)
Purchases of available-for-sale securities	(259)	(1,227)
Acquisition of noncontrolling interest in TECH	--	(73)
Proceeds from maturities of available-for-sale securities	529	2,088
Proceeds from sales of property, plant and equipment	175	49
Proceeds from sales of available-for-sale securities	24	531
Decrease in restricted cash	--	14
Other	51	(44)
Net cash used for investing activities	(1,289)	(1,513)
Cash flows from financing activities		
Proceeds from debt	507	1,300
Cash received from noncontrolling interests	295	974
Proceeds from equipment sale-leaseback transactions	92	358
Proceeds from issuance of common stock	4	55
Repayments of debt	(653)	(159)
Payments on equipment purchase contracts	(348)	(393)
Distributions to noncontrolling interests	(92)	--
Debt issuance costs	(9)	(27)
Cash paid for capped call transactions	--	(151)
Other	--	(1)
Net cash provided by (used for) financing activities	(204)	1,956
Net increase (decrease) in cash and equivalents	(718)	1,236
Cash and equivalents at beginning of period	2,192	1,431
Cash and equivalents at end of period	$ 1,474	$ 2,667
Supplemental disclosures		
Income taxes paid, net	$ (24)	$ (33)
Interest paid, net of amounts capitalized	(59)	(13)
Noncash investing and financing activities:		
Equipment acquisitions on contracts payable and capital leases	404	802

See accompanying notes to consolidated financial statements.

Significant Accounting Policies

Basis of presentation: Micron Technology, Inc. and its subsidiaries (hereinafter referred to collectively as the "Company") manufacture and market DRAM, NAND Flash memory, CMOS image sensors and other semiconductor components. The Company has two segments, Memory and Imaging. The Memory segment's primary products are DRAM and NAND Flash and the Imaging segment's primary product is CMOS image sensors. The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America and include the accounts of the Company and its consolidated subsidiaries. In the opinion of management, the accompanying unaudited consolidated financial statements contain all adjustments necessary to present fairly the consolidated financial position of the Company and its consolidated results of operations and cash flows.

The Company's fiscal year is the 52 or 53-week period ending on the Thursday closest to August 31. The Company's third quarters of fiscal 2008 and 2007 ended on May 29, 2008 and May 31, 2007, respectively. The Company's fiscal 2007 ended on August 30, 2007. All period references are to the Company's fiscal periods unless otherwise indicated. These interim financial statements should be read in conjunction with the consolidated financial statements and accompanying notes included in the Company's Annual Report on Form 10-K for the year ended August 30, 2007.

Recently issued accounting standards: In May 2008, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards ("SFAS") No. 162, "The Hierarchy of Generally Accepted Accounting Principles." SFAS No. 162 identifies the sources of accounting principles and the framework for selecting the principles used in the preparation of financial statements that are presented in conformity with generally accepted accounting principles. SFAS No. 162 becomes effective 60 days following the SEC's approval of the Public Company Accounting Oversight Board amendments to AU Section 411, "The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles." The Company does not expect that the adoption of SFAS No. 162 will have a material impact on its financial statements.

In May 2008, the FASB issued FASB Staff Position ("FSP") No. APB 14-1, "Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Settlement)." FSP No. APB 14-1 requires that issuers of convertible debt instruments that may be settled in cash upon conversion separately account for the liability and equity components in a manner that will reflect the entity's nonconvertible debt borrowing rate when interest cost is recognized in subsequent periods. The Company is required to adopt FSP No. APB 14-1 retrospectively, effective at the beginning of 2010. The Company is evaluating the impact that the adoption of FSP No. APB 14-1 will have on its financial statements.

In April 2008, the FASB issued FSP No. FAS 142-3, "Determination of the Useful Life of Intangible Assets." FSP No. FAS 142-3 amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset under SFAS No. 142, "Goodwill and Other Intangible Assets." The Company is required to adopt FSP No. FAS 142-3 effective at the beginning of 2010. The Company is evaluating the impact that the adoption of FSP No. FAS 142-3 will have on its financial statements.

In March 2008, the FASB issued SFAS No. 161, "Disclosures about Derivative Instruments and Hedging Activities – an amendment of FASB Statement No. 133." SFAS No. 161 requires qualitative disclosures about objectives and strategies for using derivatives, quantitative disclosures about fair value amounts of and gains and losses on derivative instruments, and disclosures about credit-risk-related contingent features in derivative agreements. The Company is required to adopt SFAS No. 161 effective for the second quarter of 2009. The Company is evaluating the impact that the adoption of SFAS No. 161 will have on its financial statements.

In December 2007, the FASB ratified Emerging Issues Task Force ("EITF") Issue No. 07-1, "Accounting for Collaborative Arrangements," which defines collaborative arrangements and establishes reporting and disclosure requirements for transactions between participants in a collaborative arrangement and between participants in the arrangements and third parties. The Company is required to adopt EITF No. 07-1 effective at the beginning of 2010. The Company is evaluating the impact that the adoption of EITF No. 07-1 will have on its financial statements.

In December 2007, the FASB issued SFAS No. 141 (revised 2007), "Business Combinations" ("SFAS No. 141(R)"), which establishes the principles and requirements for how an acquirer in a business combination (1) recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, and any noncontrolling interests in the acquiree, (2) recognizes and measures the goodwill acquired in the business combination or a gain from a bargain purchase, and (3) determines what information to disclose. The Company is required to adopt SFAS No. 141(R) effective at the beginning of 2010. The impact of the adoption of SFAS No. 141(R) will depend on the nature and extent of business combinations occurring on or after the beginning of 2010.

In December 2007, the FASB issued SFAS No. 160, "Noncontrolling Interests in Consolidated Financial Statements – an amendment of ARB No. 51." SFAS No. 160 requires that (1) noncontrolling interests be reported as a separate component of equity, (2) net income attributable to the parent and to the non-controlling interest be separately identified in the income statement, (3) changes in a parent's ownership interest while the parent retains its controlling interest be accounted for as equity transactions, and (4) any retained noncontrolling equity investment upon the deconsolidation of a subsidiary be initially measured at fair value. The Company is required to adopt SFAS No. 160 effective at the beginning of 2010. The Company is evaluating the impact that the adoption of SFAS No. 160 will have on its financial statements.

In February 2007, the FASB issued SFAS No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities – Including an amendment of FASB Statement No. 115." Under SFAS No. 159, the Company may elect to measure many financial instruments and certain other items at fair value on an instrument by instrument basis, subject to certain restrictions. The Company is required to adopt SFAS No. 159 effective at the beginning of 2009. The impact of the adoption of SFAS No. 159 on the Company's financial statements will depend on the extent to which the Company elects to measure eligible items at fair value.

In September 2006, the FASB issued SFAS No. 157, "Fair Value Measurements." SFAS No. 157 defines fair value, establishes a framework for measuring fair value in generally accepted accounting principles and expands disclosures about fair value measurements. SFAS No. 157 applies under other accounting pronouncements that require or permit fair value measurements. In February 2008, the FASB issued FSP No. FAS 157-1, "Application of FASB Statement No. 157 to FASB Statement No. 13 and Other Accounting Pronouncements That Address Fair Value Measurements for Purposes of Lease Classification or Measurement under Statement 13," which amends SFAS No. 157 to exclude accounting pronouncements that address fair value measurements for purposes of lease classification or measurement under SFAS No. 13. In February 2008, the FASB also issued FSP No. FAS 157-2, "Effective Date of FASB Statement No. 157," which delays the effective date of SFAS No. 157 until the beginning of 2010 for all non-financial assets and non-financial liabilities, except for items that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). The Company is required to adopt SFAS No. 157 for financial assets and liabilities effective at the beginning of 2009. The Company is evaluating the impact that the adoption of SFAS No. 157 will have on its financial statements.

In June 2006, the FASB issued Interpretation No. 48 ("FIN 48"), "Accounting for Uncertainty in Income Taxes – an interpretation of FASB Statement No. 109." FIN 48 contains a two-step approach to recognizing and measuring uncertain tax positions accounted for in accordance with SFAS No. 109. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates it is more likely than not that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step is to measure the tax benefit as the largest amount which is more than 50% likely of being realized upon ultimate settlement. The Company adopted FIN 48 on August 31, 2007. The adoption of FIN 48 did not have a significant impact on the Company's results of operations or financial position. The Company did not change its policy of recognizing accrued interest and penalties related to unrecognized tax benefits within the income tax provision with the adoption of FIN 48. (See "Income Taxes" note.)

In February 2006, the FASB issued SFAS No. 155, "Accounting for Certain Hybrid Financial Instruments." SFAS No. 155 permits fair value remeasurement for any hybrid financial instrument that contains an embedded derivative that otherwise would require bifurcation. The Company adopted SFAS No. 155 as of the beginning of 2008. The adoption of SFAS No. 155 did not have a significant impact on the Company's results of operations or financial condition.

Supplemental Balance Sheet Information

Receivables	May 29, 2008	August 30, 2007
Trade receivables	$ 749	$ 739
Taxes other than income	44	44
Other	203	215
Allowance for doubtful accounts	(1)	(4)
	$ 995	$ 994

As of May 29, 2008 and August 30, 2007, other receivables included $77 million and $108 million, respectively, due from Intel Corporation primarily for amounts related to NAND Flash product design and process development activities. Other receivables as of May 29, 2008 and August 30, 2007 also included $77 million and $83 million, respectively, due from settlement of litigation. As of May 29, 2008, other receivables also included $8 million due from Nanya Technology Corporation related to licensing of intellectual property in connection with the MeiYa DRAM Joint Venture. (See "Joint Ventures – MeiYa DRAM Joint Venture with Nanya Technology Corporation" note.)

Other noncurrent assets as of May 29, 2008 and August 30, 2007 included receivables of $37 million and $110 million, respectively, due from settlement of litigation.

Inventories	May 29, 2008	August 30, 2007
Finished goods	$ 439	$ 517
Work in process	825	772
Raw materials and supplies	189	243
	$ 1,453	$ 1,532

The Company's results of operations for the second and first quarters of 2008 and fourth quarter of 2007 included charges of $15 million, $62 million and $20 million, respectively, to write down the carrying value of work in process and finished goods inventories of memory products (both DRAM and NAND Flash) to their estimated market values.

Intangible Assets

	May 29, 2008		August 30, 2007	
	Gross Amount	Accumulated Amortization	Gross Amount	Accumulated Amortization
Product and process technology	$ 570	$ (307)	$ 544	$ (271)
Customer relationships	127	(31)	127	(19)
Other	29	(13)	29	(9)
	$ 726	$ (351)	$ 700	$ (299)

During the first nine months of 2008 and 2007, the Company capitalized $33 million and $76 million, respectively, for product and process technology with weighted-average useful lives of 10 years and 9 years, respectively.

Amortization expense for intangible assets was $20 million and $60 million for the third quarter and first nine months of 2008, respectively, and $19 million and $55 million for the third quarter and first nine months of 2007, respectively. Annual amortization expense for intangible assets held as of May 29, 2008 is estimated to be $80 million for 2008, $71 million for 2009, $60 million for 2010, $55 million for 2011 and $46 million for 2012.

Property, Plant and Equipment	May 29, 2008	August 30, 2007
Land	$ 99	$ 107
Buildings	3,778	3,636
Equipment	13,176	12,379
Construction in progress	590	209
Software	282	267
	17,925	16,598
Accumulated depreciation	(9,204)	(8,319)
	$ 8,721	$ 8,279

Depreciation expense was $493 million and $1,467 million for the third quarter and first nine months of 2008, respectively, and $426 million and $1,208 million for the third quarter and first nine months of 2007, respectively.

Goodwill

As of August 30, 2007, the Company had goodwill related to its Memory segment of $463 million. During the second quarter of 2008, the Company wrote off all of the segment's goodwill based on the results of the Company's test for impairment. As of May 29, 2008 and August 30, 2007, the Company had goodwill related to its Imaging segment of $58 million and $52 million, respectively. The $6 million increase in goodwill for the Imaging segment during the first nine months of 2008 was due to additional contingent payments made in connection with the Company's acquisition of the CMOS image sensor business of Avago Technologies Limited. The Company's assessment of goodwill impairment in the second quarter of 2008 indicated that the fair value of the Imaging segment exceeded its carrying value and therefore goodwill in the segment was not impaired.

SFAS No. 142, "Goodwill and Other Intangible Assets," requires that goodwill be tested for impairment at a reporting unit level. The Company has determined that its reporting units are its Memory and Imaging segments based on its organizational structure and the financial information that is provided to and reviewed by management. The Company tests goodwill for impairment annually and whenever events or circumstances make it more likely than not that an impairment may have occurred. Goodwill is tested for impairment using a two-step process. In the first step, the fair value of a reporting unit is compared to its carrying value. If the fair value of a reporting unit exceeds the carrying value of the net assets assigned to a reporting unit, goodwill is considered not impaired and no further testing is required. If the carrying value of the net assets assigned to a reporting unit exceeds the fair value of a reporting unit, the second step of the impairment test is performed in order to determine the implied fair value of a reporting unit's goodwill. Determining the implied fair value of goodwill requires valuation of a reporting unit's tangible and intangible assets and liabilities in a manner similar to the allocation of purchase price in a business combination. If the carrying value of a reporting unit's goodwill exceeds its implied fair value, goodwill is deemed impaired and is written down to the extent of the difference.

In the first and second quarters of 2008, the Company experienced a sustained, significant decline in its stock price. As a result of the decline in stock prices, the Company's market capitalization fell significantly below the recorded value of its consolidated net assets for most of the second quarter of 2008. The reduced market capitalization reflected, in part, the Memory segment's lower average selling prices and expected continued weakness in pricing for the Company's memory products. Accordingly, in the second quarter of 2008, the Company performed an assessment of goodwill for impairment.

Based on the results of the Company's assessment of goodwill for impairment, it was determined that the carrying value of the Memory segment exceeded its estimated fair value. Therefore, the Company performed a preliminary second step of the impairment test to determine the implied fair value of goodwill. Specifically, the Company allocated the estimated fair value of the Memory segment as determined in the first step to recognized and unrecognized net assets, including allocations to intangible assets such as intellectual property, customer relationships and brand and trade names. The result of the preliminary analysis indicated that there would be no remaining implied value attributable to goodwill in the Memory segment and accordingly, the Company wrote off all $463 million of goodwill associated with its Memory segment as of February 28, 2008. In the third quarter of 2008, the Company finalized the second step of the impairment analysis and the results confirmed that there was no implied value attributable to goodwill in the Memory segment as of February 28, 2008.

In the first step of the impairment analysis, the Company performed extensive valuation analyses utilizing both income and market approaches to determine the fair value of its reporting units. Under the income approach, the Company determined the fair value based on estimated future cash flows discounted by an estimated weighted-average cost of capital, which reflects the overall level of inherent risk of a reporting unit and the rate of return an outside investor would expect to earn. Estimated future cash flows were based on our internal projection models, industry projections and other assumptions deemed reasonable by management. Under the market-based approach, the Company derived the fair value of its reporting units based on revenue and earnings multiples of comparable publicly-traded peer companies. In the second step of the impairment analysis, the Company determined the implied fair value of goodwill for the Memory segment by allocating the fair value of the segment to all of its assets and liabilities in accordance with SFAS No. 141, "Business Combinations," as if the segment had been acquired in a business combination and the price paid to acquire it was the fair value.

Accounts Payable and Accrued Expenses	**May 29, 2008**	**August 30, 2007**
Accounts payable	$ 814	$ 856
Salaries, wages and benefits	227	247
Customer advances	167	85
Income and other taxes	35	33
Interest payable	19	19
Other	112	145
	$ 1,374	$ 1,385

As of May 29, 2008 and August 30, 2007, customer advances included $167 million and $83 million, respectively, for the Company's obligation to provide certain NAND Flash memory products to Apple Computer, Inc. ("Apple") until December 31, 2010 pursuant to a prepaid NAND Flash supply agreement. As of May 29, 2008 and August 30, 2007, other accounts payable and accrued expenses included $12 million and $17 million, respectively, for amounts due to Intel for NAND Flash product design and process development and licensing fees pursuant to a product designs development agreement.

As of May 29, 2008 and August 30, 2007, other noncurrent liabilities included $83 million and $167 million, respectively, pursuant to the supply agreement with Apple.

Debt	**May 29, 2008**	**August 30, 2007**
Convertible senior notes payable, interest rate of 1.875%, due June 2014	$ 1,300	$ 1,300
Capital lease obligations payable in monthly installments through August 2021, weighted-average imputed interest rate of 6.6%	678	666
Notes payable in periodic installments through July 2015, weighted-average interest rate of 4.2% and 4.5%, respectively	373	374
Convertible subordinated notes payable, interest rate of 5.6%, due April 2010	70	70
	2,421	2,410
Less current portion	(262)	(423)
	$ 2,159	$ 1,987

As of May 29, 2008, notes payable and capital lease obligations above included $113 million, denominated in Japanese yen, at a weighted-average interest rate of 1.6%, and $51 million, denominated in Singapore dollars, at a weighted-average interest rate of 6.0%.

During the third quarter of 2008, the Company received $44 million in proceeds from sales-leaseback transactions and in connection with these transactions, recorded capital lease obligations aggregating $43 million with a weighted-average imputed interest rate of 6.1%, payable in periodic installments through May 2012. During the first nine months of 2008, the Company received $92 million in proceeds from sales-leaseback transactions and in connection with these transactions, recorded capital lease obligations aggregating $91 million with a weighted-average imputed interest rate of 6.7%, payable in periodic installments through May 2012.

During the second quarter of 2008, the Company's joint venture subsidiary, TECH Semiconductor Singapore Pte. Ltd., ("TECH") borrowed $240 million against a credit facility at Singapore Interbank Offered Rate ("SIBOR") plus 2.5%. On March 31, 2008, TECH entered into a new credit facility that enabling TECH to borrow up to $600 million at SIBOR plus 2.5%. The facility is available for drawdown through December 31, 2008. During the third quarter of 2008, TECH drew $270 million under the new credit facility and retired the previous credit facility by paying off the $240 million outstanding. The new credit facility is collateralized by substantially all of the assets of TECH (approximately $1,526 million as of May 29, 2008) and contains certain covenants that, among other requirements, establish certain liquidity, debt service coverage and leverage ratios, and restrict TECH's ability to incur indebtedness, create liens and acquire or dispose of assets. Payments under the new facility are due in approximately equal installments over 13 quarters commencing in May 2009. Beginning March 2009, TECH will be required to maintain $30 million in restricted cash and this restricted cash requirement will increase to $60 million in September 2009. The Company has guaranteed approximately 73% of the outstanding amount of the facility, with the Company's obligation increasing to 100% of the outstanding amount of the facility upon the occurrence of certain conditions.

Contingencies

The Company has 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. The Company is currently a party to other legal actions arising out of the normal course of business, none of which is expected to have a material adverse effect on the Company's business, results of operations or financial condition.

In the normal course of business, the Company is a party to a variety of agreements pursuant to which it 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 the Company's obligations and the unique facts and circumstances involved in each particular agreement. Historically, payments made by the Company under these types of agreements have not had a material effect on the Company's business, results of operations or financial condition.

The Company is involved in the following patent, antitrust, securities and Lexar matters.

Patent Matters: 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 the Company's products or manufacturing processes infringe their intellectual property rights. In this regard, the Company is engaged in litigation with Rambus, Inc. ("Rambus") relating to certain of Rambus' patents and certain of the Company's claims and defenses. Lawsuits between Rambus and the Company are pending in the U.S. District Court for the District of Delaware, U.S. District Court for the Northern District of California, Germany, France, and Italy. The Company also is engaged in patent litigation with Mosaid Technologies, Inc. ("Mosaid") in both the U.S. District Court for the Northern District of California and the U.S. District Court for the Eastern District of Texas. Among other things, the above lawsuits pertain to certain of the Company's SDRAM, DDR SDRAM, DDR2 SDRAM, DDR3 SDRAM, RLDRAM and image sensor products, which account for a significant portion of net sales.

The Company is unable to predict the outcome of assertions of infringement made against the Company and therefore cannot estimate the range of possible loss. A court determination that the Company's products or manufacturing processes infringe the intellectual property rights of others could result in significant liability and/or require the Company to make material changes to its products and/or manufacturing processes. Any of the foregoing could have a material adverse effect on the Company's business, results of operations or financial condition.

Antitrust Matters: On June 17, 2002, the Company received a grand jury subpoena from the U.S. District Court for the Northern District of California seeking information regarding an investigation by the Antitrust Division of the Department of Justice (the "DOJ") into possible antitrust violations in the "Dynamic Random Access Memory" or "DRAM" industry. The Company has cooperated fully and actively with the DOJ in its investigation. The Company has cooperated pursuant to the terms of the DOJ's Corporate Leniency Policy, which provides that in exchange for the Company's full, continuing and complete cooperation in the pending investigation, the Company will not be subject to prosecution, fines or other penalties from the DOJ.

Subsequent to the commencement of the DOJ DRAM investigation, at least sixty-eight purported class action lawsuits have been filed against the Company and other DRAM suppliers in various federal and state courts in the United States and in Puerto Rico on behalf of indirect purchasers alleging price-fixing in violation of federal and state antitrust laws, violations of state unfair competition law, and/or unjust enrichment relating to the sale and pricing of DRAM products during the period from April 1999 through at least June 2002. The complaints seek treble damages sustained by purported class members in addition to restitution, costs and attorneys' fees. A number of these cases have been removed to federal court and transferred to the U.S. District Court for the Northern District of California for consolidated proceedings. On January 29, 2008, the Northern District of California court granted in part and denied in part the Company's motion to dismiss plaintiffs' second amended consolidated complaint. Plaintiffs subsequently filed a motion seeking certification for interlocutory appeal of the decision. On February 27, 2008, plaintiffs filed a third amended complaint. On June 26, 2008, the United States Court of Appeals for the Ninth Circuit accepted plaintiffs' interlocutory appeal.

In addition, various states, through their Attorneys General, have filed suit against the Company and other DRAM manufacturers. On July 14, 2006, and on September 8, 2006 in an amended complaint, the following Attorneys General filed suit in the U.S. District Court for the Northern District of California: Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Hawaii, Idaho, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and the Commonwealth of the Northern Mariana Islands. Three states, Ohio, New Hampshire, and Texas, subsequently voluntarily dismissed their claims. The remaining states filed a third amended complaint on October 1, 2007. Alaska, Delaware, and Vermont subsequently voluntarily dismissed their claims. The amended complaint alleges, among other things, violations of the Sherman Act, Cartwright Act, and certain other states' consumer protection and antitrust laws and seeks damages, and injunctive and other relief. Additionally, on July 13, 2006, the State of New York filed a similar suit in the U.S. District Court for the Southern District of New York. That case was subsequently transferred to the U.S. District Court for the Northern District of California for pre-trial purposes. The State of New York filed an amended complaint on October 1, 2007.

Three purported class action DRAM lawsuits also have been filed in Quebec, Ontario, and British Columbia, Canada, on behalf of direct and indirect purchasers, alleging violations of the Canadian Competition Act. The substantive allegations in these cases are similar to those asserted in the cases filed in the United States. In May and June 2008 respectively, plaintiffs' motion for class certification was denied in the British Columbia and Quebec cases. In the British Columbia case, plaintiffs have filed an appeal of that decision.

In February and March 2007, All American Semiconductor, Inc., Jaco Electronics, Inc., and the DRAM Claims Liquidation Trust each filed suit against the Company and other DRAM suppliers in the U.S. District Court for the Northern District of California after opting-out of a direct purchaser class action suit that was settled. The complaints allege, among other things, violations of federal and state antitrust and competition laws in the DRAM industry, and seek damages, injunctive relief, and other remedies.

On October 11, 2006, the Company received a grand jury subpoena from the U.S. District Court for the Northern District of California seeking information regarding an investigation by the DOJ into possible antitrust violations in the "Static Random Access Memory" or "SRAM" industry. The Company believes that it is not a target of the investigation and is cooperating with the DOJ in its investigation of the SRAM industry.

Subsequent to the commencement of the DOJ SRAM investigation, at least eighty purported class action lawsuits have been filed against the Company and other SRAM suppliers in various federal courts on behalf of direct and indirect purchasers alleging price-fixing in violation of federal and state antitrust laws, violations of state unfair competition law, and/or unjust enrichment relating to the sale and pricing of SRAM products during the period from January 1998 through December 2005. The complaints seek treble monetary damages sustained by purported class members, in addition to restitution, costs, and attorneys' fees.

Three purported class action SRAM lawsuits also have been filed in Canada, on behalf of direct and indirect purchasers, alleging violations of the Canadian Competition Act. The substantive allegations in these cases are similar to those asserted in the SRAM cases filed in the United States.

In September 2007, a number of memory suppliers confirmed that they had received grand jury subpoenas from the U.S. District Court for the Northern District of California seeking information regarding an investigation by the DOJ into possible antitrust violations in the "Flash" industry. The Company has not received a subpoena and believes that it is not a target of the investigation.

At least thirty-four purported class action lawsuits were filed against the Company and other suppliers of Flash memory products in various federal and state courts on behalf of direct and indirect purchasers alleging price-fixing in violation of federal and state antitrust laws, violations of state unfair competition law, and/or unjust enrichment relating to the sale and pricing of Flash memory products during the period from January 1, 1999 through the date the various cases were filed. The complaints seek treble monetary damages sustained by purported class members, in addition to restitution, costs, and attorneys' fees. On February 8, 2008, the plaintiffs filed a consolidated amended complaint that did not name the Company as a defendant.

Three purported class action Flash lawsuits also have been filed in Canada, on behalf of direct and indirect purchasers, alleging violations of the Canadian Competition Act. The substantive allegations in these cases are similar to those asserted in the Flash cases filed in the United States.

On May 5, 2004, Rambus filed a complaint in the Superior Court of the State of California (San Francisco County) against the Company and other DRAM suppliers. The complaint alleges various causes of action under California state law including conspiracy to restrict output and fix prices on Rambus DRAM ("RDRAM") and unfair competition. The complaint seeks treble damages, punitive damages, attorneys' fees, costs, and a permanent injunction enjoining the defendants from the conduct alleged in the complaint.

The Company is unable to predict the outcome of these lawsuits and investigations and therefore cannot estimate the range of possible loss. The final resolution of these alleged violations of antitrust laws could result in significant liability and could have a material adverse effect on the Company's business, results of operations or financial condition.

Securities Matters: On February 24, 2006, a putative class action complaint was filed against the Company and certain of its officers in the U.S. District Court for the District of Idaho alleging claims under Section 10(b) and 20(a) of the Securities Exchange Act of 1934, as amended, and Rule 10b-5 promulgated thereunder. Four substantially similar complaints subsequently were filed in the same Court. The cases purport to be brought on behalf of a class of purchasers of the Company's stock during the period February 24, 2001 to February 13, 2003. The five lawsuits have been consolidated and a consolidated amended class action complaint was filed on July 24, 2006. The complaint generally alleges violations of federal securities laws based on, among other things, claimed misstatements or omissions regarding alleged illegal price-fixing conduct. The complaint seeks unspecified damages, interest, attorneys' fees, costs, and expenses. On December 19, 2007, the Court issued an order certifying the class but reducing the class period to purchasers of the Company's stock during the period from February 24, 2001 to September 18, 2002.

In addition, on March 23, 2006, a shareholder derivative action was filed in the Fourth District Court for the State of Idaho (Ada County), allegedly on behalf of and for the benefit of the Company, against certain of the Company's current and former officers and directors. The Company also was named as a nominal defendant. An amended complaint was filed on August 23, 2006 and subsequently dismissed by the Court. Another amended complaint was filed on September 6, 2007. The amended complaint is based on the same allegations of fact as in the securities class actions filed in the U.S. District Court for the District of Idaho and alleges breach of fiduciary duty, abuse of control, gross mismanagement, waste of corporate assets, unjust enrichment, and insider trading. The amended complaint seeks unspecified damages, restitution, disgorgement of profits, equitable and injunctive relief, attorneys' fees, costs, and expenses. The amended complaint is derivative in nature and does not seek monetary damages from the Company. However, the Company may be required, throughout the pendency of the action, to advance payment of legal fees and costs incurred by the defendants. On January 25, 2008, the Court granted the Company's motion to dismiss the second amended complaint without leave to amend. On March 10, 2008, plaintiffs filed a notice of appeal to the Idaho Court of Appeals.

The Company is unable to predict the outcome of these cases and therefore cannot estimate the range of possible loss. A court determination in any of these actions against the Company could result in significant liability and could have a material adverse effect on the Company's business, results of operations or financial condition.

Lexar Matters: In March 2006, following the Company's announcement of a definitive agreement to acquire Lexar Media, Inc. ("Lexar") in a stock-for-stock merger, four purported class action complaints were filed in the Superior Court for the State of California (Alameda County) on behalf of shareholders of Lexar against Lexar and its directors. Two of the complaints also named the Company as a defendant. The complaints alleged that the defendants breached, or aided and abetted the breach of, fiduciary duties owed to Lexar shareholders by, among other things, engaging in self-dealing, failing to engage in efforts to obtain the highest price reasonably available, and failing to properly value Lexar in connection with a merger transaction between Lexar and the Company. The plaintiffs sought, among other things, injunctive relief preventing, or an order of rescission reversing, the merger, compensatory damages, interest, attorneys' fees, and costs. On May 19, 2006, the plaintiffs filed a motion for preliminary injunction seeking to block the merger. On May 31, 2006, the Court denied the motion. An amended consolidated complaint was filed on October 10, 2006. On June 14, 2007, the Court granted Lexar's and the Company's motions to dismiss the amended complaint but allowed plaintiffs leave to file a further amended complaint. On November 16, 2007, the Court granted Lexar's and the Company's renewed motion to dismiss the case as to all parties with prejudice. On December 18, 2007, the Court entered an order holding that the plaintiffs had waived any right to appeal the final judgment.

Stock Warrants

In 2001, the Company received $480 million from the issuance of warrants to purchase 29.1 million shares of the Company's common stock. The warrants entitled the holders to exercise their warrants and purchase shares of common stock for $56.00 per share at any time through May 15, 2008. The warrants expired on May 15, 2008.

Equity Plans

As of May 29, 2008, the Company had an aggregate of 201.8 million shares of its common stock reserved for issuance under its various equity plans, of which 126.3 million shares were subject to outstanding stock awards and 75.5 million shares were available for future grants. Awards are subject to terms and conditions as determined by the Company's Board of Directors.

Stock Options: The Company granted 0.4 million and 6.9 million stock options during the third quarter and first nine months of 2008, respectively, with weighted-average grant-date fair values per share of $2.67 and $2.54, respectively. The Company granted 0.2 million and 8.0 million stock options during the third quarter and first nine months of 2007, respectively, with weighted-average grant-date fair values per share of $4.20 and $4.88, respectively.

The fair value of each option award is estimated as of the date of grant using the Black-Scholes option valuation model. The Black-Scholes model was developed for use in estimating the fair value of traded options which have no vesting restrictions and are fully transferable and requires the input of subjective assumptions, including the expected stock price volatility and estimated option life. The expected volatilities utilized by the Company are based on implied volatilities from traded options on the Company's stock and on historical volatility. The risk-free rates utilized by the Company are based on the U.S. Treasury yield in effect at the time of the grant. No dividends have been assumed in the Company's estimated option values. Assumptions used in the Black-Scholes model are presented below:

	Quarter ended		Nine months ended	
	May 29, 2008	May 31, 2007	May 29, 2008	May 31, 2007
Average expected life in years	4.25	4.25	4.25	4.25
Expected volatility	45%-48%	34%-37%	37%-48%	34%-42%
Weighted-average volatility	48%	36%	46%	39%
Weighted-average risk-free interest rate	2.5%	4.6%	2.9%	4.7%

Restricted Stock: The Company awards restricted stock and restricted stock units (collectively, "Restricted Awards") under its equity plans. During the third quarter of 2008, the Company granted 0.6 million and 0.1 million shares of service-based and performance-based Restricted Awards, respectively. During the first nine months of 2008 and 2007, the Company granted 4.2 million and 2.7 million shares, respectively, of service-based Restricted Awards, and 1.4 million and 0.9 million shares, respectively, of performance-based Restricted Awards. The weighted-average grant-date fair values per share were $7.56 and $8.42 for Restricted Awards granted during the third quarter and first nine months of 2008, respectively, and $15.07 for Restricted Awards granted during the first nine months of 2007.

Stock-Based Compensation Expense: Total compensation costs for the Company's equity plans were as follows:

	Quarter ended		Nine months ended	
	May 29, 2008	**May 31, 2007**	**May 29, 2008**	**May 31, 2007**
Stock-based compensation expense by caption:				
Cost of goods sold	$ 4	$ 3	$ 11	$ 8
Selling, general and administrative	6	4	18	14
Research and development	4	3	11	8
	$ 14	$ 10	$ 40	$ 30
Stock-based compensation expense by type of award:				
Stock options	$ 7	$ 7	$ 19	$ 18
Restricted stock	7	3	21	12
	$ 14	$ 10	$ 40	$ 30

Stock-based compensation expense of $3 million was capitalized and remained in inventory at May 29, 2008. As of May 29, 2008, $120 million of total unrecognized compensation costs related to non-vested awards was expected to be recognized through the third quarter of 2012, resulting in a weighted-average period of 1.3 years. Stock-based compensation expense in the above presentation does not reflect any significant income taxes, which is consistent with the Company's treatment of income or loss from its U.S. operations. (See "Income Taxes" note.)

Restructure

In an effort to increase its competitiveness and efficiency, in the fourth quarter of 2007 the Company began pursuing a number of initiatives to reduce costs across its operations. These initiatives included workforce reductions in certain areas of the Company as its business was realigned. Additional initiatives included establishing certain operations closer in location to the Company's global customers and evaluating functions more efficiently performed through partnerships or other outside relationships. In addition, the Company continues to focus on reducing overhead costs to meet or exceed industry benchmarks.

In the third quarter and first nine months of 2008, the Company recorded charges of $8 million and $29 million, respectively, primarily within its Memory segment, for employee severance and related costs, a write-down of certain facilities to their fair values, and relocation and retention bonuses. Since the beginning of the fourth quarter of 2007, the Company has incurred $48 million due to the restructuring initiatives. As of May 29, 2008 and August 30, 2007, $8 million and $5 million, respectively, of the restructure costs remained unpaid and were included in accounts payable and accrued expenses.

Other Operating (Income) Expense, Net

Other operating (income) expense for the third quarter and first nine months of 2008 included gains of $13 million and $70 million, respectively, on disposals of semiconductor equipment. Other operating (income) expense for the first nine months of 2008 included a gain of $38 million for receipts from the U.S. government in connection with anti-dumping tariffs and losses of $33 million from changes in currency exchange rates. Other operating (income) expense for the third quarter of 2007 included $15 million from gains on disposals of semiconductor equipment and $7 million in grants received in connection with the Company's operations in China. Other operating income for the first nine months of 2007 included $25 million from gains on disposals of semiconductor equipment, a gain of $30 million from the sale of certain intellectual property to Toshiba Corporation and $7 million in grants received in connection with the Company's operations in China.

Income Taxes

Income taxes for 2008 and 2007 primarily reflect taxes on the Company's non-U.S. operations and U.S. alternative minimum tax. The Company has a valuation allowance for its net deferred tax asset associated with its U.S. operations. The benefit for taxes on U.S. operations in 2008 and 2007 was substantially offset by changes in the valuation allowance.

Effective at the beginning of the first quarter of 2008, the Company adopted the provisions of FIN 48. In connection with the adoption of FIN 48, the Company increased its liability and decreased retained earnings by $1 million for net unrecognized tax benefits at August 31, 2007. As of August 31, 2007, the Company had $16 million of unrecognized income tax benefits, of which $15 million, if recognized, would affect the Company's effective tax rate. In the first nine months of 2008, unrecognized tax benefits decreased by $15 million primarily due to the expiration of certain foreign statutes of limitations. The Company does not expect to recognize any significant additional previously unrecognized tax benefits through the third quarter of 2009. As of May 29, 2008 and August 31, 2007, accrued interest and penalties related to uncertain tax positions were de minimis.

The Company and its subsidiaries file income tax returns with the United States federal government, various U.S. states and various foreign jurisdictions throughout the world. The Company's U.S. federal and state tax returns remain open to examination for 2005 through 2007 and 2004 through 2007, respectively. In addition, tax years open to examination in multiple foreign taxing jurisdictions range from 1999 to 2007. The Company is currently undergoing audits in the U.K. for 2004.

Earnings Per Share

Basic earnings per share is computed based on the weighted-average number of common shares and stock rights outstanding. Diluted earnings per share is computed based on the weighted-average number of common shares outstanding plus the dilutive effects of stock options, warrants and convertible notes. Potential common shares that would increase earnings per share amounts or decrease loss per share amounts are antidilutive and are therefore excluded from earnings per share calculations. Antidilutive potential common shares that could dilute basic earnings per share in the future were 223.8 million for the third quarter and first nine months of 2008, and 257.1 million for the third quarter and first nine months of 2007.

	Quarter ended		Nine months ended	
	May 29, 2008	May 31, 2007	May 29, 2008	May 31, 2007
Net loss available to common shareholders	$ (236)	$ (225)	$ (1,275)	$ (162)
Weighted-average common shares outstanding	772.8	769.9	772.4	768.5
Loss per share:				
Basic	$ (0.30)	$ (0.29)	$ (1.65)	$ (0.21)
Diluted	(0.30)	(0.29)	(1.65)	(0.21)

Comprehensive Income (Loss)

Comprehensive loss for the third quarter and first nine months of 2008 was ($244) million and ($1,282) million, respectively, and included ($8) million and ($7) million net of tax, respectively, of unrealized losses on investments. Comprehensive loss for the third quarter and first nine months of 2007 was ($225) million and ($163) million, respectively, and included de minimis amounts of unrealized gains and losses on investments.

Acquisition of Avago Technologies Limited Image Sensor Business

On December 11, 2006, the Company acquired the CMOS image sensor business of Avago Technologies Limited ("Avago") for an initial cash payment of $53 million and additional contingent consideration at the date of acquisition of up to $17 million if certain milestones were met through calendar 2008. As of May 29, 2008, the Company had paid $10 million of additional contingent consideration, which was recorded as an increase in goodwill subsequent to the acquisition date. The Company recorded total assets of $64 million (including intangible assets of $17 million and goodwill of $46 million) and total liabilities of $1 million. The Company's results of operations subsequent to the acquisition date include the CMOS image sensor business acquired from Avago as part of the Company's Imaging segment. Mercedes Johnson, a member of the Company's Board of Directors, was the Senior Vice President, Finance and Chief Financial Officer of Avago at the time of the transaction. Ms. Johnson recused herself from all deliberations of the Company's Board of Directors concerning this transaction.

Joint Ventures

NAND Flash Joint Ventures with Intel ("IM Flash"): The Company has formed two joint ventures with Intel Corporation ("Intel") to manufacture NAND Flash memory products for the exclusive benefit of the partners: IM Flash Technologies, LLC and IM Flash Singapore LLP. As of May 29, 2008, the Company owned 51% and Intel owned 49% of IM Flash. The financial results of IM Flash are included in the accompanying consolidated financial statements of the Company. The partners share the output of IM Flash generally in proportion to their ownership in IM Flash. IM Flash sells products to the joint venture partners at long-term negotiated prices approximating cost. IM Flash sales to Intel were $280 million and $744 million for the third quarter and first nine months of 2008, respectively, and $160 million and $327 million for the third quarter and first nine months of 2007, respectively, and $497 million for 2007.

IM Flash manufactures NAND Flash memory products based on NAND Flash designs developed by the Company and Intel and licensed to the Company. Product design and other research and development ("R&D") costs for NAND Flash are generally shared equally between the Company and Intel. As a result of reimbursements received from Intel under a NAND Flash R&D cost-sharing arrangement, the Company's R&D expenses were reduced by $34 million and $116 million for the third quarter and first nine months of 2008, respectively, and $43 million and $173 million for the third quarter and first nine months of 2007, respectively.

All amounts pertaining to Intel's interests in IM Flash are reported as noncontrolling interest. Intel contributed to IM Flash $11 million and $203 million (net of $92 million of distributions to Intel in the third quarter of 2008) in the third quarter and first nine months of 2008, respectively, and $319 million and $966 million for the third quarter and first nine months of 2007, respectively. IM Flash's cash and marketable investment securities ($293 million as of May 29, 2008) are not anticipated to be made available to finance the Company's other operations. The creditors of IM Flash have recourse only to the assets of IM Flash and do not have recourse to any other assets of the Company.

TECH Semiconductor Singapore Pte. Ltd. ("TECH"): Since 1998, the Company has participated in TECH, a semiconductor memory manufacturing joint venture in Singapore among the Company, Canon Inc. and Hewlett-Packard Company. As of May 29, 2008, the Company owned an approximate 73% interest in TECH. TECH's cash and marketable investment securities ($146 million as of May 29, 2008) are not anticipated to be made available to finance the Company's other operations. On March 31, 2008, TECH entered into a $600 million credit facility, which is guaranteed, in part, by the Company. (See "Debt" note.)

On March 30, 2007, the Company exercised its option and acquired all of the shares of TECH common stock held by the Singapore Economic Development Board for approximately $290 million, which included a note payable for $216 million. This note was fully paid in December 2007. As a result of the acquisition, the Company's ownership interest in TECH increased from 43% to 73%.

MeiYa DRAM Joint Venture with Nanya Technology Corporation ("Nanya"): On June 8, 2008, the Company and Nanya formed a joint venture corporation ("MeiYa") that will manufacture stack DRAM products and sell such products exclusively to the Company and Nanya. The Company and Nanya each contributed approximately $40 million in cash to MeiYa and each owns 50% of MeiYa. The Company and Nanya have each committed to contribute an additional $510 million prior to December 31, 2009. MeiYa leases a fabrication facility from Nanya and, after upgrading the facility to process 300mm DRAM wafers, will begin manufacturing stack DRAM products. The Company and Nanya will purchase all of the output of MeiYa generally in proportion to their ownership in MeiYa pursuant to the terms of a pricing arrangement. Under the pricing arrangement, the Company's price for products purchased from MeiYa is based on a margin sharing formula. The Company has determined that MeiYa is a variable interest entity as defined in FIN 46(R), "Consolidation of Variable Interest Entities – an interpretation of ARB No. 51," and that the Company is not the primary beneficiary of MeiYa. The Company accounts for its interest in MeiYa under the equity method.

In the third quarter of 2008, the Company transferred and licensed certain intellectual property related to the manufacture of stack DRAM products to Nanya and licensed certain intellectual property from Nanya. In addition, the Company began transferring technology to MeiYa in the third quarter of 2008. The Company and Nanya also jointly develop process technology and designs for manufacturing stack DRAM products with each party bearing its own development costs until such time that the development costs exceed a specified amount, following which such costs would be shared. The Company will receive an aggregate of $232 million from Nanya and MeiYa through 2010 for licensing and technology transfer fees, of which the Company realized $8 million of revenue in the third quarter of 2008. The Company will also receive royalties, from Nanya for stack DRAM products manufactured by Nanya.

Segment Information

The Company's segments are Memory and Imaging. The Memory segment's primary products are DRAM and NAND Flash memory and the Imaging segment's primary product is CMOS image sensors. Segment information reported below is consistent with how it is reviewed and evaluated by the Company's chief operating decision makers and is based on the nature of the Company's operations and products offered to customers. The Company does not identify or report depreciation and amortization, capital expenditures or assets by segment.

	Quarter ended		Nine months ended	
	May 29, 2008	May 31, 2007	May 29, 2008	May 31, 2007
Net sales:				
Memory	$ 1,327	$ 1,156	$ 3,917	$ 3,713
Imaging	171	138	475	538
Total consolidated net sales	$ 1,498	$ 1,294	$ 4,392	$ 4,251
Operating income (loss):				
Memory	$ (228)	$ (178)	$ (1,230)	$ (142)
Imaging	3	(17)	(27)	23
Total consolidated operating loss	$ (225)	$ (195)	$ (1,257)	$ (119)

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 in "Overview" regarding cost sharing of stack DRAM development costs with Nanya and future plans for the Aptina Imaging business; in "Net Sales" regarding increases in NAND Flash memory production; in "Gross Margin" regarding future charges for inventory write-downs; in "Restructure" regarding future actions; in "Recently Issued Accounting Standards" regarding the adoption of new accounting standards; in "Stock-based Compensation" regarding future stock-based compensation costs; and in "Liquidity and Capital Resources" regarding capital spending in 2008 and 2009, future net contributions to IM Flash and future contributions to MeiYa. The Company's actual results could differ materially from the Company's 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 and with the Company's Annual Report on Form 10-K for the year ended August 30, 2007. All period references are to the Company's fiscal periods unless otherwise indicated. The Company's fiscal year is the 52 or 53-week period ending on the Thursday closest to August 31. All production data reflects production of the Company and its consolidated joint ventures.

Overview

The Company is a global manufacturer of semiconductor devices, principally semiconductor memory products (including DRAM and NAND Flash) and CMOS image sensors. The Company operates in two segments: Memory and Imaging. Its products are used in a broad range of electronic applications including personal computers, workstations, network servers, mobile phones and other consumer applications including Flash memory cards, USB storage devices, digital still cameras, MP3/4 players and in automotive applications. The Company markets its products through its internal sales force, independent sales representatives and distributors primarily to original equipment manufacturers and retailers located around the world. The Company's success is largely dependent on the market acceptance of a diversified portfolio of semiconductor memory products, efficient utilization of the Company's manufacturing infrastructure, successful ongoing development of advanced process technologies and generation of sufficient return on research and development investments.

The Company is focused on improving its competitiveness by developing new products, advancing its technology and reducing costs. In addition, the Company increased its manufacturing capacity in 2008 and 2007 by ramping NAND Flash production at two 300mm wafer fabrication facilities and converting another facility to 300mm DRAM wafer fabrication. To reduce costs, the Company implemented restructure initiatives aimed at reducing manufacturing and overhead costs through outsourcing, relocation of operations and workforce reductions. In recent years, the Company has strategically entered into the NAND Flash memory and specialty DRAM markets. The Company is able to leverage its existing product and process technology and semiconductor memory manufacturing expertise in these markets.

MeiYa DRAM Joint Venture with Nanya Technology Corporation ("Nanya"): On June 8, 2008, the Company and Nanya formed a joint venture corporation ("MeiYa") that will manufacture stack DRAM products and sell such products exclusively to the Company and Nanya. The Company and Nanya each contributed approximately $40 million in cash to MeiYa and each owns 50% of MeiYa. The Company and Nanya have each committed to contribute an additional $510 million prior to December 31, 2009. MeiYa leases a fabrication facility from Nanya and, after upgrading the facility to process 300mm DRAM wafers, will begin manufacturing stack DRAM products. The Company and Nanya will purchase all of the output of MeiYa generally in proportion to their ownership in MeiYa pursuant to the terms of a pricing arrangement. Under the pricing arrangement, the Company's price for products purchased from MeiYa is based on a margin sharing formula. The Company accounts for its interest in MeiYa under the equity method.

In the third quarter of 2008, the Company transferred and licensed certain intellectual property related to the manufacture of stack DRAM products to Nanya and licensed certain intellectual property from Nanya. In addition, the Company began transferring technology to MeiYa in the third quarter of 2008. The Company and Nanya also jointly develop process technology and designs for manufacturing stack DRAM products with each party bearing its own development costs until such time that the development costs exceed a specified amount, following which such costs would be shared. The Company will receive an aggregate of $232 million from Nanya and MeiYa through 2010 for licensing and technology transfer fees, of which the Company realized $8 million of revenue in the third quarter of 2008. The Company will also receive royalties, from Nanya for stack DRAM products manufactured by Nanya.
Aptina Imaging Business: The Company is engaged in ongoing negotiations with private investors regarding the separation of its CMOS image sensor business, operating under the name "Aptina," to a newly created independent entity in which it would retain a significant minority ownership interest. It is expected that the Company would enter into a supply agreement in connection with the transaction pursuant to which it would continue to manufacture products for the business. The Company currently anticipates concluding the transaction before the end of its fiscal year end.

Goodwill Impairment: In the second quarter of 2008, the Company performed an assessment of impairment of goodwill. As a result of this assessment, the Company recorded a noncash impairment charge of $463 million to the goodwill recorded in its Memory segment. (See “Item 1. Financial Statements – Notes to Consolidated Financial Statements – Supplemental Balance Sheet Information – Goodwill.”)

Inventory Write-Downs: The Company’s results of operations for second and first quarters of 2008 and fourth quarter of 2007 included charges of $15 million, $62 million and $20 million, respectively, to write down the carrying value of work in process and finished goods inventories of memory products (both DRAM and NAND Flash) to their estimated market values.

Results of Operations

	Third Quarter				Second Quarter		Nine Months			
	2008	% of net sales	2007	% of net sales	2008	% of net sales	2008	% of net sales	2007	% of net sales
	(amounts in millions and as a percent of net sales)									
Net sales:										
Memory	$ 1,327	89 %	$ 1,156	89 %	$ 1,224	90 %	$ 3,917	89 %	$ 3,713	87 %
Imaging	171	11 %	138	11 %	135	10 %	475	11 %	538	13 %
	$ 1,498	100 %	$ 1,294	100 %	$ 1,359	100 %	$ 4,392	100 %	$ 4,251	100 %
Gross margin:										
Memory	$ (11)	(1) %	$ 68	6 %	$ (76)	(6) %	$ (126)	(3) %	$ 710	19 %
Imaging	59	35 %	38	28 %	33	24 %	136	29 %	195	36 %
	$ 48	3 %	$ 106	8 %	$ (43)	(3) %	$ 10	0 %	$ 905	21 %
SG&A	$ 116	8 %	$ 134	10 %	$ 120	9 %	$ 348	8 %	$ 467	11 %
R&D	170	11 %	195	15 %	180	13 %	513	12 %	621	15 %
Goodwill impairment	--	--	--	--	463	34 %	463	11 %	--	--
Restructure	8	1 %	--	--	8	1 %	29	1 %	--	--
Other operating (income) expense, net	(21)	(1) %	(28)	(2) %	(42)	(3) %	(86)	(2) %	(64)	(2) %
Net loss	(236)	(16) %	(225)	(17) %	(777)	(57) %	(1,275)	(29) %	(162)	(4) %

Net Sales

Total net sales for the third quarter of 2008 increased 10% as compared to the second quarter of 2008 primarily due to an 8% increase in Memory sales and a 27% increase in Imaging sales. Memory sales for the third quarter of 2008 reflect significant increases in gigabits sold partially offset by significant declines in per gigabit average selling prices as compared to the second quarter of 2008. Memory sales were approximately 90% of total net sales for the third and second quarters of 2008 and the third quarter of 2007. The increase in Imaging sales for the third quarter of 2008 as compared to the second quarter of 2008 was primarily due to higher unit sales. Total net sales for the third quarter of 2008 increased 16% as compared to the third quarter of 2007 primarily due to a 15% increase in Memory sales and a 24% increase in Imaging sales. Total net sales for the first nine months of 2008 increased 3% as compared to the first nine months of 2007 primarily due to a 5% increase in Memory sales partially offset by a 12% decrease in Imaging sales.

Memory: Memory sales for the third quarter of 2008 increased 8% from the second quarter of 2008 as sales of NAND Flash products increased by approximately 10% and sales of DRAM products increased by approximately 5%.

Sales of NAND Flash products for the third quarter of 2008 increased from the second quarter of 2008 primarily due to an increase of approximately 40% in gigabits sold as a result of production increases partially offset by a decline of approximately 20% in average selling prices per gigabit. Gigabit production of NAND Flash products increased approximately 55% for the third quarter of 2008 as compared to the second quarter of 2008, primarily due to the continued ramp of NAND Flash products at the Company's 300mm fabrication facilities and transitions to higher density, advanced geometry devices. Sales of NAND Flash products represented approximately 35% of the Company's total net sales for the third and second quarters of 2008 and approximately 25% for the third quarter of 2007. The Company expects that its gigabit production of NAND Flash products will continue to increase significantly in the fourth quarter of 2008.

Sales of DRAM products for the third quarter of 2008 increased from the second quarter of 2008 primarily due to an increase of approximately 10% in gigabit sales partially offset by a decline of approximately 5% in average selling prices principally due to a slight shift in product mix to DDR2 DRAM products. Gigabit production of DRAM products increased approximately 15% for the third quarter of 2008 as compared to the second quarter of 2008, primarily due to production efficiencies from improvements in product and process technologies, including TECH's conversion to 300mm wafer fabrication. Sales of DDR2 and DDR3 DRAM products were approximately 30% of the Company's total net sales in the third quarter and second quarter of 2008 and approximately 35% for the third quarter of 2007.

Memory sales for the third quarter of 2008 increased 15% from the third quarter of 2007 as an increase of approximately 60% in sales of NAND Flash products was partially offset by a decrease of approximately 5% in sales of DRAM products. Memory sales for the first nine months of 2008 increased 5% as compared to the first nine months of 2007 primarily due to an increase of approximately 75% in sales of NAND Flash products partially offset by a decrease of approximately 15% in sales of DRAM products. Sales of NAND Flash products for the third quarter of 2008 and first nine months of 2008 increased from the corresponding periods of 2007 primarily due to significant increases in gigabits sold partially offset by declines of approximately 70% in average selling prices for both periods. The significant increases in gigabit sales of NAND Flash products were primarily due to increased production as a result of the continued ramp of NAND Flash products at the Company's 300mm fabrication facilities and transitions to higher density, advanced geometry devices. The decrease in sales of DRAM products for the third quarter and first nine months of 2008 from the corresponding periods of 2007 was primarily the result of declines in average selling prices of approximately 45% and 55% respectively, mitigated by increases in gigabits sold of approximately 70% and 90%, respectively. Gigabit production of DRAM products increased approximately 70% and 80% for the third quarter and first nine months of 2008 as compared to the corresponding periods of 2007, primarily due to production efficiencies from improvements in product and process technologies.

Imaging: Imaging sales for the third quarter of 2008 increased 27% from the second quarter of 2008 primarily due to higher unit sales, particularly for products with 5-megapixel resolution. Imaging sales for the third quarter of 2008 increased by 24% from the third quarter of 2007 primarily due to increased units sales of products with 2-megapixel or higher resolution, partially offset by declines in average selling prices and reduced sales of lower resolution products. Imaging sales for the first nine months of 2008 decreased by 12% as compared to the first nine months of 2007 primarily due to significant declines in average selling prices and decreases in unit sales of products with 1-megapixel or lower resolution, mitigated by increases in units sales of products with 2-megapixel or higher resolution. Imaging sales were approximately 10% of the Company's total net sales for the third and second quarters of 2008 and third quarter of 2007.

Gross Margin

The Company's overall gross margin percentage improved to 3% for the third quarter of 2008 from negative 3% for the second quarter of 2008 due to improvements in the gross margin percentages for Memory and Imaging. The Company's overall gross margin percentage was 8% for the third quarter of 2007. The Company's overall gross margin percentage declined from 21% for the first nine months of 2007 to breakeven for the first nine months of 2008. The declines in gross margin for the third quarter and first nine months of 2008 from the corresponding periods of 2007 primarily reflect decreases in the gross margin percentage for Memory.

Memory: The Company's gross margin percentage for Memory products for the third quarter of 2008 improved to negative 1% from negative 6% for the second quarter of 2008 primarily due to an improvement in the margin for DRAM products and to a lesser extent an improvement in the margin for NAND Flash products. Gross margins for DRAM and NAND Flash products for the third quarter of 2008 benefited from cost reductions but were adversely affected by declines in average selling prices.

The gross margin percentage for DRAM products for the third quarter of 2008 improved from the second quarter of 2008, primarily due to a reduction of approximately 15% in costs per gigabit offset by the decline of approximately 5% in average selling prices. The Company achieved cost reductions for DRAM products through transitions to higher-density, advanced-geometry devices.

The Company's gross margin percentage on NAND Flash products for the third quarter of 2008 improved slightly from the second quarter of 2008 primarily due to a reduction of approximately 25% in costs per gigabit, partially offset by the decline of approximately 20% in average selling prices. Cost reductions in the third quarter of 2008 reflect lower manufacturing costs and lower costs of NAND Flash products purchased for sale under the Company's Lexar brand. The Company achieved manufacturing cost reductions for NAND Flash products primarily through increased production of higher-density, advanced-geometry devices at the Company's 300mm fabrication facilities. Sales of NAND Flash products include sales from IM Flash to Intel at long-term negotiated prices approximating cost. IM Flash sales to Intel were $280 million for the third quarter of 2008, $241 million for the second quarter of 2008, $160 million for the third quarter of 2007, $744 million for the first nine months of 2008, $327 million for the first nine months of 2007 and $497 million for 2007.

For the second and first quarters of 2008 and fourth quarter of 2007, the Company's gross margins for Memory were impacted by inventory write-downs of $15 million, $62 million and $20 million, respectively, as a result of the significant decreases in average selling prices for both DRAM and NAND Flash products. The Company did not write-down inventories in the third quarter of 2008 based on estimated selling prices. In future periods the Company would record additional inventory write-downs if estimated average selling prices of products held in finished goods and work in process inventories at a quarter-end date are below the manufacturing cost of these products.

The Company's gross margin percentage for Memory products declined to negative 1% for the third quarter of 2008 from 6% for the third quarter of 2007 and to negative 3% for the first nine months of 2008 from 19% for the first nine months of 2007, primarily due lower gross margins on sales of DRAM products and a shift in product mix to NAND Flash products, which realized significantly lower gross margins than DRAM products. Declines in gross margins on sales of DRAM products for the third quarter and first nine months of 2008 as compared to the corresponding periods of 2008 were primarily due to the reductions in average selling prices mitigated by per gigabit cost reductions of approximately 40% for both periods. Gross margins on NAND Flash products for the third quarter and first nine months of 2008 improved slightly as compared to the corresponding periods of 2007 despite the significant declines in average selling prices due to per gigabit cost reductions of approximately 70% for both periods.

In the third quarter of 2008, the Company's TECH Semiconductor Singapore Pte. Ltd. ("TECH") joint venture accounted for approximately 12% of the Company's total wafer production. TECH primarily produced DDR and DDR2 products in the first nine months of 2008 and 2007. Since TECH utilizes the Company's product designs and process technology and has a similar manufacturing cost structure, the gross margin on sales of TECH products approximates gross margins on sales of similar products manufactured by the Company's wholly-owned operations. (See "Item 1. Financial Statements – Notes to Consolidated Financial Statements – Joint Ventures – TECH Semiconductor Singapore Pte. Ltd.")

Imaging: The Company's gross margin percentage for Imaging for the third quarter of 2008 improved to 35% from 24% for the second quarter of 2008 primarily due to cost reductions and a shift in product mix to higher resolution products, which realized better gross margins. The Company's gross margin for Imaging products for the third quarter of 2008 improved to 35% from 28% for third quarter of 2007, primarily due to a shift to higher resolution products with better margins and cost reductions partially offset by declines in average selling prices. The Company's gross margin for Imaging products decreased to 29% for the first nine months of 2008 from 36% for the first nine months of 2007, primarily due to declines in average selling prices mitigated by cost reductions and a shift to higher resolution products.

Selling, General and Administrative

Selling, general and administrative ("SG&A") expenses for the third quarter of 2008 decreased 3% from the second quarter of 2008 primarily due to lower legal expenses. SG&A expenses for the third quarter of 2008 decreased 13% from the third quarter of 2007 primarily due to lower payroll expenses and other costs as a result of the Company's restructure initiatives. SG&A expenses for the first nine months of 2008 decreased 25% from the first nine months of 2007 primarily due to lower legal expenses and lower payroll expenses and other costs as a result of the Company's restructure initiatives. In the first quarter of 2007, the Company recorded a $31 million charge to SG&A as a result of the settlement of certain antitrust class action (direct purchaser) lawsuits. Future SG&A expense is expected to vary, potentially significantly, depending on, among other things, the number of legal matters that are resolved relatively early in their life-cycle and the number of matters that progress to trial.

For the Company's Memory segment, SG&A expenses as a percentage of sales were 7% for the third quarter of 2008, 8% for the second quarter of 2008, 10% for the third quarter of 2007, 8% for the first nine months of 2008 and 11% for the first nine months of 2007. For the Imaging segment, SG&A expenses as a percentage of sales were 11% for the third quarter of 2008, 13% for the second quarter of 2008, 10% for the third quarter of 2007, 11% for the first nine months of 2008 and 12% for the first nine months of 2007.

Research and Development

Research and development ("R&D") expenses vary primarily with the number of development wafers processed, the cost of advanced equipment dedicated to new product and process development, and personnel costs. Because of the lead times necessary to manufacture its products, the Company typically begins to process wafers before completion of performance and reliability testing. The Company deems development of a product complete once the product has been thoroughly reviewed and tested for performance and reliability. R&D expenses can vary significantly depending on the timing of product qualification as costs incurred in production prior to qualification are charged to R&D.

R&D expenses for the third quarter of 2008 decreased 6% from the second quarter of 2008 primarily due to decreases in development wafers processed. R&D expenses for the third quarter of 2008 decreased 13% from the third quarter of 2007, primarily due to decreases in development wafers processed and lower payroll costs as a result of the Company's restructure initiatives. R&D expenses for the first nine months of 2008 decreased 17% from the first nine months of 2007, primarily due to decreases in development wafers processed and lower payroll costs. As a result of reimbursements received from Intel Corporation under a NAND Flash R&D cost-sharing arrangement, R&D expenses were reduced by $34 million for the third quarter of 2008, $29 million for the second quarter of 2008, $43 million for the third quarter of 2007, $116 million for the first nine months of 2008 and $173 million for the first nine months of 2007.

For the Company's Memory segment, R&D expenses as a percentage of sales were 10% for the third quarter of 2008, 12% for the second quarter of 2008, 13% for the third quarter of 2007, 10% for the first nine months of 2008 and 14% for the first nine months of 2007. For the Imaging segment, R&D expenses as a percentage of sales were 20% for the third quarter of 2008, 27% for the second quarter of 2008, 31% for the third quarter of 2007, 23% for the first nine months of 2008 and 22% for the first nine months of 2007.

The Company's process technology R&D efforts are focused primarily on development of successively smaller line-width process technologies which are designed to facilitate the Company's transition to next-generation memory products and CMOS image sensors. Additional process technology R&D efforts focus on advanced computing and mobile memory architectures and new manufacturing materials. Product design and development efforts are concentrated on the Company's 1 Gb and 2 Gb DDR2 and DDR3 products as well as high density and mobile NAND Flash memory (including multi-level cell technology), CMOS image sensors and specialty memory products.

Goodwill Impairment

In the second quarter of 2008, the Company performed an assessment of impairment for goodwill. In the first and second quarters of 2008, the Company experienced a sustained, significant decline in its stock price. As a result of the decline in stock price, the Company's market capitalization fell significantly below the recorded value of its consolidated net assets for most of the second quarter of 2008. The reduced market capitalization reflected, in part, the Memory segment's lower average selling prices and expected continued weakness in pricing for the Company's Memory products.

Based on the results of the Company's assessment of goodwill for impairment, it was determined that the carrying value of the Memory segment exceeded its estimated fair value. Therefore, the Company performed a preliminary second step of the impairment test to determine the implied fair value of goodwill. Specifically, the Company allocated the estimated fair value of the Memory segment as determined in the first step to recognized and unrecognized net assets, including allocations to intangible assets such as intellectual property, customer relationships and brand and trade names. The result of the preliminary analysis indicated that there would be no remaining implied value attributable to goodwill in the Memory segment and accordingly, the Company wrote off all $463 million of goodwill associated with its Memory segment as of February 28, 2008. In the third quarter of 2008, the Company finalized the second step of the impairment analysis and the results confirmed that there was no implied value attributable to goodwill in the Memory segment as of February 28, 2008. The Company's assessment of goodwill impairment indicated that as of February 28, 2008, the fair value of the Imaging segment exceeded its carrying value and therefore goodwill in the segment was not impaired. (See "Item 1. Financial Statements – Notes to Consolidated Financial Statements – Supplemental Balance Sheet Information – Goodwill.")

Restructure

In an effort to increase its competitiveness and efficiency, in the fourth quarter of 2007, the Company began pursuing a number of initiatives to reduce costs across its operations. These initiatives included workforce reductions in certain areas of the Company as its business was realigned. Additional initiatives included establishing certain operations closer in location to the Company's global customers and evaluating functions more efficiently performed through partnerships or other outside relationships. In addition, the Company continues to focus on reducing overhead costs to meet or exceed industry benchmarks.

In the third quarter, second quarter and first nine months of 2008, the Company recorded charges of $8 million, $8 million and $29 million, respectively, primarily within its Memory segment, for employee severance and related costs, a write-down of certain facilities to their fair values, and relocation and retention bonuses. Since the beginning of the fourth quarter of 2007, the Company has incurred $48 million due to the restructuring initiatives.

Other Operating (Income) Expense, Net

Other operating (income) expense for the third quarter and first nine months of 2008 included gains of $13 million and $70 million, respectively, on disposals of semiconductor equipment. Other operating (income) expense for the first nine months of 2008 included a gain of $38 million for receipts from the U.S. government in connection with anti-dumping tariffs and losses of $33 million from changes in currency exchange rates. Other operating (income) expense for the second quarter of 2008 included gains of $47 million on disposals of semiconductor equipment and losses of $6 million from changes in currency exchange rates. Other operating (income) expense for the third quarter of 2007 included $15 million from gains on disposals of semiconductor equipment and $7 million in grants received in connection with the Company's operations in China. Other operating income for the first nine months of 2007 included $25 million from gains on disposals of semiconductor equipment, a gain of $30 million from the sale of certain intellectual property to Toshiba Corporation and $7 million in grants received in connection with the Company's operations in China.

Income Taxes

Income taxes for 2008 and 2007 primarily reflect taxes on the Company's non-U.S. operations and U.S. alternative minimum tax. The Company has a valuation allowance for its net deferred tax asset associated with its U.S. operations. The benefit for taxes on U.S. operations in 2008 and 2007 was substantially offset by changes in the valuation allowance. Due to certain foreign statutes of limitations, which expired on December 31, 2007, the Company recognized approximately $15 million of previously unrecognized tax benefits in the second quarter of 2008.

Noncontrolling Interests in Net (Income) Loss

Noncontrolling interests for 2008 and 2007 primarily reflects the share of income or losses of the Company's TECH joint venture attributable to the noncontrolling interests in TECH. On March 30, 2007, the Company acquired all of the shares of TECH common stock held by the Singapore Economic Development Board, which had the effect of reducing the noncontrolling interests in TECH as of that date from 57% to 27%. (See "Item 1. Financial Statements – Notes to Consolidated Financial Statements – Joint Ventures – TECH Semiconductor Singapore Pte. Ltd.")

Stock-Based Compensation

Total compensation cost for the Company's equity plans for the third quarter of 2008, the second quarter of 2008, and third quarter of 2007 was $14 million, $13 million and $10 million, respectively. Total compensation cost for the Company's equity plans for the first nine months of 2008 and 2007, was $40 million and $30 million, respectively. As of May 29, 2008, $3 million of stock-based compensation expense was capitalized and remained in inventory. As of May 29, 2008, $120 million of total unrecognized compensation cost related to non-vested awards was expected to be recognized through the third quarter of 2012. In 2005, the Company accelerated the vesting of substantially all of its unvested stock options then outstanding which reduced stock compensation recognized in subsequent periods.

Liquidity and Capital Resources

The Company's liquidity is highly dependent on average selling prices for its products and the timing of capital expenditures, both of which can vary significantly from period to period. As of May 29, 2008, the Company had cash and equivalents and short-term investments totaling $1.6 billion compared to $2.6 billion as of August 30, 2007. The balance as of May 29, 2008, included an aggregate of $439 million held at, and anticipated to be used in the near term by, IM Flash and TECH and are not anticipated to be made available to finance the Company's other operations.

Operating Activities: The Company generated $775 million of cash from operating activities in the first nine months of 2008, which primarily reflects the Company's $1,275 million of net loss adjusted by $1,528 million for noncash depreciation and amortization expense and a $463 million noncash goodwill write-down.

Investing Activities: Net cash used by investing activities was $1,289 million in the first nine months of 2008, which included cash expenditures for property, plant and equipment of $1,809 million partially offset by the net effect of purchases, sales and maturities of investment securities of $294 million and $175 million in proceeds from sales of equipment. A significant portion of the capital expenditures relate to the ramp of IM Flash facilities and 300mm conversion of manufacturing operations at TECH. The Company believes that to develop new product and process technologies, support future growth, achieve operating efficiencies and maintain product quality, it must continue to invest in manufacturing technologies, facilities and capital equipment and research and development. The Company estimates capital spending to approximate between $2.5 billion to $3.0 billion for 2008, primarily for expenditures on 300mm fabrication facilities. The Company expects 2009 capital spending to approximate $1.5 billion to $2.0 billion, of which approximately $300 million is expected to be funded by contributions by joint venture partners. As of May 29, 2008, the Company had commitments of approximately $950 million for the acquisition of property, plant and equipment, nearly all of which are expected to be paid within one year.

Financing Activities: Net cash used for financing activities was $204 million in the first nine months of 2008, which primarily reflects an aggregate of $1,001 million in debt payments and payments on equipment purchase contracts partially offset by $507 million in proceeds from borrowings and $203 million in cash contributions received (net of distributions paid) from joint venture partners.

During the second quarter of 2008, the Company's TECH subsidiary borrowed $240 million against a credit facility at Singapore Interbank Offered Rate ("SIBOR") plus 2.5%. On March 31, 2008, TECH entered into a new credit facility enabling it to borrow up to $600 million at SIBOR plus 2.5%. The facility is available for drawdown through December 31, 2008. During the third quarter of 2008, TECH drew $270 million under the new credit facility and retired the previous credit facility by paying off the $240 million outstanding. The new credit facility is collateralized by substantially all of the assets of TECH (approximately $1,526 million as of May 29, 2008) and contains certain covenants that, among other requirements, establish certain liquidity, debt service coverage and leverage ratios, and restrict TECH's ability to incur indebtedness, create liens and acquire or dispose of assets. Payments under the new facility are due in approximately equal installments over 13 quarters commencing in May 2009. Beginning March 2009, TECH will be required to maintain $30 million in restricted cash and this restricted cash requirement will increase to $60 million in September 2009. The Company has guaranteed approximately 73% of the outstanding amount of the facility, with the Company's obligation increasing to 100% of the outstanding amount of the facility upon the occurrence of certain conditions. As a condition to granting the guarantee, the Company has a second position priority interest in all of the assets of TECH behind the lenders. (See "Item 1. Financial Statements – Notes to Consolidated Financial Statements – Supplemental Balance Sheet Information – Debt.")

Access to capital markets has historically been important to the Company. Depending on market conditions, the Company may issue registered or unregistered securities to raise capital to fund a portion of its operations.

Joint Ventures: As of May 29, 2008, IM Flash had $293 million of cash and marketable investment securities. The Company plans to make cash contributions to IM Flash, net of distributions received, of approximately $350 million through the end of 2009, with similar contributions to be made by Intel. Timing of these contributions, however, is subject to market conditions and approval of the partners. The Company anticipates additional investments as appropriate to support the growth of IM Flash's operations. (See "Item 1. Financial Statements – Notes to Consolidated Financial Statements – Joint Ventures – NAND Flash Joint Ventures with Intel.")

On June 8, 2008, the Company and Nanya formed a joint venture corporation ("MeiYa") that will manufacture stack DRAM products and sell such products exclusively to the Company and Nanya. The Company and Nanya each contributed $40 million in cash to MeiYa at the closing of the joint venture transaction and have each committed to contribute an additional $510 million on or prior to December 31, 2009. (See "Overview – MeiYa DRAM Joint Venture with Nanya Technology Corporation.")

Contractual Obligations: As of May 29, 2008, contractual obligations for notes payable, capital lease obligations and operating leases were as follows:

	Total	Remainder of 2008	2009	2010	2011	2012	2013 and thereafter
			(amounts in millions)				
Notes payable (including interest)	$ 1,938	$ 15	$ 143	$ 376	$ 29	$ 24	$ 1,351
Capital lease obligations	795	53	209	142	255	40	96
Operating leases	98	5	17	14	13	11	38

Recently Issued Accounting Standards

In May 2008, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards ("SFAS") No. 162, "The Hierarchy of Generally Accepted Accounting Principles." SFAS No. 162 identifies the sources of accounting principles and the framework for selecting the principles used in the preparation of financial statements that are presented in conformity with generally accepted accounting principles. SFAS No. 162 becomes effective 60 days following the SEC's approval of the Public Company Accounting Oversight Board amendments to AU Section 411, "The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles." The Company does not expect that the adoption of SFAS No. 162 will have a material impact on its financial statements.

In May 2008, the FASB issued FASB Staff Position ("FSP") No. APB 14-1, "Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Settlement)." FSP No. APB 14-1 requires that issuers of convertible debt instruments that may be settled in cash upon conversion separately account for the liability and equity components in a manner that will reflect the entity's nonconvertible debt borrowing rate when interest cost is recognized in subsequent periods. The Company is required to adopt FSP No. APB 14-1 retrospectively, effective at the beginning of 2010. The Company is evaluating the impact that the adoption of FSP No. APB 14-1 will have on its financial statements.

In April 2008, the FASB issued FSP No. FAS 142-3, "Determination of the Useful Life of Intangible Assets." FSP No. FAS 142-3 amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset under SFAS No. 142, "Goodwill and Other Intangible Assets." The Company is required to adopt FSP No. FAS 142-3 effective at the beginning of 2010. The Company is evaluating the impact that the adoption of FSP No. FAS 142-3 will have on its financial statements.

In March 2008, the FASB issued SFAS No. 161, "Disclosures about Derivative Instruments and Hedging Activities – an amendment of FASB Statement No. 133." SFAS No. 161 requires qualitative disclosures about objectives and strategies for using derivatives, quantitative disclosures about fair value amounts of and gains and losses on derivative instruments, and disclosures about credit-risk-related contingent features in derivative agreements. The Company is required to adopt SFAS No. 161 effective for the second quarter of 2009. The Company is evaluating the impact that the adoption of SFAS No. 161 will have on its financial statements.

In December 2007, the FASB ratified Emerging Issues Task Force ("EITF") Issue No. 07-1, "Accounting for Collaborative Arrangements," which defines collaborative arrangements and establishes reporting and disclosure requirements for transactions between participants in a collaborative arrangement and between participants in the arrangements and third parties. The Company is required to adopt EITF No. 07-1 effective at the beginning of 2010. The Company is evaluating the impact that the adoption of EITF No. 07-1 will have on its financial statements.

In December 2007, the FASB issued SFAS No. 141 (revised 2007), "Business Combinations" ("SFAS No. 141(R)"), which establishes the principles and requirements for how an acquirer in a business combination (1) recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, and any noncontrolling interests in the acquiree, (2) recognizes and measures the goodwill acquired in the business combination or a gain from a bargain purchase, and (3) determines what information to disclose. The Company is required to adopt SFAS No. 141(R) effective at the beginning of 2010. The impact of the adoption of SFAS No. 141(R) will depend on the nature and extent of business combinations occurring on or after the beginning of 2010.

In December 2007, the FASB issued SFAS No. 160, "Noncontrolling Interests in Consolidated Financial Statements – an amendment of ARB No. 51." SFAS No. 160 requires that (1) noncontrolling interests be reported as a separate component of equity, (2) net income attributable to the parent and to the non-controlling interest be separately identified in the income statement, (3) changes in a parent's ownership interest while the parent retains its controlling interest be accounted for as equity transactions, and (4) any retained noncontrolling equity investment upon the deconsolidation of a subsidiary be initially measured at fair value. The Company is required to adopt SFAS No. 160 effective at the beginning of 2010. The Company is evaluating the impact that the adoption of SFAS No. 160 will have on its financial statements.

In February 2007, the FASB issued SFAS No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities – Including an amendment of FASB Statement No. 115." Under SFAS No. 159, the Company may elect to measure many financial instruments and certain other items at fair value on an instrument by instrument basis, subject to certain restrictions. The Company is required to adopt SFAS No. 159 effective at the beginning of 2009. The impact of the adoption of SFAS No. 159 on the Company's financial statements will depend on the extent to which the Company elects to measure eligible items at fair value.

In September 2006, the FASB issued SFAS No. 157, “Fair Value Measurements.” SFAS No. 157 defines fair value, establishes a framework for measuring fair value in generally accepted accounting principles and expands disclosures about fair value measurements. SFAS No. 157 applies under other accounting pronouncements that require or permit fair value measurements. In February 2008, the FASB issued FSP No. FAS 157-1, “Application of FASB Statement No. 157 to FASB Statement No. 13 and Other Accounting Pronouncements That Address Fair Value Measurements for Purposes of Lease Classification or Measurement under Statement 13,” which amends SFAS No. 157 to exclude accounting pronouncements that address fair value measurements for purposes of lease classification or measurement under SFAS No. 13. In February 2008, the FASB also issued FSP No. FAS 157-2, “Effective Date of FASB Statement No. 157,” which delays the effective date of SFAS No. 157 until the beginning of 2010 for all non-financial assets and non-financial liabilities, except for items that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). The Company is required to adopt SFAS No. 157 for financial assets and liabilities effective at the beginning of 2009. The Company is evaluating the impact that the adoption of SFAS No. 157 will have on its financial statements.

In June 2006, the FASB issued Interpretation No. 48 (“FIN 48”), “Accounting for Uncertainty in Income Taxes – an interpretation of FASB Statement No. 109.” FIN 48 contains a two-step approach to recognizing and measuring uncertain tax positions accounted for in accordance with SFAS No. 109. The first step is to evaluate the tax position for recognition by determining if the weight of available evidence indicates it is more likely than not that the position will be sustained on audit, including resolution of related appeals or litigation processes, if any. The second step is to measure the tax benefit as the largest amount which is more than 50% likely of being realized upon ultimate settlement. The Company adopted FIN 48 on August 31, 2007. The adoption of FIN 48 did not have a significant impact on the Company’s results of operations or financial position. The Company did not change its policy of recognizing accrued interest and penalties related to unrecognized tax benefits within the income tax provision with the adoption of FIN 48. (See “Income Taxes” note.)

In February 2006, the FASB issued SFAS No. 155, “Accounting for Certain Hybrid Financial Instruments.” SFAS No. 155 permits fair value remeasurement for any hybrid financial instrument that contains an embedded derivative that otherwise would require bifurcation. The Company adopted SFAS No. 155 as of the beginning of 2008. The adoption of SFAS No. 155 did not have a significant impact on the Company’s results of operations or financial condition.

Critical Accounting Estimates

The preparation of financial statements and related disclosures in conformity with U.S. GAAP requires management to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues, expenses and related disclosures. Estimates and judgments are based on historical experience, forecasted future events and various other assumptions that the Company believes to be reasonable under the circumstances. Estimates and judgments may vary under different assumptions or conditions. The Company evaluates its estimates and judgments on an ongoing basis. Management believes the accounting policies below are critical in the portrayal of the Company’s financial condition and results of operations and requires management’s most difficult, subjective or complex judgments.

Acquisitions and consolidations: Determination and the allocation of the purchase price of acquired operations significantly influences the period in which costs are recognized. Accounting for acquisitions and consolidations requires the Company to estimate the fair value of the individual assets and liabilities acquired as well as various forms of consideration given, which involves a number of judgments, assumptions and estimates that could materially affect the amount and timing of costs recognized. The Company typically obtains independent third party valuation studies to assist in determining fair values, including assistance in determining future cash flows, appropriate discount rates and comparable market values.

Contingencies: The Company is subject to the possibility of losses from various contingencies. Considerable judgment is necessary to estimate the probability and amount of any loss from such contingencies. An accrual is made when it is probable that a liability has been incurred or an asset has been impaired and the amount of loss can be reasonably estimated. The Company accrues a liability and charges operations for the estimated costs of adjudication or settlement of asserted and unasserted claims existing as of the balance sheet date.

Goodwill and intangible assets: In the second quarter of 2008, the Company recorded a goodwill impairment charge of $463 million. The Company tests goodwill for impairment annually and whenever events or circumstances make it more likely than not that an impairment may have occurred, such as a significant adverse change in the business climate (including declines in selling prices for products) or a decision to sell or dispose of a reporting unit. Goodwill is tested for impairment using a two-step process. In the first step, the fair value of each reporting unit is compared to the carrying value of the net assets assigned to the unit. If the fair value of the reporting unit exceeds its carrying value, goodwill is considered not impaired. If the carrying value of the reporting unit exceeds its fair value, then the second step of the impairment test must be performed in order to determine the implied fair value of the reporting unit's goodwill. Determining the implied fair value of goodwill requires valuation of all of the Company's tangible and intangible asset and liabilities. If the carrying value of a reporting unit's goodwill exceeds its implied fair value, then the Company would record an impairment loss equal to the difference.

Determining when to test for impairment, the Company's reporting units, the fair value of a reporting unit and the fair value of assets and liabilities within a reporting unit, requires judgment and involves the use of significant estimates and assumptions. These estimates and assumptions include revenue growth rates and operating margins used to calculate projected future cash flows, risk-adjusted discount rates, future economic and market conditions and determination of appropriate market comparables. The Company bases fair value estimates on assumptions it believes to be reasonable but that are unpredictable and inherently uncertain. Actual future results may differ from those estimates. In addition, judgments and assumptions are required to allocate assets and liabilities to reporting units.

The Company tests other identified intangible assets with definite useful lives and subject to amortization when events and circumstances indicate the carrying value may not be recoverable by comparing the carrying amount to the sum of undiscounted cash flows expected to be generated by the asset. The Company tests intangible assets with indefinite lives annually for impairment using a fair value method such as discounted cash flows. Estimating fair values involves significant assumptions, especially regarding future sales prices, sales volumes, costs and discount rates.

Income taxes: The Company is required to estimate its provision for income taxes and amounts ultimately payable or recoverable in numerous tax jurisdictions around the world. Estimates involve interpretations of regulations and are inherently complex. Resolution of income tax treatments in individual jurisdictions may not be known for many years after completion of any fiscal year. The Company is also required to evaluate the realizability of its deferred tax assets on an ongoing basis in accordance with U.S. GAAP, which requires the assessment of the Company's performance and other relevant factors when determining the need for a valuation allowance with respect to these deferred tax assets. Realization of deferred tax assets is dependent on the Company's ability to generate future taxable income. The Company adopted FIN 48 effective at the beginning of 2008.

Inventories: Inventories are stated at the lower of average cost or market value. Cost includes labor, material and overhead costs, including product and process technology costs. Determining market value of inventories involves numerous judgments, including projecting average selling prices and sales volumes for future periods and costs to complete products in work in process inventories. To project average selling prices and sales volumes, the Company reviews recent sales volumes, existing customer orders, current contract prices, industry analysis of supply and demand, seasonal factors, general economic trends and other information. When these analyses reflect estimated market values below the Company's manufacturing costs, the Company records a charge to cost of goods sold in advance of when the inventory is actually sold. Differences in forecasted average selling prices used in calculating lower of cost or market adjustments can result in significant changes in the estimated net realizable value of product inventories and accordingly the amount of write-down recorded. For example, a 5% variance in the estimated selling prices would have changed the estimated fair value of the Company's semiconductor memory inventory by approximately $90 million at May 29, 2008. Due to the volatile nature of the semiconductor memory industry, actual selling prices and volumes often vary significantly from projected prices and volumes and, as a result, the timing of when product costs are charged to operations can vary significantly.

U.S. GAAP provides for products to be grouped into categories in order to compare costs to market values. The amount of any inventory write-down can vary significantly depending on the determination of inventory categories. The Company's inventories have been categorized as Memory products or Imaging products. The major characteristics the Company considers in determining inventory categories are product type and markets.

Product and process technology: Costs incurred to acquire product and process technology or to patent technology developed by the Company are capitalized and amortized on a straight-line basis over periods currently ranging up to 10 years. The Company capitalizes a portion of costs incurred based on its analysis of historical and projected patents issued as a percent of patents filed. Capitalized product and process technology costs are amortized over the shorter of (i) the estimated useful life of the technology, (ii) the patent term or (iii) the term of the technology agreement.

Research and development: Costs related to the conceptual formulation and design of products and processes are expensed as research and development when incurred. Determining when product development is complete requires judgment by the Company. The Company deems development of a product complete once the product has been thoroughly reviewed and tested for performance and reliability.

Stock-based compensation: Under the provisions of SFAS No. 123(R), stock-based compensation cost is estimated at the grant date based on the fair-value of the award and is recognized as expense ratably over the requisite service period of the award. For stock based compensation awards with graded vesting that were granted after 2005, the Company recognizes compensation expense using the straight-line amortization method. For performance-based stock awards, the expense recognized is dependent on the probability of the performance measure being achieved. The Company utilizes forecasts of future performance to assess these probabilities and this assessment requires considerable judgment.

Determining the appropriate fair-value model and calculating the fair value of stock-based awards at the grant date requires considerable judgment, including estimating stock price volatility, expected option life and forfeiture rates. The Company develops its estimates based on historical data and market information which can change significantly over time. A small change in the estimates used can result in a relatively large change in the estimated valuation. The Company uses the Black-Scholes option valuation model to value employee stock awards. The Company estimates stock price volatility based on an average of its historical volatility and the implied volatility derived from traded options on the Company’s stock.

Item 3. ***Quantitative and Qualitative Disclosures about Market Risk***

Interest Rate Risk

As of May 29, 2008, $2,084 million of the Company's $2,421 million of debt was at fixed interest rates. As a result, the fair value of the debt fluctuates based on changes in market interest rates. The estimated fair market value of the Company's debt was $2,185 million as of May 29, 2008 and was $2,411 million as of August 30, 2007. The Company estimates that as of May 29, 2008, a 1% decrease in market interest rates would change the fair value of the fixed-rate debt by approximately $80 million.

Foreign Currency Exchange Rate Risk

The information in this section should be read in conjunction with the information related to changes in the exchange rates of foreign currency in "Item 1A. Risk Factors." Changes in foreign currency exchange rates could materially adversely affect the Company's results of operations or financial condition.

The functional currency for substantially all of the Company's operations is the U.S. dollar. The Company held aggregate cash and other assets in foreign currencies valued at U.S. $489 million as of May 29, 2008 and U.S. $448 million as of August 30, 2007. The Company also had aggregate foreign currency liabilities valued at U.S. $657 million as of May 29, 2008 and U.S. $979 million as of August 30, 2007. Significant components of the Company's assets and liabilities denominated in foreign currencies were as follows (in U.S. dollar equivalents):

	May 29, 2008			August 30, 2007		
	Singapore Dollars	Yen	Euro	Singapore Dollars	Yen	Euro
Cash and equivalents	$ 110	$ 151	$ 21	$ 58	$ 180	$ 11
Net deferred tax assets	--	85	2	--	76	2
Debt	(51)	(113)	(5)	(258)	(165)	(5)
Accounts payable and accrued expenses	(141)	(116)	(89)	(116)	(168)	(137)

The Company estimates that, based on its assets and liabilities denominated in currencies other than the U.S. dollar as of May 29, 2008, a 1% change in the exchange rate versus the U.S. dollar would result in foreign currency gains or losses of approximately U.S. $1 million for the euro and the Singapore dollar.

Item 4. ***Controls and Procedures***

An evaluation was carried out under the supervision and with the participation of the Company's management, including its principal executive officer and principal financial officer, of the effectiveness of the design and operation of the Company's 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 the Company in the reports that it files or submits under the Exchange Act is 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 the Company's 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 the Company's internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. ***Legal Proceedings***

Patent Matters

On August 28, 2000, the Company filed a complaint against Rambus, Inc. ("Rambus") in the U.S. District Court for the District of Delaware seeking monetary damages and declaratory and injunctive relief. Among other things, the Company's complaint (as amended) alleges violation of federal antitrust laws, breach of contract, fraud, deceptive trade practices, and negligent misrepresentation. The complaint also seeks a declaratory judgment (a) that certain Rambus patents are not infringed by the Company, are invalid, and/or are unenforceable, (b) that the Company has an implied license to those patents, and (c) that Rambus is estopped from enforcing those patents against the Company. On February 15, 2001, Rambus filed an answer and counterclaim in Delaware denying that the Company is entitled to relief, alleging infringement of the eight Rambus patents named in the Company's declaratory judgment claim, and seeking monetary damages and injunctive relief. In the Delaware action, the Company subsequently added claims and defenses based on Rambus's alleged spoliation of evidence and litigation misconduct. The spoliation and litigation misconduct claims and defenses were heard in a bench trial before Judge Robinson in October 2007. Post-trial briefing is underway for this phase of the litigation.

A number of other suits involving Rambus are currently pending in Europe alleging that certain of the Company's SDRAM and DDR SDRAM products infringe various of Rambus' country counterparts to its European patent 525 068, including: on September 1, 2000, Rambus filed suit against Micron Semiconductor (Deutschland) GmbH in the District Court of Mannheim, Germany; on September 22, 2000, Rambus filed a complaint against the Company and Reptronic (a distributor of the Company's products) in the Court of First Instance of Paris, France; on September 29, 2000, the Company filed suit against Rambus in the Civil Court of Milan, Italy, alleging invalidity and non-infringement. In addition, on December 29, 2000, the Company filed suit against Rambus in the Civil Court of Avezzano, Italy, alleging invalidity and non-infringement of the Italian counterpart to European patent 1 004 956. Additionally, on August 14, 2001, Rambus filed suit against Micron Semiconductor (Deutschland) GmbH in the District Court of Mannheim, Germany alleging that certain of the Company's DDR SDRAM products infringe Rambus' country counterparts to its European patent 1 022 642. In the European suits against the Company, Rambus is seeking monetary damages and injunctive relief. Subsequent to the filing of the various European suits, the European Patent Office (the "EPO") declared Rambus' 525 068 and 1 004 956 European patents invalid and revoked the patents. The declaration of invalidity with respect to the '068 patent was upheld on appeal. The original claims of the '956 patent also were declared invalid on appeal, but the EPO ultimately granted a Rambus request to amend the claims by adding a number of limitations.

On January 13, 2006, Rambus filed a lawsuit against the Company in the U.S. District Court for the Northern District of California alleging infringement of eighteen Rambus patents. On June 2, 2006, the Company filed an answer and counterclaim against Rambus alleging among other things, antitrust and fraud claims. The Northern District of California Court subsequently consolidated the antitrust and fraud claims and certain equitable defenses of the Company and other parties against Rambus in a jury trial that began on January 29, 2008. On March 26, 2008, a jury returned a verdict in favor of Rambus on the Company's antitrust and fraud claims.

On July 24, 2006, the Company filed a declaratory judgment action against Mosaid Technologies, Inc. ("Mosaid") in the U.S. District Court for the Northern District of California seeking, among other things, a court determination that fourteen Mosaid patents are invalid, not enforceable, and/or not infringed. On July 25, 2006, Mosaid filed a lawsuit against the Company and others in the U.S. District Court for the Eastern District of Texas alleging infringement of nine Mosaid patents. On August 31, 2006, Mosaid filed an amended complaint adding two additional Mosaid patents. On October 23, 2006, the California Court dismissed the Company's declaratory judgment suit based on lack of jurisdiction. The Company appealed that decision to the U.S. Court of Appeals for the Federal Circuit. On February 29, 2008, the U.S. Court of Appeals for the Federal Circuit issued an order reversing the dismissal of the Company's declaratory judgment action filed in the U.S. District Court for the Northern District of California and remanding the suit to that Court.

Among other things, the above lawsuits pertain to certain of the Company's SDRAM, DDR SDRAM, DDR2 SDRAM, DDR3 SDRAM, RLDRAM and image sensor products, which account for a significant portion of the Company's net sales.

The Company is unable to predict the outcome of these suits. A court determination that the Company's products or manufacturing processes infringe the product or process intellectual property rights of others could result in significant liability and/or require the Company to make material changes to its products and/or manufacturing processes. Any of the foregoing results could have a material adverse effect on the Company's business, results of operations or financial condition.

Antitrust Matters

On June 17, 2002, the Company received a grand jury subpoena from the U.S. District Court for the Northern District of California seeking information regarding an investigation by the Antitrust Division of the Department of Justice (the "DOJ") into possible antitrust violations in the "Dynamic Random Access Memory" or "DRAM" industry. The Company has cooperated fully and actively with the DOJ in its investigation. The Company has cooperated pursuant to the terms of the DOJ's Corporate Leniency Policy, which provides that in exchange for our full, continuing and complete cooperation in the pending investigation, the Company will not be subject to prosecution, fines or other penalties from the DOJ.

Subsequent to the commencement of the DOJ investigation, a number of purported class action lawsuits have been filed against the Company and other DRAM suppliers. Four cases have been filed in the U.S. District Court for the Northern District of California asserting claims on behalf of a purported class of individuals and entities that indirectly purchased DRAM and/or products containing DRAM from various DRAM suppliers during the time period from April 1, 1999 through at least June 30, 2002. The complaints allege price fixing in violation of federal antitrust laws and various state antitrust and unfair competition laws and seek treble monetary damages, restitution, costs, interest and attorneys' fees. In addition, at least sixty-four cases have been filed in various state courts asserting claims on behalf of a purported class of indirect purchasers of DRAM. Cases have been filed in the following states: Arkansas, Arizona, California, Florida, Hawaii, Iowa, Kansas, Massachusetts, Maine, Michigan, Minnesota, Mississippi, Montana, North Carolina, North Dakota, Nebraska, New Hampshire, New Jersey, New Mexico, Nevada, New York, Ohio, Pennsylvania, South Dakota, Tennessee, Utah, Vermont, Virginia, Wisconsin, and West Virginia, and also in the District of Columbia and Puerto Rico. The complaints purport to be on behalf of a class of individuals and entities that indirectly purchased DRAM and/or products containing DRAM in the respective jurisdictions during various time periods ranging from April 1999 through at least June 2002. The complaints allege violations of the various jurisdictions' antitrust, consumer protection and/or unfair competition laws relating to the sale and pricing of DRAM products and seek treble monetary damages, restitution, costs, interest and attorneys' fees. A number of these cases have been removed to federal court and transferred to the U.S. District Court for the Northern District of California (San Francisco) for consolidated proceedings. On January 29, 2008, the Northern District of California Court granted in part and denied in part the Company's motion to dismiss plaintiff's second amended consolidated complaint. Plaintiffs subsequently filed a motion seeking certification for interlocutory appeal of the decision. On February 27, 2008, plaintiffs filed a third amended complaint. On June 26, 2008, the United States Court of Appeals for the Ninth Circuit accepted plaintiffs' interlocutory appeal.

Additionally, three cases have been filed in the following Canadian courts: Superior Court, District of Montreal, Province of Quebec; Ontario Superior Court of Justice, Ontario; and Supreme Court of British Columbia, Vancouver Registry, British Columbia. The substantive allegations in these cases are similar to those asserted in the cases filed in the United States. In May and June 2008 respectively, plaintiffs' motion for class certification was denied in the British Columbia and Quebec cases. In the British Columbia case, plaintiffs have filed an appeal of that decision.

In addition, various states, through their Attorneys General, have filed suit against the Company and other DRAM manufacturers. On July 14, 2006, and on September 8, 2006 in an amended complaint, the following Attorneys General filed suit in the U.S. District Court for the Northern District of California: Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Hawaii, Idaho, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and the Commonwealth of the Northern Mariana Islands. Three states, Ohio, New Hampshire, and Texas, subsequently voluntarily dismissed their claims. The remaining states filed a third amended complaint on October 1, 2007. Alaska, Delaware, and Vermont subsequently voluntarily dismissed their claims. The amended complaint alleges, among other things, violations of the Sherman Act, Cartwright Act, and certain other states' consumer protection and antitrust laws and seeks damages, and injunctive and other relief. Additionally, on July 13, 2006, the State of New York filed a similar suit in the U.S. District Court for the Southern District of New York. That case was subsequently transferred to the U.S. District Court for the Northern District of California for pre-trial purposes. The State of New York filed an amended complaint on October 1, 2007.

On February 28, 2007, February 28, 2007 and March 8, 2007, cases were filed against the Company and other manufacturers of DRAM in the U.S. District Court for the Northern District of California by All American Semiconductor, Inc., Jaco Electronics, Inc. and DRAM Claims Liquidation Trust, respectively, that opted-out of a direct purchaser class action suit that was settled. The complaints allege, among other things, violations of federal and state antitrust and competition laws in the DRAM industry, and seek damages, injunctive relief, and other remedies.

On October 11, 2006, the Company received a grand jury subpoena from the U.S. District Court for the Northern District of California seeking information regarding an investigation by the DOJ into possible antitrust violations in the “Static Random Access Memory” or “SRAM” industry. The Company believes that it is not a target of the investigation and is cooperating with the DOJ in its investigation of the SRAM industry.

Subsequent to the issuance of subpoenas to the SRAM industry, a number of purported class action lawsuits have been filed against the Company and other SRAM suppliers. Six cases have been filed in the U.S. District Court for the Northern District of California asserting claims on behalf of a purported class of individuals and entities that purchased SRAM directly from various SRAM suppliers during the period from January 1, 1998 through December 31, 2005. Additionally, at least seventy-four cases have been filed in various U.S. District Courts asserting claims on behalf of a purported class of individuals and entities that indirectly purchased SRAM and/or products containing SRAM from various SRAM suppliers during the time period from January 1, 1998 through December 31, 2005. The complaints allege price fixing in violation of federal antitrust laws and state antitrust and unfair competition laws and seek treble monetary damages, restitution, costs, interest and attorneys’ fees.

Three purported class action SRAM lawsuits also have been filed in Canada, on behalf of direct and indirect purchasers, alleging violations of the Canadian Competition Act. The substantive allegations in these cases are similar to those asserted in the SRAM cases filed in the United States.

In September 2007, a number of memory suppliers confirmed that they had received grand jury subpoenas from the U.S. District Court for the Northern District of California seeking information regarding an investigation by the DOJ into possible antitrust violations in the "Flash" industry. The Company has not received a subpoena and believes that is not a target of the investigation.

At least thirty-four purported class action lawsuits have been filed against the Company and other suppliers of Flash memory products in the U.S. District Court for the Northern District of California and other federal district courts. These cases assert claims on behalf of a purported class of individuals and entities that purchased Flash memory directly or indirectly from various Flash memory suppliers during the period from January 1, 1999 through the date the various cases were filed. The complaints generally allege price fixing in violation of federal antitrust laws and various state antitrust and unfair competition laws and seek monetary damages, restitution, costs, interest, and attorneys’ fees. On February 8, 2008, the plaintiffs filed a consolidated amended complaint that did not name the Company as a defendant.

Three purported class action Flash lawsuits also have been filed in Canada, on behalf of direct and indirect purchasers, alleging violations of the Canadian Competition Act. The substantive allegations in these cases are similar to those asserted in the Flash cases filed in the United States.

On May 5, 2004, Rambus filed a complaint in the Superior Court of the State of California (San Francisco County) against the Company and other DRAM suppliers. The complaint alleges various causes of action under California state law including a conspiracy to restrict output and fix prices on Rambus DRAM (“RDRAM”) and unfair competition. The complaint seeks treble damages, punitive damages, attorneys’ fees, costs, and a permanent injunction enjoining the defendants from the conduct alleged in the complaints.

The Company is unable to predict the outcome of these lawsuits and investigations. The final resolution of these alleged violations of antitrust laws could result in significant liability and could have a material adverse effect on the Company’s business, results of operations or financial condition.

Securities Matters

On February 24, 2006, a putative class action complaint was filed against the Company and certain of its officers in the U.S. District Court for the District of Idaho alleging claims under Section 10(b) and 20(a) of the Securities Exchange Act of 1934, as amended, and Rule 10b-5 promulgated thereunder. Four substantially similar complaints subsequently were filed in the same Court. The cases purport to be brought on behalf of a class of purchasers of the Company's stock during the period February 24, 2001 to February 13, 2003. The five lawsuits have been consolidated and a consolidated amended class action complaint was filed on July 24, 2006. The complaint generally alleges violations of federal securities laws based on, among other things, claimed misstatements or omissions regarding alleged illegal price-fixing conduct or the Company's operations and financial results. The complaint seeks unspecified damages, interest, attorneys' fees, costs, and expenses. On December 19, 2007, the Court issued an order certifying the class but reducing the class period to purchasers of the Company's stock during the period from February 24, 2001 to September 18, 2002.

In addition, on March 23, 2006 a shareholder derivative action was filed in the Fourth District Court for the State of Idaho (Ada County), allegedly on behalf of and for the benefit of the Company, against certain of the Company's current and former officers and directors. The Company also was named as a nominal defendant. An amended complaint was filed on August 23, 2006 and was subsequently dismissed by the Court. Another amended complaint was filed on September 6, 2007. The amended complaint is based on the same allegations of fact as in the securities class actions filed in the U.S. District Court for the District of Idaho and alleges breach of fiduciary duty, abuse of control, gross mismanagement, waste of corporate assets, unjust enrichment, and insider trading. The amended complaint seeks unspecified damages, restitution, disgorgement of profits, equitable and injunctive relief, attorneys' fees, costs, and expenses. The amended complaint is derivative in nature and does not seek monetary damages from the Company. However, the Company may be required, throughout the pendency of the action, to advance payment of legal fees and costs incurred by the defendants. On January 25, 2008, the Court granted the Company's motion to dismiss the second amended complaint without leave to amend. On March 10, 2008, plaintiffs filed a notice of appeal to the Idaho Court of Appeals.

The Company is unable to predict the outcome of these cases. A court determination in any of these actions against the Company could result in significant liability and could have a material adverse effect on the Company's business, results of operations or financial condition.

Lexar Matters

In March 2006, following the Company's announcement of a definitive agreement to acquire Lexar Media, Inc. ("Lexar") in a stock-for-stock merger, four purported class action complaints were filed in the Superior Court for the State of California (Alameda County) on behalf of shareholders of Lexar against Lexar and its directors. Two of the complaints also named the Company as a defendant. The complaints alleged that the defendants breached, or aided and abetted the breach of, fiduciary duties owed to Lexar shareholders by, among other things, engaging in self-dealing, failing to engage in efforts to obtain the highest price reasonably available, and failing to properly value Lexar in connection with a merger transaction between Lexar and the Company. The plaintiffs sought, among other things, injunctive relief preventing, or an order of rescission reversing, the merger, compensatory damages, interest, attorneys' fees, and costs. On May 19, 2006, the plaintiffs filed a motion for preliminary injunction seeking to block the merger. On May 31, 2006, the Court denied the motion. An amended consolidated complaint was filed on October 10, 2006. On June 14, 2007, the Court granted Lexar's and the Company's motions to dismiss the amended complaint but allowed plaintiffs leave to file a further amended complaint. On November 16, 2007, the Court granted Lexar's and the Company's renewed motion to dismiss the case as to all parties with prejudice. On December 18, 2007, the Court entered an order holding that the plaintiffs had waived any right to appeal the final judgment.

(See "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 or on behalf of the Company.

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

For the third quarter of 2008 average selling prices of DRAM products and NAND Flash products decreased approximately 5% and 20%, respectively, as compared to the second quarter of 2008. For the first nine months of 2008 average selling prices of DRAM products and NAND Flash products decreased approximately 55% and 70%, respectively, as compared to the first nine months of 2007. For 2007, average selling prices of DRAM products and NAND Flash products decreased 23% and 56%, respectively, as compared to 2006. In other recent years, we also have experienced significant annual decreases in per gigabit average selling prices for our memory products including: 34% in 2006, 24% in 2005, 17% in 2003, 53% in 2002 and 60% in 2001. At times, average selling prices for our memory products have been below our costs. We recorded inventory write-downs of $15 million in the second quarter of 2008, $62 million in the first quarter of 2008 and $20 million in the fourth quarter of 2007 as a result of significant decreases in average selling prices for our semiconductor memory products. If the estimated market values of products held in finished goods and work in process inventories at a quarter end date are below the manufacturing cost of these products, we recognize charges to cost of goods sold to write down the carrying value of our inventories to market value. Future charges for inventory write-downs could be significantly larger than the amount recorded in the first and second quarters of 2008. If average selling prices for our memory products remain depressed or decrease faster than we can decrease per gigabit costs, as they recently have, our business, results of operations or financial condition could be materially adversely affected.

We may be unable to reduce our per gigabit manufacturing costs at the rate average selling prices decline.

Our gross margins are dependent upon continuing decreases in per gigabit manufacturing costs achieved through improvements in our manufacturing processes, including reducing the die size of our existing products. In future periods, we may be unable to reduce our per unit manufacturing costs at sufficient levels to increase gross margins due to factors, including, but not limited to, strategic product diversification decisions affecting product mix, the increasing complexity of manufacturing processes, changes in process technologies or products that inherently may require relatively larger die sizes. Per unit 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 Elpida Memory, Inc.; Hynix Semiconductor Inc.; Qimonda AG ADS; Samsung Electronics Co., Ltd.; SanDisk Corporation; Toshiba Corporation and from emerging companies in Taiwan and China, who have significantly expanded the scale of their operations. Some of our competitors are large corporations or conglomerates that may have greater resources to withstand downturns in the semiconductor markets in which we compete, invest in technology and capitalize on growth opportunities.

Our competitors seek to increase silicon capacity, improve yields, reduce die size and minimize mask levels in their product designs. The transitions to smaller line-width process technologies and 300mm wafers in the industry have resulted in significant increases in the worldwide supply of semiconductor memory and will likely lead to future increases. 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. We and several of our competitors have significantly increased production in recent periods through construction of new facilities or expansion of existing facilities. Increases in worldwide supply of semiconductor memory, if not accompanied with 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.

Our plans to significantly increase our NAND Flash memory production and sales have numerous risks.

We plan to increase our NAND Flash production and sales in future periods. As part of this plan, we have formed manufacturing joint ventures with Intel and made substantial investments in capital expenditures for equipment, new facilities and research and development. Our plans also require significant investments in capital expenditures and research and development. We currently estimate our capital spending to approximate between $2.5 and $3.0 billion for 2008 and to be between $1.5 billion to $2.0 billion for 2009, with a significant portion of the expenditures being made to support our NAND operations. These investments involve numerous risks. In addition, we are required to devote a significant portion of our existing semiconductor manufacturing capacity to the production of NAND Flash instead of the Company's other products. We are also a party to a contract with Apple Inc. to provide NAND Flash products for an extended period of time at contractually determined prices. We currently have a relatively small share of the world-wide market for NAND Flash.

Our NAND Flash strategy involves numerous risks, and may include the following:

- competing against companies with greater scale and potentially greater resources;
- increasing our exposure to changes in average selling prices for NAND Flash;
- difficulties in establishing new production operations at multiple locations;
- increasing capital expenditures to increase production capacity and modify existing processes to produce NAND Flash;
- raising funds or increasing debt to finance future investments;
- diverting management’s attention from DRAM operations;
- managing larger operations and facilities and employees in separate geographic areas; and
- hiring and retaining key employees.

Our NAND Flash strategy may not be successful and could materially adversely affect our business, results of operations or financial condition.

Our joint ventures and strategic partnerships involve numerous risks.

We have entered into partnering arrangements to manufacture products and develop new manufacturing process technologies and products. These arrangements include our IM Flash NAND flash joint ventures with Intel, our MeiYa DRAM joint venture with Nanya, and our TECH DRAM joint venture. These strategic partnerships and joint ventures 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 in the future or we may not be able to agree with partners on the amount, timing or nature of further investments in our joint venture;
- the terms of our arrangements may turn out to be unfavorable;
- cash flows may be inadequate to fund increased capital requirements;
- we may experience difficulties in transferring technology to joint ventures;
- we may experience difficulties and delays in ramping production from joint ventures; and
- political or economic instability may occur in the countries where our joint ventures and/or partners are located.

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

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

Our cash flows from operations depend primarily on the volume of semiconductor memory sold, average selling prices and per unit 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, facilities and capital equipment, research and development, and product and process technology. We currently estimate our capital spending to approximate between $2.5 and $3.0 billion for 2008 and to be between $1.5 billion to $2.0 billion for 2009, with a significant portion of the expenditures being made to support our NAND operations. Cash and investments of IM Flash and TECH are generally not available to finance our other operations. In addition to cash provided by operations, we have from time to time utilized external sources of financing. Access to capital markets has historically been very important to us. Depending on market conditions, we may issue registered or unregistered securities to raise capital to fund a portion of our operations. There can be no assurance that we will be able to generate sufficient cash flows to fund our operations; make adequate capital investments to remain competitive in terms of technology developments and cost efficiency; or access capital markets on acceptable terms. Our inability to do the foregoing could have a material adverse effect on our business and results of operations.

New product development may be unsuccessful.

We are developing new products that 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 NAND Flash, Imaging 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 that our product development efforts will be successful, that we will be able to cost-effectively manufacture these new products, that we will be able to successfully market these products or that margins generated from sales of these products will recover costs of development efforts.

The future success of our Imaging business will be dependent on continued market acceptance of our products and the development, introduction and marketing of new Imaging products.

We face competition in the image sensor market from a number of suppliers of CMOS image sensors including MagnaChip Semiconductor Ltd.; OmniVision Technologies, Inc.; Samsung Electronics Co., Ltd; Sony Corporation; STMicroelectronics NV; Toshiba Corporation and from a number of suppliers of CCD image sensors including Matsushita Electric Industrial Co., Ltd.; Sharp Corporation and Sony Corporation. In recent periods, a number of new companies have entered the CMOS image sensor market. Competitors include many large domestic and international companies that have greater presence in key markets, better access to certain customer bases, greater name recognition and more established strategic and financial relationships than the Company.

In 2007, our Imaging net sales and gross margins decreased and we faced increased competition. There can be no assurance that we will be able to grow or maintain our market share or gross margins for Imaging products in the future. The success of our Imaging business will depend on a number of factors, including:

- development of products that maintain a technological advantage over the products of our competitors;
- accurate prediction of market requirements and evolving standards, including pixel resolution, output interface standards, power requirements, optical lens size, input standards and other requirements;
- timely completion and introduction of new Imaging products that satisfy customer requirements;
- timely achievement of design wins with prospective customers, as manufacturers may be reluctant to change their source of components due to the significant costs, time, effort and risk associated with qualifying a new supplier; and
- efficient, cost-effective manufacturing as we transition to new products and higher volumes.

Our efforts to restructure our Imaging business may be unsuccessful.

We are exploring business model alternatives for our Imaging business including partnering arrangements. To the extent we form a partnering arrangement, the resulting business model may not be successful and the Imaging operations revenues and margins could be adversely affected. We may incur significant costs to convert Imaging operations to a new business structure and operations could be disrupted. If our efforts to restructure the Imaging business are unsuccessful, our business, results of operations or financial condition could be materially adversely affected.

We expect to make future acquisitions and alliances, which involve numerous risks.

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

- difficulties in integrating the operations, technologies and products of acquired or newly formed entities;
- increasing capital expenditures to upgrade and maintain facilities;
- increasing debt to finance any acquisition or formation of a new business;
- difficulties in protecting our intellectual property as we enter into a greater number of licensing arrangements;
- diverting management's attention from normal daily operations;
- managing larger or more complex operations and facilities and employees in separate geographic areas, and
- hiring and retaining key employees.

Acquisitions of, or alliances with, high-technology companies are inherently risky, and any future transactions may not be successful and may materially adversely affect our business, results of operations or financial condition.

We may incur additional restructure charges or not realize the expected benefits of new initiatives to reduce costs across our operations.

In 2008 we pursued a number of initiatives to reduce costs across our operations. These initiatives include workforce reductions in certain areas as we realigned our business. Additional initiatives included establishing certain operations closer in location to our global customers and evaluating functions more efficiently performed through partnerships or other outside relationships. In addition, we continue to focus on reducing our overhead costs to meet or exceed industry benchmarks. In the third quarter and first nine months of 2008, we recorded charges of $8 million and $29 million, respectively, primarily to the Memory segment, for employee severance and related costs, a write-down of certain facilities to their fair values, and relocation and retention bonuses. We may not realize the expected benefits of these new initiatives. As a result of these initiatives, we expect to incur restructuring or other infrequent charges and we may experience disruptions in our operations, loss of key personnel and difficulties in delivering products timely.

Our net operating loss and tax credit carryforwards may be limited.

We have significant net operating loss and tax credit carryforwards. We have provided significant valuation allowances against the tax benefit of such losses as well as certain tax credit carryforwards. Utilization of these net operating losses and credit carryforwards is dependent upon us achieving sustained profitability. As a consequence of prior business acquisitions, utilization of the tax benefits for some of the tax carryforwards is subject to limitations imposed by Section 382 of the Internal Revenue Code and some portion or all of these carryforwards may not be available to offset any future taxable income. The determination of the limitations is complex and requires significant judgment and analysis of past transactions.

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

Our financial statements are prepared in accordance with U.S. GAAP and are reported in U.S. dollars. Across our multi-national operations, there are transactions and balances denominated in other currencies, primarily the euro, yen and Singapore dollar. We recorded a net loss of $33 million from changes in currency exchange rates for the first nine months of 2008. We estimate that, based on its assets and liabilities denominated in currencies other than the U.S. dollar as of May 29, 2008, a 1% change in the exchange rate versus the U.S. dollar would result in foreign currency gains or losses of approximately U.S. $1 million for the euro and Singapore dollar. In the event that the U.S. dollar weakens significantly compared to the Singapore dollar, euro or yen, our results of operations or financial condition will be adversely affected.

An adverse determination that our products or manufacturing processes infringe the intellectual property rights of others 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. In this regard, we are engaged in litigation with Rambus, Inc. ("Rambus") relating to certain of Rambus' patents and certain of our claims and defenses. On August 28, 2000, we filed a complaint (subsequently amended) against Rambus in the U.S. District Court for the District of Delaware seeking monetary damages and declaratory and injunctive relief. Among other things, our amended complaint alleges violation of federal antitrust laws, breach of contract, fraud, deceptive trade practices, and negligent misrepresentation. The complaint also seeks a declaratory judgment (a) that certain Rambus patents are not infringed by us, are invalid, and/or are unenforceable, (b) that we have an implied license to those patents, and (c) that Rambus is estopped from enforcing those patents against us. On February 15, 2001, Rambus filed an answer and counterclaim in Delaware denying that we are entitled to relief, alleging infringement of the eight Rambus patents named in our declaratory judgment claim, and seeking monetary damages and injunctive relief. In the Delaware action, we subsequently added claims and defenses based on Rambus's alleged spoliation of evidence and litigation misconduct. The spoliation and litigation misconduct claims and defenses were heard in a bench trial before Judge Robinson in October 2007. Post-trial briefing is underway for this phase of the litigation.

A number of other suits involving Rambus are currently pending in Europe alleging that certain of our SDRAM and DDR SDRAM products infringe various of Rambus' country counterparts to its European patent 525 068, including: on September 1, 2000, Rambus filed suit against Micron Semiconductor (Deutschland) GmbH in the District Court of Mannheim, Germany; on September 22, 2000, Rambus filed a complaint against us and Reptronic (a distributor of our products) in the Court of First Instance of Paris, France; and on September 29, 2000, we filed suit against Rambus in the Civil Court of Milan, Italy, alleging invalidity and non-infringement. In addition, on December 29, 2000, we filed suit against Rambus in the Civil Court of Avezzano, Italy, alleging invalidity and non-infringement of the Italian counterpart to European patent 1 004 956. Additionally, on August 14, 2001, Rambus filed suit against Micron Semiconductor (Deutschland) GmbH in the District Court of Mannheim, Germany alleging that certain of our DDR SDRAM products infringe Rambus' country counterparts to its European patent 1 022 642. In the European suits against us, Rambus is seeking monetary damages and injunctive relief. Subsequent to the filing of the various European suits, the European Patent Office (the "EPO") declared Rambus' 525 068 and 1 004 956 European patents invalid and revoked the patents. The declaration of invalidity with respect to the '068 patent has been upheld on appeal. The original claims of the '956 patent also were declared invalid on appeal, but the EPO ultimately granted a Rambus request to amend the claims by adding a number of limitations.

On January 13, 2006, Rambus filed a lawsuit against us in the U.S. District Court for the Northern District of California alleging infringement of eighteen Rambus patents. On June 2, 2006, we filed an answer and counterclaim against Rambus alleging amongst other thins, antitrust and fraud claims. The Northern District of California Court subsequently consolidated the antitrust and fraud claims and certain equitable defenses of ours and other parties against Rambus in a jury trial that began on January 29, 2008. On March 26, 2008, a jury returned a verdict in favor of Rambus on our antitrust and fraud claims. We are also engaged in litigation with Mosaid Technologies, Inc. ("Mosaid"). On July 24, 2006, we filed a declaratory judgment action against Mosaid in the U.S. District Court for the Northern District of California seeking, among other things, a court determination that fourteen Mosaid patents are invalid, not enforceable, and/or not infringed. On July 25, 2006, Mosaid filed a lawsuit against us and others in the U.S. District Court for the Eastern District of Texas alleging infringement of nine Mosaid patents. On August 31, 2006, Mosaid filed an amended complaint adding two additional Mosaid patents. On October 23, 2006, the California Court dismissed our declaratory judgment suit based on lack of jurisdiction. We appealed that decision to the U.S. Court of Appeals for the Federal Circuit. On February 29, 2008, the U.S. Court of Appeals for the Federal Circuit issued an order reversing the dismissal of our

declaratory judgment action filed in the U.S. District Court for the Northern District of California and remanding the suit to that Court.

Among other things, the above lawsuits pertain to certain of our SDRAM, DDR SDRAM, DDR2 SDRAM, DDR3 SDRAM, RLDRAM, and image sensor products, which account for a significant portion of our net sales.

A court determination that our products or manufacturing processes infringe the intellectual property rights of others could result in significant liability and/or require us to make material changes to our products and/or manufacturing processes. We are unable to predict the outcome of assertions of infringement made against us. Any of the foregoing could have a material adverse effect on our business, results of operations or financial condition.

We have a number of patent and 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.

Allegations of anticompetitive conduct.

On June 17, 2002, we received a grand jury subpoena from the U.S. District Court for the Northern District of California seeking information regarding an investigation by the Antitrust Division of the Department of Justice (the "DOJ") into possible antitrust violations in the "Dynamic Random Access Memory" or "DRAM" industry. We have cooperated fully and actively with the DOJ in its investigation of the DRAM industry. We have cooperated pursuant to the terms of the DOJ's Corporate Leniency Policy, which provides that in exchange for our full, continuing and complete cooperation in the pending investigation, we will not be subject to prosecution, fines or other penalties from the DOJ.

Subsequent to the commencement of the DOJ investigation, a number of purported class action lawsuits have been filed against us and other DRAM suppliers. Four cases have been filed in the U.S. District Court for the Northern District of California asserting claims on behalf of a purported class of individuals and entities that indirectly purchased DRAM and/or products containing DRAM from various DRAM suppliers during the time period from April 1, 1999 through at least June 30, 2002. The complaints allege price fixing in violation of federal antitrust laws and various state antitrust and unfair competition laws and seek treble monetary damages, restitution, costs, interest and attorneys' fees. In addition, at least sixty-four cases have been filed in various state and federal courts (five of which have been dismissed) asserting claims on behalf of a purported class of indirect purchasers of DRAM. Cases have been filed in the following states: Arkansas, Arizona, California, Florida, Hawaii, Iowa, Kansas, Massachusetts, Maine, Michigan, Minnesota, Mississippi, Montana, North Carolina, North Dakota, Nebraska, New Hampshire, New Jersey, New Mexico, Nevada, New York, Ohio, Pennsylvania, South Dakota, Tennessee, Utah, Vermont, Virginia, Wisconsin, and West Virginia, and also in the District of Columbia and Puerto Rico. The complaints purport to be on behalf of individuals and entities that indirectly purchased DRAM and/or products containing DRAM in the respective jurisdictions during various time periods ranging from April 1999 through at least June 2002. The complaints allege violations of various jurisdictions' antitrust, consumer protection and/or unfair competition laws relating to the sale and pricing of DRAM products and seek treble monetary damages, restitution, costs, interest and attorneys' fees. A number of these cases have been removed to federal court and transferred to the U.S. District Court for the Northern District of California (San Francisco) for consolidated proceedings. On January 29, 2008, the Northern District of California Court granted in part and denied in part our motion to dismiss the plaintiff’s second amended consolidated complaint. Plaintiffs have filed a motion seeking certification for interlocutory appeal of this decision and on February 27, 2008, filed a third amended complaint.

Additionally, three cases have been filed in the following Canadian courts: Superior Court, District of Montreal, Province of Quebec; Ontario Superior Court of Justice, Ontario; and Supreme Court of British Columbia, Vancouver Registry, British Columbia. The substantive allegations in these cases are similar to those asserted in the cases filed in the United States. In May and June 2008 respectively, plaintiffs’ motion for class certification was denied in the British Columbia and Quebec cases. In the British Columbia case, plaintiffs have filed an appeal of that decision.

In addition, various states, through their Attorneys General, have filed suit against us and other DRAM manufacturers. On July 14, 2006, and on September 8, 2006 in an amended complaint, the following Attorneys General filed suit in the U.S. District Court for the Northern District of California: Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Hawaii, Idaho, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia,

Wisconsin and the Commonwealth of the Northern Mariana Islands. The amended complaint alleges, among other things, violations of the Sherman Act, Cartwright Act, and certain other states' consumer protection and antitrust laws and seeks damages, and injunctive and other relief. Additionally, on July 13, 2006, the State of New York filed a similar suit in the U.S. District Court for the Southern District of New York. That case was subsequently transferred to the U.S. District Court for the Northern District of California for pre-trial purposes. Six states, Alaska, Delaware, Ohio, New Hampshire, Texas, and Vermont, subsequently have withdrawn from the complaint.

In February and March 2007, All American Semiconductor, Inc., Jaco Electronics, Inc., and the DRAM Claims Liquidation Trust each filed suit against the Company and other DRAM suppliers in the U.S. District Court for the Northern District of California after opting-out of a direct purchaser class action suit that was settled. The complaints allege, among other things, violations of federal and state antitrust and competition laws in the DRAM industry, and seek damages, injunctive relief, and other remedies.

On October 11, 2006, we received a grand jury subpoena from the U.S. District Court for the Northern District of California seeking information regarding an investigation by the DOJ into possible antitrust violations in the "Static Random Access Memory" or "SRAM" industry. We believe that we are not a target of the investigation and we are cooperating with the DOJ in its investigation of the SRAM industry.

Subsequent to the issuance of subpoenas to the SRAM industry, a number of purported class action lawsuits have been filed against us and other SRAM suppliers. Six cases have been filed in the U.S. District Court for the Northern District of California asserting claims on behalf of a purported class of individuals and entities that purchased SRAM directly from various SRAM suppliers during the period from January 1, 1998 through December 31, 2005. Additionally, at least seventy-four cases have been filed in various U.S. District Courts asserting claims on behalf of a purported class of individuals and entities that indirectly purchased SRAM and/or products containing SRAM from various SRAM suppliers during the time period from January 1, 1998 through December 31, 2005. The complaints allege price fixing in violation of federal antitrust laws and state antitrust and unfair competition laws and seek treble monetary damages, restitution, costs, interest and attorneys' fees.

Three purported class action SRAM lawsuits also have been filed in Canada, on behalf of direct and indirect purchasers, alleging violations of the Canadian Competition Act. The substantive allegations in these cases are similar to those asserted in the SRAM cases filed in the United States.

In September 2007, a number of memory suppliers confirmed that they had received grand jury subpoenas from the U.S. District Court for the Northern District of California seeking information regarding an investigation by the DOJ into possible antitrust violations in the "Flash" industry. We have not received a subpoena and believe that we are not a target of the investigation.

At least thirty-four purported class action lawsuits have been filed against the Company and other suppliers of Flash memory products in the U.S. District Court for the Northern District of California and other federal district courts. These cases assert claims on behalf of a purported class of individuals and entities that purchased Flash memory directly or indirectly from various Flash memory suppliers during the period from January 1, 1999 through the date the various cases were filed. The complaints generally allege price fixing in violation of federal antitrust laws and various state antitrust and unfair competition laws and seek monetary damages, restitution, costs, interest, and attorneys' fees. On February 8, 2008, the plaintiffs filed a consolidated amended complaint on February 8, 2008 that did not name us as a defendant.

Three purported class action Flash lawsuits also have been filed in Canada, on behalf of direct and indirect purchasers, alleging violations of the Canadian Competition Act. The substantive allegations in these cases are similar to those asserted in the Flash cases filed in the United States.

On May 5, 2004, Rambus filed a complaint in the Superior Court of the State of California (San Francisco County) against us and other DRAM suppliers. The complaint alleges various causes of action under California state law including conspiracy to restrict output and fix prices on Rambus DRAM ("RDRAM"), and unfair competition. The complaint seeks treble damages, punitive damages, attorneys' fees, costs, and a permanent injunction enjoining the defendants from the conduct alleged in the complaints.

We are unable to predict the outcome of these lawsuits and investigations. The final resolution of these alleged violations of antitrust laws could result in significant liability and could have a material adverse effect on our business, results of operations or financial condition.

Allegations of violations of securities laws.

On February 24, 2006, a putative class action complaint was filed against us and certain of our officers in the U.S. District Court for the District of Idaho alleging claims under Section 10(b) and 20(a) of the Securities Exchange Act of 1934, as amended, and Rule 10b-5 promulgated thereunder. Four substantially similar complaints subsequently were filed in the same Court. The cases purport to be brought on behalf of a class of purchasers of our stock during the period February 24, 2001 to February 13, 2003. The five lawsuits have been consolidated and a consolidated amended class action complaint was filed on July 24, 2006. The complaint generally alleges violations of federal securities laws based on, among other things, claimed misstatements or omissions regarding alleged illegal price-fixing conduct. The complaint seeks unspecified damages, interest, attorneys' fees, costs, and expenses. On December 19, 2007, the Court issued an order certifying the class but reducing the class period to purchasers of our stock during the period from February 24, 2001 to September 18, 2002.

In addition, on March 23, 2006 a shareholder derivative action was filed in the Fourth District Court for the State of Idaho (Ada County), allegedly on behalf of and for our benefit, against certain of our current and former officers and directors. We were also named as a nominal defendant. An amended complaint was filed on August 23, 2006 and was subsequently dismissed by the Court. Another amended complaint was filed on September 6, 2007. The amended complaint is based on the same allegations of fact as in the securities class actions filed in the U.S. District Court for the District of Idaho and alleges breach of fiduciary duty, abuse of control, gross mismanagement, waste of corporate assets, unjust enrichment, and insider trading. The amended complaint seeks unspecified damages, restitution, disgorgement of profits, equitable and injunctive relief, attorneys' fees, costs, and expenses. The amended complaint is derivative in nature and does not seek monetary damages from us. However, we may be required, throughout the pendency of the action, to advance payment of legal fees and costs incurred by the defendants. On January 25, 2008, the Court granted our motion to dismiss seconded amended complaint without leave to amend. On March 10, 2008, plaintiffs filed a notice of appeal to the Idaho Court of Appeals.

We are unable to predict the outcome of these cases. A court determination in any of the class actions against us could result in significant liability and could have a material adverse effect on our business, results of operations or financial condition.

Economic conditions may harm our business.

Economic and business conditions, including a downturn in the semiconductor memory industry or the overall economy could adversely affect our business. Adverse conditions may affect consumer demand for devices that incorporate our products such as mobile phones, personal computers, Flash memory cards and USB devices. Reduced demand for our products could result in market oversupply and significant decreases in our selling prices. As a result, our business, results of operations or financial condition could be materially adversely affected.

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 72% of our consolidated net sales for the third quarter of 2008. In addition, we have manufacturing operations in China, Italy, Japan, Puerto Rico and Singapore. Our international sales and operations are subject to a variety of risks, including:

- currency exchange rate fluctuations;
- export and import duties, changes to import and export regulations, and restrictions on the transfer of funds;
- 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, and

- compliance with trade and other laws in a variety of jurisdictions.

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

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. Additionally, our control over operations at our IM Flash, TECH and MP Mask joint ventures may be limited by our agreements with our partners. From time to time, we have experienced minor disruptions in our manufacturing process as a result of power outages, improperly functioning equipment and equipment failures. 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 or loss of revenues or damage to customer relationships, which could materially adversely affect our business, results of operations or financial condition.

Disruptions in our supply of raw materials could materially adversely affect our business, results of operations or financial condition.

Our operations require raw materials that meet exacting standards. We generally have multiple sources of supply for our raw materials. However, only a limited number of suppliers are capable of delivering certain raw materials that meet our standards. Various factors could reduce the availability of raw materials such as silicon wafers, photomasks, chemicals, gases, lead frames and molding compound.

Shortages may occur from time to time in the future. 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 is disrupted or our lead times extended, our business, results of operations or financial condition could 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.

Because the design and production process for semiconductor memory is highly complex, it is possible that we may produce products that do not comply with customer specifications, contain defects or are otherwise incompatible with end uses. If, despite design review, quality control and product qualification procedures, problems with nonconforming, defective or incompatible products occur after we have shipped such products, we could be adversely affected in several ways, including the following:

- we may replace product or otherwise compensate customers for costs incurred or damages caused by defective or incompatible product, and

- we may encounter adverse publicity, which could cause a decrease in sales of our products.

Item 2. ***Unregistered Sales of Equity Securities and Use of Proceeds***

During the third quarter of 2008, the Company acquired, as payment of withholding taxes in connection with the vesting of restricted stock and restricted stock unit awards, 5,709 shares of its common stock at an average price per share of $6.85. In the third quarter of 2008, the Company retired the 5,709 shares acquired in the third quarter of 2008.

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
February 29, 2008 – April 3, 2008	2,770	$ 5.61	N/A	N/A
April 4, 2008 – May 1, 2008	369	6.76	N/A	N/A
May 2, 2008 – May 29, 2008	2,570	8.20	N/A	N/A
	5,709	6.85		

Item 6. ***Exhibits***

Exhibit Number	Description of Exhibit
3.1	Restated Certificate of Incorporation of the Registrant (1)
3.2	Bylaws of the Registrant, as amended (2)
10.51	Master Agreement, dated as of April 21, 2008, by and between Nanya Technology Corporation and Micron Technology, Inc.*
10.52	Joint Venture Agreement, dated as of April 21, 2008, by and between Micron Semiconductor B.V. and Nanya Technology Corporation*
10.53	Supply Agreement, dated as of June 6, 2008, by and among Micron Technology, Inc., Nanya Technology Corporation and MeiYa Technology Corporation*
10.54	Joint Development Program Agreement, dated as of April 21, 2008, by and between Nanya Technology Corporation and Micron Technology, Inc.*
10.55	Technology Transfer and License Agreement for 68-50nm Process Nodes, dated as of April 21, 2008, by and between Micron Technology, Inc. and Nanya Technology Corporation*
10.56	Technology Transfer and License Agreement, dated as of April 21, 2008, by and between Micron Technology, Inc. and Nanya Technology Corporation*
10.57	Technology Transfer Agreement for 68-50nm Process Nodes, dated as of May 13, 2008, by and between Micron Technology, Inc. and MeiYa Corporation*
10.58	Technology Transfer Agreement, dated as of May 13, 2008, by and among Nanya Technology Corporation, Micron Technology, Inc. and MeiYa Technology Corporation*
10.59	Services Agreement, dated as of June 6, 2008, by and between Nanya Technology Corporation and MeiYa Technology Corporation
10.60	Micron Guaranty Agreement, dated April 21, 2008, by and between Nanya Technology Corporation and Micron Semiconductor B.V.
10.61	TECH Facility Agreement, dated March 31, 2008, among TECH Semiconductor Singapore Pte. Ltd. and ABN Amro Bank N.V., Citibank, N.A., Singapore Branch, Citigroup Global Markets Singapore Pte Ltd., DBS Bank Ltd and Oversea-Chinese Banking Corporation Limited, as Original Mandated Lead Arrangers
10.62	Guarantee, dated March 31, 2008, by Micron Technology, Inc. as Guarantor in favor of ABN Amro Bank N.V., Singapore Branch acting as Security Trustee
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

(1) Incorporated by reference to Quarterly Report on Form 10-Q for the fiscal quarter ended May 31, 2001

(2) Incorporated by reference to Current Report on Form 8-K dated December 5, 2006

* Portions of this exhibit have been omitted pursuant to a request for confidential treatment filed with the U.S. Securities and Exchange Commission.

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: July 8, 2008

/s/ Ronald C. Foster
Ronald C. Foster
Vice President of Finance and Chief Financial Officer (Principal Financial and Accounting Officer)

EXHIBIT 10.51

[***] DENOTES CONFIDENTIAL MATERIALS OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT

NTC/MICRON CONFIDENTIAL

MASTER AGREEMENT

BY AND BETWEEN

NANYA TECHNOLOGY CORPORATION

AND

MICRON TECHNOLOGY, INC.

April 21, 2008

MASTER AGREEMENT

This **MASTER AGREEMENT**, dated as of the 21st day of April, 2008, is entered into by and between Nanya Technology Corporation (Nanya Technology Corporation [Translation from Chinese]) (hereinafter "**NTC**"), a company incorporated under the laws of the Republic of China ("**ROC**" or "**Taiwan**"), and Micron Technology, Inc. (hereinafter "**Micron**"), a Delaware corporation.

RECITALS

A. Micron currently designs and manufactures Stack DRAM Products and develops Process Technology therefor. NTC and Micron (the "**Parties**") desire to engage in joint development and optimization of Process Technology for Process Nodes of 68 nm, 50 nm and other dimensions and joint development of Stack DRAM Designs for Stack DRAM Products to be manufactured on such Process Nodes, as the Parties may agree in the JDP Agreement. To effectuate their desires, Micron will transfer to NTC Background IP and license NTC thereunder for the design, development and manufacture of certain Stack DRAM Products. Micron and NTC will also transfer each other Foundational Know-How and license each other thereunder for the design, development and manufacture of certain Stack DRAM Products.

B. The Parties also intend to jointly invest in MeiYa Technology Corporation (MeiYa Technology Corporation [Translation from Chinese])**,** a company to be incorporated under the laws of the ROC (the "**Joint Venture Company**"), and transfer to the Joint Venture Company Background IP, the Parties' respective Foundational Know-How and JDP Work Product to enable the Joint Venture Company to manufacture Stack DRAM Products and sell such Stack DRAM Products exclusively to the Parties.

C. The Parties desire to enter into various agreements with the Joint Venture Company, and with each other, to set forth the ongoing governance and operating relationships among the Parties and the Joint Venture Company relating to the business of the Joint Venture Company, all as contemplated by this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties intending to be legally bound do hereby agree as follows:

ARTICLE 1.
DEFINITIONS; INTERPRETATION

1.1 Definitions. In addition to the terms defined elsewhere in this Agreement, capitalized terms used in this Agreement shall have the respective meanings set forth below:

"**Affiliate**" means, with respect to any specified Person, any other Person that, directly or indirectly, including through one or more intermediaries, controls, is controlled by, or is under common control with such specified Person; and the term "**affiliated**" has a meaning correlative to the foregoing..

"**Agreement**" means this Master Agreement.

"**Applicable Law**" means any applicable laws, statutes, rules, regulations, ordinances, orders, codes, arbitration awards, judgments, decrees or other legal requirements of any Governmental Entity.

"**Background IP**" means [***].

"**Bilateral Agreements**" shall have the meaning set forth in Section 2.2 of this Agreement.

"**Board of Directors**" means the board of directors of the Joint Venture Company.

"**Burn-In**" means [***].

"**Business Day**" means a day that is not a Saturday, Sunday or other day on which commercial banking institutions in either the ROC or the State of New York are authorized or required by Applicable Law to be closed.

"**Closing**" means the remittance of the capital contribution to the Joint Venture Company as set forth in Section 2.6 of this Agreement.

"**Closing Date**" means the date on which the Closing occurs. For purposes of this Agreement and the other agreements and instruments referenced herein, the Closing shall be deemed to have occurred at 11:59 p.m. in Taipei, Taiwan on such date.

"**Commission**" means the United States Securities and Exchange Commission.

"**Commodity Stack DRAM Products**" means Stack DRAM Products for system main memory for computing or Mobile Devices, in each case that are fully compliant with one or more Industry Standard(s).

"**Competition Law**" means the Sherman Antitrust Act of 1890, as amended, the Clayton Act of 1914, as amended, the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, the Federal Trade Commission Act, as amended, and all other Applicable Laws issued by a Governmental Entity that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or lessening of competition through merger or acquisition.

"**Control**" (whether or not capitalized) means the power or authority, whether exercised or not, to direct the business, management and policies of a Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, which power or authority shall conclusively be presumed to exist upon possession of beneficial ownership or power to direct the vote of [***] of the votes entitled to be cast at a meeting of the members, shareholders or other equity holders of such Person or power to control the composition of a majority of the board of directors or like governing body of such Person; and the terms "**controlling**" and "**controlled**" have meanings correlative to the foregoing.

"**Direct Claim**" means any claim, demand, lawsuit, complaint, cross-complaint or counter-complaint, arbitration, opposition, cancellation proceeding or other legal or arbitral proceeding of any nature, brought in any court, tribunal or judicial forum anywhere in the world, regardless of the manner in which such proceeding is captioned or styled brought by any Indemnified Party.

"**Dispute**" means any dispute between the Parties over a purported breach of this Agreement.

"**DRAM Products**" means any stand-alone semiconductor device that is a dynamic random access memory device and that is designed or developed primarily for the function of storing data, in die, wafer or package form.

"**Employee Restriction Period**" means the period commencing on the date of this Agreement and ending on the date that is [***] after the later of (i) the sale, exchange, transfer, or disposal of all of the ordinary shares of the Joint Venture Company owned by one Party and its Subsidiaries to the other Party, its Affiliates or to a Third Party that was not in contravention of the Joint Venture Agreement and (ii) the termination of the JDP Agreement.

"**Environmental Laws**" means any and all Applicable Laws in the ROC pertaining to the environment in any and all jurisdictions in which the Leased Fab is located, including laws pertaining to the handling of wastes or the use, maintenance and closure of pits and impoundments, and other environmental conservation or protection laws.

"**Environmental Permits**" means all notices, approvals, permits, licenses or similar authorizations required to be obtained or filed under any Environmental Laws.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

"**Fab Lease**" means that certain Lease and License Agreement between NTC, as landlord, and the Joint Venture Company, as tenant, referred to on Schedule 2.3 of the Master Agreement Disclosure Letter.

"**Foundational Know-How**" shall have the meaning set forth in the JDP Agreement or the Technology Transfer and License Agreement, as applicable.

"**FT**" means [***].

"**GAAP**" means generally accepted accounting principles, consistently applied for all periods at issue.

"**Governmental Entity**" means any governmental authority or entity, including any agency, board, bureau, commission, court, municipality, department, subdivision or instrumentality thereof, or any arbitrator or arbitration panel.

"**IMI**" means Inotera Memories, Inc. (Inotera Memories, Inc. [Translation from Chinese]), a company incorporated under the laws of the ROC.

"**Indemnified Party**" shall have the meaning set forth in Section 6.2(A) of this Agreement.

"**Indemnifying Party**" shall have the meaning set forth in Section 6.2(A) of this Agreement.

"**Industry Standard**" means the documented technical specifications that set forth the pertinent technical and operating characteristics of a DRAM Product if such specifications are publicly available for use by DRAM manufacturers, and if (i) [***].

"**Initial Business Plan**" means an initial business plan covering the operations and business planning of the Joint Venture Company.

"**IP Rights**" means copyrights, rights in trade secrets, Mask Work Rights and pending applications or registrations of any of the foregoing anywhere in the world. The term "IP Rights" does not include any Patent Rights or rights in trademarks.

"**JDP Agreement**" means that certain Joint Development Program Agreement between NTC and Micron referred to on Schedule 2.1 of the Master Agreement Disclosure Letter.

"**JDP Committee**" means the committee formed and operated by Micron and NTC to govern the performance of the Parties under the JDP Agreement in accordance with the JDP Committee Charter.

"**JDP Committee Charter**" means the charter attached as Schedule 2 of the JDP Agreement.

"**JDP Work Product**" means [***].

"**Joint Venture Agreement**" means that certain Joint Venture Agreement between NTC and MNL referred to on Schedule 2.1 of the Master Agreement Disclosure Letter.

"**Joint Venture Company**" shall have the meaning set forth in Recital B to this Agreement.

"**Joint Venture Company Joinder**" means that certain Joinder of the Joint Venture Company to that certain Mutual Confidentiality Agreement among NTC, Micron and MNL referred to on Schedule 2.1 of the Master Agreement Disclosure Letter.

"**Joint Venture Documents**" means any or all of this Agreement, the Pre-Existing and Contemporaneously Executed Agreements, the Bilateral Agreements, the Trilateral Agreements, the NTC Agreements and the Micron Agreements.

"**Leased Fab**" means the Property as that term is defined in the Fab Lease.

"**Lien**" means any lien, mortgage, pledge, hypothecation, right of others, claim, security interest, encumbrance, lease, sublease, license, interest, option, charge or other restriction or limitation of any nature whatsoever.

"**Litigation Side Letter**" means that certain Litigation Side Letter, between NTC and Micron referred to on Schedule 2.1 of the Master Agreement Disclosure Letter.

"**Losses**" means any liabilities, damages, losses, costs and expenses (including reasonable attorneys' and consultants' fees and expenses).

"**Mask Work Rights**" means rights under the United States Semiconductor Chip Protection Act of 1984, as amended from time to time, or under any similar equivalent laws in countries other than the United States.

"**Master Agreement Disclosure Letter**" means that certain Master Agreement Disclosure Letter, between NTC and Micron, dated as of the date hereof, containing the Schedules required by the provisions of this Agreement.

"**Material Adverse Effect**" means (i) a material adverse effect on the business, results of operations, financial condition or prospects of the Joint Venture Company, (ii) [***], or (iii) any act, omission, circumstance, change or effect that causes Losses, or diminution in the value, of the Joint Venture Company in an amount greater than $[***].

"**Micron**" shall have the meaning set forth in the preamble to this Agreement.

"**Micron Agreements**" shall have the meaning set forth in Section 2.4 of this Agreement.

"**MNL**" means Micron Semiconductor B.V., a public limited liability company organized under the laws of the Netherlands.

"**Mobile Device**" means a handheld or portable device using as its main memory one or more Stack DRAM Products that is/are compliant with an Industry Standard [***].

"**Mutual Confidentiality Agreement**" means (i) prior to the Closing, that certain Mutual Confidentiality Agreement among NTC, Micron and MNL referred to on Schedule 2.1 of the Master Agreement Disclosure Letter, and (ii) following the Closing, that certain Mutual Confidentiality Agreement among NTC, Micron and MNL referred to on Schedule 2.1 of the Master Agreement Disclosure Letter, as joined by the Joint Venture Company through the Joint Venture Company Joinder.

"**NDA**" means that certain Mutual Nondisclosure Agreement, dated as of June 21, 2007, by and between NTC and Micron.

"**NTC**" shall have the meaning set forth in the preamble to this Agreement.

"**NTC Agreements**" shall have the meaning set forth in Section 2.3 of this Agreement.

"**NTC Initial Shares**" shall have the meaning set forth in Section 5.4(G) of this Agreement.

"**NT$**" means the lawful currency of the ROC.

"**Operation Approvals**" means factory registration, Environmental Permits, business tax registration, registration of an import and export business and other Governmental Entity approvals, permits, licenses and authorizations.

"**Order**" means a preliminary or permanent injunction, temporary restraining order or other judicial or administrative order or decree of any Governmental Entity.

"**Output Percentage**" shall have the meaning set forth in the Joint Venture Agreement.

"**Parties**" shall have the meaning set forth in Recital A to this Agreement.

"**Patent Assignment**" means that certain Patent Assignment Agreement between NTC and Micron referred to on Schedule 2.2 of the Master Agreement Disclosure Letter.

"**Patent Rights**" means all rights associated with any and all issued and unexpired patents and pending patent applications in any country in the world, together with any and all divisionals, continuations, continuations-in-part, reissues, reexaminations, extensions, foreign counterparts or equivalents of any of the foregoing, wherever and whenever existing.

"**Person**" means any natural person, corporation, joint stock company, limited liability company, association, partnership, firm, joint venture, organization, business, trust, estate or any other entity or organization of any kind or character.

"**Pre-Existing and Contemporaneously Executed Agreement**" shall have the meaning set forth in Section 2.1 of this Agreement.

"**Primary Process Node**" means [***].

"**Probe Testing**" means testing, using a wafer test program as set forth in the applicable specifications, of a wafer that has completed all processing steps deemed necessary to complete the creation of the desired Stack DRAM integrated circuits in the die on such wafer, the purpose of which test is to determine how many and which of the die meet the applicable criteria for such die set forth in the specifications.

"**Process Node**" means [***].

"**Process Technology**" means that process technology developed before expiration of the Term (as defined in the JDP Agreement) and utilized in the manufacture of Stack DRAM wafers, including Probe Testing and technology developed through Product Engineering thereof, regardless of the form in which any of the foregoing is stored, but excluding any Patent Rights and any technology, trade secrets or know-how that relate to and are used in any back-end operations (after Probe Testing).

"**Product Engineering**" means any one or more of the engineering activities described on Schedule 7 of the JDP Agreement as applied to Stack DRAM Products or Stack DRAM Modules.

"**Prohibited Employees**" shall have the meaning set forth in Section 4.19 of this Agreement.

"**Restricted Employees**" shall have the meaning set forth in Section 4.19 of this Agreement.

"**ROC**" shall have the meaning set forth in the preamble to this Agreement.

"ROC Company Law" means the Company Law of the ROC, promulgated on December 26, 1929, and as last amended on February 3, 2006.

"ROC Fair Trade Law" means the Fair Trade Law of the ROC, promulgated on February 4, 1991, and as last amended on February 6, 2002.

"**Shareholder**" means NTC and MNL individually, and "**Shareholders**" means NTC and MNL collectively.

"**Software**" means computer program instruction code, whether in human readable source code form, machine executable binary form, firmware, scripts, interpretive text, or otherwise. The term "Software" does not include databases and other information stored in electronic form, other than executable instruction codes or source code that is intended to be compiled into executable instruction codes.

"**SOW**" means a statement of the work that describes research and development work to be performed under JDP Agreement and that has been adopted by the JDP Committee pursuant to Section 3.2 of the JDP Agreement.

"**Stack DRAM**" means dynamic random access memory cell that functions by using a capacitor arrayed predominantly above the semiconductor substrate.

"**Stack DRAM Designs**" means, with respect to a Stack DRAM Product, the corresponding design components, materials and information listed on Schedule 3 of the JDP Agreement or as otherwise determined by the JDP Committee in a SOW.

"**Stack DRAM Module**" means one or more Stack DRAM Products in a JEDEC-compliant package or module (whether as part of a SIMM, DIMM, multi-chip package, memory card or other memory module or package).

"**Stack DRAM Product**" means any memory comprising Stack DRAM, whether in die or wafer form.

"Statute of Investment By Foreign Nationals" means the Statute of Investment by Foreign Nationals of the ROC, promulgated on July 14, 1954, and as last amended on November 19, 1997.

"**Subsidiary**" means, with respect to any specified Person, any other Person that, directly or indirectly, including through one or more intermediaries, is controlled by such specified Person.

"**Supply Agreement**" means that certain Supply Agreement among NTC, Micron and the Joint Venture Company referred to on Schedule 2.5 of the Master Agreement Disclosure Letter.

"**Taiwan**" shall have the meaning set forth in the preamble to this Agreement.

"**Taxes**" means any federal, state, local or foreign net income, gross income, gross receipts, sales, use, ad valorem, transfer, franchise, profits, service, service use, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, customs, duties or other type of fiscal levy and all other taxes, governmental fees, registration fees, assessments or charges of any kind whatsoever, together with any interest and penalties, additions to tax or additional amounts imposed or assessed with respect thereto.

"**Technology Transfer and License Agreement**" means that certain Technology and Transfer and License Agreement between NTC and Micron referred to on Schedule 2.1 of the Master Agreement Disclosure Letter.

"**Third Party**" means any Person, other than NTC, Micron, the Joint Venture Company or any of their respective Subsidiaries.

"**Third Party Claim**" means any claim, demand, lawsuit, complaint, cross-complaint or counter-complaint, arbitration, opposition, cancellation proceeding or other legal or arbitral proceeding of any nature brought in any court, tribunal or judicial forum anywhere in the world, regardless of the manner in which such proceeding is captioned or styled, brought by any Third Party.

"**Trilateral Agreements**" shall have the meaning set forth in Section 2.5 of this Agreement.

1.2 Certain Interpretive Matters.

(A) Unless the context requires otherwise, (1) all references to Sections, Articles, Exhibits, Appendices or Schedules are to Sections, Articles, Exhibits, Appendices or Schedules of or to this Agreement, (2) each accounting term not otherwise defined in this Agreement has the meaning commonly applied to it in accordance with GAAP, (3) words in the singular include the plural and vice versa, (4) the term "**including**" means "including without limitation," and (5) the terms "**herein**," "**hereof**," "**hereunder**" and words of similar import shall mean references to this Agreement as a whole and not to any individual section or portion hereof. All references to "**$**" or dollar amounts will be to lawful currency of the United States of America. All references to "**day**" or "**days**" mean calendar days.

(B) No provision of this Agreement will be interpreted in favor of, or against, either Party by reason of the extent to which (1) such Party or its counsel participated in the drafting thereof, or (2) such provision is inconsistent with any prior draft of this Agreement or such provision.

ARTICLE 2.
CONTRACTS PRIOR TO CLOSING

2.1 Pre-Existing and Contemporaneously Executed Contracts Between the Parties and Certain of their Subsidiaries. On or prior to the date of this Agreement, the Parties and certain of their Subsidiaries have entered into the agreements listed on Schedule 2.1 of the Master Agreement Disclosure Letter (the "**Pre-Existing and Contemporaneously Executed Agreements**").

2.2 Contracts to be Entered into by the Parties. At the Closing, the Parties will enter into the agreements listed on Schedule 2.2 of the Master Agreement Disclosure Letter (the "**Bilateral Agreements**").

2.3 Contracts to be Entered into by NTC and the Joint Venture Company. At or prior to the Closing, NTC will enter into, and will cause the Joint Venture Company to enter into, the agreements listed on Schedule 2.3 of the Master Agreement Disclosure Letter (the "**NTC Agreements**").

2.4 Contracts to be Entered into by Micron and the Joint Venture Company. At the Closing, Micron will enter into, and NTC will cause the Joint Venture Company to enter into, the agreements listed on Schedule 2.4 of the Master Agreement Disclosure Letter (the "**Micron Agreements**").

2.5 Contracts to be Entered into by the Parties and the Joint Venture Company. At the Closing, the Parties will enter into, and NTC will cause the Joint Venture Company to enter into, the agreements listed on Schedule 2.5 of the Master Agreement Disclosure Letter (the "**Trilateral Agreements**").

2.6 Share Subscription. At the Closing, upon the terms and subject to the conditions set forth in this Agreement, and in reliance upon the representations, warranties and agreements set forth herein:

(A) NTC Contribution. NTC shall contribute to the Joint Venture Company, through the subscription of ordinary shares of the Joint Venture Company, NT$ 1,199,000,000. The subscription price shall be NT$ 10 per share.

(B) Micron Contribution. Micron shall cause MNL to contribute to the Joint Venture Company, through the subscription of ordinary shares of the Joint Venture Company, NT$ 1,200,000,000. The subscription price shall be NT$ 10 per share.

2.7 Assumption of Liabilities. Promptly following the Closing, NTC and Micron shall cause the Joint Venture Company to reimburse NTC for the actual fees and expenses, not to exceed NT$ 1,000,000, incurred by NTC in connection with the promotion or incorporation of the Joint Venture Company as contemplated by Section 5.4(G), which fees and expenses shall not include any capital contribution to be made by NTC as contemplated by Section 5.4(G)(2) or by the Joint Venture Agreement. The Joint Venture Company shall not assume any liabilities, debts, obligations or duties of either Party of any kind or nature whatsoever, except to the extent such liabilities, debts, obligations or duties are expressly assumed by the Joint Venture Company under this Agreement or another Joint Venture Document.

ARTICLE 3.
REPRESENTATIONS AND WARRANTIES

3.1 NTC Representations. NTC represents and warrants to Micron as follows:

(A) Corporate Existence and Power. NTC is a company incorporated and validly existing under the laws of the ROC. NTC has the requisite corporate power and authority to own, lease and operate its properties that it currently owns, leases or operates and to carry on its business as now conducted.

(B) Authorization; Enforceability. NTC has the requisite corporate power and authority to enter into this Agreement and the Joint Venture Documents to which it is or is intended to be a party and to perform its obligations hereunder and thereunder. The execution and delivery by NTC of this Agreement and the Joint Venture Documents to which it is or is intended to be a party and the performance by NTC of its obligations contemplated hereby and thereby have been duly authorized by NTC and do not violate the terms of the articles of incorporation of NTC. This Agreement has been, and as of the Closing the Joint Venture Documents to which NTC is or is intended to be a party will have been, duly executed and delivered by NTC, and this Agreement constitutes, and as of the Closing each of the Joint Venture Documents to which NTC is or is intended to be a party will constitute, the valid and binding agreement of NTC, enforceable against NTC in accordance with their respective terms, except to the extent that their enforceability may be subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting the enforcement of creditors' rights generally.

(C) Governmental Authorization. Except as disclosed in Schedule 3.1(C) of the Master Agreement Disclosure Letter, the execution, delivery and performance by NTC of this Agreement and the Joint Venture Documents to which it is or is intended to be a party will not require any action by or in respect of, or filing with, any Governmental Entity.

(D) Non-Contravention; Consents. Except as disclosed in Schedule 3.1(D) of the Master Agreement Disclosure Letter (and subject to the provisions of Section 4.18), the execution, delivery and performance by NTC of this Agreement and the Joint Venture Documents to which it is or is intended to be a party do not and will not (1) violate, in any material respect, any Applicable Law or Order, (2) require any filing with, or permit, consent or approval of, or the giving of any notice to (including under any right of first refusal or similar provision), any Person (including filings, consents or approvals required under any agreements, licenses or leases to which NTC or any of its Affiliates is a party), except where the failure to obtain such filings, permits, consents, approvals or notices could not reasonably be expected to have a Material Adverse Effect, (3) result in a material violation or breach of, conflict with, constitute (with or without due notice or lapse of time or both) a default under, or give rise to any right of termination, cancellation or acceleration of any charter document of or any right or obligation of NTC or any of its Subsidiaries or to a loss of any benefit to which NTC or any of its Subsidiaries is entitled, or create or trigger any right of any counterparty, under, any agreement or other instrument binding upon NTC or any of its Subsidiaries, or (4) result in the creation or imposition of any Lien (a) on any asset of the Joint Venture Company, (b) on the ordinary shares of the Joint Venture Company held or to be held by NTC or its Subsidiaries, or

(c) that could adversely affect NTC's ability to perform its obligations under the Joint Venture Documents.

(E) Litigation. Except as disclosed in Schedule 3.1(E) of the Master Agreement Disclosure Letter or as previously disclosed in NTC's annual reports or public filings pursuant to applicable securities laws, there is no action, suit, arbitration, administrative or other proceeding or investigation pending or, to NTC's knowledge, threatened against or affecting (1) the Leased Fab or (2) NTC or its Affiliates or any of their respective properties that, if determined or resolved adversely to NTC or its Affiliates, could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(F) Corporate Existence of the Joint Venture Company. As of the Closing, the Joint Venture Company will have been formed under the laws of the ROC as a company-limited-by-shares. As of the Closing, the Joint Venture Company will have been duly incorporated and will be validly existing under the laws of the ROC.

(G) NTC Initial Shares. Except for the NTC Initial Shares, the ordinary shares to be issued to NTC and MNL upon the Closing as contemplated by Section 2.6 or as otherwise contemplated by this Agreement or the Joint Venture Agreement, as of the Closing, there will be no outstanding securities of the Joint Venture Company (including outstanding options, warrants, calls, subscriptions, or commitments by the Joint Venture Company to issue any securities) or outstanding obligations or commitments of the Joint Venture Company to make any distributions to its shareholders or to purchase, redeem or retire any securities, except for NTC's preemptive right with respect to ordinary shares of the Joint Venture Company to be issued at the Closing for the subscription of MNL as contemplated hereunder, which preemptive right has been irrevocably waived by NTC. As of the Closing, NTC will own the NTC Initial Shares, free and clear of all Liens.

(H) Due Diligence. NTC has made available to Micron true, correct and complete copies of all material documents, due diligence and other information reasonably requested by or on behalf of Micron in connection with the planning for, and negotiations with respect to, the Joint Venture Company, its intended assets, operations and business and the Joint Venture Documents.

(I) Operational Approvals, Obligations. As of the date hereof, NTC operates the Leased Fab with all required material Operational Approvals, and is in compliance with all material terms thereof and has fulfilled, or is timely fulfilling, all material obligations to any Governmental Entity or its designee relating thereto. To NTC's knowledge as of the date hereof, there are no conditions, circumstances, facts or events that could prevent the Joint Venture Company from readily obtaining, in a time and manner consistent with the presently anticipated ramp of the business of the Joint Venture Company as known by NTC as of the date hereof, the Operational Approvals that will be required to operate the business of the Joint Venture Company, including its occupancy and operation of the Leased Fab, as presently contemplated and as known by NTC as of the date hereof.

(J) Patent Licenses. Neither the execution and delivery of the Joint Venture Documents nor the grant of rights or the performance of its obligations by NTC hereunder or

thereunder will create any obligation on behalf of Micron or the Joint Venture Company or their respective Subsidiaries under any agreement (including any patent cross license agreement) between NTC or its Subsidiaries, on the one hand, and a Third Party, on the other hand.

(K) Brokerage. Except as disclosed in Schedule 3.1(K) of the Master Agreement Disclosure Letter, NTC has not dealt with any finder, broker, investment banker or financial advisor in connection with any of the transactions contemplated by this Agreement or the negotiations looking toward the consummation of such transactions, and no finder, broker, investment banker or financial advisor is entitled to any brokerage, finders' or other fees or commissions in connection with this Agreement or the negotiation looking toward the consummation of such transactions, based upon arrangements made by or on behalf of NTC.

(L) Intellectual Property. NTC has the right and authority to transfer and license its Foundational Know-How to Micron in accordance with the terms of the Joint Venture Documents.

3.2 Micron Representations. Micron represents and warrants to NTC as follows:

(A) Corporate Existence and Power. Micron is a corporation duly incorporated and validly existing under the laws of the State of Delaware. MNL is a private limited liability company duly organized and validly existing under the laws of the Netherlands. Micron has the requisite corporate power and authority to own, lease and operate its properties that it currently owns, leases or operates and to carry on its business as now conducted. From the date of this Agreement and throughout the term of the Joint Venture Agreement, MNL is and will continue to be a wholly-owned Subsidiary of Micron.

(B) Authorization; Enforceability. Micron has the requisite corporate power and authority to enter into this Agreement and the Joint Venture Documents to which it is or is intended to be a party and to perform its obligations hereunder and thereunder. The execution and delivery by Micron of this Agreement and the Joint Venture Documents to which it is or is intended to be a party and the performance by Micron of its obligations contemplated hereby and thereby have been duly authorized by Micron and do not violate the terms of the certificate of incorporation or bylaws of Micron. This Agreement has been, and as of the Closing the Joint Venture Documents to which Micron is or is intended to be a party will have been, duly executed and delivered by Micron, and this Agreement constitutes, and as of the Closing each of the Joint Venture Documents to which Micron is or is intended to be a party will constitute, the valid and binding agreement of Micron, enforceable against Micron in accordance with their respective terms, except to the extent that their enforceability may be subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting the enforcement of creditors' rights generally. MNL has the requisite corporate power and authority to enter into the Joint Venture Documents to which it is or is intended to be a party and to perform its obligations thereunder. The execution and delivery by MNL of the Joint Venture Documents to which it is or is intended to be a party and the performance by MNL of its obligations contemplated thereby have been duly authorized by MNL and do not violate the terms of the articles of incorporation of MNL. The Joint Venture Documents to which MNL is or is intended to be a party have been duly executed and delivered by MNL, and each of the Joint Venture Documents to which MNL is or is intended to be a party constitutes the valid and binding agreement of MNL, enforceable

against MNL in accordance with their respective terms, except to the extent that their enforceability may be subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting the enforcement of creditors' rights generally.

(C) Governmental Authorization. Except as disclosed in Schedule 3.2(C) of the Master Agreement Disclosure Letter, the execution, delivery and performance by (1) Micron of this Agreement and the Joint Venture Documents to which it is or is intended to be a party and (2) MNL of the Joint Venture Documents to which it is or is intended to be a party, will not require any action by or in respect of, or filing with, any Governmental Entity.

(D) Non-Contravention; Consents. Except as disclosed in Schedule 3.2(D) of the Master Agreement Disclosure Letter (and subject to the provisions of Section 4.18), the execution, delivery and performance by (1) Micron of this Agreement and the Joint Venture Documents to which it is or is intended to be a party and (2) MNL of the Joint Venture Documents to which it is or is intended to be a party, do not and will not (a) violate, in any material respect, any Applicable Law or Order, (b) require any filing with, or permit, consent or approval of, or the giving of any notice to (including under any right of first refusal or similar provision), any Person (including filings, consents or approvals required under any licenses or leases to which Micron or any of its Affiliates is a party), except where the failure to obtain such filings, permits, consents, approvals or notices could not reasonably be expected to have a Material Adverse Effect, (c) result in a material violation or breach of, conflict with, constitute (with or without due notice or lapse of time or both) a default under, or give rise to any right of termination, cancellation or acceleration of any charter document of or any right or obligation of Micron or any of its Subsidiaries or to a loss of any benefit to which Micron or any of its Subsidiaries is entitled, or create or trigger any right of any counterparty, under, any agreement or other instrument binding upon Micron or any of its Subsidiaries, or (d) result in the creation or imposition of any Lien (i) on any asset of the Joint Venture Company, (ii) on the ordinary shares of the Joint Venture Company held or to be held by Micron or its Subsidiaries, or (iii) that could adversely affect Micron's and MNL's ability to perform their respective obligations under the Joint Venture Documents.

(E) Litigation. Except as disclosed in Schedule 3.2(E) of the Master Agreement Disclosure Letter or as previously disclosed in Micron's public filings pursuant to the Exchange Act, there is no action, suit, arbitration, administrative or other proceeding or investigation pending or, to Micron's knowledge, threatened against or affecting Micron or its Affiliates or any of their respective properties that, if determined or resolved adversely to Micron or its Affiliates, could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(F) Patent Licenses. Neither the execution and delivery of the Joint Venture Documents nor the grant of rights or the performance of its obligations by Micron or MNL, as applicable, hereunder or thereunder will create any obligation on behalf of NTC or the Joint Venture Company or their respective Subsidiaries under any agreement (including any patent cross license agreement) between Micron or its Subsidiaries, on the one hand, and a Third Party, on the other hand.

(G) Brokerage. Neither Micron nor MNL has dealt with any finder, broker, investment banker or financial advisor in connection with any of the transactions contemplated by this Agreement or the negotiations looking toward the consummation of such transactions, and no finder, broker, investment banker or financial advisor is entitled to any brokerage, finders' or other fees or commissions in connection with this Agreement or the negotiation looking toward the consummation of such transactions, based upon arrangements made by or on behalf of Micron or MNL.

(H) Intellectual Property. Micron has the right and authority to transfer and license the Background IP and its Foundational Know-How to NTC in accordance with the terms of the Joint Venture Documents.

ARTICLE 4.
COVENANTS

4.1 The Joint Venture Company.

(A) Operational Approvals. As promptly as practicable after the execution and delivery of the Fab Lease, the Parties shall assist the Joint Venture Company to apply to the relevant municipal and other Governmental Entities to obtain, or for amendment of, the Operation Approvals reasonably necessary for the Joint Venture Company to conduct its business as contemplated by the Joint Venture Documents. The Parties further agree to cooperate and use their reasonable efforts to assist the Joint Venture Company in obtaining, as soon as reasonably practicable, all material Operational Approvals that will be required to operate the business of the Joint Venture Company, including its occupancy and operation of the Leased Fab, as presently contemplated.

(B) Shareholders Meeting. NTC shall cause a shareholders meeting of the Joint Venture Company to be convened as soon as practicable after the Closing for election of directors and supervisors of the Joint Venture Company as contemplated by Sections 5.1 and 5.3 of the Joint Venture Agreement.

(C) Operations and Capitalization of the Joint Venture Company. Each of NTC and Micron agrees that it will not, and will not permit its Subsidiaries to, directly or indirectly, cause, or take any action that would cause, the Joint Venture Company to engage in any operations, make any commitments, issue any securities, incur any liabilities or acquire any assets, except, (1) NTC shall be permitted to cause the Joint Venture Company to undertake, at or prior to the Closing, the activities contemplated by this Section 4.1 and Sections 5.4(F), 5.4(G), 5.4(H) and 5.4(I) to be conducted by the Joint Venture Company, and (2) prior to the Closing, NTC shall be permitted to cause the Joint Venture Company to take any action that is approved in advance in writing (including by facsimile or electronic mail) by the representative of Micron named on Schedule 4.1(C) of the Master Agreement Disclosure Letter, which representative may be replaced by Micron from time to time by written notice to NTC in accordance with Section 8.3.

4.2 Reasonable Efforts. Each of NTC and Micron will cooperate and use its reasonable efforts to take, or cause to be taken, all appropriate actions (and to make, or cause to be made, all filings necessary, proper or advisable under Applicable Law, including the

combination notification and supplements thereto under the ROC Fair Trade Law) to consummate and make effective the transactions contemplated by this Agreement and the Joint Venture Documents, including its reasonable efforts to obtain, as promptly as practicable, all licenses, permits, consents, approvals, authorizations, qualifications and orders of Governmental Entities and parties to contracts, as are necessary for the consummation of the transactions contemplated by this Agreement and the Joint Venture Documents and to fulfill the conditions in Article 5 of this Agreement.

4.3 Governmental Filings. Subject to Applicable Law, prior to the making or submission of any analysis, appearance, presentation, memorandum, brief, argument, opinion or proposal by or on behalf of either Party in connection with proceedings under or relating to any applicable Competition Law, NTC and Micron will consult and cooperate with one another, and consider in good faith the views of one another, in connection with any such analyses, appearances, presentations, memoranda, briefs, arguments, opinions or proposals. In this regard but without limitation, each Party hereto shall promptly inform the other of any material communication between such Party and any antitrust or competition Governmental Entity regarding the transactions contemplated by this Agreement and the Joint Venture Documents. Nothing in this Agreement, however, shall require or be construed to require any Party hereto, in order to obtain the consent or successful termination of any review of any such Governmental Entity regarding the transactions contemplated by this Agreement and the Joint Venture Documents, to (A) sell or hold separate, or agree to sell or hold separate, before or after the Closing Date, any assets or businesses, or any interests in any assets or businesses, of such Party or any of its Subsidiaries (or to consent to any sale, or agreement to sell, any assets or businesses, or any interests in any assets or businesses), or any change in or restriction on the operation by such Party of any assets or businesses, or (B) enter into any agreement or be bound by any obligation that, in such Party's good faith judgment, may have an adverse effect on the benefits to such Party of the transactions contemplated by this Agreement and the Joint Venture Documents.

4.4 Access to Properties and Records. From the date of this Agreement through the Closing and subject to the Mutual Confidentiality Agreement, NTC shall afford representatives of Micron reasonable access to the Leased Fab, and books and records reasonably related to the contemplated operations of the Joint Venture Company, during normal business hours, so that Micron has a full opportunity to investigate the Leased Fab, including an environmental inspection and audit thereof; *provided*, *however*, that such investigation shall be at reasonable times and upon reasonable notice and shall not unreasonably disrupt the personnel and operations of NTC.

4.5 Further Assurances. From time to time, as and when requested by any Party, the other Party will execute and deliver, or cause to be executed and delivered, all such documents and instruments and will take, or cause to be taken, all such further or other actions, as the Parties may reasonably agree are necessary or desirable to consummate the transactions contemplated by this Agreement and the Joint Venture Documents.

4.6 Transfer Taxes. Each of the Parties shall pay all of the costs and expenses of all transfer, documentary, sales, use, stamp, registration, value added and other similar Taxes and governmental filing and permit fees that are incurred by such Party or its Subsidiaries in

connection with the transfer or conveyance of any money or property to the Joint Venture Company as contemplated by this Agreement and the Joint Venture Documents.

4.7 Confidentiality. Prior to the date of this Agreement, the disclosure and exchange of Confidential Information (as defined in the NDA) between the Parties is governed solely by the terms of the NDA. On and after the date hereof, the disclosure and exchange of any confidential information between the Parties is and will be governed by the Mutual Confidentiality Agreement and, to the extent in effect and applicable, the other Joint Venture Documents.

4.8 Press Releases. Upon or immediately following the signing of this Agreement, the Parties shall, and each Party may, issue a press release, the text of which shall have been pre-approved in writing by Micron and NTC. The Parties will work together to ensure such press release will comply, both as to timing and substance, with the disclosure requirements of any Applicable Law to which either Party may be subject. Except as required by Applicable Law, from the date hereof until the issuance of such press release**,** neither Party shall make any public disclosure, announcement or statement with respect to this Agreement, the Joint Venture Documents, the Joint Venture Company or any of the transactions contemplated by this Agreement or the Joint Venture Documents. Following the issuance of such press release, and subject to the terms and conditions of the Mutual Confidentiality Agreement, each Party shall be free to reuse the information contained in such press release.

4.9 Legally Compelled Disclosures. In the event that a Party is requested or becomes legally compelled (including pursuant to securities laws and regulations) to disclose any of the Joint Venture Documents, or any of the terms thereof, where such disclosure would be in contravention of the provisions of this Agreement or the Mutual Confidentiality Agreement, the Party may make such disclosure but subject to the provisions of this Section 4.9. The Party required to make such disclosure shall provide the other Party with prompt written notice of the requirement to make such disclosure before making such disclosure and will use its reasonable efforts to cooperate fully with the other Party to seek a protective order, confidential treatment or other appropriate remedy with respect to the disclosure. In such event, the disclosing Party shall furnish for disclosure only that portion of the information that is legally required to be disclosed and shall exercise its reasonable efforts to obtain reliable assurance that confidential treatment will be accorded to such information to the extent reasonably requested by the other Party and to the maximum extent possible under Applicable Law. The disclosing Party agrees that it will provide the other Party with drafts of any documents or other filings in which it is required to disclose this Agreement, the other Joint Venture Documents or any other confidential information subject to the terms of this Agreement at least two (2) Business Days prior to the filing or disclosure thereof for any matter to be filed with the Commission on Form 8-K and at least five (5) Business Days prior to the filing or disclosure for any other matter required to be filed with the Commission or any other Governmental Entity (except, in either case, to the extent a shorter time period is required to permit compliance with Applicable Law), and that it will make any changes to such materials as reasonably requested by the other Party to the extent permitted by Applicable Law.

4.10 Ownership Interest. Prior to the Closing, NTC shall not transfer or agree to transfer any shares of the Joint Venture Company to any Person and shall not grant or permit a Lien thereon.

4.11 Continuity and Maintenance of Operations. Until the Closing, each Party agrees to use commercially reasonable efforts consistent with past practice and policies to (A) preserve intact in all material respects that portion of its present business operations expected to be made available (through services agreements or otherwise), leased, transferred or contributed to the Joint Venture Company at the time of the Closing, (B) maintain in all material respects the services of such Party's employees who are reasonably expected to render full-time service to the Joint Venture Company as assigned employees or who are otherwise expected to be an integral part of the services to be provided by such Party to the Joint Venture Company, and (C) preserve in all material respects its relationships with suppliers, licensors, licensees and others having material business relationships in connection with that portion of its business operations expected to be made available (through services agreements or otherwise), leased or contributed to the Joint Venture Company at the time of the Closing.

4.12 Certain Deliveries and Notices. From the date of this Agreement until the Closing, each Party shall promptly inform, in writing, the other Party of (A) any event or occurrence that could be reasonably expected to have a material adverse effect on its ability to perform its obligations under any of the Joint Venture Documents or, in its reasonable opinion, the ability of the Joint Venture Company to conduct its business as presently contemplated, or (B) any breach by it that cannot or will not be cured by the Closing or anticipated failure by it to satisfy any condition or covenant, if such failure cannot or will not be cured by the Closing, contained herein or in any other Joint Venture Document.

4.13 Initial Business Plan. The Parties shall work in good faith to prepare a mutually acceptable Initial Business Plan prior to the Closing.

4.14 Tax Matters. The Parties shall cooperate in a good faith, commercially reasonable manner to maximize tax benefits and minimize tax costs of the Joint Venture Company and of the Parties or their Subsidiaries with respect to the activities of the Joint Venture Company, consistent with the overall goals of the Joint Venture Documents. Such cooperation shall include (A) NTC's use of reasonable efforts to assist Micron, MNL and the Joint Venture Company in applying for applicable tax incentives and for a tax withholding exemption in Taiwan, the Netherlands and such other jurisdictions as may be relevant, with respect to payments made by either NTC or the Joint Venture Company to Micron or MNL, or by Micron or an Affiliate of Micron to the Joint Venture Company and (B) Micron's use of reasonable efforts to assist NTC in applying for applicable tax incentives and for a tax withholding exemption in Taiwan, the Netherlands and such other jurisdictions as may be relevant, with respect to payments made by either the Joint Venture Company to NTC, or by NTC or an Affiliate of NTC to the Joint Venture Company. Additional assistance may include one Party assisting the other Party in amending one or more of the Joint Venture Documents or seeking a ruling from a taxing authority; *provided*, *however*, that neither of the Parties shall be required to consent to amend any of the Joint Venture Documents or take other action that such Party reasonably determines is not commercially reasonable; *provided*, *further*, that if one Party (and its Subsidiaries) is not likely (based on reasonable assumptions and projections) to benefit directly or indirectly from an

action requested by the other Party pursuant to this Section 4.14, then the Parties shall use good faith commercially reasonable efforts to enter into an agreement requiring the requesting Party to reimburse the other Party for the reasonable out-of-pocket costs incurred by that other Party to effect the change desired by the requesting Party, and the other Party shall not be required to incur such costs until such an agreement has been entered into.

4.15 Supply Agreement. The Parties acknowledge that, at the Closing, they each will enter into the Supply Agreement with the Joint Venture Company pursuant to which each such Party shall have the right and obligation to purchase from the Joint Venture Company a percentage (equal to, in the case of NTC, NTC's Output Percentage and, in the case of Micron, MNL's Output Percentage) of the Joint Venture Company's output of Stack DRAM Products and other products that are manufactured by the Joint Venture Company.

4.16 Patent Assignment. Prior to the Closing, NTC shall deliver to Micron a list of [***] patents selected from the lists previously delivered by Micron to NTC, containing a total of [***] patents. On the Closing Date, Micron shall deliver to NTC a duly executed Patent Assignment with respect to such [***] patents. To the extent the patents selected by NTC have fewer than thirty (30) independent priority dates, NTC and Micron shall negotiate in good faith with respect to Micron including in the Patent Assignment that number of patents closest to[***] having at least thirty (30) independent priority dates.

4.17 Reimbursement of NTC for Tool Install Preparation Activities. NTC shall cause, and Micron shall cause MNL to cause, the Joint Venture Company, within six (6) months following the Closing, to reimburse NTC for any out-of-pocket costs incurred by NTC in preparing the Leased Fab for installation of the tools required for manufacturing 300mm wafers; *provided* that such out-of-pocket costs are approved in advance in writing (including by facsimile or electronic mail) by the representative of Micron named on Schedule 4.17 of the Master Agreement Disclosure Letter, which representative may be replaced by Micron from time to time by written notice to NTC in accordance with Section 8.3.

4.18 Updates to Schedule 3.1(D) and 3.2(D). Until the earlier of (A) April 30, 2008, and (B) the date that is five (5) Business Days prior to the Closing, NTC and Micron shall have the opportunity to update Schedule 3.1(D) of the Master Agreement Disclosure Letter and Schedule 3.2(D) of the Master Agreement Disclosure Letter, respectively, to include additional required filings with, or permits, consents or approvals of, or notices to be given to, any Persons that were not known, after reasonable inquiry conducted in good faith, as of the date hereof; *provided* that each such additional required filing, permit, consent, approval or notice shall be identified on the applicable Schedule with an asterisk unless otherwise agreed by the Parties. Any such update shall cure any breach, as of the date hereof, of Section 3.1(D) or Section 3.2(D), as the case may be, resulting from the failure to include such updated content on Schedule 3.1(D) of the Master Agreement Disclosure Letter or Schedule 3.2(D) of the Master Agreement Disclosure Letter, as the case may be, on the date hereof.

4.19 Restrictions on Soliciting and Hiring Employees.

(A) Micron Restrictions. During the Employee Restriction Period, Micron shall not, and shall cause its Affiliates not to, without the prior written consent of NTC, (1) directly or

indirectly recruit, solicit or hire, or make arrangements to recruit, solicit or hire, any persons engaged or involved in [***] (collectively, "**Prohibited Employees**") that is then, or was within [***], employed by NTC, the Joint Venture Company or their respective Subsidiaries, or (2) directly or indirectly recruit or solicit, or make arrangements to recruit or solicit, any person other than a Prohibited Employee ("**Restricted Employees**") that is then, or was within [***], employed by NTC, the Joint Venture Company or their respective Subsidiaries. Notwithstanding the foregoing, the restrictions against recruiting, soliciting and hiring a Prohibited Employee or a Restricted Employee shall not apply to an Affiliate of Micron that is not a Subsidiary of Micron and that is not in a business involving semiconductors, *provided* that such Affiliate of Micron does not do so with information or assistance provided by Micron, a Subsidiary of Micron or any of their respective officers, directors, employees or agents and such employee will not become employed by or work for Micron or an Affiliate of Micron that is in a business involving semiconductors.

(B) NTC Restrictions. During the Employee Restriction Period, NTC shall not, and shall cause its Affiliates not to, without the prior written consent of Micron, (1) directly or indirectly recruit, solicit or hire, or make arrangements to recruit, solicit or hire, any Prohibited Employee that is then, or was within [***], employed by Micron, the Joint Venture Company or their respective Subsidiaries, or (2) directly or indirectly recruit or solicit, or make arrangements to recruit or solicit, any Restricted Employee that is then, or was within [***], employed by Micron, the Joint Venture Company or their respective Subsidiaries. Notwithstanding the foregoing, the restrictions against recruiting, soliciting and hiring a Prohibited Employee or a Restricted Employee shall not apply to an Affiliate of NTC that is not a Subsidiary of NTC and that is not in a business involving semiconductors, *provided* that such Affiliate of NTC does not do so with information or assistance provided by NTC, a Subsidiary of NTC or any of their respective officers, directors, employees or agents and such employee will not become employed by or work for NTC or an Affiliate of NTC that is in a business involving semiconductors.

(C) Joint Venture Company Restrictions. During the Employee Restriction Period, NTC shall use, and Micron shall cause MNL to use, (for so long as each Party or its Affiliates owns an equity, ownership or voting interest in the Joint Venture Company) commercially reasonable efforts to cause the Joint Venture Company not to, without the prior written consent of the other Party, (1) directly or indirectly recruit, solicit or hire, or make arrangements to recruit, solicit or hire, any Prohibited Employee that is then, or was within [***], employed by such other Party or its Subsidiaries, or (2) directly or indirectly recruit or solicit, or make arrangements to recruit or solicit, any Restricted Employee that is then, or was within [***], employed by such other Party or its Subsidiaries.

ARTICLE 5.
CLOSING

5.1 The Closing. The Closing will take place at the offices of Jones Day located at 6th Floor, No. 2, Section 2, Tun Hwa South Road, Taipei, Taiwan or at such other place as the Parties may agree and shall occur on or before the tenth (10th) Business Day after all of the conditions set forth in Sections 5.2, 5.3 and 5.4 are first satisfied or properly waived, except as mutually agreed otherwise by the Parties.

5.2 Conditions to the Obligations of the Parties. The respective obligations of the Parties under this Agreement to consummate the Closing are subject to the satisfaction, at or prior to the Closing, of the conditions that:

(A) there shall not have been entered an Order the effect of which prohibits the Closing; *provided*, *however*, that no Party may invoke this condition to prevent the Closing as a result of any Order arising from or relating to any litigation, arbitration, investigation or administrative proceeding described in the Litigation Side Letter against or involving such Party or any of its Affiliates, unless such Order is in the form of an injunction or restraining order prohibiting the Closing and the Party against whom the Order has been issued has used and is continuing to use its best effort to remove or otherwise quash such Order (including by securing and filing a bond in favor of the petitioner as may be contemplated by Applicable Law) (it being agreed that, in such event, the other Party shall have the right to change each date contained in Section 7.1(A) to a date not later than [***]);

(B) the Joint Venture Company and the Leased Fab shall be covered by insurance policies of NTC, with coverage consistent with the terms set forth on Schedule 5.2(B) of the Master Agreement Disclosure Letter;

(C) all filings or approvals required to be made or obtained under any antitrust, competition or fair trade laws or regulations shall have been made or obtained, and any required waiting periods under any antitrust, competition or fair trade laws or regulations shall have expired or been terminated, in each case without the imposition of any conditions;

(D) all required approvals under the ROC Company Law and the Statute of Investment By Foreign Nationals or under the ROC Fair Trade Law shall have been obtained, in each case without the imposition of any conditions; and

(E) no statute, rule, regulation or executive order shall have been enacted, entered, promulgated or enforced by any Governmental Entity that prohibits, restrains, enjoins or restricts the consummation of the transactions or the operations of the Joint Venture Company as currently contemplated by this Agreement or the Joint Venture Documents.

5.3 Conditions to the Obligations of NTC. The obligation of NTC under this Agreement to consummate the Closing is further subject to the satisfaction, at or prior to the Closing, of all of the following conditions, any one or more of which may be waived in writing by NTC at its option:

(A) Accuracy of Representations and Warranties. The representations and warranties of Micron contained in this Agreement that are subject to qualifications and exceptions contained therein relating to materiality or Material Adverse Effect shall be true and correct, and all other representations and warranties of Micron contained in this Agreement shall be true and correct in all material respects, both on and as of the date of this Agreement and at and as of the Closing (with the same force and effect as if made anew at and as of the Closing), except to the extent that such representations and warranties speak as of another date, in which case such representations and warranties shall be true and correct as of such other date.

(B) Compliance with Covenants. All covenants of Micron contained in this Agreement and the Joint Venture Documents that are to be performed and complied with by Micron or a Subsidiary of Micron at or before the Closing shall have been performed and complied with in all material respects.

(C) Consents. Each of the governmental and other approvals, consents or waivers identified with an asterisk on Schedule 3.1(C), Schedule 3.1(D), Schedule 3.2(C) or Schedule 3.2(D) of the Master Agreement Disclosure Letter as being a condition of the Closing, shall have been obtained on terms and conditions that are reasonably satisfactory to NTC.

(D) Delivery of Agreements by or on Behalf of Micron and MNL. Micron shall have duly executed and delivered, and shall have caused MNL to duly execute and deliver, to the Joint Venture Company or NTC, as the case may be, each of the Joint Venture Documents to which Micron or MNL is intended to be a party, and each such Joint Venture Document shall be in full force and effect without any event having occurred or condition existing that constitutes, or with the giving of notice or the passage of time (or both) would constitute, a material default under or material breach of such Joint Venture Document by Micron or MNL, as applicable.

(E) Initial Capital. Micron shall have caused MNL to deliver, and MNL shall have delivered, NT$ 1,200,000,000 as contemplated by Section 2.6(B).

5.4 Conditions to the Obligations of Micron. The obligation of Micron under this Agreement to consummate the Closing is further subject to the satisfaction, at or prior to the Closing, of all of the following conditions, any one or more of which may be waived in writing by Micron at its option:

(A) Accuracy of Representations and Warranties.

(1) The representations and warranties of NTC contained in this Agreement that are subject to qualifications and exceptions contained therein relating to materiality or Material Adverse Effect shall be true and correct, and all other representations and warranties of NTC contained in this Agreement shall be true and correct in all material respects, both on and as of the date of this Agreement and at and as of the Closing (with the same force and effect as if made anew at and as of the Closing), except to the extent that such representations and warranties speak as of another date, in which case such representations and warranties shall be true and correct as of such other date.

(2) The representations and warranties of NTC contained in the Fab Lease that are subject to qualifications and exceptions contained therein relating to materiality or Material Adverse Effect shall be true and correct, and all other representations and warranties of NTC contained in the Fab Lease shall be true and correct in all material respects, both on and as of the date of the Fab Lease and at and as of the Closing (with the same force and effect as if made anew at and as of the Closing), except to the extent that such representations and warranties speak as of a specific date prior to the date of the Fab Lease, in which case such representations and warranties shall be true and correct as of such prior date. For the avoidance of doubt, this Section 5.4(A)(2) is a closing condition only and shall not be deemed to be, and

shall not constitute, or be construed as, the making in this Agreement of the representations and warranties contained in the Fab Lease.

(B) Compliance with Covenants. All covenants of NTC contained in this Agreement and the Joint Venture Documents that are to be performed and complied with by NTC or a Subsidiary of NTC at or before the Closing shall have been performed and complied with in all material respects.

(C) Consents. Each of the governmental and other approvals, consents or waivers identified with an asterisk on Schedule 3.1(C), Schedule 3.1(D), Schedule 3.2(C) or Schedule 3.2(D) of the Master Agreement Disclosure Letter as being a condition of the Closing, shall have been obtained on terms and conditions reasonably satisfactory to Micron.

(D) Delivery of Agreements by or on Behalf of NTC. NTC shall have duly executed and delivered to the Joint Venture Company, Micron or MNL, as the case may be, each of the Joint Venture Documents to which NTC is intended to be a party, and each such Joint Venture Document shall be in full force and effect without any event having occurred or condition existing that constitutes, or with the giving of notice or the passage of time (or both) would constitute, a material default under or material breach of such Joint Venture Document by NTC.

(E) Initial Capital. NTC shall have delivered to the Joint Venture Company, as contemplated by Section 2.6(A), NT$ 1,199,000,000 in addition to the NT$ 1,000,000 contributed by NTC as referenced in Section 5.4(G).

(F) Delivery of Agreements by or on Behalf of the Joint Venture Company. NTC shall have caused the Joint Venture Company to have duly executed and delivered, and the Joint Venture Company shall have duly executed and delivered, (1) to Micron the Joint Venture Company Joinder, the Micron Agreements and the Trilateral Agreements, and (2) to NTC the Joint Venture Company Joinder, the NTC Agreements and the Trilateral Agreements.

(G) Formation of the Joint Venture Company. NTC shall have filed with the Ministry of Economic Affairs of the ROC, in proper form, the Joint Venture Company's incorporation registration application. NTC shall have (1) opened an account of the type described on Schedule 5.4(G) of the Master Agreement Disclosure Letter with the bank listed on Schedule 5.4(G) of the Master Agreement Disclosure Letter under the name of the preparatory office of the Joint Venture Company, (2) remitted to such account NT$ 1 million as an initial contribution to the capital of the Joint Venture Company for the subscription of one hundred thousand (100,000) ordinary shares (the "**NTC Initial Shares**"), (3) appointed the four (4) Persons listed on Schedule 5.4(G) of the Master Agreement Disclosure Letter to act as the directors and the one (1) Person listed on Schedule 5.4(G) of the Master Agreement Disclosure Letter to act as the supervisor of the Joint Venture Company as required by the ROC Company Law, (4) caused such directors to have convened a meeting of the Board of Directors at which the Board of Directors shall have (a) adopted the original articles of incorporation of the Joint Venture Company in the form attached as Schedule 5.4(G)(4)(a) of the Master Agreement Disclosure Letter, and (b) elected as Chairman of the Joint Venture Company the Person listed on Schedule 5.4(G) of the Master Agreement Disclosure Letter. NTC shall have (x) engaged the certified public accountant listed on Schedule 5.4(G) of the Master Agreement Disclosure Letter to verify

the remittance of the NT$ 1 million to the bank account of the preparatory office of the Joint Venture Company, and (y) caused such accountant to issue an auditor's report with respect thereto, each as required for incorporation registration of the Joint Venture Company.

(H) Execution of the Fab Lease. NTC shall have executed and delivered, and shall have caused the Joint Venture Company to have executed and delivered, the Fab Lease.

(I) Amendment of Articles of Incorporation; Authorize Capital Increase. NTC shall have caused the Joint Venture Company to have convened a meeting of the Board of Directors at which the Board of Directors shall have (1) amended the articles of incorporation of the Joint Venture Company to be in the form attached hereto as Exhibit A, and (2) authorized a capital increase of the Joint Venture Company, as necessary for the Shareholders to make the capital contributions contemplated by Section 2.6 of this Agreement and Sections 3.2 and 3.3 of the Joint Venture Agreement.

(J) Articles of Incorporation of the Joint Venture Company. The articles of incorporation of the Joint Venture Company shall be in the form attached hereto as Exhibit A.

(K) Lease Matters. At or prior to the Closing, (1) not less than five (5) Business Days before the Closing, NTC shall have made available to Micron true and accurate copies of each of the Real Property Contracts (as defined in the Fab Lease); and (2) Micron shall not have determined, in good faith, that NTC does not have legal or contractual rights to the Leased Fab sufficient to permit NTC to fulfill its obligations under the Fab Lease.

5.5 Closing Deliverables of NTC. At or prior to the Closing, NTC shall deliver or cause to be delivered:

(A) to Micron, MNL or the Joint Venture Company, as the case may be, each of the Joint Venture Documents to which NTC is intended to be a party, duly executed by NTC; and

(B) to Micron, a certificate of NTC, dated as of the Closing Date and signed by an authorized officer of NTC, certifying that the conditions set forth in Sections 5.4(A), (B), (C) (with respect to the approvals, consents or waivers identified with an asterisk on Schedule 3.1(C) or Schedule 3.1(D)), (E), (F), (G), (H), (I), (J) and (K)(1) have been satisfied.

5.6 Closing Deliverables of Micron. At or prior to the Closing, Micron shall deliver or cause to be delivered:

(A) to NTC or the Joint Venture Company, as the case may be, counterparts of each of the Joint Venture Documents to which Micron or MNL is intended to be a party, each duly executed by Micron or MNL, as applicable; and

(B) to NTC, a certificate of Micron, dated as of the Closing Date and signed by an authorized officer of Micron, certifying that the conditions set forth in Sections 5.3(A), (B), (C) (with respect to the approvals, consents or waivers identified with an asterisk on Schedule 3.2(C) or Schedule 3.2(D)) and (E) have been satisfied.

ARTICLE 6.
INDEMNIFICATION

6.1 Indemnification.

(A) NTC will indemnify and hold harmless Micron, Micron's Subsidiaries, the Joint Venture Company and their respective officers, directors, employees and agents against any and all Losses incurred or suffered by them as a result of (1) any failure to be true or correct of any representation or warranty made by NTC in this Agreement or any of its officers, directors, employees or agents in any of the certificates or other writings (other than the Joint Venture Documents) delivered at the Closing pursuant to this Agreement (representations and warranties qualified by references to materiality or Material Adverse Effect are to be interpreted as though they were not so qualified), *provided* a claim therefor is asserted no later than the [***] anniversary of the Closing Date, (2) any failure to perform or comply with any covenant or agreement of NTC in this Agreement, (3) either (a) any acts or omissions of NTC, any Subsidiary of NTC, IMI or any Subsidiary of IMI occurring at or prior to the Closing Date relating to the construction, maintenance or operation of, or on, the Leased Fab or Landlord's Real Estate (as defined in the Fab Lease) that both (I) were inconsistent with what would have been done by a reasonably prudent semiconductor manufacturer in the same or similar circumstances acting in accordance with industry standards and practices ("**Negligent Acts or Omissions**"), and (II) could materially and adversely affect the Joint Venture Company, or (b) any violation of an Environmental Law or other Applicable Law, existing or occurring at or prior to the Closing Date, that could adversely and materially affect the Joint Venture Company, or (4) any liabilities, debts, obligations or duties of NTC or any of its Subsidiaries that are not expressly assumed by the Joint Venture Company under this Agreement or another Joint Venture Document; *provided*, *however*, that (x) NTC shall not be liable under Sections 6.1(A)(1) and 6.1(A)(3) until aggregate Losses as a result of such failures or such Negligent Acts or Omissions or violations, respectively, exceed $[***], at which point NTC shall be liable for all such Losses; and (y) NTC's aggregate liability under Sections 6.1(A)(1) and 6.1(A)(3) shall not exceed the difference between $[***] and [***] of any amount paid by NTC in respect of its indemnity obligation in Sections 8.7(1) and 8.7(3) of the Fab Lease; *provided*, *further*, that the liability limitations set forth in clauses (x) and (y) shall not apply to any Losses under Section 6.1(A)(3) that result from (i) any Negligent Acts or Omissions that are known to NTC, any Subsidiary of NTC, IMI or any Subsidiary of IMI as of the Closing Date to be inconsistent with what would have been done by a reasonably prudent semiconductor manufacturer in the same or similar circumstances acting in accordance with industry standards and practices or (ii) any violation of an Environmental Law or other Applicable Law that is known to NTC, any Subsidiary of NTC, IMI or any Subsidiary of IMI as of the Closing Date.

(B) Micron will indemnify and hold harmless NTC, NTC's Subsidiaries, the Joint Venture Company and their respective officers, directors, employees and agents against any and all Losses incurred or suffered by them as a result of (1) any failure to be true or correct of any representation or warranty made by Micron in this Agreement or any of its officers, directors, employees or agents in any of the certificates or other writings (other than the Joint Venture Documents) delivered at the Closing pursuant to this Agreement (representations and warranties qualified by references to materiality or Material Adverse Effect are to be interpreted as though they were not so qualified), *provided* a claim therefor is asserted no later than the [***]

anniversary of the Closing Date, (2) any failure to perform or comply with any covenant or agreement of Micron in this Agreement, or (3) any liabilities, debts, obligations or duties of Micron or any of its Subsidiaries that are not expressly assumed by the Joint Venture Company under this Agreement or another Joint Venture Document; *provided, however,* that (x) Micron shall not be liable under Section 6.1(B)(1) until aggregate Losses as a result of such failures exceed $[***], at which point Micron shall be liable for all such Losses; and (y) Micron's aggregate liability under Sections 6.1(B)(1) shall not exceed $[***].

6.2 Procedures.

(A) General. Promptly after the receipt by any Person who or which is entitled to seek indemnification under Section 6.1 (an "**Indemnified Party**") of a notice of any Third Party Claim that may be subject to indemnification under Section 6.1, such Indemnified Party shall give written notice of such Third Party Claim to the Party against whom indemnification is sought (the "**Indemnifying Party**"), stating in reasonable detail the nature and basis of each claim made in the Third Party Claim and the amount thereof, to the extent known, along with copies of the relevant documents received by the Indemnified Party evidencing the Third Party Claim and the basis for indemnification sought. Failure of the Indemnified Party to give such notice shall not relieve the Indemnifying Party from liability on account of this indemnification, except if and only to the extent that the Indemnifying Party is actually prejudiced thereby. Thereafter, the Indemnified Party shall deliver to the Indemnifying Party, promptly after the Indemnified Party's receipt thereof, copies of all notices and documents (including court papers) received by the Indemnified Party relating to the Third Party Claim. The Indemnifying Party shall have the right to assume the defense of the Indemnified Party with respect to the Third Party Claim upon written notice to the Indemnified Party delivered within thirty (30) days after receipt of the particular notice from the Indemnified Party.

(B) So long as the Indemnifying Party has assumed the defense of the Third Party Claim in accordance herewith and notified the Indemnified Party in writing thereof, (1) the Indemnified Party may retain separate co-counsel, at its sole cost and expense, and participate in the defense of the Third Party Claim, it being understood that the Indemnifying Party shall pay all reasonable costs and expenses of counsel for the Indemnified Party after such time as the Indemnified Party has notified the Indemnifying Party of such Third Party Claim and prior to such time as the Indemnifying Party has notified the Indemnified Party that it has assumed the defense of such Third Party Claim, (2) the Indemnified Party shall not consent to the entry of any judgment or enter into any settlement with respect to a Third Party Claim without the prior written consent of the Indemnifying Party (not to be unreasonably withheld, conditioned or delayed) and (3) the Indemnifying Party will not consent to the entry of any judgment or enter into any settlement with respect to the Third Party Claim (other than a judgment or settlement that is solely for money damages to be paid by the Indemnifying Party and is accompanied by a release of all indemnifiable claims against the Indemnified Party) without the prior written consent of the Indemnified Party (not to be unreasonably withheld, conditioned or delayed).

(C) In the case of any Third Party Claim where the Indemnifying Party reasonably believes that it would be appropriate to settle such Third Party Claim using equitable remedies (*i.e.*, remedies involving the future activity and conduct of the Joint Venture Company), the Indemnifying Party and the Indemnified Party shall work together in good faith to agree to a

settlement; *provided*, *however*, that no Indemnified Party shall be under any obligation to agree to any such settlement.

(D) Any Direct Claim by an Indemnified Party against an Indemnifying Party will be asserted by giving the Indemnifying Party reasonably prompt written notice thereof, but in any event not later than thirty (30) days after the Indemnified Party becomes aware of the facts giving rise to such Direct Claim. Failure of the Indemnified Party to give such notice shall not relieve the Indemnifying Party from liability on account of this indemnification, except if and only to the extent that the Indemnifying Party is actually prejudiced thereby. Such notice by the Indemnified Party will describe the Direct Claim in reasonable detail and will indicate the estimated amount, if reasonably practicable, of Losses that have been or may be sustained by the Indemnified Party. The Indemnifying Party will have a period of ten (10) Business Days within which to respond in writing to such Direct Claim. If the Indemnifying Party does not so respond within such ten (10) Business Day period, the Indemnifying Party will be deemed to have rejected such claim, in which event the Indemnified Party will be free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement.

6.3 Specific Performance. The Parties agree that irreparable damage will result if this Agreement is not performed in accordance with its terms, and the Parties agree that any damages available under the indemnification provisions or at law for a breach of this Agreement would not be an adequate remedy. Therefore, the provisions hereof and the obligations of the Parties hereunder shall be enforceable in a court of equity, or other tribunal with jurisdiction, by a decree of specific performance, and appropriate injunctive relief may be applied for and granted in connection therewith.

6.4 Treatment of Indemnification Payments; Insurance Recoveries. Any indemnity payment under this Article 6 shall be decreased by any amounts actually recovered by the Indemnified Party under third party insurance policies with respect to such Loss (net of any increased or retrospective premiums paid by such Indemnified Party under the relevant insurance policy as a result of such Loss). Each Party agrees (A) to use reasonable efforts to recover all available insurance proceeds and (B) to the extent that any indemnity payment under this Article 6 has been paid by the Indemnifying Party to the Indemnified Party prior to the recovery by the Indemnified Party of such insurance proceeds, such amounts actually recovered by the Indemnified Party shall be promptly paid to the Indemnifying Party.

6.5 Certain Additional Procedures. The Indemnified Party shall cooperate and assist the Indemnifying Party in determining the validity of any Third Party Claim for indemnity by the Indemnified Party and in otherwise resolving such matters. The Indemnified Party shall cooperate in the defense by the Indemnifying Party of each Third Party Claim (and the Indemnified Party and the Indemnifying Party agree with respect to all such Third Party Claims that a common interest privilege agreement exists between them), including by (A) permitting the Indemnifying Party to discuss the Third Party Claim with such officers, employees, consultants and representatives of the Indemnified Party as the Indemnifying Party reasonably requests, (B) providing to the Indemnifying Party copies of documents and samples of products as the Indemnifying Party reasonably requests in connection with defending such Third Party Claim, (C) preserving all properties, books, records, papers, documents, plans, drawings,

electronic mail and databases relating to matters pertinent to the Third Party Claim and under the Indemnified Party's custody or control in accordance with such Party's corporate documents retention policies, or longer to the extent reasonably requested by the Indemnified Party, (D) notifying the Indemnifying Party promptly of receipt by the Indemnified Party of any subpoena or other third party request for documents or interviews and testimony, and (E) providing to the Indemnifying Party copies of any documents produced by the Indemnified Party in response to, or compliance with, any subpoena or other third party request for documents. In connection with any claims, unless otherwise ordered by a court, the Indemnified Party shall not produce documents to a Third Party until the Indemnifying Party has been provided a reasonable opportunity to review, copy and assert privileges covering such documents, except to the extent (x) inconsistent with the Indemnified Party's obligations under Applicable Law and (y) where to do so would subject the Indemnified Party or its employees, agents or representatives to criminal or civil sanctions.

6.6 Remedies. Prior to the Closing Date, specific performance shall be the Parties' sole and exclusive remedy under this Agreement, except for breaches of Section 4.7. From and after the Closing Date, specific performance and the indemnification remedies set forth in Section 6.1 shall be the Parties' sole and exclusive remedies under this Agreement, except for breaches of Section 4.7.

ARTICLE 7.
TERMINATION

7.1 Termination.

(A) This Agreement may be terminated at any time prior to the Closing:

(1) by either Party if the Closing shall not have occurred by [***]; *provided*, *however*, that neither Party may terminate this Agreement pursuant to this Section 7.1(A)(1) if the Closing shall not have occurred by such date by reason of the failure of such Party or any of its Subsidiaries to perform in all material respects any of its or their respective covenants or agreements contained in this Agreement;

(2) by the mutual written consent of the Parties;

(3) by NTC, if there has been a breach by Micron of any covenant, representation or warranty contained in this Agreement that has resulted in a Material Adverse Effect or has prevented the satisfaction of any condition to the obligations of NTC, and such breach has not been waived by NTC or cured by Micron, within thirty (30) days after written notice thereof from NTC (or such longer period as is necessary to effect a cure of the breach, so long as Micron diligently attempts to effect a cure throughout such period and such period does not extend beyond [***]); or

(4) by Micron, if there has been a breach by NTC of any covenant, representation or warranty contained in this Agreement that has resulted in a Material Adverse Effect or has prevented the satisfaction of any condition to the obligations of Micron, and such breach has not been waived by Micron or cured by NTC, within thirty (30) days after written notice thereof from Micron (or such longer period as is necessary to effect a cure of the breach,

so long as NTC diligently attempts to effect a cure throughout such period and such period does not extend beyond [***]).

(B) If this Agreement is terminated pursuant to Section 7.1(A), all further obligations of the Parties under this Agreement (other than pursuant to Sections 4.7 and 4.19 and Articles 6, and 8, which will continue in full force and effect) will terminate without further liability or obligation of either Party to the other Party hereunder; *provided*, *however*, that no Party will be released from liability hereunder if this Agreement is terminated and the transactions abandoned by reason of (1) the failure of such Party to have performed, in all material respects, its obligations under this Agreement or (2) any material breach of a representation made by such Party in this Agreement.

ARTICLE 8.
MISCELLANEOUS

8.1 Limitation of Liability. [***].

8.2 Exclusions; Mitigation.

(A) Section 8.1 will not apply to either Party's breach of Section 4.7. Section 8.1 will not apply to Section 6.1(A)(3) in the event NTC fails to use its best efforts to minimize any special, consequential, incidental and other indirect damages that may be incurred or suffered by Micron, Micron's Subsidiaries, the Joint Venture Company and their respective officers, directors and employees arising as a result of or in connection with any condition, circumstance, fact, event, act or omission for which NTC is liable under Section 6.1(A)(3); *provided*, *however*, that Section 8.1 will apply to Section 6.1(A)(3) if NTC does use such best efforts.

(B) Each Party shall have a duty to use commercially reasonable efforts to mitigate damages for which the other Party is responsible.

8.3 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given upon (A) transmitter's confirmation of a receipt of a facsimile transmission, (B) confirmed delivery by a standard overnight or recognized international carrier or when delivered by hand, or (C) delivery in person, addressed at the following addresses (or at such other address for a Party as shall be specified by like notice):

(A) if to NTC:

Nanya Technology Corporation
Hwa-Ya Technology Park 669
Fuhsing 3 RD. Kueishan
Taoyuan, Taiwan, ROC
Attn: Legal department
Facsimile: 886-3-396-2226

(B) if to Micron:

Micron Technology, Inc.
8000 S. Federal Way
Mail Stop 1-507
Boise, ID 83716
Attn: General Counsel
Facsimile: (208) 368-4537

8.4 Waiver. The failure at any time of a Party to require performance by the other Party of any responsibility or obligation required by this Agreement shall in no way affect a Party's right to require such performance at any time thereafter, nor shall the waiver by a Party of a breach of any provision of this Agreement by the other Party constitute a waiver of any other breach of the same or any other provision nor constitute a waiver of the responsibility or obligation itself.

8.5 Assignment. [***].

8.6 Third Party Rights.

(A) The Parties agree that the Joint Venture Company shall be a third party beneficiary to the agreements made hereunder by the Parties, and the Joint Venture Company shall have the right to enforce such agreements directly to the extent it deems such enforcement necessary or advisable to protect its rights hereunder.

(B) Nothing in this Agreement, whether express or implied, is intended or shall be construed to confer, directly or indirectly, upon or give to any Person, other than the Parties hereto and the Joint Venture Company, any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenant, condition or other provision contained herein.

8.7 Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the ROC, without giving effect to its conflict of laws principles.

8.8 Jurisdiction; Venue. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement shall be brought in the Taipei District Court, located in Taipei, Taiwan, and each of the Parties hereby consents and submits to the exclusive jurisdiction of such court (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum.

8.9 Dispute Resolution.

(A) All Disputes shall be resolved as follows: the Parties shall first submit the matter to the presidents of each of the Parties by providing notice of the Dispute to the Parties. The presidents shall then make a good faith effort to resolve the Dispute. If they are unable to

resolve the Dispute within thirty (30) days of receiving notice of the Dispute (during which thirty-day period, the presidents shall seek in good faith to hold at least two (2) meetings at which they shall make a good faith effort to resolve the Dispute), then the Dispute shall be submitted to the chairman of the board of directors of each of the Parties as contemplated by Section 8.9(B).

(B) If the presidents of the Parties are unable to resolve the Dispute within the thirty (30) day period, the chairman of the board of directors of each of the Parties shall then make a good faith effort to resolve the Dispute. If they are unable to resolve the Dispute within thirty (30) days of the Dispute's being submitted to them (during which thirty-day period, the chairmen shall seek in good faith to hold at least two (2) meetings at which they shall make a good faith effort to resolve the Dispute), then a civil action with respect to the Dispute may be commenced.

8.10 Headings. The headings of the Articles and Sections in this Agreement are provided for convenience of reference only and shall not be deemed to constitute a part hereof.

8.11 Entire Agreement. This Agreement, together with the Exhibits and Schedules hereto and the agreements and instruments expressly provided for herein (including the Joint Venture Documents and the NDA), constitute the entire agreement of the Parties with respect to the subject matter hereof and supersede all prior agreements and understandings, oral and written, between the Parties with respect to the subject matter hereof.

8.12 Severability. Should any provision of this Agreement be deemed in contradiction with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Agreement shall remain in full force and effect in all other respects. Should any provision of this Agreement be or become ineffective because of changes in Applicable Law or interpretations thereof, or should this Agreement fail to include a provision that is required as a matter of law, the validity of the other provisions of this Agreement shall not be affected thereby. If such circumstances arise, the Parties shall negotiate in good faith appropriate modifications to this Agreement to reflect those changes that are required by Applicable Law.

8.13 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

8.14 Expenses. Whether or not the transactions contemplated by this Agreement are ultimately consummated, except as provided in Section 2.7 each Party shall bear its own costs and expenses in connection with the negotiation, execution and delivery of this Agreement and the Joint Venture Documents.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the date first written above.

NANYA TECHNOLOGY CORPORATION

By: /s/ Jih Lien

Print Name: Jih Lien

Title: President

MICRON TECHNOLOGY, INC.

By: /s/ D. Mark Durcan

Print Name: D. Mark Durcan

Title: President and Chief Operating Officer

THIS IS THE SIGNATURE PAGE FOR THE MASTER AGREEMENT ENTERED INTO BY AND BETWEEN NTC AND MICRON

EXHIBIT A

Form of Articles of Incorporation

See attached.

[TRANSLATION FROM CHINESE]

EXHIBIT A

ARTICLES OF INCORPORATION OF
MEIYA TECHNOLOGY CORPORATION

Chapter I. General Provisions

Article 1: This company shall be named MeiYa Technology Corporation (the "Company") and be incorporated as a Company Limited by Shares in accordance with the Company Law of the Republic of China ("Company Law"). The English name of the Company shall be MeiYa Technology Corporation.

Article 2: The scope of business of the Company shall be as follows:

1. CC01080 Electronic Parts and Components Manufacturing;

2. F401010 International Trade; and

3. Any businesses other than those requiring permission or those prohibited or restricted by law.

Article 3: The Company may provide guarantee for third parties upon the approval of the board of directors in accordance with this Articles of Incorporation.

Article 4: The head office of the Company shall be located in Taipei City, Taiwan. The board of directors may authorize the establishment of branch offices within or outside the territory of the Republic of China as necessary.

Article 5: Public notices to be given by the Company pursuant to applicable law shall be made in accordance with Article 28 of Company Law.

Chapter II. Shares

Article 6: The total authorized capital of the Company is [***], which is divided into [***] shares with a par value of [***] per share. These shares shall be issued in installments.

Article 7: The share certificates representing shares of the Company shall be registered shares and shall, before they may be issued, bear the shareholders' name, shall be signed or with chops affixed by three or more directors of the board of directors, and certified by the competent supervisory agency.

Article 8: For registration of a transfer of shares, the transferor and transferee shall

deliver to the Company a jointly executed and chopped application for transfer of shares. Until the transfer is duly registered with the Company, the transferee shall not assert its shareholder's rights against the Company.

Article 9: No transfer of shares shall be registered by the Company within thirty (30) days prior to an annual meeting of the shareholders, fifteen (15) days prior to a special meeting of the shareholders, or within five (5) days prior to the date fixed for the distribution of dividends, bonuses, or other benefits.

Article 10: Unless otherwise provided under the Company Law, each shareholder shall have a preemptive right to purchase such number of newly issued shares, of whatever kind, of the Company through increase of its authorized capital, in proportion to the percentage interest of each shareholder in the issued and outstanding shares of the Company. If a holder of fractional shares is unable to subscribe for at least one share, the board of directors, at its reasonable discretion, shall combined for joint subscription of one or more new shares or allocate subscription of new shares in the name of a single shareholder.

In the event that any shareholder elects not to exercise its preemptive right, the board of directors shall, upon its resolution, designate specific third parties to purchase such unsubscribed shares.

Chapter III. Shareholders' Meetings

Article 11: Shareholders' meetings shall be as follows:

(1) Annual Meeting - to be called by the board of directors at least once a year within six (6) months after the end of each fiscal year; and

(2) Special Meeting - to be called by the board of directors if necessary, or with written requests from shareholders representing more than three percent (3%) of the total issued shares which have been continuously held by the same shareholders for more than one year. The supervisor may call a special shareholders' meeting if necessary.

Where the board of directors or the supervisor(s) is unable to call the shareholders' meeting for any reason, including the transfer of the shares of directors and/or supervisors, the shareholders representing more than three percent (3%) of the total amount of issued shares may call the shareholders' meeting after with approval from the competent authority.

Article 12: Shareholders' meetings shall be presided over by the chairman of the board of directors. In his absence, the vice chairman of the board shall preside over the shareholders' meeting. In absence of both the chairman and vice chairman of the board of the directors, a director may be designated by the

chairman of the board of directors to preside over the shareholders' meeting. In the absence of such a designation, the directors shall elect one among themselves to preside over the shareholders' meeting.

Article 13: A notice to convene an annual meeting of the shareholders shall be given to each shareholder twenty (20) days in advance. A notice to convene a special meeting of the shareholders shall be given to each shareholder ten (10) days in advance. The notice shall state the date, time, location and agenda of the shareholders' meeting to be held. All notices and agenda of the shareholders' meetings shall be accompanied by accurate and complete English language translations thereof. Other matters regarding the announcement of shareholders' meeting shall be in accordance with the Company Law and the regulations of the competent securities authority. Notice may be made in electronic form upon the consent of the counter party.

Article 14: Shareholders of the Company shall be entitled to one vote for each share they hold, except as otherwise limited or restricted or under those circumstance listed in paragraph 2, Article 179 of the Company Law.

Article 15: Unless a higher quorum or a higher majority of votes is required under the applicable laws, resolutions at a shareholders' meeting shall be adopted by the vote of at least [***] of the shareholders present, in person or by proxy, at a meeting with [***] or more of the shareholders present, in person or by proxy.

Each of the following actions shall require the approval of the shareholders of the Company by resolution adopted in accordance with the foregoing Paragraph:

(1) Amendment of the Articles of Incorporation;

(2) Election or removal of the directors or the supervisors;

(3) Approval of the balance sheet and other financial statements received from the board of directors;

(4) Approval of the surplus earning distribution or loss offset proposals;

(5) Any merger, consolidation or other business combination to which the Company is a party, or any other transaction to which the Company is a party, (other than where the Company is merged or combined with or consolidated into a wholly-owned subsidiary of the Company) resulting in a change of control of the Company, or the sale of all or substantially all assets of the Company;

(6) Liquidation or dissolution of the Company; and

(7) Other actions reserved to the determination of the shareholders of the Company by the Company Law.

Article 16: In case a shareholder is unable to attend the shareholders' meeting, he may designate another person to act as his proxy to attend the meeting. The proxy for this purpose shall be as prepared by the Company, setting forth the scope of such proxy, and affixed with the shareholder's chop; provided, however, in the event the same proxy acts for two or more shareholders, his delegated voting power shall not exceed three percent (3%) of the total voting power of issued shares. This limitation shall not apply to holders of proxies engaged in the trust business.

After the proxy has been delivered to the Company, if the shareholder decides to attend the shareholders' meeting in person, such shareholder shall notify the Company of the revocation of the proxy in writing no later than one (1) day prior to the meeting date of the shareholders' meeting. If the shareholder fails to revoke his/her proxy by the aforesaid deadline, the voting right exercised by the proxy shall prevail.

Article 17: Resolutions adopted at the shareholders' meeting shall be recorded in the minutes of the proceedings, which shall be prepared in English and in Chinese and shall be signed or sealed by the chairman of the meeting. The minutes of proceeding shall also include the date and place of the meeting, name of the chairman, number of shareholders present at the meeting and the manner in which resolutions had been adopted, as well as other essentials of the proceedings. The minutes shall be kept together with a list of shareholders present at the meeting and the proxies. The minutes may be made and distributed in electronic form.

Chapter IV. Directors and Supervisors

Article 18: The Company shall have [***] directors and [***] supervisors, all to be elected at a shareholders' meeting. The tenure of office of directors and supervisors will be three (3) years and they will be eligible for re-election. The remuneration of the directors and supervisor, if any, shall be determined by the shareholders at a shareholders' meeting.

The Company shall, at its costs, maintain a reasonable and appropriate liability insurance policy for its directors and supervisors insuring against the claims which may arise from the directors' and supervisors' exercising their duties during their terms of office.

Article 19: The director, supervisor, president, and other managers of the Company shall have the fiduciary duty to, and shall exercise the due care of a good

administrator in conducting the business operation of, the Company; and if he/she has acted contrary to this provision, shall be liable for the damages to be sustained by the Company therefrom.

Article 20: A corporate shareholder of this Company shall have the right to designate a number of representatives to be elected as directors and/or supervisor(s) of the Company and the right to designate other representatives, owing to the duties of the representative, as substitutes or successors of such directors or supervisor(s).

Article 21: The directors shall form a board of directors. The board of directors shall meet from time to time but at least once per fiscal quarter in Taiwan or such other place as the board of directors may decide.

Article 22: A meeting of the board of directors shall be called by its chairman, provided that the initial meeting of each term of the board of directors shall be called by the director who receives the number of ballots representing the largest number of votes.

The Chairman shall have such duties and responsibilities as may be assigned to him or her by the Board of Directors. In the event that the chairman is on a leave of absence or unable to exercise his power and authority for any cause, the vice chairman shall act on his behalf. In the event that the vice chairman is also on a leave of absence or unable to exercise his power and authority for any cause, the chairman of the board of directors shall designate one of the directors to act on his behalf. In the absence of such a designation, the directors shall elect from among themselves an acting chairman of the board of directors.

Each director of the Company shall have the right to request the chairman to convene a meeting of the board of directors and submit a list of the subjects/matters to be discussed with the proposed agenda. If the chairman does not, within one week (or within three (3) days for convening an emergency meeting of the board of directors), comply with such director's request, the vice-chairman shall convene the meeting of the board of directors as requested by such director.

Unless a higher quorum is required under the applicable laws, attendance by [***] or more of the all directors of the Company shall be necessary to form a quorum. Directors may attend the meeting in person or by a written proxy. A director cannot represent more than one absent director for a meeting of the board of directors. A director residing in a foreign country may appoint in writing a shareholder residing within the Republic of China as his alternate to attend the meetings of the board of directors regularly provided, however the appointment shall be registered with competent government authority.

The written notice for the meeting of the board of directors shall state the time, date, location, subjects/matters to be discussed, and the agenda of the meeting, and shall be sent to each member of the board of directors and the supervisor no less than ten (10) days prior to the meeting. Emergency meetings of the board of directors may be convened from time to time by the chairman or the vice-chairman by not less than three (3) days notice in writing. The notice and agenda shall be prepared in both Chinese and English language.

The presence of any director at a meeting (including attendance by means of video conference) shall constitute a waiver of notice of the meeting set forth in the aforementioned Paragraph with respect to such director.

All or any of the directors may participate in a meeting of the board of directors by means of a video conference which allows all persons participating in the meeting to see and hear each other. A director so participating shall be deemed to be present in person at the meeting and shall be entitled to vote or be counted in a quorum accordingly.

Article 23: On all issues to be determined by the board of directors, each director shall have one vote. The chairman of the meeting of the board of directors shall not be entitled to a second or casting vote. Unless a higher majority of votes is required under applicable laws, the resolution of the board of directors shall be adopted by affirmative vote of [***] or more of all directors present at the meeting of the board of directors. The board of directors shall prepare written minutes for all actions, determinations and resolutions, in both Chinese and English language, taken by each meeting of board of directors and a copy thereof sent to each director and supervisor of the Company within twenty (20) days of each meeting.

Each of the following actions shall require the approval of the board of directors of the Company by resolution adopted in accordance with the foregoing Paragraph unless otherwise provided by the applicable laws or in this Articles of Incorporation:

(1) electing or removing the Chairman or Vice Chairman of the Board of Directors and appointing or removing the president, the executive vice president or any other vice presidents of the Company;

(2) approving or amending any business plan;

(3) approving any issuance of new shares within the authorized capital of the Company;

(4) approving long-term policies of the Company including substantial change in the organizational structure and business operation of the Company;

(5) approving employment terms, including compensation packages, of the president, the executive vice president and any vice presidents of the Company;

(6) adopting or making any material changes to any employee benefit plan, including any incentive compensation plan;

(7) entering into or amending any collective bargaining arrangements or waiving any material provision or requirement thereof;

(8) establishing subsidiaries, opening and closing branch offices, acquiring or selling any equity interests in another entity/company, establishing new business sites and closing of existing ones;

(9) setting the limits of authorities of various executive positions and approving the internal chart of authorities;

(10) approving any capital expenditures (or group of related capital expenditures) in an amount equal to or greater than [***] individually or [***] in the aggregate in any one fiscal quarter;

(11) borrowing or lending to, or guaranteeing the obligations of any third party;

(12) preparing and submitting the financial statements to the shareholders of the Company for their approval;

(13) approving the pledge or hypothecation on, or the creation of any encumbrance or other security interest in, the Company's assets;

(14) entering into an agreement for the purchase, transfer, sale or any other disposal of assets valued at an amount greater than [***];

(15) entering into, amending or terminating any material agreement relating to intellectual property rights or know how;

(16) establishing, modifying or eliminating any significant accounting or tax policy, procedure or principle;

(17) commencing or settling any litigation, except routine employment litigation matters;

(18) redeeming or repurchasing shares;

(19) selecting attorneys, accountants, auditors and financial advisors for the Company or any of its subsidiaries;

(20) prepare and submit proposals for surplus earning distribution or loss offset for approval at a meeting of the shareholders;

(21) making any material purchase, sale or lease (as lessor or lessee) of any real property;

(22) approving the investment plan of the Company with respect to funds held by the Company.

(23) submitting any matters to the shareholders of the Company for consideration or approval as may be required by law;

(24) deciding other important matters related to the Company that arise other than in the ordinary course of business; and

(25) entering into or terminating an agreement or arrangement between the Company and a director or where a director has a conflict of interest.

Article 24: The functions of the supervisor shall be:

(1) Investigation of the business and financial conditions of the Company;

(2) Examination of the books and documents of the Company;

(3) Investigation of the operations of the Company; and

(4) Other functions prescribed by the laws and regulations of the Republic of China.

Chapter V. Managers

Article 25: The Company shall have one (1) president, one (1) executive vice president and several managers, all to be appointed or dismissed by the resolution of the board of directors.

Article 26: The president and the executive vice president shall cooperate in the management of all affairs of the Company as instructed or authorized by the board of directors. The function and duties of the president and the executive vice president includes, without limitation, the following matters:

(1) appointing other officers of the Company;

(2) monitoring the Company’s system of internal accounting controls;

(3) direct the preparation of the Company’s manufacturing plan;

(4) once a year, propose the annual business plan of the Company to the board of directors; and

(5) determine the recruit, number, position and compensation of the employees, and the employee policies .

Chapter VI. Accounting

Article 27: The fiscal year of the Company shall be from January 1st to December 31st. Annual closing of books shall be made at the closing date/end of each fiscal year. The accounts of the Company shall be kept in accordance with the applicable laws of the Republic of China.

Article 28: At the end of each fiscal year, the board of directors shall prepare the following reports, and forward them on to the supervisor(s) for examination thirty (30) days prior to the annual meeting of the shareholders:

(1) Report on operations;

(2) Financial Statements; and

(3) Proposals concerning the surplus earning distribution or loss offset.

Article 29: After having paid all taxes, and covering all pasts losses, a legal reserve of ten percent (10%) shall be set aside from net profit of the Company for each fiscal year. Thereafter, the remainder of the profit, if any, after providing for any other special reserves or reserves for certain undistributed earnings for business purposes, shall collectively with any undistributed surplus earnings from previous fiscal years, be included in a surplus earning distribution plan submitted by the Board of Directors for approval at a shareholders' meeting.

The Company shall set aside {***] from the remaining profit for distribution as employee bonus, including qualified employees of subsidiaries of the Company under terms as determined by the Board of Directors of the Company. The amount set aside for employee bonus shall be an expense to the Company for such fiscal year.

Article 30: Dividends will be paid only to those shareholders whose names are recorded on the shareholders' register on the date fixed as record date for the purpose of distributing dividends in proportion to their holding percentages.

Chapter VII. Supplementary Provisions

Article 31: Provisions of the Company Law shall be referred to for matters not

provided for in this Articles of Incorporation.

Article 32: These Articles of Incorporation were agreed upon on [ ].

(Meiya Technology Corporation)

(Chairman of the Board)[ ]

[***] DENOTES CONFIDENTIAL MATERIALS OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT

NTC/MICRON CONFIDENTIAL

JOINT VENTURE AGREEMENT

This **JOINT VENTURE AGREEMENT**, dated this 21st day of April, 2008, is made and entered into by and between MICRON SEMICONDUCTOR B.V. (hereinafter "**MNL**"), a private limited liability company organized under the laws of the Netherlands and NANYA TECHNOLOGY CORPORATION (Nanya Technology Corporation [Translation from Chinese]) (hereinafter "**NTC**"), a company incorporated under the laws of the Republic of China ("**ROC**" or "**Taiwan**") (MNL and NTC are each referred to individually as a "**Shareholder**," and collectively as the "**Shareholders**").

RECITALS

A. Micron Technology, Inc., a Delaware corporation ("**Micron**"), and NTC have entered into that certain Master Agreement dated as of the date hereof (the "**Master Agreement**") which provides, among other things, that the Shareholders will enter into a joint venture by contributing equally to the capital of a company incorporated in Taiwan so as to enable such company to manufacture and sell Stack DRAM Products exclusively to Micron and NTC.

B. NTC has formed MeiYa Technology Corporation (MeiYa Technology Corporation [Translation from Chinese]), a company incorporated under the laws of the ROC (the "**Joint Venture Company**"), as such joint venture company.

C. The Shareholders are now entering into this Agreement to set forth certain agreements regarding the ownership, governance and operation of the Joint Venture Company.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

ARTICLE I
DEFINITIONS; INTERPRETATION

Section 1.1 Definitions. In addition to the terms defined elsewhere in this Agreement, capitalized terms used in this Agreement shall have the respective meanings set forth below:

"**Accountants**" shall have the meaning set forth in Section 10.2(c)(ii) of this Agreement.

"**Affiliate**" means, with respect to any specified Person, any other Person that, directly or indirectly, including through one or more intermediaries, controls, is controlled by, or is under

common control with such specified Person; and the term "**affiliated**" has a meaning correlative to the foregoing.

"**Agreement**" means this Joint Venture Agreement.

"**Annual Budget**" shall have the meaning set forth in Section 7.5(b)(ii) of this Agreement.

"**Annual Business Plan**" shall have the meaning set forth in Section 7.5(b)(i) of this Agreement.

"**Answer Notice**" shall have the meaning set forth in Section 7.3(b) of this Agreement.

"**Applicable Law**" means any applicable laws, statutes, rules, regulations, ordinances, orders, codes, arbitration awards, judgments, decrees or other legal requirements of any Governmental Entity.

"**Articles of Incorporation**" means the Articles of Incorporation of the Joint Venture Company in the form and substance as Exhibit A attached to the Master Agreement, and as amended from time to time.

"**Baseline Flow**" shall have the meaning set forth in Section 7.2(b)(iv) of this Agreement.

"**Board of Directors**" means the board of directors of the Joint Venture Company.

"**Boundary Conditions**" means, with respect to any fab, a requirement that, at any point in time:

(i) there shall be [***] qualified Process Nodes in use for the manufacture of Stack DRAM Products; provided that at such fab there also may be [***] unqualified Process Node in use for setup, engineering and testing purposes so long as such unqualified Process Node is not in use for the manufacture of Stack DRAM Products for eventual resale to end customers of either Micron or NTC;

(ii) such fab shall manufacture Stack DRAM Products with [***] Design IDs for Micron; and

(iii) such fab shall manufacture Stack DRAM Products with [***] Design IDs for NTC.

"**Business Day**" means a day that is not a Saturday, Sunday or other day on which commercial banking institutions in either the ROC or the State of New York are authorized or required by Applicable Law to be closed.

"**Business Plan**" means the Initial Business Plan or any Annual Business Plan.

"**Buyout Notice**" shall have the meaning set forth in Section 13.1(a) of this Agreement.

"**Buyout Price**" shall have the meaning set forth in Section 12.3(a) of this Agreement.

"**Buyout Shares**" shall have the meaning set forth in Section 13.1(a) of this Agreement.

"**Chairman**" means the Chairman of the Board of Directors.

"**Change Notice**" shall have the meaning set forth in Section 7.3(b) of this Agreement.

"**Closing**" means the remittance of the capital contribution to the Joint Venture Company as set forth in Section 2.6 of the Master Agreement.

"**Closing Date**" means the date on which the Closing occurs. For purposes of this Agreement and the other agreements and instruments referenced herein, the Closing shall be deemed to have occurred at 11:59 p.m. in Taipei, Taiwan on such date.

"**Competitively Sensitive Information**" means any information, in whatever form, that has not been made publicly available relating to products and services that Micron or a Subsidiary of Micron, on the one hand, and NTC or a Subsidiary of NTC, on the other hand, sells in competition with the other at the execution of this Agreement or thereafter, including Stack DRAM Products, to the extent such information of the Person selling such products and services includes price or any element of price, customer terms or conditions of sale, seller-specific costs, volume of sales, output (but not including the Joint Venture Company's output), bid terms of the foregoing type and such similar information as is specifically identified electronically or in writing to the Joint Venture Company by Micron or a Subsidiary of Micron, on the one hand, and NTC or a Subsidiary of NTC, on the other hand, as competitively sensitive information.

"**Compliant Shareholder**" shall have the meaning set forth in Section 13.1(a) of this Agreement.

"**Confidentiality Agreement**" shall have the meaning set forth in Section 15.13(a) of this Agreement.

"**Contributing Shareholder**" shall have the meaning set forth in Section 3.5 of this Agreement.

"**Control**" (whether or not capitalized) means the power or authority, whether exercised or not, to direct the business, management and policies of a Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, which power or authority shall conclusively be presumed to exist upon possession of beneficial ownership or power to direct the vote of [***] of the votes entitled to be cast at a meeting of the members, shareholders or other equity holders of such Person or power to control the composition of a majority of the board of directors or like governing body of such Person; and the terms "**controlling**" and "**controlled**" have meanings correlative to the foregoing.

"**Cure Period**" shall have the meaning set forth in Section 12.5 of this Agreement.

"**Deadlock**" shall have the meaning set forth in Section 12.1 of this Agreement.

"**Defaulting Shareholder**" shall have the meaning set forth in Section 12.4 of this Agreement.

"**Design ID**" means a part number that is assigned to a unique Stack DRAM Design of a particular Stack DRAM Product, which may include a number or letter designating a specific device revision.

"**Design SOW**" means [***].

"**Divestiture Action**" shall have the meaning set forth in Section 2.4(c)(v) of this Agreement.

"**DRAM Product**" means any stand-alone semiconductor device that is a dynamic random access memory device and that is designed or developed primarily for the function of storing data, in die, wafer or package form.

"**Equity Interest**" means a Shareholder's percentage ownership of the Shares as determined by dividing the number of Shares owned by such Shareholder at the time of determination by the total issued and outstanding Shares at the time of determination.

"**Event of Default**" shall have the meaning set forth in Section 12.4 of this Agreement.

"**Executive Vice President**" shall have the meaning set forth in Section 5.5(b) of this Agreement.

"**Exercise Notice**" shall have the meaning set forth in Section 12.6(a) of this Agreement.

"**Fab Lease**" means that certain Lease and License Agreement between NTC, as landlord, and the Joint Venture Company, as tenant, referred to on Schedule 2.3 of the Master Agreement Disclosure Letter.

"**Fair Value**" means (i) if it is after the Listing of the Joint Venture Company, the [***] of the Shares immediately prior to the date of the Exercise Notice or the Buyout Notice, as applicable; or (ii) if prior to the Listing of the Joint Venture Company, the fair value immediately prior to the date of the Exercise Notice or Buyout Notice, as applicable, as determined by independent appraisers selected as follows: each Shareholder shall appoint one independent appraiser, which shall be an internationally recognized accounting or investment banking firm, and these two independent appraisers shall mutually select a third independent appraiser. Each such appraiser shall in good faith conduct its own independent appraisal to determine the fair value of the Shares (ignoring any applicable minority discounts or effects of illiquidity that may be associated with the Shares of the Joint Venture Company), and [***] that are the closest in value shall be the Fair Value of the Shares.

"**Filing**" shall have the meaning set forth in Section 2.4 of this Agreement.

"**Filing Event**" shall have the meaning set forth in Section 2.4 of this Agreement.

"**Fiscal Year**" shall have the meaning set forth in Section 10.1 of this Agreement.

"**GAAP**" means generally accepted accounting principles, consistently applied for all periods at issue.

"**Governmental Entity**" means any governmental authority or entity, including any agency, board, bureau, commission, court, municipality, department, subdivision or instrumentality thereof, or any arbitrator or arbitration panel.

"**ICDR**" means the International Centre for Dispute Resolution of the American Arbitration Association.

"**Imaging Product**" means any (i) semiconductor device having a plurality of photo elements (*e.g.*, photodiodes, photogates, etc.) for converting impinging light into an electrical representation of the information in the light, (ii) image processor or other semiconductor device for balancing, correcting, manipulating or otherwise processing such electrical representation of the information in the impinging light, or (iii) combination of the devices described in clauses (i) and (ii).

"**Initial Budget**" shall have the meaning set forth in Section 7.5(a)(iii) of this Agreement.

"**Initial Business Plan**" shall have the meaning set forth in Section 7.5(a)(i) of this Agreement.

"**Initial Period**" shall have the meaning set forth in Section 7.5(a)(i) of this Agreement.

"**Initiating Shareholder**" shall have the meaning set forth in Section 7.3(b) of this Agreement.

"**JDP Agreement**" means that certain Joint Development Program Agreement between NTC and Micron referred to on Schedule 2.1 of the Master Agreement Disclosure Letter.

"**JDP Committee**" means the committee formed and operated by Micron and NTC to govern the performance of Micron and NTC under the JDP Agreement in accordance with the JDP Committee Charter.

"**JDP Committee Charter**" means the charter attached as Schedule 2 to the JDP Agreement.

"**JDP Design**" means any Stack DRAM Design resulting from the research and development activities of Micron and NTC pursuant to the JDP Agreement.

"**JDP Process Node**" means any Primary Process Node or Optimized Process Node resulting from the research and development activities of Micron and NTC pursuant to the JDP Agreement.

"**JDP Work Product**" means [***].

"**Joint Venture Company**" shall have the meaning set forth in the Recitals to this Agreement.

"**Joint Venture Documents**" means the Master Agreement and each of the agreements listed on Schedules 2.1 through 2.5 of the Master Agreement Disclosure Letter.

"**Joint Venture Reportable Events**" shall have the meaning set forth in Section 10.3 of this Agreement.

"**Leased Fab**" means the Property as that term is defined in the Fab Lease.

"**Listing**" shall have the meaning set forth in Section 11.4(a) of this Agreement.

"**Manufacturing Capacity**" shall have the meaning set forth in Section 7.2(b)(iv) of this Agreement.

"**Manufacturing Committee**" shall have the meaning set forth in Section 7.2(b)(i) of this Agreement.

"**Manufacturing Plan**" shall have the meaning set forth in Section 7.2(c) of this Agreement.

"**Master Agreement**" shall have the meaning set forth in the Recitals to this Agreement.

"**Master Agreement Disclosure Letter**" means that certain Master Agreement Disclosure Letter, between NTC and Micron, dated as of the date hereof, containing the Schedules required by the provisions of the Master Agreement.

"**Micron**" shall have the meaning set forth in the Recitals to this Agreement.

"**Micron Assigned Employee Agreement**" means that certain Micron Assigned Employee Agreement between Micron and the Joint Venture Company referred to on Schedule 2.4 of the Master Agreement Disclosure Letter.

[***]

"**MNL**" shall have the meaning set forth in the preamble to this Agreement.

"**NAND Flash Memory Product**" means a non-volatile semiconductor memory device containing memory cells that are electrically programmable and electrically erasable whereby the memory cells consist of one or more transistors that have a floating gate, charge trapping regions or any other functionally equivalent structure utilizing one or more different charge levels (including binary or multi-level cell structures), with or without any on-chip control, I/O and other support circuitry, in wafer, die or packaged form.

"**Non-compliant Shareholder**" shall have the meaning set forth in Section 13.1(a) of this Agreement.

"**Non-contributing Shareholder**" shall have the meaning set forth in Section 3.5 of this Agreement.

"**Non-Defaulting Shareholder**" shall have the meaning set forth in Section 12.5 of this Agreement.

"**Notice of Default"** shall have the meaning set forth in Section 12.5 of this Agreement.

"**NTC**" shall have the meaning set forth in the preamble to this Agreement.

"**NTC Assigned Employee Agreement**" means that certain NTC Assigned Employee Agreement between NTC and the Joint Venture Company referred to on Schedule 2.3 of the Master Agreement Disclosure Letter.

[***]

"**NT$**" means the lawful currency of the ROC.

"**Offered Shares**" means the Shares as defined in Section 9.3(a) of this Agreement.

"**Optimized Process Node**" means [***].

"**Option Period**" shall have the meaning set forth in Section 9.3(b) of this Agreement.

"**Other Shareholder**" shall have the meaning set forth in Section 7.3(b) of this Agreement.

"**Output Percentage**" means, with respect to a Shareholder and subject to Sections 7.3(b) and 8.4(d), the percentage as of the [***]; provided, however, that notwithstanding anything to the contrary in this Agreement, if all of the Shares owned by one Shareholder and its Subsidiaries (including its SPV) have been Transferred to the other Shareholder and/or its Affiliates in accordance with Section 3.5, 12.3, 12.6 or 13.1, the Output Percentage of the Shareholder that Transferred such Shares shall, [***]; and provided further, however, that if there is a merger or similar transaction involving the Joint Venture Company that results in the Shareholders either not owning shares of the survivor or in the Shareholders owning shares of the survivor in a relative proportion different than their relative Equity Interests immediately prior to such transaction, the Shareholders' Output Percentages shall [***].

"**Patent Rights**" means all rights associated with any and all issued and unexpired patents and pending patent applications in any country in the world, together with any and all divisionals, continuations, continuations-in-part, reissues, reexaminations, extensions, foreign counterparts or equivalents of any of the foregoing, wherever and whenever existing.

"**Permitted Transfer**" shall have the meaning set forth in Section 9.2 of this Agreement.

"**Person**" means any natural person, corporation, joint stock company, limited liability company, association, partnership, firm, joint venture, organization, business, trust, estate or any other entity or organization of any kind or character.

"**Phantom Shares**" shall have the meaning set forth in Section 7.3(b) of this Agreement.

"**President**" shall have the meaning set forth in Section 5.5(a) of this Agreement.

"**Primary Process Node**" means [***].

"**Probe Testing**" means testing, using a wafer test program as set forth in the applicable specifications, of a wafer that has completed all processing steps deemed necessary to complete the creation of the desired Stack DRAM integrated circuits in the die on such wafer, the purpose of which test is to determine how many and which of the die meet the applicable criteria for such die set forth in the specifications.

"**Process Node**" means [***].

"**Process Technology**" means that process technology developed before expiration of the Term (as defined in the JDP Agreement) and utilized in the manufacture of Stack DRAM wafers, including Probe Testing and technology developed through Product Engineering thereof, regardless of the form in which any of the foregoing is stored, but excluding any Patent Rights and any technology, trade secrets or know-how that relate to and are used in any back-end operations (after Probe Testing).

"**Product Engineering**" means any one or more of the engineering activities described on Schedule 7 of the JDP Agreement as applied to Stack DRAM Products or Stack DRAM Modules

"**Proposing Shareholder**" shall have the meaning set forth in Section 12.3(a) of this Agreement.

"**Receiving Party**" shall have the meaning set forth in Section 9.3(a) of this Agreement.

"**Receiving Shareholder**" shall have the meaning set forth in Section 12.3(a) of this Agreement.

"**Regulatory Law**" shall have the meaning set forth in Section 2.4 of this Agreement.

"**Replacement Period**" means, with respect to any Shares Transferred to employees of a Transferring Shareholder or its Wholly-Owned Subsidiary (or, if MNL is the Transferring Shareholder, to employees of Micron or its Wholly-Owned Subsidiaries) as contemplated by Section 8.4(b), the period [***].

"**ROC**" shall have the meaning set forth in the preamble to this Agreement.

"**ROC Company Law**" means the Company Law of the ROC, promulgated on December 26, 1929, and as last amended on February 3, 2006.

"**ROC Securities Exchange Law**" means the Securities and Exchange Law of the ROC, promulgated on April 30, 1968, and as last amended on May 30, 2006.

"**Sale Offer**" shall have the meaning set forth in Section 9.3(a) of this Agreement.

"**Share Acquisition**" shall have the meaning set forth in Section 7.3(b) of this Agreement.

"**Share Disposition**" shall have the meaning set forth in Section 7.3(b) of this Agreement.

"**Shareholder**" shall have the meaning set forth in the preamble to this Agreement.

"**Shareholders' Meeting**" or "**Shareholders' Meetings**" shall have the meaning set forth in Section 6.2 of this Agreement.

"**Shares**" means the ordinary shares of the Joint Venture Company, each having a par value of [***].

"**SOW**" means a statement of the work that describes research and development work to be performed under the JDP Agreement and that has been adopted by the JDP Committee pursuant to Section 3.2 of the JDP Agreement.

"**Software**" means computer program instruction code, whether in human readable source code form, machine executable binary form, firmware, scripts, interpretive text, or otherwise. The term "Software" does not include databases and other information stored in electronic form, other than executable instruction codes or source code that is intended to be compiled into executable instruction codes.

"**SPV**" shall have the meaning set forth in Section 8.4(a) of this Agreement.

"**Stack DRAM**" means dynamic random access memory cell that functions by using a capacitor arrayed predominantly above the semiconductor substrate.

"**Stack DRAM Design**" means, with respect to a Stack DRAM Product, the corresponding design components, materials and information listed on Schedule 3 of the JDP Agreement or as otherwise determined by the JDP Committee in a SOW.

"**Stack DRAM Module**" means one or more Stack DRAM Products in a JEDEC-compliant package or module (whether as part of a SIMM, DIMM, multi-chip package, memory card or other memory module or package).

"**Stack DRAM Product**" means any memory comprising Stack DRAM, whether in die or wafer form.

"**Subsidiary**" means with respect to any specified Person, any other Person that, directly or indirectly, including through one or more intermediaries, is controlled by such specified Person.

"**Supply Agreement**" means that certain Supply Agreement among NTC, Micron and the Joint Venture Company referred to on Schedule 2.5 of the Master Agreement Disclosure Letter..

"**Taiwan**" shall have the meaning set forth in the preamble to this Agreement.

"**Taiwan GAAP**" means GAAP used in the ROC, as in effect from time to time.

"**Technology Transfer Agreement**" means that certain Technology Transfer Agreement among NTC, Micron and the Joint Venture Company referred to on Schedule 2.5 of the Master Agreement Disclosure Letter.

"**Third Party**" means any Person other than Micron, NTC, the Joint Venture Company or any of their respective Subsidiaries.

"**Transfer**" shall have the meaning set forth in Section 9.1(a) of this Agreement.

"**Transfer Notice**" shall have the meaning set forth in Section 9.3(a) of this Agreement.

"**Transfer Period**" shall have the meaning set forth in Section 9.3(d) of this Agreement.

"**Transfer Restriction Period**" shall have the meaning set forth in Section 9.1(a) of this Agreement.

"**Transferor**" shall have the meaning set forth in Section 9.3(a) of this Agreement.

"**Transferred Technology**" means [***].

"**Transferring Shareholder**" shall have the meaning set forth in Section 8.4(a) of this Agreement.

"**TTA 68-50**" means that certain Technology Transfer Agreement for 68-50 nm Process Nodes between Micron and the Joint Venture Company referred to on Schedule 2.4 of the Master Agreement Disclosure Letter.

"**U.S. GAAP**" means GAAP used in the United States, as in effect from time to time.

"**Vice-Chairman**" means the Vice Chairman of the Board of Directors.

"**Wholly-Owned Subsidiary**" of a Person means a Subsidiary, all of the shares of stock or other ownership interests of which are owned, directly or indirectly through one or more intermediaries, by such Person, other than a nominal number of shares or a nominal amount of other ownership interests issued in order to comply with requirements that such shares or interests be held by one or more other Persons, including requirements for directors' qualifying shares or interests, requirements to have or maintain two or more stockholders or equity owners or other similar requirements.

Section 1.2 Certain Interpretive Matters.

(a) Unless the context requires otherwise, (i) all references to Sections, Articles, Exhibits, Appendices or Schedules are to Sections, Articles, Exhibits, Appendices or Schedules of or to this Agreement, (ii) each accounting term not otherwise defined in this Agreement has the meaning commonly applied to it in accordance with Taiwan GAAP, (iii) words in the singular include the plural and vice versa, (iv) the term "**including**" means "including without limitation," and (v) the terms "**herein**," "**hereof**," "**hereunder**" and words of similar import shall mean references to this

Agreement as a whole and not to any individual section or portion hereof. Unless otherwise denoted, all references to "**$**" or dollar amounts will be to lawful currency of the United States of America. All references to "**day**" or "**days**" mean calendar days.

(b) No provision of this Agreement will be interpreted in favor of, or against, either Shareholder by reason of the extent to which (i) such Shareholder or its counsel participated in the drafting thereof, or (ii) such provision is inconsistent with any prior draft of this Agreement or such provision.

ARTICLE II
THE JOINT VENTURE COMPANY

Section 2.1 General Matters.

(a) ***Name***. The Joint Venture Company shall be named "MeiYa Technology Corporation" [Translation from Chinese] in Chinese and "MeiYa Technology Corporation" in English. The Shareholders acknowledge and agree that the Joint Venture Company shall be continued as a company-limited-by-shares under the laws of the ROC.

(b) ***Purpose***. The purpose of the Joint Venture Company shall be the manufacturing and sale of certain Stack DRAM Products exclusively for and to Micron and NTC; and the entry of, or engagement in, any such lawful transactions or activities in furtherance of the foregoing purpose.

(c) ***Business Scope***. Subject to amendment by the Shareholders from time to time and any necessary approval from the relevant Governmental Entities, the registered business scope of the Joint Venture Company shall be as set forth in its business license, other incorporation documents and the Articles of Incorporation, all as mutually agreed upon by the Shareholders.

(d) ***Principal Place of Business***. The registered address and the principal place of business of the Joint Venture Company shall be at 5F, 201-36 Tung Hwa North RD, Taipei City, Taiwan, ROC. The Board of Directors may change the registered address and the principal place of business of the Joint Venture Company to such other place as the Board of Directors may from time to time determine, and, if necessary, the Board of Directors shall cause the Joint Venture Company's registration documents to be amended in accordance with the requirements of the Applicable Laws so as to effectuate the change in the registered address and the principal place of business of the Joint Venture Company. The Joint Venture Company may maintain offices and places of business at such other place or places within or outside of Taiwan as the Board of Directors may deem to be advisable.

Section 2.2 Articles of Incorporation. The Shareholders shall, at or promptly after the Closing, cause the Joint Venture Company to adopt the Articles of Incorporation as its articles of incorporation and to file the Articles of Incorporation in accordance with Applicable Laws of the ROC. In case of any conflict or inconsistency between the provisions of the Articles of Incorporation and the terms of this Agreement, the terms of

this Agreement shall prevail as between the Shareholders to the extent permitted under the Applicable Laws. The Shareholders shall exercise all rights available to them to give effect to the terms of this Agreement to the extent permissible under the Applicable Laws and to take such reasonable steps to amend the Articles of Incorporation as soon as practicable to the extent necessary to remove any such conflict or inconsistency.

Section 2.3 Maintenance of Joint Venture Company. The Shareholders shall cause the Board of Directors, or officers of the Joint Venture Company, to make or cause to be made, from time to time, filings and applications to the relevant Governmental Entities in the ROC to amend any registration, license or permit of the Joint Venture Company as the Board of Directors reasonably considers necessary or appropriate under the Applicable Laws so as to ensure (a) the due incorporation and continuation of the Joint Venture Company as a company-limited-by-shares under the laws of the ROC and (b) compliance with the terms of this Agreement.

Section 2.4 Governmental Approvals. In the event that either Shareholder takes or desires to take any action contemplated by this Agreement that could reasonably be expected to result in an event or transaction, including without limitation (i) the purchase by either Shareholder of Shares pursuant to Section 3.5, 9.3, 12.3, 12.6 or Article XIII or (ii) the making of a contribution to the capital of the Joint Venture Company as contemplated by Section 3.2 or 3.3, which event or transaction, as to each of the foregoing, would require either Shareholder to make a filing, notification or any other required or requested submission under antitrust, competition, foreign investment, company or fair trade law (any such event or transaction, a "**Filing Event**" and any such filing, notification, or any such other required or requested submission, a "**Filing**" and any such law, a "**Regulatory Law**"), then:

(a) the Shareholder taking such action, in addition to complying with any other applicable notice provisions under this Agreement, shall promptly notify the other Shareholder of such Filing Event, which notification shall include an indication that Filings under the Regulatory Law will be required;

(b) notwithstanding any provision to the contrary in this Agreement, a Filing Event may not occur or close until after any applicable waiting period (including any extension thereof) under the Regulatory Law, as applicable to such Filing Event, shall have expired or been terminated, and all approvals under regulatory Filings in any jurisdiction that shall be necessary for such Filing Event to occur or close shall have been obtained, and any applicable deadline for the occurrence or closing of such Filing Event contained in this Agreement shall be delayed, so long as both Shareholders are proceeding diligently in accordance with this Section 2.4 to seek any such expiration, termination or approval, and so long as there are no other outstanding conditions preventing the occurrence or closing of the Filing Event;

(c) the Shareholders shall, and shall cause any of their relevant Affiliates to:

(i) as promptly as practicable, make their respective Filings under the applicable Regulatory Law;

(ii) promptly respond to any requests for additional information from the applicable Governmental Entity;

(iii) subject to applicable Regulatory Laws, use commercially reasonable efforts to cooperate with each other in the preparation of, and coordinate, such Filings (including the exchange of drafts between each party's outside counsel) so as to reduce the length of any review periods;

(iv) subject to applicable Regulatory Laws, cooperate and use their respective commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary under Regulatory Law in connection with such Filing Event, including using commercially reasonable efforts to provide information, obtain necessary exemptions, rulings, consents, clearances, authorizations, approvals and waivers, and effect necessary registrations and filings;

(v) subject to applicable Regulatory Laws, use their commercially reasonable efforts to (a) take actions that are necessary to prevent the applicable Governmental Entity from filing an action with a court or Governmental Entity that, if the Governmental Entity prevailed, would restrict, enjoin, prohibit or otherwise prevent or materially delay the consummation of the Filing Event, including an action by any such Governmental Entity seeking a requirement to (i) sell, license or otherwise dispose of, or hold separate and agree to sell or otherwise dispose of, assets, categories of assets or businesses of either Shareholder, the Joint Venture Company, or any of their respective Subsidiaries; (ii) terminate existing relationships and contractual rights and obligations of either Shareholder, the Joint Venture Company or any of their respective Subsidiaries; (iii) terminate any relevant joint venture or other arrangement; or (iv) effectuate any other change or restructuring of either Shareholder or the Joint Venture Company (as to each of the foregoing, a "**Divestiture Action**"), and (b) contest and resist any action, including any legislative, administrative or judicial action, and to have vacated, lifted, reversed or overturned any order that restricts, enjoins, prohibits or otherwise prevents or materially delays the occurrence or closing of such Filing Event; and

(vi) subject to applicable Regulatory Laws, prior to the making or submission of any analysis, appearance, presentation, memorandum, brief, argument, opinion or proposal by or on behalf of either Shareholder in connection with proceedings under or relating to the applicable Regulatory Law, consult and cooperate with one another, and consider in good faith the views of one another, in connection with any such analyses, appearances, presentations, memoranda, briefs, arguments, opinions and proposals, and provide one another with copies of all material communications from and filings with, any Governmental Entities in connection with any Filing Event;

(d) notwithstanding anything to the contrary in this Section 2.4, nothing in this Section 2.4 shall require either Shareholder or its respective Affiliates, or the Joint Venture Company, to take any Divestiture Action; and

(e) if the Filing Event is prevented from occurring or closing as a result of any applicable Regulatory Laws, after exhausting all efforts required under this Section 2.4 to obtain the necessary approval of any applicable Governmental Entity, then the Shareholders shall negotiate in good faith to agree upon an alternative event or transaction that would be permissible under applicable Regulatory Laws, and would approximate, as closely as possible, the intent and contemplated effect of the original Filing Event.

ARTICLE III
CAPITALIZATION; CONTRIBUTION OF CAPITAL

Section 3.1 Authorized Capital. The Joint Venture Company shall have an initial authorized capital of [***] divided into [***] Shares. In accordance with Section 6.5, the authorized capital may be amended from time to time by the Shareholders, as may be necessary or desirable to consummate the transactions contemplated herein and in accordance with the Applicable Laws of the ROC.

Section 3.2 Capital Contributions at or Prior to the Closing.

(a) In connection with the formation of the Joint Venture Company, NTC shall have contributed to the Company, prior to the Closing, NT$ 1,000,000 as an initial contribution to the capital of the Joint Venture Company for the subscription of one hundred thousand (100,000) Shares.

(b) Pursuant to the Master Agreement and subject to the terms and conditions thereof, at the Closing, NTC shall contribute to the Joint Venture Company, through the subscription of one hundred nineteen million nine hundred thousand (119,900,000) Shares, NT$ 1,199,000,000. Pursuant to the Master Agreement and subject to the terms and conditions thereof, at the Closing, MNL shall contribute to the Joint Venture Company, through the subscription of one hundred twenty million (120,000,000) Shares, NT$ 1,200,000,000.

Section 3.3 Additional Capital Contributions. In addition to the capital contributions referred to in Section 3.2, each of MNL and NTC commits to making, on or prior to December 31, 2009, additional capital contributions of the NT$ equivalent (rounded down to the nearest NT$10,000) of $510 million each, for total capital contributions by each Shareholder to the Joint Venture Company of $550 million. The timing of the capital increase by the Joint Venture Company and the injection of additional capital by the Shareholders under this Section 3.3, including the per Share purchase price with respect to the purchase of Shares at each capital increase, shall be mutually agreed by the Shareholders and approved by the Board of Directors, as appropriate; provided, that, the timing of the completion of the capital contributions by the Shareholders as contemplated under this Section 3.3 shall in no event be later than December 31, 2009.

Section 3.4 Further Capital Contributions.

(a) ***No Further Obligation***. Unless otherwise agreed by the Shareholders in writing, neither Shareholder shall be obligated to make any further contribution of capital to the Joint Venture Company beyond those contemplated by Section 3.2 and Section 3.3.

(b) ***Future Cash Requirements***. To the extent possible, in addition to the use of proceeds from the subscription of any Shares, all future cash requirements of the Joint Venture Company shall be satisfied first from cash flow generated by operations of the Joint Venture Company and second from financing that the Joint Venture Company may procure pursuant to Article IV of this Agreement.

Section 3.5 Failure of a Shareholder to Contribute Capital.

(a) ***Put or Call Rights***. In the event that a Shareholder (for purpose of this Section 3.5, the "**Non-contributing Shareholder**") fails to contribute to the capital of the Joint Venture Company as contemplated by Section 3.2 and 3.3, the other Shareholder (for purpose of this Section 3.5, the "**Contributing Shareholder**") shall have the right, but not the obligation, by written notice to the Non-contributing Shareholder, to require the Non-contributing Shareholder to:

(i) [***]; or

(ii) [***].

(b) ***Completion of Put/Call***.

(i) The Shareholders shall in good faith complete the sale or purchase transaction contemplated under Section 3.5(a) as soon as practicable, but in no event later than [***] days after delivery of the notice by the Contributing Shareholder.

(ii) [***].

Section 3.6 Miscellaneous Capital Provision.

(a) ***No Interest***. No interest shall be payable to a Shareholder on its capital contributions to the Joint Venture Company. Except through a reduction of capital or upon dissolution of the Joint Venture Company, a Shareholder shall not be entitled to withdraw or the return of any of its capital contributions.

(b) [***].

ARTICLE IV
BANK LOANS

If the Board of Directors shall at any time determine that there is a need for the Joint Venture Company to obtain external financing, the Shareholders will assist the Joint Venture Company to seek and obtain commercial loans or other financing arrangements from banks and other financial institutions on competitive market terms and otherwise as the Joint Venture Company may reasonably require; provided, however, that any such loans from external sources shall be secured only by the assets of the Joint Venture Company and repaid from the cash flow of the Joint Venture Company. None of the Shareholders (or any of their representatives) shall be obligated under this Agreement or otherwise to provide any guarantee or security for any such loans in favor of the Joint Venture Company, unless specifically agreed in writing by such Shareholder (or its duly authorized representative). The Shareholders shall cause the Joint Venture Company to use commercially reasonable efforts, from and after the Closing, to obtain [***] in commercial loans to be used in accordance with the Initial Business Plan.

ARTICLE V
MANAGEMENT OF THE JOINT VENTURE COMPANY

Section 5.1 Board of Directors.

(a) ***Power and Authority***. The Board of Directors shall be responsible for the overall management of the business, affairs and operations of the Joint Venture Company. The Board of Directors shall have all the rights and powers given to it under the Articles of Incorporation and the Applicable Laws of the ROC, including without limitation, the ROC Company Law.

(b) ***Number of Directors***. The Articles of Incorporation shall provide for the Joint Venture Company to have a Board of Directors consisting of [***] directors. The directors shall be designated and elected as follows:

(i) MNL shall be entitled to designate a number of Persons as its representatives to be elected as directors of the Joint Venture Company equal to [***]; and

(ii) NTC shall be entitled to designate a number of Persons as its representatives to be elected as directors of the Joint Venture Company equal to [***].

(c) ***Agreement to Vote***.

(i) The Shareholders agree to vote, in any meeting of the shareholders where directors are elected, in a coordinated manner, to elect all of the Persons designated by the Shareholders in accordance with Section 5.1(b) above, which shall [***]. As soon as practicable after the Closing, the Shareholders shall elect the [***].

(ii) If for any reason the Shareholders shall be unable to elect [***] Persons to be their representatives to serve as directors pursuant to Section 5.1(b), the Shareholders shall vote, in a coordinated manner, to elect as many of such Persons as possible. The number of Persons so elected shall be allocated between the Shareholders as follows:

(A) MNL shall be entitled to designate a number of Persons to be so elected that is equal to [***]; and

(B) NTC shall be entitled to designate a number of Persons to be so elected that is equal to [***].

(iii) Notwithstanding Section 5.1(c)(ii) above, if [***].

(d) ***Removal and Replacement***. Any of the representatives serving as directors on the Board of Directors may be removed or replaced for any reason by the Shareholder that designated him or her. If any such representative serving on the Board of Directors is so removed or replaced or otherwise ceases to serve as a director on the Board of Directors, the Shareholder that designated such representative shall be entitled to designate another Person to fill such vacancy.

(e) ***Compensation***. The directors, except for the independent directors, if any, shall not receive any compensation for serving as such, although the Board of Directors may authorize the reimbursement of expenses reasonably incurred in connection with the performance of their duties.

(f) ***Meetings of the Board of Directors; Notice***.

(i) The Board of Directors shall meet from time to time but at least once per fiscal quarter in Taiwan (or such other place as the Board of Directors may decide) by not less than ten (10) days notice in writing. Emergency meetings of the Board of Directors may be convened from time to time by the Chairman, or the Vice-Chairman pursuant to Section 5.2(c), by not less than three (3) days notice in writing.

(ii) A notice of a meeting of the Board of Directors shall contain the time, date, location and agenda for such meeting. The presence of any director at a meeting (including attendance by means of video conference) shall constitute a waiver of notice of the meeting with respect to such director.

(iii) The Board of Directors shall cause written minutes to be prepared of all actions, determinations and resolutions taken by the Board of Directors and a copy thereof sent to each director and supervisor of the Joint Venture Company within twenty (20) days of each meeting.

(g) ***Proxy and Video Conference***. In any case where a director cannot attend a meeting of the Board of Directors, that director may appoint another director as his or her proxy in accordance with the ROC Company Law. All or any of the directors may

participate in a meeting of the Board of Directors by means of a video conference which allows all persons participating in the meeting to see and hear each other. A director so participating shall be deemed to be present in person at the meeting and shall be entitled to vote or be counted in a quorum accordingly.

(h) ***Quorum***. The presence of at least [***] of the directors in office (including at least [***] directors (or with respect to a Shareholder that only appoints [***], that [***]) appointed by each of the Shareholders), in person, by proxy or by video conference, shall be necessary and sufficient to constitute a quorum for the purpose of taking action by the directors at any meeting of the Board of Directors. No action taken by the Board of Directors at any meeting shall be valid unless the requisite quorum is present.

(i) ***Voting***. Unless a higher majority of votes is specifically required under the ROC Company Law or the Articles of Incorporation, all actions, determinations or resolutions of the Board of Directors shall require the affirmative vote of a [***] majority of the directors present at any meeting of the Board of Directors at which a quorum is present.

(j) ***Matters Requiring the Approval of the Board of Directors***. Each of the following actions shall require the approval of the Board of Directors by resolution adopted in accordance with Section 5.1(i) above (which approval may be obtained through the adoption of a Business Plan by the Board of Directors in accordance with Section 7.5, provided, that the relevant Business Plan sets forth such action in reasonable detail):

(i) appointing or removing the Chairman or Vice Chairman of the Board of Directors and appointing or removing the President, the Executive Vice President or any Vice Presidents of the Joint Venture Company;

(ii) approving or amending any Business Plan;

(iii) issuing new Shares within the authorized capital of the Joint Venture Company;

(iv) determining long-term policies of the Joint Venture Company including substantial change in the organizational structure and business operation of the Joint Venture Company;

(v) determining employment terms, including compensation packages, of the President, the Executive Vice President and any Vice Presidents of the Joint Venture Company;

(vi) adopting or making any material changes to any employee benefit plan, including any incentive compensation plan;

(vii) entering into or amending any collective bargaining arrangements or waiving any material provision or requirement thereof;

(viii) establishing Subsidiaries, opening and closing branch offices, acquiring or selling any equity interests in another Person, establishing new business sites and closing of existing ones;

(ix) setting the limits of authorities of various executive positions and approving the internal chart of authorities;

(x) making capital expenditures (or a group of related capital expenditures) in an amount equal to or greater than [***] individually or [***] in the aggregate in any one fiscal quarter;

(xi) borrowing or lending to, or guaranteeing the obligations of, any Third Party;

(xii) preparing and submitting the financial statements to the shareholders of the Joint Venture Company for their approval;

(xiii) pledging or hypothecating, or creating any encumbrance or other security interest in, the Joint Venture Company's assets;

(xiv) entering into an agreement for the purchase, transfer, sale or any other disposal of assets valued at an amount greater than [***];

(xv) entering into, amending or terminating any material agreement relating to intellectual property rights or know how;

(xvi) establishing, modifying or eliminating any significant accounting or tax policy, procedure or principle;

(xvii) commencing or settling any litigation, except routine employment litigation matters;

(xviii) redeeming or repurchasing Shares;

(xix) selecting, appointing and replacing attorneys, accountants, auditors and financial advisors for the Joint Venture Company or any of its Subsidiaries;

(xx) preparing and submitting proposals for surplus earning distributions and loss offset to the shareholders of the Joint Venture Company for approval;

(xxi) making any material purchase, sale or lease (as lessor or lessee) of any real property;

(xxii) making any public announcement by the Joint Venture Company or any Subsidiary of the Joint Venture Company of any material non-public information;

(xxiii) making any filing with, public comments to or negotiation or discussion with, any Governmental Entity (excluding regular operating filings and other routine administrative matters);

(xxiv) establishing, overseeing and modifying the investment policies of the Joint Venture Company with respect to funds held by the Joint Venture Company.

(xxv) (i) voluntarily commencing or determining not to contest in a timely and appropriate manner any involuntary proceeding or filing any petition seeking relief under bankruptcy, insolvency, receivership or similar laws, (ii) applying for or consenting to the appointment of a receiver, trustee, custodian, conservator or similar official for the Joint Venture Company or any Subsidiary of the Joint Venture Company, or for a substantial part of their property or assets, (iii) filing an answer admitting the material allegations of a petition filed against the Joint Venture Company or any Subsidiary of the Joint Venture Company in any proceeding described above, (iv) consenting to any order for relief issued with respect to any proceeding described in this subsection (xxv), (v) making a general assignment for the benefit of creditors, or (vi) admitting in writing the Joint Venture Company's inability, or the failure of the Joint Venture Company or of any Subsidiary of the Joint Venture Company generally, to pay its debts as they become due or taking any action for the purpose of effecting any of the foregoing;

(xxvi) submitting any matters to the shareholders of the Joint Venture Company for consideration or approval as may be required by law; and

(xxvii) deciding other important matters related to the Joint Venture Company that arise other than in the ordinary course of business.

Section 5.2 Chairman and Vice-Chairman.

(a) ***Chairman***. The Chairman of the Board of Directors shall be a director designated by NTC, subject to the consent of MNL, which consent shall not be unreasonably withheld (unless MNL has the right to appoint more directors than NTC, in which case, MNL shall make the designation, subject to the consent of NTC, which consent shall not be unreasonably withheld). The Chairman shall have such duties and responsibilities as may be assigned to him or her by the Board of Directors. The Chairman shall not have a second or casting vote.

(b) ***Vice-Chairman***. The Vice-Chairman of the Board of Directors shall be a director designated by the Shareholder that does not have the right to designate the Chairman, subject to the consent of the other Shareholder, which consent shall not be unreasonably withheld. The Vice-Chairman shall not have a second or casting vote.

(c) ***Convening of the Board of Directors Meeting***. Meetings of the Board of Directors shall be convened by the Chairman. Each director of the Joint Venture Company shall have the right to request the Chairman to convene a meeting of the Board of Directors indicating the proposed agenda. If the Chairman does not, within one week (or within three (3) days for convening an emergency meeting of the Board of

Directors), comply with such director's request, the Vice-Chairman shall have the right to convene the meeting of the Board of Directors as requested by such director.

Section 5.3 Supervisors.

(a) ***Number of Supervisors***. The Articles of Incorporation shall provide for the Joint Venture Company to have [***] supervisors. Each Shareholder shall be entitled to designate [***] to be elected as a supervisor of the Joint Venture Company.

(b) ***Agreement to Vote***. The Shareholders agree to vote, in any meeting of the shareholders where supervisors are elected, in a coordinated manner, to elect all of the Persons designated by the Shareholders in accordance with Section 5.3(a) above. As soon as practicable after the Closing, the Shareholders shall elect the [***] designated by MNL, and the [***] designated by NTC, to serve as supervisors of the Joint Venture Company.

(c) ***Removal and Replacement***. Any of the supervisors may be removed or replaced for any reason by the Shareholder that designated him or her. If any supervisor is so removed or replaced or otherwise ceases to serve as a supervisor, the Shareholder that designated such supervisor shall be entitled to designate another Person to fill such vacancy.

(d) ***Compensation***. The supervisors, except for the independent supervisors, if any, shall not receive any compensation for serving as such, although the Board of Directors may authorize the reimbursement of expenses reasonably incurred in connection with the performance of their duties.

(e) ***Restriction on Employment***. The supervisors shall not be concurrently employed by the Joint Venture Company in any other capacity.

Section 5.4 Independent Directors and Independent Supervisors. To the extent that independent directors and independent supervisors are required under the Applicable Laws of the ROC, the Shareholders shall elect such minimum number of independent directors and independent supervisors as required. Such independent directors and independent supervisors shall be nominated [***].

Section 5.5 President and Executive Vice President.

(a) ***President***. The Articles of Incorporation shall provide for the Joint Venture Company to have a president (the "**President**"), who shall report to the Board of Directors and serve at its pleasure. The President shall have such daily operation and management responsibilities of the Joint Venture Company as may be assigned or delegated by the Board of Directors from time to time. [***].

(b) ***Executive Vice President***. The Articles of Incorporation shall provide for the Joint Venture Company to have an executive vice president (the "**Executive Vice President**"), who shall also report to the Board of Directors and serve at its pleasure. The Executive Vice President shall work with and assist the President in executing the

daily operation and management responsibilities of the Joint Venture Company and shall have such other responsibilities as may be assigned or delegated by the Board of Directors from time to time. [***].

(c) ***Termination and Vacancy***. The Board of Directors shall have the exclusive right to terminate the services of the President and the Executive Vice President with or without cause. In the event of any such termination or in the event of any vacancy as a result of death, resignation, retirement or any other reason, the Shareholder that nominated the President or the Executive Vice President, as the case may be, shall be entitled to nominate another Person, subject to the same consent requirement set forth in Sections 5.5(a) or (b) above, as the case may be, to fill such vacancy for appointment by the Board of Directors.

(d) ***Work as a Team.*** The President and the Executive Vice President shall work as a team in executing their duties and responsibilities.

Section 5.6 Other Officers. The President and the Executive Vice President may appoint, subject to the approval of the Board of Directors, and be assisted by such other officers of the Joint Venture Company as the President and the Executive Vice President may consider necessary or desirable from time to time. Such other officers shall perform such duties and have such powers specifically delegated to them by the Board of Directors from time to time. The Board of Directors shall determine, from time to time, the compensation, including any incentive compensation, for which such officers may be offered. The Board of Directors may, from time to time, also appoint, and assign titles to, other officers of the Joint Venture Company, and delegate to such officers such authorities and duties as the Board of Directors may deem advisable.

ARTICLE VI
SHAREHOLDERS' MEETINGS

Section 6.1 Annual Meeting. The annual meetings of the shareholders of the Joint Venture Company shall be convened at least once annually by not less than twenty (20) days prior notice in writing accompanied by an agenda specifying the business to be transacted.

Section 6.2 Special Meeting. Special meetings of the shareholders of the Joint Venture Company may be held from time to time and shall be convened by the Board of Directors by not less than ten (10) days prior notice in writing accompanied by an agenda specifying the business to be transacted. (Any annual meetings of the shareholders and any special meetings of the shareholders shall individually be referred to as a "**Shareholders' Meeting**" and collectively be referred to as "**Shareholders' Meetings**.")

Section 6.3 Quorum. Unless a higher quorum is required under the Applicable Laws, the presence of the shareholders of the Joint Venture Company representing [***] or more of the issued and outstanding Shares of the Joint Venture Company shall be necessary and sufficient to constitute a quorum for the purpose of taking action at any

Shareholders' Meeting of the Joint Venture Company. No action taken at a Shareholders' Meeting shall be valid unless the requisite quorum is present.

Section 6.4 Voting. Each Share shall entitle its holder to one vote. Unless a higher vote is required under the Applicable Laws, all actions, determinations or resolutions of the shareholders at any Shareholders' Meeting of the Joint Venture Company shall require the affirmative vote of [***] or more of the votes represented in person or by proxy at the Shareholders' Meeting at which a quorum is present.

Section 6.5 Matters Requiring the Approval of the Shareholders. Each of the following actions shall require the approval of the shareholders of the Joint Venture Company by resolution adopted in accordance with Section 6.4 above:

(a) amending, restating or revoking the Articles of Incorporation;

(b) electing or removing the directors or the supervisors;

(c) approving the balance sheet and other financial statements received from the Board of Directors;

(d) approval of surplus earning distribution or loss offset proposals;

(e) any merger, consolidation or other business combination to which the Joint Venture Company is a party, or any other transaction to which the Joint Venture Company is a party (other than where the Joint Venture Company is merged or combined with or consolidated into a Wholly-Owned Subsidiary of the Joint Venture Company), resulting in (i) a change of control of the Joint Venture Company, other than a change of control that may occur pursuant to Section 3.5, 9.3, 12.3, 12.6 or 13.1 or (ii) the sale of all or substantially all assets of the Joint Venture Company;

(f) liquidation or dissolution of the Joint Venture Company; and

(g) other actions reserved to the determination of the shareholders of the Joint Venture Company by the ROC Company Law.

ARTICLE VII
OPERATIONS

Section 7.1 Manufacturing Facility; Fab Equipment.

(a) ***Fab Equipment***. Subject to the mutual agreement of the Shareholders, the Joint Venture Company may purchase, at fair market value, NTC's idle equipment that is suitable for use in connection with the manufacturing of Stack DRAM Products in the Leased Fab.

(b) ***Upgrade and Enhancements***. [***].

Section 7.2 Manufacturing Operations.

(a) ***Front-End Manufacturing Operations***. The Joint Venture Company's front-end manufacturing operations will utilize the Transferred Technology, JDP Designs, JDP Process Nodes and JDP Work Product, and operate, at all times, within the Boundary Conditions, and in a manner consistent with the process of records and model of records in the Transferred Technology, JDP Designs, JDP Work Product and JDP Process Nodes, as any of the foregoing is transferred to the Joint Venture Company pursuant to the TTA 68-50 or the Technology Transfer Agreement. The Shareholders shall cause the Joint Venture Company not to operate outside of the processes of records and models of records so transferred. Unless both Shareholders agree otherwise, [***].

(b) ***Manufacturing Committee***.

(i) The Shareholders shall jointly establish a manufacturing committee (the "**Manufacturing Committee**") of the Joint Venture Company, [***]. The members of the Manufacturing Committee shall serve at the pleasure of the Shareholder appointing them and may be removed from the Manufacturing Committee and replaced by such Shareholder at any time with or without cause.

(ii) NTC's members of the Manufacturing Committee shall generally be employees of NTC, and MNL's members of the Manufacturing Committee shall generally be employees of Micron, in each case who are responsible for product loading and planning decisions and who can coordinate the loading of product at the Joint Venture Company level.

(iii) The Manufacturing Committee shall be responsible for [***]. In reaching such decisions, the Manufacturing Committee may take advice and input from such sources as it deems appropriate.

(iv) In the event that the members of the Manufacturing Committee cannot agree on product loading decisions, then the Manufacturing Committee will permit, with respect to each Process Node, [***].

(v) On a quarterly basis, or as otherwise determined by the Manufacturing Committee, the Manufacturing Committee shall determine the Baseline Flow and calculate [***] available for each Process Node for allocation at each fab of the Joint Venture Company to each of Micron and NTC based on, [***]. The Manufacturing Committee shall develop the loading plan for wafer starts at each fab of the Joint Venture Company for any given week based on the available Manufacturing Capacity for such fab for such week, so that Micron shall receive a share of Manufacturing Capacity for such week based on MNL's Output Percentage and NTC shall receive a share of Manufacturing Capacity for such week based on its Output Percentage.

(vi) Requests of Micron and NTC for products or product mixes different from the pre planned Baseline Flow with respect to a fab shall be honored, except to the extent honoring such request would lead to wafer starts for the non-Baseline Flow products at such fab resulting in Micron or NTC receiving more than the

Manufacturing Capacity allocated to such Person under the current Baseline Flow for such fab. To the extent that both Micron and NTC request changes in products or product mixes at a given fab that result in [***], the Manufacturing Committee shall re-determine the allocation of Manufacturing Capacity based on [***], which shall then be the basis for its loading plans with respect to such fab.

(vii) The Shareholders shall cause the Joint Venture Company to ensure that Manufacturing Capacity at each fab is allocated as provided for in this Section 7.2.

(viii) The Manufacturing Committee shall meet at such times as may be helpful or necessary for the efficient operation of the Company but in no event less than monthly. The Manufacturing Committee shall provide an annual report to the Joint Venture Company for use in a Business Plan and the Manufacturing Plan.

(c) ***Manufacturing Plan***. The Joint Venture Company shall prepare an annual manufacturing plan (the "**Manufacturing Plan**") under the direction of the President, with input from the Executive Vice President, the Shareholders and the Manufacturing Committee or such other persons or committees charged with such responsibility from time to time by the Shareholders. The Manufacturing Plan shall seek to optimize the efficiency and output of the Joint Venture Company and shall be updated monthly by the Manufacturing Committee. The Manufacturing Plan shall address various manufacturing issues, including without limitation, the Stack DRAM Products to be manufactured, priority of wafer starts and weekly output.

Section 7.3 Output Rights and Obligations.

(a) ***Supply Agreement***. As contemplated by the Master Agreement, Micron and NTC will enter into the Supply Agreement with the Joint Venture Company, which Supply Agreement shall provide for the right and obligation of each Shareholder to purchase its Output Percentage of the Stack DRAM Products of the Joint Venture Company. No amendment or modification of the terms or conditions of the Supply Agreement shall be made without prior written notice to and the prior written consent of NTC and Micron.

(b) ***Output Percentage***. As of the Closing, each Shareholder's Output Percentage shall be [***]. After the Closing, each time a Shareholder (A) transfers, sells or otherwise disposes of Shares (a "**Share Disposition**") (it being agreed that any Shares Transferred to employees of a Transferring Shareholder or its Wholly-Owned Subsidiary (or, if MNL is the Transferring Shareholder, to employees of Micron or its Wholly-Owned Subsidiaries) as contemplated by Section 8.4(b) that are not replaced during the Replacement Period through purchases as contemplated by the last sentence of Section 8.4(d) shall be deemed to have been disposed of in a Share Disposition on, and only as of, the last day of the Replacement Period) or (B) purchases, acquires or otherwise receives (other than purchases during the Replacement Period contemplated by the last sentence of Section 8.4(d) and purchases contemplated by Section 8.4(e)), without violation of this Agreement, Shares (a "**Share Acquisition**"), the Shareholder

that is participating in such transaction (the "**Initiating Shareholder**") shall, contemporaneously with the occurrence of such transaction, provide written notice thereof (the "**Change Notice**") to the other Shareholder (the "**Other Shareholder**"), which notice shall specify, in the case of a Share Disposition, the number of Shares transferred, sold and disposed of, or, in the case of a Share Acquisition, the number of Shares purchased, acquired or otherwise received, by the Initiating Shareholder. In the case of a Share Disposition, the Other Shareholder shall have [***] days from the delivery of the Change Notice to determine (which determination shall be effectuated by delivering written notice (an "**Answer Notice**") to the Initiating Shareholder) whether the Other Shareholder's Output Percentage should increase, which increase shall take effect on the date that is [***] days following the delivery of such Answer Notice. In the case of a Share Acquisition, the Initiating Shareholder shall have [***] days from the delivery of the Change Notice to determine (which determination shall be effectuated by delivering written notice (also an "**Answer Notice**") to the Other Shareholder) whether the Initiating Shareholder's Output Percentage should increase, which increase shall take effect on the date that is [***] days following the delivery of such Answer Notice. If the determination is so made that a Shareholder's Output Percentage should not increase, then, for purposes of this Section 7.3 only (X) in the case of a Share Disposition, the Initiating Shareholder shall be deemed, for purposes of this Section 7.3 only, to continue to own the number of Shares transferred, sold or otherwise disposed of in the Share Disposition (such deemed Shares being referred to as "**Phantom Shares**") and (Y) in the case of a Share Acquisition, the Other Shareholder shall be deemed, for purposes of this Section 7.3 only, to own such number of Shares as is necessary so that its Output Percentage will not change as a result of the Share Acquisition (such deemed Shares also being referred to as "**Phantom Shares**"). Notwithstanding anything to the contrary in this Section 7.3(b), the Shareholders shall not be required to give a Change Notice or otherwise comply with the procedures in this Section 7.3(b) if there are Share Dispositions or Share Acquisitions by both Shareholders that occur contemporaneously with respect to which, if both Initiating Shareholders gave Change Notices and both Shareholders giving an Answer Notice elected to increase a Shareholder's Output Percentage as a result thereof, no change in the Shareholders' Output Percentages would occur.

Section 7.4 Marketing and Sales. With respect to Stack DRAM Products purchased from the Joint Venture Company, each of Micron and NTC shall be free to compete against each other, anywhere in the world and with any customers, using its own marketing and sales channels and personnel. The Shareholders agree that appropriate safeguards shall be put in place by each Shareholder, and the Shareholders shall cause the Joint Venture Company to put in place such safeguards, to ensure compliance with all applicable competition or anti-trust laws.

Section 7.5 Business Plans and Budgets.

(a) ***Initial Business Plan; Initial Budget***.

(i) As contemplated by the Master Agreement, the Shareholders shall work in good faith to prepare, at or prior to the Closing, a mutually acceptable initial

business plan covering the operations and business planning of the Joint Venture Company ("**Initial Business Plan**") from the commencement of the business of the Joint Venture Company until [***] (such period, the "**Initial Period**").

(ii) The Initial Business Plan shall cover [***].

(iii) The Initial Business Plan shall include an initial budget ("**Initial Budget**") which shall cover [***] of the Joint Venture Company to be made during the Initial Period and the capital contributions, if any, required by this Agreement to be made by the Shareholders during the Initial Period.

(iv) At least [***] days before the beginning of the second Fiscal Year of the Initial Period, the Board of Directors on its own initiative, or at a Shareholder's request, shall (in consultation with the President and the Executive Vice President) review the Initial Business Plan and determine whether any amendment thereto is necessary or appropriate. Upon a determination by the Board of Directors that an amendment to the Initial Business Plan is necessary or appropriate, the Board of Directors may approve such amendment and the President and the Executive Vice President shall thereupon implement such amendment to the Initial Business Plan.

(v) Except pursuant to Section 7.5(a)(iv) above, the Initial Business Plan shall not be amended, updated, modified or superseded without the written consent of the Shareholders.

(b) ***Annual Business Plan; Annual Budget***.

(i) For each Fiscal Year after the end of the Initial Period, the President shall, in consultation with the Executive Vice President and with input from the Manufacturing Committee or such other relevant Persons or committees charged by the Shareholders with responsibility for such matters from time to time, prepare and submit to the Board of Directors for approval, an annual business plan (the "**Annual Business Plan**") at least [***] days prior to the beginning of the next Fiscal Year.

(ii) The Annual Business Plan shall include an annual budget ("**Annual Budget**") which shall cover [***] of the Joint Venture Company to be made during the period covered by the Annual Budget and the capital contributions, if any, required to be made by the Shareholders during such period.

(iii) The Annual Business Plan, including the Annual Budget, shall not be amended, updated, modified or superseded without the approval of the Board of Directors.

(c) Transition Supply Obligation. With respect to a Share Disposition of all (but not less than all) of the Shares then owned by a Shareholder as contemplated under Sections 12.3, 12.6 and 13.1, the Shareholder that remains a Shareholder of the Joint Venture Company after such Share Disposition shall, [***].

ARTICLE VIII
EMPLOYEE MATTERS

Section 8.1 Employees.

(a) ***Employees of the Joint Venture Company***. The Joint Venture Company shall employ its own personnel, including without limitation, administrative staff, operators, technicians and engineers, and shall be their exclusive employer. If any current employee of NTC who has been continuously employed by NTC during the [***] (i) permanently transfers to the Joint Venture Company within [***] and (ii) such employee, during the [***] following such transfer has remained an employee of the Joint Venture Company and has not delivered to the Joint Venture Company, or received from the Joint Venture Company, a notice of termination, then NTC shall (x) [***].

(b) ***Hiring***. The number, position and compensation of the employees of the Joint Venture Company shall be as determined by the President in consultation with the Executive Vice President, subject to approval of the Board of Directors, which approval may take the form of an Annual Business Plan.

(c) ***Employee Policies***. Subject to the approval of the Board of Directors, the Joint Venture Company shall put in place and implement such employee policies, programs and benefits as determined by the President in consultation with the Executive Vice President or as may otherwise be required by Applicable Laws.

Section 8.2 Assigned Employees.

(a) ***Micron Assigned Employee Agreement***. Certain employees of Micron may be assigned or transferred to work at or with the Joint Venture Company. In connection therewith, Micron and the Joint Venture Company shall enter into the Micron Assigned Employee Agreement.

(b) ***NTC Assigned Employee Agreement***. Certain employees of NTC may be assigned or transferred to work at or with the Joint Venture Company. In connection therewith, NTC and the Joint Venture Company shall enter into the NTC Assigned Employee Agreement.

Section 8.3 Employment and Service-Related Forms. The Joint Venture Company shall have policies applicable to, and ensure that all of its officers, employees and third-party independent contractors, third-party consultants, and other third-party service providers enter into appropriate agreements with respect to, (a) protection of confidential information of the Joint Venture Company, (b) compliance with Applicable Laws, (c) other matters related to the delivery of services to, or employment of such Person by, the Joint Venture Company, (d) intellectual property creation and assignment documents, including invention disclosures, pursuant to which ownership to any intellectual property created in the course of employment with (or service to) the Joint Venture Company shall be transferred and assigned to the Joint Venture Company or its designee, as appropriate.

Section 8.4 SPV Equity. Notwithstanding any provision in this Agreement to the contrary:

(a) ***Transfer of Shares to SPV***. Each Shareholder (a "**Transferring Shareholder**") may Transfer a number of Shares, up to a maximum of [***]% of the Shares it purchased from the Joint Venture Company as contemplated by Sections 3.2 and 3.3, to a Wholly-Owned Subsidiary of such Transferring Shareholder (each, an "**SPV**"). For so long as the SPV holds any Shares, such Transferring Shareholder shall be required to retain 100% of the equity and voting interests of such SPV.

(b) ***Transfer of Shares by SPV.*** Any SPV may, at any time and from time to time, Transfer to the employees of such Transferring Shareholder or its Wholly-Owned Subsidiaries (or, in the case of MNL, to the employees of Micron or its Wholly-Owned Subsidiaries) any or all of the Shares such SPV received as a result of the Transfer contemplated by Section 8.4(a). In connection with any such Transfer, the Transferring Shareholder shall cause the Person receiving such Shares to agree, for the benefit of the Shareholder that is not the Transferring Shareholder, to restrictions (including with respect to voting and transfer) with respect to such Shares equivalent to the restrictions that would be imposed by this Agreement on the Transferring Shareholder if such Shares were held by the Transferring Shareholder. The Transferring Shareholder shall use reasonable efforts to enforce such restrictions, provided, however, that any non-compliance or violation of such restrictions by the Persons receiving Shares as contemplated by this Section 8.4(b) shall not in any way affect the deemed ownership by the Shareholders as contemplated under Section 8.4(d) and shall not be regarded as a breach of this Agreement by the Transferring Shareholder.

(c) ***No Other Transfer***. Each Transferring Shareholder shall prevent its SPV, if any, from Transferring Shares other than as contemplated by Section 8.4(b).

(d) ***Deemed Owned by Shareholders***. [***].

(e) ***Repurchase***. With respect to a Transferring Shareholder that has not violated this Section 8.4, such Transferring Shareholder shall not be in violation of this Agreement if, at any time and from time to time, it repurchases from its SPV or from Persons to whom the SPV Transferred Shares in accordance with Section 8.4(b), any or all of the Shares such Transferring Shareholder Transferred to its SPV in accordance with Section 8.4(a). If, after the Listing, a Transferring Shareholder repurchases Shares from Persons to whom its SPV Transferred Shares in accordance with Section 8.4(b), the Shareholder that is not the Transferring Shareholder shall be deemed to own [***] for each Share the Transferring Shareholder so purchases.

ARTICLE IX
TRANSFER RESTRICTIONS

Section 9.1 Restrictions on Transfer.

(a) ***General Restriction***. Except as permitted under Section 8.4 and this Article IX, no Shareholder shall, until [***] (such period, the "**Transfer Restriction Period**"), sell,

exchange, transfer, dispose of, encumber, pledge, mortgage or hypothecate (each a "**Transfer**"), whether directly or indirectly, and shall not make any agreement or commitment to do any of the same, any or all of its rights, title or interest in or to any Shares without the prior written consent of the other Shareholder (except as contemplated by Section 3.5, 12.3, 12.6, or 13.1). The foregoing consent shall not be unreasonably withheld or delayed where a Shareholder proposes to pledge or otherwise encumber its shares in the Joint Venture Company as collateral to secure any loan to the Joint Venture Company for any purpose relating, directly or indirectly, to the businesses of the Joint Venture Company.

(b) ***Other Transfer Prohibitions***.

(i) A Shareholder shall in no event Transfer any part of the Shares of the Joint Venture Company owned by it to any Person if after such Transfer such Shareholder's Equity Interest would be below [***]%.

(ii) The Shareholders agree that:

(A) MNL shall in no event Transfer any part of the Shares of the Joint Venture Company owned by it to [***] without the prior written consent of NTC; and

(B) NTC shall in no event Transfer any part of the Shares of the Joint Venture Company owned by it to [***] without the prior written consent of MNL.

(c) ***Change of Control Event***. [***].

(d) ***Transferee to be Bound***. Notwithstanding consent being given by one Shareholder to the other Shareholder for the Transfer of any part of the Shares of the Joint Venture Company owned by the transferring Shareholder to any Person, the transferring Shareholder shall cause and procure the transferee to agree in writing to perform and be bound by all duties and obligations of the transferring Shareholder, including the any transfer restrictions under Section 9.1 of this Agreement, except where the Transfer is made through open market trades which are not, directly or indirectly, related to a negotiated transaction between the transferring Shareholder and the transferee.

Section 9.2 Permitted Transfers. Notwithstanding Section 9.1, a Shareholder may Transfer all (but not less than all) of its shares in the Joint Venture Company to [***] (a "**Permitted Transfer**"); provided, that:

(a) such transferee shall agree in writing to perform and be bound by all duties and obligations of the transferring Shareholder, including the obligations set forth in this Agreement and any Joint Venture Documents to which the transferring Shareholder is a party;

(b) the transferring Shareholder shall not be released from its duties and obligations under this Agreement or any other Joint Venture Documents and shall remain fully liable for the performance thereof by such transferee;

(c) [***]; and

(d) at least [***] days prior written notice of any such Transfer by a Shareholder of shares in the Joint Venture Company shall be provided to the other Shareholder.

(e) prior to the effectiveness of a Transfer permitted under this Section 9.2, the transferring Shareholder shall deliver to the Board of Directors and the other Shareholder a certificate stating that:

(i) the transferring Shareholder is not in breach of any provisions of this Agreement or any other Joint Venture Documents to which the transferring Shareholder is a party;

(ii) immediately after giving effect to such Transfer, there will exist no event of default or an event or condition that, with the giving of notice or lapse of time or both, would constitute an event of default of the Transferor or such transferee under this Agreement or any of the Joint Venture Documents; and

(iii) the Transfer will not, and could not reasonably be expected to, cause an adverse effect on the Joint Venture Company or the other Shareholder, including any material adverse tax consequences or an adverse effect due to the loss of intellectual property rights.

Section 9.3 Right of First Refusal.

(a) ***Transfer Notice***. At any time during the term of this Agreement, and further subject to Section 9.1, if a Shareholder proposes to Transfer all or any part of the shares in the Joint Venture Company in one or more related transactions (such Shareholder a "**Transferor**") to any party other than a Wholly-Owned Subsidiary of Micron or the Transferor, then the Transferor shall give the other Shareholder (the "**Receiving Party**") a written notice of the Transferor's intention to make the Transfer (the "**Transfer Notice**"), which shall include [***]. The Transfer Notice shall also certify that the Transferor has received a firm offer from the prospective transferee and in good faith believes a binding agreement for such Transfer is obtainable on the terms set forth in the Transfer Notice.

(b) ***Option to Purchase***. The Receiving Party shall have the first right and option, at its sole discretion, but not the obligation, to purchase all (but not less than all) of the Offered Shares pursuant to the Sale Offer by delivering a written notice to the Transferor within [***] days from the date of the Sale Offer (such period, the "**Option Period**") stating the Receiving Party's intention to exercise its right and option to purchase the Offered Shares.

(c) ***Closing of Transfer to Receiving Party***. The Transfer of Offered Shares resulting from acceptance of the Sale Offer by the Receiving Party in accordance with paragraph (b) above shall take place at a closing on a date designated by the Receiving Party within [***] days following such acceptance (or, if any governmental or regulatory approvals, consents, filings or authorizations are required in connection with such Transfer, within [***] days following the receipt of all such approvals, consents, filings or authorizations), or at such other time as the Transferor and the Receiving Party may otherwise agree. At such closing, the Transferor shall be obligated to sell and Transfer the Offered Shares and the Receiving Party shall pay the purchase price for such shares in accordance with the terms and conditions set forth in the Sale Offer.

(d) ***Sale to Third Party***. If the Receiving Party elects not to, or fails to give any notice of its intention to, purchase all of the Offered Shares within the Option Period, then, subject to Section 9.1, the Transferor shall have the right for [***] days thereafter (hereinafter the "**Transfer Period**") to Transfer the Offered Shares to the prospective transferee identified in the Transfer Notice; provided, however, [***]. If such Transfer is not completed within the Transfer Period, the Transferor shall no longer be permitted to sell such Offered Shares except to again comply with the provisions of this Section 9.3.

ARTICLE X
ACCOUNTING; FINANCIAL MATTERS

Section 10.1 Accounting. The Shareholders shall use reasonable efforts to cause the Joint Venture Company's books of account and records to be kept and maintained in accordance with Taiwan GAAP applied on a consistent basis. The Shareholders shall use reasonable efforts to cause the fiscal year of the Joint Venture Company to be from January 1 to December 31 ("**Fiscal Year**") and the fiscal quarter of the Joint Venture Company to be based on calendar months (ending on the last day of each three-month period).

Section 10.2 Access to Information.

(a) ***Inspection***. To the extent not in violation of Applicable Laws, each Shareholder and its agents (which may include employees of the Shareholder (or, in the case of MNL, of Micron) or the Shareholder's independent certified public accountants (or, in the case of MNL, Micron's independent certified public accountants)) shall have the right, at any reasonable time, to inspect, review, copy and audit (or cause to be audited) at the expense of the inspecting Shareholder any and all properties, assets, books of account, corporate records, contracts, documentation and any other material of the Joint Venture Company or any of its Subsidiaries, at the request of the inspecting Shareholder, whether in the possession of the foregoing or its (or their) independent certified public accountants. Upon such request, the Shareholders shall use reasonable efforts to cause the Joint Venture Company and each of its relevant Subsidiaries to use reasonable efforts to make available (or cause to make available) to such inspecting Shareholder the Joint Venture Company's accountants and key employees for

interviews to verify information furnished or to enable such Shareholder to otherwise review the Joint Venture Company or any of its Subsidiaries and their operations.

(b) ***Competitively Sensitive Information***. The Shareholders recognize that the Joint Venture Company may, from time to time, be in possession of Competitively Sensitive Information belonging to a Shareholder, and in no event shall a Shareholder be entitled to access any Competitively Sensitive Information of the other Shareholder in the possession of the Joint Venture Company. The Shareholders shall use reasonable efforts to cause the Joint Venture Company to maintain procedures reasonably acceptable to both Shareholders (including requiring that the Shareholders use reasonable efforts to label or otherwise identify Competitively Sensitive Information as such) to ensure that the Joint Venture Company will not disclose or provide Competitively Sensitive Information of one Shareholder to the other Shareholder (other than to a Joint Venture Company employee or to an assigned employee of the other Shareholder to the extent required for such employee or assigned employee to perform his or her duties for the Joint Venture Company) or any third party unless such disclosure is specifically requested by the Shareholder providing such Competitively Sensitive Information.

(c) ***Information Right***. The Shareholders shall use reasonable efforts to cause the Joint Venture Company to, and to cause the Board of Directors to cause the Joint Venture Company to, provide to each Shareholder the following:

(i) Monthly Reports. At the end of each fiscal month, the Joint Venture Company, and, if requested, each of its Subsidiaries, if any, shall provide each Shareholder with the following monthly reports prepared in accordance with Taiwan GAAP consistently applied, in each case within the time period specified below:

(A) monthly cash flow report within [***] days after the end of each fiscal month;

(B) month-end balance sheet within [***] days after the end of each fiscal month;

(C) monthly income statement within [***] days after the end of each fiscal month;

(D) monthly operational spending summary within [***] days after the end of each fiscal month; and

(E) such other reports as may be reasonably requested by each Shareholder.

(ii) Quarterly Reports. As soon as available, but not later than [***] days after the end of each fiscal quarter (other than fiscal quarters ending on the last day of a Fiscal Year, provided that the information required by this Section 10.2(c)(ii) will be included in the reports delivered pursuant to Section 10.2(c)(iii)

below for the Fiscal Year ending on such date), the Joint Venture Company shall provide to each Shareholder a consolidated balance sheet of the Joint Venture Company as of the end of such period and consolidated statements of income, cash flows and changes in shareholders' equity, as applicable, for such fiscal quarter and for the period commencing at the end of the previous Fiscal Year and ending with the end of such period, setting forth in each case in comparative form the corresponding figures for the corresponding period of the preceding fiscal year, each prepared in accordance with Taiwan GAAP. The quarterly financial statements shall be reviewed by a firm of independent certified public accountants selected from time to time by the Board of Directors (the "**Accountants**"). The Joint Venture Company shall also prepare a reconciliation of its quarterly financial statements to U.S. GAAP at the end of each fiscal quarter.

(iii) Annual Financial Statements. As soon as available, but not later than [***] days after the end of each Fiscal Year of the Joint Venture Company, audited consolidated financial statements of the Joint Venture Company and its Subsidiaries, which shall include statements of income, cash flows and of changes in shareholders' equity, as applicable, for such Fiscal Year and a balance sheet as of the last day thereof, each prepared in accordance with Taiwan GAAP, consistently applied, and accompanied by the report of the Accountants. The Joint Venture Company shall also prepare a reconciliation of its annual audited financial statements to U.S. GAAP at the end of each Fiscal Year.

Section 10.3 Reportable Events. The Shareholders shall use reasonable efforts to cause the Joint Venture Company to provide notice to the Shareholders of any Joint Venture Company Reportable Event as soon as possible and in any event no later than [***] days after the Joint Venture Company becomes aware of such Joint Venture Reportable Event. The following events shall be "**Joint Venture Reportable Events**":

(a) Receipt by the Joint Venture Company or any of its Subsidiaries of an offer by any Person to buy an equity interest in the Joint Venture Company or any of its Subsidiaries or a significant amount of its assets or to merge or consolidate with the Joint Venture Company or any of its Subsidiaries, or any indication of interest from any Person with respect to any such transaction;

(b) The commencement, or threat delivered in writing, of any lawsuit involving the Joint Venture Company or any of its Subsidiaries;

(c) The receipt by the Joint Venture Company or any of its Subsidiaries of a notice that the Joint Venture Company or any of its Subsidiaries is in default under any loan agreement to which the Joint Venture Company or any of its Subsidiaries is a party;

(d) Any breach by the Joint Venture Company or any of its Subsidiaries or a Shareholder or an Affiliate of a Shareholder of any contract between the Joint Venture Company or any of its Subsidiaries and a Shareholder or an Affiliate of a Shareholder;

(e) The removal or resignation of the auditor for the Joint Venture Company, or any adoption, or material modification, of any significant accounting policy or tax policy other than those required by Taiwan GAAP; or

(f) Any other event that has had or could reasonably be expected to have a material adverse effect on the business, results of operations, financial condition or assets of the Joint Venture Company or any of its Subsidiaries.

Section 10.4 Dividend Policy.

(a) Unless otherwise agreed by the Shareholders, the Shareholders shall use reasonable efforts to cause the Joint Venture Company to not declare and pay any dividend, in cash or shares, or otherwise make any distributions until [***].

(b) Thereafter, dividends and other distributions shall be as determined and approved by the shareholders of the Joint Venture Company.

(c) Notwithstanding anything in this Agreement to the contrary, the Shareholders shall use reasonable efforts to cause the Joint Venture Company to not make any distribution of cash or other property to any shareholder if the distribution would violate any agreement to which the Joint Venture Company or any of its Subsidiaries is a party or by which it or any of them is bound.

Section 10.5 Bank Accounts and Funds. The Shareholders shall use reasonable efforts to cause the funds of the Joint Venture Company, including any cash capital contributions, to be deposited in an interest-bearing account or accounts in the name of the Joint Venture Company and to not be commingled with the funds of any Shareholder or any other Person. The Shareholders shall use reasonable efforts to cause the checks, orders or withdrawals to be signed by any one or more Persons as authorized by the Board of Directors.

Section 10.6 Internal Controls. The Shareholders shall use reasonable efforts to cause the Joint Venture Company to have in place a system of internal accounting controls, in accordance with the policies agreed by the Shareholders, which shall be approved by the Board of Directors and monitored by the President and the Executive Vice President. Changes to the Joint Venture Company's system of internal accounting controls shall be made at the request of either Shareholder, subject to the approval of the Board of Directors; provided, however, that in the event one Shareholder is required to consolidate the financial results of the Joint Venture Company under applicable GAAP, the internal controls and accounting systems of the Joint Venture Company shall be modified as necessary to satisfy that Shareholder's requirements relating to internal controls and financial reporting and such Shareholder shall be entitled to receive the information and perform the testing that it deems necessary or advisable to satisfy its responsibilities related thereto.

Section 10.7 The Shareholders shall use their respective best efforts to cause the Joint Venture Company to comply with, and establish appropriate procedures to ensure compliance with, the United States Foreign Corrupt Practices Act of 1977, as amended.

ARTICLE XI
OTHER AGREEMENTS AND COVENANTS

Section 11.1 Tax Cooperation. The Shareholders shall cooperate in a good faith, commercially reasonable manner to maximize tax benefits and minimize tax costs of the Joint Venture Company and of the Shareholders or their Affiliates with respect to the activities of the Joint Venture Company, consistent with the overall goals of the Joint Venture Documents. Such cooperation shall include (a) NTC's use of reasonable efforts to assist Micron, MNL and the Joint Venture Company in applying for applicable tax incentives and for a tax withholding exemption in Taiwan, the Netherlands and such other jurisdictions as may be relevant, with respect to payments made by either, NTC or the Joint Venture Company to Micron or MNL, or by MNL or an Affiliate of MNL to the Joint Venture Company and (b) MNL's use of reasonable efforts to assist NTC in applying for applicable tax incentives and for a tax withholding exemption in Taiwan, the Netherlands and such other jurisdictions as may be relevant, with respect to payments made by either, the Joint Venture Company to NTC, or by NTC or an Affiliate of NTC to the Joint Venture Company. Additional assistance may include one Shareholder assisting the other Shareholder in amending one or more of the Joint Venture Documents or seeking a ruling from a taxing authority; provided, however, that neither of the Shareholders shall be required to consent to amend any of the Joint Venture Documents or take other action that such Shareholder reasonably determines is not commercially reasonable; provided, further, that if one Shareholder (and its Affiliates) is not likely (based on reasonable assumptions and projections) to benefit directly or indirectly from an action requested by the other Shareholder pursuant to this Section 11.1, then the Shareholders shall use good faith commercially reasonable efforts to enter into an agreement requiring the requesting Shareholder to reimburse the other Shareholder for the reasonable out-of-pocket costs incurred by that other Shareholder to effect the change desired by the requesting Shareholder, and the other Shareholder shall not be required to incur such costs until such an agreement has been entered into.

Section 11.2 Use of Shareholder Names. Except as may be expressly provided in the Joint Venture Documents, nothing in this Agreement shall be construed as conferring on the Joint Venture Company, any Subsidiary of the Joint Venture Company or either Shareholder the right to use in advertising, publicity, marketing or other promotional activities any name, trade name, trademark, service mark or other designation, or any derivation thereof, of the Shareholders (in the case of a Shareholder, the other Shareholder).

Section 11.3 Insurance. Until the Lease Commencement Date (as defined in the Fab Lease), NTC shall cause the Joint Venture Company to be at all times covered by insurance policies of NTC, with coverage consistent with the terms described on Schedule 5.2(B) of the Master Agreement Disclosure Letter. From and after the Lease Commencement Date, the Shareholders shall use commercially reasonable efforts to cause the Joint Venture Company and the Leased Fab to at all times be covered by insurance of the types and in the amounts set forth on Appendix I hereto. Such new insurance coverage may be provided through the coverage under one or more insurance policies maintained by Micron or NTC.

Section 11.4 Public Company Status; Listing.

(a) The Shareholders shall cooperate in a good faith, commercially reasonable manner to cause the listing of the Shares of Joint Venture Company on a nationally or internationally recognized stock exchange or market, including, without limitation, listing on the Taiwan Stock Exchange or any other recognized stock exchange or market in Taiwan (the "**Listing**").

(b) The Shareholders agree that if the Joint Venture Company is required, or elects, to register as a "public company" under the ROC Company Law, to issue its Shares to the public or employees or otherwise become subject to regulation under the ROC Securities Exchange Law or any Applicable Law which may potentially affect the Shareholders' respective rights to the ownership or management of the Joint Venture Company, each Shareholder shall cause such registration or issuance to be structured, and otherwise act and cause the Joint Venture Company to act, so as to preserve, to the maximum extent possible, the terms of this Agreement, both in letter and in spirit.

Section 11.5 Shareholders' Covenants. Each Shareholder agrees and covenants that it will not, without the prior written consent of the other Shareholder:

(a) confess any judgment against the Joint Venture Company;

(b) enter into any agreement on behalf of, or otherwise purport to bind, the other Shareholder or the Joint Venture Company;

(c) cause the Joint Venture Company to take any action in contravention of the Articles of Incorporation;

(d) cause the Joint Venture Company to dispose of the goodwill or the business opportunities of the Joint Venture Company; or

(e) cause the Joint Venture Company to assign or place its property in trust for creditors or on the assignee's promise to pay any indebtedness of the Joint Venture Company.

Section 11.6 Contractual Relationship Between the Joint Venture Company and Any Shareholder. With respect to any contract (including under the Fab Lease or the Supply Agreement) between the Joint Venture Company and a Shareholder (or an Affiliate of a Shareholder), the other Shareholder shall have the right to demand that the Joint Venture Company, and shall have the right to cause the Joint Venture Company to, take any action, pursue any right, enforce any obligation or seek recourse pursuant to or under such contract, including with respect to the assertion of any claim or cause of action for breach of contract against the Shareholder (or an Affiliate of the Shareholder) involved in such contractual relationship with the Joint Venture Company. In respect thereof, each Shareholder agrees that it will not, and it shall cause its representatives elected as directors of the Joint Venture Company to not, interfere with or otherwise obstruct in any respect such action, pursuit, enforcement or recourse.

ARTICLE XII
DEADLOCK; EVENTS OF DEFAULT

Section 12.1 Deadlock. A "**Deadlock**" shall [***], is required for approval, and such matter is not approved because the affirmative vote of [***], is not obtained.

Section 12.2 Resolution of a Deadlock. If a Deadlock occurs, the Shareholders shall:

(a) first, submit the matter that was the subject of the Deadlock to the president of each of Micron and NTC by providing notice of the Deadlock to such Persons, and the Shareholders shall use reasonable efforts to cause such Persons to make a good faith effort to hold at least [***] in-person meetings between them to resolve the Deadlock within [***] days of their receipt of the notice of Deadlock;

(b) next, if the president of each of Micron and NTC are unable to resolve the Deadlock in the given [***] days, then submit the matter to the chairman of each of Micron and NTC for resolution, and the Shareholders shall use reasonable efforts to cause such Persons to make a good faith effort to hold at least [***] in-person [***] between them to resolve the Deadlock within [***] days following the submission of the Deadlock to them;

(c) next, if the chairman of each of Micron and NTC are unable to resolve the Deadlock in the given [***] days, either Shareholder may commence mediation by providing to ICDR and the other Shareholder a written request for mediation, setting forth the subject of the Deadlock and the relief requested. The Shareholders will cooperate with ICDR and with one another in selecting a mediator from an ICDR panel of neutrals, and in scheduling the mediation proceedings to be held in [***] during the [***] days following the commencement of mediation. The Shareholders covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the Shareholders, by any of their respective agents, employees, experts and attorneys and by the mediator and any ICDR employees are confidential, privileged and inadmissible for any purpose, including impeachment, in any litigation or other proceeding involving the Shareholders, provided, that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either Shareholder may seek equitable relief prior to the mediation to preserve the status quo pending the completion of that process. The provisions of this Section 12.2(c) may be enforced by any court of competent jurisdiction, and the Shareholder seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorneys' fees, to be paid by the Shareholder against whom enforcement is ordered.

Section 12.3 Buyout from Deadlock.

[***].

Section 12.4 Event of Default. An "**Event of Default**" shall occur if (a) a Shareholder (the "**Defaulting Shareholder**") breaches or fails to perform in any material respect any

material obligation under this Agreement (other than an obligation to contribute capital to the Joint Venture Company as contemplated by Sections 3.2 and 3.3) and (b) at the end of the Cure Period therefor such breach or failure remains uncured.

Section 12.5 Cure Period. Upon a Shareholder's breach or failure to perform an obligation under this Agreement (other than an obligation to contribute capital to the Joint Venture Company as contemplated by Sections 3.2 and 3.3), the other Shareholder (the "**Non-Defaulting Shareholder**") shall have the right to deliver to the Defaulting Shareholder a notice of default (a "**Notice of Default"**). The Notice of Default shall set forth the nature of the Defaulting Shareholder's breach or failure of performance. If the Defaulting Shareholder fails to cure the breach or failure within the Cure Period, the Non-Defaulting Shareholder shall be entitled to take such action as set forth in Section 12.6. For purposes hereof, "**Cure Period**" means a period commencing on the date that the Notice of Default is provided by the Non-Defaulting Shareholder and ending (a) [***] days after Notice of Default is so provided, or (b) in the case of any obligation (other than an obligation to pay money) which cannot reasonably be cured within such [***] day period, such longer period not to exceed [***] days after the Notice of Default is so provided as is necessary to effect a cure of the Event of Default, so long as the Defaulting Shareholder diligently attempts to effect a cure throughout such period.

Section 12.6 Default Remedy.

(a) Upon the occurrence of an Event of Default, the Non-Defaulting Shareholder shall have the right, but not the obligation, by notice delivered in writing to the Defaulting Shareholder not later than [***] days after the expiration of the applicable Cure Period (the "**Exercise Notice**"), to require the Defaulting Shareholder to:

[***].

(b) The Shareholders shall in good faith complete the sale and purchase transaction contemplated under Section 12.6(a) as soon as practicable, but in no event later than [***] days after the determination of Fair Value. [***]

(c) Notwithstanding anything to the contrary and in addition to the remedies provided under this Section 12.6, the Joint Venture Company and the Non-Defaulting Shareholder may also pursue all other legal and equitable rights and remedies against the Defaulting Shareholder available to it. The Defaulting Shareholder shall pay all costs, including reasonable attorneys' fees, incurred by the Joint Venture Company and the Non-Defaulting Shareholder in pursuing any and all such legal remedies.

ARTICLE XIII
BUYOUT

Section 13.1 Buyout Right.

(a) ***Exercise of Buyout Right***. If at any time, the Equity Interest of a Shareholder (for purposes of this Section 13.1, the "**Non-compliant Shareholder**") falls below [***] of the Equity Interest of the other Shareholder (for purposes of this Section 13.1,

the "**Compliant Shareholder**"), the Compliant Shareholder shall have the right, but not the obligation, by notice to the Non-compliant Shareholder in writing (such notice, the "**Buyout Notice**"), to purchase all (but not less than all) of the Shares of the Joint Venture Company then owned by the Non-compliant Shareholder and its Subsidiaries (including its SPV) (such Shares, the "**Buyout Shares**") at [***].

(b) ***Completion of Buyout***.

(i) The Shareholders shall in good faith complete the sale and purchase transaction contemplated under Section 13.1(a) as soon as practicable, but in no event later than [***] days after deliver of the Buyout Notice.

(ii) [***].

ARTICLE XIV
TERMINATION

Section 14.1 Effective Date. Subject to obtaining relevant regulatory approvals as may be required, this Agreement shall become effective on the Closing Date, and continue in force unless terminated in accordance with this Agreement.

Section 14.2 Termination. This Agreement shall terminate upon the Transfer of all of the Shares owned by one Shareholder and its Affiliates to the other Shareholder and/or its Affiliates in accordance with Section 3.5, 12.3, 12.6 and 13.1; provided, that the following provisions shall survive termination of this Agreement: Sections 7.2 (to the extent Micron and NTC both continue to purchase Stack DRAM Products from the Joint Venture Company under the Supply Agreement), 7.3 (to the extent Micron and NTC both continue to purchase Stack DRAM Products from the Joint Venture Company under the Supply Agreement), 7.5(c), 11.2 and 14.2 and Article XV.

ARTICLE XV
GENERAL PROVISIONS

Section 15.1 Notices. All notices and other communications hereunder shall be in writing and shall be deemed duly given upon (a) transmitter's confirmation of a receipt of a facsimile transmission, (b) confirmed delivery by a standard overnight or recognized international carrier or when delivered by hand, or (c) delivery in person, addressed at the following addresses (or at such other address for a Shareholder as shall be specified by like notice):

if to NTC:

Nanya Technology Corporation
Hwa-Ya Technology Park 669
Fuhsing 3 RD. Kueishan
Taoyuan, Taiwan, ROC
Attn: Legal department
Facsimile: 886-3-396-2226

if to MNL:

Micron Semiconductor B.V.
Naritaweg 165 Telestone 8
1043BW Amsterdam
The Netherlands
Attn: Managing Director
Facsimile: 020-5722650

with a mandatory copy to Micron:
Micron Technology, Inc.
8000 S. Federal Way
Mail Stop 1-507
Boise, ID 83716
Attn: General Counsel
Facsimile: (208) 368-4537

Section 15.2 Waiver. The failure at any time of a Shareholder to require performance by the other Shareholder of any responsibility or obligation required by this Agreement shall in no way affect a Shareholder's right to require such performance at any time thereafter, nor shall the waiver by a Shareholder of a breach of any provision of this Agreement by the other Shareholder constitute a waiver of any other breach of the same or any other provision nor constitute a waiver of the responsibility or obligation itself.

Section 15.3 Assignment. [***].

Section 15.4 Amendment. This Agreement may not be amended or modified without the written consent of the Shareholders.

Section 15.5 Third Party Rights.

(a) The Shareholders agree that the Joint Venture Company shall be a third party beneficiary to the agreements made hereunder by the Shareholders, and the Joint Venture Company shall have the right to enforce such agreements directly to the extent it deems such enforcement necessary or advisable to protect its rights hereunder.

(b) Nothing in this Agreement, whether express or implied, is intended or shall be construed to confer, directly or indirectly, upon or give to any Person, other than the Shareholders and the Joint Venture Company, any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenant, condition or other provision contained herein.

Section 15.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the ROC, without giving effect to its conflict of laws principles.

Section 15.7 Jurisdiction; Venue. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement shall be brought in the Taipei District Court, located in Taipei, Taiwan**,** and each of the Parties hereby consents and submits to the exclusive jurisdiction of such court (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum.

Section 15.8 Headings. The headings of the Articles and Sections in this Agreement are provided for convenience of reference only and shall not be deemed to constitute a part hereof.

Section 15.9 Entire Agreement. This Agreement, together with the Appendices, Exhibits and Schedules hereto and the agreements (including the Joint Venture Documents) and instruments referred to herein, constitute the entire agreement of the Shareholders with respect to the subject matter hereof and supersede all prior agreements and understandings, oral and written, between the Shareholders with respect to the subject matter hereof.

Section 15.10 Taxes and Expenses. Except as otherwise set forth in this Agreement, all taxes, fees and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the Shareholder incurring such expenses.

Section 15.11 Severability. Should any provision of this Agreement be deemed in contradiction with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Agreement shall remain in full force and effect in all other respects. Should any provision of this Agreement be or become ineffective because of changes in Applicable Law or interpretations thereof, or should this Agreement fail to include a provision that is required as a matter of law, the validity of the other provisions of this Agreement shall not be affected thereby. If such circumstances arise, the Shareholders shall negotiate in good faith appropriate modifications to this Agreement to reflect those changes that are required by Applicable Law.

Section 15.12 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 15.13 Confidential Information.

(a) The Shareholders shall abide by the terms of that certain Mutual Confidentiality Agreement among Micron, MNL and NTC dated as of the date of this Agreement (to be joined by the Joint Venture Company at or before the Closing Date), and as may be amended or replaced from time to time (the "**Confidentiality Agreement**"), which agreement is incorporated herein by reference. The Shareholders agree that the

Confidentiality Agreement shall govern the confidentiality, non-disclosure and non-use obligations between the Shareholders respecting the information provided or disclosed in connection with this Agreement.

(b) If the Confidentiality Agreement is terminated or expires and is not replaced, such Confidentiality Agreement shall continue with respect to confidential information provided in connection with this Agreement, notwithstanding such expiration or termination, for the duration of the term of this Agreement or until a new Confidentiality Agreement is entered into between the Shareholders. To the extent there is a conflict between this Agreement and the Confidentiality Agreement, the terms of this Agreement shall control.

(c) The terms and conditions of this Agreement shall be considered "Confidential Information" under the Confidentiality Agreement for which each of Micron and NTC is considered a "Receiving Party" under such Confidentiality Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the date first written above.

NANYA TECHNOLOGY CORPORATION

By: /s/ Jih Lien

Print Name: Jih Lien

Title: President

MICRON SEMICONDUCTOR B.V.

By: /s/ Mark Durcan

Print Name: Mark Durcan

Title: Proxy Holder

THIS IS THE SIGNATURE PAGE FOR THE JOINT VENTURE AGREEMENT ENTERED INTO BY AND BETWEEN NTC AND MNL

APPENDIX I

Insurance

[***]

EXHIBIT 10.53

[***] DENOTES CONFIDENTIAL MATERIALS OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT

NTC/MICRON CONFIDENTIAL

SUPPLY AGREEMENT

This SUPPLY AGREEMENT, is made and entered into as of this 6th day of June, 2008 (the "**Closing Date**"), by and among Micron Technology, Inc., a Delaware corporation ("**Micron**"), Nanya Technology Corporation (Nanya Technology Corporation [Translation from Chinese]) ("**NTC**" and, together with Micron, the "**Purchasers**"), a company incorporated under the laws of the Republic of China ("**ROC**" or "**Taiwan**") and MeiYa Technology Corporation (MeiYa Technology Corporation [Translation from Chinese]), a company incorporated under the laws of the ROC (the "**Joint Venture Company**").

RECITALS

A. The Joint Venture Company is engaged in the manufacturing of Stack DRAM Products (as defined hereinafter).

B. Micron, NTC and the Joint Venture Company (each, a "**Party**" and collectively, the "**Parties**") desire the Joint Venture Company to supply Conforming Wafers (as defined hereinafter) and Secondary Silicon (as defined hereinafter) to Micron and NTC in accordance with the Output Percentages (as defined hereinafter) of MNL (as defined hereinafter) and NTC, respectively, upon the terms and subject to the conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties intending to be legally bound do hereby agree as follows:

ARTICLE 1
DEFINITIONS; CERTAIN INTERPRETIVE MATTERS

1.1 Definitions. In addition to the terms defined elsewhere in this Agreement, capitalized terms used in this Agreement shall have the respective meanings set forth below:

"**Affiliate**" means, with respect to any specified Person, any other Person that directly or indirectly, including through one or more intermediaries, controls, or is controlled by, or is under common control with such specified Person; and the term "**affiliated**" has a meaning correlative to the foregoing.

"**Agreement**" means this Supply Agreement.

"**Applicable Law**" means any applicable laws, statutes, rules, regulations, ordinances, orders, codes, arbitration awards, judgments, decrees or other legal requirements of any Governmental Entity.

"**Audited Purchaser**" shall have the meaning set forth in Section 5.3(c).

"**Boundary Conditions**" means, with respect to any fab, a requirement that, at any point in time:

(a) there shall be [***] qualified Process Nodes in use for the manufacture of Stack DRAM Products; *provided* that at such fab there also may be [***] unqualified Process Node in use for setup, engineering and testing purposes so long as such unqualified Process Node is not in use for the manufacture of Stack DRAM Products for eventual resale to end customers of either Purchaser;

(b) such fab shall manufacture Stack DRAM Products with [***] Design IDs for Micron; and

(c) such fab shall manufacture Stack DRAM Products with [***] Design IDs for NTC.

"**Business Day**" means a day that is not a Saturday, Sunday or other day on which commercial banking institutions in either the ROC or the State of New York are authorized or required by Applicable Law to be closed.

"**Closing Date**" shall have the meaning set forth in the preamble to this Agreement.

"**Conforming Ratio**" means for any given period of time, the quotient, expressed as a percentage, of (a) the number of Conforming Wafers produced during such period of time, divided by (b) the number of Conforming Wafers and Secondary Silicon produced during such period of time.

"**Conforming Wafer**" means a wafer containing Stack DRAM Products that has a minimum Die Yield of [***]% and meets the applicable Specifications.

"**Control**" (whether or not capitalized) means the power or authority, whether exercised or not, to direct the business, management and policies of a Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, which power or authority shall conclusively be presumed to exist upon possession of beneficial ownership or power to direct the vote of [***] of the votes entitled to be cast at a meeting of the members, shareholders or other equity holders of such Person or power to control the composition of a majority of the board of directors or like governing body of such Person; and the terms "**controlling**" and "**controlled**" have meanings correlative to the foregoing.

"**Cycle-Time**" means the time required to process a wafer through a portion of the manufacturing process or through the manufacturing process as a whole.

"**Demand Forecast**" shall have the meaning set forth in Section 3.1(a).

"**Delivery Month**" shall have the meaning set forth in Schedule 4.8.

"**Design ID**" means a part number that is assigned to a unique Stack DRAM Design of a particular Stack DRAM Product, which may include a number or letter designating a specific device revision.

"**Design SOW**" means [***].

"**Die Yield**" means the quotient, expressed as a percentage, of (a) the number of Stack DRAM Products in die form that are manufactured on a wafer and that meet the applicable Specifications at the time of Probe Testing, divided by (b) the maximum number of such die that could be manufactured on such wafer to meet the applicable Specifications using the applicable Process Node.

"**Environmental Laws**" means any and all laws, statutes, rules, regulations, ordinances, orders, codes or binding determinations of any Governmental Entity pertaining to the environment in any and all jurisdictions in which the Joint Venture Company's fabs are located, including laws pertaining to the handling of wastes or the use, maintenance and closure of pits and impoundments, and other environmental conservation or protection laws.

"**Excursion**" means a performance deviation during the production process that is outside normal behavior, as defined by historical performance or as established by a Purchaser and the Joint Venture Company in writing in the applicable Specifications, which may impact performance, Quality and Reliability or such Purchaser's customer delivery commitments for Stack DRAM Product from Conforming Wafers.

"**Fab Yield**" means, for any given period of time, the quotient, expressed as a percentage, of (a) the number of Conforming Wafers produced during such period of time, divided by (b) the number of all wafers produced during such period of time.

"**Final Price Adjustment Memo**" shall have the meaning set forth in Section 4.8(b).

"**Fiscal Month**" means any of the twelve financial accounting months within the Fiscal Year.

"**Fiscal Quarter**" means any of the four financial accounting quarters within the Fiscal Year.

"**Fiscal Year**" means the fiscal year of the Joint Venture Company for financial accounting purposes.

"**Force Majeure Event**" means the occurrence of an event or circumstance beyond the reasonable control of the Party and includes: (a) explosions, fires, flood, earthquakes, catastrophic weather conditions, or other elements of nature or acts of God; (b) acts of war (declared or undeclared), acts of terrorism, insurrection, riots, civil disorders, rebellion or sabotage; (c) acts of Governmental Entities; (d) labor disputes, lockouts, strikes or other industrial action, whether direct or indirect and whether lawful or unlawful; (e) failures or fluctuations in electrical power or telecommunications service or equipment; and (f) delays

caused by another Party's or Third-Party nonperformance (except for delays caused by a Party's subcontractors or agents).

"**GAAP**" means generally accepted accounting principles.

"**Governmental Entity**" means any governmental authority or entity, including any agency, board, bureau, commission, court, municipality, department, subdivision or instrumentality thereof, or any arbitrator or arbitration panel.

"**Hazardous Substances**" means any asbestos, any flammable, explosive, radioactive, hazardous, toxic, contaminating, polluting matter, waste or substance, including any material defined or designated as a hazardous or toxic waste, material or substance, or other similar term, under any Environmental Laws in effect or that may be promulgated in the future.

"**Indemnified Losses**" mean all direct, out-of-pocket liabilities, damages, losses, costs and expenses (including reasonable attorneys' and consultants' fees and expenses).

"**Indemnified Party**" means Micron, NTC or any of their respective Subsidiaries.

"**JDP Agreement**" means that certain JDP Agreement between NTC and Micron referred to on Schedule 2.1 of the Master Agreement Disclosure Letter.

"**JDP Committee**" means the committee formed and operated by Micron and NTC to govern the performance of Micron and NTC under the JDP Agreement in accordance with the JDP Committee Charter.

"**JDP Committee Charter**" means the charter attached as Schedule 2 of the JDP Agreement.

"**Joint Venture Agreement**" means that certain Joint Venture Agreement between NTC and MNL referred to on Schedule 2.1 of the Master Agreement Disclosure Letter.

"**Joint Venture Company**" shall have the meaning set forth in the preamble to this Agreement.

"[***] **Report**" shall have the meaning set forth in Section 3.2(a).

"**Joint Venture Documents**" means the Master Agreement and each of the agreements listed on Schedules 2.1 through 2.5 of the Master Agreement Disclosure Letter.

"**JVC**" shall have the meaning set forth in Schedule 4.8.

"**Manufacturing Capacity**" means, with respect to each of the Joint Venture Company's fabs, the total work minutes available for each Process Node being manufactured at such fab.

"**Manufacturing Committee**" means the manufacturing committee established by NTC and MNL pursuant to Section 7.2(b)(i) of the Joint Venture Agreement.

"**Manufacturing Plan**" shall have the meaning set forth in the Joint Venture Agreement.

"**Master Agreement**" means that certain Master Agreement between NTC and Micron, dated as of April __, 2008.

"**Master Agreement Disclosure Letter**" means that certain Master Agreement Disclosure Letter between NTC and Micron, dated as of April ___, 2008, containing the schedules required by the provisions of the Master Agreement.

"**Micron**" shall have the meaning set forth in the preamble to this Agreement.

"**Micron Term**" shall have the meaning set forth in Section 10.1(a).

"**MNL**" means Micron Semiconductor B.V., a private limited liability company organized under the laws of the Netherlands.

"**Mutual Confidentiality Agreement**" means that certain Mutual Confidentiality Agreement among Micron, MNL and NTC referred to on Schedule 2.1 of the Master Agreement Disclosure Letter, as joined by the Joint Venture Company as of the Closing Date.

"**NTC**" shall have the meaning set forth in the preamble to this Agreement.

"**NTC Term**" shall have the meaning set forth in Section 10.1(b).

"[***]**Report**" shall have the meaning set forth in Section 3.2(b).

"**Output Percentage**" shall have the meaning set forth in the Joint Venture Agreement.

"**Party**" and "**Parties**" shall have the meanings set forth in Recital B to this Agreement.

"**Performance Criteria**" means the factors of [***] as set forth in the Manufacturing Plan in effect from time to time.

"**Permitted Disclosures**" shall have the meaning set forth in Section 3.4(a).

"**Person**" means any natural person, corporation, joint stock company, limited liability company, association, partnership, firm, joint venture, organization, business, trust, estate or any other entity or organization of any kind or character.

"**Planning Forecast**" shall have the meaning set forth in Section 3.1(b).

"[***] **Price**" means[***].

"**Price**" or "**Pricing**" means the calculation set forth on Schedule 4.8.

"[***]**Report**" shall have the meaning set forth in Section 3.2(c).

"**Probe Testing**" means testing, using a wafer test program as set forth in the applicable specifications, of a wafer that has completed all processing steps deemed necessary to complete the creation of the desired Stack DRAM integrated circuits in the die on such wafer, the purpose

of which test is to determine how many and which of the die meet the applicable criteria for such die set forth in the Specifications.

"**Probe Yield**" means, with respect to any period of time, the quotient, expressed as a percentage, of (a) the number of Stack DRAM Products in die form meeting the applicable Specifications during such period of time, divided by (b) the number of die probed (excluding the number of die contained on scrapped wafers) during such period of time.

"**Proforma Invoice**" shall have the meaning set forth in Section 4.8(a).

"**Process Node**" means [***].

"**Proposed Loading Plan**" shall have the meaning set forth in Section 3.1(c).

"**Purchase Order**" shall have the meaning set forth in Section 4.3.

"**Purchasers**" shall have the meaning set forth in the preamble to this Agreement.

"**Quality and Reliability**" means the quality and reliability standards for Conforming Wafers as set forth in the Specification or the Manufacturing Plan.

"**Recoverable Taxes**" shall have the meaning set forth in Section 4.7(a).

"**Restriction Period**" means, with respect to any Segregated Employee, the period of time beginning on the date such Person becomes a Segregated Employee and ends on the date that is [***] months after the date such Person is no longer a Segregated Employee.

"**ROC**" shall have the meaning set forth in the preamble to this Agreement.

"**Secondary Silicon**" means a wafer that fails to meet the applicable Specifications or a minimum Die Yield of [***]%, *provided* that such wafer otherwise conforms to the applicable Secondary Silicon Specifications and has a minimum Die Yield of [***]% or such other minimum Die Yield as the Parties may mutually agree.

"**Secondary Silicon Specifications**" means those specifications used to describe, characterize, and define the quality and performance of Secondary Silicon, as such specifications may be determined from time to time by the Parties.

"**Segregated Employees**" means [***].

"**Shared Design ID Wafers**" means all wafers with the same Design ID that are intended to be sold to both Micron and NTC in a particular Fiscal Month.

"**Ship Lot Line Yield**" means, [***].

"**SOW**" means a statement of the work that describes research and development work to be performed under the JDP Agreement and that has been adopted by the JDP Committee pursuant to Section 3.2 of the JDP Agreement.

"**Specifications**" means those specifications used to describe, characterize, and define the quality and performance of the applicable Conforming Wafer (or of the die thereon, as applicable), as such specifications may be determined from time to time by the Parties.

"**Stack DRAM**" means dynamic random access memory cell that functions by using a capacitor arrayed predominantly above the semiconductor substrate.

"**Stack DRAM Design**" means, with respect to a Stack DRAM Product, the corresponding design components, materials and information listed on Schedule 3 of the JDP Agreement or as otherwise determined by the JDP Committee in a SOW.

"**Stack DRAM Module**" means one or more Stack DRAM Products in a JEDEC-compliant package or module (whether as part of a SIMM, DIMM, multi-chip package, memory card or other memory module or package).

"**Stack DRAM Product**" means any memory comprising Stack DRAM, whether in die or wafer form.

"**Subsidiary**" means, with respect to any specified Person, any other Person that directly or indirectly, including through one or more intermediaries, is controlled by such specified Person.

"**Taiwan**" shall have the meaning set forth in the preamble to this Agreement.

"**Taiwan GAAP**" means GAAP used in the ROC, as in effect from time to time, consistently applied for all periods at issue.

"**Technology Transfer Agreement**" means that certain Technology Transfer Agreement between NTC, Micron and the Joint Venture Company referred to on Schedule 2.5 of the Master Agreement Disclosure Letter.

"**Third Party**" means any Person, other than NTC, Micron, the Joint Venture Company or any of their respective Subsidiaries.

"**Third Party Claim**" means any claim, demand, lawsuit, complaint, cross-complaint or counter-complaint, arbitration, opposition, cancellation proceeding or other legal or arbitral proceeding of any nature brought in any court, tribunal or judicial forum anywhere in the world, regardless of the manner in which such proceeding is captioned or styled brought by any Third Party.

"**TTA 68-50**" means that certain Technology Transfer Agreement for 68-50 nm Process Nodes between Micron and the Joint Venture Company referred to on Schedule 2.4 of the Master Agreement Disclosure Letter.

"**US GAAP**" means GAAP used in the United States, as in effect from time to time, consistently applied for all periods at issue.

"**Wafer Start**" means the initiation of manufacturing services with respect to a wafer.

"**Warranty Claim Period**" shall have the meaning set forth in Section 6.2.

"**WIP**" means work in process at any of the Joint Venture Company's fabs, including all wafers in wafer fabrication and sort and all completed Conforming Wafers and Secondary Silicon not yet delivered to a Purchaser.

"**WIP Data**" means in line inventory data, including wafer numbers, lot numbers, unit volumes, wafer volumes, Cycle-Times, Die Yield, Fab Yield, Probe Yield and Ship Lot Line Yield.

"**WSTS Forecast**" means the forecast of semiconductor prices prepared by WSTS, Inc.

1.2 Certain Interpretive Matters.

(a) Unless the context requires otherwise, (i) all references to Sections, Articles, Exhibits, Appendices or Schedules are to Sections, Articles, Exhibits, Appendices or Schedules of or to this Agreement, (ii) each accounting term not otherwise defined in this Agreement (A) with respect to Micron, has the meaning commonly applied to it in accordance with US GAAP, and (B) with respect to NTC and the Joint Venture Company, has the meaning commonly applied to it in accordance with Taiwan GAAP, (iii) words in the singular include the plural and vice versa, (iv) the term "**including**" means "including without limitation," and (v) the terms "**herein**," "**hereof**," "**hereunder**" and words of similar import shall mean references to this Agreement as a whole and not to any individual section or portion hereof. All references to "**$**" or dollar amounts will be to lawful currency of the United States of America. All references to "**day**" or "**days**" mean calendar days, and all references to "**quarter(ly)**," "**month(ly)"** or "**year(ly)**" mean Fiscal Quarter, Fiscal Month or Fiscal Year, respectively, unless the context requires otherwise.

(b) No provision of this Agreement will be interpreted in favor of, or against, any Party by reason of the extent to which (i) such Party or its counsel participated in the drafting thereof, or (ii) such provision is inconsistent with any prior draft of this Agreement or such provision.

ARTICLE 2
OBLIGATIONS OF THE JOINT VENTURE COMPANY; PROCESSES AND CONTROLS

2.1 General Obligations. The Joint Venture Company shall:

(a) manufacture Conforming Wafers for each Purchaser in accordance with (i) the Boundary Conditions and (ii) the Manufacturing Plan and applicable Specifications developed in response to the Demand Forecasts provided by such Purchaser to the Joint Venture Company in accordance with Article 3;

(b) supply Conforming Wafers and Secondary Silicon to each Purchaser in accordance with the purchasing process set forth in Article 4;

(c) provide and develop fabs and operations to meet Manufacturing Capacity according to the Manufacturing Plan in effect from time to time and the obligations set forth herein; and

(d) operate its fabs so that Stack DRAM Product output from any one fab does not differ materially from that of any other fab as to the Specifications and Performance Criteria.

2.2 Process; Design Information.

(a) Micron agrees to provide to the Joint Venture Company: (i) such process technology or information as is required to be disclosed under the TTA 68-50 and the Technology Transfer Agreement; and (ii) design information reasonably required to manufacture the Conforming Wafers for each Stack DRAM Product to be purchased by Micron pursuant to this Agreement.

(b) NTC agrees to provide to the Joint Venture Company: (i) such process technology or information as is required to be disclosed under the Technology Transfer Agreement; and (ii) design information reasonably required to manufacture the Conforming Wafers for each Stack DRAM Product to be purchased by NTC pursuant to this Agreement.

(c) Unless the Purchasers mutually agree otherwise, [***].

2.3 Control; Processes. The Parties shall review the Joint Venture Company's control and process mechanisms, including such mechanisms that are utilized to ensure that all parameters of the Specifications and Performance Criteria are met or exceeded in the Joint Venture Company's manufacture of Conforming Wafers. The Parties agree to work together in good faith to define mutually agreeable control and process mechanisms, including the following: [***].

2.4 Production Masks. Until a second source for masks is qualified by the JDP Committee for the 68 nm Process Node or 50 nm Process Node or a particular Stack DRAM Product pursuant to Section 3.7 of the JDP Agreement, and then except to the extent of such qualification, the Joint Venture Company shall order all masks required under this Agreement from [***]. Upon the qualification of a second source for masks for a particular Process Node or Stack DRAM Product by the JDP Committee in accordance with Section 3.7 of the JDP Agreement, the Joint Venture Company shall comply with the instructions from time to time of the Manufacturing Committee with regards to whether such qualified second source or [***] will be used to create, maintain, repair and replace the masks required for such Process Nodes or Stack DRAM Products under this Agreement. The Joint Venture Company shall have possession, but not ownership of any underlying copyrights, mask works or other intellectual property, of any physical production masks which the Joint Venture Company obtains in accordance with this Section 2.4.

2.5 Designation of WIP.

(a) WIP Associated With Shared Design ID Wafers. The Joint Venture Company shall ensure that WIP at its fabs associated with Shared Design ID Wafers to be

purchased by both Purchasers is designated for both Purchasers from Wafer Start, and the Conforming Wafers and Secondary Silicon resulting therefrom shall be allocated to the Purchasers in proportion to, in the case of Micron, MNL's Output Percentage and, in the case of NTC, its Output Percentage.

(b) Other WIP. The Joint Venture Company shall ensure that WIP at its fabs associated with Conforming Wafers other than Shared Design ID Wafers to be purchased by a Purchaser is designated for such Purchaser from Wafer Start.

2.6 Subcontractors. The Joint Venture Company may utilize subcontractors, subject to all subcontractors being approved by the Purchasers, which approval shall not be unreasonably withheld or delayed. The Joint Venture Company shall ensure that all contracts with subcontractors (a) shall provide the Joint Venture Company with the same level of access and controls as the Joint Venture Company provides to the Purchasers in this Agreement and (b) contain customary nondisclosure obligations in a form reasonably acceptable to the Purchasers.

2.7 [***]. In addition to the [***] Report and the monthly review requirements set forth in Section 3.3, the Joint Venture Company shall promptly notify each Purchaser of [***].

2.8 Traceability; Data Retention. The Parties shall review the Joint Venture Company's (i) [***]process and producing the WIP Data and (ii) data retention policy in regards to the WIP Data. The Joint Venture Company agrees to maintain the WIP Data for a minimum of [***].

2.9 Access to WIP Data. The Joint Venture Company shall provide each Purchaser with full access to its respective WIP Data (including with respect to Shared Design ID Wafers) [***].

2.10 Additional Customer Requirements.

(a) Micron shall inform the Joint Venture Company in writing of any supplier requirements of any Micron customer relating to any of the Joint Venture Company's fabs at which Stack DRAM Product is manufactured for Micron. Micron and the Joint Venture Company shall work together in good faith to satisfy such requirements.

(b) NTC shall inform the Joint Venture Company in writing of any supplier requirements of any NTC customer relating to any of the Joint Venture Company's fabs at which Stack DRAM Product is manufactured for NTC. NTC and the Joint Venture Company shall work together in good faith to satisfy such requirements.

2.11 Statement Regarding Anticipated Share of Manufacturing Capacity. No later than [***] days prior to the beginning of each Fiscal Quarter, the Joint Venture Company shall deliver to each Purchaser a statement setting forth such Purchaser's anticipated share of the Manufacturing Capacity of the Joint Venture Company at each of the Joint Venture Company's fabs for each of the upcoming [***] Fiscal Quarter, based on, in the case of Micron, MNL's Output Percentage (subject to change from time to time in accordance with the Joint Venture Agreement) and, in the case of NTC, its Output Percentage (subject to change from time to time in accordance with the Joint Venture Agreement), on [***]. Such statement shall include [***].

ARTICLE 3
PLANNING MEETINGS AND FORECASTS; PERFORMANCE REVIEWS AND REPORTS

3.1 Planning and Forecasting.

(a) At a point in each Fiscal Quarter as agreed by the Parties, each Purchaser shall provide the Joint Venture Company with a written non-binding forecast of such Purchaser's demand (a "**Demand Forecast**") for the next [***] Fiscal Quarters or as may be otherwise agreed by the Parties. All Demand Forecasts (i) shall include [***] and (ii) shall be [***].

(b) The Joint Venture Company shall furnish each Purchaser with a written response within [***] Business Days of receiving such Purchaser's Demand Forecast, indicating its Manufacturing Capacity during the period covered by such Demand Forecast and [***] outlined in such Demand Forecast that the Joint Venture Company can commit to deliver. This written response (the "**Planning Forecast**") shall include:

(i) [***]; and

(ii) forecasted [***].

(c) Based on the Planning Forecasts, the Joint Venture Company shall develop a [***] Fiscal Quarter proposed loading plan [***] for such period (**"Proposed Loading Plan"**). The Joint Venture Company shall provide each Purchaser with the Proposed Loading Plan at least [***] Business Days prior to its review by the Manufacturing Committee.

(d) The Joint Venture Company shall submit the Proposed Loading Plan, Planning Forecasts and other requested information to the Manufacturing Committee for endorsement. Once endorsed by the Manufacturing Committee, the Proposed Loading Plan shall become part of the Manufacturing Plan.

3.2 Monthly Reports.

(a) [***] Reports. [***], the Joint Venture Company shall deliver to each Purchaser a report (each, a "**[***] Report**") which shall include:

(i) [***];

(ii) [***]; and

(iii) [***].

Neither Purchaser will use or disclose the [***] Reports, or the contents thereof, received by such Purchaser in contravention of any Applicable Law.

(b) [***] Report. Within [***] days after the end of each Fiscal Month, the Joint Venture Company shall deliver to each Purchaser a report (the "**[***] Report**"), which shall include:

(i) a comparison [***];

(ii) a comparison of [***];

(iii) a description of [***]; and

(iv) a description of [***];

(c) [***] Reports. Within [***] days after the end of each Fiscal Month, each Purchaser shall deliver to the Joint Venture Company a report (each, a "**[***] Report**"), [***] delivered to such Purchaser during the Delivery Month just ended. The Joint Venture Company will not use or disclose the [***] Reports, or the contents thereof, received by the Joint Venture Company in contravention of any Applicable Law.

3.3 Performance Reviews.

(a) The Parties shall hold a monthly meeting, the primary purposes of which shall be to review and discuss the most recent [***] Report and the Performance Criteria and to mutually agree on operational adjustments if necessary.

(b) Each Purchaser (separately) and the Joint Venture Company shall hold a monthly meeting to review and discuss (i) at the election of such Purchaser, the most recent [***] Report received by such Purchaser, and (ii) at the election of the Joint Venture Company, the most recent [***] Report delivered by such Purchaser.

(c) The monthly meetings required by this Section 3.3 shall be held on dates to be agreed to by the Parties intended to attend such meetings; *provided* that (i) the meeting required by Section 3.3(a) shall not be held prior to the delivery of the [***] Report by the Joint Venture Company, and (ii) the meetings required by Section 3.3(b) shall not be held prior to the delivery of the [***] Report and the applicable [***] Report by the Joint Venture Company and the delivery of the [***] Report by the applicable Purchaser.

3.4 Restrictions on Access to Pricing Information; Nonsolicitation of Segregated Employees.

(a) Joint Venture Company Restrictions on Access to Information Related to Pricing. The Joint Venture Company shall prevent any Person that is not a Segregated Employee from obtaining access to the Pricing information (including the [***] Reports), or the data from which Pricing information is derived, delivered to, or created by, the Joint Venture Company under this Agreement, except that the Joint Venture Company may provide (i) a Purchaser with its [***] Reports and the Proforma Invoices and Final Price Adjustment Memos delivered to such Purchaser under Section 4.8, and the data from which such [***] Reports, Proforma Invoices or Final Price Adjustment Memos are derived, and (ii) any independent Third Party auditor acting as contemplated by Section 5.3 with such information as such auditor may request that is reasonably relevant to the applicable inspection and audit (the items in clauses (i) and (ii) being referred to as the "**Permitted Disclosures**"). Without limiting the generality of the foregoing, the Joint Venture Company shall (x) develop, maintain, implement and enforce policies that (A) prohibit all Segregated Employees from disclosing, or allowing disclosure of,

Pricing information (including the [***] Reports) to Persons that are not Segregated Employees, other than the Permitted Disclosures and (B) require all Segregated Employees to store all physical files related to Pricing (including the [***] Reports) in secure locations that are not accessible by non-Segregated Employees, (y) segregate the office space of the Segregated Employees from other employees of the Joint Venture Company, and (z) maintain all electronic files containing Pricing information (including the [***] Reports) in confidential password protected files. Neither Purchaser shall take any action that reasonably should be expected to cause the Joint Venture Company to violate this Section 3.4.

(b) Even if permitted under Section 4.19 of the Master Agreement, the Purchasers shall not, and shall cause their respective Affiliates not to, directly or indirectly recruit, solicit or hire, or make arrangements to recruit, solicit or hire, any current or former Segregated Employee during the Restriction Period.

ARTICLE 4
PURCHASE AND SALE OF PRODUCTS

4.1 Product Quantity.

(a) Micron shall purchase from the Joint Venture Company all of the Conforming Wafers manufactured using MNL's Output Percentage (as the same may change from time to time) of the aggregate Manufacturing Capacity of the Joint Venture Company.

(b) NTC shall purchase from the Joint Venture Company all of the Conforming Wafers manufactured using NTC's Output Percentage (as the same may change from time to time) of the aggregate Manufacturing Capacity of the Joint Venture Company.

(c) Notwithstanding anything in Sections 4.1(a) and 4.1(b) to the contrary, the Joint Venture Company shall manufacture and deliver Conforming Wafers in quantities other than as contemplated by Sections 4.1(a) and 4.1(b) upon receiving, and in accordance with, joint written instructions from the Purchasers setting forth a new allocation of Conforming Wafers between the Purchasers. If the Purchasers deliver to the Joint Venture Company joint written instructions setting forth a maximum number of wafers that the Joint Venture Company may start or produce in specified time periods, the Joint Venture Company shall not exceed such starts or production during such time periods.

4.2 Secondary Silicon and Scrapped Wafers.

(a) At the direction and option of Micron, the Joint Venture Company shall deliver to Micron all Secondary Silicon produced by the Joint Venture Company (i) from wafers designated from Wafer Start for Micron in accordance with Section 2.5 and (ii) in the case of Shared Design ID Wafers, the portion thereof allocated to Micron in accordance with Section 2.5. At the direction and option of Micron, the Joint Venture Company shall deliver to Micron all scrapped wafers produced by the Joint Venture Company (x) from wafers designated from Wafer Start for Micron in accordance with Section 2.5 and (y) in the case of Shared Design ID Wafers, the portion thereof allocated to Micron in accordance with Section 2.5.

(b) At the direction and option of NTC, the Joint Venture Company shall deliver to NTC all Secondary Silicon produced by the Joint Venture Company (a) from wafers designated from Wafer Start for NTC in accordance with Section 2.5 and (b) in the case of Shared Design ID Wafers, the portion thereof allocated to NTC in accordance with Section 2.5. At the direction and option of NTC, the Joint Venture Company shall deliver to NTC all scrapped wafers produced by the Joint Venture Company (x) from wafers designated from Wafer Start for NTC in accordance with Section 2.5 and (y) in the case of Shared Design ID Wafers, the portion thereof allocated to NTC in accordance with Section 2.5.

4.3 Placement of Purchase Orders. Prior to the commencement of every Fiscal Quarter or another time period agreed by the Parties in conjunction with the planning cycle specified in Article 3, each Purchaser shall place a non-cancelable blanket purchase order in writing (via e-mail or facsimile transmission) for the quantity, by Design ID, of Conforming Wafers to be supplied to it by the Joint Venture Company in the upcoming Fiscal Quarter as indicated in the Manufacturing Plan (each such order, a "**Purchase Order**"). [***] The terms and conditions of this Agreement supersede the terms and conditions contained in any Party's sales or purchase documentation provided in connection herewith unless expressly agreed otherwise in a writing signed by each Party.

4.4 Shortfall; Excess Output.

(a) The Joint Venture Company shall immediately notify the applicable Purchaser in writing of any inability to meet a Purchase Order commitment to such Purchaser. In such an event, such Purchaser shall accept delivery of such lesser quantities the Joint Venture Company is able to ship and issue to the Joint Venture Company a revised Purchase Order to account for such shortfall.

(b) The Joint Venture Company shall immediately notify the applicable Purchaser in writing if the output to be purchased by such Purchaser under this Agreement will exceed, for any Design ID, the quantity of Conforming Wafers contained in such Purchaser's Purchase Order. In such an event, such Purchaser shall accept delivery of the additional quantities and issue to the Joint Venture Company a supplementary Purchase Order to cover such excess.

4.5 Acceptance of Purchase Order. Each Purchase Order that (a) is consistent with the Boundary Conditions, (b) corresponds to the Manufacturing Plan in the manner contemplated by Section 4.3, and (c) is otherwise free of errors, shall be deemed accepted by the Joint Venture Company upon receipt and shall be binding on the Joint Venture Company and the applicable Purchaser to the extent not inconsistent with the Boundary Conditions and the Manufacturing Plan.

4.6 Content of Purchase Orders. Each Purchase Order shall specify the following items:

(a) the Purchase Order number;

(b) the Design ID of each Conforming Wafer;

(c) by Design ID, [***];

(d) by Design ID, [***];

(e) by Design ID, [***];

(f) by Design ID, the requested delivery date;

(g) by Design ID, the place of delivery; and

(h) other terms (if any).

The Joint Venture Company will not use or disclose the Purchaser Orders, or the contents thereof, received by the Joint Venture Company in contravention of any Applicable Law.

4.7 Taxes.

(a) General. All sales, use and other transfer taxes imposed directly on or solely as a result of the supplying of Conforming Wafers and Secondary Silicon to a Purchaser and the payments therefore provided herein shall be stated separately on the Joint Venture Company's Proforma Invoices and Final Price Adjustment Memos, collected from such Purchaser and shall be remitted by the Joint Venture Company to the appropriate tax authority (**"Recoverable Taxes"**), unless such Purchaser provides valid proof of tax exemption prior to the effective date of the transfer of the Conforming Wafers and Secondary Silicon or otherwise as permitted by Applicable Law prior to the time the Joint Venture Company is required to pay such taxes to the appropriate tax authority. When property is delivered and/or services are provided, or the benefit of services occurs, within jurisdictions in which collection of taxes from a Purchaser and remittance of taxes by the Joint Venture Company is required by Applicable Law, the Joint Venture Company shall have sole responsibility for payment of said taxes to the appropriate tax authorities. In the event such taxes are Recoverable Taxes and the Joint Venture Company does not collect tax from such Purchaser, or pay such taxes to the appropriate governmental entity on a timely basis, and is subsequently audited by any tax authority, liability of such Purchaser shall be limited to the tax assessment for such Recoverable Taxes with no reimbursement for penalty or interest charges or other amounts incurred in connection therewith. Notwithstanding anything herein to the contrary, taxes other than Recoverable Taxes shall not be reimbursed by either Purchaser, and each Party is responsible for its own respective income taxes (including franchise and other taxes based on net income or a variation thereof), taxes based upon gross revenues or receipts and taxes with respect to general overhead, including business and occupation taxes, and such taxes shall not be Recoverable Taxes.

(b) Withholding Taxes. In the event that a Purchaser is prohibited by Applicable Law from making payments to the Joint Venture Company unless such Purchaser deducts or withholds taxes therefrom and remits such taxes to the local taxing jurisdiction, then such Purchaser shall duly withhold and remit such taxes and shall pay to the Joint Venture Company the remaining net amount after the taxes have been withheld. Such taxes shall not be Recoverable Taxes and such Purchaser shall not reimburse the Joint Venture Company for the amount of such taxes withheld.

4.8 Invoicing; Payment.

(a) Along with each delivery of Conforming Wafers to a Purchaser, the Joint Venture Company shall invoice such Purchaser for the Preliminary Price of the Conforming Wafers contained in such delivery (a "**Proforma Invoice**").

(b) According to schedules agreed upon by the Joint Venture Company and each respective Purchaser, but in no case more than [***] days after the end of each Delivery Month, the Joint Venture Company shall issue a credit or debit memo (the "**Final Price Adjustment Memo**") as appropriate to such Purchaser in an amount equal to the difference between (i) [***]. Any Secondary Silicon delivered to a Purchaser during such Delivery Month shall be [***] to such Purchaser. Any scrapped wafers delivered to a Purchaser during such Delivery Month shall be [***] to such Purchaser.

(c) Except as otherwise specified in this Agreement, each Purchaser shall pay the Joint Venture Company for the amounts due and owing by, and duly invoiced in a Proforma Invoice or a Final Price Adjustment Memo to, such Purchaser within [***] days following delivery to such Purchaser of both the Proforma Invoice and Final Price Adjustment Memo therefor. All amounts owed under this Agreement are stated, calculated and shall be paid in United States Dollars.

4.9 Payment to Subcontractors. The Joint Venture Company shall be responsible for, and shall hold the Purchasers harmless from and against, any and all payments to the vendors or subcontractors the Joint Venture Company utilizes in the performance of this Agreement.

4.10 Delivery; Title; Risk of Loss. In order to ensure timely and complete shipment of Conforming Wafers and Secondary Silicon to the Purchasers, the Joint Venture Company shall pay all shipping charges, insurance, taxes, customs charges and any fees and duties in connection with such shipment. The Joint Venture Company shall hold title to, and risk of loss of, Conforming Wafers and Secondary Silicon under this Agreement until tender to the carrier in Taiwan, when title and risk of loss and damage to Conforming Wafers and Secondary Silicon shall transfer to the applicable Purchaser.

4.11 Packaging. All shipment packaging of the Conforming Wafers and Secondary Silicon shall be in conformance with the Specifications, the applicable Purchaser's reasonable instructions and general industry standards, and shall be resistant to damage that may occur during transportation. Marking on the packages shall be made by the Joint Venture Company in accordance with the applicable Purchaser's reasonable instructions.

4.12 Shipment. All Conforming Wafers and Secondary Silicon shall be prepared for shipment in a manner that: (a) follows good commercial practice; (b) is acceptable to common carriers for shipment at the lowest rate; and (c) is adequate to ensure safe arrival. The Joint Venture Company shall mark all containers with (w) necessary lifting, handling and shipping information; (x) Purchase Order number; (y) date of shipment; and (z) the name of the applicable Purchaser. If no instructions are given, the Joint Venture Company shall select the most price effective carrier, given the time constraints known to the Joint Venture Company. At a Purchaser's request, the Joint Venture Company shall provide drop-shipment of Conforming

Wafers and Secondary Silicon to such Purchaser's customers, contractors or vendors. Such shipment service may be provided by a subcontractor to the Joint Venture Company provided that title remains with the Joint Venture Company and then passes to such Purchaser upon tender to the carrier.

4.13 Customs Clearance. Upon a Purchaser's request, the Joint Venture Company shall promptly provide such Purchaser with a statement of origin, and applicable customs documentation, for Conforming Wafers and Secondary Silicon wholly or partially manufactured outside of the country of import.

ARTICLE 5
VISITATIONS; AUDITS

5.1 Visits. The Joint Venture Company shall accommodate each Purchaser's reasonable requests for visits to the Joint Venture Company's fabs and for meetings for the purpose of reviewing performance of production of Conforming Wafers, including requests for further information and assistance in troubleshooting performance issues.

5.2 Audit. A Purchaser's representatives and key customer representatives, upon such Purchaser's request, shall be allowed to visit the Joint Venture Company's fabs during normal working hours upon reasonable advanced written notice to the Joint Venture Company for the purposes of monitoring production processes and compliance with any requirements set forth in this Agreement applicable to the supply to such Purchaser and the Specifications. Upon completion of the audit, the Joint Venture Company and such Purchaser shall agree to an audit closure plan, to be documented in the audit report issued by such Purchaser.

5.3 Financial Audit.

(a) Micron reserves the right to have the Joint Venture Company's books and records related to Pricing of the Conforming Wafers delivered to Micron during both the then current Fiscal Year and the prior Fiscal Year inspected and audited not more than [***] during any Fiscal Year to ensure compliance with Schedule 4.8. Such audit shall be performed, at Micron's expense, by an independent Third Party auditor acceptable to both Micron and the Joint Venture Company. Micron shall provide [***] days advance written notice to the Joint Venture Company of its desire to initiate an audit, and the audit shall be scheduled so that it does not adversely impact or interrupt the Joint Venture Company's business operations. If the audit reveals any material discrepancies, Micron or the Joint Venture Company shall reimburse the other, as applicable, for any material discrepancies within [***] days after completion of the audit. The results of such audit shall be kept confidential by the auditor, and only the discrepancies identified by the audit shall be reported to Micron and the Joint Venture Company. Notwithstanding the foregoing, auditor reports shall not disclose pricing, or terms of purchase, for any purchases of materials or equipment by the Joint Venture Company, absent written agreement from the respective legal counsel of Micron and the Joint Venture Company. If any audit reveals a material discrepancy requiring a payment by the Joint Venture Company, Micron may increase the frequency of such audits to [***] for the [***] month period. If any such audit reveals any discrepancy, the Joint Venture Company shall notify NTC of (i) the existence of such discrepancy, (ii) whether such discrepancy was found in the computation of the [***] and (iii)

the aggregate amount of the discrepancy by category (*i.e.*, [***]). Notwithstanding the foregoing, the Joint Venture Company shall not disclose any Pricing information to NTC to the extent such disclosure would violate Applicable Law.

(b) NTC reserves the right to have the Joint Venture Company's books and records related to Pricing of the Conforming Wafers delivered to NTC during both the then current Fiscal Year and the prior Fiscal Year inspected and audited not more than [***] during any Fiscal Year to ensure compliance with Schedule 4.8. Such audit shall be performed, at NTC's expense, by an independent Third Party auditor acceptable to both NTC and the Joint Venture Company. NTC shall provide [***] days advance written notice to the Joint Venture Company of its desire to initiate an audit, and the audit shall be scheduled so that it does not adversely impact or interrupt the Joint Venture Company's business operations. If the audit reveals any material discrepancies, NTC or the Joint Venture Company shall reimburse the other, as applicable, for any material discrepancies within [***] days after completion of the audit. The results of such audit shall be kept confidential by the auditor, and only the discrepancies identified by the audit shall be reported to NTC and the Joint Venture Company. Notwithstanding the foregoing, auditor reports shall not disclose pricing, or terms of purchase, for any purchases of materials or equipment by the Joint Venture Company, absent written agreement from the respective legal counsel of NTC and the Joint Venture Company. If any audit reveals a material discrepancy requiring a payment by the Joint Venture Company, NTC may increase the frequency of such audits to [***]for the [***] month period. If any such audit reveals any discrepancy, the Joint Venture Company shall notify Micron of (i) the existence of such discrepancy, (ii) whether such discrepancy was found in the computation of the [***] for a Delivered JV Product and (iii) the aggregate amount of the discrepancy by category (*i.e.*, [***]). Notwithstanding the foregoing, the Joint Venture Company shall not disclose any Pricing information to Micron to the extent such disclosure would violate Applicable Law.

(c) The Joint Venture Company reserves the right to have a Purchaser's (the "**Audited Purchaser's**") books and records related to the Audited Purchaser's Pricing Report for both the then current Fiscal Year and the prior Fiscal Year inspected and audited not more than [***]during any Fiscal Year to ensure compliance with Schedule 4.8. Such audit shall be performed, at the Joint Venture Company's expense, by an independent Third Party auditor acceptable to both the Joint Venture Company and the Audited Purchaser. The Joint Venture Company shall provide [***] days advance written notice to the Audited Purchaser of its desire to initiate an audit, and the audit shall be scheduled so that it does not adversely impact or interrupt the Audited Purchaser's business operations. If the audit reveals any material discrepancies, the Audited Purchaser or the Joint Venture Company shall reimburse the other, as applicable, for any material discrepancies within [***] days after completion of the audit. The results of such audit shall be kept confidential by the auditor, and only the discrepancies identified by the audit shall be reported to the Audited Purchaser and the Joint Venture Company. Notwithstanding the foregoing, auditor reports shall not disclose (i) pricing, or terms of purchase, for any purchases of materials or equipment by the Audited Purchaser, (ii) the back-end assembly (including module and packaging) and testing costs of the Audited Purchaser, or (iii) the terms of sales of Stack DRAM Products by the Audited Purchaser, absent written agreement from the respective legal counsel of the Audited Purchaser and the Joint Venture Company. If any audit reveals a material discrepancy requiring a payment by the Audited Purchaser, the Joint Venture Company may increase the frequency of such audits to [***] for the

subsequent [***] month period. If any such audit reveals any discrepancy, the Joint Venture Company shall notify the Purchaser that is not the Audited Purchaser of (i) the existence of such discrepancy, (ii) whether such discrepancy was found in the computation of [***] or in [***] or [***] for a Delivered JV Product and (iii) the aggregate amount of the discrepancy by category (*i.e.*, [***]). Notwithstanding the foregoing, the Joint Venture Company shall not disclose any Pricing information to the Purchaser that is not the Audited Purchaser to the extent such disclosure would violate Applicable Law.

ARTICLE 6
WARRANTY; HAZARDOUS SUBSTANCES; DISCLAIMER

6.1 Warranties.

(a) Conforming Wafers. The Joint Venture Company makes the following warranties to the Purchaser of Conforming Wafers hereunder regarding the Conforming Wafers furnished to such Purchaser hereunder, which warranties shall survive any delivery, inspection, acceptance, payment or resale of such Conforming Wafers:

(i) such Conforming Wafers conform to all agreed Specifications;

(ii) such Conforming Wafers are free from defects in materials and workmanship; and

(iii) the Joint Venture Company has the necessary right, title and interest to such Conforming Wafers, and, upon the sale of such Conforming Wafers to the applicable Purchaser, such Conforming Wafers shall be free of liens and encumbrances.

(b) Secondary Silicon. ALL SECONDARY SILICON PROVIDED HEREUNDER IS PROVIDED ON AN "AS IS," "WHERE IS" BASIS WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND.

6.2 Warranty Claims. Within a period of time, [***] ("**Warranty Claim Period**"), such Purchaser shall notify the Joint Venture Company if it believes that any Conforming Wafer does not meet the warranty set forth in Section 6.1. Such Purchaser shall return such Conforming Wafer (or Stack DRAM Product therefrom) to the Joint Venture Company as directed by the Joint Venture Company. If a Conforming Wafer is determined not to be in compliance with such warranty, then such Purchaser shall be entitled to return such Conforming Wafer (or Stack DRAM Product therefrom) and cause the Joint Venture Company to replace the returned item at the Joint Venture Company's expense or, at such Purchaser's option, receive a credit (or, if this Agreement has or is terminating with respect to such Purchaser so that it will not be able to use such credit, a refund) of any monies paid to the Joint Venture Company in respect of such Conforming Wafer, [***]. The basis for such credit (or refund) shall be [***].

6.3 Inspections. Each Purchaser may, upon reasonable advance written notice, request samples of WIP designated to such Purchaser (or to both Purchaser's jointly) during production for purposes of determining compliance with the requirements and Specification(s) hereunder, *provided* that the provision of such samples shall not materially impact the Joint

Venture Company's performance under the Manufacturing Plan or its ability to meet delivery requirements under any accepted Purchase Order. Any samples provided hereunder shall be: (a) limited in quantity to the amount reasonably necessary for the purposes hereunder; (b) invoiced and paid for in accordance with Section 4.8; and (c) included in any performance requirements, if any. The Joint Venture Company shall provide reasonable assistance for the safety and convenience of the requesting Purchaser in obtaining the samples in such manner as shall not unreasonably hinder or delay the Joint Venture Company's performance.

6.4 Hazardous Substances.

(a) If Conforming Wafers, Secondary Silicon or Stack DRAM Products provided hereunder include Hazardous Substances as determined in accordance with Applicable Law, the Joint Venture Company shall ensure that its employees, agents and subcontractors actually working with such materials in providing the Conforming Wafers, Secondary Silicon or Stack DRAM Products hereunder to the Purchasers are trained in accordance with Applicable Law regarding the nature of, and hazards associated with, the handling, transportation and use of such Hazardous Substances.

(b) To the extent required by Applicable Law, the Joint Venture Company shall provide each Purchaser with Material Safety Data Sheets (MSDS) either prior to or accompanying any delivery of Conforming Wafers, Secondary Silicon or Stack DRAM Products to such Purchaser.

(c) The Joint Venture Company shall indemnify, defend and hold harmless each Purchaser from and against any and all Indemnified Losses suffered or incurred by such Purchaser based on, relating to, or arising under any Environmental Laws and related to the manufacture of Conforming Wafers, Secondary Silicon or Stack DRAM Products by the Joint Venture Company.

6.5 Disclaimer. [***].

ARTICLE 7
CONFIDENTIALITY; OWNERSHIP

7.1 Protection and Use of Confidential Information. All information provided, disclosed or obtained in the performance of any of the Parties' activities under this Agreement shall be subject to all applicable provisions of the Mutual Confidentiality Agreement. Furthermore, the terms and conditions of this Agreement shall be considered "Confidential Information" under the Mutual Confidentiality Agreement for which each Party is considered a "**Receiving Party**" under such agreement. To the extent there is a conflict between this Agreement and the Mutual Confidentiality Agreement, the terms of this Agreement shall control.

7.2 Masks. Any masks used by the Joint Venture Company in connection with its performance under this Agreement shall be based on Stack DRAM Designs owned by a Purchaser and shall be treated as "Confidential Information" of such Purchaser under the Mutual Confidentiality Agreement.

7.3 Intellectual Property Ownership. Ownership of any intellectual property developed by the Joint Venture Company shall be governed by the Technology Transfer Agreement.

ARTICLE 8
INDEMNIFICATION

8.1 General Indemnity. Subject to Article 9, the Joint Venture Company shall indemnify, defend and hold harmless the Indemnified Parties from and against any and all Indemnified Losses based on, or attributable to, [***].

8.2 Indemnification Procedures.

(a) Promptly after the receipt by any Indemnified Party of a notice of any Third Party Claim that may be subject to indemnification under Section 8.1, such Indemnified Party shall give written notice of such Third Party Claim to the Joint Venture Company, stating in reasonable detail the nature and basis of each allegation made in the Third Party Claim and the amount of potential Indemnified Losses with respect to each allegation, to the extent known, along with copies of the relevant documents received by the Indemnified Party evidencing the Third Party Claim and the basis for indemnification sought. Failure of the Indemnified Party to give such notice shall not relieve the Joint Venture Company from liability on account of this indemnification, except if, and only to the extent that, the Joint Venture Company is actually prejudiced by such failure or delay. Thereafter, the Indemnified Party shall deliver to the Joint Venture Company, promptly after the Indemnified Party's receipt thereof, copies of all notices and documents (including court papers) received by the Indemnified Party relating to the Third Party Claim. The Joint Venture Company shall have the right to assume the defense of the Indemnified Party with respect to such Third Party Claim upon written notice to the Indemnified Party delivered within [***] days after receipt of the particular notice from the Indemnified Party. So long as the Joint Venture Company has assumed the defense of the Third Party Claim in accordance herewith and notified the Indemnified Party in writing thereof, (i) the Indemnified Party may retain separate co-counsel, at its sole cost and expense, and participate in the defense of the Third Party Claim, it being understood that the Joint Venture Company shall pay all reasonable costs and expenses of counsel for the Indemnified Party after such time as the Indemnified Party has notified the Joint Venture Company of such Third Party Claim and prior to such time as the Joint Venture Company has notified the Indemnified Party that it has assumed the defense of such Third Party Claim, (ii) the Indemnified Party shall not consent to the entry of any judgment or enter into any settlement with respect to a Third Party Claim without the prior written consent of the Joint Venture Company (not to be unreasonably withheld, conditioned or delayed) and (iii) the Joint Venture Company shall not consent to the entry of any judgment or enter into any settlement with respect to the Third Party Claim (other than a judgment or settlement that is solely for money damages and is accompanied by a release of all indemnifiable claims against the Indemnified Party) without the prior written consent of the Indemnified Party (not to be unreasonably withheld, conditioned or delayed).

(b) Equitable Remedies. In the case of any Third Party Claim where the Joint Venture Company reasonably believes that it would be appropriate to settle such Third Party Claim using equitable remedies (*i.e.*, remedies involving future activity), the Joint Venture

Company and the Indemnified Party shall work together in good faith to agree to a settlement; *provided*, *however*, that no Party shall be under any obligation to agree to any such settlement.

(c) Treatment of Indemnification Payments; Insurance Recoveries. Any indemnity payment under this Agreement shall be decreased by any amounts actually recovered by the Indemnified Party under Third Party insurance policies with respect to such Indemnified Losses (net of any premiums paid by such Indemnified Party under the relevant insurance policy). Each Party agrees (i) to use all reasonable efforts to recover all available insurance proceeds and (ii) to the extent that any indemnity payment under this Agreement has been paid by the Joint Venture Company to the Indemnified Party prior to the recovery by the Indemnified Party of such insurance proceeds, the amount of such insurance proceeds actually recovered by the Indemnified Party shall be promptly paid to the Joint Venture Company.

(d) Certain Additional Procedures. The Indemnified Party shall cooperate and assist the Joint Venture Company in determining the validity of any Third Party Claim and in otherwise resolving such matters. The Indemnified Party shall cooperate in the defense by the Joint Venture Company of each Third Party Claim (and the Indemnified Party and the Joint Venture Company agree with respect to all such Third Party Claims that a common interest privilege agreement exists between them), including: (i) permitting the Joint Venture Company to discuss the Third Party Claim with such officers, employees, consultants and representatives of the Indemnified Party as the Joint Venture Company reasonably requests; (ii) providing to the Joint Venture Company copies of documents and samples of products as the Joint Venture Company reasonably requests in connection with defending such Third Party Claim; (iii) preserving all properties, books, records, papers, documents, plans, drawings, electronic mail and databases of the Joint Venture Company and relating to matters pertinent to the conduct of the Joint Venture Company under the Indemnified Party's custody or control in accordance with such Party's corporate documents retention policies, or longer to the extent reasonably requested by the Joint Venture Company; (iv) notifying the Joint Venture Company promptly of receipt by the Indemnified Party of any subpoena or other Third Party request for documents or interviews and testimony; (v) providing to the Joint Venture Company copies of any documents produced by the Indemnified Party in response to or compliance with any subpoena or other Third Party request for documents; and (vi) except to the extent inconsistent with the Indemnified Party's obligations under Applicable Law and except to the extent that to do so would subject the Indemnified Party or its employees, agents or representatives to criminal or civil sanctions, unless ordered by a court to do otherwise, not producing documents to a Third Party until the Joint Venture Company has been provided a reasonable opportunity to review, copy and assert privileges covering such documents.

ARTICLE 9
LIMITATION OF LIABILITY

9.1 Damages Limitation. [***].

9.2 Claims Under this Agreement. THE PARTIES AGREE THAT TO THE EXTENT A CLAIM ARISES UNDER THIS AGREEMENT, THE CLAIM SHALL BE BROUGHT UNDER THIS AGREEMENT.

9.3 Damages Caps. [***].

9.4 Exclusions; Mitigation. Section 9.1 and Section 9.3 shall not apply to Section 6.4(c) or to any Party's breach of Article 7. Each Party shall have a duty to use commercially reasonable efforts to mitigate damages for which another Party is responsible.

ARTICLE 10
TERM AND TERMINATION; SUPPLY OBLIGATIONS FOLLOWING TRIGGERING EVENT

10.1 Term.

(a) Micron Term. With respect to Micron, the term of this Agreement (the "**Micron Term**") commences on the Closing Date and continues in effect until the first to occur of:

(i) the date on which Micron and its Subsidiaries sell all of their ordinary shares of the Joint Venture Company pursuant to Section 3.5 of the Joint Venture Agreement; and

(ii) the date of [***].

(b) NTC Term. With respect to NTC, the term of this Agreement (the "**NTC Term**") commences on the Closing Date and continues in effect until the first to occur of:

(i) the date on which NTC and its Subsidiaries sell [***] of the Joint Venture Company pursuant to Section 3.5 of the Joint Venture Agreement; and

(ii) the date of [***].

10.2 Termination. This Agreement [***] (a) by Micron [***]. (b) by NTC[***], or (c) by the Joint Venture Company [***].

10.3 Joint Venture Company Requirements at Termination.

(a) Within [***] days after the end of the Micron Term, the Joint Venture Company:

(i) shall destroy all production masks obtained for or on behalf of Micron pursuant to Section 2.4; and

(ii) shall (A) destroy all copies and other embodiments of any process technology or information provided to the Joint Venture Company by Micron, or any portion thereof, in whatever form received, reproduced or stored, (B) certify to Micron that such destruction is complete, and (C) cease all use of the process technology or information provided to the Joint Venture Company by Micron.

(b) Within [***] days after the end of the NTC Term, the Joint Venture Company:

(i) shall destroy all production masks obtained for or on behalf of NTC pursuant to Section 2.4; and

(ii) shall (A) destroy all copies and other embodiments of any process technology or information provided to the Joint Venture Company by NTC, or any portion thereof, in whatever form received, reproduced or stored, (B) certify to NTC that such destruction is complete, and (C) cease all use of the process technology or information provided to the Joint Venture Company by NTC.

10.4 Survival.

(a) Survival of Provisions Applicable to All Parties. Termination of this Agreement with respect to either Purchaser shall not affect any of the Parties' respective rights accrued, or obligations owed, before such termination, including any rights or obligations of the Parties in respect of any accepted Purchase Orders existing at the time of such termination. In addition, the following shall survive termination of this Agreement with respect to either Purchaser for any reason: Sections 2.8, 6.1, 6.2, 6.4(c) and 6.5, and Articles 4, 7, 8, 9, 10 and 11.

(b) Survival of the Agreement for Non-Terminating Parties. Upon the termination of this Agreement with respect to Micron as a result of the expiration of the Micron Term, this Agreement shall remain in full force and effect as between NTC and the Joint Venture Company. Upon the termination of this Agreement with respect to NTC as a result of the expiration of the NTC Term, this Agreement shall remain in full force and effect as between Micron and the Joint Venture Company.

ARTICLE 11
MISCELLANEOUS

11.1 Force Majeure Events. The Parties shall be excused from any failure to perform any obligation hereunder to the extent such failure is caused by a Force Majeure Event. A Force Majeure Event shall operate to excuse a failure to perform an obligation hereunder only for the period of time during which the Force Majeure Event renders performance impossible or infeasible and only if the Party asserting Force Majeure as an excuse for its failure to perform has provided written notice to, in the event of an assertion by Micron or NTC, the Joint Venture Company and, in the event of an assertion by the Joint Venture Company, Micron and NTC specifying the obligation to be excused and describing the events or conditions constituting the Force Majeure Event.

11.2 Specific Performance. The Parties agree that irreparable damage will result if this Agreement is not performed in accordance with its terms, and the Parties agree that any damages available under the indemnification provisions or at law for a breach of this Agreement would not be an adequate remedy. Therefore, the provisions hereof and the obligations of the parties hereunder shall be enforceable in a court of equity, or other tribunal with jurisdiction, by a decree of specific performance, and appropriate injunctive relief may be applied for and granted in connection therewith.

11.3 Assignment. [***]

11.4 Compliance with Laws and Regulations. Each of the Parties shall comply with, and shall use reasonable efforts to require that its respective subcontractors comply with, Applicable Laws relating to this Agreement and the performance of such Party's obligations hereunder.

11.5 Notice. All notices and other communications hereunder shall be in writing and shall be deemed given upon (a) transmitter's confirmation of a receipt of a facsimile transmission, (b) confirmed delivery by a standard overnight or recognized international carrier or when delivered by hand, or (c) delivery in person, addressed at the following addresses (or at such other address for a Party as shall be specified by like notice):

In the case of the Joint Venture Company.

MeiYa Technology Company
5F, No. 201-36
Dunhua N. Road, Songshan District
Taipei City, Taiwan, ROC

In the case of Micron Technology, Inc.:

Micron Technology, Inc.
8000 S. Federal Way
Mail Stop 1-507
Boise, ID 83716
Attn: General Counsel
Facsimile: (208) 368-4537

In the case of NTC:

Nanya Technology Corporation
Hwa-Ya Technology Park 669
Fuhsing 3 RD. Kueishan
Taoyuan, Taiwan, ROC
Attn: Legal department
Facsimile: 886-3-396-2226

11.6 Waiver. The failure at any time of a Party to require performance by another Party of any responsibility or obligation required by this Agreement shall in no way affect a Party's right to require such performance at any time thereafter, nor shall the waiver by a Party of a breach of any provision of this Agreement by another Party constitute a waiver of any other breach of the same or any other provision nor constitute a waiver of the responsibility or obligation itself.

11.7 Severability. Should any provision of this Agreement be deemed in contradiction with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Agreement shall remain in full force and effect in all other respects. Should any provision of this Agreement be or become ineffective because of changes in Applicable Laws or interpretations thereof, or should this Agreement fail to include a provision that is required as a matter of law, the validity of the other provisions of this Agreement shall not be affected thereby. If such circumstances arise, the Parties shall negotiate in good faith appropriate modifications to this Agreement to reflect those changes that are required by Applicable Law.

11.8 Third Party Rights. Nothing in this Agreement, whether express or implied, is intended, or shall be construed, to confer, directly or indirectly, upon or give to any Person, other than the Parties hereto, any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenant, condition or other provision contained herein.

11.9 Amendment. This Agreement may not be modified or amended except by a written instrument executed by, or on behalf of, each of the Parties.

11.10 Entire Agreement. This Agreement, together with the Schedules hereto and the agreements and instruments expressly provided for herein (including the Mutual Confidentiality Agreement), constitute the entire agreement of the Parties with respect to the subject matter hereof and supersede all prior agreements and understandings, oral and written, between the Parties with respect to the subject matter hereof.

11.11 Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the ROC, without giving effect to its conflict of laws principles.

11.12 Jurisdiction; Venue. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement shall be brought in the Taipei District Court, located in Taipei, Taiwan, and each of the Parties hereby consents and submits to the exclusive jurisdiction of such court (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum.

11.13 Headings. The headings of the Articles and Sections in this Agreement are provided for convenience of reference only and shall not be deemed to constitute a part hereof.

11.14 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

11.15 Insurance. Without limiting or qualifying the Joint Venture Company's liabilities, obligations or indemnities otherwise assumed by the Joint Venture Company pursuant to this Agreement, the Joint Venture Company shall at all times, for so long as this Agreement remains in effect (and notwithstanding any termination of the Joint Venture Agreement), maintain in

effect insurance of the types and in the amounts set forth on Appendix I of the Joint Venture Agreement. Such insurance coverage may be provided through the coverage under one or more insurance policies maintained by Micron or NTC.

[*Signature page follows*]

DLI-6195504v3

IN WITNESS WHEREOF, this Agreement has been duly executed by, and on behalf of, the Parties as of the Closing Date.

JOINT VENTURE COMPANY

By: /s/ Pei Ing Lee

Name: Pei Ing Lee

Title: Chairman

MICRON TECHNOLOGY, INC.

By: /s/ D. Mark Duncan

Name: D. Mark Durcan

Title: President and Chief Operating Officer

NANYA TECHNOLOGY CORPORATION

By: /s/ Jih Lien

Name: Jih Lien

Title: President

THIS IS THE SIGNATURE PAGE FOR THE SUPPLY AGREEMENT ENTERED INTO BY AND BETWEEN MICRON, NTC AND JOINT VENTURE COMPANY

SCHEDULE 4.8

PRICE

The Parties agree that the "**Price**" of any Conforming Wafer shall be calculated, by [***], in the following manner:

Price = [***].

where, the components of such calculation, and the related terms, have the meanings set forth below. An example of the Price calculation is set forth on Attachment 1 to this Schedule 4.8.

[***]

ATTACHMENT 1

EXAMPLE OF PRICE CALCULATION

[***]

EXHIBIT 10.54

[***] DENOTES CONFIDENTIAL MATERIALS OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT

Micron NTC CONFIDENTIAL

JOINT DEVELOPMENT PROGRAM AGREEMENT

This **JOINT DEVELOPMENT PROGRAM AGREEMENT** (this "**Agreement**"), is made and entered into as of this 21st day of April, 2008 ("**Effective Date**"), by and between Nanya Technology Corporation (Nanya Technology Corporation [Translation from Chinese]), a company incorporated under the laws of the Republic of China ("**NTC**"), and Micron Technology, Inc., a Delaware corporation ("**Micron**"). (NTC and Micron are referred to in this Agreement individually as a "**Party**" and collectively as the "**Parties**").

RECITALS

A. Pursuant to the Joint Venture Documents (as defined hereinafter) and the transactions contemplated thereby, MNL, an Affiliate of Micron and NTC are forming the Joint Venture Company (as defined hereinafter) for the collaborative manufacture and sale of Stack DRAM Products exclusively to the Parties.

B. NTC and Micron desire to engage in joint development of Stack DRAM Designs and Process Technology (each, as defined hereinafter) on process node of [***], or on such other design or process technology, the Parties may agree pursuant to this Agreement. The Parties desire to outline the procedures under which they will pool their respective resources as provided in this Agreement for the purpose of performing research and development work relating to Stack DRAM Designs and Process Technology that will be used by the Joint Venture Company, by NTC and by Micron, to manufacture Stack DRAM Products.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, the Parties, intending to be legally bound, hereby agree as follows.

ARTICLE 1
DEFINITIONS; CERTAIN INTERPRETATIVE MATTERS

1.1 Definitions. In addition to the terms defined elsewhere in this Agreement, capitalized terms used in this Agreement shall have the respective meanings set forth below:

"**Affiliate**" means, with respect to any specified Person, any other Person that directly or indirectly, including through one or more intermediaries, controls, or is controlled by, or is under common control with such specified Person; and the term "affiliated" has a meaning correlative to the foregoing.

"**Agreement**" shall have the meaning set forth in the preamble to this Agreement.

"**Applicable Law**" means any applicable laws, statutes, rules, regulations, ordinances, orders, codes, arbitration awards, judgments, decrees or other legal requirements of any Governmental Entity.

"**ATE**" means automatic test equipment, such as that sold under the trademark ADVENTEST.

"**Burn-In**" means [***].

"**Burn-In Document**" means a document that describes the specification of voltage and test pattern settings in the Burn-In test program. The Burn-In Document also describes the methodology of how the voltage and test pattern settings are optimized.

"**Business Day**" means a day that is not a Saturday, Sunday or other day on which commercial banking institutions in either the Republic of China or the State of New York are authorized or required by Applicable Law to be closed.

"Change of Control" means, with respect to any first Person, the occurrence of any of the following events, whether through a single transaction or series of related transactions: (a) any consolidation or merger of such first Person with or into another Person in which the holders of such first Person's outstanding voting equity immediately before such consolidation or merger do not, immediately after such consolidation or merger, own or control directly or indirectly equity representing a majority of the outstanding voting equity of the surviving Person; (b) the sale of all or substantially all of such first Person's assets to another Person wherein the holders of such first Person's outstanding voting equity immediately before such sale do not, immediately after sale, own or control directly or indirectly equity representing a majority of the outstanding voting equity of the purchaser; or (c) the sale of such first Person's voting equity to any other Person(s) wherein the holders of such first Person's outstanding voting equity immediately before such sale do not, immediately after such sale, own or control directly or indirectly equity representing a majority of the outstanding voting equity of such first Person.

"**Closing**" means the remittance by NTC and MNL of the first capital contribution to the Joint Venture Company as set forth in Section 2.6 of the Master Agreement.

"Commodity Stack DRAM Products" means Stack DRAM Products for system main memory for computing or Mobile Devices, in each case that are fully compliant with one or more Industry Standard(s).

"**Confidential Information**" means that information described in Section 6.1 deemed to be "Confidential Information" under the Mutual Confidentiality Agreement.

"**Contractor**" means a Third Party who (a) is contracted by a Party in connection with work to be conducted by such Party under a SOW, (b) has agreed to assign to such contracting Party all rights in and to any inventions, discoveries, improvements, processes, copyrightable works, mask works, trade secrets or other technology that are conceived or first reduced to practice, whether patentable or not, as a result of any performance by such Third Party of any obligations of such Party under a SOW, and all Patent Rights, IP Rights and other intellectual

property rights in the foregoing, and (c) has agreed to grant a license to such contracting Party, with the right to sublicense of sufficient scope that includes the other Party, under all Patent Rights, IP Rights and other rights of the Third Party reasonably necessary for such contracting Party and the other Party to exploit the work product created by the Third Party consistent with the rights granted by the contracting Party to the other Party under the Joint Venture Documents.

"**Control**" (whether capitalized or not) means the power or authority, whether exercised or not, to direct the business, management and policies of a Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, which power or authority shall conclusively be presumed to exist upon possession of beneficial ownership or power to direct the vote of [***] of the votes entitled to be cast at a meeting of the members, shareholders or other equity holders of such Person or power to control the composition of a majority of the board of directors or like governing body of such Person; and the terms "**controlling**" and "**controlled**" have meanings correlative to the foregoing.

"**Coverage Test**" means test solution for module application fail in CP/FT/Module ATE.

"**Deadlock Terminating Party**" shall have the meaning set forth in Section III.D.5 of Schedule 2.

"**Design Qualification**" means, [***].

"Design SOW" means [***].

"**Design SOW Costs**" means any and all SOW Costs attributable to a Design SOW in accordance with Schedule 4.

"**Draft**" means the mechanism described in Section 5.3 by which either Micron or NTC may select from Pooled Inventions to solely own.

"**Drafting Party**" means either Micron or NTC, as the Party selecting a Pooled Invention pursuant to the Draft.

"DRAM Module" means one or more DRAM Products in a JEDEC-compliant package or module (whether as part of a SIMM, DIMM, multi-chip package, memory card or other memory module or package).

"**DRAM Product**" means any stand-alone semiconductor device that is a dynamic random access memory device and that is designed or developed primarily for the function of storing data, in die, wafer or package form.

"**Effective Date**" shall have the meaning set forth in the preamble to this Agreement.

"Existing Entity" means [***].

"**Force Majeure Event**" means the occurrence of an event or circumstance beyond the reasonable control of a Party and includes, without limitation, (a) explosions, fires, flood, earthquakes, catastrophic weather conditions, or other elements of nature or acts of God; (b) acts

of war (declared or undeclared), acts of terrorism, insurrection, riots, civil disorders, rebellion or sabotage; (c) acts of federal, state, local or foreign Governmental Entity; (d) labor disputes, lockouts, strikes or other industrial action, whether direct or indirect and whether lawful or unlawful; (e) failures or fluctuations in electrical power or telecommunications service or equipment; and (f) delays caused by the other Party or third-party nonperformance (except for delays caused by a Party's Contractors, subcontractors or agents).

"**Foundational Know-How**" means, with respect to each Party, [***].

"**Foundry Customer**" means a Third Party customer of either NTC or Micron for Stack DRAM Products [***].

"**FT**" means [***].

"**GAAP**" means, with respect to Micron, United States generally accepted accounting principles, and with respect to NTC, Republic of China generally accepted accounting principles, in each case, as consistently applied by the Party for all periods at issue.

"**Governmental Entity**" means any governmental authority or entity, including any agency, board, bureau, commission, court, municipality, department, subdivision or instrumentality thereof, or any arbitrator or arbitration panel.

"Imaging Product" means any (a) semiconductor device having a plurality of photo elements (e.g., photodiodes, photogates, etc.) for converting impinging light into an electrical representation of the information in the light, (b) image processor or other semiconductor device for balancing, correcting, manipulating or otherwise processing such electrical representation of the information in the impinging light, or (c) combination of the devices described in clauses (a) and (b).

"**Indemnified Claim**" shall have the meaning set forth in Section 8.2.

"**Indemnified Party**" shall have the meaning set forth in Section 8.2.

"**Indemnifying Party**" shall have the meaning set forth in Section 8.2.

"Industry Standard" means the documented technical specifications that set forth the pertinent technical and operating characteristics of a DRAM Product if such specifications are publicly available for use by DRAM manufacturers, and if [***].

"**IP Rights**" means copyrights, rights in trade secrets, Mask Work Rights and pending applications or registrations of any of the foregoing anywhere in the world. The term "IP Rights" does not include any Patent Rights or rights in trademarks.

"**JDP Co-Chairman**" and "**JDP Co-Chairmen**" shall have the meaning set forth on Schedule 2.

"**JDP Committee**" shall mean the committee formed and operated by Micron and NTC to govern the performance of the Parties under this Agreement in accordance with the JDP Committee Charter.

"**JDP Committee Charter**" means the charter attached as Schedule 2.

"**JDP Design**" means any Stack DRAM Design resulting from the research and development activities of the Parties pursuant to this Agreement.

"JDP Inventions" shall mean all discoveries, improvements, inventions, developments, processes or other technology, whether patentable or not, that is/are conceived by one or more Representatives of one or more of the Parties in the course of activities conducted under this Agreement.

"**JDP Process Node**" means any Primary Process Node or Optimized Process Node resulting from the research and development activities of the Parties pursuant this Agreement.

"**JDP Work Product**" means [***].

"**Joint Venture Company**" means the company formed and operated in accordance with the Joint Venture Documents.

"Joint Venture Company Joinder" means that certain Joinder of the Joint Venture Company to the Mutual Confidentiality Agreement.

"**Joint Venture Documents**" means the Master Agreement and each of the agreements listed on Schedules 2.1 through 2.5 of the Master Agreement Disclosure Letter.

"Lead Product" means [***].

"**Mask Data Processing**" means [***].

"**Mask Work Rights**" means rights under the United States Semiconductor Chip Protection Act of 1984, as amended from time to time, or under any similar equivalent laws in countries other than the United States.

"**Master Agreement**" means that certain Master Agreement by and between NTC and Micron dated as of the Effective Date.

"**Master Agreement Disclosure Letter**" means that certain Master Agreement Disclosure Letter by and between NTC and Micron dated as of the Effective Date containing the Schedules required by the Master Agreement.

"Micron" shall have the meaning set forth in the preamble to this Agreement.

"**Micron Indemnitees**" shall have the meaning set forth in Section 8.1.

"**MNL**" means Micron Semiconductor B.V., a private limited liability company organized under the laws of the Netherlands.

"Mobile Device" means a handheld or portable device using as its main memory one or more Stack DRAM Products that is/are compliant with an Industry Standard [***].

"**Mutual Confidentiality Agreement**" means (i) prior to the Closing, that certain Mutual Confidentiality Agreement among NTC, Micron and MNL referred to on Schedule 2.1 of the Master Agreement Disclosure Letter, and (ii) following the Closing, that certain Mutual Confidentiality Agreement among NTC, Micron and MNL referred to on Schedule 2.1 of the Master Agreement Disclosure Letter, as joined by the Joint Venture Company through the Joint Venture Company Joinder.

"**NAND Flash Memory Product**" means a non-volatile semiconductor memory device containing memory cells that are electrically programmable and electrically erasable whereby the memory cells consist of one or more transistors that have a floating gate, charge trapping regions or any other functionally equivalent structure utilizing one or more different charge levels (including binary or multi-level cell structures), with or without any on-chip control, I/O and other support circuitry, in wafer, die or packaged form.

"**NTC**" shall have the meaning set forth in the preamble to this Agreement.

"**NTC Indemnitees**" shall have the meaning set forth in Section 8.1.

"**OPC**" means optical proximity correction of the circuit layout patterns, which is important in Mask Data Processing.

"Optimized Process Node" means [***].

"**Party**" and "**Parties**" shall have the meaning set forth in the preamble to this Agreement.

"**Patent Prosecution**" means (a) preparing, filing and prosecuting patent applications (of all types), and (b) managing any interference, reexamination, reissue, or opposition proceedings relating to the foregoing.

"**Patent Review Committee**" means the committee formed by the JDP Committee to [***].

"**Patent Rights**" means all rights associated with any and all issued and unexpired patents and pending patent applications in any country in the world, together with any and all divisionals, continuations, continuations-in-part, reissues, reexaminations, extensions, foreign counterparts or equivalents of any of the foregoing, wherever and whenever existing.

"**Person**" means any natural person, corporation, joint stock company, limited liability company, association, partnership, firm, joint venture, organization, business, trust, estate or any other entity or organization of any kind or character.

[***]

[***]

"**Post Termination Funding Period**" shall have the meaning set forth in Section III.D.5 of Schedule 2.

"**Primary Process Node**" means [***].

"**Probe Testing**" means testing, using a wafer test program as set forth in the applicable specifications, of a wafer that has completed all processing steps deemed necessary to complete the creation of the desired Stack DRAM integrated circuits in the die on such wafer, the purpose of which test is to determine how many and which of the die meet the applicable criteria for such die set forth in the specifications.

"**Process Node**" means [***].

"**Process Qualification**" means, with respect to each Primary Process Node and Optimized Process Node, when (a) the Stack DRAM Products or Stack DRAM Modules designed to be on the node can be made fully compliant with any applicable Industry Standard(s) (if any) and [***] or (b) or such other or additional parameters as may be defined in the Process SOW as "Process Qualification" for the Primary Process Node or the Optimized Process Node that is the subject of the SOW, [***].

"Process SOW" means any SOW primarily directed to the development of Process Technology, including the development of a Primary Process Node or an Optimized Process Node to be used by the Joint Venture Company, Micron or NTC in the manufacture of Stack DRAM Products.

"**Process SOW Costs**" means [***].

"Process Technology" means that process technology developed before expiration of the Term and utilized in the manufacture of Stack DRAM wafers, including Probe Testing and technology developed through Product Engineering thereof**,** regardless of the form in which any of the foregoing is stored, but excluding any Patent Rights and any technology, trade secrets or know-how that relate to and are used in any back-end operations (after Probe Testing).

"**Product Engineering**" means any one or more of the engineering activities described on Schedule 7 as applied to Stack DRAM Products or Stack DRAM Modules.

"**Proposing Party**" shall have the meaning set forth in Section 3.2.

"**Recoverable Taxes**" shall have the meaning set forth in Section 4.4.

"**Rejecting Party**" shall have the meaning set forth in Section 3.2.

"**Rejected Development Work**" shall have the meaning set forth in Section 3.2.

"**Representative**" means with respect to a Party, any director, officer, employee, agent or Contractor of such Party or a professional advisor to such Party, such as an attorney, banker or

financial advisor of such Party who is under an obligation of confidentiality to such Party by contract or ethical rules applicable to such Person.

"**R&D Roadmap**" has the meaning provided in Section 2.3.

"**Software**" means computer program instruction code, whether in human-readable source code form, machine-executable binary form, firmware, scripts, interpretive text, or otherwise. The term "Software" does not include databases and other information stored in electronic form, other than executable instruction codes or source code that is intended to be compiled into executable instruction codes.

"**SOW**" means a statement of the work that describes research and development work to be performed under this Agreement and that has been adopted by the JDP Committee pursuant to Section 3.2.

"**SOW Costs**" means any or all costs that are incurred by a Party in connection with any SOW as provided on Schedule 4.

"**Stack DRAM**" means dynamic random access memory cell that functions by using a capacitor arrayed predominantly above the semiconductor substrate.

"**Stack DRAM Design**" means, with respect to a Stack DRAM Product, the corresponding design components, materials and information listed on Schedule 3 or as otherwise determined by the JDP Committee in a SOW.

"Stack DRAM Module" means one or more Stack DRAM Products in a JEDEC-compliant package or module (whether as part of a SIMM, DIMM, multi-chip package, memory card or other memory module or package).

"Stack DRAM Product" means any memory comprising Stack DRAM, whether in die or wafer form.

"**Subsidiary**" means, with respect to any specified Person, any other Person that, directly or indirectly, including through one or more intermediaries, is controlled by such specified Person.

"**Tax**" or "**Taxes**" means any federal, state, local or foreign net income, gross income, gross receipts, sales, use ad valorem, transfer, franchise, profits, service, service use, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, customs, duties or other type of fiscal levy and all other taxes, governmental fees, registration fees, assessments or charges of any kind whatsoever, together with any interest and penalties, additions to tax or additional amounts imposed or assessed with respect thereto.

"**Taxing Authority**" means any Governmental Entity exercising any authority to impose, regulate or administer the imposition of Taxes.

"**Technology Transfer Agreement**" means that certain Technology Transfer Agreement by and among NTC, Micron, and the Joint Venture Company referred to on Schedule 2.5 of the Master Agreement Disclosure Letter.

"**Technology Transfer and License Agreement**" means that certain Technology Transfer and License Agreement by and between NTC and Micron referred to on Schedule 2.1 of the Master Agreement Disclosure Letter.

"**TTLA 68-50**" means that certain Technology Transfer and License Agreement For 68-50NM Process Nodes by and between NTC and Micron referred to on Schedule 2.1 of the Master Agreement Disclosure Letter.

"**Term**" shall have the meaning set forth in Section 9.1.

"**Third Party**" means any Person other than NTC or Micron.

"Unit Process/Module Invention" means JDP Inventions related to one or more process steps that are performed on a semiconductor wafer and that are designed to achieve a particular feature characteristic or structure.

"**Works Registration**" shall have the meaning set forth in Section 5.4(c).

1.2 Certain Interpretive Matters.

(a) Unless the context requires otherwise, (1) all references to Sections, Articles, Exhibits, Appendices or Schedules are to Sections, Articles, Exhibits, Appendices or Schedules of or to this Agreement, (2) each accounting term not otherwise defined in this Agreement has the meaning commonly applied to it in accordance with GAAP, (3) words in the singular include the plural and vice versa, (4) the term "**including**" means "including without limitation," and (5) the terms "**herein**," "**hereof**," **"hereunder**" and words of similar import shall mean references to this Agreement as a whole and not to any individual section or portion hereof. Unless otherwise denoted, all references to **$** or dollar amounts will be to lawful currency of the United States of America. All references to "**day**" or "**days**" will mean calendar days.

(b) No provision of this Agreement will be interpreted in favor of, or against, either Party by reason of the extent to which (1) such Party or its counsel participated in the drafting thereof or (2) any such provision is inconsistent with any prior draft of this Agreement or such provision.

ARTICLE 2
JDP COMMITTEE; R&D ROADMAP

2.1 JDP Committee; Patent Review Committee. Micron and NTC shall form and operate the JDP Committee to govern their performance under this Agreement in accordance with the JDP Committee Charter attached as Schedule 2. The JDP Committee shall form and oversee the Patent Review Committee, which shall also operate in accordance with the applicable provisions of Schedule 2.

2.2 JDP Co-Chairmen. Micron and NTC shall notify the other Party in writing of the identity of the full-time employee of such Party who will serve as its JDP Co-Chairman. Each JDP Co-Chairman shall serve on the JDP Committee as provided in Schedule 2 and shall devote his or her attention to the performance of this Agreement by the Parties. Each of Micron and NTC may replace its respective JDP Co-Chairman upon written notice to the other Party; *provided that* each Party's JDP Co-Chairman must at all times be a full-time employee of such Party.

2.3 R&D Roadmap.

(a) [***].

(b) [***].

(c) The first R&D Roadmap shall contain the Stack DRAM Designs and Process Technology described in the SOWs identified on Schedule 1.

ARTICLE 3
DEVELOPMENT PROJECTS AND SOWS

3.1 Content of SOWs. The Parties expect that each SOW will conform to the following requirements, as applicable:

(a) Each SOW will contain at least the following:

[***]

(b) The Process SOW for each Primary Process Node and each Process SOW effective as of the Effective Date will specify that the work to be performed thereunder will be performed [***]

(c) [***]

(d) Process SOWs for Optimized Process Nodes may specify that the work to be performed thereunder can be performed [***]

(e) Process SOWs entered after the Effective Date for work to be performed [***]

(f) [***]

(g) [***]

(h) [***]

3.2 Proposal and Adoption of SOWs.

(a) Each Party solely through its JDP Co-Chairman, or both of the Parties jointly through the JDP Chairmen, may submit proposed SOWs to the JDP Committee for consideration and potential adoption as an SOW hereunder. SOWs can be proposed for the design of products that are not at the time of submission Commodity Stack DRAM Products.

(b) [***]

(c) The SOWs identified on Schedule 1 are deemed SOWs under this Agreement adopted by the JDP Committee as of the Effective Date.

(d) [***]

3.3 Development Restrictions; Rejected Development Work.

[***]

3.4 SOW Performance Monitoring.

[***]

3.5 JDP Committee Monitoring. [***]

3.6 On-Site Visitations. Each Party and its Representatives shall observe and be subject to all safety, security and other policies and regulations regarding visitors and contractors while on site at a facility of the other Party or its Affiliate. A Party's Representatives who access any facility of the other Party or its Affiliate shall not interfere with, and except as otherwise agreed by the Parties, shall not participate in, the business or operations of the facility accessed.

3.7 Mask Source Qualification and Mask Purchases.

(a) [***]

(b) [***]

(c) [***]

3.8 Repository of JDP Work Product.

(a) Micron and NTC each shall use commercially reasonable efforts to each establish a repository in its own facility for storing the JDP Work Product described on Schedules 3, 7, 8 or 9 separately from other technology, information and data of such Party and any Third Parties**.** Each Party shall implement procedures so that such JDP Work Product is either created in such repository or added to such repository in the English language promptly after creation by employees of such Party, its Existing Entities and its wholly-owned Subsidiaries assigned to an SOW. Such repositories in Micron facilities shall be accessible to employees of

NTC, its Existing Entities and its wholly-owned Subsidiaries assigned to perform work under any SOW(s) as reasonably required for such employees to perform their assigned work. Such repositories in NTC shall be accessible to employees of Micron, its Existing Entities and its wholly-owned Subsidiaries assigned to perform work under any SOW as reasonably required for such employees to perform their assigned work. The JDP Co-Chairmen and JDP Committee Members shall have full access to such repositories. Once both such repositories are operational electronic databases that can be synchronized at least with the other database to contain the same content as that stored in such other database, the Parties shall use commercially reasonable efforts to have the databases automatically and electronically synchronized at least once per day.

(b) Without limiting the foregoing Section 3.8(a), the Parties shall also use their respective commercially reasonable efforts to accomplish the following within the time frames described below:

(i) Phase 1:

1) Establish secure network connectivity between Micron and NTC within [***] after the Effective Date.

2) Establish secure email between Micron and NTC within [***] after the Effective Date.

3) Establish a FTP environment to allow download of data between Micron and NTC within [***] after the Effective Date.

(ii) Phase 2:

1) Establish an initial repository for the JDP Work Product described on Schedules 3, 7, 8 or 9 with a publishing document process between Micron and NTC within [***] after the Effective Date. The replication process between Micron's and NTC's repositories would occur [***].

2) Provide a single remote access point for approved users within [***] after the Effective Date. This access point will allow real time equal access to all individuals assigned to an SOW.

(iii) Phase 3:

1) For the remote access point from NTC each approved NTC user will be provided access to approved Micron secured operational applications. The first group of secured operational applications will be provided within [***] after the Effective Date.

ARTICLE 4
PAYMENTS

4.1 Development Cost Sharing. Micron and NTC shall share SOW Costs as specified on Schedule 4.

4.2 Payments. All amounts owed by a Party under this Agreement are stated, calculated and shall be paid in United States Dollars ($ U.S.).

4.3 Interest. Any amounts payable to Micron hereunder and not paid within the time period provided shall accrue interest, from the time such payment was due until the time payment is actually received, at the rate of [***], or the highest rate permitted by Applicable Law, whichever is lower.

4.4 Taxes.

(a) All sales, use and other transfer Taxes imposed directly on or solely as a result of the services or technology transfers or the payments therefor provided herein shall be stated separately on the service provider's or technology transferor's invoice, collected from the service provider or technology transferor and shall be remitted by service provider or technology transferor to the appropriate Taxing Authority ("**Recoverable Taxes**"), unless the service recipient or technology transferee provides valid proof of tax exemption prior to the Effective Date or otherwise as permitted by law prior to the time the service provider or technology transferor is required to pay such taxes to the appropriate Taxing Authority. When property is delivered and/or services are provided or the benefit of services occurs within jurisdictions in which collection and remittance of Taxes by the service recipient or technology transferee is required by law, the service recipient or technology transferee shall have sole responsibility for payment of said Taxes to the appropriate Taxing Authority. In the event any Taxes are Recoverable Taxes and the service provider or technology transferor does not collect such Taxes from the service recipient or technology transferee or pay such Taxes to the appropriate Governmental Entity on a timely basis, and is subsequently audited by any Taxing Authority, liability of the service recipient or technology transferee will be limited to the Tax assessment for such Recoverable Taxes, with no reimbursement for penalty or interest charges or other amounts incurred in connection therewith. Except as provided in Section 4.4(b), Taxes other than Recoverable Taxes shall not be reimbursed by the service recipient or technology transferee, and each Party is responsible for its own respective income Taxes (including franchise and other Taxes based on net income or a variation thereof), Taxes based upon gross revenues or receipts, and Taxes with respect to general overhead, including but not limited to business and occupation Taxes, and such Taxes shall not be Recoverable Taxes.

(b) In the event that the service recipient or technology transferee is prohibited by Applicable Law from making payments to the service provider or technology transferor unless the service recipient or technology transferee deducts or withholds Taxes therefrom and remits such Taxes to the local Taxing Authority, [***].

ARTICLE 5
INTELLECTUAL PROPERTY

5.1 Existing IP. Nothing in this Agreement shall be construed to transfer ownership of or grant a license under any IP Rights, Patent Rights or other intellectual property or technology of a Party existing as of the Effective Date from one Party to the other Party. Any license to any of the foregoing shall be governed by the Technology Transfer and License Agreement.

5.2 Pooled Invention Procedures; Inventorship; Authorship.

(a) Within forty-five (45) days of the Effective Date, each of the Parties shall introduce procedures to encourage and govern the submission of disclosures of JDP Inventions by their respective Representative(s) involved in a SOW, whether as Representatives of NTC, of Micron or of the Joint Venture Company, to the JDP Co-Chairmen for subsequent submission to the JDP Committee. Such procedures shall include (i) a policy statement encouraging the submission of such invention disclosures, (ii) appropriate invention disclosure forms, and (iii) a commitment on the part of each of NTC and Micron to obtain relevant invention disclosure forms from their respective Representatives with respect to JDP Inventions and to submit such forms for review by the Patent Review Committee. Each of the Parties shall actively administer such procedures and submit and cause their respective Representatives promptly to complete and submit invention disclosures on JDP Inventions to the Patent Review Committee.

(b) Inventorship for JDP Inventions shall be determined in accordance with United States patent laws.

(c) Authorship for all JDP Work Product, whether registered or not, shall be determined in accordance with United States copyright laws and laws concerning Mask Work Rights, as applicable.

5.3 JDP Inventions; Pool and Draft.

[***]

5.4 Ownership of JDP Inventions and JDP Work Product.

(a) As between the Parties, [***]

(b) Except as provided in Sections 5.3 and 5.4(a), all JDP Designs, JDP Inventions, JDP Process Nodes, JDP Work Product, and all IP Rights associated with any of the foregoing, shall be, [***]. Subject to any applicable provisions of the Joint Venture Documents, each of Micron and NTC may exploit their interest in any JDP Designs, JDP Inventions, JDP Process Nodes, JDP Work Product, and IP Rights associated therewith without a duty of accounting to any other Party.

(c) [***]

5.5 Costs. All out-of-pocket costs and expenses relating to Patent Prosecution, including attorneys' fees, incurred by a Party pursuant to this Agreement shall be borne solely by the owner thereof. In the case of Works Registrations for JDP Work Product, such joint owners shall split the costs thereof equally.

5.6 Cooperation. With respect to all Patent Prosecution and Works Registration activities under this Agreement, each Party shall:

(a) execute all further instruments to document their respective ownership consistent with this Article 5 as reasonably requested by any other Party, including causing its

respective Representatives to execute written assignments of JDP Inventions and JDP Work Product to Micron, NTC or both of them jointly as provided herein (at no cost to the assignee); and

(b) using commercially reasonable efforts to make its Representatives available to the other Party (or to the other Party's authorized attorneys, agents or Representatives), to the extent reasonably necessary to enable the appropriate Party hereunder to undertake Patent Prosecution and Works Registration.

5.7 Third Party Infringement.

(a) The sole owner of the Patent Rights with respect to any JDP Invention shall have the exclusive right to institute and direct legal proceedings against any Third Party believed to be infringing or otherwise violating any such Patent Rights.

(b) If any Party takes action pursuant to Section 5.7(a), then the other Party shall cooperate to the extent reasonably necessary and at the first Party's sole expense and subject to the first Party's request. To the extent required by Applicable Law, such other Party shall join the action and, if such other Party elects, may choose to be represented in any such legal proceedings using counsel of its own choice, and at its own expense. Each Party shall assert and not waive the joint defense privilege with respect to all communications between the Parties reasonably the subject thereof.

(c) The Parties shall keep each other informed of the status of any litigation or settlement thereof initiated by a Third Party concerning a Party's manufacture, production, use, development, sale, offer for sale, importation, exportation or distribution of Stack DRAM Products manufactured by the Joint Venture Company; *provided*, *however*, that no settlement or consent judgment or other voluntary final disposition of a suit under this Section 5.7(c) may be undertaken by a Party without the consent of another Party (which consent not to be unreasonably withheld) if such settlement would require such other Party or the Joint Venture Company to be subject to an injunction, subject to a requirement to alter a Process Node or Stack DRAM Design, admit wrongdoing or make a monetary payment. The Party sued by the Third Party as contemplated by this Section shall not object to joinder in such action by the other Party to the extent such joinder is permitted by Applicable Law.

5.8 No Other Rights or Licenses. Except for the allocation of ownership of JDP Inventions and JDP Work Product, and the ownership of their corresponding Patent Rights and IP Rights therein, as stated in this Article 5, no right, license, title or interest under any intellectual property is granted under this Agreement, whether by implication, estoppel or otherwise. Certain rights, licenses and covenants not to sue under Intellectual Property of Micron and NTC are granted in other Joint Venture Documents.

ARTICLE 6
CONFIDENTIALITY

6.1 Confidentiality Obligations.

(a) All information (including JDP Work Product, JDP Inventions, JDP Process Nodes and JDP Designs and Foundational Know-How) provided, disclosed, created or obtained in connection with this Agreement or the performance of any of the Parties' activities under this Agreement, including the performance of activities under a SOW, shall be deemed "Confidential Information" subject to all applicable provisions of the Mutual Confidentiality Agreement. The terms and conditions of this Agreement shall also be considered "Confidential Information" under the Mutual Confidentiality Agreement for which each Party shall be considered a "Receiving Party" under such agreement.

(b) Additionally, notwithstanding whether one of the Parties solely or jointly owns JDP Inventions, JDP Work Product, JDP Process Nodes and JDP Designs and IP Rights or Patent Rights therein in accordance with this Agreement, each of the Parties shall be deemed a "Receiving Party" under the Mutual Confidentiality Agreement with respect to information embodied therein and no Party may contribute, transfer or disclose any JDP Inventions, JDP Work Product, JDP Process Nodes, JDP Designs or IP Rights or Patent Rights therein to any Third Party except as provided in Section 6.2.

6.2 Permitted Disclosures. Notwithstanding the restrictions in Section 6.1:

(a) NTC and Micron may contribute, transfer and disclose any Confidential Information described in Section 6.1(b) to their respective Existing Entities and wholly owned Subsidiaries, *provided that*, at the time of such contribution, transfer or disclosure, such Existing Entity is an Affiliate of the Party seeking to contribute, transfer or disclose such Confidential Information.

(b) Each of Micron and NTC may disclose the JDP Inventions and related Confidential Information, as the case may be, to its patent attorneys and patent agents and any Governmental Entity as deemed by Micron or NTC necessary to conduct Patent Prosecution on the JDP Inventions owned by such Party.

(c) Micron may disclose any Confidential Information described in Section 6.1 to any Third Party who is not a manufacturer of [***], *provided that* each such disclosure shall not grant or purport to grant, explicitly, by implication by estoppel or otherwise, to the Third Party any right, title or interest in, to or under any Patent Rights of NTC, including Patent Rights of NTC in JDP Inventions and shall be subject to a written obligation of confidentiality that is no less restrictive than that applicable to the Parties under the Mutual Confidentiality Agreement.

(d) NTC may disclose any Confidential Information described in Section 6.1(b) to any Third Party who is not a manufacturer of [***], *provided that* each such disclosure shall not grant or purport to grant, explicitly, by implication by estoppel or otherwise, to the Third Party any right, title or interest in, to or under any Patent Rights of Micron, its Existing Entities or Intel Corporation, including Patent Rights of Micron on JDP Inventions and shall be subject to a written obligation of confidentiality that is no less restrictive than that applicable to the Parties under the Mutual Confidentiality Agreement. [***].

(e) [***]

6.3 Conflicts. To the extent there is a conflict between this Agreement and the Mutual Confidentiality Agreement, the terms of this Agreement shall control.

ARTICLE 7
WARRANTIES; DISCLAIMERS

7.1 No Implied Obligation. Nothing contained in this Agreement shall be construed as:

(a) a warranty or representation that any manufacture, sale, lease, use or other disposition of any products based upon JDP Work Product or JDP Inventions will be free from infringement, misappropriation or other violation of any Patent Rights, IP Rights or other intellectual property rights of any Person;

(b) an agreement to bring or prosecute proceedings against Third Parties for infringement or conferring any right to bring or prosecute proceedings against Third Parties for infringement; or

(c) conferring any right to use in advertising, publicity, or otherwise, any trademark, trade name or names, or any contraction, abbreviation or simulation thereof, of either Party.

7.2 Third Party Software. Use of any JDP Inventions or JDP Work Product exchanged between the Parties under this Agreement may require use of Software owned by a Third Party and not subject to any license granted under any of the Joint Venture Documents. Nothing in this Agreement shall be construed as granting to any Party, any right, title or interest in, to or under any Software owned by any Third Party. Except as may be specified otherwise in any of the other Joint Venture Documents, any such Software so required is solely the responsibility of the each of the Parties. Moreover, should a Party who transfers technology under this Agreement discover after such transfer that it has provided Software to the other Party that it was not entitled to provide, such providing Party shall promptly notify the other Party and the recipient shall return such Software to the providing Party and not retain any copy thereof.

7.3 Disclaimer. [***].

ARTICLE 8
INDEMNIFICATION; LIMITATION OF LIABILITY

8.1 Indemnification.

(a) Micron shall indemnify and hold harmless NTC, its Affiliates and their respective directors, officers, employees, agents and other representatives ("**NTC Indemnitees**") from and against any and all Losses suffered by the NTC Indemnitees relating to personal injury (including death) or property damage to the extent such injury or damage was caused by the gross negligence or willful misconduct of any employee of Micron or its Affiliate while at any facilities of NTC or its Affiliate and such gross negligence, willful misconduct or Losses were not caused by any NTC Indemnitee.

(b) NTC shall indemnify and hold harmless Micron, its Affiliates and their respective directors, officers, employees, agents and other representatives ("**Micron Indemnitees**") from and against any and all Losses suffered by the Micron Indemnitees relating to personal injury (including death) or property damage to the extent such injury or damage was caused by the gross negligence or willful misconduct of any employee of NTC or its Affiliate while at any facilities of Micron or its Affiliate and such gross negligence, willful misconduct or Losses were not caused by any Micron Indemnitee.

8.2 Indemnity Procedure.

(a) Any Person who or which is entitled to seek indemnification under Section 8.1 (an "**Indemnified Party**") shall promptly notify the other Party ("**Indemnifying Party**") of any such Losses for which it seeks indemnification hereunder. Failure of the Indemnified Party to give such notice shall not relieve the Indemnifying Party from Losses on account of this indemnification, except if and only to the extent that the Indemnifying Party is actually prejudiced thereby. Thereafter, the Indemnified Party shall deliver to the Indemnifying Party, promptly after the Indemnified Party's receipt thereof, copies of all notices and documents (including court papers) received by the Indemnified Party relating to the Losses and underlying facts and circumstances. The Indemnifying Party shall have the right to assume the defense of the Indemnified Party with respect to any legal action relating to such Losses ("**Indemnified Claim**") upon written notice to the Indemnified Party delivered within thirty (30) days after receipt of the particular notice from the Indemnified Party.

(b) So long as the Indemnifying Party has assumed the defense of the Indemnified Claim in accordance herewith and notified the Indemnified Party in writing thereof, (1) the Indemnified Party may retain separate co-counsel, at its sole cost and expense, and participate in the defense of the Indemnified Claim, it being understood that the Indemnifying Party shall pay all reasonable costs and expenses of counsel for the Indemnified Party after such time as the Indemnified Party has notified the Indemnifying Party of such Indemnified Claim and prior to such time as the Indemnifying Party has notified the Indemnified Party that it has assumed the defense of such Indemnified Claim, (2) the Indemnified Party shall not consent to the entry of any judgment or enter into any settlement with respect to a Indemnified Claim without the prior written consent of the Indemnifying Party (not to be unreasonably withheld, conditioned or delayed) and (3) the Indemnifying Party will not consent to the entry of any judgment or enter into any settlement with respect to the Indemnified Claim to be paid by an Indemnifying Party (other than a judgment or settlement that is solely for money damages and is accompanied by a release of all indemnifiable claims against the Indemnified Party) without the prior written consent of the Indemnified Party (not to be unreasonably withheld, conditioned or delayed).

(c) The Indemnified Party and Indemnifying Party shall cooperate in the defense of each Indemnified Claim (and the Indemnified Party and the Indemnifying Party agree with respect to all such Indemnified Claims that a common interest privilege agreement exists between them), including by (1) permitting the Indemnifying Party to discuss the Indemnified Claim with such officers, employees, consultants and representatives of the Indemnified Party as the Indemnifying Party reasonably requests, (2) providing to the Indemnifying Party copies of documents and samples of products as the Indemnifying Party reasonably requests in connection

with defending such Indemnified Claim, (3) preserving all properties, books, records, papers, documents, plans, drawings, electronic mail and databases relating to matters pertinent to the Indemnified Claim and under the Indemnified Party's custody or control in accordance with such Party's corporate documents retention policies, or longer to the extent reasonably requested by the Indemnified Party, (4) notifying the Indemnifying Party promptly of receipt by the Indemnified Party of any subpoena or other third party request for documents or interviews and testimony, and (5) providing to the Indemnifying Party copies of any documents produced by the Indemnified Party in response to, or compliance with, any subpoena or other third party request for documents. In connection with any claims, unless otherwise ordered by a court, the Indemnified Party shall not produce documents to a Third Party until the Indemnifying Party has been provided a reasonable opportunity to review, copy and assert privileges covering such documents, except to the extent (x) inconsistent with the Indemnified Party's obligations under Applicable Law and (y) where to do so would subject the Indemnified Party or its employees, agents or representatives to criminal or civil sanctions.

8.3 Limitation of Liability. [***]

ARTICLE 9
TERM AND TERMINATION

9.1 Term. The term of this Agreement commences on the Effective Date and continues in effect until terminated in accordance with Section 9.2. (The period from the Effective Date until termination is the "**Term**").

9.2 Termination of this Agreement.

(a) Unless otherwise mutually agreed, [***].

(b) Either Party may terminate this Agreement [***].

(c) Either Party may terminate this Agreement by notice to the other Party if the other Party commits a material breach of this Agreement and such breach remains uncured [***] of the breach.

(d) Either Party may terminate this Agreement immediately upon notice to the other Party in the event of either (i) a Change of Control of the other Party; (ii) the other Party becomes bankrupt or insolvent, or files a petition in bankruptcy or makes a general assignment for the benefit of creditors or otherwise acknowledges in writing insolvency, or is adjudged bankrupt, and such Party (A) fails to assume this Agreement in any such bankruptcy proceeding within thirty (30) days after filing or (B) assumes and assigns this Agreement to a Third Party in violation of Section 10.3; (iii) the other Party goes into or is placed in a process of complete liquidation; (iv) a trustee or receiver is appointed for any substantial portion of the business of the other Party and such trustee or receiver is not discharged within sixty (60) days after appointment; (v) any case or proceeding shall have been commenced or other action taken against the other Party in bankruptcy or seeking liquidation, reorganization, dissolution, a winding-up arrangement, composition or readjustment of its debts or any other relief under any bankruptcy, insolvency, reorganization or similar act or law of any jurisdiction now or hereafter

in effect and is not dismissed or converted into a voluntary proceeding governed by clause (ii) above within sixty (60) days after filing; or (vi) there shall have been issued a warrant of attachment, execution, distraint or similar process against any substantial part of the property of the other Party and such event shall have continued for a period of sixty (60) days and none of the following has occurred: (A) it is dismissed, (B) it is bonded in a manner reasonably satisfactory to the other of Micron or NTC, or (C) it is discharged.

(e) [***] may terminate this Agreement in accordance with Section III.D.5 of Schedule 2.

9.3 SOWs.

(a) The term of any SOW (together with the portions of this Agreement applicable to such SOW(s)) commences upon the effective date set forth in the SOW and continues in effect until the first to occur of: (i) completion of the work to be performed thereunder, as determined in accordance with the applicable SOW and (ii) the JDP Committee agrees to terminate the work under a SOW or the SOW.

(b) Micron or NTC may terminate any SOW by notice to the other Party if such other Party commits a material breach of this Agreement with respect to such SOW and such breach remains uncured for more than thirty (30) days after notice of the breach.

(c) Termination of any or all SOW(s) does not automatically terminate this Agreement. Termination of this Agreement automatically terminates all SOW(s), unless otherwise mutually agreed by Micron and NTC.

9.4 Effects of Termination.

(a) Termination of this Agreement shall not affect any of the Parties' respective rights accrued or obligations owed before termination. In addition, the following shall survive termination of this Agreement for any reason: Articles 1, 4, 6, 7, 8 and 10 and Sections 5.1, 5.2(b) and 5.2(c), 5.3 through 5.6, 5.8 and 9.4.

(b) Upon termination of any SOW for any reason, each Party's delivery obligation with respect to any JDP Work Product produced thereunder before such termination shall survive such termination. Moreover, termination of a SOW shall not affect payment obligations accrued prior to the date of such termination in connection with such SOW.

(c) The JDP Committee and the Patent Review Committee shall continue to exist and operate in accordance with Schedule 2 after termination as long as necessary to continue to carryout the provisions of this Agreement that survive termination in accordance therewith.

(d) Upon termination of this Agreement by a Deadlock Terminating Party, each of the Parties shall have those post-termination obligations specified in Section III.D.5 of Schedule 2 for the Post Termination Funding Period, if applicable.

ARTICLE 10
MISCELLANEOUS

10.1 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given upon (a) transmitter's confirmation of a receipt of a facsimile transmission, (b) confirmed delivery by a standard overnight carrier or when delivered by hand, or (c) delivery in person, addressed at the following addresses (or at such other address for a party as shall be specified by like notice):

If to NTC: Nanya Technology Corporation
Hwa-Ya Technology Park 669
Fuhsing 3 RD. Kueishan
Taoyuan, Taiwan, ROC
Attention: Legal Department
Fax: 886.3.396.2226

If to Micron: Micron Technology, Inc.
8000 S. Federal Way
Mail Stop 1-507
Boise, ID 83716
Attention: General Counsel
Fax: 208.368.4537

10.2 Waiver. The failure at any time of a Party to require performance by the other Party of any responsibility or obligation required by this Agreement shall in no way affect a Party's right to require such performance at any time thereafter, nor shall the waiver by a Party of a breach of any provision of this Agreement by the other Party constitute a waiver of any other breach of the same or any other provision nor constitute a waiver of the responsibility or obligation itself.

10.3 Assignment. [***]

10.4 Third Party Rights. Nothing in this Agreement, whether express or implied, is intended or shall be construed to confer, directly or indirectly, upon or give to any Person, other than the Parties hereto, any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenant, condition or other provision contained herein.

10.5 Force Majeure. The Parties shall be excused from any failure to perform any obligation hereunder to the extent such failure is caused by a Force Majeure Event.

10.6 Choice of Law. Except as provided in Sections 5.2 (b) and (c), this Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, USA, without giving effect to the principles of conflict of laws thereof.

10.7 Jurisdiction; Venue. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement shall be

brought in a state or federal court of competent jurisdiction located in the State of California, USA, and each of the Parties to this Agreement hereby consents and submits to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum.

10.8 Headings. The headings of the Articles and Sections in this Agreement are provided for convenience of reference only and shall not be deemed to constitute a part hereof.

10.9 Export Control. Each Party agrees that it will not knowingly: (a) export or re-export, directly or indirectly, any technical data (as defined by the U.S. Export Administration Regulations) provided by the other Party or (b) disclose such technical data for use in, or export or re-export directly or indirectly, any direct product of such technical data, including Software, to any destination to which such export or re-export is restricted or prohibited by United States or non-United States law, without obtaining prior authorization from the U.S. Department of Commerce and other competent Government Entities to the extent required by Applicable Laws.

10.10 Entire Agreement. This Agreement, together with its Schedules and SOWs and the agreements and instruments expressly provided for herein, including the applicable terms of the other Joint Venture Documents, constitute the entire agreement of the Parties hereto with respect to the subject matter hereof and supersede all prior agreements and understandings, oral and written, between the Parties hereto with respect to the subject matter hereof.

10.11 Severability. Should any provision of this Agreement be deemed in contradiction with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Agreement shall remain in full force in all other respects. Should any provision of this Agreement be or become ineffective because of changes in Applicable Laws or interpretations thereof, or should this Agreement fail to include a provision that is required as a matter of law, the validity of the other provisions of this Agreement shall not be affected thereby. If such circumstances arise, the Parties hereto shall negotiate in good faith appropriate modifications to this Agreement to reflect those changes that are required by Applicable Law.

10.12 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

< Signature page follows >

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the Effective Date.

NANYA TECHNOLOGY CORPORATION

By: /s/ Jih Lien

Name: Jih Lien

Title: President

MICRON TECHNOLOGY, INC.

By: /s/ D. Mark Durcan

Name: D. Mark Durcan

Title: President and Chief Operating Officer

THIS IS THE SIGNATURE PAGE FOR THE JOINT DEVELOPMENT PROGRAM AGREEMENT ENTERED INTO BY AND BETWEEN NTC AND MICRON

DLI-6195530v3

Schedule 1

SOWs as of Effective Date

[***]

(All the above, as attached.)

Schedule 2

JDP Committee and Patent Review Committee Charter

I. **Definitions**. For purposes of this Schedule 2 only, the following terms shall have the meaning ascribed to them below:

"**Committee**"" means either the JDP Committee or the Patent Review Committee.

"**Deadlock**" has the meaning provided in Section III.D.3. of this Schedule 2.

"**JDP Co-Chairman**" and "**JDP Co-Chairmen**" shall have the meaning provided in Section III.B. of this Schedule 2.

"**Micron Matter**" means [***].

"**Manufacturing Committee**" means the committee formed by MNL and NTC pursuant to the Joint Venture Agreement.

"**Member**" means a member of the JDP Committee or Patent Review Committee appointed by a Party pursuant to Section III.A.1 of this Schedule 2.

"**NTC Matter**" means [***].

"**Senior Member**" has the meaning provided in Section III.B.1 of this Schedule 2.

"**Tie**" means, with respect to any vote of the JDP Committee, that the vote of Micron and the vote of NTC are not the same.

II. **Purpose and Functions of the Committees.**

A. JDP Committee. The primary purpose of the JDP Committee is to enable, coordinate and guide the activities of the Parties under this Agreement relating to the development of JDP Designs, JDP Process Nodes and other technology development activities as the JDP Committee shall determine. In fulfilling such purpose, the JDP Committee shall have the duty and authority to perform the following functions, as more fully described in the Agreement:

[***]

B. Patent Review Committee. The primary purpose of the Patent Review Committee [***]

III. **Membership and Procedure.**

A. Membership on Committees.

1. Number and Appointment of Committee Members. The JDP Committee and Patent Review Committee [***]. One-half of the Members of each Committee shall be appointed by Micron and one-half shall be appointed by NTC. The Joint Venture Company cannot appoint any Members to either Committee. The qualifications of any Member shall be determined in the discretion of the Party that appoints such Member.

2. Senior Members. Micron and NTC shall each promptly designate one (1) of the Members appointed by it to the JDP Committee to be its "**Senior Member**" pursuant to a written notice provided to the other Party. [***] Either Party may designate a new or additional Senior Member from among the Members appointed by such Party to the JDP Committee at any time upon written notice to the other Party (if any of such other Members have sufficient authority).

3. Removal and Vacancies. Each of Micron and NTC, in its sole discretion, may remove any Member appointed by it to a Committee. If any Member is so removed or resigns from a Committee or otherwise ceases to serve on a Committee for any reason (*e.g.*, by reason of the separation of such Member from employment by the Party that appointed such Member, such Member's death or disability, etc.), the Party that appointed such Member shall promptly notify the other Party of such Member's withdrawal from the Committee. Any vacancy on a Committee shall be filled by the Party that appointed the Member who has ceased to serve on the Committee.

B. Co-Chairmen of the JDP Committee. Each of Micron and NTC shall have the right to designate one of the Members that it appoints to the JDP Committee as a co-chairman of the JDP Committee (each, a "**JDP Co-Chairman**" and together the "**JDP Co-Chairmen**"). [***]

C. Voting. [***]

D. Deadlock.

1. Micron Matters; NTC Matters. [***]

2. [***]

3. [***]

4. [***]

5. [***]

E. Notice; Waiver; Meeting Location. The JDP Committee and Patent Review Committee each shall hold meetings at least quarterly and upon not less than

fifteen (15) Business Days' written notice. Additional meetings of a Committee shall be held (A) at such other times as may be determined by the Committee, (B) at the request of at least two (2) Members of the Committee, upon not less than five (5) Business Days' written notice or (C) in accordance with Section III.D.3 of this Schedule 2, following a failure by the JDP Committee to adopt or reject a proposal for action presented to it. The Co-Chairmen shall endeavor to agree upon the location of each meeting of the JDP Committee. If they fail to agree with respect to any such meeting, then they shall alternate, with one Co-Chairman deciding upon the location of such meeting, and then the other Co-Chairman deciding upon the location of the following meeting, etc. For purposes of this Schedule 2, notice may be provided via facsimile, email or any other manner provided in Section 10.1 of this Agreement, or by telephonic notice to each Member. The presence of any Member at a meeting shall constitute a waiver of notice of the meeting with respect to such Member, unless such Member declares at the meeting that such Member objects to the notice as having been improperly given. Each Committee shall cause written minutes to be prepared of all actions taken by the Committee and shall cause a copy thereof to be delivered to each Member within fifteen (15) Business Days.

F. Action Without a Meeting. On any matter that is to be voted on, consented to or approved by a Committee, the Committee may take such action without a meeting, without prior notice and without a vote if a consent or consents in writing, setting forth the action so taken, shall be signed by both Senior Members of the JDP Committee or all members of the Patent Review Committee.

G. Meetings by Telecommunications. Unless a Committee determines otherwise, Members of a Committee shall have the right to participate in all meetings of the Committee by means of a conference telephone or similar telecommunications service by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at a meeting. Any reference in this Schedule 2 to attendance or participation by a Member at a meeting of the JDP Committee shall be deemed to refer to attendance in person or attendance by means of a telecommunications service pursuant to this Section III.G of this Schedule 2.

H. Compensation of Members of Committees. The Members of a Committee, in their capacity as such, shall not receive compensation, except with respect to any Member as such Member and the Party that appointed such Member shall otherwise mutually agree. Each Party shall bear the cost and expenses incurred by its appointed Members of a Committee in connection with the activities of the Committee.

Schedule 3

Potential Deliverables For Each Stack DRAM Design Developed under a Design SOW

Deliverables as listed in this Schedule can be added, amended, or removed for each SOW as approved by the JDP.

[***]

Schedule 4

Payment of SOW Costs and Reporting

I. **Cost Contribution.** [***]

II. **SOW Costs.**

A. The term "**SOW Costs**" as it applies to the costs associated with a Party's development activities under individual SOWs, or as part of the annual budget adopted by the JDP Committee, means, any of the following types of costs relating to a Party's activities under that SOW, as calculated in accordance with U.S. GAAP for Micron and in accordance with Republic of China GAAP for NTC and each such Party's internal accounting practices thereunder as consistently applied:

[***]

B. Cost Segregation and Allocation Principles.

[***]

III. **Cost Reports.**

[***]

IV. **Parties' Respective Share of Costs.** [***]

V. **Payments.**

A. [***]

B. [***]

C. [***]

D. [***]

E. [***] Section 10.1. Such reports and invoices should be sent to the following contacts or such other contact as may be specified hereafter pursuant to a notice sent in accordance with Section 10.1:

1. Reports and Invoices to NTC:

[***]
Nanya Technology Corp.

Hwa-Ya Technology Park 669, Fuhsing 3 RD. Kueishan Taoyuan, Taiwan, R. O. C.
[***]

2. Reports to Micron:

[***]
Micron Technology, Inc.
8000 S. Federal Way
P.O. Box 6, MS 1-720
Boise, Idaho, USA 83707-0006
[***]

3. Invoices to Micron:

[***]
Micron Technology, Inc.
8000 S. Federal Way
P.O. Box 6, MS 1-106
Boise, Idaho, USA 83707-0006
[***]

F. Payments. All payments under this Agreement shall be made in United States Dollars by wire transfer to a bank account of Micron designated by the following person or such other manner designated by such person:

1. Payments to Micron:

[***]
8000 S. Federal Way
P.O. Box 6, MS 1-107
Boise, Idaho, USA 83707-0006
[***]

2. Payments to Papaya:

[***]
Nanya Technology Corp.
Hwa-Ya Technology Park 669, Fuhsing 3 RD. Kueishan Taoyuan, Taiwan, R. O. C.
[***]

VI. **Audit Rights; Records.** Each of Micron and NTC shall have the right to have an independent auditor audit not more than twice per calendar year, upon reasonable advance written notice, during normal business hours and on a confidential basis subject to the Mutual Confidentiality Agreement, all records and accounts of the other such Party

and of the Joint Venture Company relevant to the calculation of SOW Costs and sharing thereof under this Schedule in the [***] immediately preceding the date of the audit; *provided however*, neither Party shall be obligated to provide any records and book of accounts existing prior to the Effective Date. Each Party shall for at least [***] from the date of their creation, keep complete and accurate records and books of accounts relevant to such calculations in sufficient detail to enable a complete and detailed audit to be conducted. The Party who performs any such audit shall provide a report of its findings to the other Party promptly upon completion of the audit. The Parties will promptly correct any discrepancies in the amount of SOW Costs incurred and/or shared by Micron and NTC contrary to that intended by this Schedule.

Schedule 5

Pooling Ratios

[***]

Schedule 6

Existing Entities as of the Effective Date

Micron Existing Entities:

[***]

NTC Existing Entities:

[***]

Schedule 7

JDP Potential Scope of Product Engineering

[***]

Schedule 8

Qualification

Process Qualification or Design Qualification, as it pertains to any particular SOW, could be defined in the SOW to include any or all of the following (or additional things) and likely will be different between Stack DRAM Designs for Stack DRAM Modules and Stack DRAM Products:

I. **Process Qualification:**

A. Method:

[***]

B. Tests that could be performed include: [***]

II. **Design Qualification:**

A. Method:

[***]

B. Measurements that could be taken include: [***]

Schedule 9

Process SOW Documentation and Deliverables

Documentation and deliverables in an SOW could include some or all of the following (or additional things):

[***]

Schedule 10

Example Staged Process Flow for Technology Transfer

[***]

EXHIBIT 10.55

[***] DENOTES CONFIDENTIAL MATERIALS OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO A R EQUEST FOR CONFIDENTIAL TREATMENT

Micron NTC CONFIDENTIAL

TECHNOLOGY TRANSFER AND LICENSE AGREEMENT FOR 68-50nm PROCESS NODES

This **TECHNOLOGY TRANSFER AND LICENSE AGREEMENT FOR 68-50nm PROCESS NODES** (this "**Agreement**"), is made and entered into as of this 21st day of April, 2008 ("**Effective Date**"), by and between Micron Technology, Inc., a Delaware corporation ("**Micron**"), and Nanya Technology Corporation (Nanya Technology Corporation [Translation from Chinese]), a company incorporated under the laws of the Republic of China ("**NTC**"). (Micron and NTC are referred to in this Agreement individually as a "**Party**" and collectively as the "**Parties**").

RECITALS

A. Micron has developed technology for 68nm and 50nm Process Nodes for the manufacture of Stack DRAM Products.

B. NTC desires to have such technology transferred to NTC for its use in the manufacture of Stack DRAM Products, and Micron intends to so transfer such technology to NTC and license NTC thereunder.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, the Parties, intending to be legally bound, hereby agree as follows.

ARTICLE 1

DEFINITIONS; CERTAIN INTERPRETATIVE MATTERS

1.1 Definitions.

"**Adjusted Revenues**" means[***].

"**Affiliate**" means, with respect to any specified Person, any other Person that directly or indirectly, including through one or more intermediaries, controls, or is controlled by, or is under common control with such specified Person; and the term "**affiliated**" has a meaning correlative to the foregoing.

"**Agreement**" shall have the meaning set forth in the preamble to this Agreement.

"**Applicable Law**" means any applicable laws, statutes, rules, regulations, ordinances, orders, codes, arbitration awards, judgments, decrees or other legal requirements of any Governmental Entity.

"**BEOL Costs**" means [***].

"Commodity Stack DRAM Products" means Stack DRAM Products for system main memory for computing or Mobile Devices, in each case that are fully compliant with one or more Industry Standard(s).

"**Confidential Information**" means that information described in Section 8.1 deemed to be "Confidential Information" under the Mutual Confidentiality Agreement.

"**Control**" (whether capitalized or not) means the power or authority, whether exercised or not, to direct the business, management and policies of a Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, which power or authority shall conclusively be presumed to exist upon possession of beneficial ownership or power to direct the vote of [***] of the votes entitled to be cast at a meeting of the members, shareholders or other equity holders of such Person or power to control the composition of a majority of the board of directors or like governing body of such Person; and the terms "**controlling**" and "**controlled**" have meanings correlative to the foregoing.

"**DRAM Product**" means any stand-alone semiconductor device that is a dynamic random access memory device and that is designed or developed primarily for the function of storing data, in die, wafer or package form.

"**Effective Date**" shall have the meaning set forth in the preamble to this Agreement.

"**Force Majeure Event**" means the occurrence of an event or circumstance beyond the reasonable control of a Party and includes, without limitation, (a) explosions, fires, flood, earthquakes, catastrophic weather conditions, or other elements of nature or acts of God; (b) acts of war (declared or undeclared), acts of terrorism, insurrection, riots, civil disorders, rebellion or sabotage; (c) acts of federal, state, local or foreign Governmental Entity; (d) labor disputes, lockouts, strikes or other industrial action, whether direct or indirect and whether lawful or unlawful; (e) failures or fluctuations in electrical power or telecommunications service or equipment; and (f) delays caused by the other Party or third-party nonperformance (except for delays caused by a Party's Contractors, subcontractors or agents).

"**Foundry Customer**" means a Third Party customer for Stack DRAM Products [***].

"**Foundry Customer Adjusted Revenues**" means [***].

"**Foundry Customer Products**" means [***].

"**Governmental Entity**" means any governmental authority or entity, including any agency, board, bureau, commission, court, municipality, department, subdivision or instrumentality thereof, or any arbitrator or arbitration panel.

"**Gross Revenues**" means, [***].

"Industry Standard" means the documented technical specifications that set forth the pertinent technical and operating characteristics of a DRAM Product if such specifications are publicly available for use by DRAM manufacturers, and if [***].

"**IP Rights**" means copyrights, rights in trade secrets, Mask Work Rights and pending applications or registrations of any of the foregoing anywhere in the world. The term "IP Rights" does not include any Patent Rights or rights in trademarks.

"**Mask Work Rights**" means rights under the United States Semiconductor Chip Protection Act of 1984, as amended from time to time, or under any similar equivalent laws in countries other than the United States.

"Micron" shall have the meaning set forth in the preamble to this Agreement.

"**Micron IP Royalties**" mean [***].

"Mobile Device" means a handheld or portable device using as its main memory one or more Stack DRAM Products that is/are compliant with an Industry Standard and [***].

"**NTC Products**" means [***].

"**NTC Qualified Fab**" means [***].

"**Patent Rights**" means all rights associated with any and all issued and unexpired patents and pending patent applications in any country in the world, together with any and all divisionals, continuations, continuations-in-part, reissues, reexaminations, extensions, foreign counterparts or equivalents of any of the foregoing, wherever and whenever existing.

"**Probe Testing**" means testing, using a wafer test program as set forth in the applicable specifications, of a wafer that has completed all processing steps deemed necessary to complete the creation of the desired Stack DRAM integrated circuits in the die on such wafer, the purpose of which test is to determine how many and which of the die meet the applicable criteria for such die set forth in the specifications.

"**Process Node**" means [***].

"**Recoverable Taxes**" shall have the meaning set forth in Section 4.8(a).

"**Stack DRAM**" means dynamic random access memory cell that functions by using a capacitor arrayed predominantly above the semiconductor substrate.

"Stack DRAM Module" means one or more Stack DRAM Products in a JEDEC-compliant package or module (whether as part of a SIMM, DIMM, multi-chip package, memory card or other memory module or package).

"Stack DRAM Product" means any memory comprising Stack DRAM, whether in die or wafer form.

"**Tax**" or "**Taxes**" means any federal, state, local or foreign net income, gross income, gross receipts, sales, use ad valorem, transfer, franchise, profits, service, service use, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, customs, duties or other type of fiscal levy and all other taxes, governmental fees, registration fees, assessments or charges of any kind whatsoever, together with any interest and penalties, additions to tax or additional amounts imposed or assessed with respect thereto.

"**Taxing Authority**" means any Governmental Entity exercising any authority to impose, regulate or administer the imposition of Taxes.

"**Third Party**" means any Person other than NTC or Micron.

"**Transferred Technology**" means [***].

1.2 Certain Interpretive Matters.

(a) Unless the context requires otherwise, (1) all references to Sections, Articles, Exhibits, Appendices or Schedules are to Sections, Articles, Exhibits, Appendices or Schedules of or to this Agreement, (2) each accounting term not otherwise defined in this Agreement has the meaning commonly applied to it in accordance with GAAP, (3) words in the singular include the plural and vice versa, (4) the term "**including**" means "including without limitation," and (5) the terms "**herein**," "**hereof**," "**hereunder**" and words of similar import shall mean references to this Agreement as a whole and not to any individual section or portion hereof. Unless otherwise denoted, all references to $ or dollar amounts will be to lawful currency of the United States of America. All references to "**day**" or "**days**" will mean calendar days.

(b) No provision of this Agreement will be interpreted in favor of, or against, either Party by reason of the extent to which (1) such Party or its counsel participated in the drafting thereof or (2) any such provision is inconsistent with any prior draft of this Agreement or such provision.

ARTICLE 2

LICENSE GRANT

2.1 Micron Grant to NTC. Subject to the terms and conditions of this Agreement, Micron grants to NTC a [***] license to [***]:

(a) [***]

(b) [***]

2.2 [***].

ARTICLE 3

TRANSFER OF TECHNOLOGY

3.1 Delivery of Micron Transferred Technology to NTC. Starting promptly after the Effective Date and ending no later than [***] after the Effective Date, to the extent not previously delivered, Micron shall deliver to NTC [***] as of the Effective Date, using delivery methods commonly used in the industry and in accordance with Micron's typical technology transfer process used between its own facilities, which process is outlined on Schedule 3. Except as provided in Section 3.2, the foregoing obligation does not require Micron to create, make, adapt, develop, modify and/or translate any such information or materials. NTC may at any time request Micron in writing to supplement its prior disclosures of such Transferred Technology with any items NTC believes to be missing or incomplete from such disclosures; however, with respect to the subject matter of any such requests made after [***] after the date that Micron notifies NTC that its delivery obligation is complete, [***].

3.2 Preproduction Wafers. Within [***] after the Effective Date, Micron shall, [***], provide to NTC [***]. On a schedule mutually agreed, Micron shall, [***], provide to [***].

3.3 Engineering Services. As reasonably requested by NTC from time to time and to the extent fulfilling such request would not cause disruption of Micron's operations, Micron will provide to NTC engineering support for its implementation of the Transferred Technology in NTC Qualified Fabs.

ARTICLE 4

PRICES AND PAYMENTS

4.1 License Fees. For the rights granted to NTC under the Transferred Technology, Micron shall invoice NTC for the amounts set forth on Schedule 4, and NTC shall pay the amount due thereon upon the later of: (a) the date when each such amount becomes due as indicated on Schedule 4 and (b) thirty (30) days after the date of invoice.

4.2 Royalties for Transferred Technology.

(a) In addition to the amounts due for the transfer of Transferred Technology under Section 4.1, NTC shall pay to Micron [***].

(b) In addition to the amounts due for the transfer of Transferred Technology under Section 4.1, NTC shall pay to Micron [***].

(c) If a Stack DRAM Product or Stack DRAM Module originally manufactured by a NTC Qualified Fab is sold or otherwise transferred to an Affiliate of NTC [***].

(d) Micron IP Royalties payable under this Section 4.2 are due only for [***]

4.3 Royalty Reporting and Payment. Within sixty (60) days following[***] for so long as any Micron IP Royalties are payable hereunder, NTC shall submit to Micron a written report, which is certified by NTC's chief financial officer as complete and correct, setting forth in reasonable detail, [***]. NTC shall pay to Micron all Micron IP Royalties due for such [***] contemporaneously with the submission of such report in accordance with Section 4.6.

4.4 Audit Rights and Records. Micron shall have the right to have an independent Third Party auditor audit [***], upon reasonable advance written notice, during normal business hours and on a confidential basis subject to an obligation of confidentiality, all records and accounts of NTC relevant to the calculation of Micron IP Royalties in the three (3) year period immediately preceding the date of the audit; *provided however*, NTC shall not be obligated to provide any records and book of accounts existing prior to the Effective Date. NTC shall, for at least a period of three (3) years from the date of their creation, keep complete and accurate records and books of accounts concerning all transactions relevant to calculation of Micron IP Royalties in sufficient detail to enable a complete and detailed audit to be conducted. [***].

4.5 Engineering Service Fees. Micron shall charge NTC for any engineering services provided by Micron to NTC under Section 3.3 for [***]. If any employee(s) of Micron are required to provide such services at a location other than his/her/their normal working location, then [***]. Micron will invoice NTC for all such costs and expenses monthly as incurred. NTC will pay Micron the amount due within thirty (30) days of receipt of invoice.

4.6 Reports and Invoices; Payments.

(a) All reports and invoices under this Agreement may be sent by any method described in Section 9.1 or electronically with hardcopy confirmation sent promptly thereafter by any method described in Section 9.1. Such reports and invoices should be sent to the following contacts or such other contact as may be specified hereafter pursuant to a notice sent in accordance with Section 9.1:

(i) Invoices to NTC:

[***]
Nanya Technology Corp.
Hwa-Ya Technology Park 669, Fuhsing 3 Rd. Kueishan, Taoyuan, Taiwan, R. O. C.
Fax: [***]
E-Mail: [***]

(ii) Reports to Micron:

[***]
8000 S. Federal Way
P.O. Box 6, MS 1-720
Boise, Idaho, USA 83707-0006
Fax: [***]
Email: [***]

(b) All amounts owed by a Party under this Agreement are stated, calculated and shall be paid in United States Dollars ($ U.S.).

(c) Payment is due on all amounts properly invoiced within thirty (30) days of receipt of invoice. All payments made under this Agreement shall be made by wire transfer to a Micron bank account designated by the following person or by such other person designated by notice:

Payments to Micron:

[***]
8000 S. Federal Way
P.O. Box 6, MS 1-107
Boise, Idaho, USA 83707-0006
Fax: [***]
Email: [***]

4.7 Interest. Any amounts payable to Micron hereunder and not paid within the time period provided shall accrue interest, from the time such payment was due until the time payment is actually received, at the rate of [***] or the highest rate permitted by Applicable Law, whichever is lower.

4.8 Taxes.

(a) All sales, use and other transfer Taxes imposed directly on or solely as a result of the services, rights licensed or technology transfers or the payments therefor provided herein shall be stated separately on the service provider's, licensor's or technology transferor's invoice, collected from the service recipient, licensee or technology transferee and shall be remitted by service provider, licensor or technology transferor to the appropriate Taxing Authority ("**Recoverable Taxes**"), unless the service recipient, licensee or technology transferee provides valid proof of tax exemption prior to the Effective Date or otherwise as permitted by law prior to the time the service provider, licensor or technology transferor is required to pay such taxes to the appropriate Taxing Authority. When property is delivered, rights granted and/or services are provided or the benefit of services occurs within jurisdictions in which collection and remittance of Taxes by the service recipient, licensee or technology transferee is required by law, the service

recipient, licensee or technology transferee shall have sole responsibility for payment of said Taxes to the appropriate Taxing Authority. In the event any Taxes are Recoverable Taxes and the service provider, licensor or technology transferor does not collect such Taxes from the service recipient, licensee or technology transferee or pay such Taxes to the appropriate Governmental Entity on a timely basis, and is subsequently audited by any Taxing Authority, liability of the service recipient, licensee or technology transferee will be limited to the Tax assessment for such Recoverable Taxes, with no reimbursement for penalty or interest charges or other amounts incurred in connection therewith. Except as provided in Section 4.8(b), Taxes other than Recoverable Taxes shall not be reimbursed by the service recipient, licensee or technology transferee, and each Party is responsible for its own respective income Taxes (including franchise and other Taxes based on net income or a variation thereof), Taxes based upon gross revenues or receipts, and Taxes with respect to general overhead, including but not limited to business and occupation Taxes, and such Taxes shall not be Recoverable Taxes.

(b) In the event that the service recipient, licensee or technology transferee is prohibited by Applicable Law from making payments to the service provider, licensor or technology transferor unless the service recipient, licensee or technology transferee deducts or withholds Taxes therefrom and remits such Taxes to the local Taxing Authority, then the service recipient, licensee or technology transferee shall duly withhold and remit [***].

4.9 [***]. Notwithstanding anything to the contrary in this Agreement, if requested by Micron by notice in accordance with Section 9.1, NTC will [***] until notified by Micron in accordance with Section 9.1.

ARTICLE 5

OTHER INTELLECTUAL PROPERTY MATTERS

5.1 Intellectual Properties Retained. [***].

ARTICLE 6

WARRANTIES; DISCLAIMERS

6.1 No Implied Obligation or Rights. Nothing contained in this Agreement shall be construed as:

(a) a warranty or representation that any manufacture, sale, lease, use or other disposition of any products based upon any of the IP Rights licensed or technology transferred hereunder will be free from infringement, misappropriation or other violation of any Patent Rights, IP Rights or other intellectual property rights of any Person;

(b) an agreement to bring or prosecute proceedings against Third Parties for infringement, misappropriation or other violation of rights or conferring any

right to bring or prosecute proceedings against Third Parties for infringement, misappropriation or other violation of rights; or

(c) conferring any right to use in advertising, publicity, or otherwise, any trademark, trade name or names, or any contraction, abbreviation or simulation thereof, of either Party.

6.2 Third Party Software. Exploitation of any of the rights licensed or technology transferred hereunder may require use of Software owned by a Third Party and not subject to any license granted under any of the Joint Venture Documents. Nothing in this Agreement shall be construed as granting to any Party, any right, title or interest in, to or under any Software owned by any Third Party. Except as may be specified otherwise in any of the other Joint Venture Documents, any such Software so required is solely the responsibility of the each of the Parties. Moreover, should a Party who transfers technology under this Agreement discover after such transfer that it has provided Software to the other Party that it was not entitled to provide, such providing Party shall promptly notify the other Party and the recipient shall return such Software to the providing Party and not retain any copy thereof.

6.3 Disclaimer. [***].

ARTICLE 7

LIMITATION OF LIABILITY

7.1 LIMITATION OF LIABILITY. [***]

ARTICLE 8

TERM AND TERMINATION

8.1 Term. The term of this Agreement commences on the Effective Date and continues in effect until terminated by mutual agreement or as contemplated in another agreement between the Parties or otherwise.

8.2 Termination. In the event NTC commits a material breach of this Agreement and such breach remains uncured for more than [***] after notice of the breach, Micron may terminate this Agreement by notice to NTC**.**

8.3 Effects of Termination.

(a) Termination of this Agreement hereunder shall not affect any of the Parties' respective rights accrued or obligations owed before termination. In addition, the following shall survive termination for any reason: Articles 1, 5, 6, 7 and 9 and Sections 4.3 through 4.8 and 8.3.

(b) Upon termination of this Agreement, NTC shall:

[***]

ARTICLE 9

MISCELLANEOUS

9.1 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given upon (a) transmitter's confirmation of a receipt of a facsimile transmission, (b) confirmed delivery by a standard overnight carrier or when delivered by hand, or (c) delivery in person, addressed at the following addresses (or at such other address for a party as shall be specified by like notice):

If to NTC: Nanya Technology Corporation
Hwa-Ya Technology Park 669
Fuhsing 3 RD. Kueishan
Taoyuan, Taiwan, ROC
Attention: Legal Department
Fax: 886.3.396.2226

If to Micron: Micron Technology, Inc.
8000 S. Federal Way
Mail Stop 1-507
Boise, ID 83716
Attention: General Counsel
Fax: 208.368.4537

9.2 Waiver. The failure at any time of a Party to require performance by the other Party of any responsibility or obligation required by this Agreement shall in no way affect a Party's right to require such performance at any time thereafter, nor shall the waiver by a Party of a breach of any provision of this Agreement by the other Party constitute a waiver of any other breach of the same or any other provision nor constitute a waiver of the responsibility or obligation itself.

9.3 Assignment. [***]

9.4 Third Party Rights. Nothing in this Agreement, whether express or implied, is intended or shall be construed to confer, directly or indirectly, upon or give to any Person, other than the Parties hereto, any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenant, condition or other provision

9.5 Force Majeure. The Parties shall be excused from any failure to perform any obligation hereunder to the extent such failure is caused by a Force Majeure Event.

9.6 Choice of Law. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, USA, without giving effect to the principles of conflict of laws thereof.

9.7 Jurisdiction; Venue. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement shall be brought in a state or federal court of competent jurisdiction located in the State of

California, USA, and each of the Parties to this Agreement hereby consents and submits to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum.

9.8 Headings. The headings of the Articles and Sections in this Agreement are provided for convenience of reference only and shall not be deemed to constitute a part hereof.

9.9 Export Control. Each Party agrees that it will not knowingly: (a) export or re-export, directly or indirectly, any technical data (as defined by the U.S. Export Administration Regulations) provided by the other Party or (b) disclose such technical data for use in, or export or re-export directly or indirectly, any direct product of such technical data, including Software, to any destination to which such export or re-export is restricted or prohibited by United States or non-United States law, without obtaining prior authorization from the U.S. Department of Commerce and other competent Government Entities to the extent required by Applicable Laws. \

9.10 Severability. Should any provision of this Agreement be deemed in contradiction with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Agreement shall remain in full force in all other respects. Should any provision of this Agreement be or become ineffective because of changes in Applicable Laws or interpretations thereof, or should this Agreement fail to include a provision that is required as a matter of law, the validity of the other provisions of this Agreement shall not be affected thereby. If such circumstances arise, the Parties hereto shall negotiate in good faith appropriate modifications to this Agreement to reflect those changes that are required by Applicable Law.

9.11 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

< Signature page follows >

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the Effective Date.

MICRON TECHNOLOGY, INC.

By: /s/ D. Mark Durcan
Name: D. Mark Durcan
Title: President and Chief Operating Officer

NANYA TECHNOLOGY CORPORATION

By: /s/ Jih Lien
Name: Jih Lien
Title: President

THIS IS THE SIGNATURE PAGE FOR THE TECHNOLOGY TRANSFER AND LICENSE AGREEMENT ENTERED INTO BY AND BETWEEN MICRON AND NTC

Schedule 1

Transferred Technology—Process Nodes

[***]

Schedule 2

Transferred Technology—Designs

[***]

( )

Schedule 3

Staged Process Flow for Technology Transfer

[***]

Schedule 4

License Fees and Payment Schedule

[***]

EXHIBIT 10.56

[***] DENOTES CONFIDENTIAL MATERIALS OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT

Micron NTC CONFIDENTIAL

TECHNOLOGY TRANSFER AND LICENSE AGREEMENT

This **TECHNOLOGY TRANSFER AND LICENSE AGREEMENT** (this "**Agreement**"), is made and entered into as of this 21st day of April, 2008 ("**Effective Date**"), by and between Micron Technology, Inc, a Delaware corporation ("**Micron**"), and Nanya Technology Corporation (Nanya Technology Corporation [Translation from Chinese]), a company incorporated under the laws of the Republic of China ("**NTC**"). (Micron and NTC are referred to in this Agreement individually as a "**Party**" and collectively as the "**Parties**").

RECITALS

A. Micron currently designs and manufactures Stack DRAM Products (as defined herein) and develops Process Technology (as defined herein) therefor. NTC and Micron desire to engage in joint development and/or optimization of Process Technology for process nodes of 68 nm, 50nm and other dimensions and joint development of Stack DRAM Designs for Stack DRAM Products to be manufactured on such process nodes, as the Parties may agree in the JDP Agreement.

B. To effectuate their desires, Micron will license NTC under Background IP for the design, development and manufacture of certain Stack DRAM Products. Micron and NTC will also transfer each other Foundational Know-How and license each other thereunder for the design, development and manufacture of certain Stack DRAM Products.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, the Parties, intending to be legally bound, hereby agree as follows.

ARTICLE 1

DEFINITIONS; CERTAIN INTERPRETATIVE MATTERS

1.1 Definitions.

"**Adjusted Revenues**" means [***].

"**Affiliate**" means, with respect to any specified Person, any other Person that directly or indirectly, including through one or more intermediaries, controls, or is controlled by, or is under common control with such specified Person; and the term "**affiliated**" has a meaning correlative to the foregoing.

"**Agreement**" shall have the meaning set forth in the preamble to this Agreement.

"**Applicable Law**" means any applicable laws, statutes, rules, regulations, ordinances, orders, codes, arbitration awards, judgments, decrees or other legal requirements of any Governmental Entity.

"**Background IP**" means [***].

"**BEOL Costs**" means [***].

"**Burn-In**" means [***].

"**Burn-In Document**" means a document that describes the specification of voltage and test pattern settings in the Burn-In test program. The Burn-In Document also describes the methodology of how the voltage and test pattern settings are optimized.

"**Closing**" means the remittance by NTC and MNL of the first capital contribution to the Joint Venture Company as set forth in Section 2.6 of the Joint Venture Agreement.

"Commodity Stack DRAM Products" means Stack DRAM Products for system main memory for computing or Mobile Devices, in each case that are fully compliant with one or more Industry Standard(s).

"**Confidential Information**" means that information described in Section 8.1 deemed to be "Confidential Information" under the Mutual Confidentiality Agreement.

"**Contractor**" means a Third Party who (a) is contracted by a Party in connection with work to be conducted by such Party under a SOW, (b) has agreed to assign to such contracting Party all rights in and to any inventions, discoveries, improvements, processes, copyrightable works, mask works, trade secrets or other technology that are conceived or first reduced to practice, whether patentable or not, as a result of any performance by such Third Party of any obligations of such Party under a SOW, and all Patent Rights, IP Rights and other intellectual property rights in the foregoing, and (c) has agreed to grant a license to such contracting Party, with the right to sublicense of sufficient scope that includes the other Party, under all Patent Rights, IP Rights and other rights of the Third Party reasonably necessary for such contracting Party and the other Party to exploit the work product created by the Third Party consistent with the rights granted by the contracting Party to the other Party under the Joint Venture Documents.

"**Control**" (whether capitalized or not) means the power or authority, whether exercised or not, to direct the business, management and policies of a Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, which power or authority shall conclusively be presumed to exist upon possession of beneficial ownership or power to direct the vote of [***] of the votes entitled to be cast at a meeting of the members, shareholders or other equity holders of such Person or power to control the composition of a majority of the board of directors or like governing body of such Person; and the terms "**controlling**" and "**controlled**" have meanings correlative to the foregoing.

"**Design Qualification**" means, [***].

"Design SOW" means [***].

"**DRAM Product**" means any stand-alone semiconductor device that is a dynamic random access memory device and that is designed or developed primarily for the function of storing data, in die, wafer or package form.

"**Effective Date**" shall have the meaning set forth in the preamble to this Agreement.

"Existing Entity" means [***].

"**Force Majeure Event**" means the occurrence of an event or circumstance beyond the reasonable control of a Party and includes, without limitation, (a) explosions, fires, flood, earthquakes, catastrophic weather conditions, or other elements of nature or acts of God; (b) acts of war (declared or undeclared), acts of terrorism, insurrection, riots, civil disorders, rebellion or sabotage; (c) acts of federal, state, local or foreign Governmental Entity; (d) labor disputes, lockouts, strikes or other industrial action, whether direct or indirect and whether lawful or unlawful; (e) failures or fluctuations in electrical power or telecommunications service or equipment; and (f) delays caused by the other Party or third-party nonperformance (except for delays caused by a Party's Contractors, subcontractors or agents).

"**Foundational Know-How**" means, with respect to each Party, [***].

"**Foundry Customer**" means a Third Party customer for Stack DRAM Products for [***].

"**Foundry Customer Adjusted Revenues**" means [***].

"**Foundry Customer Products**" means [***].

"**FT**" means [***].

"**GAAP**" means, with respect to Micron, United States generally accepted accounting principles, and with respect to NTC, Republic of China generally accepted accounting principles, in each case, as consistently applied by the Party for all periods at issue.

"**Gross Revenues**" means, [***].

"**Governmental Entity**" means any governmental authority or entity, including any agency, board, bureau, commission, court, municipality, department, subdivision or instrumentality thereof, or any arbitrator or arbitration panel.

"Industry Standard" means the documented technical specifications that set forth the pertinent technical and operating characteristics of a DRAM Product if such specifications are publicly available for use by DRAM manufacturers, and if [***].

"**IP Rights**" means copyrights, rights in trade secrets, Mask Work Rights and pending applications or registrations of any of the foregoing anywhere in the world. The term "IP Rights" does not include any Patent Rights or rights in trademarks.

"**JDP Agreement**" means that certain Joint Development Program Agreement by and between Micron and NTC effective as of the Effective Date referred to on Schedule 2.1 of the Master Agreement Disclosure Letter.

"**JDP Committee**" means the committee formed and operated by Micron and NTC to govern the performance of the Parties under the JDP Agreement.

"JDP Inventions" means all discoveries, improvements, inventions, developments, processes or other technology, whether patentable or not, that is/are conceived by one or more Representatives of one or more of the Parties in the course of activities conducted under the JDP Agreement.

"**JDP IP Royalties**" means [***].

"**JDP Process Node**" means any Primary Process Node or Optimized Process Node resulting from the research and development activities of the Parties pursuant the JDP Agreement.

"**JDP Work Product**" means [***].

"**Joint Venture Agreement**" means that certain Joint Venture Agreement by and between NTC and MNL effective as of the Effective Date referred to on Schedule 2.1 of the Master Agreement Disclosure Letter.

"**Joint Venture Company**" means the company formed and operated in accordance with the Joint Venture Documents.

"Joint Venture Company Joinder" means that certain Joinder of the Joint Venture Company to the Mutual Confidentiality Agreement.

"**Joint Venture Documents**" means the Master Agreement and each of the agreements listed on Schedules 2.1 through 2.5 of the Master Agreement Disclosure Letter.

"**Mask Data Processing**" means [***].

"**Mask Work Rights**" means rights under the United States Semiconductor Chip Protection Act of 1984, as amended from time to time, or under any similar equivalent laws in countries other than the United States.

"**Master Agreement**" means that certain Master Agreement by and between NTC and Micron dated as of the Effective Date.

"**Master Agreement Disclosure Letter**" means that certain Master Agreement Disclosure Letter by and between NTC and Micron dated as of Effective Date containing the Schedules required by the Master Agreement.

"Micron" shall have the meaning set forth in the preamble to this Agreement.

"**Micron IP Royalties**" mean any royalties owed by NTC to Micron under the TTLA 68-50.

"**Micron Qualified Fab**" means [***].

"**Micron Products"** means [***].

"**MNL**" means Micron Semiconductor B.V., a private limited liability company organized under the laws of the Netherlands.

"Mobile Device" means a handheld or portable device using as its main memory one or more Stack DRAM Products that is/are compliant with an Industry Standard [***].

"**Mutual Confidentiality Agreement**" means (i) prior to the Closing, that certain Mutual Confidentiality Agreement among NTC, Micron and MNL referred to on Schedule 2.1 of the Master Agreement Disclosure Letter, and (ii) following the Closing, that certain Mutual Confidentiality Agreement among NTC, Micron and MNL referred to on Schedule 2.1 of the Master Agreement Disclosure Letter, as joined by the Joint Venture Company through the Joint Venture Company Joinder.

"**NTC**" shall have the meaning set forth in the preamble to this Agreement.

"**NTC Products**" means [***].

"**NTC Qualified Fab**" means [***].

"**OPC**" means optical proximity correction of the circuit layout patterns, which is important in Mask Data Processing.

"Optimized Process Node" means [***].

"**Party**" and "**Parties**" shall have the meaning set forth in the preamble to this Agreement.

"**Patent Rights**" means all rights associated with any and all issued and unexpired patents and pending patent applications in any country in the world, together with any and all divisionals, continuations, continuations-in-part, reissues, reexaminations, extensions, foreign counterparts or equivalents of any of the foregoing, wherever and whenever existing.

"**Person**" means any natural person, corporation, joint stock company, limited liability company, association, partnership, firm, joint venture, organization, business, trust, estate or any other entity or organization of any kind or character.

"**Primary Process Node**" means [***].

"**Probe Testing**" means testing, using a wafer test program as set forth in the applicable specifications, of a wafer that has completed all processing steps deemed necessary to complete the creation of the desired Stack DRAM integrated circuits in the die on such wafer, the purpose

of which test is to determine how many and which of the die meet the applicable criteria for such die set forth in the specifications.

"**Process Development Contractor**" means [***].

"**Process Node**" means [***].

"**Process Qualification**" means, [***].

"Process SOW" means [***].

"Process Technology" means that process technology developed before expiration of the Term and utilized in the manufacture of Stack DRAM wafers, including Probe Testing and technology developed through Product Engineering thereof**,** regardless of the form in which any of the foregoing is stored, but excluding any Patent Rights and any technology, trade secrets or know-how that relate to and are used in any back-end operations (after Probe Testing).

"**Product Engineering**" means any one or more of the engineering activities described on Schedule 7 to the JDP Agreement as applied to Stack DRAM Products or Stack DRAM Modules.

"**RASL**" means that certain Restricted Activities Side Letter agreement by and between the Parties effective as of the Effective Date referred to on Schedule 2.1 to the Master Agreement Disclosure Letter.

"**Recoverable Taxes**" shall have the meaning set forth in Section 4.7(a).

"**Representative**" means with respect to a Party, any director, officer, employee, agent or Contractor of such Party or a professional advisor to such Party, such as an attorney, banker or financial advisor of such Party who is under an obligation of confidentiality to such Party by contract or ethical rules applicable to such Person.

"**Royalties**" means [***].

"**Software**" means computer program instruction code, whether in human-readable source code form, machine-executable binary form, firmware, scripts, interpretive text, or otherwise. The term "Software" does not include databases and other information stored in electronic form, other than executable instruction codes or source code that is intended to be compiled into executable instruction codes.

"**SOW**" means a statement of the work that describes research and development work to be performed under the JDP Agreement and that has been adopted by the JDP Committee pursuant to the procedures set forth therein.

"**Stack DRAM**" means dynamic random access memory cell that functions by using a capacitor arrayed predominantly above the semiconductor substrate.

"**Stack DRAM Design**" means, with respect to a Stack DRAM Product, the corresponding design components, materials and information listed on Schedule 3 of the JDP Agreement or as otherwise determined by the JDP Committee in a SOW.

"Stack DRAM Module" means one or more Stack DRAM Products in a JEDEC-compliant package or module (whether as part of a SIMM, DIMM, multi-chip package, memory card or other memory module or package).

"Stack DRAM Product" means any memory comprising Stack DRAM, whether in die or wafer form.

"**Subsidiary**" means, with respect to any specified Person, any other Person that, directly or indirectly, including through one or more intermediaries, is controlled by such specified Person.

"**Tax**" or "**Taxes**" means any federal, state, local or foreign net income, gross income, gross receipts, sales, use ad valorem, transfer, franchise, profits, service, service use, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, customs, duties or other type of fiscal levy and all other taxes, governmental fees, registration fees, assessments or charges of any kind whatsoever, together with any interest and penalties, additions to tax or additional amounts imposed or assessed with respect thereto.

"**Taxing Authority**" means any Governmental Entity exercising any authority to impose, regulate or administer the imposition of Taxes.

"**Term**" shall have the meaning set forth in Section 9.1.

"**Third Party**" means any Person other than NTC or Micron.

"**TTLA 68-50**" means that certain Technology Transfer and License Agreement for 68-50nm Process Nodes by and between the Parties dated as of the Effective Date.

1.2 Certain Interpretive Matters.

(a) Unless the context requires otherwise, (1) all references to Sections, Articles, Exhibits, Appendices or Schedules are to Sections, Articles, Exhibits, Appendices or Schedules of or to this Agreement, (2) each accounting term not otherwise defined in this Agreement has the meaning commonly applied to it in accordance with GAAP, (3) words in the singular include the plural and vice versa, (4) the term "**including**" means "including without limitation," and (5) the terms "**herein**," "**hereof**," "**hereunder**" and words of similar import shall mean references to this Agreement as a whole and not to any individual section or portion hereof. Unless otherwise denoted, all references to $ or dollar amounts will be to lawful currency of the United States of America. All references to "**day**" or "**days**" will mean calendar days.

(b) No provision of this Agreement will be interpreted in favor of, or against, either Party by reason of the extent to which (1) such Party or its counsel participated in the

drafting thereof or (2) any such provision is inconsistent with any prior draft of this Agreement or such provision.

ARTICLE 2

LICENSES

2.1 Micron Grant to NTC. Subject to the terms and conditions of this Agreement and the applicable terms of the Joint Venture Documents, Micron grants to NTC a [***] license to [***]:

(a) [***];

(b) [***];

(c) [***];

(d) [***]; and

(e) to use, sell, offer to sell, distribute, import, export and/or otherwise dispose of [***] manufactured in accordance with the foregoing.

2.2 NTC Grant to Micron. Subject to the terms and conditions of this Agreement and the applicable terms of the Joint Venture Documents, NTC grants to Micron a [***] license to [***]:

(a) [***];

(b) [***];

(c) [***];

(d) [***]; and

(e) to use, sell, offer to sell, distribute, import, export and/or otherwise dispose of [***] manufactured in accordance with the foregoing.

2.3 Rights Following Termination of JDP Agreement. Upon termination of the JDP Agreement, [***].

2.4 Reservations of Rights.

(a) Except as expressly set forth in Section 2.1, [***].

(b) [***].

ARTICLE 3

SERVICES

3.1 Assistance For Qualification of Second Source for Mask Purchases. As reasonably requested by NTC and to the extent fulfilling such request would not cause disruption of Micron's operations, Micron will use commercially reasonable efforts to assist NTC in providing the JDP Committee the information necessary for it to qualify a second source [***].

3.2 [***] As reasonably requested by NTC and to the extent fulfilling such request would not cause disruption of Micron's operations, [***].

ARTICLE 4

PAYMENTS

4.1 Royalties for JDP Process Nodes of [***].

(a) [***]

(b) [***]

(c) [***]

4.2 [***]

4.3 Royalty Reporting and Payment. Within sixty (60) days following the end of [***] for so long as any Royalties are payable hereunder, NTC shall submit to Micron a written report, which is certified by NTC's chief financial officer as complete and correct, setting forth in reasonable detail, [***]. NTC shall pay to Micron all Royalties due for such [***] contemporaneously with the submission of such report in accordance with Section 4.5. NTC shall cause each of its Affiliates who dispose of Stack DRAM Product in a manner that causes Royalties to be due to provide a written report, which is certified by the Affiliate's chief financial officer as complete and correct, setting forth in reasonable detail such Affiliate's dispositions of Stack DRAM Product and corresponding Royalties for the [***] that is the subject of each of the foregoing reports of NTC. NTC shall provide a copy of each report from an Affiliate to Micron with submission of NTC's report.

4.4 Audit Rights and Records. Micron shall have the right to have an independent Third Party auditor audit [***], upon reasonable advance written notice, during normal business hours and on a confidential basis subject to the Mutual Confidentiality Agreement, all records and accounts of NTC relevant to the calculation of Royalties in the [***] of the audit; *provided however*, NTC shall not be obligated to provide any records and book of accounts existing prior to the Effective Date. NTC shall, and shall cause its Affiliates to, for at least a period of [***] of their creation, keep complete and accurate records and books of accounts concerning all transactions relevant to calculation of Royalties in sufficient detail to enable a complete and detailed audit to be conducted. NTC shall cause any Affiliate that disposes of Stack DRAM Product in a manner that causes Royalties to be due to keep records and permit an audit of such records consistent with the obligations of NTC hereunder. [***]

4.5 Reports and Invoices; Payments.

(a) All reports and invoices under this Agreement may be sent by any method described in Section 10.1 or electronically with hardcopy confirmation sent promptly thereafter by any method described in Section 10.1. Such reports and invoices should be sent to the following contacts or such other contact as may be specified hereafter pursuant to a notice sent in accordance with Section 10.1:

(i) Invoices to NTC:

[***]
Nanya Technology Corp.
Hwa-Ya Technology Park 669, Fuhsing 3 Rd. Kueishan, Taoyuan, Taiwan, R. O. C.
Fax: [***]
E-Mail: [***]

(ii) Reports to Micron:

[***]
8000 S. Federal Way
P.O. Box 6, MS 1-720
Boise, Idaho, USA 83707-0006
Fax: [***]
Email: [***]

(b) All amounts owed by a Party under this Agreement are stated, calculated and shall be paid in United States Dollars ($ U.S.).

(c) Payment is due on all amounts properly invoiced within thirty (30) days of receipt of invoice. All payments made under this Agreement shall be made by wire transfer to a Micron bank account designated by the following person or by such other person designated by notice:

Payments to Micron:

[***]
8000 S. Federal Way
P.O. Box 6, MS 1-107
Boise, Idaho, USA 83707-0006
Fax: [***]
Email: [***]

4.6 Interest. Any amounts payable to Micron hereunder and not paid within the time period provided shall accrue interest, from the time such payment was due until the time payment is actually received, at the rate of [***] or the highest rate permitted by Applicable Law, whichever is lower.

4.7 Taxes.

(a) All sales, use and other transfer Taxes imposed directly on or solely as a result of the services, rights licensed or technology transfers or the payments therefor provided herein shall be stated separately on the service provider's, licensor's or technology transferor's invoice, collected from the service recipient, licensee or technology transferee and shall be remitted by service provider, licensor or technology transferor to the appropriate Taxing Authority ("**Recoverable Taxes**"), unless the service recipient, licensee or technology transferee provides valid proof of tax exemption prior to the Effective Date or otherwise as permitted by law prior to the time the service provider, licensor or technology transferor is required to pay such taxes to the appropriate Taxing Authority. When property is delivered, rights granted and/or services are provided or the benefit of services occurs within jurisdictions in which collection and remittance of Taxes by the service recipient, licensee or technology transferee is required by law, the service recipient, licensee or technology transferee shall have sole responsibility for payment of said Taxes to the appropriate Taxing Authority. In the event any Taxes are Recoverable Taxes and the service provider, licensor or technology transferor does not collect such Taxes from the service recipient, licensee or technology transferee or pay such Taxes to the appropriate Governmental Entity on a timely basis, and is subsequently audited by any Taxing Authority, liability of the service recipient, licensee or technology transferee will be limited to the Tax assessment for such Recoverable Taxes, with no reimbursement for penalty or interest charges or other amounts incurred in connection therewith. Except as provided in Section 4.7(b), Taxes other than Recoverable Taxes shall not be reimbursed by the service recipient, licensee or technology transferee, and each Party is responsible for its own respective income Taxes (including franchise and other Taxes based on net income or a variation thereof), Taxes based upon gross revenues or receipts, and Taxes with respect to general overhead, including but not limited to business and occupation Taxes, and such Taxes shall not be Recoverable Taxes.

(b) In the event that the service recipient, licensee or technology transferee is prohibited by Applicable Law from making payments to the service provider, licensor or technology transferor unless the service recipient, licensee or technology transferee deducts or withholds Taxes therefrom and remits such Taxes to the local Taxing Authority, [***].

4.8 [***]. Notwithstanding anything to the contrary in this Agreement, if requested by Micron by notice in accordance with Section 10.1, NTC will [***] until notified by Micron in accordance with Section 10.1.

ARTICLE 5

OTHER INTELLECTUAL PROPERTY MATTERS

5.1 Intellectual Properties Retained. Nothing in this Agreement shall be construed to transfer ownership of any intellectual property rights from one Party to another Party.

5.2 Cooperation In Claims Of Patent Infringement. [***]

ARTICLE 6

WARRANTIES; DISCLAIMERS

6.1 No Implied Obligation or Rights. Nothing contained in this Agreement shall be construed as:

(a) a warranty or representation that any manufacture, sale, lease, use or other disposition of any products based upon any of the IP Rights licensed or technology transferred hereunder will be free from infringement, misappropriation or other violation of any Patent Rights, IP Rights or other intellectual property rights of any Person;

(b) an agreement to bring or prosecute proceedings against Third Parties for infringement, misappropriation or other violation of rights or conferring any right to bring or prosecute proceedings against Third Parties for infringement, misappropriation or other violation of rights; or

(c) conferring any right to use in advertising, publicity, or otherwise, any trademark, trade name or names, or any contraction, abbreviation or simulation thereof, of either Party.

6.2 Third Party Software. Exploitation of any of the rights licensed or technology transferred hereunder may require use of Software owned by a Third Party and not subject to any license granted under any of the Joint Venture Documents. Nothing in this Agreement shall be construed as granting to any Party, any right, title or interest in, to or under any Software owned by any Third Party. Except as may be specified otherwise in any of the other Joint Venture Documents, any such Software so required is solely the responsibility of the each of the Parties. Moreover, should a Party who transfers technology under this Agreement discover after such transfer that it has provided Software to the other Party that it was not entitled to provide, such providing Party shall promptly notify the other Party and the recipient shall return such Software to the providing Party and not retain any copy thereof.

6.3 Disclaimer. [***].

6.4 Background IP. Micron represents and warrants to NTC that the Transferred Technology transferred to NTC pursuant to Section 3.1 of the TTLA 68-50 [***]

ARTICLE 7

LIMITATION OF LIABILITY

7.1 LIMITATION OF LIABILITY. [***]

ARTICLE 8

CONFIDENTIALITY

8.1 Confidentiality Obligations. Subject to the rights expressly granted to the Parties hereunder and any applicable restrictions under the other Joint Venture Documents, all

information provided, disclosed or obtained in connection with this Agreement, the TTLA 68-50 or the performance of any of the Parties' activities under this Agreement or the TTLA 68-50 shall be deemed "Confidential Information" subject to all applicable provisions of the Mutual Confidentiality Agreement. The terms and conditions of this Agreement and the TTLA 68-50 shall be considered "Confidential Information" under the Mutual Confidentiality Agreement for which Micron and NTC shall be considered a "Receiving Party" under such agreement. The Parties acknowledge that Process Technology, JDP Process Nodes, JDP Inventions, JDP Work Product and other information exchanged pursuant to the JDP Agreement are subject to restrictions on disclosure set forth therein.

8.2 Additional Controls For Certain Information. To the extent any layout and schematics data/databases, scribe line test patterns, internal architecture specifications, test modes and configurations, or similarly sensitive information is provided to a Party under this Agreement, such subject matter shall be stored solely on secure servers and password protected, and such Party shall limit access to such data exclusively to those of its Representatives who have a need to access such data for the purposes of exercising its rights hereunder**.**

8.3 Micron Background IP and Foundational Know-How.

[***]

8.4 NTC Foundational Know-How.

(a) [***]

(b) [***]

(c) [***]

(d) Should Micron desire to engage the services of a Third Party to assist Micron in the creation of a Stack DRAM Design, or portion thereof, [***].

(e) Micron may [***].

8.5 Conflicts. To the extent there is a conflict between this Agreement and the Mutual Confidentiality Agreement, the terms of this Agreement shall control. To the extent there is a conflict between this Agreement and the JDP Agreement, the JDP Agreement shall control.

ARTICLE 9

TERM AND TERMINATION

9.1 Term. The term of this Agreement commences on the Effective Date and continues in effect until terminated by mutual agreement. (The period from the Effective Date until termination is the "**Term**").

9.2 Termination of License.

(a) [***] An inadvertent disclosure by one Party or a Party's Representative of the other Party's Confidential Information in violation of this Agreement or the Mutual Confidentiality Agreement, as applicable, shall not be considered a material breach of this Agreement provided that (i) such Party takes prompt action to retract the disclosure and prevent further similar violations, and (ii) the disclosure was not in intentional or willful disregard of the non-disclosure obligations set forth in this Agreement or in the Mutual Confidentiality Agreement.

(b) [***].

9.3 Effects of Termination.

(a) Termination of this Agreement or a Party's license hereunder shall not affect any of the Parties' respective rights accrued or obligations owed before termination. In addition, the following shall survive termination for any reason: Articles 1, 6, 7 and 10 and Sections 2.4, 4.3 through 4.7, 5.1, 8.1, 8.2, 8.3(b), 8.4(b), 8.5 and 9.3.

(b) Upon termination of a Party's license under this Agreement pursuant to Section 9.2(a), the Party whose license was terminated shall:

[***]

(c) Upon termination of NTC's license under this Agreement pursuant to Section 9.2(b), NTC shall:

[***]

ARTICLE 10

MISCELLANEOUS

10.1 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given upon (a) transmitter's confirmation of a receipt of a facsimile transmission, (b) confirmed delivery by a standard overnight carrier or when delivered by hand, or (c) delivery in person, addressed at the following addresses (or at such other address for a party as shall be specified by like notice):

If to NTC: Nanya Technology Corporation
Hwa-Ya Technology Park 669
Fuhsing 3 RD. Kueishan
Taoyuan, Taiwan, ROC
Attention: Legal Department
Fax: 886.3.396.2226

If to Micron: Micron Technology, Inc.
8000 S. Federal Way
Mail Stop 1-507
Boise, ID 83716

Attention: General Counsel
Fax: 208.368.4537

10.2 Waiver. The failure at any time of a Party to require performance by the other Party of any responsibility or obligation required by this Agreement shall in no way affect a Party's right to require such performance at any time thereafter, nor shall the waiver by a Party of a breach of any provision of this Agreement by the other Party constitute a waiver of any other breach of the same or any other provision nor constitute a waiver of the responsibility or obligation itself.

10.3 Assignment. [***]

10.4 Third Party Rights. Nothing in this Agreement, whether express or implied, is intended or shall be construed to confer, directly or indirectly, upon or give to any Person, other than the Parties hereto, any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenant, condition or other provision contained herein.

10.5 Force Majeure. The Parties shall be excused from any failure to perform any obligation hereunder to the extent such failure is caused by a Force Majeure Event.

10.6 Choice of Law. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, USA, without giving effect to the principles of conflict of laws thereof.

10.7 Jurisdiction; Venue. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement shall be brought in a state or federal court of competent jurisdiction located in the State of California, USA, and each of the Parties to this Agreement hereby consents and submits to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum.

10.8 Headings. The headings of the Articles and Sections in this Agreement are provided for convenience of reference only and shall not be deemed to constitute a part hereof.

10.9 Export Control. Each Party agrees that it will not knowingly: (a) export or re-export, directly or indirectly, any technical data (as defined by the U.S. Export Administration Regulations) provided by the other Party or (b) disclose such technical data for use in, or export or re-export directly or indirectly, any direct product of such technical data, including Software, to any destination to which such export or re-export is restricted or prohibited by United States or non-United States law, without obtaining prior authorization from the U.S. Department of Commerce and other competent Government Entities to the extent required by Applicable Laws.

10.10 Entire Agreement. This Agreement, together with its Schedules and the agreements and instruments expressly provided for herein, including the applicable terms of the other Joint Venture Documents, constitute the entire agreement of the Parties hereto with respect

to the subject matter hereof and supersede all prior agreements and understandings, oral and written, between the Parties hereto with respect to the subject matter hereof.

10.11 Severability. Should any provision of this Agreement be deemed in contradiction with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Agreement shall remain in full force in all other respects. Should any provision of this Agreement be or become ineffective because of changes in Applicable Laws or interpretations thereof, or should this Agreement fail to include a provision that is required as a matter of law, the validity of the other provisions of this Agreement shall not be affected thereby. If such circumstances arise, the Parties hereto shall negotiate in good faith appropriate modifications to this Agreement to reflect those changes that are required by Applicable Law.

10.12 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

< Signature page follows >

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the Effective Date.

MICRON TECHNOLOGY, INC.

By: /s/ D. Mark Durcan
Name: D. Mark Durcan
Title: President and Chief Operating Officer

NANYA TECHNOLOGY CORPORATION

By: /s/ Jih Lien
Name: Jih Lien
Title: President

THIS IS THE SIGNATURE PAGE FOR THE TECHNOLOGY TRANSFER AND LICENSE AGREEMENT ENTERED INTO BY AND BETWEEN MICRON AND NTC

Schedule 1

Background IP—Process Nodes

[***]

Schedule 2

Background IP—Designs

[***]

Schedule 3

Existing Entities

I. **Micron Existing Entities:**

[***]

II. **NTC Existing Entities:**

[***]

Schedule 4

Staged Process Flow for Technology Transfer

[***]

EXHIBIT 10.57

[***] DENOTES CONFIDENTIAL MATERIALS OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT

Micron MeiYa CONFIDENTIAL

TECHNOLOGY TRANSFER AGREEMENT FOR 68-50NM PROCESS NODES

This **TECHNOLOGY TRANSFER AGREEMENT FOR 68-50NM PROCESS NODES** (this "**Agreement**"), is made and entered into as of this 13th day of May, 2008 ("**Effective Date**"), by and between Micron Technology, Inc., a Delaware corporation ("**Micron**") and MeiYa Technology Corporation (MeiYa Technology Corporation [Translation from Chinese]), a company-limited-by-shares incorporated under the laws of the Republic of China ("**Joint Venture Company**"). (Micron and Joint Venture Company are referred to in this Agreement individually as a "**Party**" and collectively as the "**Parties**").

RECITALS

A. Micron has developed technology for [***] Process Nodes for the manufacture of Stack DRAM Products.

B. The Joint Venture Company desires to have such technology transferred to the Joint Venture Company for its use in the manufacture of Stack DRAM Products, and Micron intends to so transfer such technology to the Joint Venture Company.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, the Parties, intending to be legally bound, hereby agree as follows.

ARTICLE 1
DEFINITIONS; CERTAIN INTERPRETATIVE MATTERS

1.1 Definitions.

"**Agreement**" shall have the meaning set forth in the preamble to this Agreement.

"**Applicable Law**" means any applicable laws, statutes, rules, regulations, ordinances, orders, codes, arbitration awards, judgments, decrees or other legal requirements of any Governmental Entity.

"**Closing**" means the remittance by Nanya Technology Corporation and Micron Semiconductor B.V. of the first capital contribution to the Joint Venture Company as set forth in Section 2.6 of that certain Master Agreement by and between Micron and Nanya Technology Corporation dated as of the Effective Date.

"**Effective Date**" shall have the meaning set forth in the preamble to this Agreement.

"**Force Majeure Event**" means the occurrence of an event or circumstance beyond the reasonable control of a Party and includes, without limitation, (a) explosions, fires, flood, earthquakes, catastrophic weather conditions, or other elements of nature or acts of God; (b) acts of war (declared or undeclared), acts of terrorism, insurrection, riots, civil disorders, rebellion or sabotage; (c) acts of federal, state, local or foreign Governmental Entity; (d) labor disputes, lockouts, strikes or other industrial action, whether direct or indirect and whether lawful or unlawful; (e) failures or fluctuations in electrical power or telecommunications service or equipment; and (f) delays caused by the other Party or Third-Party nonperformance (except for delays caused by a Party's contractors, subcontractors or agents).

"**GAAP**" means, with respect to Micron, United States generally accepted accounting principles, and with respect to the Joint Venture Company, Republic of China generally accepted accounting principles, in each case, as consistently applied by the Party for all periods at issue.

"**Governmental Entity**" means any governmental authority or entity, including any agency, board, bureau, commission, court, municipality, department, subdivision or instrumentality thereof, or any arbitrator or arbitration panel.

"**IP Rights**" means copyrights, rights in trade secrets, Mask Work Rights and pending applications or registrations of any of the foregoing anywhere in the world. The term "IP Rights" does not include any Patent Rights or rights in trademarks.

"**Joint Venture Company**" shall have the meaning set forth in the preamble to this Agreement.

"**Mask Work Rights**" means rights under the United States Semiconductor Chip Protection Act of 1984, as amended from time to time, or under any similar equivalent laws in countries other than the United States.

"**Micron**" shall have the meaning set forth in the preamble to this Agreement.

"**Party**" and "**Parties**" shall have the meaning set forth in the preamble to this Agreement

"**Patent Rights**" means all rights associated with any and all issued and unexpired patents and pending patent applications in any country in the world, together with any and all divisionals, continuations, continuations-in-part, reissues, reexaminations, extensions, foreign counterparts or equivalents of any of the foregoing, wherever and whenever existing.

"**Person**" means any natural person, corporation, joint stock company, limited liability company, association, partnership, firm, joint venture, organization, business, trust, estate or any other entity or organization of any kind or character.

"**Process Node**" means [***].

"**Recoverable Taxes"** shall have the meaning set forth in Section 3.5(a).

"**Software**" means computer program instruction code, whether in human-readable source code form, machine-executable binary form, firmware, scripts, interpretive text, or otherwise. The term "Software" does not include databases and other information stored in electronic form, other than executable instruction codes or source code that is intended to be compiled into executable instruction codes.

"**Stack DRAM**" means dynamic random access memory cell that functions by using a capacitor arrayed predominantly above the semiconductor substrate.

"**Stack DRAM Design**" means, with respect to a Stack DRAM Product, the corresponding design components, materials and information listed on Schedule 2.

"Stack DRAM Product" means any memory comprising Stack DRAM, whether in die or wafer form.

"**Tax**" or "**Taxes**" means any federal, state, local or foreign net income, gross income, gross receipts, sales, use ad valorem, transfer, franchise, profits, service, service use, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, customs, duties or other type of fiscal levy and all other taxes, governmental fees, registration fees, assessments or charges of any kind whatsoever, together with any interest and penalties, additions to tax or additional amounts imposed or assessed with respect thereto.

"**Taxing Authority**" means any Governmental Entity exercising any authority to impose, regulate or administer the imposition of Taxes.

"**Third Party**" means any Person other than Micron or the Joint Venture Company.

"**Transferred Technology**" means [***].

1.2 Certain Interpretive Matters.

(a) Unless the context requires otherwise, (1) all references to Sections, Articles, Exhibits, Appendices or Schedules are to Sections, Articles, Exhibits, Appendices or Schedules of or to this Agreement, (2) each accounting term not otherwise defined in this Agreement has the meaning commonly applied to it in accordance with GAAP, (3) words in the singular include the plural and vice versa, (4) the term "**including**" means "including without limitation," and (5) the terms "**herein**," "**hereof**," "**hereunder**" and words of similar import shall mean references to this Agreement as a whole and not to any individual section or portion hereof. Unless otherwise denoted, all references to $ or dollar amounts will be to lawful currency of the United States of America. All references to "**day**" or "**days**" will mean calendar days.

(b) No provision of this Agreement will be interpreted in favor of, or against, any of the Parties by reason of the extent to which (1) any such Party or its counsel participated in the drafting thereof or (2) any such provision is inconsistent with any prior draft of this Agreement or such provision.

ARTICLE 2
TRANSFER OF TECHNOLOGY TO JOINT VENTURE COMPANY

2.1 Delivery of Transferred Technology to Joint Venture Company. On a delivery schedule mutually agreed between the Parties, Micron shall provide to the Joint Venture Company the Transferred Technology [***], which process is outlined on Schedule 3. Except as provided in Section 2.2, the foregoing obligation does not require Micron to create, make, adapt, develop, modify and/or translate any such information or materials. The Joint Venture Company may at any time request Micron in writing to supplement its prior disclosures of such Transferred Technology with any items the Joint Venture Company believes to be missing or incomplete from such disclosures; however, with respect to the subject matter of any such requests made [***], the Joint Venture Company shall be precluded from asserting that Micron is in breach of its obligations under this Section.

2.2 Preproduction Wafers. On a delivery schedule mutually agreed between the Parties, Micron shall, [***], provide to the Joint Venture Company [***]. On a delivery schedule mutually agreed between the Parties, Micron shall, [***], provide to the Joint Venture Company [***].

2.3 Engineering Services. As reasonably requested by the Joint Venture Company from time to time and to the extent fulfilling such request would not cause disruption of their respective operations, Micron will provide to the Joint Venture Company engineering support for its implementation of the Transferred Technology transferred by Micron to the Joint Venture Company for use in the Joint Venture Company's facilities for the manufacture of Stack DRAM wafers.

ARTICLE 3
PAYMENTS

3.1 Transfer of Technology to Joint Venture Company. For the transfer of the Transferred Technology from Micron to the Joint Venture Company for the [***], Joint Venture Company shall pay to Micron [***].

3.2 Engineering Service Fees. Micron shall charge Joint Venture Company for any engineering services provided by Micron to Joint Venture Company under Section 2.3 for all out-of-pocket expenses reasonably incurred in connection therewith. [***] If any employee(s) of Micron are required to provide such services at a location other than his/her/their normal working location, then [***] Micron will invoice Joint Venture Company for all such costs and expenses monthly as incurred. Joint Venture Company will pay Micron the amount due within thirty (30) days of receipt of invoice.

3.3 Invoices; Payments.

(a) All invoices under this Agreement may be sent by any method described in Section 8.1 or electronically with hardcopy confirmation sent promptly thereafter by any method described in Section 8.1. Such invoices should be sent to the following contacts or such other contact as may be specified hereafter pursuant to a notice sent in accordance with Section 8.1:

Invoices to Joint Venture Company:

To be provided by notice.

(b) All amounts owed by a Party under this Agreement are stated, calculated and shall be paid in United States Dollars ($ U.S.).

(c) Payment is due on all amounts properly invoiced within thirty (30) days of receipt of invoice. All payments made under this Agreement shall be made by check sent to the following person or by such other manner designated by such person:

Payments to Micron:

[***]
8000 S. Federal Way
P.O. Box 6, MS 1-107
Boise, Idaho, USA 83707-0006
Fax: [***]
Email: [***]

3.4 Interest. Any amounts payable to a Party hereunder and not paid within the time period provided shall accrue interest, from the time such payment was due until the time payment is actually received, at the rate of [***] or the highest rate permitted by Applicable Law, whichever is lower.

3.5 Taxes.

(a) All sales, use and other transfer Taxes imposed directly on or solely as a result of the services, rights licensed or technology transfers or the payments therefor provided herein shall be stated separately on the service provider's, licensor's or technology transferor's invoice, collected from the service recipient, licensee or technology transferee and shall be remitted by service provider, licensor or technology transferor to the appropriate Taxing Authority ("**Recoverable Taxes**"), unless the service recipient, licensee or technology transferee provides valid proof of tax exemption prior to the Effective Date or otherwise as permitted by law prior to the time the service provider, licensor or technology transferor is required to pay such taxes to the appropriate Taxing Authority. When property is delivered, rights granted and/or services are provided or the benefit of services occurs within jurisdictions in which collection and remittance of Taxes by the service recipient, licensee or technology transferee is required by law, the service recipient, licensee or technology transferee shall have sole responsibility for payment of said Taxes to the appropriate Taxing Authority. In the event any Taxes are Recoverable Taxes and the service provider, licensor or technology transferor does not collect such Taxes from the service recipient, licensee or technology transferee or pay such Taxes to the appropriate Governmental Entity on a timely basis, and is subsequently audited by any Taxing Authority, liability of the service recipient, licensee or technology transferee will be limited to the Tax

assessment for such Recoverable Taxes, with no reimbursement for penalty or interest charges or other amounts incurred in connection therewith. Except as provided in Section 3.5(b), Taxes other than Recoverable Taxes shall not be reimbursed by the service recipient, licensee or technology transferee, and each Party is responsible for its own respective income Taxes (including franchise and other Taxes based on net income or a variation thereof), Taxes based upon gross revenues or receipts, and Taxes with respect to general overhead, including but not limited to business and occupation Taxes, and such Taxes shall not be Recoverable Taxes.

(b) In the event that the service recipient, licensee or technology transferee is prohibited by Applicable Law from making payments to the service provider, licensor or technology transferor unless the service recipient, licensee or technology transferee deducts or withholds Taxes therefrom and remits such Taxes to the local Taxing Authority, then [***].

3.6 [***]. Notwithstanding anything to the contrary in this Agreement, if requested by Micron by notice in accordance with Section 8.1, Joint Venture Company will [***] until notified by Micron in accordance with Section 8.1.

ARTICLE 4
INTELLECTUAL PROPERTY

4.1 No Transfer of IP Rights. Nothing in this Agreement shall be construed to transfer ownership of or grant a license under any IP Rights, Patent Rights or other rights in intellectual property or technology of Micron to the Joint Venture Company expressly, by implication, by estoppel or otherwise. The transfers of technology by Micron to the Joint Venture Company hereunder are solely of the physical embodiments Transferred Technology only and not any IP Rights or Patent Rights therein.

ARTICLE 5
WARRANTIES; DISCLAIMERS

5.1 No Implied Obligation. Nothing contained in this Agreement shall be construed as:

(a) a warranty or representation that any manufacture, sale, lease, use or other disposition of any products based upon Transferred Technology or other technology transferred hereunder will be free from infringement, misappropriation or other violation of any Patent Rights, IP Rights or other intellectual property rights of any Person;

(b) an agreement to bring or prosecute proceedings against Third Parties for infringement, misappropriation or other violation of rights or conferring any right to bring or prosecute proceedings against Third Parties for infringement, misappropriation or other violation of rights; or

(c) conferring any right to use in advertising, publicity, or otherwise, any trademark, trade name or names, or any contraction, abbreviation or simulation thereof, of either Party.

5.2 DISCLAIMER. [***].

ARTICLE 6
LIMITATION OF LIABILITY

6.1 LIMITATION OF LIABILITY. [***]

ARTICLE 7
TERM AND TERMINATION

7.1 Term. The term of this Agreement commences on the Effective Date and continues in effect until terminated in accordance with this Agreement or any other agreement to which the Parties are parties.

7.2 Termination of this Agreement.

(a) This Agreement shall terminate automatically if [***].

(b) Micron may terminate this Agreement by notice to the Joint Venture Company if the Joint Venture Company commits a material breach of this Agreement and such breach remains uncured for [***] of the breach from Micron.

(c) The Joint Venture Company may not terminate this Agreement for any reason, including breach by Micron.

7.3 Effects of Termination.

(a) Termination of this Agreement shall not affect any of the Parties' respective rights accrued or obligations owed before termination. In addition, the following shall survive termination of this Agreement for any reason: Articles 1, 3, 4, 5, 6 and 8 and Section 7.3.

(b) Upon termination of this Agreement, the Joint Venture Company shall:

[***]

ARTICLE 8
MISCELLANEOUS

8.1 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given upon (a) transmitter's confirmation of a receipt of a facsimile transmission, (b) confirmed delivery by a standard overnight carrier or when delivered by hand, or (c) delivery in person, addressed at the following addresses (or at such other address for a party as shall be specified by like notice):

If to Joint Venture Company:

MeiYa Technology Corporation

Taoyuan, Taiwan, ROC
Attention:
Fax:

If to Micron: Micron Technology, Inc.
8000 S. Federal Way
Mail Stop 1-507
Boise, ID 83716
Attention: General Counsel
Fax: 208.368.4537

8.2 Waiver. The failure at any time of a Party to require performance by the other Party of any responsibility or obligation required by this Agreement shall in no way affect a Party's right to require such performance at any time thereafter, nor shall the waiver by a Party of a breach of any provision of this Agreement by the other Party constitute a waiver of any other breach of the same or any other provision nor constitute a waiver of the responsibility or obligation itself.

8.3 Assignment. [***]

8.4 Third Party Rights. Nothing in this Agreement, whether express or implied, is intended or shall be construed to confer, directly or indirectly, upon or give to any Person, other than the Parties hereto, any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenant, condition or other provision contained herein.

8.5 Force Majeure. The Parties shall be excused from any failure to perform any obligation hereunder to the extent such failure is caused by a Force Majeure Event.

8.6 Choice of Law. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, USA, without giving effect to the principles of conflict of laws thereof.

8.7 Jurisdiction; Venue. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement shall be brought in a state or federal court of competent jurisdiction located in the State of California, USA, and each of the Parties to this Agreement hereby consents and submits to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum.

8.8 Headings. The headings of the Articles and Sections in this Agreement are provided for convenience of reference only and shall not be deemed to constitute a part hereof.

8.9 Export Control. Each Party agrees that it will not knowingly: (a) export or re-export, directly or indirectly, any technical data (as defined by the U.S. Export Administration Regulations) provided by the other Party or (b) disclose such technical data for use in, or export or re-export directly or indirectly, any direct product of such technical data, including Software, to any destination to which such export or re-export is restricted or prohibited by United States or non-United States law, without obtaining prior authorization from the U.S. Department of Commerce and other competent Government Entities to the extent required by Applicable Laws.

8.10 Entire Agreement. This Agreement, together with its Schedules and the agreements and instruments expressly provided for herein, including the applicable terms of any other agreements to which Micron and the Joint Venture Company are a Party, constitute the entire agreement of the Parties hereto with respect to the subject matter hereof and supersede all prior agreements and understandings, oral and written, between the Parties hereto with respect to the subject matter hereof.

8.11 Severability. Should any provision of this Agreement be deemed in contradiction with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Agreement shall remain in full force in all other respects. Should any provision of this Agreement be or become ineffective because of changes in Applicable Laws or interpretations thereof, or should this Agreement fail to include a provision that is required as a matter of law, the validity of the other provisions of this Agreement shall not be affected thereby. If such circumstances arise, the Parties hereto shall negotiate in good faith appropriate modifications to this Agreement to reflect those changes that are required by Applicable Law.

8.12 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

< ***Signature page follows*** >

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the Effective Date.

MICRON TECHNOLOGY, INC.

By: /s/ D. Mark Durcan
Name: D. Mark Durcan
Title: President and Chief Operating Officer

MEIYA TECHNOLOGY CORPORATION

By: /s/ Pei Ing Lee
Name: Pei Ing Lee
Title: Chairman

THIS IS THE SIGNATURE PAGE FOR THE TECHNOLOGY TRANSFER AGREEMENT FOR 68-50NM PROCESS NODES ENTERED INTO BY AND BETWEEN MICRON AND THE JOINT VENTURE COMPANY

DLI-6195539v3

Schedule 1

Process Nodes Information Deliverables

[***]

Schedule 2

Stack DRAM Designs Information Deliverables

[***]

Schedule 3

Staged Process Flow for Technology Transfer

[***]

EXHIBIT 10.58

[***] DENOTES CONFIDENTIAL MATERIALS OMITTED AND FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT

Micron NTC MeiYa CONFIDENTIAL

TECHNOLOGY TRANSFER AGREEMENT

This **TECHNOLOGY TRANSFER AGREEMENT** (this "**Agreement**"), is made and entered into as of this 13th day of May, 2008 ("**Effective Date**"), by and among Nanya Technology Corporation (Nanya Technology Corporation [Translation from Chinese]), a company incorporated under the laws of the Republic of China ("**NTC**"), Micron Technology, Inc, a Delaware corporation ("**Micron**"), and MeiYa Technology Corporation (MeiYa Technology Corporation [Translation from Chinese]), a company-limited-by-shares incorporated under the laws of the Republic of China ("**Joint Venture Company**"). (NTC, Micron and Joint Venture Company are referred to in this Agreement individually as a "**Party**" and collectively as the "**Parties**").

RECITALS

A. Pursuant to the Joint Venture Documents (as defined hereinafter) and the transactions contemplated thereby, an Affiliate of Micron, Micron Semiconductor B.V., a private limited liability company organized under the laws of the Netherlands ("**MNL**"), and NTC are contemporaneously herewith forming the Joint Venture Company to manufacture Stack DRAM Products (as defined hereinafter) for supply and delivery solely to Micron and NTC.

B. The Parties desire to outline the procedures under which Micron and NTC will transfer certain technology related to Process Nodes (as defined hereafter) to the Joint Venture Company that will be used by the Joint Venture Company to manufacture Stack DRAM Products for Micron and NTC.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, the Parties, intending to be legally bound, hereby agree as follows.

ARTICLE 1
DEFINITIONS; CERTAIN INTERPRETATIVE MATTERS

1.1 Definitions.

"**Affiliate**" means, with respect to any specified Person, any other Person that directly or indirectly, including through one or more intermediaries, controls, or is controlled by, or is under common control with such specified Person; and the term "**affiliated**" has a meaning correlative to the foregoing.

"**Agreement**" shall have the meaning set forth in the preamble to this Agreement.

"**Applicable Law**" means any applicable laws, statutes, rules, regulations, ordinances, orders, codes, arbitration awards, judgments, decrees or other legal requirements of any Governmental Entity.

"**Assigned Employees**" shall, with respect to Micron, have the meaning set forth in the Micron Assigned Employee Agreement by and between Micron and the Joint Venture Company dated as of the date of Closing and identified on Schedule 2.4 of the Master Agreement Disclosure Letter and, with respect to NTC, have the meaning set forth in the NTC Assigned Employee Agreement by and between NTC and the Joint Venture Company dated as of the date of Closing and identified on Schedule 2.3 of the Master Agreement Disclosure Letter.

"**Business Day**" means a day that is not a Saturday, Sunday or other day on which commercial banking institutions in either the Republic of China or the State of New York are authorized or required by Applicable Law to be closed.

"**Closing**" means the remittance by NTC and MNL of the first capital contribution to the Joint Venture Company as set forth in Section 2.6 of the Master Agreement.

"**Confidential Information**" means that information described in Section 5.1 deemed to be "Confidential Information" under the Mutual Confidentiality Agreement.

"**Contractor**" means a Third Party who (a) is contracted by a Party in connection with work to be conducted by such Party under a SOW, (b) has agreed to assign to such contracting Party all rights in and to any inventions, discoveries, improvements, processes, copyrightable works, mask works, trade secrets or other technology that are conceived or first reduced to practice, whether patentable or not, as a result of any performance by such Third Party of any obligations of such Party under a SOW, and all Patent Rights, IP Rights and other intellectual property rights in the foregoing, and (c) has agreed to grant a license to such contracting Party, with the right to sublicense of sufficient scope that includes the other Party, under all Patent Rights, IP Rights and other rights of the Third Party reasonably necessary for such contracting Party and the other Party to exploit the work product created by the Third Party consistent with the rights granted by the contracting Party to the other Party under the Joint Venture Documents.

"**Control**" (whether capitalized or not) means the power or authority, whether exercised or not, to direct the business, management and policies of a Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, which power or authority shall conclusively be presumed to exist upon possession of beneficial ownership or power to direct the vote of [***] of the votes entitled to be cast at a meeting of the members, shareholders or other equity holders of such Person or power to control the composition of a majority of the board of directors or like governing body of such Person; and the terms "**controlling**" and "**controlled**" have meanings correlative to the foregoing.

"**Effective Date**" shall have the meaning set forth in the preamble to this Agreement.

"**Force Majeure Event**" means the occurrence of an event or circumstance beyond the reasonable control of a Party and includes, without limitation, (a) explosions, fires, flood, earthquakes, catastrophic weather conditions, or other elements of nature or acts of God; (b) acts of war (declared or undeclared), acts of terrorism, insurrection, riots, civil disorders, rebellion or

sabotage; (c) acts of federal, state, local or foreign Governmental Entity; (d) labor disputes, lockouts, strikes or other industrial action, whether direct or indirect and whether lawful or unlawful; (e) failures or fluctuations in electrical power or telecommunications service or equipment; and (f) delays caused by the other Party or Third-Party nonperformance (except for delays caused by a Party's contractors, subcontractors or agents).

"**GAAP**" means, with respect to Micron, United States generally accepted accounting principles, and with respect to NTC and the Joint Venture Company, Republic of China generally accepted accounting principles, in each case, as consistently applied by the Party for all periods at issue.

"**Governmental Entity**" means any governmental authority or entity, including any agency, board, bureau, commission, court, municipality, department, subdivision or instrumentality thereof, or any arbitrator or arbitration panel.

"**IP Rights**" means copyrights, rights in trade secrets, Mask Work Rights and pending applications or registrations of any of the foregoing anywhere in the world. The term "IP Rights" does not include any Patent Rights or rights in trademarks.

"**JDP Agreement**" means that certain Joint Development Program Agreement by and between Micron and NTC effective as of the Effective Date referred to on Schedule 2.1 of the Master Agreement Disclosure Letter.

"**JDP Co-Chairman**" and "**JDP Co-Chairmen**" means the JDP Co-Chairman or JDP Co-Chairmen, respectively, appointed by Micron or NTC under the JDP Agreement, as such individuals are communicated to the Joint Venture Company from time to time.

"**JDP Committee**" means the committee formed and operated by Micron and NTC to govern the performance of the Parties under the JDP Agreement.

"**JDP Design**" means any Stack DRAM Design resulting from the research and development activities of the Parties pursuant to the JDP Agreement.

"JDP Inventions" means all discoveries, improvements, inventions, developments, processes or other technology, whether patentable or not, that is/are conceived by one or more Representatives of one or more of the Parties in the course of activities conducted under the JDP Agreement.

"**JDP Process Node**" means any Primary Process Node or Optimized Process Node resulting from the research and development activities of the Parties pursuant the JDP Agreement.

"**JDP Work Product**" means [***].

"**Joint Venture Company**" shall have the meaning set forth in the preamble to this Agreement.

"Joint Venture Company Joinder" means that certain Joinder of the Joint Venture Company to the Mutual Confidentiality Agreement.

"**Joint Venture Documents**" means the Master Agreement and each of the agreements listed on Schedules 2.1 through 2.5 of the Master Agreement Disclosure Letter.

"**Mask Work Rights**" means rights under the United States Semiconductor Chip Protection Act of 1984, as amended from time to time, or under any similar equivalent laws in countries other than the United States.

"**Master Agreement**" means that certain Master Agreement by and between NTC and Micron dated as of the Effective Date.

"**Master Agreement Disclosure Letter**" means that certain Master Agreement Disclosure Letter by and between NTC and Micron dated as of the Effective Date containing the Schedules required by the Master Agreement.

"**Micron**" shall have the meaning set forth in the preamble to this Agreement

"**MNL**" shall have the meaning set forth in the Recitals to this Agreement.

"**Mutual Confidentiality Agreement**" means (i) as of the Effective Date, that certain Mutual Confidentiality Agreement among NTC, Micron and MNL referred to on Schedule 2.1 of the Master Agreement Disclosure Letter, and (ii) as of the Effective Date or thereafter, that certain Mutual Confidentiality Agreement among NTC, Micron and MNL referred to on Schedule 2.1 of the Master Agreement Disclosure Letter, as joined by the Joint Venture Company through the Joint Venture Company Joinder.

"Optimized Process Node" means [***].

"**NTC**" shall have the meaning set forth in the preamble to this Agreement.

"**Party**" and "**Parties**" shall have the meaning set forth in the preamble to this Agreement

"**Patent Prosecution**" means (a) preparing, filing and prosecuting patent applications (of all types), and (b) managing any interference, reexamination, reissue, or opposition proceedings relating to the foregoing.

"**Patent Rights**" means all rights associated with any and all issued and unexpired patents and pending patent applications in any country in the world, together with any and all divisionals, continuations, continuations-in-part, reissues, reexaminations, extensions, foreign counterparts or equivalents of any of the foregoing, wherever and whenever existing.

"**Person**" means any natural person, corporation, joint stock company, limited liability company, association, partnership, firm, joint venture, organization, business, trust, estate or any other entity or organization of any kind or character.

"**Primary Process Node**" means [***].

"**Probe Testing**" means testing, using a wafer test program as set forth in the applicable specifications, of a wafer that has completed all processing steps deemed necessary to complete the creation of the desired Stack DRAM integrated circuits in the die on such wafer, the purpose of which test is to determine how many and which of the die meet the applicable criteria for such die set forth in the specifications.

"**Process Node**" means [***].

"Process Technology" means that process technology developed before expiration of the Term and utilized in the manufacture of Stack DRAM wafers, including Probe Testing and technology developed through Product Engineering thereof**,** regardless of the form in which any of the foregoing is stored, but excluding any Patent Rights and any technology, trade secrets or know-how that relate to and are used in any back-end operations (after Probe Testing).

"**Product Engineering**" means any one or more of the engineering activities described on Schedule 7 to the JDP Agreement as applied to Stack DRAM Products or Stack DRAM Modules.

"**Recoverable Taxes"** shall have the meaning set forth in Section 3.5(a).

"**Representative**" means with respect to a Party, any director, officer, employee, agent or Contractor of such Party or a professional advisor to such Party, such as an attorney, banker or financial advisor of such Party who is under an obligation of confidentiality to such Party by contract or ethical rules applicable to such Person.

"**Software**" means computer program instruction code, whether in human-readable source code form, machine-executable binary form, firmware, scripts, interpretive text, or otherwise. The term "Software" does not include databases and other information stored in electronic form, other than executable instruction codes or source code that is intended to be compiled into executable instruction codes.

"**SOW**" means a statement of the work that describes research and development work to be performed under JDP Agreement and that has been adopted by the JDP Committee pursuant to the procedures set forth therein.

"**Stack DRAM**" means dynamic random access memory cell that functions by using a capacitor arrayed predominantly above the semiconductor substrate.

"**Stack DRAM Design**" means, with respect to a Stack DRAM Product, the corresponding design components, materials and information listed on Schedule 1 or as otherwise determined by the JDP Committee in a SOW.

"Stack DRAM Module" means one or more Stack DRAM Products in a JEDEC-compliant package or module (whether as part of a SIMM, DIMM, multi-chip package, memory card or other memory module or package).

"Stack DRAM Product" means any memory comprising Stack DRAM, whether in die or wafer form.

"**Tax**" or "**Taxes**" means any federal, state, local or foreign net income, gross income, gross receipts, sales, use ad valorem, transfer, franchise, profits, service, service use, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property, customs, duties or other type of fiscal levy and all other taxes, governmental fees, registration fees, assessments or charges of any kind whatsoever, together with any interest and penalties, additions to tax or additional amounts imposed or assessed with respect thereto.

"**Taxing Authority**" means any Governmental Entity exercising any authority to impose, regulate or administer the imposition of Taxes.

"**Term**" shall have the meaning set forth in Section 8.1.

"**Third Party**" means any Person other than Micron, NTC or the Joint Venture Company.

"**TTA 68-50**" means the Technology Transfer Agreement For 68-50nm Process Nodes by and between Micron and the Joint Venture Company dated as of the Effective Date referred to on Schedule 2.4 of the Master Agreement Disclosure Letter.

"**TTLA**" means the Technology Transfer and License Agreement dated as of the Effective Date by and between Micron and NTC referred to on Schedule 2.1 of the Master Agreement Disclosure Letter.

"**Works Registration**" means any registrations of any JDP Work Product.

1.2 Certain Interpretive Matters.

(a) Unless the context requires otherwise, (1) all references to Sections, Articles, Exhibits, Appendices or Schedules are to Sections, Articles, Exhibits, Appendices or Schedules of or to this Agreement, (2) each accounting term not otherwise defined in this Agreement has the meaning commonly applied to it in accordance with GAAP, (3) words in the singular include the plural and vice versa, (4) the term "**including**" means "including without limitation," and (5) the terms "**herein**," "**hereof**," "**hereunder**" and words of similar import shall mean references to this Agreement as a whole and not to any individual section or portion hereof. Unless otherwise denoted, all references to $ or dollar amounts will be to lawful currency of the United States of America. All references to "**day**" or "**days**" will mean calendar days.

(b) No provision of this Agreement will be interpreted in favor of, or against, any of the Parties by reason of the extent to which (1) any such Party or its counsel participated in the drafting thereof or (2) any such provision is inconsistent with any prior draft of this Agreement or such provision.

ARTICLE 2
TRANSFER OF TECHNOLOGY TO JOINT VENTURE COMPANY

2.1 Delivery of JDP Process Nodes and JDP Designs to Joint Venture Company. Micron and NTC shall transfer to the Joint Venture Company JDP Work Product associated

with JDP Process Nodes and JDP Designs in the form and at the time(s) and manner as mutually agreed in writing by NTC and Micron.

2.2 Mask Purchases. As reasonably requested by the Joint Venture Company and to the extent fulfilling such request would not cause disruption of Micron's operations, Micron will use commercially reasonable efforts to assist the Joint Venture Company [***].

2.3 On-Site Visitations. Each Party and its Representatives shall observe and be subject to all safety, security and other policies and regulations regarding visitors and contractors while on site at a facility of the other Party or its Affiliate. A Party's Representatives who access any facility of the other Party or its Affiliate shall not interfere with, and except as otherwise agreed by the Parties, shall not participate in, the business or operations of the facility accessed.

ARTICLE 3
PAYMENTS

3.1 Technology Transfers of Primary Process Nodes to Joint Venture Company. Upon the completion of the transfer to the Joint Venture Company of each Primary Process Node that is a JDP Process Node [***], as such completion is defined in the applicable Process SOW or otherwise agreed by Micron and NTC, the Joint Venture Company shall pay to each of Micron and NTC [***].

3.2 Joint Venture Company Development Costs. [***].

3.3 Invoices; Payments.

(a) All invoices under this Agreement may be sent by any method described in Section 8.1 or electronically with hardcopy confirmation sent promptly thereafter by any method described in Section 8.1. Such invoices should be sent to the following contacts or such other contact as may be specified hereafter pursuant to a notice sent in accordance with Section 8.1:

Invoices to Joint Venture Company:

To be provided by notice.

Invoices to NTC:

[***]
Nanya Technology Corp.
Hwa-Ya Technology Park 669, Fuhsing 3 Rd. Kueishan, Taoyuan, Taiwan, R. O. C.
Fax: [***]
E-Mail: [***]

(b) All amounts owed by a Party under this Agreement are stated, calculated and shall be paid in United States Dollars ($ U.S.).

(c) Payment is due on all amounts properly invoiced within thirty (30) days of receipt of invoice. All payments made under this Agreement shall be made by check sent to the following person or by such other manner designated by such person:

Payments to Micron:

[***]
8000 S. Federal Way
P.O. Box 6, MS 1-107
Boise, Idaho, USA 83707-0006
Fax: [***]
Email: [***]

Payments to NTC:

[***]
Nanya Technology Corp.
Hwa-Ya Technology Park 669, Fuhsing 3 Rd. Kueishan, Taoyuan, Taiwan, R. O. C.
Fax: [***]
E-Mail: [***]

3.4 Interest. Any amounts payable to a Party hereunder and not paid within the time period provided shall accrue interest, from the time such payment was due until the time payment is actually received, at the rate of [***].

3.5 Taxes.

(a) All sales, use and other transfer Taxes imposed directly on or solely as a result of the services, rights licensed or technology transfers or the payments therefor provided herein shall be stated separately on the service provider's, licensor's or technology transferor's invoice, collected from the service recipient, licensee or technology transferee and shall be remitted by service provider, licensor or technology transferor to the appropriate Taxing Authority ("**Recoverable Taxes**"), unless the service recipient, licensee or technology transferee provides valid proof of tax exemption prior to the Effective Date or otherwise as permitted by law prior to the time the service provider, licensor or technology transferor is required to pay such taxes to the appropriate Taxing Authority. When property is delivered, rights granted and/or services are provided or the benefit of services occurs within jurisdictions in which collection and remittance of Taxes by the service recipient, licensee or technology transferee is required by law, the service recipient, licensee or technology transferee shall have sole responsibility for payment of said Taxes to the appropriate Taxing Authority. In the event any Taxes are Recoverable Taxes and the service provider, licensor or technology transferor does not collect such Taxes from the service recipient, licensee or technology transferee or pay such Taxes to the appropriate Governmental Entity on a timely basis, and is subsequently audited by any Taxing Authority, liability of the service recipient, licensee or technology transferee will be limited to the Tax assessment for such Recoverable Taxes, with no reimbursement for penalty or interest

charges or other amounts incurred in connection therewith. Except as provided in Section 3.5(b), Taxes other than Recoverable Taxes shall not be reimbursed by the service recipient, licensee or technology transferee, and each Party is responsible for its own respective income Taxes (including franchise and other Taxes based on net income or a variation thereof), Taxes based upon gross revenues or receipts, and Taxes with respect to general overhead, including but not limited to business and occupation Taxes, and such Taxes shall not be Recoverable Taxes.

(b) In the event that the service recipient, licensee or technology transferee is prohibited by Applicable Law from making payments to the service provider, licensor or technology transferor unless the service recipient, licensee or technology transferee deducts or withholds Taxes therefrom and remits such Taxes to the local Taxing Authority, then the [***].

3.6 [***]. Notwithstanding anything to the contrary in this Agreement, if requested by Micron by notice in accordance with Section 9.1, NTC will [***] when due until notified by Micron in accordance with Section 9.1.

ARTICLE 4
INTELLECTUAL PROPERTY

4.1 No Transfer of IP Rights. Nothing in this Agreement shall be construed to transfer ownership of or grant a license under any IP Rights, Patent Rights or other rights in intellectual property or technology of either Micron or NTC to any other Party expressly, by implication, by estoppel or otherwise. The transfers of technology by Micron and NTC to the Joint Venture Company hereunder are solely of the physical embodiments JDP Work Product only and not any IP Rights or Patent Rights therein.

4.2 Invention Disclosure Procedures; Inventorship; Authorship.

(a) As soon as reasonably practicable [***], the Joint Venture Company shall, and Micron and NTC shall cause the Joint Venture Agreement to, introduce procedures to encourage and govern the submission of disclosures of inventions by its Representative(s) to [***]. Such procedures shall include (i) a policy statement encouraging the submission of such invention disclosures, (ii) appropriate invention disclosure forms, and (iii) a commitment on the part of the Joint Venture Company to obtain relevant invention disclosure forms from its Representatives and to submit such forms to [***]. The Joint Venture Company shall, and Micron and NTC shall cause the Joint Venture Agreement to, actively administer such procedures and submit and cause its Representatives promptly to complete and submit invention disclosures to the [***]. [***]

(b) Inventorship for any inventions conceived by the Joint Venture Company or any of its Representatives, including JDP Inventions, shall be determined in accordance with United States patent laws.

(c) Authorship for all works of authorship and mask works created by or made by or for the Joint Venture Company or any of its Representatives, including JDP

Work Product, whether registered or not, shall be determined in accordance with United States copyright laws and laws concerning Mask Work Rights, as applicable.

4.3 Ownership of Inventions and Work Product.

[***]

4.4 [***]

ARTICLE 5
CONFIDENTIALITY

5.1 Confidentiality Obligations. All information (including JDP Work Product, JDP Inventions, JDP Process Nodes and JDP Designs) provided, disclosed, created or obtained in connection with this Agreement, the TTA 68-50 or the performance of any of the Parties' activities under this Agreement, the TTA 68-50 or the JDP Agreement, including the performance of activities under a SOW, shall be deemed "Confidential Information" subject to all applicable provisions of the Mutual Confidentiality Agreement. The terms and conditions of this Agreement shall be considered "Confidential Information" under the Mutual Confidentiality Agreement for which each Party shall be considered a "Receiving Party" under such agreement. The Joint Venture Company shall be deemed a "Receiving Party" under such agreement with respect to any inventions and works assigned by or that should be assigned by the Joint Venture Company to Micron or to Micron and NTC under this Agreement.

ARTICLE 6
WARRANTIES; DISCLAIMERS

6.1 No Implied Obligation. Nothing contained in this Agreement shall be construed as:

(a) a warranty or representation that any manufacture, sale, lease, use or other disposition of any products based upon JDP Work Product, JDP Inventions, JDP Process Nodes or JDP Designs or other technology transferred hereunder will be free from infringement, misappropriation or other violation of any Patent Rights, IP Rights or other intellectual property rights of any Person;

(b) an agreement to bring or prosecute proceedings against Third Parties for infringement, misappropriation or other violation of rights or conferring any right to bring or prosecute proceedings against Third Parties for infringement, misappropriation or other violation of rights; or

(c) conferring any right to use in advertising, publicity, or otherwise, any trademark, trade name or names, or any contraction, abbreviation or simulation thereof, of either Party.

6.2 Third Party Software. Use of any inventions or works exchanged among any of the Parties under this Agreement may require use of Software owned by a Third Party and not subject to any license granted under any of the Joint Venture Documents. Nothing in this

Agreement shall be construed as granting to any Party, any right, title or interest in, to or under any Software owned by any Third Party. Except as may be specified otherwise in any of the other Joint Venture Documents, any such Software so required is solely the responsibility of the each of the Parties. Moreover, should a Party who transfers technology under this Agreement discover after such transfer that it has provided Software to the other Party that it was not entitled to provide, such providing Party shall promptly notify the other Party and the recipient shall return such Software to the providing Party and not retain any copy thereof.

6.3 DISCLAIMER. [***]

ARTICLE 7
LIMITATION OF LIABILITY

7.1 LIMITATION OF LIABILITY. [***]

ARTICLE 8
TERM AND TERMINATION

8.1 Term. The term of this Agreement commences on the Effective Date and continues in effect until terminated in accordance with Section 8.2. (The period from the Effective Date until termination is the "**Term**").

8.2 Termination of this Agreement.

(a) This Agreement and the TTA 68-50 shall terminate automatically if:

[***]

(b) Either Micron or NTC may terminate this Agreement and/or the TTA 68-50 by notice to the other Parties if:

(i) either of the other Parties commits a material breach of this Agreement or if Micron or the Joint Venture Company commits a material breach of TTA 68-50, and any such breach remains uncured for more than [***] of the breach from Micron or NTC; or

(ii) the Closing does not occur [***].

(c) [***].

8.3 Effects of Termination.

(a) Termination of this Agreement shall not affect any of the Parties' respective rights accrued or obligations owed before termination. In addition, the following shall survive termination of this Agreement for any reason: Articles 1, 3, 5, 6, 7 and 9 and Sections 4.1, 4.2(b) and (c), 4.4 and 8.3. Section 4.3 shall survive solely with respect to inventions and works of authorship made or created by the Joint Venture Company before termination.

(b) At such time when this Agreement, the TTA 68-50 and the TTLA have been terminated, the Joint Venture Company shall:

[***]

ARTICLE 9
MISCELLANEOUS

9.1 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given upon (a) transmitter's confirmation of a receipt of a facsimile transmission, (b) confirmed delivery by a standard overnight carrier or when delivered by hand, or (c) delivery in person, addressed at the following addresses (or at such other address for a party as shall be specified by like notice):

If to NTC: Nanya Technology Corporation
Hwa-Ya Technology Park 669
Fuhsing 3 RD. Kueishan
Taoyuan, Taiwan, ROC
Attention: Legal Department
Fax: 886.3.396.2226

If to Micron: Micron Technology, Inc.
8000 S. Federal Way
Mail Stop 1-507
Boise, ID 83716
Attention: General Counsel
Fax: 208.368.4537

If to the Joint Venture Company:

MeiYa Technology Corporation

Taoyuan, Taiwan, ROC
Attention:
Fax:

with a copy to each of Micron and NTC as identified above.

9.2 Waiver. The failure at any time of a Party to require performance by another Party of any responsibility or obligation required by this Agreement shall in no way affect a Party's right to require such performance at any time thereafter, nor shall the waiver by a Party of a breach of any provision of this Agreement by another Party constitute a waiver of any other breach of the same or any other provision nor constitute a waiver of the responsibility or obligation itself.

9.3 Assignment. [***]

9.4 Third Party Rights. Nothing in this Agreement, whether express or implied, is intended or shall be construed to confer, directly or indirectly, upon or give to any Person, other than the Parties hereto, any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenant, condition or other provision contained herein.

9.5 Force Majeure. The Parties shall be excused from any failure to perform any obligation hereunder to the extent such failure is caused by a Force Majeure Event.

9.6 Choice of Law. Except as provided in Sections 4.2 (b) and (c), this Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, USA, without giving effect to the principles of conflict of laws thereof.

9.7 Jurisdiction; Venue. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement shall be brought in a state or federal court of competent jurisdiction located in the State of California, USA, and each of the Parties to this Agreement hereby consents and submits to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum.

9.8 Headings. The headings of the Articles and Sections in this Agreement are provided for convenience of reference only and shall not be deemed to constitute a part hereof.

9.9 Export Control. Each Party agrees that it will not knowingly: (a) export or re-export, directly or indirectly, any technical data (as defined by the U.S. Export Administration Regulations) provided by the other Party or (b) disclose such technical data for use in, or export or re-export directly or indirectly, any direct product of such technical data, including Software, to any destination to which such export or re-export is restricted or prohibited by United States or non-United States law, without obtaining prior authorization from the U.S. Department of Commerce and other competent Government Entities to the extent required by Applicable Laws.

9.10 Entire Agreement. This Agreement, together with its Schedules and the agreements and instruments expressly provided for herein, including the applicable terms of the other Joint Venture Documents, constitute the entire agreement of the Parties hereto with respect to the subject matter hereof and supersede all prior agreements and understandings, oral and written, between the Parties hereto with respect to the subject matter hereof.

9.11 Severability. Should any provision of this Agreement be deemed in contradiction with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Agreement shall remain in full force in all other respects. Should any provision of this Agreement be or become ineffective because of changes in Applicable Laws or interpretations thereof, or should this Agreement fail to include a provision that is required as a matter of law, the validity of the

other provisions of this Agreement shall not be affected thereby. If such circumstances arise, the Parties hereto shall negotiate in good faith appropriate modifications to this Agreement to reflect those changes that are required by Applicable Law.

9.12 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

< *Signature page follows* >

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the Effective Date.

NANYA TECHNOLOGY CORPOPRATION

By: /s/ Jih Lien

Name: Jih Lien

Title: President

MICRON TECHNOLOGY, INC.

By: /s/ D. Mark Durcan

Name: D. Mark Durcan

Title: President and Chief Operating Officer

MEIYA TECHNOLOGY CORPORATION

By: /s/ Pei Ing Lee

Name: Pei Ing Lee

Title: Chairman

THIS IS THE SIGNATURE PAGE FOR THE TECHNOLOGY TRANSFER AGREEMENT ENTERED INTO BY AND AMONG NTC, MICRON AND THE JOINT VENTURE COMPANY

Schedule 1

Stack DRAM Design Elements

[***]

SERVICES AGREEMENT

This Services Agreement ("Agreement") is made and entered into as of this 6th day of June, 2008 ("Effective Date"), by and between Nanya Technology Corporation (Nanya Technology Corporation [Translation from Chinese]) ("NTC"), a company incorporated under the laws of the Republic of China ("ROC" or "Taiwan"), and MeiYa Technology Corporation (MeiYa Technology Corporation [Translation from Chinese]), a company incorporated under the laws of the ROC ("JVC"). NTC and JVC are sometimes collectively referred to as the "Parties" and individually as a "Party".

RECITALS

A. NTC and Micron Technology, Inc, a Delaware corporation ("Micron") are parties to that certain Master Agreement with an effective date of April [21], 2008 ("Master Agreement") which contemplates the entry into this Agreement as of the Closing Date (as that term is defined in the Master Agreement); and

B. JVC may request that NTC provide Services (as defined below) to JVC, and NTC will provide such Services to JVC subject to the terms and conditions set forth hereinafter.

NOW, THEREFORE, in consideration of the foregoing, the mutual agreements and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which each Party hereby acknowledges, the Parties agree as follows:

ARTICLE I
DEFINITIONS; INTERPRETATION

Section 1.1 Definitions. The following capitalized terms will have the following meanings:

"**Confidentiality Agreement**" means that certain mutual confidentiality agreement among Micron, Micron Semiconductor B.V., a company incorporated under the laws of the Netherlands ("MNL") and NTC referred to on Schedule 2.1 of the Master Agreement Disclosure Letter, as joined by JVC as of the Closing Date.

"**GAAP**" means generally accepted accounting principles, consistently applied for all periods at issue.

"**GUI**" means government unified invoice.

"**Service(s)**" is defined in Section 3.

"**Service Fee**" is defined in Section 5.1.

"**VAT**" will mean value added tax as imposed upon any payments hereunder pursuant to the laws of Taiwan, Republic of China.

Section 1.2 Interpretation. Unless the context requires otherwise: (i) all references to Sections or Exhibits are to Sections or Exhibits of or to this Agreement; (ii) each accounting term not otherwise defined in this Agreement has the meaning commonly applied to it in accordance with GAAP; (iii) words in the singular include the plural and visa versa; (iv) the term "including" means "including without limitation"; and (v) the terms "herein," "hereof," "hereunder" and words of similar import will mean references to this Agreement as a whole and not to any individual section or portion hereof. All references to "day" or "days" will mean calendar days and all references to "quarter(ly)", "month(ly)" or "year(ly)" will mean fiscal quarter, fiscal month or fiscal year, respectively, unless specifically identified otherwise. No provision of this Agreement will be interpreted in favor of, or against, any of the Parties by reason of the extent to which any such Party or its counsel participated in the drafting thereof or by reason of the extent to which any such provision is inconsistent with any prior draft of this Agreement or such provision.

ARTICLE II
SERVICES

Section 2.1 Services. NTC agrees to provide, and JVC agrees to purchase the services set forth on Exhibit I and such other additional services that JVC may reasonably request from NTC from time to time at the level and scope and for the duration that JVC deems necessary to support its operations, and any change, modification or enhancement thereto that NTC agrees to provide ("Services"). For additional services beyond those set forth in Exhibit I, JVC will submit requests for Services in writing to NTC ("Service Requests"), and the Parties will negotiate each Service Request in good faith. If the Parties agree to such Service Request, then NTC will perform the Service(s) set forth in such Service Request in accordance with the terms and conditions of such Service Request and this Agreement.

Section 2.2 Nonexclusivity. If NTC is (i) unable or unwilling to provide any Service(s) under mutually agreeable terms, or (ii) the Parties otherwise fail to agree to a Service Request within fourteen (14) days of JVC's presentation of such Service Request to NTC, then JVC may perform or retain any third party(ies) to perform the Service(s) that are the subject of such Service Request. If JVC performs or retains any third party(ies) to perform any Service(s), then NTC will cooperate with JVC and such third party(ies) with respect to the provision of such Service(s) (including any transition thereof as set forth in Section 3.3) by or to JVC.

Section 2.3 Duration of Services. NTC will provide the Services to JVC during the Term subject to Section 3.2.

ARTICLE III
TERM AND TERMINATION

Section 3.1 Term. The term of this Agreement will commence on the Effective Date

and will remain in effect until terminated as provided herein ("Term").

Section 3.2 Termination. This Agreement may be terminated by mutual agreement of the Parties or by JVC upon the dissolution of JVC. In the event an individual Service or Services are not satisfactory to JVC, JVC may by written notice to NTC raise an improvement request ("Improvement Request"). NTC will make commercially reasonable efforts to satisfy the Improvement Request within thirty (30) calendar days of receipt (the "Improvement Period"). At the end of the Improvement Period, if JVC is not satisfied with the results of such Improvement Request in JVC's sole discretion, JVC may terminate such individual Service or Services upon thirty (30) calendar days prior written notice to NTC. Notwithstanding the foregoing, in the event of any termination with respect to one or more individual Services, but less than all Services, this Agreement will continue in full force and effect with respect to any Services not terminated hereby and will only terminate upon termination of all individual Services hereunder.

Section 3.3 Consequences. In the event of termination, NTC agrees to provide reasonable cooperation to JVC to ensure a smooth transition to a third party service provider for such period of time as JVC reasonably requires. The parties shall cooperate in arranging for an orderly, effective transition of operational control of the functions that are the subject of the Services from NTC to JVC or its designated service provider. After such transition period, either party that has work products, documents and other materials belonging to the other party (the "Receiving Party") shall return to the delivering party ("Delivering Party") any and all such materials (and all copies and extracts thereof) provided to or obtained by Receiving Party from Delivering Party pursuant to or in connection with this Agreement, subject to any record retention requirements of the JVC.

ARTICLE IV
COMPENSATION

Section 4.1 Fees for Services. JVC will pay the fees (inclusive of VAT) to NTC for Services ("Service Fee") in accordance with the guidelines set forth on Exhibit I and as agreed upon by the Parties for each of the Services as amended from time to time. Such Service Fee will be provided at the actual cost of the Services billed to NTC. All Service Fees will be payable in New Taiwan Dollars, and JVC will make such payments in strict compliance with all applicable laws and regulations of the government of Taiwan, Republic of China.

Section 4.2 Pricing Structure. NTC represents, warrants and covenants that at all times during the Term, the Service Fees charged to JVC are the same as the prices then offered or provided by Formosa Plastics Group, ("FPG") to any other entity for services substantially similar in both quantity and quality to and at comparable level with the Services being provided to JVC under this Agreement.

Section 4.3 Payment Terms. NTC will bill JVC monthly for all Service Fees. Such bills will be accompanied by GUI and reasonable documentation or other reasonable explanation supporting such Service Fees. The Service Fees will be due to NTC within thirty (30) days after receipt of a correct and approved invoice therefor. Late payments beyond sixty (60) calendar days of the date of the invoice will be subject to interest of six percent (6%) per annum of the unpaid invoiced amount.

Section 4.4 Records and Audit. NTC will maintain records relating to this Agreement (including with respect to the provision of the Services, the records relating to the calculation of the Service Fee and verification of the FPG pricing formula as well as payment and collection of the Service Fee) in accordance with NTC's normal accounting procedures, but in no case for a period of less than one (1) year. Upon reasonable notice to NTC, JVC may designate a third party auditor at JVC's sole expense to audit such records during NTC's regular business hours in order to confirm NTC's compliance with the terms hereof. Without limiting the foregoing, in the event that any such audit reveals any overpayment by JVC of the Service Fee, then NTC will immediately: (i) refund the amount of such overpayment to JVC; and (ii) reimburse JVC for the costs that it has incurred in association with such audit.

ARTICLE V
GENERAL OBLIGATIONS; STANDARD OF CARE

Section 5.1 Performance of NTC. NTC will exercise the same level of care and diligence in performing Services hereunder as it customarily exercises in performing such services for its own purposes, but in no event will it be less than commercially reasonable care in rendering the Services hereunder. NTC will maintain sufficient resources to perform its obligations to provide Services hereunder. NTC will use reasonable efforts to provide Services to JVC in accordance with the policies, procedures and practices in effect before the Effective Date.

Section 5.2 Performance of JVC. JVC will use reasonable efforts, in connection with receiving Services, to follow the policies, procedures and practices in effect before the Effective Date, including providing information and documentation sufficient for NTC to perform the Services and making available, as reasonably requested by NTC, reasonable approvals and acceptances in order for NTC to perform its obligations under this Agreement in a timely manner.

Section 5.3 Responsibility for Errors; Delays. Except for gross negligence or willful misconduct in the performance of the Services, NTC's sole responsibility to JVC for errors or omissions in Services or failure of performance or defects in any goods, spare parts, hardware, and software will be to immediately correct any defective or non-conforming Services, goods, spare parts, hardware or software by repair or replacement at no cost to JVC, provided that JVC will promptly advise NTC of any such error, omissions, or defects.

Section 5.4 Good Faith Cooperation; Consents. The Parties will use good faith efforts to cooperate with each other in all matters relating to the provision and receipt of Services. Such cooperation will include exchanging information, providing electronic access to systems used in connection with the Services, and performing adjustments. NTC will be responsible for identifying any third party consents, licenses, sublicenses or approvals necessary to permit NTC to perform its obligations hereunder, and hereby represents and warrants that it will have in full effect with all applicable third parties at all times all such consents, licenses, sublicenses or approvals. The additional costs of obtaining such third party consents, licenses, sublicenses or approvals for the purpose of rendering Services to JVC will be borne by JVC. The Parties will maintain documentation supporting the information contained in Exhibit I and cooperate with each other in making such information available as needed.

Section 5.5 Proprietary Items License. In the course of performing Services under this Agreement, NTC may use products, materials, data, ideas, tools, processes, strategies, marketing

plans, techniques, know-how, trade secrets, methodologies and other items and information that are proprietary to NTC or are licensed to NTC by third parties (collectively, "Proprietary Items"). Except for any software that is licensed to NTC by a third party and provided by NTC to JVC in accordance with Section 5.4, if any, NTC hereby grants to JVC for the duration of the Term a royalty-free, worldwide, non-sublicenseable, non-transferable, non-exclusive, limited license to use Proprietary Items for its internal use only that are provided to JVC in connection with the Services provided hereunder pursuant to this Agreement.

Section 5.6 NTC Software. NTC hereby grants to JVC for the duration of the Term, a royalty free, nonexclusive, limited license to use the NTC software, if any, that is provided to JVC in connection with the Services provided hereunder for its internal use only and in strict conformity with all applicable restrictions on the use.

ARTICLE VI
CONFIDENTIALITY

All information provided, disclosed or obtained in connection with this Agreement or the performance of any of the Parties' activities under this Agreement will be subject to all applicable provisions of the Confidentiality Agreement. Furthermore, the terms and conditions of this Agreement will be considered "Confidential Information" under the Confidentiality Agreement for which each Party is considered a "Receiving Party" under such agreement. To the extent there is a conflict between this Agreement and the Confidentiality Agreement, the terms of this Agreement will control. If the Confidentiality Agreement is terminated or expires and is not replaced, then the Confidentiality Agreement will continue to govern the confidentiality and non-disclosure obligations between the Parties with respect to the information and materials provided or disclosed in connection with this Agreement for the duration of the Term notwithstanding such termination or expiration.

ARTICLE VII
INDEMNIFICATION; LIMITATION OF LIABILITY

Section 7.1 General Indemnity. NTC will indemnify, defend and hold harmless the JVC from and against any and all losses based on or attributable to any third party claim or threatened claim arising under this Agreement and as a result of NTC's negligence, gross negligence or that of any of its respective officers, directors, employees, agents or subcontractors.

Section 7.2 Intellectual Property Infringement Indemnification. NTC will defend, indemnify and hold harmless JVC and its directors, officers, employees and permitted assignees from and against any third party claim or demand that the provision of Services hereunder infringes or misappropriates any patent, trademark, copyright, mask work, trade secret or other intellectual property right of a third party now or hereafter existing. If any such claim or demand is asserted against JVC, NTC will defend and hold JVC harmless from all damages, costs or losses arising from or related to the defense of such legal action.

Section 7.3 Limitation of Liability. Notwithstanding the terms set forth in Section 7.1, 7.2 and 7.4, except in the event of breach of Article VI, NTC's total liability under this Agreement shall be limited to the total annual Service Fee received from JVC in the preceding

calendar year or in the event that a claim arises prior to the completion of the first full calendar year, the projected yearly Service Fee based on Service Fees already billed to JVC.

Section 7.4 Consequential Damages. Except in the event of willful misconduct or gross negligence or the breach of Article VI, neither Party will be liable to the other Party for any lost profits, loss of data, loss of use, business interruption or other special, incidental, indirect, punitive or consequential damages, however caused, under any theory of liability, arising from or relating to this Agreement.

ARTICLE VIII
FORCE MAJEURE

Each Party will be excused for any failure or delay in performing any of its obligations under this Agreement, other than the obligations of JVC to make certain payments to NTC pursuant to Section 4.1 for Services rendered, if such failure or delay is caused by Force Majeure. “Force Majeure” means any act of God or the public enemy, any accident, explosion, fire, storm, earthquake, flood, or any other circumstance or event beyond the reasonable control of the Party relying upon such circumstance or event.

ARTICLE IX
MISCELLANEOUS

Section 9.1 Applicable Law. This Agreement will be construed in accordance with and governed by the laws of Taiwan, R.O.C. and will be interpreted thereunder, without giving effect to its conflict of laws principles.

Section 9.2 Dispute Resolution. All disputes shall be resolved as follows: the Parties shall first submit the matter to the president of NTC and Executive Vice President of JVC by providing notice of the dispute to the Parties. The president of NTC and Executive Vice President of JVC shall then make a good faith effort to resolve the dispute. If they are unable to resolve the dispute within thirty (30) days of receiving notice of the dispute (during which thirty-day period, they shall seek in good faith to hold at least two (2) meetings at which they shall make a good faith effort to resolve the dispute), then the dispute shall be submitted to the chairman of the board of directors of NTC and the lead director of JVC appointed by Micron. If the chairman of the board of directors of NTC and the lead director of JVC appointed by Micron are unable to resolve the dispute within thirty (30) days of the dispute having been submitted to them (during which thirty-day period, the directors shall seek in good faith to hold at least two (2) meetings at which they shall make a good faith effort to resolve the dispute), then a civil action with respect to the dispute may be commenced.

Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement shall be brought in the Taipei District Court, located in Taipei, Taiwan, and each of the Parties hereby consents and submits to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum.

Section 9.3 Entire Agreement. This Agreement, together with Exhibit I hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof and will supersede all prior written and oral and all contemporaneous oral agreements and understandings with respect to the subject matter hereof.

Section 9.4 Descriptive Headings. The descriptive headings herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

Section 9.5 Language. This Agreement will be prepared in the English language, and the English language version will be official.

Section 9.6 Notices. All notices required under this Agreement, and all communications made by agreement of the Parties, will be made in writing, and will be delivered either personally, by facsimile, or by mail. The date of actual receipt by the receiving Party will be deemed the date of notice under this Agreement. The addresses of each Party for purposes of notice under this Agreement will be as follows:

NTC: Hwa-Ya Technology Park 669
Fuhsing 3 RD. Kueishan
Taoyuan, Taiwan, ROC
Attn: Legal department
Facsimile: 886-3-396-2226

JVC: MeiYa Technology Corporation
5F, N. 201-36
Dunhua N. Road, Songshan District
Taipei City, Taiwan, ROC
Fax:

With a mandatory copy to:

Micron: Micron Technology, Inc.
MS1-507
8000 South Federal Way
Boise, ID 83716-9632
Attention: General Counsel
Facsimile: 208-368-4540

Section 9.7 Transfer. No right or obligation under this Agreement will be transferable or assigned to any third party without the express agreement in writing of the other Party.

Section 9.8 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement will nevertheless remain in full force and effect so long as the

economic or legal substance of the transactions contemplated is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties will negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible.

Section 9.9 Modification of the Agreement. Except as provided herein, no modification of this Agreement will be valid without a writing setting forth such modification signed by both Parties.

Section 9.10 Compliance with Laws and Regulations. Each of the Parties will comply with, and will use reasonable efforts to require that its respective subcontractors comply with, all applicable laws and regulations relating to the Services.

Section 9.11 Specific Performance. The Parties agree that irreparable damage will result if NTC ceases to perform the Services during the Term in breach of its obligations hereunder, and the Parties agree that any damages available at law for such a breach of this Agreement would not be an adequate remedy. Therefore, NTC's obligation to continue performing Services hereunder will be enforceable in a court, or other tribunal with jurisdiction, by a decree of specific performance, and appropriate preliminary and permanent injunctive relief may be applied for and granted in connection therewith. Such remedy will be cumulative and not exclusive and will be in addition to any other remedies that a Party may have under this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the date first written above.

NANYA TECHNOLOGY CORP.

NANYA TECHNOLOGY CORPORATION

By:/s/ Jih Lien
Name: Jih Lien
Title: President

MEIYA TECHNOLOGY CORPORATION

By: /s/ Pei Ing Lee
Name: Pei Ing Lee
Title: Chairman

THIS IS THE SIGNATURE PAGE FOR THE SERVICES AGREEMENT
ENTERED INTO BY AND BETWEEN NANYA TECHNOLOGY CORPORATION AND MEIYA TECHNOLOGY CORPORATION

Exhibit I

SERVICES

Services (and guidelines for charging such Services in accordance with the rules and regulations of NTC) to be provided by NTC to JVC are as follows:

1. Corporate Systems

1.1 Services for Corporate Systems:

- Human Resource Management
- Financial Management
- Engineering and Construction
- Material and Inventory
- Information Technology
- Management Information System
- Environmental Protection

1.2 Charging Guidelines for Corporate Systems Services:

1) For Enterprise Resource Planning ("ERP") system and public relations consultancy services, service fee is a function of JVC's capital, revenue, net income, head count and terms as offered to NTC and other members of NTC. In addition, Services for ERP system and software maintenance are charged based on the man hours of services. Services for sharing the hardware (mainframe), on the other hand, are charged based on the hours of usage of CPU and the number of terminals.

2) For other general administrative services, such as (a) financial, stock brokerage and cashier services, (b) purchasing activity and price negotiation, (c) export affairs, customs clearance and transportation, and (d) sub-contracting engineering service, the service is charged based on the quantity of service activities for the respective services. For the architectural design and construction, the service is charged based on the amount or percentage of completed construction.

2. Services for Fab Operation System (if applicable or upon request of JVC)

- Facility supply: Costs include operational costs (such as material, consumable, personnel salary, repair and maintenance and other administrative expenses). The service is charged based on the percentage of consumption.
- Materials supply: Costs are based on separate material account. The service is charged based on material cost and reasonable handling cost.

- Maintenance tool: Costs include materials, maintenance, compensation for engineers and technicians and the cost of depreciation. The service is charged on an hourly rate basis.

- Laboratory tool: Costs include materials, maintenance, compensation for engineers and technicians and the cost of depreciation. The service is charged on an hourly rate basis.

- Information technology system and related services: Costs include license fees, maintenance fees, compensation for IT consultants and technicians. The service is charged based on the amount and percentage of data processing.

3. Services for Fab Support System (if applicable or upon request of JVC)

- Operating system development: Costs include all costs and expenses regarding information technology, facility and logistics required for the development department. The service is charged based on the percentage of the cost of the project.

- Fab expansion: Costs include compensation for the employees, NTC's expenses and other general administrative expenses. The service is charged based on the percentage of engineering and construction payment.

- Site general affairs: Costs include landscaping, planting, cleaning and site maintenance. The service is charged based on the percentage of floor area.

- Site security: Costs include compensation for relevant employees, NTC's expenses and other general administrative expenses. The service is charged based on the percentage of number of employees.

MICRON GUARANTY AGREEMENT

This Guaranty (this "**Guaranty**") is made and entered into as of the 21st day of April, 2008, by Micron Technology, Inc., a Delaware corporation ("**Guarantor**"), in favor of Nanya Technology Corporation (Nanya Technology Corporation [Translation from Chinese]), a company incorporated under the laws of the ROC ("**Beneficiary**"). Capitalized terms used in this Guaranty shall have the respective meanings ascribed to such terms in Article I of this Guaranty or as otherwise provided in Section 1.2. All capitalized terms used in this Guaranty but not otherwise defined, shall have the meanings ascribed to them in the Joint Venture Agreement, dated April 21, 2008, between Micron Semiconductor B.V., a private limited liability company organized under the laws of the Netherlands ("**MNL**") and Beneficiary (the "**Joint Venture Agreement**").

RECITALS:

A. Beneficiary has formed MeiYa Technology Corporation (MeiYa Technology Corporation [Translation from Chinese]), a company to be incorporated under the laws of the ROC (the "**Joint Venture Company**"), to engage in the business of manufacturing certain Stack DRAM Products.

B. As contemplated by the Joint Venture Agreement, MNL and Beneficiary will be shareholders of the Joint Venture Company.

C. Guarantor is the direct or indirect owner of all the equity securities of MNL, and Guarantor will, as a consequence, benefit from the consummation of the transactions contemplated by the Joint Venture Agreement.

D. Beneficiary is not willing to enter into the Joint Venture Agreement unless Guarantor agrees to be bound by the terms of this Guaranty.

E. In order to induce Beneficiary to enter into the Joint Venture Agreement, Guarantor has agreed to execute and deliver to Beneficiary this Guaranty.

NOW THEREFORE, for good and valuable consideration, including the inducement of Beneficiary to consummate the transactions contemplated by the Joint Venture Agreement, and other consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I. DEFINITIONS

Section 1.1 Defined Terms. For purposes of this Guaranty, the following terms will have the following meanings when used herein with initial capital letters:

Section 1.2 "**Applicable Law**" means any applicable laws, statutes, rules, regulations, ordinances, orders, codes, arbitration awards, judgments, decrees or other legal requirements of any Governmental Entity.

"**Beneficiary**" shall have the meaning set forth in the preamble of this Guaranty.

"**Guarantor**" shall have the meaning set forth in the preamble of this Guaranty.

"**Guaranty**" shall have the meaning set forth in the preamble of this Guaranty.

"**Guaranty Obligations**" shall have the meaning set forth in Section 2.1 of this Guaranty.

"**Joint Venture Agreement**" shall have the meaning set forth in the preamble of this Guaranty.

"**Joint Venture Company**" shall have the meaning set forth in the Recitals.

"**MNL**" shall have the meaning set forth in the preamble of this Guaranty.

"**Party**" means Guarantor or Beneficiary individually, and "**Parties**" means Guarantor and Beneficiary collectively.

"**Person**" means any natural person, corporation, joint stock company, limited liability company, association, partnership, firm, joint venture, organization, business, trust, estate or any other entity or organization of any kind or character.

"**ROC**" or "**Taiwan**" means the Republic of China.

Section 1.3 Certain Interpretative Matters.

(a) Unless the context requires otherwise, (1) all references to Sections, Articles or Recitals are to Sections, Articles or Recitals of this Guaranty, (2) words in the singular include the plural and vice versa, (3) the term "**including**" means "including without limitation," and (4) the terms "**herein**," "**hereof**," "**hereunder**" and words of similar import shall mean references to this Guaranty as a whole and not to any individual section or portion hereof. All references to "**day**" or "**days**" mean calendar days.

(b) No provision of this Guaranty will be interpreted in favor of, or against, either Party by reason of the extent to which (1) such Party or its counsel participated in the drafting thereof, or (2) such provision is inconsistent with any prior draft of this Guaranty or such provision.

ARTICLE II. GUARANTY

Section 2.1 Guaranty Obligations. Subject to the terms and conditions set forth in this Guaranty, Guarantor hereby irrevocably and unconditionally guarantees the prompt performance by MNL of its obligations under the Joint Venture Agreement (the "**Guaranty Obligations**").

Section 2.2 Nature of Guaranty. Insofar as the payment by MNL of any sums of money to the Joint Venture Company or NTC is involved, this Guaranty is a guarantee of payment and not of collection. Should the Joint Venture Company or NTC be obligated by any bankruptcy or other law to repay to MNL, Guarantor, or any trustee, receiver or other representative of either of them, any amounts previously paid, this Guaranty will be reinstated to the amount of such repayments.

Section 2.3 Independent Obligations. Except as specifically provided for in this Guaranty, the obligations of Guarantor under this Guaranty are independent of the obligations of MNL under the Joint Venture Agreement. Upon any default by MNL in the performance of the Guaranty Obligations, Beneficiary may immediately proceed against Guarantor hereunder without bringing action against or joining MNL.

Section 2.4 Defenses to Enforcement. It will not be a defense to the enforcement of this Guaranty that MNL's execution and delivery of the Joint Venture Agreement was unauthorized or otherwise invalid, or that any of MNL's obligations thereunder are otherwise unenforceable. Guarantor intends this Guaranty to apply in respect of the obligations of MNL that would arise under the Joint Venture Agreement if all of the provisions thereof were enforceable against MNL in accordance with their terms.

Section 2.5 Action with Respect to the Guaranty Obligations. Guarantor agrees that the obligations of Guarantor hereunder are unconditional and irrevocable under the circumstances set forth in the Joint Venture Agreement, subject to the terms and conditions of this Guaranty, and will not be impaired, released, terminated, discharged or otherwise affected except by performance thereof in full. Without limiting the generality of the foregoing, such obligations of Guarantor will not be affected by any of the following:

(a) any modification or amendment of, or addition or supplement to, the Joint Venture Agreement agreed to in writing by Guarantor or MNL, unless also agreed to in writing by Beneficiary;

(b) any exercise or non-exercise of any right, power or remedy under, or in respect of, the Joint Venture Agreement;

(c) any waiver, consent, release, extension, indulgence or other action, inaction or omission under, or in respect of, the Joint Venture Agreement, unless also agreed to in writing by Beneficiary;

(d) any insolvency, bankruptcy or similar proceeding involving or affecting MNL or any liquidation or dissolution of MNL; or

(e) any failure of MNL to comply with any of the terms or conditions of the Joint Venture Agreement.

Section 2.6 Delays; Waivers. No delay by Beneficiary in exercising any right, power or privilege under this Guaranty or failure to exercise the same will constitute a waiver or otherwise affect such right, power or privilege, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or

Section 2.7 privilege. No notice to or demand on Guarantor will be deemed to be a waiver of (a) any obligation of any of MNL or (b) any right of Beneficiary to take any further action or exercise any rights under this Guaranty or the Joint Venture Agreement.

Section 2.8 Defenses. Notwithstanding the foregoing, nothing in this Guaranty will restrict Guarantor from raising the defense of prior payment or performance by MNL of the obligations which Guarantor may be called upon to pay or perform under this Guaranty or the defense (other than a defense referred to in Section 2.4 of this Guaranty) that there is no obligation on the part of MNL with respect to the matter claimed to be in default under the Joint Venture Agreement.

Section 2.9 Representations and Warranties. Guarantor hereby represents and warrants to Beneficiary that:

(a) Guarantor shall follow and abide by the restriction on unilateral purchases of the Shares of Joint Venture Company under Section 3.6 (b) of the Joint Venture Agreement. Guarantor owns, directly or indirectly, all of the equity securities of MNL;

(b) Guarantor has the authority, capacity and power to execute and deliver this Guaranty and to consummate the transactions contemplated hereby;

(c) this Guaranty constitutes the valid and binding obligation of Guarantor and is enforceable against Guarantor in accordance with its terms; and

(d) neither the execution and delivery by Guarantor of this Guaranty nor the performance by Guarantor of the transactions contemplated hereby will violate, conflict with or constitute a default under (1) any Applicable Law or other law to which either Guarantor or any of its assets is subject, or (2) any contract to which Guarantor is a party or is bound, except where such conflict, violation, default, termination, cancellation or acceleration would not materially impair the ability of Guarantor to perform its obligations under this Guaranty.

ARTICLE III. MISCELLANEOUS

Section 3.1 Entire Agreement. This Guaranty constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior agreements and undertakings, written and oral, between the Parties with respect to the subject matter hereof.

Section 3.2 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given upon (a) transmitter's confirmation of a receipt of a facsimile transmission, (b) confirmed delivery by a standard overnight or recognized international carrier or when delivered by hand, or (c) delivery in person, addressed at the following addresses (or at such other address for a Party as shall be specified by like notice):

(1) if to Beneficiary:

(2) Nanya Technology Corporation

Hwa-Ya Technology Park 669
Fuhsing 3 RD. Kueishan
Taoyuan, Taiwan, ROC
Attn: Legal department
Facsimile: 886-3-396-2226

(3) if to Guarantor:

Micron Technology, Inc.
8000 S. Federal Way
Mail Stop 1-507
Boise, ID 83716
Attn: General Counsel
Facsimile: (208) 368-4537

Section 3.3 Amendments and Waivers.

(a) Any provision of this Guaranty may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by the Parties, or in the case of a waiver, by the Party against whom the waiver is to be effective.

(b) The failure at any time of a Party to require performance by the other Party of any responsibility or obligation required by this Guaranty shall in no way affect a Party's right to require such performance at any time thereafter, nor shall the waiver by a Party of a breach of any provision of this Guaranty by the other Party constitute a waiver of any other breach of the same or any other provision nor constitute a waiver of the responsibility or obligation itself. The rights and remedies herein provided will be cumulative and not exclusive of any rights or remedies provided by law.

Section 3.4 Choice of Law. This Guaranty shall be construed and enforced in accordance with and governed by the laws of the ROC, without giving effect to the principles of conflict of laws thereof.

Section 3.5 Jurisdiction; Venue. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Guaranty shall be brought in a court located in the Taipei District Court, Taiwan and each of the Parties hereby consents and submits to the exclusive jurisdiction of such court (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum.

Section 3.6 Counterparts. This Guaranty may be executed in several counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

Section 3.7 Headings. The headings of the Articles and Sections in this Guaranty are provided for convenience of reference only and shall not be deemed to constitute a part hereof.

Section 3.8 Severability. Should any provision of this Guaranty be deemed in contradiction with the laws of any jurisdiction in which it is to be performed or unenforceable for any reason, such provision shall be deemed null and void, but this Guaranty shall remain in full force and effect in all other respects. Should any provision of this Guaranty be or become ineffective because of changes in Applicable Law or interpretations thereof, or should this Guaranty fail to include a provision that is required as a matter of law, the validity of the other provisions of this Guaranty shall not be affected thereby. If such circumstances arise, the Parties shall negotiate in good faith appropriate modifications to this Guaranty to reflect those changes that are required by Applicable Law.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Guaranty has been executed and delivered as of the date first written above.

NANYA TECHNOLOGY CORPORATION

By:/s/ Jih Lien

Print Name: Jih Lien

Title: President

MICRON TECHNOLOGY, INC.

By:/s/ D. Mark Durcan

Print Name: D. Mark Durcan

Title: President and Chief Operating Officer

THIS IS THE SIGNATURE PAGE FOR THE MICRON GUARANTY AGREEMENT ENTERED INTO BY AND BETWEEN NTC AND MICRON

Exhibit 10.61

Allen&Gledhill
ADVOCATES & SOLICITORS

CONFORMED COPY

Dated 31 March 2008

TECH SEMICONDUCTOR SINGAPORE PTE. LTD.
as Borrower

ABN AMRO BANK N.V.
CITIBANK, N.A., SINGAPORE BRANCH
CITIGROUP GLOBAL MARKETS SINGAPORE PTE LTD
DBS BANK LTD
OVERSEA-CHINESE BANKING CORPORATION LIMITED
as Original Mandated Lead Arrangers

CITICORP INVESTMENT BANK (SINGAPORE) LIMITED
as Facility Agent

ABN AMRO BANK N.V., SINGAPORE BRANCH
as Security Trustee

and

THE BANKS
as defined herein

US$600,000,000
FACILITY AGREEMENT

ALLEN & GLEDHILL LLP
ONE MARINA BOULEVARD #28-00
SINGAPORE 018989

TABLE OF CONTENTS

This Agreement is made on 31 March 2008

Among

(1) **TECH Semiconductor Singapore Pte. Ltd.** (company registration number: 199102059C) (the **Borrower**"), as borrower;

(2) **ABN AMRO Bank N.V., Citibank, N.A., Singapore Branch/ Citigroup Global Markets Singapore Pte Ltd, DBS Bank Ltd and Oversea-Chinese Banking Corporation Limited** (the "**Original Mandated Lead Arrangers**"), as original mandated lead arrangers;

(3) **Citicorp Investment Bank (Singapore) Limited** (the "**Facility Agent**"), as facility agent;

(4) **ABN Amro Bank N.V., Singapore Branch** (the "**Security Trustee**"), as security trustee; and

(5) **The Banks (as defined below).**

It is agreed as follows:

1. Definitions and Interpretation

1.1 Definitions

In this Agreement:

"**Accession Undertaking**" shall have the meaning ascribed thereto in the Trust Deed.

"**Accounts**" means the bank accounts of the Borrower from time to time.

"**Actual Additional Capital Expenditure**" has the meaning given to it in Clause 18.16.4.

"**Advance**" means an advance (as from time to time consolidated, divided or reduced by repayment or prepayment) made or to be made by the Banks under the Facility.

"**Approved Capital Expenditure**" means approved expenditure of a capital nature as permitted under Clause 18.16 *(Capital Expenditure)*.

"**Assembly and Test Services Agreement**" means the assembly and test service agreement dated 16 July 2005 between Micron and the Borrower.

"**Asset Based Financing**" means any transaction entered into by the Borrower pursuant to which the Borrower leases, acquires, mortgages or finances the acquisition of an asset (including, without limitation, finance, capital or operating leases, sale and lease back and/or hire purchase transactions).

"**Authorised Investments**" means:

(a) investments denominated in Singapore dollars, for Singapore dollar amounts, US dollars for US dollar amounts or any other currency where that is required for operational purposes and made in the form of demand or time deposits, certificates of deposit or other unsecured and non-subordinated debt obligations placed with or, as the case may be, issued by any Bank or any corporation, if in the case of a corporation, the then current rating of Standard & Poor's International Rating, Ltd. of such unsecured and non-subordinated obligations of such corporation is at least A or the then current rating of Moody's Investors

Service Inc. of such unsecured and non-subordinated obligations of such corporation is at least A2; or

(b) such other investments as may be approved by the Instructing Group from time to time.

"**Availability Period**" means, in relation to the Facility, the period from and including the date of this Agreement to and including the earlier of (a) 31 December 2008 and (b) the first Business Day on which the Available Commitment of each of the Banks is zero and is not available to be drawn in accordance with the terms of this Agreement.

"**Available Commitment**" means, in relation to a Bank at any time and save as otherwise provided herein, its Commitment at such time **less** the aggregate of its share of the Advances which have been made.

"**Available Facility**" means, at any time, the aggregate amount of the Available Commitments adjusted, in the case of any proposed drawdown of the Facility, so as to take into account any reduction in the Commitment of a Bank taking effect on or before the proposed drawdown date pursuant to the terms hereof.

"**Bank**" means any financial institution:

(a) named in Schedule 1 (*The Banks*); or

(b) which has become a party hereto in accordance with Clause 30.4 (*Assignments by Banks*) or Clause 30.5 (*Transfers by Banks*),

and which has not ceased to be a party hereto in accordance with the terms hereof.

"**Borrower Accounts Assignment**" means an assignment of the Accounts, in a form agreed between the Security Trustee and the Borrower, to be duly executed by the Borrower in favour of the Security Trustee.

"**Business Day**" means a day (other than a Saturday or Sunday) which is not a public holiday and on which banks are open for general business in Singapore, Hong Kong, Taipei and (in relation to any date for payment or purchase of US dollars) New York City.

"**CIBSL**" means Citicorp Investment Bank (Singapore) Limited acting, as the context requires, in its capacity as agent for the Existing Lenders under the Existing Credit Agreement.

"**Commitment**" means, in relation to a Bank at any time and save as otherwise provided herein, the amount set opposite its name under the heading "**Commitment**" in Schedule 1 (*The Banks*).

"**Compliance Certificate**" means a certificate substantially in the form set out in Schedule 5 (*Form of Compliance Certificate*).

"**Confidentiality Undertaking**" means a confidentiality undertaking substantially in the form set out in Schedule 6 (*Confidentiality Undertaking*) or such other form as may be agreed between the Facility Agent and the Borrower.

"**Core Commercial Agreements**" means the Assembly and Test Services Agreement, the Lease, the Purchase Agreement, the Shareholders' Agreement, the Technical Assistance Agreement, the Wafer Purchase Agreement, the Secondary Silicon Purchase Agreement,

the U.S. Wafer Purchase Agreement, the U.S. Unit-To-Test Product Purchase Agreement and the Wafer Purchase Agreement for Subcontracted Processes.

"**Debenture**" means a fixed and floating charge over the assets and revenues of the Borrower (including inventories, receivables and debts) in a form agreed between the Security Trustee and the Borrower, to be duly executed by the Borrower in favour of the Security Trustee.

"**Debt Service Deposit Accounts**" means (a) the interest bearing account, account number and designation 0001-002765-3 USD opened or to be opened with DBS Bank Ltd (which may be divided into sub-accounts) and (b) the interest bearing account, account number and designation 501-682702-401 opened or to be opened with Oversea-Chinese Banking Corporation Limited (which may be divided into sub-accounts), in each case by the Borrower for the purpose of receiving a deposit from the Borrower to be held as security pursuant to the Borrower Accounts Assignment and "**Debt Service Deposit Account**" shall mean either of them.

"**Dispute**" means any dispute referred to in Clause 37 (*Jurisdiction*).

"**Encumbrance**" means (a) a mortgage, charge, pledge, lien or other encumbrance securing any obligation of any person, (b) any arrangement under which money or claims to, or the benefit of, a bank or other account may be applied, set off or made subject to a combination of accounts so as to effect discharge of any sum owed or payable to any person or (c) any other type of preferential arrangement (including any title transfer and retention arrangement) having a similar effect.

"**Environmental Claim**" means any claim, proceedings or investigation by any person pursuant to any Environmental Law.

"**Environmental Law**" means any applicable law in any jurisdiction in which the Borrower conducts business which relates to the pollution or protection of the environment or harm to or the protection of human health or the health of animals or plants.

"**Environmental Permits**" means any permit, licence, consent, approval and other authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of the Borrower conducted on or from the properties owned or used by the Borrower.

"**Event of Default**" means any circumstance described as such in Clause 19 (*Events of Default*).

"**Excess Cash**" has the meaning given to it in Clause 18.16.4.

"**Existing Credit Agreement**" means the US$400,000,000 facility agreement dated 24 November 2005 between the Borrower, CIBSL as facility agent and DBS Bank Ltd as security trustee and the financial institutions referred to therein as mandated lead arrangers, lead arrangers, lead managers, managers and banks.

"**Existing Security Documents**" means the Security Documents as such term is defined in the Existing Credit Agreement.

"**Existing Lenders**" means the financial institutions referred to as "**Banks**" in the Existing Credit Agreement.

"**Facility**" means the term loan facility granted to the Borrower in this Agreement.

"**Facility Office**" means, in relation to any Finance Party, the office identified with its signature below or, in the case of a Transferee, at the end of the Transfer Certificate to which it is a party as Transferee or such other office as any Finance Party may from time to time select by notice to the Facility Agent (by not less than five Business Days' written notice).

"**Final Maturity Date**" means 25 May 2012.

"**Finance Documents**" means this Agreement, the Security Documents, any fee letter delivered pursuant to Clause 20 (*Commitment Commission and Fees*) and any other document designated in writing as such by the Facility Agent and the Borrower.

"**Finance Parties**" means the Facility Agent, the Security Trustee and the Banks.

"**Financial Indebtedness**" means any indebtedness for or in respect of:

(a) Indebtedness For Borrowed Money;

(b) any documentary or standby letter of credit facility or performance bond facility;

(c) any interest rate swap, currency swap, forward foreign exchange transaction, cap, floor, collar or option transaction or any other treasury transaction or any combination thereof or any other transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and the amount of the Financial Indebtedness in relation to any such transaction shall be calculated by reference to the mark-to-market valuation of such transaction at the relevant time); and

(d) any guarantee or indemnity for any of the items referred to in paragraphs (a) to (c) above.

"**Indebtedness For Borrowed Money**" means any indebtedness for or in respect of:

(a) moneys borrowed;

(b) any amount raised by acceptance under any acceptance credit facility;

(c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

(d) any amount raised pursuant to any issue of shares which are expressed to be redeemable;

(e) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with generally accepted accounting principles in the relevant jurisdiction, be treated as a finance or capital lease;

(f) the amount of any liability in respect of any advance or deferred purchase agreement if one of the primary reasons for entering into such agreement is to raise finance;

(g) receivables sold or discounted (other than on a non-recourse basis);

(h) any agreement or option to re-acquire an asset if one of the primary reasons for entering into such agreement or option is to raise finance;

(i) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing; and

(j) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (i) above.

"**Information Memorandum**" means the document dated January 2008 concerning the Borrower which, at its request and on its behalf, was prepared in relation to this transaction and distributed to selected banks.

"**Instructing Group**" means:

(a) whilst no Advances are outstanding, a Bank or Banks whose Commitments amount in aggregate to 66 2/3 per cent. or more of the Total Commitments; and

(b) whilst at least one Advance is outstanding, a Bank or Banks to whom in aggregate 66 2/3 per cent. or more of the Loan is (or, immediately prior to its repayment, was then) owed.

"**Insurance Assignment**" means an assignment of insurances, in a form agreed between the Security Trustee and the Borrower, to be duly executed by the Borrower in favour of the Security Trustee.

"**Insurance Expert**" means Lockton Companies (Singapore) Private Limited or such other insurance adviser as may be from time to time reasonably acceptable to the Facility Agent.

"**Interest Period**" means, save as otherwise provided herein:

(a) any of those periods mentioned in Clause 4.1 (*Interest Periods*); and

(b) in relation to an Unpaid Sum, any of those periods mentioned in Clause 22.1 (*Default Interest Periods*).

"**Lease**" means the 30-year lease of the Site commencing from 1 November 1991 granted by the Jurong Town Corporation to the Borrower comprised in the lease registered as IA/168613A at the Singapore Land Authority.

"**Loan**" means, at any time, the aggregate principal amount of outstanding Advances.

"**Margin**" means two point five per cent. (2.5 per cent.) per annum.

"**Material Adverse Effect**" means (a) an effect on the business, operations, property, condition (financial or otherwise) or prospects of the Borrower which would reasonably be expected to have a material adverse effect on the ability of the Borrower to perform its payment obligations under the Finance Documents to which it is party unless such term is used in Clause 19 (*Events of Default*) (other than Clause 19.10 (*Litigation*)), in which event it shall mean a material adverse effect on the ability of any of the Obligors to perform its payment or (in the case of the Borrower only) other material obligations under the Finance Documents to which it is party or (b) a material adverse effect on the validity or enforceability of the Finance Documents or the rights or remedies of any Finance Party under the Finance Documents.

"**Micron**" means Micron Technology, Inc., a company incorporated in Delaware, U.S.A.

"**Micron Corporate Guarantee**" means the conditional guarantee given by Micron in the form agreed between the Finance Parties and Micron, to be duly executed by Micron in favour of the Security Trustee.

"**Micron Security Documents**" means the security documents entered or to be entered into by the Borrower in favour of Micron in connection with the Micron Corporate Guarantee, complying with the requirements of Clause 18.13.1.

"**Mortgage**" means a mortgage, in a form agreed between the Security Trustee and the Borrower, over the Site to be duly executed by the Borrower in favour of the Security Trustee.

"**Non-extension Event**" means any of the parties to the Shareholders' Agreement has given (in accordance with Clause 26.5 of the Shareholders' Agreement) any notice under Clause 14 of the Shareholders' Agreement (as such Clause may be renumbered) or under any other analogous provisions of the Shareholder's Agreement, for the non-extension of the Term.

"**Non-Repeated Representations**" means each of the representations set out in Clause 15.10 *(No Winding-Up)* to Clause 15.24 (*Payments of Taxes*).

"**Notice of Drawdown**" means a notice substantially in the form set out in Schedule 4 (*Notice of Drawdown*).

"**Obligor**" means the Borrower or any party to a Finance Document (other than the Finance Parties and the Original Mandated Lead Arrangers).

"**Operating Accounts**" means the Accounts other than the Debt Service Deposit Accounts.

"**Original Financial Statements**" means the audited financial statements of the Borrower for its financial year ended 30 August 2007.

"**Permitted Encumbrance**" means:

(a) encumbrances for taxes, fees, assessments or other governmental charges which arise by operation of law and are not delinquent or remain payable without penalty or are being contested in good faith and in an appropriate manner, provided in each case that an appropriate reserve has been made therefor;

(b) encumbrances consisting of carriers', warehousemen's, mechanics', landlords', materialmen's, repairmen's or other similar encumbrances arising by operation of law and in the ordinary course of business which are not delinquent or remain payable without penalty or are being contested in good faith and in an appropriate manner provided in each case that an appropriate reserve has been made therefor;

(c) encumbrances securing (i) the performance of bids, trade contracts (other than indebtedness for borrowed money), leases or statutory obligations, (ii) contingent obligations with respect to surety and appeal bonds, or letters of credit, and (iii) other obligations of a like nature provided that, in each case such encumbrances are incurred in the ordinary course of business and are not delinquent or remain

payable without penalty or are being contested in good faith and in an appropriate manner and an appropriate reserve has been made therefor;

(d) encumbrances consisting of easements, rights-of-way, restrictions and other similar encumbrances incurred in the ordinary course of business which, in the aggregate, do not materially detract from the value of the property subject thereto or interfere with the ordinary conduct of the business of the Borrower;

(e) subject to Clause 18.24 (*Permitted Financial Indebtedness*), encumbrances created in respect of any Asset Based Financing where the encumbrances do not extend beyond the property purchased or financed (whether before, on or after the date of this Agreement), and all replacements, additions, attachments and accessions thereto, and the proceeds (including insurance proceeds) thereof;

(f) encumbrances arising in the ordinary course of the Borrower's business solely by virtue of any statutory, common law or contractual provisions relating to banker's encumbrances, rights of set-off or similar rights and remedies as to deposit or operating accounts;

(g) encumbrances in the nature of leases and subleases of, and licenses and sublicenses where the Borrower is the lessor or licensor (or sublessor or sublicensor) provided that such leases, subleases, licenses and sublicenses do not in the aggregate materially interfere with the business of the Borrower;

(h) encumbrances created pursuant to the Finance Documents;

(i) encumbrances created over equipment and related assets to secure the balance of the purchase price payable therefor provided that the aggregate amount of all such unpaid purchase prices that remain unpaid more than 60 days after any testing of the relevant asset has been completed and such asset has been accepted by the Borrower shall not exceed US$10,000,000 or its equivalent in other currencies;

(j) subject to Clause 18.24 (*Permitted Financial Indebtedness*), encumbrances securing indebtedness permitted for financing or refinancing all or part of the purchase price for equipment or related assets;

(k) encumbrances created pursuant to the Micron Security Documents; and

(l) encumbrances created pursuant to the Existing Credit Agreement and the Existing Security Documents.

"**Permitted Financial Indebtedness**" means:

(a) Financial Indebtedness outstanding under the Finance Documents;

(b) Financial Indebtedness incurred for or in respect of any documentary or standby letter of credit facility or performance bond facility;

(c) Financial Indebtedness incurred for or in respect of any interest rate swap, currency swap, forward foreign exchange transaction, cap, floor, collar or option transaction or any other treasury transaction or any combination thereof or any other transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and the amount of the Financial Indebtedness in

relation to any such transaction shall be calculated by reference to the mark-to-market valuation of such transaction at the relevant time);

(d) any guarantee or indemnity for any of the items referred to in paragraphs (b) and (c) above;

(e) Financial Indebtedness incurred by the Borrower under any Asset Based Financing provided that (i) the maximum aggregate amount of principal and interest accrued and payable by the Borrower under all Asset Based Financing (excluding Asset Based Financing for leases relating to the operation of gas plants) does not exceed US$200,000,000 or its equivalent outstanding at any time and (ii) the maximum aggregate amount of principal and interest accrued and payable by the Borrower under all Asset Based Financing (excluding Asset Based Financing in the form of operating leases and finance leases) does not exceed US$100,000,000 at any time;

(f) Subordinated Debt made available by and owing to the Shareholders and/or the parties to the Shareholders' Agreement; and

(g) Financial Indebtedness outstanding under the Existing Credit Agreement or the Existing Security Documents, provided such Financial Indebtedness is fully repaid by the Borrower either out of its cashflow before the first Advance is made hereunder and/or with the proceeds of such first Advance.

"**Plant**" means each of the advanced wafer fabrication plants operated by the Borrower.

"**Potential Event of Default**" means any event which would become (with the passage of time, the giving of notice, the making of any determination hereunder or any combination thereof pursuant to Clause 19 (*Events of Default*)) an Event of Default provided that:

(a) for the purpose of Clause 15.9 *(No Defaults)*, Potential Event of Default shall mean the making of any Advance which would reasonably be expected to result in an Event of Default; and

(b) for the avoidance of doubt, no projection prepared or produced by the Borrower for its internal purposes with respect to its financial condition shall, in and of itself, constitute a Potential Event of Default (it being understood that any event relating to or relied upon as a basis of, such projection may be a Potential Event of Default if it falls within the definition thereof (excluding this paragraph (b)).

"**Project**" means the operation and upgrading of the Plant by the Borrower.

"**Proportion**" means, in relation to a Bank:

(a) whilst no Advances are outstanding, the proportion borne by its Commitment to the Total Commitments (or, if the Total Commitments are then zero, by its Commitment to the Total Commitments immediately prior to their reduction to zero); or

(b) whilst at least one Advance is outstanding, the proportion borne by its share of the Loan to the Loan.

"**Purchase Agreement**" means the purchase agreement entered into between Micron and the Borrower dated 1 October 1998 (as amended from time to time).

"**Quotation Date**" means, in relation to any period for which an interest rate is to be determined under the Finance Documents, 11:00am (Singapore time) on the date falling two Singapore Business Days prior to the first day of that period.

"**Reference Banks**" means the principal Singapore offices of ABN AMRO Bank N.V., Oversea-Chinese Banking Corporation Limited, Citibank, N.A. and DBS Bank Ltd or such banks as may be selected as such by the Facility Agent after consultation with the Borrower.

"**Relevant Loan Balance**" means the principal amount of the Loan outstanding at the close of business on the last day of the Availability Period.

"**Repayment Date**" means each of the dates specified in Clause 8 (*Repayment of the Facility*).

"**Repayment Instalment**" means each of the instalments for repayment of the Loan specified in Clause 8 (*Repayment of the Facility*).

"**Repeated Representations**" means each of the representations set out in Clause 15.1 (*Status*) to Clause 15.9 *(No Defaults)*.

"**Secondary Silicon Purchase Agreement**" means the secondary silicon purchase agreement dated 1 December 1998 entered into between, among others, Micron and the Borrower.

"**Security Documents**" means the Borrower Accounts Assignment, the Debenture, the Insurance Assignment, the Micron Corporate Guarantee, the Mortgage, the Security Sharing Agreement and the Trust Deed.

"**Security Sharing Agreement**" means a security sharing agreement, in a form agreed among the Finance Parties, the Borrower and Micron, to be duly executed by the Borrower and Micron.

"**Singapore Business Days**" means a day (other than Saturday or Sunday) which is not a public holiday and on which banks are open for general business in Singapore.

"**Shareholders**" means each (or any or all, as the context may require) of Micron, Hewlett-Packard Singapore (Private) Limited, Canon Inc and any other person who may hold shares in the Borrower from time to time.

"**Shareholders Termination Event**" means a Non-extension Event has occurred and is continuing on 11 April 2011.

"**Shareholders' Agreement**" means a shareholders' agreement dated 11 April 1991 as amended from time to time, read with the Withdrawal Agreement, pursuant to which the parties thereto agreed to establish the Borrower as a limited liability company, the purpose of such company being to construct and operate advanced wafer fabrication plants in Singapore.

"**SIBOR**" means, in relation to any amount to be advanced to, or owing by, the Borrower under the Finance Documents on which interest for a given period is to accrue the percentage rate per annum determined by the Facility Agent to be equal to the arithmetic mean (rounded upwards, if necessary, to the fifth decimal place) of the respective rates quoted according to Reuters Screen Page SIBOR fixing methodology (as described on the

screen page currently known as SIBOT, by disregarding the highest rate and the lowest rate quoted of each of the banks whose rates appear above the average rate line) on the screen page designated for dollars (being currently "**SIBO**") or the currency of any Unpaid Sum published as reported by Reuters Limited through its Reuters Monitor Service or any equivalent successor to such page (the "**Reuters Screen**") as the rate at which it is offering deposits in dollars or, as the case may be, the currency of such Unpaid Sum, for a period comparable to that for which such rate is to be determined in the Singapore interbank market at or about 11.00 a.m. (Singapore time) on the Quotation Date therefor or, at the option of the Facility Agent, if there is no rate quoted for such period, such rate as is determined by the Facility Agent to be the appropriate rate by reference to the weighted mean of the rates quoted for the nearest shorter and longer periods to such period, **provided that** if on any Quotation Date for any period by reference to which interest is to be calculated (a) for any such period only one or no banks have quotations of SIBOR appearing on the Reuters' Screen at the relevant time (and the Facility Agent has not determined an appropriate rate by reference to the weighted mean of the rates quoted for the nearest shorter and longer periods to such period) or (b) the rate determined as SIBOR as aforesaid is, in the opinion of the Facility Agent, manifestly incorrect, then SIBOR, in relation to any such period, shall be the arithmetic mean (rounded as aforesaid) of the respective rates quoted by the Reference Banks to the Facility Agent at its request as their offered rate to prime banks in the Singapore interbank market for deposits in dollars or, as the case may be, the currency of such Unpaid Sum, in an amount comparable to the amount of such Advance or such Unpaid Sum for a period comparable to such period at or about 11.00 a.m. (Singapore time) on the Quotation Date therefor.

"**Singapore**" means the Republic of Singapore and where the context permits, any agency (other than an agency having a direct or indirect shareholding in the Borrower), taxing authority or political sub-division thereof.

"**Site**" means the whole of Lot 3709L of Mukim 13 comprised in Certificate of Title (SUB) Volume 632 Folio 27, together with the buildings erected thereon.

"**Standing Payment Instruction**" means, in relation to each of the Banks, the payment instructions set out in Schedule 7 (*Standing Payment Instructions*) or in any relevant Transfer Certificate, as amended from time to time by original written instructions notified to the Facility Agent by letter by a duly authorised officer of the relevant Bank.

"**Subordinated Debt**" means any loan or advance or other indebtedness made available to the Borrower by any person or owing by the Borrower to any person which is subordinated as to payment or repayment (in all circumstances) to the rights of the Finance Parties hereunder and under the Security Documents, on terms disclosed to the Facility Agent.

"**Technical Assistance Agreement**" means the technical assistance agreement entered into between Micron and the Borrower dated 1 October 1998 (as amended from time to time).

"**Term**" has the meaning given to it in the Shareholders' Agreement.

"**Total Commitments**" means, at any time, the aggregate of the Banks' Commitments.

"**Transfer Certificate**" means a certificate substantially in the form set out in Schedule 2 (*Form of Transfer Certificate*) signed by a Bank and a Transferee under which:

(a) such Bank seeks to procure the transfer to such Transferee of all or a part of such Bank's rights, benefits and obligations under the Finance Documents upon and subject to the terms and conditions set out in Clause 30.3 (*Assignments and Transfers by Banks*); and

(b) such Transferee undertakes to perform the obligations it will assume as a result of delivery of such certificate to the Facility Agent as contemplated in Clause 30.5 (*Transfers by Banks*).

"**Transfer Date**" means, in relation to any Transfer Certificate, the date for the making of the transfer as specified in such Transfer Certificate.

"**Transferee**" means a person to which a Bank seeks to transfer by novation all or part of such Bank's rights, benefits and obligations hereunder.

"**Trust Deed**" means a trust deed, in a form agreed between the Security Trustee and the Borrower, pursuant to which the Security Trustee agrees to hold all of the Security Documents entered into in its favour as trustee on behalf of the beneficiaries referred to therein on the terms and conditions specified therein.

"**Unpaid Sum**" means the unpaid balance of any of the sums referred to in Clause 22.1 (*Default Interest Periods*).

"**U.S. Wafer Purchase Agreement**" means the U.S. wafer purchase agreement dated 1 May 2000 between, among others, Micron and the Borrower.

"**U.S. Unit-To-Test Product Purchase Agreement**" means the U.S. unit-to-test product purchase agreement dated 1 June 2003 between Micron and the Borrower.

"**Wafer Purchase Agreement**" means the wafer purchase agreement dated 24 August 1999 between, among others, Micron and the Borrower.

"**Wafer Purchase Agreement for Subcontracted Processes**" means the wafer purchase agreement for subcontracted processes dated 2 November 2007 between the Borrower and the Shareholders.

"**Withdrawal Agreement**" means the withdrawal agreement dated 1 August 2007 between, among others, EDB Investments Pte Ltd, Micron and the Borrower.

1.2 Interpretation

Any reference in this Agreement to:

an "**affiliate**" of a person shall be construed as a reference to any person which is a subsidiary of the first-mentioned person or a holding company of the first-mentioned person or any other subsidiary of that holding company;

the "**Facility Agent**", the "**Security Trustee**" or any "**Bank**" shall be construed so as to include its and any subsequent successors and permitted transferees in accordance with their respective interests;

"**continuing**", in relation to:

(a) an Event of Default, shall be construed as a reference to an Event of Default which is continuing and has not been remedied or waived in accordance with the terms hereof;

(b) a Potential Event of Default, shall be construed as a reference to a Potential Event of Default which is continuing and has not been remedied within the relevant grace period or waived in accordance with the terms hereof; and

(c) a Non-extension Event, shall be construed such that where any notice is given (in accordance with Clause 26.5 of the Shareholders' Agreement) by any party to the Shareholders' Agreement resulting in that Non-extension Event, the Non-extension Event shall be deemed as continuing unless (i) such notice has been nullified and the Term has been extended to a date falling no earlier than 25 November 2013 or (ii) the Shareholders' Agreement has been terminated in circumstances where Micron has acquired all the shares in the Borrower;

"**the equivalent**", on any given date, in a specified currency (the "**first currency**") of an amount denominated in another currency (the "**other currency**") is, unless otherwise stated, a reference to the amount of the first currency which would be required to purchase the amount of the other currency at the spot rate of exchange quoted by the Facility Agent at or about 11.00 a.m. on such date for the purchase of the other currency with the first currency;

"**GST**" shall be construed as a reference to goods and services tax imposed in Singapore including any similar tax which may be imposed in place thereof from time to time;

a "**holding company**" of a company or corporation shall be construed as a reference to any company or corporation of which the first-mentioned company or corporation is a subsidiary;

"**indebtedness**" shall be construed so as to include any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

a "**law**" shall be construed as any law (including common or customary law), statute, constitution, decree, judgment, treaty, regulation, directive, bye-law, order or any other legislative measure of any government, supranational, local government, statutory or regulatory body or court;

a "**month**" is a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next succeeding calendar month save that:

(a) if any such numerically corresponding day is not a Business Day, such period shall end on the immediately succeeding Business Day to occur in that next succeeding calendar month or, if none, it shall end on the immediately preceding Business Day;

(b) if there is no numerically corresponding day in that next succeeding calendar month, that period shall end on the last Business Day in that next succeeding calendar month; and

(c) if an Interest Period for an Advance commences 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 it is to end,

(and references to "**months**" shall be construed accordingly);

a "**person**" shall be construed as a reference to any person, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing;

"**repay**" (or any derivative form thereof) shall, subject to any contrary indication, be construed to include "**prepay**" (or, as the case may be, the corresponding derivative form thereof);

a "**subsidiary**" of a company or corporation shall be construed as a reference to any company or corporation:

(a) which is controlled, directly or indirectly, by the first-mentioned company or corporation;

(b) more than half the issued share capital of which is beneficially owned, directly or indirectly, by the first-mentioned company or corporation; or

(c) which is a subsidiary of another subsidiary of the first-mentioned company or corporation

and, for these purposes, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body;

a "**successor**" shall be construed so as to include an assignee or successor in title of such party and any person who under the laws of its jurisdiction of incorporation or domicile has assumed the rights and obligations of such party under this Agreement or to which, under such laws, such rights and obligations have been transferred;

"**tax**" shall be construed so as to include any tax, levy, impost, duty or other charge 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); and

the "**winding-up**", "**dissolution**" or "**administration**" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, administration, arrangement, adjustment, protection or relief of debtors.

1.3 Currency Symbols

"**US$**", "**dollars**" and "**US dollars**" denote lawful currency of the United States of America and "**S$**" and "**Singapore dollars**" denote lawful currency of Singapore.

1.4 Agreements and Statutes

Any reference in this Agreement to:

1.4.1 a "**Finance Document**" or any other agreement or document shall be construed as a reference to that Finance Document or, as the case may be, such other agreement or document as the same may have been, or may from time to time be, amended, varied, novated, supplemented, extended, restated (however fundamentally and whether or not more onerously) or replaced and includes any change in the purpose of, and any extension of or any increase in any facility or the addition of any new facility under that Finance Document or, as the case may be, such other agreement or document.

1.4.2 a statute or treaty shall be construed as a reference to such statute or treaty as the same may have been, or may from time to time be, amended or, in the case of a statute, re-enacted.

1.5 Headings

Clause and Schedule headings are for ease of reference only.

1.6 Time

Any reference in this Agreement to a time of day shall, unless a contrary indication appears, be a reference to Singapore time.

1.7 Third Party Rights

1.7.1 Unless expressly provided to the contrary in this Agreement, a person who is not a party to this Agreement 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.

1.7.2 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 Grant of the Facility

The Banks grant to the Borrower, upon the terms and subject to the conditions hereof a term loan facility in an aggregate amount of US$600,000,000.

2.2 Purpose and Application

2.2.1 The Facility is intended to be utilised to refinance any outstanding amounts due to the Existing Lenders under the Existing Credit Agreement and/or (at any time after all outstanding amounts owing under the Existing Credit Agreement have been discharged) to finance capital expenditure and/or general working capital (including trade related purposes) and, accordingly, the Borrower shall apply all amounts raised by it hereunder in or towards satisfaction of such purposes.

2.2.2 None of the Finance Parties shall be bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

2.3 Conditions Precedent

Save as the Banks may otherwise agree, the Borrower may not deliver the first Notice of Drawdown unless the Facility Agent has received all of the documents and other evidence listed in Schedule 3 (*Conditions Precedent*), the requirement for which has not been waived by the Instructing Group and that each is, in form and substance, satisfactory to the Facility Agent.

2.4 Finance Parties' Obligations Several

The obligations of each Finance Party under the Finance Documents are several and the failure by a Finance Party to perform its obligations under the Finance Documents shall not affect the obligations of the Borrower or the other Banks towards any other party under the Finance Documents nor shall any Finance Party be liable for the failure by any other Finance Party to perform its obligations under the Finance Documents.

2.5 Finance Parties' Rights Several

The rights of each Finance Party under or in connection with the Finance Documents are several and any debt arising under the Finance Documents at any time from an Obligor to a Finance Party shall be a separate and independent debt. Each such party shall be entitled to protect and enforce its individual rights arising out of this Agreement independently of any other party (so that it shall not be necessary for any party hereto to be joined as an additional party in any proceedings for this purpose).

3. Utilisation of the Facility

3.1 Drawdown Conditions for Advances

An Advance will be made by the Banks to the Borrower if:

3.1.1 not more than 10 Business Days nor later than 3:00 p.m. four Business Days (including the day on which the completed Notice of Drawdown is delivered to the Facility Agent) before the proposed date for the making of such Advance, the Facility Agent has received a completed Notice of Drawdown signed by an authorised signatory of the Borrower;

3.1.2 the proposed date for the making of such Advance is a Business Day within the Availability Period and (in the case of the first Advance) fall on or before the date falling 60 days after the date of this Agreement;

3.1.3 the proposed date for the making of such Advance is not less than four Business Days after the date upon which the previous Advance (if any) was made;

3.1.4 the proposed amount of such Advance is (a) (if less than the Available Facility) an amount not less than US$10,000,000 and an integral multiple of US$5,000,000 or (b) equal to the amount of the Available Facility;

3.1.5 the interest rate applicable to such Advance during its first Interest Period would not fall to be determined pursuant to Clause 6.1 (*Market Disruption*) unless an alternative rate has been agreed upon in accordance with the provisions of Clause 6.3 (*Alternative Rate*);

3.1.6 on and as of the proposed date for the making of such Advance (a) no Event of Default or Potential Event of Default has occurred and is continuing and (b) the Repeated Representations and, if such Advance is the first Advance made under the Facility, the Non-Repeated Representations are true in all material respects; and

3.1.7 no more than 15 Advances would be outstanding as a result of that Advance.

3.2 Each Bank's Participation in Advances

Each Bank will participate through its Facility Office in each Advance made pursuant to Clause 3.1 (*Drawdown Conditions for Advances*) in the proportion borne by its Available Commitment to the Available Facility immediately prior to the making of that Advance.

3.3 Reduction of Available Commitment

If a Bank's Available Commitment is reduced in accordance with the terms hereof after the Facility Agent has received the Notice of Drawdown for an Advance and such reduction was not taken into account in the Available Facility, then the amount of that Advance shall be reduced accordingly.

4. Interest Periods

4.1 Interest Periods

The period for which an Advance is outstanding shall be divided into successive periods each of which (other than the first, which shall begin on the day such Advance is made) shall start on the last day of the preceding period.

4.2 Duration

The duration of each Interest Period shall, save as otherwise provided herein, be one, two, three or six months (or any other period less than six months and ending on a Repayment Date), in each case as the Borrower may by not less than four Business Days' prior notice to the Facility Agent select, **provided that**:

4.2.1 if the Borrower fails to give such notice of its selection in relation to an Interest Period, the duration of that Interest Period shall, subject to sub-clause 4.2.2, be one month; and

4.2.2 the Borrower shall select Interest Periods so as to ensure that each Repayment Date coincides with the last day of the Interest Period(s) of an Advance or Advances in an aggregate principal amount not less than the Repayment Instalment due on that Repayment Date.

4.3 Consolidation and division of Advances

4.3.1 If two or more Interest Periods relating to Advances end on the same date those Advances will be consolidated into, and treated as, a single Advance on the last day of the Interest Period.

4.3.2 The Borrower may, by not less than four Business Days' notice to the Facility Agent, direct that any Advance shall, at the beginning of any Interest Period relating thereto, be divided into (and thereafter, save as otherwise provided

herein, treated in all respects as) two or more Advances in such amounts (in aggregate, equalling the amount of the Advance being so divided) as shall be specified by the Borrower in such notice, **provided that** the Borrower shall not be entitled to make such a direction if:

(a) as a result of so doing, there would be more than 15 outstanding Advances; or

(b) any Advance thereby coming into existence would be of an amount less than US$10,000,000.

5. Payment and Calculation of Interest

5.1 Payment of Interest

On the last day of each Interest Period the Borrower shall pay accrued interest on the Advance to which such Interest Period relates.

5.2 Calculation of Interest

The rate of interest applicable to an Advance from time to time during an Interest Period relating thereto shall be the rate per annum which is the sum of the Margin and SIBOR on the Quotation Date therefor.

6. Market Disruption and Alternative Interest Rates

6.1 Market Disruption

If, in relation to any Advance:

6.1.1 SIBOR is to be determined by reference to Reference Banks and at or about 11.00 a.m. on the Quotation Date for the relevant Interest Period none or only one of the Reference Banks supplies a rate for the purpose of determining SIBOR for the relevant Interest Period; or

6.1.2 before the close of business in Singapore on the Quotation Date for such Advance the Facility Agent has been notified by a Bank or each of a group of Banks to whom in aggregate fifty per cent. or more of such Advance is owed (or, in the case of a proposed Advance, if made, would be owed) that the SIBOR rate does not accurately reflect the cost of funding its participation in such Advance,

then, the Facility Agent shall notify the other parties hereto of such event and (notwithstanding anything to the contrary in this Agreement) Clause 6.2 (*Substitute Interest Period and Interest Rate*) shall apply to such Advance if it is already outstanding. If sub-clause 6.1.1 or 6.1.2 applies to a proposed Advance, such Advance shall not be made unless an alternative rate has been agreed under Clause 6.3 (*Alternative Rate*).

6.2 Substitute Interest Period and Interest Rate

If sub-clause 6.1.1 of Clause 6.1 (*Market Disruption*) applies to an Advance which is already outstanding the duration of the relevant Interest Period shall be one month or such that it shall end on the next succeeding Repayment Date, whichever period is shorter. If either sub-clause 6.1.1 or 6.1.2 of Clause 6.1 (*Market Disruption*) applies to an Advance

which is already outstanding, the rate of interest applicable to such Advance during the relevant Interest Period shall (subject to any agreement reached pursuant to Clause 6.3 (*Alternative Rate*)) be the rate per annum which is the sum of:

6.2.1 the Margin;

6.2.2 the rate per annum determined by the Facility Agent to be the weighted average (rounded upwards to five decimal places) of the rates notified by each Bank to the Facility Agent before the last day of such Interest Period to be those which express as a percentage rate per annum the cost to each Bank of funding from whatever sources it may reasonably select its portion of such Advance during such Interest Period.

The Facility Agent shall from time to time, upon the request of the Borrower, provide the Borrower with the rates of interest of each Bank, determined in accordance with this Clause 6.2.

6.3 Alternative Rate

If (a) either of those events mentioned in sub-clauses 6.1.1 and 6.1.2 of Clause 6.1 (*Market Disruption*) occurs in relation to an Advance or (b) by reason of circumstances affecting the Singapore interbank market during any period of three consecutive Business Days SIBOR is not available for dollars to prime banks in the Singapore interbank market, then if the Facility Agent or the Borrower so requires, the Facility Agent and the Borrower shall enter into negotiations with a view to agreeing to a substitute basis (i) for determining the rates of interest from time to time applicable to the Advances and/or (ii) upon which the Advances may be maintained (whether in dollars or some other currency) thereafter and any such substitute basis that is agreed shall take effect in accordance with its terms and be binding on each party hereto, **provided that** the Facility Agent may not agree to any such substitute basis without the prior consent of each Bank.

7. Notification

7.1 Advances

Not less than three Business Days before the proposed date for the making of an Advance, the Facility Agent shall notify each Bank of the proposed amount of the relevant Advance, the proposed length of the relevant Interest Period and the aggregate principal amount of the relevant Advance allocated to such Bank pursuant to Clause 3.2 (*Each Bank's Participation in Advances)* and not less than three Business Days before the first day of an Interest Period, the Facility Agent shall notify each Bank of the proposed length of that Interest Period.

7.2 Interest Rate Determination

The Facility Agent shall promptly notify the Borrower and the Banks of each determination of SIBOR or substitute or alternative rate of interest determined pursuant to Clause 6 (*Market Disruption and Alternative Interest Rates*), if applicable.

7.3 Changes to Advances or Interest Rates

The Facility Agent shall promptly notify the Borrower and the Banks of any change to (a) the proposed length of an Interest Period or (b) any interest rate occasioned by the operation of Clause 6 (*Market Disruption and Alternative Interest Rates*).

8. Repayment of the Facility

On each Repayment Date set out below, the Borrower shall repay the Loan in instalments in the amounts set out below:

Repayment Date	**Repayment Instalment**
27 May 2009	1/24 of Relevant Loan Balance
27 August 2009	1/24 of Relevant Loan Balance
27 November 2009	1/12 of Relevant Loan Balance
27 February 2010	1/12 of Relevant Loan Balance
27 May 2010	1/12 of Relevant Loan Balance
27 August 2010	1/12 of Relevant Loan Balance
27 November 2010	1/12 of Relevant Loan Balance
27 February 2011	1/12 of Relevant Loan Balance
27 May 2011	1/12 of Relevant Loan Balance
27 August 2011	1/12 of Relevant Loan Balance
27 November 2011	1/12 of Relevant Loan Balance
27 February 2012	1/12 of Relevant Loan Balance
25 May 2012	1/12 of Relevant Loan Balance

9. Prepayment and Cancellation

9.1 Voluntary Prepayment and Cancellation

9.1.1 The Borrower may, if it has given to the Facility Agent not less than five Business Days' prior notice to that effect (and such notice to be given at or before 10.00 a.m. (Singapore time) on the day of such notice), prepay the whole of any Advance or any part of any Advance (being a minimum amount of US$10,000,000 and an integral multiple of US$5,000,000) on the last day of any Interest Period

(including during the Availability Period) relating to that Advance or, subject to Clause 22.4 (*Break Costs*), on any other date (in each case) without prepayment fee or premium. Any prepayment so made during the Availability Period shall be applied towards satisfying the Borrower's obligations under Clause 8 (*Repayment of the Facility*) rateably. Any prepayment so made after the Availability Period shall be applied towards satisfying the Borrower's repayment obligations under Clause 8 (*Repayment of the Facility*) in inverse chronological order. Amounts of any Advance prepaid may not be redrawn.

9.1.2 The Borrower may, if it has given to the Facility Agent not less than five Business Days' prior notice to that effect (and such notice to be given at or before 10.00 a.m. (Singapore time) on the day of such notice), cancel the whole or any part of the Available Facility (being a minimum amount of US$10,000,000 and an integral multiple of US$5,000,000). Any cancellation under this Clause 9.1.2 shall reduce the Commitments of the Banks rateably.

9.2 Mandatory Prepayment of the Loan

Without prejudice to the terms of subordination of Subordinated Debt, if any Subordinated Debt falls due to be redeemed, discharged, repaid or prepaid (as a result of acceleration, mandatory prepayment or otherwise) on or prior to the Final Maturity Date or if earlier, the date on which all amounts due under this Agreement fall due to be repaid or prepaid, the Borrower shall immediately notify the Facility Agent and, if the Facility Agent so requires, shall on such date as the Facility Agent may specify, and prior to redeeming, discharging, repaying or prepaying such Subordinated Debt, prepay the Advances in full together with accrued interest thereon and all other amounts owing to the Finance Parties hereunder without prepayment fee or premium. Amounts of the Advances prepaid may not be redrawn.

9.3 Notice of Prepayment

Any notice of prepayment given by the Borrower pursuant to Clause 9.1 (*Voluntary Prepayment of the Loan*) shall be irrevocable, shall specify the date upon which such prepayment is to be made and the amount of such prepayment and shall oblige the Borrower to make such prepayment on such date together with accrued interest.

9.4 Repayment of a Bank's Share of the Loan

If:

9.4.1 any sum payable to any Bank by the Borrower is required to be increased pursuant to Clause 10.1 (*Tax Gross-up*);

9.4.2 any Bank claims indemnification from the Borrower under Clause 10.2 (*Tax Indemnity*) or Clause 12.1 (*Increased Costs*); or

9.4.3 the rate notified by a Bank in relation to a particular Interest Period under Clause 6.2 *(Substitute Interest Period and Interest Rate)* is higher than the rate per annum determined by the Facility Agent to be the weighted average (rounded upwards to five decimal places) of the rates notified by each Bank to the Facility Agent (but disregarding the highest and the lowest rates so notified where there are more than three such rates) before the last day of such Interest Period to be

those which express as a percentage rate per annum the cost to each Bank of funding from whatever sources it may select its portion of the relevant Advance during such Interest Period,

the Borrower may, whilst such circumstance continues, give the Facility Agent at least five Business Days notice (which notice shall be irrevocable) of cancellation of the Commitment of that Bank and/or of its intention to repay such Bank's share of the Loan without any prepayment fee or premium. On receipt of a notice referred to in this Clause, the Commitment of that Bank shall immediately be reduced to zero. On the last day of each current Interest Period the Borrower shall repay such Bank's portion of the Advance to which such Interest Period relates. Any repayment of an Advance so made after the last day of the Availability Period shall reduce rateably the remaining obligations of the Borrower under Clause 8 (*Repayment of the Facility*).

9.5 No Further Advances

A Bank for whose account a repayment is to be made under Clause 9.4 (*Repayment of a Bank's Share of the Loan*) shall not be obliged to participate in the making of Advances on or after the date upon which the Facility Agent receives the Borrower's notice of its intention to repay such Bank's share of the Loan, and such Bank's Available Commitment on such date shall be reduced to zero.

9.6 No Other Repayments

The Borrower shall not repay all or any part of the Loan except at the times and in the manner expressly provided for in this Agreement.

9.7 Reborrowing of the Facility

The Borrower shall not be entitled to reborrow any amount of the Facility which is repaid.

10. Taxes

10.1 Tax Gross-up

All payments to be made by the Borrower to any Finance Party under the Finance Documents shall be made free and clear of and without deduction for or on account of tax imposed in or required by Singapore unless the Borrower is required to make such a payment subject to the deduction or withholding of such tax, in which case the sum payable by the Borrower (in respect of which such deduction or withholding is required to be made) shall be increased to the extent necessary to ensure that such Finance Party receives a sum net of any deduction or withholding equal to the sum which it would have received had no such deduction or withholding been made or required to be made.

10.2 Tax Indemnity

Without prejudice to Clause 10.1 (*Tax Gross-up*), if any Finance Party is required to make any payment of or on account of tax on or in relation to any sum received or receivable under the Finance Documents (including any sum deemed for purposes of tax to be received or receivable by such Finance Party whether or not actually received or receivable) or if any liability in respect of any such payment is asserted, imposed, levied or assessed against any Finance Party, the Borrower shall, within five Business Days of

demand of the Facility Agent, promptly indemnify the Finance Party which suffers a loss or liability as a result against such payment or liability, together with any interest, costs and expenses payable or incurred in connection therewith, **provided that** this Clause 10.2 shall not apply to:

10.2.1 any tax imposed on and calculated by reference to the net income actually received or receivable by such Finance Party (but, for the avoidance of doubt, not including any sum deemed for purposes of tax to be received or receivable by such Finance Party but not actually receivable) by the jurisdiction in which such Finance Party is incorporated; or

10.2.2 any tax imposed on and calculated by reference to the net income of the Facility Office of such Finance Party actually received or receivable by such Finance Party (but, for the avoidance of doubt, not including any sum deemed for purposes of tax to be received or receivable by such Finance Party but not actually receivable) by the jurisdiction in which its Facility Office is located.

10.3 Claims by Banks

A Bank intending to make a claim pursuant to Clause 10.2 (*Tax Indemnity*) shall notify the Facility Agent of the event giving rise to the claim, whereupon the Facility Agent shall notify the Borrower thereof and if the Facility Agent and/or the Borrower, within five Business Days of their receipt of such notification, notify such Bank requiring it to do so, such Bank shall provide a certificate of a responsible officer to such effect together with either (a) a legal opinion (which may be provided by its internal counsel) or (b) an opinion of external auditors, supporting such claim (and the reasonable costs of obtaining an opinion from any external counsel or auditors shall be paid by the Borrower on demand), whereupon the Facility Agent shall promptly provide the Borrower with a copy of such certificate and opinion, if required, **provided that** nothing herein shall require such Bank to disclose any confidential information relating to the organisation of its affairs.

10.4 GST

The Borrower shall also pay to each relevant Finance Party, within five Business Days of demand, in addition to any amount payable by the Borrower to that relevant Finance Party under a Finance Document, any GST payable in respect of that amount (and references in that Finance Document to that amount shall be deemed to include any such GST payable in addition to it).

11. Tax Receipts

11.1 Notification of Requirement to Deduct Tax

If, at any time, the Borrower is required by law to make any deduction or withholding from any sum payable by it under the Finance Documents (or if thereafter there is any change in the rates at which or the manner in which such deductions or withholdings are calculated), the Borrower shall promptly notify the Facility Agent. Similarly, a Bank shall notify the Facility Agent on becoming so aware in respect of a payment payable to that Bank. If the Facility Agent receives such notification from a Bank, it shall notify the Borrower.

11.2 Evidence of Payment of Tax

If the Borrower makes any payment under the Finance Documents in respect of which it is required to make any deduction or withholding, it shall pay the full amount required to be deducted or withheld to the relevant taxation or other authority within the time allowed for such payment under applicable law and shall deliver to the Facility Agent for each Bank, within 30 days after it has made such payment to the applicable authority, an original receipt (or a certified copy thereof) issued by such authority evidencing the payment to such authority of all amounts so required to be deducted or withheld in respect of that Bank's share of such payment.

11.3 Tax Credit Payment

If the Borrower makes a payment under Clause 10 (*Taxes*) for the account of any person and such person determines in its reasonable business judgement that it has received or been granted a credit against or relief or remission for, or repayment of, any tax paid or payable by it in respect of or calculated with reference to such payment or the deduction or withholding giving rise thereto, such person shall, to the extent that it can do so without prejudice to the retention of the amount of such credit, relief, remission or repayment, within 10 Business Days of such determination, pay to the Borrower such amount as such person shall, in its reasonable business judgement, have determined to be attributable to such payment, deduction or withholding. Any payment made by a person under this Clause 11.3 shall be *prima facie* evidence of the amount due to the Borrower under this Clause 11.3 and, absent manifest error, shall be accepted by the Borrower in full and final settlement of its rights of reimbursement under this Clause 11.3. Nothing herein contained shall interfere with the rights of a person to arrange its tax affairs in whatever manner it thinks fit and, in particular, no person shall be under any obligation to claim credit, relief, remission or repayment from or against its corporate profits or similar tax liability in respect of the amount of such payment, deduction or withholding in priority to any other claims, reliefs, remissions, credit or deductions available to it, nor oblige any person to disclose any information relating to its tax affairs or any computation in respect thereof.

11.4 Certification

Notwithstanding anything to the contrary, the Borrower shall not be required under Clause 10.1 (*Tax Gross-up*) to increase any sum payable by the Borrower to any Finance Party hereunder, or under Clause 10.2 (*Tax Indemnity*) to indemnify any Finance Party against such payments and liabilities as are referred to therein, to the extent such person, any other person on such person's behalf or the Facility Agent has failed to comply with any certification, identification or other similar requirement under applicable law or regulation necessary to establish entitlement to exemption from or reduction of any relevant deduction, withholding, payment or liability.

12. Increased Costs

12.1 Increased Costs

If at any time after the date hereof, by reason of (a) any change in law or in its interpretation or administration by any body charged with the interpretation or administration thereof or by any court and/or (b) compliance with any new or revised

request from or any new or revised requirement of any central bank or other fiscal, monetary or other authority whether or not having the force of law but, if not having the force of law, only if compliance with such request or requirement is in accordance with the general practice of persons to whom such request or requirement is intended to apply (including, without limitation, a request or requirement which affects the manner in which a Bank or any holding company of such Bank is required to or does maintain capital resources having regard to such Bank's obligations under this Agreement and to amounts owing to it thereunder):

12.1.1 a Bank or any holding company of such Bank incurs a cost as a result of such Bank having entered into and/or performing its obligations under this Agreement and/or assuming or maintaining a commitment under this Agreement and/or making one or more Advances thereunder;

12.1.2 a Bank or any holding company of such Bank is unable to obtain the rate of return on its overall capital which it would have been able to obtain but for such Bank having entered into and/or performing its obligations and/or assuming or maintaining a commitment under this Agreement and/or making one or more Advances thereunder under such circumstances;

12.1.3 there is any increase in the cost to a Bank or any holding company of such Bank of funding or maintaining all or any of the advances comprised in a class of advances formed by or including the Advances made or to be made by such Bank under this Agreement; or

12.1.4 subject to Clause 12.3 (*Exclusions*), a Bank or any holding company of such Bank becomes liable to make any payment on account of tax or otherwise (not being a tax imposed on the net income of such Bank's Facility Office by the jurisdiction in which it is incorporated or in which its Facility Office is located) or becomes liable and subject to an assertion, imposition, levy or assessment on account of tax or otherwise (not being such a tax as aforesaid) on or calculated by reference to the amount of the advances made or to be made by such Bank hereunder and/or to any sum received or receivable by it hereunder,

then the Borrower shall, from time to time on demand of the Facility Agent, promptly pay to the Facility Agent for the account of that Bank amounts sufficient to indemnify that Bank or any such holding company against, as the case may be, (1) such cost, (2) such reduction in such rate of return (or such proportion of such reduction as is, in the reasonable opinion of that Bank, attributable to its obligations hereunder), (3) such increased cost (or such proportion of such increased cost as is, in the opinion of that Bank, attributable to its funding or maintaining Advances) or (4) such liability.

12.2 Increased Costs Claims

A Bank intending to make a claim pursuant to Clause 12.1 (*Increased Costs*) shall notify the Facility Agent of the event giving rise to such claim, whereupon the Facility Agent shall notify the Borrower thereof and if the Facility Agent and/or the Borrower, within five Business Days of their receipt of such notification, notify such Bank requiring it to do so, such Bank shall provide a certificate of a responsible officer to such effect together with either (a) a legal opinion (which may be provided by its internal counsel) or (b) an opinion from external auditors supporting such claim (and the reasonable costs of obtaining an

opinion from an external counsel or auditors shall be paid by the Borrower on demand), whereupon the Facility Agent shall promptly provide the Borrower with a copy of such certification and opinion, if required, **provided that** nothing herein shall require such Bank to disclose any confidential information relating to the organisation of its affairs.

12.3 Exclusions

Notwithstanding the foregoing provisions of this Clause 12, no Bank shall be entitled to make any claim under this Clause 12 in respect of any cost, increased cost or liability compensated by Clause 10 (*Taxes*).

13. Illegality

If, at any time, it is or will become unlawful for a Bank to make, fund or allow to remain outstanding all or part of its share of the Advances, then that Bank shall, promptly after becoming aware of the same, deliver to the Borrower through the Facility Agent a notice to that effect and:

13.1.1 such Bank shall not thereafter be obliged to participate in the making of any Advances and the amount of its Available Commitment shall be immediately reduced to zero; and

13.1.2 if the Facility Agent on behalf of such Bank so requires, the Borrower shall on such date as the Facility Agent shall have specified repay (without prepayment fee or penalty) such Bank's share of any outstanding Advances as shall be necessary to comply with, or as required by, the relevant law, regulation or directive, together with accrued interest thereon and all other amounts owing to such Bank under the Finance Documents in respect of the amount repaid and any repayment of Advances so made shall reduce rateably the remaining obligations of the Borrower under Clause 8 (*Repayment of the Facility*).

14. Mitigation

If, in respect of any Bank, circumstances arise which would or would upon the giving of notice result in:

14.1.1 an increase in any sum payable to it or for its account pursuant to Clause 10.1 (*Tax Gross-up*);

14.1.2 a claim for indemnification pursuant to Clause 10.2 (*Tax Indemnity*) or Clause 12.1 (*Increased Costs*); or

14.1.3 the reduction of its Available Commitment to zero or any repayment to be made by the Borrower pursuant to Clause 13 (*Illegality*),

then, without in any way limiting, reducing or otherwise qualifying the rights of such Bank or the obligations of the Borrower under any of the Clauses referred to above, such Bank shall promptly upon becoming aware of such circumstances notify the Facility Agent and the Facility Agent shall promptly notify the Borrower thereof and such Bank shall, in consultation with the Facility Agent and the Borrower, for a period of 30 days, take such reasonable steps as may be reasonably open to it to mitigate the effects of such circumstances (including the transfer of its rights and obligations hereunder to another

Facility Office or another financial institution), **provided that** such Bank shall be under no obligation to take any such action if to do so would or might in its opinion result in such Bank incurring any material cost, expenses or liability or have an adverse effect upon its business, operations or financial condition or would otherwise be prejudicial to it.

15. Representations

The Borrower makes the representations and warranties set out in this Clause 15 on the date hereof and on the date the first Advance is made hereunder and acknowledges that the Finance Parties have entered into this Agreement in reliance on those representations and warranties. The Repeated Representations (being each of the representations set out in Clause 15.1 (*Status*) to Clause 15.9 (*No Defaults*)) shall be deemed to be repeated by the Borrower by reference to the facts and circumstances then existing on the date on which each Advance is made or is to be made.

15.1 Status

It is a corporation duly incorporated under the laws of Singapore.

15.2 Power and authority

It 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 and the transactions contemplated by those Finance Documents.

15.3 Binding Obligations

Subject to the qualifications set out in the legal opinion of the Singapore counsel to the Finance Parties to be provided pursuant to Clause 2.3 (*Conditions Precedent*), the obligations expressed to be assumed by it in the Finance Documents to which it is party are legal and valid obligations binding on it and enforceable against it.

15.4 Execution of this Agreement

Its execution of the Finance Documents to which it is party and its exercise of its rights and performance of its obligations under the Finance Documents to which it is party do not:

15.4.1 conflict with any material agreement, mortgage, bond or other instrument or treaty to which it is a party or which is binding upon it or any of its assets to an extent or in a manner which could reasonably be expected to have a Material Adverse Effect;

15.4.2 conflict with its Memorandum and Articles of Association; or

15.4.3 conflict with any applicable law, regulation or official or judicial order which is binding upon it, save for conflicts which would not have a Material Adverse Effect.

15.5 No Material Proceedings

No action or administrative proceeding of or before any court or agency which would reasonably be expected to have a Material Adverse Effect has been started or to the best of its knowledge threatened, save as disclosed to the Facility Agent.

15.6 Encumbrances

Save for Permitted Encumbrances, no Encumbrance exists over all or any of the present or future revenues or assets of the Borrower.

15.7 Consents

All governmental licences and consents currently required to enable it to carry on its business remain in full force and effect except if failure to obtain or maintain the same would not reasonably be expected to have a Material Adverse Effect.

15.8 No Infringement

To the best of its knowledge and belief, the Borrower's operations as provided for in the Core Commercial Agreements do not infringe any third party intellectual property rights except in such a manner as would not reasonably be expected to have a Material Adverse Effect.

15.9 No Defaults

No Event of Default or Potential Event of Default has occurred and is continuing.

15.10 No Winding-up

It has not taken any corporate action nor (to the best of its knowledge and belief) have any other steps been taken or legal proceedings been started or threatened against it for its winding-up, dissolution, administration or re-organisation or for the appointment of a receiver, administrator, judicial manager, conservator, custodian, trustee or similar officer of it or of any or all of its assets or revenues and no creditors' process described in Clause 19.9 *(Execution or Distress)*, has been taken or, to the knowledge of the Borrower, threatened in relation to the Borrower, and none of the circumstances described in Clause 19.7 *(Insolvency and Rescheduling)* applies to the Borrower.

15.11 No Material Defaults

It is not in breach of or in default under any agreement to which it is a party or which is binding on it or any of its assets to an extent or in a manner which would reasonably be expected to have a Material Adverse Effect.

15.12 Original Financial Statements

The Original Financial Statements:

15.12.1 were prepared in accordance with accounting principles generally accepted in Singapore and consistently applied; and

15.12.2 save as disclosed therein and in conjunction with the notes thereto, give a true and fair view of the financial condition and operations of the Borrower during the relevant financial year.

15.13 No Material Adverse Change

Save as previously disclosed to the Facility Agent and the Banks prior to the date hereof, since 30 August 2007 (being the date the most recent audited financial statements were

stated to be prepared), there has been no material adverse change in the business or financial condition of the Borrower.

15.14 Information Memorandum

To the best of the Borrower's knowledge and belief (a) the factual information regarding the Borrower contained in the Information Memorandum and in the appendices referred to therein and in all explanations in writing supplied subsequently (but prior to the date hereof) by the Borrower to the Facility Agent, the Original Mandated Lead Arrangers and the Banks in connection with such information were, in each case, as at the relevant date(s) on which they were made true and accurate in all material aspects, (b) none of the other factual information regarding the Borrower in the Information Memorandum is incorrect or misleading in any material aspect, (c) the estimates, projections, summaries and assumptions supplied by the Borrower in the Information Memorandum were made in good faith based upon the knowledge of the Borrower and the circumstances existing at the date of the Information Memorandum and (d) there are no material facts or circumstances or changes thereto regarding the Borrower that have not been disclosed to the Facility Agent, the Original Mandated Lead Arrangers and the Banks and which would, if disclosed, reasonably be expected to adversely affect the decision of a person considering whether or not to provide finance to the Borrower at the date hereof, provided that estimates, summaries, projections and assumptions shall not be considered to constitute factual information for the purposes of this Clause 15.14.

15.15 Validity and Admissibility in Evidence

Subject to Clause 15.17 (*Filing and Stamp Taxes*) and to the qualifications set out in the legal opinion of Singapore counsel to the Finance Parties to be provided pursuant to Clause 2.3 (*Conditions Precedent*), all acts, conditions and things required to be done, fulfilled and performed by any person (other than the Finance Parties) in order (a) to enable it lawfully to enter into, exercise its rights under and perform and comply with the obligations expressed to be assumed by it in the Finance Documents to which it is a party, (b) to ensure that the obligations expressed to be assumed by it in the Finance Documents to which it is a party are legal, valid, binding and enforceable and (c) to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation have been done, fulfilled and performed.

15.16 Claims at least Pari Passu

Under the laws of Singapore in force at the date hereof, the claims of the Finance Parties against it under the Finance Documents will rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors save for:

15.16.1 indebtedness arising out of the normal course of trading which is subject to rights of set-off which arise in each case by operation of law; and

15.16.2 indebtedness preferred solely by laws of general application; and

15.16.3 indebtedness arising pursuant to the Existing Credit Agreement or the Existing Security Documents,

and, subject as aforesaid and to the security interests created by the Existing Security Documents, the security interests created by the Security Documents constitute first

ranking security interests over the assets which are expressed to be subject of the security thereunder.

15.17 Filing and Stamp Taxes

Under the laws of Singapore in force at the date hereof, it is not necessary that the Finance Documents be filed, recorded or enrolled with any court or other authority in such jurisdiction or that any stamp, registration or similar tax be paid on or in relation to the Finance Documents save that this Agreement and each of the Security Documents may be subject to payment of stamp duty of up to S$500 to be effected (where applicable, within the period prescribed by statute) and where any Security Document creates a charge to which Section 131 of the Companies Act, Chapter 50 of Singapore applies, a statement containing particulars of charge shall be lodged with the Accounting and Corporate Regulatory Authority in Singapore for registration against the Borrower within 30 days after the creation of the security thereunder.

15.18 Environmental Compliance

The Borrower has duly performed and observed in all material respects all Environmental Law, Environmental Permits and all other material covenants, conditions, restrictions or agreements directly or indirectly concerned with any contamination, pollution or waste or the release or discharge of any toxic or hazardous substance in connection with any real property which is or was at any time owned, leased or occupied by the Borrower or on which the Borrower has conducted any activity where failure to do so would reasonably be expected to have a Material Adverse Effect.

15.19 Environmental Claims

No Environmental Claim (other than those of a frivolous or vexatious nature) has been commenced or (to the best of the Borrower's knowledge and belief) is threatened against the Borrower where such claim would be reasonably likely, if determined against the Borrower, to have a Material Adverse Effect.

15.20 No Immunity

In any proceedings taken in its jurisdiction of incorporation in relation to any of the Finance Documents to which it is party, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process.

15.21 Private and Commercial Acts

Its execution of each of the Finance Documents to which it is party constitutes, and its exercise of its rights and performance of its obligations thereunder will constitute, private and commercial acts done and performed for private and commercial purposes.

15.22 Ownership of the Borrower

Micron directly or indirectly owns not less than 51 per cent. of the issued share capital of the Borrower.

15.23 No Subsidiaries

The Borrower does not have any subsidiaries other than those contemplated under Clause 18.20 (*Mergers and Subsidiaries*) and which have been advised to the Facility Agent prior to the date hereof.

15.24 Payments of Taxes

All tax returns and reports of the Borrower required to be filed by it have been duly filed and all taxes, assessments, fees, central provident fund contributions and other governmental charges upon it and its properties, assets and income which are shown on such returns as due and payable have been paid when due and payable (all grace periods as permitted by the relevant authorities having been taken into account) except where non-filing or non-payment could not reasonably be expected to have a Material Adverse Effect or is due to a *bona fide* dispute which is contested in good faith and in respect of which appropriate reserves have been made.

16. Financial Information and other information

16.1 Annual Statements

The Borrower shall as soon as the same become available, but in any event within 150 days after the end of each of its financial years, deliver to the Facility Agent in sufficient copies for the Banks its audited financial statements for such financial year prepared in US dollars (or another currency if so required as a result of changes in accounting standards applicable to the Borrower, **provided that** the Facility Agent is given sufficient information as may reasonably be required by it to make an accurate comparison between the financial information indicated by those audited financial statements and those prepared in US dollars), audited by PricewaterhouseCoopers or such other auditors reasonably acceptable to the Facility Agent.

16.2 Quarterly Statements

The Borrower shall as soon as the same become available but in any event within 30 days after the end of each quarter of each of its financial years deliver to the Facility Agent in sufficient copies for the Banks unaudited financial statements prepared in US dollars for such period.

16.3 Requirements as to Financial Statements

The Borrower shall ensure that each set of financial statements delivered by it pursuant to this Clause 16 is:

16.3.1 prepared on the same basis as was used in the preparation of the Original Financial Statements and in accordance with accounting principles generally accepted in Singapore and consistently applied; and

16.3.2 accompanied by a statement signed by any director of the Borrower or the President or Vice President, Finance of the Borrower as giving a true and fair view of its financial condition as at the end of the period to which those financial statements relate and of the results of its operations during such period.

16.4 Compliance Certificates

The Borrower shall ensure that each set of financial statements delivered by it pursuant to Clause 16.2 (*Quarterly Statements*) is accompanied by a Compliance Certificate of the President or Vice President, Finance, company secretary or other duly authorised officer of the Borrower confirming whether or not the financial condition covenants set out in Clause 17.1 (*Financial Condition*) have been met and the aggregate amount of capital expenditure incurred by the Borrower in the immediately preceding financial quarter of the Borrower's financial year, each as evidenced by the quarterly financial statements referred to in Clause 16.2 (*Quarterly Statements*), together with the aggregate amount of capital expenditure projected to be incurred by the Borrower and the projected cash flow of the Borrower and the financial projection of the Borrower in each case in the then current and immediately following financial quarter of the Borrower's financial year.

16.5 Non-extension Event

The Borrower shall notify the Facility Agent of the occurrence of a Non-extension Event no later than five Business Days of its receipt of any written notice given to it in relation to a Non-extension Event.

16.6 Other Information

The Borrower shall from time to time on the request of the Facility Agent furnish the Facility Agent with such information about the business and financial condition of the Borrower and/or the Project as the Facility Agent may reasonably require.

17. Financial Condition

17.1 Financial Condition

The Borrower shall ensure that its financial condition shall be such that:

17.1.1 the ratio of its Net Debt to Equity, measured at the end of each quarter of its financial years and as evidenced by its then unaudited quarterly financial statements prepared in US dollars for that quarter, is (a) for each quarter ending on or before 3 September 2009, no more than 0.8:1 and (b) for each quarter ending on or after 4 September 2009, no more than 0.5:1; and

17.1.2 its Liquidity Ratio, measured at the end of each quarter of its financial years and as evidenced by its then unaudited quarterly financial statements prepared in US dollars for that quarter, is at least 1.2:1; and

17.1.3 its DSCR, measured at the end of each quarter of its financial years and as evidenced by financial projections (prepared by the Borrower and delivered to the Facility Agent pursuant to Clause 16.4 (*Compliance Certificates*)), is at least 1.1:1.

17.2 Financial Definitions

In Clause 17.1 (*Financial Condition*) the following terms have the following meanings.

17.2.1 "**Equity**", measured at the end of each quarter of its financial years and as evidenced by its quarterly financial statement for that quarter referred to in sub-clause 17.1.1 of Clause 17.1 (*Financial Condition*), means the amount of paid up

share capital, retained earnings and capital reserves as shown in such financial statement together with the principal amount of any Subordinated Debt made available by the Shareholders and/or the parties to the Shareholders' Agreement then outstanding;

17.2.2 "**Net Debt**" means Total Debt less the cash balances (including bank and time deposits) (the "**Cash Balances**") of the Borrower, including those deposited in the Debt Service Deposit Accounts, but excluding a minimum retained working capital amount of US$20,000,000;

17.2.3 "**Total Debt**", measured at the end of each quarter of its financial years and as evidenced by its quarterly financial statement for that quarter referred to in sub-clause 17.1.1 of Clause 17.1 (*Financial Condition*), means the aggregate amount of Indebtedness For Borrowed Money which bears interest or payments in the nature of interest or on which interest or payments in the nature of interest is chargeable, then outstanding (both principal and accrued interest) including indebtedness under all Asset Based Financing but excluding that arising under operating leases, guarantees or contingent liabilities of the Borrower;

17.2.4 "**Liquidity Ratio**" measured at the end of each quarter of its financial years and as evidenced by its quarterly financial statement for that quarter referred to in sub-clause 17.1.2 of Clause 17.1 (*Financial Condition*), means the ratio of:

(a) the sum of (i) opening Cash Balances of the Borrower on the date two quarters prior to the date of that quarterly financial statement, (ii) net amounts disbursed to the Borrower under the Facility (being amounts disbursed less amounts repaid other than scheduled repayments) during such preceding two quarters, (iii) Equity injected during such preceding two quarters (including Subordinated Debt made available by the Shareholders and/or the parties to the Shareholders' Agreement and outstanding during such preceding two quarters but for the avoidance of doubt, excluding capitalised retained earnings) and (iv) net profit before depreciation and amortisation, interest expenses (including under Asset Based Financing (other than operating leases)) ("**Interest Expense**"), fees, corporate tax and gains or losses on disposal of fixed assets for such preceding two quarters as adjusted by:

(1) subtracting increases and adding decreases in working capital (including short term and long term payables under any Asset Based Financing (other than in respect of operating leases));

(2) subtracting capital expenditure (excluding sale and lease back transactions) incurred during such preceding two quarters; and

(3) adding proceeds from the disposal of fixed assets for such preceding two quarters (other than proceeds from sale and lease back transactions under finance leases); to

(b) the aggregate amount of scheduled repayments of principal under the Facility during such preceding two quarters and Interest Expense and payments in the nature of interest on all Indebtedness For Borrowed

Money of the Borrower (including indebtedness under all Asset Based Financing but excluding under operating leases) and fees paid or due under this Agreement during such preceding two quarters; and

17.2.5 "**DSCR**" measured at the end of each quarter of its financial years and as evidenced by its two quarterly financial projections for that quarter delivered pursuant to Clause 16.4 (*Compliance Certificates*), means the ratio of:

(a) the sum of (i) opening Cash Balances of the Borrower at the start of the immediately succeeding two quarters, (ii) net amounts disbursed to the Borrower under the Facility (being amounts disbursed less amounts repaid other than scheduled repayments) during such succeeding two quarters, (iii) Equity injected during such succeeding two quarters (including Subordinated Debt made available by the Shareholders and/or the parties to the Shareholders' Agreement and outstanding during such succeeding two quarters but for the avoidance of doubt, excluding capitalised retained earnings) and (iv) net profit before depreciation and amortisation, Interest Expense, fees and corporate tax for such succeeding two quarters as adjusted by:

(1) subtracting increases and adding decreases in working capital (including short term and long term payables under Asset Based Financing (other than in respect of operating leases));

(2) subtracting capital expenditure (excluding sale and lease back transactions) incurred during such succeeding two quarters; and

(3) adding proceeds from the disposal of fixed assets (other than proceeds from sale and lease back transactions and/or finance leases) during such succeeding two quarters; to

(b) the aggregate amount of scheduled repayments of principal under the Facility during such succeeding two quarters and Interest Expense and payments in the nature of interest on all Indebtedness For Borrowed Money of the Borrower (including indebtedness under all Asset Based Financing but excluding under operating leases) and fees paid or due under this Agreement during such succeeding two quarters.

17.3 Accounting Terms

All accounting expressions which are not otherwise defined herein shall be construed in accordance with generally accepted accounting principles in Singapore (as used in the Borrower's most recent audited financial statements).

18. Covenants

Positive Covenants

18.1 Maintenance of Legal Validity

The Borrower shall obtain, comply with the terms of and do all that is necessary to maintain in full force and effect all authorisations, approvals, licences and consents

required in or by the laws of Singapore to enable it lawfully to enter into and perform its obligations under the Finance Documents to which it is party and to ensure the legality, validity, enforceability (subject to the qualifications set out in the legal opinion of the Singapore counsel to the Finance Parties provided pursuant to Clause 2.3 (*Conditions Precedent*)) or admissibility in evidence in Singapore of the Finance Documents to which it is party other than authorisations, licences, approvals and consents, in relation to which the failure to comply with or obtain the same would not reasonably be expected to have a Material Adverse Effect.

18.2 Insurance

18.2.1 The Borrower shall maintain insurances on and in relation to its business and assets with reputable underwriters or insurance companies against such risks and to such extent as is usual for companies carrying on a business such as that carried on by the Borrower.

18.2.2 The Borrower shall deliver to the Facility Agent no later than 120 days after the date of the first Advance, the insurance policies of the Borrower duly endorsed in accordance with the Insurance Assignment.

18.3 Compliance with Laws and Environmental Compliance

The Borrower shall comply in all material respects with all applicable laws, rules and regulations to which it may be subject, including all Environmental Law and shall obtain and maintain any Environmental Permits, breach of which (or failure to comply with, obtain, maintain or take out which) could reasonably be expected to have a Material Adverse Effect.

18.4 Environmental Claims

The Borrower shall inform the Facility Agent in writing as soon as reasonably practicable upon becoming aware of the same if any Environmental Claim (other than those of a frivolous or vexatious nature) has been commenced or (to the best of the Borrower's knowledge and belief) is threatened against it in any case where such claim would be reasonably likely, if determined against it, to have a Material Adverse Effect or of any facts or circumstances which will or are reasonably likely to result in any Environmental Claim being commenced or threatened against it in any case where such claim would be reasonably likely, if determined against it, to have a Material Adverse Effect.

18.5 Notification of Events of Default

The Borrower shall promptly inform the Facility Agent of the occurrence of any Event of Default or Potential Event of Default and, upon receipt of a written request to that effect from the Facility Agent, confirm to the Facility Agent that, save as previously notified to the Facility Agent or as notified in such confirmation, no Event of Default or Potential Event of Default has occurred.

18.6 Claims Pari Passu

The Borrower shall ensure that at all times the claims of the Finance Parties against it under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors save for:

18.6.1 indebtedness arising out of the normal course of trading which is subject to rights of set-off which arise in each case by operation of law provided that where the aggregate amount of any such rights is material it shall take all reasonable steps to have the same discharged or released as soon as practicable to such an extent as to render the same not material;

18.6.2 indebtedness preferred solely by laws of general application; and

18.6.3 indebtedness arising pursuant to the Existing Credit Agreement or the Existing Security Documents.

18.7 Utilisation of the Plant

The Borrower shall, unless otherwise agreed by the Instructing Group, utilise the Plant to produce semiconductor integrated circuit products and operate the Plant in accordance with good industry practice and maintain the Plant in good working order.

18.8 Project Contracts

The Borrower shall maintain all necessary contracts, licences, approvals, titles and permits in relation to the Project in full force and effect except (a) in the case of contracts, where the same have terminated by virtue of the full and complete performance thereof and (b) in the case of contracts, licences, approvals, titles and permits, where failure to maintain the same shall have no Material Adverse Effect.

18.9 Maintenance of Security

The Borrower shall maintain the security granted pursuant to the Security Documents in accordance with the terms thereof, save for contracts or other agreements the subject of security which expire or terminate due to the full and complete performance thereof or the termination of which is not material in the overall context of the security granted pursuant to the Debenture.

18.10 Milestone

The Borrower shall meet the Product Qualification milestones for:

18.10.1 68 nanometer technology node on 300mm wafer by 31 December 2008; and

18.10.2 50 nanometer technology node on 300mm wafer by 31 December 2010.

In this Clause 18.10 "**Product Qualification**" means product qualification as determined by Micron in accordance with Micron DRAM product specifications.

18.11 Utilisation of Proceeds

The Borrower shall utilise the proceeds of each Advance in accordance with the provisions of Clause 2.2 *(Purpose and Application)*.

18.12 Taxes and Central Provident Fund

The Borrower shall pay all taxes assessed against it as and when they fall due (all applicable grace periods as permitted by the relevant authorities being taken into account) and shall ensure that all central provident fund schemes to which the Borrower is bound

are provided for in accordance with generally accepted local taxation, accounting and authorised practices.

18.13 Non-extension Event

18.13.1 The Borrower may create Security over the assets which are subject to the Security created pursuant to the Security Documents, in favour of Micron, as security for the counter-indemnity obligation of the Borrower in respect of any amounts paid by Micron to the Finance Parties under the Micron Corporate Guarantee, provided that:

(i) the Micron Corporate Guarantee and the Security Sharing Agreement are in full force and effect;

(ii) any Security created in favour of Micron pursuant to this Clause 18.13.1 shall at all times rank second in priority to the Security created pursuant to the Security Documents; and

(iii) each Micron Security Document shall be on such terms substantially similar to those of the Security Documents.

18.13.2 If the Non-extension Event is no longer continuing, the Security Trustee shall at the cost and request of the Borrower, discharge and release Micron from its obligations under the Micron Corporate Guarantee (without prejudice to accrued obligations) **provided that** on or prior to such release and discharge by the Security Trustee, each of the Micron Security Documents and the Security created pursuant thereto has been released and discharged to the satisfaction of the Security Trustee.

18.13.3 If a Non-extension Event has occurred and is continuing on or after 11 October 2010, the Borrower shall ensure that there is an aggregate minimum cash balance of US$50,000,000 in any of the Accounts at the end of each quarter of its financial years, in excess of any amount to be maintained by the Borrower in the Debt Service Deposit Accounts in accordance with the requirements of Clause 28.7 (*Debt Service Deposit Accounts*).

18.13.4 For the avoidance of doubt, no Potential Event of Default shall occur or be deemed to have occurred if the requirements of Clause 18.13.3 have been met.

18.14 “Know your customer" checks

18.14.1 The Borrower shall (and shall procure that each other Obligor shall) within five Business Days of a request by the Facility Agent or any other Finance Party or Original Mandated Lead Arranger supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself or on behalf of any other Finance Party) or any other Finance Party of Original Mandated Lead Arranger (for itself or, in the case of a Bank, on behalf of any prospective Transferee) in order for the Facility Agent, such other Finance Party, Original Mandated Lead Arranger or any prospective Transferee to carry out and be satisfied with the results of all necessary "know your customer" or other checks in relation to any person that it is required (under any applicable law

or regulation) to carry out in respect of the transactions contemplated in the Finance Documents.

18.14.2 Each Bank shall promptly upon the request of the Facility Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Facility Agent (for itself) in order for the Facility Agent to carry out and be satisfied with the results of all necessary "know your customer" or other checks in relation to any person that it is required (under any applicable law or regulation) to carry out in respect of the transactions contemplated in the Finance Documents.

Negative Covenants

18.15 Arm's Length Transactions

The Borrower shall not, other than as already agreed under or pursuant to or as contemplated by the Core Commercial Agreements, enter into transactions with its shareholders or the parties to the Shareholders' Agreement or any of their affiliates or subsidiaries except:

18.15.1 on an arm's length basis; or

18.15.2 with the approval of (a) a majority of directors representing those of its shareholders that are not party to or direct beneficiaries of the proposed transaction and (b) a majority of the board of directors of the Borrower as a whole; or

18.15.3 any single transaction or series of related transactions involving aggregate consideration to or from the Borrower of less than US$5,000,000 or its equivalent.

For the avoidance of doubt, a director appointed by the Board of Directors of the Borrower pursuant to Article 76(g) of the Borrower's Articles of Association shall be deemed to be a director not representing any shareholder of the Borrower.

18.16 Capital Expenditure

18.16.1 The Borrower shall not incur any capital expenditure at any time other than, subject to sub-clauses 18.16.2 to 18.16.7, in the amounts as set out below:

(i) up to an aggregate of US$1,100,000,000 for the financial year ending on 28 August 2008;

(ii) up to an aggregate of US$250,000,000 for the financial year ending on 3 September 2009; and

(iii) up to an aggregate of US$280,000,000, for the period commencing after the financial year referred to in paragraph (ii) above and ending on the Final Maturity Date.

18.16.2 Subject to the other provisions of this Clause 18.16, the Borrower may, at any time in any period referred to in Clause 18.16.1(ii) or (iii) above, incur capital expenditure notwithstanding that the aggregate capital expenditure then incurred by the Borrower has or will (together with that capital expenditure) exceed the amount permitted for that period in Clause 18.16.1(ii) or (iii) (as adjusted in accordance with Clause 18.16.6) (any capital expenditure in excess of such

amount permitted for that period in Clause 18.16.1(ii) or (iii) hereinafter referred to as "**Additional Capital Expenditure**"), provided that either:

(a) (in the case of Clause 18.16.1(ii)) the aggregate amount of Additional Capital Expenditure (if any) incurred and in respect of which the Borrower has taken delivery of equipment which is the subject of the Additional Capital Expenditure so incurred in such financial year of the Borrower shall not exceed an amount equal to the highest of the amounts of Excess Cash in respect of each of the financial quarters of the Borrower in that financial year; or

(b) (in the case of Clause 18.16.1(iii)) the aggregate amount of Additional Capital Expenditure (if any) incurred and in respect of which the Borrower has taken delivery of equipment which is the subject of the Additional Capital Expenditure so incurred in any financial year falling within the period referred to in Clause 18.16.1(iii) shall not exceed an amount equal to the highest of the amounts of Excess Cash in respect of each of the financial quarters of the Borrower in that financial year.

18.16.3 Any amount of Additional Capital Expenditure can only be incurred after 1 January 2009.

18.16.4 For the purpose of this Clause 18.16:

"**Actual Additional Capital Expenditure**" means:

(a) in respect of the financial year ending on 3 September 2009, the amount equal to:

(i) the aggregate amount of capital expenditure incurred by the Borrower in that financial year; less

(ii) the amount of capital expenditure permitted to be incurred by the Borrower under Clause 18.16.1 in respect of that financial year (as adjusted in accordance with Clause 18.16.6); and

(b) in respect of any financial year falling within the period referred to in paragraph (iii) of Clause 18.16.1, the amount equal to:

(i) the aggregate amount of capital expenditure incurred by the Borrower from the first day of that period until the last day of that financial year; less

(ii) the aggregate of (A) US$280,000,000 (as adjusted in accordance with Clause 18.16.6) and (B) the aggregate amount of the Actual Additional Capital Expenditure incurred by the Borrower in the preceding financial years falling within the period referred to in paragraph (iii) of Clause 18.16.1,

Provided that if the result is a negative number, the Actual Additional Capital Expenditure shall be deemed to be zero.

"**Excess Cash**" means, in respect of any financial quarter of the Borrower, the difference between:

(a) the aggregate amount of cash in the bank accounts of the Borrower (including the amounts deposited in the Debt Service Deposit Accounts) on the last day of that financial quarter; and

(b) the aggregate of the next four Repayment Instalments,

as evidenced by the then unaudited quarterly financial statements prepared in US dollars of the Borrower for that quarter, adjusted, in the case of the first and second financial quarters of each financial year of the Borrower, by subtracting the Actual Additional Capital Expenditure for the previous financial year.

18.16.5 The Borrower shall not, at any time, incur any Additional Capital Expenditure if, at such time:

(a) any party to the Shareholders' Agreement is entitled to give a notice under Clause 14 of the Shareholders' Agreement (as such Clause may be renumbered) or under any other analogous provision of the Shareholders' Agreement for the non-extension of the Term;

(b) a Non-extension Event has occurred and is continuing;

(c) any Event of Default has occurred and is continuing; or

(d) the aggregate amount standing to the credit of the Debt Service Deposit Accounts is less than US$60,000,000,

18.16.6 If the amount of the capital expenditure of the Borrower in any particular period referred to in Clause 18.16.1 is less than the amount of capital expenditure permitted for that year in that Clause, an amount equal to such difference shall be added to the capital expenditure permitted for the next period for the purpose of Clause 18.16.1.

18.16.7 For the avoidance of doubt:

(i) the principal or capital component of any Permitted Financial Indebtedness incurred by the Borrower under any Asset Based Financing (other than operating leases and sale and lease back transactions)) shall be included in determining the amount of capital expenditure of the Borrower in this Clause 18.16;

(ii) capital expenditure funded by any new equity and/or Subordinated Debt made available by and owing to the Shareholders and/or the parties to the Shareholders' Agreement shall not be prohibited and the amount of any such capital expenditure shall not be included in determining the amount of capital expenditure of the Borrower in this Clause 18.16; and

(iii) if the amount of any Additional Capital Expenditure which the Borrower has incurred in any financial year of the Borrower is less than the amount permitted for that financial year of the Borrower under Clause 18.16.2, the balance will be forfeited and shall not be added to the amount so permitted for the following financial year of the Borrower.

18.17 Negative Pledge

The Borrower shall not without the prior written consent of the Instructing Group, create or permit to subsist any Encumbrance over all or any of its present or future revenues or assets other than a Permitted Encumbrance.

18.18 Loans and Guarantees

The Borrower shall not without the prior written consent of the Instructing Group, make any loans, grant any credit (save in the ordinary course of business) or give any guarantee or indemnity (except as required hereby and other than loans and/or guarantees to employees of the Borrower not exceeding in aggregate US$2,000,000 or its equivalent) to or for the benefit of any person or otherwise voluntarily assume any liability, whether actual or contingent, in respect of any obligation of any other person.

18.19 Disposals

The Borrower shall not sell, lease, transfer or otherwise dispose of, by one or more transactions or series of transactions (whether related or not), the whole or any part of its revenues or its assets other than:

18.19.1 sale of stock in trade in the ordinary course of business; or

18.19.2 disposal of assets (other than fixed assets) in the ordinary course of business; or

18.19.3 in respect of fixed assets, any sale, lease or disposal (including pursuant to capital leases and hire-purchases but excluding pursuant to any sale and lease back arrangements) which is not in excess of, when aggregated with each other such sale, lease and disposal in a financial year, 15 per cent. of the Borrower's fixed assets (measured by the quarterly simple average net book value) in that financial year;

18.19.4 sale or disposal of assets by way of sale and lease back arrangements entered into by the Borrower under a Permitted Financial Indebtedness; or

18.19.5 cash dispositions permitted by and made in accordance with Clause 28.1 (*Accounts*).

18.20 Mergers and Subsidiaries

The Borrower shall not merge or consolidate with any other person, enter into any demerger transaction or participate in any other type of corporate reconstruction or create any subsidiaries except that the Borrower may create or acquire subsidiaries each with a capital of up to US$5,000,000 provided (a) that the shares and/or assets of any such subsidiaries are pledged or otherwise secured in favour of the Banks to secure the obligations of the Borrower under the Finance Documents, in form and substance satisfactory to the Instructing Group and (b) the Borrower shall procure that any such subsidiaries do not incur any indebtedness (other than normal operating expenses incurred in the ordinary course of business, taxes and inventory purchase liabilities).

18.21 Dividends

The Borrower shall not, without the prior written consent of the Instructing Group pay, make or declare any dividend or other distribution or repurchase or redeem equity.

18.22 No Termination of or Amendments to Core Commercial Agreements

The Borrower shall not, without the prior consent of the Instructing Group, terminate, cancel, amend or vary or grant any waiver under, or agree to any termination of, or amendment or variation to or granting of any waiver under, any Core Commercial Agreement save for (a) amendments or waivers which are of a minor, technical or administrative nature or to correct obvious mistakes or inconsistencies which are notified to the Facility Agent as soon as reasonably practicable after such amendment or waiver, (b) termination or cancellation or amendments or waivers where the same would not reasonably be expected to have a Material Adverse Effect, (c) termination of the Shareholders' Agreement in circumstances where Micron has acquired all the shares in the Borrower or (d) save where the same has terminated by virtue of the full and complete performance thereof.

18.23 Intellectual Property Rights

The Borrower shall not accept liability in respect of, or compromise any claim by any third party that the Borrower has infringed any third party intellectual property rights in the course of manufacturing products, in the operation of the Plant in Singapore or otherwise, where to do so would result in any liability or require the Borrower to make any payment either of which would reasonably be expected to have a Material Adverse Effect.

18.24 Permitted Financial Indebtedness

18.24.1 The Borrower shall not incur any Financial Indebtedness unless each of the following conditions is satisfied:

(a) such Financial Indebtedness comprises Permitted Financial Indebtedness;

(b) the Borrower has complied with Clause 17 *(Financial Condition)* and Clause 18 *(Covenants)* of this Agreement;

(c) no Event of Default or Potential Event of Default has arisen and is continuing unwaived, arises or will arise as a result of the incurrence of such Permitted Financial Indebtedness;

(d) in relation to any Permitted Financial Indebtedness under any Asset Based Financing (other than operating leases, finance leases and sale and lease back arrangements), the ratio of the total amount of the facility or commitment for such Asset Based Financing shall not be less than 70 per cent. of the aggregate Value of all the assets which are the subject of, or to be acquired, mortgaged and/or financed under, that Asset Based Financing as at the date on which the agreement(s) evidencing such Asset Based Financing is/are entered into by the Borrower. In this paragraph (d), "**Value**" means, (i) where any such assets are to be newly acquired, the purchase price thereof and (ii) in the case of any other assets, the net book value thereof, as at the commencement of such Asset Based Financing or the date on which the agreement(s) evidencing such Asset Based Financing is/are entered into by the Borrower (whichever is applicable); and

(e) in relation to any Permitted Financial Indebtedness under any Asset Based Financing that are in the form of finance leases, the ratio of the total amount of the principal component payable or to be payable thereunder less the amount (if any) paid by the Borrower as a downpayment shall not be less than 70 per cent. of (i) in the case of finance leases under sale and lease back arrangements, the net book value of all the assets which are the subject of, or to be leased under, that Asset Based Financing as at the commencement of such Asset Based Financing and (ii) in the case of any other finance lease, the purchase price of all the assets which are the subject of, or to be leased under, that Asset Based Financing.

18.24.2 The Borrower shall not redeem, discharge, repay or prepay the Subordinated Debt at any time unless at such time the Advances together with accrued interest and all other amounts owing to the Finance Parties hereunder have been repaid. For the avoidance of doubt, (a) the Borrower shall not make interest payments which fall due on Subordinated Debt made available by Shareholders and/or the parties to the Shareholders' Agreement, (b) the Borrower may convert Subordinated Debt made available by the Shareholders and/or the parties to the Shareholders' Agreement into common stock of the Borrower (subject to Clause 18.26 (*Share Capital*)) and (c) there are no restrictions upon the Shareholders and/or the parties to the Shareholders' Agreement not requiring repayment of or otherwise forgiving Subordinated Debt.

18.25 Authorised Investments

The Borrower shall not make any investments other than Authorised Investments.

18.26 Share Capital

The Borrower shall not redeem, repurchase, purchase, defease or retire any of its shares.

18.27 Change of Business

The Borrower shall procure that no substantial change is made to the general nature of its business from that carried on at the date hereof.

19. Events of Default

Each of Clause 19.1 (*Failure to Pay*) to Clause 19.21 (*Shareholder Termination Event*) describes circumstances which constitute an Event of Default for the purposes of this Agreement.

19.1 Failure to Pay

The Borrower fails to pay any sum due from it under any Finance Document to which it is a party at the time, in the currency and in the manner specified therein unless (a) without prejudice to sub-paragraph (b) below, such failure to pay is due to technical or administrative delay in the transfer of funds which was outside the control of the Borrower and such sum was paid within two Business Days of the due date for payment or (b) such failure to pay is a failure to pay a sum which is due under the Finance Documents and sufficient amounts stand to the credit of the Debt Service Deposit Accounts and are

available and able to be withdrawn by the Security Trustee from the Debt Service Deposit Accounts to discharge such sum then due and the Borrower, within five Business Days of any such withdrawal by the Security Trustee, deposits into the Debt Service Deposit Accounts such amount so as to ensure that it complies with the requirements of Clause 28.7 (*Debt Service Deposit Accounts*).

19.2 Misrepresentation

Any representation or statement made or deemed to be made by an Obligor in any Finance Document to which it is a party or in any notice or other document, certificate or statement delivered by it pursuant thereto or in connection therewith proves to have been incorrect, untrue or misleading in any material respect when made or deemed to be repeated and such representation or statement remains incorrect, untrue or misleading in any material respect seven days after that Obligor becomes aware that such representation or statement was incorrect, untrue or misleading.

19.3 Specific Covenants

The Borrower fails duly to perform or comply with any of the obligations expressed to be assumed by it in Clause 16 (*Financial Information and other information*) if, in the case of Clause 16.2 *(Quarterly Statements)*, such failure is not remedied within 30 days from the date upon which the Facility Agent notifies the Borrower of such failure or the Borrower fails to duly perform or comply with any of the obligations expressed to be assumed by it in Clause 18.2.2, Clause 18.5 *(Notification of Events of Default)* (except that in the case of failure to notify the Facility Agent of the occurrence of or confirm the non-occurrence of, any Potential Event of Default, the Borrower may remedy such failure within 30 days of its occurrence), Clause 18.8 *(Project Contracts)*, Clause 18.9 *(Maintenance of Security)*, Clause 18.11 *(Utilisation of Proceeds)*, Clause 18.13 (*Non-extension Event*), Clause 18.15 *(Arm's Length Transactions)*, Clause 18.21 *(Dividends)*, Clause 18.23 *(Intellectual Property Rights)* or Clause 28.7 (*Debt Service Deposit Accounts*).

19.4 Financial Condition

19.4.1 Any of the requirements of sub-clause 17.1.1 of Clause 17.1 (*Financial Condition*) is not satisfied unless, within two months of the last day of the period in respect of which the financial statements evidencing such failure have been prepared, the Borrower has provided evidence satisfactory to the Facility Agent and the Instructing Group that, were relevant financial statements to be prepared and the relevant ratio to be calculated in respect of such two month period then ending, the Borrower would not be failing to perform or comply with that covenant or, within 15 days after the end of such two month period the Borrower has provided financial statements with respect to such two month period to the Facility Agent confirming that if the relevant ratio is calculated with respect to such two month period, as at the end of such two month period the Borrower is not failing to perform or comply with such covenant.

19.4.2 Any of the requirements of sub-clause 17.1.2 of Clause 17.1 (*Financial Condition*) is not satisfied unless, within three months of the last day of the period in respect of which the financial statements evidencing such failure have been prepared, the Borrower has provided evidence satisfactory to the Facility Agent and the Instructing Group that, were relevant financial statements to be prepared and the

relevant ratio to be calculated in respect of such three month period then ending, the Borrower would not be failing to perform or comply with that covenant or, within 15 days after the end of such three month period the Borrower has provided financial statements with respect to such three month period to the Facility Agent confirming that if the relevant ratio is calculated with respect to such three month period, as at the end of such three month period the Borrower is not failing to perform or comply with such covenant.

19.4.3 Any of the requirements of sub-clause 17.1.3 of Clause 17.1 (*Financial Condition*) is not satisfied unless, within three months of the start of the period in respect of which the projections evidencing such failure have been prepared, the Borrower has provided evidence satisfactory to the Facility Agent and the Instructing Group that, were the relevant ratio to be calculated based on the actual results of the first three months of such period and revised projections prepared by the Borrower for the immediately succeeding three months of that period, the Borrower would not be failing to perform or comply with that covenant.

19.5 Other Obligations

An Obligor fails duly to perform or comply with any other obligation expressed to be assumed by it in any Finance Documents to which it is party and such failure, if capable of remedy, is not remedied within 60 days after the Facility Agent has given notice thereof to the Borrower.

19.6 Cross Default

19.6.1 Any Indebtedness For Borrowed Money of the Borrower is not paid when due or at the expiry of any applicable grace period or periods, **provided that** it shall not constitute an Event of Default if such indebtedness is not paid as a result of a *bona fide* dispute which is being contested in good faith and in respect of which appropriate reserves have been made.

19.6.2 Any Indebtedness For Borrowed Money of Micron under any agreement between Micron and a third party with an outstanding amount exceeding US$20,000,000 (or its equivalent) is accelerated by the relevant creditor or creditors in accordance with the terms of the relevant document or agreement (and becomes due before its specified maturity accordingly) and such acceleration has not been waived, satisfied or otherwise withdrawn within 30 days.

19.6.3 Any creditor under any Asset Based Financing or part thereof or an agent or trustee on its behalf declares (in accordance with the terms of that Asset Based Financing) that an event of default (howsoever described) has occurred under or in respect of that Asset Based Financing or otherwise declares that any amount due under or in respect of that Asset Based Financing is accelerated (and become due prior to its specified maturity accordingly).

19.6.4 No Event of Default will occur under Clause 19.6.1 or 19.6.3 (to the extent that the Event of Default under Clause 19.6.3 was the result of a failure to make a payment under any Asset Based Financing when due or at the expiry of any applicable grace period or periods) if the aggregate amount of Indebtedness for Borrrowed Money or such Asset Based Financing (as the case may be) falling

within Clause 19.6.1 and 19.6.3 above is less than US$5,000,000 (or its equivalent).

19.7 Insolvency and Rescheduling

An Obligor is unable to pay its debts as they fall due, commences negotiations with any one or more of its creditors with a view to the general readjustment or rescheduling of its indebtedness or makes a general assignment for the benefit of or a composition with its creditors;

19.8 Winding-up

The Borrower or Micron takes any corporate action or other steps (which are not of a frivolous or vexatious nature) are taken or legal proceedings are started for its winding-up, dissolution, administration or re-organisation (whether by way of voluntary arrangement, scheme of arrangement or otherwise) or for the appointment of a liquidator, receiver, administrator, judicial manager, conservator, custodian, trustee or similar officer of it or of any or all of its revenues and assets unless in the case of any such petition presented, order made or other action or steps or proceedings taken otherwise than by or at the instigation of the Borrower or any of the shareholders, the same would not prejudice the rights of the Finance Parties under the Security Documents, is being contested in good faith and is in any event discharged, withdrawn or discontinued within 30 days.

19.9 Execution or Distress

Any execution or distress is levied against, or an encumbrancer takes possession of, the whole or any part of, the property, undertaking or assets of an Obligor and if such execution, distress or taking of possession relates to assets which are not substantial, such execution, distress or taking of possession is not discharged within three months.

19.10 Litigation

19.10.1 The Borrower fails to comply with or pay any sum due from it under any final judgment or any final order made or given by any court of competent jurisdiction which exceeds (in aggregate with any other such sums outstanding) US$5,000,000 or its equivalent and continues unsatisfied and unstayed for a period of 30 days.

19.10.2 Any final judgement or final order made against the Borrower is made or given by any court of competent jurisdiction, in each case which would reasonably be expected to have a Material Adverse Effect.

19.10.3 No Event of Default would occur under Clauses 19.10.1 and 19.10.2 if:

(i) the final judgement or final order is subject to a pending appeal or a pending application for permission or leave to appeal; or

(ii) (a) there is a possibility of an appeal or an application for permission or lease to appeal against that final judgement or final order; and

(b) the period specified by the relevant court of competent jurisdiction or statute for making of an appeal or an application for permission or lease to appeal has not lapsed or, where no such period is specified,

60 days have not lapsed since the date on which the judgement or order was made.

19.11 Governmental Intervention

By or under the authority of any government, (a) all, or substantially all of, the management of an Obligor is displaced or the authority of an Obligor in the conduct of its business is wholly or partially curtailed ((in each case) which would reasonably be expected to have a Material Adverse Effect) or (b) all or a majority of the issued shares of an Obligor or the whole or any part (which would reasonably be expected to have a Material Adverse Effect) of its revenues or assets is seized, nationalised, expropriated or compulsorily acquired.

19.12 Ownership of the Borrower

Micron ceases to own, directly or indirectly, at least 51 per cent. of the issued share capital of the Borrower.

19.13 Insurance Total Loss

The Plant becomes or is declared a total loss or is beyond economic repair in the opinion of the Insurance Expert.

19.14 Finance Documents in Full Force and Effect and Security

Save as expressly permitted by the terms of the Finance Documents, any Finance Document ceases to be in full force and effect or the security interests constituted by any Security Document ceases to constitute first ranking security interest over the assets which are expressed to be subject thereof.

19.15 The Borrower’s Business

The Borrower ceases to carry on the business contemplated in the Shareholders' Agreement.

19.16 Repudiation

The Borrower repudiates a Finance Document to which it is a party or does or causes to be done any act or thing evidencing an intention to repudiate a Finance Document to which it is a party.

19.17 Illegality

At any time it is or becomes unlawful for the Borrower or any party to a Core Commercial Agreement to perform or comply with any or all of its obligations under any Finance Documents or Core Commercial Agreement to which it is a party or any of the obligations of any such person thereunder are not or cease to be legal, valid, binding and enforceable but, in the case of a Core Commercial Agreement, only if the Instructing Group determines that such unlawfulness or cessation of legality, validity or enforceability would reasonably be expected to have a Material Adverse Effect.

19.18 Core Commercial Agreements

Any Core Commercial Agreement is terminated other than by virtue of the full and complete performance thereof and is not replaced by another agreement substantially the same in scope, unless (a) such termination would not reasonably be expected to have a Material Adverse Effect or (b) such termination relates to the Shareholders' Agreement in circumstances where Micron has acquired all the shares in the Borrower.

19.19 Material Adverse Change

19.19.1 Any other event or circumstance occurs which the Instructing Group acting in good faith believes would reasonably be expected to have a Material Adverse Effect.

19.19.2 No Event of Default would occur under this Clause 19.19 solely by reason of a merger entered into by Micron that is not in breach of Clause 5.4 (*Merger*) of the Micron Corporate Guarantee.

19.20 Non-extension Event

A Non-extension Event has occurred and is continuing and the requirements of Clause 18.13.3 have not been satisfied.

19.21 Shareholder Termination Event

A Shareholder Termination Event has occurred.

19.22 Micron Events of Default

None of the events specified in Clauses 19.2 (*Misrepresentation*), 19.5 (*Other Obligations*), Clause 19.7 (*Insolvency and Rescheduling*), Clause 19.9 (*Execution or Distress*) , Clause 19.11 (*Governmental Intervention*), Clause 19.17 (*Illegality*), Clause 19.18 (*Core Commercial Agreements*) and Clause 19.19 (*Material Adverse Change*) above which occurs in relation only to Micron shall constitute an Event of Default if Micron has been discharged and released from its obligations under the Micron Corporate Guarantee in accordance with Clause 2.4 (*Release of Guarantee*) of the Micron Corporate Guarantee.

19.23 Acceleration and Cancellation

Upon the occurrence of an Event of Default, and at any time thereafter for so long as such event is continuing or has not been waived, the Facility Agent may (and, if so instructed by the Instructing Group, shall) by notice to the Borrower:

19.23.1 declare all or any part of the Advances to be immediately due and payable (whereupon the same shall become so payable together with accrued interest thereon and any other sums then owed by the Borrower under the Finance Documents) or declare all or any part of the Advances to be due and payable on demand of the Facility Agent;

19.23.2 declare that any undrawn portion of the Facility shall be cancelled, whereupon the same shall be cancelled and the Available Commitment of each Bank shall be reduced to zero; and/or

19.23.3 exercise and/or direct the exercise of the rights of the Finance Parties under the Security Documents, subject to the terms thereof.

19.24 Advances Due on Demand

If, pursuant to Clause 19.23 (*Acceleration and Cancellation*), the Facility Agent declares all or any part of the Advances to be due and payable on demand of the Facility Agent, then, and at any time thereafter, the Facility Agent may (and, if so instructed by the Instructing Group, shall) by notice to the Borrower:

19.24.1 require repayment of all or such part of the Advances on such date as it may specify in such notice (whereupon the same shall become due and payable on the date specified together with accrued interest thereon and any other sums then owed by the Borrower under the Finance Documents) or withdraw its declaration with effect from such date as it may specify; and/or

19.24.2 select as the duration of any Interest Period which begins whilst such declaration remains in effect a period of six months or less.

20. Commitment Commission and Fees

20.1 Commitment Commission

The Borrower shall pay to the Facility Agent for the account of each Bank a commitment commission on the amount of such Bank's Available Commitment (which has not been cancelled pursuant to the terms of this Agreement) from day to day for the period commencing on and from the date falling four Business Days from the date of this Agreement to and including the last day of the Availability Period, such commitment commission to be calculated at the rate of:

20.1.1 (where the Available Facility on any particular date is more than or equal to 50 per cent. of the Total Commitments on that day) 0.75 per cent. per annum; and

20.1.2 (where the Available Facility on any particular date is less than 50 per cent. of the Total Commitments on that day) 0.5 per cent. per annum,

and such commitment commission is payable in arrears on the last day of each successive period of three months which ends during the Availability Period and on the last day of the Availability Period.

20.2 Upfront Fee

The Borrower shall pay to the Facility Agent for the account of the Original Mandated Lead Arrangers and the Banks, the fees specified in the upfront fee letter dated 9 January 2008 from the Original Mandated Lead Arrangers to the Borrower at the times, and in the amounts, specified in such letter.

20.3 Agency Fee

The Borrower shall pay to the Facility Agent for its own account the agency fees specified in the agency fee letter dated on or about the date of this Agreement from the Facility Agent to the Borrower at the times, and in the amounts, specified in such letter.

20.4 Security Trustee Fee

The Borrower shall pay to the Security Trustee for its own account the security trustee fees specified in the security trustee fee letter dated on or about the date of this Agreement from the Security Trustee to the Borrower at the times, and in the amounts, specified in such letter.

21. Costs and Expenses

21.1 Transaction Expenses

The Borrower shall, from time to time on demand of the Facility Agent, reimburse each of the Facility Agent and each of the Original Mandated Lead Arrangers for all reasonable costs and expenses (including but not limited to legal and documentation fees), together with any GST thereon incurred by it in connection with the negotiation, preparation and execution of the Finance Documents, any other document referred to in the Finance Documents and the completion of the transactions therein contemplated.

21.2 Preservation and Enforcement of Rights

The Borrower shall, from time to time on demand of the Facility Agent, reimburse the Finance Parties for all costs and expenses (including legal fees) on a full indemnity basis together with any GST thereon incurred in or in connection with the preservation and/or enforcement of any of the rights of the Finance Parties under the Finance Documents and any other document referred to in the Finance Documents.

21.3 Stamp Taxes

The Borrower shall pay all stamp, registration and other taxes to which the Finance Documents any other document referred to in the Finance Document or any judgment given in connection therewith is or at any time may be subject and shall, from time to time on demand of the Facility Agent, indemnify the Finance Parties against any liabilities, costs, claims and expenses resulting from any failure to pay or any delay in paying any such tax.

21.4 Banks' Liabilities for Costs

If the Borrower fails to perform any of its obligations under this Clause 21, each Bank shall, in its Proportion, indemnify each of the Facility Agent and the Original Mandated Lead Arrangers against any loss incurred by any of them as a result of such failure.

22. Default Interest and Break Costs

22.1 Default Interest Periods

If any sum due and payable by the Borrower hereunder is not paid on the due date therefor in accordance with Clause 25 (*Payments*), or if any sum due and payable by the Borrower under any judgment of any court in connection herewith is not paid on the date of such judgment, the period beginning on such due date or, as the case may be, the date of such judgment and ending on the date upon which the obligation of the Borrower to pay such sum is discharged shall be divided into successive periods, each of which (other than the first) shall start on the last day of the preceding such period and the duration of each of

which shall (except as otherwise provided in this Clause 22) be selected by the Facility Agent and shall be of six months or less.

22.2 Default Interest

An Unpaid Sum shall bear interest during each Interest Period in respect thereof at the rate per annum which is one point two five per cent. (1.25 per cent.) per annum above the percentage rate which would apply if such Unpaid Sum had been an Advance in the amount and currency of such Unpaid Sum and for the same Interest Period, **provided that** if such Unpaid Sum relates to an Advance which became due and payable on a day other than the last day of an Interest Period relating thereto:

22.2.1 the first Interest Period applicable to such Unpaid Sum shall be of a duration equal to the unexpired portion of the current Interest Period relating to that Advance; and

22.2.2 the percentage rate of interest applicable thereto from time to time during such period shall be that which exceeds by one point two five per cent. (1.25 per cent.) the rate which would have been applicable to it had it not so fallen due.

22.3 Payment of Default Interest

Any interest which shall have accrued under Clause 22.2 (*Default Interest*) in respect of an Unpaid Sum shall be due and payable and shall be paid by the Borrower on the last day of each Interest Period in respect thereof or on such other dates as the Facility Agent may specify by notice to the Borrower.

22.4 Break Costs

If any Bank or the Facility Agent on its behalf receives or recovers all or any part of such Bank's share of an Advance or Unpaid Sum otherwise than on the last day of an Interest Period relating thereto, the Borrower shall pay to the Facility Agent within 15 Business Days of demand for account of such Bank an amount equal to the amount (if any) by which (a) the additional interest (excluding the Margin) which would have been payable on the amount so received or recovered had it been received or recovered on the last day of that Interest Period exceeds (b) the amount of interest which that Bank notifies to the Facility Agent would have been payable to that Bank on the last day of that Interest Period in respect of a dollar deposit equal to the amount so received or recovered placed by it with a prime bank in Singapore for a period starting on the third Business Day following the date of such receipt or recovery and ending on the last day of that Interest Period.

23. Borrower's Indemnities

23.1 Borrower's Indemnity

The Borrower undertakes to indemnify:

23.1.1 each Finance Party against any cost, claim, loss, expense (including legal fees) or liability together with any GST thereon, which it may sustain or incur as a consequence of the occurrence of any Event of Default or any default by the Borrower in the performance of any of the obligations expressed to be assumed by it in the Finance Documents;

23.1.2 each Bank against any cost or loss it may suffer under Clause 21.4 (*Banks' Liabilities for Costs*) or Clause 29.5 (*Indemnification*); and

23.1.3 each Bank against any cost or loss it may suffer or incur as a result of its funding or making arrangements to fund its portion of an Advance requested by the Borrower but not made by reason of the operation of Clause 3 (*Utilisation of the Facility*).

23.2 Currency Indemnity

If any sum (a "**Sum**") due from the Borrower under this Agreement or any order, judgment given or made in relation hereto has to be converted from the currency (the "**First Currency**") in which such Sum is payable into another currency (the "**Second Currency**") for the purpose of:

23.2.1 making or filing a claim or proof against the Borrower; or

23.2.2 obtaining or enforcing an order, judgment in any court or other tribunal,

the Borrower shall indemnify each person to whom such Sum is due from and against any loss suffered or incurred as a result of any discrepancy between (a) the rate of exchange used for such purpose to convert such Sum from the First Currency into the Second Currency and (b) the rate or rates of exchange available to such person at the time of receipt of such Sum.

24. Currency of Account and Payment

The dollar is the currency of account and payment for each and every sum at any time due from the Borrower hereunder, **provided that**:

24.1.1 each payment in respect of costs and expenses shall be made in the currency in which the same were incurred;

24.1.2 each payment pursuant to Clause 10.2 (*Tax Indemnity*), Clause 12.1 (*Increased Costs*) or Clause 23.1 (*Borrower's Indemnity*) shall be made in the currency specified by the party claiming thereunder; and

24.1.3 any amount expressed to be payable in a currency other than US dollars shall be paid in that other currency.

25. Payments

25.1 Payments to the Facility Agent

On each date on which this Agreement requires an amount to be paid by the Borrower or a Bank, the Borrower or, as the case may be, such Bank shall make the same available to the Facility Agent for value on the due date at such time and in such funds and to such account with such bank as the Facility Agent shall specify from time to time.

25.2 Payments by the Facility Agent

25.2.1 Save as otherwise provided herein, each payment received by the Facility Agent pursuant to Clause 25.1 (*Payments to the Facility Agent*) shall:

(a) in the case of a payment received for the account of the Borrower, be made available by the Facility Agent to the Borrower by application:

(i) first, in or towards payment the same day of any amount then due from the Borrower hereunder to the person (acting in the same capacity) from whom the amount was so received; and

(ii) secondly, in or towards payment the same day to the account of the Borrower with such bank in Singapore as the Borrower shall have previously notified to the Facility Agent for this purpose; and

(b) in the case of any other payment, be made available by the Facility Agent to the person entitled to receive such payment in accordance with this Agreement (in the case of a Bank, for the account of the Facility Office and in accordance with its Standing Payment Instruction) for value the same day by transfer to such account of such person with such bank as such person shall have previously notified to the Facility Agent.

25.2.2 A payment will be deemed to have been made by the Facility Agent on the date on which it is required to be made under this Agreement if the Facility Agent has, on or before that date, taken steps to make that payment in accordance with the regulations or operating procedures of the clearing or settlement system used by the Facility Agent in order to make the payment.

25.3 No Set-off

All payments required to be made by the Borrower hereunder shall be calculated without reference to any set-off or counterclaim and shall be made free and clear of and without any deduction for or on account of any set-off or counterclaim.

25.4 Clawback

Where a sum is to be paid hereunder to the Facility Agent for account of another person, the Facility Agent shall not be obliged to make the same available to that other person until it has been able to establish to its satisfaction that it has actually received such sum, but if it does so and it proves to be the case that it had not actually received such sum, then the person to whom such sum was so made available shall on request refund the same to the Facility Agent together with an amount sufficient to indemnify the Facility Agent against any cost or loss it may have suffered or incurred by reason of its having paid out such sum prior to its having received such sum.

25.5 Partial Payments

If and whenever a payment is made by the Borrower hereunder, the Facility Agent may apply the amount received towards the obligations of the Borrower under this Agreement in the following order:

25.5.1 **first**, in or towards payment of any unpaid costs and expenses of each of the Facility Agent, the Original Mandated Lead Arrangers and the Security Trustee;

25.5.2 **secondly**, in or towards payment *pro rata* of any accrued interest due but unpaid;

25.5.3 **thirdly**, in or towards payment *pro rata* of any principal due but unpaid; and

25.5.4 **fourthly**, in or towards payment *pro rata* of any other sum due but unpaid.

25.6 Variation of Partial Payments

The order of payments set out in Clause 25.5 (*Partial Payments*) shall override any appropriation made by the Borrower but the order set out in sub-clauses 25.5.2, 25.5.3 and 25.5.4 of Clause 25.5 (*Partial Payments*) may be varied if agreed by all the Banks.

25.7 Business Days

25.7.1 Any payment which is due to be made on a day that is not a Business Day shall unless a contrary indication appears 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).

25.7.2 During any extension of the due date for payment of any principal or an Unpaid Sum under this Agreement as a result of the operation of sub-clause 25.7.1 interest is payable on the principal at the rate payable on the original due date.

26. Set-Off

26.1 Contractual Set-off

The Borrower authorises each Bank to apply any credit balance to which the Borrower is entitled on any account of the Borrower with such Bank in satisfaction of any sum due and payable from the Borrower to such Bank under the Finance Documents but unpaid. For this purpose, each Bank is authorised to purchase with the moneys standing to the credit of any such account such other currencies as may be necessary to effect such application.

26.2 Set-off not Mandatory

No Bank shall be obliged to exercise any right given to it by Clause 26.1 (*Contractual Set-off*) but shall immediately following the exercise of such right, notify the Borrower.

27. Sharing

27.1 Payments to Banks

If a Bank (a "**Recovering Bank**") applies any receipt or recovery from the Borrower to a payment due under this Agreement and such amount is received or recovered other than in accordance with Clause 25 (*Payments*), then such Recovering Bank shall:

27.1.1 notify the Facility Agent of such receipt or recovery;

27.1.2 at the request of the Facility Agent, promptly 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 such Recovering Bank as its share of any payment to be made in accordance with Clause 25.5 (*Partial Payments*).

27.2 Redistribution of Payments

The Facility Agent shall treat the Sharing Payment as if it had been paid by the Borrower and distribute it between the Finance Parties (other than the Recovering Bank) in accordance with Clause 25.5 (*Partial Payments*).

27.3 Recovering Bank's Rights

The Recovering Bank will be subrogated into the rights of the parties which have shared in a redistribution pursuant to Clause 27.2 *(Redistribution of Payments)* in respect of the Sharing Payment (and the Borrower shall be liable to the Recovering Bank in an amount equal to the Sharing Payment).

27.4 Repayable Recoveries

If any part of the Sharing Payment received or recovered by a Recovering Bank becomes repayable and is repaid by such Recovering Bank, then:

27.4.1 each party which has received a share of such Sharing Payment pursuant to Clause 27.2 (*Redistribution of Payments*) shall, upon request of the Facility Agent, pay to the Facility Agent for account of such Recovering Bank an amount equal to its share of such Sharing Payment; and

27.4.2 such Recovering Bank's rights of subrogation in respect of any reimbursement shall be cancelled and the Borrower will be liable to the reimbursing party for the amount so reimbursed.

27.5 Exception

This Clause 27 shall not apply if the Recovering Bank would not, after making any payment pursuant hereto, have a valid and enforceable claim against the Borrower.

27.6 Recoveries Through Legal Proceedings

If any Bank intends to commence any action in any court under this Agreement it shall give prior notice to the Facility Agent and the other Banks. If any Bank shall commence any action in any court to enforce its rights hereunder and, as a result thereof or in connection therewith, receives any amount, then such Bank shall not be required to share any portion of such amount with any Bank which has the legal right to, but does not, join in such action or commence and diligently prosecute a separate action to enforce its rights in another court.

27.7 Authorised Investments

Each Bank agrees that if it exercises any right of set-off in respect of any Authorised Investments held by or placed with it, the proceeds thereof will firstly be applied towards payments due under this Agreement.

28. Accounts

28.1 Opening of Accounts

The Borrower shall establish and maintain the Operating Accounts and the Debt Service Deposit Accounts.

28.2 Deposits into Operating Accounts

The Borrower shall ensure that:

28.2.1 the gross sale proceeds derived from the sale of its products or the proceeds of any bank discounting of the same;

28.2.2 any interest or income received from any Authorised Investments;

28.2.3 all amounts paid to it under any completion guarantee, performance bond, advance payment guarantee or any retention monies or liquidated damages;

28.2.4 subject to the terms of the Insurance Assignment, all amounts paid to it under insurance policies held by it; and

28.2.5 all other amounts paid to it,

are credited in full to the Operating Accounts except in respect of the amount of the proceeds of the first Advance(s) made hereunder or any part thereof which are to be utilised (i) to repay the amounts due to the Existing Lenders under the Existing Credit Agreement (which shall be paid directly to CIBSL for the account of the Existing Lenders) and/or (ii) (concurrently with or after the discharge of all amounts due to the Existing Lenders under the Existing Credit Agreement) to be deposited into either or both of the Debt Service Deposit Accounts for the purpose of complying with the Borrower's obligations under Clause 28.7 *(Debt Service Deposit Accounts)*.

28.3 Withdrawals from Operating Accounts

Prior to the occurrence of an Event of Default which is continuing the Borrower may withdraw the following amounts from the Operating Accounts:

28.3.1 amounts to make Authorised Investments;

28.3.2 insurance proceeds withdrawn in accordance with the Insurance Assignment; and

28.3.3 amounts withdrawn which are to be applied in accordance with the cashflow application set out in Clause 28.4 *(Cashflow Application)*.

Subject to Clause 28.6 (*Cashflow After Default*), the Borrower shall make no withdrawals from the Operating Accounts while an Event of Default is continuing, during which time only the Facility Agent shall be entitled to (and is hereby irrevocably authorised to) make such withdrawals for application to such amounts in such priority as it may determine in accordance with any instructions given to it by the Instructing Group.

28.4 Cashflow Application

Amounts standing to the credit of the Operating Accounts and withdrawn by the Borrower pursuant to sub-clause 28.3.3 of Clause 28.3 (*Withdrawals*) shall be applied in the following manner and priority:

28.4.1 to all operating expenditure, all Permitted Financial Indebtedness (for avoidance of doubt, including all scheduled principal repayment, interest and fee payments due under this Agreement and all scheduled payments of the principal and interest element of any Asset Based Financing) and (to the extent properly incurred) any taxes and royalties;

28.4.2 to fund the Debt Service Deposit Accounts in accordance with the requirements of Clause 28.7 (*Debt Service Deposit Accounts*);

28.4.3 to all other amounts for which the Borrower is liable and which are due under the Finance Documents;

28.4.4 to any Approved Capital Expenditure properly incurred and falling due; and

28.4.5 to amounts of Advances which the Borrower has requested be voluntarily prepaid under this Agreement.

28.5 Authorised Investments

Amounts credited to the Operating Accounts may be invested in Authorised Investments.

28.6 Cashflow After Default

Following the occurrence of an Event of Default, for so long as such Event of Default is continuing, subject to the Banks not having accelerated the payment of all or any part of the Advances due under this Agreement and/or enforced their security, the Borrower shall, save as otherwise agreed by the Instructing Group, only be entitled to make withdrawals from the Operating Accounts for:

28.6.1 paying amounts due hereunder; and

28.6.2 other withdrawals up to a maximum aggregate amount of US$20,000,000 (or such higher amount as may be agreed from time to time by the Instructing Group) or its equivalent which are required for paying on-going operating expenses which are necessary in order to keep the Plant in operation or which the Borrower is required by statute to make,

provided that within 21 days from the date on which the Facility Agent was notified of the Event of Default the Banks shall, if at the time of such notification, such Event of Default is still continuing, notify the Borrower, through the Facility Agent, as to whether:

28.6.3 they intend to accelerate the payment of all or any part of the Advances due hereunder; or

28.6.4 they have agreed to waive such an Event of Default,

and failing any such notification within such 21 day period the Borrower may continue to make withdrawals in accordance with the provisions of Clause 28.4 *(Cashflow Application)*.

28.7 Debt Service Deposit Accounts

28.7.1 The Borrower shall:

(i) have, as at 27 March 2009, an amount equal to no less than US$30,000,000 deposited in either or both the Debt Service Deposit Accounts; and

(ii) have, as at 27 September 2009, an amount equal to no less than US$60,000,000 deposited in either or both the Debt Service Deposit Accounts.

28.7.2 The Borrower shall make no withdrawals from either Debt Service Deposit Account save that, without prejudice to the security constituted by the Borrower Accounts Assignment, (i) the Borrower may withdraw interest which has accrued on the Debt Service Deposit Accounts (provided that after such withdrawal, the amount standing to the credit of the Debt Service Deposit Accounts is more than or equal to (A) US$30,000,000, at any time prior to 27 September 2009 or (B) US$60,000,000, at any time on or after 27 September 2009) and (ii) the Security Trustee may (and is hereby authorised to) withdraw sums from each Debt Service Deposit Account for the purposes contemplated by sub-paragraph (b) of Clause 19.1 (*Failure to Pay*).

29. The Facility Agent, The Original Mandated Lead Arrangers and The Banks

29.1 Appointment of the Facility Agent

Each of the Original Mandated Lead Arrangers and the Banks hereby appoints the Facility Agent to act as its agent in connection herewith and authorises the Facility Agent to exercise such rights, powers, authorities and discretions as are specifically delegated to the Facility Agent by the terms hereof together with all such rights, powers, authorities and discretions as are reasonably incidental thereto.

29.2 Facility Agent's Discretions

The Facility Agent may:

29.2.1 assume, unless it has, in its capacity as agent for the Banks, received notice to the contrary from any other party hereto, that (a) any representation made or deemed to be made by the Borrower in connection with the Finance Documents is true, (b) no Event of Default or Potential Event of Default has occurred, (c) the Borrower is not in breach of or default under its obligations under the Finance Documents to which it is party and (d) any right, power, authority or discretion vested herein upon the Instructing Group, the Banks or any other person or group of persons has not been exercised;

29.2.2 assume that (a) the Facility Office of each Bank is that notified to it by such Bank in writing and (b) the information provided by each Bank pursuant to Clause 33 (*Notices*) is true and correct in all respects until it has received from such Bank notice of a change to its Facility Office (by not less than five Business Day' written notice) or any such information and act upon any such notice until the same is superseded by a further such notice;

29.2.3 act through its personnel and agents and may engage and pay for the advice or services of any lawyers, accountants, surveyors or other experts whose advice or services may to it seem necessary, expedient or desirable and rely upon any advice so obtained;

29.2.4 rely as to any matters of fact which might reasonably be expected to be within the knowledge of the Borrower upon a certificate signed by or on behalf of the Borrower;

29.2.5 rely upon any communication or document believed by it to be genuine;

29.2.6 refrain from exercising any right, power or discretion vested in it as Facility Agent hereunder unless and until instructed by the Instructing Group as to whether or not such right, power or discretion is to be exercised and, if it is to be exercised, as to the manner in which it should be exercised; and

29.2.7 refrain from acting in accordance with any instructions of the Instructing Group to begin any legal action or proceeding arising out of or in connection with this Agreement until it shall have received such security as it may require (whether by way of payment in advance or otherwise) for all costs, claims, losses, expenses (including legal fees) and liabilities together with any GST thereon which it will or may expend or incur in complying with such instructions.

29.3 Facility Agent's Obligations

The Facility Agent shall:

29.3.1 promptly inform each Bank of the contents of any notice or document received by it in its capacity as Facility Agent from the Borrower under the Finance Documents;

29.3.2 promptly notify each Bank of the occurrence of any Event of Default, any Potential Event of Default or any default by the Borrower in the due performance of or compliance with its obligations under the Finance Documents to which it is party of which the Facility Agent has notice from any other party hereto;

29.3.3 save as otherwise provided herein, act as agent hereunder in accordance with any instructions given to it by the Instructing Group, which instructions shall be binding on the Original Mandated Lead Arrangers and the Banks; and

29.3.4 if so instructed by the Instructing Group, refrain from exercising any right, power or discretion vested in it as agent hereunder.

The Facility Agent's duties under the Finance Documents are solely mechanical and administrative in nature.

29.4 Excluded Obligations

Notwithstanding anything to the contrary expressed or implied herein, neither the Facility Agent, the Security Trustee nor any of the Original Mandated Lead Arrangers shall:

29.4.1 be bound to enquire as to (a) whether or not any representation made or deemed to be made by the Borrower in connection with the Finance Documents is true, (b) the occurrence or otherwise of any Event of Default or Potential Event of Default, (c) the performance by the Borrower of its obligations under the Finance Documents or (d) any breach of or default by the Borrower of or under its obligations under the Finance Documents;

29.4.2 be bound to account to any Bank for any sum or the profit element of any sum received by it for its own account;

29.4.3 be bound to disclose to any other person any information relating to the Borrower if (a) the Borrower, on providing such information, expressly stated to the Facility Agent, the Security Trustee or, as the case may be, the Original Mandated Lead Arrangers that such information was confidential or (b) such disclosure would or

might in its opinion constitute a breach of any law or be otherwise actionable at the suit of any person;

29.4.4 be under any obligations other than those for which express provision is made herein;

29.4.5 unless mandatorily required by the law to which it is subject, be responsible (to any other Finance Party) for providing any certification or documents with respect to information (except that in respect of itself) required for any anti-money laundering due diligence purpose pursuant to any relevant law. Such certificates and related documents (if required by the relevant laws) shall be provided directly by the Borrower provided that the request for such information may be made through the Facility Agent; or

29.4.6 be or be deemed to be a fiduciary for any other party hereto.

29.5 Indemnification

Each Bank shall, in its Proportion, from time to time on demand by the Facility Agent, indemnify the Facility Agent, against any and all costs, claims, losses, expenses (including legal fees) and liabilities together with any GST thereon which the Facility Agent may incur, otherwise than by reason of its own gross negligence or wilful misconduct, in acting in its capacity as agent hereunder and any fees payable to the Facility Agent under Clause 20.3 (*Agency fee*) (other than any which have been reimbursed by the Borrower pursuant to Clause 23.1 (*Borrower's Indemnity*) or otherwise paid by the Borrower).

29.6 Exclusion of Liabilities

29.6.1 Except in the case of gross negligence or wilful default, none of the Facility Agent or the Original Mandated Lead Arrangers accepts any responsibility:

(a) for the adequacy, accuracy and/or completeness of the Information Memorandum or any other/any information supplied by the Facility Agent or the Original Mandated Lead Arrangers, the Borrower or by any other person in connection with the Finance Documents, the transactions therein contemplated or any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with the Finance Documents;

(b) for the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with the Finance Documents; or

(c) for the exercise of, or the failure to exercise, any judgment, discretion or power given to any of them by or in connection with the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with the Finance Documents.

Accordingly, none of the Facility Agent or the Original Mandated Lead Arrangers shall be under any liability in respect of such matters, save in the case of gross negligence or wilful misconduct.

29.6.2 Nothing in this Agreement shall oblige the Facility Agent or the Original Mandated Lead Arrangers to carry out any "know your customer", anti-money laundering or other checks in relation to any person on behalf of any Bank and each Bank confirms to each of the Facility Agent or the Original Mandated Lead Arrangers that it is solely responsible for any such checks it is required to carry out and that it may not rely on any such checks made by, or any statement in relation to such checks made by the Facility Agent or the Original Mandated Lead Arrangers.

29.7 No Actions

Each of the Banks agrees that it will not assert or seek to assert against any director, officer or employee of the Facility Agent or the Original Mandated Lead Arrangers or any claim it might have against any of them in respect of the matters referred to in Clause 29.6 (*Exclusion of Liabilities*).

29.8 Business with the Borrower

The Facility Agent, each of the Original Mandated Lead Arrangers and each of the Banks may accept deposits from, lend money to and generally engage in any kind of banking or other business with the Borrower.

29.9 Resignation

The Facility Agent may resign its appointment hereunder at any time without assigning any reason therefor by giving not less than 30 days' prior notice to that effect to each of the other parties hereto, provided that no such resignation shall be effective until a successor for the Facility Agent is appointed in accordance with the succeeding provisions of this Clause 29.

29.10 Removal of Facility Agent

The Instructing Group may remove the Facility Agent from its role as agent hereunder by giving notice to that effect to each of the other parties hereto. Such removal shall take effect only when a successor to the Facility Agent is appointed in accordance with the terms hereof.

29.11 Successor Facility Agent

If the Facility Agent gives notice of its resignation pursuant to Clause 29.9 (*Resignation*) or it is removed pursuant to Clause 29.10 (*Removal of Facility Agent*), then any reputable and experienced bank or other financial institution which is a Bank may after consultation with the Borrower be appointed as a successor to the Facility Agent by the Instructing Group during the period of such notice but, if no such successor is so appointed, the Facility Agent may appoint such a successor itself (which successor must be a Bank).

29.12 Rights and Obligations

If a successor to the Facility Agent is appointed under the provisions of Clause 29.11 (*Successor Facility Agent*), then (a) the retiring or departing Facility Agent shall be discharged from any further obligation hereunder but shall remain entitled to the benefit of the provisions of this Clause 29 and (b) its successor and each of the other parties hereto shall have the same rights and obligations amongst themselves as they would have had if such successor had been a party hereto.

29.13 Own Responsibility

It is understood and agreed by each Bank that at all times it has itself been, and will continue to be, solely responsible for making its own independent appraisal of and investigation into all risks arising under or in connection with the Finance Documents including, but not limited to:

29.13.1 the financial condition, creditworthiness, condition, affairs, status and nature of the Borrower;

29.13.2 the legality, validity, effectiveness, adequacy and enforceability of the Finance Documents and any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with the Finance Documents;

29.13.3 whether such Bank has recourse, and the nature and extent of that recourse, against the Borrower or any other person or any of their respective assets under or in connection with the Finance Documents, the transactions therein contemplated or any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with the Finance Documents; and

29.13.4 the adequacy, accuracy and/or completeness of the Information Memorandum and any other information provided by the Facility Agent, the Original Mandated Lead Arrangers, the Borrower or by any other person in connection with the Finance Documents, the transactions contemplated therein or any other agreement, arrangement or document entered into, made or executed in anticipation of, pursuant to or in connection with the Finance Documents.

Accordingly, each Bank acknowledges to the Facility Agent and the Original Mandated Lead Arrangers that it has not relied on and will not hereafter rely on the Facility Agent and the Original Mandated Lead Arrangers or any of them in respect of any of these matters.

29.14 Money Laundering

Unless mandatorily required by any applicable laws, the Facility Agent shall not be responsible (to any other party) for providing any certification or documents with respect to information (except that in respect of itself) required for any anti-money laundering due diligence purposes. Such certificates and related documents shall be provided directly by the Borrower and other Obligors, **provided that** the request for such information may be made through the Facility Agent.

29.15 Agency Division Separate

In acting as agent hereunder for the Banks, 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 and, notwithstanding the foregoing provisions of this Clause 29, any information received by some other division or department of the Facility Agent may be treated as confidential and shall not be regarded as having been given to the Facility Agent’s agency division.

30. Assignments and Transfers

30.1 Binding Agreement

This Agreement shall be binding upon and enure to the benefit of each party hereto and its or any subsequent successors and Transferees.

30.2 No Assignments and Transfers by the Borrower

The Borrower shall not be entitled to assign or transfer all or any of its rights, benefits and obligations under the Finance Documents.

30.3 Assignments and Transfers by Banks

With the prior written consent of the Borrower (not to be unreasonably withheld or delayed) and subject to Clause 30.7 (*Disclosure of Information*), any Bank may at its own cost and expense (but without prejudice to sub-clause 30.3.1 below), at any time, assign all or any of its rights and benefits under the Finance Documents or transfer in accordance with Clause 30.5 (*Transfers by Banks*) all or any of its rights, benefits and obligations under the Finance Documents to a bank or financial institution or to Micron, **provided that:**

30.3.1 if any such assignment or transfer would at the time it is made result in an obligation on the part of the Borrower to pay under Clause 10 *(Taxes)* or Clause 12 *(Increased Costs)* an amount in excess of that it would have been obliged to pay but for such assignment or transfer, the Borrower shall not be obliged to pay such excess amount, unless such assignment or transfer was made pursuant to Clause 14 *(Mitigation)*;

30.3.2 the consent of the Borrower shall not be required if an Event of Default has occurred and is continuing at the time such assignment or transfer is proposed to be made;

30.3.3 the consent of the Borrower shall not be required if such assignment or transfer is made to a bank or financial institution which has merged with or acquired a Bank or is the successor of a Bank or is an affiliate of a Bank (subject to the restrictions upon the obligation of the Borrower to pay under Clause 10 (*Taxes*) or Clause 12 (*Increased Costs*) amounts in excess of that which it would have been obliged to pay but for such assignment or transfer, as referred to in sub-clause 30.3.1 above); and

30.3.4 no such assignment or transfer may be made to Micron if immediately following such assignment or transfer, Micron would be owed more than thirty three and one-third per cent. of the Loan, unless immediately following such assignment or transfer, Micron would be owed 100 per cent. of the Loan.

30.4 Assignments by Banks

If any Bank assigns all or any of its rights and benefits under the Finance Documents in accordance with Clause 30.3 (*Assignments and Transfers by Banks*), then, unless and until the assignee has delivered a notice to the Facility Agent confirming in favour of the Facility Agent, the Original Mandated Lead Arrangers, the Security Trustee and the other Banks that it shall be under the same obligations towards each of them as it would have been under if it had been an original party hereto as a Bank (whereupon such assignee

shall become a party hereto as a "Bank"), the Facility Agent, the Original Mandated Lead Arrangers, the Security Trustee and the other Banks shall not be obliged to recognise such assignee as having the rights against each of them which it would have had if it had been such a party hereto.

30.5 Transfers by Banks

If any Bank wishes to transfer all or any of its rights, benefits and/or obligations under the Finance Documents as contemplated in Clause 30.3 (*Assignments and Transfers by Banks*), then such transfer may be effected at its own cost and expense (but without prejudice to sub-clause 30.3.1 of Clause 30.3 (*Assignments and Transfers by Banks*)) by the delivery to the Facility Agent of a duly completed Transfer Certificate executed by such Bank and the relevant Transferee together with an Accession Undertaking duly executed on behalf of the Transferee in which event, on the later of the Transfer Date specified in such Transfer Certificate and the fifth Business Day after (or such earlier Business Day endorsed by the Facility Agent on such Transfer Certificate falling on or after) the date of delivery of such Transfer Certificate and Accession Undertaking to the Facility Agent:

30.5.1 the Facility Agent and the Security Trustee shall countersign such Accession Undertaking;

30.5.2 to the extent that in such Transfer Certificate the Bank party thereto seeks to transfer by novation its rights, benefits and obligations under the Finance Documents, the Borrower and such Bank shall be released from further obligations towards one another under the Finance Documents and their respective rights against one another shall be cancelled (such rights and obligations being referred to in this Clause 30.5 as "**discharged rights and obligations**");

30.5.3 the Borrower and the Transferee party thereto shall assume obligations towards one another and/or acquire rights against one another which differ from such discharged rights and obligations only insofar as the Borrower and such Transferee have assumed and/or acquired the same in place of the Borrower and such Bank;

30.5.4 the Facility Agent, the Original Mandated Lead Arrangers, the Security Trustee, such Transferee and the other Banks shall acquire the same rights and benefits and assume the same obligations between themselves as they would have acquired and assumed had such Transferee been an original party hereto as a Bank with the rights, benefits and/or obligations acquired or assumed by it as a result of such transfer and to that extent the Facility Agent, the Original Mandated Lead Arrangers, the Security Trustee and the relevant Bank shall each be released from further obligations to each other hereunder (and, for the avoidance of doubt, such Transferee shall be liable to the Facility Agent in respect of any of the accrued and undischarged obligations of the transferring Bank under Clause 29.5 (*Indemnification*)); and

30.5.5 such Transferee shall become a party hereto as a "Bank".

30.6 Transfer Fees

On the date upon which a transfer takes effect pursuant to Clause 30.5 (*Transfers by Banks*) the relevant Transferee shall pay to the Facility Agent, for its own account, a fee of US$1,000 and to the Security Trustee, for its own account, a fee of US$1,000.

30.7 Disclosure of Information

Each Finance Party shall treat and ensure that its respective officers, employees and agents shall treat and hold as strictly confidential all information disclosed in relation to the Finance Documents and the transactions contemplated thereby and not disclose any, all, or part of such information to, or discuss the same with, any third party, or make use of any, all or part of the information for other purposes except that any Finance Party may disclose to any person:

30.7.1 to whom such Finance Party assigns or transfers (or may potentially assign or transfer) all or any of its rights, benefits and obligations under the Finance Documents;

30.7.2 with whom such 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, the Finance Documents or the Borrower;

30.7.3 being an auditor employed in the normal course of its business;

30.7.4 being its agent, contractor, third party service provider or professional adviser;

30.7.5 being a rating agency, insurer, insurance broker or direct or indirect provider of credit protection;

30.7.6 being its holding company, head office or regional office, any branch or subsidiary; or

30.7.7 to whom information may be required to be disclosed by any applicable law,

such information about the Borrower and the Finance Documents as such Finance Party shall consider appropriate, **provided that** if such disclosure is pursuant to sub-clauses 30.7.1 or 30.7.2 above, the person to whom it is proposed such information be given shall have first entered into a Confidentiality Undertaking and if such disclosure is pursuant to sub-clause 30.7.4, the person to whom it is proposed such information be given shall, except in the case of professional advisers, have subsisting a confidentiality agreement between such person and the relevant Finance Party obliging that person to keep confidential all such information disclosed, and any such disclosure by a Finance Party shall be subject to any duty of confidentiality imposed on it by applicable laws and regulations. This Clause 30.7 is not and shall not be deemed to constitute an express or implied agreement by the Finance Parties with the Borrower for a higher degree of confidentiality than that prescribed in Section 47 of the Banking Act, Chapter 19 of Singapore (the "**Banking Act**") and in the Third Schedule to the Banking Act.

30.8 Notification

The Facility Agent shall promptly notify the Borrower of any assignment or transfer completed pursuant to this Clause 30 (*Assignments and Transfers*).

30.9 Change of Name

If a Bank changes its name, then it shall, at its own cost and within seven Business Days, provide the Facility Agent with an original or certified true copy of a legal opinion issued by the legal advisers to such Bank in the jurisdiction where such Bank is incorporated addressed to the Facility Agent (as agent for the Banks), which is in form and substance satisfactory to the Facility Agent, confirming that (a) such Bank has changed its name, (b) the new name of such Bank, (c) the date from which such change has taken effect and (d) such Bank's obligations under the Finance Documents remain legal, valid, binding and enforceable on such Bank after its change of name. If such Bank fails to provide the Facility Agent with such legal opinion, it shall, upon the request of the Facility Agent, sign and deliver to the Facility Agent a Transfer Certificate in respect of the transfer of its rights and obligations under this Agreement to the entity with such new name.

30.10 Re-organisation

If a Bank becomes subject to a re-organisation, such Bank shall, at its own costs and within seven Business Days after the effective date of such re-organisation, deliver to the Facility Agent an original or certified true copy of legal opinions, each in form and substance satisfactory to the Facility Agent, addressed to the Facility Agent (as agent for the Banks) and issued by legal advisers to such Bank in each of the jurisdictions (a) where such Bank is incorporated, (b) where such Bank's Facility Office is located, and (c) the law of which governs the Finance Documents, such that all such legal opinions taken together provide the Facility Agent with confirmation that such Bank's obligations under the Finance Documents remain legal, valid, binding and enforceable on the surviving entity of such re-organisation after the re-organisation. If such Bank fails to provide the Facility Agent with such legal opinions, it shall, upon the request of the Facility Agent, sign and deliver to the Facility Agent a Transfer Certificate in respect of the transfer of its rights and obligations under this Agreement to the surviving entity of such re-organisation.

31. Calculations and Evidence of Debt

31.1 Basis of Accrual

Interest, commitment commission and fees shall accrue from day to day and shall be calculated on the basis of a year of 360 days (or, in any case where market practice differs, in accordance with market practice) and the actual number of days elapsed.

31.2 Quotations

If on any occasion a Reference Bank or Bank fails to supply the Facility Agent with a quotation required of it under the foregoing provisions of this Agreement, the rate for which such quotation was required shall be determined from those quotations which are supplied to the Facility Agent, **provided that**, in relation to determining SIBOR, this Clause 31.2 shall not apply if only one Reference Bank supplies a quotation.

31.3 Evidence of Debt

Each Bank shall maintain in accordance with its usual practice accounts evidencing the amounts from time to time lent by and owing to it hereunder.

31.4 Prima Facie Evidence

In any legal action or proceeding arising out of or in connection with this Agreement, the entries made in the accounts maintained pursuant to Clause 31.3 (*Evidence of Debt*) shall, in the absence of manifest error, be *prima facie* evidence of the existence and amounts of the specified obligations of the Borrower.

31.5 Certificates of Banks

A certificate of a Bank as to (a) the amount by which a sum payable to it hereunder is to be increased under Clause 10.1 (*Tax Gross-up*), (b) the amount for the time being required to indemnify it against any such cost, payment or liability as is mentioned in Clause 10.2 (*Tax Indemnity*), Clause 12.1 (*Increased Costs*) or Clause 23.1 (*Borrower's Indemnity*) or (c) the amount of any credit, relief, remission or repayment as is mentioned in Clause 11.3 (*Tax Credit Payment)* shall, in the absence of manifest error, be *prima facie* evidence of the existence and amounts of the specified obligations of the Borrower.

32. Remedies and Waivers, Partial Invalidity

32.1 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 thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

32.2 Partial Invalidity

If, at any time, any provision hereof is or becomes illegal, invalid or unenforceable in any respect under the law of any applicable jurisdiction, neither the legality, validity or enforceability of the remaining provisions hereof nor the legality, validity or enforceability of such provision under the law of any other applicable jurisdiction shall in any way be affected or impaired thereby.

33. Notices

33.1 Communications in Writing

Each communication to be made under the Finance Documents shall be made in writing and, unless otherwise stated, shall be made by fax or letter.

33.2 Addresses

Any communication or document to be made or delivered pursuant to the Finance Documents shall (unless the recipient of such communication or document has, by fifteen days' written notice to the Facility Agent, specified another address or fax number) be made or delivered to the address or fax number:

33.2.1 in the case of the Borrower, the Facility Agent and the Security Trustee, identified with its name below; and

33.2.2 in the case of each Bank, notified in writing to the Facility Agent prior to the date hereof (or, in the case of a Transferee, at the end of the Transfer Certificate to which it is a party as Transferee),

and marked for the attention of the person (if any) from time to time designated by the relevant party hereto for the purposes of this Agreement.

33.3 Delivery

Any communication or document to be made or delivered by one person to another pursuant to the Finance Documents shall:

33.3.1 if by way of fax, be deemed to have been received when transmission has been completed; and

33.3.2 if by way of letter, be deemed to have been delivered when left at the relevant address or, as the case may be, 10 days after being deposited in the post postage prepaid in an envelope addressed to it at such address,

provided that any communication or document to be made or delivered to the Facility Agent shall be effective only when received by its agency division and then only if the same is expressly marked for the attention of the department or officer identified with the Facility Agent's signature below (or such other department or officer as the Facility Agent shall from time to time specify for this purpose).

33.4 Notification of Changes

Promptly upon receipt of notification of a change of address or fax number pursuant to Clause 33.2 (*Addresses*) or changing its own address or fax number the Facility Agent shall notify the other parties hereto of such change.

33.5 Electronic communication

33.5.1 Any communication to be made between the Facility Agent and a Bank or the Security Trustee under or in connection with the Finance Documents may be made by electronic mail or other electronic means, if the Facility Agent and the relevant Bank or the Security Trustee:

(i) agree that, unless and until notified to the contrary, this is to be an agreed form of communication;

(ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and

(iii) notify each other of any change to their address or any other such information supplied by them.

33.5.2 The electronic mail address of the Facility Agent and each Bank is identified with its name below or, in the case of a Transferee, at the end of the Transfer Certificate to which it is a party as Transferee), or such other electronic mail address notified to by a Bank to the Facility Agent or, as the case may be, by the Facility Agent to all the Banks, with five Business Days' prior notice.

33.5.3 Any electronic communication made between the Facility Agent and a Bank or the Security Trustee under or in connection with the Finance Documents will be effective only when actually received in readable form and in the case of any electronic communication made by a Bank or the Security Trustee to the Facility Agent only if it is addressed in such a manner as the Facility Agent shall specify for this purpose.

33.6 English Language

Each communication and document made or delivered by one party to another pursuant to this Agreement shall be in the English language or accompanied by a translation thereof into English certified (by an officer of the person making or delivering the same) as being a true and accurate translation thereof.

33.7 Notices to Facility Agent and Security Trustee

Without prejudice to the provisions of this Clause 33, if at any time the Facility Agent and the Security Trustee are the same person acting out of the same Facility Office, the Borrower may deliver communications or documents to the Facility Agent and/or the Security Trustee by delivering such communications or documents to the Facility Agent and/or the Security Trustee (expressly marked for the attention of the Facility Agent and the Security Trustee). If at any time the Facility Agent and the Security Trustee are not the same person acting out of the same Facility Office, any communications or documents to the Security Trustee shall be delivered to the Security Trustee and the Facility Agent concurrently.

34. Counterparts

This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

35. Amendments

35.1 Amendments

Subject to Clause 35.2 (*Amendments Requiring the Consent of all the Banks)*, if the Facility Agent has the prior consent of the Instructing Group, the Facility Agent and the Borrower may from time to time agree in writing to amend this Agreement or to waive, prospectively or retrospectively, any of the requirements of this Agreement and any amendments or waivers so agreed shall be binding on all the Finance Parties and the Borrower, **provided that** no such waiver or amendment shall subject any party hereto to any new or additional obligations without the consent of such party.

35.2 Amendments Requiring the Consent of all the Banks

An amendment or waiver which relates to:

35.2.1 Clause 27 (*Sharing*) or this Clause 35;

35.2.2 a change in the principal amount of or currency of any Advance or deferral of any Repayment Date;

35.2.3 a change in the Margin, the amount or currency of any payment of interest, fees or any other amount payable hereunder to any Finance Party or deferral of the date for payment thereof;

35.2.4 Clause 19.1 (*Failure to Pay)*;

35.2.5 the release of a Security Document or any amendment, waiver, discharge or termination which would prejudice the Banks' position under the Security Documents;

35.2.6 the definition of Instructing Group; or

35.2.7 any provision which contemplates the need for the consent or approval of all the Banks,

shall not be made without the prior consent of all the Banks and the Borrower.

35.3 Exceptions

Notwithstanding any other provisions hereof, the Facility Agent shall not be obliged to agree to any such amendment or waiver if the same would:

35.3.1 amend or waive this Clause 35, Clause 21 (*Costs and Expenses*) or Clause 29 (*The Facility Agent, The Original Mandated Lead Arrangers and The Banks*); or

35.3.2 otherwise amend or waive any of the Facility Agent's rights hereunder or subject the Facility Agent, the Original Mandated Lead Arrangers or the Security Trustee to any additional obligations hereunder (and any such amendment or waiver subjecting any such person to any such additional obligation requires such person's written agreement).

36. Governing Law

This Agreement is governed by Singapore law.

37. Jurisdiction

37.1 Singapore Courts

The courts of Singapore have jurisdiction to settle any dispute (a "**Dispute**") arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement or the consequences of its nullity).

37.2 Convenient Forum

The Borrower waives any objection it might now or hereafter have to the courts referred to in Clause 37.1 *(Singapore Courts)* being nominated to settle Disputes and accordingly, agrees that they will not argue to the contrary.

37.3 Non-exclusive Jurisdiction

The submission to the jurisdiction of the courts referred to in Clause 37.1 shall not (and shall not be construed so as to) limit the right of each of the Finance Parties to take proceedings against the Borrower or, the Borrower to take proceedings against the Finance Parties or any one or more of them or any other party, in any other court of

competent jurisdiction nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction (whether concurrently or not) if and to the extent permitted by applicable law.

AS WITNESS the hands of the duly authorised representatives of the parties hereto the day and year first before written.

Schedule 1

The Banks

Bank	**Commitment US($)**
Oversea-Chinese Banking Corporation Limited	75,000,000
ABN AMRO Bank N.V., Singapore Branch	66,375,000
DBS Bank Ltd	66,375,000
Citibank N.A., Singapore Branch	57,750,000
Bayerische Hypo- und Vereinsbank AG, Singapore Branch	30,000,000
Taipei Fubon Commercial Bank	30,000,000
Sumitomo Mitsui Banking Corporation, Singapore Branch	30,000,000
China Development Industrial Bank	30,000,000
United Overseas Bank Limited	30,000,000
Entie Commercial Bank	20,000,000
Industrial Bank of Taiwan	20,000,000
The Shanghai Commercial & Savings Bank, Ltd	20,000,000
Taishin International Bank	20,000,000
Ta Chong Bank Ltd.	20,000,000
Bank of Taiwan, Singapore Branch	10,000,000
Bank SinoPac, Offshore Banking Branch	10,000,000
Far Eastern International Bank	10,000,000
Land Bank of Taiwan, Singapore Branch	10,000,000
Mega International Commercial Bank Co. Ltd, Singapore Branch	10,000,000
RHB Bank Bhd (Singapore Branch)	10,000,000
Raiffeisen Zentralbank Oesterreich AG, Singapore Branch	10,000,000
Sunny Bank Offshore Banking Unit	10,000,000
Hua Nan Commercial Bank, Ltd., Singapore Branch	4,500,000
Total	600,000,000

Schedule 2

Form of Transfer Certificate

To: [ ]

TRANSFER CERTIFICATE

relating to the agreement (as from time to time amended, varied, novated or supplemented, the "**Facility Agreement**") dated [ ] 2008 whereby a US$600,000,000 term loan facility was made available to TECH Semiconductor Singapore Pte. Ltd. as borrower by a group of banks on whose behalf Citicorp Investment Bank (Singapore) Limited acted as facility agent in connection therewith.

1. Terms defined in the Facility Agreement shall, subject to any contrary indication, have the same meanings herein. The terms Bank, Transferee and Portion Transferred are defined in the schedule hereto.

2. The Bank (a) confirms that the details in the schedule hereto under the heading "**Bank's Participation in the Facility**" and "**Advances**" accurately summarises its participation in the Facility Agreement and the Interest Period of any existing Advances and (b) requests the Transferee to accept and procure the transfer by novation to the Transferee of the Portion Transferred (specified in the schedule hereto) of its Commitment and/or its participation in such Advance(s) by counter-signing and delivering this Transfer Certificate to the Facility Agent at its address for the service of notices specified in the Facility Agreement.

3. The Transferee hereby requests the Facility Agent to accept this Transfer Certificate as being delivered to the Facility Agent pursuant to and for the purposes of Clause 30.5 (*Transfers by Banks)* of the Facility Agreement so as to take effect in accordance with the terms thereof on the Transfer Date or on such later date as may be determined in accordance with the terms thereof.

4. The Transferee confirms that it has received a copy of the Finance Documents together with such other information as it has required in connection with this transaction and that it has not relied and will not hereafter rely on the Bank to check or enquire on its behalf into the legality, validity, effectiveness, adequacy, accuracy or completeness of any such information and further agrees that it has not relied and will not rely on the Bank to assess or keep under review on its behalf the financial condition, creditworthiness, condition, affairs, status or nature of the Borrower.

5. The Transferee hereby undertakes with the Bank and each of the other parties to the Facility Agreement that it will perform in accordance with their terms all those obligations under the Finance Documents (including, for the avoidance of doubt, Clause 16 of the Trust Deed) which by the terms of the Facility Agreement will be assumed by it after delivery of this Transfer Certificate to the Facility Agent and satisfaction of the conditions (if any) subject to which this Transfer Certificate is expressed to take effect.

6. The Bank makes no representation or warranty and assumes no responsibility with respect to the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents or any document relating thereto and assumes no responsibility for the

financial condition of the Borrower or for the performance and observance by the Borrower of any of its obligations under the Finance Documents or any document relating thereto and any and all such conditions and warranties, whether express or implied by law or otherwise, are hereby excluded.

7. The Bank hereby gives notice that nothing herein or in the Finance Documents (or any document relating thereto) shall oblige the Bank to (a) accept a re-transfer from the Transferee of the whole or any part of its rights, benefits and/or obligations under the Finance Documents transferred pursuant hereto or (b) support any losses directly or indirectly sustained or incurred by the Transferee for any reason whatsoever including the non-performance by the Borrower or any other party to the Finance Documents (or any document relating thereto) of its obligations under any such document. The Transferee hereby acknowledges the absence of any such obligation as is referred to in (a) or (b).

8. The Transferee expressly acknowledges that the execution and delivery of this Transfer Certificate constitutes its contractual acceptance of the offer to become a party to the Trust Deed as set out in Clause 17 thereof and attached hereto is an Accession Undertaking.

9. This Transfer Certificate and the rights, benefits and obligations of the parties hereunder shall be governed by and construed in accordance with Singapore law.

THE SCHEDULE

1. Bank:
2. Transferee:
3. Transfer Date:
4. Bank's Participation in the Facility:
   Bank's Commitment Portion Transferred
5. Advance(s):
   Amount of Bank's ParticipationInterest Period Portion Transferred

[Transferor Bank]
By:
Date:

[Transferee Bank]
By:
Date:

Administrative Details of Transferee

Address:

Contact Name:

Account for Payments:

Standing Payment Instructions:

Telex:

Fax:

Telephone:

E-mail:

Schedule 3

Conditions Precedent

1. **CORPORATE AUTHORISATIONS**

1.1 A copy of the Constitutional Documents of each Obligor, certified true by a duly authorised officer of the relevant Obligor.

1.2 A copy or an extract of the resolution of the board of directors of each Obligor approving the execution, delivery and performance of each of the Finance Documents to which it is expressed to be a party and the terms and conditions thereof and authorising a named person or persons to sign such documents and any documents to be delivered pursuant thereto, certified true by a duly authorised officer of the relevant Obligor.

1.3 A certificate of a duly authorised officer of each Obligor setting out the names and signatures of the persons authorised to sign, on behalf of that Obligor, each of the Finance Documents to which it is expressed to be a party and any documents to be delivered pursuant thereto.

1.4 A certificate as to the existence and good standing of Micron from the appropriate governmental authorities in the State of Delaware, The United States of America.

2. **AUTHORISATIONS AND CONSENTS**

A copy, certified a true by and on behalf each Obligor, of each such licence, approval, registration or declaration as is, in the opinion of counsel to the Finance Parties, necessary to render each of the Finance Documents legal, valid, binding and enforceable on the relevant Obligor and admissible in evidence in any applicable jurisdiction and enable each of the parties to such documents to perform its obligations thereunder, as informed to the Obligors by the Facility Agent prior to the date of this Agreement or, otherwise, by reason of any circumstances occurring after the date of this Agreement (or, if the Facility Agent so requires, confirmation by a duly authorised officer of the relevant Obligor that no such documents are required).

3. **CORE COMMERCIAL AGREEMENTS**

Copies, certified true copy by a duly authorised officer of the Borrower, of the Core Commercial Agreements.

4. **FINANCE DOCUMENTS**

4.1 Subject to paragraph 4.4 below, the Finance Documents duly executed by each party thereto and, where appropriate, duly stamped and presented for registration with all appropriate authorities.

4.2 Subject to paragraph 4.4 below, a copy of each notice required to be executed and delivered by the Borrower under each of the Security Documents.

4.3 Subject to paragraph 4.4 below, a copy of each acknowledgement of the notice referred to in paragraph 4.2 above by the relevant person under any of the Security Documents, except that in the case of Insurance Assignment the Borrower shall use its best efforts to procure the required insurers' acknowledgement (and, in each case, such

acknowledgements in respect of the Insurance Assignment shall not be a condition precedent to first disbursement of an Advance under this Agreement).

4.4 In the case where the proceeds of the first Advance are to be utilised to refinance any outstanding amounts due to the Existing Lenders under the Existing Credit Agreement, any Security Document (other than the Micron Corporate Guarantee and the Security Sharing Agreement) referred to in paragraph 4.1 above shall be left undated and held in escrow by the Facility Agent until the date of the first Advance and shall be dated on the date of the first Advance and to be stamped and registered (where appropriate) thereafter and any notice and acknowledgement (other than the acknowledgements of the Insurance Assignment which are to be procured by the Borrower using its best efforts) referred to in paragraphs 4.2 and 4.3 above shall be undated to be held in escrow until the date of the first Advance.

4.5 The insurance policies of the Borrower.

4.6 Evidence of the acceptance of the appointment of the process agents referred to in the Micron Corporate Guarantee and the Security Sharing Agreement.

5. **OPINIONS**

A legal opinion from Allen & Gledhill, Singapore counsel to the Finance Parties.

A legal opinion from Moffatt, Thomas, Barrett, Rock & Fields, Chartered, U.S. legal counsel to Micron.

6. **PROJECT PRIVILEGES**

A certified copy of the 15-year pioneer tax certificate covering the period from 1 April 2007 to 31 March 2022, together with a confirmation from a duly authorised officer of the Borrower that such certificate is current and the privileges contemplated therein continue to apply.

7. **SHAREHOLDINGS**

A certificate from the company secretary of the Borrower confirming compliance with Clause 15.22 (*Ownership of the Borrower*).

8. **INSURANCE**

Confirmation from the Insurance Expert in the form of an insurance report issued by it that the Borrower is insured in accordance with Clause 18.2 (*Insurance*).

9. **RELEASE**

(Where there are outstanding amounts owing to the Existing Lenders under the Existing Credit Agreement as of the date of the first Notice of Drawdown), a confirmation (dated on or around the date of the first Notice of Drawdown) from CIBSL, as facility agent for the Existing Lenders,

(a) that it consents to the entry into of the Finance Documents and confirmation of the amounts owing to the Existing Lenders under the Existing Credit Agreement; and

(b) that it agrees that on receipt of such amounts on the first drawdown date hereunder, all amounts outstanding under the Existing Credit Agreement will be

discharged and all security interests granted in respect thereof will be released and all Existing Security Documents will be discharged; or

(Where there are no outstanding amounts owing under the Existing Credit Agreement as at the date of the first Notice of Drawdown) evidence that (a) there are no outstanding amount owing under the Existing Credit Agreement and (b) the Existing Security Documents have been discharged.

10. **OPERATING ACCOUNTS**

Evidence that each of the Operating Accounts have been opened.

11. **FEES, COSTS AND EXPENSES**

Evidence that the fees, costs and expenses then due from the Borrower pursuant to Clause 20 *(Commitment and Fees)* and Clause 21 *(Costs and Expenses)* have been paid or will be paid by the date of the first Advance.

12. **300 MM PRODUCTION CAPACITY EXPANSION PLAN**

A copy, certified true by a duly authorised officer of the Borrower, or an extract, of a resolution of the board of directors of the Borrower approving the December 2007 business plan relating to the 300mm production capacity expansion plan of the Borrower.

13. **DISCHARGE DOCUMENTS**

The documents for the release and discharge of the Existing Security Documents duly executed by each party thereto, provided that each such document shall be left undated and held in escrow by the Facility Agent until the date of the first Advance and shall be dated on the date of the first Advance upon the confirmation from CIBSL that all amounts outstanding under the Existing Credit Agreement have been discharged.

Schedule 4
Notice of Drawdown

From: TECH Semiconductor Singapore Pte. Ltd.

To: Citicorp Investment Bank (Singapore) Limited

Dated:

Dear Sirs,

We refer to the US$600,000,000 facility agreement (the "**Facility Agreement**") dated [ ] 2008 and made between TECH Semiconductor Singapore Pte. Ltd. as borrower, Citicorp Investment Bank (Singapore) Limited as Facility Agent, ABN AMRO Bank N.V., Singapore Branch as security trustee and the financial institutions named therein as Original Mandated Lead Arrangers and Banks. Terms defined in the Facility Agreement shall have the same meaning in this notice.

1. This notice is irrevocable.

2. We hereby give you notice that, pursuant to the Facility Agreement and on [date of proposed Advance], we wish to borrow an Advance in the amount of US$[ ] upon the terms and subject to the conditions contained therein.

3. We would like this Advance to have a first Interest Period of [ ] months' duration.

4. We confirm that, at the date hereof, the Repeated Representations [and the Non-Repeated Representations][**] are true in all material respects and no Event of Default or Potential Event of Default has occurred and is continuing.

5. The proceeds of this drawdown should be [paid in the following order: (i) payment to CIBSL (as agent for the Existing Lenders) in satisfaction of the Loan, interest and all other amounts (if any) outstanding under the Existing Credit Agreement, (ii) payment to the Facility Agent of upfront fees (as detailed in the fee letter dated 9 January 2008 between us and the Original Mandated Lead Arrangers) and (iii) the balance credited to [insert account details]][t] / [credited to [insert account details]].

Yours faithfully

.....

[President or Vice President, Finance]

for and on behalf of

TECH Semiconductor

Singapore Pte. Ltd.

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[t] If this Advance is the first Advance made under the Agreement and there are outstanding amounts owing under the Existing Credit Agreement as at the date of this Notice of Drawdown.

[**] If this Advance is the first Advance made under the Facility

Schedule 5
Form of Compliance Certificate

To: [ ] as Facility Agent

From: TECH Semiconductor Singapore Pte Ltd

Dated:

US$600,000,000 Facility Agreement dated [ ] 2008 (the "Agreement") between TECH Semiconductor Singapore Pte Ltd as Borrower, Citicorp Investment Bank (Singapore) Limited as Facility Agent and ABN AMRO Bank N.V., Singapore Branch as Security Trustee and the Original Mandated Lead Arrangers and Banks referred to therein

1. We refer to the Agreement. This is a Compliance Certificate. Terms defined in the Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.

2. We confirm that: [Insert details of covenants to be certified]

Yours faithfully

.....

[President or Vice President, Finance]

for and on behalf of

TECH Semiconductor

Singapore Pte. Ltd.

Schedule 6
Confidentiality Undertaking

[Letterhead of Finance Party]

To: [Proposed Assignee/Transferee/Sub-participant]

Dear Sirs

US$600,000,000 Facility Agreement dated [ ] 2008 (the "Agreement") between TECH Semiconductor Singapore Pte Ltd as Borrower, Citicorp Investment Bank (Singapore) Limited as Facility Agent and ABN AMRO Bank N.V., Singapore Branch as Security Trustee and the Original Mandated Lead Arrangers and Banks referred to therein

We understand that you are considering acquiring an interest in the Agreement referred to above (the "Acquisition"). In consideration of us agreeing to make available to you certain information, by signature by your duly authorised signatory of a copy of this letter you agree as follows:

3. *Confidentiality Undertaking* You undertake (a) to keep the Confidential Information confidential and not to disclose it to anyone except as provided for by paragraph 2 below and to ensure that the Confidential Information is protected with security measures and a degree of care that would apply to your own confidential information, (b) to use the Confidential Information only for the Permitted Purpose, and (c) to use all reasonable endeavours to ensure that any person (as may be permitted in this undertaking) to whom you pass any Confidential Information (unless disclosed under paragraph 2(c) below) acknowledges and complies with the provisions of this letter as if that person were also a party to it.

4. *Permitted Disclosure* We agree that you may disclose Confidential Information:

(a) to your officers, directors, employees and professional advisers to the extent necessary for the Permitted Purpose and to your auditors;

(b) subject to the requirements of the Agreement, to any person to (or through) whom you are permitted to assign or transfer (or may potentially assign or transfer) all or any of the rights, benefits and obligations which you may acquire under the Agreement or with (or through) whom you enter 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, the Agreement or the Borrower so long as that person has delivered a duly executed letter to you in equivalent form to this letter; and

(c) where requested or required by any court of competent jurisdiction or any competent judicial, governmental, supervisory or regulatory body, (ii) where required by the rules of any stock exchange on which the shares or other securities of any member of the Purchaser Group are listed or (iii) where required by the laws or regulations of any country with jurisdiction over the affairs of any member of the Purchaser Group, after obtaining a legal opinion to such effect.

5. *Notification of Required or Unauthorised Disclosure* You agree (to the extent permitted by law) to inform us of the full circumstances of any disclosure under paragraph 2(c) or upon becoming aware that Confidential Information has been disclosed in breach of this letter.

6. *Return of Copies* If we or the Borrower so request in writing, you shall return all Confidential Information supplied to you by us and destroy or permanently erase all copies of Confidential Information made by you and use all reasonable endeavours to ensure that anyone to whom you have supplied any Confidential Information destroys or permanently erases such Confidential Information and any copies made by them, in each case save to the extent that you or the recipients are required to retain any such Confidential Information by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body or where the Confidential Information has been disclosed under paragraph 2(c) above.

7. *Continuing Obligations* The obligations in this letter are continuing and, in particular, shall survive the termination of any discussions or negotiations between you and us. Notwithstanding the previous sentence, the obligations in this letter shall cease if you become a party to or otherwise acquire (by assignment or sub-participation) an interest, direct or indirect, in the Agreement in which case you agree and acknowledge that you are bound by the provisions of Clause 30.7 of the Agreement.

8. *Consequences of Breach, No Representation, etc.* You acknowledge and agree that:

   (a) neither we, the Borrower nor any of our or their respective officers, employees, agents or advisers (each a "**Relevant Person**") (i) make any representation or warranty, express or implied, as to, or assume any responsibility for, the accuracy, reliability or completeness of any of the Confidential Information or any other information supplied by us or the assumptions on which it is based or (ii) shall be under any obligation to update or correct any inaccuracy in the Confidential Information or any other information supplied by us or be otherwise liable to you or any other person in respect to the Confidential Information or any such information; and

   (b) we or the Borrower may be irreparably harmed by the breach of the terms hereof and damages may not be an adequate remedy; each Relevant Person may be granted an injunction or specific performance for any threatened or actual breach of the provisions of this letter by you.

9. *No Waiver; Amendments, etc* This letter sets out the full extent of your obligations of confidentiality owed to us in relation to the information the subject of this letter. No failure or delay in exercising any right, power or privilege hereunder will operate as a waiver thereof nor will any single or partial exercise of any right, power or privilege preclude any further exercise thereof or the exercise of any other right, power or privileges hereunder. The terms of this letter and your obligations hereunder may only be amended or modified by written agreement between us.

10. *Inside Information* You acknowledge that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation relating to insider dealing and you undertake not to use any Confidential Information for any unlawful purpose.

11. *Nature of Undertakings* The undertakings given by you under this letter are given to us and (without implying any fiduciary obligations on our part) are also given for the benefit of the Borrower.

12. *Governing Law and Jurisdiction* This letter (including the agreement constituted by your acknowledgement of its terms) shall be governed by and construed in accordance with the laws of Singapore and the parties submit to the non-exclusive jurisdiction of the Singapore courts.

13. *Definitions* In this letter (including the acknowledgement set out below) terms defined in the Agreement shall, unless the context otherwise requires, have the same meaning and:

"**Confidential Information**" means any information relating to the Borrower, Micron, the Agreement and/or the Acquisition provided to you by us or any of our affiliates or advisers, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that (a) is or becomes public knowledge other than as a direct or indirect result of any breach of this letter or (b) is known by you before the date the information is disclosed to you by us or any of our affiliates or advisers or is lawfully obtained by you thereafter, other than from a source which is connected with the Borrower and which, in either case, as far as you are aware after having made reasonable enquiry, has not been obtained in violation of, and is not otherwise subject to, any obligation of confidentiality;

"**Permitted Purpose**" means considering and evaluating whether to enter into the Acquisition; and

"**Purchaser Group**" means you, each of your holding companies and subsidiaries and each subsidiary of each of your holding companies.

Please acknowledge your agreement to the above by signing and returning the enclosed copy.

Yours faithfully

….....

For and on behalf of

[Finance Party]

To: [Finance Party]

We acknowledge and agree to the above:

….....

For and on behalf of

[ ]

Schedule 7

Standing Payment Instructions

ABN AMRO BANK N.V., SINGAPORE BRANCH

USD Payment Instruction for arrangement fee payments/ principal / interest payments:

Correspondence Bank: ABN AMRO BANK, N.V. NEW YORK

SWIFT Code: ABNAUS33

For the Account of: ABN AMRO BANK, N.V. SINGAPORE

SWIFT Code: ABNASGSG

Account no.: 661-001-055341 CHIPS UID 011591

Reference: TECH Semiconductor - Agency Asia

BANK OF TAIWAN, SINGAPORE BRANCH

Pay to: JP Morgan Chase Bank, New York

SWIFT BIC: CHASUS33

For account of: Bank of Taiwan, Singapore Branch

SWIFT BIC: BKTWSGSG

Via CHIPS UID 353571

BANK SINOPAC, OFFSHORE BANKING BRANCH

Correspondent Bank: Citibank N.A., New York

SWIFT Code of Correspondent Bank: CITIUS33

Account Name: Bank SinoPac

SWIFT Code of Bank SinoPAc: SINOTWTP

Account Number: 36115045

Reference: Tech Semiconductor PTE Ltd.

BAYERISCHE HYPO- UND VEREINSBANK AG, SINGAPORE BRANCH

JP Morgan Chase Bank, New York (CHASUS33)

For the account of: Bayerische Hypo- und Vereinsbank AG, Singapore Branch

CHIPS UID 355366

Account no. 001-1-940251

Ref: Tech Semiconductor Singapore Pte Ltd

CHINA DEVELOPMENT BANK

Intermediary Bank's Details

Name: HSBC Bank USA New York

Country and City: USA New York

SWIFT Address & Clearing Code: MRMDUS33XXX

Beneficiary Bank's Details

Name: China Development Industrial Bank

Country and City: Taipei, Taiwan

SWIFT Address & Clearing Code: CDIBTWTPXXX

Account No.: 000142786

Beneficiary's Details

Name: TECH Semiconductor Singapore Pte. Ltd.

Country and City: Singapore

SWIFT Address & Clearing Code: SGCT0007

Payment Details: Syndication Loan

CITIBANK, N.A., SINGAPORE BRANCH

For account: Citibank N.A., New York (CITIUS33)

In Favor of : Citibank N.A., Singapore (CITISGSG)

Account No: 10991581

Attention: Freddy Pius

DBS BANK LTD

For account: Bank of New York, New York

SWIFT Code: IRVTUS3N

In favour of: DBS Bank Ltd, Singapore

SWIFT Code: DBSSSGSG

Reference: TECH Semiconductor Singapore Pte Ltd - US$600 million Syndicated Facility

Attention: Jacqueline Tan / Gabrielle Khoo, CIB-Communication, Media & Technology]

ENTIE COMMERCIAL BANK

Name of Bank: Bank of New York, New York

SWIFT Code: IRVTUS3N

Beneficiary: EnTie Commercial Bank Taipei, Taiwan

SWIFT Code: ENTITWTP

Beneficiary:A/C NO. 890-0228-881

FAR EASTERN INTERNATIONAL BANK

Bank Name: Citibank N.A., New York

SWIFT Code: CITIUS33

Account No. 36111124

Beneficiary: Far Eastern International Bank

Beneficiary Bank’s SWIFT Code: FEINTWTP

INDUSTRIAL BANK OF TAIWAN

Corresponding Bank: Wachovia Bank N.A. New York Branch

SWIFT Code: PNBPUS3NNYC

Account name: Industrial Bank of Taiwan OBU Branch

Account No. 2000191002339

SWIFT Code: IBOTTWTP

HUA NAN COMMERCIAL BANK, LTD., SINGAPORE BRANCH

Correspondent Bank: JP Morgan Chase Bank, New York

SWIFT Code: CHASUS33

Account No. 001-1-940293

Beneficiary: Hua Nan Commercial Bank. Ltd., Singapore Branch

SWIFT Code: HNBKSGSG

LAND BANK OF TAIWAN, SINGAPORE BRANCH

Correspondent Bank: The Bank of New York, New York

SWIFT Address: IRVT US3N

Account No. 890-0492-716

For Account of: Land Bank of Taiwan, Singapore Branch

SWIFT Address: LBOT SGSG

Reference: TECH 2008-03-26

Attention: Maggie W.L. Cheng / Priscilla Tan

MEGA INTERNATIONAL COMMERCIAL BANK CO. LTD, SINGAPORE BRANCH

Correspondent Bank: Mega International Commercial Bank Co., Ltd., New York

SWIFT: ICBCUS33

For the account of: Mega International Commercial Bank Co., Ltd., Singapore Branch

SWIFT: ICBCSGSG

Account Number: USD300596

OVERSEA-CHINESE BANKING CORPORATION LIMITED

Intermediary Bank's Details

Name: JPMorgan Chase

Country and City: New York

SWIFT Address & Clearing Code: CHASUS33 (Chips UID10275)

Beneficiary Bank's Details

Name: Oversea-Chinese Banking Corporation Ltd

Country and City: Singapore

SWIFT Address & Clearing Code: OCBCSGSG

RHB BANK BHD (SINGAPORE BRANCH)

Name: Bank of New York, New York

BIC Code: IRVTUS3N

Account No: 803-3309-458

CHIPS UID: 024880

Remarks: (For account of Corporate & Commercial Banking - TECH Semiconductor Singapore Pte Ltd)

THE SHANGHAI COMMERCIAL & SAVINGS BANK. LTD

Correspondent Bank: Citibank N.A.

SWIFT Code: CITIUS33

Beneficiary: The Shanghai Commercial & Savings Bank. Ltd, Offshore Banking Branch

Bank Name: The Shanghai Commercial & Savings Bank. Ltd, Offshore Banking Branch

SWIFT Code: SCSBTWTPO27

Remarks: TECH Semiconductor Singapore Pte (2)

SUMITOMO MITSUI BANKING CORPORATION, SINGAPORE BRANCH

Bank: JP Morgan Chase Bank, New York (CHASUS33)

Account name: Sumitomo Mitsui Banking Corporation, Singapore Branch

Account No. 001-1-746468 CHIPS UID 141695

SWIFT: SMBCSGSG

RAIFFEISEN ZENTRALBANK OESTERREICH AG, SINGAPORE BRANCH

Name of Bank: JP Morgan Chase Bank, New York

SWIFT ID: CHASUS 33

VIA CHIPS UID: 373362

Favouring: Raiffeisen Zentralbank Oesterreich AG, Singapore Branch

Re: TECH Semiconductor Pte Ltd Singapore (Fees/Interest)

SUNNY BANK OFFSHORE BANKING UNIT

Bank name: Sunny Bank (in favour of Sunny Bank OBU Branch)

Bank Code: SUNYTWTP

Bank Account for Cash Payment: 2000191001741

Correspondent Code: PNBPUS3NNYC (Wachovia Bank NA NY INTL BR.)

TAIPEI FUBON COMMERCIAL BANK

Name of Bank: Citibank N.A., New York

SWIFT Code: CITIUS33

Beneficiary Bank name: Taipei Fubon Bank, Offshore Banking Unit

SWIFT BIC: TPBKTWTP560

Account Name: Tech Semiconductor

Account No. 56011 33100 1150

TAISHIN INTERNATIONAL BANK

Name of Bank: Citibank N.A., New York

Beneficiary Bank: Taishin International Bank

Account No.: 36116558

SWIFT Code: CITIUS33

Beneficiary Bank's Swift Code: TSIBTWTP

TA CHONG BANK LTD.

Correspondent Bank: Citibank N.A., New York, N.Y.

Correspondent Bank SWIFT Code: CITIUS33

Beneficiary Customer: Ta Chong Bank Ltd

Beneficiary SWIFT Code: OURBTWTP

Beneficiary Bank Account No.: 36089983

Reference Information: TECH Semiconductor Singapore Pte. Ltd.

UNITED OVERSEAS BANK LIMITED

Pay to: Deutsche Bank Trust Co Americas, New York

SWIFT Address: BKTRUS33

For account of: United Overseas Bank Limited, Singapore

CHIPS UID 010762

SWIFT Address: UOVBSGSG

Attention: CCOCD - Loan Processing Unit

Reference: Payment for Tech Semiconductor US$600m Credit Facility,.

SIGNATURES

TECH SEMICONDUCTOR SINGAPORE PTE. LTD.
as Borrower

By: SGD LEE KOK CHOY

Address: 1, Woodlands Industrial Park D
Street 1, Singapore 738799

Fax: 6365 2016

Attention: Vice President, Finance

ABN AMRO BANK N.V.

as Original Mandated Lead Arranger

By: SGD ANUP KURUVILLA (EXECUTIVE DIRECTOR) SGD DANIEL KONG (DIRECTOR)

Address: 42/F Cheung Kong Centre, 2 Queen's Road Central, Hong Kong

Fax: +852 2700 3949

Attention: Anup Kuruvilla

E-mail: anup.kuruvilla@hk.abnamro.com

ABN AMRO BANK N.V., SINGAPORE BRANCH

as Bank

By: SGD DANIEL KONG (DIRECTOR) SGD SARAH MAK (RELATIONSHIP MANAGER)

Address: Level 23, One Raffles Quay South Tower, Singapore 048583 / 38/F Cheung Kong Centre, 2 Queen's Road Central, Hong Kong

Fax: +65 6518 6036 / +852 2700 3450

Attention: Daniel Kong / Natalie Fung

E-mail: daniel.kong@sg.abnamro.com / natalie.fung@hk.abnamro.com

ABN AMRO BANK N.V., SINGAPORE BRANCH

as Security Trustee

By: SGD KAREN HENG (MANAGER) SGD IRENE NG (ASSISTANT MANAGER)

Address: One Raffles Quay
South Tower, Level 26
Singapore 048583

Fax: +65 6518 6035 / 6012

Attention: Yong Peck Yuen / Irene Ng

E-mail: peck.yuen.yong@sg.abnamro.com /
irene.ng@sg.abnamro.com

CITIGROUP GLOBAL MARKETS SINGAPORE PTE LTD
as Mandated Lead Arranger

By: SGD RONNY CHNG (DIRECTOR)

Address: Citigroup Global Markets Singapore Pte. Ltd.
48F, Citibank Tower, Citibank Plaza
No. 3 Garden Road, Central
Hong Kong

Fax: +852 2521 8725 / +852 3018 7549

Attention: Shailesh Venkatraman / Adnan Meraj

E-mail: shailesh.venkatraman@citi.com / adnan.meraj@citi.com

CITIBANK, N.A., SINGAPORE BRANCH

as Mandated Lead Arranger and Bank

By: SGD SILAS LEE (MANAGING DIRECTOR, HEAD OF CORPORATE BANK, SINGAPORE)

Address: 3 Temasek Avenue
#17-00 Centennial Tower
Singapore 039190

Fax: 6328-5402 / 6426-8118

Attention: Michelle Lim / Tay Lucy / Freddy Pius

E-mail: michelle.hi.lim@citi.com / lucy.tay@citi.com / freddy.pius@citi.com

CITICORP INVESTMENT BANK (SINGAPORE) LIMITED
as Facility Agent

By: SGD DONNY LAM
SENIOR VICE PRESIDENT

Address: #09-00 Tampines Junction
300 Tampines Avenue 5
Singapore 529653

Fax: (65) 6787 0026

Attention: Rebecca Yung / Joan Au, Loans Agency Department

E-mail: rebecca.yung@citi.com / joan.m.au@citi.com

DBS BANK LTD

as Original Mandated Lead Arranger and Bank

By: SGD MILDRED SEOW SIOK ENG (SENIOR VICE PRESIDENT)
CORPORATE AND INVESTMENT BANKING - SYNDICATED FINANCE

Address: 6 Shenton Way
DBS Building Tower One
Singapore 068809

Fax: 6323 5410

Attention: Audrey Koh / Jacqueline Tan/ Gabrielle Khoo, CIB-Communication, Media & Technology

E-mail: audreykoh@dbs.com / hweeleng@dbs.com / gabriellekhoo@dbs.com

OVERSEA-CHINESE BANKING CORPORATION LIMITED
as Original Mandated Lead Arranger

By: SGD TAN LAY HOON (HEAD OF CAPITAL MARKETS)

Address: 63 Chulia Street #03-05 OCBC Centre Singapore 049513

Fax: 6535-4256

Attention: Tham Kong Chiu

E-mail: thamkongchiu@ocbc.com

OVERSEA-CHINESE BANKING CORPORATION LIMITED
as Bank

By: SGD TAN LAY HOON (HEAD OF CAPITAL MARKETS)

Address: 63 Chulia Street #10-00 OCBC Centre Singapore 049513

Fax: 6536-9327

Attention: Clara Ng

E-mail: nghnclara@ocbc.com

BANK OF TAIWAN, SINGAPORE BRANCH
as Bank

By: SGD HO KAI CHENG (GENERAL MANAGER)

Address: 80 Raffles Place
#28-20, UOB Plaza 2
Singapore 048624

Fax: (65) 6536 8203

Attention: Ms. Ravia Lee / Mr. David Yang

E-mail: ravia@botsg.com.sg / davidy@botsg.com.sg

BANK SINOPAC, OFFSHORE BANKING BRANCH
as Bank

By: SGD SCOTT C. C. LIU
TITLE: FIRST VICE PRESIDENT AND GENERAL MANAGER

Address: 10F, 9-1, Chien Kuo N.Rd., Sec 2, Taipei 104, Taiwan, ROC / 5F, 17 Bo-ao Rd., Jhongjheng District, Taipei 104, Taiwan (R.O.C.)

Fax: +886 2 2515 5181 / + 886 2 2748 7559

Attention: Kofei Chien / Lillian Yang

E-mail: chienkofei@sinopac.com / Lillian.yang@sinopac.com

BAYERISCHE HYPO- UND VEREINSBANK AG, SINGAPORE BRANCH
as Bank

By:	SGD TAN HWEE KOON (VICE PRESIDENT)	SGD SOO THEAN LING (MANAGING DIRECTOR, HEAD OF CREDIT RISK - ASIA PACIFIC)

Address: 30 Cecil Street #25-01
Prudential Tower
Singapore 049712

Fax: (65) 64133 771

Attention: Ms Cheah Soo Lee / Ms Tsen Mei Chi / Ms Tan Hwee Koon

E-mail: soo.lee.cheah@hvbasis.com /
meichi.tsen@hvbasia.com /
hweekoon.tan@hvbasia.com

CHINA DEVELOPMENT INDUSRTIAL BANK
as Bank

By: SGD JAMES MENG (SENIOR VICE PRESIDENT)

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Section 5,
Taipei 105,
Taiwan, ROC

Fax: (886) 227562967

Attention: Jolin Hsu, Assistant Vice President, Institutional Banking Department

E-mail: shuchuang@cdibank.com

ENTIE COMMERCIAL BANK
as Bank

By: SGD SHEN KUO HUA

Address: No.158,Sec.3,Minsheng East Rd .,Taipei,Taiwan,R.O.C

Fax: 886-2-2514-0846

Attention: Tina Chou

E-mail:

FAR EASTERN INTERNATIONAL BANK
as Bank

By: SGD □□□ (Manager)

Address: 26F, No. 207. Tun Hwa S. Rd., Sec., 2, Taipei 106, Taiwan, R.O.C.

Fax: 886 2 2376 5721

Attention: Jeff Wu / Stanley Yang

E-mail: jeffwu@feib.com.tw / skyeryang@feib.com.tw

INDUSTRIAL BANK OF TAIWAN
as Bank

By: SGD SOPHIA CHUNG (SENIOR VICE PRESIDENT)

Address: No. 99, Sec. 2
Tiding Blvd., Neihu District
Taipei, Taiwan, R.O.C.

Fax:

Attention: Jeff Yang

E-mail: jefferyyang@ibt.com.tw

HUA NAN COMMERCIAL BANK, LTD. SINGAPOR BRANCH
as Bank

By: SGD DAVID Y. L. HUANG (GENERAL MANAGER)

Address: 80, Robinson Road, #14-03,
Singapore
068898

Fax: (65) 6324 2878

Attention: Mr. Jeff Lai / Ms. Wendy Soon / Ms. Kathy Chang

E-mail: credit@hncb.com.sg

LAND BANK OF TAIWAN, SINGAPORE BRANCH
as Bank

By: SGD CHENG HUI HOU (GENERAL MANAGER)

Address: 80 Raffles Place
#34-01, UOB Plaza 1
Singapore 048624

Fax: (65) 6349 4550 / (65) 6349 4532

Attention: Maggie W.L. Cheng / Priscilla Tan, Loan Admin Department

E-mail: 052175@landbank.com.tw / sg0003@landbank.com.tw

MEGA INTERNATIONAL COMMERCIAL BANK CO. LTD, SINGAPORE BRANCH

as Bank

By: SGD HUANG HSIAO-HO (VICE PRESIDENT & GENERAL PRESIDENT & GENERAL

Address:

Fax: (65) 6227-1858

Attention: Mr. Tsai Tsung Yao / Lock Ten Khai

E-mail: icbcloan@singnet.com.sg

RHB BANK BHD (SINGAPORE BRANCH)

as Bank

By: SGD JASON WONG (HEAD OF CORPORATE & COMMERCIAL BANKING)

Address: 90, Cecil Street #03-00
Corporate & Commercial Banking
Singapore 0369531

Fax: 6225 7933

Attention: Mr Lionel Chew / Lim Yen Choo

E-mail: lionel_chew@rhbbank.com.sg / lim_yen_choo@rhbbank.com.sh

RAIFFEISEN ZENTRALBANK OESTERREICH AG, SINGAPORE BRANCH

as Bank

By: SGD SHARAJ BAJPAI (DIRECTOR, HEAD OF INVESTMENTS AND CREDIT TRADING, GLOBAL MARKETS ASIA)

Address: One Raffles Quay #38-01 North Tower
Singapore 048583

Fax: (+65) 6305 6151

Attention: James LIEW / Jeremy WEE / Doreen KOH / Vivian CHEW / Buck Hui KOH

E-mail: james.liew@sg.rzb.at / Jeremy.wee@sg.rzb.at / Doreen.koh@sg.rzb.at / Vivian.chew@sg.rzb.at / buckhui.koh@sg.rzb.at

THE SHANGHAI COMMERCIAL & SAVINGS BANK. LTD

as Bank

By: SGD GENE TSAO (SENIOR VICE PRESIDENT & MANAGER)

Address: 50, SEC. 3 Chin Cheng Rd.,
Tu Cheng City Taipei Hsin
Taiwan R.O.C.

Fax: 886-2-2263-5053

Attention: Jeff Chen, Assistance V.P.

E-mail: effchen@scsb.com.tw

SUMITOMO MITSUI BANKING CORPORATION, SINGAPORE BRANCH

as Bank

By: SGD MASAYA HIRAYAMA
JOINT GENERAL MANAGER

Address: 3 Temasek Avenue
#06-01 Centennial Tower
Singapore 039190

Fax: 65-6882 0490

Attention: Jin Poh Choo

E-mail: jin_pohchoo@sg.smbc.co.jp

SUNNY BANK OFFSHORE BANKING UNIT

as Bank

By: SGD JACK CHEN
MANAGER

Address: 1F No.143 Fu Hsin N Road,
Taipei
Taiwan

Fax: 886 2 271 97599

Attention: Ming-Yu Li

E-mail: s65247@sunnybank.com.tw

TAIPEI FUBON COMMERCIAL BANK

as Bank

By: SGD JOHNNY WANG (SENIOR VICE PRESIDENT)

Address: 6th Floor
No. 169
Section 4 Jen Ai Road
Taipei 10686 Taiwan

Fax: +886-2-6639-0033

Attention: Mr. Calvin Liaw

E-mail: calvin.liaw@fubon.com

TAISHIN INTERNATIONAL BANK
as Bank

By: SGD JAY LIN

Address: 10F., No 118, Sec.4, Ren-ai Rd. Da-an District, Taipei City 106, Taiwan (R.O.C.)

Fax: 886-2-3707-6973

Attention: Jay Lin

Email:

TA CHONG BANK LTD.
as Bank

By: CHIENG-PING CHEN (CHAIRMAN)

Address: No. 201, Tung Hwa N Road
Taipei, Taiwan, R.O.C.

Fax: 86-2-2712-0309

Attention: Kao Wei Yu

Email:

UNITED OVERSEAS BANK LIMITED

as Bank

By: SGD TAN KET KIONG (SENIOR VICE PRESIDENT)

Address: 1 Raffles Place
#10-00 OUB Centre
Singapore 048616

Fax: 65381982 / 65382449

Attention: Mr Gan Tit Thiam / Ms Mathilda Lum / Mr Philip Phua

E-mail: Gan.TitThiam@UOBgroup.com / Mathilda.LumWL@UOBgroup.com / Philip.PhuaTP@UOBgroup.com

Exhibit 10.62

Allen&Gledhill
ADVOCATES & SOLICITORS

CONFORMED COPY

Dated 31 March 2008

MICRON TECHNOLOGY, INC.
as Guarantor

and

ABN AMRO BANK N.V., SINGAPORE BRANCH
acting as Security Trustee

GUARANTEE

ALLEN & GLEDHILL LLP
ONE MARINA BOULEVARD #28-00
SINGAPORE 018989

TABLE OF CONTENTS

This Deed is issued on 31 March 2008 **by:**

(1) **MICRON TECHNOLOGY, INC.**, a corporation established under the laws of the State of Delaware, U.S.A (the "**Guarantor**"); in favour of

(2) **ABN AMRO BANK N.V., SINGAPORE BRANCH**, as security trustee for and on behalf of the Beneficiaries ("**Security Trustee**").

Whereas:

(A) By a US$600,000,000 facility agreement (the **Facility Agreement**") dated 31 March 2008 and made between (1) TECH Semiconductor Singapore Pte. Ltd., as borrower, (2) ABN AMRO Bank N.V., Citibank, N.A., Singapore Branch, Citigroup Global Markets Singapore Pte Ltd, DBS Bank Ltd and Oversea-Chinese Banking Corporation Limited, as original mandated lead arrangers, (3) Citicorp Investment Bank (Singapore) Limited (the "**Facility Agent**"), as facility agent, (4) the Security Trustee, as security trustee and (5) the financial institutions listed in Schedule 1 thereto (the "**Banks**"), as lenders, the Banks agreed to provide the Facility, as described therein, to refinance any outstanding amounts due to the Existing Lenders (as defined therein) under the Existing Credit Agreement (as defined therein) and/or (at any time after all outstanding amounts owing under the Existing Credit Agreement have been discharged) to finance capital expenditure and/or general working capital.

(B) The Security Trustee has been authorised by the Beneficiaries to execute this Deed pursuant to the terms of the Trust Deed (as defined in the Facility Agreement) of even date herewith.

(C) It is a condition to the availability of the Facility under the Facility Agreement that the Guarantor enters into this Deed.

(B) The Guarantor has (after giving due consideration to the terms and conditions of the Finance Documents (as defined below) and satisfying itself that there are reasonable grounds for believing that the execution by it of this Deed will benefit it) decided in good faith and for the purposes of its business to issue this Deed.

It is agreed as follows**:**

1. Interpretation

1.1 Words and expressions defined in the Facility Agreement shall, save as otherwise defined herein or unless the context otherwise requires, bear the same meaning in this Deed.

1.2 In this Deed:

"**Beneficiaries**" means the Facility Agent, the Banks and the Security Trustee and each party which executes an Accession Undertaking as a Bank pursuant to the terms of the Trust Deed, and "**Beneficiary**" shall mean any of them.

"**Material Adverse Effect**" means (a) an effect on the business, operations, property, condition (financial or otherwise) or prospects of the Guarantor which would reasonably be expected to have a material adverse effect on the ability of the Guarantor to perform its payment obligations under the Finance Documents to which it is party or (b) a material adverse effect on the validity or enforceability of the Finance Documents or the rights or remedies of any Finance Party under the Finance Documents.

"**Micron Proportion**" means:

(a) at any time prior to 11 April 2010, 72.65 per cent.; and

(b) at all times thereafter, 100 per cent.

"**Non-extension Event**" means any of the parties to the Shareholders' Agreement has given (in accordance with Clause 26.5 of the Shareholders' Agreement) any notice under Clause 14 of the Shareholders' Agreement (as such Clause may be renumbered) or under any other analogous provisions of the Shareholder's Agreement, for the non-extension of the Term (as defined in the Shareholders' Agreement).

"**Secured Obligations**" means all present and future, actual or contingent obligations of the Borrower owed or owing at any time to the Beneficiaries (or any of them) under or pursuant to the Finance Documents.

"**U.S.A.**" or "**U.S.**" means the United States of America, its territories, possessions and other areas subject to the jurisdiction of the United States of America.

1.3 Save where the contrary is indicated, any reference in this Deed to:

1.3.1 "**continuing**", in relation to a Non-extension Event, shall be construed such that where any notice is given (in accordance with Clause 26.5 of the Shareholders' Agreement) by any party to the Shareholders' Agreement resulting in that Non-extension Event, the Non-extension Event shall be deemed as continuing unless (i) such notice has been nullified and the Term (as defined in the Shareholders' Agreement) has been extended to a date falling no earlier than 25 November 2013 or (ii) the Shareholders' Agreement has been terminated in circumstances where the Guarantor has acquired all the shares in the Borrower;

1.3.2 this Deed or any other agreement or document shall be construed as a reference to this Deed or, as the case may be, such other agreement or document as the same may have been or may from time to time be amended, varied, novated or supplemented and shall include any document which is supplemental to, is expressed to be collateral with or is entered into pursuant to or in accordance with the terms of this Deed or, as the case may be, such other agreement or document;

1.3.3 a statute shall be construed as a reference to such statute as the same may have been, or may from time to time be, amended or re-enacted;

1.3.4 a time of day shall, unless otherwise specified, be construed as a reference to Singapore time;

1.3.5 a "Clause" or a "Schedule" is a reference to a clause hereof or schedule hereto; and

1.3.6 the singular shall include the plural and vice versa and reference to one gender shall include all genders.

1.4 Clause and Schedule headings are for ease of reference only.

1.5 Any reference in this Deed to the Borrower, the Guarantor, the Facility Agent, the Security Trustee or any Beneficiary shall be construed so as to include its respective successors and permitted Transferees and assigns in accordance with their respective interests.

1.6 A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act, Chapter 53B of Singapore (the "**Contracts (Rights of Third Parties) Act**") to enforce or enjoy the benefit of any term of this Deed. For the avoidance of doubt, nothing in this Clause 1.6 shall affect any right or remedy of a Beneficiary or a third party that exists or is available (including, without limitation, rights of subrogation) apart from the Contracts (Rights of Third Parties) Act.

2. Guarantee and Indemnity

2.1 Guarantee and Indemnity

The Guarantor irrevocably and unconditionally:

2.1.1 guarantees as primary obligor and not merely as surety to the Security Trustee, as security trustee for the benefit of the Beneficiaries, the punctual performance by the Borrower of all the Borrower's obligations under the Finance Documents to which the Borrower is a party;

2.1.2 undertakes with the Security Trustee, as security trustee for the benefit of the Beneficiaries, that whenever the Borrower does not pay any amount when due under or in connection with any Finance Document to which the Borrower is a party, the Guarantor shall immediately on demand by the Security Trustee pay that amount; and

2.1.3 agrees with the Security Trustee, as security trustee for the benefit of the Beneficiaries, that if, for any reason, any amount claimed by the Security Trustee, as security trustee for the benefit of the Beneficiaries, under this Clause 2.1 is not recoverable on the basis of a guarantee, it will be liable to indemnify the Security Trustee, as security trustee for the benefit of the Beneficiaries, against any cost, loss or liability it incurs as a result of the Borrower not paying any amount when due under or in connection with any Finance Document to which the Borrower is a party. The amount payable by the Guarantor under this indemnity will, subject to Clause 2.3 (*Limitation of Liability*), not exceed the amount it would have had to pay under this Clause 2.1 if the amount claimed had been recoverable on the basis of a guarantee and shall be paid immediately on demand.

2.2 Continuing Guarantee

This Deed is a continuing guarantee and, subject to Clause 2.3 (*Limitation of Liability*), will extend to the ultimate balance of sums payable by the Borrower under the Finance Documents to which it is a party, regardless of any intermediate payment or discharge in whole or in part or any increase of the Commitments, and this guarantee constitutes a guarantee of payment and not of collection.

2.3 Limitation of Liability

Notwithstanding any provision to the contrary in this Deed:

2.3.1 the maximum liability of the Guarantor at any time under this Clause 2 shall not exceed the Micron Proportion of the amount of Secured Obligations at that time; and

2.3.2 the Security Trustee can only make a claim or demand under this Deed if a Non-extension Event is continuing.

2.4 Release of Guarantee

If:

2.4.1 on 11 October 2009, no Non-extension Event has occurred;

2.4.2 at any time on or prior to 11 October 2009, a Non-extension Event is not capable of occurring; or

2.4.3 on 11 October 2009, a Non-extension Event has occurred, at such point in time that Non-extension Event is no longer continuing,

the Security Trustee shall at the cost and request of the Guarantor, discharge and release the Guarantor from its obligations under this Deed (without prejudice to accrued obligations) **provided that** on or prior to such release and discharge by the Security Trustee, each of the Micron Security Documents and the Encumbrance created pursuant thereto has been released and discharged to the satisfaction of the Security Trustee.

2.5 Reinstatement

2.5.1 If as a result of insolvency or any similar event:

(i) any payment by the Borrower is avoided, reduced or must be restored; or

(ii) any discharge or arrangement (whether in respect of the obligations of the Borrower or any security for those obligations or otherwise) is made in whole or in part on the basis of any payment, security or other thing which is avoided, reduced or must be restored:

(A) the liability of the Guarantor shall continue or be reinstated as if the payment, discharge or arrangement had not occurred; and

(B) the Security Trustee shall be entitled to recover the value or amount of that payment or security from the Guarantor as if the payment, discharge or arrangement had not occurred.

2.5.2 For the avoidance of doubt, Clause 2.5.1 shall cease to apply after this Deed has been discharged and released in accordance with Clause 2.4 (*Release of Guarantee*).

2.6 Waiver of Defences

The obligations of the Guarantor under this Deed will not be affected by an act, omission, matter or thing which, but for this Clause 2.6, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to it or any Beneficiary) including:

2.6.1 any time, waiver or consent granted to, or composition with the Borrower, any Obligor or any other person;

2.6.2 the release of the Borrower, any Obligor or any other person under the terms of any composition or arrangement with any creditor of the Borrower, any Obligor or any other person;

2.6.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Borrower, any Obligor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

2.6.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Borrower, any Obligor or any other person or the death, mental incapacity, insolvency or bankruptcy of the Borrower, any Obligor or any other person;

2.6.5 any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature) or replacement of a Finance Document or any other document or security including without limitation 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 document or security;

2.6.6 any unenforceability, illegality or invalidity of any obligation of the Borrower, any Obligor or any other person under any Finance Document or any other document or security;

2.6.7 any insolvency or similar proceedings;

2.6.8 this Deed or any other Finance Document not being executed by or binding against the Borrower, any Obligor or any other person.

2.6.9 claims or set-off rights that the Guarantor may have;

2.6.10 any law, regulation, decree or order of any jurisdiction or any event affecting any term of a guaranteed obligation; or

2.6.11 any other circumstance that might constitute a defence of the Borrower or the Guarantor.

2.7 Immediate Recourse

The Guarantor waives any right it may have of first requiring the Security Trustee or any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before the Security Trustee may claim from the Guarantor under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

2.8 Appropriations

Until all amounts which may be or become payable by the Borrower under or in connection with the Finance Documents have been irrevocably paid in full, the Security Trustee and each other Finance Party (or any trustee or agent on its behalf) may:

2.8.1 refrain from applying or enforcing any other moneys, security or rights held or received by the Security Trustee or that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantor shall not be entitled to the benefit of the same; and

2.8.2 hold in an interest-bearing suspense account any moneys received from the Guarantor or on account of its liability under this Deed.

2.9 Deferral of Rights

Until all amounts which may be or become payable by the Borrower under or in connection with the Finance Documents to which it is party have been irrevocably paid in full and unless the Security Trustee otherwise directs, the Guarantor will not exercise any rights which it may have by reason of performance by it of its obligations under this Deed:

2.9.1 to be indemnified by the Borrower or any other Obligor;

2.9.2 to claim any contribution from any other guarantor of the Borrower or any other Obligor under the Finance Documents; and/or

2.9.3 to claim, rank, pursue or vote as creditor of the Borrower or its assets in competition with any Beneficiary or the Security Trustee or any other trustee or agent on its behalf; and/or

2.9.4 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Beneficiaries under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by the Beneficiaries.

2.10 Additional Security

The guarantee created under this Deed is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Beneficiary (or any trustee or agent on its behalf).

2.11 Acknowledgement

The Guarantor acknowledges that it will receive valuable direct or indirect benefits as a result of the transactions financed by or under the Finance Documents.

3. Representations and Warranties

The Guarantor makes the representations and warranties set out in this Clause 3 to the Security Trustee, as security trustee for the benefit of the Beneficiaries, on the date of this Deed.

3.1 Status

It is a company duly incorporated and existing in good standing under the laws of the State of Delaware.

3.2 Power and Authority

It has the corporate power to enter into, perform and deliver, and has taken all necessary corporate action to authorise its entry into, performance and delivery of this Deed and the transactions contemplated by the Finance Documents to which it is a party.

3.3 Binding Obligations

Subject to the qualifications set out in the legal opinion of the Singapore counsel to the Finance Parties and the U.S. counsel to the Guarantor provided pursuant to Clause 2.3 (*Conditions Precedent*) of the Facility Agreement, the obligations expressed to be assumed by it under the Finance Documents to which it is a party are legal, valid, binding and enforceable against it.

3.4 Execution of this Deed

Its execution of the Finance Documents to which it is a party and the exercise of its rights and performance of its obligations under the Finance Documents to which it is a party do not:

3.4.1 conflict with any material agreement, mortgage, bond or other instrument or treaty to which it is a party or which is binding upon it or any of its assets to an extent or in a manner which could reasonably be expected to have a Material Adverse Effect;

3.4.2 conflict with its constitutional documents; or

3.4.3 conflict with any applicable law, regulation or official or judicial order which is binding upon it, save for conflicts which would not have a Material Adverse Effect.

3.5 No Material Proceedings

No action or administrative proceeding of or before any court or judicial order which would reasonably be expected to have a Material Adverse Effect has been started, save as disclosed in the Guarantor's publicly filed quarterly or annual reports.

3.6 Consents

All governmental licenses and consents currently required to enable it to carry on its business remain in full force and effect except if the failure to obtain or maintain the same would not reasonably be expected to have a Material Adverse Effect.

3.7 No Winding-up

It has not taken any corporate action nor (to the best of its knowledge and belief) have any other steps been taken or legal proceedings been started or threatened against it for its winding-up, dissolution, administration or re-organisation or for the appointment of a receiver, administrator, judicial manager, conservator, custodian, trustee or similar officer of it or of any or all of its assets or revenues and no creditors' process described in Clause 19.9 (*Execution or Distress*) of the Facility Agreement (as if references thereto to the Borrower were references to the Guarantor), has been taken or, to the knowledge of the Guarantor, threatened in relation to the Guarantor, and none of the circumstances described in Clause 19.7 (*Insolvency and Rescheduling*) of the Facility Agreement (as if references thereto to the Borrower were references to the Guarantor) applies to the Guarantor.

3.8 No Material Defaults

It is not in breach of or in default under any agreement to which it is a party or which is binding on it or any of its assets to an extent or in a manner which would reasonably be expected to have a Material Adverse Effect.

3.9 No Material Adverse Change

Save as previously disclosed to the Security Trustee and the Banks prior to the date hereof, since 7 January 2008 (being the date of the most recent filing of the Guarantor's quarterly report on Form 10-Q)), there has been no material adverse change in the business or financial condition of the Guarantor.

3.10 Validity and Admissibility in Evidence

Subject to Clause 3.12 (*Filing and Stamp Taxes*) and to the qualifications set out in the legal opinion of Singapore counsel to the Finance Parties and the legal opinion of U.S. counsel to the Guarantor to be provided pursuant to Clause 2.3 (*Conditions Precedent*) of the Facility Agreement, all acts, conditions and things required to be done, fulfilled and performed by any person (other than the Beneficiaries) in order (a) to enable it lawfully to enter into, exercise its rights under and perform and comply with the obligations expressed to be assumed by it in the Finance Documents to which it is a party, (b) to ensure that the obligations expressed to be assumed by it in the Finance Documents to which it is a party are legal, valid, binding and enforceable and (c) to make the Finance Documents to which it is a party admissible in evidence in Singapore and its jurisdiction of incorporation have been done, fulfilled and performed.

3.11 Claims at least Pari Passu

Under the laws of its jurisdiction of incorporation in force at the date hereof, the claims of the Beneficiaries against it under the Finance Documents to which it is a party will rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors outstanding at any time save for:

3.11.1 indebtedness arising out of the normal course of trading which is subject to rights of set-off which arise in each case by operation of law; and

3.11.2 indebtedness preferred solely by laws of general application.

3.12 Filing and Stamp Taxes

Under the laws of its jurisdiction of incorporation in force at the date hereof, it is not necessary that the Finance Documents to which it is a party be filed, recorded or enrolled with any court or other authority in such jurisdiction or that any stamp, registration or similar tax be paid on or in relation to the Finance Documents.

3.13 No Immunity

In any proceedings taken in its jurisdiction of incorporation in relation to any of the Finance Documents to which it is party, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process.

3.14 Private and Commercial Acts

Its execution of each of the Finance Documents to which it is a party constitutes, and its exercise of its rights and performance of its obligations thereunder will constitute private and commercial acts done and performed for private and commercial purposes.

3.15 Ownership of the Borrower

It directly or indirectly owns not less than 51 per cent. of the issued capital of the Borrower.

3.16 Payments of Taxes

All tax returns and reports of the Guarantor required to be filed by it have been duly filed and all taxes, assessments, fees, central provident fund contributions and other governmental charges upon it and its properties, assets and income which are shown on such returns as due and payable have been paid when due and payable (all grace periods as permitted by the relevant authorities having been taken into account) except where non-filing or non-payment could not reasonably be expected to have a Material Adverse Effect or is due to a *bona fide* dispute which is contested in good faith and in respect of which appropriate reserves have been made.

3.17 Governing Law and Enforcement

Subject to any general principals of law limiting the obligations of the Guarantor which are specifically referred to in any legal opinion delivered pursuant to Clause 2.3 (*Conditions Precedent*) of the Facility Agreement:

3.17.1 the choice of Singapore law as the governing law of this Deed will be recognised and enforced in its jurisdiction of incorporation; and

3.17.2 any judgment obtained in Singapore in relation to this Deed will be recognised and enforced in its jurisdiction of incorporation.

3.18 Repetition

Each of the representations and warranties in Clauses 3.1 (*Status*) to 3.6 (*Consents*) of this Deed shall be deemed to be repeated by the Guarantor by reference to the facts and circumstances then existing on each day on which any amount is outstanding under the Finance Documents or any Commitment is in force.

4. Information Undertakings

Subject to Clause 2.3 (*Limitation of liability*) and Clause 2.4 (*Release of Guarantee*), the undertakings in this Clause 4 remain in force from the date of this Deed for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

4.1 Non-extension Event

4.1.1 The Guarantor shall notify the Security Trustee of the occurrence of a Non-extension Event no later than two Business Days of becoming aware of its occurrence and furnish the Security Trustee with such information about the circumstances of any Non-extension Event as the Security Trustee may from time to time reasonably require.

4.1.2 The Guarantor shall notify the Security Agent of any Non-extension Event that ceases to be continuing.

4.2 Other information

The Guarantor shall from time to time on the request of the Security Trustee furnish the Security Trustee with such information about its business and financial condition as the Security Trustee may reasonably require.

5. General Undertakings

Subject to Clause 2.3 (*Limitation of liability*) and Clause 2.4 (*Release of Guarantee*), the undertakings in this Clause 5 remain in force from the date of this Deed for so long as any amount is outstanding under the Finance Documents or any Commitment is in force.

5.1 Maintenance of Legal Validity

The Guarantor shall obtain, comply with the terms of and do all that is necessary to maintain in full force and effect all authorisations, approvals, licences and consents required in or by the laws of Singapore and the jurisdiction of its incorporation to enable it lawfully to enter into and perform its obligations under the Finance Documents to which it is party and to ensure the legality, validity, enforceability (subject to the qualifications set out in the legal opinion of the Singapore counsel to the Finance Parties and U.S. counsel to the Guarantor provided pursuant to Clause 2.3 (*Conditions Precedent*) of the Facility Agreement) or admissibility in evidence in Singapore of the Finance Documents to which it is party other than authorisations, licences, approvals and consents, in relation to which the failure to comply with or obtain the same would not reasonably be expected to have a Material Adverse Effect.

5.2 Notification of Events of Default

The Guarantor shall promptly inform the Security Trustee of the occurrence of any Event of Default or Potential Event of Default relating to it and, upon receipt of a written request to that effect from the Security Trustee, confirm to the Security Trustee that, save as previously notified to the Security Trustee or as notified in such confirmation, no such Event of Default or Potential Event of Default has occurred.

5.3 Claims Pari Passu

The Guarantor shall ensure that at all times the claims of the Beneficiaries against it under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors save for:

5.3.1 indebtedness arising out of the normal course of trading which is subject to rights of set-off which arise in each case by operation of law provided that where the aggregate amount of any such rights is material it shall take all reasonable steps to have the same discharged or released as soon as practicable to such an extent as to render the same not material; and

5.3.2 indebtedness preferred solely by laws of general application.

5.4 Merger

It shall not enter into any merger which would result in it not being the surviving entity or which would reasonably be expected to have a Material Adverse Effect, save for:

5.4.1 any merger which has commenced as at the date of this Deed (and which has been disclosed to the Security Trustee); and

5.4.2 any merger whereby all the assets and obligations (including obligations under this Deed) of the Guarantor immediately prior to such merger are transferred to the surviving entity whose shares (or equivalent ownership interests) are owned by the shareholders of the Guarantor immediately prior to such merger.

5.5 Change of Business

It shall ensure that, unless it obtains the prior consent in writing from the Security Trustee, no substantial change is made to the general nature of its business of manufacturing semiconductor products, or the business of itself from that carried on at the date of this Deed.

5.6 Filings

The Guarantor will inform the Security Trustee of each filing of its quarterly or annual reports made by it, within three Business Days of each such filing.

6. Interest

6.1 Default Interest

If any sum due and payable by the Guarantor hereunder is not paid on the due date therefor, or if any sum due and payable by the Guarantor under any judgment of any court in connection herewith is not paid on the date of such judgment, the period beginning on such due date or, as the case may be, the date of such judgment and ending on the date upon which the obligation of the Guarantor to pay such sum is discharged shall be divided into successive periods, each of which (other than the first) shall start on the last day of the preceding such period and the duration of each of which shall (except as otherwise provided in this Clause 6) be selected by the Security Trustee and shall be of six months or less.

6.2 Default Interest

An Unpaid Sum shall bear interest during each Interest Period in respect thereof at the rate per annum which is one point two five per cent. (1.25 per cent.) per annum above the percentage rate which would apply if such Unpaid Sum had been an Advance in the amount and currency of such Unpaid Sum and for the same Interest Period.

6.3 Payment of Default Interest

Any interest which shall have accrued under Clause 6.2 (*Default Interest*) in respect of an Unpaid Sum shall be due and payable and shall be paid by the Guarantor on the last day of each Interest Period in respect thereof or on such other dates as the Security Trustee may specify by notice to the Guarantor.

7. Tax Gross-up and Indemnities

7.1 Tax Gross-up

All payments to be made by the Guarantor to any Beneficiary under the Finance Documents shall be made free and clear of and without deduction for or on account of tax imposed in or required by its jurisdiction of incorporation unless the Guarantor is required to make such a payment subject to the deduction or withholding of such tax, in which case the sum payable by the Guarantor (in respect of which such deduction or withholding is required to be made) shall be increased to the extent necessary to ensure that such Beneficiary receives a sum net of any deduction or withholding equal to the sum which it would have received had no such deduction or withholding been made or required to be made.

7.2 Tax Indemnity

Without prejudice to Clause 7.1 (*Tax Gross-up*), if any Beneficiary is required to make any payment of or on account of tax on or in relation to any sum received or receivable under the Finance Documents (including any sum deemed for purposes of tax to be received or receivable by such Beneficiary whether or not actually received or receivable) or if any liability in respect of any such payment is asserted, imposed, levied or assessed against any Finance Party, the Guarantor shall, within five Business Days of demand of the Security Trustee, promptly indemnify the Beneficiary which suffers a loss or liability as a result against such payment or liability, together with any interest, costs and expenses payable or incurred in connection therewith, **provided that** this Clause 7.2 shall not apply to:

7.2.1 any tax imposed on and calculated by reference to the net income actually received or receivable by such Beneficiary (but, for the avoidance of doubt, not including any sum deemed for purposes of tax to be received or receivable by such Beneficiary but not actually receivable) by the jurisdiction in which such Beneficiary is incorporated; or

7.2.2 any tax imposed on and calculated by reference to the net income of the Facility Office of such Beneficiary actually received or receivable by such Beneficiary (but, for the avoidance of doubt, not including any sum deemed for purposes of tax to be received or receivable by such Beneficiary but not actually receivable) by the jurisdiction in which its Facility Office is located.

7.3 Claims by Banks

A Bank intending to make a claim pursuant to Clause 7.2 (*Tax Indemnity*) shall notify the Security Trustee of the event giving rise to the claim, whereupon the Security Trustee shall notify the Guarantor thereof and if the Security Trustee and/or the Guarantor, within five Business Days of their receipt of such notification, notify such Bank requiring it to do so, such Bank shall provide a certificate of a responsible officer to such effect together with either (a) a legal opinion (which may be provided by its internal counsel) or (b) an opinion of external auditors, supporting such claim (and the reasonable costs of obtaining an opinion from any external counsel or auditors shall be paid by the Guarantor on demand), whereupon the Security Trustee shall promptly provide the Guarantor with a copy of such certificate and opinion, if required, **provided that** nothing herein shall require such Bank to disclose any confidential information relating to the organisation of its affairs.

7.4 GST

The Guarantor shall also pay to each relevant Beneficiary, within five Business Days of demand, in addition to any amount payable by the Beneficiary to that relevant Beneficiary under a Finance Document, any GST payable in respect of that amount (and references in that Finance Document to that amount shall be deemed to include any such GST payable in addition to it).

8. Tax Receipts

8.1 Notification of Requirement to Deduct Tax

If, at any time, the Guarantor is required by law to make any deduction or withholding from any sum payable by it under the Finance Documents (or if thereafter there is any change in the rates at which or the manner in which such deductions or withholdings are calculated), the Guarantor shall promptly notify the Security Trustee. Similarly, a Bank shall notify the Security Trustee on becoming so aware in respect of a payment payable to that Bank. If the Security Trustee receives such notification from a Bank, it shall notify the Borrower.

8.2 Evidence of Payment of Tax

If the Guarantor makes any payment under the Finance Documents in respect of which it is required to make any deduction or withholding, it shall pay the full amount required to be deducted or withheld to the relevant taxation or other authority within the time allowed for such payment under applicable law and shall deliver to the Security Trustee for each Bank, within 30 days after it has made such payment to the applicable authority, an original receipt (or a certified copy thereof) issued by such authority evidencing the payment to such authority of all amounts so required to be deducted or withheld in respect of that Bank's share of such payment.

8.3 Tax Credit Payment

If the Guarantor makes a payment under Clause 7 (*Taxes*) for the account of any person and such person determines in its reasonable business judgment that it has received or been granted a credit against or relief or remission for, or repayment of, any tax paid or payable by it in respect of or calculated with reference to such payment or the deduction or withholding giving rise thereto, such person shall, to the extent that it can do so without prejudice to the retention of the amount of such credit, relief, remission or repayment, within 10 Business Days of such determination, pay to the Guarantor such amount as such person shall, in its reasonable business judgment, have determined to be attributable to such payment, deduction or withholding. Any payment made by a person under this Clause 8.3 shall be *prima facie* evidence of the amount due to the Guarantor under this Clause 8.3 and, absent manifest error, shall be accepted by the Guarantor in full and final settlement of its rights of reimbursement under this Clause 8.3. Nothing herein contained shall interfere with the rights of a person to arrange its tax affairs in whatever manner it thinks fit and, in particular, no person shall be under any obligation to claim credit, relief, remission or repayment from or against its corporate profits or similar tax liability in respect of the amount of such payment, deduction or withholding in priority to any other claims, reliefs, remissions, credit or deductions available to it, nor oblige any person to disclose any information relating to its tax affairs or any computation in respect thereof.

8.4 Certification

Notwithstanding anything to the contrary, the Guarantor shall not be required under Clause 7.1 (*Tax Gross-up*) to increase any sum payable by the Guarantor to any Finance Party hereunder, or under Clause 7.2 (*Tax Indemnity*) to indemnify any Beneficiary against such payments and liabilities as are referred to therein, to the extent such person, any other person on such person's behalf or the Security Trustee has failed to comply with any certification, identification or other similar requirement under applicable law or regulation necessary to establish entitlement to exemption from or reduction of any relevant deduction, withholding, payment or liability.

8.5 Tax Shelter

Notwithstanding any other provisions of this Deed, the Guarantor hereby agrees that any Finance Party (and each employee, representative or other agent of any Finance Party) may disclose to any and all persons, without limitation of any kind, the U.S. tax treatment and U.S. tax structure of the transaction and all materials of any kind (including opinions or other tax analyses) that are provided to any Finance Party relating to such U.S. tax treatment and U.S. tax structure, other than any information for which non-disclosure is reasonably necessary in order to comply with applicable securities law.

9. Payments

9.1 Payments to the Security Trustee

On each date on which this Deed requires an amount to be paid by the Guarantor, the Guarantor shall make the same available to the Security Trustee for value on the due date at such time and in such funds and to such account with such bank as the Security Trustee shall specify from time to time.

9.2 No Set-off

All payments required to be made by the Guarantor hereunder shall be calculated without reference to any set-off or counterclaim and shall be made free and clear of and without any deduction for or on account of any set-off or counterclaim.

9.3 Order of Distribution

If the Security Trustee receives a payment that is insufficient to discharge all the amounts then due and payable by the Guarantor under this Deed, the Security Trustee shall apply that payment towards the obligations of the Guarantor under this Deed in the following order:

9.3.1 **first**, in or towards payment pro rata of any unpaid fees, costs and expenses of the Facility Agent or the Security Trustee under this Deed;

9.3.2 **secondly**, in or towards payment of any accrued interest due but unpaid under this Deed; and

9.3.3 **thirdly**, in or towards payment to the Facility Agent to be applied in the manner and order set out in Clause 25.5 (*Partial Payments*) of the Facility Agreement.

9.4 Variation of Order of Distributions

The order of payments set out in Clause 9.3 (*Order of Distribution*) shall override any appropriation made by the Guarantor but the order set out in sub-clauses 9.3.2 and 9.3.3 of Clause 9.3 (*Order of Distributions*) may be varied if agreed by all the Banks.

10. Indemnities

10.1 Currency Indemnity

10.1.1 If any sum due from the Guarantor under this Deed (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 Guarantor; or

(ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Guarantor shall as an independent obligation, within three Business Days of demand, indemnify each Beneficiary to whom that Sum is due 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.

10.1.2 The Guarantor waives any right it may have in any jurisdiction to pay any amount under this Deed in a currency or currency unit other than that in which it is expressed to be payable.

10.2 Other indemnities

10.2.1 The Guarantor shall, within three Business Days of demand, indemnify the Security Trustee and its Affiliates, officers and employees (to the extent not caused by the Security Trustee or such Affiliate's, officer's or employee's gross negligence or wilful misconduct) against any cost, loss, expense or liability incurred by it or them in the execution or performance of the terms and conditions of this Deed and against all actions, proceedings, claims, demands, costs, charges and expenses which may be incurred, sustained or arise in respect of the non-performance or non-observance of any of the undertakings and agreements of the Guarantor in this Deed.

10.2.2 The Security Trustee may retain, out of any money in the Security Trustee's hands, all sums necessary to effect the indemnities contained in this Clause 10 and all sums payable by the Guarantor under this Clause shall form part of the monies secured by this Deed.

10.3 Indemnities Separate

Each indemnity in this Deed shall:

10.3.1 constitute a separate and independent obligation from the other obligations in any other Finance Document;

10.3.2 give rise to a separate and independent cause of action;

10.3.3 apply irrespective of any indulgence granted by any Beneficiary;

10.3.4 continue in full force and effect despite any judgement, order, claim or proof for a liquidated amount in respect of any sum due under any Finance Document or any other judgement or order; and

10.3.5 apply whether or not any claim under it relates to any matter disclosed by the Guarantor or otherwise known to any Beneficiary.

11. Set-Off

The Guarantor authorises each Bank to apply any credit balance to which the Guarantor is entitled on any account of the Guarantor with such Bank in satisfaction of any sum due and payable from the Guarantor to such Bank under the Finance Documents but unpaid. For this purpose, each Bank is authorised to purchase with the moneys standing to the credit of any such account such other currencies as may be necessary to effect such application.

12. Expenses And Stamp Duty

12.1 Initial expenses

To the extent not paid by the Borrower, the Guarantor shall pay on demand, all costs and expenses (including legal fees on a full indemnity basis and all Taxes payable thereon) reasonably incurred by the Security Trustee in connection with the preparation, negotiation, entry into of this Deed and/or any amendment of, supplement to or waiver or consent in respect of this Deed.

12.2 Amendment costs

If the Guarantor requests an amendment, waiver or consent in relation to this Deed, to the extent not paid by the Borrower, the Guarantor shall, within five Business Days of demand, reimburse the Security Trustee for the amount of all costs and expenses (including legal fees) reasonably incurred by the Security Trustee in responding to, evaluating, negotiating or complying with that request.

12.3 Enforcement Expenses

To the extent not paid by the Borrower, the Guarantor shall pay on demand, all costs and expenses (including legal fees on a full indemnity basis and all Taxes payable thereon) incurred by any Beneficiary in the administration of, or by the Security Trustee in protecting or enforcing (or attempting to protect or enforce) any rights under this Deed (including any consideration by the Security Trustee as to whether to realise or enforce the same, and/or any such amendment, waiver or release).

12.4 Stamp Duty

The Guarantor shall promptly, and in any event before any interest or penalty becomes payable, pay any stamp, documentary, registration or similar Tax payable in connection with the entry into, registration, performance, enforcement or admissibility in evidence of this Deed and/or any such amendment, supplement or waiver, and shall indemnify the Security Trustee

against any liability with respect to or resulting from any delay in paying or omission to pay any such Tax.

12.5 Other Expenses

The Guarantor shall also, from time to time on demand of the Security Trustee, reimburse it for the amount of all costs and expenses (including legal fees) reasonably incurred by the Security Trustee in responding to, evaluating, negotiating or complying with any request for any amendment, supplement, waiver or consent, or the protection or enforcement or attempted protection or enforcement of any right under this Deed and/or any such amendment, supplement, waiver or consent.

13. Evidence

13.1 Prima Facie Evidence

In any legal action or proceeding arising out of or in connection with this Deed, the entries made in the accounts maintained by each Beneficiary in accordance with its usual practice shall, in the absence of manifest error, be *prima facie* evidence of the existence and amounts of the specified obligations of the Guarantor.

13.2 Certificates of Banks

A certificate of a Bank as to (a) the amount by which a sum payable to it hereunder is to be increased under Clause 7.1 (*Tax Gross-up*), (b) the amount for the time being required to indemnify it against any such cost, payment or liability as is mentioned in Clause 7.2 (*Tax Indemnity*), or (c) the amount of any credit, relief, remission or repayment as is mentioned in Clause 8.3 (*Tax Credit Payment)* shall, in the absence of manifest error, be *prima facie* evidence of the existence and amounts of the specified obligations of the Guarantor.

14. Transfer

14.1 Binding Agreement

This Deed shall be binding upon and enure to the benefit of each party hereto and its or any subsequent successors.

14.2 No Assignments by the Guarantor

The Guarantor shall not be entitled to assign or transfer all or any of its rights, benefits and obligations under this Deed.

14.3 Security Trustee

14.3.1 The Security Trustee shall have a full and unfettered right to assign or transfer at its own cost and expense the whole or any part of the benefit of and/or its obligations under this Deed to any other financial institution which is to replace the Security Trustee pursuant to Clause 9 of the Trust Deed provided that if such transfer or assignment would have the effect, with reference to the facts and circumstances existing and known to the parties at the time of such transfer or assignment, of imposing on the Guarantor any cost or liability or contingent liability other than that which would otherwise be payable or incurred by the Guarantor had no such transfer or assignment occurred, then the Guarantor shall not be liable for such additional cost

or liability, and any assignee or transferee shall be entitled to enforce and proceed upon this Deed in the same manner as if named herein.

14.3.2 In the event of the Security Trustee exercising its right of assignment or transfer under Clause 14.3.1 above, it shall, within a reasonable period of so doing, notify the Guarantor in writing.

14.4 Disclosure of Information

Each Beneficiary shall treat and ensure that its respective officers, employees and agents shall treat and hold as strictly confidential all information disclosed in relation to the Finance Documents and the transactions contemplated thereby and not disclose any, all, or part of such information to, or discuss the same with, any third party, or make use of any, all or part of the information for other purposes except that any Beneficiary may disclose to any person:

14.4.1 to whom such Beneficiary assigns or transfers (or may potentially assign or transfer) all or any of its rights, benefits and obligations under the Finance Documents;

14.4.2 with whom such Beneficiary 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, the Finance Documents, the Borrower or the Guarantor;

14.4.3 being an auditor employed in the normal course of its business;

14.4.4 being its agent, contractor, third party service provider or professional adviser;

14.4.5 being a rating agency or insurer, insurance broker or direct or indirect provider of credit protection;

14.4.6 being its holding company, head office or regional office, any branch or subsidiary; or

14.4.7 to whom information may be required to be disclosed by any applicable law,

such information about the Borrower, the Guarantor and the Finance Documents as such Beneficiary shall consider appropriate, **provided that** if such disclosure is pursuant to sub-clauses 14.4.1 or 14.4.2 above, the person to whom it is proposed such information be given shall have first entered into a Confidentiality Undertaking and if such disclosure is pursuant to sub-clause 14.4.4, the person to whom it is proposed such information be given shall, except in the case of professional advisers, have a subsisting confidentiality agreement between such person and the relevant Finance Party obliging that person to keep confidential all such information disclosed, and any such disclosure by a Finance Party shall be subject to any duty of confidentiality imposed on it by applicable laws and regulations. This Clause 14.4 is not and shall not be deemed to constitute an express or implied agreement by the Finance Parties with the Guarantor for a higher degree of confidentiality than that prescribed in Section 47 of the Banking Act, Chapter 19 of Singapore (the "**Banking Act**") and in the Third Schedule to the Banking Act.

15. Remedies and Waivers, Partial Invalidity

15.1 Remedies and Waivers

No failure to exercise, nor any delay in exercising, on the part of any Beneficiary, any right or remedy under the Finance Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the

exercise of any other right or remedy. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.

15.2 Partial Invalidity

If, at any time, any provision hereof is or becomes illegal, invalid or unenforceable in any respect under the law of any applicable jurisdiction, neither the legality, validity or enforceability of the remaining provisions hereof nor the legality, validity or enforceability of such provision under the law of any other applicable jurisdiction shall in any way be affected or impaired thereby.

16. Amendments and Waivers

Any term of this Deed may be amended or waived only if the Security Trustee and the Guarantor so agree in writing and any such amendment or waiver will be binding on all parties.

17. Notices

17.1 Communications in Writing

Each communication to be made under the Finance Documents shall be made in writing and, unless otherwise stated, shall be made by fax or letter.

17.2 Addresses

Any communication or document to be made or delivered pursuant to the Finance Documents shall (unless the recipient of such communication or document has, by fifteen days' written notice to the Security Trustee, specified another address or fax number) be made or delivered to the address or fax number identified with its name below and marked for the attention of the person (if any) from time to time designated by the relevant party hereto for the purposes of this Deed.

17.3 Delivery

Any communication or document to be made or delivered by one person to another pursuant to the Finance Documents shall:

17.3.1 if by way of fax, be deemed to have been received when transmission has been completed; and

17.3.2 if by way of letter, be deemed to have been delivered when left at the relevant address or, as the case may be, 10 days after being deposited in the post postage prepaid in an envelope addressed to it at such address,

provided that any communication or document to be made or delivered to the Security Trustee shall be effective only when received by its agency division and then only if the same is expressly marked for the attention of the department or officer identified with the Security Trustee's signature below (or such other department or officer as the Security Trustee shall from time to time specify for this purpose).

17.4 English Language

Each communication and document made or delivered by one party to another pursuant to this Deed shall be in the English language or accompanied by a translation thereof into English certified (by an officer of the person making or delivering the same) as being a true and accurate translation thereof.

18. Nature of Obligations

Subject to Clause 2.3 (*Limitation of Liability*) and Clause 2.4 (*Release of Guarantee*), the obligations of the Guarantor under or in respect of Clauses 8, 10, 11 and 12 shall continue even after all amounts payable under the Finance Documents have been repaid or prepaid.

19. Counterparts

This Deed may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

20. Governing Law

This Deed is governed by Singapore law.

21. Jurisdiction

21.1 Singapore Courts

The courts of Singapore have jurisdiction to settle any dispute (a "**Dispute**") arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed or the consequences of its nullity).

21.2 Convenient Forum

The Guarantor waives any objection it might now or hereafter have to the courts referred to in Clause 21.1 *(Singapore Courts)* being nominated to settle Disputes and accordingly, agrees that they will not argue to the contrary.

21.3 Non-exclusive Jurisdiction

The submission to the jurisdiction of the courts referred to in Clause 21.1 shall not (and shall not be construed so as to) limit the right of each of the Beneficiaries to take proceedings against the Guarantor or, the Guarantor to take proceedings against the Beneficiaries or any one or more of them or any other party, in any other court of competent jurisdiction nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction (whether concurrently or not) if and to the extent permitted by applicable law.

21.4 Service of Process

21.4.1 The Guarantor irrevocably appoints Micron Semiconductor Asia Pte. Ltd. (with its address at 990 Bendemeer Road, Singapore 339942, fax no. +65 6290 3690, attention: Managing Director) to receive, for it and on its behalf, service of process in any Disputes in Singapore. Such service shall be deemed completed on delivery to the relevant process agent (whether or not it is forwarded to and received by the

Guarantor). If for any reason a process agent ceases to be able to act as such or no longer has an address in Singapore, the Guarantor irrevocably agrees to appoint a substitute process agent acceptable to the Security Trustee, and to deliver to the Security Trustee a copy of the new process agent's acceptance of that appointment, within 30 days.

21.4.2 The Guarantor irrevocably consents to any process in any Disputes anywhere being served by mailing a copy by registered post to it in accordance with Clause 17 (*Notices*). Such service shall become effective 30 days after mailing.

21.4.3 Nothing shall affect the right to serve process in any other manner permitted by law.

In witness whereof the parties hereto have executed and delivered this Deed, under seal, as of the day and year first above written.

The Guarantor

THE COMMON SEAL of

MICRON TECHNOLOGY, INC. COMMON SEAL AFFIXED

was hereunto affixed in the presence of :

SGD NORMAN L. SCHLACHTER

Authorised Officer

Name: Norman L. Schlachter

Address: Micron Semiconductor Asia Pte. Ltd.

990 Bendemeer Road

Singapore 339442

Fax No: +65 6290 3690

Attention: Managing Director

cc: Micron Technology, Inc.

8000 South Federal Way

Boise, Idaho 83716-9632

U.S.A.

Attention: General Counsel

The Security Trustee

SIGNED

by SGD KAREN HENG (MANAGER)

for and on behalf of SGD IRENE NG (ASSISTANT MANAGER)

ABN AMRO BANK N.V., SINGAPORE BRANCH

in the presence of :

Address: One Raffles Quay

South Tower, Level 26

Singapore 048583

Fax No: +65 6518 6035 / 6012

Attention: Yong Peck Yuen / Irene Ng

EXHIBIT 31.1

RULE 13a-14(a) CERTIFICATION OF
CHIEF EXECUTIVE OFFICER

I, Steven R. Appleton, 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: July 8, 2008

/s/ Steven R. Appleton
Steven R. Appleton
Chairman and Chief Executive Officer

EXHIBIT 31.2

RULE 13a-14(a) CERTIFICATION OF
CHIEF FINANCIAL OFFICER

I, Ronald C. Foster, 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: July 8, 2008

/s/ Ronald C. Foster
Ronald C. Foster
Vice President of Finance and Chief Financial Officer

EXHIBIT 32.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO 18 U.S.C. 1350

I, Steven R. Appleton, 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 May 29, 2008, 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: July 8, 2008

/s/ Steven R. Appleton
Steven R. Appleton
Chairman and Chief Executive Officer

EXHIBIT 32.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO 18 U.S.C. 1350

I, Ronald C. Foster, 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 May 29, 2008, 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: July 8, 2008

/s/ Ronald C. Foster
Ronald C. Foster
Vice President of Finance and Chief Financial Officer