

---

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

**FORM 8-K**

**CURRENT REPORT  
Pursuant to Section 13 OR 15(d) of The Securities Exchange Act of 1934**

**December 2, 2014**  
Date of Report (date of earliest event reported)

**MICRON TECHNOLOGY, INC.**  
(Exact name of registrant as specified in its charter)

---

**Delaware**  
(State or other jurisdiction of incorporation)

**1-10658**  
(Commission File Number)

**75-1618004**  
(I.R.S. Employer Identification No.)

---

**8000 South Federal Way  
Boise, Idaho 83716-9632**  
(Address of principal executive offices)

---

**(208) 368-4000**  
(Registrant's telephone number, including area code)

---

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
-

**Item 1.01.****Entry into a Material Definitive Agreement.**

On December 2, 2014, Micron Technology, Inc. (the “Company”) and one of the Company’s domestic subsidiaries, Micron Semiconductor Products, Inc. (“MSP” and together with the Company, the “Borrowers”), entered into a Credit Agreement with HSBC Bank USA, N.A., as Administrative Agent, Co-Collateral Agent, Joint Lead Arranger and Joint Book Runner, JPMorgan Chase Bank, N.A., as Co-Collateral Agent and Syndication Agent, J.P. Morgan Securities LLC, as Joint Lead Arranger and Joint Book Runner, Bank of America, N.A., Citigroup Global Markets, Inc. and Wells Fargo Bank, N.A., as Joint Book Runners and Co-Documentation Agents, and certain financial institutions, as lenders (the “Credit Agreement”). The Credit Agreement provides the Borrowers with a committed \$600 million asset-based revolving credit facility (the “Credit Facility”). The Credit Facility includes a \$100 million letter of credit sublimit and \$40 million discretionary swingline sublimit. The Credit Agreement also provides that, under certain circumstances (including the agreement of financial institutions in their sole discretion to provide additional commitments), the aggregate revolving credit commitments under the Credit Agreement may be increased up to \$800 million at the Borrowers’ request. As of the date of the filing of this Current Report there are no borrowings outstanding under the Credit Agreement.

The Company and MSP are both borrowers under the Credit Agreement and are jointly and severally liable for the obligations under the Credit Agreement. The Borrowers will use borrowings under the Credit Agreement for working capital and general corporate purposes. The Borrowers’ obligations under the Credit Agreement are secured on a first priority basis by the Company’s inventory and by MSP’s inventory and accounts receivable, in each case together with certain related assets.

The Credit Facility matures on December 2, 2019 (the “Maturity Date”). The Borrowers must repay the outstanding principal amount of all borrowings under the Credit Agreement, together with all accrued but unpaid interest thereon, on the Maturity Date. Availability of borrowings under the Credit Facility from time to time is subject to a borrowing base calculation based upon a valuation of the Borrowers’ eligible inventories (including raw materials, finished goods and work-in-process inventory) and MSP’s eligible accounts receivable, each multiplied by an applicable advance rate. Availability of borrowings is further reduced by an amount equal to 10% of the Credit Facility size and may be further reduced by reserves determined by the Administrative Agent from time to time in its permitted discretion.

Borrowings under the Credit Agreement will bear interest, at the Borrowers’ option, at a base rate or LIBOR, plus an additional interest rate margin that is determined by the average monthly availability of borrowings under the Credit Agreement. The additional interest rate margin for borrowings ranges from 0.25% to 0.75% per annum in the case of base rate borrowings and from 1.25% to 1.75% per annum in the case of LIBOR borrowings. In addition, the Borrowers will pay a commitment fee on the undrawn commitments under the Credit Agreement from time to time according to the average monthly balance of borrowings (which balance also will include outstanding letters of credit) under the Credit Agreement during the most recent month. This commitment fee on undrawn commitments ranges from a rate of 0.25% to 0.375% per annum, with the applicable rate determined by the average monthly balance of borrowings (including letters of credit) under the Credit Agreement.

The Credit Agreement contains representations and warranties, affirmative and negative covenants, and events of default that are customary for credit agreements of this type, including as a funding condition the absence of any event or circumstance that has a material adverse effect on our business, assets, operations or financial condition, and including negative covenants that limit or restrict the Borrowers’ ability to create liens on, or dispose of, the collateral securing the obligations under the Credit Agreement. The Credit Agreement does not contain financial covenants and does not contain any covenant restricting the payment of dividends or the making of other restricted payments by the Borrowers.

Events of default under the Credit Agreement include, among others, the following (subject in certain cases to grace and cure periods):

- n   onpayment of principal, interest or any other amount due under the Credit Facility,
- b   reaches of representations, warranties and covenants in the Credit Agreement and related transaction documents,
- d   efault of payment of certain indebtedness of a Borrower in excess of \$100 million on scheduled due dates or acceleration,
- c   ertain events of bankruptcy and insolvency with respect to a Borrower, and
- t   he Company ceasing to own at least 50.1% of the equity of MSP.

If an event of default other than due to certain events of bankruptcy or insolvency is continuing, the Administrative Agent or holders of a majority of the lenders holding unused commitments and borrowings under the Credit Agreement may (i) terminate the obligations of the lenders to make loans and the obligation of the issuing banks to issue letters of credit, (ii) declare the obligations outstanding under the Credit Agreement to be immediately due and payable and/or (iii) exercise legal and contractual rights and remedies. If an event of default arising from certain events of bankruptcy or insolvency with respect to the Company and/or MSP is continuing, the obligations outstanding under the Credit Agreement would be due and payable immediately without further action or notice.

The lenders under the Credit Agreement and their affiliates have engaged in, and may in the future engage in, other commercial dealings in the ordinary course of business with the Company or its affiliates, including the provision of investment banking, commercial banking and cash management services, foreign exchange hedging and equipment financing and leasing services.

The foregoing description of the Credit Facility and the Credit Agreement are only summaries of certain terms and agreements discussed herein. These summaries do not purport to be complete and are qualified in their entirety by reference to the full text of the Credit Agreement a copy which is filed as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein by reference.

**Item 2.03   Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.**

The disclosure required by this item is included in Item 1.01 and is incorporated herein by reference.

**Item 9.01   Financial Statements and Other Exhibits.**

(d)           Exhibits

**Exhibit No. Description**

- |      |  |
|------|--|
| 99.1 | Credit Agreement dated as of December 2, 2014 among Micron Technology, Inc. and Micron Semiconductor Products, Inc., as Borrowers, HSBC Bank USA, N.A., as Administrative Agent, Co-Collateral Agent, Joint Lead Arranger and Joint Book Runner, JPMorgan Chase Bank, N.A., as Co-Collateral Agent and Syndication Agent, J.P. Morgan Securities LLC, as Joint Lead Arranger and Joint Book Runner, Bank of America, N.A., Citigroup Global Markets, Inc. and Wells Fargo Bank, N.A., as Joint Book Runners and Co-Documentation Agents, and certain financial institutions, as lenders. |
|------|--|

**SIGNATURE**

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 hereunto duly authorized.

**MICRON TECHNOLOGY, INC.**

Date: December 8, 2014

By: /s/ Ronald C. Foster

Name: Ronald C. Foster

Title: Chief Financial Officer and  
Vice President of Finance

**INDEX TO EXHIBITS FILED WITH**  
**THE CURRENT REPORT ON FORM 8-K DATED DECEMBER 2, 2014**

**Exhibit No. Description**

- 99.1 Credit Agreement dated as of December 2, 2014 among Micron Technology, Inc. and Micron Semiconductor Products, Inc., as Borrowers, HSBC Bank USA, N.A., as Administrative Agent, Co-Collateral Agent, Joint Lead Arranger and Joint Book Runner, JPMorgan Chase Bank, N.A., as Co-Collateral Agent and Syndication Agent, J.P. Morgan Securities LLC, as Joint Lead Arranger and Joint Book Runner, Bank of America, N.A., Citigroup Global Markets, Inc. and Wells Fargo Bank, N.A., as Joint Book Runners and Co-Documentation Agents, and certain financial institutions, as lenders.

## CREDIT AGREEMENT

dated as of

December 2, 2014

among

MICRON SEMICONDUCTOR PRODUCTS, INC.,

and

MICRON TECHNOLOGY, INC.,

as Borrowers

The Lenders Party Hereto

and

HSBC BANK USA, N.A.,

as Administrative Agent

and

HSBC BANK USA, N.A. and JPMORGAN CHASE BANK, N.A.,

as Co-Collateral Agents

HSBC BANK USA, N.A. and J.P. MORGAN SECURITIES LLC,

as Joint Lead Arrangers

and

HSBC BANK USA, N.A., J.P. MORGAN SECURITIES LLC,

BANK OF AMERICA, N.A., CITIGROUP GLOBAL MARKETS, INC. and

WELLS FARGO BANK, N.A.,

as Joint Bookrunners

and

JPMORGAN CHASE BANK, N.A.,

as Syndication Agent

and

BANK OF AMERICA, N.A., CITIGROUP GLOBAL MARKETS, INC. and

WELLS FARGO BANK, N.A.,

as Co-Documentation Agents



ARTICLE I	Definitions	1
SECTION 1.01.	Defined Terms	1
SECTION 1.02.	Classification of Loans and Borrowings	30
SECTION 1.03.	Terms Generally	31
SECTION 1.04.	Accounting Terms; GAAP	31
ARTICLE II	The Credits	31
SECTION 2.01.	Revolving Commitment	31
SECTION 2.02.	Loans and Borrowings	32
SECTION 2.03.	Requests for Revolving Borrowings	32
SECTION 2.04.	Protective Advances	33
SECTION 2.05.	Swingline Loans and Overadvances	34
SECTION 2.06.	Letters of Credit	35
SECTION 2.07.	Funding of Borrowings	40
SECTION 2.08.	Interest Elections	40
SECTION 2.09.	Termination and Reduction of Commitments; Increase in Revolving Commitments	42
SECTION 2.10.	Repayment of Loans; Evidence of Debt	43
SECTION 2.11.	Prepayment of Loans	44
SECTION 2.12.	Fees	45
SECTION 2.13.	Interest	46
SECTION 2.14.	Alternate Rate of Interest	47
SECTION 2.15.	Increased Costs	47
SECTION 2.16.	Break Funding Payments	48
SECTION 2.17.	Taxes	49
SECTION 2.18.	Payments Generally; Allocation of Proceeds; Sharing of Set-offs	52
SECTION 2.19.	Mitigation Obligations; Replacement of Lenders	55
SECTION 2.20.	Defaulting Lenders	56
SECTION 2.21.	Returned Payments	57
SECTION 2.22.	Banking Services and Swap Agreements	57
ARTICLE III	Representations and Warranties	58
SECTION 3.01.	Organization; Powers	58
SECTION 3.02.	Authorization; Enforceability	58

---

SECTION 3.03.	Governmental Approvals; No Conflicts	58
SECTION 3.04.	Litigation	58
SECTION 3.05.	Financial Condition; No Material Adverse Change	59
SECTION 3.06.	Compliance with Laws and Agreements	59
SECTION 3.07.	Investment Company Status	59
SECTION 3.08.	Taxes	59
SECTION 3.09.	Disclosure	59
SECTION 3.10.	Solvency	60
SECTION 3.11.	Capitalization	60
SECTION 3.12.	Security Interest in Collateral	60
SECTION 3.13.	Sanctions Laws and Regulations; Anti-Corruptions Laws	61
SECTION 3.14.	Environmental Matters	61
SECTION 3.15.	Properties	61
SECTION 3.16.	Insurance	61
ARTICLE IV	Conditions	62
SECTION 4.01.	Effective Date	62
SECTION 4.02.	Each Credit Event	65
ARTICLE V	Affirmative Covenants	65
SECTION 5.01.	Financial Statements; Borrowing Base and Other Information	65
SECTION 5.02.	Notices of Material Events	68
SECTION 5.03.	Existence; Conduct of Business	69
SECTION 5.04.	Payment of Taxes	69
SECTION 5.05.	Books and Records; Inspection Rights	69
SECTION 5.06.	Compliance with Laws	69
SECTION 5.07.	Use of Proceeds	70
SECTION 5.08.	Cash Management Banks; Collateral Deposit Accounts; Deposit Account Control Agreements	70
SECTION 5.09.	Further Assurances	71
SECTION 5.10.	Sanctions Laws and Regulations	71
SECTION 5.11.	Insurance	71
ARTICLE VI	Negative Covenants	72
SECTION 6.01.	Indebtedness	72

---



SECTION 6.02.	Liens	72
SECTION 6.03.	Fundamental Changes	72
SECTION 6.04.	Asset Sales	73
SECTION 6.05.	Restrictive Agreements	73
SECTION 6.06.	Amendment of Material Documents	73
ARTICLE VII	Events of Default	74
ARTICLE VIII	The Administrative Agent	76
ARTICLE IX	Miscellaneous	78
SECTION 9.01.	Notices	78
SECTION 9.02.	Waivers; Amendments	80
SECTION 9.03.	Expenses; Indemnity; Damage Waiver	82
SECTION 9.04.	Successors and Assigns	84
SECTION 9.05.	Survival	88
SECTION 9.06.	Counterparts; Integration; Effectiveness	88
SECTION 9.07.	Severability	89
SECTION 9.08.	Right of Setoff	89
SECTION 9.09.	Governing Law; Jurisdiction; Consent to Service of Process	89
SECTION 9.10.	WAIVER OF JURY TRIAL	90
SECTION 9.11.	Headings	90
SECTION 9.12.	Confidentiality	90
SECTION 9.13.	Several Obligations; Nonreliance; Violation of Law	91
SECTION 9.14.	USA PATRIOT Act	91
SECTION 9.15.	Disclosure	92
SECTION 9.16.	Appointment for Perfection	92
SECTION 9.17.	Interest Rate Limitation	92
SECTION 9.18.	No Fiduciary Duty or Economic Conflicts of Interest	92
ARTICLE X	Loan Guaranty	93
SECTION 10.01.	Guaranty	93
SECTION 10.02.	Guaranty of Payment	93
SECTION 10.03.	No Discharge or Diminishment of Loan Guaranty	93
SECTION 10.04.	Defenses Waived	94
SECTION 10.05.	Rights of Subrogation	95
SECTION 10.06.	Reinstatement; Stay of Acceleration	95

SECTION 10.07.	Information	95
SECTION 10.08.	Termination	95
SECTION 10.09.	Intentionally Omitted	95
SECTION 10.10.	Maximum Liability	95
SECTION 10.11.	Contribution	96
SECTION 10.12.	Liability Cumulative	96
SECTION 10.13.	Keepwell	96
ARTICLE XI	The Borrower Representative	97
SECTION 11.01.	Appointment; Nature of Relationship	97
SECTION 11.02.	Powers	97
SECTION 11.03.	Employment of Agents	97
SECTION 11.04.	Notices	97
SECTION 11.05.	Successor Borrower Representative	98
SECTION 11.06.	Execution of Loan Documents; Borrowing Base Certificate	98
SECTION 11.07.	Reporting	98

---

SCHEDULES:

- Commitment Schedule
- Schedule 1.01 — Collateral Deposit Accounts
- Schedule 3.11 — Capitalization
- Schedule 3.15 — Properties
- Schedule 3.16 — Insurance

EXHIBITS:

- Exhibit A — Form of Assignment and Assumption
  - Exhibit B — Form of Borrowing Base Certificate
  - Exhibit C-1— Form of U.S. Tax Compliance Certificate (for Non-U.S. Lenders and Participants that are not Partnerships)
  - Exhibit C-2— Form of U.S. Tax Compliance Certificate (for Non-U.S. Lenders and Participants that are Partnerships)
-

CREDIT AGREEMENT dated as of December 2, 2014 (as it may be amended, supplemented or otherwise modified from time to time, this “Agreement”) among MICRON TECHNOLOGY, INC., a Delaware corporation (“Micron”), MICRON SEMICONDUCTOR PRODUCTS, INC., an Idaho corporation (the “Company”, together with Micron and any other Person that becomes a borrower hereunder, collectively and individually, the “Borrowers”), the Lenders party hereto (collectively, the “Lenders”), and HSBC BANK USA, N.A., as Administrative Agent.

The parties hereto agree as follows:

ARTICLE I  
Definitions

SECTION 1.01. Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

“ABR”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Base Rate.

“Account” has the meaning assigned to such term in the applicable Security Agreement.

“Account Debtor” means any Person obligated on an Account.

“Adjusted LIBO Rate” means, with respect to any Eurodollar Borrowing for any Interest Period or for any ABR Borrowing, an interest rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate.

“Administrative Agent” means HSBC Bank USA, N.A., in its capacity as administrative agent and collateral agent for the Lenders hereunder.

“Administrative Questionnaire” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“Aggregate Credit Exposure” means, at any time, the aggregate Credit Exposure of all the Lenders.

“Aggregate Revolving Commitments” means the aggregate Revolving Commitments of all Lenders. The initial amount of the Aggregate Revolving Commitments in effect on the Effective Date is \$600,000,000.

“Aggregate Revolving Exposure” means, at any time, the aggregate Revolving Exposure of all the Lenders.

“Alternate Base Rate” means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day plus ½ of 1% and (c) the Adjusted LIBO Rate for a one month interest period in effect on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1%, provided that, for the avoidance of doubt, for purposes of this definition, the Adjusted LIBO Rate for any day shall be based on the rate appearing on the Reuters Screen LIBOR01 Page (or on any successor or substitute page) at approximately 11:00 a.m. London time on such day (or if such day is not a Business Day, the immediately preceding Business Day) (without any rounding). Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate, respectively.

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to any Borrower or its Subsidiaries from time to time concerning or relating to bribery or corruption.

“Applicable Commitment Fee Rate” means, for any day, with respect to the commitment fees payable hereunder, the applicable rate per annum set forth below, based upon the Average Utilization during the calendar month most recently ended:

Category	Average Utilization	Applicable Commitment Fee Rate
Category 1	≥ 50% of the Aggregate Revolving Commitments	0.250%
Category 2	< 50% of the Aggregate Revolving Commitments	0.375%

For purposes of the foregoing, until the fifth Business Day following the end of the first full calendar month after the Effective Date, the “Applicable Commitment Fee Rate” shall be deemed to be Category 2 and thereafter the Applicable Commitment Fee Rate shall be adjusted on the fifth Business Day following each calendar month end; provided that the Applicable Commitment Fee Rate shall be deemed to be in Category 2 (a) at any time that an Event of Default has occurred and is continuing (other than an Event of Default arising from the failure to deliver any Borrowing Base Certificate) or (b) at the option of the Administrative Agent or at the request of the Required Lenders if the Borrowers fail to deliver any Borrowing Base Certificate that is required to be delivered by them pursuant to Section 5.01(f), during the period from the expiration of the time for delivery thereof until each such Borrowing Base Certificate is so delivered.

“Applicable Percentage” means, with respect to any Lender, (a) with respect to Revolving Loans, LC Exposure, Swingline Loans or Overadvances, a percentage equal to a fraction the numerator of which is such Lender’s Revolving Commitment and the denominator of which is the aggregate Revolving Commitments or, if the Revolving Commitments have terminated or expired, the Applicable Percentages shall be determined based upon such Lender’s share of the Aggregate Revolving Exposures at that time), and (b) with respect to Protective

Advances or with respect to the Aggregate Credit Exposure, a percentage based upon its share of the Aggregate Credit Exposure and the unused Commitments; provided that, in accordance with Section 2.20, so long as any Lender shall be a Defaulting Lender, such Defaulting Lender’s Commitment shall be disregarded in the calculations under clauses (a) and (b) above.

“Applicable Rate” means, for any day, with respect to any Eurodollar Loan, ABR Loan, or LC Disbursement, as the case may be, the applicable rate per annum set forth below under the caption “Eurodollar Spread” or “ABR Spread”, as the case may be, based upon Average Monthly Availability during the most recently completed calendar month of the Borrowers; provided that until the fifth Business Day following the end of the first full six calendar months after the Effective Date, the “Applicable Rate” shall be the applicable spreads set forth below for Category 1:

Category	Average Monthly Availability	Eurodollar Spread	ABR Spread
Category 1	≥ an amount equal to 66.66% of the Aggregate Revolving Commitments	1.25%	0.25%
Category 2	< an amount equal to 66.66% of the Aggregate Revolving Commitments but		
	≥ an amount equal to 33.33% of the Aggregate Revolving Commitments	1.50%	0.50%
Category 3	< an amount equal to 33.33% of the Aggregate Revolving Commitments	1.75%	0.75%

For purposes of the foregoing, the Applicable Rate shall be determined by the Administrative Agent as of the end of each calendar month of the Borrowers based upon the Borrowing Base Certificates that are delivered from time to time pursuant to Section 5.01(f) during such calendar month, with any changes to the Applicable Rate resulting from changes in the Average Monthly Availability to be effective on the fifth Business Day after the end of each calendar month; provided that the Applicable Rate shall be the applicable spreads set forth above for Category 3 (A) at any time that any Event of Default has occurred and is continuing (other than an Event of Default arising from the failure to deliver any Borrowing Base Certificate) or (B) if the Borrowers fail to deliver any Borrowing Base Certificate that is required to be delivered pursuant to Section 5.01(f), during the period from the expiration of the time for delivery thereof until five Business Days after such Borrowing Base Certificate is delivered; provided further that, if any Borrowing Base Certificate is at any time restated or otherwise revised or if the information set forth in any Borrowing Base Certificate otherwise proves to be false or incorrect such that the Applicable Rate would have been higher than was otherwise in effect during any period, without constituting a waiver of any Default or Event of Default arising as a result thereof, interest due under this Agreement shall be immediately recalculated at such higher rate for any such applicable periods and shall be due and payable on demand.

“Approved Fund” has the meaning assigned to such term in Section 9.04(b).

“Approved Jurisdiction” means the United Kingdom, Singapore, the Netherlands, the Republic of Ireland and any other jurisdiction which is acceptable to the Required Lenders.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent in its reasonable discretion.

“Availability” means, at any time, an amount equal to (a) the lesser of (i) the Aggregate Revolving Commitments minus the Availability Block and (ii) the Borrowing Base minus (b) the Aggregate Revolving Exposure (calculated, with respect to any Defaulting Lender, as if such Defaulting Lender had funded its Applicable Percentage of all outstanding Borrowings).

“Availability Block” means an amount equal to 10.0% of the Aggregate Revolving Commitments.

“Availability Period” means the period from and including the Effective Date to but excluding the earlier of the Maturity Date and the date of termination of the Commitments.

“Available Revolving Commitment” means, at any time, the aggregate Revolving Commitments minus the Aggregate Revolving Exposure (calculated, with respect to any Defaulting Lender, as if such Defaulting Lender had funded its Applicable Percentage of all outstanding Borrowings).

“Average Monthly Availability” means, for any calendar month, the average daily Availability for such calendar month. Average Monthly Availability shall be calculated by the Borrower Representative in a manner reasonably acceptable to the Administrative Agent.

“Average Utilization” means, for any period, the average total daily Revolving Exposure of all Lenders during such period. Average Utilization shall be calculated by the Borrower Representative in a manner reasonably acceptable to the Administrative Agent.

“Banking Services” means each and any of the following bank products or services provided to any Loan Party or Subsidiary by any Lender or any of its Affiliates: (a) credit cards for commercial customers (including, without limitation, “commercial credit cards” and purchasing cards), (b) stored value cards and debit cards, (c) treasury management services (including, without limitation, controlled disbursement, automated clearinghouse transactions, return items, overdrafts, e-payable and interstate depository network services) or any similar transaction, and (d) other banking or credit products or services. Notwithstanding the foregoing, no bank service shall constitute “Banking Services” hereunder unless the Borrower Representative has notified the Administrative Agent and the applicable Lender (or Affiliate of a

Lender) in a writing signed by a Financial Officer that it has consented to such bank service constituting “Banking Services” hereunder (it being understood that as to a particular bank service, once such consent is granted by the Borrower Representative it shall be irrevocable unless otherwise approved by the Lender or Affiliate providing such bank service).

“Banking Services Obligations” of the Loan Parties and their Subsidiaries means any and all obligations of such Loan Party or Subsidiary whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor) in connection with Banking Services.

“Banking Services Reserves” means all Reserves which the Administrative Agent from time to time establishes in its Permitted Discretion for Banking Services then provided or outstanding.

“Bankruptcy Code” means the provisions of Title 11 of the United States Code, 11 USC. §§ 101 et seq., as amended, or any similar federal or state law for the relief of debtors.

“Bankruptcy Event” means, with respect to any Person, such Person becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, liquidator, conservator, trustee, administrator, administrative receiver, custodian, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business, appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment, provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority or instrumentality thereof, provided, further, that such ownership interest does not result in or provide such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Authority or instrumentality), to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

“Board” means the Board of Governors of the Federal Reserve System of the United States (or any successor thereto).

“Borrower” or “Borrowers” has the meaning assigned to such terms in the recitals.

“Borrower Representative” means Micron, in its capacity as contractual representative of the Borrowers pursuant to Article XI.

“Borrowing” means (a) Revolving Loans of the same Type, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect, (b) a Swingline Loan, (c) a Protective Advance and (d) an Overadvance.

“Borrowing Base” means, at any time, the result of:

(a) 85% of the Borrowers’ Eligible Accounts (other than Eligible Foreign Accounts) at such time, plus



(b) the lesser of (i) 85% of the Borrowers' Eligible Foreign Accounts at such time and (ii) 10.0% of the Aggregate Revolving Commitments, plus

(c) the least of (i) the sum of (A) the product of 50% *multiplied* by the Value of the Borrowers' Eligible Raw Materials *plus* (B) the product of 50% *multiplied* by the Value of the Borrowers' Eligible Finished Goods Inventory *plus* (C) the product of 50% *multiplied* by the Value of the Borrowers' Eligible WIP, (ii) the sum of (A) the product of 85% *multiplied* by the Net Orderly Liquidation Value Factor of the Borrowers' Eligible Raw Materials *plus* (B) the product of 85% *multiplied* by the Net Orderly Liquidation Value Factor of the Borrowers' Eligible Finished Goods Inventory *plus* (C) the product of 85% *multiplied* by the Net Orderly Liquidation Value Factor of the Borrowers' Eligible WIP and (iii) an amount equal to 35% of the Aggregate Revolving Commitments, minus

(d) Reserves, minus

(e) the Availability Block.

“Borrowing Base Certificate” means a certificate, signed and certified as accurate and complete by a Financial Officer of the Borrower Representative, in substantially the form of Exhibit B or another form which is acceptable to the Administrative Agent in its sole discretion exercised in good faith.

“Borrowing Request” means a request by the Borrower Representative for a Revolving Borrowing in accordance with Section 2.03.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, when used in connection with a Eurodollar Loan, the term “Business Day” shall also exclude any day on which banks are not open for dealings in dollar deposits in the London interbank market.

“Capital Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

“Cash Dominion Trigger Period” means the period commencing on such day as determined by the Administrative Agent in its discretion (or upon the direction of the Required Lenders) following the occurrence and continuance of an Event of Default and continuing until the date on which the Borrower Representative requests that the Cash Dominion Trigger Period cease, and the Administrative Agent has had a reasonable period of time to effect such cessation, provided that the Borrower Representative may only request a cessation of a Cash Dominion Trigger Period if at the time of such request no Event of Default has occurred and is continuing.

“Cash Management Bank” means each of Bank of America, N.A., U.S. Bank National Association and any other bank selected by the Borrowers (other than Micron) to maintain any Collateral Deposit Account; provided that, no Person shall be a “Cash Management Bank” unless

and until such Person shall have entered into a Deposit Account Control Agreement with the Borrowers (other than Micron) and the Administrative Agent in form and substance reasonably acceptable to the Administrative Agent.

“Change in Control” means Micron shall cease to own, directly or indirectly, free and clear of all Liens or other encumbrances, 50.1% of the outstanding voting Equity Interests of the Borrowers (other than Micron) on a fully diluted basis.

“Change in Law” means (a) the adoption of any law, rule, regulation, practice, concession or treaty (including any rules or regulations issued under or implementing any existing law) after the date of this Agreement, (b) any change in any law, rule, regulation, practice, concession, or treaty or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement or (c) compliance by any Lender or the Issuing Bank (or, for purposes of Section 2.15(b), by any lending office of such Lender or by such Lender’s or the Issuing Bank’s holding company, if any) with any request, guideline, directive, notice, ruling, statement or policy or practice statement (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement; provided that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder, issued in connection therewith or in implementation thereof, and (ii) all requests, rules, guidelines and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted, issued or implemented.

“Class”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans, Swingline Loans or Protective Advances or Overadvances.

“Code” means the Internal Revenue Code of 1986, as amended.

“Collateral” means all of the “Collateral” as defined and set forth in the applicable Collateral Documents to which each Borrower (or Loan Guarantor, as applicable) is a party, in each case, now existing or hereafter acquired, that may at any time be or become subject to a security interest or Lien in favor of the Administrative Agent, on behalf of itself and the Lenders, and other holders of the Secured Obligations, to secure the Secured Obligations.

“Collateral Access Agreement” has the meaning assigned to such term in the Security Agreement.

“Collateral Deposit Accounts” means each Deposit Account maintained by each Borrower (other than Micron) into which cash, checks or other similar payments relating or consisting of payments made in respect of Receivables are deposited as required under the terms hereof. Each Collateral Deposit Account is identified on Schedule 1.01 attached hereto (as such Schedule may be updated pursuant to the terms set forth herein).

“Collateral Documents” means, individually and collectively, the Security Agreement, and each other document granting a Lien upon any of the Collateral as security for payment of the Secured Obligations.

“Collateralized Revolving Commitments” means, at any time, an amount equal to the lesser of (a) the sum of the Borrowing Base at such time plus the Availability Block minus the Aggregate Revolving Exposure at such time and (b) the Aggregate Revolving Commitments at such time minus the Aggregate Revolving Exposure at such time.

“Collection Account” means, the account at HSBC so designated by the Administrative Agent, in a written notice delivered to the Borrower Representative, to be the “Collection Account”, to which funds on deposit in any Collateral Deposit Account maintained by the Borrowers (other than Micron) with a Cash Management Bank and all collections and other payments received in respect of the Receivables of the Borrowers (other than Micron) by a Cash Management Bank shall be remitted at all times during a Cash Dominion Trigger Period.

“Commercial LC Exposure” means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding commercial Letters of Credit plus (b) the aggregate amount of all LC Disbursements relating to commercial Letters of Credit that have not yet been reimbursed by or on behalf of the Borrowers. The Commercial LC Exposure of any Revolving Lender at any time shall be its Applicable Percentage of the aggregate Commercial LC Exposure at such time.

“Commitment” means, with respect to each Lender, such Lender’s Revolving Commitment, together with the commitment of such Lender to acquire participations in Protective Advances hereunder. The initial amount of each Lender’s Commitment is set forth on the Commitment Schedule, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Commitment, as applicable.

“Commitment Schedule” means the Schedule attached hereto identified as such.

“Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

“Company,” has the meaning assigned to such term in the recitals.

“Competitor” means any Person that Controls the operation of a Semiconductor Business or Controls any entity that controls the operation of a Semiconductor Business; provided, that the foregoing, shall not include commercial or corporate banks or financial institutions generally in the business of providing working capital facilities.

“Contractual Debt Obligation” means, as to any Person, any indenture, agreement or other instrument to which such Person is a party or by which it is bound with respect to any obligations of such Person for borrowed money.

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have meanings correlative thereto.

“Credit Exposure” means, as to any Lender at any time, the sum of (a) such Lender’s Revolving Exposure, *plus* (b) an amount equal to its Applicable Percentage, if any, of the aggregate principal amount of Protective Advances outstanding at such time.

“Credit Party” means the Administrative Agent, the Issuing Bank, the Swingline Lender or any other Lender.

“Default” means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“Defaulting Lender” means any Lender that (a) has failed, within two Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans, (ii) fund any portion of its participations in Letters of Credit or Swingline Loans or (iii) pay over to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender’s good faith determination that a condition precedent to funding (specifically identified and including the particular Default, if any) has not been satisfied; (b) has notified any Borrower or any Credit Party in writing, or has made a public statement, to the effect that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender’s good faith determination that a condition precedent to funding a Loan under this Agreement (specifically identified and including the particular Default, if any) cannot be satisfied) or generally under other agreements in which it commits to extend credit, (c) has failed, within three Business Days after request by a Credit Party, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations to fund prospective Loans and participations in then outstanding Letters of Credit and Swingline Loans under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon such Credit Party’s receipt of such certification in form and substance satisfactory to it and the Administrative Agent, or (d) has become the subject of a Bankruptcy Event.

“Deposit Account” shall have the meaning set forth in Article 9 of the UCC.

“Deposit Account Control Agreement” shall have the meaning set forth in the applicable Security Agreement and/or any similar agreements, documentation or requirement necessary or desirable to perfect the security interest of the Administrative Agent or to effect control over the Deposit Accounts in which a Lien is created in the applicable Security Agreement.

“Designated Persons” means any Person: (a) listed in the annex to, or otherwise the subject of the provisions of, any Executive Order, (b) named as a “Specially Designated National and Blocked Person” (“SDN”) on the most current list published by OFAC at its official website or any replacement website or other replacement official publication of such list; or is otherwise the subject of any Sanctions Laws and Regulations, and (c) in which an entity or person on the SDN List has 50% or greater ownership interest or that is otherwise controlled by an SDN.

“Dollars” or “\$” refers to lawful money of the United States.

“Draft Borrowing Base Certificate” has the meaning assigned to such term in Section 5.01(f).

“ECP” means an “eligible contract participant” as defined in Section 1(a)(18) of the Commodity Exchange Act or any regulations promulgated thereunder and the applicable rules issued by the Commodity Futures Trading Commission and/or the SEC.

“Effective Date” means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

“Electronic Delivery” has the meaning assigned to such term in Section 5.01(a).

“Eligible Accounts” means, at any time, the Accounts of a Borrower (other than Micron) arising in the ordinary course of business; provided that, Eligible Accounts shall not include any Account of a Borrower:

- (a) which is not subject to a first priority perfected security interest in favor of the Administrative Agent;
- (b) which is subject to any Lien other than (i) a Lien in favor of the Administrative Agent and (ii) a Permitted Encumbrance which does not have priority over the Lien in favor of the Administrative Agent;
- (c) (i) which is unpaid more than 120 days after the date of the original invoice therefor or more than 60 days after the original due date therefor, or (ii) which has been written off the books of such Borrower or otherwise designated as uncollectible;
- (d) which is owing by an Account Debtor for which more than 50% of the Accounts owing from such Account Debtor and its Affiliates are ineligible pursuant to clause (c) above;
- (e) which is owing by (i) an Account Debtor (other than HP and Kingston) to the extent the aggregate amount of Accounts owing from such Account Debtor and its Affiliates to all Borrowers (other than Micron) exceeds 20% of the aggregate amount of Eligible Accounts of all Borrowers, (ii) HP to the extent that the aggregate amount of Accounts owing from HP to all Borrowers (other than Micron) exceeds 35% of the aggregate amount of Eligible Accounts of all Borrowers, and (iii) Kingston to the extent that the aggregate amount of Accounts owing from Kingston to all Borrowers (other than Micron) exceeds 35% of the aggregate amount of Eligible Accounts of all Borrowers; provided, however, Eligible Accounts shall not include any Accounts owing by HP and, Kingston to all Borrowers (other than Micron) to the extent the aggregate amount of such Accounts of HP and Kingston (not including any amounts already excluded pursuant to the preceding individual limits set forth in clauses (ii) and (iii) hereof, as applicable, for each of HP and Kingston) exceeds 55% of the aggregate amount of Eligible Accounts of all Borrowers;

(f) with respect to which any covenant, representation or warranty contained in this Agreement or in the applicable Security Agreement to which such Borrower is a party has been breached in any material respect or is not true in any material respect;

(g) which (i) does not arise from the sale of goods or performance of services in the ordinary course of business, (ii) is not evidenced by an invoice or other documentation reasonably satisfactory to the Administrative Agent which has been sent to the Account Debtor, (iii) represents a progress billing, (iv) is contingent upon such Borrower's completion of any further performance, (v) represents a sale on a bill-and-hold, guaranteed sale, sale-and-return, sale on approval, consignment, cash-on-delivery or any other repurchase or return basis or (vi) relates to payments of interest or service or finance charges;

(h) for which the goods giving rise to such Account have not been shipped to the Account Debtor or for which the services giving rise to such Account have not been performed by such Borrower or which is otherwise recorded as deferred revenue or if such Account was invoiced more than once (other than in connection with a customer deduction and rebill related to such invoice);

(i) with respect to which any check or other instrument of payment has been returned uncollected for any reason;

(j) which is owed by an Account Debtor that (i) has applied for, or been the subject of a petition or application for, suffered, or consented to the appointment of any receiver, custodian, trustee, administrator, administrative receiver, liquidator or similar official for such Account Debtor of its assets, (ii) has had possession of all or a material part of its property taken by any receiver, custodian, trustee or liquidator, (iii) has filed, or had filed against it under any Insolvency Laws, any assignment, application, request or petition for liquidation, administration, reorganization, compromise, arrangement, adjustment of debts, stay of proceedings, adjudication as bankrupt, winding-up, or voluntary or involuntary case or proceeding under any Insolvency Laws (other than post-petition accounts payable of an Account Debtor that is a debtor-in-possession under the Bankruptcy Code and reasonably acceptable to the Administrative Agent), (iv) admitted in writing its inability, or is generally unable to, pay its debts as they become due, (v) become insolvent, (vi) ceased operation of its business or (vii) is insolvent by reason of the value of the assets of the Account Debtor is less than its liabilities (taking into account contingent and prospective liabilities);

(k) which is owed by any Account Debtor which has sold all or a substantially all of its assets;

(l) which is owed by an Account Debtor which (i) does not maintain its chief executive office in the United States or Canada, or (ii) is not organized under any applicable law of the United States, any state of the United States, Canada, or any province of Canada, unless, in each case, such Account is backed by a letter of credit reasonably acceptable to the Administrative Agent which is in the possession of, has been assigned to and is directly drawable by, the Administrative Agent;

(m) which is owed in any currency other than Dollars;

(n) which is owed by (i) the government (or any department, agency, public corporation, or instrumentality thereof) of any country other than the United States unless such Account is backed by a Letter of Credit acceptable to the Administrative Agent which is in the possession of, and is directly drawable by, the Administrative Agent, or (ii) the government of the United States, or any department, agency, public corporation, or instrumentality thereof, unless the Federal Assignment of Claims Act of 1940, as amended (31 U.S.C. § 3727 et seq. and 41 U.S.C. § 15 et seq.) or any other steps necessary to perfect the Lien of the Administrative Agent in such Account have been complied with to the Administrative Agent's satisfaction;

(o) which is owed by any Affiliate or any employee, officer, director, agent or stockholder of any Borrower;

(p) [intentionally omitted]

(q) which is owed by an Account Debtor or any Affiliate of such Account Debtor to which such Borrower or any of its Affiliates is indebted, but only to the extent of such indebtedness, or is subject to any security, deposit, progress payment, retainage or other similar advance made by or for the benefit of an Account Debtor, in each case to the extent thereof;

(r) which is evidenced by any promissory note, chattel paper or instrument;

(s) with respect to which such Borrower has made any agreement with the Account Debtor for any reduction thereof, other than discounts and adjustments given in the ordinary course of business, or any Account which was partially paid and such Borrower created a new receivable for the unpaid portion of such Account;

(t) which does not comply in all material respects with the requirements of all applicable laws and regulations, whether Federal, state or local, including without limitation the Federal Consumer Credit Protection Act, the Federal Truth in Lending Act and Regulation Z of the Board;

(u) which is for goods that have been sold under a purchase order or pursuant to the terms of a contract or other agreement or understanding (written or oral) that indicates or purports that any Person other than such Borrower has or has had an ownership interest in such goods, or which indicates any party other than such Borrower as payee or remittance party;

(v) which was created on cash on delivery terms;

(w) the terms of which are governed by the laws of any jurisdiction other than (i) the United States, or any state thereof, or the District of Columbia, (ii) Canada or any province thereof, or (iii) any Approved Jurisdiction to the extent that the aggregate amount of all such Accounts do not exceed an amount equal to 10.0% of the Aggregate Revolving Commitments;

(x) which is subject to any limitation on security interests (whether arising by operation of law, by agreement or otherwise) to the extent such limitation adversely effects or impairs the validity, perfection, enforceability or priority of the Administrative Agent's Liens therein, unless the Administrative Agent has reasonably determined that such limitation is not enforceable;

(y) which is owed by an Account Debtor in respect of which any Borrower has received notice of any proceedings or actions which are pending against such Account Debtor which would reasonably be expected to affect the material value of the Account as Collateral or the likelihood of payment by the Account Debtor;

(z) which is not owned by such Borrower or such Borrower does not have good or marketable title to such Account; or

(aa) which falls into a category of ineligibility established by the Administrative Agent from time to time in its Permitted Discretion based on any material fact or circumstance which was not known on or prior to the Effective Date and arises after the Effective Date or which otherwise first becomes known to the Administrative Agent after the Effective Date.

In the event that an Account of a Borrower which was previously an Eligible Account ceases to be an Eligible Account hereunder, the Borrower Representative shall notify the Administrative Agent thereof on and at the time of submission to the Administrative Agent of the next Borrowing Base Certificate. If (i) the Collateralized Revolving Commitments are less than \$50,000,000 as of the end of any fiscal month, (ii) the Borrower Representative has reported pursuant to Section 5.01(g) a credit memo in excess of five percent (5%) of the Aggregate Revolving Commitments, and (iii) the existing dilution Reserves for Accounts and Receivables established by the Administrative Agent do not already reflect, in the Administrative Agent's reasonable determination, the dilution factors with respect to such credit memo, then the Administrative Agent may, in the Administrative Agent's Permitted Discretion, establish additional Reserves for dilution relating to such credit memo, but only to the extent not already reflected in the existing dilution Reserves.

"Eligible Finished Goods Inventory," means, Eligible Inventory constituting finished goods available for sale by a Borrower in the ordinary course of business of such Borrower, excluding Eligible Raw Materials and Eligible WIP of such Borrower.

"Eligible Foreign Accounts" means Accounts which would be deemed Eligible Accounts but for the exclusionary criteria set forth in clause (l) of the definition of Eligible Accounts and solely to the extent the Account Debtor is in an Approved Jurisdiction. Without limiting the Administrative Agent's discretion provided herein, any Eligible Foreign Account may be deemed ineligible and excluded from the calculation of the Borrowing Base to the extent determined, by the Administrative Agent in its commercially reasonable discretion, that any such Account Debtor does not have a material presence in an Approved Jurisdiction.

"Eligible Inventory," means, at any time, the Inventory of a Borrower arising in the ordinary course of business; provided that Eligible Inventory shall not include any Inventory:

(a) which is not subject to a first priority Lien in favor of the Administrative Agent;



(b) which is subject to any Lien other than (i) a Lien in favor of the Administrative Agent and (ii) a Permitted Encumbrance which does not have priority over the Lien in favor of the Administrative Agent; provided that the Administrative Agent may in its Permitted Discretion deem as Eligible Inventory on a case-by-case basis, any Inventory subject to a Permitted Encumbrance with priority over the Administrative Agent's Liens in respect of which the Administrative Agent has or shall have established an appropriate Reserve;

(c) which is reflected on the Borrowers' books and records as slow moving, obsolete, unmerchantable, defective, used, unfit for sale, not salable at prices approximating at least the cost of such Inventory in the ordinary course of business or unacceptable due to age, type, category and/or quantity;

(d) with respect to which any covenant, representation or warranty contained in this Agreement or in the applicable Security Agreement to which such Borrower is a party has been breached in any material respect or is not true in any material respect and which does not conform in any material respect to standards imposed by any applicable Governmental Authority which has or purports to have regulatory authority over such Inventory or the manufacture, use or sale thereof;

(e) in which any Person other than such Borrower shall (i) have any direct or indirect ownership, interest or title to such Inventory or (ii) be indicated on any purchase order or invoice with respect to such Inventory as having or purporting to have an interest therein;

(f) which is not finished goods or which constitutes work-in-process (other than Eligible WIP), raw materials (other than Eligible Raw Materials), spare or replacement parts, subassemblies, packaging and shipping material, manufacturing supplies, samples, prototypes, displays or display items, bill-and-hold or ship-in-place goods, goods that are returned or marked for return (but not held for resale and not otherwise constituting Eligible Inventory), repossessed goods, defective or damaged goods, goods held on consignment, or goods which are not of a type held for sale in the ordinary course of business;

(g) which is not located in the U.S. or is in transit with a common carrier from vendors and suppliers;

(h) which is located in any location leased by such Borrower unless (i) the lessor has delivered to the Administrative Agent a Collateral Access Agreement or (ii) an Inventory Reserve has been established by the Administrative Agent in accordance with the terms set forth herein;

(i) which is located in any third party warehouse or is in the possession of a bailee (other than a third party processor), unless (i) such warehouseman or bailee has delivered to the Administrative Agent a Collateral Access Agreement or (ii) an Inventory Reserve has been established by the Administrative Agent in accordance with the terms set forth herein;

(j) which is (i) being processed offsite at a third party location or outside processor unless (A) such bailee or processor has delivered to the Administrative Agent a Collateral Access Agreement or (B) an Inventory Reserve has been established by the Administrative Agent in accordance with the terms set forth herein, or (ii) in-transit to or from such third party location or outside processor;

(k) [reserved];

(l) which is the subject of a consignment by such Borrower as consignor;

(m) which is perishable;

(n) as to which the Administrative Agent determines in its commercially reasonable discretion that it may not sell or otherwise dispose of such Inventory without (i) infringing the rights of a licensor of intellectual property licensed to the related Borrower(s), (ii) violating any contract with such licensor, or (iii) incurring any liability with respect to payment of royalties other than royalties incurred pursuant to sale of such Inventory under a license or other agreement entered into in the ordinary course of business;

(o) which is not reflected in a current perpetual inventory report of such Borrower;

(p) for which reclamation rights have been asserted by the seller; or

(q) which falls into a category of ineligibility established by the Administrative Agent from time to time in its Permitted Discretion based on any material fact or circumstance which was not known on or prior to the Effective Date and arises after the Effective Date or which otherwise first becomes known to the Administrative Agent after the Effective Date.

In the event that Inventory of a Borrower which was previously Eligible Inventory ceases to be Eligible Inventory hereunder, the Borrowers shall notify the Administrative Agent thereof on and at the time of submission to the Administrative Agent of the next Borrowing Base Certificate.

“Eligible Raw Materials” means Eligible Inventory of a Borrower constituting raw materials used or consumed by a Borrower in the ordinary course of business in the manufacture or production of other inventory, excluding Eligible Finished Goods Inventory and Eligible WIP of such Borrower.

“Eligible WIP” means Eligible Inventory of a Borrower constituting work-in-process, excluding Eligible Finished Goods Inventory and Eligible Raw Materials of such Borrower; provided, however, that Eligible WIP shall only include work-in-process included in the

modules, assembly and test categories as such categories exist as of the date hereof; provided further, however, that Eligible WIP shall not include any work-in-process:

- (a) included in the modules category considered to be in production and not a staged component;
- (b) included in the assembly category if such work in process is not in a die bank; or
- (c) included in the test category if such work-in-process is not in the awaiting reservation category and is outside of a two (2) week processing period.

“Environmental Laws” means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, the management, release or threatened release of any Hazardous Material or to health and safety matters.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of any Borrower directly or indirectly resulting from or based upon (a) any violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) any exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Equity Interests” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest.

“Eurodollar”, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted LIBO Rate.

“Event of Default” has the meaning assigned to such term in Article VII.

“Excluded Swap Obligation” means, with respect to any Loan Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Loan Guarantor of, or the grant by such Loan Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Loan Guarantor’s failure for any reason to constitute an ECP at the time the Guarantee of such Loan Guarantor or the grant of such security interest becomes or would become effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

“Excluded Taxes” means, with respect to any payment made by any Loan Party under any Loan Document, any of the following Taxes imposed on or with respect to a Recipient: (a) net income Taxes or franchise Taxes or branch profits Taxes, in each case, (i) imposed by the United States, or by the jurisdiction, or any political subdivision thereof, under the laws of which such Recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located or (ii) that are Other Connection Taxes, (b) in the case of a Non U.S. Lender (other than an assignee pursuant to a request by a Borrower under Section 2.19(b)), any U.S. Federal withholding Taxes resulting from any law in effect on the date such Non U.S. Lender becomes a party to this Agreement (or designates a new lending office), except to the extent that such Non U.S. Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from the Borrowers with respect to such withholding Taxes pursuant to Section 2.17(a), (c) any Taxes imposed by FATCA, and (d) any Taxes attributable to such Recipient’s failure to comply with Section 2.17(f).

“Executed Borrowing Base Certificate” has the meaning assigned to such term in Section 5.01(f).

“Executive Order” has the meaning assigned to such term in the definition of “Sanctions Laws and Regulations.”

“Existing Credit Agreement” means that certain Credit Agreement, dated as of June 27, 2013, by and among the Company, the lenders party thereto, and JPMorgan Chase Bank, N.A., as administrative agent, as amended, amended and restated, restated, supplemented, modified or otherwise in effect prior to the date hereof.

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantially comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code, and any intergovernmental agreements with respect to the implementation of any of the foregoing (and any official interpretations thereof).

“Federal Funds Effective Rate” means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

“Financial Officer” means the chief financial officer, principal accounting officer, treasurer, assistant treasurer or controller of a Borrower.

“Funding Accounts” has the meaning assigned to such term in Section 4.01(g).

“GAAP” means generally accepted accounting principles in the United States.

“Governmental Authority” means the government of the United States, or any other nation or any political subdivision thereof, whether state, municipal or local and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Guarantee” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or other obligation; provided, that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business.

“Guaranty” means (a) the Loan Guaranty, and (b) each other separate guaranty, if any, in form and substance reasonably satisfactory to the Administrative Agent delivered after the Effective Date pursuant to the terms of this Agreement.

“Guaranteed Obligations” has the meaning assigned to such term in Section 10.01.

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

“HP” means Hewlett-Packard Company, a Delaware corporation, and its Affiliates.

“HSBC” means HSBC Bank USA, N.A., a national banking association, in its individual capacity, and its successors.

“Indebtedness” of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (e) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable incurred in the ordinary course

of business), (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (g) all Guarantees by such Person of Indebtedness of others, (h) all Capital Lease Obligations of such Person, (i) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty, (j) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances, (k) all obligations of such Person under any liquidated earn-out, and (l) any other Off-Balance Sheet Liability of such Person. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

**"Indemnified Taxes"** means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by any Loan Party under any Loan Document and (b) to the extent not otherwise described in clause (a) above, Other Taxes.

**"Indenture"** means that certain Indenture, dated as of July 28, 2014, by and between Micron and U.S. Bank National Association, as trustee.

**"Ineligible Institution"** has the meaning assigned to such term in [Section 9.04\(b\)](#).

**"Information"** has the meaning assigned to such term in [Section 9.12](#).

**"Insolvency Laws"** means each of the Bankruptcy Code, and any other applicable state, or federal bankruptcy laws, each as now and hereafter in effect, any successors to such statutes and any other applicable insolvency or other similar law of any jurisdiction, including any law of any jurisdiction permitting a debtor to obtain a stay or a compromise of the claims of its creditors against it and including any rules and regulations pursuant thereto.

**"Interest Election Request"** means a request by the Borrower Representative to convert or continue a Borrowing of Revolving Loans in accordance with [Section 2.08](#).

**"Interest Payment Date"** means (a) with respect to any ABR Loan (other than a Swingline Loan), the first Business Day of each calendar month, and (b) with respect to any Eurodollar Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part (and, in the case of a Eurodollar Borrowing with an Interest Period of more than three months' duration, each day prior to the last day of such Interest Period that occurs at intervals of three months' duration after the first day of such Interest Period), (c) with respect to any Swingline Loan, the day that such Swingline Loan is required to be repaid, and (d) with respect to any Loan, the Maturity Date.

**"Interest Period"** means, with respect to any Eurodollar Borrowing, the period commencing on the date of such Eurodollar Borrowing and ending on the numerically corresponding day in the calendar month that is one, two, three or six months thereafter, as the Borrower Representative may elect; provided, that (a) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding

Business Day unless, in the case of a Eurodollar Borrowing only, such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (b) any Interest Period pertaining to a Eurodollar Borrowing that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and, in the case of a Revolving Borrowing, thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

“Inventory.” has the meaning assigned to such term in the applicable Security Agreement.

“Inventory Reserves” means, without duplication of any other applicable Reserves or eligibility exclusions, reserves against Inventory equal to the sum of the following:

(a) a reserve for shrink, or discrepancies that arise pertaining to inventory quantities on hand between a Borrower’s perpetual accounting system, and physical counts of the inventory which will be equal to the greater of (i) 2.0% of the Value of the Borrowers’ Eligible Inventory and (ii) the results of the physical inventory counts taken over the past twelve (12) months with the variance expressed as a percentage of inventory;

(b) a lower of the cost or market reserve for any differences between a Borrower’s actual cost to produce versus its selling price to third parties, determined on a product line basis; and

(c) a reserve for rent, processing charges or fees, and other charges and amounts due or to become due with respect to any location not owned directly by a Borrower at which Inventory of a Borrower is located to the extent the lessor, bailee, or warehouseman of such location has not delivered to the Administrative Agent a Collateral Access Agreement for such location.

“IRS” means the United States Internal Revenue Service.

“Issuing Bank” means HSBC, or any other Lender, which Lender or Affiliate of a Lender has agreed in writing to serve as the issuer of Letters of Credit pursuant to this Agreement, that is mutually acceptable to the Borrowers and the Administrative Agent, in its capacity as the issuer of Letters of Credit, and its successors in such capacity as provided in Section 2.06(i). The Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of the Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

“Kingston” means Kingston Technology International, Ltd., a private limited company organized in the Republic of Ireland, and its Affiliates.

“LC Collateral Account” has the meaning assigned to such term in Section 2.06(j).

“LC Disbursement” means a payment made by the Issuing Bank pursuant to a Letter of Credit.

“LC Exposure” means, at any time, the sum of the Commercial LC Exposure and the Standby LC Exposure. The LC Exposure of any Revolving Lender at any time shall be its Applicable Percentage of the aggregate LC Exposure.

“Lenders” means the Persons listed on the Commitment Schedule and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption. Unless the context otherwise requires, the term “Lenders” includes the Swingline Lender.

“Letter of Credit” means any letter of credit issued pursuant to this Agreement.

“LIBO Rate” means, with respect to any Eurodollar Borrowing for any Interest Period, the rate appearing on Reuters Screen LIBOR01 Page (or on any successor or substitute page on such screen) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, as the rate for deposits in the applicable currency in the London interbank market with a maturity comparable to such Interest Period. In the event that such rate does not appear on such page (or on any such successor or substitute page), the “LIBO Rate” shall be determined by reference to such other publicly available service for displaying interest rates for Dollar deposits in the London interbank market as may be selected by the Administrative Agent or, in the absence of such availability, by reference to the rate at which Dollar deposits of \$5,000,000 and for a maturity comparable to such Interest Period are offered by the principal London office of the Administrative Agent in immediately available funds in the London interbank market at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period.

“Lien” means, with respect to any Collateral, any lien, pledge, mortgage, hypothecation, encumbrance, charge, assignment by way of security or security interest in, on or of such asset comprising a part of the Collateral.

“Loan Documents” means this Agreement, any promissory notes issued pursuant to this Agreement, any Letter of Credit applications, the Collateral Documents, any Guaranty, and all other agreements, instruments, documents and certificates identified in Section 4.01 executed and delivered to, or in favor of, the Administrative Agent or any Lenders and including all other pledges, powers of attorney, consents, assignments, contracts, notices, letter of credit agreements and all other written matter whether heretofore, now or hereafter executed by or on behalf of any Loan Party, or any Financial Officer of any Loan Party, and delivered to the Administrative Agent or any Lender in connection with this Agreement or the transactions contemplated hereby. Any reference in this Agreement or any other Loan Document to a Loan Document shall include all appendices, exhibits or schedules thereto, and all amendments, restatements, supplements or other modifications thereto, and shall refer to this Agreement or such Loan Document as the same may be in effect at any and all times such reference becomes operative.

“Loan Guarantor” means each Loan Party.

“Loan Guaranty” means Article X of this Agreement.



“Loan Parties” means the Borrowers and any other Person who becomes a party to this Agreement as a Borrower or a Loan Guarantor in accordance with the terms hereof, and their successors and assigns.

“Loans” means the loans and advances made by the Lenders pursuant to this Agreement, including Swingline Loans, Overadvances and Protective Advances.

“Local Time” means, (a) local time in New York, with respect to the times for the receipt of Borrowing Requests from the Borrower Representative for Revolving Loans, Letter of Credit requests to the Issuing Bank, for receipt and sending of notices by and disbursement by the Administrative Agent or any Lender and the Issuing Bank and for payment by the Borrowers with respect to Revolving Loans and reimbursement obligations in respect of Letters of Credit, (b) local time in London, with respect to the times for the determination of “LIBO Rate”, (c) otherwise, if a place for any determination is specified herein, the local time at such place of determination, and (d) otherwise, New York time.

“Material Adverse Effect” means a material adverse effect on (a) the business, assets, operations, prospects or condition, financial or otherwise, of Micron and its Subsidiaries taken as a whole, (b) the ability of any Loan Party to perform any of its obligations under the Loan Documents to which it is a party, or (c) the Administrative Agent’s Liens (on behalf of itself and the Lenders, and other holders of the Secured Obligations) on the Collateral or the priority of such Liens.

“Material Indebtedness” means Indebtedness (other than the Loans and Letters of Credit) or obligations in respect of one or more Swap Agreements (without giving effect to the last sentence of such definition), of any one or more of the Loan Parties in an aggregate principal amount exceeding \$100,000,000. For purposes of determining Material Indebtedness, the “obligations” of any Loan Party in respect of any Swap Agreement (without giving effect to the last sentence of such definition) at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that such Loan Party would be required to pay if such Swap Agreement (without giving effect to the last sentence of such definition) were terminated at such time.

“Maturity Date” means December 2, 2019 or any earlier date on which the Commitments are reduced to zero or otherwise terminated pursuant to the terms hereof.

“Maximum Liability” has the meaning assigned to such term in Section 10.10.

“Maximum Rate” has the meaning assigned to such term in Section 9.17.

“Micron” has the meaning assigned to such term in the recitals.

“Micron Security Agreement” means that certain Pledge and Security Agreement, dated as of the date hereof, between Micron and the Administrative Agent, as the same may be amended, restated, or otherwise modified from time to time.

“MSP Security Agreement” means that certain Pledge and Security Agreement, dated as of the date hereof, between the Company and the Administrative Agent, as the same may be amended, restated, or otherwise modified from time to time.

“Net Orderly Liquidation Value Factor” means, with respect to (a) Eligible Finished Goods Inventory of any person, the quotient of the orderly liquidation value thereof as determined in a manner reasonably acceptable to the Administrative Agent by an appraiser reasonably acceptable to the Administrative Agent, net of all costs of liquidation thereof divided by the book value (valued at the lower of cost or market, calculated on a first-in, first-out basis) of Eligible Finished Goods Inventory, (b) Eligible Raw Materials of any person, the quotient of the orderly liquidation value thereof as determined in a manner reasonably acceptable to the Administrative Agent by an appraiser reasonably acceptable to the Administrative Agent, net of all costs of liquidation thereof divided by the book value (valued at the lower of cost or market, calculated on a first-in, first-out basis) of Eligible Raw Materials, and (c) Eligible WIP of any person, the quotient of the orderly liquidation value thereof as determined in a manner reasonably acceptable to the Administrative Agent by an appraiser reasonably acceptable to the Administrative Agent, net of all costs of liquidation thereof divided by the book value (valued at the lower of cost or market, calculated on a first-in, first-out basis) of Eligible WIP.

“Non-Consenting Lender” has the meaning assigned to such term in Section 9.02(d).

“Non-U.S. Lender” means a Lender that is not a U.S. Person.

“Non-Paying Guarantor” has the meaning assigned to such term in Section 10.11.

“Obligated Party” has the meaning assigned to such term in Section 10.02.

“Obligations” means all unpaid principal of and accrued and unpaid interest on the Loans, all LC Exposure, all accrued and unpaid fees and all expenses, reimbursements, indemnities and other obligations of the Loan Parties to the Lenders or to any Lender, the Administrative Agent, the Issuing Bank or any indemnified party arising under the Loan Documents.

“OFAC” has the meaning assigned to such term in the definition of “Sanctions Laws and Regulations.”

“Off-Balance Sheet Liability” of a Person means (a) any repurchase obligation or liability of such Person with respect to accounts or notes receivable sold by such Person, (b) any indebtedness, liability or obligation under any so-called “synthetic lease” transaction entered into by such Person, or (c) any indebtedness, liability or obligation arising with respect to any other transaction which is the functional equivalent of or takes the place of borrowing but which does not constitute a liability on the balance sheets of such Person (other than operating leases).

“Other Connection Taxes” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Taxes (other than a connection arising from such Recipient having executed, delivered, enforced, become a party to, performed its obligations under, received payments under, received

or perfected a security interest under, or engaged in any other transaction pursuant to, or enforced, any Loan Document, or sold or assigned an interest in any Loan Document).

“Other Taxes” means any present or future stamp, court, documentary, intangible, recording, filing or similar excise or property Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, or from the registration, receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment or other transfer (other than an assignment under Section 2.19(b)).

“Overadvance” has the meaning assigned such term in Section 2.05(b).

“Parent” means, with respect to any Lender, the Person as to which such Lender is, directly or indirectly, a subsidiary.

“Participant” has the meaning assigned to such term in Section 9.04(c).

“Participant Register” has the meaning assigned to such term in Section 9.04(c).

“Patriot Act” has the meaning assigned to such term in Section 9.14.

“Paying Guarantor” has the meaning assigned to such term in Section 10.11.

“Permitted Discretion” means a determination made in good faith and in the exercise of reasonable (from the perspective of a secured asset-based lender) business judgment as to any factor that the Administrative Agent reasonably determines (a) will or could reasonably be expected to adversely affect in any material respect the value of Collateral (including any Requirement of Law that may inhibit collection of an Account), the enforceability or priority of the Administrative Agent’s Liens, or the amount which the Administrative Agent would be likely to receive in the liquidation of such Collateral; (b) evidences that any collateral report or financial information delivered by any Borrower is incomplete, inaccurate or misleading in any material respect; or (c) creates or could reasonably be expected to result in a Default or Event of Default.

“Permitted Encumbrances” means:

- (a) Liens imposed by law for Taxes or other governmental charges that are not yet due or are being contested in compliance with Section 5.04;
- (b) pledges and deposits made in the ordinary course of business in compliance with workers’ compensation, unemployment insurance and other social security laws or regulations;
- (c) deposits to secure the performance of bids, trade contracts, governmental contracts, leases, statutory obligations, surety, customs and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

(d) judgment liens in respect of judgments that do not constitute a Material Adverse Effect or result in an Event of Default under Section 8.01(j);

(e) statutory or common law Liens or rights of setoff of Cash Management Banks with respect to funds of the Borrowers at such Cash Management Banks to secure fees or other charges in connection with returned items or the standard fees and charges of such Cash Management Banks in connection with the Deposit Accounts maintained by the Borrowers at such Cash Management Banks (but not any other Indebtedness or obligations);

(f) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are being contested in good faith by appropriate proceedings and a Borrower has set aside on its books adequate reserves with respect thereto in accordance with GAAP;

(g) Liens in favor of customs and revenues authorities imposed by applicable law and arising in the ordinary course of business that secure payment of customs duties and other similar charges arising as a matter of law in connection with the importation of goods so long as such obligations are not overdue or are being contested in good faith subject to the appropriate reserves on the Borrowers' books in accordance with GAAP;

(h) Liens arising out of consignment or similar conditional sale or other title retention agreements in the ordinary course of business with respect to Inventory (other than Eligible Inventory) and entered into in the ordinary course of business so long as such Lien only attaches to the Inventory which is the subject of such consignment or similar conditional sale or other title retention agreements; and

(i) Liens granted in the ordinary course of business to freight forwarders, landlords or warehousemen over Inventory in such freight forwarders', landlords' or warehousemen's possession so long as: (i) such Liens do not secure borrowed money, and (ii) such Liens secure obligations that are not overdue by more than thirty (30) days or are being contested in good faith by appropriate proceedings and a Borrower has set aside on its books adequate reserves with respect thereto in accordance with GAAP.

provided that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness, except with respect to clause (d) above.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, limited liability partnership, Governmental Authority or other entity.

"Prime Rate" means the rate of interest per annum publicly announced from time to time by HSBC as its prime rate at its offices at 425 Fifth Avenue in New York City or any successor executive office; each change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

"Projections" has the meaning assigned to such term in Section 5.01(c).

“Protective Advance” has the meaning assigned to such term in Section 2.04(a).

“Qualified ECP Guarantor” means, in respect of any Swap Obligation, each Loan Guarantor that has total assets exceeding \$10,000,000 at the time the relevant Guaranty or grant of the relevant security interest becomes or would become effective with respect to such Swap Obligation or such other person as constitutes an “eligible contract participant” under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another person to qualify as an “eligible contract participant” at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

“Receivables” has the meaning assigned to such term in the applicable Security Agreement.

“Recipient” means, as applicable, (a) the Administrative Agent, (b) any Lender and (c) the Issuing Bank.

“Register” has the meaning assigned to such term in Section 9.04.

“Related Parties” means, with respect to any specified Person, such Person’s Affiliates and the respective partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and such Person’s Affiliates.

“Report” means (a) any draft Borrowing Base Certificate or other reports prepared by the Administrative Agent pursuant to Section 5.01 from information furnished by or on behalf of the Borrowers and (b) reports prepared by the Administrative Agent or another Person showing the results of appraisals, field examinations or audits pertaining to the assets of the Borrowers from information furnished by or on behalf of the Borrowers, after the Administrative Agent has exercised its rights of inspection pursuant to this Agreement, which Reports may be distributed to the Lenders by the Administrative Agent.

“Required Lenders” means, at any time, at least two (2) Lenders who are not Affiliates (other than Defaulting Lenders) having Credit Exposure and unused Commitments representing at least 50% of the sum of the Aggregate Credit Exposure and unused Commitments. The unused Commitments and the Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

“Requirement of Law” means, as to any Person, the certificate of incorporation and bylaws or other organizational or governing documents of such Person, and any law, treaty, rule, direction or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Reserves” means reserves identified by the Administrative Agent to the Borrowers prior to the Effective Date and included in the Borrowing Base Certificate delivered pursuant to Section 4.01(h) and any and all other reserves which the Administrative Agent deems necessary, in its Permitted Discretion based on material facts or circumstances not known to the Administrative Agent as of the Effective Date or arising after the Effective Date as being appropriate to (a) reflect the impediments to the Administrative Agent’s ability to realize upon

the Collateral, (b) reflect claims and liabilities that the Administrative Agent determines in its Permitted Discretion will need to be satisfied in connection with the realization upon the Collateral, (c) reflect criteria, events, conditions, contingencies or risks which adversely affect any component of the Borrowing Base, or (d) reflect when a Default then exists. Without limiting the generality of the foregoing, Reserves may include (but are not limited to), an availability reserve, Inventory Reserves, reserves for accrued and unpaid interest on the Secured Obligations, Banking Services Reserves, reserves for Swap Obligations, reserves for dilution of Accounts and Receivables (provided, that, the Administrative Agent shall only make changes to any Reserve related to the dilution of any Accounts or Receivables after the completion of a field examination conducted in accordance with the terms hereof and any resulting adjustments upwards or downwards shall be based upon the previous 12-month average historical dilution using the same methodology as was used to initially determine at the Effective Date the dilution related to Reserves), and reserves for taxes, fees, assessments, or other governmental charges, in each case with respect to the Collateral or any Borrower. The amount of any Reserve established by the Administrative Agent shall have a reasonable relationship to the event, condition, other circumstance, or fact that is the basis for such Reserve and shall not be duplicative of any other Reserve established and currently maintained and such Reserves shall not otherwise result in a duplicative adverse impact on Availability under the Borrowing Base to the extent the condition or circumstance giving rise to such Reserve is already addressed in the eligibility criteria. The applicable Reserve shall be promptly adjusted or released at such time when the event, condition or circumstance that is the basis for such Reserve ceases to exist or is otherwise addressed, in each case, to the reasonable satisfaction of the Administrative Agent. The Administrative Agent shall notify the Borrower Representative in writing at or before the time any such Reserve in a material amount is to be established or increased, but a non-willful failure of the Administrative Agent to so notify the Borrower Representative shall not be a breach of this Agreement and shall not cause such establishment or increase of a Reserve to be ineffective. In addition, no such notice shall be required (i) after the occurrence and during the continuance of an Event of Default or at any time during a Cash Dominion Trigger Period or (ii) for changes to any Reserve resulting solely by virtue of mathematical calculations of the amount of the Reserve in accordance with the methodology of calculation previously disclosed and utilized.

“Revolving Commitment” means, with respect to each Lender, the commitment, if any, of such Lender to make Revolving Loans and to acquire participations in Letters of Credit, Protective Advances, Overadvances and Swingline Loans hereunder, expressed as an amount representing the maximum possible aggregate amount of such Lender’s Revolving Exposure hereunder, as such commitment may be reduced or increased from time to time pursuant to (a) Section 2.09; and (b) assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender’s Revolving Commitment is set forth on the Commitment Schedule, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Revolving Commitment, as applicable.

“Revolving Exposure” means, with respect to any Lender at any time, the sum of (a) the outstanding principal amount of such Lender’s Revolving Loans, LC Exposure and Swingline Exposure, *plus* (b) an amount equal to its Applicable Percentage of the aggregate principal amount of Overadvances outstanding.

“Revolving Exposure Limitations” has the meaning assigned to such term in Section 2.01.

“Revolving Lender” means, as of any date of determination, a Lender with a Revolving Commitment or, if the Revolving Commitments have terminated or expired, a Lender with Revolving Exposure.

“Revolving Loan” means a Loan made pursuant to Section 2.01.

“Sanctions Laws and Regulations” means (a) any sanctions, prohibitions or requirements imposed by any executive order (an “Executive Order”) or by any sanctions program administered by the U.S. Department of the Treasury Office of Foreign Assets Control (“OFAC”) and (b) any sanctions measures imposed by the United Nations Security Council, European Union or the United Kingdom.

“SDN” has the meaning assigned to such term in the definition of “Designated Person”.

“SEC” means the Securities and Exchange Commission of the United States.

“Secured Obligations” means all Obligations, together with (a) all Banking Services Obligations and (b) all Swap Obligations owing to one or more Lenders or their respective Affiliates; ~~provided, however,~~ that the definition of “Secured Obligations” shall not create any guarantee by any Loan Guarantor of (or grant of security interest by any Loan Guarantor to support, as applicable) any Excluded Swap Obligations of such Loan Guarantor for purposes of determining any obligations of such Loan Guarantor.

“Security Agreement” means (a) the Micron Security Agreement, (b) the MSP Security Agreement, in each case, for the benefit of the Administrative Agent and the Lenders and other holders of the Secured Obligations, and (c) any other pledge or security agreement entered into, after the date of this Agreement by any other Loan Party (if required by this Agreement or any other Loan Document) or any other Person, as the same may be amended, restated or otherwise modified from time to time.

“Semiconductor Business” means a business materially engaged in the design, manufacture and sale and licensing of proprietary advanced memory and semiconductor technology.

“Settlement” has the meaning assigned to such term in Section 2.05(d).

“Settlement Date” has the meaning assigned to such term in Section 2.05(d).

“Standby LC Exposure” means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding standby Letters of Credit *plus* (b) the aggregate amount of all LC Disbursements relating to standby Letters of Credit that have not yet been reimbursed by or on behalf of the Borrowers. The Standby LC Exposure of any Revolving Lender at any time shall be its Applicable Percentage of the aggregate Standby LC Exposure.

“Statutory Reserve Rate” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board to which the Administrative Agent is subject with respect to the Adjusted LIBO Rate, for Eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board). Such reserve percentages shall include those imposed pursuant to such Regulation D. Eurodollar Loans shall be deemed to constitute Eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“subsidiary” means, with respect to any Person (the “parent”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

“Subsidiary” means any direct or indirect subsidiary of Micron.

“Swap Agreement” means any agreement with respect to any swap, forward, spot, future, credit default or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of any Loan Party or its Subsidiaries shall be a Swap Agreement. Notwithstanding the foregoing, no agreement shall constitute a “Swap Agreement” hereunder unless the Borrower Representative has notified the Administrative Agent and the applicable Lender (or Affiliate of a Lender) in a writing signed by a Financial Officer that it has consented to such agreement constituting a “Swap Agreement” hereunder (it being understood that as to a particular agreement, once such consent is granted by the Borrower Representative it shall be irrevocable unless otherwise approved by the Lender or Affiliate counterparty to such agreement).

“Swap Obligations” of the Loan Parties and their Subsidiaries means any and all obligations of such Loan Party or Subsidiary, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor), under (a) any and all Swap Agreements, and (b) any and all cancellations, buy backs, reversals, terminations or assignments of any Swap Agreement transaction.



“Swingline Exposure” means, at any time, the aggregate principal amount of all Swingline Loans outstanding at such time. The Swingline Exposure of any Lender at any time shall be its Applicable Percentage of the aggregate Swingline Exposure at such time.

“Swingline Lender” means HSBC, in its capacity as lender of Swingline Loans hereunder.

“Swingline Loan” has the meaning assigned to such term in Section 2.05(a).

“Swingline Sublimit” means \$40,000,000.

“Taxes” means any and all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other similar charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Transactions” means the execution, delivery and performance by the Borrowers of this Agreement, the borrowing of Loans and other credit extensions, the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

“Type”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Alternate Base Rate.

“UCC” means the Uniform Commercial Code as in effect from time to time in the State of New York or any other state the laws of which are required to be applied in connection with the issue of perfection of security interests.

“United States” and “U.S.” means the United States of America.

“Unliquidated Obligations” means, at any time, any Secured Obligations (or portion thereof) that are contingent in nature or unliquidated at such time, including any Secured Obligation that is: (a) an obligation to reimburse a bank for drawings not yet made under a letter of credit issued by it; or (b) any other claim asserted in writing against the Administrative Agent, any Lender or their respective Affiliates arising under, and/or with respect to, any Loan Document.

“U.S. Person” means a “United States person” within the meaning of Section 7701(a)(30) of the Code.

“Value” means with respect to the Inventory of a Person, the value of such Inventory determined on the basis of the lower of cost or market, calculated on a first-in, first-out basis by reference to the most recent appraisal of Inventory performed by an appraiser reasonably acceptable to the Administrative Agent.

“Withholding Agent” means any Loan Party and the Administrative Agent.

SECTION 1.02. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a “Revolving Loan”) or by

Type (e.g., a “Eurodollar Loan”) or by Class and Type (e.g., a “Eurodollar Revolving Loan”). Borrowings also may be classified and referred to by Class (e.g., a “Revolving Borrowing”) or by Type (e.g., a “Eurodollar Borrowing”) or by Class and Type (e.g., a “Eurodollar Revolving Borrowing”).

SECTION 1.03. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (e) any reference in any definition to the phrase “at any time” or “for any period” shall refer to the same time or period for all calculations or determinations within such definition, and (f) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

SECTION 1.04. Accounting Terms: GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if after the date hereof, there occurs any change in GAAP or in the application thereof on the operation of any provisions hereof and the Borrower Representative notifies the Administrative Agent that the Borrowers request an amendment to any provision hereof to eliminate the effect of such change in GAAP or in the application thereof (or if the Administrative Agent notifies the Borrower Representative that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

## ARTICLE II

### The Credits

SECTION 2.01. Revolving Commitment. Subject to the terms and conditions set forth herein, each Lender severally agrees to make Revolving Loans in Dollars to the Borrowers from time to time during the Availability Period in an aggregate principal amount such that, after giving effect to any Borrowing of Revolving Loans:

(a) the Revolving Exposure of any Lender plus its Applicable Percentage of Protective Advances would not exceed such Lender's Revolving Commitment; and

(b) the Aggregate Revolving Exposure shall not exceed the lesser of (x) the sum of the Aggregate Revolving Commitments minus the Availability Block and (y) the Borrowing Base;

subject, in the case of clause (b) above, to the Administrative Agent's, authority, as applicable, in its sole discretion, to make Protective Advances and Overadvances pursuant to the terms of Sections 2.04 and 2.05 (the limitations in the foregoing clauses (a) and (b), collectively referred to herein as, the "Revolving Exposure Limitations"). Within the Revolving Exposure Limitations and subject to the terms and conditions set forth herein, the Borrowers may borrow, prepay and reborrow Revolving Loans.

SECTION 2.02. Loans and Borrowings. (a) Each Loan (other than a Swingline Loan) shall be made as part of a Borrowing consisting of Loans of the same Class and Type made by the Lenders ratably in accordance with their respective Commitments. Each Protective Advance, Overadvance and Swingline Loan shall be made in accordance with the procedures set forth in Sections 2.04 and 2.05, respectively.

(b) Subject to Section 2.14, each Revolving Borrowing shall be comprised entirely of ABR Loans or Eurodollar Loans, as applicable, and as the Borrower Representative may request in accordance herewith, provided that all Borrowings made on the Effective Date must be made as ABR Borrowings but may be converted into Eurodollar Borrowings in accordance with Section 2.08. Each Swingline Loan shall be an ABR Loan. Each Lender at its option may make any Eurodollar Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the Borrowers to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurodollar Revolving Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000. ABR Revolving Borrowings may be in any amount. Borrowings of more than one Type and Class may be outstanding at the same time; provided that there shall not at any time be more than a total of fifteen (15) Eurodollar Borrowings outstanding.

(d) Notwithstanding any other provision of this Agreement, the Borrower Representative shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

SECTION 2.03. Requests for Revolving Borrowings. To request a Revolving Borrowing, the Borrower Representative shall notify the Administrative Agent of such request in writing (delivered by hand, facsimile or .pdf transmission) in a form reasonably acceptable to the Administrative Agent and signed by the Borrower Representative not later than (a) in the case of a Eurodollar Borrowing, 11:00 a.m., Local Time, three Business Days before the date of the proposed Borrowing or (b) in the case of an ABR Borrowing, 1:00 p.m., Local Time, on the date of the proposed Borrowing; provided that any such notice of an ABR Revolving Borrowing to

finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e) may be given not later than 10:00 a.m., Local Time, on the date of the proposed Borrowing. Each such Borrowing Request shall be irrevocable. Each such written Borrowing Request shall specify the following information in compliance with Section 2.01:

- (i) the name of the applicable Borrower(s);
- (ii) the aggregate amount of the requested Borrowing and a breakdown of the separate wires comprising such Borrowing;
- (iii) the date of such Borrowing, which shall be a Business Day;
- (iv) whether such Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing; and
- (v) in the case of a Eurodollar Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period."

If no election as to the Type of Revolving Borrowing is specified, then the requested Revolving Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurodollar Revolving Borrowing, then the applicable Borrower(s) shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04. Protective Advances. (a) Subject to the limitations set forth below, the Administrative Agent is authorized by the Borrowers and the Lenders, from time to time in the Administrative Agent's sole discretion (but shall have absolutely no obligation to), to make Loans to the Borrowers, on behalf of all Lenders, which the Borrower Representative consents to or which the Administrative Agent, in its Permitted Discretion, deems necessary or desirable (i) to preserve or protect the Collateral or any portion thereof at any time a Default exists (or would exist absent the making of such Loan), (ii) to prevent the occurrence of a Default, or (iii) to pay any other amount chargeable to or required to be paid by the Borrowers pursuant to the terms of this Agreement, including payments of reimbursable expenses (including costs, fees, and expenses as described in Section 9.03) and other sums payable under the Loan Documents, in each case, at any time a Default exists (or would exist absent the making of such Loan) (any of such Loans are herein referred to as "Protective Advances"); provided that, (x) the aggregate amount of Protective Advances outstanding at any time shall not at any time exceed an amount equal to 5% of the Aggregate Revolving Commitments and (y) the aggregate amount of outstanding Protective Advances plus the Aggregate Revolving Exposure shall not exceed the Aggregate Revolving Commitments. Protective Advances may be made even if the conditions precedent set forth in Section 4.02 have not been satisfied. The Protective Advances shall be secured by the Liens in favor of the Administrative Agent in and to the Collateral and shall constitute Obligations hereunder. All Protective Advances shall be ABR Borrowings. The Administrative Agent's authorization to make Protective Advances may be revoked at any time

upon written notice from the Required Lenders to the Administrative Agent and the Borrowers, and any such written notice of revocation by the Required Lenders shall become effective prospectively upon the Administrative Agent's receipt thereof. At any time that there is sufficient Availability and the conditions precedent set forth in Section 4.02 have been satisfied, the Administrative Agent may request the Lenders to make a Revolving Loan to repay a Protective Advance. At any other time the Administrative Agent may require the Lenders to fund their risk participations described in Section 2.04(b).

(b) Upon the making of a Protective Advance by the Administrative Agent (whether before or after the occurrence of a Default), in accordance with the terms hereof, each Lender shall be deemed, without further action by any party hereto, to have unconditionally and irrevocably purchased from the Administrative Agent, without recourse or warranty, an undivided interest and participation in such Protective Advance in proportion to its Applicable Percentage. From and after the date, if any, on which any Lender is required to fund its participation in any Protective Advance purchased hereunder, the Administrative Agent shall promptly distribute to such Lender, such Lender's Applicable Percentage of all payments of principal and interest and all proceeds of Collateral received by the Administrative Agent in respect of such Protective Advance.

SECTION 2.05. Swingline Loans and Overadvances.

(a) The Administrative Agent, the Swingline Lender and the Revolving Lenders agree that in order to facilitate the administration of this Agreement and the other Loan Documents, promptly after the Borrower Representative requests an ABR Borrowing, the Swingline Lender may elect to have the terms of this Section 2.05(a) apply to such Borrowing Request by advancing, on behalf of the Revolving Lenders and in the amount requested, same day funds to the Borrowers, on the applicable Borrowing date to the Funding Account of the Borrowers (each such Loan made solely by the Swingline Lender pursuant to this Section 2.05(a) is referred to in this Agreement as a "Swingline Loan"), with settlement among them as to the Swingline Loans to take place on a periodic basis as set forth in Section 2.05(d). Each Swingline Loan shall be subject to all the terms and conditions applicable to other ABR Loans funded by the Revolving Lenders, except that all payments thereon shall be payable to the Swingline Lender solely for its own account. In addition, no Swingline Loan shall be made if, after giving effect thereto, (x) the Borrowers would not be in compliance with the Revolving Exposure Limitations, or (y) the aggregate principal amount of the outstanding Swingline Loans would exceed the Swingline Sublimit.

(b) Any provision of this Agreement to the contrary notwithstanding, at the request of the Borrower Representative, the Administrative Agent may in its sole discretion (but with absolutely no obligation), or at the direction of the Required Lenders, make Revolving Loans to the Borrowers, on behalf of the Lenders, in amounts that exceed Availability (any such excess Revolving Loans to the Borrowers are herein referred to collectively as "Overadvances"); provided that, no Overadvance shall result in a Default due to any Borrower's failure to comply with Section 2.01 for so long as such Overadvance remains outstanding in accordance with the terms of this paragraph, but solely with respect to the amount of such Overadvance. In addition, Overadvances may be made even if the conditions precedent set forth in Section 4.02(c) have not been satisfied. All Overadvances shall constitute ABR Borrowings. The authority of the

Administrative Agent to make Overadvances is limited to an aggregate amount not to exceed an amount equal to 5% of the Aggregate Revolving Commitments at any time. No Overadvance (x) may remain outstanding for more than thirty days, (y) shall cause any Lender's Revolving Exposure plus its participation in Protective Advances to exceed its Revolving Commitment, and (z) shall cause the Aggregate Revolving Exposure plus outstanding Protective Advances to exceed the Aggregate Revolving Commitments; provided that, the Required Lenders may at any time revoke the Administrative Agent's authorization to make Overadvances upon written notice from the Required Lenders to the Administrative Agent and the Borrowers and any such written notice of revocation by the Required Lenders shall become effective prospectively upon the Administrative Agent's receipt thereof.

(c) Upon the making of a Swingline Loan or an Overadvance (whether before or after the occurrence of a Default and regardless of whether a Settlement has been requested with respect to such Swingline Loan or Overadvance), each Revolving Lender shall be deemed, without further action by any party hereto, to have unconditionally and irrevocably purchased from the Swingline Lender or the Administrative Agent, as the case may be, without recourse or warranty, an undivided interest and participation in such Swingline Loan or Overadvance in proportion to its Applicable Percentage of the Revolving Commitment. The Swingline Lender or the Administrative Agent may, at any time, require the Lenders to fund their participations. From and after the date, if any, on which any Revolving Lender is required to fund its participation in any Swingline Loan or Overadvance purchased hereunder, the Administrative Agent shall promptly distribute to such Lender, such Lender's Applicable Percentage of all payments of principal and interest and all proceeds of Collateral (in accordance with the terms set forth herein) received by the Administrative Agent in respect of such Loan.

(d) The Administrative Agent, on behalf of the Swingline Lender, shall request settlement (a "Settlement") with the Revolving Lenders on at least a weekly basis or on any other date that the Administrative Agent elects, by notifying the Revolving Lenders of such requested Settlement by facsimile or e-mail no later than 1:00 p.m., Local Time, on the date of such requested Settlement (the "Settlement Date"). Each Lender (other than the Swingline Lender, in the case of the Swingline Loans) shall transfer the amount of such Revolving Lender's Applicable Percentage of the outstanding principal amount of the applicable Loan with respect to which Settlement is requested to the Administrative Agent, to such account of the Administrative Agent as the Administrative Agent may designate, not later than 3:00 p.m., Local Time, on such Settlement Date. Settlements may occur during the existence of a Default and whether or not the applicable conditions precedent set forth in Section 4.02 have then been satisfied. Such amounts transferred to the Administrative Agent shall be applied against the amounts of the Swingline Lender's Swingline Loans and, together with the Swingline Lender's Applicable Percentage of such Swingline Loan, shall constitute Revolving Loans of such Revolving Lenders, respectively. If any such amount is not transferred to the Administrative Agent by any Revolving Lender on such Settlement Date, the Swingline Lender shall be entitled to recover from such Lender on demand such amount, together with interest thereon, as specified in Section 2.07.

SECTION 2.06. Letters of Credit. (a) General. Subject to the terms and conditions set forth herein, the Borrower Representative may request the issuance of Letters of Credit for its own account or for the account of another Borrower, in a form reasonably acceptable to the Administrative Agent and the Issuing Bank, at any time and from time to time during the

Availability Period. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrowers to, or entered into by the Borrowers with, the Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control.

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower Representative shall deliver by hand or facsimile (or transmit by electronic communication, if arrangements for doing so have been approved by the Issuing Bank) to the Issuing Bank and the Administrative Agent (prior to 10:00 a.m. Local Time, three Business Days prior to the requested date of issuance, amendment, renewal or extension) a notice requesting the issuance of a Letter of Credit together with the Letter of Credit to be issued (where applicable) which shall be in agreed form or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. If requested by the Issuing Bank, the applicable Borrower also shall submit a letter of credit application on the Issuing Bank's standard form in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon issuance, amendment, renewal or extension of each Letter of Credit the Borrowers shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension (i) the LC Exposure shall not exceed \$100,000,000, and (ii) the Borrowers shall be in compliance with the Revolving Exposure Limitations.

(c) Expiration Date. Each Letter of Credit shall expire at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) and (ii) the date that is five Business Days prior to the Maturity Date.

(d) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the Issuing Bank or the Revolving Lenders, the Issuing Bank hereby grants to each Revolving Lender, and each Revolving Lender hereby acquires from the Issuing Bank, a participation in such Letter of Credit equal to such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Revolving Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the Issuing Bank, such Lender's Applicable Percentage of each LC Disbursement made by the Issuing Bank and not reimbursed by the Borrowers on the date due as provided in paragraph (e) of this Section, or of any reimbursement payment required to be refunded to the Borrowers for any reason. Each Revolving Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(e) Reimbursement. If the Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the Borrowers shall reimburse such LC Disbursement by paying to the Administrative Agent an amount equal to such LC Disbursement (i) not later than 12:00 p.m., Local Time, on the date that such LC Disbursement is made, if the Borrower Representative shall have received notice of such LC Disbursement prior to 10:00 a.m., Local Time, on such date, or, (ii) if such notice has not been received by the Borrower Representative prior to such time on such date, then not later than 12:00 p.m., Local Time, on (A) the Business Day that the Borrower Representative receives such notice, if such notice is received prior to 10:00 a.m., Local Time, on the day of receipt, or (B) the Business Day immediately following the day that the Borrower Representative receives such notice, if such notice is not received prior to such time on the day of receipt; provided that, the Borrowers may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 or 2.05 that such payment be financed with an ABR Revolving Borrowing or Swingline Loan in an equivalent amount and, to the extent so financed, the Borrowers' obligation to make such payment shall be discharged and replaced by the resulting ABR Revolving Borrowing or Swingline Loan. If the Borrowers fail to make such payment when due, the Administrative Agent shall notify each Revolving Lender of the applicable LC Disbursement, the payment then due from the Borrowers in respect thereof and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Revolving Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the Borrowers, in the same manner as provided in Section 2.07 with respect to Loans made by such Lender (and Section 2.07 shall apply, mutatis mutandis, to the payment obligations of the Revolving Lenders), and the Administrative Agent shall promptly pay to the Issuing Bank the amounts so received by it from the Revolving Lenders. Promptly following receipt by the Administrative Agent of any payment from the Borrowers pursuant to this paragraph, the Administrative Agent shall distribute such payment to the Issuing Bank or, to the extent that Revolving Lenders have made payments pursuant to this paragraph to reimburse the Issuing Bank, then to such Lenders and the Issuing Bank as their interests may appear. Any payment made by a Revolving Lender pursuant to this paragraph to reimburse the Issuing Bank for any LC Disbursement (other than the funding of ABR Revolving Loans or a Swingline Loan as contemplated above) shall not constitute a Loan and shall not relieve the Borrowers (or any Loan Guarantor) of their respective obligations to reimburse such LC Disbursement.

(f) Obligations Absolute. The Borrowers' joint and several obligation to reimburse LC Disbursements as provided in paragraph (e) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein or herein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by the Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit, or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrowers' obligations hereunder. Neither the Administrative Agent, the Revolving Lenders nor the Issuing Bank, nor any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the



circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of the Issuing Bank; provided that the foregoing shall not be construed to excuse the Issuing Bank from liability to the Borrowers to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by the Borrowers to the extent permitted by applicable law) suffered by any Borrower that are caused by the Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of the Issuing Bank (as finally determined by a court of competent jurisdiction), the Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, the Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(g) Disbursement Procedures. The Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. The Issuing Bank shall promptly notify the Administrative Agent and the applicable Borrower by telephone (confirmed by facsimile or .pdf transmission) of such demand for payment and whether the Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Borrowers of their obligation to reimburse the Issuing Bank and the Revolving Lenders with respect to any such LC Disbursement.

(h) Interim Interest. If the Issuing Bank shall make any LC Disbursement, then, unless the Borrowers shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the Borrowers reimburse such LC Disbursement, at the rate per annum then applicable to ABR Revolving Loans; provided that, if the Borrowers fail to reimburse such LC Disbursement when due pursuant to paragraph (e) of this Section, then Section 2.13(d) shall apply. Interest accrued pursuant to this paragraph shall be for the account of the Issuing Bank, except that interest accrued on and after the date of payment by any Revolving Lender pursuant to paragraph (e) of this Section to reimburse the Issuing Bank shall be for the account of such Lender to the extent of such payment.

(i) Replacement of the Issuing Bank. The Issuing Bank may be replaced at any time by written agreement among the Borrower Representative, the Administrative Agent, the replaced Issuing Bank and the successor Issuing Bank. The Administrative Agent shall notify the Revolving Lenders of any such replacement of the Issuing Bank. At the time any such replacement shall become effective, the Borrowers shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant to Section 2.12(b). From and after the effective

date of any such replacement, (i) the successor Issuing Bank shall have all the rights and obligations of the Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

(j) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrower Representative receives notice from the Administrative Agent or the Required Lenders (or, if the maturity of the Loans has been accelerated, Revolving Lenders with LC Exposure representing greater than 50% of the aggregate LC Exposure) demanding the deposit of cash collateral pursuant to this paragraph or if any of the other provisions hereof require cash collateralization (or, on the Business Day on or immediately following the maturity of the Loans if the Loans have been accelerated, without any further notice) the Borrowers shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Revolving Lenders (the "LC Collateral Account"), an amount in cash equal to 103% of the LC Exposure as of such date plus accrued and unpaid interest thereon; provided that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to any Borrower described in clause (g) or (h) of Article VII. Such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the Secured Obligations. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over the LC Collateral Account and the Borrowers hereby grant the Administrative Agent a security interest in the LC Collateral Account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrowers' risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in the LC Collateral Account. Moneys in the LC Collateral Account shall be applied by the Administrative Agent to reimburse the Issuing Bank for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrowers for the LC Exposure at such time or, if the maturity of the Loans has been accelerated, be applied to satisfy other Secured Obligations. If the Borrowers are required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrowers within three Business Days after all such Events of Default have been cured or waived as confirmed in writing by the Administrative Agent.

(k) Issuing Bank Reports to the Administrative Agent. Unless otherwise agreed by the Administrative Agent, each Issuing Bank shall, in addition to its notification obligations set forth elsewhere in this Section, report in writing to the Administrative Agent (i) periodic activity (for such period or recurrent periods as shall be requested by the Administrative Agent) in respect of Letters of Credit issued by such Issuing Bank, including all issuances, extensions, amendments and renewals, all expirations and cancellations and all disbursements and reimbursements, (ii) reasonably prior to the time that such Issuing Bank issues, amends, renews

or extends any Letter of Credit, the date of such issuance, amendment, renewal or extension, and the stated amount of the Letters of Credit issued, amended, renewed or extended by it and outstanding after giving effect to such issuance, amendment, renewal or extension (and whether the amounts thereof shall have changed), (iii) on each Business Day on which such Issuing Bank makes any LC Disbursement, the date and amount of such LC Disbursement, (iv) on any Business Day on which any Borrower fails to reimburse an LC Disbursement required to be reimbursed to such Issuing Bank on such day, the date of such failure and the amount of such LC Disbursement, and (v) on any other Business Day, such other information as the Administrative Agent shall reasonably request as to the Letters of Credit issued by such Issuing Bank.

SECTION 2.07. Funding of Borrowings. (a) Each Lender shall make each Loan to be made by such Lender hereunder in an amount equal to such Lender's Applicable Percentage on the proposed date thereof by wire transfer of immediately available funds by 2:00 p.m., Local Time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders; provided, however, Swingline Loans shall be made as provided in Section 2.05. The Administrative Agent will make such Loans available to the Borrower Representative by promptly crediting the amounts so received, in like funds, to the Funding Account; provided that ABR Revolving Loans made to finance the reimbursement of (i) an LC Disbursement as provided in Section 2.06(e) shall be remitted by the Administrative Agent to the Issuing Bank and (ii) a Protective Advance or an Overadvance shall be retained by the Administrative Agent and disbursed in its discretion.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the applicable Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrowers severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the applicable Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of (x) the Federal Funds Effective Rate and (y) a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrowers, the interest rate applicable to ABR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

SECTION 2.08. Interest Elections. (a) Each Revolving Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurodollar Revolving Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Borrower Representative may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurodollar Revolving Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower Representative may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders

holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing. This Section shall not apply to Swingline Borrowings, Overadvances or Protective Advances, which may not be converted or continued.

(b) To make an election pursuant to this Section, the Borrower Representative shall notify the Administrative Agent of such request in writing (delivered by hand, facsimile or .pdf transmission) in a form reasonably approved to the Administrative Agent in its reasonable discretion and signed by the Borrower Representative by the time that a Borrowing Request would be required under Section 2.03 if the Borrowers were requesting a Revolving Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such Interest Election Request shall be irrevocable.

(c) Each written Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the name of the applicable Borrower and the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing; and

(iv) if the resulting Borrowing is a Eurodollar Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Eurodollar Borrowing but does not specify an Interest Period, then the Borrowers shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Borrower Representative fails to deliver a timely Interest Election Request with respect to a Eurodollar Revolving Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to an ABR Borrowing. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower Representative, then, so long as an Event of Default is continuing (i) no outstanding Revolving Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) unless repaid,

each Eurodollar Revolving Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

SECTION 2.09. Termination and Reduction of Commitments; Increase in Revolving Commitments. (a) Unless previously terminated, the Commitments shall terminate on the Maturity Date.

(b) The Borrowers may at any time terminate the Commitments in full upon (i) the payment in full of all outstanding Loans, together with accrued and unpaid interest thereon and on any Letters of Credit, (ii) the cancellation and return of all outstanding Letters of Credit (or alternatively, with respect to each such Letter of Credit, the furnishing to the Administrative Agent of a cash deposit (or a back up standby letter of credit from an issuer and in form reasonably satisfactory to the Administrative Agent) equal to 103% of the LC Exposure as of such date), (iii) the payment in full in cash of the accrued and unpaid fees, and (iv) the payment in full in cash of all reimbursable expenses and other Obligations, together with accrued and unpaid interest thereon.

(c) The Borrowers may from time to time reduce the Revolving Commitments; provided that (i) each reduction of the Revolving Commitments shall be in an amount that is an integral multiple of \$5,000,000 and (ii) the Borrowers shall not reduce the Revolving Commitments if, after giving effect to any concurrent prepayment of the Revolving Loans in accordance with Section 2.10, the Borrowers would not be in compliance with the Revolving Exposure Limitations.

(d) The Borrower Representative shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraphs (b) or (c) of this Section at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower Representative pursuant to this Section shall be irrevocable; provided that a notice of termination or reduction of the Commitments delivered by the Borrower Representative may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrower Representative (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments shall be made ratably among the Lenders in accordance with their respective Commitments.

(e) The Borrowers shall have the right to request an increase in the Commitments by an aggregate amount of up to \$200,000,000 by obtaining additional Commitments, either from one or more of the Lenders or another lending institution, provided that (i) any such request for an increase shall be in a minimum amount of \$25,000,000, (ii) the Borrower Representative, on behalf of the Borrowers, may make a maximum of four (4) such requests, (iii) the Administrative Agent has approved the identity of any such new Lender, such approval not to be unreasonably withheld, (iv) any such new Lender assumes all of the rights and obligations of a "Lender" hereunder, and (v) the procedure described in Section 2.09(f) shall have been satisfied.

(f) The Administrative Agent shall promptly notify Lenders of the requested increase and, within 10 Business Days thereafter, each Lender shall notify the Administrative Agent if and to what extent such Lender commits to increase its Commitment hereunder. Any Lender not responding within such period shall be deemed to have declined an increase. If Lenders fail to commit to the full requested increase, the Borrower Representative may, subject to Section 2.09(e)(iii), invite other lending institutions to issue additional Commitments and become Lenders hereunder. Any amendment hereto providing for such an increase of the Commitment of a Lender or addition of a Lender shall be in form and substance reasonably satisfactory to the Administrative Agent and shall only require the written signatures of the Administrative Agent, the Borrowers and each Lender being added or increasing its Commitment, subject only to the approval of all Lenders if any such increase would cause the Revolving Commitments to exceed \$800,000,000. As a condition precedent to such an increase, the Loan Parties shall deliver to the Administrative Agent a certificate of each Loan Party (in sufficient copies for each Lender) signed by an authorized officer of such Loan Party (i) certifying and attaching the resolutions adopted by such Loan Party approving or consenting to such increase, (ii) certifying that any security and guarantee confirmations as may be requested by the Administrative Agent have been delivered and (iii) in the case of the Borrowers, certifying that, before and after giving effect to such increase, (A) the representations and warranties contained in Article III and the other Loan Documents are true and correct, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, and (B) no Default shall have occurred and be continuing.

(g) Within a reasonable time after the effective date of any increase, the Administrative Agent shall, and is hereby authorized and directed to, revise the Commitment Schedule to reflect such increase and shall distribute such revised Commitment Schedule to each of the Lenders and the Borrowers, whereupon such revised Commitment Schedule shall replace the old Commitment Schedule and become part of this Agreement. On the Business Day following any such increase, all outstanding ABR Loans shall be reallocated among the Lenders (including any newly added Lenders) in accordance with the Lenders' respective revised Applicable Percentages and the Lenders shall make adjustments among themselves with respect to the Loans then outstanding and amounts of principal, interest, commitment fees and other amounts paid or payable with respect thereto as shall be necessary, in the opinion of the Administrative Agent, in order to effect such reallocation. Eurodollar Loans shall not be reallocated among the Lenders until the expiration of the applicable Interest Period in effect at the time of any such increase, at which time any such Eurodollar Loans being continued shall be reallocated, and any such Eurodollar Loans being converted to ABR Loans shall be converted and allocated, among the Lenders (including the newly added Lenders) at such time.

SECTION 2.10. Repayment of Loans; Evidence of Debt. (a) The Borrowers hereby unconditionally promise to pay (i) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan on the Maturity Date, (ii) to the Administrative Agent the then unpaid amount of each Protective Advance on the earlier of the Maturity Date and demand by the Administrative Agent, and (iii) to the Administrative Agent the then unpaid principal amount of each Overadvance on the earliest of the Maturity Date, the 30th day after such Overadvance is made and demand by the Administrative Agent.

(b) On each Business Day, during a Cash Dominion Trigger Period, the Administrative Agent shall apply all funds credited to the Collection Account in the order set forth in Section 2.18(b).

(c) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrowers to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(d) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Class and Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrowers to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(e) The entries made in the accounts maintained pursuant to paragraph (c) or (d) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrowers to repay the Loans in accordance with the terms of this Agreement.

(f) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrowers shall prepare, execute and deliver to such Lender a promissory note payable to the order of such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form reasonably acceptable to the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

SECTION 2.11. Prepayment of Loans. (a) The Borrowers shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to prior notice in accordance with paragraph (c) of this Section.

(b) Except for Protective Advances permitted under Section 2.04 and Overadvances permitted under Section 2.05, in the event and on such occasion that the Borrowers are not in compliance with the Revolving Exposure Limitations, the Borrowers shall promptly prepay (or, in the case of LC Exposure, cash collateralize), Revolving Loans, LC Exposure and/or Swingline Loans in an aggregate amount necessary such that, on a pro forma basis following such prepayments or cash collateralization, the Borrowers shall be in compliance with the Revolving Exposure Limitations (it being understood that, in order to comply with this clause (b), the Borrowers shall prepay all such Revolving Loans and Swingline Loans prior to any cash collateralization of LC Exposure hereunder).

(c) The Borrower Representative shall notify the Administrative Agent (and, in the case of prepayment of a Swingline Loan, the Swingline Lender) in writing (delivered by hand,

facsimile or .pdf transmission) in a form reasonably acceptable to the Administrative Agent of any prepayment hereunder not later than (i) 11:00 a.m., Local Time (A) in the case of prepayment of a Eurodollar Revolving Borrowing, three Business Days before the date of prepayment, or (B) in the case of prepayment of an ABR Revolving Borrowing, on the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that, if a notice of prepayment is given in connection with a conditional notice of termination or reduction of the Commitments as contemplated by Section 2.09, then such notice of prepayment may be revoked if such notice of termination or reduction is revoked in accordance with Section 2.09. Promptly following receipt of any such notice relating to a Revolving Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Revolving Borrowing shall be in an amount that would be permitted in the case of an advance of a Revolving Borrowing of the same Type as provided in Section 2.02. Each prepayment of a Revolving Borrowing shall be applied ratably to the Revolving Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued but unpaid interest to the extent required by Section 2.13.

SECTION 2.12. Fees. (a) The Borrowers agree to pay to the Administrative Agent for the account of each Lender a commitment fee, which shall accrue at the Applicable Commitment Fee Rate on the average daily amount of the Available Revolving Commitment of such Lender during the period from and including the Effective Date to but excluding the date on which the Lenders' Revolving Commitments terminate in accordance with the terms set forth herein. Commencing on the first such date to occur after the Effective Date, accrued commitment fees shall be payable in arrears for each calendar month on the sixth Business Day of the next succeeding calendar month and all unpaid accrued commitment fees shall be payable on the date on which the Revolving Commitments terminate. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed.

(b) The Borrowers agree to pay (i) to the Administrative Agent for the account of each Revolving Lender a participation fee with respect to its participations in Letters of Credit, which shall accrue at the same Applicable Rate used to determine the interest rate applicable to Eurodollar Revolving Loans on the average daily amount of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date on which such Lender's Revolving Commitment terminates and the date on which such Lender ceases to have any LC Exposure, and (ii) to the Issuing Bank a fronting fee, which shall accrue at the rate of 0.25% per annum or at such other rate per annum as may be separately agreed to by the Borrowers with such Issuing Bank on the average daily amount of the LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date of termination of the Revolving Commitments and the date on which there ceases to be any LC Exposure, as well as the Issuing Bank's standard fees with respect to the issuance, amendment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Participation fees and fronting fees accrued through and including the last day of each calendar month shall be payable on the first Business Day of each calendar month following such last day, commencing on the first such date to occur after the Effective Date; provided that all such fees shall be payable on the date on which the Revolving Commitments terminate and any such fees accruing after the date on which the



Revolving Commitments terminate shall be payable on demand. Any other fees payable to the Issuing Bank pursuant to this paragraph shall be payable within 10 days after demand. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed.

(c) The Borrowers agree to pay to the Administrative Agent (or its Affiliates), for its (or their) own account, fees payable in the amounts and at the times separately agreed upon between the Borrowers and the Administrative Agent or such Affiliates.

(d) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Administrative Agent (or to the Issuing Bank, in the case of fees payable to it) for distribution, in the case of commitment fees and participation fees, to the applicable Lenders, ratably. Fees paid shall not be refundable under any circumstances.

SECTION 2.13. Interest. (a) The Loans comprising each ABR Borrowing (including each Swingline Loan) shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b) The Loans comprising each Eurodollar Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c) Each Protective Advance and each Overadvance shall bear interest at the Alternate Base Rate plus the Applicable Rate for Revolving Loans plus 2%.

(d) Notwithstanding the foregoing, during the occurrence and continuance of an Event of Default, the Administrative Agent or the Required Lenders may, at their option, by notice to the Borrower Representative (which notice may be revoked at the option of the Required Lenders notwithstanding any provision of Section 9.02 requiring the consent of “each Lender affected thereby” for reductions in interest rates), declare that (i) all Loans shall bear interest at 2% plus the rate otherwise applicable to such Loans as provided in the preceding paragraphs of this Section (other than paragraph (c)) or (ii) in the case of any other amount outstanding hereunder, such amount shall accrue at 2% plus the rate applicable to such fee or other obligation as provided hereunder.

(e) Accrued interest on each Loan (for ABR Loans, accrued through the last day of the prior calendar month) shall be payable in arrears on each Interest Payment Date for such Loan and upon termination of the Commitments; provided that (i) interest accrued pursuant to paragraph (d) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Revolving Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurodollar Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(f) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate shall be computed on the basis of a year of 365 days or, in a leap year, a year of 366 days, and in each case shall be payable for the actual number of days elapsed. The applicable Alternate Base Rate, Adjusted LIBO Rate or

LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

SECTION 2.14. Alternate Rate of Interest. If prior to the commencement of any Interest Period for a Eurodollar Borrowing:

(a) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period; or

(b) the Administrative Agent is advised by a Lender or Lenders that the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrower Representative and the Lenders by telephone, facsimile or .pdf transmission as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower Representative and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any Interest Election Request that requests the conversion of any Revolving Borrowing to, or continuation of any Revolving Borrowing as, a Eurodollar Borrowing shall be ineffective, and (ii) if any Borrowing Request requests a Eurodollar Revolving Borrowing, such Borrowing shall be made as an ABR Borrowing.

SECTION 2.15. Increased Costs. (a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement (including any compulsory loan requirement, insurance charge or other assessment) against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate) or the Issuing Bank;

(ii) impose on any Lender or the Issuing Bank or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Eurodollar Loans made by such Lender or any Letter of Credit or participation therein; or

(iii) subject any Recipient to any Taxes on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto (other than (A) Indemnified Taxes, (B) Excluded Taxes and (C) Other Connection Taxes imposed on or measured by gross or net income, profits or receipts);

and the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of making, continuing, converting to or maintaining any Eurodollar Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender, the Issuing Bank or such other Recipient of participating in, issuing or maintaining any Letter of Credit, Swingline Loan, Protective Advance or Overadvance or to reduce the amount of any sum received or receivable by such Lender, the Issuing Bank or such other Recipient hereunder

(whether of principal, interest or otherwise), then the Borrowers will pay to such Lender, the Issuing Bank or such other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, the Issuing Bank or such other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender or the Issuing Bank determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or the Issuing Bank's capital or on the capital of such Lender's or the Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans made by, or participations in Letters of Credit, Swingline Loans, Protective Advances or Overadvances held by, such Lender, or the Letters of Credit issued by the Issuing Bank, to a level below that which such Lender or the Issuing Bank or such Lender's or the Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or the Issuing Bank's policies and the policies of such Lender's or the Issuing Bank's holding company with respect to capital adequacy and liquidity), then from time to time the Borrowers will pay to such Lender or the Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or the Issuing Bank or such Lender's or the Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or the Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or the Issuing Bank or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to the Borrower Representative and shall be conclusive absent manifest error. The Borrowers shall pay such Lender or the Issuing Bank, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Failure or delay on the part of any Lender or the Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or the Issuing Bank's right to demand such compensation; provided that the Borrowers shall not be required to compensate a Lender or the Issuing Bank pursuant to this Section for any increased costs or reductions incurred more than 270 days prior to the date that such Lender or the Issuing Bank, as the case may be, notifies the Borrower Representative of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the Issuing Bank's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 270-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.16. Break Funding Payments. In the event of (a) the payment of any principal of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Eurodollar Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.09(d) and is revoked in accordance therewith), or (d) the assignment of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower Representative pursuant to Section 2.19, then, in any such event, the Borrowers shall compensate each Lender for the loss, cost and expense attributable to such event. In the case of a Eurodollar

Loan, such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Eurodollar Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Eurodollar Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Eurodollar Loan), over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for dollar deposits of a comparable amount and period from other banks in the Eurodollar market. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower Representative and shall be conclusive absent manifest error. The Borrowers shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

SECTION 2.17. Taxes. (a) Withholding of Taxes; Gross-Up. Each payment by any Loan Party under any Loan Document shall be made without withholding for any Taxes, unless such withholding is required by any applicable law. If any Withholding Agent determines, in its sole discretion exercised in good faith, that it is so required to withhold Taxes, then such Withholding Agent shall so withhold and shall timely pay the full amount of withheld Taxes to the relevant Governmental Authority in accordance with applicable law. If such Taxes are Indemnified Taxes, then the amount payable by such Loan Party shall be increased as necessary so that, net of such withholding (including such withholding applicable to additional amounts payable under this Section), the applicable Recipient receives the amount it would have received had no such withholding been made.

(b) Payment of Other Taxes by the Borrowers. The Borrowers and any other Loan Party shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law or at the option of the Administrative Agent timely reimburse it for the payment of any Other Taxes.

(c) Evidence of Payments. As soon as practicable after any payment of Indemnified Taxes by any Loan Party to a Governmental Authority, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(d) Indemnification by the Borrowers. The Loan Parties shall jointly and severally indemnify each Recipient for any Indemnified Taxes that are paid or payable by such Recipient in connection with any Loan Document (including amounts paid or payable under this Section 2.17(d)) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. The indemnity under this Section 2.17(d) shall be paid within 10 days after the Recipient delivers to any Loan Party a certificate stating the amount of any Indemnified Taxes so paid or payable by such Recipient and describing the basis for the indemnification claim. Such certificate shall be conclusive of the amount so paid or payable absent manifest error. Such Recipient shall deliver a copy of such certificate to the Administrative Agent.

(e) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent for any Taxes (but, in the case of any Indemnified Taxes, only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so) attributable to such Lender that are paid or payable by the Administrative Agent in connection with any Loan Document and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. The indemnity under this Section 2.17(e) shall be paid within 10 days after the Administrative Agent delivers to the applicable Lender a certificate stating the amount of Taxes so paid or payable by the Administrative Agent. Such certificate shall be conclusive of the amount so paid or payable absent manifest error.

(f) Status of Lenders. (i) Any Lender that is entitled to an exemption from, or reduction of, any applicable withholding Tax with respect to any payments under any Loan Document shall deliver to the Borrower Representative and the Administrative Agent, at the time or times reasonably requested by the Borrower Representative or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower Representative or the Administrative Agent as will permit such payments to be made without, or at a reduced rate of, withholding. In addition, any Lender, if requested by the Borrower Representative or the Administrative Agent, shall deliver such other documentation prescribed by law or reasonably requested by the Borrower Representative or the Administrative Agent as will enable the Borrower Representative or the Administrative Agent to determine whether or not such Lender is subject to any withholding (including backup withholding) or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 2.17(f)(ii)(A), through (E) and (G) below) shall not be required if in the Lender's judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender. Upon the reasonable request of the Borrower Representative or the Administrative Agent, any Lender shall update any form or certification previously delivered pursuant to this Section 2.17(f). If any form or certification previously delivered pursuant to this Section expires or becomes obsolete or inaccurate in any respect with respect to a Lender, such Lender shall promptly (and in any event within 10 days after such expiration, obsolescence or inaccuracy) notify the Borrower Representative and the Administrative Agent in writing of such expiration, obsolescence or inaccuracy and update the form or certification if it is legally eligible to do so.

(ii) Without limiting the generality of the foregoing, if any Borrower is a U.S. Person, any Lender with respect to such Borrower shall, if in the case of any non-U.S. Lender, it is legally eligible to do so, deliver to the Borrower Representative and the Administrative Agent (in such number of copies reasonably requested by the Borrower Representative and the Administrative Agent) on or prior to the date on which such Lender becomes a party hereto, and from time to time thereafter upon the reasonable request of the Borrower Representative or the Administrative Agent, duly completed and executed copies of whichever of the following is applicable:

- (A) in the case of a Lender that is a U.S. Person, IRS Form W-9 (or successor form) certifying that such Lender is exempt from U.S. Federal backup withholding tax;
- (B) in the case of a Non-U.S. Lender claiming the benefits of an income tax treaty to which the United States is a party (1) with respect to payments of interest under any Loan Document, IRS Form W-8BEN or W-BEN-E, as applicable (or successor form) establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the “interest” article of such tax treaty and (2) with respect to any other applicable payments under this Agreement, IRS Form W-8BEN or W-BEN-E, as applicable (or successor form) establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;
- (C) in the case of a Non-U.S. Lender for whom payments under this Agreement constitute income that is effectively connected with such Lender’s conduct of a trade or business in the United States, IRS Form W-8ECI (or successor form);
- (D) in the case of a Non-U.S. Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code both (1) IRS Form W-8BEN or W-BEN-E, as applicable (or successor form) and (2) a tax certificate substantially in the form of Exhibit C-1 to the effect that such Lender is not (a) a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (b) a “10 percent shareholder” of such Borrower within the meaning of Section 881(c)(3)(B) of the Code (c) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code and (d) conducting a trade or business in the United States with which the relevant interest payments are effectively connected;
- (E) in the case of a Non-U.S. Lender that is not the beneficial owner of payments made under this Agreement (including a partnership or a participating Lender) (1) an IRS Form W-8IMY (or successor form) on behalf of itself and (2) the relevant forms prescribed in clauses (A), (B), (C), (D) and (F) of this paragraph (f)(ii) that would be required of each such beneficial owner or partner of such partnership if such beneficial owner or partner were a Lender; provided, however, that if the Lender is a partnership and one or more of its partners are claiming the exemption for portfolio interest under Section 881(c) of the Code, such Lender may provide a tax certificate substantially in the form of Exhibit C-2 on behalf of such partners;
- (F) any other form prescribed by law as a basis for claiming exemption from, or a reduction of, U.S. Federal withholding Tax together with such supplementary documentation necessary to enable the Borrower Representative or the Administrative Agent to determine the amount of Tax (if any) required by law to be withheld; or
- (G) If a payment made to a Lender under any Loan Document would be subject to U.S. Federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall

deliver to the Withholding Agent, at the time or times prescribed by law and at such time or times reasonably requested by the Withholding Agent, such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Withholding Agent as may be necessary for the Withholding Agent to comply with its obligations under FATCA, to determine that such Lender has or has not complied with such Lender's obligations under FATCA and, as necessary, to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 2.17(f)(ii)(G), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(g) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.17 (including additional amounts paid pursuant to this Section 2.17), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including any Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid to such indemnified party pursuant to the previous sentence (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 2.17(g), in no event will any indemnified party be required to pay any amount to any indemnifying party pursuant to this Section 2.17(g) if such payment would place such indemnified party in a less favorable position (on a net after-Tax basis) than such indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This Section 2.17(g) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes which it deems confidential) to the indemnifying party or any other Person.

(h) Certain Terms. For purposes of this Section 2.17, the term "applicable law" includes FATCA, and for purposes of Sections 2.17(e), and (f) the term "Lender" includes any Issuing Bank.

SECTION 2.18. Payments Generally; Allocation of Proceeds; Sharing of Set-offs. (a) The Borrowers shall make each payment required to be made by them hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Sections 2.15, 2.16 or 2.17, or otherwise) prior to 3:00 p.m., Local Time, on the date when due, in immediately available funds, without set off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at its offices at 95 Washington Street, Atrium Center 02, Buffalo, NY 14203, except payments to be made directly to the Issuing Bank or Swingline Lender as expressly provided herein and except that payments pursuant to Sections 2.15, 2.16, 2.17 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other

Person to the appropriate recipient, in like funds, promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in Dollars.

(b) Any proceeds of Collateral received by the Administrative Agent (i) not constituting either (A) a specific payment of principal, interest, fees or other sum payable under the Loan Documents (which shall be applied as specified by the Borrowers), or (B) a mandatory prepayment (which shall be applied in accordance with [Section 2.11](#)) or (ii) after an Event of Default has occurred and is continuing (including during a Cash Dominion Trigger Period) and the Administrative Agent so elects or the Required Lenders so direct, such funds shall be applied ratably first, to pay any fees, indemnities, or expense reimbursements including amounts then due to the Administrative Agent and the Issuing Bank from the Borrowers (other than amounts in connection with Banking Services or Swap Obligations), second, to pay any fees or expense reimbursements then due to the Lenders from the Borrowers (other than amounts in connection with Banking Services or Swap Obligations), third, to pay interest due in respect of the Overadvances and Protective Advances, fourth, to pay the principal of the Overadvances and Protective Advances, fifth, to pay interest then due and payable on the Loans (other than the Overadvances and Protective Advances) ratably, sixth, to prepay principal on the Loans (other than the Overadvances and Protective Advances) and unreimbursed LC Disbursements ratably, seventh, to pay an amount to the Administrative Agent equal to one hundred three percent (103%) of the aggregate undrawn face amount of all outstanding Letters of Credit and the aggregate amount of any unpaid LC Disbursements, to be held as cash collateral for such Obligations, eighth, to payment of any amounts owing with respect to Banking Services and Swap Obligations up to and including the amount most recently provided to the Administrative Agent pursuant to [Section 2.22](#), and ninth, to the payment of any other Secured Obligation due to the Administrative Agent, any Lender, or any other holder of Secured Obligations by the Borrowers. Notwithstanding the foregoing amounts received from any Loan Guarantor shall not be applied to any Excluded Swap Obligation of such Loan Guarantor. Notwithstanding anything to the contrary contained in this Agreement, unless so directed by the Borrower Representative, or unless a Default is in existence, neither the Administrative Agent nor any Lender shall apply any payment which it receives from the proceeds of Collateral to any Eurodollar Loan of a Class, except (a) on the expiration date of the Interest Period applicable thereto or (b) in the event, and only to the extent, that there are no outstanding ABR Loans of the same Class and, in any such event, the Borrowers shall pay the break funding payment required in accordance with [Section 2.16](#). The Administrative Agent and the Lenders shall have the continuing and exclusive right to apply and reverse and reapply any and all such proceeds and payments to any portion of the Secured Obligations.

(c) At the election of the Administrative Agent, all payments of principal, interest, LC Disbursements, fees, premiums and at any time a Default exists (or would exist absent the making of such payment), reimbursable expenses (including, without limitation, all reimbursement for fees and expenses pursuant to [Section 9.03](#)), payable by any Borrower under the Loan Documents, may be paid from the proceeds of Borrowings made by such Borrower hereunder whether made following a request by the Borrower Representative pursuant to [Section 2.03](#) or a deemed request as provided in this Section or may be deducted from any deposit



account of any Borrower maintained with the Administrative Agent. Each Borrower hereby irrevocably authorizes (i) the Administrative Agent to make a Borrowing for the purpose of paying each payment of principal, interest, fees and at any time a Default exists (or would exist absent the making of such payment), reimbursable expenses as it becomes due hereunder or under the other Loan Documents and agrees that all such amounts charged shall constitute Loans (including Swingline Loans and Overadvances, but such a Borrowing may only constitute a Protective Advance if it is to reimburse costs, fees and expenses as described in Section 9.03) and that all such Borrowings shall be deemed to have been requested pursuant to Sections 2.03, 2.04 or 2.05, as applicable, and (ii) the Administrative Agent to charge any deposit account of any Borrower maintained with the Administrative Agent for each payment of principal, interest, fees and reimbursable expenses as it becomes due hereunder or under the other Loan Documents.

(d) If, except as otherwise expressly provided herein, any Lender shall, by exercising any right of set off or counterclaim, or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or participations in LC Disbursements resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and participations in LC Disbursements and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans and participations in LC Disbursements of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by all such Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and participations in LC Disbursements; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrowers pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements to any assignee or participant, other than to the Borrowers or any Subsidiary or Affiliate thereof (as to which the provisions of this paragraph shall apply). Each Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Borrower in the amount of such participation.

(e) Unless the Administrative Agent shall have received notice from the Borrower Representative prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Bank hereunder that the Borrowers will not make such payment, the Administrative Agent may assume that the Borrowers have made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Bank, as the case may be, the amount due. In such event, if the Borrowers have not in fact made such payment, then each of the Lenders or the Issuing Bank, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(f) If any Lender shall fail to make any payment required to be made by it hereunder, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations hereunder until all such unsatisfied obligations are fully paid and/or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender hereunder; application of amounts pursuant to (i) and (ii) above shall be made in such order as may be determined by the Administrative Agent in its discretion.

SECTION 2.19. Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.15, or if the Borrowers are required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Sections 2.15 or 2.17, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrowers hereby agree to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If any Lender requests compensation under Section 2.15, or if the Borrowers are required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, or if any Lender becomes a Defaulting Lender, then the Borrowers may, at their sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights (other than its existing rights to payment pursuant to Section 2.15 or Section 2.17) and obligations under this Agreement to an assignee specified by the Borrowers that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) the Borrowers shall have received the prior written consent of the Administrative Agent and the Issuing Bank to any proposed assignee (other than with respect to any Lender), which consent shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and funded participations in LC Disbursements, Swingline Loans, Protective Advances and Overadvances accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrowers (in the case of all other amounts), (iii) any processing and recordation fee owing pursuant to Section 9.04(b)(ii) in connection with such assignment shall be paid by the Borrowers, (iv) in the case of any such assignment resulting from a claim for compensation under Section 2.15 or payments required to be made pursuant to Section 2.17, such assignment will result in a reduction in such compensation or payments, and (v) such assignment does not conflict with applicable law. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrowers to require such assignment and delegation cease to apply.

SECTION 2.20. Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) fees payable under Section 2.12(a) shall cease to accrue on the unfunded portion of the Revolving Commitment of such Defaulting Lender;

(b) such Defaulting Lender shall not have the right to vote on any issue on which voting is required (other than to the extent expressly provided in Section 9.02(b)) and the Commitment and Revolving Exposure of such Defaulting Lender shall not be included in determining whether the Required Lenders have taken or may take any action hereunder;

(c) if any Swingline Exposure or LC Exposure exists at the time a Lender becomes a Defaulting Lender then:

(i) all or any part of the Swingline Exposure and LC Exposure of such Defaulting Lender shall be reallocated among the non-Defaulting Lenders in accordance with their respective Applicable Percentages but only to the extent the sum of all non-Defaulting Lenders' Revolving Exposures plus such Defaulting Lender's Swingline Exposure and LC Exposure does not exceed the total of all non-Defaulting Lenders' Revolving Commitments;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrowers shall within one Business Day following notice by the Administrative Agent (x) first, prepay such Swingline Exposure and (y) second, cash collateralize, for the benefit of the Issuing Bank, the Borrowers' obligations corresponding to such Defaulting Lender's LC Exposure (after giving effect to any partial reallocation pursuant to clause (i) above) in accordance with the procedures set forth in Section 2.06(j) for so long as such LC Exposure is outstanding;

(iii) if the Borrowers cash collateralize any portion of such Defaulting Lender's LC Exposure pursuant to clause (ii) above, the Borrowers shall not be required to pay any fees to such Defaulting Lender pursuant to Section 2.12(b) with respect to such Defaulting Lender's LC Exposure during the period such Defaulting Lender's LC Exposure is cash collateralized;

(iv) if the LC Exposure of the non-Defaulting Lenders is reallocated pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Sections 2.12(a) and 2.12(b) shall be adjusted in accordance with such non-Defaulting Lenders' Applicable Percentages; and

(v) if all or any portion of such Defaulting Lender's LC Exposure is neither reallocated nor cash collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of the Issuing Bank or any Lender hereunder, all letter of credit fees payable under Section 2.12(b) with respect to such Defaulting Lender's LC Exposure shall be payable to the Issuing Bank until such LC Exposure is reallocated and/or cash collateralized; and

(d) so long as such Lender is a Defaulting Lender, the Issuing Bank shall not be required to issue, amend or increase any Letter of Credit, unless it is satisfied that the related exposure will be 100% covered by the Commitments of the non-Defaulting Lenders and/or cash collateral will be provided by the Borrowers in accordance with Section 2.20(c), and participating interests in any such newly issued or increased Letter of Credit shall be allocated among non-Defaulting Lenders in a manner consistent with Section 2.20(c)(i) (and such Defaulting Lender shall not participate therein).

If (i) a Bankruptcy Event with respect to the Parent of any Lender shall occur following the date hereof and for so long as such event shall continue or (ii) the Issuing Bank has a good faith belief that any Lender has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, the Issuing Bank shall not be required to issue, amend or increase any Letter of Credit, unless the Issuing Bank shall have entered into arrangements with the Borrowers or such Lender, satisfactory to the Issuing Bank to defease any risk in respect of such Lender hereunder.

In the event that each of the Administrative Agent, the Borrowers, the Issuing Bank and the Swingline Lender agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the Swingline Exposure and LC Exposure of the Lenders shall be readjusted to reflect the inclusion of such Lender's Revolving Commitment and on the date of such readjustment such Lender shall purchase at par such of the Loans of the other Lenders (other than Swingline Loans) as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Applicable Percentage.

SECTION 2.21. Returned Payments. If after receipt of any payment which is applied to the payment of all or any part of the Obligations, the Administrative Agent or any Lender is for any reason compelled to surrender such payment or proceeds to any Person because such payment or application of proceeds is invalidated, declared fraudulent, set aside, determined to be void or voidable as a preference, impermissible setoff, or a diversion of trust funds, or for any other reason, then the Obligations or part thereof intended to be satisfied shall be revived and continued and this Agreement shall continue in full force as if such payment or proceeds had not been received by the Administrative Agent or such Lender. The provisions of this Section 2.21 shall be and remain effective notwithstanding any contrary action which may have been taken by the Administrative Agent or any Lender in reliance upon such payment or application of proceeds. The provisions of this Section 2.21 shall survive the termination of this Agreement.

SECTION 2.22. Banking Services and Swap Agreements. Each Lender or Affiliate thereof providing Banking Services for, or having Swap Agreements with, any Loan Party or its Subsidiaries shall deliver to the Administrative Agent, promptly after entering into such Banking Services or Swap Agreements, written notice setting forth the aggregate amount of all Banking Services Obligations and Swap Obligations of such Loan Party or Subsidiary to such Lender or Affiliate (whether matured or unmatured, absolute or contingent). In furtherance of that requirement, each such Lender or Affiliate thereof shall furnish the Administrative Agent, from time to time after a significant change therein or upon a request thereof, a summary of the amounts due or to become due in respect of such Banking Services Obligations and Swap Obligations. The most recent information provided to the Administrative Agent shall be used in

determining which tier of the waterfall, contained in Section 2.18(b), such Banking Services Obligations and/or Swap Obligations will be placed.

ARTICLE III  
Representations and Warranties.

Each Borrower represents and warrants to the Lenders that:

SECTION 3.01. Organization; Powers. Each Loan Party is duly organized or incorporated, validly existing and in good standing under the laws of the jurisdiction of its organization or incorporation, has all requisite power and authority to carry on its business as now conducted and, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required.

SECTION 3.02. Authorization; Enforceability.

(a) The Transactions are within each Loan Party's organizational powers and have been duly authorized by all necessary organizational actions and, if required, actions by equity holders. The Loan Documents to which each Loan Party is a party have been duly executed and delivered by such Loan Party and constitute a legal, valid and binding obligation of such Loan Party, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, examination, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

(b) The choice of governing law provisions contained in this Agreement and each other Loan Document to which any Loan Party is a party are enforceable in the jurisdictions where such Loan Party is organized or incorporated or any Collateral of such Borrower is located (other than Inventory located outside of the United States). Any judgment obtained in connection with any Loan Document in the jurisdiction of the governing law of such Loan Document will be recognized and be enforceable in the jurisdictions where such Loan Party is organized or any Collateral is located (other than Inventory located outside of the United States).

SECTION 3.03. Governmental Approvals; No Conflicts. The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except for (i) immaterial consents, approvals, registrations and filings none of which individually or in the aggregate could reasonably be expected to have a Material Adverse Effect, (ii) those that have been obtained or made and are in full force and effect and (iii) filings necessary to perfect Liens created pursuant to the Loan Documents, (b) will not violate any Requirement of Law in any material respect applicable to any Loan Party, (c) will not violate or result in a default under any Contractual Debt Obligation binding upon any Loan Party, except those that could not reasonably be expected to have a Material Adverse Effect, and (d) will not result in the creation or imposition of any Lien, or require the sharing of any Lien, on any assets of any Borrower, except Liens created pursuant to the Loan Documents.

SECTION 3.04. Litigation. There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of any Loan Party,

threatened against or affecting any Loan Party that, if adversely determined, could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect or involves this Agreement or the Transactions.

SECTION 3.05. Financial Condition; No Material Adverse Change. (a) Micron has heretofore furnished to the Lenders its consolidated balance sheet and statements of income, stockholders equity and cash flows (i) as of and for the fiscal year ended August 28, 2014, reported on by PricewaterhouseCoopers, LLC, independent public accountants, and (ii) as of and for the fiscal quarter and the portion of the fiscal year ended August 28, 2014, certified by its Financial Officer. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of Micron and its consolidated Subsidiaries as of such dates and for such periods in accordance with GAAP, subject to normal year-end audit adjustments (all of which, when taken as a whole, would not be materially adverse) and the absence of footnotes in the case of the statements referred to in clause (ii) above.

(b) No event, change or condition has occurred that has had, or could reasonably be expected to have, a Material Adverse Effect, since August 28, 2014.

SECTION 3.06. Compliance with Laws and Agreements. Each Loan Party is in compliance with all Requirements of Law applicable to it or its property and all indentures, agreements, instruments, or similar undertakings binding upon it or its property, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. No Default or Event of Default has occurred and is continuing.

SECTION 3.07. Investment Company Status. No Borrower is an “investment company” as defined in, or subject to regulation under, the Investment Company Act of 1940.

SECTION 3.08. Taxes. Each Loan Party has timely filed or caused to be filed all Tax returns and reports required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it, except (a) Taxes that are being contested in good faith by appropriate proceedings and for which such Loan Party has set aside on its books adequate reserves or (b) to the extent that the failure to do so could not reasonably be expected to result in a Material Adverse Effect. No tax liens on any Collateral that do not constitute Permitted Encumbrances have, to the knowledge of any Loan Party, been filed with respect to any such Taxes.

SECTION 3.09. Disclosure. Each Loan Party has disclosed to the Lenders all agreements, instruments and corporate or other restrictions to which it is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. Any information provided by or on behalf of the Loan Parties in writing in relation to the Loan Parties or in connection with any Loan Document was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated. Any financial projections provided by or on behalf of each of the Loan Parties in writing in connection with any Loan Document have been prepared on the basis of recent historical information and on the basis of reasonable assumptions. Nothing has occurred or has been omitted from the information referred to in the second sentence of this Section 3.09 and no information has been given or withheld that results in that information being untrue or misleading in any material respect.

SECTION 3.10. Solvency. Immediately after the consummation of the Transactions to occur on the Effective Date and at the time of, and immediately after giving effect to, any Borrowing or the issuance, amendment, renewal or extension of a Letter of Credit, as applicable:

- (a) the fair value of the assets of each Borrower, at a fair valuation, will exceed its debts and liabilities, subordinated, contingent or otherwise;
- (b) the present fair saleable value of the property of each Borrower will be greater than the amount that will be required to pay the probable liability of its debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured;
- (c) each Borrower will be able to (and not admitted its inability to, nor deemed to or declared to be unable to) pay its debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured;
- (d) no Borrower will have unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted and is proposed to be conducted after the Effective Date; and
- (e) no Borrower has ceased paying its current obligations in the ordinary course of business as they generally become due.

SECTION 3.11. Capitalization. Schedule 3.11 (as such Schedule may be updated from time to time by the Borrower Representative by written notice to the Administrative Agent to reflect a transaction not prohibited by the Loan Documents) sets forth (a) a true and complete listing of each class of each Borrower's (other than Micron) authorized Equity Interests, of which all of such issued shares are validly issued, outstanding, fully paid and non-assessable, and owned beneficially and of record by the Persons identified as such on such Schedule, and (b) the type of entity of each Borrower.

SECTION 3.12. Security Interest in Collateral. The provisions of this Agreement and the other Loan Documents, together with all filings and other actions necessary to perfect, protect or create legal and valid Liens on all the Collateral (other than with respect to Inventory located outside of the United States) in favor of the Administrative Agent, for the benefit of the Administrative Agent and the Lenders and other holders of the Secured Obligations, have been duly made or taken or otherwise provided for and such Liens constitute (or will constitute) perfected and continuing Liens on the Collateral (other than with respect to Inventory located outside of the United States), securing the Secured Obligations, enforceable against the applicable Borrower and all third parties, and having priority over all other Liens on such Collateral except in the case of Permitted Encumbrances, to the extent any such Permitted Encumbrances would have priority over the Liens in favor of the Administrative Agent pursuant to any applicable law.

SECTION 3.13. Sanctions Laws and Regulations; Anti-Corruptions Laws.

(a) To the extent applicable, each Borrower and its Subsidiaries are in compliance, in all material respects, with any Anti-Corruption Laws, the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto. No part of the proceeds of the Loans or any Letter of Credit will be used by any Borrower or any Subsidiary, directly or, to the knowledge of any Borrower or any Subsidiary, indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of any Anti-Corruption Laws, or the United States Foreign Corrupt Practices Act of 1977, as amended.

(b) Neither any Borrower nor any Subsidiary nor, to the knowledge of any. Borrower or any Subsidiary, any director, officer, agent, employee or Affiliate of any Borrower or any Subsidiary, (i) is a Designated Person or (ii) is currently the target of any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department; and neither any Borrower nor any Subsidiary will directly, or, to the knowledge of any Borrower or any Subsidiary, indirectly, unlawfully use the proceeds of the Loans or any Letter of Credit for the purpose of financing the activities of any Person, or in any country or territory, that is, at the time of such use, the target of, or whose government is the target of, any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department.

SECTION 3.14. Environmental Matters. Except with respect to any other matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, no Loan Party or any Subsidiary (a) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (b) has become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability, or (c) knows of any basis for any Environmental Liability.

SECTION 3.15. Properties.

(a) Schedule 3.15 (as such Schedule may be updated with the delivery of each Borrowing Base Certificate pursuant to the terms set forth in Section 5.01(f)) sets forth the address of each parcel of real property that is owned or leased by any Loan Party where any Eligible Inventory is located.

(b) Each Borrower owns, or is licensed to use, all trademarks, tradenames, copyrights, patents and other intellectual property necessary to sell any Eligible Inventory in the ordinary course of business, and the use thereof by each Borrower does not infringe in any material respect upon the rights of any other Person.

SECTION 3.16. Insurance. Schedule 3.16 sets forth a description of all insurance maintained by or on behalf of the Borrowers covering property constituting Collateral as of the Effective Date. As of the Effective Date, all premiums in respect of such insurance required to



be maintained pursuant to Section 5.11 hereof have been paid. Each Borrower maintains with financially sound and reputable insurance companies, insurance on all its property constituting Collateral in such amounts, subject to such deductibles and self-insurance retentions and covering such properties and risks as are adequate and customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations.

ARTICLE IV  
Conditions

SECTION 4.01. Effective Date. The obligations of the Lenders to make Loans and of the Issuing Bank to issue Letters of Credit hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) Credit Agreement and Loan Documents. The Administrative Agent (or its counsel) shall have received (i) from each party hereto either (A) a counterpart of this Agreement signed on behalf of such party or (B) written evidence satisfactory to the Administrative Agent (which may include facsimile or other electronic transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement and (ii) duly executed copies of the other Loan Documents and such other certificates, documents, instruments and agreements as the Administrative Agent shall reasonably request in connection with the transactions contemplated by this Agreement and the other Loan Documents, including any promissory notes requested by a Lender pursuant to Section 2.10 payable to the order of each such requesting Lender and a written opinion of the Loan Parties' counsel, addressed to the Administrative Agent, the Issuing Bank and the Lenders in form and substance reasonably satisfactory to the Administrative Agent.

(b) Financial Statements and Projections. The Lenders shall have received (i) audited consolidated financial statements of Micron for the fiscal year ended August 28, 2014, reported on by PricewaterhouseCoopers, LLC, independent public accountants, (ii) unaudited interim consolidated financial statements of Micron for each fiscal quarter ended after the date of the latest applicable financial statements delivered pursuant to clause (i) of this paragraph as to which such financial statements are available, and such financial statements shall not, in the reasonable judgment of the Administrative Agent, reflect any material adverse change in the consolidated financial condition of Micron, as reflected in the audited, consolidated financial statements described in clause (i) of this paragraph and (iii) satisfactory annual projections through 2019.

(c) Closing Certificates; Certified Certificate of Incorporation; Good Standing Certificates. The Administrative Agent shall have received (i) a certificate of each Loan Party, dated the Effective Date and executed by its Secretary or Assistant Secretary which shall (A) certify the resolutions of its Board of Directors, members or other body authorizing the execution, delivery and performance of the Loan Documents to which it is a party, (B) identify by name and title and bear the signatures of the Financial Officers and any other officers or directors of such Loan Party authorized to sign the Loan Documents to which it is a party, and (C) contain appropriate attachments, including the certificate or articles of association, incorporation or organization, change of name certificates and any shareholder resolutions amending the articles of association of each Loan Party certified by the relevant authority of the

jurisdiction of organization of such Loan Party and a true and correct copy of its bylaws or operating, management or partnership agreement, and (ii) a long form good standing certificate for each Loan Party from its jurisdiction of organization.

(d) No Default Certificate. The Administrative Agent shall have received a certificate, signed by a Financial Officer of each Borrower on the Effective Date (i) stating that no Default has occurred and is continuing and (ii) stating that the representations and warranties contained in Article III are true and correct as of the Effective Date.

(e) Fees. The Lenders and the Administrative Agent shall have received all fees required to be paid, and all expenses for which invoices have been presented (including the reasonable fees and expenses of legal counsel), on or before the Effective Date. All such amounts will be paid with proceeds of Loans made on the Effective Date or as otherwise reflected in the funding instructions agreed to by the Borrower Representative and the Administrative Agent on or before the Effective Date.

(f) Lien Searches. The Administrative Agent shall have received the results of a recent Lien search in each of the jurisdictions where each Borrower is located, and such search shall reveal no liens on any of the Collateral, except for Liens permitted by Section 6.02 or discharged on or prior to the Effective Date pursuant to a pay-off letter or other documentation reasonably satisfactory to the Administrative Agent.

(g) Funding Accounts. The Administrative Agent shall have received a notice setting forth the deposit account of the Borrowers (collectively, the “Funding Accounts”) to which the Lender is authorized by the Borrowers to transfer the proceeds of any Borrowings requested or authorized pursuant to this Agreement.

(h) Borrowing Base Certificate. The Administrative Agent shall have received a Borrowing Base Certificate which calculates the Borrowing Base as of the end of the month immediately preceding the Effective Date.

(i) Filings, Registrations and Recordings. Each document (including any Uniform Commercial Code financing statement) required by the Collateral Documents or under law or reasonably requested by the Administrative Agent to be filed, registered or recorded in order to create in favor of the Administrative Agent, for the benefit of the Lenders, a perfected Lien on the Collateral described therein, prior and superior in right to any other Person (other than with respect to Liens expressly permitted by Section 6.02), shall be in proper form for filing, registration or recordation.

(j) Tax Withholding. The Administrative Agent shall have received a properly completed and signed IRS Form W-8 or W-9, as applicable, for each Loan Party.

(k) Field Examination and Appraisal. The Administrative Agent or its designee shall have (a) conducted a field examination of the Borrowers’ Accounts, Inventory and related working capital matters and of the Borrowers’ related data processing and other systems, the results of which shall be satisfactory to the Administrative Agent in its sole discretion, exercised in good faith; and (b) received an appraisal of the Borrowers’ Inventory from Emerald

Technology Valuation, a division of Gordon Brothers Group, which appraisal shall be satisfactory to the Administrative Agent in its sole discretion.

(l) USA Patriot Act. Each Lender shall have received all information necessary to enable such Lender to identify each Borrower and each other Loan Party to the extent required for compliance with the Patriot Act or other “know your customer” and anti-money laundering rules and regulations.

(m) Existing Credit Agreement. The Administrative Agent shall have received a satisfactory payoff letter or other satisfactory evidence that, simultaneously with the initial funding of the Loans on the Effective Date, the Borrowers shall have repaid and terminated the Existing Credit Agreement, and confirming that all Liens upon any of the property of the Loan Parties constituting Collateral will be terminated concurrently with such payment and all letters of credit issued or guaranteed pursuant to the Existing Credit Agreement shall have been cash collateralized or supported by a Letter of Credit.

(n) Material Adverse Effect. No event shall have occurred and no condition shall exist which has or could be reasonably expected to have a Material Adverse Effect since August 28, 2014.

(o) Due Diligence. The Administrative Agent and the Lenders shall be satisfied with the results of all legal, tax, accounting, environmental, regulatory and business due diligence.

(p) Insurance. The Administrative Agent shall received evidence of insurance coverage in form, scope and substance reasonably satisfactory to the Administrative Agent and otherwise in compliance with Section 5.11 hereof, Section 4.7 of the Micron Security Agreement and Section 4.7 of the MSP Security Agreement, together with certificates of insurance identifying insurers, types of insurance, insurance limits and policy terms with endorsements naming the Administrative Agent, for the benefit of the Lenders, as lender’s loss payee or additional insured, as applicable with respect to each insurance policy required to be maintained with respect to the Collateral and otherwise in form and substance reasonably satisfactory to the Administrative Agent.

(q) Closing Availability. After giving effect to all Borrowings to be made on the Effective Date, the issuance of any Letters of Credit on the Effective Date, and the payment of all fees and expenses due hereunder, and with all of the Loan Parties’ indebtedness, liabilities, and obligations current, Availability shall not be less than an amount equal to 20% of the Aggregate Revolving Commitments.

(r) Deposit Account Control Agreements. The Administrative Agent shall have received each Deposit Account Control Agreement required to be provided pursuant to Section 5.08 of this Agreement with respect to the Collateral Deposit Accounts.

The Administrative Agent shall notify the Borrowers and the Lenders of the Effective Date, and such notice shall be conclusive and binding.

SECTION 4.02. Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing, and of the Issuing Bank to issue, amend, renew or extend any Letter of Credit, is subject to the satisfaction of the following conditions:

(a) The representations and warranties of the Borrowers set forth in this Agreement shall be true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable, except to the extent any such representations and warranties are expressly limited to an earlier date, in which case, on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable, such representations and warranties shall continue to be true and correct in all material respects as of such specified earlier date.

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default or Event of Default shall have occurred and be continuing.

(c) After giving effect to any Borrowing or the issuance, amendment, renewal or extension of any Letter of Credit, the Revolving Exposure Limitations shall have been met.

Each Borrowing and each issuance, amendment, renewal or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrowers on the date thereof as to the matters specified in paragraphs (a), (b) and (c) of this Section.

Subject to the limitations and restrictions set forth in Article II hereof, notwithstanding the failure to satisfy the conditions precedent set forth in paragraphs (a) or (b) of this Section, unless otherwise directed by the Required Lenders, the Administrative Agent may, but shall have no obligation to, continue to make Loans and the Issuing Bank may, but shall have no obligation to, issue or cause to be issued any Letter of Credit for the ratable account and risk of Lenders from time to time if the Administrative Agent believes that making such Loans or issuing or causing to be issued any such Letter of Credit is in the best interests of the Lenders.

#### ARTICLE V Affirmative Covenants

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees payable hereunder have been paid in full and all Letters of Credit have expired or terminated (or cash collateralized in an amount equal to 103% of the aggregate undrawn amount of all outstanding Letters of Credit) and all LC Disbursements have been reimbursed, each Borrower covenants and agrees, jointly and severally, with the Lenders that:

SECTION 5.01. Financial Statements; Borrowing Base and Other Information. The Borrowers will furnish to the Administrative Agent and each Lender or otherwise make available as described in the last sentence of Section 5.01(a):

(a) within 90 days after the end of each fiscal year of Micron, its audited consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by independent public accountants of recognized national standing (without any qualification or exception as to the scope of such audit, solely to the extent such qualification or exception is reasonably likely to result in a Material Adverse Effect; provided, however that, the Administrative Agent may, in its Permitted Discretion, establish Reserves related to any of the facts or circumstances giving rise to any qualification or exception to such audit only if the Collateralized Revolving Commitments are less than \$50,000,000) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of Micron and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, accompanied by any management letter prepared by said accountants; provided that the delivery within the time frame specified above of Micron's 10-K for such fiscal year (together with Micron's annual report to shareholders, if any, prepared pursuant to Rule 14a-3 under the Exchange Act) prepared in accordance with the requirements therefore and filed with the Securities and Exchange Commission shall be deemed to satisfy the requirements of this Section 5.01(a); provided, further, that the Borrowers shall be deemed to have made such delivery if Micron has timely made such 10-K available on "EDGAR" and on Micron's home page on the worldwide web (as of the Effective Date located on [www.micron.com](http://www.micron.com)) ("Electronic Delivery");

(b) within 45 days after the end of each of the first three fiscal quarters of each fiscal year of Micron (unless Micron has filed a Form 12b-25 with the Securities and Exchange Commission with respect to any fiscal quarter, then, within the earlier of (i) the date required by the Securities and Exchange Commission or (ii) 60 days after the end of such fiscal quarter), its consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of such fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by one of the Financial Officers of Micron as presenting fairly in all material respects the financial condition and results of operations of Micron and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes; provided that delivery within the time period specified above of copies of Micron's Form 10-Q prepared in compliance with the requirements therefore and filed with the Securities and Exchange Commission shall be deemed to satisfy the requirements of this Section 5.01(b); provided, further, that the Borrowers shall be deemed to have made such delivery of such Form 10-Q if Micron has made timely Electronic Delivery thereof;

(c) as soon as available but in any event within 60 days after the end of each fiscal year of Micron, a copy of the plan and forecast (including a projected consolidated balance sheet, income statement and funds flow statement, in form and scope consistent with the projections delivered to, and accepted by, the Administrative Agent and the Lenders on or about the Effective Date) of Micron for each month of the upcoming fiscal year (the "Projections");

(d) as soon as available but in any event within 7 Business Days of the end of each fiscal month (or within 3 Business Days at any time during a Cash Dominion Trigger Period) or

such longer time as has been agreed to by the Administrative Agent, all delivered electronically, a formatted file reasonably acceptable to the Administrative Agent and consistent in form, scope and detail as such files previously delivered to the Administrative Agent pursuant to the terms hereof, that for clarification contains, without limitation, (i) the following information with respect to the Accounts of each Borrower (other than Micron): the customer name, customer number, payer (the master customer number), country (country code), region (state), payment terms (terms code), account document (invoice number), document type (transaction type) and balance due for each Account Debtor, as well as, aging data including invoice date and invoice due date, and (ii) (A) a schedule detailing the Borrowers' Inventory, in form satisfactory to the Administrative Agent, (1) by location (showing Inventory in transit, any Inventory located with a third party under any consignment agreement), by class (Eligible Raw Materials, raw material, Eligible WIP, work-in-process, Eligible Finished Goods Inventory and finished goods), by product type, and with the Value, adjusted for Reserves as the Administrative Agent has previously indicated to the Borrower Representative, and deemed by the Administrative Agent to be appropriate in accordance with the terms hereof, and (2) including, at the Administrative Agent's request, a report of any variances or other results of sample Inventory counts performed by the Borrowers' accounting department since the last Inventory schedule (including information regarding Eligible Finished Goods Inventory, Eligible Raw Materials, Eligible WIP, sales or other reductions, additions, returns, credits issued by Borrowers and complaints and claims made against the Borrowers), (B) a worksheet of calculations prepared by the Borrowers to determine Eligible Inventory, such worksheets detailing Inventory excluded from Eligible Inventory and the reason for such exclusion, (C) at the Administrative Agent's request and within thirty (30) days of the end of each fiscal quarter (or within such shorter period as requested by the Administrative Agent during a Cash Dominion Trigger Period), a reconciliation of the Borrowers' Inventory between (1) the amounts shown in the Borrowers' general ledger and financial statements and the reports delivered pursuant to clause (ii) above and (2) the amounts and dates shown in the reports delivered pursuant to clause (ii) above and the Borrowing Base Certificate delivered pursuant to clause (f) below as of such date;

(e) as soon as available but in any event within 5 days of the end of each fiscal month (or within 3 Business Days of the end of each week at any time during a Cash Dominion Trigger Period) or such longer time as has been agreed to by the Administrative Agent, all delivered electronically in a text formatted file reasonably acceptable to the Administrative Agent, a summary accounts payable listing for such fiscal month (or week as applicable);

(f) as soon as available but in any event within the later of (i) 10 days (or within 3 Business Days of the end of each week at any time during a Cash Dominion Trigger Period), of the Borrowers receipt from the Administrative Agent of a draft Borrowing Base Certificate (each, a "Draft Borrowing Base Certificate") setting forth the Borrowing Base as of the end of such fiscal month, prepared by the Administrative Agent based on the information received from the Borrowers pursuant to clause (d) above, field examinations and appraisals conducted in accordance with the terms hereof, and such other information and reports received by the Administrative Agent from time to time or (ii) 20 days of the end of each fiscal month (or within 3 Business Days of the end of each week at any time during a Cash Dominion Trigger Period) or such longer time as has been agreed to by the Administrative Agent, a fully executed and final Borrowing Base Certificate (each, an "Executed Borrowing Base Certificate"), which calculates the Borrowing Base as of the end of such fiscal month (or week as applicable), together with,

solely to the extent the calculation of the Borrowing Base as set forth in such Executed Borrowing Base Certificate differs, in any way, from the calculation of the Borrowing Base as set forth in the Draft Borrowing Base Certificate, such supporting information as the Administrative Agent may reasonably request to evidence or otherwise establish the basis for such difference in the calculation of the Borrowing Base, in each case, acceptable to the Administrative Agent;

(g) if the Collateralized Revolving Commitments as of the last day of such fiscal month are less than \$50,000,000, a reporting of any credit memo for such fiscal month that exceeds five percent (5%) of the Aggregate Revolving Commitments, delivered electronically in a text formatted file reasonably acceptable to the Administrative Agent;

(h) promptly upon the Administrative Agent's request (such request to be limited to three (3) times per each fiscal year in connection with field examinations so long as no Event of Default has occurred and is continuing), an updated customer list for each Borrower, which list shall state the customer's name, mailing address and phone number, delivered electronically in a text formatted file acceptable to the Administrative Agent;

(i) promptly upon the Administrative Agent's request after the occurrence and during the continuance of an Event of Default, copies of purchase orders, invoices, and shipping and delivery documents in connection with any Inventory purchased by any Loan Party; and

(j) promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of any Loan Party, or compliance with the terms of this Agreement, as the Administrative Agent or any Lender may reasonably request.

SECTION 5.02. Notices of Material Events. The Borrowers will furnish to the Administrative Agent for distribution to each Lender prompt (but in any event within any time period that may be specified below) written notice of the following:

- (a) the occurrence of any Default;
- (b) any Lien (other than Permitted Encumbrances) on any material portion of the Collateral;
- (c) any loss, damage, or destruction to the Collateral in the amount of \$25,000,000 or more not covered by insurance;
- (d) any and all payment default or termination notices received under or with respect to any leased location or public warehouse where Eligible Inventory is located; and
- (e) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under this Section shall be accompanied by a statement of a Financial Officer or other executive officer of the Borrower Representative setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

SECTION 5.03. Existence; Conduct of Business. Each Loan Party will, (a) do or cause to be done all things necessary to (i) preserve, renew and keep in full force and effect its legal existence, (ii) all rights, qualifications, licenses, and permits necessary or desirable to the normal conduct of its business, except to the extent that the failure to do so could not reasonably be expected to result in a Material Adverse Effect, and (iii) maintain all requisite authority to conduct its business in each material jurisdiction in which its business is conducted, except to the extent that the failure to do so could not reasonably be expected to result in a Material Adverse Effect, and (b) continue to engage in the Semiconductor Business as conducted by the Loan Parties on the Effective Date and any business that is similar, reasonably related, incidental, complementary or ancillary thereto.

SECTION 5.04. Payment of Taxes. Each Loan Party will, pay or discharge all Taxes, before the same shall become delinquent or in default, except where the failure to make payment could not reasonably be expected to result in a Material Adverse Effect; provided, however, each Loan Party will, remit withholding taxes and other payroll taxes to appropriate Governmental Authorities as and when claimed to be due, notwithstanding the foregoing exception.

SECTION 5.05. Books and Records; Inspection Rights. Each Borrower will, (a) keep proper books of record and account in which full, true and correct entries are made of all dealings and transactions in relation to its business and activities and (b) permit any representatives designated by the Administrative Agent or any Lender (including employees of the Administrative Agent, any Lender or any consultants, accountants, lawyers and appraisers retained by the Administrative Agent), to visit and inspect its properties, conduct at such Borrower's premises, field examinations and inventory appraisals of such Borrower's assets, liabilities, books and records, including examining and making extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants, in each case upon reasonable prior notice (which shall not be less than ten (10) Business Days so long as no Event of Default has occurred or is continuing) and all at such reasonable times, during normal business hours, as often as reasonably requested and at the expense of the Borrowers; provided that (i) so long as no Event of Default has occurred and is continuing, the Administrative Agent and the Lenders shall not conduct more than three (3) in the aggregate of such field examinations, visits, inspections or inventory appraisals during any fiscal year of the Borrowers at the expense of the Borrowers; provided that the Administrative Agent, in its sole discretion, will determine the composition of such field examinations or inventory appraisals, and shall conduct at least one (1) field examination and one (1) inventory appraisal per fiscal year of the Borrowers, with the third review to be at the Administrative Agent's reasonable discretion; and (ii) so long as no Event of Default has occurred and is continuing and Availability is less than or equal to \$100,000,000, the Administrative Agent and the Lenders shall be permitted to conduct one (1) additional field examination or appraisal during any fiscal year of the Borrowers at the expense of the Borrowers. For the avoidance of doubt, the foregoing limitations set forth in this Section shall not apply if an Event of Default has occurred and is continuing. The Borrowers acknowledge that the Administrative Agent, after exercising its rights of inspection, may prepare and distribute to the Lenders certain Reports pertaining to the Borrowers' assets for internal use by the Administrative Agent and the Lenders.

SECTION 5.06. Compliance with Laws. Each Loan Party will comply with all Requirements of Law applicable to it or its property, except where the failure to do so,



individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. Each Loan Party will maintain in effect and enforce policies and procedures designed to ensure compliance by such Loan Party, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions Laws and Regulations.

SECTION 5.07. Use of Proceeds. The proceeds of the Loans will be used (a) to refinance the Indebtedness owing under the Existing Credit Agreement and (b) for working capital needs and general corporate purposes. No part of the proceeds of any Loan and no Letter of Credit will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X.

SECTION 5.08. Cash Management Banks; Collateral Deposit Accounts; Deposit Account Control Agreements.

(a) Each Borrower (other than Micron) shall direct all of their Account Debtors to forward payments directly to a Collateral Deposit Account subject to a Deposit Account Control Agreement. The Borrowers shall have and maintain operational procedures (acceptable to the Administrative Agent in its reasonable discretion) providing that, if notwithstanding the foregoing instructions, any Borrower receives any proceeds of any Receivables of any Borrower (other than Micron), such Borrower shall thereafter promptly remit such proceeds (whether consisting of a deposit of cash, checks or other similar payments) to a Collateral Deposit Account subject to a Deposit Account Control Agreement. All proceeds of Receivables of any Borrower (other than Micron) received by any Borrower are to be received by such Borrower as the Administrative Agent's trustee.

(b) Each Borrower (other than Micron) will at all times maintain the Cash Management Banks for the maintenance of operating, administrative, cash management, collection activity, and other Collateral Deposit Accounts for the conduct of its business.

(c) On or before the Effective Date, the Company will cause each Cash Management Bank to enter into a Deposit Account Control Agreement with respect to all Collateral Deposit Accounts maintained by the Company with the applicable Cash Management Bank as of the Effective Date.

(d) The Borrower Representative will (i) provide prompt written notice to the Administrative Agent of the establishment of any new Collateral Deposit Account after the Effective Date and deliver to the Administrative Agent an updated Schedule 1.01 in form and substance reasonably satisfactory to the Administrative Agent and (ii) contemporaneous with the establishment of such Collateral Deposit Account, obtain a Deposit Account Control Agreement with respect to such Collateral Deposit Account.

(e) At all times during the continuance of a Cash Dominion Trigger Period and after issuance of a notice of exclusive control in accordance with the applicable Deposit Account Control Agreement, each Cash Management Bank shall remit to the Collection Account on a daily basis all (i) available funds on deposit in any Collateral Deposit Account maintained by any Borrower (other than Micron) with such Cash Management Bank and (ii) collections and other

payments received by such Cash Management Bank in respect of the Receivables of any Borrower (other than Micron), in each case in accordance with the terms set forth in the applicable Deposit Account Control Agreement.

SECTION 5.09. Further Assurances. Each Loan Party will, execute and deliver, or cause to be executed and delivered, to the Administrative Agent such documents, agreements and instruments, and will take or cause to be taken such further actions (including the filing and recording of financing statements, and other documents and such other actions or deliveries of the type required by Section 4.01, as applicable), which may be required by law or which the Administrative Agent may, from time to time, reasonably request to carry out the terms and conditions of this Agreement and the other Loan Documents and to ensure perfection and priority of the Liens created or intended to be created by the Collateral Documents, all at the expense of the Borrowers; provided that with respect to Inventory located outside of the United States, the Administrative Agent shall not make such request unless an Event of Default has occurred and is continuing.

SECTION 5.10. Sanctions Laws and Regulations.

(a) No Borrower shall, directly or indirectly, (i) use the proceeds of the Loans or any other financial accommodation made hereunder or (ii) lend, contribute or otherwise make available such proceeds thereof to any subsidiary, joint venture partner or other person or entity (x) to fund any activities or business of or with any Designated Person, or in any country or territory, that at the time of such funding is the subject of any sanctions under any Sanctions Laws and Regulations, or (y) in any other manner that would result in a violation of any Sanctions Laws and Regulations by any party to this Agreement.

(b) None of the funds or assets of the Borrowers that are used to pay any amount due pursuant to the Credit Agreement and the other Loan Documents shall constitute funds obtained from transactions with or relating to Designated Persons or countries which are the subject of sanctions under any Sanctions Laws and Regulations.

(c) No Borrower nor any Subsidiary will use the proceeds of any Borrowing or Letter of Credit in violation of the representations set forth in Section 3.13.

SECTION 5.11. Insurance. Each Borrower will maintain with financially sound and reputable carriers (a) insurance covering Collateral in such amounts (with no greater risk retention) and against such risks (including, without limitation: loss or damage by fire and loss in transit; theft, burglary, pilferage, larceny, embezzlement, and other criminal activities; business interruption; and general liability) and such other hazards, as is customarily maintained by companies of established repute engaged in the same or similar businesses operating in the same or similar locations and (b) all insurance required pursuant to the Collateral Documents. The Borrowers will furnish to the Administrative Agent for distributions to the Lenders, upon the reasonable request of the Administrative Agent, information in reasonable detail as to the insurance so maintained.

ARTICLE VI  
Negative Covenants

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees, expenses and other amounts payable under any Loan Document have been paid in full and all Letters of Credit have expired or terminated (or cash collateralized in an amount equal to 103% of the aggregate undrawn amount of all outstanding Letters of Credit) and all LC Disbursements have been reimbursed, each Borrower covenants and agrees, jointly and severally, with the Lenders that:

SECTION 6.01. Indebtedness. Unless otherwise waived by the Administrative Agent in its reasonable discretion, the Company will not create, incur or suffer to exist any Indebtedness secured by the assets of the Company, unless such Liens and secured Indebtedness are subject to an intercreditor agreement by and among the Administrative Agent and the holders of such Indebtedness (or a representative of such holders) that is in form and substance satisfactory to the Administrative Agent in its commercially reasonable discretion.

SECTION 6.02. Liens. No Borrower will, create, incur, assume or permit to exist any Lien on any Collateral, now owned or hereafter acquired by it, or assign or sell any income or revenues (including, with respect to the Company, accounts receivable) or rights in respect of any thereof, except:

- (a) Liens created pursuant to any Loan Document;
- (b) Permitted Encumbrances;
- (c) Liens (i) of a collecting bank arising in the ordinary course of business under Section 4-208 of the Uniform Commercial Code in effect in the relevant jurisdiction covering only the items being collected upon or (ii) in favor of a banking institution arising as a matter of law, encumbering amounts credited to a deposit account (including the right of set-off) and which are within the general parameters customary in the banking industry;
- (d) Liens securing Indebtedness subject to the terms set forth in Section 6.01 hereof, if any; and
- (e) Sales permitted under Section 6.04(d) hereof.

Notwithstanding the foregoing, none of the Liens permitted pursuant to this Section 6.02 may at any time attach to (1) any Borrower's (other than Micron) Receivables, other than those permitted under clauses (a), (c) and (d) of the definition of Permitted Encumbrance and clause (a) above, and (2) any Borrower's Inventory, other than those permitted under clauses (a), (d), (f), (g), (h) and (i) of the definition of Permitted Encumbrance and clause (a) above.

SECTION 6.03. Fundamental Changes. No Borrower will merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Event of Default shall have occurred and be continuing, any Person may merge into a Borrower in a transaction in which such Borrower is the surviving corporation. Micron shall not liquidate or dissolve.

SECTION 6.04. Asset Sales. No Borrower will sell, transfer, lease or otherwise dispose of any Collateral without the prior written consent of the Administrative Agent, except:

(a) sales, transfers or dispositions of Inventory by such Borrower to any other Borrower;

(b) sales, transfers or dispositions of Inventory in the ordinary course of business;

(c) sales, transfers or dispositions, in the ordinary course of business, of Inventory that is used, obsolete, worn-out, surplus or no longer used or useful in the business of such Borrower;

(d) sales, transfers and other dispositions of accounts receivable in connection with the compromise, settlement or collection thereof, so long as with respect to any Borrower (other than Micron), such sale, transfer or other disposition is not a part of any accounts receivable financing transaction; and

(e) dispositions resulting from any casualty or other insured damage to any asset of the Borrowers;

provided, however, notwithstanding anything to contrary contained herein, the Borrowers shall be permitted to sell, transfer, or otherwise dispose of Collateral not otherwise permitted pursuant to the foregoing clauses (a) through (e) of this Section 6.04 so long as, (i) both before and after giving effect to the consummation of such sale, transfer, or other disposition, no Default or Event of Default shall have occurred and be continuing and (ii) at the time of such determination and immediately following, and after giving effect to, such sale, transfer, or other disposition, Availability is equal to or greater than an amount equal to ten percent (10%) of the Aggregate Revolving Commitments.

SECTION 6.05. Restrictive Agreements. No Borrower will, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement, other than the Indenture or other indentures with substantially similar provisions, that prohibits, restricts or imposes any condition upon the ability of such Borrower to create, incur or permit to exist any Lien upon any of its property or assets comprising a part of the Collateral; provided that the foregoing shall not apply to restrictions and conditions imposed by law or by any Loan Document.

SECTION 6.06. Amendment of Material Documents. No Loan Party will amend, modify or waive any of its rights under its certificate of incorporation, by-laws, operating, management or partnership agreement or other organizational documents, in each case except for such amendments, modifications or waivers that would not, in any material respect, adversely affect the interests of the Administrative Agent and the Lenders.

ARTICLE VII  
Events of Default

If any of the following events (“Events of Default”) shall occur:

(a) the Borrowers shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) the Borrowers shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Agreement, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five Business Days;

(c) any representation or warranty made or deemed made by or on behalf of any Loan Party in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof or waiver hereunder or thereunder, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof or waiver hereunder or thereunder, shall prove to have been materially incorrect when made or deemed made;

(d) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in (i) Sections 5.02(a), 5.03 (with respect to a Loan Party’s existence), 5.05, 5.08, or in Article VI and (ii) in Article IV of the Security Agreement;

(e) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in (i) this Agreement (other than those which constitute a default under another Section of this Article and clause (ii) below) or any other Loan Document, and such failure shall continue unremedied for a period of 30 days after the earlier of any Loan Party’s knowledge of such breach or notice thereof from the Administrative Agent, and (ii) Sections 5.01(d) and 5.01(f), and such failure shall continue unremedied for a period of 5 days after notice thereof from the Administrative Agent;

(f) any event or condition occurs that results in any Contractual Debt Obligation constituting Material Indebtedness of a Loan Party becoming due prior to its scheduled maturity without such Material Indebtedness having been discharged or such acceleration having been cured, waived, rescinded or annulled within a period of thirty (30) days; provided that this clause (f) shall not apply to secured Material Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness; provided, further, that for the avoidance of doubt, prior to the expiration of the thirty (30) day period, a Default shall have occurred and be continuing for purposes of Section 4.02(b);

(g) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization, administration, administrative receivership or other relief in respect of any Loan Party or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership, administration, administrative receivership, or similar law now or hereafter in effect or (ii) the appointment of a receiver,

trustee, administrator, administrative receiver, custodian, sequestrator, conservator or similar official for any Loan Party or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(h) any Loan Party shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization, administration, administrative receivership, or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership, administration, administrative receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (g) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, administrator, administrative receiver, custodian, sequestrator, conservator or similar official for such Loan Party or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(i) any Loan Party shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(j) (i) any action shall be legally taken by a judgment creditor to attach or levy upon any Collateral having an aggregate value equal to or greater than \$10,000,000 to enforce any such judgment;

(k) a Change in Control shall occur;

(l) any Guaranty shall fail to remain in full force or effect or any action shall be taken to discontinue or to assert the invalidity or unenforceability of such Guaranty, or any Loan Guarantor shall fail to comply with any of the terms or provisions of any Guaranty to which it is a party, or any Loan Guarantor shall deny that it has any further liability under the Guaranty to which it is a party, or shall give notice to such effect;

(m) except as permitted by the terms hereof or of any Collateral Document, (i) any Collateral Document shall for any reason fail to create a valid security interest in any Collateral purported to be covered thereby, or (ii) any Lien securing any Secured Obligation shall cease to be a perfected, first priority Lien; or

(n) any Collateral Document shall fail to remain in full force or effect or any action shall be taken by any Loan Party or any of its Affiliates to discontinue or to assert the invalidity or unenforceability of any Collateral Document; or

(o) any material provision of any Loan Document for any reason ceases to be valid, binding and enforceable in accordance with its terms (or any Loan Party shall challenge the enforceability of any Loan Document or shall assert in writing, or engage in any action or inaction based on any such assertion, that any provision of any of the Loan Documents has ceased to be or otherwise is not valid, binding and enforceable in accordance with its terms);

then, and in every such event (other than an event with respect to the Loan Parties described in clause (g) or (h) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrowers, take either or both of the following actions, at the same or different times: (i) terminate the Commitments, whereupon the Commitments shall terminate immediately, and (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), whereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrowers accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers; and in case of any event with respect to the Borrowers described in clause (g) or (h) of this Article, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrowers accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers. Upon the occurrence and the continuance of an Event of Default, the Administrative Agent may, and at the request of the Required Lenders shall, exercise any rights and remedies provided to the Administrative Agent under the Loan Documents or at law or equity, including all remedies provided under the UCC.

ARTICLE VIII  
The Administrative Agent

Each of the Lenders (for itself and on behalf of its Affiliates providing any Banking Services) and the Issuing Bank hereby irrevocably appoints the Administrative Agent as its agent and authorizes the Administrative Agent to take such actions on its behalf, including execution of the other Loan Documents, and to exercise such powers as are delegated to the Administrative Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto.

The bank serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and such bank and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with the Loan Parties or any Subsidiary of a Loan Party or other Affiliate thereof as if it were not the Administrative Agent hereunder.

The Administrative Agent shall not have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) the Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated by the Loan Documents that the Administrative Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02), and (c) except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to

disclose, any information relating to any Loan Party or any of its Subsidiaries that is communicated to or obtained by the bank serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02) or in the absence of its own gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof is given to the Administrative Agent by the Borrower Representative or a Lender, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or in connection with any Loan Document, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, (v) the creation, perfection or priority of Liens on the Collateral or the existence of the Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing believed by it to be genuine and to have been signed or sent by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrowers), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

The Administrative Agent may perform any and all its duties and exercise its rights and powers by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

Subject to the appointment and acceptance of a successor Administrative Agent as provided in this paragraph, the Administrative Agent may resign at any time by notifying the Lenders, the Issuing Bank and the Borrower Representative. Upon any such resignation, the Required Lenders shall have the right, in consultation with the Borrowers, to appoint a successor. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may, on behalf of the Lenders and the Issuing Bank, appoint a successor Administrative Agent which shall be a commercial bank or an Affiliate of any such commercial bank. Upon the acceptance of its appointment as



Administrative Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder. The fees payable by the Borrowers to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrowers and such successor. After the Administrative Agent's resignation hereunder, the provisions of this Article, Section 2.17(d) and Section 9.03 shall continue in effect for the benefit of such retiring Administrative Agent, its sub agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as Administrative Agent.

Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or related agreement or any document furnished hereunder or thereunder.

Each Lender hereby agrees that (a) it has requested a copy of each Report prepared by or on behalf of the Administrative Agent; (b) the Administrative Agent (i) makes no representation or warranty, express or implied, as to the completeness or accuracy of any Report or any of the information contained therein or any inaccuracy or omission contained in or relating to a Report and (ii) shall not be liable for any information contained in any Report; (c) the Reports are not comprehensive audits or examinations, and that any Person performing any field examination or appraisal will inspect only specific information regarding the Loan Parties and will rely significantly upon the Loan Parties' books and records, as well as on representations of the Loan Parties' personnel and that the Administrative Agent undertakes no obligation to update, correct or supplement the Reports; (d) it will keep all Reports confidential and strictly for its internal use, not share the Report with any Loan Party or any other Person except as otherwise permitted pursuant to this Agreement; and (e) without limiting the generality of any other indemnification provision contained in this Agreement, it will pay and protect, and indemnify, defend, and hold the Administrative Agent and any such other Person preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including reasonable attorney fees) incurred by the Administrative Agent or such other Person as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

The Syndication Agent, the Co-Documentation Agents, and the Co-Collateral Agents shall not have any rights, powers, obligations, liabilities, responsibilities or duties under this Agreement other than those applicable to all Lenders as such.

#### ARTICLE IX Miscellaneous

SECTION 9.01. Notices. (a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices

and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or .pdf transmission, as follows:

(i) if to any Loan Party, to the Borrowers at:

MICRON SEMICONDUCTOR PRODUCTS, INC.  
8000 S. Federal Way  
P.O. Box 6  
Boise, ID 83707-0006  
Attention: Treasury  
Facsimile No: (208) 368-5763  
Email: [krizvi@micron.com](mailto:krizvi@micron.com)

(ii) if to the Administrative Agent, the Issuing Bank or the Swingline Lender:

HSBC BANK USA, N.A.  
425 Fifth Avenue  
New York, NY 10016-2223  
Attention: Thomas A. Getty, Jr., SVP – Commercial Executive  
Thomas Kainamura, VP- Relationship Manager  
D'Andre Dina, Vice President  
Facsimile No: (212) 639-2090  
(212) 525-2520  
Email: [thomas.a.getty,jr@us.hsbc.com](mailto:thomas.a.getty,jr@us.hsbc.com)  
[thomas.k.kainamura@us.hsbc.com](mailto:thomas.k.kainamura@us.hsbc.com)  
[d'andre.x.dina@us.hsbc.com](mailto:d'andre.x.dina@us.hsbc.com)

with copies to in each case:

MORGAN, LEWIS & BOCKIUS LLP  
300 South Grand Avenue, 22nd Floor  
Los Angeles, California 90071-3132  
Attn: Marshall Stoddard, Jr., Esq.  
Facsimile No: (212) 309-6001  
Email: [mstoddard@morganlewis.com](mailto:mstoddard@morganlewis.com)

(iii) if to any other Lender, to it at its address or facsimile number set forth in its Administrative Questionnaire.

All such notices and other communications (i) sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received or (ii) sent by facsimile or .pdf transmission shall be deemed to have been given when sent, provided that if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient.

(b) Notices and other communications to the Lenders and the Borrowers hereunder may be delivered or furnished by electronic communications (including e-mail and internet or intranet websites) pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Article II unless otherwise agreed by the Administrative Agent and the applicable Lender and notices to the Borrowers of Default. The Administrative Agent or the Borrower Representative (on behalf of the Loan Parties) may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. All such notices and other communications (i) sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if not given during the normal business hours of the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient, and (ii) posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (b)(i) of notification that such notice or communication is available and identifying the website address therefor.

(c) Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

(d) Notwithstanding the foregoing, any notice of a Default hereunder shall be in writing and sent by facsimile or delivered by hand or overnight courier service to the address of the Borrowers set forth in Section 9.01(a)(i), with a copy to each of: Micron Technology, Inc., Attention: General Counsel, Mail Stop 1-507, 8000 S. Federal Way, P.O. Box 6, Boise, ID 83707-0006, Facsimile: 208-368-4540 and Micron Technology Inc., Attention: George Mullin, Senior Assistant General Counsel, Mail Stop 1-507, 8000 S. Federal Way, P.O. Box 6, Boise, ID 83707-0006.

SECTION 9.02. Waivers; Amendments. (a) No failure or delay by the Administrative Agent, the Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Bank and the Lenders hereunder and under any other Loan Document are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or the Issuing Bank may have had notice or knowledge of such Default at the time.

(b) Neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified except (x) in the case of this Agreement,

pursuant to an agreement or agreements in writing entered into by the Borrowers and the Required Lenders or (y) in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Loan Party or Loan Parties that are parties thereto, with the consent of the Required Lenders; provided that no such agreement shall (i) increase the Commitment of any Lender without the written consent of such Lender (including any such Lender that is a Defaulting Lender), (ii) reduce or forgive the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon, or reduce or forgive any interest or fees payable hereunder, without the written consent of each Lender (including any such Lender that is a Defaulting Lender) affected thereby, (iii) postpone any scheduled date of payment of the principal amount of any Loan or LC Disbursement, or any date for the payment of any interest, fees or other Obligations payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender (including any such Lender that is a Defaulting Lender) affected thereby, (iv) change Sections 2.18(b) or 2.18(d) in a manner that would alter the manner in which payments are shared, without the written consent of each Lender (including any such Lender that is a Defaulting Lender), (v) increase the advance rates set forth in the definition of the Borrowing Base or add new categories of eligible assets without the written consent of each Revolving Lender (other than any Defaulting Lender), (vi) change the definition of “Applicable Percentage” or “Required Lenders” without the written consent of each Lender (other than any Defaulting Lender), (vii) change any of the provisions of this Section or any other provision of any Loan Document (other than the definition of “Required Lenders”) specifying the number or percentage of Lenders (or Lenders of any Class) required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender (including any such Lender that is a Defaulting Lender) directly affected thereby, (viii) change Section 2.20, without the consent of each Lender (other than any Defaulting Lender), (ix) release any Loan Guarantor from its obligation under its Guaranty (except as otherwise permitted herein or in the other Loan Documents), without the written consent of each Lender (other than any Defaulting Lender), or (x) except as provided in clause (c) of this Section or in any Collateral Document, release all or substantially all of the Collateral, without the written consent of each Lender (other than any Defaulting Lender); provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent, the Issuing Bank or the Swingline Lender hereunder without the prior written consent of the Administrative Agent, the Issuing Bank or the Swingline Lender, as the case may be (it being understood that any change to Section 2.20 shall require the consent of the Administrative Agent, the Issuing Bank and the Swingline Lender). The Administrative Agent may also amend the Commitment Schedule to reflect assignments entered into pursuant to Section 9.04 or any increase in the Commitments pursuant to Section 2.09(e).

(c) The Lenders hereby irrevocably authorize the Administrative Agent, at its option and in its sole discretion, to release any Liens granted to the Administrative Agent by the Loan Parties on any Collateral (i) upon the termination of the Commitments, payment and satisfaction in full in cash of all Secured Obligations (other than Unliquidated Obligations), and the cash collateralization of all Unliquidated Obligations in a manner satisfactory to each affected Lender, (ii) constituting property being sold or disposed of if the Loan Party disposing of such property certifies to the Administrative Agent that the sale or disposition is made in compliance with the terms of this Agreement (and the Administrative Agent may rely conclusively on any such

certificate, without further inquiry), or (iii) as required to effect any sale or other disposition of such Collateral in connection with any exercise of remedies of the Administrative Agent and the Lenders pursuant to Article VII. Except as provided in the preceding sentence, the Administrative Agent will not release any Liens on Collateral without the prior written authorization of the Required Lenders (or all Lenders (other than any Defaulting Lender) to the extent Agent is releasing Liens on all or substantially all of the Collateral). Any such release shall not in any manner discharge, affect or impair the Obligations or any Liens (other than those expressly being released) upon (or obligations of the Loan Parties in respect of) all interests retained by the Loan Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral.

(d) If, in connection with any proposed amendment, waiver or consent requiring the consent of “each Lender” or “each Lender affected thereby,” the consent of the Required Lenders is obtained, but the consent of other necessary Lenders is not obtained (any such Lender whose consent is necessary but not obtained being referred to herein as a “Non-Consenting Lender”), then the Borrowers may elect to replace a Non-Consenting Lender as a Lender party to this Agreement, provided that, concurrently with such replacement, (i) another bank or other entity which is reasonably satisfactory to the Borrowers and the Administrative Agent shall agree, as of such date, to purchase for cash the Loans and other Obligations due to the Non-Consenting Lender pursuant to an Assignment and Assumption and to become a Lender for all purposes under this Agreement and to assume all obligations of the Non-Consenting Lender to be terminated as of such date and to comply with the requirements of clause (b) of Section 9.04, and (ii) the Borrowers shall pay to such Non-Consenting Lender in same day funds on the day of such replacement (1) all interest, fees and other amounts then accrued but unpaid to such Non-Consenting Lender by the Borrowers hereunder to and including the date of termination, including without limitation payments due to such Non-Consenting Lender under Sections 2.15 and 2.17, and (2) an amount, if any, equal to the payment which would have been due to such Lender on the day of such replacement under Section 2.16 had the Loans of such Non-Consenting Lender been prepaid on such date rather than sold to the replacement Lender.

SECTION 9.03. Expenses; Indemnity; Damage Waiver. (a) The Borrowers shall pay (i) all reasonable out of pocket expenses incurred by the Administrative Agent and its Affiliates, including the reasonable fees, charges and disbursements of counsel for the Administrative Agent (limited, in the absence of an actual conflict of interest, to one counsel for the Administrative Agent and its Affiliates in each relevant jurisdiction), in connection with the syndication and distribution (including, without limitation, via the internet or through a service such as DebtDomain or any other services that may be implemented by the Administrative Agent) of the credit facilities provided for herein, the preparation and administration of the Loan Documents or any amendments, modifications or waivers of the provisions of the Loan Documents (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by the Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder, and (iii) all reasonable out-of-pocket expenses incurred by the Administrative Agent, the Issuing Bank or any Lender, including the fees, charges and disbursements of any counsel for the Administrative Agent, the Issuing Bank or any Lender, in connection with the enforcement, collection or protection of its rights in connection with the Loan Documents, including its rights under this Section, or in connection with the Loans made

or Letters of Credit issued hereunder, including all such reasonable out-of pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit; provided, that the Borrowers shall only pay the foregoing expenses in this clause (iii) incurred by any Lender not the Administrative Agent or the Issuing Bank after the occurrence and during the continuance of any Event of Default, and the Lenders (other than the Administrative Agent and the Issuing Bank) shall be entitled to reimbursement for no more than one counsel representing all such Lenders, one local counsel in each reasonably necessary jurisdiction, one specialty counsel in each reasonably necessary specialty area, and one or more additional counsel if one or more conflicts of interest arise. Expenses being reimbursed by the Borrowers under this Section include, without limiting the generality of the foregoing, costs and expenses incurred in connection with:

(i) field examinations and appraisals subject to the limitations set forth in Section 5.05 and the preparation of Reports based on the fees charged by a third party retained by the Administrative Agent or the internally allocated fees for each Person employed by the Administrative Agent with respect to each field examination and/or appraisal;

(ii) background checks regarding senior management and/or key investors, as deemed necessary or appropriate in the sole discretion of the Administrative Agent;

(iii) fees and other charges for (A) lien and title searches and (B) filing financing statements and continuations, and other actions to perfect, protect, and continue the Administrative Agent's Liens;

(iv) sums paid or incurred to take any action required of any Loan Party under the Loan Documents that such Loan Party fails to pay or take; and

(v) forwarding loan proceeds, collecting checks and other items of payment, and establishing and maintaining the accounts and lock boxes, and costs and expenses of preserving and protecting the Collateral.

All of the foregoing costs and expenses may be charged to the Borrowers as Revolving Loans or to another deposit account, all as described in Section 2.18(c). This Section 9.03(a) shall not apply with respect to Taxes.

(b) The Borrowers shall, jointly and severally, indemnify the Administrative Agent, the Issuing Bank and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, penalties, liabilities and related expenses, including the reasonable fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of the Loan Documents or any agreement or instrument contemplated thereby, the performance by the parties hereto of their respective obligations thereunder or the consummation of the Transactions or any other transactions contemplated hereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by the Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in

connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by any Borrower, or any Environmental Liability related in any way to any Borrower, (iv) the failure of the Borrowers to deliver to the Administrative Agent the required receipts or other required documentary evidence with respect to a payment made by the Borrowers for Taxes pursuant to Section 2.17, or (v) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Borrower or Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, penalties, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee. This Section 9.03(b) shall not apply with respect to Taxes, other than Taxes that represent losses, claims, damages, liabilities, and related expenses arising from any non-Tax claim.

(c) To the extent that the Borrowers fail to pay any amount required to be paid by it to the Administrative Agent, the Issuing Bank or the Swingline Lender under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to the Administrative Agent, the Issuing Bank or the Swingline Lender, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, penalty, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent, the Issuing Bank or the Swingline Lender in its capacity as such.

(d) To the extent permitted by applicable law, no Loan Party shall assert, and each hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or any agreement or instrument contemplated hereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in clause (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) All amounts due under this Section shall be payable promptly after written demand therefor.

SECTION 9.04. Successors and Assigns. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit), except that (i) no Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by any Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted

hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Issuing Bank and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees (other than an Ineligible Institution) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld, conditioned or delayed) of:

(A) the Borrower Representative, provided that the Borrower Representative shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within 5 Business Days after having received notice thereof, and provided further that no consent of the Borrower Representative shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default has occurred and is continuing, any other assignee;

(B) the Administrative Agent; and

(C) the Issuing Bank.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$5,000,000 unless each of the Borrower Representative and the Administrative Agent otherwise consent, provided that no such consent of the Borrower Representative shall be required if an Event of Default has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500 and the tax forms required by Section 2.17(f);

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more Credit Contacts to whom all syndicate-level information (which may contain material non-public information about the Loan Parties and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including Federal and state securities laws; and



(E) no assignment may be made to a Competitor without the prior written consent of the Borrower Representative; provided that the Borrower Representative shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within 5 Business Days after having received notice thereof.

Any attempted assignment that does not comply with the provisions of this Section 9.04 shall be null and void.

For the purposes of this Section 9.04(b), the terms “Approved Fund” and “Ineligible Institution” have the following meanings:

“Approved Fund” means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“Ineligible Institution” means a (a) natural person or (b) Loan Party or a subsidiary or other Affiliate of a Loan Party

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender’s rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.15, 2.16, 2.17 and 9.03), subject to the requirements of each respective provision).

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrowers, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amounts and stated interest on of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the “Register”). The entries in the Register shall be conclusive absent manifest error, and the Borrowers, the Administrative Agent, the Issuing Bank and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrowers, the Issuing Bank and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee and tax forms referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Sections 2.05, 2.06(d), 2.06(e), 2.07(b), 2.18(d) or 9.03(c), the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) Any Lender may, without the consent of the Borrowers, the Administrative Agent, the Issuing Bank or the Swingline Lender, sell participations to one or more banks or other entities (other than to any Competitor or any Ineligible Institution) (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged; (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations; and (C) the Borrowers, the Administrative Agent, the Issuing Bank and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant. The Borrowers agree that each Participant shall be entitled to the benefits of Sections 2.15, 2.16, and 2.17 (subject to the requirements and limitations therein, including the requirements under Section 2.17(f) (it being understood that the documentation required under Section 2.17(f) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Sections 2.18 and 2.19 as if it were an assignee under paragraph (b) of this Section; and (B) shall not be entitled to receive any greater payment under Section 2.15 or Section 2.17, with respect to any participation, than its participating Lender would have been entitled to receive.

To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.18(c) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a nonfiduciary agent of the Borrowers, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each

Participant's interest in the Loans or other obligations under this Agreement (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans, Letters of Credit or its other obligations under any Loan Document) except to the extent that such disclosure is necessary to establish that such Commitment, Loan, Letter of Credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

SECTION 9.05. Survival. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, the Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated. The provisions of Sections 2.15, 2.16, 2.17 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof.

SECTION 9.06. Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 9.07. Severability. Any provision of any Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.08. Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits in any Deposit Account which constitutes Collateral or which otherwise consists of proceeds of Collateral at any time held and other obligations at any time owing by such Lender or Affiliate to or for the credit or the account of the Borrowers or any Loan Guarantor against any of and all the Secured Obligations held by such Lender, irrespective of whether or not such Lender shall have made any demand under the Loan Documents and although such obligations may be unmatured. The applicable Lender shall notify the Borrower Representative and the Administrative Agent of such set-off or application, provided that any failure to give or any delay in giving such notice shall not affect the validity of any such set-off or application under this Section. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

SECTION 9.09. Governing Law; Jurisdiction; Consent to Service of Process. (a) The Loan Documents (other than those containing a contrary express choice of law provision) shall be governed by and construed in accordance with the internal laws (and not the law of conflicts) of the State of New York, but giving effect to federal laws applicable to national banks.

(b) Each Loan Party hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of any U.S. Federal or New York State court sitting in New York, New York, County of New York in any action or proceeding arising out of or relating to any Loan Documents, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Administrative Agent, the Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against any Loan Party or its properties in the courts of any jurisdiction.

(c) Each Loan Party hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.10. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.11. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12. Confidentiality. Each of the Administrative Agent, the Issuing Bank and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority, (c) to the extent required by Requirement of Law or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Loan Parties and their obligations, (g) with the consent of the Borrowers, or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section, (ii) becomes available to the Administrative Agent, the Issuing Bank or any Lender on a non-confidential basis from a source other than the Borrowers, or (iii) is required to be reported for league table purposes. For the purposes of this Section, "Information" means all information received from any Loan Party relating to any Loan Party or their businesses, other than any such information that is available to the Administrative Agent, the Issuing Bank or any Lender on a non-

confidential basis prior to disclosure by the Borrowers; provided that, in the case of information received from the Borrowers after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

**EACH LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN SECTION 9.12 FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING THE BORROWERS AND THEIR AFFILIATES AND THEIR RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.**

**ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY THE LOAN PARTIES OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE BORROWERS, THE LOAN PARTIES AND THEIR RELATED PARTIES OR THEIR RESPECTIVE SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO THE LOAN PARTIES AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.**

SECTION 9.13. Several Obligations; Nonreliance; Violation of Law. The respective obligations of the Lenders hereunder are several and not joint and the failure of any Lender to make any Loan or perform any of its obligations hereunder shall not relieve any other Lender from any of its obligations hereunder. Each Lender hereby represents that it is not relying on or looking to any margin stock for the repayment of the Borrowings provided for herein. Anything contained in this Agreement to the contrary notwithstanding, neither the Issuing Bank nor any Lender shall be obligated to extend credit to the Borrowers in violation of any Requirement of Law.

SECTION 9.14. USA PATRIOT Act. Each Lender that is subject to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act") hereby notifies the Borrowers that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies the Borrowers, which information includes the names and addresses of the Borrowers and other information that will allow such Lender to identify the Borrowers in accordance with the Act.

SECTION 9.15. Disclosure. Each Loan Party and each Lender hereby acknowledges and agrees that the Administrative Agent and/or its Affiliates from time to time may hold investments in, make other loans to or have other relationships with any of the Loan Parties and their respective Affiliates.

SECTION 9.16. Appointment for Perfection. Each Lender hereby appoints each other Lender as its agent for the purpose of perfecting Liens, for the benefit of the Administrative Agent and the Lenders, in assets which, in accordance with Article 9 of the UCC or any other applicable law can be perfected only by possession. Should any Lender (other than the Administrative Agent) obtain possession of any such Collateral, such Lender shall notify the Administrative Agent thereof and, promptly upon the Administrative Agent's request therefor, shall deliver such Collateral to the Administrative Agent or otherwise deal with such Collateral in accordance with the Administrative Agent's instructions.

SECTION 9.17. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.18. No Fiduciary Duty or Economic Conflicts of Interest. Each Credit Party and its Affiliates may have economic interests that conflict with those of the Loan Parties, their stockholders and/or their Affiliates. Each Loan Party agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Credit Party or its Affiliates, on the one hand, and such Loan Party, its stockholders or its Affiliates, on the other hand. The Loan Parties acknowledge and agree that (a) the transactions contemplated by the Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between the Credit Parties and their Affiliates, on the one hand, and the Loan Parties, on the other hand, and (b) in connection therewith and with the process leading thereto, (i) no Credit Party nor its Affiliates have assumed an advisory or fiduciary responsibility in favor of any Loan Party, its stockholders or its Affiliates with respect to the transactions hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender or its Affiliates have advised, are currently advising, or will advise any Loan Party, its stockholders or its Affiliates on other matters) or any other obligation to any Loan Party except the obligations set forth in the Loan Documents and (ii) each Credit Party and its Affiliates are acting solely as principal and not as the agent or fiduciary of any Loan Party, its management, stockholders, creditors or any other Person. Each Loan Party acknowledges and agrees that it has consulted its own legal and financial advisors to the extent it deemed

appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. Each Loan Party agrees that it will not claim that any Credit Party or its Affiliates has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to such Loan Party, in connection with such transaction or the process leading thereto.

ARTICLE X  
Loan Guaranty

SECTION 10.01. Guaranty. Each Loan Guarantor (other than those that have delivered a separate Guaranty) hereby agrees that it is jointly and severally liable for, and absolutely and unconditionally guarantees to the Lenders, the prompt payment when due, whether at stated maturity, upon acceleration or otherwise, and at all times thereafter, of the Secured Obligations and all costs and expenses, including, without limitation, all court costs and attorneys' and paralegals' fees (including allocated costs of in-house counsel and paralegals) and expenses paid or incurred by the Administrative Agent, the Issuing Bank and the Lenders in endeavoring to collect all or any part of the Secured Obligations from, or in prosecuting any action against, any Borrower, any Loan Guarantor or any other guarantor of all or any part of the Secured Obligations (such costs and expenses, together with the Secured Obligations, collectively the "Guaranteed Obligations"); provided, however, that the definition of "Guaranteed Obligations" shall not create any guarantee by any Loan Guarantor of (or grant of security interest by any Loan Guarantor to support, as applicable) any Excluded Swap Obligations of such Loan Guarantor for purposes of determining any obligations of any Loan Guarantor). Each Loan Guarantor further agrees that the Guaranteed Obligations may be extended or renewed in whole or in part without notice to or further assent from it, and that it remains bound upon its guarantee notwithstanding any such extension or renewal. All terms of this Loan Guaranty apply to and may be enforced by or on behalf of any domestic or foreign branch or Affiliate of any Lender that extended any portion of the Guaranteed Obligations. Each Loan Guarantor acknowledges that this Loan Guaranty is a continuing guarantee.

SECTION 10.02. Guaranty of Payment. This Loan Guaranty is a guaranty of payment and not of collection. Each Loan Guarantor waives any right to require the Administrative Agent, the Issuing Bank or any Lender to sue any Borrower, any Loan Guarantor, any other guarantor, or any other Person obligated for all or any part of the Guaranteed Obligations (each, an "Obligated Party"), or otherwise to enforce its payment against any collateral securing all or any part of the Guaranteed Obligations.

SECTION 10.03. No Discharge or Diminishment of Loan Guaranty. (a) Except as otherwise provided for herein, the obligations of each Loan Guarantor hereunder are unconditional and absolute and not subject to any reduction, limitation, impairment or termination for any reason (other than the indefeasible payment in full in cash of the Guaranteed Obligations), including: (i) any claim of waiver, release, extension, renewal, settlement, surrender, alteration or compromise of any of the Guaranteed Obligations, by operation of law or otherwise; (ii) any change in the corporate existence, structure or ownership of any Borrower or any other Obligated Party liable for any of the Guaranteed Obligations; (iii) any insolvency, bankruptcy, reorganization or other similar proceeding affecting any Obligated Party or their assets or any resulting release or discharge of any obligation of any Obligated Party; or (iv) the



existence of any claim, setoff or other rights which any Loan Guarantor may have at any time against any Obligated Party, the Administrative Agent, the Issuing Bank, any Lender or any other person, whether in connection herewith or in any unrelated transactions.

(b) The obligations of each Loan Guarantor hereunder are not subject to any defense or setoff, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of any of the Guaranteed Obligations or otherwise, or any provision of applicable law or regulation purporting to prohibit payment by any Obligated Party, of the Guaranteed Obligations or any part thereof.

(c) Further, the obligations of any Loan Guarantor hereunder are not discharged or impaired or otherwise affected by: (i) the failure of the Administrative Agent, the Issuing Bank or any Lender to assert any claim or demand or to enforce any remedy with respect to all or any part of the Guaranteed Obligations; (ii) any waiver or modification of or supplement to any provision of any agreement relating to the Guaranteed Obligations; (iii) any release, non-perfection or invalidity of any indirect or direct security for the obligations of any Borrower for all or any part of the Guaranteed Obligations or any obligations of any other Obligated Party liable for any of the Guaranteed Obligations; (iv) any action or failure to act by the Administrative Agent, the Issuing Bank or any Lender with respect to any collateral securing any part of the Guaranteed Obligations; or (v) any default, failure or delay, willful or otherwise, in the payment or performance of any of the Guaranteed Obligations, or any other circumstance, act, omission or delay that might in any manner or to any extent vary the risk of such Loan Guarantor or that would otherwise operate as a discharge of any Loan Guarantor as a matter of law or equity (other than the indefeasible payment in full in cash of the Guaranteed Obligations).

SECTION 10.04. Defenses Waived. To the fullest extent permitted by applicable law, each Loan Guarantor hereby waives any defense based on or arising out of any defense of any Borrower or any Loan Guarantor or the unenforceability of all or any part of the Guaranteed Obligations from any cause, or the cessation from any cause of the liability of any Borrower or any Loan Guarantor, other than the indefeasible payment in full in cash of the Guaranteed Obligations. Without limiting the generality of the foregoing, each Loan Guarantor irrevocably waives acceptance hereof, presentment, demand, protest and, to the fullest extent permitted by law, any notice not provided for herein, as well as any requirement that at any time any action be taken by any Person against any Obligated Party, or any other Person. Each Loan Guarantor confirms that it is not a surety under any state law and shall not raise any such law as a defense to its obligations hereunder. The Administrative Agent may, at its election, foreclose on any Collateral held by it by one or more judicial or nonjudicial sales, accept an assignment of any such Collateral in lieu of foreclosure or otherwise act or fail to act with respect to any collateral securing all or a part of the Guaranteed Obligations, compromise or adjust any part of the Guaranteed Obligations, make any other accommodation with any Obligated Party or exercise any other right or remedy available to it against any Obligated Party, without affecting or impairing in any way the liability of such Loan Guarantor under this Loan Guaranty except to the extent the Guaranteed Obligations have been fully and indefeasibly paid in cash. To the fullest extent permitted by applicable law, each Loan Guarantor waives any defense arising out of any such election even though that election may operate, pursuant to applicable law, to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any Loan Guarantor against any Obligated Party or any security.

SECTION 10.05. Rights of Subrogation. No Loan Guarantor will assert any right, claim or cause of action, including, without limitation, a claim of subrogation, contribution or indemnification, that it has against any Obligated Party, or any collateral, until the Loan Parties and the Loan Guarantors have fully performed all their obligations to the Administrative Agent, the Issuing Bank and the Lenders.

SECTION 10.06. Reinstatement; Stay of Acceleration. If at any time any payment of any portion of the Guaranteed Obligations is rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy or reorganization of any Borrower or otherwise, each Loan Guarantor's obligations under this Loan Guaranty with respect to that payment shall be reinstated at such time as though the payment had not been made and whether or not the Administrative Agent, the Issuing Bank and the Lenders are in possession of this Loan Guaranty. If acceleration of the time for payment of any of the Guaranteed Obligations is stayed upon the insolvency, bankruptcy or reorganization of any Borrower, all such amounts otherwise subject to acceleration under the terms of any agreement relating to the Guaranteed Obligations shall nonetheless be payable by the Loan Guarantors forthwith on demand by the Administrative Agent.

SECTION 10.07. Information. Each Loan Guarantor assumes all responsibility for being and keeping itself informed of the Borrowers' financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations and the nature, scope and extent of the risks that each Loan Guarantor assumes and incurs under this Loan Guaranty, and agrees that neither the Administrative Agent, the Issuing Bank nor any Lender shall have any duty to advise any Loan Guarantor of information known to it regarding those circumstances or risks.

SECTION 10.08. Termination. Each of the Lenders and the Issuing Bank may continue to make loans or extend credit to the Borrowers based on this Loan Guaranty until five days after it receives written notice of termination from any Loan Guarantor. Notwithstanding receipt of any such notice, each Loan Guarantor will continue to be liable to the Lenders for any Guaranteed Obligations created, assumed or committed to prior to the fifth day after receipt of the notice, and all subsequent renewals, extensions, modifications and amendments with respect to, or substitutions for, all or any part of such Guaranteed Obligations.

SECTION 10.09. Intentionally Omitted.

SECTION 10.10. Maximum Liability. The provisions of this Loan Guaranty are severable, and in any action or proceeding involving any state corporate law, or any state, federal or foreign bankruptcy, insolvency, reorganization or other law affecting the rights of creditors generally, if the obligations of any Loan Guarantor under this Loan Guaranty would otherwise be held or determined to be avoidable, invalid or unenforceable on account of the amount of such Loan Guarantor's liability under this Loan Guaranty, then, notwithstanding any other provision of this Loan Guaranty to the contrary, the amount of such liability shall, without any further action by the Loan Guarantors or the Administrative Agent, the Issuing Bank or any Lender, be automatically limited and reduced to the highest amount that is valid and enforceable as determined in such action or proceeding (such highest amount determined hereunder being the relevant Loan Guarantor's "Maximum Liability". This Section with respect to the Maximum

Liability of each Loan Guarantor is intended solely to preserve the rights of the Administrative Agent, the Issuing Bank and the Lenders to the maximum extent not subject to avoidance under applicable law, and no Loan Guarantor nor any other Person shall have any right or claim under this Section with respect to such Maximum Liability, except to the extent necessary so that the obligations of any Loan Guarantor hereunder shall not be rendered voidable under applicable law. Each Loan Guarantor agrees that the Guaranteed Obligations may at any time and from time to time exceed the Maximum Liability of each Loan Guarantor without impairing this Loan Guaranty or affecting the rights and remedies of the Administrative Agent, the Issuing Bank or the Lenders hereunder, provided that, nothing in this sentence shall be construed to increase any Loan Guarantor's obligations hereunder beyond its Maximum Liability.

SECTION 10.11. Contribution. In the event any Loan Guarantor (a "Paying Guarantor") shall make any payment or payments under this Loan Guaranty or shall suffer any loss as a result of any realization upon any collateral granted by it to secure its obligations under this Loan Guaranty, each other Loan Guarantor (each a "Non-Paying Guarantor") shall contribute to such Paying Guarantor an amount equal to such Non-Paying Guarantor's "Applicable Percentage" of such payment or payments made, or losses suffered, by such Paying Guarantor. For purposes of this Article X, each Non-Paying Guarantor's "Applicable Percentage" with respect to any such payment or loss by a Paying Guarantor shall be determined as of the date on which such payment or loss was made by reference to the ratio of (i) such Non-Paying Guarantor's Maximum Liability as of such date (without giving effect to any right to receive, or obligation to make, any contribution hereunder) or, if such Non-Paying Guarantor's Maximum Liability has not been determined, the aggregate amount of all monies received by such Non-Paying Guarantor from the Borrowers after the date hereof (whether by loan, capital infusion or by other means) to (ii) the aggregate Maximum Liability of all Loan Guarantors hereunder (including such Paying Guarantor) as of such date (without giving effect to any right to receive, or obligation to make, any contribution hereunder), or to the extent that a Maximum Liability has not been determined for any Loan Guarantor, the aggregate amount of all monies received by such Loan Guarantors from the Borrowers after the date hereof (whether by loan, capital infusion or by other means). Nothing in this provision shall affect any Loan Guarantor's several liability for the entire amount of the Guaranteed Obligations (up to such Loan Guarantor's Maximum Liability). Each of the Loan Guarantors covenants and agrees that its right to receive any contribution under this Loan Guaranty from a Non-Paying Guarantor shall be subordinate and junior in right of payment to the payment in full in cash of the Guaranteed Obligations. This provision is for the benefit of all of the Administrative Agent, the Issuing Bank, the Lenders and the Loan Guarantors and may be enforced by any one, or more, or all of them in accordance with the terms hereof.

SECTION 10.12. Liability Cumulative. The liability of each Loan Party as a Loan Guarantor under this Article X is in addition to and shall be cumulative with all liabilities of each Loan Party to the Administrative Agent, the Issuing Bank and the Lenders under this Agreement and the other Loan Documents to which such Loan Party is a party or in respect of any obligations or liabilities of the other Loan Parties, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

SECTION 10.13. Keepwell. Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as

may be needed from time to time by each other Loan Guarantor to honor all of its obligations under this Loan Guaranty in respect of a Swap Obligation (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 10.13 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 10.13 or otherwise under this Loan Guaranty voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). Except as otherwise provided herein, the obligations of each Qualified ECP Guarantor under this Section 10.13 shall remain in full force and effect until the termination of all Swap Obligations. Each Qualified ECP Guarantor intends that this Section 10.13 constitute, and this Section 10.13 shall be deemed to constitute, a “keepwell, support, or other agreement” for the benefit of each Loan Guarantor for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

ARTICLE XI  
The Borrower Representative

SECTION 11.01. Appointment; Nature of Relationship. Micron is hereby appointed by each of the Borrowers as its contractual representative (herein referred to as the “Borrower Representative” hereunder and under each other Loan Document, and each of the Borrowers irrevocably authorizes the Borrower Representative to act as the contractual representative of such Borrower with the rights and duties expressly set forth herein and in the other Loan Documents. The Borrower Representative agrees to act as such contractual representative upon the express conditions contained in this Article XI. Additionally, the Borrowers hereby appoint the Borrower Representative as their agent to receive all of the proceeds of the Loans in the Funding Account(s), at which time the Borrower Representative shall promptly disburse such Loans to the appropriate Borrower(s). The Administrative Agent and the Lenders, and their respective officers, directors, agents or employees, shall not be liable to the Borrower Representative or any Borrower for any action taken or omitted to be taken by the Borrower Representative or the Borrowers pursuant to this Section 11.01.

SECTION 11.02. Powers. The Borrower Representative shall have and may exercise such powers under the Loan Documents as are specifically delegated to the Borrower Representative by the terms of each thereof, together with such powers as are reasonably incidental thereto. The Borrower Representative shall have no implied duties to the Borrowers, or any obligation to the Lenders to take any action thereunder except any action specifically provided by the Loan Documents to be taken by the Borrower Representative.

SECTION 11.03. Employment of Agents. The Borrower Representative may execute any of its duties as the Borrower Representative hereunder and under any other Loan Document by or through authorized officers.

SECTION 11.04. Notices. Each Borrower shall immediately notify the Borrower Representative of the occurrence of any Default hereunder referring to this Agreement describing such Default and stating that such notice is a “notice of default”. In the event that the Borrower Representative receives such a notice, the Borrower Representative shall give prompt notice thereof to the Administrative Agent and the Lenders. Any notice provided to the Borrower Representative hereunder shall constitute notice to each Borrower on the date received by the Borrower Representative.

SECTION 11.05. Successor Borrower Representative. Upon the prior written consent of the Administrative Agent, which consent shall not be unreasonably withheld, delayed or conditioned, the Borrower Representative may resign at any time, such resignation to be effective upon the appointment of a successor Borrower Representative. The Administrative Agent shall give prompt written notice of such resignation to the Lenders.

SECTION 11.06. Execution of Loan Documents; Borrowing Base Certificate. The Borrowers hereby empower and authorize the Borrower Representative, on behalf of the Borrowers, to execute and deliver to the Administrative Agent and the Lenders the Loan Documents and all related agreements, certificates, documents, or instruments as shall be necessary or appropriate to effect the purposes of the Loan Documents, in each case in accordance with the terms set forth herein, including, without limitation, the Borrowing Base Certificates. Each Borrower agrees that any action taken by the Borrower Representative or the Borrowers in accordance with the terms of this Agreement or the other Loan Documents, and the exercise by the Borrower Representative of its powers set forth therein or herein, together with such other powers that are reasonably incidental thereto, shall be binding upon all of the Borrowers.

SECTION 11.07. Reporting. Each Borrower hereby agrees that such Borrower shall furnish promptly after each calendar month to the Borrower Representative a copy of its Borrowing Base Certificate and any other certificate or report required hereunder or requested by the Borrower Representative on which the Borrower Representative shall rely to prepare the Borrowing Base Certificates required pursuant to the provisions of this Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

**MICRON TECHNOLOGY, INC., as a Borrower**

By

/s/ Ken Rizvi

---

Name: Ken Rizvi

Title: Vice president of Finance and Treasurer

[Micron – Signature Page to Credit Agreement]

**MICRON SEMICONDUCTOR PRODUCTS, INC., as a Borrower**

By /s/ Thomas L. Laws, Jr.

Name: Thomas L Laws, Jr.

Title: Vice President and Treasurer

[Micron – Signature Page to Credit Agreement]

By /s/ Thomas A. Getty, Jr.  
Name: Thomas A. Getty, Jr.  
Title: Senior Vice President



HSBC BANK USA, N.A., as a Lender

By           /s/ Mike Mitchell            
Name: Mike Mitchell  
Title: Senior Corporate Banking Manager

[Micron – Signature Page to Credit Agreement]

---

**JPMORGAN CHASE BANK, N.A., as a Lender**

By /s/ Jolinda N. Walden

Name: Jolinda N. Walden

Title: Authorized Officer

[Micron – Signature Page to Credit Agreement]

**BANK OF AMERICA, N.A.**, as a Lender

By /s/ Matthew Van Steenhuyse  
Name: Matthew Van Steenhuyse  
Title: Senior Vice President

[Micron – Signature Page to Credit Agreement]

---

**CITIBANK, N.A., as a Lender**

By /s/ Justin McMahan  
Name: Justin McMahan  
Title: Vice President

[Micron – Signature Page to Credit Agreement]

WELLS FARGO BANK, N.A., as a Lender

By           /s/ Jeff Royston            
Name: Jeff Royston  
Title: Director

[Micron – Signature Page to Credit Agreement]

---

**GOLDMAN SACHS BANK USA**, as a Lender

By /s/ Rebecca Kratz  
Name: Rebecca Kratz  
Title: Authorized Signatory

[Micron – Signature Page to Credit Agreement]

---

MORGAN STANLEY BANK, N.A., as a Lender

By           /s/ Michael King            
Name: Michael King  
Title: Authorized Signatory

[Micron – Signature Page to Credit Agreement]

---

**CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as a Lender**

By /s/ Judith E. Smith  
Name: Judith E. Smith  
Title: Authorized Signatory

**CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH, as a Lender**

By /s/ Sean L. MacGregor  
Name: Sean L. MacGregor  
Title: Authorized Signatory

[Micron – Signature Page to Credit Agreement]



MUFG UNION BANK, N.A., as a Lender

By           /s/ Edward Dridge            
Name: Edward Dridge  
Title: Vice President

---